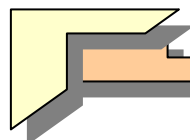


## Highlights in the work of the Ombudsman in 2006



Self-initiativeness, monitoring the events by case investigations and immediate insight were the manners and methods of the Institution's work, and our interest was mainly focused on:

- informing the citizens on the competences and possibilities of the institution in practicing and protection of their rights;
- self-initiativeness as a principle of conduct through immediate investigation of conditions in the corresponding areas;
- conducting measures and activities for analysis and assessment of conditions connected with the premise of non-discrimination and adequate and equitable representation;
- use of the instrument of public criticism and closer cooperation with the media.

### **The above is based on our moto**

*We help citizens practice their rights and freedoms in an easier way; public administration to become a real service and promote the relations between the authorities and the citizens.*

### **as well as our principles:**

*We follow and monitor the activities of the authorities publicly, honestly and professionally.*

*Equal in the relation towards all.*

*Professional in our work, open for suggestions and willing to progress permanently.*



### **We managed 758 citizens to practice their right**

During the report year, the Ombudsman assisted 758 citizens to practice their freedoms and rights after conducted procedures, confirmed violations and addressed interventions.

### **There is no special treatment for children – victims of family violence**

The manner in which the centers for social welfare provide protection of children from family violations was a subject of a thorough investigation by the Ombudsman. The conditions perceived were alarming. As a result of this, amendment of the legislative as well as undertaking special measures for protection of children from family violations was requested. At the same time, the public was informed on the issue.



### **Elementary education is not free!**

The Ombudsman requested the Ministry of Education and Science and the Government of the Republic of Macedonia to determine by law that financial conditions of the families or inappropriate conditions in the schools would not represent a reason for nonattendance of elementary education.

The Ministry of Education and Science agreed to allocate financial means for this purpose.

### **Why did not anybody protect the three-year-old Amid?**

This was the reaction by the Ombudsman after the information that a three-year-old boy was about to lose his life in the “Cicino Selo” camp site, as a result of family molestation by the unwed husband of his minor mother. Consequently, the Ombudsman requested protection for both the child and the mother and responsibility by the authorities in charge of this case.

**Result:** *the Manager of the International Social Welfare Center was dismissed, and the mother and the child were taken care of by the Social Welfare Center.*

### **Children with special needs do not have equal possibilities for participation in the process of elementary education**

The research by the Ombudsman showed that besides the positive results achieved by incorporating the children with special needs in the education process, this group of children still have obstacles in being included in the elementary education. This information was proceeded to the Ministry of Education and Science and the Government of R. Macedonia, with a request for undertaking appropriate activities.

### **Elementary school teacher found guilty of molesting a pupil**

This was a result of filing charges by the Ombudsman after a conducted procedure and confirmed molestation of a pupil.

### **The Ombudsman prevented an attempt for the citizens to menially serve the state**

After the municipalities and the city of Skopje had asked the citizens to report their assets once more, the Ombudsman implied that the citizens did not have the obligation to report assets which had already been reported. The intervention resulted in withdrawal of the registration papers.

### **Stop for the illegal collective utilities disconnections**

The Ombudsman firmly opposed the illegal collective utilities disconnections of citizens as a result of unpaid bills. The recommendations were accepted.

### **Irresponsible behaviour regarding the Ombudsman's indications**

Are not we supposed to be concerned by the fact that the citizens drink yellowish water with an oily smell or that they breathe air which smells of sulphur or some other chemical substance, as well as the plague of the fish in our rivers? The Ministry of Environment constantly repeats that "everything is within the maximally allowed limits", demonstrating irresponsible attitude towards these issues.

### **Molested soldiers in Bitola Army Barracks**

The investigation conducted proved that a lieutenant abused his official position by physically and psychologically molesting soldiers. The Ombudsman filed a crime charge. The legal procedure is in process.

### **Unprofessional treatment by the Police – a reason for the loss of a minor's life**

In May 2006, the minor Trajan Bekirov from Skopje lost his life in the river Vardar as a result of unprofessional treatment by members of the Special Police Unit for fight against crime. Internal Audit Department at the Ministry of Interior Affairs and the Public Prosecutor did not find it necessary to request clarifications of this case by conducting independent investigations by an authorized investigative judge.

### **Twenty-eight years in search of a validity of a judicial decree**

Waiting for the validity of a probate decree by the Basic Court Skopje I in Skopje No. 550/78 from 10 November 1978, the heir P.C. died, and her heirs are still hoping that they will not share their mother's destiny, expecting that the Court will find a solution for the probate decree to be declared valid.



### **Two prison supervisors convicted for molestation of a prisoner**

After the Ombudsman confirmed violation of human rights of a prisoner for molestation, filed charges and the supervisors were found guilty for the crime done.

### **Illegal sale of a construction land**

Although the Ombudsman submitted a petition for nullity of an agreement for sale of building land because a part of that land was subject of denationalization process – it did not happen.

### **The Ombudsman – a promoter of administrative reforms**

This was the topic of the seminar organized by the Ombudsman in Ohrid in cooperation with the Ombudsman of Greece (Project “Eunomia”) and the Ombudsman of Catalonia.

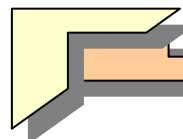


### **The cooperation with the Ombudsman – a relevant factor for the development of democracy**

In cooperation with the Project of the European Union “TAIEX” from 20<sup>th</sup> to 22<sup>nd</sup> December in Skopje, the Ombudsman organized an international conference. The Ombudsmen from all the countries in the region as well as the Ombudsmen of Austria, Catalonia and Sweden took part, as well as representatives of the International and European Ombudsman Institute.



## **Transparency in work and international activities**



Once more this reporting year, the established practice of open and transparent functioning in order to make the Institution closer to the citizens proved to be a successful way of achieving results in terms of its appropriate positioning as a controlling mechanism which is necessary for the functioning of any democratic society, a kind of society Republic of Macedonia aspires to become.

If we consider 2005 as a year of introducing new methods and mode of work, it can be certainly highlighted that 2006 was a year of achieving results both in the country and on international level.

Namely, in this reporting year, the Ombudsman was making efforts accurately, consistently and efficiently to undertake activities for protection of citizens' rights, at the same time to inform the publics, the citizens on the results of its investigations since it is their fundamental right to be informed on the manners the public administration performs its work.

The use of the instrument "public criticizing" was once more utilized as an additional pressure towards state bodies in order the citizens' rights to be practiced consistently, but permanently after a conducted investigation and objectively confirmed conditions which is an indicator for the credibility and the level of responsibility the Ombudsman Institution has.

The so called "soft approach" immanent for the Ombudsman Institutions, since they do not have a enforcement instrument, proved to be an appropriate manner for objective consideration of the actual conditions even in the most delicate cases when the public was forced to shape the opinion based on hasty conclusions by certain subjects in the society, which were not mainly based on real facts and circumstances. In cases like these, the Ombudsman conducted the procedures to the final instances as well, afterwards informing the public on its stands and opinion.



This approach of informing strengthened the Ombudsman's position in the publics and fortified the citizens' belief, which is obvious by the increased number of complaints and letters of appreciation received by citizens who practiced their rights after a procedure conducted by the Ombudsman.

The Institution was not oriented only towards expressing the negative conditions

created by the functioning of state bodies, but at the same time emphasizing the positive changes in behaviour and work of the state bodies which leads to the fact that the Ombudsman was not established only to correct and criticize the authorities, but to assist their successful functioning.



This certainly did not eliminate completely the communication obstacles with the state bodies which further on did not, to a certain extent, respect the requests by the Ombudsman, which illustrates the level and quantity of knowledge they have on the Ombudsman competences.

According to this, the Ombudsman frequently accented that the citizens were more informed on its powers in comparison with the state bodies which are supposed to cooperate with this institution and implement its requests and suggestions so that the citizens can practice their rights.

In 2006 the Ombudsman conducted several wide-ranged investigations on family abuse, inclusion of children with special needs in the education process, held a press conference to inform the publics on the conditions in terms of the work of the respecting authorities, asking for undertaking intensive actions for improvement of legislative in this sphere, for special defining of family abuse of children and a more successful protection from this phenomenon.

The conditions analysis in the prisons resulted in a thorough information on this particularly delicate sphere. In order for the public to be informed on this and additional aspects in the society they were placed on the Ombudsman website, which is permanently updated with information on the work and

activities of the Institution, both on domestic and international level.

It should be emphasized as well that the International community in 2006, once again proved to be an important factor for the strengthening of the Ombudsman position, having in mind that this Institution worked on professional and technical capacity building projects during whole year.

Namely, in cooperation with OSCE Mission in the Republic of Macedonia and with the financial help of the Swedish Agency for Development "SIDA", on the basis of previously performed evaluation by a foreign expert, the projects planned for 2006 were completely implemented.

In relation to this, a training for strengthening the skills for acting upon complaints, provided for every employee in the head office, as well as the regional offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip was organized. The training was conducted by Mr. Timo Manninen, who had previously performed the capacities evaluation of the Institution.

The project for knowledge on human rights promotion was successfully realised, and



the education was performed by well-respected domestic and foreign experts from the "Raul Wallenberg " Institute in Sweden.

As a result of the evaluated weaknesses, in coordination with the regional offices and the head office in Skopje, the project for networking and Internet access was conducted, which in great part will facilitate the communication among the employees in the offices and will enable their appropriate functioning.

For this purpose another project for evaluation of the existing application for case work and possibilities for its upgrading was performed, which would enable functioning of the regional offices within the application.



As a result of the belief that sharing experiences is exceptionally needed for improvement of the ways of conduct and performance, two study visits were conducted: one in Sweden to the Parliamentary Ombudsman and the other one in Bosnia and Herzegovina to the Federal Ombudsman.

In order for an appropriate library fund to be established for the needs of the Institution employees, with assistance of the Swedish Agency for Development "SIDA" and OSCE Mission, foreign and domestic literature was purchased, containing appropriate issues for the work of the Institution. This library is situated in a specially adapted office in the Institution.

Frequent communication and participation at various seminars and conferences on different topics, imposed a need for improvement of the English language knowledge the state advisors had, so the employees in the head office as well as the ones in the regional offices, started attending English classes.

Being active on international level in 2006 was characterized by a more active participation at conferences and seminars where the Ombudsman shared experiences, challenges and obstacles it faces in its work. So, at the Conference on National Institutes of Human Rights, held in Belfast, Northern Ireland, the Ombudsman shared the Macedonian experience in successful conflict

management based on ethnical grounds which rose great interest and approval by the colleagues, human rights defenders. Being a member of the Secretariat of the Association of Ombudsmen from Francophone countries, the Ombudsman took part at the meeting held in Namur, Belgium devoted to Statute amendments of this institution.

At the seminar held in Siros, Greece, titled "The Ombudsman and the omissions in the Police work", the Ombudsman held a speech on "The Role of the Ombudsman in Protection of Vulnerable Groups – cases with Roma citizens"

The cooperation with the Ombudsmen in the neighbouring countries in the reporting year, proved to be particularly successful having in mind the Ombudsman, in cooperation with the Ombudsmen in Greece, Catalonia and the "Eunomia" Project organized a seminar in Ohrid titled "Ombudsman as an Institution for Administrative Reforms". The Ombudsman held a presentation on the mediating role of the Ombudsman in transition societies. Many Ombudsmen from the region and broader took part at this seminar.

As a result of the establishment of the Ombudsman Institution in Republic of Bulgaria, the Ombudsman participated at a seminar organized by this institution in Bulgaria, but he was also a host of the Bulgarian Ombudsman



in order to share the work experiences, considering the fact that this institution in Macedonia has existed for nine years and is one of the oldest institutions of this kind in the region.

The activities in the field of children's rights on international level were carried out intensively. Besides participating at numerous seminars devoted to children's rights, the Institution took part at the Annual Assembly of



the European Network of Children Ombudsmen (ENOK) in Athens. Among other issues, new prerequisites for network membership and its different functioning in accordance with the Statute changes were discussed.



In accordance with the European Union recommendations after the country gained candidate status, the responsibilities of the state bodies and other bodies and organizations having public mandates enlarged, in terms of their activities based on the Ombudsman requests and implementation of its recommendations.

So in 2006, according to the obligation for these institutions to act upon the Ombudsman's requests, they began submitting quarterly information to the European Committee in Brussels, and the Ombudsman submitted its own information on the same issues to the General Secretariat of the Government of the Republic of Macedonia.

Identifying the Ombudsman as a very important control mechanism in the society by the European Union was confirmed by the support of the Union in organizing an international conference in Skopje at the end of 2006.

The conference was organized with the European Union Project "TAIEX" titled "Cooperation with the Ombudsman – a relevant factor for development of democracy".

The conference was opened by the President of the State, and besides the Ombudsman, the Minister of Justice, the OSCE

Ambassador and a representative of the European Committee delegation in the country held opening speeches. In order to emphasize the importance of this conference, the Ambassador of the European Union delegation, Mr. Ervan Fuere presented, as well.

The Ombudsmen of the countries in the region and the Ombudsmen of Austria, Sweden and Catalonia participated, as well as representatives of the International and European Ombudsman Institute.

The topic for discussion at this conference was the bitterest issue for any Ombudsman Institution – the cooperation with the state administration, which represents the most important factor for a successful functioning and coherent practicing of human rights, which on the other hand leads to democratization of the society.

This year was marked by two roundtables titled "The Ombudsman and the local self-government", organized in collaboration with the OSCE Mission and the Council of Europe. The round tables took place in Tetovo and Stip and the mayors of every municipality in Tetovo and Stip participated actively, as well as the Councils and Municipalities chairpersons in order to improve the communication between the local



authorities and the Ombudsman.

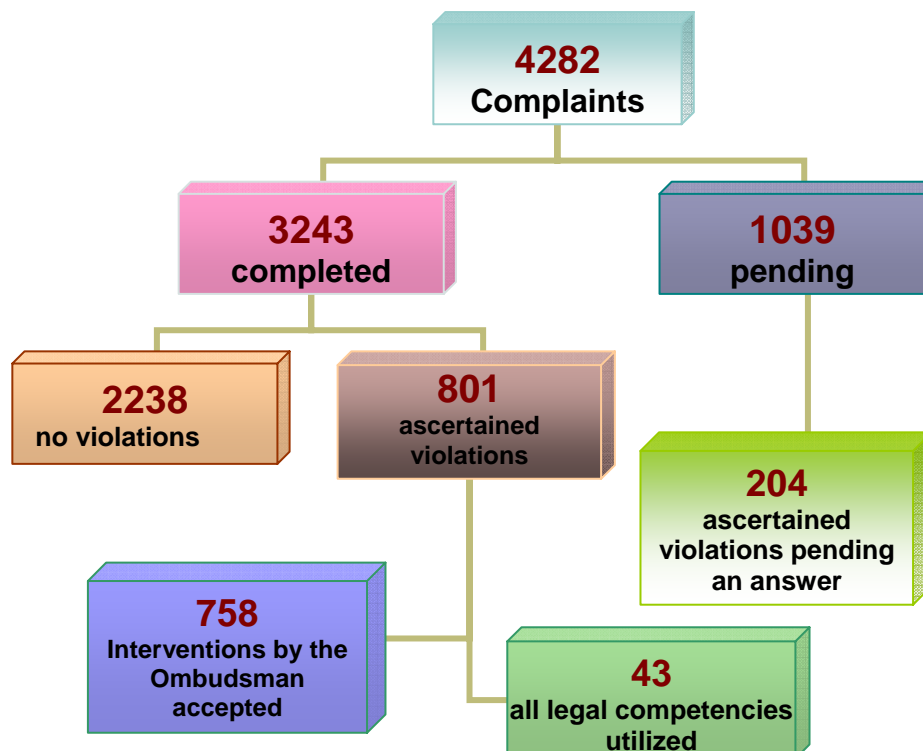
Collaboration with the OSCE Mission and "SIDA" Project continues in 2007 through performing new projects for further strengthening and promoting of the Institution capacities.



## The year in numbers

The existence of appropriate legal frames, efficient and professional institutions and professional and competent officials who impartially, objectively and equally apply and practice law are the basic postulates for the functioning of a law abiding state. Unfortunately, the kind and number of complaints submitted to the Ombudsman represent lack of the abovementioned features of an efficient and effective justice during last year.

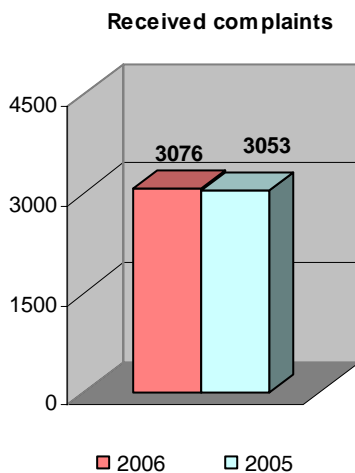
The work of the Ombudsman in terms of realization, protection and promotion of human rights and freedoms during 2006, monitored through numbers implies that the number of citizens addressing this institution is increasing. On one hand this is due to the fact that the citizens are more aware of the possibilities the Ombudsman possesses in the protection of their rights. However, this should not be considered a cheerful moment since at the same time, it indicates that administration, meaning the system institutions have not been reformed enough and a lot of work should be done in order to make them an efficient service for the citizens





## Basic data

Chart no.1

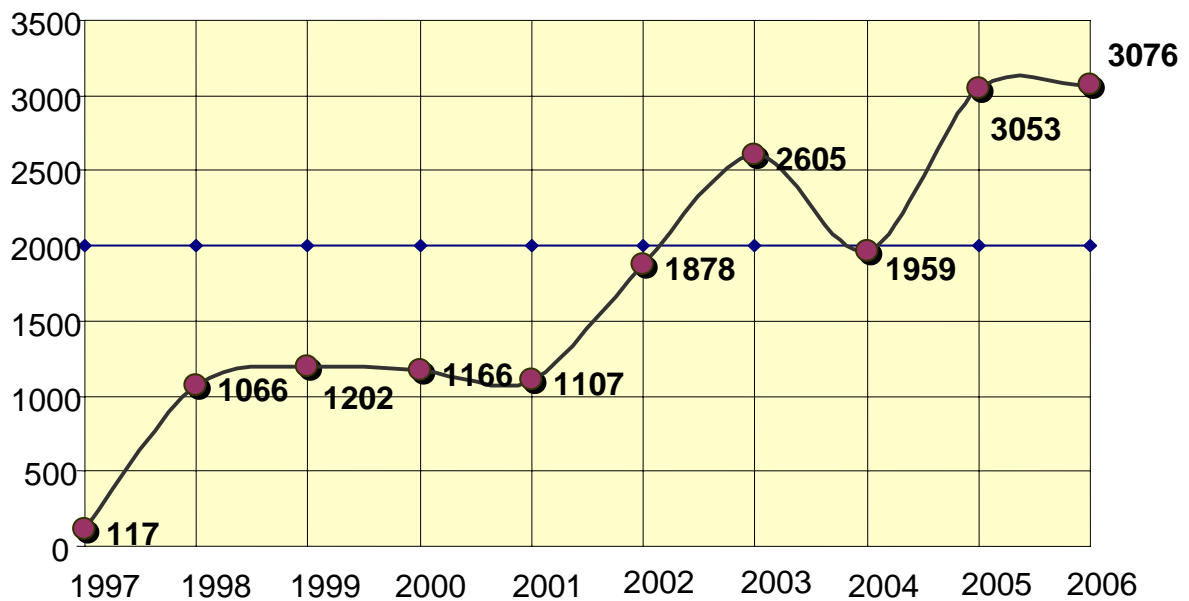


In 2006 the Ombudsman acted upon 4.282 complaints, 3.076 of which were submitted within the reporting period by 3.344 citizens. In 19 cases the Ombudsman initiated a procedure on its own, more than 5.300 citizens were accepted for a discussion in both Skopje office and the regional offices, and more than 7.000 phone calls were answered.

In 2006 the number of complaints was insignificantly bigger compared with the previous year.

Chart No.2

Received complaints per years



**4282**  
Complaints the  
Ombudsman acted  
upon

## Fields of complaint

The biggest number of complaints by which the citizens requested protection were in the fields of:

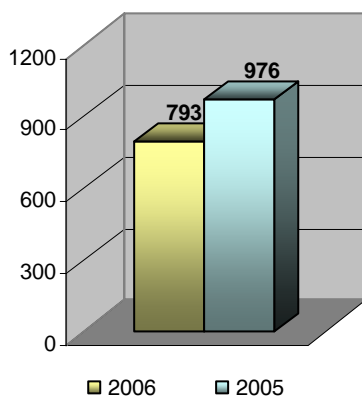
Judiciary 793 or 25,78%; in the field of protection of rights during police procedures and other Interior affairs 500 or 16,25%; property rights 327 or 10,63%; labor relations 326 or 10,60%; in the field of social rights 197, respectively 6,40%; in the field of pension and disability insurance 185 or 6,01%; in the field of urban planning and construction building 157 or 5,10%; in the field of protection of consumer rights (communal and other taxes) 100 or 3,25%; in protection of the children's rights 86 or 2,80%; accommodation relations 80 or 2,60%; in health protection 59 or 1,92%; in the field of education, science, culture and sport 33 or 1,07%; in the field of finances and financial issues 24 or 0,78%; in the field of environment protection 20 or 0,65%; then in the field of discrimination 10 or 0,33%; rights of military personnel and military conscripts 5 or 0,16%; rights of minority communities 1 or 0,03%; as well as in other fields in which 136 or 4,45% complaints were submitted. **(Review no. 1, p.12 and Graph no.4, p 10)**

The review of the submitted complaints in fields, in comparison with the previous year indicates insignificant increase or decrease.

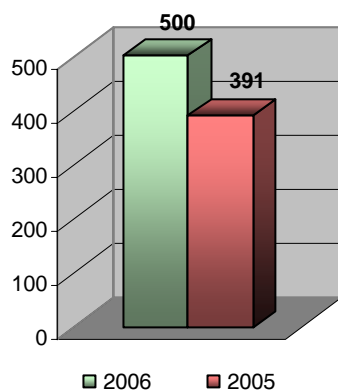
The largest number of complaints refers to inefficiency of courts, meaning the delay of judicial procedures, and the rest of them were in terms of acts and activities undertaken and passed by the Government of Republic of Macedonia, the Ministry of Finance, the Ministry of Interior Affairs, the Ministry of Transport and Communications, the Ministry of Labour and Social Policy and by other bodies, as well as bodies which do not have public mandates.

**Chart no.3**

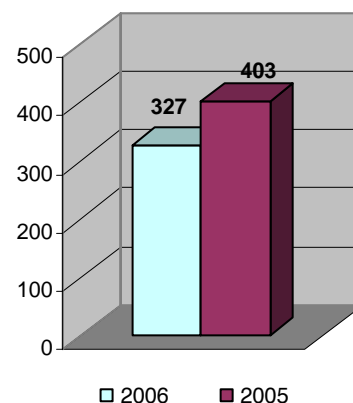
**Rights in the field of judiciary**



**Rights in police procedures and other interior affairs**



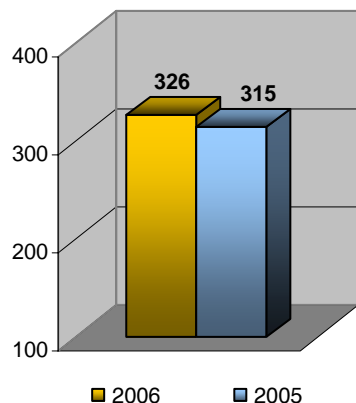
**Rights in the filed of ownership and property relations**



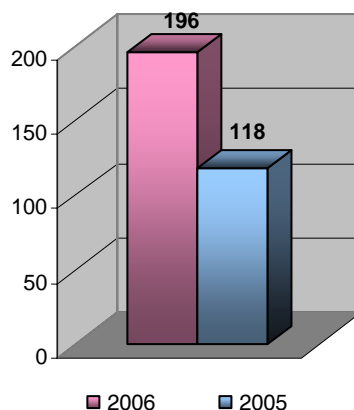


# Annual report 2006

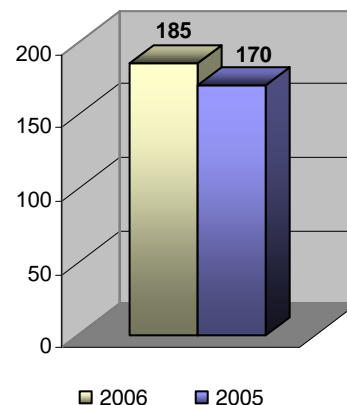
**Rights in the field of labour relations**



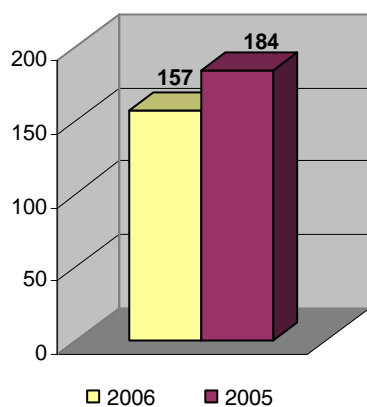
**Rights in the filed of social protectio**



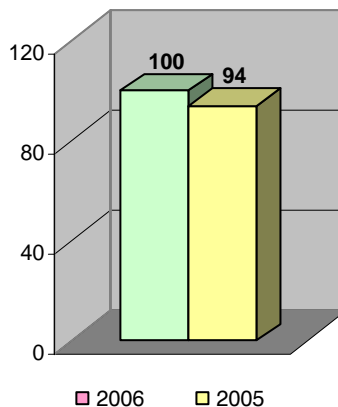
**Rights in the filed of pension and disability insurance**



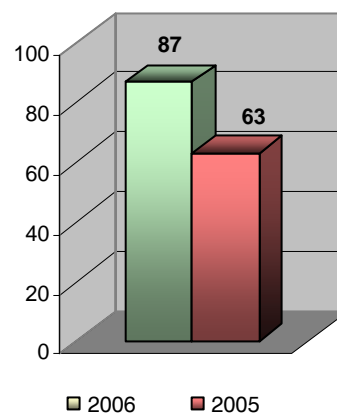
**Rights in the field of building planning**



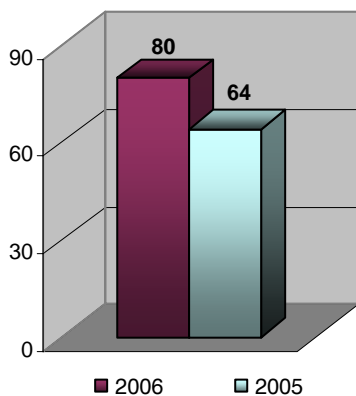
**Consumers' rights**



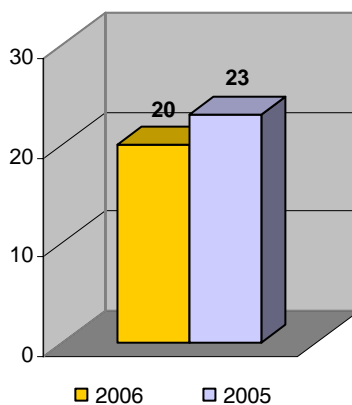
**Children's rights**



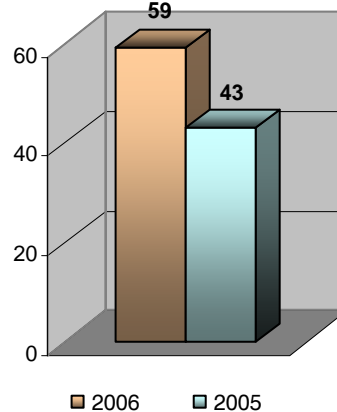
**Rights in the filed of accommodation issues**



**Rights in the filed of environment**

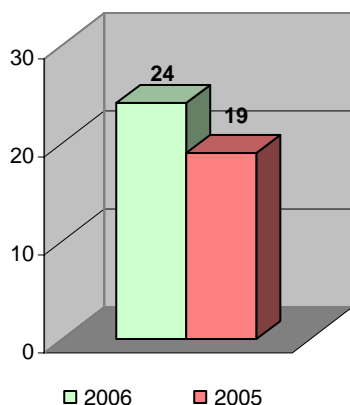


**Rights in the field of health protection**

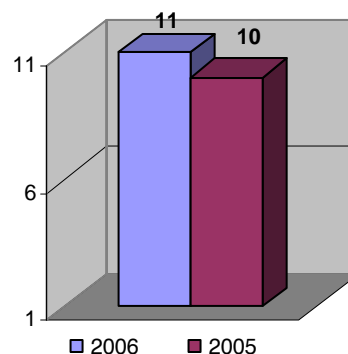


## Annual report 2006

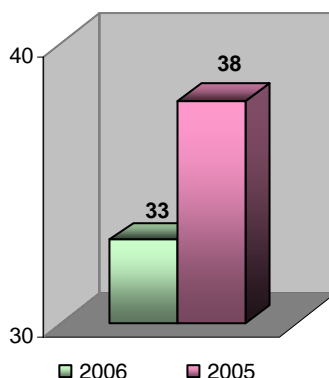
**Rights in the filed of finances and financial issues**



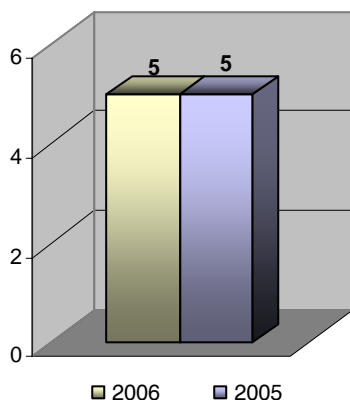
**Rights in the filed of indiscrimination and appropriate and equitable representation**



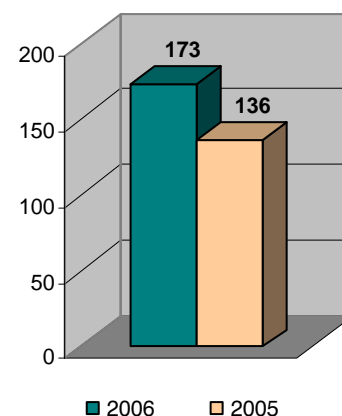
**Rights in the field of education science, culture and sport**



**Rights of military persons and conscripts**



**Rights in other fields**



### Review No. 1

REVIEW OF RECEIVED, CLOSED AND COMPLAINTS IN PROGRESS PER YEAR																
	Transferred from the previous year	Complaints received during current year	Number of submitters	TOTAL in process	Anonymous complaints received	Manner of closing						Information to the Ministers	Information to the Government of RM	Information to other bodies and organizations with public mandates	Total number of closed cases	Pending
						Decided to discontinue or not to initiate a procedure	Closed in other manner	violations ascertained								
								Opinions, suggestions and recommendations given	Ombudsman's intervention.	Cases where the Ombudsman undertook all legal acts	Not acted upon Ombudsman intervention					
2006	1206	3076	3344	4282	11	2329	102	1005	758	43	204	54	231	16	3243	1039
2005	882	3053	3440	3935	33	2108	84	803	478	26	299	77	225	12	2729	1206

Analyzing the citizens' data submitting a complaint in terms of their ethnicity, it can be said that the largest number of them are Macedonians: 821 or 54,88%, 499 or 33,36 % are members of the Albanian ethnical community, the smallest number – 7 or 0,47 % were Macedonian Muslims, while 1819 or 54,87% did not declare their ethnicity. It can be said that the number of citizens

## Annual report 2006

submitting a complaint who do not declare their ethnicity is still on a high level. **(Review No. 3 p.14)**

### Review No. 2

REVIEW OD RECEIVED, CLOSED AND PENDING PROCEDURES FROM 01.01. TO 31.12.2006 PER FILEDS																
Fields	Received in 2006	Number of submitters	Transferred from the previous year	TOTAL in process	Anonymous	Manner of closing						Information to ministers	Information to the Government	Information to other bodies and institutions with public mandates	Total closed procedures	Pending
						Decided to discontinue or not initiate a procedure	Closed in other manner	Violations ascertained								
								Opinions, suggestions, recommendations given	Acted upon Ombudsman's interventions	All legal competences taken by Ombudsman	Not acted upon Ombudsman's interventions					
Non-discrimination and adequate and equitable representation	11	11	11	22		11		3	2		1	1		1	13	9
Police proceedings and other Interior issues	500	512	244	744	2	334	32	192	159	6	27	1	3		533	211
Judiciary	793	822	189	982	3	812	11	58	55	2	1				883	99
Military persons and military conscripts	5	5	7	12		5	2	2	1		1	1			8	4
Social protection	196	202	36	233		91	5	96	78		18	4	1	3	174	58
Labour relations	326	382	128	454	1	261	11	92	64	8	20	10	3		345	109
Accommodation relations	80	99	39	119		60	17	15	12		3	9	7		89	30
Health protection	59	60	12	71		31		31	24		7	10	2		55	16
Pension and disability insurance	185	188	57	242		147	3	49	42		7	1	1	1	192	50
Education, science, culture and sport	33	34	10	43		22		12	7		5	4			29	14
Children's rights	87	89	20	106		45	4	43	35		8	5	2		84	23
Urbanism and civil engineering	157	246	54	211		137	15	23	11		12	1		3	163	48
Environment	20	26	10	30		24		3	3						27	3
Finances	24	24	12	36		16		21	10	10	1				36	0
Property and ownership relations	327	352	311	638	1	130		294	190	15	89	3	211	5	336	302
Consumers' rights	100	108	32	132		64	2	51	47	1	3	1		3	114	18
Other	173	184	34	207	4	139		20	18	1	1	3	1		162	45
TOTAL:	3076	3344	1206	4282	11	2329	102	1005	758	43	204	54	231	16	3243	1039



# Annual report 2006

## Review No.3

A REVIEW OF COMPLAINTS SUBMITTERS ACCORDING TO THEIR ETHNICITY PER FIELDS														
	FIELDS	Complaints submitted in 2006	Anonymous	Number of established cases on personal initiative	Number of submitters	ETHNICITY								others
						Macedonians	Albanians	Serbs	Roma	Macedonian-Muslims	Bosnians	Vlah	Turks	Not declared ethnicity
1	Nondiscrimination and adequate and equitable representation	11		1	10	2	1		2					5
2	Special Police activities	215	2		224	47	34	4	14		1		8	115
3	Civil conditions and other Interior affairs	285		1	285	8	196	5	5	2	8		2	59
4	Judiciary	793	3		818	236	70	3	5	1		5	8	488
5	Military persons and military conscripts	5		1	4	2	1							1
6	Social security and protection	196			202	46	31	12	16		2	4	7	83
7	Labour relations	326	1	2	378	90	48	2	2		2		3	231
8	Accommodation issues	80			99	32	1	2	2				1	61
9	Health protection	59		2	59	15	6		2					36
10	Pension and disability insurance	185			188	64	42	3	1	1			2	75
11	Education, science, culture and sport	33		1	33	13	3							16
12	Children's rights	87		5	83	17	5		2	2	1	1		55
13	Urban and civil engineering rights	157			246	52	4	1	3			1		185
14	Environment	20		2	24	4	1							19
15	Finances	24			24	6	2			1				14
17	Property and ownership relations	327	1	1	350	125	24	3	2			6	2	187
18	Consumers' rights	100		1	107	26	17		2				3	59
19	Other	173	4		180	36	13		1				1	129
20	<b>TOTAL:</b>	<b>3076</b>	<b>11</b>	<b>19</b>	<b>3314</b>	<b>821</b>	<b>499</b>	<b>35</b>	<b>59</b>	<b>7</b>	<b>14</b>	<b>17</b>	<b>37</b>	<b>1818</b>

According to the submitters' place of residence, the greatest number of complaints, i.e. 2005 are from Skopje, followed by submitters residing in the rest of major urban areas, the number of which is in accordance with the number of citizens in that area, with insignificant deviations.

## Annual report 2006

### Review No. 4

REVIEW OF SUBMITTED COMPLAINTS PER CITIES AND COUNTRIES OF FOREIGN SUBMITTERS					
	2005 year	2006 year		2005 year	2006 year
Berovo	18	16	Ohrid	48	41
Bitola	263	277	Pehcevo	3	2
Bogdanci	3	1	Prilep	57	78
Valandovo	3	7	Probistip	20	20
Veles	77	57	Radovis	46	54
Vinica	6	13	Resen	13	9
Debar	12	10	Skopje	1169	1169
Delcevo	22	18	Struga	36	38
Demir Hisar	15	22	Strumica	169	153
Demir Kapija	4	1	Sveti Nikole	185	10
Dojran	1	3	Tetovo	173	170
Gevgelija	27	33	Stip	1	137
Gostivar	119	80	Austria	1	2
Zletovo	-	1	England		1
Kavadarci	56	29	Germany		3
Kicevo	121	135	Italy	2	2
Kocani	45	34	Kosovo	7	8
Kratovo	16	11	Albania	3	
Kr.Palanka	19	29	Bulgaria	1	2
Krusevo	14	13	Croatia	1	1
Kumanovo	221	349	Serbia	3	3
M.Kamenica	4	6	USA	2	
Mak.Brod	10	14	Turkey	1	1
Negotino	21	13			
<b>TOTAL</b>				<b>3035</b>	<b>3076</b>

**83,84 %**  
conducted inspe-  
ctions by the  
Ombudsman

### Acting upon complaints

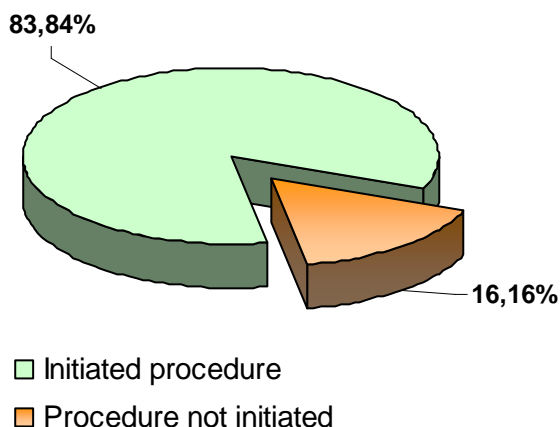
Immediate actions were undertaken for complaints which did not require additional researches. In case additional explanations were necessary, requests to the bodies in charge or to the submitters were addressed. In certain cases insight was conducted and officials and other persons were invited for a discussion.

The procedure was completed for 3.234 complaints out of 4.282, or 75,74%, while 1039 or 24,26% are in progress. **(Graph No.2)**

Out of 3.234 completed complaints, the procedure was stopped for 1.637 or 50,48%, no procedure was initiated for 692 or 21,34% of complaints, for 758 or 23,37% of complaints an action was undertaken after the Ombudsman had ascertained violations of constitutional and legal rights of citizens, for 43 or 1,33% the Ombudsman undertook all possible legal activities, 102 or 3,15% of complaints were solved in other manners and 11 or 0,34% of complaints were completed without taking any activities because the submitters were anonymous. **(Graph No.3)**

For 758 or 75,42% out of 1005 complaints for which the Ombudsman found violations of constitutional and legal freedoms and rights, actions were undertaken after the Ombudsman's interventions, for 204 or 20,30% of cases no actions have still been undertaken after the

**Graph No.1-2006**



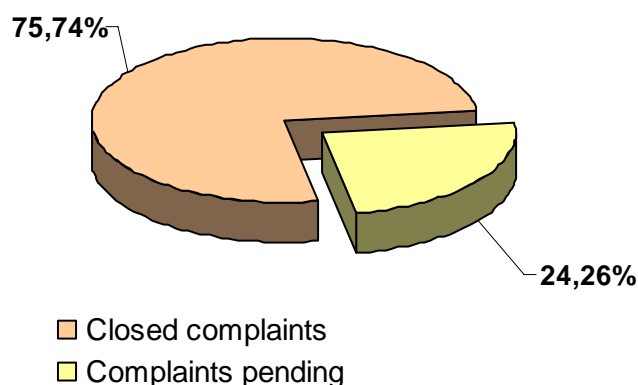
Ombudsman's interventions, and for 43 complaints or 4,28% of the cases the Ombudsman undertook all legal competences. In 2006 the Ombudsman, of a total of 4.282 complaints undertook actions for 3.590 or 83,84%, and for 692 or 16,16% no actions were undertaken. Although the number of complaints for which no activities were taken has been decreasing every year, the Ombudsman believes that there are still citizens who are not sufficiently informed on the legal possibilities of the institution (**Graph no.1**). Out of a total of 3.590 complaints, 2.551 or 71,06% were completed, 1039 or 28,94% of complaints are still in progress.

Certain cases are still in progress, meaning in an investigation phase because of the complexity of the problem or the need for gathering more information or proofs by various bodies and organizations. However, for a great number of cases this is due to not timely response to the Ombudsman's requests.

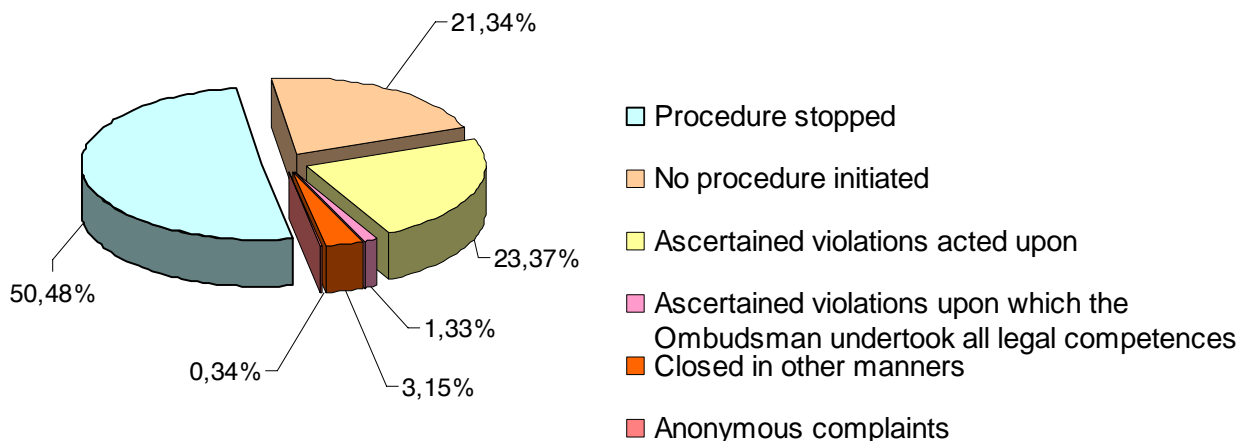
It should be pointed out that in certain cases the submitters reacted to the long duration of the procedure with the Ombudsman although it was a result exactly of unpunctual reactions or no reactions at all by the state administration bodies to the Ombudsman's requests.

Although the Law on Ombudsman stipulates mandatory time frames for the bodies in charge to

**Graph No.2-2006**



**Graph No.3 - 2006**

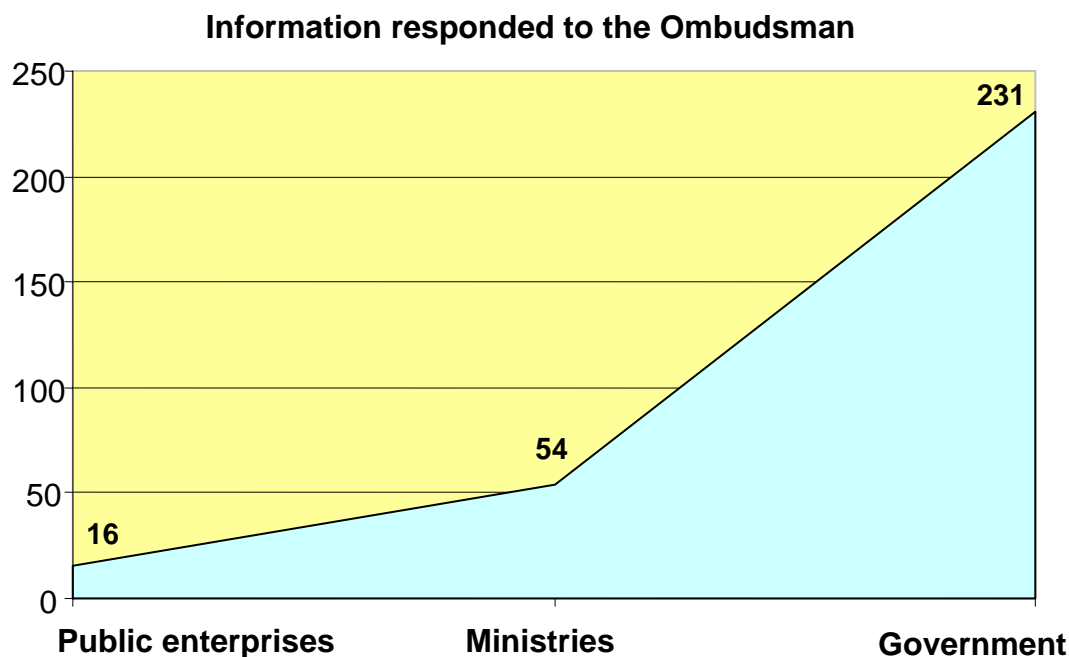


respond to the Ombudsman's requests, unfortunately most frequently they are not obeyed.



What can be confirmed as a result of the practice is that even though the attitude of the officials towards the Ombudsman's request is improving, the necessary level of communication has not been reached yet. In order to make the procedure more accurate and to improve the conditions, 16 pieces of information, 8 of which were accepted, were directed to the bodies and organizations with public mandates, 54 to the Ministries in charge, 13 of which were accepted, and 231 were sent to the Government of the Republic of Macedonia, 100 of which were acted upon. This is a result of insufficient openness and pure cooperation between the institutions and the Ombudsman.

**Graph No.5**



During 2006, a practice was established of sending information to the General Secretariat of the Government of the Republic of Macedonia every three months. The information was related to the number and type of requests by the Ombudsman to the bodies within the Government of the Republic of Macedonia.



## **Violations found and measures undertaken**

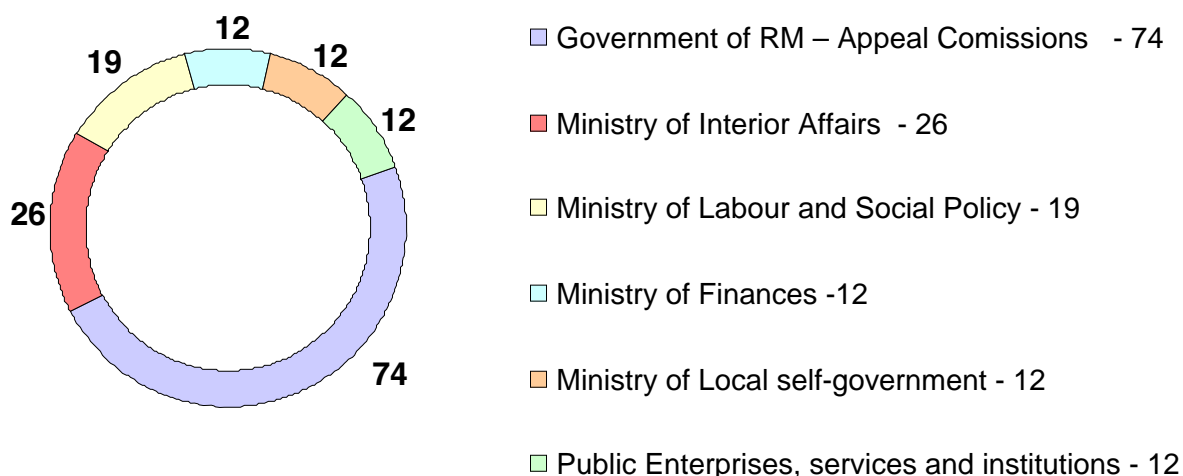
After investigating the complaints, in case violations of constitutional and legal rights of the citizens were found, the Ombudsman requested the bodies in charge through recommendations, opinions, suggestions, implications, requests, proposals and other similar forms to eliminate the irregularities and illegal actions so that the citizens could practice their rights more efficiently and in

a more economic manner. In this regard, the Ombudsman directed its interventions towards improvement and progress of the organization and performance of professional sectors within the state administration bodies and other bodies and organizations with public mandates

Out of the total number of cases the Ombudsman reacted upon in 2006, in 1005 of them violation of constitutional and legal rights of citizens was found. In 758 cases (75,42%) the public administration bodies, other bodies and organizations with public mandates acted upon the Ombudsman's interventions, for 204 cases (20,30%) the procedure is still in progress, and in 43 cases (4,28%) the Ombudsman undertook all legal actions.

The greatest number of violations found in 2006 was in the field of property and ownership relations, 294 or 29, 25% and for 190 or 64, 63% of them the bodies and organizations with public mandates acted upon the Ombudsman's interventions. They are followed by cases in the field of police procedures, where 192 cases or 19, 10% showed violations, for 159 or 82, 81% of which the Ombudsman's interventions were accepted. In the area of social rights, violations were found in 96 or 9,55% of complaints for 78 or 81,25% of which the recommendations were accepted, in the field of labour relations violations were found in 92 or 9,15% cases, 64 or 69,57% of which were solved according to the Ombudsman's recommendations e.t.c.

**Picture No.5 –Bodies which, in the largest number of cases have not acted upon the Ombudsman's interventions yet**



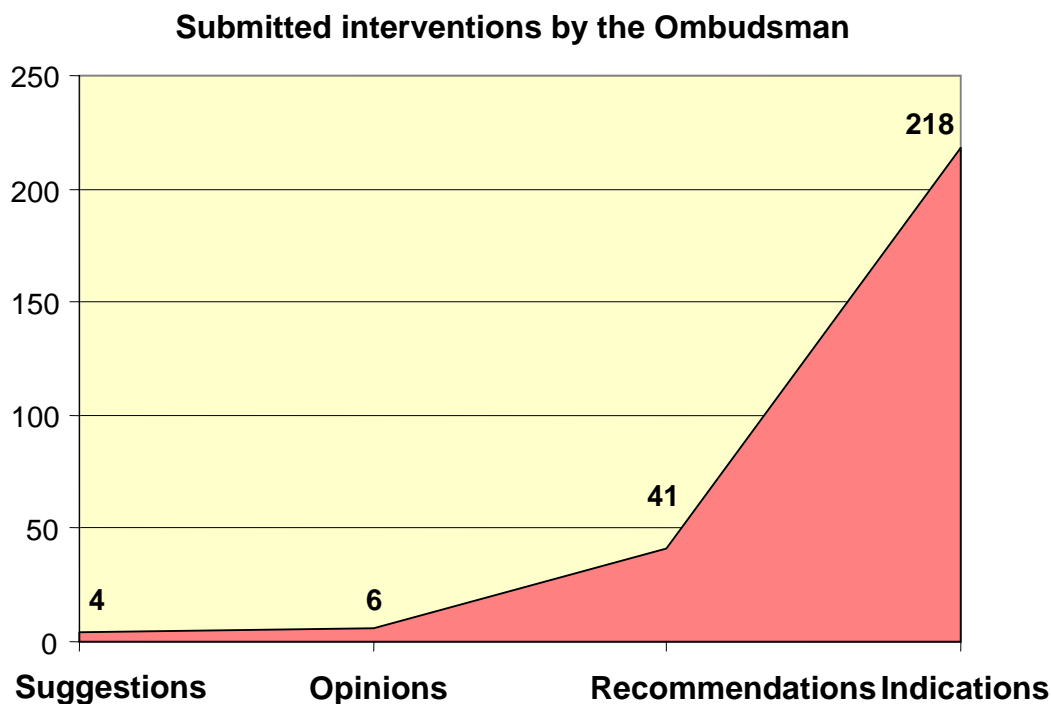
The greatest number of cases where the Ombudsman's opinion, suggestions and recommendations were disrespected, of the total number of cases where violations were found, were performed by the appeal committees of the Government of the Republic of Macedonia, the Ministry of Interior Affairs, the Ministry of Labour and Social Policy, the Ministry of Finances etc.

The largest number violations of citizens' rights found, as in the previous years, were related to violations of legal and procedure provisions, meaning delay of procedures through which the citizens practice their rights. Out of the total number of violations found, almost 85% refer to delay of administrative and judicial procedures. In other terms, in more than 85% of cases, the bodies in charge did not respect the deadlines for reaching a decision upon citizens' requests, and in a significant part they abused the institute "silence of administration".

In order the violations found to be corrected, the Ombudsman addressed 286 interventions to the bodies in charge as follows: 41 recommendations, 218 indications, 6 opinions and 4 suggestions. Along with these, the Ombudsman submitted seven requests to the Public Prosecution for conducting criminal liability procedure, one initiative to the Government of the

Republic of Macedonia for law amendments, one initiative to the Government of the Republic of Macedonia for misconduct of a law, three suggestions for initiating a disciplinary procedure against persons in charge or officials of the bodies and organizations, one report to the Minister of the corresponding Ministry for disturbance of the Ombudsman's work, two suggestion for repeating of a procedure and two requests for a temporary execution of administrative acts.

**Graph No.6**



**More than 5300**  
citizens accepted for  
discussions

### **Citizens at the Ombudsman's Office**

The Ombudsman's office in Skopje, as well as the regional offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip, practiced everyday reception of citizens, during which he, his deputies or the employees in the expert service accepted more than 5300 citizens for discussions. Consequently, in case there was a suspicion for violations of citizens' rights, official records were compiled on the basis of which actions were undertaken or the citizens were informed where and in what manner they could fulfill their rights.

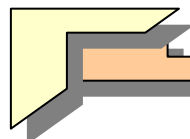
# Annual report 2006

## Review no.5

REVIEW OF SUBMITTED CASES IN THE OMBUDSMAN OFFICES								
FIELDS	Complaints submitted to the Ombudsman Offices							
	Skopje	Bitola	Kicevo	Strumica	Tetovo	Stip	Kumanovo	TOTAL
Non-discrimination and adequate and equitable representation	10	1						11
Police procedures and other Interior affairs	243	26	28	12	19	12	160	500
Judiciary	495	100	35	47	27	48	41	793
Military persons and military conscripts	4		1					5
Social protection	131	16	2	7	8	8	24	196
Labour relations	241	24	20	8	13	9	11	326
Accommodation issues	66	7	1				6	80
Health protection	50	1	1	5		2		59
Pension and disability insurance	113	14	12	9	11	14	12	185
Education, science, culture and sport	27	2				2	2	33
Children's rights	67	6	5	2	1	1	5	87
Urban planning and construction	107	12		13	3	8	14	157
Environment	15	3	1			1		20
Finances	20	1	1	1			1	24
Property and ownership relations	211	36	12	27	8	12	21	327
Consumers' rights	69	3	8	5	3	6	6	100
Other	136	9	5	5		5	13	173
<b>TOTAL:</b>	<b>2005</b>	<b>261</b>	<b>132</b>	<b>141</b>	<b>93</b>	<b>128</b>	<b>316</b>	<b>3076</b>

The Ombudsman Office in Skopje accepted the most complaints, 2005. The Ombudsman office in Kumanovo accepted 316 complaints, in Bitola 261, in Strumica 141, in Kicevo 132, in Stip 128 and 93 complaints were submitted in Tetovo Office.

## Protecting citizens' freedoms and rights



### Non-discrimination and adequate and equitable representation



The Ombudsman, conclusive to the provisions in article 77 of the Constitution of Republic of Macedonia and article 2 of the Law on Ombudsman, among other issues is responsible for conduction of the constitutionally established principles of non-discrimination and adequate and equitable representation in the state administration bodies, local self-government units and public institutions and services.

In terms of operating of these provisions on state and local level, the Ombudsman pays special attention to the protection of principles for non-discrimination and adequate and equitable representation of members of minority communities, and in that aspect it appears to be a corrective mechanism and a guarantee for protection of community members' rights.

In order to confirm the conditions of adequate and equitable representation of every community as well as gender equality, the Ombudsman in 2006 conducted data analysis collected from the bodies. The Ombudsman acted upon them within its jurisdiction.

In reference with the abovementioned, the Ombudsman addressed: the President of the Republic of Macedonia, the Parliament of the Republic of Macedonia, the Constitutional Court of the Republic of Macedonia, the Judicial Council of the Republic of Macedonia, the Attorney General of the Republic of Macedonia, the Government of the Republic of Macedonia, ministries, autonomous state bodies, funds, the Supreme Court of the Republic of Macedonia, appeal and basic courts, Public Prosecutors Office of the Republic of Macedonia, second instance public prosecutors offices, basic public prosecutors offices, penitentiaries and detention centers, public enterprises, social welfare centers and local self-government units. In terms of monitoring the conditions with application of appropriate and equal representation principles, the table which follows indicates the Ombudsman data on which institutions respect the abovementioned principle strongly (**Review no.6, p 25**).

Data received from institutions refer to the total number of employees in the state administration bodies conclusive to the Law on Public Servants, meaning in public enterprises and other services in accordance with the Law on Labour Relations.

In view of a further implementation of this constitutional principle the Ombudsman addressed the Government of the Republic of Macedonia – the Cabinet of the Vice Prime Minister for implementation of the Framework Agreement, requesting information on the planned activities



for the coming period in this aspect. The Ombudsman was informed by the Government of the Republic of Macedonia – the Cabinet of the Vice Prime Minister for implementation of the Framework Agreement that by a Decision of the Government of the Republic of Macedonia from the 16<sup>th</sup> session held on November 21<sup>st</sup>, 2006, 99 translators/interpreters, members of minority communities in the Republic of Macedonia were employed, 38 of whom in courts and 61 in administration bodies. The Department in cooperation with the Cabinet, assisted by foreign experts is working on compiling a strategy for adequate and equitable representation of minority communities in the Republic of Macedonia, and the Proposal Strategy is already in Government procedure and shall soon be adopted by the Government.

In terms of adequate and equitable representation as a kind of positive discrimination, a certain number of complaints were received during 2006. There was one specific case of requested intervention for fulfilling the employment right after a successfully completed training for professional – administration public servants for working in the public administration “PACE”. In this respect, the Ombudsman requested and implied to the obligation for the trainee to be assigned to an appropriate post, which in this direction indicates that the adequate and equitable representation principle in the country has not sufficiently affirmed yet and concrete measures for its respect have not been taken.

On the other hand, the small number of cases in the field of discrimination must not lead to a conclusion that discrimination is not present in the Republic of Macedonia. On the contrary, this phenomenon is the crucial point of all human rights and freedoms violations and it exists in a veiled form. Citizens rarely speak about this topic in public as a result of their fright, lack of information or inability to recognize discrimination elements in a given behaviour or procedure, or as a result of an existing gap in the system legal frame.

In this respect, in 2006 an informal Roma students group from Skopje submitted a complaint to the Ombudsman requesting an intervention appealing to broadcasting of radio program, the contents of which was considered to be a direct insult with discriminatory attitude towards Roma listeners. Acting on this complaint, the Ombudsman ascertained human rights violations, meaning elements of discriminatory actions by broadcasting the show. After intervening until appropriate actions, the case was positively closed.

Referring to this, in conditions of a lack of legal regulations, in the reporting year the Ombudsman undertook appropriate activities after ascertaining existence of discrimination of Roma students in “Goce Delcev” Elementary School in Gostivar. The procedure was instigated on the Ombudsman’s own initiative since the media reported forming ethnically clean classes in the abovementioned school. The Law on Discrimination Protection, which would precisely define discrimination and the body responsible for reacting and eliminating the consequences of discriminatory behavior, has not been passed. Accordingly, the efforts of the Ombudsman and the State Education Inspectorate to ascertain possible existence of discrimination were unsuccessful both in this and in other cases.

The passing and implementation of the Law on Equal Rights of Genders is a positive step towards forming the legal frame. It creates a legal basis for discrimination prohibition in the social life. It enumerates special measures which can be taken in this respect and it also defines the competences of certain institutions which can execute measures and activities in that direction.

# Annual report 2006

Body	Total employed	Gender representation				ADEQUATE AND EQUITABLE REPRESENTATION															
						Macedonians		Albanians		Turks		Roma		Serbs		Vlah		Bosnians		other	
		Female	%	Male	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Cabinet of the President of RM – expert service	25	15	60	10	40	22	88	2	8					1	4						
Parliament of RM – expert service	186	130	69,9	56	30,1	149	80,1	26	14	3	1,6	1	0,5	4	2,2			2	1,1	1	0,5
Constitutional Court of RM	29	21	72,4	8	27,6	25	86,2	4	13,8												
Ombudsman of RM	70	44	62,9	26	37,1	39	55,7	24	34,3	1	1,4	2	2,9	2	2,9	2	2,9				
Court Council of RM <sup>1</sup>	14	10	71,4	4	28,6	13	92,9							1	7,1						
Attorney General of RM	91	63	69,2	28	30,8	85	93,4	5	5,5	1	1,1										
Government of RM – expert service	583	301	51,6	282	48,4	480	82,3	65	11,1	10	1,7	4	0,7	8	1,4	9	1,5			7	1,2
Ministry of Finance	574	343	59,8	231	40,2	493	85,9	57	9,9	3	0,5	4	0,7	8	1,4	4	0,7	2	0,3	3	0,5
Ministry of External Affairs	343	133	38,8	210	61,2	263	76,7	69	20,1	1	0,3	1	0,3	1	0,3	2	0,6			6	1,7
Ministry of Justice	613	230	37,5	383	62,5	469	76,5	112	18,3	16	2,6	3	0,5	7	1,1	4	0,7	2	0,3		
Ministry of Agriculture, Forestry and Water Economy	443	69	15,6	374	84,4	355	80,1	61	13,8	6	1,4	1	0,2	11	2,5	3	0,7			6	1,4
Ministry of Health	176	114	64,8	62	35,2	133	75,6	35	19,9	1	0,6	1	0,6	3	1,7	1	0,6			2	1,1
Ministry of Defense	663	232	35	431	65,	562	84,8	61	9,2	8	1,2	2	0,3	14	2,1	10	1,5	2	0,3	4	0,6
Ministry of Transport and Communication	173	84	48,6	89	51,5	130	75,1	34	19,7	1	0,6	1	0,6	6	3,5	1	0,6				
Ministry of Labour and Social Policy	279	161	57,7	118	42,3	215	77,1	41	14,7	1	0,4	3	1,1	8	2,9	6	2,2	4	1,4	1	0,4
Ministry of Economy	405	178	44	227	56,1	301	74,3	85	21	4	1			5	1,2	6	1,5			4	1

<sup>1</sup> Data on the Court Council of RM refer to the Expert service only, having in mind that the procedure for members selection has not been finished yet

## Annual report 2006

<b>Ministry of Environment and Building Planning</b>	107	58	54,2	49	45,8	86	80,4	12	11,2					5	4,7	2	1,9			2	1,9
<b>Ministry of Local self-government</b>	19	11	57,9	8	42,1	9	47,4	9	47,4			1	0,9								
<b>Ministry of Education and Science</b>	228	131	57,5	97	42,5	136	59,6	77	33,8	4	1,8			8	3,5			3	1,3		
<b>Ministry of Interior Affairs</b>	12076	1743	14,4	10333	85,6	9731	80,6	1804	14,9	68	0,6	77	0,6	220	1,8			23	0,2	153	1,3
<b>Ministry of Culture</b>	80	55	68,8	25	31,3	68	85	7	8,8	2	2,5			1	1,3	2	2,5				
<b>Autonomous state bodies<sup>2</sup></b>	9977	5722	57,35	4255	42,65	8916	89,37	532	5,3	65	0,7	56	0,6	234	2,3	55	0,6	37	0,4	82	0,8
<b>Funds<sup>3</sup></b>	1370	888	64,8	482	35,2	1216	88,8	100	7,3	6	0,4	6	0,4	23	1,7	11	0,8			12	0,9
<b>Supreme Court of RM</b>	88	59	67,0	29	33,0	76	86,4	6	6,8	1	1,1			3	3,4	2	2,3				
<b>Appeal courts</b>	251	156	62,2	95	37,8	214	85,3	19	7,6	3	1,2	1	0,4	2	0,8	7	2,8	1	0,4	4	1,6
<b>Basic Courts</b>	2347	1260	53,7	1087	46,3	2060	87,8	164	7,0	26	1,1	24	1,0	18	0,8	33	1,4	4	0,2	18	0,8
<b>Prosecution</b>	335	202	60,3	133	39,7	301	89,9	22	6,6	4	1,2			4	1,2	4	1,2				
<b>Penitentiaries and detention centers</b>	516	96	18,6	420	81,4	448	86,8	54	10,5			1	0,2	6	1,2	7	1,4				
<b>Public Enterprises<sup>4</sup></b>	8804	1461	16,6	7343	83,4	7633	86,7	605	6,9	88	1	68	0,8	231	2,6	54	0,6	33			
<b>Social Welfare Centers</b>	524	345	65,8	179	34,2	401	76,5	78	14,9	10	1,9	5	1	11	2,1	8	1,5	3	0,6	8	1,5
<b>Local self-government Units<sup>5</sup></b>	2955	1114	37,7	1841	62,3	2414	81,7	382	12,9	55	1,9	22	0,7	40	1,4	13	0,4	4	0,1	25	0,8

This table does not contain data on representation in the following fields: education, health and culture.

<sup>2</sup> Requested data was not received from: Foreign Investments Agency in the Republic of Macedonia, Protection and Rescue Agency, State Reserves Agency, and Security Personnel Training Centre

<sup>3</sup> Requested data was not received from the Fund of Deposits Insurance

<sup>4</sup> Requested data was not received by PE Stock Exchange "AGRO-BERZA" Skopje, and the PE for water supply "Dojransko Ezero" Star Dojran submitted incomplete data the requests to the PE for purchase, transport and distribution of natural gas "GA-MA" Skopje were returned marked "unknown",

<sup>5</sup> Requested data was received from every municipality in the Republic of Macedonia; data from Municipality of Mogila is incomplete and do not contain information on the national structure of the employees; data from municipality of Konce is not clear.

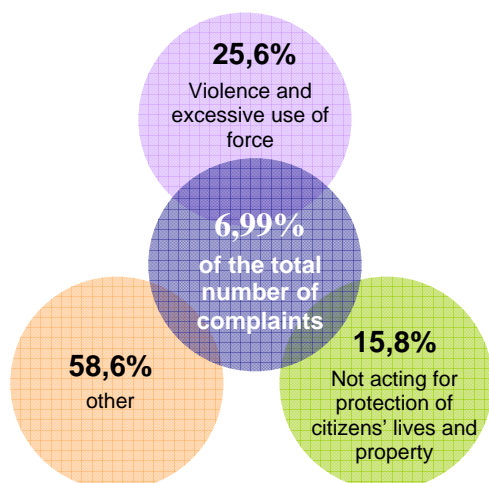
The cooperation with the state institutions for promotion and protection against discrimination, including protection and promotion of gender equality is a segment of established competences of the Ombudsman. In this respect the activities of the Ministry of Labour and Social Policy – Department of Gender Equality Promotion, supported by the OSCE Mission to Skopje is worth mentioning. In July 2006 they initiated the project for assessment of the National Action Plan for Gender Equality.

The Ombudsman took part in the preparation of the National Action Plan for Gender Equality proposal text as well, in the section for human rights and women. It should be adopted by the Government and the Parliament of the Republic of Macedonia.

The fact that a system Law on Discrimination Protection has not been passed yet is a special problem. It should provide measures and activities mechanisms for legal protection in case of discrimination. Passing the law should create legal regulations prohibiting and preventing discrimination by any person, group of people, authorities, public, local, national and private institutions and organizations in the: civil, political, economic, social and cultural spheres, as well as in the area of employment, education, housing and access to goods and services.

The passing of a separate Law on Discrimination Protection is stipulated by the implementation of the Council of European Union Directive 76/207/EEC for equality between men and women, Directive 2000/43/EC (6) which declares the principle of equal treatment of people regardless of their race or ethnicity and the Directive 2000/78/EC which establishes the general frame for equal treatment in employment and profession. The objective of these Directives is to eliminate possible discrimination in the abovementioned fields, as a result of which the Ombudsman deems it necessary for an appropriate regulation determining these issues to be passed, although there has been an attempt of this kind within the Law on Working Relations.

## Special Police Authorizations



Protection and promotion of human rights in the field of respecting the human's integrity and dignity, as well as respecting family life, the right of property and privacy, being fundamental values of a modern society, belong the group of highest priorities of the Ombudsman while performing its work and competences.

The provisions in articles 21 and 31 of the Law on Ombudsman refer to this specifically. They imply to an obligation for undertaking activities for protection in a preventive manner when it comes to rights violations of a larger number of citizens and other persons, as well as activities for monitoring the conditions of respect and protection of constitutional and legal rights of officials in bodies, organizations and institutions where freedom of movement is restricted.

In order to realize the program activities stated in the Program of Activities for 2006, in May the Ombudsman visited a large number of police stations all over Macedonia.

The aim of this program activity was to confirm whether detained persons and ones in custody, under suspicion of committing crimes or other illegal activities requiring official prosecution, were treated in accordance with the provisions of the Law on Interior Affairs, the Law

on Police, the Rulebook for conducting activities by the Ministry of Interior and the Declaration for use of force and means of enforcement. This means a check of the level of respect of basic human rights and freedoms while conducting police activities and undertaking police authorizations.

Unfortunately, the abovementioned activity was not completely realized as a result of obstructions the Ombudsman faced in certain police stations within the frames of Interior Affairs Departments in Bitola, Ohrid, Skopje and Stip.

As a result of this, the Ombudsman did not get the whole picture in terms of the purpose of the visits. Stumbling upon other problems as well in the procedure for securing evidence on this case, the Ombudsman had a meeting with the Minister of Interior Affairs, submitted written information to the Minister and the Prime Minister and requested, within their power, to act. All of these activities were required in order for the Ombudsman to be able to perform its duties without hindrance.

However, the police stations visits where insight was permitted, as well as during performing the duties through acting upon particular cases during 2006, imply that there is an improvement of conditions regarding the human rights respect in performing police procedures and while undertaking police authorizations by the Ministry of Interior Affairs officials.

The improvement of conditions primarily refers to the arresting procedure during which the level of obeying the right for announcing the reasons for arresting in a language the arrested person understands. Other aspects include the right to remain silent, the right to contact a lawyer and a defender of the person's own choice and a person of his/her family or another close person to be informed on the arrest.

Similar improvements were noticed in terms of conditions in certain police stations where arrested persons are detained. However, the level is still not as the one of the highest European standards.

However, the Ombudsman continues to locate weaknesses, irregularities and violations of human rights during police activities of operational tactical aspect such as: search for persons or objects, blockade, raid and ambush, activities for maintaining public peace and order, performing traffic security activities and activities for finding a criminal, finding clues and securing evidence.

The weakness in the functioning of the Ministry of Interior Affairs, in the part of the above stated fields, is primarily located in performing police activities in a manner which is not in accordance with the law by special police unit's official. This is a result of: insufficient education on their own rights and duties; insufficient education on human rights and freedoms and the awareness that using force methods is still the most efficient way for securing a confession, providing evidence and facts for a committed crime; disproportional use of force by officials when performing police procedures, unprofessional manner of conduct of the Internal Control Sector and professional standards as well as attempts for covering the weaknesses at any price; incursions by mistake as well as mild penalties for confirmed exceeded authority by officials.

As a result of the allocated abnormalities, during the reporting year, one minor Roma person lost his life because of unprofessional conduct by special police unit's officials.

The Internal Control Sector did not find the strength to conduct a detailed investigation, to state the reasons for the event or to request an independent investigation by the Public Prosecutor or Court.

Being convinced that this case involved police members, the manner of conduct towards minors was unprofessional and the reason for the minor's death – member of a marginalized society group - the Ombudsman requested from the Public Prosecutor to initiate court procedure for establishing the truth. Unfortunately, the Public Prosecutor Office did not find it worth for this case to have an independent and fair investigation as well.



Besides, during the reporting year, the Ombudsman requested from the Public Prosecution in Skopje and Bitola to initiate a procedure for stating a criminal liability for crimes against human rights and freedoms by four officials from the Ministry of Interior and one military person from the Army of the Republic of Macedonia. An investigation was initiated for one case, for another one the Ombudsman's request was not accepted, and the Public Prosecutor has not reached a final decision for the others yet.

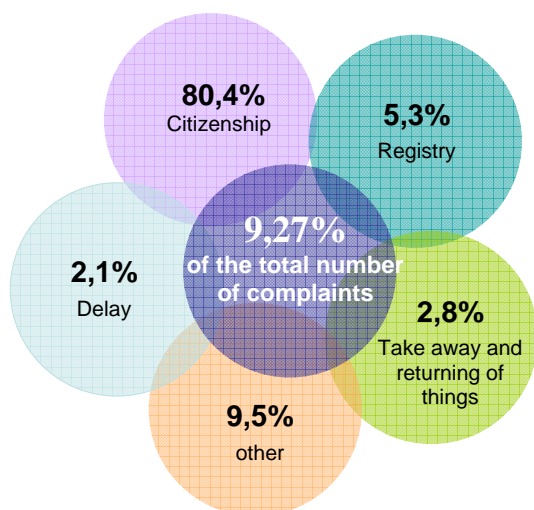
While working on the cases, the Ombudsman noticed frequent excess use of force and means. There is evidence, i.e. medical documentation to support this statement. By filing crime charges against the person who was treated with overused force for attacking an official, the Ministry presents the official as a victim.

This way of biased presentation of events by twisting the facts for the detriment of the real victim, neglecting the Ombudsman's attitudes and opinions, hiding the facts and unjustified protection of officials can not lead to positive results in terms of increasing the professional level of the officials' conduct when performing police activities.

The Ombudsman considers that the relevant factors within the Ministry of Interior Affairs must be aware of the need for a permanent monitoring and control of the officials holding powers to use force. Even more, this should prevent the possibility of the officials becoming human rights offenders instead of being their protectors.

This can be illustrated by the event which happened near the end of the reporting year in a restaurant in the city center in the capital of Macedonia, as well as by more and more frequent cases of members of private security agencies involved in incidents, which the Ministry of Interior Affairs has the responsibility to monitor.

## Civil Conditions and other interior issues



Civil conditions are of essential importance for the personal and social status of each citizen of the Republic. Their realization or restriction by the state bodies contributes to the level of democracy the state is at.

Having this in mind, the Ombudsman permanently and strongly monitored the procedures for realization of the states fundamental freedoms and rights of citizens such as: solving issues related to citizenship status, place of residence and stay, record keeping, taking and returning objects and every other delayed procedure, as alleged by citizens who had previously addressed the Ministry of Interior Affairs or other state bodies with public mandates.

The result the Ombudsman Office achieved in the procedures referring to gaining Macedonian citizenship should be noted. The persistent and strenuous commitment to citizenship of the Republic of Macedonia as a legal (not political) category for the connection of the applicants with the Republic of Macedonia, which is a factor for the realization of many other political and economic rights. This resulted in a complete confidence in the Ombudsman by the persons who still have not gained the desired state status.

In order this right to be practiced in a specific administrative procedure, the Ombudsman undertook combined measures for amendments of the legal regulations and direct participation in every phase of the procedure.

At the beginning and during the year, the Ombudsman called the bodies participating in the procedure for acquiring and discharge of citizenship of the Republic of Macedonia to discussions. Thus, conversations were held and particular cases were elaborated with the Officers in the Administrative - Supervisory Issues Department and its Citizenship Department within the Ministry of Interior Affairs; with the President of the Committee for knowledge of the Macedonian Language for acquiring citizenship within the Government of the Republic of Macedonia. The invitation was disregarded only by the president of the second instance Government Commission for deciding upon administrative procedure. The citizens had previously submitted their appeals on particular administrative acts to that commission. As a result of lack of cooperation, the Ombudsman had to request (and obtained) priority decision upon the procedure in the case of A.Lj. from Tetovo. The case referred to his administrative dispute appeal to the Supreme Court of the Republic of Macedonia.

On two occasions the Ombudsman applied an initiative to the Government of the Republic of Macedonia for amendments of the Law on citizenship and facilitation of the conditions for accepting the citizens from the former SFRJ, who remained in the Republic after its succession with permanent (factual and legal) relations. This commitment was based on the already applied term a "solid and effective connection" with the state (article 6 of the Law on Modification and Amendment of the Law on Citizenship), as well as the comparison with the Law on Croatian Citizenship.

In terms of the established legal prerequisite for an applicant to have sufficient knowledge of the Macedonian Language in order to communicate easily by the Special Commission of the Government of the Republic of Macedonia, the Ombudsman finds the fulfillment of this condition may represent a real obstacle for gaining citizenship for a certain group of applicants. In order to solve this problem, along with the already submitted recommendation for a more flexible attitude of the Commission towards elderly people – members of ethnical communities, the Ombudsman proclaimed the manner of application of this legal condition and the work of the Language Commission to the President and the Secretary General of the Government of the Republic of Macedonia. The proclamation direction was for the Commission's work to be based on the approach which would protect fundamental rights and freedoms and eliminate the discrimination of the applicant on language basis.

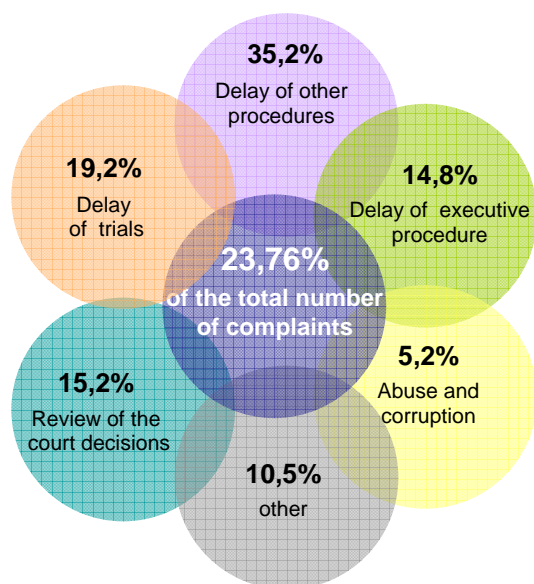
In terms of the procedure itself at the Ministry of Interior Affairs, the Ombudsman was in permanent telephone contact about certain cases with the Citizenship Department at the Administrative – Supervisory Issues Department.

In certain cases ex-officio extinction of citizenship was found for citizens in ethnically mixed environments involved in the war conflict. Thus, the Ombudsman implied to the citizenship body to initiate an ex-officio procedure for assessing their citizenship status, since the international instruments inquire taking measures for decreasing the number of persons without citizenship.

As a result of its activities, the Ombudsman believes that the citizenship application procedures end with an increased number of positive decisions. However, the procedure duration and the number of people applying for relinquishment of nationality or double citizenship is still worrying.

Referring to regulation of other civil issues at the Ministry of Interior Affairs, the Ombudsman reminded the bodies involved of their responsibility for adhering to the basic principles of the Law on General Administrative Procedure, their service orientation, efficiency and responsibility towards citizens, as well as the commonly accepted standards for good administrative conduct, listing the experiences from the Good Administrative Conduct Codex by the European Ombudsman.

## Judiciary



Two years ago the strategy for Judicial System Reforms of the Government of the Republic of Macedonia and the Action Plan for its realization were adopted. Since then, a significant number of reform activities have been undertaken for their practical implementation.

As proposed by the Government, the Parliament of the Republic of Macedonia passed a large number of amended or modified legal provisions both in the area of material law and the procedure legislative. The aim of this was for the judicial procedures to become more rapid and more efficient, and for the citizens to be able to practice the principle of judging within a reasonable time, guaranteed by the Constitution of the Republic of Macedonia and the European Convention of Human Rights.

Although with duration deviations and perhaps to the detriment of serious quality changes, certain issues were done in the field of legal legislative, primarily aiming at the international community to see that the obligation from Chapter VII of the Association and Stabilization Agreement is being fulfilled. However, this is not the case with the other inevitable segments which are part of the strategy since without them, no real reform of the judicial system is either possible to happen or to be expected.

New legal solution in the procedural legislative should, without doubt result in a more efficient judicial system. They include obligations for a greater and more active participation of the parties in the procedure and the burden for proving is transferred to them as well; the passive attitude is sanctioned; great number of activities previously in jurisdiction of the courts such as: court judgment execution, authentication of various documents, introduction of the alternative solution principle of disputes through mediation, changes in material legislative and the introduction or regulatory guillotine.

However, the final results, in a situation of lack of an intention for real and not only declarative wishes and purposes were: delay and obstacles in the process of passing the Law on Courts, especially its implementation in the part of courts organization; the Law on Judicial Council of the Republic of Macedonia and the appointment of its members, the Law on Judges and Public Prosecutors Training Academy, initiation of the education process, postponement in securing conditions for initiation of the work of Administrative Court in Skopje, passing of the Laws on Public Prosecution and the Public Prosecutors Council etc.

The abovementioned and the postponement of initiating the process for solving issues connected with the other basic prerequisites for efficient functioning of the judicial system such as: inevitable creation of conditions for initiation of the Appellate Court in Gostivar, transfer of functions by the courts of first instance in accordance with the new organization and competences as per the Law, solving material issues of individuals performing judicial and public prosecution functions, insufficient dynamics of the information technology implementation process in the judicial system bodies, disconnection with the data bases of other institutions within the system will further on represent a reason for inefficient judicial system and a reason for violation of the right for reasonable period of judging, which may cause damage.

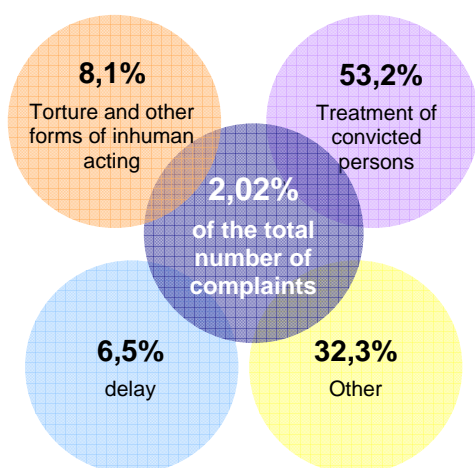
These negative aspects in the functioning of the judicial system were not noticed only by following the overall conditions, but also through cases worked on by the Ombudsman. It implied

that the greatest number of complaints refer exactly to violation of rights as a result of long duration of judicial procedures.

The case work showed that beside the abnormalities listed which have a negative reflection on realization of the judging in reasonable time frame principle, as objective conditions the judicial system is faced with, the subjective weaknesses have an impact as well. Some of them are: lack of successful management, non implementation of European Court for Human Rights legislative and provisions, insufficient monitoring and managing of the cases followed by administrative gaps, as well as extensions of legal deadlines for preparation of judicial decisions.

These weaknesses, as well as the objective conditions the judicial system is still faced with and functioning within as a whole, the procedures appear to be slow and inefficient, and they do not provide the guaranteed rapid and efficient protection of the citizens' rights and interests.

## Penitentiaries and detention centers



Serving a sentence and detention at penitentiaries and detention centers is executed as per the constitutional provision in article 2, paragraph 2, according to which no person may be deprived of his/her freedom, except by court order or in a procedure stipulated by Law. Accordingly, the convicted persons have every freedom and right stated in the Constitution, the Law on Sanction Execution and international standards in these areas, except for the right of movement with established control and monitoring mechanisms while serving a sentence in a prison. They are also entitled to creating real fundaments for social adjustment and resocialization, as a basic need for return to the community after serving the sentence.

Acting upon its own initiative, in accordance with the Law, the Ombudsman monitors the conditions with protection and respect of confined

people's rights.

This legal function is performed by the Ombudsman through visits and insights in the penitentiaries and detention centers without previous announcement or approval. This enables conversation with the confined people without presence of officials. The Ombudsman also acted upon complaints by convicted persons or created cases on its own initiative based on gained information.

Towards realization of the Activity Plan, similarly to previous years, the Ombudsman visited all prisons in the Republic of Macedonia from April to June 2006, as well as the detention center Tetovo. Consequently, a special report was compiled and submitted to the Government of the Republic of Macedonia and to the Ministry of Justice.

Within the course of 2006 he Ombudsman acted upon a total of 64 cases in this area. In 8 of them violation of the submitters' rights was found. After the Ombudsman had reacted, the submitters realized their rights.

The greatest number of received complaints referred to treatment of prisoners in prisons. However, a significant number of complaints referred to convicted persons transfer in their domicile

country for the purpose of further serving their sentence. Certain postponements in the transfer procedure, as found by the Ombudsman, were within the frames of the state institutions the submitters requested transfer to.

A number of complaints were received by phone and mainly referred to alleged inhibition of rights realization of the prisoners in these institutions.

In most cases the Ombudsman evaluated the conditions on the spot. Occasionally, it was affirmed that no violation of rights happened but the complaint represented a request for more favorable conditions and the Ombudsman has no authority to act upon these issues. They are under authorized officials' jurisdiction at the penitentiaries, primarily the manager, in accordance with the prison rules. However the Ombudsman implied to the obligation the Bureau for Conduct Sanctions at the Ministry of Justice has for appropriate application of the Law on Execution of Sanctions provisions in terms of realization of rights and use of favorable conditions the prisoners have the right to.

The result of the visits to the penitentiaries and detention centre Tetovo (which operates at "Prison Skopje" premises), and the direct conversations with officials, imprisoned and convicted persons was the following: basically there is lack of a general program for managing negative occurrences/events, i.e. the approach to the work is against the basic penological principles.

Lack of financial means, without doubt contributes to the current situation in these institutions. Money is needed for improvement and promotion of accommodation conditions and technical equipment, insufficient personnel and professionalism, permanent absence of monitoring of the penitentiaries and detention centers by competent bodies stipulated by law, as well as other unacceptable conditions which are not in relation with the needs for functioning of the process for resocialization of convicted persons.

On the other hand, as a result of insight, the Ombudsman can state that the security services employees at the penitentiaries and detention centers in the Republic of Macedonia sometimes use force towards confined persons so that peace and quiet, legal and prison rules at the institutions can be maintained. However it should be emphasized that violence, torture or any other form of inhuman treatment and punishment are not used.

Except for the penitentiaries "Prison Stip" and the open Department in "Prison Bitola" in Prilep, the greatest number of penitentiaries function in ruined and substandard objects, and the confined and convicted persons serve their sentence in inhuman conditions (ruined furniture, presence of cockroaches and other insects, insufficient hygiene and light, they sleep in wet rooms on the floor and in the corridors, they do not have enough appropriate clothes, shoes and bed linen) which violates human dignity and does not allow conduct of the real resocialization and social adaptation process.

As an example of the work of the Ombudsman worth noting is the case of the convicted persons refusing prison nurture in the "Idrizovo" Penitentiary.

Namely, acting upon findings from the media that part of the prisoners in the penitentiary institution "Idrizovo" refused prison food until their request for sentence reduce for one third for all prisoners is met (not only for prisoners serving the sentence in "Idrizovo" Penitentiary, but for all institutions within the country), the Ombudsman initiated a procedure. Representatives from the Ombudsman office visited the institution for complete and concrete fact finding and possible undertaking of measures and actions in accordance with the powers for protection of their rights.

After the insight in the penitentiary "Idrizovo" and the direct conversations with the officials and some of the convicted persons selected by random choice, the Ombudsman found that in the case the requests of the convicted persons were inappropriate and without ground, thus stopped the procedure. At the same time the authorities were informed on the guaranteed rights of the convicted persons, in particular their rights regarding their health and contacts with the outer world.



Due to lack of quantity and quality of food provided by the institution, the detainees and the convicted persons rely on the food received from outside of the institution, for which they do not have proper storage conditions and due to lack of cutlery and other equipment (tables and chairs), the detainees and the convicted persons often eat standing or sitting on the floor or on the beds.

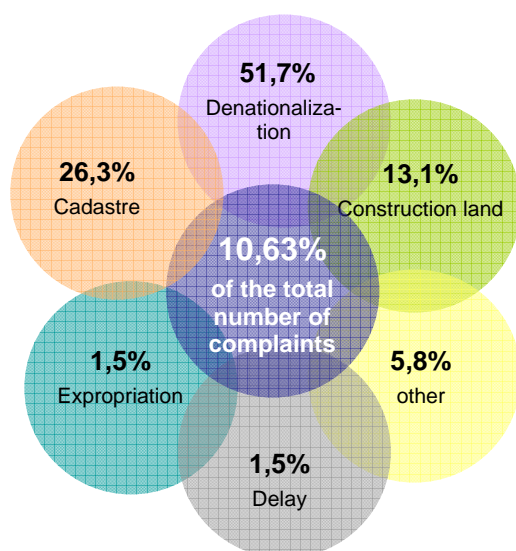
The telephone communication with the outside world is limited both due to the broken phone boots and the limitation of the service to the afternoon hours only, while the sport and leisure activities are kept to minimum due to lack of sport equipment and technical aids.

As a consequence of lack of professional personnel in the departments for re-education and resocialisation (psychologists, pedagogy workers, social workers and instructors), the education process does not fulfill its intended function and almost in all institutions there is a lack of adequate system of health services as engagement of medical personnel through service contracts provides improvised function.

The above points to the conclusion that the penitentiary system in the Republic of Macedonia does not function in accordance with the Law on Sanction Execution in which the European detention rules are partly accepted and incorporated.

With this, although the normative part of the system of sanction execution is based on the maxims of humanity, moral values, justice and respect for the human person and dignity, in practice the institutions responsible for enforcement of the legislation in regards to the convicted and detained persons, have put this category of citizens on the margins of the society by not providing adequate care thus violating their basic human rights and freedoms.

## Property – Legal Relations



Property is of immense significance in everyday life. This leads to numerous property and ownership disputes of legal and factual nature between the citizens and the state, or third parties. That is the basic reason why the citizens initiate procedures for protection of the property right in the field of property and ownership relations. This is mostly in terms of: denationalization processes, recording of the property right of real estate and other property rights for real estate in the Cadastre Office, as well as in the records for land users changes – cadastre, securing the construction land rights etc.

The objective for private property is proclaimed in the Constitution of the Republic of Macedonia. However, it is obvious that it has not been reached yet as the basis of the social-economic system because the privatization process of the state property is still in progress.

The Constitution of the Republic of Macedonia proclaims the private property as a basis for the social-economical system. However, it is an obvious fact that this objective has not been achieved yet because certain segments of denationalization process of state property are still in progress such as: previous property denationalization and construction land privatization, termination of the right for construction land use as a relict of the previous social-political system.

The basic reason for this condition is not the nonexistence of interest by the subjects to become property owners. In the largest number of cases the problem appears in the misapplication or disrespect of the law regulations, especially referring to the period in which individual cases should be solved. This leads to disrespect and permanent violation of constitutional and legal rights of the citizens, or their difficult realization.

The Minister of Finance who, according to the law is the denationalization organ as well as the commissions established by the Minister: Property and Ownership Relations Department, State Bureau for Geodesic Issues with the departments for survey and Cadastre Office and the Ministry of Transport and Communications, as well as the commissions for administrative issues of second instance at the Government of the Republic of Macedonia – did not reply to the Ombudsman's requests for explanations, information or evidence on denationalization, survey, cadastre and registration of property rights as well as property and ownership relations and awarding construction land. In case certain reply was received, it was with an explanation that the procedure was in progress. At the same time the Ombudsman was not informed on the actions taken for processing any of the requests, suggestions, opinions, proposals or advice.

The general conditions can be still seen in the following manner:

- the activities are not performed objectively and based on the case facts, having in mind only the legally relevant facts and acting without unjustified delay. The procedures are not performed in the most reliable, simplest and most efficient way;
- when performing official duties and taking decisions the bodies and organizations are directed by a wrong, unjustified or unreasonable estimation of the factual conditions, showing a tendency to hinder rights and interests realization;
- equal treatment of citizens is not provided when performing official duties, meaning there is slow pace, great bureaucracy and high level of subjectivity when conducting the administrative procedure. At the same time the rule for dealing with cases in the order of their submission is not obeyed;
- state bodies and bodies and organizations with public mandates are not synchronized in their work;
- Foreclosure and restriction of the property right as a characteristic feature of the previous social-political system have not been abandoned completely. On the contrary, it still exists.

The biggest number of complaints submitted in 2006 referred to realization and protection of rights in the denationalization process. An obvious fact in this respect is that there is unjustified delay of this procedure which only confirms the general impression that the state lacks a real intention for complete realization of this process in the expected period of six years. This period has already finished and not a half of the cases have been closed. Conduction of denationalization process with this pace is about to be completed in an indefinite additional period of time because the regulations of imperative nature according to which this procedure is considered to be an urgent one in first instance, as well as the procedures for complaints and appeals at the final instance – the Supreme Court are groundlessly deviated without any objective circumstances.

The denationalization body does not act upon separate requests and delays the procedure. It also continues to avoid the obligation for taking actions in terms of carrying out decrees absolute for denationalization and hand over of returned property in life-estate to the previous owners, i.e. their legal successors. This refers to decrees absolute stating that a compensation shall be awarded of the same kind with the nationalized property, where as the compensation shall be additionally determined. There is no case the Ombudsman reacted on and the denationalization body proceeded in that direction. At the same time, during certain processes of denationalization, the procedure is not carried out on the spot by determining the borders by marking the land, but it is done in an office and the ignorance of the citizens is abused. By this they are additionally

exposed to expenses for initiation of other court procedures in order to realize their real-estate right.

Thus, there are violations of rules during first and second instance decisions adjudication because the facts are stated incompletely and wrongly and the material right is misapplied.

The functioning of the Cadastre Office is a great problem for the citizens. It is an institution which should represent a service for the citizens. Instead, it is an institution which continuously abandons with official duties abuse and various illegal and corruptive elements.

The permanent and unjustified delay of procedures, the unprofessional relations of the employees and the complete disrespect and ignorant attitude towards the Ombudsman's interventions, especially in the Survey and Cadastre Department in Skopje (almost all complaints refer to this Department) only add to the general picture.

Acting upon complaints regarding securing efficient realization and protection of citizens' rights, the Ombudsman did not receive a reply on actions taken for realization of certain implications. The complaints in 2006 referred mostly to citizens' requests for securing construction land rights (awarding, purchase etc). The Ombudsman addressed its requests to the Ministry of Transport and Communications, i.e. Documenting and Management of Construction Land Department – Skopje.

The contents of the only reply by the Ministry of Transport and Communications is a proof of this. It represents only a formal excuse for absence of action, the reason for which is that in almost every case the citizens have not submitted that kind of requests, or the cases have been lost. On the other hand, as a result of the decentralization process, the cases, along with their acts have been transferred from the regional offices to the Ministry. The existing appropriate evidence was submitted to the Ministry by the Ombudsman as well.

According to the Ministry, the simplest solution (although against the law) is for the citizens to resubmit their requests. That means an exposure of the citizens to additional, and not low expenses for securing the required evidence (property certificate, blueprints, certificates, numerical data etc), which they have already submitted and paid for.

Because of that, the Ombudsman informed the Minister on several occasions and requested, within his powers to undertake activities for respecting the submitted applications by finding all the cases in the shortest possible time. It was also requested for each case to have an appropriate administrative act - a decision or a conclusion. Although a long period of time has passed, no actions have been taken.

Finally, another point worth mentioning is the functioning, meaning the malfunctioning of the commissions for administrative issues at second instance at the Government of the Republic of Macedonia (for denationalization, survey, cadastre and registration of real estate rights, property and ownership relations and awarding construction land) and their ultimately ignorant attitude towards the Ombudsman.

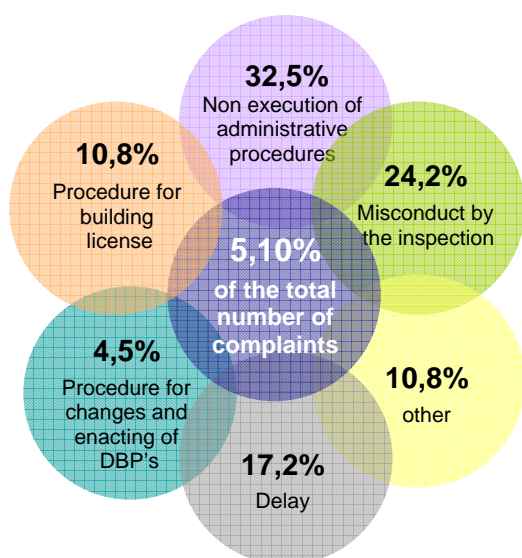
Speaking more specifically, the abovementioned commissions neither informed nor took into consideration the Ombudsman's interventions for any case in 2006.

In comparison with the previous year, no changes at all happened in 2006. So, the same basic characteristics remain: complete disorganization in the work from the moment of receiving of a complaint, along with the case acts, up to the final closure. It results in loss of complete cases and no evidence at all, slow pace, meaning no closing of cases even after a few years, bureaucracy on a high level and great subjectivity in the process of administrative procedure. At the same time, there is no adherence and respect towards legally determined period for reaching a decision and the provisions are applied on unequal and selective basis.

At the same time, the secretary and the president of the corresponding commission, as well as the Government of the Republic of Macedonia were informed on non acting upon the cases, and the Ombudsman found necessary to intervene on the basis of the general condition of not

taking any actions. After applying legal competences, decisions have not been reached yet and not a single body has undertaken any actions to overcome these conditions.

## Physical Planning and Civil Engineering



The basic obligation of a democratic state is to provide the citizens conditions for practicing the crucial human right – the right of their own home, by a neat and reliable legal system by organizing and humanization of the space. It is a prerequisite for establishing a healthy family, for urban living and regulated ownership relations.

This obligation is one of the basic values in the Constitution of the Republic of Macedonia. It is secured on the basis of legal norms for the rights and obligations of the citizens and other subjects of law, listed in the Law on Physical Planning, the Law on Construction, the Law on Ownership and other material rights and certain legal acts and by-laws regulating these areas.

During 2006, the Ombudsman office received 153 complaints by citizens implying to violation of freedoms and rights in the area of physical planning and civil engineering. The number of successfully closed cases was rather small (8). This is the number of cases in which citizens managed to realize their rights.

The abovementioned is best illustrated by the real conditions the citizens face every day while trying to realize a certain right or interest in order to improve their urban living conditions. The inefficiency of the public administration and delay in their work, with certain cases of corruptive behavior and abuse of the function both on central and local level and the procedures normally last much longer than they should according to the law.

After the initial difficulties in performing the authorities decentralization process the local self-government units faced while taking over the competences in the area of physical planning and construction, in 2006 there was a tendency of slight improvement. It was especially noticed in the organizational aspect although insufficiency in personnel was partly present, mainly in the inspection units, and in the majority of smaller municipalities the executive departments have not been formed yet.

The greatest number of complaints this reporting year referred to the problems citizens faced with local departments of physical planning. More precisely, the difficulties appeared in construction license procedures, passing the detailed building plans, non realization of those plans in terms of building public infrastructure objects etc. The real needs and interests of every individual and legal subject should be reflected in the detailed physical planning plans, and they should coincide with the public infrastructure. Their absence, i.e. changes and amendments which were not passed on time contributed to an increase of the number of illegal residential and business objects.

Accordingly, there were complaints about inaccurate, careless and inert actions by the authorized building planning and civil engineering inspectors while performing inspection monitoring and lack of appropriate legal measures when illegal building was confirmed. The practice of not performing continued, meaning selective performing of procedures for enforced

administrative realization of administrative acts for removals of illegally built objects. This was especially obvious in cases of collective residential-business objects.

In order to deal with the urban chaos and the problems which have persisted over the years, in the second half of the year the authorities proclaimed more accurate realization of these executive procedures. However, with certain exceptions, they have not been performed yet.

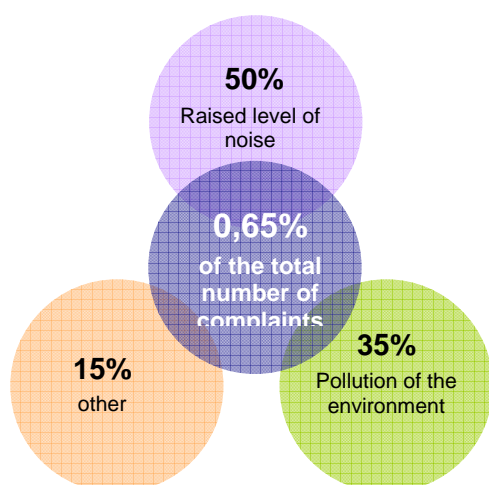
An immediate reason for a more serious approach towards destruction of the so called “urban mafia” were certain cases like “Fikom”, “China Wall” etc. In these cases, construction licenses were issued under suspicious circumstances, the construction fees for the objects were not paid and they were of much bigger sizes than the allowed ones. Regular inspection controls were conducted. Among other reasons, one is the disrespect of the Ombudsman’s requests and recommendation for more frequent, accurate and regular inspections on the construction sites during the last few years.

There were also cases of a completely selective and drifted approach towards performing procedures for removal of objects and disrespect of the Ombudsman’s requests for a temporary stay of execution in certain cases which allowed this, e.g. by the Mayor of the Municipality of Petrovec etc.

These obvious illegal activities and the ignorant and passive attitude of the competent bodies and functions initiated by personal interests or as a result of political influences, create a justified mutiny and dissatisfaction with the citizens and their disbelief mainly in the persons of highest public functions in charge.

All of the abovementioned problems and frequent violations of rights were the reason for the Ombudsman to undertake actions in its competences during the reporting year, in order to protect the citizens’ rights. As a result a great number of requests, recommendations, implications and information were addressed to municipalities’ mayors, since they are competent for dealing with the local urban issues, and to the Ministry and Transport and Communication as a competent body for performing monitoring on the local self-government units’ work in the area of physical planning and civil engineering.

## Environment



The right of healthy and clean environment is one of the basic human rights regulated by the Constitution, laws and international conventions and agreements ratified by the Republic of Macedonia.

Protection and promotion of the environment is one of the fundamental values. Because of that it should be a part of the priority obligations for the state bodies which are competent in the area of environment.

A characteristic feature for this reporting period in terms of submitted complaints in the field of environment is that the practice from the previous years repeats. That means a very small number of complaints submitted to the Ombudsman for violation of rights in this area.

The complaints in this area mainly referred to increased level of noise caused by restaurants situated



in residential objects where the submitters live, or in their immediate vicinity. Further on, violation of executing economy activity procedure by which, having in mind the location and the conditions, the environment is polluted which further on causes hazardous effects on people's health.

In its work the Ombudsman reacts on state bodies work responsible for execution of law regulations in the field of environment. Those are most frequently the Ministry of Environment and Spatial Planning, the State Inspectorate on Environment, and after transferring the competences in this area on local level, the local self-government units as well.

Although the cooperation with this bodies is on a satisfactory level, the Ombudsman finds lack of concrete results which would represent complete realization of citizens' rights in the filed of environment.

A part of the reasons for inefficient realization of environment rights, in our view is the incomplete definition of competences in this area for the local self-government units.

In this respect it can be said that the actions taken so far in this field show that inspection bodies find irregularities in the work of subjects and reach decisions for prohibition of performing their activity in accordance with the legal empowerments. The problems appear the moment the decision is supposed to be executed. In many cases it is only of formal character.

During the reporting year the Ombudsman instigated several procedures in this area on its own initiative, in accordance with the legal powers.

Following the conditions in the field of environment, procedures were instigated for the problems and conditions that citizens from Kumanovo and Veles reported in terms of landfill. During the course of these procedures the cooperation with the bodies in charge in the Municipality of Tetovo lacked. Even though addressed on several occasions, a reply was not submitted to the Ombudsman.

The conditions with the great polluters of the environment remained current and unchanged this year as well: cement factory "Usje", "Ohis" and Oil Factory "Okta" in Skopje. After conducted investigations, the environment services informed the Ombudsman that the measurements showed hazardous material within the frames of permitted limits. On the contrary, the citizens who live in the vicinity of these objects still complain on the presence of unsustainable smell and dangerous gasses in the air.

We can all witness that great number of problems in terms of air, water and soil pollution which exist in our country, that the level of communal hygiene in the urban areas is low which implies to the alarming conditions in this sphere.

Furthermore, human rights can only be fully protected in an ecologically healthy environment which provides a healthy life. This leads to the obligation for protection and promotion of the environment for the benefit of the existing and future generations.

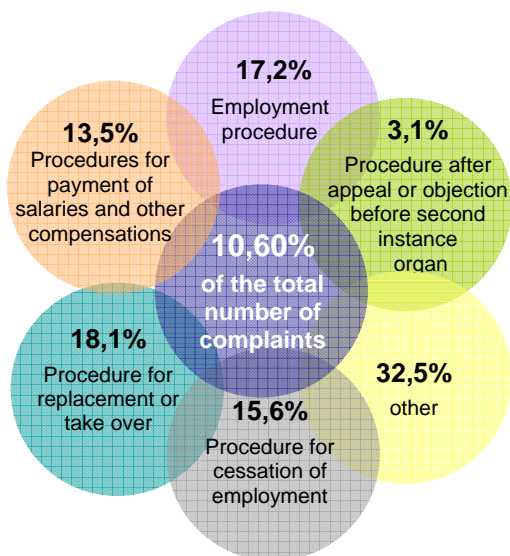
The process of harmonization of our legislative with the one of the European Union in the field of environment must be accompanied by implementation of the adopted legislative, meaning providing the citizens an opportunity to practice their rights and not only being entitled to them in a declarative way.

In the direction of efficient realization of the rights, the need of efficient court protection of the healthy environment rights appears, which includes efficient court procedures without delays, having in mind that it is about rights which if violated can cause great and irreplaceable hazardous consequences on people's health and lives.

The environment protection process would greatly benefit from the transparency of every successful case from the court practice, in order to educate people on efficient realization of healthy environment right.

Having in mind the real conditions in the field of environment, the fact remains that our state has an immense obligation to fulfill the European criteria and standards primarily for the benefit we will gain, and further on for the coming Euro integration.

## **Labour Relations**



In the area of labor relations in 2006, 333 complaints were received, out of which 75 are still in process, 258 completed – mainly without any breach of rights from the bodies of the state administration, and 40 procedures upon complaints were successfully completed after the Ombudsman's intervention.

Enforcing the protection of the legal and constitutional rights of citizens in the area of labor relations, during this reporting year, the Ombudsman faced several specific conditions while proceeding in this area.

Namely, at the beginning of 2006, there were several officials employed in different bodies of the state administration who brought forward a problem of decision for cessation of employment due to realization of the right of age pension according to the already

cancelled article 104 of the Law on Labour Relations. Acting upon the submitted complaints, the Ombudsman found that most of the employers urged to bring decisions for cease of the labor relations without due attention to if the employee is in process of a project completion, if the cessation would harm other persons or bodies that have directly or indirectly relied on the work of the employee.

Immediately after the decision of the Constitutional Court for annulment of article 104, paragraph 1 of the Law on Labour Relations, the Ombudsman sent a notification to all employers that have acted upon the annulled article that all decisions for cessation of the employment based on the annulled article cannot have legal effect and there cannot be any further execution. Hence, the Ombudsman indicated the need of measures to reconstitute the legal consequences coming from the brought decision for cessation of the employment and to return the employees to work to the position the incumbents were holding before the decision for cessation of employment took effect. A large number of the employers proceeded according to the instruction of the Ombudsman, i.e. have returned the employees to posts held before the decisions for cessation of employment took effect.

Most of the submitted complaints with the abovementioned merits were positively resolved by the Ombudsman due to the fact that a large number of the employers acted upon the instructions from the Ombudsman, i.e. have returned the employees to posts held before the decisions for cessation of employment took effect.

In 2006 there was a continuity of unsatisfied citizens-employees at the Ministry of Transport and Communication who were not taken over by the municipal administration. After the re-issued decisions for cessation of the employment, the Ombudsman found that the Ministry for Transport and Communication did not respect and apply in full the legal procedure for transfer of employees from state to municipal level. The above in particular knowing the provisions from the Law on Local Governance, the Law on Construction and the Law on Spatial and Building Planning have been

enacted as well as the Decision of the Government of Republic of Macedonia by which there are obligatory actions for the Ministry for Transport and Communication, for the units of the local self-government and the Employment Agency to complete the procedure for transfer of employees from state to local level, a right assessed for this category of not transferred employees in the Ministry for Transport and Communications .

The Employment Agency has acted negatively on the submitted appeals on the decisions for cessation of the employment relation as not valid, pursuant to which the employees have continued to seek judicial protection of their employment rights.

Most of the violations of the rights deriving from employment with regards to the employment and deployment as in the previous reporting years, so in this reporting year, were with the educational personnel in the education where persons were employed who were not fulfilling the conditions as per the advertisement or there were inadequate distribution of the fund of teaching hours. The existing personnel complained that instead of a proper distribution of teaching hours, there was recruitment of new personnel. After the determined violations of the rights deriving from employment in the procedure for employment and deployment of personnel, and in order to rectify the above mentioned violations, the Ombudsman notified the educational and labor inspection services, which to a small extent acted positively with an explanation that all employments are in accordance with the previously acquired consent of the respective ministry and the Ministry of Finance.

With regards to the teaching personnel in the education, it is important to note the current condition with the transformation of the employment from an unlimited to a limited duration employment contract.

The legal framework foresees transformation of employment from a limited to an unlimited duration of the employment contract if the employee continues to work for more than four years under the conditions and manner determined by law. A large number of the employers, managers of the schools refused the request for transformation of the employment from a limited to an unlimited duration of the employment contract even though the employee had performed his/her employment tasks for more than four years with an explanation that there were no funds provided for such a transformation to take place.

The interpretation of this legal provision by the legal experts directly participating in the preparation of the Law on Labor Relations was that the employees who worked for four years for one employer could have their posts transformed from a limited to an unlimited duration only if the post in question was systematized in the act for systematization of the employer and if there were funds provided by the Ministry of Finance in accordance with the Law on Budget Execution.

In most of the cases the employee was forced to fulfill the above mentioned right through a judicial procedure, and with a positive court decision.

In the reporting year, the Ombudsman provided protection of the rights deriving from employment for a group of educators, and class and subject teachers in the primary education by supporting this with an opinion towards the submitted initiative before the Constitutional Court for protection of the legality and constitutional basis of the articles 3 and 15 of the Law on Primary Education ("Official Gazette" of RM, no. 35/06) by which provisions the above mentioned group of citizens were brought into an unequal situation with regards to the other teaching personnel in the primary education that with the current legal amendments underwent changes in the area of education.

In the area of labor relations in 2006, there was an evident violation of the rights of the state officials who were deployed from posts with higher posts of a lower hierarchy without due respect to the Law on State Officials as well as the Rule Book of the manner and procedure for appraisal of the state officials. In several cases, the state officials complained that despite the non-appraisal and the not received unsatisfactory mark by the immediate supervisor, the employee was deployed to a post lower in the hierarchy; that there was appraisal by the highest post in the hierarchy

despite the existence of an immediate supervisor, the appraisal form was not given to the appraised person nor the right to an objection to the Commission for Appraisal Validation.

Acting upon such complaints the Ombudsman notified the Employment Agency's Commission for Resolution of Appeals and Objections of State Officials that has acted negatively in the procedure upon the submitted complaints i.e. has refused the complaints as not valid.

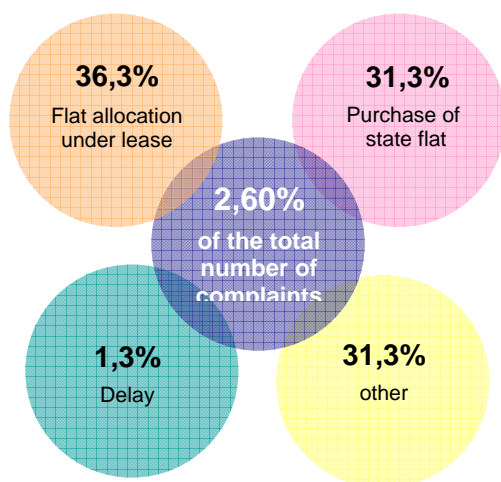
Such proceedings of the Employment Agency's Commission for Resolution of Appeals and Objections of State Officials by not positively rectifying evident violations of the rights deriving from employment, for the Ombudsman represents unprofessional and incompetent relation towards the protection of legal and constitutional rights of the state officials that incrementally loose their confidence in the work of the above mentioned commission.

It is inevitable to mention the cooperation of the Ombudsman with the Commission for deciding in the second instance in the area of the labour relations at the Government of the Republic of Macedonia, which continued the work outside of its legal competences, meaning it did not decide timely upon the appeals and complaints, nor accepted the indications from the Ombudsman. The non-diligence of the commission questioned this constitutionally guaranteed right to two instances in the deciding on the rights and obligations of the citizens, who were forced to search the protection of their rights in courts.

The best cooperation in the area of protection of labour relations rights the Ombudsman achieved with Labour Inspection at the Ministry of Labour and Social Protection, as well as with the education inspection at the Ministry of Education and Science, which replied with information and a report for the established factual situation on every received request.

The analysis of the conditions in the area of labour relations, again, implied the conclusion that the realization of the constitutionally and legally guaranteed right to work is unsatisfactory. Unsatisfactory is also the realization of the rights of the employees and the obligations from labour relations, which is because of the disrespect of employees' rights by the employers, the bureaucratic and unprofessional attitude, as well as the insufficient knowledge and directing to the legal provisions which is why the work was detrimental to the employees.

## Residential relations



Acting on the complaints of the citizens who were asking for protection of their constitutional and legal rights in the residential field, and having in mind the results of the factual work during 2006, the Ombudsman find that the constellations in the residential field are almost unchanged.

Namely, the number of the submitted complaints in the residential field during 2006 increased slightly, and the citizens requests were, again, regarding the problems they face during transfer of the residents rights to a member of the same household, allocating state owned apartments for rent in context of the provisions from the Law on Residence, allocating apartments for rent according to the provisions from the Law on Denationalization and the Law for special rights for the members of the

armed forces and the members of their families, as well as buying the state owned apartments according to the Law on selling state owned apartments.

A new point in the previous period was the increased number of submitted complaints by which the citizens were demanding intervention in realizing the draft contracts for buying/selling an apartment concluded during 2002, meaning actual transfer of apartments in the area "Aerodrom" which were offered for sale under market conditions by the Public enterprise for managing residential and business dwellings of the Republic of Macedonia.

The problem that the citizens were pointing to was the fact that although the apartments were completely finished their transmission was postponed because of the unfinished infrastructure which was an obligation of the City of Skopje and the Municipality of Kisela Voda, and after the effectuation of the territorial division-Municipality of Aerodrom. According to the signed agreements, apart of the infrastructure of the area Aerodrom was built by the City of Skopje, and the rest which was supposed to be built by the Municipality of Kisela Voda, remained unfinished. Having in mind that according to the new territorial division the area is now on the territory of the Municipality of Aerodrom and the infrastructure was left unfinished by the Municipality of Kisela Voda to which the funds have been transferred, a dispute arouse between the two municipalities on the completion of the obligations.

The Ombudsman established that this situation was mostly a product of the lack of cooperation between the public servants of the two municipalities, and especially between their mayors.

Both municipalities have not acted according to the legal provisions although obligated, they have not done an interpersonal divisional balance of the funds. Regarding this, the Ombudsman pointed out that it is necessary for the two municipalities to have a division of the income as well as the expenditures that they had or might have in future as a result of the established competences. The Ombudsman as a base for this stance took the report of the legal committee of the Parliament of the Republic of Macedonia No. 10-22/26 from 13<sup>th</sup> February 2006.

The Ombudsman informed the Minister for local self-government and the community local self-government units for the established situation. Although the problem has not been completely solved, as a result of the activities taken, most of the infrastructure has been built in the mean time, and the dispute for the taking over of the obligations from the municipalities is now being decided in court.

The realization and protection of the rights of the citizens who have submitted complaints in the procedure of consideration of claims on multiple grounds for assigning apartments in state property for rent which is taking place in the committee for residential issues of the Government of the Republic of Macedonia continued in 2006.

A number of citizens have submitted their claims to the committee for assigning an apartment in state property for rent according to the rights that derive from the Law for Denationalization and the Law on special rights for the members of the armed forces of the Republic of Macedonia and the members of their families.

The claims that were submitted according to the Law on Denationalization are based on the fact that the claimants, as beneficiaries of denationalized property, were bearers of the residential rights over the apartments, they currently occupy them, and the apartments are transferred to the previous owners who are asking for their eviction. It is obvious that in practice the founded claims of the bearers of the residential rights for assignment of another apartment for rent are very difficult to be realized, so a number of citizens even after the legal deadline are living in the denationalized apartments while the state is not providing other appropriate apartment. In the same time the owners of the apartments hire specialized agencies which forcefully press on the occupants of the apartments to move out, and in some cases the conflict escalates into fights. This leads into diminishing of the citizens' trust that the state is taking care of the abiding of the constitutionally guarantied freedoms and rights and fulfilment of its legal obligations.



For the report for 2006 with few exceptions, remain the conclusions which the Ombudsman has stated in the previous reports: that the procedures regarding the submitted claims on both of the stated grounds in the committee for residential issues are inexcusably prolonged, and regarding the letters from the Ombudsman that were sent more than a few times, the most frequent response was that the state does not have the needed number of apartments that would be assigned to the complainants. At the same time the claims that in the past years were submitted to the Committee for residential issues have not been resolved even though a substantial period of time has passed.

In the past period in the focus of interest of the Ombudsman were the status and the conditions of the apartments which have been for few decades occupied by persons without any kind or appropriate documentation, so called illegally inhabited persons.

With the Decision of the Government of the Republic of Macedonia for selling apartments in the property of the state, with which were determined the apartments for sale over which the Republic has the rights, duties and responsibilities and are occupied by persons without legal grounds, were offered for sale. The sale was conducted by a tender open to domestic and physical persons, and of the best bidder was regarded the one offering the highest price. This decision caused a lot of reactions from the citizens who were using those apartments in terms that they were not granted the right of priority in buying, which caused a number of people who did not offer the highest price to lose their residence because the apartments were bought by someone else.

At the same time quite a few citizens appealed to the Ombudsman because some apartments were left out of the Register of apartments for selling, while were still occupied by people without legal grounds. Because of this, the Ombudsman asked the Government of the Republic of Macedonia for an information about the number of apartments in state property which were assigned to citizens on various grounds, as well as the number of apartments which are still in Government's possession, and are enlisted for assignment for rent to the persons who fulfil the conditions provided in the legal acts. The Government of the Republic of Macedonia still has not answered this request.

For all of the established situations the Ombudsman sent information to the Committee for residential issues and to the Government of the Republic of Macedonia and also had a meeting with the Minister for transport and communication, where he asked for immediate measures for quick solution of the problems in the residential field.

The cooperation with the sector for residential-communal issues and infrastructure at the Ministry of transport and communication on the complaints of the citizens for transfer of the residential rights and purchase of the apartments according to the Law on selling of apartments in communal property is still moving in a positive direction. Complying with the recommendations from the Ombudsman, and especially the direct contacts with the public servants from the sector, contributes to the realization of the citizens rights in a quicker and more efficient manner.

The procedure for assigning of the apartments built by the "Project for building of apartments to be rented to people with low income" for the realization of which the Ministry of Transport and Communications was responsible is finally over, and the apartments are assigned to people who met the prescribed criteria. Although some citizens were appealing the procedure, the Ombudsman did not find any irregularities.

Still there is a remark that in some cases even though the conditions for applying the prescribed provisions are fulfilled, there is a lack of concrete measures on activities, meaning the procedure for concluding purchase contracts is inexcusably postponed.

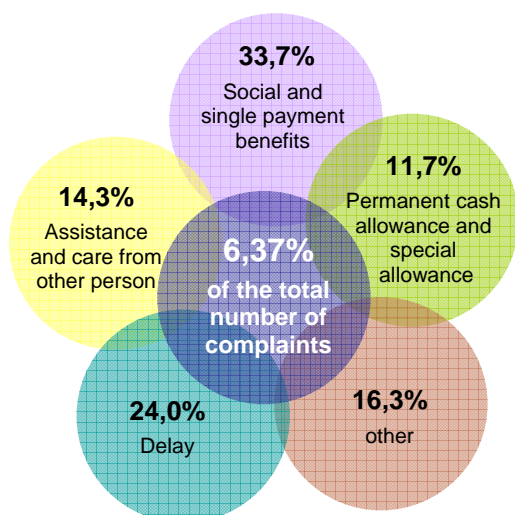
Looking back at the findings that derive from the monitoring of the conditions in the residential field for a few years, we have to conclude that there is a lack of cooperation between the bodies, and the committees competent for this field.

The case that has been unsolved for years is a proof for this remark, and the complainant can not exercise her rights that derive from the Law for Denationalization.

More specifically, in the procedure for denationalization as compensation for a nationalized property done by the “Committee for ruling on complaints for denationalization” with head quarters in the Municipality of Centar, the complainant was awarded an apartment over which several years back she has not been able to establish tenancy for several years.

Namely, the same apartment was assigned by the Government of the Republic of Macedonia for rent to another person who moved in immediately. Despite the numerous interventions by the Ombudsman to the comities and the constant remarks that appropriate measures must be taken for the apartment to be made available for direct tenancy by the complainant, having in mind that the right of property derogates other rights among which the right to rent, the competent comities did not take such activities. The Ombudsman informed the Ministry of Finance about this case, but until closing of this report, there was no response.

## **Social security and protection**



According to the number and the content of the submitted complaints in the field of social security and protection again in this reporting period we cannot conclude that the social and economic situation of the citizens is improved, and that the help that they receive is sufficient for their basic needs, nor that the social aid is securing the constitutional guarantee for social security and social justice.

The number of the submitted complaints to the Ombudsman during 2006 regarding the protection of their social rights was increased, which is a clear fact that the social condition of the citizens is not improved.

Most of the complaints were addressing the field of social security in the aspect of unjustified delay of the procedure in the first and especially in the second instance.

As one of the problems which contribute to the delay of the procedure in the second instance which the Ombudsman noted during his frequent visits to the Ministry of Labour and Social Policy, was the non registration of the complaints and of the decisions in the Ministry archive. This resulted in the Ombudsman not being able to see documents for the cases and to obtain all necessary data because of inappropriate registration or because the file could not be found or was not known where it was or in which phase the procedure was, nor was he able to have a copy of the decision reached, if there was one.

In order to overcome these problems, and to provide a fast and efficient protection of the citizens' rights as well as to get swift and correct information for the ongoing procedures, the Ombudsman supplied the Ministry of Labour and Social Policy with a special information containing a proposal for finding appropriate solutions regarding the registration of the cases, the reached decisions appeals, but the information was not answered.

At the same time, the procedure was delayed, and in some cases the social rights were cancelled because of false data issued by other bodies, for example because of the false data from the Pension and Disability Insurance Fund that a certain person was receiving a pension or an information from the Agency for Employment that a certain person was employed. The competent

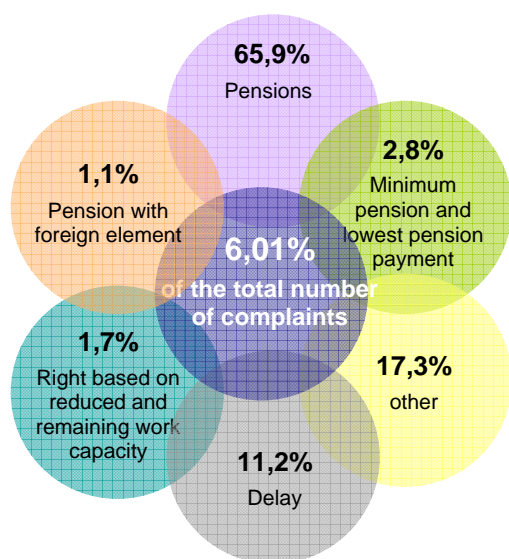
bodies without checking the facts where reaching negative decision and were cancelling the rights of the citizens. Then after the Ombudsman's interventions in some of the cases, they would act upon them, after which the citizens would effectuate their rights. But in some of these cases, even after the Ombudsman would give undisputable evidence that the decision was based on false data, the competent bodies would not act upon. In these cases the procedure is ongoing.

In the aspect of social rights, the Ombudsman found untimely actions upon requests for single financial help, although the help is supposed to be given to citizens in momentary social crisis. There were cases when the single financial help was not awarded because the funds for this purpose were not provided and the citizen was complying with the conditions prescribed in the Law. The Ombudsman informed the Minister of Labour and Social Policy on these irregularities, and asked for quicker and easier realization of the legal rights of the citizens. In order to overcome the problems with the postponement of the procedures for appeals, the Ombudsman established the practice to make inspections at the Ministry of Labour and Social Policy at least twice a month, and when necessary more, which showed to be an efficient method for effectuating not only the citizens rights, but was helping the Ombudsman's work. During the inspections, aside from the requests for speeding up the procedure it was pointed out to the omissions and the irregularities during the process of reaching the administrative acts, which contributed in a good portion of the cases to ending the procedure with realization of the rights of the citizens.

In 2006, again, the Ombudsman received complaints from the internally displaced citizens about the cancellation of their status as "internally displaced citizens", which was a result of a wrongly established factual situation that these persons own apartments and houses in which they can live. In most of these cases the Ombudsman established different factual situation, irregular and incorrect establishing that the persons own apartments and houses, and after the interventions their status was restored, and were taken care of by the Ministry of Labour and Social Policy.

During 2006 the Ombudsman visited a number of collective centres where the internally displaced persons reside, and found that the conditions for living, the medical service and the hygiene were not improved.

## Pension and Disability Insurance



The right of pension and disability insurance, as a part of the social rights are important for the survival of the citizens, are still difficult to effectuate and take long procedures.

In this reporting period, most of the complaints were about the effectuation of the rights from the pension and disability insurance deriving from the implementation of the international agreements for social insurance, because the procedure is long, complicated and specific, especially regarding the pension internship, filling in forms for registration of the pension internship in the register, as well as the conditions for retirement or early retirement. The procedure is delayed and complicated especially if: the data which the Pension and Disability Insurance Fund has is incomplete, the contributions for the pension and disability insurance have not been paid in full, the

company seized to exist, there is a liquidation procedure going on, or there are other real obstacles

in determining the factual situation. In aspect of the realizing of the rights deriving from international agreements and bilateral agreements, the citizens face problems especially in the realizing of the proportional part from the pension, and at the moment these cases are most visible with Serbia and Montenegro. There is an open procedure for re-pensioning based on the Bilateral agreement with Serbia and Montenegro, which even though started in 2002 because of the big number of insured persons, lack of appropriate data, open issues between the states and other difficulties, is still ongoing.

The procedure for re-pensioning with Bosnia and Herzegovina started after the conclusion of the bilateral agreement, but is not carried out completely and is not put into practice for the effectuation of some rights.

With the intention to overcome the problems with realizing the rights based on international agreements, especially to speed up the procedure, the Ombudsman continued with the practice of cooperation with the competent bodies, insisting on more frequent controls of the taken actions and intervening in speeding up the procedure, meaning, taking all possible measures to the domestic bodies and intervening with the bodies of the counterpart states, to provide faster and unobstructed realization of the rights.

Another significant problem in the reporting period and frequently connected with the realization of the rights based on international and bilateral agreements for social insurance, was the realization of the right to a lowest amount of pension, especially for foreign pension. In most of the complaints, the Ombudsman established that the citizens were asking without any grounds to realize the right to a lowest amount of the pension even though they have realized the right to a pension abroad, and that pension is higher than the lowest amount for a pension. The Ombudsman also found that the citizens often did not report the changes concerning the realized right, and were receiving the lowest amount without any grounds, until the Fund would find out.

It is safe to conclude that in contrast to previous years, in cases when an extra pension was paid and then it was sanctioned without any administrative act, now these administrative acts are determining the amount which is not going to be paid as a protective clause with full accordance to the law.

A specific problem found in the citizens' complaints is the inability to realize their rights from the pension and disability insurance because of the non-recognition of the documents issued by the UNMIK, Kosovo. Estimating that the Fund is acting contrary to the conclusions of the Government of the Republic of Macedonia for recognition of the documents issued by the UNMIK administration, the Ombudsman sent a recommendation and special information to the director of the Fund to change the policy, but the policy of the Fund remained unchanged for a long time. The Ombudsman continued with the interventions after which the Fund started to recognize the documents, so the citizens started to effectuate their rights to a pension.

There were a big number of complaints about the right to an invalidity pension, and it can be established that the problems the citizens had regarding the rights based on invalidity even with the functioning of several commissions continued in 2006. Specifically speaking, the citizens, again, complained on the findings of the commissions, opposing that they were not objective, and there were a lot complaints on the length of the proceedings on evaluation needed for a decision, which created a feeling that they need to pay off for the pension.

In aspect of the rights on age, family and agricultural pension, as well as the seized work ability, for physical injury and other rights in the pension field, the citizens mostly complained about the delay of the procedure in the first and second instance. After the Ombudsman intervened, the citizens effectuated their rights in the first instance bodies, but the procedure in the second instance is still taking too long, and is not keeping to the legal deadlines. This is why the Ombudsman sent information several times to the president of the commission, explaining how the delay of the procedure is breaching the rights of the citizens. Soon, the Ombudsman noticed an improvement in the procedure.

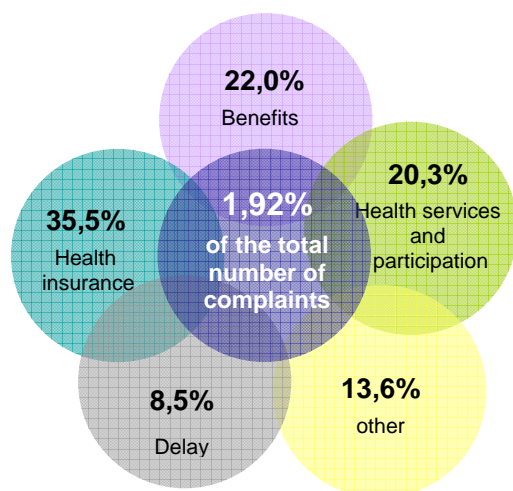


Regarding the recognition of the pension internship effectuated in the former JNA and the realization of the right to a pension, in this reporting period, there were only a few complaints, which indicates that the problems are mostly overcome. However the persons that came to pension in the SFRJ from the JNA still receive only an advance payment, instead of a full pension.

Similarly like previous years, in 2006 the problems with the raising and especially with the distribution of the funds from the Solidarity Fund are still current, even though it was announced that this question was going to be regulated by law. The citizens were mostly complaining for, according to them, the inadequate distribution of the funds from the Solidarity Fund to associations, as well as the unlawful spending of it.

It is a general assessment that the realization of the rights in this field is still a long procedure, especially the procedure of appeal, and that the legal deadlines are not met. Also the deadlines are not respected in the process of answering and acting upon the Ombudsman's interventions and recommendations. However, it is clear that upon violation of rights, the Ombudsman's recommendations, suggestions and proposals were respected, the irregularities were corrected and the citizens who requested the Ombudsman's help realized their rights.

## Health insurance and protection



In this reporting period there is a slight increase of the complaints about health insurance and health protection, compared to the previous year. In 2006 some of the problems were not resolved, and the citizens still faced difficulties during the realization of their rights especially with the practice of the competent bodies to delay the decisions for the citizens' requests.

The problems in regard to recognizing the status of an insured person and for issuing vouchers for health insurance (blue cards), continued in spite of the Ombudsman's insisting that there is no legal ground for denying the status of an insured person, for not performing insurance changes or not issuing blue cards only because of a previous ground, which seized to exist, the obligations to the Fund were not met.

A characteristic problem was when the Fund changed its policy and did not recognize the status of an insured person to a citizen because in the past, for a period of time he was not fulfilling his obligations to the Fund, although he is now doing that regularly. The Ombudsman intervened in the Fund for Health insurance pointing out that the legal grounds to become an insured person have not been changed, so there is no justification why the Fund has changed its policy. The Fund started to acknowledge the status and to issue vouchers to all of the citizens that changed the basis for insurance and who meet their obligations regularly according to the new basis, and for the retarded debt there is an procedure prescribed by law.

During 2006 the complaints about pregnancy or delivery were reduced. Still some citizens had difficulties in realizing this right due to unpaid contributions or non-received salaries. There were cases where the employers were paying the contributions but were not paying the salaries to the employees which caused the Fund not to pay the compensation.



There were cases where persons who did not receive the compensation only because the company did not pay the salaries and contributions for all of the employees, although the obligations for the person requesting realization of that right were completed. This was often the case with people who worked in liquidated companies that do not have any assets so they cannot pay up for the contributions and the salaries for the rest of the employees who worked in that company. To protect the citizens, the Ombudsman asked the Minister of health, as a body that controls the activities of the Fund, to re-evaluate the Fund's policy, and to take measures for overcoming of this problem. The Ministry did not inform the Ombudsman about the activities taken.

Some of the complaints regarded the delay of the procedures for reimbursement of funds for clinical or other type of medical services in private clinics, with which the Fund has contracts, or for the disputing of this right. The Ombudsman often established violation of the rights, and intervened for the Fund to reimburse the means for clinical or other type of medical service in private clinics with contracts with the Fund. These interventions were accepted in all cases.

The citizens also faced problems during the acquirement of medications, especially because of the lack of medications from the "Positive List" in the pharmacies, as well as in terms of reimbursement of funds spent for medications caused by delay of the procedure or because of recognition of inappropriate amount by the Fund. After the Ombudsman's reactions the right for reimbursement of money spent for purchase of the medicine or the real expenses were paid, and measures for providing necessary medications in the pharmacies were taken as well.

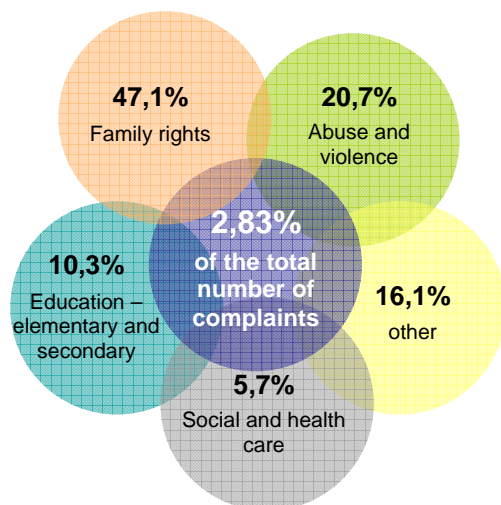
During the reporting period several complaints were received regarding the non-diligent treatment in the medical facilities. To clear the situation, aside from the investigations asked from the commissions in the medical institutions, the Ombudsman investigated these cases thoroughly, especially by inspections of the medical institutions, and the patient's documentation. In part of the cases, after the investigation it was established that it is not a case of non-diligent treatment, but in another part the Ombudsman could not establish the factual situation because he is not an expert in the area, which resulted in several law suits.

Monitoring the situation with the patients suffering from malignant diseases the Ombudsman started a procedure on his own initiative, motivated by the increasing number of such patients and lack of medications. From the information received from the Fund, the Ombudsman concluded that the lack of medications is because some of them are not registered, and the procedure for registration is slow and expensive. With the motivation to overcome these problems, the Ombudsman sent information to the current Minister for health, asking him for measures to be taken for acquiring the needed amounts of medications, and to provide same treatment for the patients suffering from multiplex sclerosis because not all of them were accepted for treatment in the medical institutions while justifying this act with the limited funds. The Ombudsman informed the Government for these problems but did not receive any reply.

The Ombudsman started a procedure on his own initiative, after establishing that some of the medical institutions in Kumanovo were charging participation from the insured persons aside from the participation provided in the law. The institutions tried to justify this practice with the lack of funds. The Ombudsman evaluated it as unlawful, and found that it is a direct violation of citizens' rights. The Ombudsman informed the Minister for health, the Fund Manager and the managers of the medical institutions for this, and it is expecting measures for stopping of this illegal practice.

Again, in 2006, the Ombudsman submitted several special information to the Ministry for Health and to the Government of the Republic of Macedonia, regarding the dissatisfaction from the cooperation with the competent bodies, especially in terms of swift, efficient and timely actions upon the requests, suggestions, which contributed to the diminishment and non-respect of citizens' rights. Still it is safe to say that in most of the cases where a violation of the rights was found, there were actions taken and the suggestions and recommendations by the Ombudsman were respected.

## Children's rights



During 2006 the number of complaints regarding the children's rights increased, which is a sign that these rights are increasingly violated, but also that the public consciousness about them is increased. The Ombudsman still cannot express content about the treatment of the children as subjects with special rights, interests, and obligations. The non-acceptance of this status is mostly visible with the parents and teachers, but also in the public institutions in charge of the children's rights, because during the process of making decisions regarding the children it is not always their best interest they have in mind first. The children's insufficient knowledge of their rights also contributes to their inappropriate status, which can be seen from the fact that only small number of them autonomously asks

protection of their rights from the Ombudsman.

Like in the past, in 2006 most of the complaints were about the rights of the children to keep contact with the parent who does not live with them. Mostly they were about the work of the centres for social care, while the parents were more interested in their rights than in their obligations and the rights of the children.

Having in mind the best interest of the children, as well as the actual possibility for cooperation between the parents, the Ombudsman, in some cases achieved a degree of communication, and realized the contacts between the parents and the children. Still there were cases where the conflict relations between the two parents could be overcome, neither by the Ombudsman's activities nor by the activities of the Ministry of Labour and Social Policy, which caused difficulties in the normal and regular contacts between a parent and a child. That has an effect on mental and physical development of the child to a healthy and tolerant person.

The complaints submitted to the Ombudsman indicate that the children are victims of violence, especially family violence although according to the Convention for children's rights and the domestic legislative they should be protected. These complaints gave ground to the Ombudsman to establish that the centres for social care do not act timely, and the courts are even less effective in the protection of the children by issuing temporary measures. Also the Ombudsman found problems in executing the court orders from the competent ministries. Still after the Ombudsman's interventions the problems were solved by the centres and the competent bodies by taking actions.

The violence over the children was present in the schools, which was established from the complaints.

As before, the Ombudsman concluded that proving the factual situation is extremely hard because the students hesitate to publicly expose their recollection of the situations they were witnessing, and the teachers do not have the will and motivation to sanction specific problems or violation of the children's rights, caused by a colleague. The Ombudsman confirmed its findings conclusions that the competent bodies do not react quickly and appropriately and are not taking all the measures to protect the children, especially in cases where a teacher should be sanctioned for physical or mental molesting of a child. The Ombudsman filed criminal charges against the teachers that physically or mentally molest children.

During the reporting period the Ombudsman found that a number of children in the Republic do not attend elementary school even though it is compulsory and free. The Ombudsman

established that these children do not attend school only because of the bad financial situation of their families who are not able to provide the books and other needs of the children for their attendance at school. Evaluating that the children should not be absent from school only because of financial problems, and that the state is obligated to take measures to prevent it, the Ombudsman expressed its views through the media. At the same time the Ombudsman sent a written request to the Government of the Republic of Macedonia and to the Ministry of Education to implement legal obligation for material and other aid, as well as stimulative measures for attendance of elementary school, which should be really free according to the Convention for the children's rights and the Constitution of the Republic of Macedonia. Agreeing with the suggestions from the Ombudsman, the Government and the Ministry expressed readiness to provide funds from the budget for this purpose, and to implement an obligation in the Law on Elementary Education for providing free books for the poor children, in order to stimulate the attendance of the elementary school.

The Ombudsman will continue to monitor the situation connected with the realization of the right to a free and compulsory elementary education, and will take measures with the competent bodies to create material conditions for this realization.

The Ombudsman concluded that the attendance of the educational institutions is hardened, and in some cases stopped because no means for heating in the classrooms were not provided, and in some because of lack of transport for the students to the schools. After the interventions from the schools and the Ombudsman, the problems were overcome to a certain extent, but from the findings from the schools it was concluded that the temporary awarded funds were not sufficient for the whole heating season, and that there is a possibility that the school will be interrupted again. Because of this, the Ombudsman estimates that the state has to provide the funds and basic conditions in the schools for regular and normal conducting of the educational process.

Because a certain category of children, most of them Roma, are not able to attend school, and because they are not registered in the birth register, the Ombudsman initiated a procedure on its own initiative to overcome this problem, particularly for the children who go to the Children Day Care Centre at the Social Welfare Centre of the city of Skopje.

Along with the Day Care Centre, the Ombudsman intervened to the Ministry of Interior to overcome the problem with the registration of the children, and is expecting a positive outcome.

Children should be protected from any kind of labour exploitation. Still the Ombudsman in 2006 found labour exploitation of children-pupils in the elementary education in Strumica and Strumica region by their parents because there were forced to work as labourers doing activities that are not appropriate for their age and capabilities on the vineyards in the period of grape gathering. It was found that those children do not attend classes because of their work. According to the international documents on the children's rights and on their protections of any kind of exploitation, as well as the domestic legislative, the Ombudsman initiated procedures on its own initiative, and recommended the competent bodies to swiftly take all possible measures to protect children from any kind of exploitation, help their return to school and sanction the parents who neglect and exploit them. Also, it was recommended taking long term, permanent and preventive measures to stop the reoccurrence of the exploitation.

Acting on the recommendation, the competent institutions found that they were dealing with parents who were social cases. Because of that they invited all of the parents to talks pointing out to the consequences of their neglect and exploitation of the children, and measures to bring the children back to school were taken. However, the Ombudsman believes that this is not enough to overcome the problem, and that in future all competent bodies should monitor the situation and prevent any kind of labour exploitation of the children.

Aside from acting on specific complaints, the Ombudsman was monitoring the situation with the realization and the respect for the children's rights.

In order to perceive the situation regarding some of the children's rights during the reporting period, the Ombudsman conducted several analyses on the domestic violence of children, the involvement of children with special needs in the elementary education and the possible ways for their discrimination, on the situation on the rights and interests of the children with special needs in the day care centres and the physical and mental molesting of children in the elementary education.

Regarding the practical use of the provisions from the Law on Family, the readiness and the expertise of the centres and the courts to stop the family violence and to provide appropriate protection to the children victims of family violence, the Ombudsman found that family violence over children is not treated differently from any other kind of violence for what specific measures should be taken because the children should be provided with special protection. To overcome specific problems and omissions in the legislative and in the functioning of the social welfare centres for prevention of family violence of children and providing real protection for the children victims of the family violence, the Ombudsman along with the results from the analysis, sent several suggestions and recommendation to the Government of the Republic of Macedonia and to the Ministry for Labour and Social Policy. Changes of the Law on family with separation and closer defining of family violence of the child and providing and closely defining the measures to be taken by the centres and the courts for protection of the children victims of family violence was highly recommended. Closer defining of the way and the procedure for executing measures, especially for implementing the temporary measures ordered by the court was also recommended.

In order to provide expert help and support for the children-victims of family violence, the Ombudsman recommended forming of special teams of experts for providing an appropriate psychosocial treatment of a victim child in the social welfare centres. The child should not be separated from the family, but it should be separated from the person who is committing the violence. The Ombudsman also recommended urgent opening of counselling bodies, taking necessary preventive measures to protect the children from this type of violence and to conduct swift and efficient court proceedings. For that purpose education of the officials in the Social Welfare Centres and of the judges who are deciding on these cases is necessary, as well as raising of the public awareness for this type of violence over children and the need for appropriate protection.

The Ministry of Labour and Social Policy has informed the Government of Republic of Macedonia on its opinion on the recommendation from the Ombudsman that the analysis is thorough and that it contains information for the actual situation regarding the family violence over the children in the Republic, which is why it generally accepts all of the recommendations and suggestions from the Ombudsman and expresses readiness to implement them into the Law on Family during 2007, as well as that it will take measures for improving the practical execution of the legislative and the functioning of the competent bodies.

In its analysis of the involvement of the children with special needs in the elementary education and the possible forms for their discrimination conducted in over 200 elementary schools, the Ombudsman found several problems which the children, the teachers and the parents are facing which makes the involvement of the children with special needs in the regular elementary education difficult. For the purpose of creating equal opportunities and conditions for involvement of the children with special needs into the regular elementary education without any kind of problems and discrimination, the Ombudsman estimated that the need to create an appropriate adopted educational process for this category of children still exists, as well as the improvement of the organizational, technical and personnel improvement in the elementary schools.

The Ombudsman delivered the received data, information and suggestions to the Government of Republic of Macedonia and to the Ministry for Education and Science. Among other, it recommended recruitment of experts in every school where there are children with special needs; additional training of the already hired personnel; decreasing the number of the students in



the classes where children with special need are included because of the individual work needed for these children; adjustment of the urban and traffic measures in order to make conditions for the children with special needs, as well as other measures which will contribute to finding new methods for adjustment and modernizing of the curriculum for the children with special needs.

Acting upon the information and recommendations, the Government informed the Ombudsman that the Ministry for Education and Science estimated that there is no need for such analysis for the stated issue because it had all the data. The Ministry's comments among else stated that all possible measures to create equal opportunities and conditions for involvement of the children with special needs at the educational process were taken, and that there were teams of experts for work with this category of children in all of the schools. It was also stated that the Ministry for Education and Science is permanently conducting training of the personnel, even though the schools stated that the personnel is not trained to work with this category of children. The Ombudsman could not help noticing that the suggestions and conclusions were not accepted, although the analysis and the suggestions were a result of the data, opinions and suggestions given by the schools. It is because of that and with the sole purpose to achieve better results in the involvement of the children with special needs into the regular education, the Ombudsman once again asked from the Government and the Ministry to reconsider the received suggestions which would result in future measures for overcoming the problems and the difficulties that not only the children and parents face but the schools as well.

Taking special care of the children with special needs the Ombudsman visited most of the day care centres for this category of children.

The Ombudsman evaluated that the work of the day care centres is positive and that through their work the necessary help and support for these children and their families is provided, which gives the opportunity to the children with special needs to get out of the family where they have mostly been kept, away from the eyes of the public, to rehabilitate and as much as their physical and mental abilities allow, to gain autonomy through self care, to be educated and to be assisted in the development of cultural and hygiene habits which will allow them an easier and more dignified live.

In order to achieve better results, to obtain the normal function of the day care centres and to open new ones, the Ombudsman delivered an information to the Government and to the Ministry of Labour and Social Policy, pointing to the assessed situation and to the positive benefit from the work of these centres, as well as the measures that should be taken in future in order to overcome the problems which the day care centres face especially in regards to the continued supply of material and other technical means for normal functioning, opening of new day care centres where they are needed, and resolving the employment status of the employees who are working for several years as temporary workers.

Having in mind the number of complaints regarding protection of children from physical and mental violence in the schools is increased, for establishing the situation the Ombudsman conducted a survey in most of the elementary schools in the state. The data from the survey are now being processed, but will surely impact the future actions having in mind the fact taken from the previous work that the violence is present in the schools and that it is threatening the physical and mental integrity of the children.

For future involvement of the children and getting information on their thoughts over the issues regarding them, the Ombudsman continued the activities with the Board of Children and is planning more activities for it in the next period.

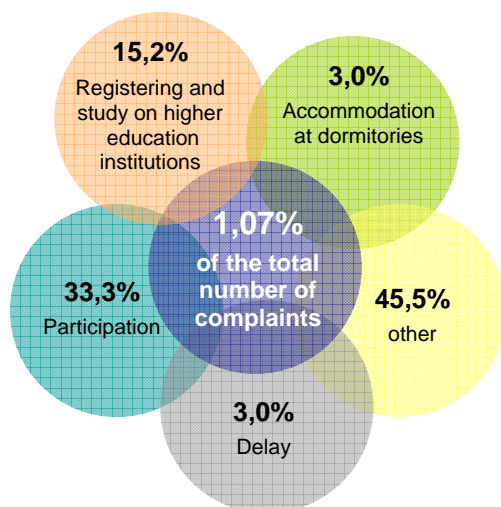
The children's right to think assumes the right to get information relevant to their physical and mental development, but also to be protected from information harmful for their development. In that sense the Ombudsman joined the public debate over the proposal of the codex of the Radio Broadcasting Council for protection of underage audience from programs that can harmfully impact their physical, mental and moral development and issued suggestions and proposals in the direction of more efficient implementation of the protection of children from harmful programs.



Significant for the activities of the Ombudsman for protection of children's rights is the participation with own topic and questions at the meetings of the European network of children's Ombudsmen -ENOK, whose full member is the Ombudsman-department for protection of children. It is important to mention that a very important statement for the treatment of children without escort derived from the Annual meeting of ENOK, which the Ombudsman forwarded to the Government of the Republic of Macedonia in order to inform it and take appropriate measures, treatment and protection for the children who come into the Republic of Macedonia without escort.

In regards to the cooperation of the Ombudsman with the competent bodies and organizations, on which the efficiency in protecting the rights of the children depends in a great deal, although it can be concluded that it is on a satisfying level, the Ombudsman finds that in some cases the competent institutions have acted untimely in the protection of the children's rights and that they have acted untimely upon addressed recommendations and other interventions. These actions reflected on the realization, efficiency and timely protection of the children's rights. Because of that, the Ombudsman finds that the competent bodies and organizations during the treatment of children must act upon the best interest of the children and the fact that children and their rights and interest always have priority.

## Education



The complaints about the realization of the rights in the field of university education in the reporting period were in a decreased number compared to previous years. Thus, we can conclude that there has been improvement in the realization of the rights in this field and that the recommendations from the Ombudsman have contributed to clarification of specific issues.

Still, the Ombudsman can not find a positive behaviour of the competent institutions in full, having in mind that the citizens continue to react to some actions and decisions by competent bodies and institutions which have violated their rights.

The citizen's problems mostly regarded the denial to issue certificates and diplomas for finished graduate studies, only because of unsettled issues about possible financial debts of the students to the universities. The universities, according to the signed agreements for mutual rights and obligations, in order to resolve the disputes did not issue certificates and diplomas until the student pays the debt although he has finished the studies and claims that he owes nothing, instead of initiating court procedures. In these cases the Ombudsman evaluated that the actions were against the Law on Higher Education, and asked the higher education institutions to issue the certificates and diplomas if the studies were finished and the exams were passed. Most of the higher education institutions acted upon the recommendations of the Ombudsman and they issued the certificates and diplomas and settled the disputes in court. But apart of the higher education institutions even after the interventions from the Ombudsman, Ministry for Education and the State Education Inspectorate, and in some cases the Government of the Republic of Macedonia, did not consider the recommendations and did not issue the documents, which caused the Ombudsman to continue the procedure by taking appropriate measures.

The Ombudsman received complaints on the procedure for preparing and defending magisterial thesis. From the ascertained factual situation about the actions of the competent commissions at a certain faculty, some unresolved questions arouse, which lead to delays in the procedures.

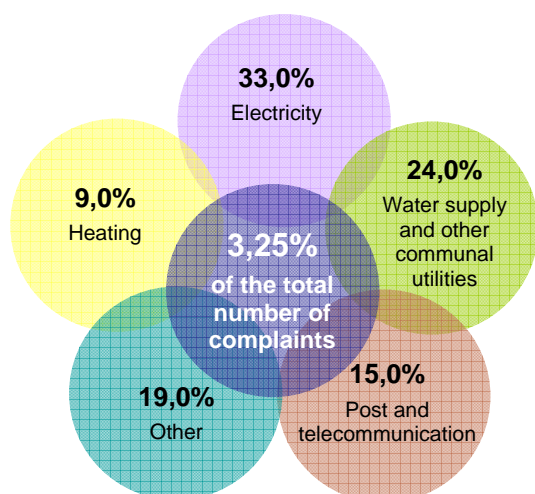
The Ombudsman received complaints about the exemption from participation for members of the armed forces, according to the Law on special rights of the members of the armed forces of the Republic of Macedonia and the members of their families, but the number of these complaints was minimal which suggests that the problems of this category of people are overcome.

Persons who graduated from the medical faculty in Bulgaria faced certain problems because of the state exam and the verification of the knowledge gained in the Republic of Macedonia. Acting on these complaints the Ombudsman established several flaws in the procedure that is conducted by the Doctors' Chamber of Macedonia, and established that after the citizens have registered to take the test, the amount and the type of the material needed for the test, as well as the amount of the fee for taking the test were increased, and the decision was retroactive.

Estimating that with these acts the Chamber was violating the rights of the candidates, the Ombudsman pointed out to the need for the re-evaluation and change of the decision, its announcement before becoming valid and not to be applied retroactively, unless it is better for the citizens, as prescribed in the Constitution of the Republic of Macedonia. After the intervention from the Ombudsman to the Ministry of Health, the suggestions were accepted and irregularities and omissions were removed.

Acting upon the complaints in the field of the higher education, the Ombudsman did not always have the cooperation and respect from the educational institutions. But, like previous years, lack of cooperation was especially visible from the Ministry for Education and Science. The cooperation with the State education inspectorate improved. During its work, the Ombudsman always highlighted the need for a swift, efficient and legal positioning of the competent institutions pointing out that there is still lack of appropriate and cooperative collaboration, which makes the realization of the rights of the citizens and the work of the Ombudsman harder.

## Consumers' rights



During 2006 the conclusion is that the tendency of decreasing the number of complaints in the field of consumers' rights is continuing, which is a result of the abiding and the application of the legislative, improved attitude of the performers of public services to their consumers and the abiding to the recommendations and indications from the Ombudsman.

With the goal of a more efficient and faster protection of the rights of the citizens besides the written correspondence with the competent bodies and organizations, the Ombudsman often intervened through direct contacts and insights which contributed to quicker resolving of the citizens' problems.

In that sense it can be acknowledged that the cooperation of the Ombudsman with the competent bodies where the citizens were realizing the

consumers' rights was considerably improved which contributed to the decrease of the cases of the violation of the rights of the citizens and swifter realization of their constitutional and legal rights. Here we can especially emphasize the positive trend in the cooperation with the providers of public utilities AD "Toplifikacija"; PE "Vodovod i kanalizacija"; AD "Elektrostopanstvo na Makedonija-EVN"-Skopje; PE "Komunalna higijena" and other enterprises. However, there were bodies and organizations with which the cooperation was difficult because they were not acting timely upon the requests and other interventions by the Ombudsman. That was in particular emphasized with the bodies of the units of the local self-government.

In aspect of the realization of the consumers' rights again in this reporting period, the monopoly behaviour of some service providers was not overcome. Lack of measures for protection from monopoly behaviour was concluded with one part of the public service providers. That is why the citizens were forced to accept the conditions offered by the enterprises without the options to influence their change. With the aim of de-monopolization of certain enterprises, the Ombudsman delivered information to the competent bodies and pointed out to the need for providing protection from the monopolistic behaviour and for appropriate control in terms of developing and maintaining market behaviour with determining real prices and quality services.

In the aspect of protection of the citizens' rights from unreasonable prices or charging expenses they have not done, especially in the fixed telephony, the Ombudsman again in 2006 found that there were no technical or other possibilities to check the accuracy of the bills for using telephone services, which is why the institution was not able to establish with certainty if the complaints from the citizens who were claiming that they were charged too high and unreasonable amounts were justified. That is why the Ombudsman intervened with the competent bodies to re-examine the bills, which resulted in some of the bills being decreased and the citizens charged with far lower amounts.

The problems with the collective disconnection of whole residential objects because one part of the residents did not meet their obligations to the utility providers continued in 2006, despite the interventions and the expectations of the Ombudsman that they were overcome.

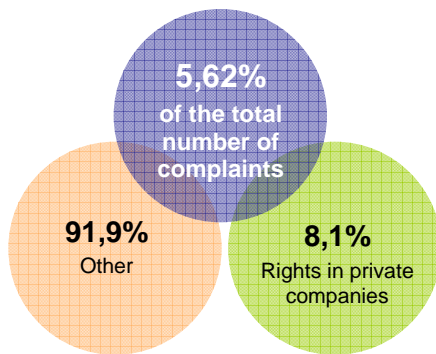
Apparently, there were cases of collective disconnections of the consumers of water and electricity as well as threats for disconnections of the consumers of heat energy, and the practice of disconnecting the consumers for retarded, but unpaid bills, although there was not an initiative for court procedure for forced payment. After the indications from the Ombudsman for illegal actions, this practise was stopped, but certain enterprises continued with the behaviour justifying themselves that the charge of bills was on a low level.

In regards to the services provided by AD "Elektrostopanstvo na Makedonija-EVN"-Skopje, complaints were received for collecting debts for used electricity by administrative ban from salary without court orders. There were cases for collecting bills from salaries from people who were not consumers. After the Ombudsman's interventions this practise was stopped.

Characteristics in the realizations of the rights with AD "Elektrostopanstvo na Makedonija" was the non transferring of the name of new subscribers into the bills for electricity as well as charging the new subscribers with retarded debt of a previous subscriber and the request for the subscribers to file requests for reissuing electro-energy approval which is not an obligations prescribed by the law. After the Ombudsman's indications submitted to the Head Office of AD "Elektrostopanstvo na Makedonija"-Skopje the attitude was changed and the citizens were enabled to change the name on the bills without collection of debt from a previous consumer and without having to get a new electro-energy approval.

The realization and the respect for the consumers' rights on the issues that the Ombudsman was acting upon in general were satisfying. It can be concluded that the competent bodies and organizations were accepting and respecting the requests, recommendations, indications and other interventions of the Ombudsman which enabled the realization of the citizens' rights.

## Other rights



During 2006 the Ombudsman acted upon complaints for violations of other rights. Most of the complaints from this field were out of the competence of the institution according to the Law on the Ombudsman, because the submitters were asking for intervention for protection of the rights violated by persons and not by bodies of the state.

In that direction besides the direct action upon the complaints, giving legal help, the Ombudsman was advising the citizens that if the competent bodies are not acting upon its recommendations or indications regarding the resolving of particular problems, they should go to the courts for protection of their rights.

## What was found and what needs to be done



### The Ombudsman found

In the reporting year the number of complaints, although insignificantly, was increased compared to the previous year, which is a result of the fact that the citizens still face problems with the realization of their rights, and that they recognize the Ombudsman as a control mechanism and as a protector of their rights.

The acting upon the complaints showed:

- ☒ The public administration in the Republic of Macedonia remained unreformed and with features of bureaucratic, inefficient and irresponsible behaviour, as well as indifference to the needs of the citizens and lack of comprehension for their rights. That is why the citizens face long administrative procedures, abuse of official authority, irresponsible and incompetent behaviour.
- ☒ The citizens are still underprivileged because they are uninformed, the judicial system is inefficient and because of the malpractice, unprofessional behaviour and the insufficient training of the judicial and administrative personnel who do not have the necessary conditions for work.
- ☒ The abuse of the official authority of the police is still present, but aside from the cases of the unprofessional use of the means of correction, last year there were cases of entering citizen's residences by mistake.
- ☒ The Ministry of Interior –Internal Control and Professional Standards Department continued to conceal the relevant factual situation in some cases and to withhold information regarding the exceeding of the official authority and the excessive use of force requested by the Ombudsman.
- ☒ The Internal Control and Professional Standards Department during the reporting year continued to show unprofessional attitude towards the function of internal control mechanism, although the adopted program for work gives hope for the overcoming of the negative circumstances and improvement of the cooperation with the Ombudsman.
- ☒ In the penitentiary institutions we can still notice lack of activities for dealing with the negative occurrences, there is excessive use of force, substandard conditions and insufficient personnel, lack of expertise in the management and no supervision. The health protection is inadequate and there are no means to implement the process of



re-socialization, and the overcrowding of the institutions with convicts is growing as a result of the insufficient capacity.

- ☑ The realization of the process of denationalization was endangered but even though by the end of the year new commissions with significantly more members were formed and the expectations were for them to become more diligent in the procedures, still their positioning has not changed and that was and still is one of the reasons for their low-quality, inefficient and confusing work.
- ☑ In the property and ownership procedures, a high degree of bureaucracy was noted, lack of impartiality in the establishing of the factual situation, unfair treatment of the citizens, possible corruption as well as unlawful deprivation and limitation of the right to property.
- ☑ The town-planning disorder continued in 2006. In a great deal inefficiency, non-diligence, and cases of extreme selective approach in the procedure were noticed, especially in the adoptions and the changes of the detailed plans, as well as in the performing of the inspections and the execution of the decisions for removing illegal buildings.
- ☑ The pollution of the environment is still expanding as a result of the lack of awareness, consciousness and responsibility for its protection, and there is lack of concrete results from the decided measures against the polluters of the environment which leads to the conclusion that the actions of the Inspectorate have only formal character and are without real effect.
- ☑ In the procedures regarding the employees there were partiality, selectiveness and illegalities, omissions in the assumption of employees from central to local level, as well as untimely proceedings of the second instance bodies upon the complaints and appeals which was endangering the constitutionally guaranteed right to two instances in the deciding.
- ☑ The state has no records for the apartments fund of the Republic which is why the requests of the citizens without residence who are fulfilling the conditions can not be met and there are citizens with acquired residential right to nationalized apartments who are underprivileged because they are forced to move out for the benefit of the former owners without being provided with another apartment.
- ☑ The social condition of the citizens has not improved yet, and the measures for social support do not provide realization of the constitutional guarantee for social security and justice for everyone.
- ☑ The citizens realize with difficulties and untimely not only their rights in the area of social protection, but in the area of pension, disability and health insurance colliding with unlawful and inappropriate, and in some cases corruptive behaviour from certain bodies and individuals.
- ☑ The children's rights are still only formally recognised because the actual situation shows that the institutions continuously do not respect the children's best interest, the violence increases every day and the right of every child to have access to elementary education is more difficult.
- ☑ The students' standard of living is still not satisfying, there is no cooperation with the Ombudsman and there is no appropriate approach and diligence during the deciding on the rights of the academic citizens.
- ☑ One part of the enterprises, also during 2006, were abusing their monopoly status on account of the consumers of services, and apart of them used the method of collective disconnection from the systems for electricity, water or heating energy for

collecting their claims, which was a direct violation of the rights of the consumers who were settling their obligations.

- ☑ There is still no formal legal frame for detection and battle with discrimination and protection of the victims from it.
- ☑ The principle of an adequate and equitable representation of the members of minority groups in certain state bodies has not been applied in full yet.
- ☑ During 2006 a positive trend was noted in the cooperation with the Ombudsman, but the obstruction of its work from certain bodies of the state continued.
- ☑ The Commission for deciding in administrative procedure from the second instance showed an extremely ignoring and irresponsible attitude towards the cases from the area of the denationalization, and did not act upon any of the Ombudsman's requests. The Cadastre Office was transformed from an institution which should be a service to the citizens to an institution which is permanently violating the rights of the citizens and leaves space for doubt for corruptive behaviour.

## **What needs to be done**

Having in mind the conclusions that derived from the acting on the cases, the Ombudsman evaluated that there is an indispensable need for change in the behaviour and actions of the competent bodies to overcome the negative situation in their work.

Because of that, the competent bodies should concentrate in their work on:

- Full respect of the constitutional guaranties and direct use of the international standards for human freedoms and rights;
- Actual reforming of the public administration to a real service for the citizens;
- Responsible, conscious and timely actions and deciding on the rights of the citizens;
- Appropriate implementation of the principles for non-discrimination and adequate and equitable representation of the members of all groups in the bodies of the state government, bodies of the units of local self-government and in the enterprises and services;
- Transparency in the work of the bodies of the state government, bodies of the units of local self-government and in the enterprises and services;
- Education for the public servants for the human freedoms and rights in order to improve their attitude towards the citizens ;
- Unobstructed communication and appropriate and full respect of the requests, recommendations and other measures taken by the Ombudsman.

The stated conclusions in the area of the realization of the citizens' rights in different fields show the need for:

Completion of the reforms in the judicial system, appliance of the decisions of the European Court for Human Rights and continuous education of the judges and other judicial personnel about the human rights.

Higher level of professionalism by the officials in the area of human rights while performing police affairs and impartial and responsible work of the Internal Control Department during the establishing of liability for exceeding the official authority.

Full abidance of the requests by the Ombudsman to the Internal Control Department and professional standards regardless of the secrecy of the data.

Creation of appropriate program for managing the penitentiary institutions for improving the conditions in the aspect of security and securing dignified stay of the prisoners and their re-socialization and reintegration into the community.

Forming a cadastre for the whole territory of the Republic, improving the administrative capacity of the institutions, creating normative for full professionalization and appropriate positioning of the commissions in the second instance and abidance to the deadlines for deciding in the procedures for denationalization and cadastre.

Taking concrete measures by the State inspectorate against the polluters of the environment and realization of projects for protection of the environment.

Establishing an appropriate level of cooperation with the Ombudsman by the Ministry of Education, Ministry of Finance, Ministry of Labour and Social Policy, Department for regulating and documenting land for building at the Ministry of Transport and Communication and the Department for measuring and cadastre of the State Institute of Geodesy.

Full abidance of the legal provisions for disposition of the public servants from a higher to a lower working post and vice versa, abidance for the legal procedure in the proceedings for transformation of the employment status from temporary to permanent, intensifying the supervision from the Labour Inspectorate as well as adoption of the general collective contracts.

Registering the apartments in state properties for the reason of regulating the legal grounds for use, taking measures for realization of the residential rights by assigning apartments according to the Law on Denationalization and cooperation among the competent bodies and commissions.

Impartial and correct establishment of the factual situation regarding the legal conditions and the real need of the citizens for a specific type of social aid.

Deciding in the legal deadlines for realization of the rights from the pension and disability insurance especially in the second instance commissions, eliminating the corruption in the commissions for evaluation of the working ability and overcoming the problems with total and appropriate use of international agreements in the area of social rights, especially with the former republics of ex SFRJ.

Providing equal conditions and opportunities for realizations of health protection to every citizen and abidance to the medical codex during medical interventions.

Respecting the children's best interest in all procedures, all proceedings and in all decisions that regard their rights and interest, as well as during the creation of policy for realization and protection of the children's rights with the goal to provide normal growth and development, access to education and health protection and protection from any kind of violence, abuse or discrimination.

More diligent actions from the competent bodies and institutions in realization and protection of the rights in the area of education, improving the pupils' and students' standard of living and establishing better cooperation between the Ministry of Education and the Ombudsman.

Eliminating the monopoly position and its abuse by certain enterprises and taking activities for collecting of debt from the consumers of the products and services according to the law, not with improvised measures.

Full implementation of the principle for an adequate and equitable representation of the citizens who are members of all groups in the bodies of the state government and in the other public institutions on all levels.

Creation of a legal frame for protection from discrimination and implementation of international standards in this area.

Completion of the process of denationalization according to the law and continuous education of the citizens about the way of the functioning of the local self-government bodies for consistent realization of the rights.

## **Activities for 2007**

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The positive experience from the implemented methods and forms of work, like the direct insight in the bodies, is going to be used in future as well and the techniques for investigating the cases with the goal to achieve more efficient protection of the rights and freedoms of the citizens will be improved.

The process of euro-integration of the Republic of Macedonia with the acquirement of the country-candidate status will enforce the position of the Ombudsman, especially in the part of the public administration and harmonization of the domestic legislative to the one of the European Union.

Even more so because the bodies of the public administration, according to the recommendations of the EU have an obligation to submit quarterly reports to the Commission for the amount of their actions upon the recommendation of the Ombudsman.

The adequate and equitable representation and the principle for non-discrimination again in 2007 will be areas to which the Ombudsman will pay special attention.

The openness of the Ombudsman to the public and especially to the media will be used in the following period again as an efficient instrument for creating a clear picture to the citizens on the work of the Ombudsman, which will on the other hand illustrate the work of the bodies of the state government. Simultaneously, the openness will be further used on a large scale to increase the level of trust from the citizens in the Ombudsman institution. That is why 2007 will be a year of intensive affirmation by organising a campaign for informing on the ways how the Ombudsman can help the citizens and familiarizing with its competences.

In this direction the Ombudsman will organize conferences for the public servants at central and local level. The planned activities will be supported by the Swedish Agency for development "SIDA" and the OSCE Mission.

In the year which is marked as a 10<sup>th</sup> anniversary from the forming of the Institution, the Ombudsman will retrospect the effects from the work so far by organizing a round table which will be attended by Ombudsmen from the region and wider.

The improvement of the technical and personnel capabilities of the regional offices and their connection with the headquarters of the office in Skopje will provide more efficient functioning of the regional offices.

On international level, the Ombudsman will continue to exchange experience with the Ombudsmen from other countries, and as a member of the European and International Ombudsman Institute, will continue to act in the field of protection of human rights. In that sense the institution will continue the cooperation with the Parliamentary Ombudsman of Sweden based on the projects supported by the Swedish Agency for Development "SIDA" and the OSCE Mission in the Republic of Macedonia.



The membership in the Association of Ombudsmen from the Francophone countries, especially the fact that the Ombudsman is a member of the Secretariat of this association, again in the following period will mean activity on organisational plan, but also participation at seminars and conferences organized by the Ombudsmen from the Francophone countries.

## Ombudsman in practice



### **NP.No. 1861/06**

The Ombudsman received the complaint from the informal Roma student group from Skopje who asked for an intervention because of the broadcast of a radio program on the frequency of "Radio Ros" which was directly offensive and discriminative to the Roma.

After studying the claims in the complaint along with the submitted documentation, the Ombudsman established violation of the rights of the citizens, respectively elements of discriminatory actions during the broadcasting of the disputed program and indicated to the Broadcasting Council that the radio-programs should be based on the prescribed principles, to enable encouragement within the spirit of tolerance and mutual respect and understanding between the people with different ethnic and cultural origin.

The indication from the Ombudsman was accepted, the Broadcasting Council passed a measure - written warning to TRD "Radio Ros" for violating the stipulations from the Law on radio broadcasting activity and monitoring of the operation of this radio broadcasting company was conducted, in order to establish if the legal program standards proscribed in the Law on radio broadcasting activity were respected.

### **NP.No. 1916/06**

LJ.S. from Bitola handed over a complaint for violence of rights in the police procedure by the members of the special mobile unit of the police- "ALFA" within the Sector for Interior Affairs - Bitola. In his referral to the Department for Internal Control and Professional Standards, the Ombudsman asked for actions for determining the stated arguments from the complaint and after the establishing of the factual situation for taking appropriate legal actions.

During the procedure the Department for Internal Control and Professional Standards informed the Ombudsman that the claims from the complaint were grounded meaning that an official

from the Sector for Interior Affairs-Bitola acted against the law and unprofessionally after which appropriate actions for initiating appropriate procedures were taken.

### **NP.No. 1784/06**

In the complaint handed to the Ombudsman, I.S. from Prilep stated that for a long period of time the Sector for Interior Affairs - Prilep has not taken actions upon his complaint.

In regards to the delay of the procedure upon the complaint the Ombudsman delivered a request for full information to the Department for Internal Control and Professional Standards - Skopje and then was informed that after the conducted analysis the claims from the complaint were found to be grounded.

The Department for Internal Control and Professional Standards proposed to the Sector for Interior Affairs - Prilep to file criminal charges against the reported person and for not taking actions upon the complaint, the commander of the Police station-Ropotovo to be charged and sanctioned with 15% reduce of his salary the next month.

The Sector for Interior Affairs - Prilep acted upon the proposal from the Department for Internal Control and Professional Standards.

### **NP.No. 2896/05**

A foreign citizen with residence in the Republic of Macedonia founded on marriage with a Macedonian citizen, with whom she has minor children, filed a request for naturalization into Macedonian citizenship after the marriage ended because of the husband's death.

In this kind of cases the submitter does not succumb to a procedure when there is a marriage with a Macedonian citizen, but to a classic procedure for naturalization for which the Law on citizenship prescribes fulfilment of ten

conditions among which a mandatory discharge from the current citizenship of the submitter.

To speed up the procedure with the Ministry of Interior Affairs of the Republic of Macedonia and to provide proof for the discharge from the citizenship of the Republic of Albania, the Ombudsman approached the Ombudsman of the Republic of Albania to speed up the procedure with the Ministry in that country.

After the provided help and the continuous monitoring of the situation, the Ombudsman was informed that the Ministry reached a positive decision and accepted the submitter into Macedonian citizenship.

**NP.No. 1955/06**

The submitter of the complaint dated 27.06.2005 filed a request to the Ministry of interior for acknowledgment of a status member of armed forces of the Republic of Macedonia according to the Law on the special rights for these persons.

A year after he did not receive a reply, the submitter asked for help in the office of the Ombudsman in Strumica from where the procedure for protection of his rights was immediately started. After the delivery of his documentation to the appropriate commission in the Ministry of Interior and a special report to the Minister of Interior, the Ministry reacted immediately and on 19.09.2006 issued a certificate proclaiming the submitter a member of the armed forces of RM, and supplied the Ombudsman with the complete documentation for the case.

**NP.No. 794/06**

After proclaiming the Law on Territorial Organisation of the local self-government in the Republic of Macedonia, in which the village Merdita was formed as a separate inhabited place for the first time, its inhabitants filed a complaint to the Ombudsman with a demand for protection of the right for issuing personal documents with the place of birth in Merdita.

The Ombudsman inspected the registers of the inhabitants of Merdita which are kept in the regional office in the village of Vrutok and after talking to the officials from the Sector for Interior Affairs - Gostivar and the Sector for Administrative-Supervisory Affairs-Skopje, indicated to the Manager of the Institute of Geodesy of the Republic of Macedonia for swifter realization of the obligations for establishment of the borders of the municipality of the village Merdita, which according to the Law, should have ended by 17.05.2005.

Due to the non-implementation of the Law on territorial organisation of the local self government regarding v.Merdita, the Ombudsman

sent to the Government of the Republic of Macedonia, twice, information for taking measures for faster determination of the borders of the municipality and the registry area of the inhabited place Merdita.

The Government informed the Ombudsman that by the end of 2006 the terrain and office works for forming a cadastre municipality will end, after which the conditions for determining the registry area and constituting the registry books, which are conditions for issuing of all the personal documents for the residents of this village, will be fulfilled.

**NP.No. 2727/06**

S.R. from Stip asked for intervention from the Ombudsman because for forty years he could not get a clause for validity on an inheritance decision.

The Basic Court Skopje I stopped a succession procedure of the late C.A. with a Decision that could not become valid because the legal successor lived in the USA, and the serving could not be done because of incomplete address. This was established after the Ombudsman initiated a procedure and addressed the Ministry of Justice and the Embassy of the Republic of Macedonia in the USA, and recommended to the court to act according to the law and to announce the needed address on the announcement board in the court.

**NP.No.1429/06**

The Ombudsman on its own initiative, and later upon a complaint by F.S – a soldier serving his military duty, initiated a procedure because of violation of his right to a dignified, professional and unobstructed serving of his military duty, violated by an ARM officer who, during training, molested the new recruits, among whom, the submitter of the complaint. To investigate the case, the Ombudsman addressed the commander of the barrack and the Minister of Defence. After establishing the violation, he addressed the Ministry of Defence and the Head Quarters of ARM to illuminate the case and to take measures. As a result, the perpetrator was issued a disciplinary measure - termination of the service and was charged for the crime - molesting a junior subordinate.

**NP.No.2715/06**

T.N from Strumica asked for taking measures for protection of his rights violated with an undue delay of the executive procedure in the Basic Court in Strumica. During the procedure,

the Ombudsman indicated to the Court that immediate actions to implement the executive decision were necessary. With mediation by an expert, the disputed object was retrieved and handed to the submitter.

**NP.No.2507/06**

S.C from Radovish asked for intervention from the Ombudsman, because of a prolonged court procedure regarding the preparation of a decision in the Basic Court in Radovish. The Ombudsman addressed the Court with a request to speed up the procedure indicating that if there were no other objective reasons, the decision should be reached immediately, the Court should prepare it and deliver it to the submitter.

**NP.No.407/06**

A complaint submitted by a convict serving sentence in the Open section in Prilep of the penitentiary institution "Prison Bitola", was asking for intervention from the Ombudsman for mental and physical molesting by a supervisor in the Section. After establishing the violation of the submitter's rights, the Ombudsman addressed an indication to the Manager of the institution to take the necessary measures for protection of the submitter's rights.

Acting upon the indication from the Ombudsman, the Manager of the institution started disciplinary procedure "relocation to another work post" against the supervisor, which provided the security of the submitter.

**NP.No.306/06**

The Ombudsman received a complaint from R.S.J for not acting on his request indicating to the delay of the procedure for ceasing of serving sentence by not supplying the necessary medical documentation by KPD "Idrizovo" to the competent court.

After the elaboration of the claims and the conducted inspection of the documentation, pointing to the obligation from article 158 from the Law on Execution of Sanctions, the penitentiary institution supplied the medical documentation to the competent court which meant the realization of the convict's right.

**NP.No.306/06**

The Commission for deciding in administrative procedure in the second instance on the cases in the area of measuring, cadastre and registering rights on real-estate in the Government of the Republic of Macedonia, on the 27.05.2002

issued a Decision No. 27-439/3 which was annulling the decision from the first instance issued by the Sector for measuring and land-register Skopje in the State Institute of Geodesy and the file was sent for a repeated consideration and decision.

In that context F.K on the 07.02.2007 submitted a complaint to the Ombudsman with a request for taking actions against the first instance administrative organ, because even after a long period of time (4 years) she still has not received a decision on the request for establishing of the contents of the real- estates in the newly formed proprietary certificate for KO Centar II.

The Ombudsman established that there was violation of the constitutional and legal rights of the submitter because of total disrespect of the legal deadline for reaching a decision, although the request was founded because it was based on appropriate documents which, according to the content of the provisions from the Law on measuring, land-register and registering the rights to real-estate are prescribed as a basis for the transfer of the owners rights in the cadastre.

The Ombudsman addressed an indication to the Sector for measuring and land-register Skopje for priority actions and reaching a decision for granting the request, which was accepted.

**NP.No.2493/06**

In his complaint B.T from Stip pointed out to the lack of action from the authorized building-plan inspector from Municipality of Stip, upon a report for illegal building of an object in the neighbourhood. The Ombudsman addressed the authorized building-plan inspector from the Municipality of Stip with a request for inspection of the object and for taking appropriate legal measures. He acted upon the request, after the inspection a decision was reached ordering the removal of the disputed building.

**NP.No.468/06**

The submitter I.V. from Gostivar, pointed out to a violation of the rights in a procedure for administrative acts of the Mayor of Municipality of Gostivar for removal of a built garage and a temporary object placed with an approval from a competent organ, in his yard. The Ombudsman asked from the mayor of Municipality of Gostivar the procedure for execution to be temporarily stopped until the finalization of the administrative procedure upon the decisions for removal, meaning until reaching a decision upon the appeals from the second instance organ in order to prevent the heavy damaging during the removal in case of annulations of the decisions. The

Ombudsman also addressed the Ministry of Transport and Communication with a request for the priority of the appeals during deciding, and was directed to the factual situation and to the consistent appliance of the legislative. The Ombudsman was assured that his request will be accepted and that the procedure for forceful execution will be stopped until the administrative acts become executive, meaning that actions will depend on the outcome from the appeals.

**NP.No1343/06**

A group of citizens from Prilep indicated to a violation of their rights by the officials from the Sector for building- planning, respectively, the Building inspection from Municipality of Prilep by reaching a decision for removal of temporary business objects. Acting upon the complaint, the Ombudsman addressed the Mayor of Municipality Prilep with a request for the legal grounds of the decisions for removal of the objects and the eventual possibilities for providing another appropriate location for the realization of the activity as a condition for satisfying the basic existence needs of the submitters. The Ombudsman was informed that the decisions were going to be abolished immediately.

**NP.No.2050/06**

S.F from Tetovo pointed out to the disruption of peace caused by loud music and non-abidance to the legally prescribed working hours from a disco club, located in the vicinity of his residence.

Acting upon the complaint, the Ombudsman asked the State Market Inspectorate to inspect the object and depending on the established facts, to take appropriate legal measures.

The request of the Ombudsman was accepted, and considering that during the inspection irregularities in the work were established, the State Market Inspectorate reached a decision for a ban from working, and the object was closed down.

**NP.No.2418/06**

M.H.A from Skopje asked for an intervention for protection of her rights in the area of employment relations, violated by the director of the public institution Inter-municipality Centre for Social Welfare Centre of the city of Skopje during the procedure for issuing an order for close control and monitoring of her work and in the procedure for removal of a Decision for issuing a public warning on the advertisement board in the stated organ.

During the direct inspection of the organ where the factual situation was established, by the request

from the Ombudsman the Decision for issuing a public warning was removed, and the Order for close control and monitoring of the work of the submitter, after several requests for a violation of the rights in the area of employment relations was annulled with the reason that it was reached contrary to the Law on Social Protection and the organ's statute.

**NP.No.100/06**

K.K from Skopje in his complaint stated that his rights were violated by the Commission for Housing Issues at the Government of the Republic of Macedonia by inactivity upon a request for assignment of an apartment for rent.

The complaint implies that a member of the armed forces, according to the article 11 from the Law on the special rights for the members of the armed forces and of the members of their families, submitted a Request for assigning an apartment for rent to the Commission for housing issues.

Establishing a violation of the rights of the submitter, considering that neither the request nor the following interventions resulted in an action, the Ombudsman addressed the competent commission with a recommendation for speeding of the procedure because the submitter was fulfilling the prescribed conditions according to the Law on the special rights for the members of the armed forces and of the members of their families, and to be assigned an appropriate apartment.

The recommendation was completely accepted, and a decision for assigning an apartment for rent was issued to the submitter.

**NP.No.1977/06**

The submitter V.U from Skopje stated that because of a false data given by the Agency for Employment, an unfounded decision for suspending of the right to social aid was reached, with an explanation that the submitter gave incorrect information, and that it was an unfounded punishment and a threat to the social security of his family.

After the investigation, the Ombudsman found that the submitter's rights were violated, that his right to social monetary aid was unfoundedly cancelled because of a false data from the Agency for Employment and not from the submitter who reacted immediately, but the centre did not accept his evidence. Because of that, the Ombudsman addressed a recommendation to the director of the inter-municipal centre for social work with a request to continue the social monetary aid, pointing out that during deciding on the rights, aside from the obligation for the citizens



to give correct data, there is legal possibility for the centre to ask for information from the persons and companies ex-officio with the goal of objective deciding.

After the Ombudsman's intervention, the decision was reconsidered and a new one was reached with which the submitter was reinstated the right to a social monetary aid from the day it was unfoundedly cancelled.

**NP.No.444/06**

P.B from Tetovo submitted a complaint because the Ministry of Labour and Social Policy did not act according to the judgement by the Supreme Court of the Republic of Macedonia, a decision for recognition of a right to a compensation for help and care from another person.

Having in mind that with the judgement of the Supreme Court there was a obligation for repetition of the procedure and deciding and correctly establishing the factual situation in regards to the ability of the submitter to satisfy his basic needs, the Ombudsman indicated to the Ministry that it was necessary for the competent commission to inspect the facts and based on them and on the complete medical documentation to say if the submitter was really a person who was fulfilling the conditions for a financial compensation for help and care from another person.

The competent organ accepted the recommendation and reached a decision to recognize the right to a compensation for help and care from another person.

**NP.No1216/06**

E.K from Kosovo submitted a complaint because his request to the Pension and Disability Fund for a family pension, was not decided for several years just because of the non- recognition of the documents issued by UNMIK.

After the Ombudsman evaluated that it is a violation of the rights of the petitioner, he indicated to the Fund for the unfounded delay in the deciding upon the request, because there should not be any problems with accepting the documents for registering of births and deaths issued by UNMIK as relevant, according to the conclusions of the Government.

The Ombudsman had to deliver special information to the Manager of the Pension and Disability Fund after which the indication was accepted, and a decision for granting the right to a family pension was reached.

**NP.No.87/06**

M.F from Gostivar asked for protection of his rights violated by the Pension and Disability Fund for not paying the difference to the minimal pension, although he was recognized this right.

The Ombudsman established that with a decision from the Pension and Disability Fund, the submitter was recognized the right to a difference to the minimum amount for a pension, starting from 2002, but it was paid until September 2005.

During the insight on the case, the Ombudsman discovered that the Pension and disability Fund, after the performed calculation of a pension and after the submitting of the documentation from the bank, the submitter should be paid the withheld amount to the minimal pension, which was established also by the Fund, after which the payment of the withheld funds started along with the payment of the pension.

**NP.No.1525/06**

D.S from Skopje asked for an intervention because the Fund for Health Insurance did not recognize him the right to a compensation for a performed medical service, and upon the appeal to the Ministry of Health, it did not act for a longer period of time.

The Ombudsman conducted a full investigation and established that the submitter was treated as urgent in the Clinic for Cardiology in the Clinical centre Skopje, but at that moment the needed medical intervention could not be performed, which is why he was sent to the Special Hospital "Phillip II". Regardless of this factual situation the submitter was not recognized the right for a reimbursement of funds that he spent.

After the intervention from the Ombudsman to the Fund and the Ministry of Health, the indication was accepted and the right to a reimbursement was recognized.

**NP.No.2215/06**

S.S from Skopje submitted a complaint for violation of rights by the Fund for Health Insurance of Macedonia, because of the prevention from the realization of the rights of health insurance, the right to a reimbursement of funds for received services in the Urgent centre in Gostivar, and denial of competence by 2 regional units of the Fund.

From the claims it was established that submitter was a retired person, had a health card issued by the regional unit of the Fund in Skopje, where his doctor was, but he received his pension to an address in the village of Vrutok-Gostivar where he temporary resided, which was the

reason for the dispute which was that the regional office should recognize him the right to a reimbursement of the expenses. The Ombudsman estimated that it was irrelevant where the submitter was receiving his pension, and that the regional office in Skopje where his doctor works should assure the right to a reimbursement of the expenses.

Informing the Fund for Health Insurance about the case, the Ombudsman asked for consideration of the submitter's request, and measures for overcoming the problems regarding reimbursement of funds.

Actions followed after the interventions, and a decision for reimbursement of the funds from the regional branch of the Fund in Skopje was reached

#### **NP.No.744/06**

I.M from Tetovo filed a complaint because the Centre for Social Welfare Centre did not act upon his request to be appointed a guardian of his minor nephews although they were without parental care. The Centre for Social Welfare Centre claimed that it would reach a decision for a guardian if the submitter files a court procedure against the mother of the children for dismissal of her parental rights.

The Ombudsman did not accept this attitude of the Centre and indicated that according to the Law on family, a procedure for providing a guardian is initiated ex-officio or on the request by interested parties, and that the procedure is urgent. Concretely, it was pointed that the Centre can appoint a legal guardian to a child if the parents are alive, but not performing their duties which leaves the child without parental care.

The Ombudsman estimated that the Centre for Social Welfare Centre acted aside from the legal frame because it directed the submitter to a procedure for deprivation of the parental rights which is against the law because a procedure for deprivation of parental rights can be initiated by the other parent, the centre or the public prosecutor.

The Ombudsman recommended the Centre to immediately take measures for appointing a guardian to the children. If the mother abandoned them and did not want to take care of them any more, a decision for foster care for the children should be reached.

Acting upon the recommendation, the Centre for Social Welfare Centre started the procedure for providing foster care for the children, asking their mother to give a statement of renouncements, after which the Centre filed a request to the Court for dismissal of the parental rights. Simultaneously, because of the bad financial situation it was decided to grant the submitter permanent financial aid and health insurance for the children.

#### **NP.No.1985/06**

M.B from Kumanovo in the complaint stated that although she had passed all of the prescribed exams and finished her studies, she was not given a certificate and a diploma for finished studies, because of alleged unpaid expenses for the studies. The Ombudsman evaluated that the Faculty was acting against the Law on Higher Education, and pointed that there were no legal constraints for the issuing of the certificate.

The Faculty responded that it was acting according to the concluded agreement for the mutual rights and obligations and that until the student's obligations were met, the certificate could not be issued. The student claimed that she did not owe anything or if she had a debt there was no document which would establish the amount of the debt.

The Ombudsman established that the contract did not provide the right of the Faculty not to issue a certificate or a diploma because of an existing debt, and that in this the court in Skopje was competent. That is why it was established that then the Faculty did not have the legal right not to issue a certificate or a diploma if all the exams were passed and the studies have been finished.

On the second indication the Faculty acted on the recommendation of the Ombudsman, and issued the certificate to the submitter.

#### **NP.No.174/06**

A.S from Probishtip submitted a complaint to the Ombudsman on behalf of the residents from five apartment buildings, in which he asked for protection of rights violated by PE "Komunalec" from Probishtip. PE "Komunalec" from Probishtip performed a collective disconnection of the apartment buildings from the water supply because of unpaid bills by some of the residents.

According to the legislative, the service provider has the right to stop the supply of drinking water and the disposal of the waste water, in cases when the consumer of the service after a written notice does not fulfill his obligations for paying the compensation.

In the mentioned case, disconnection from the water supply was performed because of not paying the bills, but with collective disconnection of the whole building the rights of the consumers who were paying their bills were violated.

That is why the Ombudsman sent a recommendation to PE "Komunalec" where he pointed that it was illegal to disconnect the citizens who meet their obligations regularly as well, and to the legal provisions for retarding of

debt for water supply, estimating that in this case there were unpaid but retarded bills which have not been processed in court for forceful execution.

The recommendation from the Ombudsman was respected, and the water supply restored.

**NP.No.265/06**

The citizen G.T from Radovich submitted a complaint about the violation of the right to cut trees in a forest in his property, because even though he addressed the Ministry of Agriculture, Forestry and Water Economy several times he did not receive a reply to the appeal for the decision of PE "Makedonski Sumi" Branch Vinica

After the indication from the Ombudsman to the Ministry of Agriculture, Forestry and Water Economy on the duty for priority consideration and decision on the mentioned case, and the need for taking appropriate actions according to the Law on General Administrative Procedure, the appealed decision was annulled and the case was returned for reconsideration and deciding.

## **About the institution**

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### Organization and methods of work

The organization of the work of the Ombudsman is established in accordance with the Constitution of the Republic of Macedonia and the Law on the Ombudsman. For the aim of providing systematization in the work, and realization of the programmed tasks, the Ombudsman's competences are performed through the organizational units in the Institution's head office in Skopje and through the regional offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

### Personnel

At the beginning of 2006, the Ombudsman hired 12 executors in the expert service in the head office in Skopje and 4 executors in the regional offices.

In the second half of 2006, 3 other executors were employed in the expert service in the head office in Skopje, which completed the process of equipping, so by the end of the reporting period the activities were performed by a total of 10 deputies of the Ombudsman and 59 executors in the expert service.

According to the education qualifications the structure of the employees is as follows: 51 employees with higher education, 18 with secondary education and 1 with elementary education. 44 of them are female and 26 men.

The expert service consists of: 39 Macedonians, 24 Albanians, 2 Serbs, 2 Roma, 2 Vlah, and 1 Turk.

### Funds

The funds for the work of the Ombudsman are provided from the budget of the Republic of Macedonia. During 2006, the programmed activities of the Ombudsman, according to the legal provisions, were realized with 21.691.000,00 denars, more than the funds for the previous year, which significantly facilitated the work of the Institution.

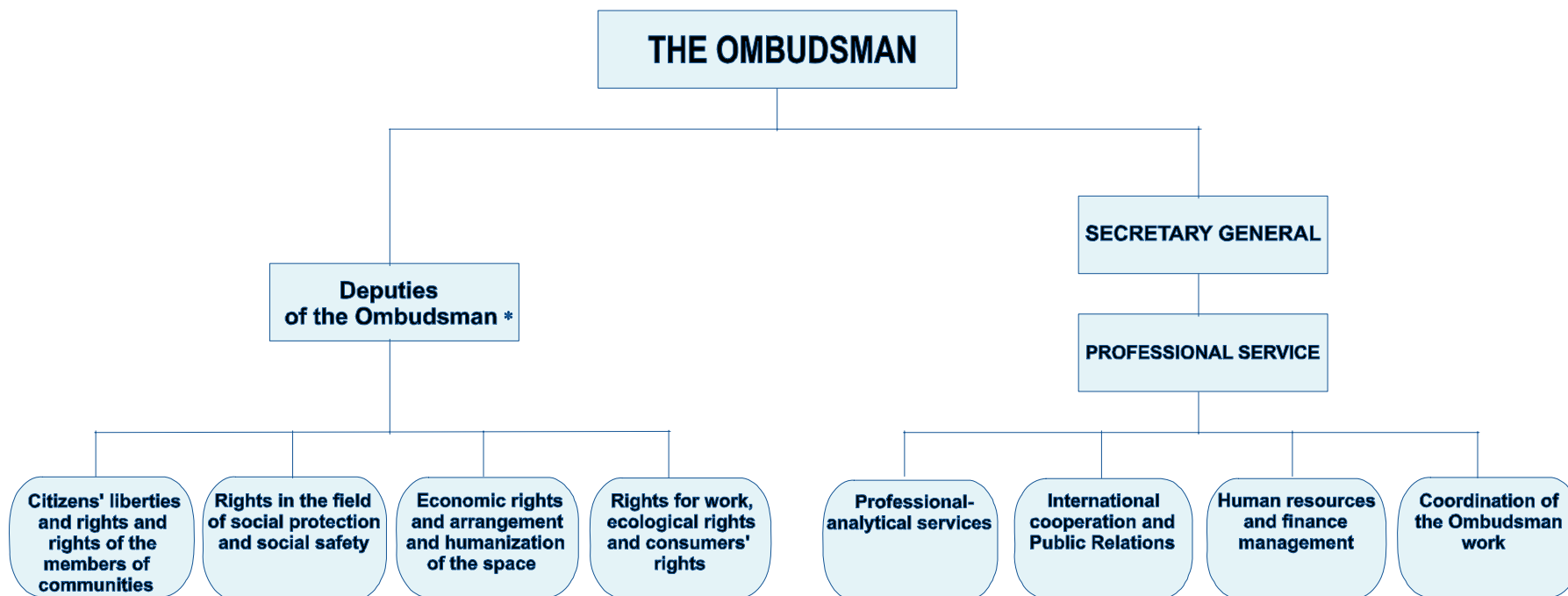
The lack of funds for other activities in the aspect of promoting the Institution was covered with the donations from the OSCE Mission and the Open Society Institute of the Republic of Macedonia- SOROS.

As in the previous years, once again it can be concluded that this way of financing is not adequate for the position and the competences of the Ombudsman in the constitutional –legal

system of the Republic of Macedonia, because the financial dependence on the executive authorities significantly decreases the autonomy and independence and represents an obstacle in the realization of the function.

That is why the resolving of this issue by implementing a new, modern, transparent and independent system of financing of the Ombudsman is necessary.





\* Four Deputies in the Office in Skopje and one Deputy in the Offices in: Bitola, Kicevo, Kumanovo, Strumica, Tetovo i Stip