

REPUBLIC OF NORTH MACEDONIA OMBUDSMAN

ANNUAL REPORT

ON THE DEGREE OF PROVISION, RESPECT, ADVANCEMENT AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS

2018

Skopje, March 2019

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Dear All,

The number of complaints submitted to the Ombudsman of the Republic of North Macedonia is an indicator that shows the weaknesses in the functioning of the system in the society, and points to the problems that the citizens face on daily basis in exercising their rights in different areas. In this context, the increase or reduction of complaints by areas compared to the previous year shows, however, where there is improvement, and where there is a downward trend, regarding the respect and the degree of achievement of the rights of the citizens.

Considering the afore mentioned, as well as the statistics for 2018 it is indisputable that the judiciary system continuously creates problems in the area of exercising the rights of the citizens, i.e. respecting the rule of law. As was the case last year,



the citizens expressed their greatest distrust towards this government, which at the least, should be considered to be a fundamental pillar of a democratic society. However, when we talk about the problems in this area, what was characteristic which appeared for the first time after many years, were the complaints of over 300 former employees in AD Ohis in bankruptcy, which confirms that after a decade and a half, and many legal changes in this sphere, the employees of the companies in bankruptcy achieve their the rights with difficulty in terms of collection of arrears and contributions, facing problems in the area of pension insurance, i.e. acquiring the pension right.

Low funds paid to persons who are exposed to social risk and are beneficiaries of social protection rights continue to be the reason for a large number of complaints filed in this area. Funds allocated from the budget for this purpose put the citizens in a disadvantaged position, they are forced to seek help from the state, and the funds are not only insufficient for their existence, but they do not really contribute to overcoming the risk to which whole families are exposed to. This situation raises the alarm that the state must make serious reforms in this area helping the most vulnerable categories of citizens evade poverty they have been facing for years. In this manner the state can motivate and prequalify these citizens to be prepared for the labour market.

The dramatic increase in the number of complaints in the area of labor relations shows that the practice of the so-called "political parties revanchism" continues after the conduct of any elections, particularly stressed in the area of education and child care institutions, reflected both during the selection of candidates for employment and in the transformation of the employment status of employees from fixed to indefinite period of time. This situation brought forward a feeling of discrimination among citizens, which is evident from the increased number of complaints in the field of discrimination, especially on political grounds.

The reporting year also marked the increase in the number of complaints in the field of property and legal affairs, which brought to the surface the problems that citizens face in terms of denationalization, that is, the return of the confiscated property, especially in the work of the denationalization commissions, which in continuity do not provide equal and objective application of the legislation and other regulations. This, in turn, results in annulment of decisions adopted by the administrative courts, and decades long procedures.

When it comes to the rights of children, undisputedly that the problems in this field remains the same, especially referring to the parent-child relation, and the Centers for Social Work have failed to fully and effectively secure the exercise of this right of the child, and to influence the behavior of the parents, thus preventing the harmful consequences for the child and its proper growth and development. Such situation points to the need for thorough reforms since it is a category of citizens who enjoy special protection, and they must never be used as an instrument for revenge among parents, nor to allow such interference and child abuse. On the contrary, they should be provided with all the conditions for normal and happy development.

Citizens were facing the same problems last year when it comes to procedures conducted by enforcement agents, so they often remained with blocked accounts, without any means of existence.

There were also problems in the areas of pension and disability insurance, health care, urban planning and construction, health care in prisons, as well as the material conditions in which the detention measure was to be served, but also the prison sentence, and the conducted referendum once again showed that there was no displacement even when it comes to voting list update.

Within the Institution, in the reporting year, the problem with the staffing of the National Preventive Mechanism team was finally resolved, which continued to monitor the situation in places where freedom of movement is limited. Special emphasis was placed on the police stations for border control and border surveillance where bad material conditions were found, as well as insufficient information given to police officers on the issues related to asylum affairs.

Last year, the Ombudsman for the first time had an opportunity to participate in the Parliament in the discussion on the Government's responses regarding the established measures by the Assembly according to the general recommendations given in the Annual Report. Although incomplete, and in some segments given only from a formal aspect, the Government's initiative for their implementation is warmly welcomed. However, the ultimate goal of all institutions should and must be towards development of professional administration that will serve the citizens' needs.

> OMBUDSMAN Idzet Memeti

OMBUDSMAN – NATIONAL INSTITUTION FOR PROTECTION OF HUMAN RIGHTS



In the reporting year, the process of expanding the mandate and competencies of the Ombudsman of the Republic of North Macedonia continued, as well as creating assumptions related to the implementation of the new competencies for the promotion of human rights, monitoring their status and to what extent they are respected, pointing out the need for their protection and acting as a friend to the Court.

Namely, in February 2018, amendments were made to the Law on the Ombudsman, which from a normative point of view enabled the establishment of the Ombudsman as a mechanism for civil control, which provides support and protection of the victims and their rights. Furthermore, it represents their interests in all procedures when investigating the treatment by individuals with police authorizations and members of prison police.

In addition, due to the enforcement of Article 33 of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto (establishing an independent mechanism for its promotion, protection and monitoring), the President of the Government and the Government, by written annotation No. 08-1359 / 35 from 09.07.2018, recommended that the Ombudsman of the Republic of North Macedonia, as an independent body, should accept this mechanism as a part of its powers and organizational layout.

These new competencies of the Ombudsman, which enable strengthening of human rights protection in accordance with the standards of the Council of Europe and other international bodies, should be established in close cooperation with the non-governmental sector.

Consequently, according to the Action Plan of the Government of the Republic of North Macedonia, the Ombudsman began to amend the Rulebook on the organization and scope of the work of the Professional Service, the National Preventive Mechanism Team, the special departments and the offices of the Ombudsman and the Rulebook on the systematization of the working positions in the professional service, the team of the National Preventive Mechanism, the special departments and offices of the Ombudsman and have submitted the amended Acts to the President of the Assembly in order to gain a consent.

At the same time, within the Administrative Office, a new department was established - the Ombudsman Civil Control Mechanism, and within the Department for Protection of the Children's Rights and the Rights of Persons with Disabilities, activities regarding the monitoring of UN Convention implementation for the rights of people with disabilities has been stipulated. For this purpose, suitable jobs are also systematized serving as an employment opportunity and possibility to be positioned within the Ombudsman, with a description of work, work tasks and conditions for each job post.

At the same time, taking into account the overall increased competence of the Institution and the need for adequate allocation of the employees, the number of systematized jobs has been harmonized in all internal organizational units and an opportunity is created for employment in the Professional Service of the Ombudsman of the Republic of North Macedonia, apart from the public sector or civil sector entities and public service officials where activities are performed similar to public authorizations in accordance with the law.



The required consent for the amended general acts, from the Assembly, was received on June 14 and September 4, 2018. The completion of the planned job posts (one state counselor and two Ombudsman advisers - civil control mechanism and one state counselor and two advisors in the Department for children's rights and persons with disabilities) will be implemented with the Budget for 2019, for which the necessary consent was obtained from the Ministry of Finance.Otherwise, with the employment that was carried out in the first half of 2018, the National Preventive Mechanism was staffed and reactivated with one state advisor and two councilors. In addition, one state advisor and one action advisor on behalf of the Ombudsman as a friend of the court were employed.

Regarding the institution's promotion aiming at bringing the citizens closer to the legal regulation in the society thus becoming able to get to know the power it has against the state and the institutions, no funds were received in the reporting year. Hence, the obligation of the state remains a priority to take actions to enable the Ombudsman to be a national institution in the true sense of the word, in order to ensure full achievement of the competences in the future.

In that segment, the obligation of the state to exclude employees in the Ombudsman Institution of the Republic of North Macedonia remains within the scope of the Law on Administrative Officers, the Law on Public Sector Employees and the Law on Budget Execution.

Indeed, although adequate measures were established by the Parliament, in 2018 they were not implemented by the Government, because on its part no appropriate amendments were made to the respective laws.

According to the Paris Principles, the capacities of the institution of National human rights can not function unless independence of finances is provided on one hand and independance of human resources on the other.

DEGREE OF REALIZATION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS IN SEPARATE AREAS



FROM THE WORK IN 2018

THE ACCOMODATION CONDITIONS FOR THE IMPRIS-ONMENT PENALTY ARE CONTINUOUSLY BENEATH HU-MAN DIGNITY OF EVERY PERSON

Continuously following the situation in the Penitentiary facilities, the Ombudsman concluded that the conditions for accommodation are the same as in the previous years, which continuously violates human dignity of every prisoner. Acting on complaints that have been submitted by convicted persons, it was concluded that the rooms consist of old beds, old and unsanitary bedding, moisture in the rooms, as well as old and worn-out sanitary installations.

In the light of the previous issue, as a problem that has been present for many years, the Ombudsman has pointed out to the directors of the Penitentiary facilities and the Directorate for Execution of Sanctions urgent measures for overcoming such conditions, and creating conditions for the convicted persons to be able to serve the sentence of imprisonment with dignity and in human conditions.

CONVICTED PERSONS ARE APPOINTED TO SERVE A PRISON SENTENCE AND RELEASED AFTER SERVING THE SENTENCE WITHOUT DOCUMENTS FOR PERSONAL IDENTIFICATION

Providing a personal identification document of a person appointed to serve a prison sentence in the Penitentiary Institutions is an issue to which no real attention is paid. The above mentioned problem was confirmed by the research, but also the long-standing practice of the Ombudsman, including the complaints submitted by various subjects (civil organizations or individuals).

Having in mind that for a longer period of time the convicted persons who do not have a personal identification document are unable to exercise their statutory rights guaranteed by the constitution and the laws, even after their release from prison, including the rights to health care and health insurance, the rights to social protection and social security, the Ombudsman finds that there is a violation of the rights of these persons. This results in jeopardizing their real capability to commence their new life in freedom, as well as their ability to gain such rights after being released from prison. In this direction, among other things, a systematic regulation of this issue was recommended, and in that context a legal obligation was prescribed for the administrative offices in the Penitentiary facilities. Namely they were liable not only to keep regular and continuous records for each person serving a prison sentence, but also to keep records of their dismissal after serving the sentence as well.



PROTEGE OF A PUBLIC INSTITUTION, A VICTIM OF SEXUAL AND PHYSICAL VIOLENCE, THE INSTITUTIONS HAVE NOT TAKEN MEASURES FOR HER PROTECTION

The Ombudsman came to this conclusion after it has undertaken certain measures for protection of the rights of a minor accommodated in the Public Institution for care of children with educational, social problems and disturbed behavior, after receiving information that she had been a victim of physical and sexual violence.

The fact that the minor has left the institution nine times self-willingly, reporting after each return about her sexual abuse, was not alarming enough for the facility to take measures for investigation. It did not even report the case. For the Ombudsman there is no doubt that in this particular case the responsible authority did not take any actions, especially the guardianship authority, regarding the timely undertaking of measures to prevent the abuse of the child- protege of the institution.

Among other things, the Ombudsman recommended that the Ministry of Labor and Social Policy shall urgently propose changes in the area of social protection from the aspect of children care, especially those with educational and social problems and disturbed behavior, for finding new, appropriate forms of child care, which will contribute to the prevention of any injuries, violence or abuse of children who are under custody of the responsible authorities.

STUDENTS FROM THE EIGHTH AND NINTH GRADES WERE EVALUATED IN PHYSICS ALTHOUGH THEY DID NOT HAVE AN APPROPRIATE TEACHER AT THE SUBJECT

The Ombudsman acted upon a complaint sent by parents of students at the elementary school "Kuzman Josifovski Pitu" – Skopje. Namely, there, the classes in Physics were held by a professor teaching Computer Science, in such a manner that he was reading the material to the children, and in order to evaluate the knowledge of the material he tested the students. This is considered to be q violation of the right to a quality and uninterrupted education of children.

Acting upon the suggestions of the Ombudsman for providing staff that meet the professional qualifications, the school announced a job advertisement and selected a suitable candidate to complete the activities planned in the curriculum and the teaching programme.

CHILDREN IN CONFLICT WITH THE LAW, INSTEAD OF SERVING THEIR SEN-TENCE IN A NEW PENITENTIARY FACILITY, THEY CONTINUE THEIR IMPRIS-ONMENT SENTENCE IN THE PENITENTIARY INSTITUTION IN OHRID

Even though almost five years have passed since the beginning of the construction of a new Penitentiary Facility in the settlement Volkovija in Tetovo, which was to be completed in 2016, the building is not yet completed and put into operation, and the children are still placed in the Penitentiary facility in Ohrid.

The Ombudsman, following the situation for years, asks the responsible institutions to take measures to ensure that this facility is finally completed and that the children are moved to a new facility, in which all standards for serving the Penitentiary sentence by the children at risk will be provided.

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THE SOCIAL PROTECTION SYSTEM DOES NOT MEET THE REAL NEEDS OF FAMILIES AT RISK

The case of the three children from Veles, who burned in a fire that broke out in their home-improvised illegal construction of a socially endangered family, who was registered in the Public Institution Inter-municipal Center for Social Work - Veles, as a family living in very difficult conditions, without electricity and water, once again confirmed the propositions of the Ombudsman for reforming the social protection system, because the existing social protection system is not timely and does not correspond and meet the real needs of citizens at risk.

In this context, the Ombudsman recommended that the Ministry of Labor and Social Policy, through a comprehensive analysis, should review the efficiency of the centers for social work, whether and how much they can timely and fully respond to the needs and demands of the citizens at risk, i.e. to determine what is necessary to undertake in order to solve the problems that these Centers face, which prevent them from being efficient and effective in taking measures and activities, to overcome the social risk in families, especially if they live in inappropriate conditions. At the same time, it imposed the need to consider the problem and to find a permanent solution related to the housing of persons at social risk, by leasing an apartment until they are able to solve the housing issue.

AFTER THE REACTION BY THE OMBUDSMAN, DISCIPLINARY MEASURES IMPOSED ON THE DOCTOR AND THE NURSE IN CHARGE

Acting upon personal initiative, the Ombutsman reacted on a case in which a minor mother left the newborn baby in front of the Infant Home in Bitola. The Ombudsman found that the health institution allowed a minor mother to voluntarily leave the institution although they had previous knowledge that she did not intend to care for the newborn.

The Ombudsman found that the experts in the Tetovo Healthcare Institute did not act in accordance with the Law on Patients' Protection and the Law on Family and did not inform nor include the Center for Social Work as a responsible authority in such situations, for which it requested sanctioning of the omission in the work of the professionals.

The Commission, established by the Examination Institution, confirmed the omissions established by the Ombudsman, which resulted in disciplinary measures for the responsible doctor and the nurse by the director of this health institution. At the same time, the Ombudsman's recommendation to submit a notification to the Gynecology and Obstetrics Department and making them familiar with the obligation to report any extramarital child birth of a minor mother at the Center for Social Work and the Ministry of Internal Affairs, has been accepted.



EXCEPT IN EDUCATION, THERE IS NO SIGNIFICANT IMPROVEMENT IN THE SITUATION OF ROMA AND IN THE AREAS OF HEALTH, HOUSING AND EMPLOYMENT

This was confirmed by the Ombudsman's research on the topic "Roma inclusion after the end of the Roma Decade 2005-2015 – the current situation and challenges", in which these statements are proven to be true: that some of the citizens of this community are still living in poverty, in difficult and inadequate conditions, in substandard and improvised habitats, without an adequate supply of drinking water, in illegal Roma settlements, without the possibility of employment. Then, they face difficult access to health care rights, with low health literacy and do not have proper personal identification documents. To overcome the identified weaknesses, the Ombudsman, after holding a regional conference on this topic, submitted information to the Government with conclusions and recommendations for each of the above mentioned areas regarding the improvement of the situation and life of the Roma.

THE PENITENTIARY FACILITY IN IDRIZOVO HASN'T HAD A DENTIST ALL SUMMER, AND THE PRISONERS ARE LEFT WITHOUT PROPER DENTAL TREATMENT

Following the situation in the Penitentiary facilities, there have been frequent complaints about the inability of the convicted persons in the Penitentiary facility in Idrizovo to exercise their right to proper dental care, because the institution does not have an employed dentist. Namely, the dentist from the Skopje Prison who performs dental examinations two days a week is only a partial solution, in the short term, which does not provide a full and adequate satisfaction of the actual needs of the convicted persons.

In relation to the above mentioned issue, the Ombudsman has pointed out to the director of the Penitentiary Facility Idrizovo the obligation to take immediate measures and in cooperation with the responsible institutions and facilities to overcome this problem by employing a dentist, thus ensuring a regular and permanent presence of a dentist in the facility. The problem is yet to be overcome.

CONVICTED PERSONS ARE REPORTED FOR A MEDICAL EXAMINATION THROUGH MEMBERS OF THE PRISON POLICE !?

The lack of boxes set up for medical examination registry is not in compliance to Article 3 referring to the Doctor Visit Guide intended for the convicted persons in the facility, Medicines distribution, Medical examination outside the facility, which stipulates that each prison ward has a set up box for medical examination registration.

The aforementioned was established by the Directorate for Execution of Sanctions, acting upon the Supervision Request submitted by the Ombudsman, after which it recommended to the Penitentiary facilities an urgent removal of this irregularity. The actions of the prison management will continue to be monitored.

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PERSONS WITH DISABILITIES ARE UNEQUAL TO OTHER CITIZENS IN EXERCISING THEIR RIGHT TO VOTE

Acting upon complaints from the non-governmental sector regarding the exercise of the voting rights of persons with physical disabilities, the Ombudsman concluded that the right of equality in the electoral process of these and other persons with disabilities have been violated, because of the manner of informing about the election process, the lack of adequate access to polling stations, as well as uninterrupted exercise of the voting rights. In order to overcome these situations, the Ombudsman sent out a special report to the Government, with specific proposals for changes in the laws and bylaws regulating this area.

RESTRICTING THE FREEDOM OF MOVEMENT OF ASYLUM SEEKERS IN THE RECEPTION CENTER FOR FOREIGNERS IN GAZI BABA

This is stated by the Ombudsman acting upon a complaint about a detained person from the United Arab Emirates, who had an active asylum request and with the decision of the Ministry of Internal Affairs (MVR) was retained in the Reception Center for Foreigners in order to protect the public order or national security, in a period of three months.

The Ombudsman examined the application for the particular case which is a new practice of action regarding the restriction of movement of an asylum-seeker and his detention in the Reception Center for Foreigners. The Ombutsman found that the person arrived in the state with valid travel documents, fleeing from his country because of a persecution and fear for his own life, and immediately expressed the intention to enter a procedure for recognizing the right to asylum in the Republic.

After receiving a legally valid decision rejecting the request for asylum, there was a danger that the person would be returned to the country of origin, for which the Ombudsman intervened to the responsible authorities so that he would not be deported by force, but to be allowed to voluntarily leave the country, which was accepted by the responsible authorities.

THE OMBUDSMAN CALLS FOR TAKING MEAS-URES IN SCHOOLS TO PREVENT AND STOP VIOLENCE

Affected by the frequent cases of violence among and upon students in the primary and secondary schools, the Ombudsman publicly asked the schools, the local self-government, the Ministry of Education and Science to take measures to ensure the unimpeded exercise of the right to education. In addition, it also stressed the need for taking preventive measures to stop any kind of violence.

According to the Ombudsman, it is necessary to strengthen the capacities of the teaching staff in order to prevent violent behavior among students in schools. In addition, parents should show greater interest in the attitude of their children, and together with other entities they should contribute to the creation of violence-free schools.



FOR ACHIEVED INCOME OF 255,00 MKD, A CITIZEN OBLIDGED TO RETURN FUNDS IN THE AMOUNT OF 70.950,00 MKD. IS IT LOGICAL TO CONCLUDE THAT THE PERSON/FAMILY HAS EXCEEDED THE SOCIAL RISK!?

This has been concluded by the Ombudsman acting on a citizen's appeal against a decision of the Center for Social Work, with which they terminate his right to social financial assistance. In addition to make the irony even greater, the Ministry of Labor and Social Policy in the appeal procedure confirmed the decision on termination of the right and return of the received funds.

According to the Ombudsman, there is no doubt that the parties are obliged to declare all changes in the material situation and to respect the legally envisaged obligations. However, when making the decision by the responsible authority for the termination of the right which is of an existential importance, it is necessary to fully and correctly determine whether the person whose right should be terminated with the adoption of a particular act is exposed to a social risk or not. Other than this, it is very important that the amount of the made but undeclared income is taken into account having in mind that the Law on alteration and supplement of the Law on Social Protection enforced in November 2017, stipulates the obligation to examine whether the change in the material, family and property status affect the exercise of the right to social welfare and its amount, which in this particular case this is not respected.

A TURKISH CITIZEN CONTINUES HIS STAY IN THE COUNTRY

A Turkish citizen, who was initially allowed to stay in the country on the basis of investment, has filed a complaint to the Ombudsman in which he complained that his stay in the country was not extended.

Acting upon the complaint, the Ombudsman inspected the MVR (Ministry of Internal Affairs) Department for Crime, Misdemeanors, Foreigners and Readmission, stating that the stay is not extended because of the negative opinion of the Employment Agency, because the Turkish investor himself, as a manager of the company, did not pay salary and contributions to its employees from the compulsory insurance for a period of one month.

After the conducted interview with the applicant and his legal representatives, the obli-

gations were settled, and a Certificate for paid contributions issued by the Public Revenue Office – Skopje was submitted as evidence. Considering that the only obstacle for resuming the stay of the Turkish citizen was removed, the Ombudsman submitted a Proposal to the Employment Agency to withdraw the previous negative Opinion and to submit a new positive opinion to the Department for Foreigners. At the same time it requested from the Department to stop the procedure until the submission of the new Opinion by the Agency.

The Foreigners Department in the Ministry of Internal Affairs (MVR) and personally the complainant, informed the Ombudsman that a Decision was brought forth in reference to the extension of his stay in the Republic.

THE EMPLOYMENT AGENCY WITH INCOMPLETE INFORMATION FOR THE CITIZENS ABOUT THE AVAILABILITY OF WORKPLACES

The Employment Agency does not accurately and completely transmit the information to the citizens – job seekers, by publishing jobs and occupations that are not in accordance with the needs of the employers, and are detrimental for the applicants.

The Ombudsman concluded this by acting upon the complaints from the citizens who applied for jobs and occupations published by the Agency, and were rejected by the employer because the workplace that they applied for was non-existent. In order to overcome this situation, the Ombudsman recommended that the Employment Agency urgently take measures in order to revise the records in the field of labor, with a special emphasis on the workplaces. For this purpose, it is necessary for the Employment Agency in cooperation with the employers to undertake measures for publishing the exact job posts, so that the citizens will be adequately and accurately informed about the workplaces.

PRINCIPALS IN PRIMARY AND SECONDARY Schools abuse the discretion in the Selection of Candidates

At the request of citizens who submitted complaints, the Ombudsman monitored the procedures for employment, when choosing candidates for teachers in primary and secondary schools, and undoubtedly states that the principals tend to refer to the discretion of choice, often disregarding the competencies and acquired work experience of the candidates, thereby abusing their right for discretion.

In these cases, the Ombudsman repeatedly pointed to the need in these sensitive activities to select candidates with high competencies, for which it is necessary without exception to take into consideration the previous experience for the respective workplace. However the principals still continued with the same attitude in choosing the "most suitable candidate".

WILL THE PRIVATIZATION OF THE COURT-YARDS BECOME AN ENDLESS STORY?

Privatization of yards became a frozen process due to the poor staffing of the Property and Legal Affairs Directorate, as well as the lack of technical, organizational and normative assumptions.

In some regional offices of the Directorate, although with poor staffing capacity (some of them are only with two employees, one of which is a manager), thousands of cases from other departments were reallocated, thus blocking the regular work and causing ineffectiveness. This leads to plenty of unresolved cases.

Another issue arises with the requests of tenants from collective residential buildings because the law does not offer a way to determine the specific parts of the buildings, that is how much of the land will be privatized for each of the tenants individually.



IN THE KINDERGARTENS THERE ARE NO CONDITIONS FOR INCLUSION OF CHILDREN WITH DISABILITIES

This conclusion arose from the conducted research on the inclusion of children with disabilities in pre-school education in the period of 2017/2018, conducted by the Ombudsman together with the non-governmental organization "Open the windows", with the financial support of the EU and UNICEF. According to the Ombudsman, the primary needs of the kindergartens, arising from the research, among other things include: employing defectologists, trainings for educators for work with children with disabilities, improving physical accessibility to the facilities, providing accessible pedagogical-didactic aids, visual means and technology, providing more targeted financial resources for kindergartens to meet the individual needs of children with disabilities, as well as changing the legal framework in order to facilitate their time spent in the kindergartens, which is usually reduced to foster care without any educational component and early stimulation in child's development.

DOCTOR'S CHAMBER OF MACEDONIA CONTINUED THE NEGA-TIVE PRACTICE OF NOT PERFORMING PROFESSIONAL SUPER-VISION AFTER REPORTS OF INEFFECTIVE HEALTH CARE

Just as in the previous years, this year the Doctor's chamber has not achieved the stipulated obligation for conducting professional supervision in the health institutions when there is a complaint about unprofessional treatment of patients. In addition to the Ombudsman's indications that the legal obligation should be respected, their acceptance did not result in a solution, and the professional supervision remained only for the establishment of a commission, and the supervision due to lack of funds will be carried out in 2019.

THE STATE ELECTION COMMISSION TAKES AWAY THE ELECTORAL RIGHT INSTEAD OF PROVIDING IT

The State Election Commission (SEC) once more continued the practice of depriving certain categories of citizens of their right to vote, due to a systemic omission that creates an absurd situation. Such was the case with the conducted referendum.

Namely, the State Election Commission deletes all the persons to whom the validity of personal identification documents or passports expired in the period after the announcement of the elections from the Voters' List, even though they have taken out new ones or renewed the old ones in the meantime. With this practice, the State Election Commission directly violates the Constitution where certain provisions are stipulated, stating that any citizen with 18 years of age acquires a right to vote. This right is equal, general and direct, and is exercised in free elections by secret ballot.

In addition, the State Election Commission requests the citizens to be of its service, in a way that they themselves will report when they will be issued new identification documents or obtain the renewed ones, instead, by duty, to provide such documents from the responsible authorities. A resident of the settlement Kisela Voda in Skopje, has waited for his legally built house to be joined to the electricity supply system for more than two years.

Namely, although he signed a contract and settled all outstanding costs, which automatically obliges the company to provide electricity to his household, while working on the electricity supply, "some unknown persons" appeared, who prevented the performance of the works, saying that they were not allowed to dig down the street.

The key dilemma in this case is the question who does EVN protect? Why does it not use all the legal instruments and available possibilities in order to enable the consumer to use his right to electricity supply, especially after he

AGREEMENT?-

has settled hid debt?

This action on the part of EVN has exposed the consumer to additional costs, and after several unsuccessful appeals to the company with a request to receive the services, he had to file a court case.

WHAT SHOULD BE DONE WHEN EVN DOES NOT RESPECT THE

To make the absurd even bigger, EVN uses this situation as an argument why it does not act after the intervention of the Ombudsman to immediately secure the right of an electricity supply.

To top all of the absurd is the fact that the court has not responded to the request for temporarily solution for over a year and a half, which was to provide any kind of connection to the electricity distribution network.

IS THERE A CRIME IN THE BANK-RUPTCY OF AD OHIS?-

A large number of former employees of AD Ohis - in bankruptcy and the companies it has founded, feeling deceived by the work of the bankruptcy trustees and the lawyers who represented them in the procedure, turned to the Ombudsman for help.

Investigating the case, there was a suspicion of a major irregularity which caused damage to these employees referring to collection of their claims on the basis of arrears and contributions.

Namely, the court accepted the request greater extent of the funds of the bankruptcy

estate (128.620,000,00 MKD), instead for creditor repayment, to be used for dislocation and neutralization of the dangerous chemical material.

At the same time, some of the employees were deceived by a hired lawyer, who even received his fee in advance, but did not act upon the case, thus depriving the employees the right for compensation.

Stating such state, the Ombudsman submitted a request to the responsible public prosecutor for initiating a procedure for criminal responsibility on the part of the lawyer.



THE MOTHER OF 6 RECEIVED CITIZENSHIP

After a long administrative bureaucratic procedure, a woman born in the Republic, with a permanent stay in the state and a mother of six children, all born in the country, finally received a Macedonian citizenship.

The Ombudsman has focused for a long time on this case, in which the complainant considered that the decision for adopting a negative response by the authorities in reference to her citizenship, was the influence of her husband in the Administration for Security and Counterintelligence (UBK).

In that context, a series of actions were undertaken, a search of information and evidence from the Administration for Security and Counterintelligence on the possible involvement of the husband, a Proposal on the manner of identified violations elimination was sent to the Administrative Court, and a special report was submitted to the Minister of Internal Affairs, after which a positive opinion had been given.

However, the citizenship procedure was further prolonged due to the bureaucratic behavior of the Macedonian Language Commission in the Government, although the complainant submitted a diploma for completed secondary education in Skopje to this institution. The Ombudsman once again also intervened, after which the complainant finally received the Macedonian citizenship.

THE SYSTEMATIC ERROR IN THE PUBLIC REV-ENUE OFFICE (UJP) HAS BEEN CORRECTED – CITIZENS WITH FULL-TIME PENSIONS

Citizens who had their arrears for pensions and disability insurance collected by enforcement agents, for years could not register these arrears in the Pension and Disability Insurance Fund and exercise their right to a pension in the full amount, only because the Public Revenue Office did not allow them to be paid individually.

Considering the fact that this bureaucratic obstacle had a harmful effect on the citizens, the Ombudsman requested from the Public Revenue Office to change the system and enable the transfer of these funds to the account of the Pension and Disability Insurance Fund of Macedonia.

PROLONGATION OF PROCEDURES FOR EXERCIZING THE RIGHT OF PENSION INSURANCE BY THE FUND AND THE STATE COMMISSION

This situation has been present for many years and the Ombudsman regularly indicated the violation of the right. Although the previous years it had been promised that actions would be taken for online connection of the first and second instance bodies, unfortunately this connection in the correspondence of the responsible authorities is still in its initial phase. Therefore, the Ombudsman submitted indications and recommendations for completing the documentation for more careful handling in the direction of exercising the rights of the citizens.

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MULTIDECADE DENATION-ALIZATION

The return of the seized property, a process that was supposed to be long ended, turned into the Myth of Sisyphus for the citizens, because the commissions for denationalization do not continuously provide equal, impartial and objective enforcement of the laws and other regulations in the decision-making process, due to which the decisions made have been annulled several times by the administrative courts and the process is restarted from the beginning.

In doing so, instead of taking into account the rights that belong to them by law, the commissions act quite the opposite, taking care only of protection of the public interest, and in doing so, they abuse the ignorance and lack of knowledge of the citizens.

These actions prevent the citizens to exercise their right to return the seized property, even those who submitted requests for denationalization (because in the mean time they also passed away), and if this practice of the Commissions continues, this right will not be effectively practiced, not even by their successors.

AN ALARMING SITUATION WITH UN-DERAGE PREGNANCY – CHILDREN ARE GIVING BIRTH TO CHILDREN !!!

The Ombudsman's survey on the termination of pregnancies at an early age and birth by underage mothers, for the period of 2016/2017, confirmed that there have been terminations of pregnancies, or births by children aged 11 to 18 years, which indicates insufficient education of children about entering into intimate relationships and the consequences that follow. In 8 out of 17 public health institutions covered by the survey, a total of 62 underage children aged 18 and under terminated a pregnancy, and 731 minors gave birth, of which 4 were aged from 11-13 years of age.

Among other things, the survey showed that in the Public Health Institutions there is no bylaw act for dealing with minor patients, both regarding the termination of pregnancy and delivery, and the forms used in the hospitals do not contain all of the necessary information.

PRIVATE GYNECOLOGICAL CLINICS CHARGE THEIR PATIENTS MONEY FOR SERVICES THAT ARE FREE OF CHARGE

The practice continued for private health institutions to charge patients money for examinations during pregnancies and for laboratory analysis – health services that according to the Active Health Care Program for mothers and children are free of charge.

In order to eliminate the violation of the right, the Ombudsman requested controls and audits from the responsible authorities, but unfortunately, due to lack of evidence, the violation of the right could not be established, which indicates the need for finding an urgent solution to this problem which has been reoccurring for several years now.



DISABLING ACCESS TO THE PROCEDURE FOR RECOGNITION OF THE ASYLUM RIGHT AND ITS POSTPONEMENT

Acting on a complaint from the Macedonian Young Lawyers Association (MYLA), on reference to violation of the asylum right to an asylum-seeker originating from Turkey, representatives of the Ombudsman inspected the Reception Center for Foreigners – Gazi Baba, and concluded that the person had entered the territory of the Republic with a diplomatic passport from the Central African Republic, and with two other passports issued in Turkey. However, suspecting that the person had used a forged diplomatic passport which was reported by Turkey to the Interpol that it was stolen and invalid, the person was also detained and following the instruction of the public prosecutor on duty, he was located in the Reception Center for Foreigners.

Although the person clearly and unequivocally expressed his intention to start a procedure for recognition of the right to asylum, he was not permitted to do that by the officials in the Reception Center for Foreigners who delayed the procedure, prolonging the preparation of the protocol for the stated intention, contrary to the legal regulations that stipulate immediate records keeping for those who express their will and intention for asylum.

The Ombudsman found a direct violation of the law and a violation of the right of the person to initiate the procedure for recognition the right to asylum, due to which it pointed out and urged to immediately to inform the person about the procedure for asylum, regardless of the fact that the person at the same time was involved in another procedure for checking the credibility of his diplomatic passport. The instructions were accepted and the person started the procedure.

PROTECTION OF HUMAN RIGHTS AND FREEDOM BY AREAS

SOCIAL SECURITY AND PROTECTION

The citizens beneficiaries of social protection rights, as well as the persons at social risk, have applied for help and protection from the state, and demanded an intervention by the Ombudsman due to the poor material situation in which they live together with their families, pointing to the lack of protection by the responsible authorities. In this context, the peak of submitting complaints in which the citizens expressed dissatisfaction with the social work centers, from delaying the handling of complaints in the Ministry of Labor and Social Policy, regarding the amount of assistance, but also because of the termination of their rights even though they do not have a regular income, making social risk and poverty even deeper.

The largest number of complaints in the area of social protection were submitted due to unjustified delay of the first degree procedures for exercising rights. At the same time, the most demanded was the acceleration of the procedures regarding the right to social financial assistance and monetary compensation for assistance and care from another person, then the right for a permanent financial assistance, one-time assistance, as well as exercising the right to mobility, deafness and blindness. Some of the complaints were submitted by families who have not resolved the housing issue for providing accommodation and being accommodated in appropriate conditions.

Since acting on complaints, the Ombudsman undoubtedly confirmed that the Centers for Social Work are not sufficiently staffed, and that they have problems with technical equipment, which makes it difficult and prolonging to perform visits, i.e. the insights as one of the ways of determining the actual situation in the family at risk. As a consequence of such conditions, the adoption of decisions on the requirements of social protection was delayed, so the citizens were waiting for more than two months for a decision on whether or not they were granted a right.

The Ombudsman also conducted that the centers for social work continue the current negative practice of bringing solutions for termination of the right to social assistance, if they determine that a certain beneficiary of the right has realized an income, and it has not been reported, without perceiving this with reality, whether the funds are being received on a regular basis and are in the amount that can really contribute to changing the risk situation in which the person or family is located.

Such a situation was established in a case of a citizen who was a beneficiary of social assistance and who has gained funds in the amount of 255.00 MKD. According to the Ombudsman, it is undoubtedly that the parties are obliged to report all changes in their material situation and to respect the legally envisaged obligations. But also, when the competent authorities make a decision on the termination of a right that is of an existential importance, it is necessary to pursue to fully and properly establish whether the person whose right should be terminated based on the adoption of a certain act is exposed to a social risk or not, taking also into account the amount of the realized but unreported income, i.e. whether with this income the submitter



is no longer exposed to social risk.

The Ombudsman, pointing out to the social work centers for the aforementioned, reminded them of the obligation to care for the social protection of citizens, in accordance with the principle of social justice. The irony is that the citizens are obliged to return funds that they received as social assistance from the day of the receipt of money as an income, thus very worrying are the cases, such as the example when a citizen for an income of 255.00 MKD was obliged to return an amount of 70,950.00 MKD.

In these cases, the Ombudsman was also involved in the appeal procedures before the Ministry of Labor and Social Policy, pointing out the consistent and correct observance of the Law on Amending and Supplementing the Law on Social Protection that came into force in November 2017, which stipulates "if the holder of the right presents false or incomplete data, that is, does not inform us about the occurred change in the material, family and property situation for themselves and the members of the household, which influence the exercise of the right and the amount of social financial assistance, the right to social financial assistance will cease and cannot be regained in the next 12 months".

The Ministry of Labor and Social Policy in this, but also in other cases in appeal procedures has brought negative decisions on the citizens' appeals and has confirmed the decisions of the first instance authority on the termination of such right due to failure to report the change in the material situation.

The Ombudsman also finds a violation of the rights of the citizens in exercising their rights from the social protection because of the failure of the authorities to act upon the judgments of the Administrative or the Higher Administrative Court, that is, violation of the provision referring to the compulsoriness of the judgments prescribed in the Law on Administrative Disputes.

In these cases, he indicated that the actual situation should be fully and accurately establish, and that the fact that these persons are at social risk, who live from social financial assistance as the sole source of income for existence, is not to be neglected, while also demanding obedience of the guidelines and the legal opinion of the courts. However, in many of the decisions adopted, the centers for social work again brought the same decisions in the re-ruling of the case, thus the citizens were forced to go through administrative procedures for years in order to prove the illegal actions of the centers for social work.

The Ombudsman, acting upon a case on his own initiative, related to the provision of protection for 27 people, including children and pregnant women who became homeless after their improvised houses were destroyed by the Municipality of Gazi Baba, after the interventions at the Ministry of Labor and Social Policy, as well as the competent center for social work, undoubtedly found that an effective solution for these families was not found, and that there was no long-term solution of the problems of the homeless in the country.

The Ombudsman pointed out that one should bear in mind the vulnerability of this category of citizens, who are denied access to rights from many different spheres, people who are homeless, without documents, and therefore without the possibility of using any rights for social protection.

Hence, the problem is much more complex than finding only suitable housing for these people, and it demands the initiation of a series of procedures, primarily for providing documentation for determining their personal identity, and consequently other activities and measures, which indicates the need for inclusion and cooperation of several bodies and institutions in order to find an adequate solution of the situation in which persons without documents and without residence are.

The Ombudsman pointed out that the Ministry of Labor and Social Policy, as a body under whose jurisdiction is the protection of persons at social risk, should take into account these established conditions and in accordance with its competences, and in order to provide protection of this vulnerable group of citizens to initiate multisector and multidepartment consideration of the problem(s). At the same time, measures should be taken in order to review the available

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capacities and opportunities for an adequate long-term solution, bearing in mind that at the moment only accommodation for homeless persons and what is offered to these families is the Reception Center - Chichino Selo.

According to the Ombudsman, the situation in the Reception Center for homeless persons should be fully analyzed, both from the aspect of accommodation capacities, conditions, opportunities for exercising rights, according to the age structure of the persons, the security aspect, etc., as well as the reasons why many of the homeless people often refuse accommodation in this center and consequently appropriate measures should be taken. It is undisputable, in this context, that the accommodation of a homeless person in this center should be of a temporary nature, and in that direction all measures should be undertaken in order to find a permanent solution regarding the issue related with their housing, to be given assistance and support, by which they themselves can contribute to the improvement of their own living and existence capacities.

Concerning the right to assistance and care by another person, it is undisputedly established that the procedure for reaching a decision on this right depends on the Finding and the Opinion of the expert medical committee, which in most cases acted upon the Ombudsman's interventions, but the fact is that in many cases the decision on this right is made after exceeding the legally prescribed deadline.

Furthermore, as a serious problem the citizens are faced with, is the prevention of the exercising the right to permanent financial assistance, and the obligation imposed by the competent Centers for Social Work which says that the applicant should also submit documents for all members of their family, in order to find out whether they have an income and whether they are capable to take care of them. The reaction of the applicants for this assistance is that they are deliberately prevented against the state protection, because they are brought in a situation in which they cannot provide the required documents for various reasons, often because of bad family relationships, lack of communication, living in another country, and disinterest of other members for the applicant(s), etc. For these reasons, despite the submitted requests and advice provided by the experts from the Centers for Social Work, the citizens could not exercise the right to permanent financial assistance; many of them quit at the very beginning after they got informed about the necessary documents, knowing in advance that the right will not be recognized even though they are in poor physical and financial condition.

Despite the Ombudsman's request to seriously consider this solution that is detrimental to people in need of such assistance, the Ministry of Labor and Social Policy, citing the obligation of children to care for the elderly and frail parents, as well as the right and the duty of parents to care for the upbringing and raising of children, considered that there was no illegitimacy in the treatment of the centers when rejecting the requests of the citizens for exercising the right to permanent financial assistance.

Some of the complaints were also submitted for protection against domestic violence, which indicated that violence against family members was committed, and most often women, as well as men, are seeking protection. In these complaints, the Ombudsman found that it was often pointed out to domestic violence and protection was sought in cases of conflicting family relations between spouses, parents and children, as well as former spouses, but in all cases children were indirect victims of violence.

Acting upon these complaints, the competent centers for social work were requested to take measures to protect the victim, as well as measures against the perpetrator of the violence, and greater diligence in terms of monitoring the situation and behavior of the alleged perpetrator by submitting a proposal for pronouncing a temporary measure by the competent court.

In this context, the Ombudsman welcomes the ratification of the Council of Europe Convention on the Prevention and Combating Violence against Women and Domestic Violence (Istanbul Convention) and believes that this issue will get the true meaning, and the institutions will intensively fight for the eradication of violence against women and domestic violence,



where victims are mostly females.

Regarding the undertaken measures following the recommendations of the Ombudsman, in the area of social security and protection, the Ministry of Labor and Social Policy reported that it regularly pays the social security benefits, and in relation to the increase in the amount of cash benefits, it reports that a reform of the system that will be regulated by a new Law on Social Protection has been initiated.

The initiative for amendment of the Law on Social Protection was accepted, whereupon the article from the law that prevented the citizens from exercising the right, or its extension, until the previously received funds were returned, was abolished.

Regarding the recommendation related to the provision of adequate accommodation facilities for homeless persons, the Ministry informs that in addition to the existing Center in the Chichino Selo, which has a capacity for 70 persons, in cooperation with the Red Cross beside the emergency accommodation point, three new regional emergency shelters in Bitola, Strumica and Struga have been opened. At the same time, it reports that, in cooperation with the Ministry of Transport and Communications, they are working together to find an appropriate social housing solution for this vulnerable category.

CONCLUSIONS

- Social protection and the amount of assistance received by the beneficiaries is far from the real needs and does not contribute to overcoming the social risk and poverty of these individuals/families.
- Citizens await a long time to obtain a decision on their applications for exercising the right to social assistance; access to the right to permanent financial assistance cannot be reached by persons who have relatives even though they do not live with them in a common household, even if they live outside the country . While the right to assistance and care is almost never realized within the legal deadline and the centers are making excuses that they have to wait for a finding and an opinion from the expert committee.
- Homelessness remains an issue without an adequate permanent solution.

RECOMMENDATIONS

- Measures should be taken to increase the amount of financial assistance from the social protection, as well as measures for providing efficient and quality social services for citizens and families at risk.
- The Ministry of Labor and Social Policy of the Republic of North Macedonia, in cooperation with the Centers for Social Work and the expert medical commissions, should undertake measures for the smooth and timely exercise of the rights of social protection, by respecting the deadlines for making a decision, determined by law.
- Permanent solutions should be found in order to reduce the number of homeless people and families by providing adequate accommodation facilities, expanding the possibilities for obtaining a social apartment, and making vulnerable groups capable for independent living.

PENSION AND DISABILITY INSURANCE

The exercise of citizens' rights to pension and disability insurance represents the operationalization of the constitutional provision for social protection and social security, based on the principles of solidarity and fairness. However, although it is the responsibility of the competent authorities to implement the procedures for acquiring the right to pension effectively, this was not a practice, that is, the citizens this year also exercised their rights in the area of pension and disability insurance with difficulties.

In this reporting period, 141 complaints were submitted, similar to the previous year (138), and the largest number of complaints concerned the prolongation of the procedure before the competent authorities, in particular the State Commission for Decision-making in administrative procedures and the second-instance labor procedure. In addition, it is indisputable that even though the Ombudsman, like the previous years, pointed to the problem with the duration of the proceedings, the competent institutions did not take any steps to overcome the problem. The fact that the State Commission for a long period of time did not function due to staffing, contributed to the slowdown in the work, but this reason cannot be justification, since the exercise of the right to pension and the rights related to disability is an existential issue that cannot be delayed.

The number of cases in which the procedure was delayed due to the untimely completion of the documentation in the cases for which a court procedure was conducted before the Administrative Court was not smaller. In these cases, the Ombudsman with his own interventions addressed to the Pension and Disability Insurance Fund, as well as to the Administrative Court, in order to complete the documents so that the competent authority would be able to make a decision once again.

In these actions the Ombudsman established that by delaying the proceedings and noncompliance of the legal deadlines, the rights of the citizens were being violated, which prompted



him to point out to the competent authorities the need for more efficient and effective acting. Therefore, after the actions undertaken by the Ombudsman, the procedures were implemented more diligently and the citizens exercised their rights.

Regarding the realization of the right to an old age or family pension, this year there were cases when citizens could not exercise their right to a pension due to the non-executed payment of contributions; therefore, the Ombudsman addressed to the Ministry of Labor and Social Policy and the Pension and Disability Insurance Fund, as competent institutions for the functioning of the pension system. Acting upon a specific case, where contributions were not paid due to a procedure for an enforced execution, and upon the recommendations and indications submitted by the Ombudsman, the Public Revenue Office created a new system software solution that enabled faster implementation, so from July (in the reported year), the citizens were able to realize the right to a pension undisturbedly, i.e. the problem due to unpaid contributions from implemented enforcement decisions was overcome.

Regarding the pension system and the issue of the profitability of the membership in the second pension pillar for certain categories of members, that is, insured persons, for which the Ombudsman intervened in the previous years, actions were undertaken against the Ministry of Labor and Social Policy and the Agency for Supervision of the fully funded pension insurance, after which the actions resulted in preparation of amendment to the law and in that context, we emphasize that the recommendations of the Ombudsman submitted in previous years have been implemented.

Regarding the achieving of the right to a disability pension, the citizens filed complaints expressing dissatisfaction with the decisions of the competent commissions for assessment of the working ability due to lack of objectivity. In these cases, the Ombudsman undertook actions for updating the procedure, as well as for a more comprehensive implementation of the procedures for assessing the working ability of the citizens.

This year again, complaints were submitted for exercising the right to a pension based on international and bilateral agreements. In these cases citizens asked for an intervention from the Ombudsman for calculating a proportionate part of the pension for the time they worked abroad. In these cases, the Ombudsman requested from the Pension and Disability Insurance Fund that they continuously address the competent pension authorities of foreign countries, but in specific cases, he asked for the expediting of the procedures through the Ombudsman Institutions of foreign countries.

In this reporting period, the citizens also addressed the Ombudsman with requests for legal advice on certain issues in the area of pension and disability insurance, so that great attention was also paid to these submissions with clarifications of the legal regulations and with advice for the realization of certain rights.

Regarding the recommendations in the area of pension and disability insurance, measures were taken, and in December 2018 the Parliament adopted the Law on Mandatory Fully Funded Pension Insurance, which introduced a new criterion for membership in mandatory pension funds in the second pillar.

On the other hand, no measures have been taken regarding the recommendation to the State Commission for Decision-making in administrative procedures and labor relations procedures in the second instance, to decide upon the legal remedies of the citizens in a more efficient and expert manner, and to implement in practice the legal provision for meritorious decision-making in cases for which, after a complaint against the decision, it was annulled and returned for reconsidering the decision.

CONCLUSIONS

- Citizens slowly and inefficiently exercise their rights in the field of pension and disability insurance, and the competent authorities decide upon their requirements by exceeding the legal deadlines for making a decision.
- The inadequate and difficult cooperation between the authorities leads to the postponement of the procedure, especially when the completion of the documentation is necessary, and the damage is suffered by the citizens.
- The citizens' dissatisfaction with the Findings and the opinions of the commissions for assessment of the working ability continues.

RECOMMENDATIONS

- The Pension and Disability Insurance Fund of the Republic of North Macedonia, the branch offices throughout the cities, as well as the second instance panel for decision on complaints, are to take measures to make decisions on the citizens' requests for exercising their right to a pension in the legally prescribed deadline.
- Improving the cooperation and communication of the competent authorities, as well as cooperation during completion of documentation in the cases for the purpose of timely decision-making.
- The commissions for assessment of the working ability should be more efficient in decision making, on the basis of a properly established factual situation regarding the working ability of the citizens.

MEDICAL INSURANCE AND PROTECTION

The right to medical care and medical insurance in the past year was difficult to exercise for the citizens, due to inadequate application of the regulations by the competent authorities, among other things, which negatively affected the citizens as users of these rights. Although the number of complaints filed this year decreased compared to the previous year, the problems faced by the citizens are almost identical to the previous years, which makes it possible to conclude that there has not been a positive step forward in the access to the rights to medical care and medical insurance.

The reporting year is dominated by complaints about the realization of the right to medical protection and medical insurance related to the provision of basic medical services and



participation, the prolongation of procedures in front of the competent institutions, unethical treatment of patients, etc.

The problem with participation for medical services is characteristic in the cases where insured female patients were obliged by private health institutions to pay participation for gynecological examinations, services which according to the Active Health Care Program for mothers and children are free of charge.

After establishing that the gynecological examinations of the pregnant women are being charged against the regulations, the Ombudsman undertook actions towards the Health Insurance Fund and the State Sanitary and Health Inspectorate, with a request for conducting controls and inspection supervisions in several private healthcare institutions. Having in mind that the control and the supervision did not provide a positive result, that is, due to lack of evidence, the perpetrators of the right were not found, and the Ombudsman addressed the Ministry of Health with its opinion and requested an upgrade of the legislation in order to overcome the weaknesses in this segment.

In this context, the Ombudsman pointed out that it would be useful to inform and educate doctors about the legislation which says that the gynecological medical services of the patients during pregnancy are covered by the funds from the Active Health Care Program for mothers and children, and that unlawful charging entails responsibility in accordance with the existing regulations.

It should be noted that the gynecological office in the municipality of Suto Orizari is finally put into operation, for necessity of which the Ombudsman has repeatedly pointed out in the past years. Like for other private health offices, there were complaints filed by female patients who were also unlawfully charged for examinations covered by the aforementioned Program at the PHI Dr Vjolca, located in Suto Orizari.

In the reporting period, the number of complaints related to the problem of delaying the administrative procedures in front of the Ministry of Healthcare and the regional offices of the Health Insurance Fund has decreased, but the problems with the delivery of cases between the competent institutions are still present. In these cases, following the statement on ineffective treatment, the need for effective and efficient treatment was repeatedly pointed out, because the medical care does not tolerate any delay.

In these cases, the problem of completing the documents was again identified, that is, the lack of accurate data whether the case is at the regional office of the Health Insurance Fund or at the second instance institution.

In order to overcome the undue acting in such cases, besides the direct contacts with the responsible officials of the Ministry of Healthcare and the regional offices of the Health Insurance Fund, actions were taken to complete the medical documentation with indications for acting in the legally prescribed deadlines.

Regarding this problem, there is a conclusion that, regarding the more diligent acting, a step forward has not yet been made, although the Ministry of Health and the Health Insurance Fund, following the recommendations of the Ombudsman, have pledged to overcome the problems by submitting the documentation electronically or, by introducing personal delivery.

The problem with the collection of the contributions of the citizens who were employed the previous year, but currently they fall under the category of unemployed persons, is still present. For this problem, the Ombudsman initiated a procedure on his own initiative and submitted the Information to the Government, thus actualizing the problem influenced by the application of the Law on Contributions from the Compulsory Social Insurance, with a proposal to start the change, in order the citizens who were left unemployed to be able to exercise their right to medical care without any additional financial burdens.

On the reaction of the Ombudsman, the Government informed that by the beginning of the application of the new regulations, envisaged for January 2019, which will calculate on a daily basis the data on whether the citizens have earned an income or not, the problems that

unemployed persons face will be eliminated due to the application of the aforementioned law.

As a specific case in this area, which led to the amendment of the by-law for exercising the right to an orthopedic aid, is the acting upon a complaint by a citizen who submitted a request for an orthopedic aid to the Health Insurance Fund - regional office in Tetovo. After the undertaken actions, the Ombudsman concluded that the insured persons are limited in their access to the right to orthopedic aids (shoes) in a way that they may require their replacement only after the expiration of a certain period provided in the by-law, i.e. within the duration of the orthopedic shoes of 18 months, and the Ombudsman submitted a recommendation to the Fund for reducing the expiration dates and by the recommendation he requested the provisions of Article 38 of the Rulebook on indications for exercising the right to orthopedic and other aids to be amended and supplemented.

The recommendation of the Ombudsman was accepted and the Board of Directors of the Health Insurance Fund at the beginning of June 2018 brought in the Rulebook for amendments and supplements to the Rulebook on indications for exercising the right to orthopedic and other aids, according to which the duration of the orthopedic shoes for insured persons was reduced to 12 months.

Regarding the complaints about unethical treatment, the Ombudsman has acted, in such a way that he demanded the realization of expert supervision by the Doctor's Chamber of the Republic of Macedonia; however, despite numerous actions undertaken against the Doctor's Chamber and the Ministry of Health, expert supervisions were not conducted due to lack of financial funds.

Regarding the established measures following the recommendations of the Ombudsman, the Ministry of Health undertook the obligation to organize a meeting with representatives of the Health Insurance Fund in order to overcome the problem of prolongation of administrative procedures and exceeding the legally prescribed deadline for decision making.

The Ministry of Health reported that the Directorate for electronic health (ehealth) is familiar with the measure by which the Government is obliged to start the arrangement of the project "My Term", in order to meet the needs of the citizensinsured persons for efficient, regular and timely health care, and in relation to the recommendation for finding a solution for providing a gynecological facility in the municipality of Shuto Orizari, the problem has been overcome by providing a Gynecological Institution in this municipality.

CONCLUSIONS

- Citizens still have difficulties in exercising their rights in the field of health, as a result of untimely and ineffective acting of the Health Insurance Fund and the Ministry of Health.
- Pregnant women, especially members of vulnerable groups, complain about unlawful charging by private gynecological healthcare institutions for gynecological examinations and laboratory analyzes, which according to the Program should be free of charge.
- The Doctor's Chamber is limited in the treatment and realization of the professional supervision provided for by the Law on Health Protection due to lack of financial resources.



RECOMMENDATIONS

- The Health Insurance Fund of the Republic of North Macedonia and the Ministry of Health of the Republic of North Macedonia should undertake continuous activities to eliminate the problem of inefficiency and the prolongation of administrative procedures, thus ensuring that the rights of the citizens will be exercised within the legally prescribed deadlines. For that purpose it is necessary to regularly organize joint meetings between representatives of the Health Insurance Fund and the Ministry of Health.
- The Health Insurance Fund should strengthen the control in private gynecological healthcare institutions regarding the payment of health services participation that are free of charge and covered by the Fund's finances.

• The Ministry of Healthcare of the Republic of North Macedonia should provide a permanent solution regarding the financing of the expert supervision of the Doctor's Chamber through the budget or through a separate item in the Public Health Program.

CHILDREN'S RIGHTS

In this reporting year children's rights were once again exercised with difficulties. Disrespect and violations have been found which significantly affect the situation with children's rights, disrespect for the best interest of the child, as well as insufficient protection against violations of children's rights in the family, kindergartens, educational institutions, as well as in child care institutions and institutes. There is an increase of complaints in this area, but the problems that children face are the same or similar. No significant changes have been noticed either in the attitude and approach of the competent authorities in resolving the many years of weaknesses in dealing with cases related to the exercise and protection of the rights of the child.

The majority of complaints concern the rights of the child within the family, regarding the regulation of the personal contacts of the child with the parent with whom the child does not live or the close relatives, the right to child support, the right to an issuance of a travel document. The number of complaints about violation of the rights to education of children in primary and secondary schools, as well as the protection of the child against violence, is increased compared to the previous year.

Monitoring the situation with the respect and realization of the child's rights, the Ombudsman, this year has acted again on his own initiative, reminding the competent authorities that the children are entities with their own rights, and indicating that everyone - starting with the parents and the extended family, through the kindergartens, the school, the institutions for children, the holders of power and policy makers have an obligation to respect children, their rights, and reminding that their best interests should be also of interest to the community as a whole.

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Children's rights in the family

Complaints about the impossibility of exercising the right to personal relations and contacts of the child with the parent with whom the child not live or with close relatives, the obstruction of issuing a travel document for the child, irregular payment of support (alimony), mutual accusations of negligence and lack of care for the child are the most common complaints from the parents, with the child staying in the middle of the quarrels, disagreements and accusations among the parents, who in their requests very often expressed dissatisfaction with the work of the Social Work Centers, more precisely from the decisions of the expert teams.

The Ombudsman requested, without exception, that the Social Work Centers, the Ministry of Labor and Social Policy, as well as the public institutions for supervision, respect the right to maintain personal relations and direct contacts of the children with the parent(s), indicating that the right is to be limited only if is contrary to the best interests of the child. On the other hand, it is undoubtedly that a violation of this right, as well as the principle of best interest of the child, can only be established by a well-educated, professional and dedicated expert team, but unfortunately in most cases this right has not really been protected.

In many cases, despite the continuous indications, recommendations, advisory work, and supervision requirements, after the measures undertaken, the Social Work Centers failed to reconstruct the interrupted contacts of the child with the parent, nor influence the improvement of the relationship between the parents, and in that context including attitude of the child to (not) see and contact the other parent, which again is detrimental for the child and his/her right to be with both parents.

The impatience, the mutual rivalry and the non-communication of the parents, that is, the former spouses went to the extent that the child was not allowed to be issued a travel document, although this is the child's right guaranteed by the Convention on the Rights of the Child.

Consequently, situations were noted when one of the parents does not agree on issuance of a travel document for the child because of a suspicion that it will be misused and the parent will leave with the child out of the country without the consent of the other parent and without prior notice to the competent center. There were cases when the Center for Social Work as a body that took care of the rights and interests of the children gave consent instead of the parent who opposes, and in practice the fears about the child's departure with the other parent were confirmed, which led to distrust in the actions of the expert teams within the Social Work Centers.

The Ombudsman, having in mind the best interests of the child and the competences of the Social Work Center as a public institution that should take care of the rights of the child, indicates that it is of great importance to continuously monitor the situation in the family, supervise the exercise of the parental right, as well as the relationship between spouses and child/ children, in order to undertake timely measures and to prevent situations of non-compliance with the obligation to inform and act in accordance with the acts of the center.

In a part of the cases, reminding parents of the obligation to communicate with one another in the interest of the child, the Ombudsman contributed to preventing the harmful effects on the child and his proper growth and development, because in cases when torn between the wishes of one or the other parent, it can be easily closed in itself, have inadequate behaviors or behavioral problems, which can be difficult to recover, and in the country there are no suitable conditions for care, nor for child's improvement, that is, resocialization.

In this area, part of the parents, including parents serving prison sentences in Penitentiary Institutions seeking protection of the rights of the child against the behavior of the other parent, also pointed to a negligence of the child and a lack of care, after which the Ombudsman included the Social Work Center for establishing of the situation, asking for immediate insight into the family and conversation with the parent and the child (depending on the age and maturity of the child), in order to get an insight into the situation and, consequently, to take appropriate measures.



Such cases and situations continuously emphasize the need for quality and efficient marriage and family counseling services, as well as establishing a system of active monitoring of the child and family at risk by the social services, in cooperation with educational, healthcare and local authorities and cooperation with associations of citizens, which, in fact, was a recommendation of the Ombudsman in the previous reports.

The Ministry of Labor and Social Policy confirmed that the preparation of a new Law on Social Protection, in which a special emphasis is put on the development of social services and their decentralization, is in the process, in which context will be created opportunities for sustainable functioning of marriage and family counseling centers.

Acting on his own initiative for admission of a 14 month old baby at the PHI Clinic for Pediatric Surgery, with severe bodily injuries, the Ombudsman, pointing out that he took all the necessary activities for remedying the injuries and full health care of the child, requested the inclusion of PI Inter-municipal Center for Social Work of the City of Skopje for determining the guardian of the child, and because of the information about the committed violence against the child an information from the Basic Public Prosecutor's Office was also requested from the Ombudsman's Office. The undertaken actions resulted in a positive outcome, and so the healthcare institutions informed on the improved health condition of the baby, the responsible center put the child under guardianship, and the Basic Public Prosecutor's Office, acting on the request of the Ombudsman, informed that after the conducted investigation, they found the existence of a criminal offense of neglecting and mistreatment of a child.

In the course of acting, the Ombudsman found, among other things, that the mother was a former protégé of the Orphanage, who after leaving the institution, continued to live as a person at risk, with unacceptable behavior, and harmful consequences for her child.

This case, as well as the case with the abandoned baby in front of the Infant Home in Bitola, by an underage mother, raises the question of how much the child protection system takes care of children at risk, and whether the institutions where children are accommodated as children without parental care, with educational or social problems or behavioral problems manage to positively change the behavior of these children?

The Ministry of Labor and Social Policy in relation to the recommendation for this group of citizens at risk informs that activities are carried out in the Ministry to introduce a new way of working in the social work centers through an individual approach and determining the case leader for each specific case, who will monitor the condition of the child and the family at risk.

The education of children in primary and secondary schools

Significant is the number of complaints referring to the violation of the right to education of the child, which includes complaints about bad conditions in school facilities, classes being thought by inadequate staff, discrimination on religious and ethnic grounds, on the skin color, and in several cases anonymous complaints from parents were submitted to the Ombudsman for poor quality diet of the students.

In handling the complaints, it was indisputably confirmed that there were schools that were not adequately equipped to conduct quality teaching with modern teaching aids and instruments, which operated under poor hygienic conditions that affected the education, and above all the health of children.

The Ombudsman, among other things, demanded active involvement of the municipalities in finding appropriate solutions, in cooperation with the competent Ministry, indicating that children spend a large part of the day in the school, which requires appropriate conditions for uninterrupted education, maintenance of the hygiene, as well as the quality of the food.

After the complaints filed about inadequate teaching staff, the Ombudsman concluded that there are schools that are late in planning the employment of the teaching and administrative staff, others receive a late approval from the competent Ministry, but in any case such conditions are at the detriment of the children, because most often, until the selection of an appropriate staff, a decision is made that a teacher who is not specialized in the field concerned to give lectures. The Ombudsman in these cases included the State Educational Inspectorate requesting supervision and taking measures in the interest and protection of the child's right to an undisturbed education, which was practically realized and after the Ombudsman's indication, students of the seventh and eighth grade (of the nine year primary school program) in a Skopje primary school, finally got an appropriate teacher, and in another school the inadequate teacher was dismissed from the classes, and the classes were allocated to other teachers with appropriate education and qualifications.

The Ombudsman still holds that there is a need of provision of a systemic solution regarding the right of the child/student to participate in the education system, as an opportunity to hear the student's opinion and to ensure his/her participation in making important decisions on issues related to school life.

In this context, the Ministry of Education and Science informs that these suggestions are taken into account when preparing the amendments and supplements to the Law on Secondary Education.

Regarding the complaints on discrimination against children, the Ombudsman indicated that the schools should not prevent girls with headscarves, to exercise their right to be photographed or to participate in the final celebration (prom), recommended respecting the children and their inclusion in classes together with children from different ethnic composition, that is, they should neither be segregated nor rejected during the enrollment, pointing to the principle of prohibition of discrimination.

In the reporting period, the Ministry of Education and Science did not undertake measures following the recommendation of the Ombudsman to consider the possibility of introducing a special subject for the study of human rights and freedoms in accordance with the domestic and international regulations, as well as the mechanisms for protection, in all degrees of education it is undisputable that only if the children are educated about their rights they can recognize disobedience or violation of these rights, and consequently seek protection in front of the competent authorities.

According to the Ombudsman, the role and the importance of providing adequate and quality education for each child must not be ignored, and in this context considers that schools, other competent authorities and the Ministry of Education and Science should seriously commit themselves to overcoming the present situation of violation of students' rights, by timely provision of staff who will have the professional qualifications and will carry out the activities envisaged in the curriculum.

In this reporting period, following the situation with the right to education of the child, in discussions with the children's parents/guardians, as well as with citizens who asked for advice at the institution, the Ombudsman found that in practice children who were not included in the teaching process, who have exceeded the age for their inclusion in appropriate education, are still not included in the educational process.

In this context, following the recommendations of the Ombudsman for urgent resolution of the problem of including the children in primary education by providing conditions for attending the teaching process in primary schools on the territory of our state, as well as for appropriate legal solutions for including children at risk in the educational process that due to their age cannot be enrolled in primary school, nor attend a school for part-time adult education, the Ministry of Education and Science responded that it undertook actions and intervened in a draft Law on Primary Educa-



tion published on the website of this Ministry for public debate.

Violence against children and between children

Regarding violence against the child, a number of cases were opened on the Ombudsman's own initiative, and complaints submitted by parents for protection of children against violence in pre-school and school institutions were also handled.

In the cases in which the Ombudsman acted on his own initiative, the competent inspection bodies were required to conduct a supervision, whereby violence committed by the women educators in pre-school institutions was established. In one case, the police filed a complaint to the Public Prosecutor's Office, which, in turn, carried out investigative actions on grounds of reasonable suspicion that a criminal offense of negligence and ill-treatment of a child has been committed, and the educator has been disciplinarily sanctioned by the responsible institutions. In another case, according to the Law on Child Protection, the educators were subjected to a disciplinary measure - a fine.

The practice of violence against students by teaching staff and other staff continues, in which cases the Ombudsman, through addressing the authorities, pointed to the protection of the child from all kinds of abuse and violence, while at the same time demanded to be taken measures to maintain the discipline in the school through taking care of the teaching and other staff employed in the educational institutions.

In this context, taking into account the frequent cases of violence among students in a number of elementary schools, violence by teaching and other staff against the students, as well as the complaints of the parents regarding the safety of children while at school, the Ombudsman pointed out to the Ministry of Education and Science and the State Educational Inspectorate to seriously investigate cases of violent behavior between students and towards students, and in accordance with the established situation, measures should be taken for the responsibility of perpetrators of violence, all in order to make students, teaching and other staff feel safe and secure.

The Ombudsman publicly reacted in relation to cases of violence among students, pointing to the absence of a timely and appropriate reaction for preventing violence among students, and reminding those responsible in the schools and the wider community that the school is an educational institution that has an obligation and a duty to provide care and protection for children, as well as to take preventive measures to prevent violence among children, but also violence against children.

In this context, he urged those responsible in schools, local self-governments and the education inspectorate to take measures in order to provide schools without violence, where positive atmosphere, mutual respect and fellowship among the students will prevail.

According to the Ombudsman, it is necessary to strengthen the capacities of teachers to prevent and stop violent behavior among children, to develop, but also to advocate for communication among children, tolerance, building self-confidence, and to establish mechanisms for appropriate and timely intervention against the violence in the schools. In addition, parents must show greater interest in their children, their relationship and to make an active contribution to safe schools without violence.

Considering the absence of reaction from classmates in the case of violence among female students in an elementary school in Negotino, where according to the footage published in the public, students using their mobile phones record the violence and do nothing to prevent it, the Ombudsman with great concern asked the question: What is happening with the upbringing of children? Have the family and the school ignored this important function, which together with education has an important role in the proper development of every child? Do schools have ef-

fective methods and trained staff able to prevent violence, that is, to educate generations who will be able to respect and to solve possible problems through dialogue?

These events in the schools once again confirm the continuing indications and recommendations of the Ombudsman on the need for professional services in schools that will seriously and devotedly work on prevention of violence among students, and will strengthen the educational role of the teaching staff in the educational process. At the same time, he emphasized the need for more frequent controls and supervision over the work of educational institutions in which children exercise the right to education in order to prevent violence against children and between children, that is, non-toleration of violence, as well as greater cooperation and involvement of parents in the professional bodies of schools.

The Ministry of Education and Science upon the recommendation of the Ombudsman for undertaking measures for legal regulation of the right to participation of the child/student in the educational system, with which they will create real opportunities to hear the students' opinion and ensure their participation in the adoption of important decisions on issues related to school life, informs that they had in mind the above suggestions during the preparation of the amendments to the Law on Secondary Education.

Protection of children in institutions

The Ombudsman alarmed the weaknesses of the form of institutional care of the children for several years in a row in his Annual Reports, indicating that the Public Institutions don't provide the desired goal, and the protégés instead of being in the Institution and under treatment, are most often out of the institution, in constant escapes, which calls into question the efficiency of the system for adequate protection of children against possible harms and abuses.

Having in mind the fact that the effect of the process of re-socialization in these institutions is very poor, the Ombudsman has rightfully raised the question of who and whether they take effective care of the children who are sent to the Public institutions for child care?

At the beginning of the reporting period, acting on his own initiative, in the case of a 12 year old protégé who was sexually abused while under the custody of the Center and placed in the PI for the care of children with educational and social problems and disturbed behavior, during which she became pregnant, the Ombudsman publicly criticized the poor and inefficient child protection system and recommended finding other, appropriate forms of child care and protection, rather than huge and dysfunctional institutions. At the same time, the Ombudsman demanded from the competent Ministry of Labor and Social Policy and the Public Prosecutor's Office to conduct a full examination of the case, and to sanction the persons who failed to protect the child in a timely manner, and those who abused the child.

The Ministry of Labor and Social Policy in connection with this case, which shocked the public, established a commission that performed extraordinary supervision in the PI for the care of children with educational and social problems and disturbed behavior, as well as extraordinary inspection in the PI Inter-municipal Center for Social Work of the City of Skopje, where the weaknesses in the actions of the officials which the Ombudsman publicly pointed out, were confirmed. Namely, several irregularities were found in the work of the expert persons, and therefore the Ministry filed 11 criminal charges against expert persons to the Basic Public Prosecutor's Office, for the existence of a reasonable suspicion that a crime was committed - misconduct in the service and negligence of a child, an application for a misdemeanor against 18 experts in the Inter-municipal Center for Social Work of the City of Skopje, and initiatives for determining disciplinary responsibility for 16 professionals were also initiated.

The Public Prosecutor's Office also initiated a procedure for determining the identity of the perpetrators of the crime and providing relevant evidence of criminal prosecution, while the



Director of the Public Institution "25th May" resigned.

After this event, the public was informed about the impregnation of two other protégés of the Public Institution, with one girl terminating the pregnancy, while the latter did not want to do an abortion, for which the Ombudsman submitted a Recommendation to the Minister of Labor and Social Policy to urgently take measures for adequate care of children placed in institutions and their full protection and to propose changes in the field of social protection from the aspect of care for children with educational and social problems and disturbed behavior, in order to find new, appropriate forms of child care, where individual treatment and methods for working with children will be used, professional and other persons will be trained to work with children who exhibit any inappropriate behavior, in order to help children grow up to be as healthy and responsible persons.

In the context of the aforementioned, the Ombudsman conducted a survey in order to determine the situation with the termination of pregnancy at an early age, as well as the birth of a child/children by underage mothers in the reporting period, which undoubtedly led to the conclusion that underage pregnancies are present in the country, which is especially worrying, given that it is a matter of children who are not only psycho-physically not mature enough, but in the early development of their personality they decide to terminate the pregnancy or give birth to the baby and to care for it, which among other things affect their health, family life, education and readiness to fulfill the obligations which motherhood carries.

The data from the research confirm that there is a termination of pregnancy and birth by children aged 11 to 18, which indicates lack of education of children for entering into intimate relationships and the consequences of it. The number of children who gave birth at the age of 14-16 is significant, although there are also cases when minors gave birth at the age of 11-13. Almost all underage mothers have given birth in extramarital communities, and hospitals do not keep a separate record of them, or the data regarding marital status are not accurate or complete. In this context, there are cases where children who gave birth and became mothers at age of 14 or 15, in the data of medical institutions are registered as married persons.

Considering that in the reporting period the process of deinstitutionalization started, with a total of 25 children from the Public Institution for Care of Children with educational and social problems and disturbed behavior being placed in small group homes, and children under the age of 18 from the Special Institute Demir Kapija, were moved to residential units, the Ombudsman through the Department for Protection of the Rights of Children and Persons with Disabilities will continue to monitor the situation in order to protect the rights of these children.

The Ministry of Labor and Social Affairs in relation to the recommendation of the Ombudsman to establish a system of active monitoring of the situation of the child and the family at risk by the social services, and in cooperation with the educational, health and local authorities/ institutions inform that the Centers for social work within their authorities and competences are treating this issue through field, professional, advisory, interdisciplinary team work, ensuring the right to social protection, accommodation in a foster family or a social protection institution, as well as other rights and services in accordance with the Law.

Protection of the rights of children belonging to vulnerable and marginalized groups

The rights of children belonging to vulnerable and marginalized groups in this period were once again in the interest of the Ombudsman's Department for the Protection of Children's Rights, which this year concluded that there was no significant progress regarding the problem of children on the street, children who use drugs and psychotropic substances, and the additional registration of the birth of children in the birth register, in practice, continues to be performed slowly and with difficulties.

Namely, one of the measures taken by the centers for social work towards the parents who beg on the street together with the minor children is to separate the child from the family and to be accommodated in a foster family.

The Ombudsman, after receiving information from the media that three children under the guardianship of the PI Inter-municipal Center for Social Work-Shtip escaped from their foster parents, initiated a procedure on his own initiative and after the undertaken measures the children were found with the previous caregivers (foster family), with which they established emotional closeness. This situation was an occasion to investigate the reason for the children's escape.

After receiving the response from the guardian authority Inter-municipal Center for Social Work - Shtip that the three minors from the foster family fled due to lack of adaptation to the new environment (a new foster family), which is changed based on the assessment of the Inter-municipal Center for Social Work - Kochani, the Ombudsman submitted a Statement on the need for taking measures in order to continuously monitor the situation in the foster families, as well as to take into account the attitude of the children towards the family and vice versa, that is, to have a serious approach to working with these children and their adaptation to the foster family.

Considering that the placement of a child in a foster family as a non-institutionalized form of protection is closest to the original family, the Ombudsman, among other things, indicated that the Centers for Social Work prior to placing the children in a foster family should take measures for the preparation of the child in order to get acquainted with the foster family, that is, the home where they will be fostered in, comprehensive introduction of the child to the way and the functioning of the new home, especially in cases where there is a change of a foster family, and the adaptation of the child/children to be continuously monitored.

In order to prevent the harmful consequences for the child, the Ombudsman in the Opinion submitted to the Minister of Labor and Social Policy pointed to the need to establish comprehensive and complete procedures, based on standards that will refer to the cooperation and communication between the centers for social work in cases when it comes to underage children, and especially when that cooperation and communication apply to children at risk.

According to the Ombudsman, there should be special and specific procedures for communication and cooperation when it comes to determining a foster family for a child at risk, as well as guidelines for further treatment in cases where agreement is not reached in terms of determining a caregiver for children and children at risk, as is the specific case.

In another case, the Ombudsman, acting on his own initiative, determined that the health institution in which the underage mother gave birth was aware that she did not want to take care of the newborn, but nevertheless she was allowed to leave the institution together with the newborn. The mother who was a minor, instead of taking the child to the home where she lives, left her baby in front of the Infant Home in Bitola.

In this case, the Ombudsman found an omission in the protection of the newborn child, as well as the minor who became pregnant illegitimately, because the institution instead of informing and including the Center for Social Work as a responsible authority that should protect the rights and interests of the baby and the minor mother, simply let the minor to freely leave the institution together with her baby.

The PHI Clinical Hospital-Tetovo, following the intervention of the Ombudsman, established a commission to investigate the case, which confirmed the omissions noted by the Ombudsman, due to which disciplinary measures were imposed - a public warning for the responsible doctor and nurse, and the Ombudsman submitted a notification to the Gynecology and Obstetrics Department about its duty to report every birth of an underage mother at the competent center for social work.

The Ombudsman, following the situation with the Roma children and the access to the right to education, from the research conducted in the course of 2018, and in relation to the



situation and challenges of the Roma after the end of the Roma Decade (2005-2015), undoubtedly found that the Roma children returnees face difficulties in continuing education, and the problem of over-crowded Roma students in special schools remains without an effective solution.

In the reporting year, the Administration for Civil Registration and the Ministry of Labor and Social Policy announced a call for collecting data for persons not registered in the birth register. This call for submission of a request for additional registration and collection of data for persons who were not registered in the birth register was in the period between April - September 2018.

This activity once again confirmed the Ombudsman's findings that a child whose mother or both parents are "legally invisible", i.e. not registered in the birth registry, cannot be registered in the birth register, regardless of whether they were born in a health institution or outside one. That means that the category of children whose parents do not have documents remains out of the action once again. Hence, their registration will be possible only after the parents, or only the mother in the additional enrollment procedure, manage to register in the birth register.

Regarding the registration of these children in the birth register in order to acquire identity and to have unhindered access to their rights, the Ombudsman submitted an initiative last year to the Government for the establishment of a separate chapter for the procedure for determining the time and place of birth in the Law on Extrajudicial Procedure, which was accepted, but during the reporting period, no measures have been taken in direction of implementing the recommendation for a systematic solution for registration of these children in the birth register, in order to gain an identity and have unhindered access to their rights.

The obligation to find an appropriate way to solve this current issue in our society still remains.

On the other hand, although the Ministry of Labor and Social Policy informs that they are undertaking measures regarding the children on the streets and informs that in cooperation with civil organizations, and through the Public open competition in 2017 and 2018 they are implementing projects for social protection of children in the direction of a strengthened field work and detection, and work with the children on the spot, as well as the increase of teams in the established Day Care Centers for children on the street, unfortunately street children who beg, either alone or accompanied by a parent/s, sell small sundries, sniff glue as a drug, etc., it is still part of the Macedonian day to day life.

Health care of children

Regarding the right to child health care, a relatively small number of complaints have been submitted, although it follows from the treatment of these complaints that the problems people face actually concern a larger group of children.

The conclusion of the Ombudsman that in the medical departments of the Public Health Institutions the spatial and hygienic-sanitary conditions do not allow for the presence of a parent/guardian of a different gender in the hospitalization of a child as a companion, this year was once again confirmed. Namely, when the Ombudsman acted upon the request of a parent - a father, it found that the father was not allowed to accompany his child because of lack of premises and/or conditions. On the other hand, the parent pointed out that because of this situation, the finding and opinion issued by the competent authority is in contradiction with the actual health condition of his child.

Pointing to the obligation to ensure the protection of children's rights, the Ombudsman

requested that when acting upon such cases health institutions should respect the principle of the best interest of the child, its right to the highest level of health care in accordance with the Convention on the Rights of the Child, as well as the prohibition of discrimination on any grounds.

Otherwise, for the stated problem in the institutions that is an obstacle in the realization of this rights of the child, i.e. the parent/guardian, the Ombudsman submitted an Information to the Ministry of Healthcare, and the Assembly adopted a measure for implementing the recommendation of the Ombudsman "in all Public health institutions to provide spatial and other prerequisites, so that every parent/guardian regardless of their gender can exercise the right to a child's companion in hospitalization, on equal grounds."

In the reporting period, no measures have been taken to implement this recommendation by the Ministry of Health, nor is there a positive feedback.

The Ombudsman acted for the protection of the rights of children suffering from a rare disease called Parder Willy Sindrom, and regarding treatment abroad in the European PWS Center in Absberg, Germany, where the only health institution that is adequately equipped to respond to the health needs of the child functions. The procedure was aimed at indicating that the protection of the health and the prevention of the harmful consequences to the lives of children suffering from this rare disease should be a priority in the actions of the authorities and institutions, that undoubtedly should apply the laws and bylaws, but above all to be guided by the interests of children, especially when it comes to their health and their life. The indication was accepted and the child, in this particular case, continued to be treated abroad.

In another case, acting for the protection of the rights of a child who was treated at the Psychiatric Clinic, the Ombudsman requested an expert opinion on the disease, the need for treatment and an assessment of the patient's further treatment. In doing so, the Ombudsman pointed out to the responsible persons of the clinic the need of application of all domestic and international standards regarding the protection of the rights of patients and children, and especially the standards in the Convention on the Rights of the Child regarding the necessity in each area of treatment in the best interest of the children. Also, it submitted an opinion to the Inter Municipal Center for Social Work of the City of Skopje, in which it assessed that the involvement of the experts from the Center is of great importance, who with their experience, knowledge and expertise, with the application of appropriate techniques and methods, will work with the children in order to change their attitude towards the environment, as well as to build and strengthen their social skills and capacities. At the same time, the Ombudsman assessed that finding modules and solutions, and through appropriate treatment of the child, which would involve child's mother, would help in reducing the risk of a present disorder in its socialized behavior, and at the same time for building social skills of the child, necessary for preventing deviant behavior.

The Ombudsman also initiated a procedure on his own initiative regarding the health care of children with diabetes, two of which were treated at the Pediatric Clinic, and one child was treated at the KARIL (Clinic of Anesthesia, Reanimation and Intensive Treatment) Department. In the course of treatment, information was requested from the KARIL Department and the Pediatric Clinic, as well as supervision by the State Sanitary and Health Inspectorate.

It was concluded based on the received information that the children received the necessary health care and were released for home treatment.

Although no violation of children's rights has been noted, these cases reminded that it is necessary to have more care from the parents regarding the monitoring of the health condition of children, and timely response by requesting appropriate assistance and advice from the responsible institutions, as well as monitoring the health status of children by the primary doctors and medical centers. In this context, the Ombudsman referred to the need for continuous controls and supervision in the medical institutions by the competent inspectorates.



Rights of children and persons with disabilities

Children and persons with disabilities are increasingly recognizing the Ombudsman as an authority where they can seek advice or file a complaint for protection of a certain right. This is confirmed by the increased number of complaints filed in this reporting period, especially the requests for admission of parental interviews and by the persons with disabilities themselves, whereby the requests are related to violation of the rights in the procedure for exercising social protection rights (allowance for immobility, blindness, deafness), care in an institution, access to health care, education, employment, access to services, etc.

The Ombudsman's interventions regarding the rights to social protection for speeding up the decision-making process upon the submitted request (appeal) or payment of allowances in connection with the recognized right were accepted, and the persons with disabilities exercised that right.

Acting upon the case for recognition of the right to health insurance for a child with hearing impairments who after the operation uses a hearing device in which the batteries purchased through the Hearing Aid Center are changed regularly or daily, the Ombudsman found that the obligation of continuous 6 months insurance of the parent is detrimental to the child, although the Convention on the Rights of the Child imposes an obligation to provide the highest level of child health care.

This case, as well as the case from the last year when a child with scoliosis was not granted the right to an orthopedic aids - a corset, because the parent had no continuous health insurance for six months, was the occasion for the Ombudsman to take actions in order to annul this legal regulation for the purpose of creating legal assumptions for respecting the rights of the child, which is in accordance with the Convention on the Rights of the Child, which obliges the State to take measures for a dignified life and development of a child with mental and physical impairments to secure its dignity, encourages the independence and facilitates the active participation of the child in the community, but also with the Convention on the Rights of Persons with Disabilities which requires an obligation to help children with disabilities to exercise their rights.

Acting on the Recommendation and the Information with proposal for undertaking measures by the Health Insurance Fund and the Minister of Health, the Ombudsman has been informed that in the parliamentary procedure is the Law on Amendments to the Law on Health Insurance, which, among other amendments it is foreseen "deletion of the requirement for 6 months of continuous payment of health insurance contribution for exercising the right to an orthopedic device."

Acting upon a complaint from Polio Plus - Movement Against Disability, as a representative of the rights of the disability community, which expressed concern, and a series of remarks on the announced social protection reforms, in which context they give conclusive remarks on the draft Law on Social Protection, the Ombudsman informed the Cabinet of the Minister of Labor and Social Policy, as well as the National Coordinative Body for the implementation of the Convention on the Rights of Persons with Disabilities for these remarks and proposals, requesting and instructing them to seriously consider these, and the sustained proposals to be accepted and incorporated into the system solutions proposed by the Government, which will contribute to the promotion of the rights of persons with disabilities.

In this context, the Ombudsman welcomed the idea of reforming the social protection system, and recommended that the reforms in this segment, with regard to persons with disabilities, to be also guided by the principles and provisions of the Convention on the Rights of Persons with Disabilities. Having in mind the needs of persons with disabilities, it pointed out that a tendency of all involved subjects should be fully harmonized with the Convention on the Rights of Persons with Disabilities for the purpose of unhindered exercise of the rights of these persons.

In the reporting period, the Ombudsman inspected the PHI Psychiatric Hospital Demir

Hisar, regarding a particular case of perennial accommodation of a person with impaired business ability. In doing so, it also found that the person has been accommodated in this institution for more than 20 years, with impaired business ability, and that there is improvement of the situation, but the expert opinion of the doctors is that this form of protection of the person suits his diagnosis the most. Realizing the conditions in which these people are accommodated, the Ombudsman expressed concern about the conditions in the Psychiatric Hospital in general, which are below any standards, thus violating human dignity.

Namely, rooms were not painted, walls were ruined, and interior of the premises was dirty and messy. The old beds, with shabby bedding, give an impression of abandonment and as a whole is not a building with standards for accommodation of persons. Also, it has been established that there is no security in the institution for a longer period, no one is sitting in the guards' room, and the whole situation is monitored by the employees and the duty service at the hospital, which is why the security, that is, the security of the building is at risk.

The Ombudsman submitted a request to the Director of the Public Health Institution to take measures for protection of the rights and human dignity of these persons, reminding them that the hospitalization and medical treatment of patients with mental illnesses, among other things, require a consistent respect of their rights determined by the Law on Mental Health, and in that direction, patients placed in specialized healthcare institutions, in addition to the conditions for accommodation, have the right to a work engagement, accommodation by gender structure, personal contacts with relatives and friends, sending letters and parcels and using a telephone, listening and watching radio and TV programs, possessing personal hygiene items, free weekends, enjoying religious freedoms, and so on.

The Ombudsman continued with monitoring of the situation with the involvement of children with disabilities in the institutions, more precisely in the public institutions for child care – kindergartens. In that context, it conducted a survey covering all public kindergartens and an analysis of whether the conditions and the efforts made have ensured proper care and education. This research is a continuation of the previous Ombudsman's research on the involvement of children with special needs in regular primary and secondary education, conducted between 2015 and 2017, and aims to provide recommendations that will ensure equal and quality access and stay for all children in kindergartens.

In this context, the Ministry of Education and Science informed that it has acted upon the recommendations of the Ombudsman, i.e. that in the new draft Law on Primary Education, the disability is listed as a basis for discrimination, and that in order to promote the rights and opportunities of the students with disability, the draft law regulates the mobile services for assistance to the educational process, as well as teaching assistants.

However, the survey on the inclusion of children with disabilities in kindergartens showed that in 39 kindergartens or 68% there are children with disabilities, but the data points to disrespect or only partial respect of the established standards for the number of groups, adequate spatial conditions and equipment of the kindergartens.

From the direct visits to some kindergartens it is concluded that some are located on inaccessible places, and in the rural areas there is a lack of kindergartens, a fact that worries, especially because in the rural areas there is a significantly lower percentage of children attending preschool education (and according to the 2011 Multi-Indicator Cluster Survey, the percentage of enrolled children aged 3-6 years in a pre-school institution in an urban environment was 37, while in the rural only 6).

The Ombudsman published a special report on this Survey and submitted it with the recommendations for improving the situation to the kindergartens covered by the survey, the competent Ministry of Labor and Social Policy and the Ministry of Education and Science, as well as to the National Coordinative Body for the implementation of the Convention on rights of persons with disabilities.



CONCLUSIONS

• Inter-Municipal Social Work Centers of the City of Skopje, when making decisions on exercising the right to personal relations and contacts between childparent, pay insufficient attention to the opinion of the child. In cases where the child's contacts with the parent have been interrupted for a long period of time, they fail to effectively re-establish or influence the improvement of the relationship between child's parents, which is again at the detriment of the child and his/her right to be with both parents.

- The lack of marriage and family counseling significantly affects family relationships, overcoming intolerance and conflicting communication between spouses, while the children, in such circumstances are half-way between their parents and suffer harmful consequences for their health and development.
- Violence among students is still rising. Schools fail to effectively deal with this phenomenon, and some of them consider children's violent behavior to be children's playing.
- Sending, that is, accommodation of children with educational and social problems in public institutions in most cases had no result. Their frequent escapes, as well as abuses of children while they are protégées of public institutions, indicate the need for urgent finding of other appropriate forms of care. On the other hand, it is necessary to monitor the placement of children in a foster family from the moment of acceptance of the child, through their adapting and the quality of the established relation with the caregivers.
- The number of abortions and births among children, who most often get pregnant in an extramarital community, is high. The question is whether and how many children who become mothers at an early age can take care of the baby and respond to the responsibilities of motherhood.
- Children without registered birth in the registry books are still out of the system, without access to rights and provided protection, and among them there are children on the streets coming from families at risk, which the state failed to include in the society or to prevent their risky behavior.
- Even in the hospital departments of the Public Health Institutes, the spatial and hygienic-sanitary conditions do not allow for the presence of a parent/guardian of a different sex as a companion when a child is hospitalized.
- The kindergartens do not respect or just partially respect the standards for the number of children in the groups, the spatial conditions and the equipment of the kindergartens. In the rural areas there is a lack of kindergartens, and those which are located in inaccessible places are very poorly visited. Accessibility of kindergartens among other things is one of the problems for children with disabilities.

RECOMMENDATIONS

- The inter-municipal centers for social work, that is, the expert teams in deciding on the right to trust, i.e. the view of a parent-child relationship, should be guided by the right of the child to be with both its parents, according to the child's opinion, and his/her best interest.
- The Ministry of Labor and Social Policy of the Republic of North Macedonia in cooperation with the competent centers for social work, in order to prevent the harmful consequences upon the child and its resistance to meet the parent with whom he/she does not live, should order the parents/spouses whenever necessary, to visit a counseling center, instead of letting them decide whether to visit or not to consult with an appropriate institution.
- The Ministry of Education and Science of the Republic of North Macedonia, the units of local self-government and the City of Skopje are to take measures to strengthen the capacities of the professional services and teaching staff for recognizing and reporting cases of violence, abuse and negligence of children, as well as measures for eliminating the occurrence of violent behavior among students.
- The Ministry of Labor and Social Policy of the Republic of North Macedonia, the Centers for Social Work, the Institute for Social Activities, each within their competencies, are to take measures in order to ensure that children who are included in the care system prior to their accommodation are provided for an adequate professional assistance, support and preparation for acceptance and adaptation of the new way/form of living, training for foster parents and monitoring the relationship and treatment of the children.
- Taking measures for thorough perception of the problem of underage pregnancy. In this context, introducing education for young people, organizing thematic workshops and other activities in schools, adapted to the age of the students, and related to reproductive health, ways of protection against unwanted pregnancies and sexually transmitted diseases.
- The Government of the Republic of North Macedonia should realize the recently accepted initiative of the Ombudsman for amendments to the Law on Extrajudicial Procedure and the Law on Registration, in order to facilitate the process of registration of unregistered persons in the birth register.
- The Ministry of Health of the Republic of North Macedonia should undertake measures and activities in order to provide conditions in the hospital units of the Public Health Institutes for the presence of a parent/guardian of a different gender during the hospitalization of a child as its companion.
- When building new ones or when reconstructing existing kindergartens, the established standards regarding availability and accessibility of facilities, number of children in groups and number of children with disabilities should be respected, providing adequate didactic aids and staff that will respond to the needs of children. In this context, measures should be taken for systematic identification, registration and monitoring of children with disabilities in kindergartens, and the responsible social protection authorities should monitor



RECOMMENDATIONS

and engage in the ongoing reform of the process of determining the type and degree of disability, according to the International Classification of Functionality, Disability and Health.

RIGHTS TO HIGHER EDUCATION

In the reporting period, 27 complaints were submitted for violation of the rights in the field of higher education by students in the first, second and third cycle of studies, in which an intervention was requested for exercising the right to scholarship and financial compensation for master's/doctoral thesis, notification of the diploma, as well as accommodation in a dormitory, and several complaints, including by a group of students, were submitted in connection with an inadequate behavior of a teaching staff (professor) of two faculties. Complaints for protection of rights were submitted by employees in relation to the election in academic-scientific title, but after the measures undertaken, the Ombudsman did not find a violation of the rights, or a violation of the legally prescribed procedure.

Acting upon a complaint lodged by a group of students at the Department of Macedonian Language and Literature at the State University in Tetovo, the Ombudsman, having in mind the seriousness of the allegations of abusive and unprofessional behavior towards female students by a professor, asked for inclusion and full examination of the case by the Dean of the Faculty, the rector of the University, and the State Educational Inspectorate. In addition, in the previous period there were also complaints regarding the professor's behavior lodged by other students (from another generation), but after the measures were taken, the competent authorities failed to confirm the allegations. Following the measures undertaken, a written letter was sent to the Ombudsman by the University of Tetovo, together with the Decision on pronouncing a disciplinary measure suspension from the workplace until the adoption of the decision for termination of the employment contract.

A complaint about inadequate behavior and failure to act upon a student's complaint regarding the grading was lodged against a professor at the Higher Medical School in Bitola, University "St. Kliment Ohridski" Bitola, who refused to act upon the correspondence of the Director for submitting the documentation needed for making a decision upon the student's objection, but also upon the decision of the competent educational authority.

The Ombudsman, acting upon the complaint, found violation of the student's right and disrespect of the Law on Higher Education and the Rulebook on the conditions, criteria and rules for enrolling students in the first cycle of studies at the University "St. Kliment Ohridski" Bitola, because of which it pointed out that the provision for the teacher to reconsider the grade has no imperative character, but the legislator foresaw that if the teacher does not reconsider the grade he/she has determined, the student takes the exam before a three-member commission, which is an opportunity to eliminate the subjective judgement of the teacher for a correct and accurate evaluation of students' knowledge. After this, the student has exercised his right, that is, he/she was allowed a commission examination, due to which the procedure was stopped.

The Ombudsman intervened in front of the competent Ministry of Education and Science

regarding the provisions for protection of the rights due to the postponement of the procedure for deciding and non-acting upon requests for granting scholarships, and because this Ministry did not act upon Ombudsman's demands and interventions, it submitted a Special report for obstructing the work to the Minister, after which separate answers in the course of the proceedings were submitted separately for each of the cases. Some of the applicants who met the legal conditions were awarded scholarships, and others were refused either because of incomplete documentation or because the students did not meet the requirements, and the Ombudsman advised them for the possibility of appealing such decisions if they have evidence that prove a different situation.

The Ombudsman also intervened in connection with a complaint of a group of parents of students attending classes at the Faculty of Law "Iustinianus Primus", the Faculty of Economics and the Faculty of Philosophy in Skopje, and regarding the allegations that the students, or more specifically, freshmen of the mentioned faculties are given tablets in the form of capsules free of charge, that would help them to concentrate in learning, especially in the period before the colloquium week. In addition, taking into account the right to education, as well as personal safety and health of students, the Ombudsmen informed the Department for Internal Affairs and the Administrations of the mentioned faculties about the content of the complaint. At the same time, after obtaining information that in this specific case it was not a medicine that they received, but rather a supplement to the diet, it requested an explanation from the Food and Veterinary Agency.

The Agency, explaining the status of the product, submitted a notification regarding the expressed consent that the Vigorix Intense, which is brought into the market by the company "Bionics Pharmaceuticals" LLC, is in compliance with the prescribed food safety requirements and may be placed for sale on the market. Despite this, the administrations of the above mentioned faculties seriously accepted the stated allegations in the complaint and in accordance with their competences undertook measures for greater control for the purpose of safety and security of the students.

Concerning the complaints about payment of the fee for master's and doctoral thesis, it was concluded that the doctoral candidates were paid funds, as well as some of the MSc candidates who had decisions on their requests, while some of the applicants are still waiting for payment, but also for making formal decisions to their requirements submitted a few years ago.

The Ministry of Education and Science did not respond to the requests of the Ombudsman in this reporting year, by repeatedly obstructing the work of the institution, and thus complicating the provision of timely and efficient protection and realization of the rights of the citizens.

The Ministry of Education and Science informed that as of the end of 2016, it has fully paid the one-time cash compensation to PhD students who have met the requirements of the Law on Scientific Research Activity, and that they are considering possible legal ways for payment to the MSc students, taking into account that no formal decisions have been made since that period.

In order to improve the student standard and conditions in the student dormitories, the Ministry informed that activities are being undertaken for reconstruction of the Students' dormitory "Goce Delchev", but also for the planned activities for the construction of two new student's dormitory: Students' dormitory "Nevena Georgieva - Dunja" for which they are waiting for a construction permission and a student dormitory for the needs of SUT-Tetovo.



CONCLUSIONS

- Students in all cycles of higher education have difficulties when exercising the right to scholarship and financial compensation for the preparation of master's and doctoral thesis.
- The Ministry of Education and Science impeded the work of the Ombudsman in the protection of the citizens' rights in the sphere of higher education by failing to submit the required information, explanation and evidence on time.

RECOMMENDATIONS

- Measures should be taken for securing funds and paying money compensations for students who are masters and doctoral candidates.
- The Ministry of Education and Science of the Republic of North Macedonia should inform and oblige the authorities within the said Ministry for the obligation to cooperate with the Ombudsman and in that context, to submit the necessary answers within the requested deadline, for the purpose of smooth and efficient protection and realization of the rights of the citizens - students.

LABOR RELATIONS

Last year the number of submitted complaints for protection of the rights from employment increased for about 60%, whereby most complaints were submitted for violation of the rights in the employment procedures, payment of salaries and other allowances, deployments, termination of employment, procedures upon complaints and objections. There are fewer complaints regarding disciplinary procedures, procedures before the Employment Agency and violations of employment rights with a private entity.

The requirements for protection of the right in the procedure for transformation of the working relation from a temporary to permanent job were especially characteristic for the employees in the educational and pre-school institutions - kindergartens. Mainly, after the expiration of the temporary employment contract, in the selection of candidates for the announced job vacancies, the previous work experience was often not taken into account, which in these institutions is of exceptional importance in the performance of specific jobs and tasks. In order to improve this situation, the indications of the Ombudsman were partially accepted by the kindergartens, for example in Veles, where following the indication of the Ombudsman, after several announcements, almost all educators whose temporary employment was over, were employed for regular job.

Similar problems were encountered by school employees, but after the conducted procedures, a small number of the complainants realized the right, and in the answers to the Ombudsman regarding the procedures for employment and the selection of candidates - teachers in primary and secondary schools, the principals referred to the discretionary right of choice, neglecting the acquired working experience.

According to the Ombudsman, although in the specific cases there is no violation of the legal provisions, there is still misuse by the principals, precisely regarding their discretion in the selection of an appropriate candidate for the teaching process.

Such situations did not convince the Ombudsman that the best candidates, i.e. the candidates with the best competences, are selected at the announced job vacancies, and it remains to the stand that the temporary employment should be kept to a minimum.

On the basis of the reactions to the complaints that after the published public announcements, when choosing candidates, the employer often does not submit a written notification to the candidate that was not chosen, the Ombudsman insisted on the consistent observance of the Law on Labor Relations, and after signing the employment contract, the candidate who has not been chosen should be notified within the legally prescribed deadline. These interventions were always successful.

Regarding the complaints in which citizens complain about unpaid salaries and other benefits or demanded protection of rights due to incorrectly determined coefficient, as is the case with a group of graduated biologists and biology engineers, employees of PHI Health Center Veles, as healthcare associates, the Ombudsman took actions and pointed out to the need for proper regulation of the salary coefficient for this group of employees, after which new salary decisions with corrected coefficient were issued to the graduated biologists, i.e. with a coefficient in accordance with the Healthcare Activity Collective Agreement.

Acting on several anonymous complaints, regarding issues related to the appointment of principals or acting principals in several primary and secondary schools in the area of the City of Skopje, which according to the allegations did not meet the legally stipulated requirements, the Ombudsman addressed the State Education Inspectorate (SEI) with the Request through inspection supervision to determine if the allegations were grounded. The State Educational Inspectorate informed the Ombudsman that the allegations that in several schools have been grounded, that is, the appointed persons did not fully meet the requirements for principal or the acting principal. Following this situation, the SEI addressed the mayors of the municipalities responsible for the respective schools, and instructed them to conduct an appropriate procedure for selection of principals in accordance with the provisions of the Laws on secondary and primary education. In the further course of the procedure, the Ombudsman requested a notification from the appropriate mayors on the measures undertaken upon the indication by the State Education Inspectorate in order to implement an appropriate procedure for the election of principals. In addition, the Mayor of the City of Skopje informed the Ombudsman that a decision was made on announcement in several schools, on the basis of which the School Boards started a procedure for selecting a principal.

The Ombudsman found a situation when in the employment procedure through announcement published by the same entity, different job titles were entered in the Employment Agency, which creates not only confusion, but also incomplete information for the candidates who are applying whether they meet the required conditions, as well as regarding the choice of the job position they are applying for. Namely, the Ombudsman indisputably found that the Employment Agency, in several announcements through the electronic system entered occupations that are closest to the required job position reported by the employer, but not the exact job positions cited in the documentation submitted by the employer. According to the Ombudsman, the Employment Agency did not adequately and completely transferred the information to the citizens-job seekers, by announcing job positions that are not in accordance with the employer's documentation and are detrimental to the citizens.

Evaluating such behavior as unjustified, which violates the rights of the citizens, the Om-



budsman submitted a recommendation to the Employment Agency for urgent action in order to undertake measures for reviewing the record keeping in the field of labor, with a special emphasis on the job positions, and for that purpose cooperation with employers to record and announce the exact occupations so that the citizens will always be adequately and accurately informed about the job positions.

Complaints to the Ombudsman were also submitted by employees of private companies who complained about making decisions on termination of employment before the expiration of six months, with intention of preventing their right to payment of the recourse fee (K-15), which is apparently evading the law, for which the Ombudsman engaged the competent labor inspectorates.

The ungrounded deployment of employees from higher to lower job positions and the explanation of the employers that it was done for the purpose of better organization of the work and more efficient performance of the work tasks was the subject matter of several complaints lodged by the citizens. The Ombudsman submitted recommendations to the authorities, in which he stated, among other things, that in the case when a decision for deployment of several levels lower, especially when it comes to employees with longer working experience, the decision should contain more grounded reasons, it should be sustained and leaving no room for suspicion and assumptions about the reasons for adopting the mentioned decision.

Several complaints from citizens (parents) and from a group of employees in an elementary school in Veles were submitted due to the unprofessional work of the principal, unequal treatment of employees, which negatively affects the educational process as a whole. During the procedure on these complaints, the Ombudsman made inspection into the school, had a conversation with the principal, some of the employees and students' parents, and it had a meeting with the Mayor of the Municipality of Veles. It also demanded from the State Education Inspectorate to conduct inspection into the school.

Considering that in the course of the procedure, violations of the rights of the submitters of the complaints on various grounds were found, and having in mind the response of the State Educational Inspectorate, in which, among other things, it was stated that on the basis of the established irregularities in the work of the principal of this school the State Educational Inspectorate requested the Administrative board of the said school to initiate a procedure for dismissal of the principal. The Ombudsman, monitoring the situation, requested information about the actions undertaken after the inspectorate's decision.

According to the received information, the procedure for dismissal of the principal was not initiated, but as we were informed, finding a solution to the identified problem was requested by merging two schools into one legal entity, where a new director will be appointed.

For the Ombudsman, failure to take actions and measures to overcome the problem in this school leaves room for suspicion of protection of the person managing this school, that is, the principal, for whom violations and irregularities in the operation were found during the procedure by the competent state authorities.

The Ombudsman also intervened in the complaint and objection procedures in the area of labor relations, both in terms of timely decision-making on the complaints, as well as with given indications and suggestions, the competent body to take into consideration all the facts and evidence given in the complaints, for the purpose of making a correct and lawful decision.

In accordance with the recommendations of the Ombudsman in the area of labor relations, the Assembly adopted the measure to immediately make a comprehensive and functional analysis of the authorities, institutions, agencies, funds, directorates, commissions, councils, regulatory bodies, public enterprises (especially budget users), in order to perceive justification and the need for their existence.

The Ministry of Labor and Social Policy informed that the Sector for Labor Law and Employment Policies will conduct such analyzes within the Sector and will reconsider the need for the existence of the bodies, commissions and councils within its

competence.

The measure for termination of the practice for publishing announcements for group employments given in the recommendations of the Ombudsman has been fully accepted.

It is also reported that a new text of the Law on Labor Relations is being prepared, which envisages determining the possibilities for payment of salary compensation during temporary work disability caused by illness or injury, for persons who have health insurance less than 6 months.

CONCLUSIONS

- The lack of professionalism, especially in managing positions in all spheres and levels in the field of labor relations, leads to a decrease in the efficiency of the work, but also a loss of the trust of the citizens.
- The number of temporary employment contracts in the state administration bodies is increased, whereby persons with no experience are selected for the specific jobs, the acquired work experience of the previous employees is not exploited, and the employee whose employment is terminated in this way is brought to a state of existential uncertainty.
- In the Public Enterprises, as well as in primary schools when choosing candidates for job vacancies, candidates with the best competencies are not always selected, i.e. there is no equivalent between the required qualifications of the candidate and the selected candidate.
- When deploying employees from higher to lower positions, employers make decisions that do not contain an explanation or they make decisions with insufficiently grounded explanations.

RECOMMENDATIONS

- The responsible institutions and authorities should take measures to strengthen the professionalism of the employees and to prevent the sloppiness of the administration, which will increase the efficiency of the work, as well as the trust among the citizens.
- Employments through temporary contracts need to be minimized, especially in sensitive areas such as education and health, in order to maximize the utilization of acquired work experience, as well as to prevent the misuse of the discretionary rights of the responsible persons.
- When selecting candidates, their qualification for the specific job position should always be a criterion and without exception, to choose competent and quality candidates.
- The decisions made for the deployment of employees into lower positions must contain more grounded reasons, which should be sustainable and clear.



NON-DISCRIMINATION

The Ombudsman regularly monitors the situations and undertakes measures for protection of citizens from discrimination in the public sector, that is, the violations committed by the ministries, the public administration, the local self-government units and public enterprises established by the state and the local self-government.

In this reporting period, 77 complaints on protection against discrimination on various grounds were submitted, which is a slight increase compared to 2017. Meanwhile, the most frequent are the cases of protection from discrimination in employment and discrimination based on political affiliation, then ethnic discrimination, as well as the demands for protection from harassment (mobbing) at the workplace.

Based on the actions undertaken, it is undisputed that the complaints about violation of the rights in the employment, harassment (mobbing) in the workplace and discrimination on a political basis refer to authorities at a central and a local level, and this year the citizens point to an unprofessional public administration and politicization of staff, with remarks on the appropriateness of the staff which is set to manage public services and institutions.

Acting upon complaints submitted by persons employed in local self-government units, especially in smaller towns, it can be seen that during each change of power, certain administrative officers who closely cooperated with the previous mayor seek protection from discrimination, mostly on a political basis. This situation influenced the Ombudsman to submit appropriate recommendations to the mayors for discrimination and harassment at the workplace, but nevertheless some of the mayors did not act upon the recommendations. In this context, the Ombudsman publicly criticized the Mayor of the Municipality of Gostivar and the Mayor of the Municipality of Rankovce.

On the other hand, the protection of the rights of persons with disabilities due to discrimination based on disability was requested by the non-governmental sector. In this case, the Ombudsman found violation of the rights of persons with special needs in the electoral process and existence of discrimination on grounds of physical disability due to inadequate conditions for uninterrupted voting of persons with a degree of physical disability, after which it submitted a special report to the Government, with concrete proposals for amending the laws and the bylaws regulating this area.

After the Ombudsman established discrimination of the employees in the public sector, regarding the payment of recourse for annual leave, the private sector employees whose benefit is deriving from the General Collective Agreement for the private sector in the field of the economy, opened a case on their own initiative and submitted an Initiative to the authorized proposers for amendment to the General Collective Agreement for the public sector. It also submitted the initiative with certain guidelines to the Government and to the Confederation of Free Trade Unions as subjects-signatories of the Collective Agreement.

In doing so, the Ombudsman pointed to unequal treatment of private sector employees, as opposed to employees in the public sector, i.e. discrimination on the basis of social status, as Shtipulated in Article 3 of the Law on Prevention and Protection against Discrimination.

It is astonishing that the Ministry of Labor and Social Policy does not recognize discrimination on a basis of status, providing an answer on the grounds that this measure is a benefit provided for in the General Collective Agreement, ignoring the gravity of the collective agreement that has been raised at the level of a law.

Only the Ministry of Finance gave an objective response to the Initiative without going into the sphere of unequal treatment of the two categories of employees, i.e. that such a change would cause large fiscal implications in the Budget.

In the complaints lodged by members of the Bosniak community for discrimination on the basis of language use, complaints concerned the impossibility of students belonging to this community to enter their mother tongue on the University's Web site, when enrolling students, as well as obtaining personal documents at the Ministry of Internal Affairs.

Having in mind that through this complaint, a violation of the rights of the students from this community was actually noticed, the Ombudsman addressed the rector of the University "St. Cyril and Methodius" in Skopje with a suggestion to instruct the competent offices to take measures in order to enable expression of ethnicity and mother tongue, as a right guaranteed to each citizen by the Constitution. The Rector of the University fully accepted the Ombudsman's suggestion and informed that it initiated a procedure for supplementing the software base of the I-Know system, i.e. in the options for the choice of belonging and the mother tongue, in the future, a Bosniak and a Bosniak language could be selected.

The Ombudsman, regarding the complaint for discrimination on the basis of use of a language by the Ministry of Internal Affairs when issuing personal documents, submitted an indication of the manner of removing the established violations to the competent Ministry, after which a response was received that the indication is accepted, i.e. that the Ministry of Internal Affairs has revised the bylaws in which the terms "Bosniak language and alphabet" were mentioned. Namely, in their answer they informed that for that purpose a Rulebook has been brought, for amending the Rulebook for the application form for issuing the identity card, the form for the confirmation for the submitted request for issuing the identity card, the form of the identity card, the procedure for issuing and replacing the identity card and on the manner of keeping records of the issued ID cards in order to enable citizens belonging to the Bosniak ethnicity to enjoy equally their rights as the members of other ethnic communities when preparing personal identification documents issued by the Ministry of Internal Affairs.

In this reporting period, complaints were submitted for gender-based discrimination by the Coalition of Sexual and Health Rights of Marginalized Communities MARGINI-Skopje, in which a complaint was made for discrimination based on gender and harassment by employees in the Sector from the Administration for Civil Registration in Skopje, as well as by employees of the Ministry of Internal Affairs. The Ombudsman, acting in the protection of the rights of these citizens, submitted an indication to the director in order to warn all employees in the Directorate for keeping records of proper behavior and that inhuman and unprofessional behavior contributes to even greater marginalization and stigmatization of the transgender people who are constantly attacked and are discriminated against on many grounds at every step of their lives. At the same time, it pointed out the need for education and training of the officials in order to sensitize them and avoid discrimination on any grounds, as well as to take measures in order to sanction actions that are contrary to the law.

Regarding the complaint concerning non-professional, discriminatory and disturbing behavior by a senior deputy inspector in the official premises of the PD Karpos, it was established that he had behaved indecently and unprofessionally in the official communication, wherein the police officer acted contrary to the "Guidelines on the manner of behavior and mutual relations of the police officers" and "Code of Police Ethics". For such behavior by the shift manager, a procedure for determining disciplinary responsibility has been initiated before the responsible commission for determining responsibility.

Several complaints for protection against hate speech were submitted by citizens, as well as by associations for protection of the Roma community, which refer to the manner in which certain internet portals are reporting regarding issues or problems that this community faces.

In the complaint concerning the announcement by an individual on the social network Facebook, the submitters were advised about the manner of protection of the rights and authorities before which they could seek protection from hate speech, while in the second case, although they established that there was no direct competence for acting to private legal individuals, due to the sensitivity of the case in question, the Ombudsman addressed appropriate requests with indications to the Council for Ethics in the Media, the Commission for Protection against Discrimination and the Basic Public Prosecutor's Office - Skopje. In addition, the Ombudsman requested the Ethics Council to act specifically in this case, and asked the other two authorities to comprehensively review the complaint, pmarily because of the gravity of the



offence, as well as because of the possible repercussions and the emergence of stigmatization towards the Roma ethnic community, the harassment and possible discrimination on the basis of a marginalized group. The Ethics Council in the media submitted a response in which the Decision of the Appeals Commission of ECMM was cited, stating that "The Internet portal "Dosie.mk", with the text entitled "The Kale gypsies got houses", violated the Article 11 of the Code of Journalists."

Taking actions in accordance with the established legal competence for monitoring the application of adequate and equitable representation, the Ombudsman collected data on the total number of employees by ethnicity, the employees employed in managerial positions and the number of employees in non-managerial positions, as well as their the level of education, which is addressed to a total of 1343 institutions/institutes.

These data were requested in terms of the correct application of the principle of adequate and equitable representation of communities in the public sector, as well as for determining the distribution of jobs by gender structure and level of education.

Within the extra-curricular (вонпредметното) activities, the Ombudsman continued to follow the regulations on anti-discrimination, as well as to participate in events, seminars and workshops for protection against discrimination and implementation of the principle of adequate and equitable representation. A representative of the Anti-Discrimination Unit participated in the expert team for drafting the Law on Prevention and Protection against Discrimination, and was also involved in the work of the National Coordinative Body for monitoring the situation with non-discrimination.

Also, the Ombudsman conducted and prepared a special research on the topic "Roma inclusion after the end of the Roma Decade - current situation and challenges". Regarding the said research, a regional conference was held in Skopje, attended by representatives of the Ombudsman institutions from countries in the region, the signatories of the Roma Decade 2005-2015. The Conference resulted in conclusions on the degree and level of realization of the envisaged activities and measures after the Roma Decade 2005-2015, for which the Ombudsman submitted information to the Government about the situation and inclusion of the Roma.

Regarding the established measures following the recommendations for protection against discrimination, the Ministry of Labor and Social Policy reported that the new Law on Prevention and Protection against Discrimination is in parliamentary procedure.

Regarding the recommendation in relation to the establishment of harassment at the workplace-mobbing by the competent Labor Inspectorate, the Ministry informed that it is regulated in the Law on harassment at the workplace and that acting of this authority is envisaged, especially regarding the rights, obligations and responsibilities of the employer. Determination of harassment, according to this Ministry, cannot be performed by labor inspectors since it is the subject of proving in court proceedings.

Upon the recommendation of the Ombudsman for determining the competence of all inspectorates in a manner by which everyone in their area will act preventively, controlling and sanctioning actions that violate the principle of equality, the Ministry of Labor stated that it will prepare an implementation plan that will be aligned with other state institutions, after the adoption of the new Law on Prevention and Protection against Discrimination.

CONCLUSIONS

- There is obvious occurrence of discrimination against administrative officials in the local self-government units after each change of government, but also towards the citizens in their access to goods and services from the responsible services of the local self-government units.
- The laws do not comply with the Law on Prevention and Protection against Discrimination, especially in the protective grounds.
- The inspection bodies in charge of acting in the field of labor relations, health, service and communal activities, education, and administrative matters are not competent enough to recognize actions that lead to discrimination and harassment at the workplace. Although in the basic laws there are provisions for prohibition of discrimination, such provisions are not reflected in the laws that govern the competent inspectorates.

RECOMMENDATIONS

- Measures should be taken in order to amend the Law on Local Self-Government in order to introduce provisions for protection against discrimination of employees in the administration, as well as protection from discrimination of citizens as users of goods and services.
- Measures should be taken in order to harmonize the legal regulation with the Law on Prevention and Protection against Discrimination regarding the grounds of the protection.
- The expanding of the competences of the inspection services for discrimination prevention should be considered, as well as conducting training for inspectors to recognize unequal treatment and harassment in the employment relationships.



JUDICIARY

The number of complaints filed in the area of judiciary, in 2018 was almost doubled (947, compared to 576 in 2017). This increase results from the circumstance that in the reporting year, the protection of their constitutional and legal rights was demanded by more than three hundred former employees of AD Ohis and companies founded by the company. The remaining number of complaints refers to the work of the enforcement agents/notaries, administrative courts, the public prosecutor's office, the regular courts and other judicial authorities or persons with public authorizations.

Following the complaints submitted by the former employees of AD Ohis and the companies founded by it, the Ombudsman found a number of irregularities in the conduct of the bankruptcy proceeding arising from the work of the bankruptcy trustees, the lawyers who represented them and the court decisions that resulted in suspicion of abuse in the procedure and violation of the rights of this category of citizens, as creditors of the bankruptcy estate.

Specifically, the opinion of the Ombudsman is that the decision of the Steering Committee for Coordination and Management in the Crisis System, by which the funds for dislocation and neutralization of the hazardous chemical material (waste) were decided to be collected from the account of AD Ohis- in bankruptcy, is directly at the detriment of creditors with established claims. Namely, the Basic Court Skopje II Skopje made a decision approving the allocation of 128,620,000.00 denars, money that would be sufficient for settling a large number of creditors with established claims, that is, claims for former employees on arrears and contributions.

The Ombudsman also found irregularities in the work of a lawyer, who although empowered by the employees to take actions for reporting their claims for what he was paid a fee in advance, he did not act in such a way, preventing them the right as creditors to declare and collect their claims.

In order to protect the constitutional and legal rights of the former employees of AD Ohis, the Ombudsman submitted a request to the responsible public prosecutor for initiating a procedure for determining the criminal responsibility of the lawyer in this case.

As for other problems in this area, they continue to be repeated. Thus, the long duration of the proceedings remains a fundamental problem for which the citizens demanded protection. The number of complaints in which citizens state that the court decisions were adopted biasly, selectively, under pressure and politically motivated by unprofessional judges or by corruption.

Regarding the work of the administrative courts (the Administrative and the Higher Administrative Court), the Ombudsman once again finds the final inefficiency of the legal remedy – lawsuit for administrative dispute, which, in practice, besides the sufferings of the citizens, due to the permanent cancellation of the decisions and the return of the cases at the very beginning (instead of meritorious decision on their rights and legal interests) questions the application of legal regulations in favor of the rule of law and the principle of justice and fairness and respect for human rights.

This catastrophic picture of the administrative judiciary is complemented by the administrative courts themselves, which almost after all interventions of the Ombudsman inform that the main reason why the proceedings last for many years, and often for decades, is the incomplete and untimely submission of the documents on the case from the authorities and bodies of the executive power, whose legal act is contested.

In the reporting year, the Ombudsman did not find a positive change in regard to the efficiency in the actions of the public prosecutor's office, since they have recorded cases, in which the criminal charges have been rejected due to the appearance of absolute obsolescence for criminal prosecution. In that segment, it is undisputed that such a situation is due to passivity and inefficient undertaking of actions in the pre-investigative and investigative procedures by the public prosecutor's office.

In particular, there is no justification for the public prosecutors not to take any actions

upon a certain criminal charge, even though it is indisputable that they have authorizations. Also, there is no justification that the Council of Public Prosecutors and other responsible authorities do not undertake actions to determine the reasons that caused the case to become obsolete.

In the pre-investigation procedure, the Ombudsman also identified a problem that arises from the content of the provisions of Article 200, paragraph 7 of the Law on Criminal Procedure.

Namely, according to the mentioned article, on the proposal of the Basic Public Prosecutor's Office, the court may bring a decision for temporary suspension of the execution of a transaction, which, in order to respect the confidentiality of the data in the pre-investigation procedure, is not submitted to the parties whose accounts are blocked, not even after the blocking of the transaction accounts.

Such absurdity is complemented by the fact that in these decisions although the right to appeal is stated as a legal instruction, it is virtually denied to them, because it is not delivered to the parties.

In the reporting year, the measures adopted by the Assembly related to the implementation of the recommendations of the Ombudsman in the field of the judiciary were not fully realized.

Namely, for this measure which requires the Government to instruct the state administration authorities to raise the quality of their cooperation/communication with the administrative judiciary, from the Ministry of Justice, only information was provided that it is in competence of the Ministry of Information Society and Administration.

Furthermore, with regard to the measure, the legal decision referred to in Article 42-a, paragraph 2 of the Law on Administrative Disputes should be reviewed, according to which, against the decision of the Administrative Court, the authority whose act was subject to the administrative dispute can file an appeal through the Attorney General, the Ministry of Justice, informs that a new Law on Administrative Disputes is underway. However, although the Ministry of Justice has established that such a decision in redundant, by the end of the reporting year, its amendment has not been proposed, nor a new Law on Administrative Disputes has been adopted.

Finally, the competent authorities have not taken actions in accordance with the measure to reconsider the state of delay of the procedures that the Public Prosecutor's Office acts on, and the reasons for not issuing decisions, and the Law on Free Legal Aid has not been adopted.

Proceedings before the enforcement agents

In the reporting year, a quarter of the total number of complaints in the field of judiciary was related to the protection of citizens' rights in the procedures before the enforcement agents. Compared to the previous year, this year shows a decline, given that last year half of the complaints in this area referred to the enforcement agents.

Nevertheless, in continuity, the citizens mostly demanded interventions for protection of their rights in the debt collection procedures arising from the process for transferring the old enforcement cases from the courts to the enforcement agents and notaries. In these procedures, most often as creditors appear the public enterprises and joint stock companies with state capital - providers of communal and telecommunication services, as well as services for utilization of electricity and heat.

Thus, as a result of such a situation, in practice, for debts that are decades old, at the expense of the citizens, are charged much higher amounts than the real ones, especially on the



basis of costs of the procedure and interest, the amount of which is sometimes higher than the main debt itself .

Hence, the citizens in most cases demanded interventions due to the fact that they were not informed about the initiation of the enforcement procedures, the amount of the debt and the amount of the calculated interests and expenses. They also pointed out irregularities in the delivery of lawsuits and enforcement orders, and they usually complained of blocking their transaction accounts in banks, as well as for seizure of assets that, according to the Law on Enforcement, were exempted or restricted from execution - more than 1/3 of the salary or pension, social assistance, child allowance, scholarships and the like.

For these cases, the Ombudsman requested information from the enforcement agents on the manner of the executed delivery, the grounds of the procedure and the amount of the debt. Regarding the blocking of transaction accounts, he intervened for their unblocking, when he would established that the only inflow of these is on the basis of salary funds, pension (in case when they take more than 1/3), social assistance, etc. and that such behavior of the enforcement agents leads to an ungrounded jeopardizing of the existence of the people in debt. The enforcement agents acted after the interventions for unblocking the accounts and returning unjustifiably seized assets, as well as after the Ombudsman's interventions to respect the order in the enforcement of the forced collection (in cases of simultaneous collection by several enforcement agents in the same way).

Based on the analysis of the many-year work, as well as the monitoring of the application of the provisions of the Law on Enforcement and the general conditions affecting the obeying and exercizing of the rights of the citizens in this sphere, the Ombudsman continuously identified deficiencies, especially in the area of protection of debtors' rights.

For that purpose, for many years, the general recommendations referred to the need to undertake actions for amendments and supplements to the provisions of the Law on Enforcement in order to provide an obligation for the enforcement agents to inform the debtors about the start of the enforcement procedure, the amount of costs and the increase in the supervision of the work of the enforcement agents.

In the context of the established situation, that with the existing manner of implementation of the enforcement, the existence of the citizens is often violated and jeopardized because the banks, by order of the enforcement agents, block their transaction accounts, without being notified about the basis of the payments that the debtor realizes, the Ombudsman with the annual reports, informed the Parliament and made general recommendations for the overcoming of this issue.

Namely, part of the recommendations referred to the creation of normative assumptions in the enforcement procedures to not apply the measures for enforced debt collection by blocking the transaction accounts with the banks, until the enforcement agent receives information on the basis of the incomes realized by the debtor, to limit the amount of the legal penalty interest paid by the debtor, as well as the amount of the tariffs of the enforcement agents.

According to the measures established by the Assembly, at the end of the reporting year, the Law on Amending and Supplementing the Law on Enforcement was adopted, which among other things made changes in the part referring to the amount of rewards and reimbursements for the costs of the work of the enforcement agents, blocking of transaction accounts of debtors, as well as in relation to supervision over the work of the enforcement agents.

With these changes, problems should be overcome in cases where banks block income that is exempted from enforcement, as well as in cases when they do not take into account the limitations stipulated in the Law. Also, unblocking the accounts should be at their expense, and the enforcement agent shall not be entitled to reimbursement of expenses for actions taken to block or unblock the account.

However, the circumstance that the costs of blocking and unblocking transaction accounts

are not costs that are charged by the enforcement agents, but rather by the banks, do not exclude the need for normative regulation in this segment of the work of the enforcement agents, as well.

Indeed, the system should create conditions for citizens to always be protected, and not be subject to obligations, such as current solutions and practice, after blocking transaction accounts, to prove to the enforcement agents themselves on which grounds they recieved the retained means (salary, pension, social assistance, etc.).

At the same time, starting from the fact that the majority of the citizens, who are being prosecuted before the enforcement agents, are in poor material situation, the amendments to the Law also envisage revision of the Tariff for reward for the work of the enforcement agents. Thus, the fees for the enforcement agents that can not exceed 20% of the main debt and the interest determined in the enforcement title. In addition, exemption from payment of fees and rewards for realization is foreseen for persons who are recipients of social assistance.

Taking into consideration that the awards and reimbursement fee for the other expenses for the work of the enforcement agents, as a by-law, should be adopted within 3 months from the day of entry into force of this law, the positive effects for the debtors are expected in the following period.

Additional protection of the rights of the parties in the enforcement procedure should also be provided by the Ministry of Justice, by using the possibility of establishing a commission for performing field supervision of the work of the enforcement agents and the Chamber of enforcement officers.

As for the measure for limiting the amount of the legal penalty interest, paid by the debtor, the Ministry of Justice has misinterpreted the general recommendation of the Ombudsman and has submitted an inappropriate response to the Parliament. In particular, the Ombudsman proposes in the procedure of enforcement that the debtor cannot be charged interest that would be greater than the main debt, i.e. when the interest reaches the amount of the principal debt, it ceases to be enforced. In this direction, for the implementation of this recommendation, it is certainly necessary to amend the provisions of the Law on Obligatory Relations, and not the Law on Enforcement.

CONCLUSIONS

- The large number of complaints filed by former employees of AD Ohis-in bankruptcy and companies formed by it, shows that after many years of amendments to the legislation, creditors still do not enjoy protection for the effective collection of their established claims,
- Extreme inefficiency of the legal remedy lawsuit for administrative dispute, which in practice puts into question the application of legal norms in favor of the rule of law and the principle of justice and fairness and respect for human rights,
- Passivity and ineffective undertaking of actions in the pre-investigative and investigative procedure by the public prosecutor's office, due to which a number of criminal acts became obsolete.
- Citizens in most cases requested interventions due to the fact that they were



CONCLUSIONS

not informed about the initiation of enforcement procedures, the amount of the debt and the amount of the calculated interest and execution costs;

• The Law on amendments and supplements to the Law on Enforcement has been adopted, which provides for a number of changes in terms of the amount of rewards and reimbursement fees for enforcement agents' work, the blocking of debtors' transaction accounts, as well as changes regarding the supervision over the work of the enforcement agents.

RECOMMENDATIONS

- Creation of presuppositions for the protection and realization of the rights of the creditors in order to effectively recover their established claims in the bank-ruptcy procedures,
- A full reform of the administrative judiciary in order to ensure the application of legal norms in favor of the rule of law and the principle of justice and fairness and respect for human rights,
- The Council of Public Prosecutors and other competent authorities shall continuously undertake actions for establishment of the reasons for which in a number of cases obsolescence for criminal prosecution has occurred..
- To find a way for citizens to be informed in a timely manner that a procedure before an enforcement agent is conducted for them, which will avoid situations of increased amounts due to the calculated interest and expenses for execution
- Consistent application of the provisions of the Law on amending and supplementing the Law on Enforcement for the purpose of efficient realization of the rights of the citizens in the enforcement procedures.

PROPERTY AND LEGAL AFFAIRS

In the field of property and legal relations, in 2018, compared to 2017, the number of complaints increased (175 and 125 respectively), and most of them refer to the protection of rights in denationalization procedures, privatization of construction land and registration in the real estate cadaster.

Similarly to previous years, the Ombudsman almost for every individual denationalization case re-establishes a condition of unjustified procedure delay, inefficiency, irresponsibility and

negligence in handling and losing cases, with their records. In the work of the denationalization commissions, the absence of providing equal, impartial and objective enforcement of laws and other regulations in the decision-making process is persistent, and therefore administrative courts annul the decisions several times. In this segment, there is an extremely poor procedural system for submission of files and decisions made in cases between commissions and administrative courts. Disregarding the Ombudsman's interventions, as well as delivering solely formal responses, was a reason for the Government to receive several Special Reports.

In addition, the denationalization commissions, instead of taking into account the rights that belong to them under the law, they act in a completely opposite manner and only care to protect their public interest and the lack of knowledge and ignorance of the citizens are often abused for this purpose.

The emergence of frivolous and irresponsible behavior of certain presidents and members of denationalization commissions, which, in addition to refusing to cooperate with the Ombudsman and directly violating the provisions of the Law on the Ombudsman, totally unjustifiably engage in challenging, problematizing, evaluating and interpreting the expediency of his interventions, rather than to work and respect the obligation to act in accordance with the Constitution and the relevant laws, without any exceptions.

The complaints lodged against the Agency for Real Estate Cadaster (the Agency), in the most part, referred to dissatisfaction with the content of certificates issued upon requests for registering a change in the real estate cadastre. In the cadaster, the issues arising from cadaster plans digitalization, as a substitute for paper ones, have also persisted for years.

Namely, in many cases, affected citizens cannot resolve the disputes because their property, with the new survey, enters existing plots of neighbors, and part of the state land is moved to private property, and vice versa.

However, although such mistakes were made with the digital survey under the responsibility of the Agency, they are not officially corrected, in accordance with the previous documentation and old airfare photographs and sketches.

The existing legal solution which imposes that such cases have to be settled consensually with statements of the parties concerned and notarized, is not always applicable due to situations that cannot be resolved at all. Such cases include one part of the real estate under a residential or business building, if the owner died, is abroad or ultimately if there is simply no good will from some of the owners.

This situation is additionally complicated by the fact that in the procedures for protection of rights and property and legal affairs, the legal remedy for administrative disputes is completely ineffective for the citizens. The cadaster takes almost no action in respect of rulings passed by the Administrative or Higher Administrative Court in order to execute them (by recording the rights to the real estate), but constantly issues certificates with the same content as previously annulled ones. Hence, instead of quickly and efficiently exercising their rights, citizens unnecessarily enter bureaucratic labyrinths, thus wasting time, money and nerves, whereby administrative courts aprrove lawsuits and the cadaster does not abide by them.

The Ombudsman concluded that the privatization process of state-owned construction land remains difficult, and citizens receive positive decisions only for a very small number of cases. Failure to comply with the rules of the procedure, inadequate and non-compliant legislation and legal gaps often lead to absurd situations. Thus, land privatisation is carried out without complete inspection on the spot and establishing facts about the ownership of constructed objects on which another person constructed a facility and is conducting a legalization procedure after which, the law recognizes the right to purchase.

However, the main reason for delaying such procedures is mostly due to the ineffective and inactive work of the Property and Legal Affairs Directorate and its organizational units in providing evidence ex officio and the absence of technical, organizational and normative assumptions for quality processing and resolution of these cases.



In particular, certain regional departments of the Property and Legal Affairs Directorate, have recorded tens of thousands cases, which should be processed and resolved by several employees (some departments have only two employees, one being a manager), which, in addition to this, have other duties. Privatization requests in which tenants of residential buildings are parties, cannot be solved by the Property and Legal Affairs Directorate because the law does not provide a method to establish separate parts of buildings, that is, how much land will be privatized by each tenant individually.

An additional hindrance to this process for a certain time period was the non-functioning of the State Commission for Decision-making in Administrative Procedure and Labor Relations Procedure from second instance, due to the dismissal of its president and members.

In order to overcome this situation, the Ombudsman, among other things, gave a general ex officio indication to the Property and Legal Affairs Directorate to immediately undertake any actions from technical, organizational and normative aspect and to create adequate assumptions, which will result in ensuring efficient provision realization of legitimate rights and interests of the parties in the procedure for privatization of construction land.

Yet, apart from the information that the given indication will be taken into account in the procedure for drafting amendments and supplements to the Law on privatization and lease of state-owned construction land, which is in progress, virtually nothing has been undertaken.

In the reporting year, the measures determined by the Assembly for simplification of the legal procedure for quick and efficient realization of the right to privatization and legalization of the construction land and increase of the scope of people to whom such right will be recognized have not been fully implemented. At the proposal of the Ministry of Finance, the Assembly only adopted amendments on the Law on Privatization and Lease of Construction Land, which only extend the deadline for submitting requests for construction land privatization.

Having in mind the above stated, as well as the established situation in this area for a longer period, the attitude of the Ministry of Transport and Communications regarding the established measures that "every dispute in the property and legal affairs shall be resolved in a court procedure" and that the existing laws stipulate the procedure for exercising the right to privatization and legalization of construction land is striking and completely unacceptable to the Ombudsman.

CONCLUSIONS

The denationalization commissions, instead of taking into account the rights of citizens vested in them in line with the law, act in the opposite way and only care to protect the public interest, thus abusing the ignorance and lack of knowledge of the citizens for this purpose.

- The cadaster takes almost no action in respect of rulings passed by the Administrative or Higher Administrative Court in order to execute them (by recording the rights to the real estate), but constantly issues certificates with the same content as previously annulled ones.,
- NUMBER OF STREET, STRE The ineffective work of the Property and Legal Affairs Directorate and its organizational units in providing evidence ex officio and the absence of technical, organizational and normative assumptions for quality processing and resolution, is the main reason why the privatization process of state-owned construction land remains difficult, and citizens obtain decisions for a very small number of cases.

RECOMMENDATIONS

- Denationalization commissions should be more diligent in resolving cases, they should take into account the rights vested in the citizens under the law, and not to misuse their ignorance and lack of knowledge.
- Re-examination of the legal protection system for the citizens in the cadaster and undertaking actions by the Real Estate Cadaster Agency of the Republic of North Macedonia ex officio for overcoming issues arising from the replacement of paper with digital cadastral plans,
- All actions should be taken from a technical, organizational and normative aspect in order to create adequate assumptions for ensuring effective realization of legitimate rights and interests of parties in the procedure for construction land privatization.

URBANISM AND CONSTRUCTION

In the course of 2018, the Ombudsman received a total of 130 complaints in the area of urbanism and construction.

As in the previous years, the majority of submitted complaints this year referred to the delay of first instance procedures for issuing building permits and determining the legal status of illegally constructed buildings. One of the main reasons for this phenomenon is the prolongation of time in which detailed urban plans are placed out of legal force by several units of the local self-government, above all the Municipality Centar, where construction is most intensive. In the previous period, the Ombudsman indicated that there is no legal basis or possibility for detailed urban plans to be temporarily put out of force due to their revision, since a certain legal vacuum is created during the revision period, whereby citizens are not able to realize their rights and interests in this sphere. In addition to this, the Constitutional Court that annulled all such decisions of the Municipality Centar, but despite the obligation to comply with those court decisions, the municipality nevertheless implemented the so-called moratorium on urban plans throughout the entire 2018. The majority of legalization procedures of illegally constructed buildings are still in progress although eigth years have elapsed since the process begun. The reasons for postponing the procedures are too many submitted requests regarding the dynamics of their resolution due to irregularly updated detailed urban plans, unresolved legal property of the submitters and submitted incomplete documentation, etc. Frequent changes and amendments to the legislation further contribute to these procedures being delayed. Although the deadline for submitting new requests or supplementing the documentation was extended, the expected results were missing, i.e. the process is still far from over.

The number of complaints by citizens asking the Ombudsman to protect their rights is evident due to the lack of action or inconsistent work of authorized construction inspectors. In fact, this was one of the recommendations of the Ombudsman in this area upon which the Assembly adopted a measure obliging the competent inspection bodies to conduct frequent field inspections in order to prevent and sanction illegal construction.



In line with the complaints received, the Ombudsman again shares the same experience as the previous years in relation to the cooperation of responsible authorities, i.e. the cooperation is relatively good, and the required data and information were submitted mostly in the foreseen deadline or with slight delays. One exception this year is once again the Municipality of Chair, whose cooperation is convincingly on the lowest level, replies are not delivered after several written or direct requests, and this seriously disrupts the work of the Ombudsman.

It can be concluded that very little or almost nothing has been done in respect of the Ombudsman's recommendations for performing frequent preventive inspection surveillance and revising the legal regulations and urban plans given in order to overcome the problems and create conditions for improving the situation.

Therefore, the same recommendations remain for the next period with an appeal to all competent authorities to start tackling accumulated issues seriously and without delay and their immediate resolution in order to provide better conditions for urban living and management of all natural and legal persons.

CONCLUSIONS

- The inspection services carry out field controls selectively and insufficiently,
- The legislation has not yet been consolidated and arranged due to frequent supplements and amendments, and the revision of urban plans is also delayed.

RECOMMENDATIONS

• Frequent preventive inspection surveillance in order to perform non-selective prevention of illegal constructions and sanctions for their constructors,

Revisions and updates of the legislation and the urban plans.

HOUSING RELATIONS

The area that covers housing relations and problems faced by a certain groups of citizens with unresolved housing problems, marks a drop in the number of complaints submitted to the Ombudsman, i.e. a total of 35 complaints were submitted.

Most of them refer to procedures by which citizens categorized as recipients of some of the certain social welfare benefits, low monthly income or young married couples, require to be assigned an apartment for rent or to buy the previously allocated state-owned apartment under certain favorable conditions.

The insignificant number of complaints lodged in this area is mainly due to the fact that in

the course of 2018 no single procedure for granting state-owned apartments was conducted in the country since no new apartments were built at all. The unresolved housing issue of many people categorized as persons at social risk creates a growing number of homeless people.

The general conclusion is that there is a great need for constructing state-owned apartments that would be granted or sold to certain groups of citizens under favorable conditions. Therefore, the Ombudsman recommends that the responsible authorities provide financial funds for the construction of such apartments.

CONCLUSION The need to build so-called social building blocks RECOMMENDATIONS

 Urgent construction of apartments that would be leased or sold under particularly favorable conditions to a certain category of citizens most seriously exposed to social risk.

ENVIRONMENT

Environmental protection, although one of the most important segments of contemporary social life, and despite more intensive campaigns for ecological awareness, which is unfortunately at a very low level according to the number of complaints submitted to the Ombudsman - only 16 in total, someone could have a completely wrong impression that the situation in this area is satisfactory.

On the contrary, our country is on the top of the black list of countries with the most polluted ambient air especially in larger urban units; large industrial facilities are tolerated and run without adequate protective filters, the waste is still deposited at non-standardized landfills that do not meet the minimum prescribed standards, etc.

However, despite the concerning pollution situation, citizens address the Ombudsman primarily for individual problems they face, primarily due to the non-performance or usually selective treatment of competent inspection services upon reports of increased noise levels caused by catering facilities in the late night hours and irregular disposal of various types of waste and construction waste.

The cooperation with competent bodies which the Ombudsman addresses in handling these complaints is satisfactory without any special delays or difficulties.

Considering that the recommendations given by the Ombudsman in the past pe-



riod have not been implemented, and the Assembly adopted measures that obliged responsible institutions to undertake specific actions, and yet, the situation in the area of environment protection is still deteriorating ,the Ombudsman again recommends and urges all competent authorities to take urgent and specific measures to solve the problems of enormous air pollution, intensified inspection supervision and intolerance of all environmental pollutants, as well as faster realization of long announced projects for the construction of regional landfills according to the most upto-date environmental standards.

CONCLUSIONS

- Air pollution is at an alarmingly high level,
- Waste and garbage are disposed of at inadequate locations and non-standardized landfills.

RECOMMENDATIONS

- Continuous field controls for detecting air pollutants and their non-selective sanctioning,
- Construction of regional landfills according to legal standards.

FINANCES

The number of filed complaints in the area of finance in 2018 compared to 2017 was significantly reduced from 510 to 166. This drastic fall is due to aboliting the obligation to pay the broadcasting fee, as well as the fact that the Public Revenue Office, the City of Skopje and municipalities rarely implemented forcible collection procedures of due and unpaid tax debt.

However, the problems citizens requested interventions by the Ombudsman are identical to previous years. Namely, most of the submitted complaints were related to irregularities regarding the establishment and collection of the broadcasting fee or personal income tax and the elimination of consequences of such a situation. The inability to obtain a certificate for paid taxes and contributions is a notable example, although decisions have been made for writing off unfounded claims and conclusions that issued decisions on broadcasting fee will not cause any legal effect. The remaining complaints are mainly for protecting the rights of citizens in the procedures for assessment and collection of property and other taxes, as well as administrative fees.

The Ombudsman found violation of citizens' rights and unjustified endangering of their

existence in the procedures for forced collection by deducting the entire amount of salary, pension or social security benefits, by collecting the already paid tax and collection of bank fees, which sometimes exceed the amount of the main debt.

In the reporting year, the Ombudsman succeeded in protecting the constitutional and legal rights of a larger group of citizens when the Public Revenue Office acted upon its intervention and created assumptions in the system of the Pension and Disability Insurance Fund to record outstanding contributions for pension and disability insurance, collected through enforcement agents and thus, to exercise the right to a pension in a full amount.

However, the problem with regard to the return of the collected tax "in a special tax procedure for examining the property and property state, i.e. determining the income for which the tax is not determined or insufficiently determined" remains unresolved and stopped by a legally valid administrative act by the Public Revenue Office. Simply, it does not return the unjustifiably collected money to the damaged citizens.

The non-cooperation of the City of Skopje with the Ombudsman, which has been happening in continuity for years, also took place this reporting year as they did not respond to the requests for explanations, information and evidence on the allegations in the complaints, nor did they undertake measures after the interventions for removing the stated injuries., The Ombudsman informed the Mayor of the City of Skopje with a special report on obstructing the work and disabling the exercise of the citizens' rights, but feedback was not given on undertaken measures.

The inertia of the City of Skopje to the demands of citizens and the Ombudsman creates doubt about the objectivity in determining the taxes, especially for the property tax on real estate - houses and land. Hence, the Ombudsman believes that besides the other measures, the register of taxpayers should be urgently ex officio updated, thus reducing the complaints of citizens and improving the collection of taxes which is not at a satisfactory level, in the longer term.

In addition, we must pinpoint the need for essential changes to the existing legislation; in particular the Law on tax procedure, property taxes, payment operations and the methodology for determining the market value of real estate, whose inadequate provisions or legal gaps, are the main reason for violation of constitutional and legal rights of the citizens.

In this segment, the Ministry of Finance without any reasonable explanation and objective reasons, and exclusively to the detriment of the legitimate rights and interests of the citizens, does not undertake actions in that respect for a longer period and does not approve amendments to the legislation for simplification of the existing or preparation of a new methodology for determining the market value of real estate.

For this purpose, the Ombudsman, as an authorized proposer, on two occasions (2014 and 2017) submitted an Initiative for drafting a proposal for amending and supplementing the provisions of the Law on Tax Procedure and the Law on Property Taxes to the Government, which on their part is forwarded to the Ministry of Finance.

In the previous period, nothing has changed in practice in this area, although the Assembly established a measure for amending and supplementing the aforementioned laws. In fact, the Government submitted Information prepared by the Ministry of Finance, which again just states that in accordance with the proposed initiative by the Ombudsman, they will proceed to appropriate legal changes.

The measure instructing the Macedonian Radio Television management to adopt a decision on writing-off unjustifiably recorded broadcasting fee debts, as well as to supervise the work of the Public Revenue Office in the cases for examining the property and property state, and personal income tax indebtedness on the basis of undeclared and non-taxed income, have not been implemented yet, and the responsible authorities and institutions have not provided an adequate explanation as to why it has not been acted in that direction.



CONCLUSIONS

- Competent institutions continue to violate citizens' rights (unjustifiably endangering their existence), in the procedures for forced collection, by deducting the entire amount of salary, pension or social security benefits, by collecting the already paid tax and collecting bank commissions, which sometimes exceed the amount of the main debt,
- The non-cooperation of the City of Skopje with the Ombudsman, which has been happening for years.

RECOMMENDATIONS

- In order to protect legitimate rights and legal interests of citizens, amendments to the provisions of the Law on Tax Procedure and the Law on Property Taxes must be adopted immediately, the legislation should be simplified and amended or a new methodology for determining market value of real estate should be prepared,
- The City of Skopje and the municipalities should cooperate with the Ombudsman, they should always pay attention to the interests of the citizens in terms of respecting the procedure, regulating duties better and reasonably reducing doubts regarding the fact whether the amount they pay for a certain tax is reasonable and fair and whether the value of their real estate is actually assessed.

CONSUMER RIGHTS

In the area of consumer rights, the decline in the number of complaints is evident in this reporting period (230, compared to 282 in 2017), with the largest part referring to the work of EVN Macedonia AD (EVN), public communal enterprises for water supply and waste, especially the Public Enterprise "Water and Sewage" - Skopje (PE), Toplifikacija AD Skopje and other heat energy operators (Toplifikacija).

Compared to previous years, complaints again referred to the same or similar problems that citizens as users of the services face due to irregularities and omissions in the work or disregarding the legislation regulating this area. In addition, the basic requirement of almost all complainants is an intervention to regulate the situation with arrears, which in turn is most often the reason for their exclusion from the electricity distribution network or the water supply system.

Cases of indebtedness were once again recorded In the work of the PE that were not in line with the actual situation, but by default that additionally resulted in issuing extraordinary

bills, with enormously high amounts, and without explanation for the exact period to which they relate. Also, there are service users who do not have a water meter at all, as a measuring instrument, and the PE does not undertake actions to overcome this situation and bases its bills on default calculations, which is contrary to the legal regulations and detrimental to consumers.

The Ombudsman also found violation of the rights of citizens due to omissions in the official records for users, which occurred exclusively due to the unscrupulous and irresponsible work of the services of EVN, PE and Toplifikacija. In this segment, it is very difficult for users to obtain clear and precise information on the basis on which the total recorded debt arises, which period it applies to, whether and when there is a lawsuit, how, since when and in what way the interest is calculated, etc. For the same reasons, and in order to not burden them with debts made on behalf of the previous user, citizens are subject to unnecessary procedures in which they must prove the period they became actual users of the services.

As a positive practice in the work of these entities, and above all, public enterprises is the acceptance of the Ombudsman's interventions to enable paying arrears on several monthly installments, and taking into account the material situation of the citizens and their reduced economic power. Campaigns for payment of arrears without interest were not effective because citizens were conditioned to previously pay the debt for which forced collection was imposed.

An additional problem for users who have signed agreements and regularly pay current invoices is the inflexibility of the providers, who without notice and warning terminate their service even if only a single installment is not paid. For re-connection, users are conditioned to pay the entire debt at once, as well as an appropriate fee for undertaking such an action.

This practice, which is often used by EVN and public utilities, causes consumers irreparable damage, especially considering that the use of electricity/water is an important segment for the normal functioning of each family and for the performance of basic/regular personal needs and activities.

A smaller number of complaints were related to the services referring to the collection and transportation of communal waste, whereby the Ombudsman found that communal enterprises, contrary to the stipulated that they should charge only for the service used, for certain users this principle is violated. In particular, they charge for unused services, for example, for waste, although the service is not regularly done, and there are situations of no waste containers at all, as well as cases when citizens receive bills for waste even though no one lives in that apartment/house. The justification for such actions is the lack of adequate criteria to decide upon the required approvals.

Complaints filed against Toplifikacija were mostly for indebtedness with the fee for the engaged power (fixed part) of the heat energy bill, for regulating the condition of the accrued debt, the quality of the delivered heat or the untimely action of the supplier on defect reports.

Citizens also addressed the work of fixed and mobile telephone operators, whereby in order to protect the rights of the service users of the established subscriber relationship, the quality and the prices of the services, the Ombudsman intervened directly with the operators or requested undertaking actions by the Agency for Electronic Communications.

Based on the analysis of the subject matter and the monitoring of the situation in this area, the Ombudsman believes that consumers can hardly provide individual protection of their rights and compensation for suffered material damage. Hence, for the purpose of effective protection and consistent compliance with the principle of legal safety, there is a need for the state to provide normative assumptions for collective protection in some cases and, consequently, to regulate all aspects of such a procedure.

Regarding the established measures in the area of consumer rights in the reporting year, a new Law on Energy was adopted by the Assembly, whose implementation should protect most of the rights. In that direction, the Regulatory Commission for Energy and Water Services adopted some of the bylaws related to the necessary tariff systems, the procurement rules and the electricity market, and they provide as-



sumptions for all consumers to buy electricity of their own choice.

The problem with the indebtedness with the fee for engaged power (fixed part) of the heat energy fee for excluded consumers is foreseen to be resolved by the Rules for heat supply, which shall be adopted by the Regulatory Commission within 9 months after the Energy Law enters into force.

The measure to prescribe the manner, procedure and conditions for subsidizing electricity by law, as well as the criteria for acquiring the status of protected consumers from households with members who have health problems that can be affected by the termination of delivery, is not realized in the reporting year. The new Energy Law envisages that the Government, on a proposal from the Ministry of Economy, and upon a previous opinion from the Regulatory Commission, shall adopt a program to protect vulnerable energy consumers in the next year.

In agreement with the findings of the Ombudsman for the illegal issuance of extraordinary bills and selective debt write-off, no audit of the overall operation of PE Water Supply and Sewage Skopje has been performed by the Government and other competent authorities, there are no acts to regulate the procedure for submitting objections by consumers on the amount of monthly invoices and an independent body that will provide impartiality and objectivity in taking actions and decision-making. Also, EVN has not adopted a general act that will, in accordance with the business policy, uniquely regulate the issue of settling arrears in installments.

In the reporting year, no supervision hearings were organized to consider the reasons why decisions with a binding character are taken by regulatory bodies, to determine whether they are clear, precise, objective, and prepared by competent persons. In addition, instead of re-examining the existing legal framework that provides regulatory bodies great discretionary powers, the same are continually increasing.

CONCLUSIONS

- The situation with paying arrears has not yet been regulated in an adequate manner, which, in most cases, is a reason for exclusion from the electricity distribution network or the water supply system,
 - Campaigns for paying arrears without interest were not effective because citizens were conditioned to previously pay the debt that was forcibly collected,
 - Consumers can hardly individually ensure protection of their rights and compensation for the material damage, due to the absence of normative assumptions for collective protection.

RECOMMENDATIONS

- Service providers should provide assumptions for paying arrears with greater flexibility and taking into account the condition of the users,
- CONTRACTOR OF CONT Due to ineffective debt collection campaigns, the state, in cooperation with service providers, has to find a way to facilitate payment for a particular group of citizens, and for the most vulnerable, a full write-off should be considered,
 - In order to ensure effective protection and consistent compliance with the principle of legal safety, normative assumptions for collective protection of consumer rights must be provided in certain cases.

POLICE AUTHORIZATIONS

The number of submitted complaints in the field of police authorizations in this reporting period increased, with the majority of the complaints referring to the failure to take measures for criminal and other citizens' charges, failure to take measures to protect their lives, violations of the rights in the procedure for exercising the asylum right and temporary protection, as well as complaints about torture and ill-treatment in service execution. In addition to the above mentioned, citizens demanded protection due to ungrounded or unlawful deprivation of freedom, as well as for summoning and detention in a police station.

After the undertaken actions for examining the allegations in the complaints of the citizens regarding the actions of police officers, the Ombudsman indisputably determined violation of rights in the service, and in accordance with the competences, submitted three (3) requests for procedure initiation to the public prosecution offices in order to determine criminal responsibility against an official or responsible person for committing criminal acts against the freedoms and rights of citizens, i.e. physical abuse, intimidation, humiliation of the human dignity and personality of damaged parties during freedom deprivation and searching. Namely, criminal charges to the Basic Public Prosecutor's Office - Skopje and the Basic Public Prosecutor's Office - Veles were for a criminal offense under Article 143 of the Criminal Code due to ill-treatment while performing the service, and criminal charges to the Public Prosecutor's Office - Gostivar for a criminal offense under Article 146 Paragraph 2 of the Criminal Code, that is, an illegal search.

These cases, for which the Ombudsman provided adequate documentation, as evidence for applying physical force, intimidation and inflicting injuries to citizens by police officers, often accompanied by insults on ethnic or other grounds, makes the manner in which law is implemented suspicious, and once again confirms the need to conduct a serious, comprehensive and objective investigation in order to determine whether it is a matter of enforcing or violating the law.

In this context, the Ombudsman also takes into consideration the judgments of the European Court of Human Rights on the absence of appropriate and complete investigations into cases involving the police, and cases when citizens indicate and signal possible excessive use of force against them, which must not remain unpunished.



According to the Ombudsman, any contravene action from the abovementioned will contribute to reducing the significance of the general legal prohibition of torture and inhuman and degrading treatment and punishment, whereby this prohibition will remain recorded only on paper, thus giving an opportunity to civil servants to oftentimes abuse that right, without any risk of being punished, and such a thing should not be allowed.

The amendments to the Law on the Ombudsman from April 2018 outline that the Ombudsman together with representatives of competent organizations (associations) shall act as a mechanism for civil control of the police. In this context, they will undertake actions and measures to provide support and protection for the victims and their rights, and to present their interests in all procedures conducted in state administration bodies, as well as procedures before the prosecution and the courts through an efficient and transparent research of the treatment by the police and members of the prison police for criminal acts while performing official duties and for crimes committed outside the service by using a serious threat, force or means of coercion resulting in death, serious body injuries, body injuries, unlawful deprivation of liberty, torture and other cruel, inhuman or degrading treatment and punishment, if a criminal prosecution is provided for ex officio by law.

No response has been submitted by competent public prosecutor's offices to the Ombudsman in respect of the aforementioned filed criminal charges, although these prosecuting authorities, in accordance with the deadlines stipulated in the Law on the Ombudsman, are obliged to inform the Ombudsman in a timely manner about his requests and other interventions.

In this reporting period, the Ombudsman was informed about the epilogue of the five criminal charges filed in 2017, and the responses of the public prosecutors had a brief explanation that "the specific case is a crime that is not prosecuted ex officio, but upon a private charge "or that "there is no reasonable doubt that the perpetrators committed the crime".

The cooperation with these authorities clearly shows that they do not, or insufficiently, investigate the work in accordance with the findings and submitted evidence of the Ombudsman, and ignore the fact that when the Ombudsman concludes that constitutional and legal rights of the complaint submitter have been violated, it then may submit a request to the responsible public prosecutor to initiate a procedure in order to establish a criminal responsibility against an official person or a responsible person, and to actively participate in the procedure with the right to make proposals and give opinions.

The Ombudsman expects that with the work of both new specialized departments, one within the institution Ombudsman-mechanism for civil control over the work of the police and the Unit for investigation and prosecution of crimes committed by the police and members of the prison police, in the Prosecutor's Office, the cooperation will inevitably improve, considering that there are two important institutions to control the of human rights in police procedures.

The Ombudsman stated obvious violation of human rights in the police procedure, in the case of extending detention in jail for an accused person from Prilep, involved in the events in the Assembly on April 27, 2017. Due to a police error, that is, a wrongly established factual situation, in order to check whether the person adheres to the measure of house arrest, the defendant was returned to custody again, although he was at home during the inspection.

The Department for Internal Control informed the Ombudsman in detail for the established case, and the Court of First Instance Skopje I Skopje - Criminal Council of the Department for Organized Crime and Corruption, and the Court of Appeals in Skopje were provided an indication of the manner for removing the stated violations by our side, i.e. a request for the detention measure to be replaced by a more lenient measure, which was not respected by the Court.

The Ombudsman, acting upon complaints from citizens that point to a tendentious and unjustified detention at border crossings without any explanation even though they had never been in conflict with the laws previously, had a meeting and consultation with senior officials in the police, and requested people with no criminal proceedings but unreasonably retained at

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border crossings, only on the basis of "operational knowledge" to be removed from the electronic records of the Ministry of Internal Affairs. In doing so, the Ombudsman pointed out that records for persons who fall under the detailed check regime at border crossings should be well checked, reasoned and regularly updated.

On the other hand, the Ombudsman also acted upon a complaint against the police for the use chemical means of coercion, during the suppression of protesters at the protest in front of the Assembly on 17.06.2018. Having in mind the allegations that during these police actions, a large number of protestors were injured, including a citizen who did not participate in the protest but was sitting in "Zhena Park" with another four women. A device exploded under the bench and she got serious injuries. In order to examine the merits of the allegations in the complaint, the Ombudsman asked the cabinet of the Minister of Internal Affairs to take measures and completely resolve the case the event.

The Ministry replied that "based on the submitted material, it was found that the chemical means used by the police do not cause this kind of injuries and that the injury was probably caused by a lighted torch of a citizen-protestor." On the other hand, the University Clinic for Plastic and Reconstructive Surgery - Skopje informed the Ombudsman that "the injuries of the patient were a combination of burns from chemical means of coercion combined with a larger number of smaller and larger stinging wounds on the entire right knee area."

Given these contradictory statements that do not enable accurate determination of the actual situation, the Ombudsman requested scientific and expert opinion from the Institute for Forensic Medicine, Criminology and Deontology - Skopje, and yet no response has been received.

In the reporting period, the Ombudsman acted upon complaints regarding the attitude of police officers towards members of marginalized groups, that is, for mockery, discrimination and degrading conduct of the police towards persons with different sexual orientation. Following the measures taken and collected evidence, criminal charges were filed to the Basic Public Prosecutor's Office Skopje, against 9 uniformed police officers from the Police Station Gjorche Petrov, due to ill-treatment in the performance of duties, from Article 143 of the Criminal Code, and the responsible public prosecutor informed us that the case has been deployed, and an Order has been issued requiring the Department of Internal Control to report on the measures taken for the criminal legal case.

The Ombudsman, in order to examine the allegations of unprofessional police treatment in Strumica towards members of marginalized groups, asked the Police Station Strumica for information and evidence from official records, and summoned two police officers who are said to have violated the rights of those citizens for a conversation. The police in Strumica did not respond to any requests by the Ombudsman, who therefore, with a special report on obstruction of the work, informed the Minister of Internal Affairs, as well as for the non-cooperation of the police officers from Karpos.

Regarding the complaints by which citizens complain about serious violations of their rights in misdemeanor procedures, the subject matter shows that misdemeanor bodies of the Ministry of Internal Affairs impose high fines on citizens, without determining the factual situation, by misapplication of the procedural law, without their hearing and without any warning, thus forcing citizens to pay fines through enforcement agents. On several occasions, the Ombudsman pointed to the principle of fair trial from the LCP in relation to Article 2 of the Law on Misdemeanors, according to which any person charged with a criminal offense/misdemeanor has the right to a fair and public trial before an independent and an impartial judicial authority for misdemeanors, in a contradictory procedure to be enabled to challenge the charges against him and to propose and produce evidence for personal defense. However, misdemeanor bodies do not respect the Ombudsman's proposals and suggestions.

The general opinion of the Ombudsman that misdemeanor bodies are the extended arm of the Ministry of Internal Affairs and in the function of the Ministry still remains.

The Ombudsman welcomes the reduction of misdemeanor penalties adopted at the end of



2018 and considers that the new penalty policy will ease the rights of citizens in misdemeanor procedures. In the course of the work, the Ombudsman faced absurd situations when the fine for an unregistered (old) vehicle was higher than the value of the vehicle itself.

During the reporting period, complaints were filed by citizens who complain about serious harassment, via telephone and social networks, by unknown individuals, i.e. that unknown persons from identified mobile phone numbers via Viber, had been disturbing them for months, with countless obscene, immoral and abusive messages about their female relatives, even by posting images on Viber in the phones. Complaints are supported with images of the message content. Similar are the allegations of harassment on social networks.

Due to the seriousness of the allegations, the Ombudsman addressed the Department for Cybercrime and Digital Forensics at the Ministry of Internal Affairs and met certain officials who stated that they were not able to do anything about this phenomenon because such crimes were not prosecuted ex officio. The Ombudsman feels that the stated is unjustified and questionable, given the fact that in the specific cases there is a violation of basic human rights and freedoms guaranteed by the Constitution, which establishes respect and protection of the privacy of personal and family life, dignity and reputation of every citizen. Hence, police stations and the Department of Cybercrime where citizens usually report these crimes, should have a more serious approach to complaints about harassment of citizens, for which the Ombudsman informed the Director of the Public Security Bureau, pointing out a violation of one of the basic constitutional rights of inviolability of communication and family and private life, and in that direction, assessed that the responsible authority should ex officio engage in prosecuting the perpetrators of telephone harassment, and if evidence is collected for a criminal act committed through public means communication, the responsible Public Prosecutor shall be informed thereof.

In the course of 2018, the Ombudsman noted improvement of the cooperation with the Department for internal control, criminal investigations and professional standards. In addition to the regular cooperation and communication, the Ombudsman's requests are fully and thoroughly investigated by this Department, and for the first time, such investigations, in large numbers are resolved with appropriate penalties for police officers who, while performing their duties, behaved unlawfully, incorrectly and unprofessionally.

Regarding the recommendations of the Ombudsman for overcoming the established situation regarding the protection and respect of human rights in police procedures, it was determined that the recommendation for strengthening the external control over the work of the police was taken into consideration.

Regarding the establishment of a register of persons deprived of liberty, in which the Ombudsman will have an unobstructed insight, the Government responded that a record of persons deprived of liberty and detained is maintained at all police stations of general authority, and the same is assessed inadequate by the Ombudsman in respect of his recommendation, considering that the recommendation requires a single registry for persons deprived of liberty by the police pursuant to Article 160 of the Criminal Procedure Code.

Measures have been taken on the recommendation for a new Reception Center for foreigners and according to the Ombudsman's information, the new Center for Foreigners has already been built and it should start functioning in the course of 2019.

Regarding the work of the authorities and commissions for misdemeanors, the Ombudsman concluded that the measures of the Government lead to improvement of the situation in this sphere, considering that the procedure for adopting a new Law on Misdemeanors is in process in the Assembly, and this law stipulates that any decisions of the Commissions for misdemeanors shall be directly decided by the Administrative Court, not a second instance commission.

Regarding the recommendation to erase the category of "rubber projectiles" in

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the part of coercive means, in the Law on Police, the Government informs that with the amendments to the Law on Police from 2018 eliminate the coercive means "rubber bullets", and therefore the recommendation was taken into account.

The Ombudsman will continue to monitor the implementation of measures undertaken following the recommendations.

CONCLUSIONS

- The occurrence of illegal, unprofessional and incorrect behavior of certain police officers towards citizens, especially towards members of marginalized communities (persons with different sexual orientation), persists.
- The Public Prosecutor's Office rejects the Ombudsman's criminal charges filed against police officers, with a brief explanation that "the crime is not prosecuted ex officio", disregarding the fact that the Ombudsman is a legally authorized proponent of criminal charges.
- Misdemeanor authorities do not respect the Ombudsman's suggestions and the principle of fair trial which establishes that any person accused of a criminal offense is entitled to a fair and public trial before an independent and impartial court for misdemeanors in a contradictory procedure so as to be able to dispute the charges against him/her and to propose and give evidence in his/her defense.
- Certain persons who have never been in conflict with the laws or have never been subjected to any criminal proceedings are being checked and detained at border crossings.
- The Sector for Cybercrime and Forensics, insufficiently or not at all, examines the complaints of citizens for harassment via telephone communications and social networks, although the right to privacy and family life is a fundamental human right guaranteed by the Constitution.

RECOMMENDATIONS

- While exercising their authority, police officers should act legally, professionally and correctly, and respect human freedoms and rights.
- The Public Prosecutor's Office of the Republic of North Macedonia should seriously consider the Ombudsman's requests and evidence for penal responsibility against police officers' they should conduct full and efficient investigations for sanctioning perpetrators and restoring the trust of citizens in the objective actions of the authorities.
- The misdemeanor authorities should respect the Ombudsman's suggestions and the general principle of the criminal procedure, that everyone has the right to a fair trial before an independent and impartial court, that is, a misdemean-



RECOMMENDATIONS

or authority in a contradictory procedure, so as to contest the charges against him/her and to propose and present evidence in his/her own defense.

- Electronic records of persons included in the detailed check regime at border crossings should be well established and regularly updated.
- The Sector for Cybercrime and Forensics at the Ministry of Internal Affairs of the Republic of North Macedonia, should consider the appeals of citizens complaining about harassment via telephone and social networks more seriously, since the right to privacy and family life is a fundamental human right guaranteed by the Constitution.

CIVIL AFFAIRS

In this reporting period, there is a decrease in the number of complaints in the field of civil affairs, but despite that, the most prevalent complaints are by citizens who seek protection in citizenship procedures. Although the Law on Citizenship was adopted decades ago in 1992, there are absurd situations occurring in practice. Namely, citizens born in Macedonia in the period between 1960 and 1970 cannot regulate their citizenship status yet, even though they have their families and their properties and homes in the country. In this context, these citizens who have lived for years with their families in their homes, due to not having citizenship, are obliged to register as foreigners in order to prove their legal residence in the country. The Ombudsman understands the despair and difficulties of these citizens who in some way are foreigners in their own country.

It is also incomprehensible how two or three generations in one family can have citizenship, and only one member to be declared a foreigner. Moreover, it should be taken into account that these are not people who represent "a new category of foreigners as a result of refugee and migration reasons" but they are our citizens who have lived in the Republic for a long period of time and have strong and effective connections with this country, but are still unable to acquire citizenship status.

Moreover, the Ombudsman has established long-standing and regular communication with the citizenship authority, but, unfortunately, such cooperation is missing on the inside, among authorities involved in the citizenship procedure. The problem is in the communication between the authorities, which is bureaucratic and delayed for months, even years, and is done exclusively through correspondence and official communication.

In this context, the decision-making authorities in the citizenship procedures should be more communicative and more efficient in their mutual cooperation and show greater flexibility and humanity, especially in the procedures for accepting the above mentioned persons, as the Ombudsman indicated by acting upon these complaints.

In addition to the above mentioned, our work shows that there are people in the Republic who, due to bureaucratic administration, cannot enroll in the birth registers and additionally, the procedure is delayed due to poor quality cooperation between authorities. In any case, citizens suffer the harmful consequences. As an example, a child from Kichevo, born in 2009

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at the University Clinic of Gynecology in Skopje, in an extramarital community, from a mother who is identified but with an unknown residence address, and from a father who proved that the child is his with a DNA analysis, cannot yet be registered due to the bureaucratic approach of the General Register Office in Skopje, which does not respect the Resolution of the Center for Social Work that suggests for the child to bear a personal name. And while two first-degree state administrative authorities transfer the blame to each other, the child had remained unregistered in the birth registry for 10 years since his birth.

Such non-cooperation was also established in other cases in the procedure for changing the surname, in which the Ombudsman undoubtedly registered an extremely ignorant attitude of the General Register Office - Regional Department for Civil Registries - Skopje, as well as the inability of the State Commission for decision-making in administrative procedure and procedure of employment in second instance to act accordingly, due to lack of documents. Although the Ombudsman suggested elimination of the identified omissions in the procedure for changing the surname to the second instance Commission, the Commission informed us that it cannot act upon the complaint and the suggestion due to lack of documents that are not submitted to them by the first instance body. Although the Commission urgently addressed the Department for Civil Registries - Skopje four times, the authority did not act upon requests for submission of files.

As a consequence, the Ombudsman submitted Information on obstructing his work to the Minister of Justice, as an official who manages the authority responsible for civil registers.

The recommendations of the Ombudsman for overcoming the irregularities found in the sphere of civil affairs were aimed at consistent application of the European Convention on Citizenship and the principles of the Law on General Administrative Procedure, the inevitable mutual cooperation of authorities involved in the citizenship procedure, improvement of the cooperation between the General Register Office and its regional departments with the Ombudsman, requesting service orientation of these authorities towards the citizens, timely and quality servicing of the citizens' requests in the domain of issuing personal documents as well as amending the bylaws in relation to stating the language and alphabet of the Bosniak community in the country.

In respect of the abovementioned recommendations by the Ombudsman, the Government responded with a general notification that the Ministry of Internal Affairs fully complies with the provisions of the Law on Citizenship and other regulations that regulate this matter.

Such an answer or measure of the Government does not correspond with the importance and gravity of the recommendations made by the Ombudsman.

CONCLUSIONS

- People born in the Republic between 1960 and 1970 and live in it with their families are not able to regulate their citizenship status, and are therefore forced to register as foreigners in their own homes. The authorities for internal affairs who decide on the right to citizenship, instead of cooperating in the interest of effective exercising of citizens' rights, behave extremely bureaucratic and delivery of written correspondences (letters, correspondence) takes a long time, even though their offices are under the same roof.
- The General Register Office and its regional departments do not have the capacity for service orientation in order to protect the rights and interests of the citizens.



RECOMMENDATIONS

- Authorities involved in citizenship procedures should strengthen mutual cooperation in order to achieve effective exercising of the rights of applicants and demonstrate greater flexibility, above all, efficiency in handling requests for regulating citizenship status.
- The General Register Office and its regional departments should be service oriented towards the interests and rights of the citizens.

PENITENTIARY-CORRECTIONAL AND CORRECTIONAL-EDUCATIONAL INSTITUTIONS

The number of complaints the Ombudsman acted on in the reporting period in this area has decreased insignificantly, and problems that detainees and convicts sought protection for remain the same as previous years. The general conclusion stemming from activities for the protection of human rights is that there are no significant changes in the overall conditions for accommodation in prisons, health care, nutrition, hygiene and sanitation conditions, even though the Ombudsman continually pointed out and recommended what measures to be taken to overcome the bad conditions in prisons and guarantee the rights of detained and convicted people.

Most complaints were submitted in connection with the health care and treatment of convicted and detained persons due to untimely and almost no continuous health protection, poor and insufficient facilities of the prison infirmaries without the appropriate medical devices and medicaments. It was also pointed out that prisoners are irregularly or with great delay taken to examinations in appropriate specialized institutions - a fact that was also established by the Ombudsman.

The problem with inappropriate dental treatment of the imprisoned is not resolved, and in this reporting period there was no dentist employed in the Idrizovo Penitentiary, and such services are performed by a dentist from the Skopje Prison two days a week. There are no changes either in terms of providing health and medical personnel throughout the whole day, resulting in a limited access of convicted and detained people to healthcare services.

In this context, a group of convicted prisoners in the Idrizovo Penitentiary filed a complaint in which they expressed dissatisfaction with the health service of the institution due to inadequate health treatment given to them. Namely, the convicts complained that they do not receive the necessary medications on time, i.e. they do not receive the necessary therapies on a regular basis due to the lack of medicines in the dental clinic, and they sometimes received them with a delay of one month. Therefore, prisoners were forced to order medicines at their own expense from their families.

The Ombudsman, due to the seriousness of the complaints for violated rights of the convicts, requested the Director of the Administration for Execution of Sanctions to undertake measures and install surveillance in the Idrizovo Penitentiary, because not only their health condition, but also their lives were endangered due to irregular essential therapies.

After the inspection, the Ombudsman, among other things, was informed that in terms of the health care of the convicted people, the Administration constantly indicates mandatory implementation of all guidelines, procedures and protocols in the field of health care in prisons, and regarding the increase of medical staff, it continually requests recruitment of new staff. The full takeover of the health care by the Ministry of Health, will eventually overcome this problem.

During the inspection, there were no special boxes for reporting convicts, which is contrary to the Instruction for convicts' access to a doctor in the institution, distribution of medications, medical examinations outside the institution.

The Ombudsman was informed that the procurement of medical products was performed on the basis of specification of medical products made according to the estimation of necessary and used drugs in the previous year which is later submitted to the Commission for Procurement of essential medical products. However, although deficient drugs were on tender lists, pharmaceutical wholesalers oftentimes did not supply the required medicines. Hence, if a convicted person needs a specific pharmacological preparation and cannot procure it, the health service of the institution submits a request to the Director for its procurement. Convicted persons, who are able to procure medications through their families, get a prescription by which the family acquires the necessary medicine, and if this option is not possible, the needs of the convicts are met by administrating a medicine with a parallel pharmacological effect.

The Ombudsman, on his own initiative, acted in four death cases in this reporting period, and continued the procedure for the cases of 6 deaths from the previous year. For two of the cases, the procedure is still in progress, and for the other cases the Public Prosecutor's Office reported that there are no indications or circumstances indicating that the death occurred as a result of a criminal act.

Regarding the measure for implementing the recommendation of the Ombudsman for amending the Law on Execution of Sanctions in order to restore healthcare under the competence of the Administration for Execution of Sanctions and to provide adequate and efficient access to health services, the Ministry of Justice did not provide any information, whether and what actions were taken. Instead, the Ministry informed in general on the healthcare of convicts, detainees and minors in the Penitentiary and Educational-Correctional Facilities, that the decision of the Director of the Administration for Execution of Sanctions implied forming a working group in charge of drafting amendments and supplements to the national legislation regulating the field of social and health insurance, the healthcare of these people, as well as the status of healthcare workers in these institutions, whereupon the working aroup in its expanded composition adopted six conclusions as follows: submission of Information to the Government in respect of the health protection of people deprived of liberty and the necessary activities for overcoming the situation; a Memorandum of cooperation with the Health Insurance Fund was signed in order to conduct an analysis, i.e. to check whether there are people deprived of liberty who can be health insurance beneficiaries on another basis; the Administration for Execution of Sanctions as a taxpayer in charge of paying health insurance for people deprived of liberty to proceed to technical harmonization with the Public Revenue Office in order to be able to make a payment after the provision of funds; a program for the release from participation of people deprived of liberty to be submitted to the Government; after paying the health insurance for people deprived of liberty, the healthcare workers from the Penitentiary and Educational-Correctional Facilities will be taken to public health institutions, and that the methadone center in the Idrizovo Penitentiary will have to be separated as an individual center under the control of the Center for Addicts in Kisela Voda.

In that context, it is stated that in the meantime, almost all healthcare workers from the Penitentiary Institutions Idrizovo and the Skopje prison have been taken



into the Public Health Institutions that perform primary health care, in the network of healthcare institutions in the Skopje area, and the procedure is still ongoing for the other health professionals from remaining institutions.

In spite of the information, this has not been fully implemented in practice and very little or no measures have been taken to equip facilities with appropriate medical devices in prison infirmaries. What is more, some Penitentiary Institutions have no medical employees at all, and health care is provided through the Clinical Hospitals from the city where these institutions are located. Namely, medical employees can only be found in the Penitentiary Institutions in Idrizovo, Shtip, Skopje, Bitola and Tetovo, and there are no medical employees in the Penitentiary Institutions in Prilep, Kumanovo with an open division in Kriva Palanka, the Penitentiary Institutions in Gevgelija, Strumica, Ohrid and Struga.

The problem with the lack of personal identity documents for the convicted was present this year as well. After submitting complaints for the protection of rights of the convicted and the fact that these persons, after the expiration of the sentence, face a problem with regard to further health protection, as well exercising other rights which require possession of appropriate personal documents, the Ombudsman conducted a Survey, which confirmed that there is a large number of convicts who are sentenced to imprisonment, and who, after the expiry of the sentence, are released from the institution without any personal identification documents. Penitentiary Institutions do not have accurate records of persons without personal identification documents, and these institutions also lack promptness regarding the initiation of procedures for issuing personal identity documents for convicted persons without documents, which is confirmed by a small number of procedures initiated by the institution, unlike those initiated by the convicts themselves.

In regard to this situation, the Ombudsman submitted recommendations to the Administration for Execution of Sanctions and to the Director of the Penitentiary - Idrizovo, demanding necessary measures to be taken in order to comprehensively perceive the situation with the convicts without personal identification documents, as well as to determine and accurately point out which people serve prison sentences without personal identification documents.

At the same time, it recommended measures for establishing accurate records and their updates in relation to people serving prison sentences with personal identification documents; the expiry of these documents and, consequently, continuous measures to be taken in order to allow convicts to receive new personal identity documents on time or replace those with an expired deadline.

Regarding the given recommendations, the aforementioned authorities informed the Ombudsman that certain activities were undertaken in order to overcome this obstacle, in a manner that the Administration for Execution of Sanctions had contacts with the Ministry of Internal Affairs and the General Register Office, and that the solution to this problem is ongoing, both in the technical part and in the part of finances for its implementation.

The convicts submitted complaints regarding court decisions based on which they were sentenced to imprisonment, the manner and procedure of conducting the trial, as well as the decisions of competent courts for pronouncing detention measures, in which cases the Ombudsman, due to the lack of jurisdiction did not undertake actions, but legally advised these persons on the way they can protect their rights.

In their complaints, they sought to meet the Ombudsman, asking for advice regarding relocation, progression, sentence termination and use of conveniences. The Ombudsman responded to every request of convicted and detained persons and if it believed there was a space for undertaking any actions, it appropriately intervened before the responsible authorities. Otherwise, these people received legal advice on the manner and procedure for their use.

After the adoption of the Amnesty Law, at the beginning of the reporting period, the convicted persons filed complaints because they were not covered by the law, but when each case was reviewed individually, it was determined that their rights were not violated in any way. As a result of the amnesty, the number of convicted persons in individual penitentiaries

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decreased, especially in institutions with fewer convicted persons. Regarding the Amnesty Law, the convicts started a hunger strike in the Idrizovo Penitentiary and demanded to be covered by the amnesty announced in connection with the events in the Assembly. During the inspection in the Idrizovo Penitentiary, the Ombudsman advised the management of the institution to continuously monitor the health condition of the convicted persons who were striking with hunger, and if their health condition worsened, they should have taken measures for complete health treatment and rehabilitation of their health condition. It also advised convicts about the harmful consequences that may arise from a hunger strike in respect to their health condition.

From the complaint submitted to the Ombudsman, it was determined that it was a request of a group of (about 500) convicted persons from the Idrizovo Penitentiary, on behalf of all convicted persons who serve a prison sentence in penitentiary facilities, and in connection with the amnesty of all convicted persons. The Ombudsman, having in mind that the Inter-party Parliamentary Group was undertaking actions in terms of reconciliation, integrations and reforms, requested information about whether the requests of the convicts were received by this parliamentary group, whether they were taken into account and what was the attitude regarding them. However, the Law was enacted and came into force, and no answer was delivered by the Inter-party Parliamentary Group.

A small number of complaints from convicted persons referred to unprofessional conduct and violence inflicted by persons from the Security Sector, and during the course of the proceedings, the Ombudsman did not find any elements for submitting a request for demanding responsibility for such behavior of the officials.

Regarding the measure following the recommendation of the Ombudsman for the establishment and realization of primary and secondary education, the Ministry of Justice reported that a Strategy for development of the education and the learning process had been developed and it had been delivered for an opinion to all institutions concerned. At the same time, the Rulebook on job systematization in the Administration for Execution of Sanctions is in progress and contains a job post for developing the educational process in penitentiary and educational-correctional facilities.

We were also informed about the conducted professional training of convicted persons in the Kumanovo Prison, with an open division in Kriva Palanka, the Shtip Penitentiary, the female unit of the Idrizovo Penitentiary, that a pilot project was completed in the Prison in Ohrid for completing elementary education by minors, as well as trainings of convicts conducted in the Tetovo Prison.

The Administration for Execution of Sanctions reported that in accordance with the National Strategy for the Development of the Penitentiary System and the Training Strategy for Prison Personnel, they started conducting continuous trainings for prison staff, including human rights training in order to prevent ill-treatment in prison conditions.

The recommendation for the Penitentiary Institutions to ensure and appropriately adapt a room for unimpeded realization of the right to personal relationships and contacts between children and parents serving the prison sentence is implemented only in the Shtip Penitentiary.

The Ombudsman continuously monitors the situation with the children from the Tetovo Penitentiary Facility, which is still functioning in the penitentiary institution Ohrid where children stay in inappropriate conditions in respect of the type of institution, as well as its location near the city, without proper conditions to protect their privacy in carrying out everyday activities. Another problem is the insufficient equipment of the premises, limited space for movement, as well as inadequately equipped premises for their education, fulfillment of leisure time, playrooms, etc.



CONCLUSIONS

- Some Penitentiary Institutions in the country note visibly reduced overcrowding, but the conditions for serving the prison sentence remain rather bad and degrading.
- The health care is not functional. Prison infirmaries are not staffed with adequate and sufficient personnel; there is a lack of medicines, as well as a lack of medical equipment. The problem has not been overcome in those Penitentiaries where health care is provided either on call or 2 times a week or at request.
- There is no effective re-socialization in the penitentiaries. Security and retraining departments need expert training for respecting human rights.
- A regular educational process has not yet been established, although a Strategy for development of the education and the learning process in the penitentiary and educational-correctional facilities has been developed.
- The recommendation to provide a room for direct contacts of children with parents - convicts in Penitentiary Institutions is implemented only in the penitentiary institution in Shtip.

RECOMMENDATIONS

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- Measures should be taken in order to completely overcome prison overcrowding, as well as to improve the accommodation conditions in accordance with the standards for serving the prison sentence, while respecting individual human dignity.
- Providing regular, timely and continuous health care for all convicted persons through an efficient and applicable healthcare system. Providing the facilities with appropriate and specialized medical personnel, providing regular access to a doctor, and equipping the prison infirmaries with appropriate medical devices, regular supply of necessary medicines, etc.
- Measures should be taken for continuous and regular training of the employees in the Sectors for security and re-socialization in all Penitentiary Institutions, in order to have a visible effect in the process of re-socialization.
- The Ministry of Justice of the Republic of North Macedonia, the Administration for Execution of Sanctions, in cooperation with the Ministry of Education and Science of the Republic of North Macedonia, should take the necessary measures to finally establish a regular educational process in the penitentiary and educational-correctional institutions.
- Following the example of the penitentiary institution in Shtip, they should ensure and adequately adapt premises in other Penitentiary Institutions for the smooth realization of the right to personal relations and direct child-parent contacts (of convicted persons), in view of the best interests of the child and the right to maintain contacts and direct relationships with the parents they live with.

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### **VOTING RIGHTS**

In 2018, the Ombudsman actively followed the process of exercising the right to vote since a national referendum was organized within the period. For this purpose, as for each electoral cycle, the citizens could report any violation of the voting right to freely express their opinion and attitude regarding the referendum issue, through a free telephone line.

This is why the number of telephone calls and complaints for the protection of the voting right increased. Thus, during this period, 35 complaints were filed, 26 of which referred to the limitation and violation of the voting right due to delisting from the Voters List, 6 for exercising the right to compensation for members of electoral authorities, 2 for irregularities in the work of electoral authorities and 1 for harassment by organizations conducting election-related surveys.

The analysis of the situation established by the Ombudsman on the basis of the conducted procedure on submitted complaints and following the election process as a whole, showed that a larger number of people (unofficially more than 40,000) were deleted from the Voters List, their voting right was taken away and were placed in an unequal position in relation to other citizens, even though they had a valid ID document/ passport on the day of voting due to constant formal explanations for system omissions arising from the non-coordination of the State Election Commission (SEC) and the Ministry of Internal Affairs (MIA) and other authorities.

For the same reasons, the voting right was also banned to people who did not have a valid ID document on the day of announcing the election/referendum, i.e. they renewed it after the announcement, after the completion of the public inspection or after the conclusion of the Voters' List. The State Election Commission treats the people who turned 18 years within this period in the same way.

This problem, which causes a violation of the voting right for years, arises due to the methodology for making the voters list.

Namely, without any reasonable explanation and an adequate objective to be achieved, the Ministry of Internal Affairs sends the State Election Commission data which do not include the names of all those citizens, who will have expired and invalid personal identification documents or passports on the day of voting. According to the methodology, these data are mirrored in the Voters' List and all people missing in the Ministry of Internal Affairs data are deleted from the Voters' List and thus cannot vote, regardless of whether the citizen is issued an ID card or passport or if they will be renewed in the period between the closing of the Voters' List and the opening of the polling stations. In this segment, there is no justification that the State Election Commission did not take any action to at least invite these people during the election referendum campaign to inform them that they had been deleted from the Voters' List and to advise them on what do to in order to use their right to vote.

Such omissions, although occurring in several election cycles, are still evident, the Electoral Code has not been changed yet, and many citizens without having any blame, are deprived of their voting right.

During the reporting year and in accordance with the constitutional powers and the authorizations of the Law on the Ombudsman, the Ombudsman submitted a special report on the exercise and protection of the voting right to the Government, which contains recommendations for overcoming the established situation, with proposed appropriate solutions. This was performed for all other problems identified, including the discrimination in the exercise of the right to vote for certain categories of citizens (sick and disabled, with physical disability, blind people and people with visual impairment).

In addition to the formal responses that recommendations of the Ombudsman will be taken into account when drafting the amendments and supplements to the Electoral Code, nothing has been done so far.

The same applies to adopted measures of the Assembly in respect of implementing the



#### recommendations in the field of "Electoral Rights".

In particular, the Ministry of Justice informs that an inter-sectorial working group has been established to prepare the Electoral Code in order to overcome all weaknesses and identified problems, including those of the Ombudsman. Hence, stated amendments should include issues in respect of the Voters' List, enabling conditions for voting of people with disabilities, people in institutions, guardian families, etc., as well as preventing institutions from being abused for political party purposes in the period before and during the election process, yet such changes were not proposed at all within 2018.

### **CONCLUSIONS**

- Due to the methodology for drafting the Voters' List, a large number of citizens are continuously banned to exercise their right to vote,
- Due to the unsuitable voting method, inaccessibility and unavailability of polling stations, the discrimination in exercising the right to vote for people with physical disabilities, blind people, people with impaired vision and home-bound people is still prevailing.

### **RECOMMENDATIONS**

- Amendments and supplements of the Electoral Code should be made in order for the Ministry of Internal Affairs of the Republic of North Macedonia to submit a report the State Election Commission after closing the Voters' List, with data on the number of renewed or completely new ID cards for people who turned 18 in the meantime.
- In order to provide equal treatment and protection against discrimination under any legal grounds, appropriate measures should be taken from a normative and technical aspect so as to remove any restrictions and adjust the infrastructure and space for the blind, people with visual impairments, people with physical disabilities, as well as home-bound people, so that they can exercise their right to vote.

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### **MIGRANT/REFUGEE RIGHTS**

Although with reduced intensity in 2018, the refugee crisis and the treatment of refugees/ migrants who transited or remained in the country became a monitoring focus of the Ombudsman. There were 31 visits in total of which 8 to the Foreigners Reception Center in Gazi Baba, 5 to the Reception Center for asylum seekers in Vizbegovo, 8 to the Reception Transit Center Vinojug, 8 to the Reception Transit Center Tabanovce and 2 to the Safe House for accommodating vulnerable category people. During these visits, the material and health conditions in the centers were monitored, as well as the treatment of refugees and the level of rights exercising.

Furthermore, it is indisputable that in 2018 there was increased irregular migration on the territory of the Republic, with frequent cases of informal expulsion and collective deportations of refugees/migrants, insufficient information of detained refugees in the Foreigners Reception Center in Gazi Baba regarding the procedures they are involved in, as well as changes in the legal framework with the adoption of the new Law on International and Temporary Protection and the Law on Foreigners.

In the course of the visits to the Foreigners Reception Center in Gazi Baba, the Ombudsman concluded that recommendations from the Annual Report for 2017 were not implemented, and claims of detained people in this Center show that, because there is no interpreter engaged, the language barrier in communication between officials and detainees remains one of the biggest problems. Furthermore, the right to fresh-air walks of detained people is not respected, although the same is provided for in the Rulebook of House Rules in the Foreigners Reception Center, and in that context, it is not acceptable to justify that this is due to the lack of officials on duty. Residents in the Foreigners Reception Center are not sufficiently informed about the reason for their detention, or about the process of forced return and the destination where they will be returned to. Apart from the above, there is no complaint system for the detainees within the Foreigners Reception Center and thus, they cannot inform the manager of all the problems and restrictions of rights they face.

During 2018, the Law on International and Temporary Protection and the Law on Foreigners were adopted, which are of key importance for regulating the rights and obligations of refugees, asylum seekers and foreigners in the country. Namely, the Law on International and Temporary Protection overcomes some controversial provisions of the Law on Asylum and Temporary Protection, which limited the right to family reunification and access to an effective asylum procedure. Under the new legal solution, the right to family reunification with immediate family members shall be granted to any person with refugee status after obtaining the status of a refugee, and the person under subsidiary protection shall acquire the right two years after approving the status of a person under subsidiary protection.

According to the Ombudsman, although this decision is more favorable than the previously envisaged in the Law on Asylum and Temporary Protection, and it does not violate the European directives, however, time constraints regarding the exercise of the right to family reunification are not entirely in favor of these people.

Otherwise, the new Law on International and Temporary Protection stipulates that the sexual orientation and elements related to gender and gender identity shall be considered basis for belonging to a particular social group and therefore, reason for prosecution on this basis. In addition to the above mentioned, this law outlines a possibility of restricting the freedom of movement of asylum seekers, as a novelty, which in practice is already applied in the foreigners reception center where asylum seekers are held, citing the exceptional cases provided for by law.

The Ombudsman expresses concern about this provision, because the "exceptional cases" referred to in Article 63 Paragraph 2 are not specific enough, and the possibility of arbitrary treatment of responsible authorities is allowed. Although this legal possibility is in line with European law, guarantees for the rights of asylum seekers envisaged in the 2013/33/EU Directive are missing.



The Foreigners Reception Center has no infrastructural conditions for detaining and restricting the freedom of movement of asylum seekers and vulnerable categories, and as the most common grounds stated in the Decision on the measure for restricting the freedom of movement of asylum seekers refer to establishing the identity and a national security threat. In contrast, the Ombudsman positively assesses the decrease in the number of detained persons in the Center as witnesses in criminal procedures.

In the reception center for asylum seekers in Vizbegovo, a total of 299 asylum seekers were registered this year, 4 of them under subsidiary protection, and neither of the persons has acquired refugee status.

The systematization of the Reception Center provides for hiring a doctor who will be daily available in the center of the asylum seekers. New rulebooks have been adopted in order to improve the organization and functioning of the Center, and video surveillance in the internal and external part of the reception center for asylum seekers has been established. According to the findings, construction activities are in progress for complete reconstruction of the accommodation facilities, and one part of these premises is envisaged to be used as accommodation for vulnerable category people.

The new Law on Foreigners is harmonized with the European legislation, but its application has been postponed for a year, a period in which procedures, obligations of institutions and personnel who need to act upon the law should be established.

In addition to these two laws that emerged as a novelty, in 2018 or more precisely in July, the state ratified the Istanbul Convention, thus recognizing gender-based violence as the legal reason for seeking asylum in a safe country.

Regarding the implementation of the measure following the recommendation for improving the conditions in the Foreigners Reception Center, which will meet the international standards for retaining foreigners, the Government has informed that the recommendation is being implemented, whereby activities to build a new facility in the Foreigners Reception Center are underway. In the frames of the IOM project "Strengthening national capacities in the area of asylum, migration and human trafficking", an international expert was engaged to analyze the draft design of the new Foreigners Reception Center, regarding the level of implementation of international standards for accommodating different categories of foreigners in the center.

Following the recommendation for amendments to the legislation regarding the rights of refugees/migrants, a new Law on International and Temporary Protection was adopted, which led to a high level of harmonization with European directives in the field of asylum, i.e. international protection.

#### **CONCLUSIONS**

- The problem with group deportations carried out by the Ministry of Internal Affairs on the southern border with the Republic of Greece without any formalities and respecting the envisaged legal procedures is not solved;
- The Foreigners Reception Center retains asylum seekers even though the Center fails to meet international detention standards, and the decisions adopted by the Ministry of Internal Affairs do not contain reasonably clear and explained reasons for the legal detention grounds;
- Having no interpreter at the Foreigners Reception Center deteriorates communication between officials and detainees and this leads to insufficient informing of

### CONCLUSIONS

the people involved in the course of proceedings they are involved in (criminal procedure, misdemeanor procedure or forced return procedure);

- The detained people in the Foreigners Reception Center in Gazi Baba are not allowed to use their right to a fresh air walk, although this right is guaranteed to them in accordance with the Rulebook on house rules in the Foreigners Reception Center;
- There is no complaint system in the Foreigners Reception Center and therefore, detainees have no right to seek protection.

### RECOMMENDATIONS

- When carrying out forced return of refugees, the rights of refugees guaranteed by the international and domestic regulations must be respected; the procedures must be implemented in accordance with the provisions envisaged and official records should be kept thereof;
- Functional and efficient alternatives should be established in order to avoid the detention of asylum seekers with a measure of restricting freedom of movement where international standards for detaining asylum seekers are not met. The decisions of the Ministry of Internal Affairs which imposes restriction on the freedom of movement for asylum seekers and their detention should clearly state the reasons for the legal basis of this measure as an exceptional circumstance;
- Measures should be taken in order to provide an interpreter in the Foreigners Reception Center for smooth and effective communication between officials and detainees in the Center in order to timely and fully inform them of the rights and issues related to their status;
- Detainees in the Foreigners Reception Center in Gazi Baba should be enabled to exercise the guaranteed right to fresh air within the Center in accordance with the Rulebook on house rules.
- A functioning complaint system for detainees should be established in order to protect their rights.



### **OTHER RIGHTS**

In 2018, there was a noticeable increase in the number of complaints submitted by citizens regarding requests for free access to public information, which the state authorities did not act upon or responded. Also, a large part of the complaints submitted to the Ombudsman, as well as the previous year, referred to the lack of responses to their requests, complaints or suggestions.

Having acted upon these complaints and after examining each complaint separately, the Ombudsman pointed out to state administration authorities that they have an obligation to submit notifications for received requests related to free access to public information. Also, the Ombudsman requested the authorities who received requests, complaints or suggestions, to inform him of the reasons for not having acted properly. In addition, the Ombudsman reminded the institutions of the obligation to respond to any requests within a legally determined dead-line.

Just as in 2017, a large number of complaints in 2018 referred to the failure to act by the Agency for Financial Support of Agriculture and Rural Development. In the complaints, citizens reacted to untimely actions regarding their claims for subsidies related to agriculture. The majority of complaints were resolved positively, in favor of the citizens.

When acting upon complaints outside the scope of his work, the Ombudsman assisted the complainants with advice on how to protect their rights.

The Ombudsman, guided by the need to ensure smooth realization of the rights of citizens who suffered material damage in the floods in 2016 in the Skopje and Tetovo regions, undertook a series of actions during 2018 as well.

Thus, the Ombudsman addressed the Commission for assessing damages of the immovable and movable property in the areas affected by the severe storm and floods in the Skopje and Tetovo regions several times in 2018, requesting the Commission established by the Government, to take measures to overcome the established situation, for each case separately.

Acting upon the requests, the Ombudsman was informed by the Commission that the Government had selected new members of the Commission for assessing and determining the damage to immovable and movable property in the Skopje and Tetovo regions due to increased volume of precipitation and floods, formed with the Decision of 13.06.2017, emphasizing that the election of a new Commission was the reason for delaying the operation of this body.

Also, the Ombudsman was informed that the previous staff of the Commission did not hand over cases to the newly established Commission. In order for the Commission to act and decide upon the submitted requests for payment of the assessed damages, it had to receive the complete documentation on the requests beforehand and that once the Commission is provided with the necessary documentation to act upon, it would additionally inform the Ombudsman on the course of the procedures and the outcome of the same.

Although a long period of time has elapsed, the Commission did not submit a notification regarding our requests, therefore the Ombudsman submitted an invitation to the President of the Commission for assessing the immovable and movable property in the areas affected by severe storms and floods in the Skopje and Tetovo regions for providing information on the course of the proceedings, i.e. information on the Ombudsman's requests submitted to the Commission, but the President of the Commission did not respond to the invitation. Consequently, the requested meeting has not been realized.

On the basis of this situation, and in order to prevent further harmful consequences regarding the rights and direct legal interests of the complainants, the Ombudsman, in accordance with the authorizations, informed and asked the Government to take measures to overcome this situation regarding the non-functioning of the Commission for assessing the immovable and movable property in areas affected by severe storms and floods in the Skopje and Tetovo regions following the cases of the Ombudsman and to be notified as soon as possible on

the outcome of the proceedings.

The Government informed the Ombudsman that, on the basis of Articles 143, 144 and 146 of the Law on Protection and Rescue, and due to increased volume of precipitation and floods, the responsibilities of the Commission for assessing and determining the damage to the immovable and movable property in the Skopje and Tetovo regions had been terminated, and the Government received Information on the termination of the legal obligations of the Commission for assessing and determining the damage to the immovable and movable property in the damage to the immovable and movable property in the areas of the Skopje and Tetovo regions due to the increased volume of precipitation and floods.

With that, dozens of people and families were additionally damaged, because they failed to get institutional compensation for damages suffered by the storm. Bearing this in mind, as well as the fact that the Ombudsman has no powers to undertake actions and measures for securing rights in a far greater scope and in a different manner than the one determined in the Constitution and the relevant laws, on individual rights of citizens and to decide on his sole discretion, nor to reconsider, evaluate or change the decisions made by responsible authorities and organizations, the Ombudsman had no grounds for further action, and the Ombudsman's powers determined in the Law on the Ombudsman were exhausted to the fullest extent.

According to the Government Information, the implementation of recommendations by the Ombudsman for overcoming the established situation contained in the Report of the Ombudsman by the state administration authorities, adopted by the Assembly, the Crisis Management Center is in charge of implementing the sole European emergency number E 112. Based on the aforementioned information and the adopted recommendations, most of the activities are expected to be completed by the end of 2019.

The Government did not specify any particular measures and activities in the Information regarding the recommendation related to allocating more funds to entities of the crisis management system, often because the lack of funds forces these institutions to perform their tasks in a non-timely and inadequate manner during crises.

### **CONCLUSIONS**

- Despite the existing legal framework that regulates the issue of handling complaints and proposals, the state administration authorities and bodies and organizations with public authorizations do not act in a timely manner on citizens' requests nor inform them.
- Part of the citizens who suffered damages in the storm in August 2016 did not manage to receive an institutional indemnity thereof. The Ad hoc Commission for assessing the damages caused by the floods in the Skopje and Tetovo regions failed to solve all the requests in the legally prescribed operation period, and with the termination of the work of the ad hoc commission, numerous issues related to the floods remained unresolved.



### RECOMMENDATIONS

• State administration authorities and bodies and organizations with public authorizations should act promptly on the requests of citizens by providing them with an appropriate written response. An analysis of the permanent legal framework is needed as well as development of new and more appropriate solutions for introducing more specific mechanisms for protecting the constitutionally guaranteed right to submit complaints and obtain responses thereof.

• The Assembly of the Republic of North Macedonia should hold a Supervisory Discussion on the consequences of the floods in the Skopje and Tetovo regions, as well as on the work of the Commission for assessing the immovable and movable property in the areas affected by severe storms and floods in the Skopje and Tetovo regions.

### LOCAL SELF-GOVERNMENT

Monitoring the work of the local government and the behavior of citizens shows that the insufficient participation of citizens in the creation of local policies is still present. Therefore, one should not be surprised that citizens do not trust local policies; they do not believe in the will of local authorities to exercise the power in their interest, that is, in meeting their demands and determining their priorities.

Therefore, it is necessary for local authorities to make greater efforts to get closer to the citizens, to increase their trust by improving the process of communication with citizens, thus better understanding of their demands and problems.

The Ombudsman also points out that the local self-government should be based on postulates that guarantee citizens fairness, equal opportunities, trust, tolerance and respect, because with such approach and relation, the local self-government will become a public service and citizens will have full confidence in its capacity and efficiency.

In this part of the Annual Report, the Ombudsman presents the insights in the level of exercising of the rights of citizens before the local government in areas within the responsibility of the local self-government for which citizens submitted complaints to the regional offices in Bitola, Kichevo, Kumanovo, Strumica, Tetovo and Shtip.

#### **Urbanism and construction**

The monitored situation in the spatial arrangement with the adoption of general and detailed urban plans still shows no improvement compared to situations established in the past years. Namely, when adopting the urban plans, local authorities are most often guided by business interests, rather than the urban needs of residents who have benefits from these decisions. Moreover, public polls during the adoption of plans remain a pure formality, without any effect, since the demands and remarks of citizens are not acknowledged, thus hindering their right to influence the urban-architectural solutions for the space they live in.

Due to this and the formal provision of citizens' participation in the adoption of urban plans, citizens rarely take part in this procedure, and only public citizens who are directly affected by the plan are allowed to give comments in the public survey.

Although the Ombudsman continuously instructs local authorities to respect the legal obligation to audit the detailed urban plans every 5 years, and if it is proven that they are not in the interest of the local population, or they cannot be realized, they should be timely changed, this never happened (only Municipality Centar initiated activities in this direction).

A special incentive to the local government for revision of already adopted general urban plans and also the detailed urban plans was expected by the Law on Urban Greenery, adopted in January 2018, which was announced as a revolution in spatial planning, thus saving municipalities from urban concrete chaos and pollution. This law stipulates that in the process of urban planning, during the preparation of the General Urban Plan, it is necessary to provide 25 m2 of greenery per capita, within the planning scope of the city, as well as the obligation for providing at least 20% of greenery on each building plot during preparation of detailed urban plans and architectural-urban projects, or compensate in already constructed plots by placing new tree rows. However, once the law entered into force, local authorities did not change almost anything in the planning documentation in order to apply the new Law.

This happens because local authorities have a legal obligation to apply the Law only if they start to develop new urban plans, and while the old plans are valid, approvals are issued according to the old rules. On the other hand, an urban plan is developed for a period of five years, and if there is no new plan, the old one continues to apply. Precisely because of this legal solution, the Ombudsman instructed the local authorities to act on the revision of the urban plans. In this context, the Ombudsman also pointed out to the need for adopting a new Law on Spatial and Urban Planning, which will better regulate the issues in this area, and will be harmonized with the newly adopted Law on Public Greenery, which in a very important aspect of regulating the urban spatial planning.

The Ombudsman also stressed the need for local authorities to undertake specific activities, measures and policies for educating citizens on the importance and impact of a well and professionally planned and realized urban plan, which will initiate more active participation of citizens in these procedures, but also for local authorities to be monitored and hampered to prioritize individual or commercial interests in making plans rather than the public interest.

Regarding the construction, most complaints in 2018 referred to administrative failure to enforce the adopted legal acts for demolishing illegal constructions not covered by the process of legalization. When acting upon these complaints, the Ombudsman established the same situation as the previous year, that is, the administrative execution, is not carried out at all by the local authorities. The explanation for such gross violation of the right to peaceful rule of citizens ownership is identical to the previous ones, i.e. the procedure for selecting a contractor is either in progress, or the administrative execution of the illegal construction is included in the Execution Program, but due to the lack of financial means it is not implemented, i.e. it will be implemented in accordance with the determined schedule of execution foreseen by the program, which actually in reality meant – non-demolition.

In practice, it is noticeable that if the implementation of the decisions for demolishing illegal constructions with a hired company for this purpose started, the demolition of the building was not done completely, and the municipality obliged citizens with enormously high amounts of money for complete execution of the demolition. After the insight of the construction inspector over the initiated demolitions, citizens were forced to remove them at their own expense.

In this way, by failing to implement the provisions of the Law on Construction, local authorities only encourage illegal contractors to continue up to the full construction; they allow deepening of urban chaos in spatial arrangement, while deliberately avoiding the use of other powers that they have - adopting decisions for cessation of construction and eventually, filing criminal charges against illegal constructors.



Concerning the cooperation of the Ombudsman with construction inspections, this year is slower, so interventions upon requests were carried out after submitting several requests and after a longer period of time. The ineffective treatment of citizens' complaints for illegal constructions and untimely actions following the requests of the Ombudsman often resulted in illegal constructors completing the building, which is indicative of the inability of the local government to guarantee and provide citizens with equality in the application of the laws and the protection of their rights.

The Ombudsman also pointed out that inspection departments must be strengthened with human and material resources; inspection authorities must be present on the field, perform inspections and intervene in a timely manner, so that the preventive activity of inspection departments increases and prevents illegal construction activities.

In addition to the stated, the Ombudsman noted a delay in the preparation of administrative acts, untimely delivery to parties, as well as delay in repeating procedures on appeals submitted to their administrative acts, when they are annulled by the second instance body. Another problem faced by citizens in some municipalities is the lack of construction inspectors in the municipal administration and the need to conclude an Inter-municipal Cooperation Agreement to ensure exercising the competence of the municipality in the construction area.

#### **Consumer rights**

There was no improvement in the manner of exercising the consumer rights of citizens. On the contrary, citizens are dissatisfied with the quality of communal and other public services they receive, they feel unable to improve the situation, whereas local authorities point to the challenges and limitations they face in the organization and realization of communal and other public services, which most often refer to lack of financial resources.

It is evident that in many cases, public communal enterprises are unable to perform their duties, primarily because of the old machines, old vehicles and the insufficient level of collected utility fees or financial losses, which is why it is not uncommon for local authorities to subsidize the operation of their communal enterprises.

Taking into consideration that the regular and functional performance of public services is of great importance for the quality of life of citizens in a local self-government, the Ombudsman has continuously pointed out that the lack or insufficient quality of services should not be justified by the local authorities with the lack of financial resources, or with the economic insolvency of organizing communal and other public services in some settlements with almost no permanent residents. The right to equality in the availability of timely and high-quality communal and other public services should be provided by local authorities to all citizens in all areas with a local self-government.

When dealing with communal-related problems, citizens first addressed the service provider, who most often did not solve the problem, but even when they achieved some result, they were only partially satisfied with the outcome and the time it took for the overcoming or alleviating the problem. The procedure confirms that part communal services providers do not have an adequate system for handling complaints and objections, and therefore do not have nor keep statistics on consumer problems.

The installed appliances for monitoring the satisfaction of citizens in reference to provided service and access to authorities in official premises, if present, did not give the expected result, and in reality, very few citizens use them. This situation leads to the conclusion that many primary utility providers do not have an adequate and methodologically sound approach to track customer satisfaction, and their policies are not based on realistic perception of the key problems and needs of citizens. The attempt to collect outdated debts was also characteristic this year. Public enterprises submitted warnings requiring debt collection for water delivery, sewage, waste collection, etc. to the citizens, with forced or under threat collection, or with threatening disconnection from the water supply network.

In all these procedures, the Ombudsman managed to protect the rights of the citizens not to pay anything they are not obliged to pay by Law. Namely, upon the submitted requests by the Ombudsman, the public enterprises interrupted the procedures with submitting warnings for paying debts from several years ago, and withdrew procedures initiated by a notary public. It is evident from the content of the warnings submitted by these companies that the citizens were warned to be exposed to additional expenses for a notary, enforcement agent, attorney, if they did not pay the debt (which in the largest number of cases referred to bills older than 1 year). In this way, the citizens were under pressure, confused and often, under the threat of forced execution payments for bills from several years ago.

On the Ombudsman's reaction that such manipulation with citizens is inadmissible, public enterprises indicated that anyone who addressed their services was informed about the period of incurred debt, and decided whether to pay the obligation. With this method, failing to inform them about the possibility of non-payment of debts older than one year, the manipulative, and above all unlawful work for collecting communal services that were obligated to collect debts from citizens promptly and within the law, still prevails.

Public lighting is also a problem that must be finally tackled by changing the Law on Communal Fees, and that the payment of this service should be requested only from citizens who are real users, and not relating it with electric meters. Namely, citizens reacted to this obligation for the sole reason that public lighting was not carried out in the region, place, or street they live in, or even in places where no public lighting is present, and yet, local authorities have made this fee obligatory, under threat of forced execution if they fail to pay it.

The Law on Communal Fees determined communal fees imposed on citizens for exercising certain rights, objects and services of public interest, and of local importance, among which is the communal tax for public lighting. Exemption from payment of this communal fee may be granted to holders of electric meters in settlements without public lighting and those are determined by the Municipal Council with a special decision. However, this reporting year, the Ombudsman again noted the established working practice of the Councils of the Municipalities which do not adopt decisions for exemption from this communal fee of citizens, although they are aware of regions (villages, mountain areas) without implemented street lighting, but it is treated as existent, with the explanation that the area belongs to the territorial scope of a municipality with public lighting.

The Ombudsman instructed the local authorities that citizens should be charged only for services they actually receive, and citizens with houses in places without public lighting should be exempted from paying the communal fee for public lighting. This is precisely the reason to change the Law on Communal Fees, the amendments of which shall find a righteous solution for this communal fee to be paid only by its users.

In addition to the above mentioned, several cases of municipal failure to take measures or react timely have been noted, after reports of citizens for changing light bulbs in their streets. Without any explanation, or with the explanation that the public call procedure for the provision of light bulbs is in progress, the citizens remained in darkness for several months, yet payment of the fee was regularly requested. This problem is even more drastically visible in rural areas where the waiting period extends to a year, and citizens and informed that their request has been registered and that a team will be sent to change the light bulb, which does not happen afterwards.

Having in mind this situation that has not changed for years, the Ombudsman considers that local authorities shall activate the work of the Consumer Protection Council and it must fully, continuously, effectively and efficiently perform the activities within its authorizations.



#### **Environment**

In this area, which is important for the health of the citizens and the undisturbed enjoyment of their guaranteed right to live in a healthy environment, the Ombudsman does not notice any progress in terms of the pollution, taking measures to solve the problem, and also in terms of citizens' reactions. Namely, the cities of Tetovo, Skopje, Bitola, Kichevo, at times, exceeded the world records in concentrations of suspended PM10 particles in the air. Rivers that flow out of cities become one or two classes more polluted than before entering the cities, most public communal enterprises accumulate collected garbage from households in the immediate vicinity of populated areas, beyond all waste management standards. Uncontrolled discharge, fires, air pollution, trash dispersal by the wind is part of the numerous problems observed at landfills managed by local authorities.

However, despite this extremely worrying situation, there is no increase in the number of complaints filed in this area in the Regional Offices, and thus remain insignificant. Submitted complaints do not refer neither to the polluted air nor the illegal landfills around cities and polluted waters, but to the specific problems they face, and those are related to clogged sewage shafts which overspills on the street during rain and spreads unbearable stench, followed by clogged septic tanks, improper connection to the sewage network by a neighbor, a wild landfill spreading an unbearable stench, a place where trash and waste from the surrounding villages are deposited and often burned, which also causes a danger of fires, etc.

The question remains whether the lack of interest of citizens for timely and complete realization of their right to a healthy environment is due to mistrust in the local authorities and failure to take effective and efficient measures to improve the alarming environmental situation or the insufficient awareness of citizens about the importance of living in a healthy environment, or maybe something else. This should be a challenge for every local government that really cares for its citizens. Otherwise, civil initiatives organized protests and reacted only against the pollution of the ambient air in Bitola, Tetovo, Kichevo and Skopje and the landfill around Tetovo.

Consequently, the Ombudsman estimates that local authorities have to undertake more active, efficient measures in order to raise public awareness about the need for a healthy environment and to mobilize citizens who support the implementation of plans and programs for a healthy environment.

This reporting year there are not enough efficient and effective measures aimed at improving the organization of inspection and other responsible authorities, nor is there a visible improvement in environmental management by the local authorities, due to which the concerning level of soil, water and air pollution is not reduced. In this context, the Ombudsman requested of local authorities to strengthen the inspection services, improve their professionalism, as well as take responsibility for the omissions in their work.

The Ombudsman emphasized the necessity of increased preventive activity from local authorities in order to prevent the endangering of the environment of any kind and in any way, as well as to provide sufficient financial resources in municipal budgets so that local authorities could actually start addressing the alarming environmental issue.

#### Labour relations

The failure to submit any complaints from employees in municipal administrations, or public enterprises established by local authorities, is again a feature of this reporting year. Unfortunately, employees did not dare to seek protection of their rights solely because of the present fear of the possibility to suffer far greater consequences by managers and consciously choosing to remain silent.

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There is also a noticeable ignorant attitude of mayors towards a larger number of employees, with whom they would not communicate despite the duties they perform, which are important for the smooth running of the municipality. Unfortunately, the mayors of several municipalities choose to work, in particular, to cooperate with a small number of employees, mostly new employees after the change of the local government, through which communication with other employees takes place.

This phenomenon, according to the Ombudsman, is not a reflection of professional, transparent and accountable management of the municipal administration, does not lead to developing efficient, effective and professional administration that exercises the rights of citizens timely and legally, but to a slow, inefficient administration and hindering the rights of citizens for timely and above all, professional decision-making in respect of their requests.

The most prevalent complaints submitted to regional offices were from kindergarten employees with fixed-term contracts. The appointed directors of these institutions from the new local government, with the expiration of the time for which such contracts were concluded, did not renew the contract for most employees, even though they had already received approval for employment and financial resources. Knowing this fact, employees thought that such approvals were given for them; more precisely they thought they should have renewed work contracts for another two months.

The Ombudsman concluded that the vacant jobs performed by people who have been working for several years with fixed-term contracts were filled in according to the provisions of the Law on Labour Relations, without an announcement of urgent matters through mediation of the Employment Agency, by referring people for employment from the unemployed people records. In that context, the Ombudsman informed the complainants that when work contracts for urgent matters expire, the employer who is filling in the jobs should publish a public announcement for which they can once again apply if requirements are met. At the same time, it informs that the approval of the Ministry of Finance for secured funding for employment is given for a work place, and not specifically to the employee who had previously performed the tasks of that job.

Despite the fact that these procedures do not violate the law, there is an impression that not renewing the employment contracts of people who had already worked on those work places has been politically motivated, which, unfortunately, is a phenomenon after any election process. In his Annual Reports, the Ombudsman regularly underlines that this bad practice must stop.

The Ombudsman points out and emphasizes that while performing the duties, the administration has an obligation to perform them impartially and without pressure and influence from political parties and other centers of power. At the same time, while performing the tasks they should not be guided by their political beliefs, by their personal financial interests, they should not abuse their powers and status while protecting the reputation of the Municipality.

Such municipal administration and employees, especially the managers of remaining enterprises, institutions, schools under the authority of the local government, would be able to restore the citizens' confidence that the local government works in their interests, protects their rights and ensures smooth enjoyment thereof.



# PRACTICAL EXAMPLES

# <u>NP no. 413/18</u>

A former convict requested an intervention by the Ombudsman because a cell phone was seized by a member of the prison police at the time he was staying at the Clinic for Digestive Surgery for a surgical intervention, and was not returned to him after his release from the Idrizovo Penitentiary after serving a jail sentence.

During the proceedings upon the complaint, the administration of the institution confirmed that the convicted person had his mobile phone seized by a member of the prison police and that the complainant could take the phone back from the convicts' office, for which the complainant was immediately notified, but did not succeed in doing so, allegedly because the phone was not handed over to the convicts' office at all.

This happened because the complainant did not want to admit that the phone was his, and refused to sign the record of confiscated objects, so the object was not temporarily confiscated, but permanently, as an object with unknown owner done in accordance with the house rules of the institution in which such cases are envisaged.

Taking into account the previously mentioned, the Ombudsman instructed the Director to take measures in order to resolve the case and return the phone to the complainant. Following the given indication, the Director of the Idrizovo Penitentiary acted in its entirety, i.e. the phone was returned to convicted person, by which he exercised his right.

# NP no. 688/18

S.H. from Tetovo filed a complaint for protection of his constitutional and legal rights on the basis of denationalization, requesting an intervention in the Commission for Deciding on denationalization requests with headquarters in Tetovo in the Ministry of Finance (the Commission).

Acting upon the complaint, and on the basis of its content, the explanations, information and evidence obtained, as well as the direct insight in the records of the particular denationalization case, the Ombudsman concluded that the case violates the constitutional and legal rights of the complainant and other parties involved in the procedure.

Namely, the Commission violated the rules of the procedure and acted negligently because the denationalization request of all applicants was not solved, nor was a copy of the last decision adopted on 28.02.2014 submitted to them. In addition, this decision was also certified with an enforceable clause, although the person, for which Commission established proper receipt, died 7 years ago, i.e. in 2007.

Considering this situation, the Ombudsman proposed to the Commission to re-implement a procedure on the respective denationalization case.

After submitting a special report on noncompliance and non-implementation of the suggestion to the Government by the Commission, the given proposal was accepted in a manner that a decision was made to accept the proposal for re-initiation of the procedure which at the same time annulled the enforceable clause of the respective denationalization decision.

# NP no. 1279/18

V.K. from Skopje submitted a complaint to the Ombudsman due to prolonging the procedure at the Public Prosecutor's Office in Skopje, in a case established for filed criminal charges related to a criminal act - abuse of personal data from a social network Facebook profile.

The Ombudsman intervened to the Public Prosecutor's Office and the Ministry of Internal Affairs and the case was updated, among other things, with a request for submission of data from the respective social network.

In addition, after receiving a reply for the case and establishing the factual situation, the Prosecution adopted an appropriate public prosecution decision.

# <u>NP no. 1755/18</u>

A complaint has been submitted to the Ombudsman by ZH.I. from Krushevo, asking for an intervention in the Employment Center - Krushevo within the Employment Agency.

In the complaint, the submitter states that the Decision of the Employment Agency - Employment Center - Krushevo did not recognize the right to material security in the form of monetary compensation, and the explanation of the decision notified that the reason for the refusal was the fact that the employment relationship was terminated by the fault of the complainant.

In order to determine the factual situation, the Ombudsman asked information from the Employment Center - Krushevo, i.e. sought proof of the fault of the complainant, due to which the employment was terminated. This was done because the explanation of the above Decision does not specify exactly what kind of fault is involved.

Following the undertaken actions, the Ombudsman was informed by the Employment Agency - Central Office that with the Decision issued by the Employment Center - Krushevo, the right to material security in the form of monetary compensation was later recognized.

### NP no. 359/18

B.T. from Skopje submitted a complaint to the Ombudsman in which he stated that even though he, as a buyer, and the Ministry of Transport and Communications, as a seller, signed a contract on 04.07.2016 for alienation of construction land by direct agreement (according to which, he paid the entire price, as well as the real estate tax), it has not yet been registered/solemnized by a notary.

On the basis of the conducted procedure, the Ombudsman found that the State Attorney's Office firstly issued a negative opinion in the case, because "The excerpt from the respective urban plan does not contain data on the number of the construction parcel, cadaster parcel number, or data for the area of the construction parcel, and after providing evidence that the situation is resolved, they expressed an opinion that the buyer did not comply with the provisions of Article 4 of the contract." Consequently, the Ministry of Transport and Communications considers that in such a factual situation it is necessary to act in accordance with Article 5 of the concluded contract, i.e. to unilaterally terminate it, withholding 80% of the paid price.

Considering that in the case, it should be taken into account that in the period after concluding the contract, the complainant acted consecutively and there is no fault for delaying the procedure by the City of Skopje for the collection of the real estate and rights transfer tax, as well as the fact that in that period, parliamentary elections were held, when procedures for alienation of construction land are at standby, the Ombudsman requested from the Ministry of Transport and Communications to coordinate with the State Attorney's Office in order for the specific contract to be solemnized so that the citizen concerned can exercise his right.

The procedure for the concerned case is still pending.



# NP no. 2043/18

A complaint was submitted to the Ombudsman from a parent requesting protection of the rights of her son due to inadequate and biased treatment of experts from the Public Institution – Inter-municipal Center for Social Work of the City of Skopje, in the procedure for regulating the right to personal relations and contacts with the parent that the child does not live with.

In the course of the case, actions were undertaken in front of the Public Institution - Intermunicipal Center for Social Work of the City of Skopje, the Ministry of Labor and Social Policy and the Ministry of Internal Affairs, and from the correspondence on the case, the Ombudsman found that the time of the minor child spent with the father is according to the Decision, and in the meantime, in the opinion of the expert team of the Center, there are no changed circumstances that would be a basis for changing the existing Decision. On their side, there was a disrupted and inadequate communication regarding the time of the father spent with the underage child, due to which both parents were given expert-advisory consultations, and they were offered expert assistance in terms of constructive parental communication, all with the aim of protecting the rights and interests of the minor child.

The submitter's complaint against the said decision was rejected as unfounded by a Decision of the Ministry of Labor and Social Policy and the complainant was informed on the possibility to initiate an administrative dispute before the Administrative Court of the Republic of North Macedonia within 30 days after the receipt thereof.

Regarding the allegations of inappropriate behavior of the father, as well as the basis for amending the existing decision, the complainant was informed that only the Center for Social Work has the authority to supervise parental rights, and as such, in case of certain circumstances, can decide on changing the manner and dynamics of personal contacts of the child with the parent it does not live with. Regarding the complainant's allegations of improper and biased treatment of the competent team in the case, it was advised that the Public Institution for Social Activities - Skopje is an institution authorised to supervise the professional work of institutions for social protection and their employees in order to perceive, monitor, control, view and improve the manner and quality of their professional work.

The Ministry of Internal Affairs informed the Ombudsman that appropriate measures and actions were taken from competent police stations for which a written notification was submitted to the complainant, which expressed appreciation for the overall conduct of the Ombudsman.

# NP no. 1310/18

The Ombudsman was addressed by N.D. from Bitola with a complaint stating that she submitted a request for pension valorization to the Pension and Disability Insurance Fund, but it has not been acted upon.

Having in mind the stated allegations of the complainant and the decision on old-age pension, the Ombudsman addressed the Fund and sought information on whether and what was undertaken to correct the amount of the pension to the appointed person, who stated that after the calculation of the amount she receives a smaller pension in comparison to other pensioners.

Acting upon the intervention of the Ombudsman, the Pension and Disability Insurance Fund informed that they adopted a decision and it was submitted to the branch of the Fund in Bitola in order to hand it over to the complainant.

By submitting a notification to the submitter with a copy of the aforementioned decision, the Ombudsman informed her that if she is possibly dissatisfied with the newly determined amount, she has the right to file a complaint to the State Commission for Decision-Making in Administrative Procedure and Labor Relations Procedure within 15 days from receiving the decision.

# <u>NP no. 1660/18</u>

*B.B. from Kochani, submitted a complaint to the Ombudsman for protection of the rights in the procedure for enforcement against the real estate.* 

Namely, the applicant stated that although criminal proceedings are conducted against the creditor, the expert witness, as well as a judge from the basic court in the particular case, however, the enforcement agent submitted an enforcement order for the real estate.

After determining the factual situation, the Ombudsman submitted a request for timely postponement of the enforcement order for the real estate until the legal conclusion of the procedure following the legal means declared by the debtor/ complainant in front of the competent judicial authorities.

In line with this intervention by the Ombudsman, the enforcement agent postponed the oral auction of the real estate.

# NP no. 898/18

The Ombudsman acted upon a petition from a parent who expressed dissatisfaction with the behavior of the elementary school of his child due to the lack of taking measures for adequate protection of the child, who as a member of the traditional dancing group suffered severe physical injury of the head during an activity organized at the school's gym, in cooperation with the Children's Cultural Center "Karposh" - Skopje.

Following the measures taken to investigate the allegations from the complaint, the Ombudsman addressed the Principal of the school and the State Educational Inspectorate, and, starting from the best interest of the child, pointed out the right of the child to be protected from all kinds of health injuries, especially while being in the school, but also during extracurricular activities, even more when those are realized with the knowledge and agreement of the school.

Considering the seriousness of the event, as well as the life-threatening condition of the minor pupil, the Ombudsman requested the State Educational Inspectorate to fully and thoroughly investigate this event and to correctly and objectively determine the actual situation, and to be notified about the undertaken measures and the outcome of the procedure by submitting the Record under executed inspection.

The Ombudsman found a number of omissions in the case and informed the Ministry of Education and Science thereof, asking them to instruct the State Educational Inspectorate to undertake measures for insight in order to fully establish the situation. The Ministry accepted the request and instructed the State Educational Inspectorate to perform additional inspection at the school. Yet, the repeated inspection found that there were no omissions in the acts of the school.

Guided by the best interest of the child and the protection of its rights, in accordance with the Convention on the Children's Rights, since the parent initiated a procedure before the competent Public Prosecutor's Office against the school and the child negligence in the case, the Ombudsman stopped the procedure, but at the request of the Primary Public Prosecutor's office was informed in detail on the findings and conclusions of handling the complaint. In doing so, he expressed the opinion that measures were not taken in the specific case, and there was no obligation established for adequate care of children, and there were also no clauses for preventing possible violations of children during this kind of activities in the school which has an agreement with the Children's Cultural Center. Also, it is disputable that the school provides space - a gymnasium instead of the school hall which was the subject of the contract for implementing the activities of the Children's Cultural Center, and there is no Annex thereof that would regulate the rights and obligations of the user in terms of children's safety and care.



### NP no. 274/18

Acting upon a petition for exercising the right to a family pension and inclusion of retirement from work in another country, the Ombudsman addressed the Ombudsman institution in the Republic of Serbia with a request for intervention for a faster resolution of the applicant's request in order to exercise her right to family pension before the competent authority in the Republic of Serbia.

Acting upon the request of the Ombudsman, the necessary act was prepared and submitted to the Pension and Disability Insurance Fund, informing that the Serbian authority - social insurance holder recognized the right to a family pension with an act.

### NP no. 124/18

Lj.H.N. from Skopje submitted a complaint to the Ombudsman in which he requested an intervention in the Real Estate Cadaster Center - Skopje in the Agency for Real Estate Cadaster (the Center).

Acting upon the complaint and based on its content, the circumstances of the case, as well as the submitted facts and evidence, the Ombudsman found that the complaint was founded.

In particular, although with Ruling U-1 no. 1021/2016 of 17.11.2017 of the Administrative Court, the lawsuit of the named citizen was approved by the Center in the legally determined and allowed deadline, an appropriate certificate has not been adopted yet.

In view of the situation, the Ombudsman suggested that in relation to the particular case the Center must take actions to enforce the indicated ruling by issuing an appropriate certificate in respect of the relevant application for removing a technical error in the real estate cadaster for the Municipality of Kisela Voda 1.

On the occasion of the specific application, the Center acted in a manner that, contrary to the stated legal opinion of the Administrative Court and the Law on Real Estate Cadaster, issued a decision for its rejection.

# NP no. 2162/18

After the visit to the Public Institution -Home for infants and young children in Bitola and on the basis of the situation, the Ombudsman initiated a procedure on his own initiative for the protecting the rights of the children before the Public Institution - Inter-municipal Center for Social Work - Kavadarci.

Namely, during the visit, the Ombudsman noticed a child who, with a decision by the Public Institution - Inter-municipal Center for Social Work - Kavadarci, was placed in the home in an interventional manner, but apart from the visits by the expert team and the work plan, the child was not yet registered in the birth registry, and therefore was addressed as a NN child.

Regarding the case, the Ombudsman addressed the Public Institution - Inter-municipal Center for Social Work - Kavadarci, as a guardian authority, pointing to Article 7 and Article 8 of the Convention on the Rights of the Child, according to which the child has the right to a name or citizenship and the right to personal identity. Hence, the Ombudsman pointed to the urgency of dealing with cases with children because the prolongation of these procedures is detrimental for the child and a violation of its rights, recommending taking immediate and undelayed measures for registering the child and obtaining a copy from the birth registry. In this context, actions and measures were also undertaken in front of the General Register Office.

Acting on the Ombudsman's request with the Decision of the Public Institution - Inter-municipal Center for Social Work - Kavadarci, the child's personal name was determined, and the child was given guardianship by a person employed in the Social Protection Services within the competent Center for Social Work. By determining the personal name, the General Register Office - Veles submitted a request to the Ministry of Internal Affairs - Department for General and Administrative Matters - Veles, which also identifies the child's personal identification number, and a copy of the Birth Register was submitted as evidence.

# <u>NP no. 1448/18</u>

A.S. from Skopje, as a person without a resolved housing issue, submitted a complaint to the Ombudsman regarding the procedure for allocation of social apartments built with the Program for construction and maintenance of apartments owned by the Republic, stating that he had submitted a request with data, contact number and an email for exercising the right, but no answer has been received.

Acting upon the complaint, and in order to protect the rights of the complainant, the Ombudsman addressed the Commission for allocation of social apartments at the Ministry of Transport and Communications - Skopje with a request for information about the circumstances related to this case, i.e. the reasons for not taking into account the request for granting a social apartment. At the same time, he asked to be provided with the complete documentation on the case.

From the received response, the Ombudsman found that the Ministry of Transport and Communications – Department for Housing and Communal Affairs and Infrastructure registered such an application and took into account by notifying the citizen in writing. However, the postal service operator returned the letter because the address of the applicant was unknown. The Ministry of Transport and Communications reported that there is no active announcement for allocation of social apartments for lease in the City of Skopje. In addition, having in mind that the Ministry of Transport and Communications has no responsibility to directly rent an apartment for lease, without prior publication of an announcement and conducting a procedure, the letter advised that it is possible to address the Commission for Housing Issues at the Government, which is responsible to decide on the leasing of apartments owned by the Republic, to people in social risk and other vulnerable groups without housing.

Given the established factual situation, the Ombudsman ceased the procedure, but advised the applicant to address this Commission, and if there is no answer or if he is otherwise obstructed, to submit a new complaint to the Ombudsman, and also to check advertisements often in order to timely apply in case of an active announcement for allocation of apartments.

# NP no. 1513/18

A complaint from H.M. from Skopje was submitted to the Ombudsman, expressing dissatisfaction with the non-compliance of the Ministry of Health as a second-instance body regarding the exercise of rights to healthcare and health insurance. Namely, as stated in the complaint, after the decision of the Administrative Court annulling the decision of the Ministry of Health, the applicant requested reconsideration of the court decision, but so far this has not been done and no decision has been taken as the court ordered. In this way, by failing to act for more than two years, the Ombudsman assessed that in the particular case the applicant suffers harmful consequences and is denied the right, both for health protection and legal safety and in general undisturbed rule of law, thus asking for urgent and immediate action by the Ministry of Health.

Regarding this case, the Ombudsman addressed the regional office of the Health Insurance Fund with a request to complete the case with all records and to submit it to the second instance authority for the purpose of deciding.

Acting upon the Ombudsman's interventions, the Ministry of Health reported that a new decision had been passed and submitted to the complainant, thus exercising the right for which he requested intervention.



# NP no. 1399/18

The Ombudsman received a complaint by A.S. from Skopje, who requested an intervention before the Directorate for Issues of War Veterans and Victims of War of the Ministry of Labor and Social Policy.

In particular, the complainant stated that the Decision of the Directorate for Issues of War Veterans and Victims of War interrupted the procedure for extending the status of a victim of war, a recognized peacetime war invalid of 5th category with 70% war disability, for a temporary period until June 1 2017, on the grounds that this person did not come to the examination at the First Instance Medical Commission and that she did not submit a written notification of the absence.

After the actions undertaken by the Ombudsman, the Directorate for Issues of War Veterans and Victims of War - Ministry of Labor and Social Policy corresponded that the Directorate will invite the submitter to examination by the First Instance Medical Commission and she will be duly notified of this, for which an attached photocopy of the sent invitation to the address of the applicant was submitted.

# <u>NP no. 1062/18</u>

M.S. from Skopje submitted a complaint to the Ombudsman in order to intervene in the Public Enterprise "Water Supply and Sewage" -Skopje (PE) for the purpose of erasing the debt recorded on her user code, as it resulted from the use of services by the previous owner of the apartment.

From the insight in the documentation in question, it was concluded that the disputed debt refers to the period prior to the conclusion of the purchase and sale agreement and the acquisition of the ownership of the real estate by the applicant.

In view of such a situation, i.e. the lack of any connection with the consumption of the previous user, the Ombudsman gave a suggestion to the Public Enterprise that the debt concerned should immediately be erased and that the warning before forced collection and further exclusion shall be withdrawn, so they do not take any action against the complainant.

The Public Enterprise acted upon the given indication.

# <u>NP no. 2648/18</u>

The Ombudsman acted upon a complaint from a group of parents of students attending classes at the Iustinianus Primus Faculty of Law in Skopje, the Faculty of Economics in Skopje and the Faculty of Philosophy in Skopje, which concerned the administering of tablets in the form of capsules, which in line with the instructions, "help them concentrate on learning, especially in the period before the colloquium week."

Having in mind the right to education, as well as the personal safety and health of students, the Ombudsman submitted requests to the Faculties of Law, Economics and Philosophy at the University "Ss. Cyril and Methodius" Skopje, to the Dean of the University "Ss. Cyril and Methodius", MIA - Skopje and the Food and Veterinary Agency, seeking information whether the administrations of the mentioned faculties are familiar with the stated situation, that is, whether faculty administrations had taken appropriate actions to determine the basis on which "BIONIKA" shares these tablets with the students. On the other hand, the Ombudsman learned from the media that "BIONIKA Pharmaceuticals" promoted the product "VIGORIX IN-TENSE" after a previously obtained approval by the Dean of the University.

Following the requests submitted, there was a reaction from the Ministry of Internal Affairs and the Sector of Internal Affairs - Skopje, as well as from the Food and Veterinary Agency, who submitted a notification on the request, explaining the status of the product, and at the same time submitted an Opinion expressing consent that the mentioned VIGORIX INTENSE tablets are in accordance with the prescribed food safety requirements and may be sold on the market.

At the same time, the Dean of the University "Ss. Cyril and Methodius" in Skopje, stated that due to the series of public reactions, the University shall be closed to economic and other legal entities that promote services and products for commercial purposes in the future.

# <u>NP no. 3273/18</u>

The Ombudsman, in connection with the submitted complaint by an attorney-at-law, on behalf of D.D. from Shtip, expressing dissatisfaction with the treatment and discrimination by a teacher toward the student E.D. who is a member of the Roma ethnic community, opened a procedure and took appropriate actions. Namely, acting on the allegations stated in the complaint and in the direction of establishing the situation, a representative of the Ombudsman visited the school and inspected the documentation, and had conversations with the responsible personnel in the school.

In addition, the representative of the Ombudsman stated that at the moment of the child's admission in the class of the teacher V.M. there were elements of discrimination against the child in terms of ethnicity, and therefore the Ombudsman submitted a suggestion to the school director. In this context, the Ombudsman, taking into account the international standards established by the Convention on the Rights of the Child, recommended that measures should continually be taken to protect the rights of the child and to prevent any kind of further discrimination on any grounds.

In addition, in the direction of uninterrupted implementation of the educational process for each student, regardless of the ethnicity, the Ombudsman recommended that the school management must abide by the Law on Primary Education, which prohibits discrimination based on gender, race, color, national, social, political, religious, property and social background in exercising the rights to primary education and upbringing.

On the other hand, the representative of the Ombudsman stated that at the time of the visit the child was integrated into the school in another class, that it is involved in the educational process and that there are no further complaints based on some form of discrimination, nor on the basis of the process of education.

Acting upon the recommendation, the school principal informed the Ombudsman that actions will be taken to eliminate and sanction any type of discrimination, and that in the future, the educational process will take place pursuant to the aforementioned article of the Law on Primary Education, without discrimination on any basis.

# <u>NP no. 499/18</u>

*N.S. from Ohrid submitted a complaint to the Ombudsman in which stating that she filed a request to the Agency for Medical Products and Medical Devices to erase her as a business owner of a private pharmacy because she was not employed in the pharmacy in question, therefore she cannot be the holder of the activity, but even after a long period of time, no response has been delivered on the request. In addition, the Applicant submitted a Decision to change the founder and a Share Transfer Agreement.* 

Having in mind this and in order to process the complaint, the Ombudsman addressed the Agency for Medical Products and Medical Devices with a request for information on the reasons for no response on the applicant's request, having in mind that a long period of time has passed since the submittal, and asked for explanation and information on the allegations in the complaint, supported by adequate evidence.

In response to the request, the Ombudsman was informed that it was acted upon the request, that is, the Agency for Medical Products and Medical Devices adopted a Decision by which the applicant was deleted as a founder and at the same time a new founder of the private pharmacy was appointed.



# <u>NP no. 1509/18</u>

Acting upon a petition from a parent who, when enrolling the child in school, submitted a certificate of received vaccinations of the son along with the necessary enrollment documents that the school had originally accepted, but later informed the man that his son cannot attend classes in the first grade because after notifying the State Education Inspectorate, it was determined that his son was not vaccinated with all compulsory vaccines, the Ombudsman initiated a procedure for protection of the right to free education of the child.

The Ombudsman, referring to the International Convention for the Protection of the Rights of the Child, the Rules of the European Court of Human Rights in Strasbourg, as well as the Constitution, the Law on Primary Education, the Law on Prevention and Protection against Discrimination, and considering the action of the school to refuse enrolment in first grade to be extremely discriminatory and contrary to the law, and all this due to the fact that the child was not vaccinated with all compulsory vaccines, the Ombudsman submitted the school Principal an indication of violating the right to education and urged for the child to be enrolled in the first grade. At the same time, the Ombudsman noted being assured by the parent that in the next period the vaccination status of the child will be completed without the risk of endangering the health of other pupils. The school acted upon the given instruction and the child was enrolled in the first grade.

# <u>NP no. 400/18</u>

The Ombudsman received a complaint from D.J. from Skopje, a fixed-time employee with a full time fund of classes in SMUGS "Dr. Panche Karagjozov" -Skopje, stating that the school principal submitted a request to the City of Skopje for transformation of her employment from a fixed-time to an indefinite employment, but ever since, no notification was submitted to the school, and in that direction the Ombudsman requested an intervention for updating the procedure after the submitted request for transformation of her working relationship.

In order to fully determine the factual situation, as well as for objective handling and deciding upon the complaint, the Ombudsman addressed the City of Skopje - Department of Education with a request for information whether the Application for transformation of the employment from a fixed to an indefinite employment from the school was reviewed and if it is not, that it should be considered in the shortest period of time, informing the school and the Ombudsman on the outcome.

During the procedure, the Ombudsman was informed that the City of Skopje - Department of Education received the Request for transformation of the employment from a fixed to an indefinite employment with the complete documentation for the submitter, but that it was not considered due to the change of the composition, that is, the Commission has not started its work. In the further course of the procedure, the Ombudsman sent another request to the City of Skopje, and was informed that the Commission of the City of Skopje for performing professional and administrative technical work stated that the submitter fulfills the legal conditions for transformation of the working relationship, whereby a Minutes on the analyzed situation at the school level and at the level of the City of Skopje were prepared for the transformation of the employment from a fixed to an indefinite employment, after which the Ministry of Education and Science provided financial means for transformation of the work relationship of the complainant.

# NP no. 340/18

The citizen I.N. from Skopje filed a complaint to the Ombudsman for failure to act on behalf of the Public Broadcasting Agency, following the Decision on payment of cash compensation for uninterrupted sick leave for more than six months.

The Ombudsman addressed the Public Broadcasting Agency requesting information on the reasons why no actions have been undertaken so as to implement of the aforementioned decision long after its adoption, and at the same time requested the same be done in the shortest possible time.

The Ombudsman's request was accepted, i.e. the applicant immediately received the monetary compensation on the basis stated in the decision, which was personally confirmed by the applicant who expressed gratitude for the intervention that helped him exercise his right.

# <u>NP no. 1488/18</u>

The Ombudsman initiated a case on his own initiative, after having received information from an internet portal that a religious ritual was held at the elementary school "Krste Petkov Misirkov" in Radovish, during the Islamic holidays, when a dinner was served in the school hall where an Imam chanted, dressed in religious attire.

Considering that in the presented videos of the dinner party the Ombudsman established violations of Article 11 of the Law on Elementary Education, which prohibits organization of religious gatherings or display of religious symbols in schools, it pointed out the violations in the school, and at the same time requested the State Education Inspectorate to take action.

Considering the reaction of the responsible inspector through the Mayor and the council of the municipality, appropriate actions were undertaken and the primary school principal was replaced, while in the meantime a new acting director was appointed.

# NP no. 440/18

The Ombudsman acted upon a complaint based on a violation of rights by the Ministry of Labor and Social Policy with delaying the procedure for adopting a decision following a Judgment of the Administrative Court. The Ministry replied the Ombudsman informing that the Judgment was received on a timely basis, but when inspecting the contents of the same, an error was found regarding the right for which the decision was made after the filed complaint. In particular, the Decision resolves the right to a financial allowance for assistance and care by another person, and the decision of the Ministry annulled by the Judgment refers to the right to social financial assistance.

The Ombudsman informed the Court of the found violation of the right to professional, prompt and timely action by the Court in the procedure for protecting the right the citizen sought by filing the complaint. It also pointed to the inadmissibility of such errors from the courts as the highest instance in the legal system before which citizens seek protection of their rights.

The court acted upon the indication and immediately proceeded with the procedure for rectifying the Judgment, although having in mind the wrong basis for the previous decision which is an essential element, it is questioned whether the procedure itself should be considered as an "error correction" or a new procedure for deciding on the correct legal basis of the filed lawsuit.



### NP no. 106/18

At the beginning of 2018, a complaint was submitted to the Ombudsman by 14 administrative officials employed in the Municipality of Gostivar, who stated to have been discriminated on political grounds by the Mayor of the Municipality of Gostivar, and provided relevant evidence. The complaint stated that all 14 people were relocated in the premises of PE Komunalec - Gostivar, an object that physically has nothing to do with the municipal building. In addition to the unreasonable dislocation, all people are accommodated in two small offices of the public enterprise, without any decent working conditions, i.e. they do not have personal computers, a fixed telephone line, official electronic addresses, etc.

Recognizing the seriousness of the violations stated in the complaint, the Ombudsman carried out an unannounced visit and collected additional necessary evidence (photographs, statements, copies of decisions, etc.) which undoubtedly confirm the discrimination act on a political basis, as well as workplace harassment.

As a result of the established factual situation and the findings that resulted from the conducted inspection, the Ombudsman submitted a Recommendation on the manner of removing the established violations, specifying the violations committed, and clearly citing an attempt to overcome the situation ascertained.

The mayor of the Municipality of Gostivar submitted a brief and frivolous reply with the explanation that there are not enough premises in the municipal building for these 14 people, and for these reasons they were transferred to the building of the Public Enterprise Komunalec-Gostivar, not stating that in the meantime new employees have been hired with a fixed-term contract.

Due to the failure to implement the referenced Recommendation, the Ombudsman referred the complainants to seek their rights from labor relations and the discrimination on political grounds in front of the competent court.

# <u>NP no. 1296/18</u>

The Ombudsman acted upon a complaint from a citizen for violation of the right to receiving financial compensation for sick leave. Namely, according to the allegations in the complaint and the submitted evidence, the citizen used sick leave for a longer period of time due to a workplace injury. The problem of this citizen occurred when the Secondary Medical Commission of the Health Insurance Fund PE-Bitola assessed that the temporary inability shall be continued until 25.03.2018, although he was still in hospital treatment at the Clinical Hospital Bitola for rehabilitation after surgery on the fracture of the right hand (from 19.03 - 05.04.2018) and as visible from the release letter, the rehabilitation was unsuccessful and a referral for the Traumatology Clinic for April 30, 2018 was issued.

In this situation, the Ombudsman was not able to understand which medical documentation helped the Second-Instance Commission at PE - Bitola to assess that the health condition of the applicant is good and concluded the sick leave on March 25, 2018, which is why the citizen did not receive his sick leave for several months.

The Ombudsman submitted an indication to the Health Insurance Fund pointing to violation of the right to health insurance and payment of a monetary compensation to the citizen, and requested the Fund to take appropriate measures and actions to continue the payment of the compensation, as well as to execute payment for the entire elapsed period (when it stopped).

The Fund acted fully upon the Ombudsman's indication and corrected the computer system and consequently, the complainant realized the right to sick leave until the day of completing the rehabilitation of the bodily injury.

# <u>NP no. 1083/18</u>

*B.P. from Skopje submitted a complaint* to the Ombudsman for protection of the rights in the enforcement procedure by issuing an order to stop 1/3 of the pension.

After the conducted procedure, the Ombudsman found that the applicant has an income from old-age pension in the amount of MKD 12,000.00 and from that amount the applicant pays a mortgage loan in the amount of MKD 6,000.00 with a standing order, which means only half of his pension remains at his disposal.

Considering that the case endangers the debtor's existence, the Ombudsman intervened to the enforcement agent to change the enforcement manner and allow this person to pay a monthly amount of funds that he could afford.

The enforcement agent acted upon the intervention of the Ombudsman and in agreement with the creditor, allowed the debtor to pay the debt in monthly installments, in the amount of MKD 1,000.00.

## NP no. 1497/18

B.E. from Skopje submitted a complaint to the Ombudsman asking for an intervention in EVN Macedonia AD - Skopje (EVN), in order to exercise the right to a new connection.

After the conducted procedure for determining the actual situation, the Ombudsman found violation of the rights of the complainant concerned due to an unequal and selective approach in the procedure.

Namely, in order to provide this connection, EVN asked the applicant to pay an amount of MKD 120.000,00 with the explanation that it is an object located outside the construction area, whereas all other people who also performed legalization of illegally built objects were charged only MKD 30.000,00 for the same service.

After the intervention of the Ombudsman in the Energy Regulatory Commission, it was decided that EVN should perform the connection for the named citizen in the same way as for all other people from the respective settlement.

## NP no. 1902/18

The Ombudsman acted upon a complaint by a convicted person from the Penitentiary -Idrizovo claiming that his life and health were endangered because of the deteriorating health condition due to frequent suicidal attempts, selfaggression, and aggression towards other convicted persons.

Starting from the justification of his further stay in this institution from a security point of view, the Ombudsman suggested the Director of the Penitentiary Idrizovo necessary measures in order to act in line with the recommendations in the judicial and neuropsychiatric expertise of the expert, that is, a doctor-neuropsychiatrist, for the measures that need to be taken for appropriate health treatment of the convicted person, due to the inability to be appropriately treated, taking into account his dependence on opiates, and to consider the possibility of moving him to another penitentiary institution with proper conditions for his state of health, but also from a security aspect.

After the Ombudsman's indication, the director of the KPI Idrizovo acted in a manner that he suggested the Directorate for Sanctions Execution transferring of the convicted person to another penitentiary-correctional institution for further serving of the imprisonment punishment in which there are better conditions and the convicted person will be more secure as far as protection issue is concerned.



## NP no. 1477/18

Acting upon the complaint of A.M. from Skopje, the Ombudsman found that despite the acknowledged complaint by the Administrative Court and after the adopted Decision from the Ministry of Labor and Social Policy for the acknowledged appeal, and the returned subject for re-reconsideration and deciding, the responsible Center for Social Work-Karposh issued a Decision confirming the previously adopted decision on terminating the right to social financial assistance.

In the particular case, in spite of the legal opinion of the Court that is obligatory in accordance with Article 52 of the Law on Administrative Disputes, the first instance body did not appreciate the court's remarks regarding the correct determination of the factual situation, that is, the same decision for termination of the right was adopted. In the explanation, this Center confirms that it is aware that the applicant, for health reasons, did not timely register at the Employment Agency in the month of 05/2017 (medical certificate), but because the same evidence was not provided in the Center, i.e. did not report for the control card, a negative decision upon the request was adopted.

The Ombudsman pointed out that the case completely overlooked the fact that this is a person at social risk, who survives from social financial assistance as the sole source of means of existence by not accepting the evidence the submitter filed to the Employment Agency, and according to which it is confirmed that due to objective reasons (health problems) he was unable to comply with the deadline for reporting, and the deadline for reporting on the control card in the Center, although it is undisputed that the requirement for exercising the right to social financial assistance states that the person must apply regularly to the Agency, i.e. to be an active job seeker.

Having in mind the stated, the Ombudsman pointed to violation of the rights of the applicant, and requested the Ministry of Labor and Social Policy to take into account the complaints and the aforementioned conclusions of the Ombudsman in the appeal procedure, after righteous and complete determination of all facts important for deciding upon the case, having in mind the remarks in the decision of the Administrative Court.

In the meantime, the complainant informed the Ombudsman that the Ministry had submitted a decision upon the appeal, and due to dissatisfaction with the decision, he will file a complaint to the Administrative Court.

## NP no. 3137/18

A citizen with permanent residence in Australia and a beneficiary of old-age pension as of 2013, requested protection of the rights from the Ombudsman in connection with the payment of the pension. After the undertaken actions and insight in the documentation, the Ombudsman concluded that the Pension and Disability Insurance Fund paid the pension to a non-existent bank account of the beneficiary in Australia. In particular, because he had not received a pension on his account in the last few years, he contacted his bank in Australia and asked them to indicate the account in which he was supposed to receive the pension. Then, he found that a wrong account number was given, in which cases, the bank returned the funds back to the payer, that is, the Pension and Disability Insurance Fund - Skopje.

The Ombudsman requested the Fund to immediately pay the full amount of all the pensions from the previous years to the correct bank account provided by the beneficiary, indicating that the Fund was the one that should have reacted immediately after the first return of the pension from the foreign bank and contact the user of the pension ex officio, and not wait for the citizen's reaction and hinder his right to a timely and continuous payment of the pension for three years.

The Fund acted upon the Ombudsman's indication and made a one-time payment of all arrears of unpaid pensions for a period of three years.

## NP no. 1253/18

The Ombudsman received a complaint by C.Sh. from Kavadarci through an attorney-lawyer stating that she is a beneficiary of a family pension, in accordance with the Law on Pension and Disability Insurance, that is, she exercised this right after the death of her husband. However, as in the case of her husband for whom the Ombudsman had conducted a preliminary procedure before the Fund and submitted a recommendation, the same problem was present in this case as well.

In order to overcome this problem present for a long time and violating the right of the citizen, the Ombudsman reminded the competent authority about the recommendation that the husband of the applicant worked in the Public Enterprise for Forest Management "Makedonski Shumi" - Skopje and due to unpaid contributions for pension and disability insurance for employment with extended duration, he initiated a court procedure that ended with a verdict accepting the lawsuit, and the employer PE "Makedonski Shumi" - Skopje was obliged to make a surcharge on the contributions to the Pension and Disability Insurance Fund. The payment of the stated amount from the debtor to the Fund in favor of the creditor was done through an enforcement agent, but in spite of the above, he still did not exercise the right to old-age pension because the contribution for the determined benefit was paid through an enforcement agent, a problem now face by his wife.

Having in mind the above mentioned, the Ombudsman recommended undertaking urgent measures to accelerate the procedure and eliminate this issue, for which the competent authorities informed it was of a technical nature. At the same time, the Ombudsman, indicating that the temporary decision will only mitigate the present condition of the applicant, recommended that the Fund, as a competent authority, should adopt a righteous and lawful administrative act, with established legal amount of pension in line with paid contributions and years of retirement of the applicant.

After the intervention of the Ombudsman, the branch of the Fund in Kavadarci, informed of acting upon the recommendation and the indication, which was confirmed by the lawyer, to realise the right to a family pension, that is, that the aforementioned person received the decision from the Pension and Disability Fund insurance, and thus she exercised her right.



# PROMOTION OF HUMAN FREE-Doms and rights (project Work)



In 2018, the Ombudsman institution celebrated 20 years of existence, marking this celebration together with the 10th anniversary of establishing the Association of Ombudsman of the Mediterranean (AOM), which in accordance with the principle of rotation during the election of an Annual Assemblies host in 2016, granted this honor to the institution Ombudsman as a full member with a right to vote in the Association and as one of its founders.

On the occasion of marking 20 years of the Ombudsman's work, a special ceremony was held in the Assembly, attended by many guests from the country, diplomats, as well as ombudsmen from the region, and also guests from the member countries of the Association of Ombudsmen of the Mediterranean.

At the ceremony, besides the Ombudsman, the President of the Assembly, Mr. Talat Xhaferi, addressed the guests with a speech emphasizing that human freedoms and rights are principles and standards upon which the present, but also the future of human civilization is built.

The President of the Government, Mr. Zoran Zaev, was also present at the ceremony, who while congratulating on the jubilee, stressed that the Institution has full support for efficient and dignified operation.

The European ombudsman, Ms. Emily O'Reilly, sent a video message to the attendees to congratulate on the jubilee, whereas on behalf of the Association of Ombudsmen of the Mediterranean spoke the President Ms. Erinda Balanca, who is also an Ombudsman of the Republic of Albania.

Ms. Bojana Urumova, deputy director of the Office of the High Commissioner for Human Rights of the Council of Europe, also addressed the attendees on behalf of the Council of Europe Commissioner for Human Rights, Mrs. Dunja Mijatovich.

In the second part of the ceremony a panel discussion on the topic "The Institution of Ombudsman: Beginnings, Development and Challenges" was held.

The panel discussion was attended by the Ombudsman, Mr. Ixhet Memeti, the former President of the Assembly, Mr. Tito Petkovski, the President of the European Network of National Human Rights Institutions (ENNHRI) and the Ombudsman of the Republic of Croatia, Mrs. Lora Vidovich, the Ombudsman of Bosnia and Herzegovina, Mrs. Jasminka Jumhur, as well as the former Ombudsman of the Republic of Albania, Ermir Dobjani, and the President of the Association of Journalists, Mr. Naser Selmani.

The second part of the celebration of both anniversaries was dedicated to the Association of Ombudsmen of the Mediterranean (AOM) in which representatives of the member countries of the Association gave speeches and presentations.

The AOM Conference was completed with adopting the Declaration of Skopje dedicated to social inclusion, promotion of cultural rights and environmental protection.

In the course of 2018, with the support of the United Nations High Commissioner for Refugees - Office Skopje, the project "Improving the legal protection system related to asylum and naturalization" was continued as a result of the Memorandum of Cooperation signed with the UNHCR Office in 2015. The project aimed to improve the legal protection system for asylum seekers and facilitate the process of naturalization and integration of Kosovo refugees in order



to effectively protect individual rights guaranteed by the Constitution, national legislation and international conventions.

Some of the engaged people were permanently employed at the Ombudsman Institution, and their vacant positions were filled with new employees. Within the project, a total of 31 visits to the transit centers "Vinojug" and "Tabanovce", then to the Center for Foreigners "Gazi Baba" and the Center for asylum seekers "Vizbegovo" were realized.

The visits were conducted in order to supervise and monitor the material and other conditions in these temporary refuge and migrant centers, as well as to inspect the procedure these persons undergo in order to improve their treatment and the conditions in which they are temporarily living, their status and respect for human rights, as well as the application of international standards for the protection of refugees and migrants.

Within the project, 4 educational trainings for members of the border police were realized, as well as for representatives of the non-governmental organization "Macedonian Young Lawyers Association".

Among the activities carried out that year, there was also a survey that elaborated the degree of respect for the rights of foreign citizens serving prison in the Idrizovo Penitentiary with a focus on people from the refugee crisis.

The project will continue to be implemented in the course of 2019.

In the course of 2018, the project "Inclusion of Roma after the Completion of the Roma Decade - Current Status and Future Challenges" was realized as a result of the Implementation Agreement signed in December 2017 by the Ombudsman, Mr. Ixhet Memeti and the ambassador of the Republic of Bulgaria (at the time), Mr. Ivan Petkov.

Within the project, a survey was conducted to review the achieved results regarding the inclusion of the Roma people after the end of the Roma Decade, presented at an international conference attended by Ombudsman Institutions in the region of Southeast Europe, as well as relevant institutions and bodies of the country. With the support of the project, a study visit of the Ombudsman office of the Republic of Bulgaria and other relevant institutions of that country working in the field of human rights, and in particular issues on the inclusion of the Roma people, was realized.

With the support of the OSCE Mission in Skopje, two internal workshops were held last year, aimed at familiarizing the regional offices of the Ombudsman with certain segments of the subject work of the Institution, as well as with the new authorizations introduced by the new Law on the Ombudsman. The first workshop was held in Kochani and was dedicated to the subject work in relation to discrimination, while the second workshop was held in Bitola and took into consideration the new authorizations of the Institution.

The OSCE Mission in Skopje supported the third workshop that took place at the Academy for Judges and Public Prosecutors in Skopje, which was intended to introduce judges with the new authorizations of the Ombudsman "a friend of the Court". For the needs of the workshop, but also for the internal training of the Ombudsman employees organized before the workshop, an expert was hired from the Office of the Ombudsman of Poland, who conveyed the experience thereon.

# OMBUDSMAN-NATIONAL PREVENTIVE MECHANISM



The Ombudsman - National Preventive Mechanism, within its mandate and competencies, continuously monitors the treatment and provision of rights of people in places of liberty deprivation and detention, with the aim of preventing torture and other cruel, inhuman or degrading treatment or punishment.

The National Preventive Mechanism (NPM), which due to the ignorant attitude of the authorities operated with not a single employee for more than three years, in the spring of 2018 finally managed to be staffed as a team composed of three advisers for prevention of torture and other cruel and inhuman treatment or punishment. Although the team was formed in July 2018, all activities and preventive visits provided for in the Annual Work Program were successfully implemented.

In this regards, the National Preventive Mechanism conducted a total of 11 unannounced preventive visits in 2018, 2 of which were to Penitentiary Institutions, 3 to police stations of general jurisdiction, as well as 6 visits to police stations for border control and border surveillance. The NPM prepared special reports with specific recommendations on the performed visits and the established conditions, later submitted to managers of the institutions and to the respective Ministries for undertaking measures and activities for elimination of the identified irregularities.

In order to provide a multidisciplinary approach to the work while performing the preventive visits, the National Preventive Mechanism team also engaged external collaborators, experts from various fields, from organizations and associations that the National Preventive Mechanism has concluded memorandums of cooperation with, as follows: members of the Association of Psychiatrists, the Institute of Forensic Medicine, Criminology and Medical Deontology, the Young Lawyers Association, the Association for Criminal Law and Criminology, the Association of Social Workers of the City of Skopje, the Association of Nurses, Technicians and Midwives of the Republic of Macedonia, as well as the Chamber of Psychologists.

During the visits to the Penitentiary Institutions in Gevgelija and Tetovo, the NPM team concluded that the poor material conditions, the inadequate health care system, the nonfunctional system of re-socialization, the small number of program activities, as well as the insufficient number of professional staff in the institutions, are factors all together influence the treatment of prisoners in these institutions to be regarded as degrading.

The police stations of general jurisdiction Gjorche Petrov, Kisela Voda and Negotino were also visited. The construction of a completely new facility for the Police Station Gjorche Petrov indicates that the authorities have made some efforts to improve the material infrastructure, but this is insufficient given the fact that the Police Station Negotino has not yet acted upon the recommendations for immediate renovation of the detention facilities and their adjustment in accordance with the minimum standards for imprisonment.

The current closed border policy and the increased scope of illegal migration were the occasion for the National Prevention Mechanism team in 2018 to pay particular attention to the work of the border police, and the focus was on the police stations for border control and border surveillance. In this sense, visits to the police stations Belanovce, Pelince, Mihajlovo,



Star Dojran, as well as the police stations for border control at the airports in Skopje and Ohrid were conducted.

The poor material conditions, the insufficient informing of police officers on asylum issues and the low level of knowing methods for identification and referral of vulnerable categories of migrants were identified to be the main indicators pointing to the possible risk of inappropriate treatment towards this category of people.

As part of the program activities, within the project "Improving the asylum and naturalization legal protection system", the National Preventive Mechanism in cooperation with an external collaborator conducted a thematic research titled "Level of respect for the rights of foreign nationals serving a prison sentence in the Idrizovo Penitentiary, with a focus on people from the refugee crisis". For this purpose, two targeted visits to the Idrizovo Penitentiary were carried out, where during the visits, a total of 102 foreign nationals were serving prison sentences, of which 13 persons were from the countries suffering the refugee crisis (Iran, Pakistan, Afghanistan and Sudan). Trough understanding the position of foreign citizens serving prison in the Idrizovo Penitentiary, the purpose of this research was to offer recommendations for measures to alleviate the possibility of isolating foreign prisoners and facilitating their treatment in order to re-socialize them.

During the reporting year, the National Preventive Mechanism, in addition to conducting preventive visits and thematic surveys, carried out numerous activities for increasing the visibility and recognition of its team, as well as strengthening the capacities and expanding the cooperation, by participating in various trainings, meetings and international workshops and conferences. In this regard, as part of the promotional activities foreseen in the Annual Program of the NPM team, four trainings were organized for police officers from the border police in all four regional centers for border affairs (East, West, North and South), as well as one joint training for representatives from the Office of the High Commissioner for Refugees (UNHCR) and the civil sector. Trainings were held to inform participants on the work competencies and methodology of the National Preventive Mechanism in conducting preventive visits to places where arrest or detention could be or is carried out.

Regarding the trainings attended by representatives of the National Preventive Mechanism in 2018, we can highlight the participation in the first regional training on the topic "Monitoring the forced return of migrants in their country of origin", held in Belgrade, Republic of Serbia, organized within the framework of the IPA 2 project funded by the European Commission, and implemented by Frontex in cooperation with the international organization IOM and the High Commissioner for the Protection of Refugee Rights (UNHCR). The training was attended by representatives from several Ombudsman institutions in the region with the opportunity through a number of interactive exercises and tasks to get acquainted with the specific characteristics of the procedures in conducting forced deportations of migrants, as well as training to perform monitoring of the implementation of such deportations.

Representatives of the team also participated in the training on the methods of documenting torture in accordance with the Istanbul Protocol, organized by the Center for Civic Initiative - Prilep, in partnership with the Center for Human Rights - Nish, which presented the current international documents related to prevention, protection and sanctioning of acts of torture, and the Istanbul Protocol was thoroughly developed as a manual for effective investigation and documentation of torture and other cruel, inhumane, degrading acts or punishments.

A NPM representative also participated in a two-day training session on the topic "The rights of detainees on national territory and detained people abroad: the role of the Ombudsman Institutions" in Rabat, Morocco, organized by the Association of Ombudsmen of the Mediterranean.

Regarding the international activities, representatives of the National Preventive Mechanism also took an active part in several meetings, conferences and workshops related to vari-

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ous thematic contents.

Within the framework of the Southeast European NPM network, the National Preventive Mechanism participated in both regular meetings held in Podgorica, Montenegro, discussing topics in order to realise the mandate of the National Preventive Mechanisms in the region. It is worth noting that one of the agenda items at the second meeting was the further chairmanship of the network, whereby representatives from all member states of the network expressed their consent that the Ombudsman and the NPM team will host and chair the network during 2019.

The National Preventive Mechanism took active participation in several work meetings in Brussels - Belgium, organized within the activities of the European Network of National Institutions for the Protection of Human Rights, as well as in Copenhagen - Denmark, where the 4th Workshop of the International Institute of the Ombudsmen was organized by the Danish Parliamentary Ombudsman and the Association for the Prevention of Torture (APT), on the topic of "Strengthening follow-up recommendations of the NPM". The workshop was intended to support the national preventive mechanisms in preventing torture, and at the same time, representatives had the opportunity to exchange experiences in the area of increasing the impact of the NPM by improving their recommendations, forming an effective methodology and opportunities for monitoring NPM recommendations.

A representative from the National Preventive Mechanism attended the Conference on the topic "Assessment of the Impact of the National Preventive Mechanisms", which was held in Ljubljana - Slovenia, organized by the National Preventive Mechanism of Slovenia and the Council of Europe.

Also, a representative from the Ombudsman's Office - National Preventive Mechanism attended a work meeting held in Brussels - Belgium, organized by the European Network of National Institutions for Human Rights (ENNHRI) and the Belgian Federal Center for Migration (Myria), attended by representatives of the National Human Rights Institutions from several European countries - members of the Working Group on Asylum and Migration at ENNHRI. The purpose of the work meeting was to exchange experiences and work practices, implemented activities and achieved results during the past year in regard to the protection of rights of migrants and refugees, as well as to project future activities in the same area.

A representative from the Ombudsman's Office - National Preventive Mechanism attended the Regional Meeting of the National Preventive Mechanisms and Associations of Citizens from the OSCE Region held in Milan - Italy, organized by the Association for the Prevention of Torture (APT) and the Office for democratic institutions and human rights within the Organization for Security and Co-operation in Europe (ODIHR/OSCE). The meeting was attended by representatives of the National Preventive Mechanisms from over 25 European countries, representatives of Civic Associations from the same countries as well as international experts in the field of prevention of torture and protection of migrants' rights - representatives of the United Nations, the European Committee for Prevention of torture, the Subcommittee on Prevention of Torture and the Council of Europe.

By the end of the reporting year, representatives of the National Preventive Mechanism team also participated in a regional conference dedicated to people with mental disabilities and limited freedom of movement, organized by the Council of Europe and the Kosovo Ombudsman in Prishtina - Kosovo. Participants at the conference had the opportunity to share their experiences in the area of monitoring the treatment of people with mental disabilities in institutions where their freedom of movement is limited, as well as to exchange opinions and practices regarding the subject matter.

One of the conclusions of the conference is that people with mental disabilities whose freedom of movement is limited represent a particularly vulnerable category of people at an increased risk of inhuman, cruel or degrading treatment. In this respect, the need for continuous



monitoring in places where detention and limitation of the freedom of movement of such people is carried out was stressed, so as to prevent possible acts of torture and other cruel, inhuman or degrading treatment or punishment.

# OMBUDSMAN-FRIEND OF THE COURT



In accordance with the new competence, the Ombudsman continued to act as a friend of the court (amicus curiae) with the power to participate in all stages of the procedure and the right to make proposals and give opinions that the court should take into consideration.

Given the fact that this is a new competence, the Ombudsman initially experienced difficulties in communicating with the courts, i.e. it was not allowed to act as a friend of the court (amicus curiae), and they considered that the Ombudsman should attend the hearings only as a member of the public, and not as envisaged by the Law on the Ombudsman with the authorization to participate in all stages of the procedure and the right to make suggestions and give opinions that the court should take into consideration.

However, following the staffing of this department and the organized workshops for judges and public prosecutors on the topic "The Ombudsman as a friend of the court (amicus curiae)", this practice of the courts changed and the Ombudsman now acts as a friend of the court in the majority of cases. Furthermore, it actively participates in the procedures and gives proposals and opinions that the court takes into account and thus contributes more effectively to the protection of constitutional and legal rights of citizens in relation to submitted complaints in the part of the judiciary.

The Ombudsman acted as a friend of the court (amicus curiae) during this reporting period in order to respect the principle of trial within a reasonable time provided for in the Law on Courts and the European Convention for the Protection of Human Rights, as well as for cases in which it was obvious that there is a violation of the constitutional and legal rights of the citizens.

In this context, acting upon a complaint from a citizen requesting protection of the right of ownership violated by EVN Macedonia, because contrary to the detailed urban plan, the company wanted to install a metal pillar for an electricity transmission line on private construction land, where construction of an economic business object is planned, the Ombudsman, having in mind the previously collected evidence and given recommendations and a request for temporary suspension of the construction activities until a court decision was made, presented his opinion and the collected evidence in the court procedure.

In another case, the Ombudsman was part of the court procedure for a criminal offense of Sexual Assault on a juvenile who was almost 14 years of age, following this procedure from the very beginning taking care for the procedure not to be violated, thereby violating the constitutional and the legal rights of the participants, including the minor who has not even turned 14.

After filing a complaint as a friend of the court, the Ombudsman was involved and gave his opinion to the Supreme Court, requesting priority while deciding on the submitted request for extraordinary review of a final verdict, because the convicted person was sent to serve the imprisonment sentence and waited for a decision regarding the submitted request. After the suggestion, this subject was also given priority in its resolution.

The Ombudsman, as a friend of the court, acted upon a court case registered in 2015, which was not initiated before the Ombudsman was involved i.e. 24 scheduled searches were postponed and the criminal prosecution for two of the defendants became obsolete. Regarding



this case, the Ombudsman collected all necessary information regarding the delayed searches and submitted a notification to the president of the council that it will act as a friend of the court (amicus curiae). Immediately after being included in this case, it addressed the public prosecutor by submitting a proposal as a friend of the court (amicus curiae) and asked it to take all legal actions to separate the procedure for the defendants that are not available and a trial in the absence of the defendant for which it has knowledge and evidence that abandoned the country and is not available to the law enforcement agencies. In this case the Ombudsman detected that the reason, in addition to the inaccessibility of some of the defendants, was that the prison administration does not transfer defendants who are in detention.

As a result, the Ombudsman, in the capacity of a friend of the court (amicus curiae), addressed the Penitentiary Institution, with the opinion that the defendant, who is currently in custody should be transferred, because 24 hearings were postponed in this procedure, there was a delay in the prosecution of two defendants and the non-presence of the defendant would result in a further delay, and hence the violation of the principle of trial within a reasonable amount of time. After the Ombudsman stepped in, the procedure was initiated and all the defendants were questioned, the damaged person also gave personal statement and the court procedure is still in progress.

After receiving a complaint that the rights of a participant in the procedure are being violated, rights granted in accordance with the Law on Litigation Procedure, that is, the court did not accept the submissions that it submitted and was not allowed to give any statements before the Court, the Ombudsman joined in the capacity of a friend of the court and acted in order to protect the constitutional and legal rights of the party in the procedure and in this case, which is still ongoing.

Hence, unlike in 2017, the communication with the courts improved in 2018 and the Ombudsman in most of the cases uninterruptedly exercised his authorization.

# RESEARCH, REPORTS, INFORMATION AND INITIATIVES



All research, special reports, initiatives for assessing the constitutionality and legality of the regulations, initiatives for legal changes, as well as requests for authentic interpretation of certain legal norms are only part of what the Ombudsman does beyond case work.

The purpose of these activities, which refer to various areas/segments of his work, is to review the general conditions, the degree of respect for human freedoms and rights, as well as proposing measures for improving the legislation, and thus enabling the citizens an easier way to achieve their constitution and rights guaranteed by law.

The focus of interest in the reporting year was on the situation with including children with disabilities in pre-school education. With this research, the Ombudsman completed the cycle of perceiving the degree of involvement of children with disabilities in the education process, since research was also carried out in the previous years, but concerned primary and second-ary schools.

Thus, with the financial support of the UNICEF Office and in cooperation with the Association for Assistive Technology "Open the Windows", questionnaires were submitted to all preschools in order to evaluate the integration of children with disabilities in kindergartens.

A general conclusion in **the Report** of this research is that pre-school education does not offer necessary conditions and opportunities for admission and optimal development of every child. The obtained data point to disregard or only partial compliance with the established standards for the size of groups, as well as the spatial conditions and equipment of the kindergartens. Also, professional teams in kindergartens are generally not complete, i.e. there is a lack of professional services.

In order to overcome the established situation, the Ombudsman recommended amendments and supplements to the legislation for full harmonization of the national legislation with the key international documents in this field. In addition, during construction of new or reconstruction of existing facilities, the established standards regarding the availability and accessibility of facilities, the size of groups, as well as the provision of appropriate didactic aids and staff that will meet the needs of the children shall be respected.

In the area protecting the rights of the child, the Ombudsman conducted a research and prepared a separate **Report on the situation of children using drugs and other psycho-tropic substances**. Namely, the Institution, acting on the cases suggested by citizens and associations of citizens for the protecting the rights of children from all kinds of abuses, and in this regard also the children who use drugs and other psychotropic substances, learned that this problem is present in minor children who become addicts over time, and that the country has not established a system for their detection and prevention. The findings prove there are no protocols for pharmacological and psychiatric treatment, and that there is no special medical treatment for these children.

The research identified, among other things, the following weaknesses: professionals working in institutions whose competence is protection of children and their best interests do not recognize the risk of drug use and other psychoactive substances in children, and that there



is not enough professional staff that would work with these children. This research has shown that there are no adequate programs for rehabilitation and re-socialization in any of the competent institutions.

In order to overcome these weaknesses, the Ombudsman recommended strengthening and upgrading the system of prevention and protection against drugs and other psychotropic substances, which implies continuous education of experts in institutions, as well as adopting appropriate programs for rehabilitation and re-socialization in all competent institutions.

The indications of the Ombudsman that juvenile children who are in social risk, as well as the juvenile girls accommodated in public care institutions, often get pregnant at an early age, after which they either terminate the pregnancy or decide to give birth to the child, were a sufficient motive to conduct research last year and to prepare a separate **Report on the termination of pregnancy at an early age and giving birth by underage mothers**.

In order to conduct this research, a special Questionnaire was prepared and submitted to 17 Clinics and General Hospitals in the country, whose activities include gynecology and obstetrics. At the same time, in the period July-August, immediate inspection of the files of juvenile mothers and those who terminated the pregnancy in these public health institutions was made, and a visit to the Infant Home in Bitola was realized.

The conducted research, among other things, showed that juvenile pregnancy is present in the country, and what is even more worrying is the fact that these are children who are not physically mature enough, and yet, they decide to terminate a pregnancy in the early development of their personality, although there are also some who decide to give birth. The number of children who gave birth between the ages of 14 and 16 is significant, although there have been cases of underage girls between the ages of 11 and 13 who gave birth. Almost all underage mothers gave birth in an extramarital community. It was noticed that no healthcare institution holds written documents for recording the acquisition of newborns from the hospital by the Centers for Social Work, in case the juvenile mother does not want to take care of the baby and leaves it at the hospital, and that the communication in the relationship between the health institution and the Social Work Center as the guardian of the children left by underage mothers is unsatisfactory.

Regarding the recommendations, the Ombudsman believes that education of young people in relation to reproductive health must be introduced, and the Ministry of Health should take measures in the direction of drafting a separate Rulebook and Protocol for the treatment of underage patients, as well as improving the communication in the relationship between hospitals and Social Work Centers.

The problems that citizens face and have recurred in the past several election cycles, especially with the non-updated voters' list, the discrimination of people from the category of home-bound people, people in nursing homes, gerontology institutes, rehabilitation centers, as well as inaccessibility at the polling stations for people with physical disabilities, blind people and people with impaired vision, stimulated the Ombudsman to submit a separate **Report on the realization and protection of the right to vote** to the Government last year.

The Ombudsman recommended amendments to the Electoral Code so that the Ministry of Internal Affairs submits the State Election Commission (SEC) a report after the closing of the voters' list, with data on the number of renewed or completely new IDs for people who turned 18 in the meantime, as well as to find adequate solutions and provide conditions from normative and material aspects so that people accommodated in nursing homes, rehabilitation centers, gerontology institutes, can exercise the right to vote and to adjust the polling stations for the blind, the visually impaired and people with physical disability without any preconditions.

In order to understand the situation regarding the convicted/detained people who do not possess personal identification documents, the Ombudsman conducted a survey and prepared

a special **Report on the general conditions regarding the convicted/detained persons** who do not possess personal identification documents upon receiving the imprisonment sentence, or after leaving the institution. Namely, this population has been facing the problem of impossibility to exercise the right to vote for years due to lack of biometric identification documents.

The findings show that the number of convicted persons who do not have such documents is almost twice the number of those whose requests for identity determination were submitted to the Ministry of Internal Affairs from the Penitentiary Institutions/homes.

However, the work of this Ministry is unsatisfactory. Also, the Ombudsman considers that it is unacceptable for the Penitentiary Institutions to have a lack of accurate records of people who do not possess valid identification documents, as well as the fact that the institutions do not initiate procedures for issuing ID cards for the convicted people whose ID cards have expired.

According to the established conditions, the Ombudsman in this report recommended in all cases when after the arrival of the convicted persons there is no data on the basis of which their identity can be determined, to take measures within 24 hours for the purpose of establishing the identity. Keeping and updating the records of the convicted persons who have personal identification documents, their duration, i.e. the expiration date, as well as full and timely informing of the convicted persons about the need for issuing new ID cards.

In the context of the completion of the Roma Decade, the Ombudsman conducted a research and prepared a **Report on the inclusion of Roma after the end of the Roma Decade - current situation and challenges**. At the same time, it also submitted information to the Government on the situation after the implementation of the Roma Decade with specific recommendations, such as spending more budgetary funds for institutions with obligations to implement the Roma Strategy 2014-2020, and familiarizing the local self-governments with the obligations they have undertaken with this strategy.

In the reporting year, the Ombudsman submitted **a request for authentic interpretation** Ato the Assembly twice. The first time was for Article 13 of the Law on Amending the Law on Audio and Audiovisual Media Services in order to determine whether the broadcasting fee should be paid for the month of September 2017 and, if necessary, whether fully or proportionally. Namely, given the fact that in the transitional and final provisions of this law it is outlined that the law enters into force on the day of its publication in the "Official Gazette", and that is September 20, a large number of citizens addressed the Ombudsman with complaints that they are charged a broadcast fee for the whole month.

The second request was for authentic interpretation of Article 11 of the Law on Primary Education, which stipulates that any political and religious organizations and activities, as well as emphasizing political party and religious features, are strictly prohibited in elementary schools. In that direction, the dilemma was whether wearing a scarf in the workplace should be taken into account under this provision.

The Assembly responded that both articles are clear and there is no need to give authentic interpretation.

Last year, the Ombudsman submitted an **initiative to the authorized proposers of amendments and supplements to laws and other bylaws**, referring to the established discrimination of employees in the public sector in relation to the payment of recourse for annual leave, commonly known as K-15. Namely, the analysis of regulations established that employees in the public and private sector have unequal treatment when it comes to the payment of this recourse. For these reasons, the Ombudsman requested the Government to review the Initiative and take measures for equalizing the rights of employees in the direction of amending the existing General Collective Agreement for the public sector by introducing a provision that



will grant the right to use recourse for public sector employees.

The Ministry of Health received the Ombudsman's **Information with a proposal for taking measures**, in relation to issues arising from the contents of the Rulebook on indications of the right to orthopedic and other devices. According to this Rulebook, the right to an orthopedic device on the account of the Fund can be used by any insured person, but only if they have had uninterrupted health insurance for six months. The Ombudsman considered that such a limitation inflicted direct damage to the citizens and requested amending of the Law on Health Insurance which regulates this issue. In the response, the Ministry expressed readiness to make changes according to the requests of the Ombudsman.

Last year, a **Proposal for assessing of the constitutionality of Article 11 Paragraph 2, as well as Articles 47 Paragraph 3 Item 2 and Article 61, Paragraph 1 of the Law on Denationalization** was submitted to the Constitutional court.

Namely, the Ombudsman considers that the contents of the disputed provisions according to which only the former owner is considered to be an applicant, that is, succeeding people on the day of entering into force of the Denationalization Act, according to the regulations on inheritance, exclude the right of the heirs who received such property after the entry into force of the Denationalization Act.

In this approach to determining the term "Applicant", these persons, without any reasonable and objective justification, were placed in an unequal position with citizens who have the confiscated property returned, and this eventually violates the constitutional principle of equality of citizens before the Constitution and the laws, as well as their rights guaranteed by the provisions of Article 6 and Article 14 of the European Convention for the Protection of Human Rights and Freedoms and Article 1 of Protocol No. 1 and Article 1 of Protocol No. 12 of the Convention, ratified by the Republic.

# COMMUNICATION AND COOPERA-TION OF THE OMBUDSMAN WITH IN-TERNATIONAL BODIES AND ASSOCIATIONS



#### **COOPERATION WITH EUROPEAN AND INTERNATIONAL INSTITUTIONS AND BODIES**

The Ombudsman and representatives of the Office of the Ombudsman, once again in this reporting year of 2018, participated in meetings and events organized by ombudsman associations and networks in Europe, as well as in the wider world.

In the first half of the year, more precisely in May, the Ombudsman institution hosted the tenth meeting of the Association of Ombudsmen of the Mediterranean (AOM). The main topic of the meeting was "The role of the Ombudsman as a protector of social, cultural and environmental rights".

On the tenth meeting of the AOM the so-called Skopje Declaration was adopted and a selection of new members of governing bodies took place. The representatives of the member states of the Association discussed the protection of social rights of vulnerable groups, of cultural rights, as well as for the protection of the rights in the field of ecology.

In June, the Ombudsman, Ixhet Memeti, participated in a two-day event, an ombudsmen conference, with a working title "The role of national human rights institutions in securing and promoting equal rights" organized by the Human Rights Commissioner of the Republic of Azerbaijan held in the capital of the country, Baku.

The Ombudsman, Ixhet Memeti, addressed the guests with a speech devoted to the two decades of existence of the Ombudsman institution in the Republic. The conference was an exchange of experiences between ombudsmen of countries from two continents: Serbia, Romania, Turkey, Georgia, Tatarstan, Pakistan, Russia and others.

In September, the Ombudsman, Ixhet Memeti, participated in the 39th closing conference of the United States Ombudsman Association in Portland, Oregon.

The topic of this international conference was "Mapping the Way to Justice".

The conference was dedicated to investigative tools available to these institutions, cooperation with media, complaint handling, racial equality in American society, and much more.

In September, in Brussels, a representative of the Ombudsman participated in a two-day regional training of independent bodies for protection of human rights and freedoms and the non-governmental sector under the title "Heritage of the past", organized by the instrument of the European Commission TAIEX.

The aim of this workshop was to establish trust among countries affected by armed conflicts, putting emphasis on truth, justice, reparations, memory and conflict prevention.

The same month, training was held in Bratislava - Slovakia on the subject topic "Measures for collective consumer protection", where a representative of the institution Ombudsman participated.

The event was organized by the Open Fund for Legal Reforms in South East Europe, in cooperation with the European Consumers Organization.

In October, representatives of the Ombudsman participated in the 13th meeting of the



Subcommittee on Justice and Internal Affairs, held at the headquarters of the European Commission in Brussels.

The Ombudsman's representative, State Counselor Zoran Bilbilovski, informed the attendees about the operation and capacity of the Ombudsman institution.

Special emphasis was put on staff strengthening, cooperation with the executive government, as well as activities in the upcoming period.

Also, the General Assembly and the Annual Conference of the European Network of National Human Rights Institutions (ENNHRI) took place in October in Athens, and was attended by a representative of the Ombudsman's Office.

The trend of violating the rights of citizens and the tools available to the Ombudsman institutions was discussed in order to rectify violations and protect human rights.

State Counselor, Liljana Ilievska, presented the situation with migrants and asylum seekers in the country, as well as the protection of their rights.

In November, a seminar was held in Brussels on the topic "Legal Seminar on Protection against Discrimination and Gender Equality", attended by representatives of the EU Member States and candidate countries for membership in the EU, as well as countries of the former Soviet Union. The seminar was attended by a representative of the Institution working in the field of protection against discrimination and equal representation.

### INFORMATION/REPORTS SUBMITTED TO INTERNATIONAL INSTITU-TIONS AND BODIES

In the reporting year, the Ombudsman submitted a report to the Committee on the Rights of People with Disabilities addressing the situation of this vulnerable and marginalized group of citizens, i.e. the realization and protection of their rights.

In his report to the Commission, the Ombudsman gave a detailed interpretation of the situation regarding the issues of equality and non-discrimination, accessibility, raising awareness, equal recognition before the law, as well as the access to justice.

In addition to the aforementioned report, the European Commission against Racism and Intolerance (ECRI) received the Ombudsman's Periodic (alternative) information as a contribution regarding the undertaken steps by the authorities to implement the urgent recommendations of the European Commission Report against Racism and Intolerance (ECRI) from the 5th observation round, adopted on March 18, 2016.

The Ombudsman's information depicted the situation arising from the scope of work of the Institution from the date of adopting the Report, until August 2018.

This periodical (alternative) information was prepared in accordance with the scope of work of the Ombudsman, the received complaints and the relevant work in the area of protection of the rights of citizens regarding the discriminatory treatment and non-implementation of the principle of adequate and equal representation, as well as on the basis of the individually performed research in certain areas.

#### **REGIONAL COOPERATION**

In February, a regional conference dedicated to the fight against human rights violations was held in Sarajevo.

The conference was organized by the Ombudsman Institution of Bosnia and Herzegovina, the EU Delegation, the Office of the Council of Europe and the OSCE, and representatives of the Ombudsman were also part of it.

In August, the Deputy Ombudsman Vaska Bajramovska-Mustafa visited the Ombudsman of the Republic of Croatia for people with disabilities. This study visit was attended by representatives of the Department for Protection of Children's Rights and Rights of Persons with Disabilities.

The meeting was a rich experience for working with persons with disabilities, acting in cases of violation of their rights and challenges in the areas of work of the Ombudsman's disability advisers in Croatia.

In October, in Novi Sad - the Republic of Serbia, representatives of the Ombudsman participated in the regional conference "Protection of human rights: from illegality to lawfulness" organized by the province ombudsman from Novi Sad.

The conference was completed by signing a Memorandum of Cooperation between the Ombudsmen of the region.

In October, representatives from the Ombudsman's office visited the Ombudsman's Office of the Republic of Bulgaria in Sofia.

The delegation was led by the Deputy Ombudsman, Vaska Bajramovska-Mustafa, and the visit was part of the project implemented by the Ombudsman with the support of the Ministry of Foreign Affairs of Bulgaria and the Embassy of the Republic of Bulgaria.

The topic of the meeting was "Inclusion of Roma after the End of the Roma Decade: Current Situation and Challenges".

In November, a representative of the Ombudsman participated in a regional conference "Tolerant Inclusive Communities in the Western Balkans", held in Podgorica - Montenegro.

Representatives of various ministries, non-governmental organizations, human rights and minority institutions, as well as equality bodies took part in this conference.

The Ombudsman, through his representative working in the field of protection against discrimination and adequate and equal representation, took an active part in this conference in various working groups.

In November, representatives of the Ombudsman led by Deputy Vaska Bajramovska-Mustafa participated in the Regional Forum of Ombudsmen from the Balkans held in Sofia, and the Ombudsman institution co-hosted this meeting.

At the forum, it was agreed that a platform for networking of Ombudsman institutions from the region of Southeast Europe shall be established. This informal network aims to exchange experiences and practices, but also to act jointly on issues of concern to these national human rights institutions.

In November, in Sarajevo, Bosnia and Herzegovina, a conference titles "National Human Rights Institutions from the Western Balkans in Human Rights Advocacy and the Prohibition of Discrimination" was held.

The international conference addressed many issues of interest to the region, such as hate speech, intolerance, prejudice and all forms of discrimination.

The Deputy Ombudsman, Suzana Saliu and two other officials attended the conference.



A conference "Access to Justice for Victims of Domestic Violence and Gender Based Violence" was held in Prishtina in December, attended by a representative of the Ombudsman, Deputy Suzana Saliu.

The conference was held under the motto "You Are Not Alone".

Topics of discussion at the conference were domestic violence as a crime, the obligations arising from the Istanbul Convention, punitive policies, the fight against prejudice and the influence of tradition in respecting the position of women in the family and society, educating young people as a guarantee of a future without domestic violence and other.

# **STATISTICAL DATA**



In the reporting year, the Ombudsman acted upon a total of 4.482 complaints, out of which 3,458 were received in the reporting period by 3.654 complainants (citizens, organizations, associations), and the remaining 1.024 were transferred from the previous year.

The biggest number of complaints 2.414 were submitted personally by the complainants in the offices of the Ombudsman, 545 of the complaints sent to its postal address, 244 by e-mail, 149 through the web site, 53 by telephone, 3 by fax, and 50 complaints by personal initiative.

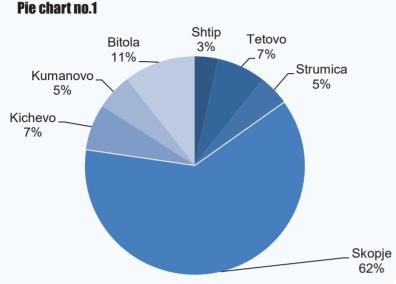
#### **Review No.1**

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|--------------------------------------------------------------------|------|-------|------|------|------|------|------|-------|-------|-------|------|--------------------|------|-------|------|-------|------|-------|------|-------|------|-------|
|                                                                    | 20   | 08    | 20   | 09   | 2010 |      | 20   | 2011  |       | 2012  |      | 2013               |      | 2014  |      | 2015  |      | 2016  |      | 2017  |      | )18   |
|                                                                    | No.  | %     | No.  | %    | No.  | %    | No.  | %     | No.   | %     | No.  | %                  | No.  | %     | No.  | %     | No.  | %     | No.  | %     | No.  | %     |
| Non-discrimination and<br>adequate and equitable<br>representation | 21   | 0,69  | 20   | 0,55 | 16   | 0,4  | 42   | 0,99  | 32    | 0,74  | 51   | 1,35               | 66   | 1,55  | 53   | 1,2   | 69   | 1,83  | 70   | 2,17  | 77   | 2,23  |
| Police procedures                                                  | 236  | 7,81  | 252  | 6,94 | 238  | 5,89 | 179  | 4,21  | 220   | 5,06  | 177  | 4,68               | 173  | 4,07  | 156  | 3,54  | 133  | 3,52  | 152  | 4,72  | 199  | 5,75  |
| Civil states and other<br>interior affairs                         | 132  | 4,37  | 154  | 4,24 | 169  | 4,18 | 126  | 2,96  | 156   | 3,59  | 97   | 2,57               | 85   | 2     | 90   | 2,04  | 45   | 1,19  | 53   | 1,64  | 57   | 1,65  |
| Judiciary                                                          | 883  | 29,22 | 744  | 20,5 | 757  | 18,7 | 732  | 17,2  | 710   | 16,34 | 732  | 19,37              | 901  | 21,2  | 850  | 19,32 | 577  | 15,28 | 576  | 17,87 | 945  | 27,33 |
| Social protection                                                  | 115  | 3,81  | 95   | 2,62 | 140  | 3,46 | 193  | 4,53  | 240   | 5,52  | 206  | 5,45               | 279  | 6,57  | 382  | 8,67  | 245  | 6,49  | 157  | 4,87  | 127  | 3,67  |
| Labor relations                                                    | 253  | 8,37  | 389  | 10,7 | 365  | 9,03 | 412  | 9,68  | 306   | 7,04  | 246  | 6,51               | 299  | 7,04  | 265  | 6,02  | 155  | 4,11  | 199  | 6,17  | 335  | 9,69  |
| Housing relations                                                  | 34   | 1,13  | 57   | 1,57 | 89   | 2,2  | 65   | 1,53  | 57    | 1,31  | 76   | 2,01               | 36   | 0,85  | 42   | 0,95  | 48   | 1,27  | 11   | 0,34  | 35   | 1,01  |
| Health protection                                                  | 69   | 2,28  | 72   | 1,98 | 93   | 2,3  | 115  | 2,7   | 166   | 3,82  | 128  | 3,39               | 125  | 2,94  | 79   | 1,79  | 83   | 2,2   | 101  | 3,13  | 77   | 2,23  |
| Pension and disability<br>insurance                                | 180  | 5,96  | 181  | 4,98 | 159  | 3,93 | 237  | 5,57  | 241   | 5,55  | 224  | 5,93               | 221  | 5,2   | 175  | 3,97  | 135  | 3,58  | 138  | 4,28  | 142  | 4,11  |
| Education, science, culture and sport                              | 39   | 1,29  | 49   | 1,35 | 48   | 1,19 | 45   | 1,06  | 35    | 0,81  | 34   | 0,9                | 21   | 0,49  | 41   | 0,93  | 29   | 0,77  | 17   | 0,53  | 27   | 0,78  |
| Children's rights                                                  | 145  | 4,8   | 157  | 4,32 | 111  | 2,75 | 144  | 3,38  | 161   | 3,7   | 116  | 3,07               | 124  | 2,92  | 158  | 3,59  | 106  | 2,81  | 119  | 3,69  | 153  | 4,42  |
| Urban planning and<br>construction                                 | 162  | 5,36  | 170  | 4,68 | 170  | 4,2  | 146  | 3,43  | 155   | 3,57  | 140  | 3,7                | 168  | 3,95  | 168  | 3,81  | 165  | 4,37  | 158  | 4,90  | 131  | 3,79  |
| Environment                                                        | 15   | 0,5   | 21   | 0,58 | 20   | 0,49 | 26   | 0,61  | 35    | 0,81  | 20   | 0,53               | 26   | 0,61  | 16   | 0,36  | 15   | 0,4   | 22   | 0,68  | 16   | 0,46  |
| Finances                                                           | 48   | 1,59  | 50   | 1,38 | 71   | 1,76 | 101  | 2,37  | 130   | 2,99  | 106  | 2,8                | 407  | 9,58  | 865  | 19,64 | 1039 | 27,52 | 510  | 15,82 | 166  | 4,80  |
| Property – legal relations                                         | 317  | 10,49 | 361  | 9,94 | 401  | 9,92 | 360  | 8,46  | 272   | 6,26  | 261  | 6,9                | 239  | 5,62  | 224  | 5,09  | 174  | 4,61  | 125  | 3,88  | 175  | 5,06  |
| Consumers' rights                                                  | 147  | 4,86  | 277  | 7,63 | 553  | 13,7 | 673  | 15,81 | 948   | 21,81 | 646  | 17,09              | 486  | 11,44 | 368  | 8,36  | 309  | 8,19  | 281  | 8,72  | 230  | 6,65  |
| Penitentiary – correctional and educational –                      |      |       | 347  | 9,55 | 395  | 9,77 | 352  | 5,27  | 278   | 6,4   | 247  | 6,53               | 274  | 6,45  | 257  | 5,84  | 198  | 5,25  | 264  | 8,19  | 247  | 7,14  |
| Persons with special needs                                         |      |       |      |      |      |      |      |       | 10    | 0,23  | 10   | 0,26               | 11   | 0,26  | 9    | 0,2   | 15   | 0,4   | 5    | 0,16  | 21   | 0,61  |
| Census                                                             |      |       |      |      |      |      | 12   | 0,28  | 3     | 0,07  |      |                    |      |       |      |       |      |       |      |       |      |       |
| Eelectoral rights                                                  |      |       |      |      |      |      | 90   | 2,11  |       |       | 42   | 1,11               | 78   | 1,84  | 2    | 0,05  | 65   | 1,72  | 25   | 0,78  | 35   | 1,01  |
| Other                                                              | 226  | 7,48  | 236  | 6,5  | 248  | 6,13 | 206  | 4,84  | 191   | 4,39  | 221  | 5,85               | 230  | 5,41  | 203  | 4,61  | 170  | 4,5   | 240  | 7,45  | 263  | 7,61  |
| TOTAL:                                                             | 3022 | 100   | 3632 | 100  | 4043 | 100  | 4256 | 100   | 4346  | 100   | 3780 | 100                | 4249 | 100   | 4403 | 100   | 3775 | 100   | 3223 | 100   | 3458 | 100   |

In 2018, the Ombudsman continued the practice of direct reception of citizens in the Skopje office, as well as in the offices in Bitola, Kichevo, Tetovo, Kumanovo, Shtip and Strumica. In this way, the citizens were able to directly present the problems they face, their considerations and perceptions referring to the manner in which actions are taken and the attitude of the authorities/institutions towards them as users of rights and services. In that context, a



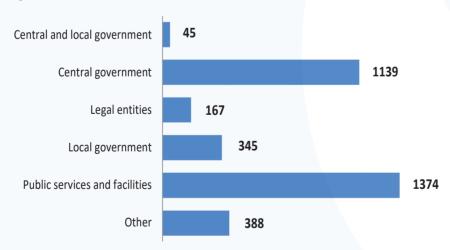
large number of citizens were advised of the legal possibility of exercising their rights before administrative and other bodies.



This year, the Office of the Ombudsman in Skopje acted upon 2.152 complaints, 365 complaints in the office in Bitola, 247 in Tetovo, 235 in Kichevo, 184 in Kumanovo, 156 in Strumica and 119 in Shtip.

Out of 3.458 complaints received in 2018, the highest number of 1.374 or 39,76% refer to violation of rights by public services and institutions, 1.140 or 32,97% refer to violation of rights by the central government, in 345 complaints or 9,98% violation was made by the local government, in 167 complaints or 4,83% the rights were violated by legal entities, in 45 complaints or 1,30% there was violation of rights both by the central as well as local government, and in 387 complaints or 11,19%, the complaints were made in relation to violation of rights of other entities.

#### Graph no.1



Out of the total number of complainants 54,81% or 1.913 citizens reported their ethnicity, while 1.577 or 45,19% did not declare their ethnicity. This statistical data shows that citizens are encouraged and become more certain that the ethnicity issue does not affect the achievement and protection of their human rights and freedoms by the Ombudsman.

The majority of citizens, 1.212 or 34,73% have declared themselves as Macedonians, 477 or 13,67% are members of the Albanian ethnic community, 91 or 2,61% are members of the

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Roma ethnic community; 73 or 2,09% are members of the Turkish ethnic community; 16 or 0,46% are Serbs; 12 or 0,34% have declared themselves as Bosniaks, 9 or 0,26% are Vlachs, 16 or 0,46% are members of other ethnic communities, and the smallest number of complaints are 7 or 0,20% of citizens declaring themselves as Macedonians-Muslims.

#### **Review no.2**

|                                                                               |                  |                        |                                     | 01.01             | TO 34     | 12 201                                  |                                                              |              |                                                   | S                                          |                                                |                                                           |                          |                               |                                                                   |                         |              |
|-------------------------------------------------------------------------------|------------------|------------------------|-------------------------------------|-------------------|-----------|-----------------------------------------|--------------------------------------------------------------|--------------|---------------------------------------------------|--------------------------------------------|------------------------------------------------|-----------------------------------------------------------|--------------------------|-------------------------------|-------------------------------------------------------------------|-------------------------|--------------|
|                                                                               |                  |                        | ý                                   | 01.01.            | 10 31.    |                                         | 8 ACROSS DOMAINS<br>Manner of closing                        |              |                                                   |                                            |                                                |                                                           |                          |                               |                                                                   |                         |              |
|                                                                               |                  |                        | yeaı                                |                   |           | a self-                                 | ٩                                                            |              | V                                                 | iolation                                   | s foun                                         | d                                                         |                          | ÷                             | id<br>date                                                        |                         |              |
| AREA                                                                          | Received in 2018 | Number of complainants | Transferred from the previous years | TOTAL in progress | Anonymous | Number of formed case upon a initiative | With decision for termination on non-initiation of procedure | Legal advice | Opinion, suggestions and recommendations provided | Acted upon the<br>Ombudsman's intervention | All legal activities taken by<br>the Ombudsman | No activities taken upon the<br>Ombudsman's interventions | Information to ministers | Information to the Government | Information to other bodies and organizations with public mandate | Total closed procedures | Pending case |
| Non-discrimination and adequate and equitable                                 |                  |                        |                                     |                   |           |                                         |                                                              |              |                                                   |                                            |                                                |                                                           |                          |                               |                                                                   |                         |              |
| representation                                                                | 77               | 80                     | 15                                  | 92                | 1         | 2                                       | 47                                                           | 1            | 28                                                | 7                                          | 21                                             |                                                           |                          |                               |                                                                   | 77                      | 15           |
| Police procedures                                                             | 199              | 204                    | 107                                 | 306               |           | 1                                       | 142                                                          | 3            | 39                                                | 19                                         | 13                                             | 7                                                         | 1                        |                               | 1                                                                 | 177                     | 12           |
| Civil states and other<br>nterior affairs                                     | 57               | 57                     | 50                                  | 107               |           |                                         | 47                                                           |              | 18                                                | 12                                         | 4                                              | 2                                                         | 1                        |                               |                                                                   | 63                      | 44           |
| Judiciary                                                                     | 945              | 952                    | 179                                 | 1124              | 2         |                                         | 550                                                          | 1            | 78                                                | 72                                         | 1                                              | 5                                                         | 1                        |                               | 1                                                                 | 626                     | 49           |
| Social protection                                                             | 127              | 137                    | 52                                  | 179               |           | 1                                       | 99                                                           |              | 36                                                | 30                                         | 3                                              | 3                                                         |                          |                               |                                                                   | 132                     | 47           |
| _abor relations                                                               | 335              | 382                    | 85                                  | 420               | 3         | 2                                       | 220                                                          | 12           | 108                                               | 59                                         | 40                                             | 9                                                         | 3                        |                               |                                                                   | 334                     | 80           |
| Housing relations                                                             | 35               | 35                     | 2                                   | 37                |           |                                         | 24                                                           |              | 4                                                 | 4                                          |                                                |                                                           |                          |                               |                                                                   | 28                      | 9            |
| Health protection                                                             | 77               | 74                     | 28                                  | 105               |           | 3                                       | 38                                                           | 1            | 46                                                | 31                                         | 15                                             |                                                           |                          |                               |                                                                   | 85                      | 20           |
| Pension and disability nsurance                                               | 142              | 143                    | 38                                  | 180               |           |                                         | 73                                                           | 5            | 63                                                | 51                                         | 11                                             | 1                                                         |                          |                               |                                                                   | 140                     | 4(           |
| Education, science, culture and sport                                         | 27               | 26                     | 7                                   | 34                |           | 1                                       | 20                                                           |              | 9                                                 | 5                                          | 4                                              |                                                           |                          |                               |                                                                   | 29                      | 5            |
| Children's rights                                                             | 153              | 164                    | 18                                  | 171               |           | 23                                      | 80                                                           | 3            | 77                                                | 58                                         | 18                                             | 1                                                         |                          |                               |                                                                   | 159                     | 12           |
| Jrban planning and                                                            | 131              | 226                    | 62                                  | 193               | 1         |                                         | 102                                                          | 1            | 35                                                | 25                                         | 9                                              | 1                                                         |                          |                               |                                                                   | 138                     | 5            |
| Environment                                                                   | 16               | 14                     | 4                                   | 20                | 1         | 1                                       | 10                                                           |              | 4                                                 | 3                                          |                                                | 1                                                         |                          |                               |                                                                   | 14                      | 6            |
| Finances                                                                      | 166              | 166                    | 64                                  | 230               |           |                                         | 70                                                           |              | 110                                               | 100                                        | 7                                              | 3                                                         |                          |                               |                                                                   | 177                     | 53           |
| Property – legal relations                                                    | 175              | 186                    | 35                                  | 210               | 1         | 1                                       | 137                                                          |              | 46                                                | 37                                         | 1                                              | 8                                                         | 2                        | 2                             | 1                                                                 | 176                     | 34           |
| Consumers' rights                                                             | 230              | 233                    | 67                                  | 297               |           |                                         | 194                                                          | 2            | 62                                                | 43                                         | 19                                             |                                                           |                          |                               |                                                                   | 258                     | 39           |
| Penitentiary – correctional<br>and educational –<br>correctional institutions | 247              | 256                    | 90                                  | 337               | 1         | 13                                      | 220                                                          | 17           | 41                                                | 25                                         | 16                                             |                                                           |                          |                               |                                                                   | 279                     | 5            |
| Persons with special needs                                                    | 21               | 20                     | 1                                   | 22                |           | 1                                       | 5                                                            | 1            | 9                                                 | 4                                          | 5                                              |                                                           |                          |                               |                                                                   | 15                      | 7            |
| Electoral rights                                                              | 35               | 32                     | 13                                  | 48                | 5         |                                         | 13                                                           | 2            | 24                                                | 21                                         | 3                                              |                                                           |                          |                               |                                                                   | 44                      | 4            |
| Other                                                                         | 263              | 267                    | 107                                 | 370               | 5         |                                         | 215                                                          | 2            | 63                                                | 41                                         | 16                                             | 6                                                         | 3                        |                               |                                                                   | 279                     | 9            |
| TOTAL:                                                                        | 3458             | 3654                   | 1024                                | 4482              | 20        | 49                                      | 2306                                                         | 51           | 900                                               | 647                                        | 206                                            | 47                                                        | 11                       | 2                             | 3                                                                 | 3230                    | 12           |



According to the place of residence of the complainants, the highest number is from Skopje, that is, 1.558, followed by complainants from Bitola, Tetovo, Kumanovo, Kichevo, Strumica, Shtip, Veles from the other major urban areas, as well as from other states.

#### **Review no.3**

|                     |            |              | EVIES                       |           |           |
|---------------------|------------|--------------|-----------------------------|-----------|-----------|
|                     |            | OF RECE      | VED COMPLAINTS              |           |           |
|                     | ACROSS CIT | TIZES AND ST | TES OF FOREIGN COMPLAINANTS |           |           |
| City                | Year 2017  | Year 2018    | City/state                  | Year 2017 | Year 2018 |
| Berovo              | 2          | 5            | Negotino                    | 20        | 13        |
| Bitola              | 233        | 303          | Ohrid                       | 77        | 59        |
| Bogdanci            | 5          | 4            | Pehcevo                     | 5         | 1         |
| Valandovo           | 5          | 3            | Prilep                      | 62        | 57        |
| Veles               | 43         | 89           | Probistip                   | 11        | 11        |
| Vinica              | 7          | 5            | Radovis                     | 29        | 14        |
| Debar               | 15         | 7            | Resen                       | 7         | 8         |
| Delcevo             | 4          | 10           | Skopje                      | 1291      | 1558      |
| Demir Hisar         | 5          | 7            | Struga                      | 20        | 26        |
| Demir Kapija        | 3          | 1            | Strumica                    | 171       | 137       |
| Dojran              | 1          |              | Sveti Nikole                | 12        | 11        |
| Gevgelija           | 21         | 27           | Tetovo                      | 306       | 259       |
| Gostivar            | 102        | 37           | Stip                        | 119       | 96        |
| Kavadarci           | 40         | 45           | USA                         |           | 1         |
| Kicevo              | 134        | 178          | Bosnia and Herzegovina      | 1         | 1         |
| Kocani              | 25         | 22           | Germany                     | 2         |           |
| Kratovo             | 4          | 15           | Kosovo                      |           | 1         |
| Kriva Palanka       | 20         | 22           | Serbia                      | 4         | 1         |
| Krusevo             | 8          | 5            | Turkey                      | 1         |           |
| Kumanovo            | 228        | 187          | Hungary                     |           | 1         |
| Makedonska Kamenica | 1          | 3            | France                      |           | 1         |
| Maкedonski Brod     | 13         | 30           | City or state not selected  | 166       | 197       |
| Mavrovo             | 1          |              |                             |           |           |
|                     |            |              | ВКУПН                       | o∙ 3223   | 3458      |

#### DATA BY AREA OF COMPLAINTS

The highest number of complaints were received in the area of: judiciary 945 or 27,33%; labor relations 335 or 9,69%, penitentiary and correctional institutions 247 or 7,14%, consumer rights (communal and other allowances) 230 or 6,65%, protection of rights of the police authorizations 199 or 6,52%, property and legal area 175 or 5,75%; finances and financial operations 166 or 4,80%; protection of children's rights 153 or 4,42%; pension and disability insurance 142 or 4,11%; urbanism and construction 131 or 3,79%; social protection 127, or 3,67%; health care, non-discrimination and adequate legal representation 77 or 2,23%; civil states and other internal affairs 57 or 1,65%; electoral rights and housing relations 35 or 1,01%, education, science, culture and sports 27 or 0,78%; children and people with special needs 21 or 0,61%; environment 16 or 0,46% as well as from other areas where 263 or 7,61% of complaints were received.

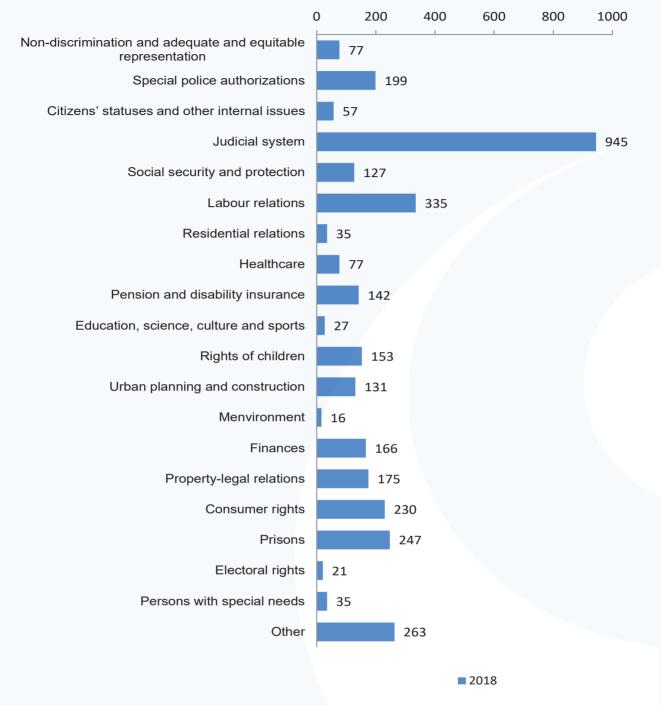
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#### **Review no.4**

|                                                                               |                                                                                   |                               |                                                    | 01.01. | TO 31                                            | .12.201                                                      | 8 ACRO           | DSS E                                             | OMAIN                                      | S                                              |                                                           |                          |                               |                                                                   |                         |              |    |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-------------------------------|----------------------------------------------------|--------|--------------------------------------------------|--------------------------------------------------------------|------------------|---------------------------------------------------|--------------------------------------------|------------------------------------------------|-----------------------------------------------------------|--------------------------|-------------------------------|-------------------------------------------------------------------|-------------------------|--------------|----|
|                                                                               |                                                                                   |                               | ñ                                                  |        |                                                  | 4                                                            |                  | N                                                 | lanner o                                   | of closir                                      | g                                                         |                          |                               |                                                                   |                         |              |    |
|                                                                               | Received in 2018<br>Number of complainants<br>Transferred from the previous years | s yea                         | yea                                                |        | a se                                             | a se                                                         | Violations found |                                                   |                                            |                                                | d                                                         |                          | Ħ                             | nd<br>ndate                                                       |                         |              |    |
| AREA                                                                          |                                                                                   | Transferred from the previous | Transferred from the previous<br>TOTAL in progress |        | Number of formed case upon a self-<br>initiative | With decision for termination or non-initiation of procedure | Legal advice     | Opinion, suggestions and recommendations provided | Acted upon the<br>Ombudsman's intervention | All legal activities taken by<br>the Ombudsman | No activities taken upon the<br>Ombudsman's interventions | Information to ministers | Information to the Government | Information to other bodies and organizations with public mandate | Total closed procedures | Pending case |    |
| Non-discrimination and<br>adequate and equitable                              | 77                                                                                | 80                            | 15                                                 | 92     | 1                                                | 2                                                            | 47               | 1                                                 | 28                                         | 7                                              | 21                                                        |                          |                               |                                                                   |                         | 77           | 15 |
| epresentation<br>Police procedures                                            | 199                                                                               | 204                           | 107                                                | 306    |                                                  | -                                                            | 142              | 3                                                 | 39                                         | 19                                             | 13                                                        | 7                        | 1                             |                                                                   | 1                       | 177          | 12 |
| Civil states and other nterior affairs                                        | 57                                                                                | 57                            | 50                                                 | 107    |                                                  |                                                              | 47               |                                                   | 18                                         | 12                                             | 4                                                         | 2                        | 1                             |                                                                   |                         | 63           | 44 |
| Judiciary                                                                     | 945                                                                               | 952                           | 179                                                | 1124   | 2                                                |                                                              | 550              | 1                                                 | 78                                         | 72                                             | 1                                                         | 5                        | 1                             |                                                                   | 1                       | 626          | 49 |
| Social protection                                                             | 127                                                                               | 137                           | 52                                                 | 179    |                                                  | 1                                                            | 99               |                                                   | 36                                         | 30                                             | 3                                                         | 3                        |                               |                                                                   |                         | 132          | 47 |
| _abor relations                                                               | 335                                                                               | 382                           | 85                                                 | 420    | 3                                                | 2                                                            | 220              | 12                                                | 108                                        | 59                                             | 40                                                        | 9                        | 3                             |                                                                   |                         | 334          | 86 |
| lousing relations                                                             | 35                                                                                | 35                            | 2                                                  | 37     |                                                  |                                                              | 24               |                                                   | 4                                          | 4                                              |                                                           |                          |                               |                                                                   |                         | 28           | 9  |
| lealth protection                                                             | 77                                                                                | 74                            | 28                                                 | 105    |                                                  | 3                                                            | 38               | 1                                                 | 46                                         | 31                                             | 15                                                        |                          |                               |                                                                   |                         | 85           | 20 |
| Pension and disability<br>nsurance                                            | 142                                                                               | 143                           | 38                                                 | 180    |                                                  |                                                              | 73               | 5                                                 | 63                                         | 51                                             | 11                                                        | 1                        |                               |                                                                   |                         | 140          | 4  |
| Education, science, culture<br>and sport                                      | 27                                                                                | 26                            | 7                                                  | 34     |                                                  | 1                                                            | 20               |                                                   | 9                                          | 5                                              | 4                                                         |                          |                               |                                                                   |                         | 29           | 5  |
| Children's rights                                                             | 153                                                                               | 164                           | 18                                                 | 171    |                                                  | 23                                                           | 80               | 3                                                 | 77                                         | 58                                             | 18                                                        | 1                        |                               |                                                                   |                         | 159          | 13 |
| Jrban planning and                                                            | 131                                                                               | 226                           | 62                                                 | 193    | 1                                                |                                                              | 102              | 1                                                 | 35                                         | 25                                             | 9                                                         | 1                        |                               |                                                                   |                         | 138          | 5  |
| Environment                                                                   | 16                                                                                | 14                            | 4                                                  | 20     | 1                                                | 1                                                            | 10               |                                                   | 4                                          | 3                                              |                                                           | 1                        |                               |                                                                   |                         | 14           | 6  |
| inances                                                                       | 166                                                                               | 166                           | 64                                                 | 230    |                                                  |                                                              | 70               |                                                   | 110                                        | 100                                            | 7                                                         | 3                        |                               |                                                                   |                         | 177          | 5  |
| Property – legal relations                                                    | 175                                                                               | 186                           | 35                                                 | 210    | 1                                                | 1                                                            | 137              |                                                   | 46                                         | 37                                             | 1                                                         | 8                        | 2                             | 2                                                                 | 1                       | 176          | 3  |
| Consumers' rights                                                             | 230                                                                               | 233                           | 67                                                 | 297    |                                                  |                                                              | 194              | 2                                                 | 62                                         | 43                                             | 19                                                        |                          |                               |                                                                   |                         | 258          | 3  |
| Penitentiary – correctional<br>and educational –<br>correctional institutions | 247                                                                               | 256                           | 90                                                 | 337    | 1                                                | 13                                                           | 220              | 17                                                | 41                                         | 25                                             | 16                                                        |                          |                               |                                                                   |                         | 279          | 5  |
| Persons with special needs                                                    | 21                                                                                | 20                            | 1                                                  | 22     |                                                  | 1                                                            | 5                | 1                                                 | 9                                          | 4                                              | 5                                                         |                          |                               |                                                                   |                         | 15           | 7  |
| Electoral rights                                                              | 35                                                                                | 32                            | 13                                                 | 48     | 5                                                |                                                              | 13               | 2                                                 | 24                                         | 21                                             | 3                                                         |                          |                               |                                                                   |                         | 44           | 4  |
| Other                                                                         | 263                                                                               | 267                           | 107                                                | 370    | 5                                                |                                                              | 215              | 2                                                 | 63                                         | 41                                             | 16                                                        | 6                        | 3                             |                                                                   |                         | 279          | 9  |
| TOTAL:                                                                        | 3458                                                                              | 3654                          | 1024                                               | 4482   | 20                                               | 49                                                           | 2306             | 51                                                | 900                                        | 647                                            | 206                                                       | 47                       | 11                            | 2                                                                 | 3                       | 3230         | 12 |



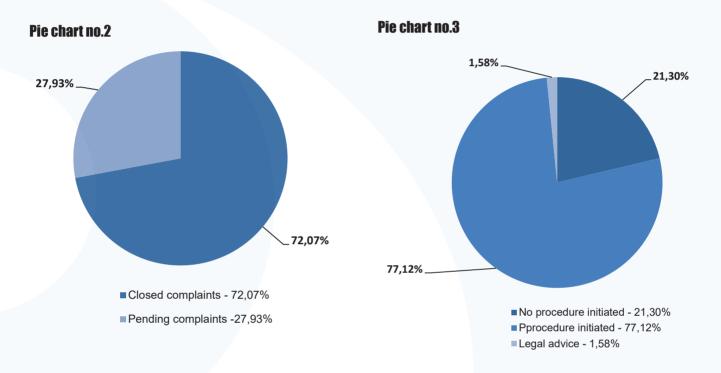
#### Graph no.2



## **ACTIONS TAKEN**

From the total number of 4.482 complaints handled in 2018, the procedure was completed in 3.230 cases or 72,07%, while 1.252 complaints or 27,93% of the proceedings are ongoing. (Pie chart no.2)

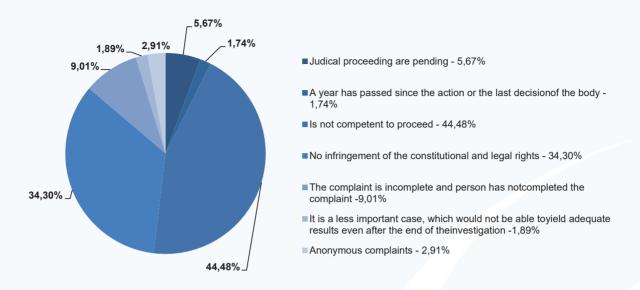
Out of 3.230 complaints, 688 or 21,30% of the cases were not initiated, in 2.491 cases or 77,12% of the complaints cases were initiated, and in 51 or 1,58% cases the Ombudsman was giving legal advice after analyzing the legal regulation, and was directing the citizens towards possible solution after their questions were submitted to the Ombudsman, thus exercising their rights. (Pie chart no.3)



Out of 688 complaints that have not been initiated, in 306 or 44,48% cases the Ombudsman is not competent to act, and in 236 or 34,30% cases, the issue is not a violation of the constitutional and legal rights. Furthermore, in 62 or 9,01% of the cases the complaint was not complete, and the complainant did not fully complete the complaint, in 39 or 5,67% cases court proceedings took place, 13 cases or 1,89% are less significant cases where even after their completion, the outcome could not have presented adequate results, 12 cases or 1,74% where counted from the the action taken or the last decision, more than 1 year has passed, and 20 or 2,91% of the cases were anonymous, in which the dissatisfaction from certain conditions is usually expressed, or a violation of a particular right is indicated, and but no data on the body nor the person whose right has been violated is included, not even data on possible contact of somebody who can be contacted for supplementing the complaint. (Pie chart no.4)



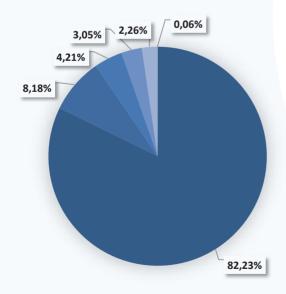
### Pie chart no.4



Out of 2.491 completed cases in which the Ombudsman took actions, in 853 or 34,24% it finds violation of human freedoms and rights, and intervened in order to eliminate the violations or exercise the rights of the submitting citizens. In 1.638 cases or 65,76% the procedure was stopped after measures and actions were taken for examination of the allegations from the complaint and no violation of the human rights and freedoms were found.

Specifically, in 1.347 or 82,23% cases the procedure was stopped because no violation of the rights was found, in 134 or 8,18% the complainant had exercised its right in the meantime, in 69 or 4,21% the complainant showed no interest for further proceedings, in 50 or 3,05% during the procedure after the complaint was submitted a court proceeding was initiated, in 37 or 2,26% the complainant withdrew the complaint, and in 1 or 0,06% the complainant died and his successors did not request continuation of the procedure. (Pie chart no.5)

#### Pie chart no.5

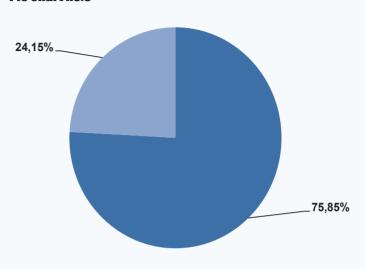


- After the termination of the procedure following the submission, it is concluded that there is no infringement of the constitutional and legal rights -82,23%
- The person who put forward the submission has been realised your rights in the meantime - 8,18%
- The person who put forward the submission does not show interest for further procedure - 4,21%
- The person who put forward the submission initiates court proceedings during the procedure upon the submission - 3,05%
- The person who put forward the submission withdraws it during the procedure 2,26%
- The person who put forward the submission dies during the procedure unless his successors demand the continuation of the commenced procedure - 0,06%

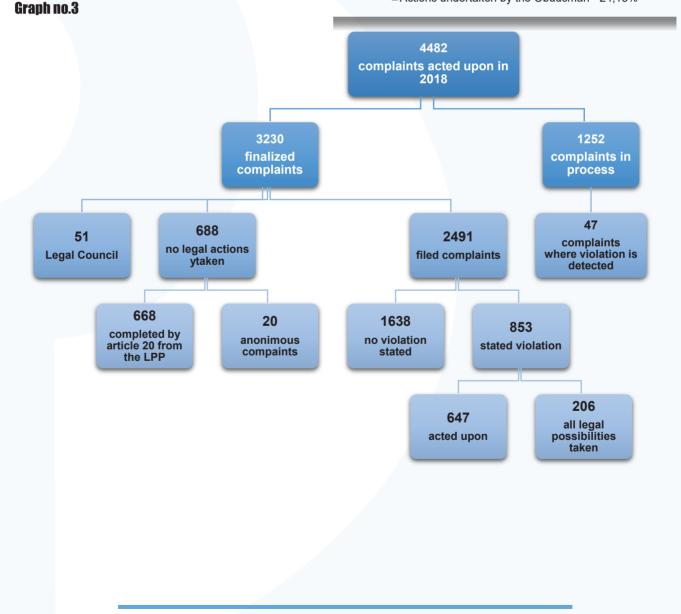
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Out of the total number of completed complaints, in 853 cases, the Ombudsman found violations and took all the necessary legal actions. Out of them, in 647 or 75,85% of cases, the state administration bodies, other bodies and organizations with public authorizations accepted the Ombudsman's interventions, and for 206 or 24,15% of the cases after the registered violation, the Ombudsman submitted a recommendation to the appropriate body which was not accepted, after which the Ombudsman undertook other actions, that is, it informed higher authorities thus having tried all possible solutions. (Pie chart no.6)





Acted upon Ombudsman's intervention - 75,85%Actions undertaken by the Obudsman - 24,15%



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# **VIOLATIONS DETECTED AND MEASURES TAKEN**

Of the total of 3.743 cases that the Ombudsman handled, in 900 or 24,04% of the cases, violations of human freedoms and rights of citizens were found. Out of these, in 647 cases (71,89%), the state administration bodies, other bodies and organizations with public authorizations accepted the Ombudsman's interventions, in 47 cases (5,22%) the procedure is still pending, and in 206 cases (22,89%) (after the violation and after submitted recommendation were not accepted, other actions were undertaken in the form of information and special reports) The Ombudsman exhausted all legal possibilities.

Compared to 2017, data show that in 2018 there is a decrease in the number of violations found by 7,60%. On the other hand, the data analysis in relation to accepted recommendations /indications shows a decrease by 13,42% compared to 2017 when the percentage of accepted recommendations was 85,31%.

Worrying is the fact that in 22,89% of the cases where violations were found and the Ombudsman intervened for their removal, the authorities did not act, that is, they remained on the position that no violation was committed, therefore the Ombudsman exhausted all legal possibilities and most often referred further protection in court proceedings. This points to the fact that there are still uncertainties in the legal regulations, as well as lack of reluctance of the responsible persons to cooperate with the Ombudsman, thus harming the citizens regarding the respect and exercising of their rights.



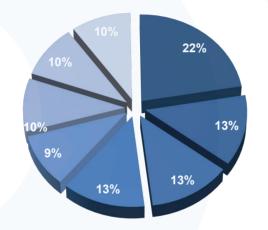
This reporting year, most of the violations found were in the area of finances and financial operations, 110 or 12,22%, of which in 100 cases or 90,91% the Ombudsman intervened. Second on the list are the complaints related to work relations where violations were found in 108 cases or 12,00% of which in 59 cases or 54,63% the Ombudsman's interventions were accepted. The complaints in the judiciary area were 78 or 8,67%, of which in 72 cases or 92,31% the Ombudsman's advice was accepted. In the complaints related to protection of the rights of the children 77 or 8,56% were registered where in 58 cases or 75,32% Ombudsman's interventions were accepted; In the area of pension and disability insurance, 63 cases or 7,00% violations were found where in 51 cases or 80,95% the Ombudsman's interventions were accepted. In the complaints from the consumer rights, 62 cases or 6,69% registered violations of which in 43 cases or 69,35% the Ombudsman's interventions were accepted. In the complaints of property and legal relations, out of 46 cases or 5,11%, in 37 cases or 80,43% the Ombuds-

#### Graph no.4

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man's interventions were accepted. The Ombudsman also noted the same violations of human rights and freedoms in the field of health care, out of which in 31 cases or 67,39% the bodies and organizations with public authorizations acted upon the intervention of the Ombudsman. These are followed by the complaints from the penitentiary and correctional institutions, police authorities, social protection, urbanism and construction etc.

Despite the legal obligation of the authorities to cooperate with the Ombudsman, and in this context, within the deadline that they will determine to inform the Ombudsman about the measures taken in the reporting period, part of the competent bodies, such as the Ministry of Finance, the local self-government units, PE "Macedonan Forests", the Ministry of Information Society and Administration, the PI Inter-municipal Center for Social Work and the Public Prosecution Office have not yet acted upon the interventions or have acted incompletely after the suggestions, proposals, recommendations, opinions and other interventions made by the Ombudsman.



#### **Pie Chart no.7**

- Ministry of Finance 7
- Local self-government units 4
- PE "Macedonan Forests" 4
- Ministry of Information Society and Administration, 4
- PI Inter-municipal Center for Social Work 3
- Public Prosecution Office 3
- Public Enterprice National Radio Television 3
- Ministry of Interior Affairs 3



# **ABOUT THE INSTITUTION**



## **ORGANIZATION AND OPERATION METHOD**

The extension of the competencies of the institution through the establishment of the Ombudsman as a mechanism for civil control of the behaviour of people with police powers and members of the prison police and as a mechanism for promoting, protecting and monitoring the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, raised a need to take action and harmonize the internal organization and operation method.

Having in mind this situation, and in order to provide assumptions for full scope realization of the expanded competences, the Ombudsman in the reporting year made changes and amendments to the general acts for work organization and job systematization in the Professional Service, the team of National Preventive Mechanism, the special departments and the offices of the Ombudsman, to which the Assembly gave its consent.

Namely, a new organizational unit was established by the Ombudsman - a civil control mechanism, while the Department for the Protection of the Rights of Children and Persons with Special Needs was changed to the Department for Protection of the Rights of Children and Persons with Disabilities.

Consequently, the organization and scope of work of the Professional Service is regulated in accordance with the authorizations of the Ombudsman, defined in the Constitution and the Law on the Ombudsman, and as internal organizational units, consists of 11 departments, the National Preventive Mechanism Team, the Ombudsman - a civil control mechanism and 3 (three) departments.

In this segment and for successful implementation of the overall competence of the Institution, the obligation to provide normative assumptions for the independence of the employees of the Ombudsman by separating them from the state administration remains.

## PESONNEL

In order to perform the duties of the Professional Service, the National Preventive Mechanism Team, the Ombudsman - Civil Control Mechanism, the Special Departments and the Ombudsman's Offices, 99 job posts for a total of 141 employees were established.

In the reporting year, the Ombudsman practically implemented the legal provisions to decide upon the employment, promotion and establishment of working relationship in the Professional service and independently conducted an employment procedure, with technical support from the Agency for Administration.

In addition, the employments carried out in the first half of 2018 staffed the National Preventive Mechanism with one state advisor and two advisers, and one state advisor and one advisor were hired so that the Ombudsman could act as a friend of the court (amicus curiae).

In addition, the Ministry of Finance has already given approval to fill the envisaged jobs



(one state counselor and two counselors in the Ombudsman's office - a civil control mechanism, and one state counselor and two advisers in the Department for children's rights and persons with disabilities, which has the authority to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities, which are to be implemented with the 2019 Budget.

The total number of employees in the institution at the end of the year at was 79 people, including 8 appointed people - 1 ombudsman and 7 deputies (3 in Skopje and 4 in the cities of Kumanovo, Strumica, Tetovo and Shtip).

|                              | Employ | /ees by<br>Ider | LEVEL OF EDUCATION<br>Post-<br>Higher secondary Secondary Primary<br>education education education |    |   |   |   |   |   |   | -     |
|------------------------------|--------|-----------------|----------------------------------------------------------------------------------------------------|----|---|---|---|---|---|---|-------|
|                              | M      | F               | м                                                                                                  | F  | М | F | М | F | м | F | Total |
| Managerial job positions     | 12     | 12              | 12                                                                                                 | 12 |   |   |   |   |   |   | 24    |
| Non-managerial job positions | 16     | 31              | 8                                                                                                  | 24 |   |   | 8 | 7 |   |   | 47    |
| Total                        | 28     | 43              | 20                                                                                                 | 36 |   |   | 8 |   |   |   | 71    |

Qualification, gender and ethnic structure of the employees:

|                              |            | (         | сомми | JNITY A | FFILIA   | TION   |          |       | ses           |
|------------------------------|------------|-----------|-------|---------|----------|--------|----------|-------|---------------|
|                              | Macedonian | Albanians | Turks | Roma    | Serbians | Vlachs | Bosniaks | Other | total employe |
| lanagerial job positions     | 15         | 6         |       |         | 1        | 1      | 1        |       | 24            |
| lon-managerial job positions | 17         | 22        | 1     | 2       | 2        | 1      | 2        |       | 47            |
| otal                         | 32         | 28        | 1     | 2       | 3        | 2      | 3        |       | 71            |

## **FINANCIAL MEANS**

The overall approved budget for the Ombudsman for 2018 was 4.29% higher compared to the 2017 budget. During the year, there was also a rebalance in which the institution suffered a decrease in the amount of MKD 6,000,000.00 (from MKD 78,465,000.00 to MKD 72,465,000.00) in the part for salaries, which did not have any negative consequences on the regular operation.

More specifically, after the rebalance, the Ombudsman budged amounted to MKD 71,940,000.00 and the National Preventive Mechanism subprogram to MKD 525,000.00.

After the rebalance of the budget and four different funds transfers during 2018, the percentage of the budget was realized in the following way: 63% of the budget of the Ombudsman was used for basic salaries and social security contributions, 34% for goods and services, and 3 % for capital expenditures.

The budget of the Ombudsman for 2018 was realized in the amount of 93.82%.

As for the NPM subprogram, there was no increase in 2018 compared to 2017 (the difference is only MKD 2,000.00). As every year, the realization is concentrated on goods and services, and the biggest item is for Contract services. With respect to the approved budget, the realization is 91.99%.

The overall budget was realized in the amount of 93.81%.

| Sub-<br>items | Description                         | NP budget<br>2018 | NPM budget<br>2018 | NP realization<br>2018 | NPM<br>realization<br>2018 | remaining   | % NP  | % NPM  |
|---------------|-------------------------------------|-------------------|--------------------|------------------------|----------------------------|-------------|-------|--------|
| 401           | Basic salaries                      | 31.755.000,00     |                    | 31.273.068,00          |                            | 481.932,0   | 98,48 |        |
| 402           | Contributions for social insurance  | 11.745.000,00     |                    | 11.561.886,00          |                            | 183.114,0   | 98,44 |        |
| 40            | Salaries and supplements            | 43.500.000,00     |                    | 42.834.954,00          |                            | 665.046,0   | 98,47 |        |
| 420           | Travel and daily allowances         | 1.860.000,0       | 40.000,0           | 1.021.637,0            | 19.115                     | 859.248,0   | 54,93 | 47,79  |
| 421           | Public utility services             | 4.970.000,0       | 32.000,0           | 4.015.991,0            | 31.269                     | 954.740,0   | 80,80 | 97,72  |
| 423           | Materials and tools                 | 720.000,0         | 25.000,0           | 445.779,0              | 25.000                     | 274.221,0   | 61,91 | 100,00 |
| 424           | Repair and current maintenance      | 1.800.000,0       |                    | 1.302.335,0            |                            | 497.665,0   | 72,35 |        |
| 425           | Contracted services                 | 15.800.000,0      | 416.000,0          | 14.855.269,0           | 406.628                    | 954.103,0   | 94,02 | 97,75  |
| 426           | Other operational expenses          | 1.200.000,0       | 12.000,0           | 1.013.948,0            | 930                        | 197.122,0   | 84,50 | 7,75   |
| 42            | Good and services                   | 26.350.000,0      | 525.000,0          | 22.654.959,0           | 482.942                    | 3.737.099,0 | 85,98 | 91,99  |
| 464           | Various transfers                   | 150.000,0         |                    | 149.745,0              |                            | 255,0       | 99,83 |        |
| 46            | Total transfers                     | 150.000,0         |                    | 149.745,0              |                            | 255,0       | 99,83 |        |
| 480           | Payments after executed documents   | 1.160.000,0       |                    | 1.133.608,0            |                            | 26.392,0    | 97,72 |        |
| 483           | Buying furniture                    | 300.000,0         |                    | 241.399,0              |                            | 58.601,0    | 80,47 |        |
| 485           | Investment and non-financial assets | 480.000,0         |                    | 479.893,0              |                            | 107,0       | 99,98 |        |
| 48            | Total capital expenditures          | 1.940.000,0       | 0,0                | 1.854.900,0            | 0,0                        | 85.100,0    | 95,61 |        |
|               | TOTAL                               | 71.940.000,0      | 525.000,0          | 67.494.558,0           | 482.942                    | 4.487.500,0 | 93,82 | 91,99  |
|               | TOTAL                               | 72.465.000,0      |                    | 67.977.                | 67.977.500,0               |             |       | ,81    |

In the reporting year, the Ombudsman continued with the fulfillment of his mandate and responsibilities with support-donations from the international organization - the High Commissioner for Refugees UNHCR.

Financial support in the amount of MKD 3,557,952.00 was received and 79% of amount was spent in accordance with the provisions of the Law on Public Procurement and concluded contracts on this basis, as well as with the project's executors. The remaining funds were transferred for use in 2019. 93% of the realized amount was used for contractual services, 3% for travel and daily expenses and 4% for other current expenditures.

| Sub-<br>items | Description                 | UNHCR<br>budget 2018 | UNHCR realization<br>2018 | remaining | %     |
|---------------|-----------------------------|----------------------|---------------------------|-----------|-------|
| 420           | Travel and daily allowances | 442.519,00           | 93.456,0                  | 349.063,0 | 21,12 |
| 425           | Contracted services         | 3.015.433,00         | 2.625.138,0               | 390.295,0 | 87,06 |
| 426           | Other operational expenses  | 100.000,00           | 98.800,0                  | 1.200,0   | 98,80 |
| 42            | Good and services           | 3.557.952,0          | 2.817.394,0               | 740.558,0 | 79,19 |

2018 marked the cooperation with the Embassy of the Republic of Bulgaria, which financially supported the implementation of the project "Inclusion of Roma after the end of the Roma Decade: Current situation and challenges". The project is successfully completed by the end of the year, in accordance with the planned timeframe, in the amount of 1.602.429,00 MKD. The funds were allocated for the needs of the Project, including the study visit, translation needs, research, organizing a regional conference, organizing and conducting project audit by an external auditing firm, printing materials for the above stated needs and again, all this was ensured through the application of the provisions of the Law on Public Procurement.

The budget for 2019 is 19.08% higher than the budget for 2018 and it has been harmo-



| Sub-<br>items | Description                 | Project "Inclusion<br>of Roma" budget<br>2018 | Project "Inclusion of<br>Roma" realization<br>2018 | remaining | %     |
|---------------|-----------------------------|-----------------------------------------------|----------------------------------------------------|-----------|-------|
| 420           | Travel and daily allowances | 92.954,00                                     | 92.814,0                                           | 140,0     | 99,85 |
| 425           | Contracted services         | 1.957.104,00                                  | 1.509.615,0                                        | 447.489,0 | 77,14 |
| 42            | Good and services           | 2.050.058,0                                   | 1.602.429,0                                        | 447.629,0 | 78,17 |

nized with the Government, which creates assumptions for the full capacity of the institution and full realization of all new competencies the institution obtained with the amendments to the Law.

The mechanism for external control of the police and the prison police, which was in the phase of constitution through legal changes, received a separate budget subprogram from 2019, as well as the Mechanism for the rights of children and persons with disabilities.



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