



REPUBLIC OF NORTH MACEDONIA
OMBUDSMAN

ANNUAL REPORT

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

2019

Skopje, March 2020

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Dear All,

Every year, the Ombudsman informs the public and MPs, extensively and statistically accurately, about the degree of ensuring respect, promotion and protection of human rights and freedoms, and his data and findings provide a good basis for drafting legislation that guarantees equality, rights and justice for everyone in the society.

The report covers all segments of life that directly or indirectly affect the rights of citizens, and it is also a reflection of their perception of how the administration functioned in the previous year through the number of submitted complaints. There is no better benchmark for the (non) functioning of the institutions than the complaints of the citizens who are trying every day to exercise their rights as guaranteed by the Constitution and the law. I would say that there is no more accurate address than that

of the Ombudsman who acts impartially and efficiently upon these complaints, alerts and points out the facts, and gives general recommendations on how to improve such states.

Statistics show that last year the problems faced by citizens in exercising their rights in general remain the same, although there is an increase in complaints in the areas of social affairs, healthcare and children's rights.

It is indisputable that still the most of the complaints are related to the work of the enforcement agents. The problems in this domain have remained the same for years. Citizens mostly complain that they were not notified of the initiation of enforcement proceedings, forcing them to pay several times more than what appeared to them as a debt. When it comes to the field of justice, unfortunately, as last year, there is a practice of poor communication between the state administration and the administrative judiciary, which is detrimental to effective justice, so citizens are still forced to wait for years to achieve their rights.

The new Law on Social Protection, instead of promoting the rights of a certain category of citizens, on the contrary, additionally worsened their position, so due to the inactive work of the centres for social work regarding the transferring/ harmonization of social protection rights many of them were left without protection from higher instances, and thus without social assistance even though it is their only source of income.

The measles epidemic for many unvaccinated children has closed their doors to kindergartens, but even after the epidemic ended, about 200 children were left out of the educational process, being happy in vain on the first day of school. The Ombudsman appealed that a solution must be found to this situation, but none of the competent ministries showed any interest in it, which seriously questions the right to education and respect for the principle of the best interests of the child.

Thirty years have passed since the adoption of the Convention guaranteeing the rights and duties of children, which are still being violated. Concerns have been raised about peer violence, which has sparked a red alert for swift and effective action to combat it. Inclusiveness as a basis for involving all children in the regular educational process from the beginning of the school year showed the weaknesses, which indicates that this process requires good and complete preparation, and not just adoption of a new law.

Complaints in the health sector are on the rise, and the problems remain the same. Illegal collection of fees for gynaecological examinations, the lack of action of the Medical Chamber when it comes to examining cases referring to complaints about the work of doctors, as well as the length of proceedings before the Health Insurance Fund, when citizens should be reimbursed.



Discrimination, on all grounds, but especially the mobbing, is still present in society, and employment rights have been violated, especially in the Ministry of Interior, where complaints from citizens about illegal redistributions are noted.

There are no changes in the area of property and legal relations, where denationalization remains a "never-ending story", and the presidential election reaffirmed the need for substantial changes to the Electoral Code, so that all citizens have the right to vote.

Last year, the Ombudsman began implementing the new mandates-mechanism for civilian control, monitoring the implementation of the United Nations Convention on the Rights of Persons with Disabilities and the National Rapporteur on Trafficking in Human Beings and Illegal Migration. In the forthcoming period, these new mandates are expected to give rise to significant results in these areas, control of the work of the police and prison police, an issue for which there was almost no report of the European Commission in which the country was not strongly criticized for not punishing these persons, consistent observance and implementation of the Convention, so that persons with disabilities will be able to actively participate in all flows of society and will be able to exercise their rights, as well as increase the protection of those who due to various reasons became trafficking victims.

I hope that these pages will be a good material for the adoption of specific measures by the MPs, and that those who will be addressed will take them into consideration and will implement them with utmost seriousness.

OMBUDSMAN

Ixhet Memeti

A handwritten signature in blue ink, appearing to read 'Ixhet Memeti', is positioned below the printed name. The signature is stylized and cursive.

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



FROM THE WORK IN 2019



EVERY CHILD HAS THE RIGHT TO EDUCATION, BUT DESPITE THAT 200 CHILDREN REMAINED UNREGISTERED AT SCHOOL



During the entire reporting period, the Ombudsman continuously monitored the situation with the declared epidemic of measles in the country, as well as the enrolment of children in primary education, wherefore in the meantime the parents submitted a number of complaints.

Pointing out to the competent Ministry that the right to education should not be neglected as a fundamental right of every child, the Ombudsman with special information sent to the Government requested that this issue be considered at a higher level, with all children left out of kindergartens and from the schools, to be individually checked by a multidisciplinary team, and consequently to find ways and mechanisms that will enable the realization of the right to health, but also the right to education of each child.

The Ombudsman also recommended taking measures to fully and comprehensively inform parents about the importance of immunization, its effects, emphasizing that it is especially important to remove doubts about the quality and safety of vaccines.

In this context, pointing out that it is not in the best interest of the child to make the right to education conditional, the Ombudsman reminded that the commitment of all bodies and institutions, including parents, should be to protect children and their health and life, and to enable unprevented education of each child, which is why he recommended finding a constructive solution that will overcome all misunderstandings and will be guided by the best interests of the child.

The fact that about 200 children have been left out of the education process since the end of the measles epidemic confirms the Ombudsman's assessment that the executive authorities failed to find an effective solution, calling into question the state's real concern for the right to education, which is also a fundamental right of every child.



INSTEAD OF DIALOGUE AND TOLERANCE, PUPILS PRACTICE VIOLENT COMMUNICATION!



The research on the situation with peer violence in primary schools, for two school years, showed that in the school year 2016/2017 and 2017/18 in primary schools, a total of 3254 pedagogical measures were imposed on pupils due to violence. Out of a total of 17061 counselling sessions, 570 parent/guardian counselling sessions were held because the pupil participated in a fight or other forms of violence, 233 counselling sessions were held because the pupil showed disorderly or antisocial behaviour, 197 due to immoral or unethical pupil behaviour.

According to the Ombudsman, it is important to educate young people on nonviolent behaviour, and primary schools have a significant role to play in this regard, which requires activities that will help the teaching staff to recognize behaviours that adversely affect the child and its proper development, holding workshops related to (non)violent behaviour and consequently encouraging tolerance and constructive communication between children and all other stakeholders in education.



LARGE DOSES OF SEDATIVES GIVEN AS THERAPY TO PATIENTS OF THE EDUCATIONAL AND CORRECTIONAL INSTITUTION IN TETOVO ARE CONCERNING!



The Ombudsman, following the situation of the children in the educational and correctional facility in Tetovo, who during 2015 were transferred to further maintenance of the measure in the Penitentiary Institution Prison Ohrid, from an inspection of the medical records, states that all children from the educational and correctional facility in Tetovo receive strong sedative therapy, prescribed by a medical doctor from the Ohrid Health Centre or by a specialist doctor, neuropsychiatrist/psychiatrist. The therapy consists of multiple doses during the day (and especially in the evening), and they are prescribed sedatives: "Diazepam", "Helex", "Mendelex", "Depakine", "Risperidone", etc. 5 to 20 micrograms per day, and most of them do not have a clear focus, seem absent and uninterested in the environment.

According to an external associate - child psychiatrist, who was part of the Ombudsman's team, such therapy is a considerable dose given the age of the children and requires more frequent check-ups.

It is extremely unacceptable for the Ombudsman not to monitor the condition of children with such serious therapy, which is why he submitted a special report to the director of ECI Tetovo and the Ministry of Health, in which, among other things, he recommended more frequent and continuous controls of children, taking into consideration the long period from the moment of starting this strong medical therapy, for which in each individual case the effects of it should be analysed, as well as the application of skill training and behavioural treatments by appropriate experts, in order to achieve adaptive and controlled behaviour instead of applying only medical therapy.



UNGROUNDING POSTPONEMENT OF PROCEDURES FOR REALIZATION OF THE RIGHTS OF CITIZENS, STILL A NEGATIVE CHARACTERISTICS OF PIOM



The postponement of the procedures has been present for several years in the functioning of the pension system, due to which it is necessary to undertake measures and activities by the competent institutions, especially by the Fund, the Working Capability Assessment Commission and the State Commission. Namely, for timely decision-making on the requests and legal remedies submitted by the citizens and compliance with the legal deadlines for decision-making, greater coordination and cooperation between the competent institutions is needed, especially in the submission and completion of documentation.



AN EXCELLENT STUDENT STILL WITHOUT A BIRTH CERTIFICATE



The person T.S. was born in 2002 (18) in a public hospital in Skopje, where he finished high school with excellent grades, but has not yet been registered in the birth register, that is, he still does not have a birth certificate. He, along with his parents, has been battling unsuccessfully for many years for his enrolment with the Registry Office in Skopje. Due to the unprofessional and inhumane behaviour of the officials in the Registry Office in Skopje, this young person was put in an absurd and illogical situation, finishing high school, and still not having a birth certificate.

Immediately after receiving the complaint, gathering evidence and establishing the factual situation, the Ombudsman conducted several inspections and talked to the officials of the Registry Office several times. During these meetings, the Ombudsman pointed out that with such inhuman and unprofessional behaviour towards the person T.S. the officials in the Registry Office - Department in Skopje blatantly violate his basic human rights and gave guidelines on how to eliminate these violations. The Ombudsman pointed out that the young person is not a phantom, he exists, is integrated in the education system and in our society and has parents, an older brother and a sister, who have Macedonian citizenship.

Despite the indications and findings of the Ombudsman, the officials of the Registry Office in Skopje confirmed that they were not able to resolve that case and that they should additionally consult a higher authority - the Registry Office of the Republic of North Macedonia, which also had a negative decision regarding the registration of the young person T.S.

The Ombudsman informed the Minister of Justice as a competent official about this case of flagrant violation of the basic human rights of a young person, and also announced the case in the media, which also did not give results, so the 18-year-old excellent high school student still has no birth certificate.



THE PUBLIC INSTITUTION - OFFICE FOR CHILDREN AND YOUTH REHABILITATION IN TOPANSKO POLE WITHOUT PROFESSIONAL STAFF AND A DOCTOR



This was stated by the Ombudsman, acting on his own initiative in a case where one of the beneficiaries physically attacked two other children, also beneficiaries of the Office. In addition to the lack of a doctor, we found that there is a shortage of professional and support staff, especially special educators and rehabilitators, and especially caregivers, which negatively affects the quality of overall care.

After this, the Ombudsman inspected the Public Institution for Rehabilitation of Children and Youth in Topansko Pole, during which the conditions for accommodation and the overall documentation were analysed and perceived in detail and he prepared a report on the established conditions and submitted it to the Minister of Labour and Social Policy along with recommendations for elimination of the established conditions that negatively affect the proper and complete care for children, as well as measures for employment of a doctor in the Public Institution, for the purpose of timely and uninterrupted exercise of the right to healthcare by the beneficiaries.



NEW LAW ON PRIMARY EDUCATION, OLD RULEBOOKS, AND UNPREPAREDNESS OF SCHOOLS FOR THE IMPLEMENTATION OF INCLUSION OF PUPILS WITH SPECIAL EDUCATIONAL NEEDS



The Ombudsman came to this conclusion after the survey, which covered all municipal primary schools in the Skopje region, which showed that 69% of the surveyed schools indicate that there are factors that hinder the inclusion of students with disabilities, and as the biggest problems they pointed out were the insufficiently developed professional competencies of the teaching staff for working with students with disabilities, the unsuitable learning environment, that is the lack of appropriate technical and material conditions, didactic material and teaching aids and the large number of infrastructure barriers in schools.

Given the above, the effectiveness and success of inclusion is questioned, in addition to the fact that the obtained results indicate that approximately half of the total number of schools do not have a special educator and rehabilitator employed as a professional associate.

In this context, the Ombudsman submitted an Opinion to the Ministry of Education and Science on the need to enable legally provided support to students with disabilities in primary schools and undertake measures to provide the necessary conditions for smooth implementation of education based on the best interest and full development of the pupil, based on equality, accessibility and availability.



ENERGY SUBSIDY FUNDS PAID AFTER A YEAR FROM THE ADOPTION OF THE DECISION FOR RECOGNIZED RIGHT!?



The Ombudsman found a violation of the right of beneficiaries of social assistance to whom by means of a decision the Centre for Social Work in Gostivar recognized the right to compensation for a subsidy for consumed energy, but although more than a year has passed since the adoption of the act, the funds were not paid. After the undertaken measures and determination that there are no objective obstacles for exercising the right, the Ombudsman requested the Ministry of Labour and Social Policy and the locally competent Centre for Social Work to undertake measures for payment of funds for energy subsidy, after which the citizens received the funds, but with a delay of more than one year.



AT THE BEGINNING OF THE HEATING SEASON, THE HEATING IN CPI IDRIZOVO DID NOT FUNCTION



Acting on the complaint of a convicted person, and after the inspection in the Semi-Open Ward of the Idrizovo Penitentiary, the Ombudsman concluded that there was no heating and that the room temperatures were very low, especially at night. He informed the director of the institution thereof and pointed out the need for immediate measures to overcome the problem.

The Director accepted the indication, after which he submitted a response that the problem was located in a defect of the heating system which was immediately removed, after which the heating in the Semi-Open Ward was activated.



REGULAR AND TIMELY HEALTHCARE IS STILL A PROBLEM FOR THE CONVICTED PERSONS



With the takeover of the healthcare of convicts and detainees by the Public Health Institutions that perform primary healthcare, the situation with the healthcare in the penitentiary institutions has not improved, and is even worse than in the previous years. This is especially due to the fact that the continuous healthcare of the convicts has not been provided yet, the sufficient number of appropriate, that is professional medical staff has not been provided, which still prevents the regular access to a doctor of the convicts, and the prison hospitals are not equipped with all the necessary medical equipment and often lack the necessary medicines.



THE CASE OF DISTURBING AT THE WORKPLACE (MOBBING) POSITIVELY SOLVED



The Ombudsman, acting at the request of an employee of the Ministry of Interior for protection against violation of employment rights and harassment at the workplace, whereby the harassment is carried out by continuous giving of orders to perform work tasks by the employer, undertook a number of actions. Having in mind the allegations that the adopted orders are contrary to the existing legal regulations, so that by these orders the person is assigned to a position that is five steps lower than his title and job according to the decision for deployment, and at the same time the job position does not correspond to the job and his professional experience during his term of office, the Ombudsman required information and evidence from the Ministry of the Interior.

The employer denied the allegations of harassment in the workplace, explaining that the orders were issued due to the needs of the service, but evidence was provided that could prove the exact opposite, that is, that such orders deny the possibility of submitting an act of deployment that may later be appealed to higher authorities. Considering the stated situation, the Ombudsman established that with the adopted 20 orders, the employer violated the provision of Article 108 paragraph 2 of the Law on Internal Affairs and the provision of Article 43 of the Collective Agreement of the Ministry of Interior according to which: "the deployment referred to in paragraph (1) of this Article may last at least one month, and at most one year", which in the case of the submitter of the complaint was exceeded as time limit.

Following the determined and established situation, a Recommendation was sent to the employer stating that such deployment with a written document is a classic abuse of the institute "ORDER" explained in Article 154 of the Law on Internal Affairs, whereby the Ombudsman recommended to the employer to adopt an appropriate act, that is, a Decision for the placement to a job position that corresponds to his current title, education and his professional abilities.

In the legally given deadline by the Ministry of Interior, a response was submitted that it was acted upon the Recommendation, and as evidence the act of deployment was submitted, an act which showed that the complainant was assigned to a job position that corresponds to his title and professional abilities.



THE RESIDENTS OF VIZBEGOVO AGAINST A SMALL GROUP HOME IN THIS SETTLEMENT



During 2019, the process of deinstitutionalization continued, with the focus on relocating children from institutions to small group homes in the community. Due to the examination of allegations in a complaint filed by a group of citizens, residents of the settlement of Vizbegovo, who expressed dissatisfaction with the open small group home with beneficiaries of the Public Institution for care of children and youth with educational and social problems and disturbed behaviour "Ranka Milanovic", the Ombudsman within his competence inspected the functioning thereof, the spatial conditions and equipment, the professional and auxiliary staff that takes care of these beneficiaries, as well as performed an inspection of the entire documentation, but did not detect any irregularities.

This event raised the following issue: Are the communities in which it is planned to relocate children from public institutions in small group homes sufficiently informed and updated about the characteristics of the beneficiaries, in order to provide a supportive environment, that is, a social environment in which children will be well received?



NONEXISTENCE OF INFRASTRUCTURAL CONDITIONS FOR THE PERSONS WHO USE A WHEELCHAIR



Acting on his own initiative, and after inspecting almost all the main streets in the City of Kumanovo, the Ombudsman indisputably stated that most pedestrian crossings do not have lowered sidewalks, so that people who use a wheelchair cannot move smoothly. At the same time, the small number of places where sidewalks have been lowered, which are not appropriate but improvised by the citizens themselves, and additionally some of the more important and more frequent streets in the city do not have pedestrian crossings or any other type of horizontal signalization.

In order to protect the rights of persons with disabilities, the Ombudsman submitted an indication to the Mayor of the Municipality and the Council of the Municipality of Kumanovo, so that they would undertake all necessary actions and procedures, and after assessment and opinion of experts for all the places in the city to provide lowered sidewalks for the purpose of unimpeded movement of persons using wheelchairs, as well as to undertake measures and actions to ensure the existence of marked pedestrian crossings and other horizontal signaling where there is none. The Municipality of Kumanovo and the Mayor gave an answer that they are familiar with the problem and that they are working on resolving it, but also during a re-inspection, after several months of the given indication, it was concluded that there are no changes in the required direction.



UNTIMELY AND SLOW ACTIONS OF THE MEDICAL CHAMBER



This is a conclusion of the Ombudsman regarding the actions upon the requests of the citizens for expert supervision regarding the provided healthcare. There is almost no case in which the Ombudsman acted to be completed with an expert supervision conducted by the Medical Chamber. Instead of taking measures to conduct expert supervision and submitting a report with the established situation, the most common response received by the Ombudsman was that “a commission will be established”, or that “the commission was established”.

According to the Ombudsman, the overcoming of the occurrence of untimely action of the Medical Chamber on the requests for professional supervision, in addition to eliminating the subjective elements, means the provision of permanent financial resources for the purpose, as well as timely provision of the necessary professional staff for conducting activities, wherefore an Opinion was submitted to the Minister of Health.



DUE TO DISCIPLINARY VIOLATIONS AFTER THE INTERVENTION OF THE OMBUDSMAN DISCIPLINARY SANCTIONS WERE PRONOUNCED TO OFFICIALS IN THE SKOPJE PRISON



Following the investigation of a case in which two detainees in the Skopje Prison were physically assaulted by other detainees, the Ombudsman undertook several actions and prepared a Special Report with recommendations for establishing a proper performance of official duties of the officials and proper securing of the detained persons, which were fully implemented by the Sanctions Enforcement Authority and the Director of the Skopje Prison.

The disciplinary commission investigating the case imposed several disciplinary penalties against prison police officers, that is, disciplinary proceedings were instituted against several officers for disciplinary misconduct, and proceedings were instituted against three officers for their suspension.



THE NEGATIVE PRACTICE CONTINUES – PREGNANT WOMEN ARE BEING CHARGED FOR FREE CHECK-UPS AND LABORATORY ANALYSIS



Every year there is growing dissatisfaction and revolt among expecting mothers, most of whom are members of the Roma community, because private gynecologists, their personal doctors, charge them for health services that are free under the Active Healthcare Programme for Mothers and Children. The Ombudsman has been warning about this negative practice for several years, but there is still no effective solution by the authorities.

Submitting an Opinion to the Minister of Health, the Director of the Health Insurance Fund and the State Health and Sanitary Inspectorate, the Ombudsman pointed out that this phenomenon, which has been present for many years, can only be eliminated by mutual cooperation and facilitation of the possibility for confirmation of the allegations of illegal collection, in conditions when private gynaecologists do not issue bills to their patients, so they remain unpunished. In addition, measures are needed to raise awareness and educate women about their rights, as well as the staff of private gynaecological practices about the implementation of the Active Healthcare Programme for Mothers and Children.



POSTPONEMENT OF COURT HEARINGS AND OBSOLESCENCE OF CRIMINAL PROSECUTION, A DECADE-LONG PROBLEM IN THE JUDICIARY



Many court cases are unjustifiably postponed and the prosecution becomes obsolete. This reporting year, the Ombudsman acted as a friend of the court in relation to a complaint filed in 2018 and contributed to the protection of the applicant's rights. Namely, the case referred to "Serious theft", in the event of which even after 24 scheduled hearings, a hearing was not held, that is, they were postponed, although the indictment was filed in court in 2015. Due to the delays, the prosecution of the assistants in the theft became obsolete, so the procedure continued only for the perpetrators of the crime. Following the involvement of the Ombudsman as a friend of the court, court hearings began, but due to the large number of defendants, the case remained active and was monitored this reporting year, as well. The Ombudsman submitted relevant opinions and proposals to the Court, the Public Prosecutor, the Skopje Prison and the Bureau of Judicial Expertise regarding this case in the capacity of a friend of the court (*amicus curiae*) through which he contributed to the active holding of the hearings and taking of procedural actions, which ultimately resulted in a court decision and the case before the first instance court was completed.



IRRESPONSIBLE AND UNPROFESSIONAL BEHAVIOR OF A LAWYER FROM SKOPJE ENDANGERED THE FATE OF THE FORMER EMPLOYEES OF JSC “OHIS” SKOPJE, IN EXERCISING THEIR RIGHTS



Although reduced in intensity, former employees of JSC OHIS and JSC OHIS originating companies continued to file complaints seeking protection against right infringement committed by the lawyer they had authorized to represent them in exercising their employment rights and their rights related to bankruptcy trustees managing the bankruptcy procedure.

During the investigation of the case, back in 2018, the Ombudsman had doubts regarding the work of the lawyer, due to which a large number of employees were damaged regarding the collection of their claims on the basis of arrears of salaries and contributions. Namely, even though they gave her a power of attorney and paid the reward in advance, the lawyer did not register their claims, thus depriving them of the right to be compensated. After examining this case, the Ombudsman addressed the competent Public Prosecutor’s Office with a request to the competent public prosecutor to initiate a procedure for determining criminal liability for the lawyer.

Considering that in this reporting year, the complainants informed and submitted evidence of the same irregularity by the lawyer, the Ombudsman, after collecting evidence from the bankruptcy trustees, forwarded such evidence to the competent public prosecutor for the purpose of initiating a procedure for determining the criminal liability of the lawyer, and in order to further act and protect the rights of the former employees of these companies.

Due to the fact that the request for information on the course of the procedure was not answered, although it was additionally intervened with several urgencies, the Ombudsman addressed the Public Prosecutor who manages the Basic Public Prosecutor’s Office, and asked if the body found illegal or untimely action in this case referring to the violation of the rights of a large number of employees/citizens to take appropriate actions in accordance with their legal competence.

Regarding this letter, the Basic Public Prosecutor’s Office replied that the Prosecutor’s Office would not initiate criminal proceedings because there were grounds for suspicion that the lawyer had committed the crime of “Abuse of Trust”, which is prosecuted based on a private lawsuit, and due to protection of her rights the former employees have to file private lawsuits independently.



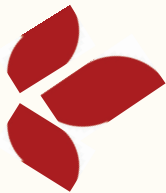
IN THE WOMEN'S WARD IN CPI IDRIZOVO, THE CONVICTS HEAT WATER ON A STOVE TO TAKE A BATH!



After the direct inspection in this ward, the Ombudsman stated that the conditions regarding the hygiene in the toilets and bathrooms have not been improved, the toilets have not been repaired, there is no regular hot water and additional heating is not provided in the facility. Despite the convictions of the institution that maximum efforts are being made to overcome them, in fact the noted problems are still present.

In a conversation with the convicts, in addition to complaining about the inability to maintain their personal hygiene, blocking of toilets, they also complained about the poor nutrition, and because they do not have regular hot water, they are forced to heat it in dishes, on the stove, otherwise they should bathe in cold water.

The Ombudsman submitted an indication to the Director of the Idrizovo Penitentiary for immediate action to ensure safe and hygienic conditions in the women's ward of the Idrizovo prison, in order to provide basic conditions for convicts, so as to avoid additional health problems, as well as enabling regular maintenance of personal hygiene, as well as hygiene in the entire ward in this penitentiary, for which there is a legal obligation.



PROTECTION OF HUMAN RIGHTS AND FREEDOM BY AREAS

SOCIAL SECURITY AND PROTECTION

The financially unprovided citizens/households, as well as the persons and families who are at social risk, in the reporting period addressed the Ombudsman with a request for protection of their rights to financial assistance from social protection, indicating that the legally established deadlines for adoption of a decision were exceeded, there was a failure to submit decisions and lack of any response to the submitted requests for assistance and care from another person, one-time financial assistance, social financial assistance, permanent financial assistance, energy subsidies, etc.

Many citizens who came to receive information and legal advice on the manner and procedure for exercising a certain right to social protection expressed their dissatisfaction with the attitude of the officials in the locally competent centres for social work and the rejection of their requests, although as they stated, they meet the conditions, that is they do not have any income for subsistence.

The number of complaints filed in this domain has increased compared to last year, with frequent complaints from citizens following the adoption of the new Law on Social Protection, which entered into force in May 2019, when beneficiaries of social protection rights faced a standstill of certain rights, due to untimely transfer of the right, in accordance with the new law.

Namely, the new Law on Social Protection establishes an obligation of the Centre for Social Work ex officio to transfer the persons who have exercised their rights according to the previous regulations of social protection, with a decision, within six months from the day this Law enters into force. In practice, some of the citizens who received decisions from the competent centres for non-recognition or termination of a certain right from social protection, dissatisfied with such decisions, appealed within the legally prescribed deadline, but the second instance body did not respond for a long time regarding the procedure based on the filed complaints.

Acting on these cases, the Ombudsman stated that the proceedings were halted due to the extremely poor communication between the institutions/bodies, which is to the detriment of the citizens-beneficiaries of social protection rights. Namely, there is a situation in which both the Ministry of Labour and Social Policy and the State Commission for Adopting Decisions in Administrative Procedure and Employment Procedure in the second degree, which with the new law is determined as a body that decides on citizens' complaints declared themselves as incompetent to act on citizens' complaints regarding the rights recognized by the old Law on Social Protection. On the other hand, the local competent centres for social work did not act ex officio to transfer these rights, although the new law stipulates that.

Between these correspondences and "outsmarting" between the bodies on who is competent to act, the citizens/applicants for certain financial assistance were forced to wait a long

time for a decision on the submitted complaint (and regarding some of the complaints it has not been decided yet), both by the Ministry of Labour and Social Policy and the State Commission as a second instance body, and at the same time none of them took into consideration that citizens at social risk and families which in their complaints indicated that they exist from this assistance are concerned.

In order to determine the factual situation and protect the rights of the citizens, the Ombudsman initially requested an information from the State Commission, which informed him that it could not act on an appeal under a decision on a law that was not transferred according to the new Law on Social Protection, whereafter he continued the procedure by submitting a recommendation to the Ministry of Labour and Social Policy, indicating that urgent measures have to be undertaken, in order for the cases for which no transfer of the rights determined in the old law has been performed in the right to a guaranteed minimum assistance in accordance with the new Law on Social Protection by the competent centres, without delay, to undertake actions in order to overcome the unjustified delay of the procedures relating to the submitted complaints of the citizens.

Another problem identified in this area faced by socially disadvantaged citizens was the non-timely payment of energy subsidies granted to a person or family at social risk. The Ombudsman, acting upon these complaints, concluded that timely funds are not paid to the beneficiaries, following a decision for recognition of the right to energy subsidies, due to which the expediency of the recognized right is lost. Namely, the citizens were waiting for a long time for funds for payment, although in the meantime they submitted evidence for paid electricity bills.

Examining the reasons for non-payment of subsidies based on the recognized right to energy subsidy, the Ombudsman addressed the competent centre individually on each of the complaints, and through insights and official conversations with responsible officials intervened in order to overcome the problem. He concluded that the problem is of a technical nature, because although the Centre for Social Work submitted a list of beneficiaries for the realization of the right to the Ministry of Labour and Social Policy, since in accordance with the new Law on Social Protection this amount is paid along with the guaranteed minimum assistance, the system did not recognize it as a separate subsidy. Only after the intervention of the Ombudsman who pointed out that the IT system must not be an obstacle for a citizen to exercise the right recognized by an appropriate act, the centres for social work informed him in writing about the problem of non-payment of compensation with the competent Ministry. After that the problem was solved and the payment of the subsidy was realized.

Regarding the complaints of the citizens who asked for protection related to exercising their right to assistance and care by another person, the Ombudsman addressing the centres for social work, because the deadline for adoption of a decision was exceeded, concluded that in most cases the finding and opinion of the expert medical commission was to be delivered. Precisely because of the slow adoption of decisions by the commission, the Ombudsman recommended that the Ministry of Labour and Social Policy of the Republic of North Macedonia in cooperation with the Centres for Social Work and the expert medical commissions undertake measures for smooth and timely exercise of social protection rights, respecting the deadlines for adoption of decisions, as determined by law.

Regarding the complaints for protection against domestic violence submitted mostly by women victims, in which the children appear as victims in an indirect way, the Ombudsman determined that these are cases of conflicting family relations, and cases with decisions for pronounced temporary measures which are not respected by the perpetrators. In some of the complaints, the citizens complained about the non (action) of the Centres for Social Work upon reports of domestic violence, due to which the Ombudsman pointed out the correct application of the law, both in terms of protection from domestic violence, monitoring of the compliance with the pronounced measures, but also for the smooth and appropriate realization and protection of the rights and interests of children. In addition to the above-stated, he addressed the Ministry of Labour and Social Policy, pointing out that measures should be undertaken for ap-

appropriate training of persons acting on citizens' requests for protection from violence, in order to timely, efficiently and professionally assist the victims of violence in exercising their rights, as well as measures to prevent the consequences of domestic violence.

In this context, the Ombudsman participated in the discussion of the public debate in the Assembly of the Republic of North Macedonia on the subject of domestic violence, emphasizing that domestic violence is a social problem present in the modern society, which results in serious consequences for women's lives and health, as well as the family. The effects of domestic violence threaten human rights, especially the rights of women, who are often victims of domestic violence. Informing about the findings of the actions upon complaints relating to this problem, as well as the conversations with the victims-complainants, the Ombudsman indicated that violence against women and children is one of the most present violations of human rights and freedoms, with women as victims of violence being discriminated against and the basic human right to life, liberty, dignity and security of women being violated, and he also pointed to the need for continuous education and training of professionals in institutions working on family violence protection, aimed at recognizing and adequately protecting the victim.

According to the Ombudsman, there is still room for improvement in the actions of the authorities in cases of domestic violence, especially in terms of undertaking the necessary measures to prevent and protect against domestic violence, and not to allow cases to escalate. The Ombudsman also stressed the practical dysfunction of the National Coordinating Body against Domestic Violence, although it is provided for by the Law since its adoption several years ago.

Regarding the Ombudsman's recommendation for increasing of the amount of financial assistance for social protection, measures were undertaken, that is a new Law on Social Protection was adopted, which includes novelties regarding the financial income of materially insecure persons and consequently the amount was increased. It remains to be seen how much the new law will provide effective and quality social services to citizens and families at risk. Although the Ministry of Labour and Social Policy in cooperation with the centres for social work has undertaken measures to accommodate the homeless and people living in improvised homes, there is still a need to find permanent solutions to provide adequate accommodation capacities (facilities), receiving a social flat, as well as training of vulnerable groups for independent living.

CONCLUSIONS

- *Instead of facilitating the access of citizens to social protection rights, the new Law on Social Protection made the realization of such rights more complicated. In that context, the extremely poor communication between the Centres for Social Work and the State Commission for Adoption of Decisions in Administrative Procedure and Employment Procedure in the second degree, contributed to the stagnation in the procedures for appeals of citizens, whereby persons at social risk and whole families who lived by this assistance were forced to wait a long time for decisions on appeals to be submitted, while the authorities were submitting correspondence among themselves as to who is competent to act.*
- *Citizen who are beneficiaries of the right to assistance and care by another person still have difficulty exercising this right. First, they wait for a long time for a finding and an opinion from the expert commission to be delivered, and then for the adoption of a decision (resolution) from the local competent centre, which exceeds the legal deadline for deciding of 60 days.*
- *Victims of domestic violence often do not receive the necessary assistance and support in a timely manner, which contributes to discouraging the victim from reporting the violence.*

RECOMMENDATIONS

- *Undertaking measures for cooperation between the Ministry of Labour and Social Policy, the Centres for Social Work and the State Commission for Adoption of Decisions in Administrative Procedure and Employment Procedure in the second degree, so that citizens could smoothly and timely exercise their rights from social protection, timely transfer of the rights in accordance with the new Law on Social Protection, and adoption of decisions on submitted complaints within the legally prescribed deadline.*
- *The Centres for Social Work and the expert commissions for making findings and opinions on the need for assistance and care by another person, should act in a timely manner on the requests of the citizens and adopt the decisions within the prescribed period of 60 days.*
- *Continuous strengthening of the system of protection of victims of domestic violence, creating conditions for action and implementation of protection measures in accordance with the Law on Prevention, Avoidance and Protection against Domestic Violence.*

PENSION AND DISABILITY INSURANCE

This year, citizens faced difficulties in achieving their rights in the area of pension and disability insurance, despite the fact that the pension system that is built on the principles of solidarity and fairness is based on the constitutional provision for social protection and social security.

The number of complaints by citizens is similar to the previous year, that is, 145 complaints were filed, with the largest number referring to the inability to exercise the right to an old age pension, then the realization of the disability pension and family pension. In addition, the number of complaints regarding the delay of the proceedings before the State Commission for Adoption of Decisions in Administrative Procedure and Employment Procedure in the second degree is significant, that is the procedures for appeals due to dissatisfaction with the decisions of the first instance body.

Namely, in the cases related to the realization of the old age, disability and family pension, the Ombudsman continuously undertook actions for each of the cases for the timely adoption of the decisions determining the amount of the pension, indicating to the Pension and Disability Insurance Fund that a right for maintenance is concerned and that it is necessary to make additional efforts for the citizens to receive the acts in time, whereby they will exercise their right. In this context, it should be noted that in several cases for the realization of the old and family pension it was necessary to provide data from a foreign pension authority, so in these cases the Pension and Disability Insurance Fund was reminded of the need for consistent application of bilateral social security agreements, in order to obtain data on the calculation of the proportional part of the pension for the time when the applicants worked abroad.

Regarding the realization of the right to disability pension, the citizens in the complaints expressed dissatisfaction with the decisions of the competent commissions for assessment of the work ability, pointing out their partiality. The Ombudsman also in these cases, in accordance with his competence, undertook actions aimed at updating the proceedings, as well as at consistently conducting procedures in assessing the working ability of citizens, as well as to obtain an appropriate act from the Pension and Disability Insurance Fund upon the received finding.

This reporting year again noted cases in which citizens expressed dissatisfaction with the delay in proceedings. After the actions taken, the Ombudsman concluded that the untimely completion of the documentation in cases for which court proceedings were conducted before the Administrative Court and the submission of documents between the first and second instance bodies are reasons for the delay, which is undoubtedly to the detriment of citizens. In these cases, the Ombudsman with his interventions addressed both the Pension and Disability Insurance Fund and the State Commission for Adoption of Decisions in Administrative Procedure and Employment Procedure in the second degree, and he also addressed the Administrative Court, requesting that the documents be completed so that the competent authority may, depending on the stage of the proceedings, decide again and adopt an appropriate act, which will enable the citizen to exercise their right or further protection of the rights with an appropriate procedure before the competent authority.

Although in smaller numbers, there were still complaints in which the citizens requested legal advice from the Ombudsman or clarifications on the legislation on certain issues in the area of pension and disability insurance, which were clarified and advised on the manner and procedure for implementation of certain rights.

Having in mind the established measures in this area for implementation of the recommendations of the Ombudsman, it is indisputable that the competent institutions did not undertake actions to overcome the problems for which even the Assembly of the Republic of North Macedonia had determined measures. Namely, although after reviewing the Annual Report for the previous year, measures were determined

regarding the need to improve the cooperation and communication between the competent institutions for completing the files of the cases for adoption of decisions and for more efficient action of the Commission for Assessment of Working Ability, the same conditions were established again this year.

CONCLUSIONS

- *Citizens continue to have difficulty exercising their rights under pension and disability insurance, in long-term and inefficient procedures, as well as inconsistent compliance with legal deadlines for adoption of decisions.*
- *Due to the absence or insufficient cooperation between the bodies, the proceedings are unnecessarily postponed, especially in cases when it is necessary to complete the documents of the case in which the request of the citizen is decided upon.*
- *The dissatisfaction with the established findings and opinions of the commissions for assessment of the working ability was part of the complaints of the citizens this year as well.*

RECOMMENDATIONS

- *The competent authorities acting on cases in the area of pension and disability insurance should consistently comply with the legal deadline relating to the adoption of decisions on the requests of the citizens aimed at exercising their right to a pension.*
- *It is necessary to improve the communication between the competent authorities, in order to complete the documentation and files on the cases for which a decision should be made in a timely manner, and within the established legal deadlines.*
- *The commissions for assessment of the working ability should decide more efficiently and objectively, by correctly determining the factual situation in relation to the working ability of the citizens.*

HEALTH INSURANCE AND PROTECTION

The Ombudsman, following the situation in the health sector and acting on the complaints of the citizens, did not notice significant improvements in the approach and exercise of the right to healthcare and health insurance. Hence, the conclusion that even in this reporting period, the citizens found it difficult to exercise their rights, primarily due to the untimely handling of their requests, but also due to the inconsistent application of the regulations in the area.

Compared to the previous year, in 2019 the number of submitted complaints increased by almost 1/3, while the analysis of the problems that required intervention indicates that they

are the same as in previous years. Namely, most of the complaints in this area are related to the provision of basic health services and co-payments, then the right to hospital treatment, the delay of proceedings before the competent institutions, complaints of negligent treatment of patients and so on.

Thereby, the problem with the co-payment for health services, present in the cases when patients are obliged to make co-payment for gynaecological examinations relating to services, which based on the regulations are free was dominant this year, as well in the number of submitted complaints.

The Ombudsman, acting on individual cases, as well as on the case created on his own initiative, determined conditions according to which women patients, especially members of the Roma community, are charged for gynaecological examinations related to PAP tests, blood tests and other examinations during pregnancy, although the Programme for Active Healthcare of Mothers and Children in a clear and unambiguous manner stipulates that all uninsured and insured women are exempt from healthcare costs which are pregnancy-related.

In the complaints, the patients sought protection due to such illegal collection, without being issued a fiscal bill, which means that they cannot provide evidence, and cannot prove the opposite of the doctors' claim, which creates a sense of revolt and dissatisfaction among them. Acting on these cases, the Ombudsman submitted an opinion to the Ministry of Health and restated the present problem and requested that appropriate actions be taken to eliminate the violation of the rights of pregnant women by collecting funds for health services by private gynaecological practices, which remain unpunished for such action.

This situation inevitably points to the need for enhanced controls by the Health Insurance Fund, especially since the allegations of illegal collection apply to the same private health institutions and if they have an agreement to use funds from the Fund, and if the allegations of illegal payment are confirmed, they have to be sanctioned. In order to eliminate such occurrence, the Ombudsman considers that the activity of the Ministry of Health for further informing the gynaecological practices which patients and which health services are exempted from co-payment is useful, as well as additional education of medical staff on the implementation of the Programme for Active Healthcare of Mothers and Children.

Regarding this problem, for the sake of truth, it should be noted that additional evidence and facts necessary for further action were requested from the complainants, but unfortunately no complaint was supplemented, which certainly had a negative impact on the further course of the procedure.

Although in smaller numbers, complaints regarding the problem with the delay of administrative procedures before the Ministry of Health and the regional offices of the Health Insurance Fund were also filed this year. However, the problems remain the same. Due to the present difficulties regarding the submission of the files relating to the cases from the first instance to the second instance body, as well as to the Administrative Court, the conclusion is that the delay hinders the access to justice of the citizens, and violates the principle of legal security.

In order to overcome the inappropriate treatment in such cases, in addition to direct contacts with the responsible officials in the Ministry of Health and in the regional offices of the Health Insurance Fund, the Ombudsman repeatedly pointed out to the competent institutions the need for effective and efficient action, because healthcare cannot endure delays.

The problem with the failure to act and delay of the actions of the Medical Chamber when a request for professional supervision is submitted is again present this year as a problem in the health area. However, despite the individual action on the cases and the actions taken by the Ombudsman, the answers from the Medical Chamber were either "the case has been taken into operation", or "a commission will be established", or "the commission has been established ...", but unfortunately the required supervision could not be realized in spite of the given indications. Due to this situation, which has been present continuously for years, the Ombudsman wishes to express his criticism towards the Medical Chamber through this report, and at the same time requests the Ministry of Health to undertake action for consistent application of the

provision of Article 296 of the Law on Healthcare, based whereon the Medical Chamber is in charge of performing professional supervision over the work of healthcare workers and healthcare institutions.

Regarding the cases created on his own initiative concerning the violation of the rights of a larger group of citizens, such as the case of exemption from payment (co-payment) of a fee, the Ombudsman intervened following the adoption of the Law on Social Protection in May 2019. Namely, noticing the need for harmonization of this regulation with other laws, the Ombudsman first submitted an initiative to the Ministry of Health for amendment of the provision of Article 34 of the Law on Health Insurance, regarding the need for exemption from payment of beneficiaries of guaranteed financial assistance. The amendment to this Law was adopted by the Assembly of the Republic of North Macedonia at the end of the year.

Also, the Ombudsman requested from the Ministry of Labour and Social Policy to initiate the establishment of several commissions that are competent to exercise the right to compensation due to disability of persons with severe and deep intellectual disability, to exercise the right to compensation for physical disability of a person with the most severe form of disability, then for exercising the right to compensation for a completely blind person, as well as for exercising the right to compensation for a completely deaf person.

After receiving the data from the Ministry of Labour and Social Policy, the Ombudsman undertook actions against the Ministry of Health in order to determine experts - medical professionals as part of the abovementioned commissions and we were informed that the abovementioned commissions were established, which enabled the citizens to exercise their rights without difficulties.

Regarding the realization of the rights of the citizens in the field of healthcare and health insurance, the Ombudsman considers it necessary to point out that the situation with the violation of the rights is repeated, that is the competent institutions did not act at all on the established measures of the Assembly of the Republic of North Macedonia adopted after the review of the report for the previous year, which determined the need to speed up the procedures and eliminate the problem of inactivity in the administrative procedures, then the need to find a solution regarding the problem of charging by gynaecological practices for medical services that are covered by the Fund, and certainly the constantly established measure for efficient processing of the Medical Chamber, under Article 296 of the Law on Healthcare in relation to professional supervision.

CONCLUSIONS

- *A solution has not yet been found regarding the illegal collection of funds by private gynaecological health facilities for gynaecological examinations and laboratory tests for patients during pregnancy.*
- *Citizens continue to face untimely and inefficient actions by the Health Insurance Fund and the Ministry of Health, which makes it difficult for them to exercise their rights in the area of health.*
- *The Medical Chamber acts with delay on the requests for professional supervision provided by the Law on Healthcare.*

RECOMMENDATIONS

- *The competent institutions should strengthen the control in the private gynaecological health institutions regarding the collection of the co-payment for health services that are covered by funds of the Fund.*
- *The inefficiency and durability of administrative procedures in exercising the rights to healthcare requires additional activities by the Fund and the Ministry, especially for the timely completion of the necessary documentation in order to adopt a decision.*
- *The Ministry of Health should find an appropriate solution to overcome the problem of the Medical Chamber in order to timely conduct professional supervision, especially in the area of commission financing.*

CHILDREN'S RIGHTS

2019 marks the 30th anniversary of the adoption of the Convention on the Rights of the Child by the United Nations General Assembly, the most widely accepted international document guaranteeing the protection of the rights of every child. The signatory States to this Convention have committed themselves to raising the level of respect and protection of children as a vulnerable category, to introducing rules and standards for the exercise of the rights of all children, without discrimination, to ensuring their survival and development and inclusion in social life, all for their best interest.

The Convention on the Rights of the Child in a clear and unambiguous manner indicates that every child has the right to a name, citizenship, home, love and care, that access to education for every child should be unhindered, and healthcare available at the highest level. The Convention requires that every child be protected from any form of violence, abuse or misconduct, without discrimination, in respect of the best interests of the child and the value of his or her opinion.

According to the Ombudsman, although the awareness of children's rights has significantly improved and measures have been taken to protect them, in the practice there are still phenomena and conditions that hinder children in accessing and exercising their rights, as required by the Convention on the Rights of the Child.

The fact that the number of complaints in the area of children's rights has significantly increased during the reporting period confirms that the exercise of children's rights and interests requires dedicated work and effective measures by all bodies and institutions, with the best interests of the child always at the forefront in policy-making and decision-making related to children and their rights.

Children's rights in the family

Regarding the rights of the child in the family, most of the complaints referred to the violation of the right to uninterrupted contacts and meetings of the child with the parent with whom the child does not live, where an intervention of the Ombudsman was most often required by parents or close relatives of the child (grandparents), whereas a child complaint has not been filed.

In this context, the Ombudsman intervened in a total of 47 complaints for unimpeded exercise of the right to see the child in about 100 cases (including children with disabilities), of up to 15 years of age, from different cities, with most applicants seeking protection of their rights before the PI Inter-Municipal Centre for Social Work of the City of Skopje, then the Centre for Social Work in Veles, Kumanovo, Kocani, Stip, Radovish, Bitola, Tetovo, Kicevo, Strumica, Ohrid and Vinica. This year, mothers who are serving prison sentences, as well as parents whose children live with one of the parents abroad, also asked for help in exercising their right to see their child.

From the treatment of these cases, the Ombudsman concludes that these are families with highly conflicting relations between parents and with mutual accusations of inadequate care and treatment of the child, which overshadowed the key principle of the best interest of the child, its right to grow with the love of both parents, as well as the close relatives of the mother, that is the father, but also the right of the parent to make uninterrupted contacts with the child, when they do not live together. In that context, the dissatisfaction of the complainants with the work of the expert teams in the locally competent centres for social work was frequent, pointing to non-objectivity in their actions and neglect of the best interest of the child in adopting decisions, they suspected bias in the Centres' actions.

In each of these cases, the Ombudsman included the Office for Social Activities for supervision over the professional work of the centres, as well as the Sector for Inspection Supervision over the application of legal and other regulations in the field of social protection and child protection within the Ministry of Labour and Social Policy, and for some of the complaints he personally addressed the Minister of Labour and Social Policy with a request to examine the allegations of the complainants.

In all complaints, the competent centres denied the allegations of non-objective and biased action, informing the Ombudsman that the measures and actions taken in the procedure are in accordance with the law and the best interests of the child. However, in almost 1/3 of these complaints, an incompletely established factual situation or incorrect application of the law was determined, during the performed supervision over the professional and legal work by the Ministry of Labour and Social Policy and the Public Institution Office for Social Activities, which is a worrying information, regarding the capacity of the expert teams that act on cases related to the realization of the child's rights to be respected and to decide in the best interest of the child.

In several cases, it was determined that the meetings with the child could not be realized because the parent to whom the child was entrusted with partial custody and upbringing left the country, which interrupted the contact between the child and the parent, and the centre for social work was not notified and has no information that the parent and the child are out of the country. In these cases, despite the interventions of the Ombudsman, the Centres for Social Work failed to re-establish the child's interrupted contacts with the parent with whom the child does not live, so the parent was advised to submit a request for action under the Convention on Civil and Legal Aspects of International Children Abduction (The Hague Convention).

The Ombudsman, acting on a case of a parent living abroad due to inability to enforce a judgment of the European Court of Human Rights, regarding the regulation of meetings with the child living with the mother in the Republic of North Macedonia, except to the competent Centre for Social Work and The Ministry of Labour and Social Policy also addressed the Ministry of Justice, Bureau for Representation of the Republic of North Macedonia, requesting notification of the measures and actions for full implementation of the verdict of the European Court of Human Rights. He was informed that the Ministry of Labour and Social Policy has been given a recommendation to review the possibility of amending the Law on Family, in order to establish an effective legal mechanism for enforcing the decisions on meeting a child adopted by the Centre for Social Work, and improvement of legal remedies against these decisions, for which, according to the notification from the Bureau for Representation, expert assistance was requested from the Council of Europe.

Regarding the requests for seeing the children, submitted by mothers sentenced to imprisonment, the Ombudsman indicated the compliance with this right of the child that is the parent, if it is not contrary to the best interests of the child. In that regard, he demanded that the centres for social work cooperate with the social service at the penitentiary and at the request of the mother to continuously report on the condition of the child/children. Acting on one case of the right to meet the children by a mother sentenced to imprisonment, the Ombudsman found that the local competent centre has been submitting the same answer for many years, that the children do not want or refuse to have contacts and meetings with their parent, which raises the question whether and what this body undertakes to overcome such a situation?

According to the Ombudsman, even when serving a prison sentence, the mother/father does not stop being a parent, and if it is not contrary to the best interests of the child, the child's right to parental love and contact with them should not be denied, even if they do not live together at that moment.

In the context of the above-stated, and taking into account the measures determined by the Assembly of the Republic of North Macedonia to implement the recommendations of the Ombudsman, the need to respect the right of the child to be with both parents remains relevant, according to the child's opinion and its best interests, and cooperation of the competent Ministry with the locally competent centres for social work in order to prevent the harmful consequences for the child in case of resistance to seeing the parent with whom the child does not live.

Care and upbringing in a preschool institution (Kindergarten)

Most of the complaints in this reporting year were submitted by parents and citizens' associations regarding the dissatisfaction with the decision of the Ministry of Health, that is the State Sanitary and Health Inspectorate, which requires institutions for care of children of preschool age not to accept children who have not been vaccinated against measles, rubella and mumps. Regarding these complaints, the Ombudsman first analysed the existing regulations in the field, reviewed the decision of the Constitutional Court, and from the aspect of protecting

the rights and best interests of the child, submitted an opinion to the Government with a proposal for this issue to be considered on a multisectoral level, and to find an appropriate solution that will not hinder the child in the exercise of the rights guaranteed by the Constitution and the ratified international agreements, but will also not harm the child in terms of ensuring its right to health.

Namely, according to the positive regulations that regulate the issue of mandatory vaccination, the obligation of the competent authorities in a state of declared epidemic to undertake all necessary measures to preserve and protect the health of the population, especially children, is undisputed, and appropriate measures and activities should be undertaken as determined by the Law on Protection of the Population from Infectious Diseases and the Rulebook on Immunoprophylaxis and Chemoprophylaxis of the persons subject to these measures, the manner of keeping records and documentation.

In this context, the Ombudsman had the Constitution in mind, according to which the citizen has the right and duty to protect and promote his own health and the health of others, as well as the Law on Protection of the Population from Infectious Diseases, according to which vaccination is mandatory for all people at a certain age, against tuberculosis, diphtheria, tetanus, whooping cough, polio, measles, rubella, mumps, haemophilus, influenza type B (HIB) and viral hepatitis B, as well as the Law on Child Protection, according to which parents are obliged when the child is admitted in kindergarten to submit a certificate from their personal physician on the health of the child, or finding and opinion of the appropriate professional institution for children with mental disabilities or physical disabilities.

On the other hand, given that in the complaints filed, the complainants referred to an Article of the Constitution which guarantees freedom of belief, conscience, thought and public expression of opinion, as well as allegations of restriction of the freedoms and rights of children who have not been vaccinated, considering that the decision on the obligation to vaccinate children is discriminatory, the Ombudsman also reviewed the Decision of the Constitutional Court from 2014, which does not initiate a procedure for assessing the constitutionality of the Law on Protection of the Population from Contagious Diseases, that is, the Constitutional Court rejected the initiative and did not establish discrimination, stating that the condition of enrolment of a child in primary school by submitting evidence of vaccination is not discrimination, but a kind of mechanism for protection and insurance of the child's right to health, and parents who enrolled a child in a school that did not receive the necessary vaccines would not only violate the right to health of their own child, but also the right to health of other children attending the same school.

In his opinion to the Government, the Ombudsman also considered that the competent institutions need to seriously consider the arguments of parents who do not want their children to be vaccinated, as well as the possible justification of those arguments, emphasizing the need to undertake measures and actions for greater awareness of citizens on issues related to vaccines, their composition and quality, to find mechanisms for education of parents, as well as timely and continuously before each vaccine parents should be informed and advised of the benefits and possible expected reactions or side effects by paediatricians in appropriate health facilities in order to increase the coverage of immunization.

In addition to the above, the Ombudsman requested that measures be undertaken to harmonize the regulations, taking into account the guaranteed rights of the child and its best interests, as well as to find an appropriate and effective solution to protect the rights of children whose parents refuse immunization and consider that it is the right of the parent to choose to vaccinate or not to vaccinate the child, pointing out that there are children who are already involved in the educational process and have not been vaccinated against measles, rubella and mumps (MRM), and in that direction with the undertaken measures not to hinder the realization of the right to uninterrupted education.

Acting on the submitted opinion of the Ombudsman, the Government informed that upon the previously obtained opinions from the Ministry of Health and the Ministry of Labor and So-

cial Policy, it determined the need for multisectoral action in order to overcome the problem. At the same time, the Ombudsman was informed that an expert advisory commission had been set up by the Minister of Health to provide advice and develop strategic immunization documents, that brochures have been prepared which include the most important information regarding measles vaccination, and that educational workshops are continuously held to improve the control of infectious diseases, etc. In addition to the above, the Ombudsman was informed that with the decision of the Minister of Health a working group was established with representatives of the Ministry of Health, the State Sanitary and Health Inspectorate, the Institute of Public Health, the Ministry of Labour and Social Policy and the Ministry of Education and Science for analysis of the needs for amendment and supplementation of the positive regulations related to the supervision of infectious diseases and the implementation of vaccination, etc.

In this area, complaints were filed by parents about inappropriate treatment and negligence on the part of employees towards children, as well as complaints in which parents expressed concern about the safety of children due to the performance of construction works while children are cared for in kindergarten. In addition to notifying the directors of the kindergartens, the Ombudsman requested that the competent Department of the Ministry of Labour and Social Policy performed supervision, which after the measures undertaken did not confirm the allegations of negligence and inappropriate treatment, and regarding the complaint referring to construction activities, after the allegations were confirmed the Sector for Inspection Supervision over the Application of the Legal and Other Regulations in the Field of Social Protection and Child Protection recommended undertaking of specific measures by the director of the kindergarten for removal of unprotected building materials that posed a danger to the safety of children and securing of such materials, so that the entrance for admission of children from all groups was properly regulated without the possibility of their access to construction activities.

Education of the child in primary and secondary schools

Regarding the right to primary and secondary education, most of the complaints referred to the protection of the right to enrol pupils in the first grade, after the declared measles epidemic. Upon these complaints, the Ombudsman acted until the end of the reporting period, during which he continuously undertook actions against the Ministry of Education and Science, the State Education Inspectorate and the Government of the Republic of North Macedonia, to ensure uninterrupted exercise of the right to education for every child, which is guaranteed by the Constitution and international standards. In this context, acting within his competence and undertaking measures and actions, the Ombudsman established an indirect collision of two constitutional postulates - the right to education and the right to one's own health and the health of others in the event of a declared epidemic. Therefore, the Ombudsman through opinions, recommendations and information submitted to the Government and the competent ministries pointed out the need for this issue to be considered on a multisectoral level, in order to find an appropriate solution that will not hinder the child in exercising the rights guaranteed by the Constitution of the Republic of North Macedonia and the ratified international agreements, but will also not harm the child in terms of ensuring the right to health.

As time passed with the beginning of the new school year and given the fact that the situation remained unchanged, that is, the problem was not overcome and solved, especially after receiving information that about 200 unregistered pupils remained out of the educational process, the Ombudsman submitted an information to the Government of the Republic of North Macedonia and requested the Government to reconsider this problem, and to find an appropriate solution, respecting the right to the best interests of the child, so that no child would be hindered in the realization of this right, and it would not be left out of the educational process. However, even after further actions were undertaken, there was no necessary reaction from

the authorities, although at the beginning of December 2019, the end of the measles epidemic was declared.

Regarding the right to education, the Ombudsman on his own initiative monitored the situation with the enrolment in high schools, and additionally intervened after complaints were submitted by children and parents regarding the entrance exam in SUGS "Orce Nikolov" in Skopje. After the undertaken measures, it is indisputable that there is an incomplete preparation for conducting an entrance exam, which is contrary to the best interest of the children, as well as the right to be fully and timely informed about issues related to their further education. The Ombudsman established the absence of a clear and concisely established procedure for the manner of organizing and conducting possible qualification exams, which was a significant failure in the systemic solution for enrolling students in public high schools.

It was especially worrying for the Ombudsman that in this case students with excellent grades in their education were concerned, and that these students were put in a situation to continue their education in schools where the planned number of students would not be filled, which certainly leaves a mark on the further development of children, but also on their attitude towards education in general.

The Ombudsman addressed the competent ministry and the director of SUGS "Orce Nikolov" in Skopje, and given the need for fast and efficient action of the institutions in such cases, asked to urgently consider the case in order for students to be enrolled where they planned to continue their education, given the fact that they meet the enrolment requirements. Acting upon the request of the Ombudsman, the authorities agreed to enrol students without qualification tests, noting that in the future the school would focus on finding systemic solutions to improve student enrolment in public and secondary schools and promote education.

Other problems for which a procedure was conducted were the complaints of the parents regarding the adequacy of the teaching staff, the work of the principals of several primary and one secondary school regarding the inaction to protect children from violence by teaching staff which negatively affects children and educational activities in schools in general.

Right to protection from violence

Violence against children and between/among children is a problem that inevitably requires a serious approach, especially if it is repeated, and when the usual "misunderstanding between children" turns into a feeling of impatience, which is manifested through physical confrontation, insults, constant pressure and threats, non-acceptance and humiliating the child/children in every way.

In four cases, the Ombudsman acted on his own initiative, and in addition in eleven cases he intervened for protection from violence against children in the family, kindergarten, primary/secondary school, as well as an institution for care of children, and for the purpose of establishing the situation with violence among children and on children he conducted research in all primary schools in the country.

In most of the complaints, the interventions were directed towards the competent PI Inter-Municipal Centres for Social Work in order to examine whether measures were taken in time to prevent and protect the child from violence, regardless of whether the child appears as a direct or indirect victim, according to existing regulations for prevention, protection and avoidance of domestic violence.

Regarding the complaints about violence against children in primary and secondary education, in one case injuries were ascertained and consequently, after a disciplinary procedure against the teacher, a fine was imposed. While in the case of the complaint about the accusations of harassment of the student by the professor of informatics, the school remained of the

opinion that they are unfounded, especially since during the school year there were no reports and complaints from the student or parent. However, during the extraordinary inspection, the State Education Inspector concluded that in order for the student to achieve better success, the professor did not take all measures and activities, which violated the law and bylaws. Consequently, a decision was adopted whereby the High School Principal was ordered to initiate a procedure for the teacher due to the determined failures, that is, for unfulfilled job duties.

The Ombudsman, after receiving information about physical violence between children placed in the Institute for Rehabilitation of Children and Youth in Topansko Pole, for the purpose of protection of children's rights, opened a case on his own initiative, and in addition to a written address to the authorities directly inspected the institution. He subsequently submitted a letter to the Minister of Labour and Social Policy, stating that there is a lack of proper care for children placed in the institution, in terms of providing constant supervision over them, given their condition, and called for action and measures for complete security in the institution, especially during the afternoon and evening, when the presence of staff is considerably lower.

Also, the Ombudsman pointed out that the Ministry should undertake measures and through a supervision in the mentioned public institution to determine the manner of functioning and the internal organization of the work of the Office, to investigate the circumstances under which the incident where two beneficiaries were visibly injured occurred and none of the employees were in the vicinity. Consequently, he requested that measures be undertaken to sanction the oversight of officials, and undertaking of measures for appropriate and full care and protection of children in this Public Institution.

However, the survey on peer violence showed that it is present in many primary schools, which indicates that it is necessary to act quickly in order to prevent harmful consequences, but also to involve the family (mutual cooperation), educational institutions and the local community. According to the Ombudsman, it is very important to educate young people on non-violent behaviour, and primary schools to undertake measures to familiarize them with the basic freedoms and rights and obligations of children, education of children, teachers, parents and officials to consistently respect children's rights and for the obligation of all to respect the rights of others.

Regarding the established measure - the Ministry of Education and Science of the Republic of North Macedonia, the Units of Local Self-Government and the City of Skopje should undertake measures aimed at strengthening the capacities of the professional services and teaching staff to recognize and report cases of violence, abuse and neglect of children, as well as measures to eliminate the occurrence of violent behaviour among students, a new Law on Primary Education was adopted, in which a separate article regulates the obligation of each employee to protect the integrity of students, and prohibition of physical, mental and sexual harassment and punishment of the student and degrading behaviour and actions. In addition, a special article establishes an obligation for the school principal to report any form of violence, abuse and neglect committed on a student.

Children's healthcare

The Ombudsman, at the beginning of this reporting period, after receiving information from the media about the proclamation of the measles epidemic, in accordance with his competence, opened a procedure on its own initiative. The action was aimed at protecting the rights of the child on the basis of healthcare, given the media reports that only one doctor performed examinations at the Polyclinics, that is that there is no specialist paediatrician. Thereby, he continuously monitored the situation in order to consistently respect and apply the domestic and international standards for the rights of the child, especially the obligation to always act in

the best interest of the child, and the child to receive the highest level of healthcare possible. In that context, he requested and pointed out the need for an urgent response to increase the number of medical staff and open the necessary paediatric points for the uninterrupted healthcare of children.

Acting on complaints of referral of a child for treatment abroad, the Ombudsman intervened to protect the right of a child suffering from a rare disease for the treatment of which there was no special centre in the country and pointed out to the Health Insurance Fund that there is a need for undertaking action aimed at referral to treatment abroad where the only healthcare institution in which the child was previously treated functions. The indication was accepted and the child exercised the right.

In addition to the above, the Ombudsman intervened about the obtaining of a consilium's opinion from the competent health institutions for treatment abroad, and in that regard he undertook all necessary actions and in accordance with his competence submitted requests for information and data to the relevant healthcare institutions, indicating the need for appropriate health treatment of the child and of course the adoption of an opinion on treatment abroad where the institutions were responsible for what was undertaken.

The Ombudsman, on his own initiative, regarding the media findings that two children and educators were found to have the presence of the bacterium "MRSA" undertook action and requested the State Sanitary and Health Inspectorate to determine the situation through immediate inspection. Following the undertaking of measures by this body, it determined preventive measures for cleaning the facilities, regular maintenance of the hygiene of the premises, continuous disinsection, disinfection and deratization, ventilation of the premises, regular maintenance of dishes, toys in kindergartens, regular children's hygiene, etc.

Regarding the right to healthcare, the Ombudsman acted upon a request of a group of parents of pupils from a Skopje Primary School in which they expressed dissatisfaction with the unhygienic premises and unprovided health systematic examination of their children in the School Dispensary "Suto Orizari". In order to investigate the allegations of the parents, a Request was submitted to the State Sanitary Health Inspectorate, to the director of the Suto Orizari Clinic, as well as to the principal of the primary school the children attended. The outcome of the procedure resulted in a decision that in the future the systematic examinations and regular vaccination of children will be performed in the premises of the Chair Polyclinic, which was in fact a request of the Group of Parents.

Right to monetary funds for a child

In order to protect the right to monetary funds for a child, the Ombudsman intervened upon a small number of complaints indicating a violation of the right to one-time financial assistance for the first and second newborn child, as well as the right to parental allowance for a third child for a parent in case the death of the right holder occurs. Acting on the requests of the citizens, the Ombudsman addressed the competent PI Inter-Municipal Centres for Social Work, as well as the Ministry of Labour and Social Policy, whereby in cases when the legal conditions were met, the citizens exercised their right or they were advised to submit an appeal regarding the decisions.

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

During this year, the Ombudsman in the field of children's rights acted on six cases related to the registration of eight children in the register of births. Acting on these cases, the Ombudsman stated that the problem with children whose birth has not been registered in the birth register (legally invisible) has not been resolved yet, which prevents them from accessing and exercising the rights guaranteed by the Convention on the Rights of the Child.

Namely, in some of the complaints it was determined that several years ago the applicants submitted applications for registration in the birth register for children, but the registration was not performed, so that the children do not have a civil identity, do not have a personal identification number and birth certificate and the applicants have no idea whether the procedure has been initiated, the point it has reached or the reasons why the Office did not submit an appropriate act to their requests.

The Ombudsman determined that upon the public call for the persons who are not registered in the birth register, in April 2018 they submitted a request for additional registration in the birth register for the children, after which a questionnaire was filled out by an official in which they stated all the information about the mother and the children that are relevant to their registration, but several years have passed since the application was submitted and the questionnaire was completed, and no decision has been adopted.

The Ombudsman submitted a warning to the Registry Office without delay to act in cases of registration of children in the birth register, because otherwise the rights of the children are violated and the unimpeded exercise of the basic rights of health and social protection, education, etc. is hindered, reminding to the provisions of the United Nations Convention on the Rights of the Child, according to which every child must be registered immediately after birth, and Article 7, according to which the child has the right to a name, the right to care, to acquire a nationality and, if possible, the right to know who its parents are.

The Ombudsman also pointed out to actions contrary to the Law on General Administrative Procedure according to which the administrative procedure of the first instance initiated upon request, except when otherwise provided by law, ends as soon as possible, and no later than 30 days from the day of its initiation. The deadline starts from the day when the party submitted the request with all the evidence that it was obliged to submit. At the same time, the Law stipulates extension of this deadline, if the complexity of the case justifies it, and the extension is allowed for the period required to complete the procedure depending on the complexity of the case, but can not be longer than 30 days.

The Ombudsman, noting a violation of children's rights to be registered immediately after their birth in the birth register, which prevents their access and exercise of the rights guaranteed by the Convention on the Rights of the Child and other legal regulations, requested the director of the Office on the registry information on the course of the proceedings upon the requests of the parties, indicating that the Office should act without delay on these and other cases for registration of children in the birth register and, accordingly, to inform the citizens about the course of the procedure, possible problems, as well as the necessary documentation for registration, because otherwise the rights of the children are violated and the unimpeded realization of the basic rights is hindered, and by not respecting the deadlines for adoption on an appropriate act, the citizens are hindered in further protection of the rights before the appropriate bodies/instances.

Regarding the right to register in the birth register, the Ombudsman in the Annual Report for 2019 recommended undertaking measures relating to the accepted initiative of the Ombudsman for amendments to the Law on Out-of-Court Procedure and the Law on Registry, by the Government of the Republic of North Macedonia, in order to facilitate the registration process of unregistered persons in the birth register. Until the preparation of this report, no measures were undertaken regarding the

measure determined by the Assembly on this recommendation.

The Ombudsman, following the situation with children with educational and social problems and impaired behaviour, in the reporting period visited the Public Institution for care of children and youth with educational and social problems and impaired behaviour "Ranka Milanovic" -Skopje, after which he prepared a Special Report on the established conditions and gave recommendations for elimination of the identified weaknesses. During the inspection of the Institution, extremely bad and degrading conditions were found, under any standard for accommodation of children, due to which the Ombudsman gave a recommendation to the Ministry of Labor and Social Policy for immediate relocation of beneficiaries in small group homes and implementation of the deinstitutionalization process in accordance with the National Deinstitutionalization Strategy.

Although the relocation of beneficiaries was planned during the visit, the Ombudsman noted the insufficient information of the beneficiaries about the process, as well as the absence of comprehensive preparations for easier transition from institutional to non-institutional form of care.

After the children from this institution moved to small group homes, a complaint was submitted to the Ombudsman by a group of citizens living in Vizbegovo, requesting that the children be relocated, indicating that they are without care and supervision.

As part of his competence, the Ombudsman inspected the small group home in which some of the beneficiaries from the PI "Ranka Milanovic" were moved, as well as inspected the documentation for the beneficiaries, talked to the responsible persons for the children, and it was concluded that the small group home with its location (in the settlement of Vizbegovo, municipality of Butel) is in full compliance with the existing Rulebook on the manner, type and number of professionals for providing care for the accommodated persons, the spatial conditions and the equipment for living in a small group home.

The Ombudsman assessed that the location of the home is of particular importance for providing access to basic services, as well as for providing opportunities for acceptance and integration of the beneficiaries within the community. The care for the children from the small group home is realized by a sufficient number of professionals, so that the children have intensive 24-hour care, that is, it is at a satisfactory level, all employees professionally and responsibly fulfill their work tasks.

In order to prevent such unwanted occurrences in the further period of deinstitutionalization, the Ombudsman recommended to the line ministry to undertake measures aimed at implementing the necessary preparations for relocation, both to the beneficiaries /protégés of the institutions and the staff, creation of Individual Plans for relocation, which will include the beneficiaries themselves, while respecting their opinion, as well as mandatory information and sensitization of the community (narrower and wider surroundings) in which beneficiaries will be moved in order to provide an environment that will support them and in which they will be well accepted.

Following the established measure of the Assembly of the Republic of North Macedonia, and regarding the recommendation of the Ministry of Labour and Social Policy of the Republic of North Macedonia, the Centres for Social Work, the Office for Social Activities, each within their competences, should undertake measures to enable the children who are covered in the care system, before their accommodation to be provided with appropriate professional assistance, support and preparation for acceptance and adjustment to the new way/ form of living, training for foster parents and monitoring of the relationship and treatment of children. The conclusion is that there is still a need to undertake actions for full implementation of this recommendation.

In this reporting period, the Ombudsman continued to monitor the situation of children at risk as a vulnerable group, and in order to determine the situation regarding the exercising of their rights, in July 2019, he visited the penitentiary institution Ohrid Prison, where the Educa-

tional Correctional Home in Tetovo has been functioning for several years. Thereby, a conversation was held with the director, the employees, as well as with the protégés themselves.

The Ombudsman indisputably states that professional profiles are still missing, such as special pedagogues, educators and rehabilitators, psychotherapists (and, if necessary, other professionals) who could give a more comprehensive (holistic) approach to the treatment of children. In addition, neither measures for further training of the staff were undertaken, nor were modern methods of working with children introduced, due to which the re-socialization process is not effective and does not give the expected results. Also, there are no changes regarding the right to education and the obligation to establish a regular educational process, both in primary and secondary education, although according to the law, education is compulsory and free. However, instead of formal primary education, the children followed a customized programme in Macedonian language and mathematics. Of particular concern is the finding of the external associate- child psychiatrist that all children in the home receive strong sedative therapy, and need more frequent check-ups by a professional-specialist neuropsychiatrist/psychiatrist to evaluate the possibility of reducing the dose of medication therapy for children. The conclusion is that the mental state is not taken into consideration, nor is there a multidisciplinary approach in the treatment of children.

Consequently, the Ombudsman submitted the Special Report on the visit and inspection in this Educational Correctional Institution to the competent authorities (Ministry of Justice - Directorate for Execution of Sanctions, Director of Ohrid Prison, Ministry of Education and Science, Ministry of Health), with specific recommendations for each of the identified weaknesses, including for intensifying the construction activities and taking all the necessary measures for the final completion of the construction and commissioning of the new educational and correctional facility.

After the given recommendations, at the end of the reporting year, a notification was submitted that measures have been taken and new professional profiles have been included in the ECF Tetovo, namely 1 pedagogue, 1 social worker, 5 educators and 2 crafts instructors, that measures have been taken to introduce new methods for work with children in the ECF, and from November 2019 the realization of primary education with children from ECF has started, in cooperation with the Ministry of Education and Science and UNDP. Among other things, it is reported that the bathrooms and the sanitary unit are being renovated, that measures are being undertaken for the children to use their free time rationally, with their involvement in recreational, creative and sports activities, and in relation to individual programmes for resocialization and treatment of the children measures for their further improvement will be undertaken.

Rights of children and persons with disabilities

During the reporting period, the Department for Protection of the Rights of Children and Persons with Disabilities acted on 24 complaints for protection of the rights of children and persons with disabilities in various areas. At the same time, in order to establish the situation with this vulnerable group of citizens, several researches were conducted as additional activities, after which Special Reports, Recommendations, Opinions, etc. were prepared, in order to improve the identified weaknesses, which were submitted to the competent authorities.

Namely, parents of children with disabilities, citizens' associations, as well as the persons with disabilities themselves addressed a request for intervention by the Ombudsman for exercising the rights to education, healthcare, pension, compensation for disability, employment rights, discrimination, and also sought protection for the exercise of the right of access to services.

The Department for Protection of the Rights of Children and Persons with Disabilities within the Ombudsman actively followed the process of adopting the new Law on Primary

Education, especially in the area of efficient and quality education of children with disabilities in regular education. In that context, this Department submitted an Opinion on the Draft Law on Primary Education, and additionally at the Public Debate in the Assembly of the Republic of North Macedonia remarks were made regarding the Draft Law and it was pointed to the need for its improvement, for the purpose of achieving efficient inclusion of children with disabilities in the regular education.

It is worrying for the Ombudsman that at present there is only one solid legislation, but without a Concept of Inclusive Education and without the necessary bylaws, especially in the area of providing educational and personal assistants, as one of the modalities of learning support for pupils with disabilities, which calls into question the quality of inclusive education that pupils with disabilities receive within regular primary schools.

Otherwise, for this problem complaints by parents were submitted to the Ombudsman, as well as complaints by the Citizens' Associations pointing out that in the schools on the territory of the City of Skopje not for all children who have a finding and recommendation by a professional authority/body, assistants are provided, although the Law on Primary Education recognizes this right. Parents of children from other cities also faced the same problem.

Regarding each of the complaints, the Ombudsman addressed the principal of the school, the municipality, as well as the Ministry of Education and Science, and additionally in order to establish the situation with the provision of assistants (educational and personal) for children with disabilities in regular (primary) schools in the Skopje region, he conducted a research. The aim of the research was to determine whether the conditions for inclusive education of pupils with special educational needs in the municipal primary schools on the territory of the Skopje region have been provided, in a manner as determined by the Law on Primary Education.

The obtained results from 84 primary schools (out of a total of 90 schools) showed that in the current 2019/20 school year, in the municipal primary schools in the Skopje region there are a total of 1236 pupils with POP, of whom 159 (12.8%) are first grade pupils. Out of a total of 1236 pupils, 513 are pupils with disabilities (confirmed by finding and opinion of a professional body for assessment of vision and degree of disability and/or with a functional profile obtained from the Professional Body for functional assessment in MK). Out of these 513 pupils with disabilities, a total of 71 are first graders in the school year 2019/20. Furthermore, 510 are pupils with behavioural disorders or emotional problems or with specific learning difficulties. Out of the total number of these pupils, 51 are first graders in the school year 2019/20, 213 are pupils who come from unfavourable socio-economic, cultural and/or language depressed environments, and 37 pupils are enrolled in the first grade in the school year 2019/20.

The analysis of the total number of currently engaged assistants in the primary school on the territory of the Skopje region, indicates that in a total of 8 municipalities there are educational/personal assistants engaged in the instruction, while the other 9 municipalities have not hired such persons to support pupils with disabilities. There are assistants in primary schools in the following 8 municipalities: Karpos, Gjorce Petrov, Centar, Butel, Gazi Baba, Saraj, Aerodrom and Kisela Voda. Thereby, the total number of assistants engaged in the instruction for the academic year 2019/20 is 139, of whom 88 are educational and 51 are personal assistants. Only in the municipality of Karpos there is an educational/personal assistant in all schools. In the municipalities of Aerodrom, Gjorce Petrov and Kisela Voda, out of all the surveyed schools on their territories, there is no educational/personal assistant in only one school, while in all other schools there are such assistants. And there are municipalities in which the number of schools with teaching assistants is small, such as the municipality of Gazi Baba, Butel and Saraj, and even in 9 municipalities (Ilinden, Cucer Sandevo, Cair, Petrovec, Sopishte, Zelenikovo, Suto Orizari, Aracinovo and Studenicani) there is no educational/personal assistants at all.

The team for monitoring the implementation of the Convention within the Ombudsman prepared and submitted an Opinion to the Minister of Education and Science, which emphasizes the importance of inclusive education for quality education of all children, including children with disabilities, and for the development of inclusive, peaceful and just societies. In that con-

text, it recommended undertaking measures to involve the Ministry of Education and Science in solving the problems by providing legally provided support to pupils with disabilities in primary schools, as well as measures to provide the necessary conditions for smooth implementation of the inclusion of children and their education, which will be based on the best interest and full development of the pupil, based on equality, availability and accessibility of legally guaranteed support services, and in the direction of more efficient and substantial inclusion of children with disabilities.

Regarding the complaints for free transportation of children with disabilities, the Ombudsman submitted an indication to the Mayor of Kumanovo and the Department of Education to undertake all actions to solve the problem of free transportation of pupils/students with special educational needs or reimbursement of expenses for transportation, including for their companions.

In another case, acting on a complaint from a parent about the inability to use free transport as a person with a physical disability using a wheelchair, the Ombudsman addressed the Ministry of Education and Science and the City of Skopje, pointing out that joint cooperation is needed to seriously consider the issue by ensuring the unimpeded use of the right to free transportation of pupils/students using a wheelchair, and therefore they are unable to use public transport or organized transportation (vans) of the City of Skopje. At the same time, he asked to consider the possibility of transferring funds for transportation for the needs of pupils/students with physical disabilities who, due to specific needs, use their own transport to school and home.

In this particular case, the Ombudsman determined that the City of Skopje has been continuously implementing the Programme for preferential use of public transport for several years, by persons with disabilities, as well as organized transport for pupils and students with disabilities, from their homes to their schools and faculties during the school year. Thereby, the transport is organized with a total of 8 vans and 1 bus for transport of persons with disabilities and transportation of persons who need a wheelchair for movement, and is organized according to the needs of the beneficiaries and the available capacities of vehicles. Contrary to this notification, the parent of a child with a disability reported that her child could not attend regular classes due to the inflexibility of the possibility of using transportation, and therefore she was forced to provide transportation at her own expense.

In this context, the Ombudsman requested the City of Skopje to consider ways and methods of refunding the means of transport in cases when a child with a wheelchair cannot use the organized transport due to incompatibility between the specific needs of the child, the teaching schedule and the timetable of the organized transportation.

Acting on complaints for protection of the rights of persons with disabilities in the area of health, the Ombudsman intervened before the Health Insurance Fund of the Republic of North Macedonia by requesting the applicants to be allowed to exercise their rights in case they found that there are conditions for that. Namely, a person with a disability seeking assistance for exercising the right to treatment abroad after the intervention of the Ombudsman was issued a Decision for referral to a clinic in the Netherlands, and in another case, the Ombudsman addressed the PHI University Clinic for Traumatology, orthopaedic diseases, anaesthesia, resuscitation, intensive care and emergency centre, with a request for rapid intervention (surgery) due to the severity of the disability and chronic facial disease after the disability, whereafter the PHI UC for TODARIE submitted an explanation that the person will have absolute priority and the procedure will be completed in early 2020.

Some of the complaints of persons with disabilities referred to the recognition of pension years of service, as well as benefited length of service, and in one case an intervention was requested, due to the fact that a person with a disability since 2015 could not exercise the right to a disability pension, because it was not clarified specifically, which medical documentation should be submitted, and after the intervention of the Ombudsman the request was completed and the procedure continued before the competent commission.

The Department for the Protection of the Rights of Children and Persons with Disabilities, following the implementation of Article 9 of the Convention relating to accessibility, which is a precondition for persons with disabilities to live independently and fully and equally participate in society, in order to implement accessibility standards, requested from the City of Skopje to undertake actions and measures for setting up tactile paths to the seat of the Ombudsman, as an administration facility, as well as to establish sound signalization on the traffic lights of the pedestrian crossing on 11th October Street and Makedonija Street and a relief crossing plan. He pointed out that public buildings should be fully accessible and meet the requirements for the use of devices used by persons with disabilities.

According to the Ombudsman, the city authorities should ensure that the barriers to access to existing facilities, amenities, goods and services are gradually removed in order to ensure full accessibility for persons with disabilities on an equal basis with other citizens.

Consequently, after receiving information from the media and social networks that about 700 citizens from Kumanovo, who use a wheelchair to meet their daily needs, cannot move on the streets of Kumanovo because the infrastructure is not adapted to their needs, the Ombudsman opened a case on his own initiative.

After the undertaken measures, he confirmed the allegations of inaccessibility of the main streets in the City of Kumanovo, due to which he submitted an indication to the Municipality of Kumanovo-Sector for Communal Affairs, Infrastructure and Traffic and Life Protection, to the Mayor of Kumanovo and the President of the Council of Kumanovo. Although the Ombudsman was informed by the above-mentioned authorities that the indication was accepted and that measures would be undertaken to ensure the smooth movement of persons with disabilities and to resolve the long-standing problem, no changes in the provision of access streets were observed on the field until this Annual Report was prepared, which means that the indication was only declaratively accepted. The Ombudsman will continue to monitor the problem with the accessibility of the facilities and the situation for unimpeded movement of persons with disabilities in the open space, and in accordance with the competencies will intervene accordingly.

The Association of Parents of Children with Cerebral Palsy Skopje requested protection of the rights of children who visit the Daily Centre located in the Urban Community "Slave Georgievski Shnajder", regarding the relocation of the Day Care Center within the newly built primary school "Kiro Gligorov" in Kapishtec, requesting children with cerebral palsy to stay in a safe and secure facility. Additionally, the Association requested that the space where the Daily Centre is currently located, after the relocation of the children, be used and intended for beneficiaries over 18 years of age.

Acting upon the submitted complaint, the Ombudsman inspected the premises of the Daily Centre located in the Urban Community "Slave Georgievski Shnajder", and he prepared a Report on the conditions and working conditions in this centre. Namely, after the actions undertaken, the Ombudsman determined that the construction and handicraft works of the facility in Kapishtec had been completed and a technical acceptance of the entire facility had been made, while the internal equipment and training was in progress.

Regarding the request for takeover and use of the current space of the Day Care Centre, the Ombudsman intervened with the Municipality of Centar and the Ministry of Labour and Social Policy with his Opinion to consider the possibility of its further use by the older people who use the services of the Day Care Centre.

Acting on its own initiative, in order to investigate the circumstances due to an incident - physical violence between beneficiaries of the Public Institution for Rehabilitation of Children and Youth Skopje, representatives of the Ombudsman made an unannounced visit to the institution, inspecting the overall documentation and the accommodation and beneficiary treatment conditions. From the inspection, the Ombudsman concluded that the case was not registered in time in the report book, and the event was not reported to the competent Centres for Social Work until the day of the visit, due to the temporary absence of the employed social worker. At the same time, it was concluded that there is a shortage of staff (professional and support staff,

especially caregivers), which negatively affects the quality of overall beneficiary care.

For the established weaknesses and failures in the work, the Ombudsman submitted an indication to the director of the PI Institute for Rehabilitation of Children and Youth Skopje, and to the Ministry of Labour and Social Policy he submitted a Recommendation on the manner of removing the established violations. Additionally, the Ombudsman prepared a Report on the established conditions with specific recommendations, which he submitted to the Minister of Labour and Social Policy.

CONCLUSIONS

- *The right of the child to personal relations and contacts with the parent with whom the child does not live is not always exercised smoothly, which is to the detriment of the child and its best interest. Social work centres do not take timely measures to prevent the child's resistance to seeing the parent, and often incompletely and incorrectly determine the factual situation in a family with disturbed relations, which causes dissatisfaction in one of the parents. In addition, Social Work Centres do not have an effective tool for implementing their own resolutions on parent meetings.*
- *The right to education of many children who have been left out of school due to incomplete immunization has been violated.*
- *The right to inclusive education of children with special educational needs with solid legislation, but without the necessary conditions for practical implementation in primary schools.*
- *Peer violence (physical, emotional, and verbal) is present in many primary schools, with the most common reasons being misunderstandings and intolerance in children, or social, family status, and ethnicity. Although schools have a Violence Prevention Programme, that is not enough to prevent violence among children.*
- *Children whose birth is not recorded in the birth register remain legally invisible*

RECOMMENDATIONS

- *Undertaking of measures to amend the Family Law for the purpose of a clear, concise regulation of the right of the child to establish uninterrupted contact with both parents on a permanent basis, taking into account the best interests of the child, determining the competencies and measures of each of the authorities involved in enabling this right of the child, as well as a mechanism for efficient execution of the decisions for meetings between the child and the parent with whom the child does not live.*
- *Finding an appropriate solution in order for every child to be able to exercise the right to education without hindrance, and in that context the children who remained unregistered to be involved in the educational process.*
- *Urgent adoption of the necessary by-laws for inclusion of children with disabilities in regular education, providing appropriate and professional staff to support pupils/students with special educational needs and material and technical conditions in all primary schools by removing architectural barriers.*
- *Raising the awareness and establishing mutual cooperation and action of the family, educational institutions and the local community to prevent and reduce violent behaviour of children.*
- *The Ministry of Justice should proceed with the amendment of the Law on Out-of-Court Procedure and the Law on*

to the state, without the possibility of access and exercise of the rights guaranteed by the Convention on the Rights of the Child.

- *In the Public Institution for Rehabilitation of Children and Youth Skopje there is a shortage of staff (professional and support staff, caregivers) which negatively reflects the quality of overall beneficiary care, resulting in escapes and violence among beneficiaries.*
- *The process of deinstitutionalization is in full swing, but without previously undertaken measures and necessary preparations for relocation, without informing the beneficiaries /protégés of the institutions, the employed staff, but also insufficient information of the community.*
- *The children from ECI Tetovo, even after four years, are still accommodated in a building of a penitentiary, without effective social adaptation and the possibility of re-socialization.*

Registry, in accordance with the accepted initiative of the Ombudsman for additional registration of birth in the birth register.

- *Employing the necessary professional staff (special educators and rehabilitators, caregivers, doctors, etc.), and improving the quality of services provided to children and young people with disabilities as beneficiaries of the Institute for Rehabilitation of Children and Youth.*
- *Continuous monitoring of the situation with the acceptance of children with impaired behaviour in small group homes by the community (narrower and wider environment) and consequently to intervene appropriately to provide a supportive environment.*
- *Undertaking measures to intensify the construction activities and to undertake all the necessary measures for the final completion of the construction and commissioning of the new ECI, and to provide the necessary conditions for uninterrupted realization of all children's rights while accommodated in this institution.*

RIGHTS RELATING TO HIGHER EDUCATION

This reporting year has reduced the number of complaints from citizens regarding the rights to higher education, most of which concerned the nostrification and equivalence of diplomas, delays in proceedings before the first and second instance bodies, enrolment in higher education institutions, transfer from other higher education institutions etc.

The Ombudsman, from acting on them, indisputably determined that in this reporting period the Ministry of Education and Science not only did not act on the requests of the citizens, but also on the requests of the Ombudsman to obtain information, explanations and evidence regarding the allegations of the citizens due to which, he was hindered in the implementation

of his competencies, in terms of efficient realization of protection of the constitutional and legal rights of the citizens.

The Ombudsman informed the Minister of Education and Science about the inaction of the bodies within this Ministry submitting a separate Information for disturbance of the Ombudsman's operation, but no response was submitted for some of the complaints, so the situation remained unchanged, and the Ombudsman could not fully and objectively determine the conditions and grounds of citizens' allegations in the submitted complaints.

In order to overcome this problem, the Assembly of the Republic of North Macedonia determined the measure "The Ministry of Education and Science of the Republic of North Macedonia to inform and oblige the bodies within its composition about the obligation to cooperate with the Ombudsman and in that context submit the necessary responses within the required time, for the purpose of smooth and efficient protection and exercise of the rights of student citizens ", but obviously, there are no significant changes in that respect.

On the other hand, the Ombudsman, during the interventions before the State Commission for Adoption of Decisions in Administrative Procedure and Employment Procedure in the second degree, upon the submitted complaints by citizens, determined that the first instance body (Ministry of Education and Science) does not act upon requests submitted by another authority. For example, acting on a case for delay of an appeal procedure, from the submitted answer from the second instance commission, the Ombudsman determined that the complaint was taken into operation, but due to the need for administrative regulation by the first instance body, that is, the Ministry of Education and Science, the Commission was prevented from acting on the complaint. Given that the first instance body, that is, the Ministry of Education and Science did not act upon the request for administrative regulation, the Commission was forced to address the State Administrative Inspectorate in order to undertake measures in accordance with the competencies set out in the Law on Administrative Inspection, that is to order the first instance body to submit the necessary documentation. In this case, it took a whole year to finally act and adopt a decision on the complaint.

Another issue that required protection from the Ombudsman is the breach of the deadlines for action by the Commission on Equivalence and the recognition of higher education qualifications. Upon these complaints, the Ombudsman addressed the Department of Higher Education - Department for Equivalence for Recognition of Foreign Higher Education Qualifications. However, no response was submitted on their part, although special information was submitted to the official who manages this Ministry for prevention of the operation.

CONCLUSION

- *The Ministry of Education and Science and the authorities within this body continue with the negative practice of not acting on the requests of the citizens, but also of the Ombudsman, or by submitting formal notifications.*

RECOMMENDATION

- *The Ministry of Education and Science of the Republic of North Macedonia should seriously approach the requests of the Ombudsman, and in that context it should submit complete and substantive responses within the requested deadline for the purpose of uninterrupted and efficient protection and exercise of citizens' rights.*

LABOUR RELATIONS

In the reporting period, compared to the previous year, there was a decrease in the number of submitted complaints (282 in 2019, 335 in 2018) for violation of the rights in this area, and most of them (68) refer to violation of the rights in employment procedures, then for payment of salaries and other allowances (54), for deployments/ promotions (36), for termination of employment (19), 11 refer to procedures upon appeals and complaints, in a smaller part to disciplinary procedures, as well as complaints whereby the complainants addressed the Ombudsman requesting legal advice.

In the employment procedures, when selecting candidates, the applicants pointed out that the best candidates, that the candidates with the best competencies, are usually not selected on the published announcements, and the employers in their answers referred to the discretionary right to selection. The Ombudsman, as in previous years, now asserts that the practice of exercising discretion in the selection of candidates for employment by employers does not always result in the selection of the candidate with the best competencies.

Regarding the complaints related to the procedures for promotion of employees in the PCI Prison Skopje, the Ombudsman addressed a request for explanation, information and evidence to the Penitentiary-Correctional Institution Prison Skopje, and after acquiring the information that the same issue was addressed by the State Administrative Inspectorate which performed an extraordinary inspection also addressed this body and requested that it be acted in accordance with the provision of the Law on Administrative Inspection, according to which the removal of the identified deficiencies in the work is ordered by an inspector, with decision, in which it set deadlines for their execution. The request of the Ombudsman was accepted by the State Education Inspectorate and such a decision was adopted, after which the unfoundedly promoted employees were returned to their previous positions with decisions, and the institution was fined.

Employees of the Ministry of Interior demanded protection of their employment rights in connection with the issuance of Orders for performing urgent, undelayed and specific tasks. Having in mind the allegations and the submitted documentation by the complainants, the Ombudsman determined that they were issued Orders for performing urgent, undelayed and specific tasks, which is indisputably determined in the Law on Internal Affairs, as an opportunity for the Minister or an authorized officer, but the fact that such orders were issued after the completion of 30 days, continuously for a longer period of time undoubtedly calls into question the justification of such Orders. Noting a violation of employment rights, in these cases the Ombudsman pointed out the need for consistent compliance with the provisions of the Law on Internal Affairs, which stipulates that "the order can last up to 30 days."

Some of the complaints concerned the exercise of the right to reimbursement of labour-related expenses, that is, the death of the employee or a member of his/her family, as well as unpaid severance pay when retiring. The Ombudsman's instructions to pay for work-related benefits were accepted by employers under legal regulations, giving applicants their rights, except in one case where the Ombudsman was notified that the request could not be granted, on the grounds that it had not been filed on time, that is it was submitted 18 months after the person's death. In this particular case, this fact was not disputed for the Ombudsman for late submission of the request, but the fact that, after the analysis of the legal regulations, the Ombudsman concluded that the PE Collective Agreement includes a provision that conditions the payment of this monetary compensation in such a way that only a member of his/her immediate family who supported the employee has the right to payment, which is contrary to the laws in which this right is regulated, due to which the Ombudsman pointed out the need for adjustment of the provisions of the Collective Agreement with the applicable legislation. The indication of the Ombudsman was accepted, that is, the provision by which this right was conditioned was deleted from the Collective Agreement.

Acting on complaints regarding salary increase/levelling in the Ministry of Culture, submit-

ted by a group of employees who felt deprived of their right, because some of their colleagues (actors, directors, playwrights, etc.) had their salaries levelled with the first group (theatres), but not the technical sector, although they perform the same work tasks as the first group of technicians, the Ombudsman for clarification of the manner of performing the calculation for levelling of salaries requested an explanation based on which Law/ bylaw Act a significant number of employees received increased salaries, and in a small number of employees' salaries remained at the same level, but during the procedure the Ombudsman did not receive a clear and specific response from the Ministry of Culture.

During the reporting year, the case of an inspector-head of the department of higher education in the State Education Inspectorate, for which the applicants pointed out a violation of the rights in conducting the disciplinary procedure, as a more specific case, which was also publicly exposed, was reported. During the procedure, the Ombudsman undertook several actions against the competent state bodies. The Ombudsman noted that the institutions to which he intervened submitted a letter/ notification in a timely manner, but they did not contain the essential elements related to the requested information on the case. The Ombudsman, after taking measures and actions, determined certain inconsistencies, that is, irregularities in the part of the disciplinary procedure, as well as in the part of the procedure after the completion of the inspection, for which he submitted an Indication of the manner of removing the established violations.

Namely, the Ombudsman concluded that during the hearing, the State Education Inspectorate was represented by a proxy-lawyer, which is contrary to the provisions of the Law on Administrative Servants, which explicitly provides for conducting disciplinary proceedings upon a committed offense, that is, which persons constitute the disciplinary commission and who can be present during the procedure. Additionally, it was concluded that on several occasions the person against whom the disciplinary procedure was conducted was interrupted in giving a statement, which prevented this person from fully answering the questions and giving appropriate explanations. Furthermore, regarding the disciplinary procedure, it was determined that the State Education Inspectorate adopted a Decision on imposing a disciplinary measure - assignment to a job at an immediate lower level, before a decision being reached on the complaint submitted to the Administration Agency, although according to the law, the complaint postpones the execution of the act adopted by the first instance body.

In the further course of the procedure, a violation of the complainant's rights was found in the part where the Agency for Administration declared itself as incompetent to act upon the complaint, although the procedure was conducted in accordance with the Law on Administrative Servants and the complainant followed the legal instruction given in the first instance administrative act, for which the Ombudsman gave an indication, which was not accepted.

The Ombudsman also received complaints in which the applicants pointed out several operational, procedural and legal irregularities by the National Security Agency, in relation to the full verification of the data for issuing a security certificate with the degree "State Secret", for which the procedure is still ongoing.

Regarding the established measure for strengthening the professionalism and preventing the comfort of the administration, which would increase the efficiency in the work and the trust of the citizens, the action on the complaints in this area confirms that it is not fully implemented.

Regarding the established measure to reduce employment through fixed-term contracts to a minimum, especially in sensitive areas such as education and health, the Ombudsman noted that this reporting year there was a decrease in employment with fixed-term contracts, although as a problem it is still present, with no significant changes in the prevention of abuse of the discretion right by the responsible persons.

CONCLUSIONS

- *Employers continue to invoke discretion in selecting candidates for employment, but the practice of exercising this right not always results in the selection of a candidate with the best competencies.*
- *The Ministry of Interior issues Orders to its employees to perform urgent, undelayed and specific tasks for a period of 30 days, but after this deadline, re-issues a new Order, and so on for a period of 20 or more months, which undoubtedly calls into question the justification of such Orders.*
- *Instead of acting on the indications and recommendations of the Ombudsman on the manner of removing the established violations, certain institutions engage in commenting on them.*

RECOMMENDATIONS

- *The basic criterion when choosing a candidate for a certain job, without exception, should be the expertise, qualities and competencies of the candidate.*
- *Undertaking measures for consistent compliance with the legal provisions, both in the cases of deployment of employees in a certain job, and in the adoption of Orders for performing urgent and undelayed matters.*
- *The bodies of the state administration, the bodies of the units of local self-government, as well as other bodies and organizations with public authorizations should seriously approach the requests, indications, recommendations and other interventions by the Ombudsman, consequently undertaking measures to respect them, for the purpose of protection of citizens' rights.*

NONDISCRIMINATION

The Ombudsman, following the situation in the domain of protection against discrimination and adequate and equitable representation of citizens, and acting on complaints of violation of citizens' rights in the public sector, as well as those that indicated a biased attitude of officials in ministries, the public administration, the units of local self-government and the public enterprises established by the state and the local self-government, in this reporting period, although the number of complaints has decreased, the Ombudsman concluded that the demands for protection against harassment in the workplace (mobbing) have been doubled.

Statistically, out of a total of 60 complaints in the area, the most common are the cases related to discrimination in employment, that is harassment in the workplace (25 complaints), and then for protection against discrimination on the basis of ethnicity (11 complaints), while the rest relate to other legal grounds for discrimination.

Most of the complaints regarding violations of employment rights, that is, committing harassment (mobbing) at the workplace were due to political or statute-related grounds, which

shows that there are no significant changes in terms of professionalization of the public administration, which is largely politicized, owing, inter alia, to the placement of inadequate staff to manage public services and institutions, as well as due to the incomplete commitment to establish a professional public administration.

Of the cases filed on the grounds of harassment at the workplace (mobbing), most were filed by employees of the Ministry of Interior, who complained about the illegal redeployment by orders, and not by Decisions on deployment, redeployment, which lasted more than the legally prescribed deadline and which referred to the redeployment to inappropriate jobs that are not infrequently a few steps lower than the titles and the existing job positions in the existing decisions for deployment of the citizen who submitted the complaints. In determining the factual situation, the Ombudsman based on these complaints concluded that the employer violated the rights of employment and there was harassment in the employment relationship (mobbing) by the employer, assessing as unsubstantiated the allegations of the employer, which in all cases denied the allegations relating to harassment at the workplace, with the explanation that the orders were being adopted due to the needs of the service and that the employees who received the orders preserved the basic salary determined by the decisions for redeployment.

The Ombudsman emphasized that in most cases in which he found a violation of the rights of police officers who submitted the complaints, he submitted appropriate indications and recommendations requesting the employer to remove the violations and establish a system of legality and equality in the Ministry. From the sent letters, only in one case was our recommendation accepted, after which the senior police officer was placed in an appropriate job position by the adoption of a deployment decision that corresponds to his title and work experience.

In the reporting period, the Ombudsman's team continued with the actions and activities started at the end of 2018, following a complaint regarding allegations of discrimination on ethnic grounds during the process of psychological testing at competitions for admission of professional soldiers in the composition of the Army of the Republic of North Macedonia. In this context, he followed the process of psychological testing in competitions for the recruitment of professional soldiers in the Army, including experts - psychologists who had the role to assess the quality of psychological testing and the use of appropriate testing methodology - testing phase which is a prerequisite for the continuation of the health examinations and possible conclusion of an employment contract in the Army.

Thereby, the Ombudsman did not establish any allegations of discrimination on ethnic grounds during the psychological testing process against the complainant, but found other shortcomings and inconsistencies in the outdated methodology and manner of conducting the testing. Namely, in the testing process there is no digitalization or electronic implementation of the testing, a process that would avoid the human factor and the possibility of violations of certain rights of applicants due to certain bias and the like. At the same time, he concluded that the tests used outdated questions that do not correspond to the education of the applicants, that is, the current education system.

Due to the identified weaknesses, the Ombudsman recommended that urgent measures be undertaken to provide standardized instruments for psychological testing, in order to obtain reliable and consistent test data, to introduce digitalization of testing in order to avoid the human factor in making decisions and evaluation of the test, as well as the amendment of the existing bylaws which regulate the implementation of the procedure for admission of candidates for officers, that is non-commissioned officers, professional soldiers and civilian personnel serving in the Army, and the recommendation was accepted by the Ministry.

On the other hand, acting on a complaint from the Association "Polio Plus" from Skopje for discrimination on the grounds of disability, which expresses a complaint for violation of the rights of persons with disabilities in the field of service activities during a vehicle registration procedure, the Ombudsman acting in defence of these citizens, found a violation of their rights, as well as a violation in the part of the taxatively stated diagnoses in Article 65 of the Basic Law on Public Roads from 2008, which can be interpreted as discrimination based on a mental

and physical condition, because the law provides only a diagnosis, but not a condition that can be a variable category. Due to this situation, the Ombudsman submitted a recommendation to the Ministry of Transport and Communications, pointing to the need for urgent harmonization of the existing law with the Convention on the Rights of Persons with Disabilities, and also recommended holding a public debate and meeting with representative associations representing persons with disability, and this recommendation was accepted by the Ministry.

During 2019, two complaints were filed by administrative officials employed by the Ministry of Finance, who complained about violations of their employment rights due to the procedure for deployment to inappropriate job positions, that is deployment to job positions in departments where they are the only persons with education that is not appropriate for the activity that is common for the particular department. In the first case a person who is an economist by vocation was concerned, who was assigned to a job in the regional unit of the Office for Property and Legal Affairs, while in the other case it was a person who was assigned to a job in the Treasury Department - Unit for Regional Treasury Operations. In both cases, it was concluded that the persons were deployed to inappropriate job positions, as a result of modifications made to the existing act for systematization of job positions in this Ministry, which do not correspond to the prescribed methodology and the real needs of the individual departments within the Ministry, which was confirmed for the first case by the Ministry of Information Society and Administration.

Regarding the initial case, the Ministry of Finance did not accept the submitted recommendation of the Ombudsman, due to which the person filed an appropriate lawsuit for discrimination before a competent court, while the second case has not yet received a response to the submitted recommendation for elimination of the established violations, although the legal deadlines have been breached.

The Ombudsman, in accordance with the established legal competence to *monitor the application of appropriate and equitable representation in the public sector, in the past 2019* collected data on the total number of employees by ethnicity, employees assigned to managerial positions and the number of employees deployed to non-managerial positions, as well as their level of education, with the request being addressed to a total of 1345 institutions/offices. These data were required in terms of the proper application of the principle of adequate and equitable representation of communities in the public sector, as well as for the purpose of determining the distribution of jobs by gender structure and level of education.

In the framework of the activities not related to a particular case, the Ombudsman continued to follow the anti-discrimination regulation and the adoption of the Draft Law on Prevention and Protection against Discrimination, a process that was blocked in the Assembly for almost 10 months, and in this context welcomes the adoption of this Law and its formal publication in the Official Gazette of the Republic of North Macedonia. In addition, a representative of the Department for Protection against Discrimination has continuously participated in the expert team in the work of the National Coordinating Body for monitoring non-discrimination, contributing to the expertise and exchange of information related to the competence of his work.

In addition, on the day of entry into force of the new Law on Prevention and Protection against Discrimination, in accordance with the transitional and final provisions, the mandate of the members of the Commission for Protection against Discrimination cases, and they continue to work until the election of new members, but not longer than three months. However, a new composition of this body was not elected until the end of 2019, due to which the Commission was practically dysfunctional, so the citizens were prevented from exercising the right to file a complaint against discrimination before the Commission for Prevention and Protection against Discrimination, which is most responsible to act on cases for protection of citizens from discrimination in the public and private sector.

Given that new members of the Commission have not been elected, the Ombudsman expresses public criticism, in terms of the inability of citizens to exercise their rights and their protection against discrimination.

Regarding the established measures upon the recommendations in the Annual Report from 2018, regarding the engagement of undertaking measures to amend the Law on Local Self-Government, in order to introduce provisions for protection against discrimination of employees in the administration, as well as provisions for protection against discrimination of citizens as beneficiaries of goods and services, the Ombudsman concludes that no progress has been made by the relevant Ministry, except for their unofficial telephone address to the Ombudsman aimed at clarifying our recommendation and obtaining instructions relating thereto.

As for the second recommendation for undertaking measures to harmonize the regulations with the Law on Prevention and Protection against Discrimination in relation to the protection grounds, we can conclude that this is a longer process for which a two-year period from the entry into force of the cited Law was envisaged, a measure which began to be implemented by amending some of the established laws by the implementation of certain provisions relating to protection against discrimination.

Regarding the third measure relating to the possibility of expanding the competencies of the inspection services for prevention of discrimination, as well as conducting trainings of the inspectors for recognizing the unequal treatment and harassment in the employment relationship, the Ombudsman has not received any feedback on undertaking measures and acting upon it by the competent institutions.

CONCLUSIONS

- *Harassment at work (mobbing) is increasingly present in public administration. The possibilities for proving it in practice are weak, which is a result of the established weaknesses that exist in the Law on Protection from Harassment at Work.*
- *This year as well, the inspection services did not act in determining unequal treatment of the complainants, which is due to their poor knowledge of the matter and the practice of establishing discrimination on the basis of legally established grounds.*
- *A number of laws still need to be harmonized with the new Law on Prevention and Protection against Discrimination, in accordance with the list of laws established by the National Coordinating Body for Monitoring the Conditions of Non-Discrimination.*
- *Due to the non-existence (non-election) of new members of the Commission for Prevention and Protection against Discrimination, citizens are prevented from*

RECOMMENDATIONS

- *The Ministry of Labour and Social Policy should urgently undertake action to amend the Law on Protection from Harassment at Work, primarily by specifying which person may appear as a mediator in the procedure, a deadline for submitting a request and conducting the mediation procedure, the role of the State Labour Inspectorate in the implementation of the law and so on.*
- *Undertaking measures to amend the existing legislation used by all inspectorates in the country at the local and state level, in order to increase the competencies of their services with specific provisions for prevention and protection against discrimination, that is, to overcome the unequal treatment.*
- *It is necessary for the executive government to continue to harmonize the existing legislation with the new Law on Prevention and Protection against Discrimination in accordance with the list of laws established by the National Coordinating Body for Monitoring the*

submitting a complaint for protection against discrimination on any of the established legal grounds.

Conditions of Non-Discrimination.

- *Undertaking measures for election of new members of the Commission for Prevention and Protection against Discrimination, which will enable the citizens unhindered exercise of the right to protection before this body.*

JUDICIARY

This reporting year, as well, complaints in the field of judiciary were the most numerous, and most often the citizens pointed out that they face significant difficulties in exercising their rights, due to the lengthy proceedings before the Administrative Court, first instance, second instance courts, Public Prosecutor's Office, Judicial Council of the Republic of North Macedonia, as well as the procedures for protection of the right to a trial within a reasonable time for which the Supreme Court of the Republic of North Macedonia is competent.

The Ombudsman, acting on the submitted complaints, concluded that the Administrative Judiciary is still dysfunctional and fails to guarantee the protection of citizens' rights and the rule of law. The poor communication of the state administration bodies with the administrative judiciary continues, the case files are not submitted in time, due to which the procedures are long-term, and the protection of the rights of the citizens before the administrative courts is inefficient. The situation remains unchanged in terms of merit-based decision-making in administrative disputes by administrative courts, with cases being returned several times for retrial before administrative bodies the decisions of which were disputed, and these procedures take years or decades. Also, complaints were submitted to the Ombudsman in which the citizens complained that the Administrative Court decided upon and annulled specific decisions, without first obtaining all the case files, necessary to determine the factual situation, in order to reach a reliable verdict.

In 2019, a new Law on Administrative Disputes was adopted, the application of which starts in 2020 and it regulates the procedure before the Administrative Court and the Higher Administrative Court. Among the novelties in the law is the introduction of the obligation of public hearing and strengthening the possibilities for meritorious decision-making in the Administrative Court, as well as the system for execution of judgments.

During the adoption of the Law on Administrative Disputes, the Ombudsman was not consulted, and he expressed doubts relating to the Law, mainly since the weaknesses noted in this report would be completely overcome, among other things due to its delayed application and the need to amend the Law on Courts, without the amendment of which, the jurisdiction of the Administrative Court would not be completely defined.

During the reporting year, the Ombudsman acted on a case related to the denationalization procedure initiated before the Commission for deciding on denationalization requests for the municipalities of Centar-Skopje, Gazi Baba-Skopje and Karpos-Skopje. The procedure on

this case has lasted for 16 years, and the applicant has received several decisions in his favour, against which the State Attorney's Office of the Republic of North Macedonia has initiated an administrative dispute, but because the Administrative Court does not decide by merit, the case is still ongoing.

The Ombudsman also acted on a case in which the complainant waited one year for his case to be submitted to the Higher Administrative Court on appeal by the Administrative Court, on the grounds that the competent authority had not submitted a response to the appeal. After the intervention of the Ombudsman, the case was immediately submitted to the Higher Administrative Court to act upon it.

In 2019, the number of complaints regarding untimely decision-making on requests for protection of the right to a trial within a reasonable time has increased, which according to Article 35 of the Law on Courts is the exclusive competence of the Supreme Court of the Republic of North Macedonia. The Law stipulates that the procedure for violation of the right to a trial within a reasonable time should be completed within 6 months from the submission of the request, but in many cases the deadline prescribed in this way is not respected. According to the Ombudsman, the untimely action by the Supreme Court leads to an absurd situation, that is the Court that should decide on the principle of trial within a reasonable time, does not respect the prescribed deadlines.

The number of complaints regarding the proceedings before the Judicial Council of the Republic of North Macedonia due to failure to receive timely and insufficiently explained responses by the Council has also increased. Citizens in the submitted complaints, regarding the work of the courts and specific judges state that court decisions are made biasedly, selectively, due to political motivation and other forms of influence, and not professionally and skilfully in accordance with the positive legal provisions.

Compared to the previous year, the number of complaints filed by the former JSC Ohis employees and companies originating from JSC Ohis in bankruptcy has decreased, because the complainants' cases have been processed by the Basic Public Prosecutor's Office.

Complaints have been submitted to the Ombudsman again this year for irregularities in the work of the holders of public authorizations-lawyers, that is, for their action/inaction on specific cases. In this regard, the applicants state that although they pay high fees and give power of attorney, no action has been undertaken by lawyers to protect their rights. For such cases, the Ombudsman has filed appropriate complaints with the Bar Association, and consequently, proceedings are being instituted before the Disciplinary Prosecutor of the Chamber against these persons.

The Ombudsman positively assesses the adoption of the Law on Free Legal Aid, which will allow people from vulnerable categories to receive free legal aid without compromising their own subsistence and the support of their family members living within a common household.

Regarding the measures adopted by the Assembly in order to implement the recommendations given in the previous reporting year, the Ombudsman concluded that no action was undertaken by the competent ministries to protect the rights of bankruptcy creditors, so they continue to express their revolt through protests, complaints and correspondence, as well as to seek concrete measures to recover the determined claims.

Regarding the adopted measure for complete reform of the administrative judiciary in order to ensure the application of legal norms in favour of the rule of law and the principle of justice and fairness and respect for human rights, the Ombudsman concludes that in order to maintain the image of the administrative judiciary actions were undertaken, that is a new Law on Administrative Disputes was adopted, which will enter into force as of 25 May 2020.

Procedures before the Public Prosecutor's Office

In the reporting year, the Ombudsman concluded that the complaints related to the work and actions of the Public Prosecutor's Offices in the Republic of North Macedonia are in smaller numbers compared to the complaints in the previous year. However, the remarks regarding the longevity of the pre-investigation procedures and the lack of information of the citizens - applicants regarding the course of such procedures, which are conducted before the Basic Public Prosecutor's Offices, remain a problem typical of this reporting period, as well.

Namely, the Law on Criminal Procedure stipulates that the public prosecutor should adopt a decision within 3 months, namely an order for conducting an investigation procedure, an indictment in summary procedure, a proposal for issuing a criminal warrant and a decision for dismissal of criminal charges. If the public prosecutor does not decide on the filed charges, he is obliged to inform the submitter of the criminal charges and the higher public prosecutor.

Contrary to this provision in practice, as a result of the action upon submitted complaints, the conclusion is that the reporters of criminal offenses who are damaged by a criminal offense do not receive information from the Basic Public Prosecutor's Office, even after the expiration of the legally prescribed period of 3 months from the filing of the criminal report.

As one of the examples that confirms the above-stated, is the complaint of a citizen who filed criminal charges with the Ministry of Interior in March 2019, and the police in the same month informed the Basic Public Prosecutor's Office Skopje. However, after a period of 5 months, the citizen-applicant did not receive a decision or notification from the Basic Public Prosecutor's Office, although he addressed a request for information on the course of the case. In the specific case, as well as in several other cases for the same problem with the Public Prosecutor's Office, the Ombudsman addressed the Ministry of Interior and the competent Basic Public Prosecutor's Office. However, a response was received only from the Ministry of Interior, while the Basic Public Prosecutor's Office did not submit a response, due to which the Ombudsman submitted an Urgency, and the procedure in this case is still ongoing.

According to the Ombudsman, non-compliance with the legal deadlines can ultimately mean unprofessional performance of the public prosecutor's office, which is the basis for initiating disciplinary proceedings against the public prosecutor, which may result in termination of office. While the higher public prosecutor has an obligation on the principle of hierarchy to monitor and evaluate the work of lower public prosecutors.

Hence, the fear of the citizens for obsolescence of the criminal prosecution is justified, for which the Ombudsman alerted in the previous year as a serious problem, and this year it was also noted.

Namely, in a specific case upon a report by a citizen before the Basic Public Prosecutor's Office Skopje for several criminal offenses, including "Fraud", "Abuse of official position and authority", as well as for the criminal offense "Criminal association", and "Money laundering and other proceeds from a criminal offense" in 2013, this Public Prosecutor's Office requested a resolution of the conflict of jurisdiction before the Higher Public Prosecutor's Office, which in September 2019 issued a decision declaring the Basic Public Prosecutor's Office as competent to prosecute organized crime and corruption. In November of the same year, the Public Prosecutor's Office Skopje informed the Ombudsman in writing that one of the reported acts became obsolete for criminal prosecution, and the Public Prosecutor's Office for Prosecution of Organized Crime and Corruption submitted a notification that the case was still under pre-investigation procedure.

This situation undoubtedly indicates that due to the untimely actions and failure to undertake actions by the Public Prosecutor's Office, damage is caused to the citizens and they are hindered in exercising their rights. According to the Ombudsman, there is no justification for public prosecutors not to take any action at all after a certain criminal charge, although they undoubtedly have the authority to do so, or to take certain action several years after the legal deadline.

The Assembly of the Republic of North Macedonia has determined a specific measure - the Council of Public Prosecutors and other competent bodies to take action to determine the reasons why in many cases there is obsolescence for criminal prosecution, but there are no visible changes in this regard.

Non-compliance with the deadline for deciding upon the receipt of an appeal, which is 30 days, was also determined by the Ombudsman regarding the work of the Higher Public Prosecutor's Office. Namely, acting on the complaints of the citizens confirms that they have been in a state of uncertainty for a long time and they have insecurity regarding justice, because the body competent to decide on the submitted complaints does not respect the legally established deadline.

In a specific example, a citizen filed a complaint in December 2017 with the Higher Public Prosecutor's Office in Skopje and for a period of more than a year did not receive a decision, despite the fact that the citizen tried several times to obtain information or a decision regarding the complaint.

Regarding the citizens' dissatisfaction with the slow decision-making of this body, the Ombudsman initially requested notification from the Higher Public Prosecutor's Office, after which he submitted two urgencies, and informed the Higher Public Prosecutor about the obstruction of the Ombudsman's work, but a response was still not submitted, so the Ombudsman was forced to continue the case in 2020, as well.

Procedures before the enforcement agents

In the reporting year 2019, the Ombudsman continued to monitor the situation regarding the exercising of the rights of citizens before the enforcement agents, that is, in the enforcement proceedings, which cover one third of the total number of complaints in the field of justice. The most numerous were the complaints of the citizens who requested protection in the enforcement procedures, where the creditors are public companies and joint stock companies with state capital - providers of utility and telecommunications services, as well as services for use of electricity, heat and water.

On the other hand, the number of complaints regarding the collection of old debts, which arose from the transfer of enforcement cases from the courts to enforcement agents and notaries public, has decreased, given that their collection in previous years was accelerated.

The applicants continued to request the intervention of the Ombudsman, as they were not notified of the initiation of enforcement proceedings, and learned of the commencement of the proceedings after their transaction account had been blocked.

In the previous report, the Ombudsman recommended that before the Enforcement Order is submitted, the citizen-debtor should be notified of the commencement of the enforcement procedure, because by the lack of a notification in writing, the citizens are charged with additional costs, interest, administration costs, costs for possible complaints related to the irregular delivery of the order, etc.

The above-stated confirms that the measure determined by the Assembly for timely information of the debtors is not implemented.

Some citizens demanded the intervention of the Ombudsman due to the problem with the delivery of enforcement orders, stating that they did not sign the delivery note and that their signature for receipt of the writ was forged. In these situations, the Ombudsman advised the parties to request a graphological expertise of the signatures, after which they can submit an appropriate report to the competent prosecutor's office.

Complaints in which citizens complained that they were not informed about the amount of the debt, nor about the amount of accrued interest and the costs of execution and non-

compliance by certain enforcement agents with the order in the implementation of forced collection were frequently received. Although in smaller numbers this year as well, the citizens complained about the enforcement on funds, which according to the Law on Enforcement are exempt or limited from enforcement.

In the specific cases, the Ombudsman intervened with indications and recommendations to the enforcement agents for proper application of the provisions of the Law on Enforcement regarding the delivery and order of debt collection, and regarding the transaction accounts required their unblocking. These interventions were respected.

In some of the complaints, the citizens demanded intervention due to the fact that according to the provisions of the Law on Enforcement, the enforcement agents decided to make an enforcement with retention of 1/3 of their salary or pension, but given the fact that these applicants simultaneously paid monthly installments for loans, they were left without a minimum monthly allowance to meet their basic living needs.

Also, the Ombudsman found that the provision of the law which provides for enforcement with a retention of 1/3 of the salary or pension of the debtor, a retention that is quite high and which significantly reduces funds to meet living needs of the citizens is made. In such cases, the Ombudsman requested from the enforcement agents to enable the citizens-debtors to pay the debt with smaller monthly amounts and in most cases the enforcement agents, upon obtaining the consent of the creditors, acted upon these requests.

In the reporting period, complaints were filed in which the citizens stated that the enforcement agents issued enforcement orders for collection of claims, even though they were paid by the debtors. After the intervention of the Ombudsman in the specific cases, the enforcement was stopped, and part of the collected funds were reimbursed to the complainants.

Regarding the complaints in which the debtors complained that they had received an execution order in which the execution costs and interest rates have been increased several times, because the order was not activated for a long time, the Ombudsman expresses suspicion of intentional delays in order to increase costs and interest rates relating to the established claims. With regard to such cases, the applicants were instructed to seek protection of their rights before the competent court, by filing a complaint of lawlessness of the execution.

For several years, the Ombudsman in his annual reports pointed out shortcomings in the protection of the rights of debtors in the enforcement proceedings, and demanded legal changes that would provide an obligation for enforcement agents to notify debtors before initiating enforcement proceedings, reducing the amount of costs in enforcement procedures and increasing the supervision of the work of enforcement agents.

With the adoption of the Law on Amendments to the Law on Enforcement at the end of 2018, in addition to other changes, changes are provided in the part of the amount of rewards and fees related to operation costs, blocking of transaction accounts of debtors, as well as changes in relation to the supervision over the work of the enforcement agents.

The Law stipulates that if the holder of payment operations has blocked income that has been exempted from execution or has blocked a transaction account of a debtor without taking into account the restrictions provided in the Law, the unblocking of the accounts shall be at the expense of the holders of payment operations, and the enforcement agent has no right to compensation of the cost of actions taken to block or de-account the account.

Although the period in which this amendment is applied is short, the complaints unequivocally state that it caused significant relief for the debtors who realize funds that are exempt from execution, that is, the execution of which is limited.

Consequently, the Ombudsman concludes that the measure determined by the Assembly of the Republic of North Macedonia, which refers to the consistent application of the Law on Amendments to the Law on Enforcement, is partially implemented.

According to the Ombudsman, the amount of rewards and fees for the operation of the enforcement agents are still high and are an additional burden for the citizens in the enforce-

ment proceedings, although the Law on Amendments to the Law on Enforcement and the Tariff for reward for the work of enforcement agents provided for their reduction.

CONCLUSIONS

- *Prolonged judicial procedures and non-compliance with the principle of trial within a reasonable deadline, especially by the administrative courts, remains to be the main reason for the large number of complaints in the area of judiciary. A complete reform of the administrative judiciary is needed to ensure the application of legal norms in favour of the rule of law and the principle of justice and fairness, as well as full respect for human rights. It is necessary to amend the Law on Administrative Courts in the part of the obligation of the public bodies to submit documents and data.*
- *Requests for protection of the right to a trial within a reasonable time submitted before the Supreme Court of the Republic of North Macedonia are not resolved within the stipulated deadlines, due to which citizens wait a long time for exercising the right to a trial within a reasonable time, before a court with legal jurisdiction to decide upon that principle.*
- *Due to passivity and inefficient undertaking of actions in the pre-investigation procedure by the competent basic prosecutor's offices, obsolescence of criminal prosecution occurs, which violates the rights of the citizen. The High Public Prosecutor's Office is insufficiently supervising and controlling the lower public prosecutor's offices using the principle of hierarchy, thus leaving such action unpunished.*
- *Untimely decision on the complaints of the citizens and failure to submit a decision to the complainant within the legally established deadline, was also established for the Higher Public Prosecutor's Office. This problem must be solved*

RECOMMENDATIONS

- *Undertaking specific measures for consistent observance of the principle of trial within a reasonable time, that is, establishing a system of responsibility where a punishment for untimely action in relation to cases for which legal deadlines have been set will be provided.*
- *The Supreme Court shall, within the legal period of six months, decide on the claims for breach of the principle of trial within a reasonable time. Otherwise, the Judicial Council will determine responsibility for such inaction and non-compliance with legal norms.*
- *Consistent application of the new Law on Administrative Disputes and its amendment in the part of the obligations of the public bodies for submission of documents and data, that is, provision of deadlines in which the public bodies will be obliged to submit the required data, and consequently sanctioning of the failure to submit documents and cases, which is to the detriment of the citizens.*
- *The Council of Public Prosecutors, as well as the Public Prosecutor of the Republic of North Macedonia, should continuously undertake actions to determine the reasons why the Basic Public Prosecutor's Offices do not inform the reporters of criminal offenses within the legal deadline of the decisions in the procedure. Undertaking actions to determine the reasons for the occurrence of obsolescence in the criminal prosecution, as well as measures for untimely reporting and decision-making on an appeal filed by the High Public Prosecutor's Office, and for such actions*

urgently, and the Council of Public Prosecutors is most called upon to respond appropriately and sanction such failures.

- *The Law on Enforcement does not stipulate an obligation for prior notification of the debtors for initiating an enforcement procedure, due to which the citizens are still exposed to additional costs during the implementation of the enforcement procedure.*
- *Debtors in enforcement proceedings demand a reduction in their monthly debt collection amounts, as enforcement with a retention of 1/3 of their salary or pension leaves them without the necessary means of subsistence.*
- *The amount of rewards and fees for the operation of enforcement agents is still high and is an additional burden for the citizens, because it often happens that the costs of execution exceed the amount of the main debt.*

to establish responsibility and appropriate sanctions.

- *Actions on amendment to the Law on Enforcement, which will provide an obligation for enforcement agents to notify debtors on the initiation of enforcement proceedings, in order to avoid additional burden on citizens (interest, administration costs, costs for possible complaints related to disorderly delivery of the order, etc.).*
- *By amendments to the Law to determine a reduction in the retention of 1/3 of the salary or pension, which the enforcement agent may determine for debt collection, and the Ministry of Justice to proceed with the amendment of the Tariff for rewards and fees for other costs related to the operation of enforcement agents, in order to reduce the amount of enforcement costs.*

PROPERTY AND LEGAL RELATIONS

Compared to 2018, during 2019, the total number of submitted complaints in the field of property and legal relations has slightly increased (188 compared to 175). At the same time, usually most of them refer to the realization of protection of the rights in the procedures for denationalization, for registration in the real estate cadastre and for privatization of the construction land.

This reporting year, as well, regarding the work of the commissions for denationalization and administrative courts, the Ombudsman established unjustified delay of proceedings, inefficiency, irresponsibility and negligence in the proceedings and extremely poor system of procedure for submission of documents and decisions on cases between commissions and administrative courts.

The situation with the realization of the rights of the citizens on this basis before the Administrative Court is also worrying. Namely, although such cases, in accordance with the relevant material and legal regulations, have urgent treatment, unresolved cases from 2017, 2018 and 2019 have been registered in the Administrative Court, which are waiting to be taken

into operation. In addition, and to the detriment of the efficiency, the exercise of the immediate rights and legitimate property and legal interests, is influenced by the circumstance that the Administrative Court decides by merit in a very small number of cases.

Otherwise, in the reporting year, beginning with the Ministry of Finance, through the relevant denationalization commissions, significant progress was made in terms of cooperation and action in accordance with the interventions of the Ombudsman. Specifically, they usually acted in accordance with the content of the submitted requests or the provided suggestions, opinions and recommendations of the Ombudsman for removal of the established violations and the cases were resolved, that is all required explanations, information and evidence were submitted.

In the complaints about the work of the Agency for Real Estate Cadastre (the Agency), the citizens requested intervention of the Ombudsman in order to record a change in the real estate cadastre or re-examination of the content of the legal grounds and the conducted procedure for changing the right holders.

The Ombudsman, acting on the relevant complaints, intervened in the Agency, in order to make an inspection and control the legality of the Cadastre's actions, in the context of the indicated cases. Consequently, the Department for Control and Supervision in the Agency, after inspecting the allegations in the complaints, as well as the cadastral records, mostly determined that the registration of the real estate concerned was performed on the basis of legally valid acts and in accordance with the provisions of the then applicable regulations in the field of measurement, cadastre and registration of real estate rights. In fact, that is why the citizens' respective applications or their requests for correction of a mistake in the real estate cadastre were repeatedly rejected. However, in the processing of cases, confusion and dissatisfaction among citizens are caused by the inappropriate actions of cadastral officials by stating unfounded and formal explanations or engaging in examining the legality and truthfulness of the content of the legal grounds submitted during registration.

In this segment, it is a fact that the Agency continuously undertakes action to facilitate the access to its services for all citizens, but the question is whether the increasing of the efficiency and the speed of the services under its jurisdiction, along with the reduction of their prices, is fully in the function of the quality, timely and efficient servicing of the needs of the citizens.

Thus, for the citizen there is no effect (in cases when he/she submits an application again due to the fact that the previously submitted application for the same real estate was rejected), not to submit proof of payment for the application if it is persistently rejected and the citizen is forced to conduct court proceedings which cost more than the real estate itself. The problem for the citizens becomes bigger if we consider the inefficiency of the legal remedy lawsuit for administrative dispute, because according to the allegations in the submitted complaints and the subject documentation, the situation is still unchanged, given that the cadastre continuously upon almost all verdicts of the Administrative or Higher Administrative Court, again issues certificates with the same content as the annulled ones.

In the reporting year, normative assumptions were created for the Agency to be able to correct all errors made in the registration of real estate rights in the process of digitalization of the cadastre, that is in the transfer of data on property boundaries and their owners from the analogue to the digital plan. The legal changes, among other things, provide assumptions for the citizens to be able to solve the problems arising from the fact that a registration cadastre without performing measurement was performed on their properties and finally to obtain an appropriate property certificate.

Regarding the procedure for privatization of construction land, the Ombudsman this reporting year also established a state of inefficient realization of the rights of the citizens. This is primarily due to the delay of the procedure and the impossibility to exercise the right on this basis, due to the existing problems they face. In fact, the problems with the long administrative procedures that unnecessarily cause additional conditions and material expenses to the

citizens, are not exceeded by the competent authorities either from a normative, technical or any other aspect.

The right to purchase the construction land on which the citizens have built facilities, although it is indisputable in practice, is limited by the competent authorities, among other things, with unfounded requests and conditions of other entities and third parties. Hence, instead of establishing a fast and efficient procedure for the purchase of construction land, new delays and long-term complex procedures for creating assumptions for a positive solution and realization of the legal right are created. Such is, for example, the procedure for terminating a designated right of use (which may be unfounded or relating to a part of a particular property entering another building plot), which may also take years, because both the parties and the interested persons can use the legal remedies before different institutions and the procedure is constantly delayed. For this period, that is until the previous issue is resolved, the procedure for the request for privatization is suspended.

Regarding the measures in the area of "Property and Legal Relations", determined by the Assembly, it is indisputable that according to the interventions of the Ombudsman, the Denationalization Commissions were more diligent in resolving the cases and that through amendments to the Law on Cadastre normative assumptions were created so that the Agency should be able to correct all errors made in the registration of real estate rights in the process of digitization of the cadastre. Measures for reviewing the system for legal protection of citizens in the cadastre and taking all actions from a technical, organizational and normative aspect, in order to create adequate preconditions for ensuring efficient exercise of legitimate rights and interests of the parties in the procedure for privatization of construction land, was not realized in the reporting year.

CONCLUSIONS

- *Unjustified delay of the proceedings, inefficiency, irresponsibility and negligence in the proceedings and extremely poor system of procedure for submission of documents and adopted decisions on cases, between the commissions for denationalization and the administrative courts.*
- *The increase of the efficiency and the speeding up of the services that are under the competence of the Agency for Real Estate Cadastre, along with the reduction of the prices thereof, is not entirely in the function of the quality, timely and efficient servicing of the needs of the citizens.*
- *The problems with the long administrative procedures for exercising the right to privatization of state-owned construc-*

RECOMMENDATIONS

- *The Denationalization Commissions and the Administrative Court should resolve all outstanding denationalization cases.*
- *The Agency for Real Estate Cadastre in accordance with the relevant amendments to the Law on Real Estate Cadastre, is to correct all errors made in the registration of real estate rights in the process of digitalization of the cadastre, that is in the transfer of data on property boundaries and their owners from the analogue to the digital plan.*
- *Determination of a fast and efficient procedure for purchase/privatization of construction land in state ownership in order to create preconditions for a positive solution and realization of the legal right.*

tion land that unnecessarily cause additional conditions and material expenditures to the citizens, by the competent authorities, are not overcome either from a normative, technical or any other aspect.

URBAN PLANING AND CONSTRUCTION

Urban planning - the arrangement of space and its planning are an important element in the quality of life of citizens, which directly affects the environment. Therefore, it is very important for the local government to continuously take care of quality planning, as well as staffing of inspection services, in order to quickly and efficiently deal with citizens' complaints, especially in the area of illegal construction, which has proven to be a major problem.

From the submitted complaints in the reporting year, it follows that the citizens still consider the delays of the first instance procedures for issuing a building permit and for determining the legal status of the illegally constructed buildings as the greatest problem. In addition, as the main reasons for delaying the proceedings, the Ombudsman detected the excessive number of submitted requests regarding the dynamics of their resolution due to irregularly updating of detailed urban plans, unresolved property and legal issues of applicants, incompletely submitted documentation and so on. Furthermore, the constant amendment of the legislation additionally contributes to the delay of these procedures.

In the municipality of Centar, where construction is most intensive in the country, the application of the so-called construction moratorium continued, that is, the temporary placement of detailed urban plans out of force and contrary to the Ombudsman's instructions given earlier, that there is no legal basis or opportunity for detailed urban plans to be temporarily out of force due to their audit, because a certain legal vacuum is created during the audit and in this way the citizens are not able to exercise their rights and interests in this domain.

Some of the complaints referred to the inaction or inconsistent actions of the authorized construction inspectors upon requests and reports of the citizens. Therefore, upon the recommendation of the Ombudsman, the Assembly of the Republic of North Macedonia established a measure obliging the competent inspection bodies to conduct more frequent field inspections in order to prevent and sanction illegal construction.

According to the Ombudsman, the Ombudsman's recommendations for performing more frequent preventive inspections and for regulating the legislation and revision of the urban plans given in order to overcome the problems and create conditions for improving the situation in the urban sphere are insufficiently followed.

Therefore, the same recommendations remain for the next period with an appeal to all competent authorities to seriously and without delay deal with the problems and their immediate resolution, in order to provide better conditions for urban living and management of all individuals and legal entities.

CONCLUSIONS

- *The selective and insufficiently up-to-date performance of the field controls by the inspection services continues.*
- *The revision of urban plans is very slow, and due to frequent changes and additions, the legislation regulating this area has not yet been consolidated and regulated.*

RECOMMENDATIONS

- *Undertaking measures for the purpose of more frequent preventive inspections to prevent illegal constructions and non-selective sanctioning of their builders.*
- *The revision of the urban plans should be completed as soon as possible and the legislation should be updated.*

HOUSING AREA

The number of complaints (17 in total) submitted to the Ombudsman in the field of housing relations in the past year was insignificant. In addition, most of the complaints usually refer to procedures by which citizens-recipients of some of the benefits of social protection, having low monthly income or young married couples, seek to rent a flat or to be able to buy the previously assigned state-owned flat under certain more favourable conditions.

The reason for that is the fact that during 2019, no procedure for granting state-owned flats was conducted, because no new flats were built at all. ***In this context, in the reporting period there is no significant change in the measure of the Assembly of the Republic of North Macedonia for urgent construction of flats that would be leased or sold under particularly favourable conditions to a certain category of citizens, most seriously exposed at social risk.***

On the other hand, the unresolved housing issue of many people who are categorized as people at social risk can cause an increase in the number of homeless people.

The conclusion remains that there is a great need for construction of state-owned flats that would be allocated or sold to certain groups of citizens under more favourable conditions, which is why the Ombudsman again recommends that the competent authorities provide funding for the construction of such flats.

CONCLUSIONS

- *There is a real need to build a great number of so-called social flats for persons/ families whose housing issue has not been resolved.*

RECOMMENDATIONS

- *Undertaking specific measures for the construction of flats in the shortest possible time that would be leased or sold under particularly favourable conditions to a certain category of citizens most seriously exposed to social risk.*

ENVIRONMENT

The constitutionally guaranteed right to life in a healthy environment obliges the state to continuously take care of every segment of this area - air, water, soil. This is because the ecosystem should never be seen in isolation, on the contrary it is a entwined system on the balance of which it depends how much the citizens will exercise this right.

The Ombudsman, unfortunately, still faces a small number of complaints in this area, assuming that citizens see the rescue from pollution in the inspectorates and competent institutions at central and local level, which have the authority to take concrete measures, but also instruments. for punishment.

Hence, this reporting year, most of the complaints concerned the noise from cafes, restaurants and discos, especially in parts of Skopje where there are a large number of housing units. The Ombudsman can state that in this segment he has a successful cooperation with the municipalities, more precisely with the inspectorates that cover/comprise this area, who reacted in a timely manner on his suggestions.

Despite the small number of complaints, the Ombudsman reacted whenever information about pollution appeared in the public. Such was the case in the summer when the regional landfill "Rusino" near Gostivar was set on fire, as well as the local landfill "Bukovo" near Ohrid, and a number of illegal dumps. Namely, the Ombudsman appealed to the Government, especially to the Ministry of Environment and Physical Planning to intensify the operations related to waste management as soon as possible, especially the construction of regional landfills and thus prevent further danger of environmental pollution.

In this context, the Ombudsman regrets that even after three years of research on the situation with waste disposal in the Republic of North Macedonia, the situation is the same, and the situation on the ground is unchanged. The local landfills, which for the most part do not meet any environmental standards continue to operate, there is no modernisation to the two regional landfills Drisla and Rusino, and the construction of none of the six modern regional landfills has begun. ***Consequently, the determined measure by the Assembly of the Republic of North Macedonia for construction of regional waste landfills according to legal standards has not been realized.***

According to the Ombudsman, it is necessary to maximally engage all institutions in resolving the situation, both with air pollution and waste management. For that purpose, the authorities should increase the funds for this purpose, to strengthen the controls, especially in the so-called major polluters, but also to continuously conduct campaigns to raise awareness among citizens. In this regard, a good measure (which unfortunately has not yet been implemented) is the replacement of solid fuel stoves with inverter air conditioners.

However, this measure will not be sufficient if the implementation of other measures, especially with waste recycling, does not start. Thus, the Ombudsman recommends that in the next period, the municipalities make every effort to start this process, which would then have a positive impact on waste management. In parallel with this, campaigns are needed to inform the citizens how a properly and according to all environmental standards a regional landfill works, which instead of polluting will be used for processing of waste-compost, but will also be used as a source of energy, examples of which we have in the near, but also in the distant neighbourhood, more precisely in Sofia and Ljubljana.

Also, what the Ombudsman considers necessary to emphasize is the need for urgent adoption of laws that transpose EU legislation and which are drawn up in IPA projects (Draft-Law on Management of Electrical and Electronic Equipment and Waste Electrical and Electronic Equipment, Draft - Law on Management of Batteries and Accumulators and Waste of Batteries and Accumulators, Draft-Law on Waste Management, Draft-Law on Environmental Inspection, Draft-Law on Packaging and Waste Management, Draft- Law on Management of Special Waste Flows, Draft-Law on Extended Liability of Manufacturers, the Draft-Law on Industrial Emissions, Draft-Law on Amending the Law on Ambient Air). They were supposed to be adopted by the end of 2019, in accordance with the obligations undertaken by the body for technical cooperation from the SAA in the field of environment with a deadline of 2019, but they were not adopted.

CONCLUSIONS

- *The process of building regional landfills has not started in any planning region.*
- *Municipalities have shown extreme inefficiency in starting the waste selection process.*
- *Information campaigns are needed, both locally and centrally, both for the need to select waste and for the benefits of building regional landfills.*

RECOMMENDATIONS

- *Immediate start of construction of regional landfills according to legal standards.*
- *Municipalities should undertake measures to start waste selection.*
- *Conducting information campaigns, at central and local level to raise awareness among citizens about the importance of creation of regional landfills.*

FINANCE

In the field of finance, the trend of decreasing the number of complaints continued because in 2019, 137 were submitted, compared to 166, in 2018, when the most drastic decline compared to the previous years was noted. The reasons for this situation are of the same nature, primarily due to the abolition of the obligation to pay the broadcasting fee and due to the fact that in this reporting year, intensive procedures were not conducted for forced collection of unpaid tax debt by the Public Revenue Office, the City of Skopje and the municipalities.

Otherwise, most of the submitted complaints were still for the resolution of cases caused due to unfounded determination and collection of broadcasting fee or personal tax, property tax and other taxes, and in these procedures the Ombudsman often found a violation of citizens' rights.

In particular, as a result of submitting resolutions for forced collection only through blocking of transaction accounts in banks, and not in any other way (such as by banning the use of only 1/3 of the salary or pension of the taxpayer, which are paid to the respective person by his/her employer or from the Pension and Disability Insurance Fund) and not taking into account the restrictions/exemptions from execution, the entire amount of salary, pension or social protection benefits is taken from the citizens.

Due to these actions, as well as the additional collection of bank fees, which sometimes exceed the amount of the main debt, this category of citizens is unjustifiably endangered both in terms of their personal subsistence and the subsistence of their families, because they remain without any financial funds for a longer period of time.

In this segment, measures for implementation of the given indications for the manner of elimination of the ascertained violations were taken by the Public Revenue Office. The City of Skopje continued the failure to establish a cooperation with the Ombudsman and to impede the exercising of the constitutional and legal rights of the citizens, because in most cases it did not take actions to unblock the transaction account of the damaged citizens and the unfoundedly collected funds were not returned.

Hence, the Ombudsman believes that overcoming such long-standing problems for citizens as tax debtors can only be achieved by changing the existing legislation, especially the Laws on Tax Procedure, property taxes and payment operations.

The same applies to the methodology for determining the market value of real estate, which, although in determining the market value of real estate, takes into account several parameters, does not take into account the criteria for spatial/ geographical location. In the complaints regarding the determination of the amount of taxes, the citizens often state that the estimated value of the property is higher than the real market value, which affects the amount of tax they pay.

The measures in the area of "Finance", determined by the Assembly, in the reporting year, were not implemented.

Namely, in order to protect the legitimate rights and legal interests of the citizens, no amendments to the provisions of the Law on Tax Procedure and the Law on Property Taxes have been adopted, nor has a new methodology been prepared for determining the market value of real estate.

Also, the City of Skopje and the municipalities do not cooperate with the Ombudsman, nor do they always take into account the interest of the citizens in terms of respecting the procedure, to better regulate matters and to reduce to a reasonable extent the doubts regarding the circumstance whether the amount they pay for a certain tax is reasonable and fair and whether the value of their real estate is realistically assessed.

CONCLUSIONS

- *Citizens as tax debtors remain without any monetary income for a long period of time and their personal and family lives are endangered as a result of submitting decisions for forced collection only by blocking their transaction accounts in banks.*
- *No changes have been made to the provisions of the Law on Tax Procedure and the Law on Property Taxes, nor has a new methodology for determining the market value of real estate been prepared.*

RECOMMENDATIONS

- *The Public Revenue Office, the City of Skopje and the municipalities in the procedures for forced collection of tax debt should respect the constitutionally proclaimed principles for protection of fundamental freedoms and rights of citizens and without any exception they should take into account the restrictions/exemptions from enforcement and should not take away the full amount of the salary, pension or social security benefits of the citizens.*
- *In order to overcome the long-standing problems for the citizens as tax debtors, amendments to the Law on Tax Procedure and the Law on Property Taxes should be adopted and a new methodology for determining the market value of real estate should be prepared.*

CONSUMER RIGHTS

In the area of consumer rights, citizens submitted complaints for protection, pointing to the inappropriate actions of service providers.

In general, the lack of will to implement the indications and recommendations given by the Ombudsman, and the current work to be in function of the needs of service users, marked the work of service providers in 2019.

Again, most of the citizens' complaints referred to the work of EVN Macedonia JSC Skopje (EVN), the Public Enterprises that perform communal activity - water supply and garbage collection, especially the Public Enterprise "Vodovod I Kanalizacija" - Skopje (PE), as well as JSC Toplifikacija Skopje and the thermal energy operators (Toplifikacija).

Regarding the operation of PE, the problems faced by the citizens are identical to the previous years, and in most complaints, they required regulation of the situation with unpaid debts. In this segment, the old problems have not been overcome, so the citizens as users of services do not have precise information about the basis from which the overdue debt arises, the period for which it refers, the calculation methodology, they referred to debt obsolescence

and so on. Also, due to omissions in the official records, citizens were charged for debts made by a previous user, and were forced to prove when they became real users of the service.

The lack of regular reading of water meters was again a problem, although the Ombudsman demanded that the obligation to regularly read the status of water meters be respected and that this mechanism be the only one in the procedure for determining consumption. Consequently, cases of indebting with a lump sum amount were recorded, and not based on a real-read state of the measuring device, which in turn resulted in the issuance of unexpected bills with high amounts, without a specific period for which they refer.

The operation of the Commission for Disputed Bills was again the subject of complaints submitted by the citizens to the Ombudsman, and in these cases, the citizens remained dissatisfied with the given approval of the bills upon their requests for correction, as well as due to not acquiring reasonable and legally sustainable explanations for the rejection of their requests.

From the action on specific cases, the Ombudsman determined that the Commission very often makes decisions that are not in accordance with the evidence attached to the requests from the citizens, and at the same time does not use its own evidence available to the PE. Therefore, the Ombudsman requested that the Commission reconsider the decisions made, but unfortunately, except for minimal approvals, in most cases it did not act on the instructions given.

Only, as a positive practice of PE, the acceptance of the interventions that the Ombudsman directed to provide the opportunity for easier debt repayment can be pointed out, due to the material position of citizens and their reduced economic power, which resulted in concluding agreements for payment of debt in several monthly instalments.

On the other hand, the campaign for payment of the debt in instalments without accrued interest for late payment did not fully provide mitigating circumstances for the payment of arrears due to the condition to immediately fully pay the debt for which there is a compulsory collection.

Hence, the Ombudsman confirms the position that the PE only pursues its own interests and sets restrictive conditions for granting mitigating circumstances (exemption from interest), although it is clear that citizens are not able to fully pay the debt, which is subject to forced collection, and in the specified period of time, for which the action lasts, to conclude an agreement for the rest of the overdue debt.

In the reporting period, fewer complaints were filed regarding the municipal waste collection and transportation service, although again, citizens were challenged by the same problems: receiving bills even though the service was not used (no containers were placed and garbage was not collected regularly), the collection of a service for ownership of property that is not used for permanent residence, the criteria by which it is decided on the required approvals for buildings that are not permanently inhabited, problems that have arisen due to incomplete information obtained from the public enterprise associated with the existence of debt, requirements for conducting measuring on the area as a basis for collection of garbage and so on.

Regarding the complaints of the citizens about the operation of Toplifikacija, the conclusion is that most of them are related to indebting with the compensation for engaged power (fixed part) of the compensation for thermal energy, then for the prescribed way in which the disconnected citizens demanded exemption from the collection of the fixed part in accordance with the Rules for thermal energy supply, and of course for regulating the situation with overdue debt, the quality of the delivered thermal energy, the inefficiency upon the requirements for reporting a defect.

Namely, in order to solve the problem with the indebting with the compensation for engaged power (fixed part) of the compensation for thermal energy in the disconnected consumers, the Energy Regulatory Commission and Water Services, adopted Rules for thermal energy supply, which provide for the owners who live in a facility that is disconnected from the central heating system, in order to be exempted from the obligation to pay the fixed part, to prove that

by submitting valid documentation.

From the actions upon the complaints, it can be noticed that the disconnected consumers faced problems in submitting the requests, that is, filling in of the prescribed form, because not all disconnected consumers who live permanently in the facility, for various reasons, have valid documents. Due to this, after the rejection of their requests, they were forced to use the right to appeal to the Regulatory Commission and to prove the factual situation.

The Rules for thermal energy supply stipulate obligations of the supplier to the vulnerable categories, such as non-disconnection of a vulnerable consumer due to unpaid bills for delivered heat in December, January and February, the possibility of deferred payment or payment in instalments of overdue debt, as well as other protection measures, but although it is provided to inform the vulnerable consumers about their right to request the use of one or more of the protection measures, in practice that was not consistently implemented, primarily due to the lack of awareness of the vulnerable categories of consumers.

Hence, the conclusion remains that it is not enough just to incorporate positive measures in the legislation, but also their consistent and complete implementation, in order to ensure information, security, quality, transparency, publicity, consumer protection, efficiency and economy, and of course by taking of appropriate consumer care measures, without any discrimination.

Otherwise, in direct contact with the citizens during the reception of the complaints, the Ombudsman received information that they have remarks regarding the invoicing methodology which results in advance indebtedness. In this segment, the remarks refer to the advance bills, because according to the consumers, the advance payment burdens their budget for several months during the heating season, and they feel the benefits of the calculated amount of the settled bills much less. Exactly this manner of calculation, for a significant number of citizens is the reason for their disconnection from the system for thermal energy supply.

Therefore, the Ombudsman in the interest of consumers considers that it would be desirable for the regulatory body to take these remarks into account in the direction of a possible correction of the invoicing methodology. After all, any solution for the benefit of consumers due to their re-connection to the thermal energy supply system, contributes to a clean and healthy environment and is a step forward in improving the current poor state of the right to a healthy environment.

Although the number of complaints regarding the services of fixed and mobile telephone operators is small, the requested intervention from the citizens again points to the same problems, that is, dissatisfaction with the prices for the provided services, the quality of the services and of course the offered contracts and obligations in the subscriber relationship they are forced to accept. The Ombudsman intervened directly to the operators, but the Agency for Electronic Communications was also requested to undertake action.

For the part of consumer rights that refers to the delivery of electricity, in 2019 the complaints in which an intervention was requested for reconnection to the electricity supply system and payment of arrears in instalments were singled out.

From the action on these cases, it is noticeable that the measure of disconnection from/ interrupting the delivery of electricity, is not always applied by EVN equally to all users, because this measure is also applied to old debts, although current bills are regularly paid, which in turn leads to a situation that a significant number of citizens complain that they were informed about the overdue old debts after the application of the measure interruption of electricity supply.

This problem, which has been going on for years and concerns the provision of citizens the right to receive clear, understandable, accurate and precise information about the state of their debts, despite the indications given by the Ombudsman, has not been completely overcome.

In this segment, there were cases when the invoices for delivered electricity did not record any notice of overdue debt, so detailed information on the situation with overdue debt was

obtained after the intervention of the Ombudsman.

Regarding this problem, the fact that the information provided is not always complete, clear and supported by appropriate evidence is worrying, due to which the Ombudsman in working on these cases was forced to obtain such information through requests addressed to the competent courts.

In cases when the Ombudsman received detailed information about the state of overdue debts, he concluded that most of the debts were related to debts dating back several years, and considering that most of them were obsolete, he asked EVN to delete the outdated debts from the records, that is the consumers should not be treated as debtors of such debts, as well as in the future they should not be warned about them.

As for the requests of a number of citizens for intervention in order to be exempted from obsolete debts, for which a procedure for forced collection had already been initiated, the Ombudsman informed the citizens that he is not able to take any action in that direction and that the existing legislation gives EVN the full right to demand their payment. At the same time, he taught them to use the opportunity to exercise their rights and immediate legal interests, through proceedings before the competent judicial authorities or persons with public authority, in order to prove the unfoundedness of the debt in question.

Many of the complaints also referred to the requests of the citizens to be able to pay the debts in several instalments or to conclude annexes to the existing agreements in order to facilitate the payment conditions due to the low standard of living and the difficult financial situation.

Most often, the requests of the Ombudsman in this direction were accepted, but it cannot be concluded that the actions of EVN in these cases are completely free of selectivity.

This is because all users who are in the same situation are not treated in the same way, but the facilitation possibilities are different from case to case. Because of this, the absence of a general act that would regulate this issue and regulate in a unique way the issue of settling arrears remains a problem that must be resolved as soon as possible.

In this reporting year, the organized campaign for concluding agreements for payment of arrears in 96 instalments stands out as a positive step in the operation of EVN, for users who mostly live on the territory of the Municipality of Suto Orizari and are in a state of social risk. These agreements set a small amount of the instalment, subject to a pre-determined condition for their regular continuous payment, so that after the payment of the 95th instalment, the write-off of the remaining part of the debt will follow and such consumers will not be charged with that debt in the future.

During the reporting year, the Ombudsman registered a case of collective disconnection from the electricity distribution network for entire settlements in the village of Grčec, Municipality of Saraj, whereby the disconnection from the electricity distribution network of the primary school in the village was particularly worrying.

Immediately after receiving the information that settlements from the village. Grčec had been without electricity for several days, the Ombudsman acted on his own initiative, and after the talks with representatives of the residents of the village Grčec, he ascertained the factual situation, established contact with the responsible officials from EVN Macedonia JSC - Skopje, and demanded the repairment of the defects that led to the power outage as soon as possible and re-connection of the settlements to the electricity distribution network.

In this regard, the Ombudsman pointed out that the collective disconnection from the electricity network was unacceptable, and was a collective punishment and injustice, because the citizens who are regularly connected to the electricity distribution network and regularly pay the bills for electricity are deprived. As a result of the disconnection of electricity the educational process also suffers. The indications by the Ombudsman were accepted and the electrical distribution network was reconnected.

Following the recommendations of the Ombudsman, the Assembly adopted

measures to ensure that service providers provide preconditions for the payment of arrears with greater flexibility and take into account the situation of users. The second established measure by the Assembly is related to inefficient campaigns for collection of arrears, and in that direction the state in cooperation with the service providers, should find a way to facilitate the repayment for a certain group of citizens, and for the most endangered ones, a full write-off of the debts should be completed. While the third measure aims to ensure effective protection and consistent adherence to the principle of legal security, in certain cases normative assumptions for the collective protection of consumer rights should be provided. However, in practice, although certain actions were undertaken, indisputably such actions were not in accordance with the recommendations, nor were the measures fully implemented.

CONCLUSIONS

- *The reduced economic power and the difficult financial and material situation of the citizens are the reason for the inability to timely pay the due obligations for the delivery of electricity, water and other communal services.*
- *Unregulated payment of arrears in an adequate manner and conducting debt repayment campaigns that do not allow the use of real mitigating circumstances for citizens.*
- *Non-compliance with the obligation for monthly reading of the meters and conditions under which bills can be prepared in a lump sum, due to which it is practiced to perform calculation of consumed water on average and to issue irregular bills with enormously high amounts.*
- *EVN does not inform the citizens in time about the overdue debts before the power supply is stopped, nor has it adopted a general act which would equally regulate the issue of settling the overdue debt in instalments, so in the practice it does not treat all the consumers equally.*
- *The most vulnerable categories of consumers are not adequately protected. The small amount of subsidies and the non-use of protection measures still exist.*

RECOMMENDATIONS

- *Service providers should provide continuously better conditions for payment of monthly bills, and without a selective approach they should enable the conclusion of agreements for repayment of debts with conditions favourable for their payment.*
- *Undertaking measures for application of indebtedness based on consumed water average and consistent application of the legal provisions whereby the water meters are the only mechanism and measure for the consumed water, and to stop the practice of issuing irregular bill, which is to the detriment of the citizens.*
- *When performing the measure of disconnection from the system, EVN should consistently comply with the legally prescribed procedures and conditions and should approach all users equally. At the same time, EVN should adopt a general act which will in a single way regulate the issue of settling the overdue debt in instalments in order to act in the same way when concluding agreements.*
- *Undertaking measures by the competent entities for timely and complete informing of the vulnerable categories of consumers for the purpose of using the protection measures, as well as facilitating the access to such measures.*

- *The citizens still do not recognize their protectors in the regulatory bodies, so the conclusion remains that the problems of the consumers are not solved in an adequate and complete way.*
- *The regulatory bodies should listen to the remarks of the consumers, they should continuously monitor the work of the service providers and the decisions that are adopted should be clear, precise, objective and prepared in a way that will enable the realization of the rights of the citizens as users of services.*

POLICE AUTHORISATIONS

The Ombudsman, as an institution whose primary goal is to provide promotion and protection of human rights guaranteed by the Constitution and laws, pays special attention to the rights in the field of police action.

Having in mind the number of submitted complaints in the field of police powers, in this reporting period there is a decrease in the number, but still, the problems for which the citizens require intervention remain the same.

Most of the complaints again refer to the failure to undertake measures upon criminal and other reports and complaints of citizens, failure to undertake measures to protect life, and compared to the previous year there is an increased number of complaints from citizens indicating a violation of the rights by the authorities dealing with offences at the Ministry of Interior.

In addition, complaints of human rights violations have been filed in the procedure for exercising the right to asylum and temporary protection of foreigners, unjustified seizure of objects, physical or mental abuse and humiliation in the performance of the service, especially in places where detention and restriction of the freedom of movement of persons is performed, as well as for unfounded or illegal deprivation of freedom, and due to unfounded summoning or detention at a police station.

Acting on complaints from citizens for not undertaking measures and non-action of police officers, upon filed criminal charges and complaints thereon, the Ombudsman concluded that there is still an unserious approach to the reports and examination of the allegations in them. Instead of acting in order to provide all the necessary evidence, including informing the competent prosecutor about the reported case and the submitted evidence from the citizens, the police officers not only do not process the reports, but also insufficiently investigate them, and against the damaged citizen-applicant, misdemeanour procedure for disturbing the public order and peace is initiated, which identifies the reporting party with the perpetrator.

In addition to the above, a large number of complaints from citizens in the field of police work were submitted regarding violations of the rights in the misdemeanour procedure, so that this reporting year, as well, the complaints are related to the inability of citizens to express their

position relating to the criminal charges or that they were adopted without determining the factual situation, that is without conducting a hearing with them. In several cases, the Ombudsman stated that despite the right of citizens to be summoned to court, to make a statement regarding the criminal charges, they were not notified in writing, nor were they duly summoned to comment on the misdemeanour and submit evidence in their defence.

The Ombudsman did not find violations of citizens' rights regarding the committed misdemeanour and the sentences imposed, but having in mind the allegations of the citizens and the manner in which this issue is regulated in the Law on Misdemeanours, he reiterates the opinion that non-compliance with the principle of contradiction in the procedure and the inability of citizens to make a statement regarding the misdemeanour before an independent and impartial court (authority) is a serious violation of their constitutional and legal rights.

Furthermore, acting on a complaint of physical harassment, brutal and degrading treatment during the procedure for deprivation of freedom and detention at a police station, the Ombudsman undertook measures and actions to investigate the incident, using the right to review all records of internal police investigations, inspection in the case, access to the relevant documents, as well as providing verbal and material evidence within the legal powers, acting as Ombudsman - Mechanism for Civil Control.

Consequently, the Ombudsman established elements of unlawful deprivation of freedom, as well as harassment in the performance of service, due to which he continued the procedure by submitting a request for initiating a procedure for determining criminal liability against a police officer, to the competent department for prosecution and investigation of crimes committed by persons with police powers and members of the prison police at the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption.

In this case, but also in another case whereon the Ombudsman acted in order to protect the rights of citizens, he indisputably found that citizens report physical harassment or use of force by police officers, but by the police, instead of taking measures to investigate the allegations, criminal charges are filed against the reporters, for assaulting an official or obstructing the performance of an official.

In such cases, when at the request of the citizen or the Ombudsman, the actions of the police officers should be investigated the Department of Internal Control, criminal investigations and professional standards relies on the statements of the police officers, and they usually go unpunished, which violates the rights of the citizens.

The Ombudsman also acted on complaints from citizens due to unfounded seizure of items by police officers, and in some of the complaints he found violations of citizens' rights and irregularities in police actions, due to which he reacted to the Ministry of Interior. After the indications, the identified violations were removed and the items were returned to the citizens.

In another case, after receiving information about the escape of a foreigner from the Reception Centre for Foreigners "Gazi Baba" Skopje, the Ombudsman commenced a procedure on his own initiative, taking action to determine the situation, and found irregularities in the actions of the official and therefore submitted a proposal to initiate a procedure for establishing disciplinary liability, which was accepted by the Department of Internal Control, Criminal Investigations and Professional Standards.

Having in mind that with the amendments to the Law on the Ombudsman from February 2018, a new organizational unit Ombudsman-Mechanism for Civil Control was established, in whose jurisdiction are the cases, that is occurrences of torture, physical abuse, humiliating and degrading treatment by persons with police powers and members of the prison police, the Ombudsman, in the reporting period with an Information addressed the Public Prosecutor of the Republic of North Macedonia and to the Public Prosecutor of the Basic Public Prosecutor's Office for the Prosecution of Organized Crime and Corruption.

In addition, informing them that the team in the new organizational unit, Ombudsman-Mechanism for Civil Control, which is responsible for six (6) active cases, formed in the period

2016-2018, by citizens for illegal actions of police officers and use of force has started working, the Ombudsman requested to be notified of the course of the proceedings. In connection with the above, a response was received from the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, informing only which prosecutor's office is competent for the cases, without specifically informing about each of the cases individually, in terms of the stage they are in and what actions have been taken.

The Ombudsman also acted against the prison police, regarding complaints from convicted persons who complained of serious physical and mental abuse, and humiliating treatment by members of the prison police. At the same time, he acted upon complaints regarding the actions of the officials towards women convicts, who are serving a prison sentence in the women's ward of the Idrizovo Penitentiary.

The complaints pointed to abusive behaviour and verbal abuse by prison officials, especially to convicted women belonging to the Roma ethnic community. Of particular concern are complaints that physical force is being used to "discipline" convicts.

In the absence of relevant material evidence, the Ombudsman assessed the need to alert about the stated problems, submitting recommendations to the responsible persons in the Idrizovo Penitentiary and the Directorate for Execution of Sanctions, indicating that the convicted persons should be treated humanely, with respect for human personality and dignity, preservation of their physical and mental health, in accordance with the obligations arising from the Law on Execution of Sanctions.

In this context, the Ombudsman stressed the need to take concrete actions to investigate cases of physical abuse and torture against convicts, as well as the application of appropriate sanctions against perpetrators, but also the need for prevention and education measures to prevent such occurrences by the Directorate for Execution of Sanctions.

According to the Ombudsman, effective control of the institution and guaranteeing a safer environment for employees and prisoners is needed, because any kind of harassment is completely unacceptable and must be investigated and acted upon. Non-examination and lack of punishment should be overcome even when there are the slightest elements of physical abuse, so the Ombudsman called for urgent and prompt measures to ensure that prison officials respect the right to physical and mental integrity of convicts.

Furthermore, following the situation with the exercise of the rights of juvenile offenders in the Ohrid Penitentiary, based on the statements and obtained evidence, the Ombudsman established the use of force by members of the prison police on a convicted person, after which he submitted a request for initiating a procedure for determining criminal liability for the criminal offense "Harassment in the performance of service" to the competent Public Prosecutor's Office.

In other cases, in which intervention was requested, the Ombudsman did not succeed in confirming the allegations of physical harassment and use of force, including the fact that the facility of the penitentiary institution is not under video surveillance, that is, there are no security cameras in the dining room and the cells for solitary confinement, and it was those premises that were pointed out by the convicts as the places where force is usually used by the prison police.

Regarding the measures determined by the Assembly of the Republic of North Macedonia, regarding the work and attitude of police officers towards the respect for human rights and freedoms, although there is some improvement in police conduct, however, that is not enough, as confirmed by specific cases of unprofessional and abusive treatment of certain police officers to citizens, especially to members of the marginalized communities.

Regarding the recommendation of the Public Prosecutor's Office of the Republic of North Macedonia to seriously consider the requests and evidence of the Ombudsman for criminal liability against police officers, to conduct full and effective inves-

tigations to sanction perpetrators and restore citizens' confidence in the objective actions of the authorities, measures had been undertaken and in that context, in 2019 the special department of the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption started its operation. That specific department is exclusively responsible for investigating and prosecuting crimes committed by people with police authorizations and members of the prison police.

Regarding the established measure by the Assembly, for the misdemeanour bodies to respect the instructions of the Ombudsman and the general principle of the criminal procedure that everyone has the right to a fair trial before an independent and impartial court, that is a misdemeanour body in a contradictory procedure that can challenge the charges against them, and propose and perform evidence in their defence, in May 2019 a new Law on Misdemeanours was adopted, which reduces the amount of fines and envisages improvement of the efficiency of the misdemeanour procedure, whereas, among other things, a misdemeanour procedure by the courts and misdemeanour bodies is prescribed.

CONCLUSIONS

- *No serious approach of the police officers to investigate and research the criminal charges and complaints of the citizens, due to which the investigations last a long time, the reports are insufficiently investigated and the necessary evidence is not provided, which instils mistrust among the citizens in the police action.*
- *Citizens do not have the opportunity to express themselves in relation to a misdemeanour charge filed before an independent and impartial court - authority, so that they are still unable to dispute the misdemeanour against them and to propose and present evidence in their favour.*
- *Instead of undertaking measures to fully investigate cases where citizens report physical abuse or use of force by police officers, the police are filing criminal charges against the reporting parties.*
- *Concerns have been raised about the use of physical force to "discipline" convicts, abusive behaviour and verbal harassment by prison staff, especially to convicts belonging to vulnerable groups.*

RECOMMENDATIONS

- *Police officers should seriously, responsibly and professionally investigate criminal charges and complaints filed by citizens, and provide all the necessary evidence to fully establish the factual situation.*
- *Undertaking measures to respect the general principle of the criminal procedure that everyone has the right to a fair trial before an independent and impartial court, and the possibility in a contradictory procedure to challenge the indictment and to propose and present evidence.*
- *Conducting an effective investigation into allegations of physical harassment or torture by police officers in the exercise of their powers, which involves identifying the perpetrators of the crimes and punishing them accordingly.*
- *The Directorate for Execution of Sanctions should undertake urgent and prompt measures to ensure that the prison police respect the right of the convicts to physical and mental integrity, and that any complaint/report of physical abuse, torture or inhumane treatment is the subject of a thorough*

- *The facilities of the penitentiary institutions do not have or have non-functional video surveillance. This situation makes it impossible to conduct a full and effective investigation into cases of physical abuse and excessive use of force against convicts.*

investigation.

- *Undertaking measures in order to provide functional video surveillance in penitentiary institutions, as one of the ways to prevent the use of force and inhumane treatment of convicts.*

CITIZENS-RELATED SITUATIONS

In the area of civil status, the complaints of the citizens related to the procedures for admission to citizenship and the procedures that are conducted before the bodies of the registry offices continue to dominate.

The case-related operations of the Ombudsman indisputably imply that the citizenship status has not yet been resolved by persons born in the Republic of North Macedonia decades ago and who have lived in the country for a long time, have strong and effective relationships with the state, live in their homes and properties and are well adapted to our social circumstances and situations, but to regulate their legal residence in the country, these persons are forced to register as foreigners in their own homes.

The Ombudsman identified the security aspect related to the legal requirement that “the admission of a person to citizenship does not endanger the security and defence of the country” as the main obstacle to exercising the right to citizenship of these people. Until 2019, this requirement was set by the Office of Security and Counterintelligence (OSC), which functioned as part of the Ministry of the Interior.

The Ombudsman, continuously, in his annual reports concludes that OSC violates the Law on Citizenship during security checks, and based on discretionary rights, without any explanation, declares these persons not eligible for the security and defence of the country, which according to the Ombudsman is to the detriment of the exercise of the rights of the applicants for citizenship.

In all cases in which the Ombudsman found violations of this nature, he pointed out to the bodies involved in exercising the right to citizenship that such an arbitrary manner of decision-making should cease, indicating that in accordance with the Law on Citizenship (Article 7 paragraph 1 item 8), in the decision rejecting the request for acquisition of citizenship, the body shall explain the reasons due to which it made the decision.

The Ombudsman gave similar opinions and suggestions to the Administrative Court in cases when the applicants for citizenship exercised their right to sue, but the Ombudsman’s views were not respected by the internal affairs bodies or the Administrative Court, which is an additional violation of the rights of citizenship applicants.

As part of the reforms of the security-intelligence system of the Republic of North Macedonia, in September 2019, the National Security Agency, as an independent agency, started

operating outside the Ministry of Interior and security checks on citizenship procedures were transferred to this Agency.

The Ombudsman expects the new Agency not to repeat the mistakes of the previous OSC, and in that regard will clearly explain the opinions on the security checks performed on persons who are in the process of obtaining citizenship, in the manner provided by the Law on Citizenship.

The Ombudsman also hopes for constructive co-operation with the National Security Agency in the interest of protecting the rights of citizenship applicants.

It is characteristic that in 2019, the number of complaints from our emigrants in the Republic of Turkey seeking to acquire citizenship of the Republic of North Macedonia increased in the Ombudsman's Office.

An emigrant in terms of Article 8 of the Law on Citizenship is considered a citizen of the Republic of North Macedonia who has moved to another country, except in his home country.

Given that in our legislation the persons who emigrated to the Republic of Turkey, regardless of their former ethnicity in the SRM, are still treated as having emigrated to their home country, the Ombudsman could not influence protection in such a legal setting and circumstances of the rights of these emigrants, but advised them on what other legal requirement they can re-apply for admission to Macedonian citizenship.

Although the Ombudsman has established regular communication and cooperation with the bodies that decide on the right to citizenship, in some cases he still encounters provisional and incomplete answers that do not contain the required data and explanations of the institution.

Otherwise, according to the records of the Ombudsman, the problem of citizenship is mostly faced by the residents of the Skopje and Kumanovo regions.

The complaints related to the work of the registry offices - the Registry Office, refer in particular to the work of the Department of the City of Skopje, regarding non-registration of persons in the birth register, errors in names and surnames, inability to conclude marriage, etc. Some of the complaints refer to inefficiency in the procedures for obtaining personal documents.

In this annual report, we note that the cooperation of the Department of the Registry Office for the City of Skopje with the Ombudsman was not satisfactory, that is, it was not effective and was performed with a great difficulty.

Namely, this body did not act upon the indications and recommendations of the Ombudsman and in cases when serious violations of the basic human rights of certain persons were established, committed by this body. Hence, the Ombudsman repeats the conclusion that the Registry Office does not have the human and professional capacity to implement the laws and does not show any service orientation towards the realization of the basic rights of the citizens. The employees of the Office not only practice bureaucratic attitude towards the citizens and the institution of the Ombudsman, but they also try to build a bureaucratic wall towards the entities that address them on certain grounds.

Just as an example of the above-stated, in 2019, the Ombudsman found a serious violation of basic human rights by the Department of the Registry Office - Skopje, by not registering a person in the birth register for more than 17 years, even though the respective person was born in the year of 2002, in a state hospital in Skopje. The unregistered person graduated from primary school in Skopje with excellent grades, and is a regular excellent student in the third year of high school, also in Skopje. However, due to bureaucratic misunderstandings and attitude and misinterpretations by the Registry Office staff, the student will soon have a high school diploma, still without being issued a birth certificate, which is absurd.

The efforts, suggestions and opinions of the Ombudsman for exercising the right to register this person in the birth register were not accepted by the authorities of the registry offices in Skopje, due to which he continues to suffer other negative consequences, given that without a

birth certificate the respective person will not be able to obtain an ID card, and the possession of this document at his age is a legal obligation of the citizen.

The Ombudsman also announced this specific case in the media, which also did not give results, on the contrary, after its publication, the cooperation with the authorities of the registry offices became even more inefficient and even more difficult.

Regarding the Ombudsman's recommendations regarding the citizenship procedures and the registration in the birth register, the Assembly determined measures for the bodies involved in the citizenship procedures to strengthen the mutual cooperation in the interest of efficient exercise of the rights of the applicants and to show greater flexibility, and above all, efficiency in acting on the requirements for regulating the civil status, and the Registry Office and its regional offices to show service orientation to the interests and the rights of citizens.

However, it is obvious that they still need to be worked on in order to effectively implement them in practice.

CONSTITUTIONS

- *Persons who were born in the Republic of North Macedonia a few decades ago, have a strong and effective connection with the state were brought to an absurd position to register as foreigners in their homes, since they have not yet resolved their citizenship status.*
- *The Department of the Registry Office in Skopje does not have the human and professional capacities for consistent implementation of the laws and does not show any service orientation towards the realization of the basic human rights of the citizens.*

RECOMMENDATIONS

- *The National Security Agency, when conducting security checks on citizenship applicants, should explain the reasons, as provided by the Law on Citizenship.*
- *The Registry Office should stop the unprofessional and inhumane treatment and decision-making in order to respect and more easily exercise the rights of citizens.*

PENITENTIARY AND CORRECTIONAL AND EDUCATIONAL AND CORRECTIONAL INSTITUTIONS

Compared to the previous year, the number of complaints in 2019 slightly increased, but the complaints of convicts and detainees in general addressed the same problems as in previous years, which is an indication that there are no significant changes in the possibilities of the realization of their rights.

Complaints regarding healthcare were still the most numerous, requiring intervention due to inadequate, untimely and inconsistent healthcare and medical treatment of convicts and detainees. Furthermore, due to the provision of medicines at their own expense as a result of the insufficient equipment with the necessary medicines of the prison hospitals, they pointed out the poor equipment of the prison hospitals with the necessary medical devices, etc. Some of the complaints were due to the inability to use a certain convenience, or to be transferred to another ward /institution, the convicts also complained of torture and other forms of inhumane treatment, and there were also complaints from convicts in the Women's Ward seeking protection due to poor conditions for serving a prison sentence.

The Ombudsman, acting on complaints regarding healthcare and treatment, repeatedly referred to the directors of penitentiary and correctional institutions and the Directorate for Execution of Sanctions, reminding them of the obligation to undertake measures for improvement of the healthcare and dental services, especially in CPI Idrizovo. Consequently, upon the complaints for inability to receive treatment to dental diseases and overcoming dental problems, the Ombudsman submitted an indication for undertaking measures to solve this problem, but the management of the institution informed the Ombudsman that from mid-2018 by agreement between the Ministry of Health-PHI Health Centre Skopje and the Directorate for Execution of Sanctions, the obligations regarding the healthcare of the convicts were transferred into the competence of PHI Health Centre Skopje, due to which the Ombudsman was advised to seek the necessary information for the health condition of the persons from PHI Health Centre Skopje.

Evaluating this response as unserious and not accepting this attitude and response from the director of the PCI Idrizovo, considering that, according to the Law on Execution of Sanctions, the health services are part of the organizational set-up in penitentiary institutions, and are of particular importance for the stay of convicts during the serving of the prison sentence, the Ombudsman submitted an indication to the Director of the Directorate for Execution of Sanctions and requested him to oblige the directors of the penitentiary institutions to act in accordance with the requests of the Ombudsman, that is to submit to him all the necessary information, explanations and evidence for the cases in which he acts, all for the purpose of uninterrupted protection of the rights of the convicted and detained persons. In fulfilment of the given indication, the director of the Directorate for Execution of Sanctions instructed the directors of the penitentiary and correctional institutions to act in a timely manner on the requests of the Ombudsman and to submit all data or information regarding the health condition of convicted or detained persons, whereby the problem was overcome.

Although most of the complaints of the convicts referred to the problem of teeth and the need for timely dental intervention, the problem of inadequate, more precisely unprovided dental treatment of convicts in the Idrizovo Penitentiary was present this year, as well. Namely, there was no employed dentist in this institution, but the interventions were performed by a dentist employed in the Skopje Prison, who worked in the Idrizovo Penitentiary two days a week. The problem was especially evident during the use of the employees' annual vacations, during which the convicts were left without dental services, and were not brought to the Dental Clinic, that is, dental examinations were not scheduled for the entire summer at the Dental Clinic.

The Ombudsman continuously intervened so that the problem would be solved, after which only at the beginning of December 2019 the Idrizovo Penitentiary employed a dentist, a

dental nurse and a nurse, but the dental office is again not equipped with the necessary equipment for uninterrupted dental services, including with a functional dental chair.

Otherwise, as in previous years, in 2019 it was insufficiently undertaken in terms of equipment of prison clinics with appropriate medical devices and medicines, and in terms of improving the transport of convicts, three new fully equipped vehicles were procured, so there was almost no complaint from a convicted person regarding this issue during this reporting period.

Regarding the recommendation relating to the healthcare of the convicts and detainees, during the past year all healthcare workers from the penitentiary institutions Idrizovo and Skopje Prison were taken over in the Public Health Institutions that perform primary healthcare, in the network of healthcare institutions in the area of Skopje. However, the continuous healthcare of the convicts has not been provided yet, nor has a sufficient number of appropriate and professional medical staff been provided, which still prevents the regular access to a doctor of the convicts, and the prison hospitals are not equipped with all necessary medical equipment. It is worrying that most penitentiaries still do not have medical staff, and healthcare is provided through the city's Clinical Hospitals.

Dissatisfaction with the conditions, especially the inability to maintain personal hygiene, as well as hygiene in the premises where they serve a prison sentence, was expressed by a group of convicts from the women's ward of the CPI "Idrizovo". They pointed out that there are no basic hygiene conditions in this institution, which directly affects the maintenance and preservation of their health, expressing dissatisfaction and disappointment with the indifferent attitude of the prison administration, stating that they are treated as "ordinal" numbers, and not people with basic needs, who after serving the sentence and the re-socialization process, should be included in the social life, with good health.

In a direct conversation with most of the members of this group which filed a complaint, the Ombudsman found that they were dissatisfied, since they did not have hot water, the toilets were broken and did not function, the septic tanks in the yard were not cleaned regularly and spread unbearable stench, and because trash cans are located in front of the entrance to the central kitchen, and due to the non-maintenance of the yard area, there are mosquitoes and other insects in the rooms, as well as cockroaches and taftabits, etc.

After the conversation and the inspection of the facility (Women's Ward), the Ombudsman requested the director of the institution to undertake concrete measures to create the necessary conditions for serving the prison sentence, pointing out that the dignity of convicts should be respected, and in that context to take care of their health and hygiene, which is his legal obligation. In this context, the Ombudsman took the provisions of the Law on Execution of Sanctions into consideration, according to which the director of the institution is obliged to take care of the realization of the rights of convicts, but also of the European prison rules regarding the conditions for accommodation of convicts, which stipulate that respect for the human dignity of convicted persons must be taken into account and that the requirements for the maintenance of health and hygiene must be met.

Although the institution responded that measures had been undertaken to address these issues, following the inspection, the Ombudsman found that the conditions were not significantly improved, both in terms of hygiene in the toilets and bathrooms and in terms of the possibility of using hot water. Namely, during the second inspection it was noted that the sanitary knots in the toilets had not been repaired, there was no regular hot water, and additional heating was not provided in the building, despite the convictions by the institution that maximum efforts were being made to overcome such problems.

During the reporting period, several anonymous complaints were submitted, as well as complaints signed by convicted persons seeking anonymity, fearing repression, in which they reported violations of rights and illegality in the work of officials. The Ombudsman informed the director of the institution about the seriousness of the allegations, with a request to seriously check and investigate the allegations of the convicts, however, the director of the institution

not only did not undertake measures but left an official to investigate the case, although that person is subject to an appeal.

The Ombudsman informed the Director in charge of the implementation of the sanctions thereof, pointing out that when examining certain allegations, regardless of whether they were obtained from convicts or through the Ombudsman or another body, the prison administration should be very careful and the verification of the allegations should be done by applying methods and techniques, without the persons reporting certain irregularities being brought to a state of discouragement and no longer report violations of rights and possible illegalities, which, in turn, can be expected indisputably, if instead of undertaking measures by the authorities it is left that the examination of the allegations are performed by a person mentioned as being involved or informed about such a matter. In this context, the Ombudsman pointed out that measures should be undertaken to protect convicted persons from possible repression, due to reporting inappropriate behaviour, irregularities or illegality in the actions of persons employed in the CPI Idrizovo or who provide some right/protection to the convicts in the CPI Idrizovo.

The Ombudsman, on his own initiative, acted on five cases of death of convicts, and continued the procedure on two cases from 2018, which have been completed after receiving a notification from the Public Prosecutor that no public prosecutor's decision had been adopted, that is, no violent death was established. Thereby, he determined the delay of the procedure for submitting the autopsy finding (protocol) by the Institute of Forensic Medicine, Criminology and Medical Deontology to the competent public prosecutor. Upon the cases from this reporting period, the procedure is still ongoing, that is, a response from the Public Prosecutor's Office is pending.

Again, this year the convicts and detainees filed complaints due to dissatisfaction with the court decisions imposing sentences to imprisonment/ detention, and complained about the manner and procedure of conducting the trial, but the Ombudsman did not act upon these complaints due to incompetence.

The convicted persons, through complaints and conversations with representatives of the Ombudsman, often requested protection or intervention for their relocation, progression, termination of punishment or use of convenience, after which the Ombudsman addressed the director of the penitentiary with a request to examine the possibilities for accepting the requests of the convicted persons, and examining whether the legal conditions are met for each of the cases. Consequently, where the requests were established, the transfer to another department or another penitentiary institution was performed.

Upon the complaints for requesting protection from violent and unprofessional behavior of a person/s by the Security Department, the Ombudsman, in addition to addressing the director of the institution, requested that the situation be determined through supervision by an appropriate Commission and the Directorate for Execution of Sanctions. However, in none of the 12 cases with complaints of torture were the allegations confirmed, that is, the Ombudsman was informed that during the supervision it was determined that the actions of the officials were in accordance with the legal authorizations, that is, that the measures undertaken (use of interventions) were due to bringing the convicted persons to a state of obedience, given that they were found in violation of the order and discipline in the institution, that is, they acted contrary to the provisions of the House Rules of the institution.

The Ombudsman, on a regular and continuous basis, acted upon requests of detained persons for conversation, as well as upon submitted complaints by these persons, in which they most often complained about the court decisions regarding detention, some requested intervention for replacement of the detention with another measure, and in some of the complaints they indicated that they were unfoundedly accused. Regarding the complaints for the health treatment by the health service of the institution, the Ombudsman always intervened and directly through the inspection of the health documentation performed a check for the continuous monitoring of the health condition of the detained persons.

Acting on his own initiative, regarding the physical fight that took place in the Skopje

Prison, when two detainees were physically attacked by other detainees, the Ombudsman undertook a series of actions in order to investigate the event and determine possible violation of the rights of detainees. He inspected the Skopje Prison during which he talked to the detained persons participating in the event and witnesses to this event, he also talked to officials of the institution, as well as inspected the records and documentation, and obtained all the documentation related to the event, including medical records of detainees, video surveillance, and several officials were summoned for an interview.

Based on the established factual situation regarding the case in question, as well as on the basis of the established irregularities related to the functioning of the detention unit of the Skopje Prison, the Ombudsman prepared a Special Report with recommendations for proper performance of the work related to the security of the detained persons, and submitted it to the director of the Directorate for Execution of Sanctions and to the director of the Skopje Prison.

For the purpose of fulfilment of the given recommendations, the Director of the Directorate for Execution of Sanctions and the Director of the Skopje Prison undertook several measures, including: appropriate lighting and video surveillance were provided on the walking area, the manner of taking walks by the detainees within the walking area was changed in a manner in which each room of the detention unit is alone in the walking area, the presence of officials during the movement on fresh air of a detained person is mandatory, upon receipt of newly arrived detainees and convicts, if after the commanders and assistant commanders assessment, one of them poses a security risk, they must be sure to have consulted the higher commander, and in his absence his deputy, timely and detailed record of events in the detention unit and so on.

Otherwise, the specific event was investigated by the Commission for Investigation of the Case at the Institution, during which, for the omissions in the work against several members of the prison police, disciplinary proceedings were initiated, and against three officials disciplinary proceedings were initiated for their suspension.

In the reporting period, the Ombudsman on his own initiative opened a case regarding the health condition of a detainee in Skopje Prison, and after receiving information from his lawyer who through public media reported that he is in serious health condition, without the necessary health treatment and care. A number of actions were taken in connection with the case (conversation with the director of Skopje Prison, the detainee, inspection of medical documentation and conversation with the prison doctor), after which it was concluded that several examinations were performed in state clinics and by the prison hospital all the opinions of the specialists given about the health problems of the detained person were forwarded.

The Ombudsman's team did not find any failures and shortcomings in the handling and observance of the procedure by the prison doctor and his treatment towards the detainee, and additionally in conversation with the responsible person in the PHI Clinic for Gastroenteropathology, regarding the clarification procedure and in a conversation with the doctor who performed the examination of the detained person, he assessed that the legal authorizations and procedures and already established medical practice by the health workers at the Clinic for Gastroenteropathology Skopje were respected, all the necessary medical examinations and health services were performed.

At the end of this reporting year, the Ombudsman inspected Skopje Prison again and in a conversation with the prison doctor he was informed that the detainee regularly received health therapy prescribed by a specialist doctor and his health condition was regularly monitored, so that without finding any violation of the detainee's rights the Ombudsman stopped the proceedings on the case on his own initiative.

Regarding the measure on the recommendation of the Ombudsman for the establishment and implementation of primary and secondary education, it has not yet been implemented, except in the CPI Prison Ohrid, where from November, 2019 the realization of primary education of the convicts from the CPI Ohrid commenced. Regarding the recommendation for undertaking measures for continuous training of

prison staff, last year the employees in the Departments for Security and Resocialization underwent a full training in the field of human rights, which is expected to improve the process of re-socialization of convicts. In terms of the above, trainings were conducted for professional training of convicted persons, both men and women, that is, training for car mechanics for men and training for hairdressers and tailors for women, which are fully completed, and the training for men and women bakers is underway, as well as professional training of convicts for construction workers, cooks, wallpainters, farmers and the like.

CONCLUSIONS

- *In penitentiary institutions, the conditions for serving a prison sentence and detention are still not satisfactory, although the problem of overcrowding has been significantly reduced.*
- *The taking over of the health services from the penitentiary institutions by the Public Health Institutions has further aggravated the situation regarding the healthcare and protection. Inadequate and irregular healthcare remains a serious issue that negatively affects the health and lives of convicts, and there is an additional problem in terms of equipping prison clinics with the necessary medical staff, regular supply of medicines (drugs) and proper equipment of health clinics with the necessary medical equipment.*
- *Convicted persons complain about the treatment by the officials and that they are being physically abused, or that they have been humiliated and humbled, and in no case have the allegations for acting contrary to the law been confirmed by the authorities in the institutions.*
- *Dissatisfaction and revolt among the convicts in the Women's Ward in the CPI "Idrizovo", because the institution does not provide basic hygienic conditions that directly affects their health and prevents regular maintenance of personal hygiene, as well as hygiene in the entire ward in this penitentiary.*

RECOMMENDATIONS

- *Urgent measures should be undertaken to improve the accommodation conditions in penitentiary institutions for serving a prison sentence/detention measure for convicts and detainees and consistent respect for the person and their dignity.*
- *The Ministry of Justice, that is the Directorate for Execution of Sanctions should seriously analyse the situation by providing adequate and complete healthcare to convicts in all penitentiary institutions, ensuring the efficiency and effectiveness of their work, and consequently undertake measures for unhindered exercise of the rights to healthcare and health insurance of convicts and detainees in accordance with international standards. In that context, measures should be taken to equip the health services in the institutions with the necessary professional staff and continuous and uninterrupted access to a doctor for convicts and detainees.*
- *The directors of the penitentiary institutions should objectively and completely investigate the complaints, that is, the cases in which the persons report violent behaviour of the officials and consequently such officials should be properly sanctioned.*
- *Urgent undertaking of all necessary measures to ensure conditions for the unimpeded serving of the sentence by the convicts in the women's ward, by*

- *Concerns have been raised about complaints regarding repression against convicts who report inappropriate treatment and illegality in the work of officials, as well as the unserious attitude of the prison administration to investigating and preventing these occurrences.*

creating opportunities for maintaining personal and general hygiene.

- *The Directorate of Correctional and Penitentiary Institutions should seriously and fully investigate all complaints received from convicts/detainees, indicating omissions in the operation, and ensure that none of the reporters suffers negative consequences, due to submitting a report.*

ELECTION RIGHTS

In 2019, presidential elections were held and, as a result, 54 complaints were filed for protection of the right to vote. Of these, 46 complaints were filed for restriction and violation of the right to vote (of which 5 for exercising the right to vote of persons under house arrest, detention or imprisonment and 2 for sick and weak persons), 4 for irregularities in the work of the electoral bodies, 3 for agitation of representatives of the political parties and distribution of propaganda and other materials and 1 for providing the right to payment of compensation to the members of the electoral bodies.

The Ombudsman, from the actions undertaken and the provided documentation from the State Election Commission (SEC) and the Department for Administrative-Supervisory Affairs in the Ministry of Interior (MOI), in fact, as well as for all past election cycles, confirmed again that to almost all complainants, the right to vote was unjustifiably denied and they were placed in an unequal position in relation to other citizens.

The impossibility of exercising the right to vote in the 2019 presidential elections for this category of citizens is also with a formal excuse of the SEC, which is that with the regular updating of the Voters' List on 01.05.2019, in accordance with the provisions of Article 43 of the Electoral Code, from the Ministry of Interior, no data were submitted for them.

The Ombudsman considers that with this practice of disabling/depriving of the right to vote, the SEC continuously acts contrary to the Constitution of the Republic of North Macedonia, according to which every citizen over 18 years of age acquires the right to vote, which is equal, general and it is directly exercised in free elections by secret voting.

Thereby, the absence of coordination, readiness and professional cooperation between the SEC and the Ministry of Interior, in no case should and must not be a reason for certain persons, although they indisputably on the day of the announcement of the elections have valid ID cards/passports, they renewed or had issued ID cards /passports the validity of which expired in the meantime, to be removed by SEC from the Single Voters' List and to be unable to exercise their right to vote.

In this segment, it should be noted that there are still identified problems arising from

the existing legal restrictions and inconsistencies, as well as discrimination in the exercise of the right to vote for certain special categories of citizens - persons serving house arrest, detention or imprisonment, sick and weak persons, persons with physical disabilities, the blind and visually impaired. It should be noted that the SEC for the presidential elections made certain technical interventions for polling stations to be more accessible for people with disabilities, and also undertook actions to implement a pilot project to enable voting of persons accommodated in two homes for the elderly.

In the reporting year, the competent authorities did not implement the recommendations for overcoming the established situation, with a proposal for appropriate solutions from the special report of the Ombudsman on the exercise and protection of the right to vote, submitted to the Government during 2018.

Such a statement also refers to the adopted measures by the Assembly of the Republic of North Macedonia for the implementation of the recommendations in the area of "Voting Rights".

In particular, no actions were undertaken to amend the Electoral Code, in order for the Ministry of Interior of the Republic of North Macedonia to submit a report to the State Election Commission after the conclusion of the Voters' List, with data on the number of renewed or completely new ID cards, for persons who have meanwhile become of age.

In order to provide equal treatment and protection against discrimination on any grounds provided by law, no measures have been taken from a normative point of view, but only from a technical point of view and not completely to remove all restrictions and adjust the infrastructure and space for the blind, persons with impaired vision, persons with physical disabilities, as well as persons from the category of sick and weak, to be able to exercise their right to vote.

CONCLUSIONS

- *All persons who on the day of the announcement of the elections had ID cards /passports the validity of which expired even though they were renewed in time, as well as the persons who in the meantime became adults and had new ones issued, are continuously deleted by the SEC from the unique Voters' List and are unable to exercise the right to vote.*
- *The competent authorities have not implemented the recommendations for overcoming the established situation, with a proposal of appropriate solutions from the special report of the Ombudsman for the exercise and protection of the right to vote, submitted to the Government during 2018.*

RECOMMENDATIONS

- *The State Election Commission should enable the exercise of the right to vote to all persons who had ID cards/passports on the day of the announcement of the elections, the validity of which expired and which were renewed in time, as well as to persons who became of age in the meantime and had new ones issued and not to delete them from the Voter's List unfoundedly.*
- *The competent authorities should undertake measures to implement the recommendations for overcoming the established situation, with a proposal of appropriate solutions from the special report of the Ombudsman for the exercise and protection of the right to vote, submitted to the Government during 2018.*

RIGHTS OF MIGRANTS/REFUGEES AND ASYLUM SEEKERS

The Ombudsman in 2019, within the project "Improving the legal protection system regarding asylum and naturalization" continued to protect the rights of refugees/migrants and asylum seekers. In that respect, during the year 16 monitoring visits were made in the places for accommodation and detention of refugees / migrants and asylum seekers, as follows: 4 visits to the Reception transit centres "Vinojug" and "Tabanovce", 4 visits to the Reception Asylum Seeker Centre in Vizbegovo and 4 visits to the Reception Centre for Foreigners in Gazi Baba.

From the visits to the Reception Transit Centres "Vinojug" and "Tabanovce", the Ombudsman noted a significant reduction in the number of people accommodated in these two Centres compared to the previous 2018, with the largest number of people coming from Afghanistan and Pakistan.

Thus, for 2019, the increased number of detentions of unaccompanied foreign children in the Reception Transit Centres and in the Reception Centres for Foreigners and Asylum Seekers is characteristic, where they are assigned a special guardian according to the Standard Operating Procedures, but their trace is lost in a very short time. In this regard, the Ombudsman recommended to the competent institutions to undertake measures to strengthen the control over unaccompanied minors for their proper treatment and prevention of voluntary abandonment of the Reception Centres, which will stop the negative practice of losing track of this category of persons, without any data on when these persons left and where they went after their departure.

The Ombudsman especially points out that this is a vulnerable category of people who are subject to possible human trafficking, as well as other types of abuse. He also recommended that the competent authorities, in accordance with the principle of "the best interests of the child", find appropriate alternatives for accommodating unaccompanied children and other vulnerable categories of refugees/migrants and asylum seekers.

Also, the Ombudsman noted a negative practice of accommodating injured refugees in the Reception Transit Centres, as is the case with the accommodation in PTC "Vinojug" of 33 people who were injured in a traffic accident, although the centre does not have the conditions and facilities for adequate care and attention for these people. In that regard, the Ombudsman sent recommendations to the competent institutions to stop the practice of accommodating people with severe injuries in transit centres, as well as undertaking measures to provide appropriate accommodation solutions for these people until their full recovery.

The treatment of detained foreigners in the Reception Centre for Foreigners Gazi Baba encouraged the preparation of an analysis that covers the legal framework of domestic legislation, international standards and guidelines, the situation in the Republic of North Macedonia in the context of immigration detention through statistical data, dealing with unaccompanied foreign children, as well as a comparative analysis and presentation of the situation in several neighbouring countries.

Regarding the five determined measures of the Assembly of the Republic of North Macedonia, on the recommendations of the Ombudsman, only one has been partially acted upon. Namely, regarding the first measure - during the implementation of the forced return of refugees to respect the rights of refugees guaranteed by international and domestic regulations, the procedures to be implemented in accordance with the prescribed procedures and to keep official records, it was not acted upon.

Regarding the second measure - to establish functional and efficient alternatives that will avoid the detention of asylum seekers with the measure of restriction of freedom of movement in places where international standards for detention of asylum seekers are not met. In the Decisions of the Ministry of Interior which impose

the measure restricting the freedom of movement for asylum seekers and their detention, to clearly state the reasons for the legal basis for using this measure as an exceptional circumstance, it has been partially acted upon.

Furthermore, regarding the measure - to undertake measures to provide an interpreter in the Reception Centre for Foreigners for the purpose of smooth and efficient communication between officials in the Centre and detainees, in order to timely and fully inform them about the rights and issues related to their status – it was not acted upon.

Regarding the measure - to enable the detained persons in the Reception Centre for Foreigners - Gazi Baba to exercise their guaranteed right to fresh air within the Centre in accordance with the Rulebook on house rules, was also not acted upon.

Regarding the fifth measure - to establish a functional system for complaints and objections of detainees, in order to protect their rights - it was also not acted upon.

According to the Ombudsman, in the reporting year 2019, the practice of forceful return of refugees by the authorities continued, in no compliance with any legal procedure.

Asylum seekers with restrictive freedom of movement in the Republic of North Macedonia are detained exclusively at the Reception Center for Foreigners - Gazi Baba, and the Center does not meet international standards for retention of asylum seekers, which is especially pronounced in conditions of retention of the vulnerable category of persons in the Center. Hence, the authorities have failed to establish functional and efficient alternatives for retaining asylum seekers.

The Reception Center for Foreigners lacks an interpreter, and as a result there is a problem with insufficient information of the persons detained in the Center in terms of their legally guaranteed rights, as well as the course of the procedures in which they are involved.

Detainees in the Reception Center for Foreigners - Gazi Baba have not yet been allowed to walk in the fresh air outside the Center's premises, despite the guaranteed right to walk for at least two hours, distributed twice a day.

There is no system for complaints and grievances for detainees in the Centers for detention of refugees/migrants and asylum seekers.

OTHER RIGHTS

During this reporting year, the Ombudsman also acted on complaints related to violations of the rights of citizens and all other persons in the field of other rights.

From the presented requests, some of the complaints in the field of other rights were not within the constitutional and legal competencies of the Ombudsman, so acting upon these complaints the applicants were provided with legal assistance and they were instructed on how to protect their rights.

Some of the complaints, as every year, refer to the violation of the right of the applicants due to non-response to their requests submitted to the state administration bodies and other bodies and organizations that have public authorizations. Acting on the complaints with such content, the Ombudsman pointed out to the authorities about the constitutional provision that every citizen has the right to submit complaints to the state bodies and other public services and to receive a response thereto.

This year, the number of complaints in which the citizens requested legal advice from the Ombudsman was lower.

CONCLUSIONS

- *The practice continues for some of the bodies of the state administration and other bodies and organizations that have public authorizations not to notify the applicants in writing about the action on their complaints and requests.*

RECOMMENDATIONS

- *Respect of the constitutional provision that every citizen has the right to submit complaints to the state bodies and other public services and to receive a response thereto.*

LOCAL SELF-GOVERNMENT

Monitoring the general situation of the manner in which the local authorities perform the activities falling within their competence shows that there is still a large number of citizens who are not satisfied with the manner local authorities organize life and work at the local level, but also the extent and manner in which the citizens participate in the decision-making process and the creation of local policies.

On the other hand, there is no visible progress in the interest and motivation of the citizens to be active actors in creating policies that personally affect them. It is necessary to further strengthen the awareness of the citizens about the importance of their participation in the creation of policies at the local level and decision-making. This is a two-way street where the local authorities have obligations and responsibilities, but also the citizens who need to go a step further than the passive participation they practice.

In this part of the Annual Report, the Ombudsman presents the observations on the level of exercising the rights of the citizens before the local government in areas under the jurisdiction of the local self-government, for which the citizens submitted complaints to the regional offices in Bitola, Kicevo, Tetovo, Kumanovo, Stip and Strumica.

Urban planning and construction

The monitoring of the situation in the field of spatial planning through the adoption of general and detailed urban plans and this Reporting year does not show improvement of the situation from those established in previous years. Urban planning provides more balanced development, rational arrangement and use of the space, conditions for normal living and work of citizens in a humanized space, providing a life in a healthy environment. Every municipality that wants to develop its economy, which wants to provide better living conditions for its residents, must continuously adopt, revise, supplement and amend urban plans following the current development trends in the country and in the world, but, of course, following the needs and interests of the citizens.

From the submitted complaints from the citizens, it is clear that such goals of urban spatial planning are not yet applied in reality by the local authorities. For example, a citizen of the municipality of Bitola asked for protection of his right to property and free disposal of it, because the Municipality of Bitola after more than 30 years does not realize the subject street that covers his plot, nor does it intend to start expropriation on it for the realization of the street. In the response submitted to the Ombudsman, the municipality pointed out that part of the plot owned by the citizen enters the profile of the planned collector street in accordance with the General Urban Plan - GUP of the City of Bitola and the Detailed Urban Plan for that part of the city. The construction of this street should increase the flow and safety of traffic, provide balanced spatial development and increase the quality of life of people in urbanized space and is a primary road (collection street) determined by the GUP of the City of Bitola, and remains so in continuity in all urban plans adopted so far (GUP and DUP). For years now, the Ombudsman has been pointing out that this long-standing problem faced by many citizens in our country, unfortunately, needs to be overcome. He points out that in this way, by not reviewing, or not realizing the GUPs and DUPs for a long time by the authorities, the rule of law of citizens' property rights is unjustifiably hindered and it must stop immediately. Nothing has been done in this area yet, the authorities, on the one hand, have a desire to improve the overall urban space in which citizens live, but, on the other hand, they do not have the means to do so, which indirectly leads to the obstruction of the right of the citizens of peaceful and complete rule of their property. The Ombudsman, in accordance with his authority, will continue to detect this burning problem and to seek the authorities (either central or local) either to find financial means and realize the GUPs, or DUPs, or to change them to a way to "release" the unimpeded possession of citizens' real estate.

In this regard, the Ombudsman notes that the procedure for adopting urban plans has been delayed, primarily due to non-compliance with legal deadlines, either by local authorities, or by the Ministry of Transport and Communications, which gives an opinion on it, or by the planners. Regarding the delay, the authorities blame each other, without taking specific and effective measures within their competence to prevent this phenomenon.

A citizen from Ohrid requested intervention from the Ombudsman due to the delay of the procedure for amending the DUP, a procedure that has been initiated since 2012 at his request as an investor of project documentation for the planning period 2013-2018. The procedure for amending the DUP has been postponed for 7 years due to the inaction of the Municipality upon the remarks of the Ministry of Transport and Communications for elimination of the listed shortcomings in the plan. At the request of the Ombudsman, the Municipality informed that it acted in full on the remarks of the Ministry, and the Ministry informed the Ombudsman that although they had repeatedly pointed out to the Municipality the shortcomings in the planning documentation, they have not yet been removed. Finally, after the Ombudsman addressed the Municipality again, it replied that the delay was due to untimely action on the official notes by the Planner. Following the chaotic situation, in which everyone shifts the blame to another, the Ombudsman submitted an indication of a violation of the right of the citizen and asked the Municipality to immediately take efficient and effective measures to continue the procedure for enacting the detailed urban plan.

Regarding the application of the Law on Public Greenery, the Rulebook on planning, designing, raising and maintaining greenery, which came into force at the beginning of October 2019, has finally been adopted. The Ombudsman expects consistent application of this Rulebook as a bylaw of the Law on Urban Greenery in the preparation of future planning documentation and the issuance of building permits. Consistent application of this Law and Rulebook will enable reduction of air pollution and climate change, healthier and better quality of life of citizens, due to which in the coming period the Ombudsman will closely monitor the implementation of these acts by local authorities.

Regarding the area - construction, this reporting year there are still plenty of complaints due to administrative non-performance of the adopted final administrative acts for demolition of illegal buildings, which are not covered in the process of legalization. In handling these

complaints, the Ombudsman notes the same situation as it was last year, as it has been for years back. In particular, such administrative enforcement is almost never carried out by local authorities. This year, the explanation of the local authorities for such a serious violation of the rights of peaceful rule of property of citizens is identical to the previous ones - either the procedure for selecting a contractor is ongoing, or the administrative execution of illegal construction is included in the Programme-Action Plan with execution dynamics for the current year, which in fact again in reality means - no demolition in a multi-year period. The only rare cases of removal of illegal buildings is when the illegal builder himself acts upon the adopted administrative act and removes the building himself.

Local authorities, by delaying the procedures for removing illegal buildings, are only encouraging illegal builders to continue building until full construction, and later very rarely decide to demolish the fully constructed building. They continue not to apply the remaining authorizations they have - making decisions to stop construction and filing criminal charges against illegal builders. Also, this reporting year, the body responsible for performing the activities in the field of spatial planning, when it found that the illegal builder did not act upon the decision to remove the construction, and the construction inspector did not conduct administrative enforcement, did not initiate misdemeanour proceedings against the construction inspector before a competent court, the authorization for which is provided by the provisions of the Law on Construction.

Unlike last year, when stagnation was established regarding the cooperation of the construction inspections with the Ombudsman and they acted upon the requests of the Ombudsman for performing inspection supervision only after the submission of urgencies and after a longer period of time, this reporting year progress was noted again. Specifically, the actions on the requests were performed immediately, and most often the construction inspectors had already acted on the requests for supervision of the citizens, but they were late with the submission of the notification thereof. However, the prompt action of the construction inspectors upon the requests for supervision and adoption of administrative acts for removal of the illegal constructions did not change much in the urban chaos and obstruction of the peaceful rule with the ownership of the endangered citizens. This is due to the fact that the construction inspectors in the executive departments which are in charge of administrative performance of the removal acts were not at the level of their task. The explanations given by the local authorities, the Ombudsman indicated in the text above are not a valid reason and the local authorities must finally find effective means (providing financial resources and timely initiation of a public tender procedure for a company that will carry out the removal of illegal buildings) so as to overcome such a negative reality. This year as well, the Ombudsman pointed out the need to strengthen the inspection departments, both in terms of personnel and material resources, in order to increase the preventive activity of the inspection departments for the purpose of timely prevention of illegal construction activities.

The Ombudsman identified obstruction of the rights of citizens by the authorized construction inspectors, in the delay in repeating the procedures upon appeals filed regarding their administrative acts when they are annulled by the second instance body, so that such procedures continue for several years. After the intervention of the Ombudsman, the repeated procedures received their own course and new administrative acts were adopted, but the question arises as to what happened with those citizens who did not address the Ombudsman for protection of their right. Therefore, the local authorities must have a legal obligation to provide conditions for acting on the procedures within the legally prescribed period, ensuring professional and effective performance of the tasks within the competence of the inspectorate in fast and efficient procedures, as the only way to guarantee citizens equality in achieving their rights.

The Ombudsman also noticed a case when a construction inspector started conducting a procedure upon a citizen's report, but due to the justified absence of that inspector, the procedure was taken over by another construction inspector, after which the procedure lost continuity. Specifically, the inspector started a new procedure, with a different status of the reported

illegal facility, which gave the procedure a completely different course. Such creation of a new case upon a new report, and for essentially the same factual situation and the same facility, for the Ombudsman is inadmissible and extremely unprofessional. The principle of fact-finding research ex officio derives from the rule of law, especially from the principle of legality, and contributes to the security and reliability of law enforcement and public confidence in public administration. If this principle was respected, the authorized construction inspector would conclude that for the same request of the applicant, that is, for the same facility subject to construction, an administrative procedure is already underway which has not been finally completed. By not applying this principle, the citizens' right to objective legal protection is violated by the first instance body, due to which they are forced to initiate proceedings before the second instance body, and often to initiate an administrative dispute.

Even this reporting year, the citizens of some municipalities were still facing the problem of lack of an employed construction inspector in the municipal administration. The lack of a construction inspector, and thus timely supervision, almost always results in illegal builders completing the construction, cases in which the intervention of the construction inspector even when it has been provided - becomes pointless. The conclusion of Inter-Municipal Cooperation Agreements that ensure the performance of the competence of the municipality in the field of construction this year also continue for an unjustifiably long period of time, such agreements are not infrequently unsuccessful, or for a short period of time these agreements are terminated, due to which citizens who reported illegal constructions in this period remain without legal protection that the municipality was obliged to provide by law. The Ombudsman indicated again that local authorities must finally overcome this problem that has been going on for years and provide sufficient funding for the employment of construction inspectors in the adoption of the municipal budget.

Characteristic of this reporting year is that the issue of legalization of illegal buildings is again relevant. Specifically, a number of complaints were filed with the regional offices due to unjustified and illegal delay in the procedure for adoption, or signing of the final administrative act - Decision on determining the legal status of an illegal facility. In this way, the mayors unjustifiably delayed the enjoyment of the already acquired property right, upon a procedure previously envisaged by law. The Ombudsman submitted an indication to the mayors requesting that the administrative act be adopted immediately, or that if it was prepared by the municipal administration, it be signed by them without delay. The mayors, without exception, acted upon such indications of the Ombudsman, after which the citizens finally exercised the right of ownership over the building.

Consumer rights

The ability of public utility enterprises to provide efficient and effective utility services, with high quality and at affordable prices, while preserving the environment and supporting local, regional and economic development, is a challenge for local authorities they face each year.

This reporting year marks progress in terms of the quality of utilities that citizens receive from local authorities through public enterprises established by them. Namely, the submitted complaints show that a small number of citizens reacted to the manner of garbage collection, water supply, public lighting, but on the other hand the number of citizens who reacted to the attempt of public companies to collect obsolete debts has increased.

This reporting year, the public enterprises continue with the practice of submitting warnings to the citizens requesting the collection of outdated debts for utilities, and this year especially for unpaid water supply, under the threat of forced collection, or under the threat of disconnection from the water supply network. The Ombudsman managed to protect the rights of the citizens who requested intervention, not to pay what they are not legally obliged to pay.

Namely, after the letters submitted by the Ombudsman, the public enterprises terminated the procedures by submitting warnings for payment of obligations that occurred several years ago. However, the public drinking water supply enterprises, accepting the Ombudsman's instructions for the illegal request for collection of debts older than one year, and usually older than several years, on the other hand noted that they reserve the right to apply the provisions of Law on drinking water supply and sewage disposal - disconnection from the water supply network. The Ombudsman considers that this manner is also a serious violation of the consumer rights of the citizens, who are again under pressure to pay debts that they are legally exempt from paying. Having the choice to pay unfounded debt and disconnection from the water supply network, a large number of citizens decided to pay the debt. Such an interpretation of the provisions of the Law is extremely unacceptable and manipulative for the Ombudsman, because it is inadmissible for a citizen to be disconnected from the water supply network for a debt incurred a year or several years ago. This provision is only applicable if the public enterprise decides in such a way to require the citizen to pay his current liability, instead of initiating forced collection. Due to this factual situation that has been going on for years, the Ombudsman on this occasion points out that public enterprises must start fully implementing the laws and delete the debts of utility users from the bookkeeping records, for which they did not initiate in time appropriate, statutory procedures for debt collection. The non-cancellation of debts from their records leaves room to continue with the illegal procedure for attempting to collect funds from the citizens, which many citizens under the threat of forced collection still pay. With this way of acting, public enterprises acquire financial resources for their own benefit to the detriment of citizens, which may have elements of criminal liability. This is especially true because the management of the company is aware, or should be aware, that they are seeking and collecting debts from citizens who are obsolete for collection.

Another feature observed in the collection of old debts after several years is that some enterprises offer citizens a reduction in the amount of the debt by a certain percentage, usually 30%, and for the rest they conclude contracts for payment in instalments. This would be welcomed if it is a current or one-year debt, but for a debt which is several years old, with no timely litigation, it is again a manipulation of the citizens and a violation of consumer rights and as a practice must be stopped immediately.

Public companies are also unaware of the stage of the lawsuits they have filed for debt collection before 2011. Justifying the request for debt collection, they often inform the Ombudsman that the debt was timely litigated and upon his request they submit the numbers of the court cases. The actions that the Ombudsman continues towards the courts in order to ascertain the stage of the case, show that the court proceedings were stopped several years ago, or more than 10 years have passed since the court decision came into force, without starting any enforcement actions, due to which the citizen is not obliged to pay this debt either.

The Ombudsman noticed occurrences when during the control of the accounting card of the citizens, which is kept by the enterprises, he concluded that the requested debt does not correspond with the one recorded in the card by the enterprise itself. For example, one citizen was asked for the amount of spent and unpaid water in the amount of 3,144.00 denars, so that after the intervention of the Ombudsman it was concluded that the real debt was only 1,032.00 denars. Such "mistakes" are inadmissible for an enterprise that should perform its activities in a professional manner and in the interest of the citizens.

The Ombudsman also managed to cause an annulment of a decision made by the board of directors of a public enterprise for the supply of drinking water. With the Decision, the unprincipled recipients of services for which a well-founded suspicion of manipulation with the water meter was found were punished with a request for collection of 600 cubic meters of consumed water. Pointing out that such a decision is illegal and such authorization is not given by the provisions of the Law on Supply of Drinking Water and Urban Wastewater, and thus it is null and void, the Ombudsman asked the company to immediately put it out of force, which the enterprise did.

Complaints were also submitted to the Ombudsman by residents of villages who have built a water supply network with their own funds, but who had problems with water supply. In these complaints, the Ombudsman stated that public enterprises do not manage these water supply networks, but expressed their readiness to take the necessary measures and actions to overcome the problems, first with the insight of experts, and then to provide the necessary funds for repairment of the water supply network. That was what they did, and after repairing the network and performing chemical tests for bacteriological correctness of the water, the residents had water again. Following this, a procedure was launched to take over the water supply network in the possession of the companies. In other complaints in which citizens reacted to the interruption of water supply, or having water only for a few hours during the night, the Ombudsman concluded that the local authorities and public companies are taking measures to repair the defects, or measures to ensure regular and quality water supply and they are in the final stage (construction of a filter station, projects for a new water supply network). The Ombudsman points out that in the 21st century it is impermissible for citizens not to be provided with unhindered enjoyment of one of the existential rights - access to water and demands that effective and efficient measures be taken by local authorities to ensure this as soon as possible to their citizens.

Regarding public lighting, it remains a problem that must be institutionally resolved, through amendments to the Law on Communal Fees, as the only way for citizens to pay a utility fee for utility services that they actually use. The small number of complaints filed on this basis, according to the Ombudsman, does not mean that the problem has been resolved. The payment of this utility fee is still made by citizens in settlements where it has not been put into operation, by citizens where the nearest lighted place is located one kilometre from their home, as the timely and rapid replacement of non-functioning bulbs is not done quickly and easily on the streets.

The Ombudsman welcomes the tendency of local authorities to expand the scope of citizen coverage in subsidizing utility bills. Namely, some local authorities this year decided in addition to socially disadvantaged citizens also to subsidize single parents, families in which one parent had died, including pupils and students who are temporarily staying in the municipality where they are educated. We expect the other local authorities to do the same next year.

Labour relations

Unlike last year, when complaints in this area were not filed by employees of municipal administrations and public enterprises, this reporting year, complaints were filed by those employees, without emphasizing that the violation of their employment rights was done on a political basis, or political revanchism, which is also characteristic of this reporting year.

The complaints filed in this area are based on non-payment of severance pay when exercising the right to old-age pension, determining the percentage of payment of salary during suspension from work, reduction of salary, selection of candidates for employment and the like.

Regarding the submitted complaints for non-payment, or payment in a smaller amount of severance pay when the employee realizes the conditions for the right to old-age pension, the Ombudsman established violations of employees' rights, due to which he submitted a warning to the directors of public enterprises or mayors regarding their legal obligation for the people to exercise this right in a timely and accurate manner. Namely, he pointed out that the employee who will acquire conditions for retirement, acquires the right to severance pay in accordance with the Law on Labour Relations and the General Collective Agreement for the public sector. According to the General Collective Agreement for the Public Sector, workers employed in the public sector in case of retirement are paid double the amount of severance pay calculated on the basis of the average monthly net salary per employee in the Republic of North Macedonia

published by the day of payment. In some of the complaints, the directors and mayors acted on this indication and removed the previously obstructed right, and in cases where they did not, the Ombudsman advised citizens to exercise the right to severance pay by filing a claim for damages for unpaid severance pay to the competent court.

Acting on complaints filed by employees of a public enterprise who have been suspended from work, the Ombudsman concluded that both employees had been removed from their jobs under Article 37-y of the Law on Public Enterprises and Article 83 of the Law on Labour Relations, because the Basic Public Prosecutor's Office charged them with a crime committed at work or in connection with work. However, the Ombudsman noted the violation of the right of the complainants, committed by the Enterprise, which refers to a certain percentage of the salary during the suspension, more precisely to the decision on their possible criminal liability by the competent authorities and possible termination of the Employment Agreement. In the submitted indication to the director of the enterprise, the Ombudsman pointed out compensation during the suspension in the amount of 50% of the salary of the employee received the previous month by the respective employee until the decision on their responsibility, it is true that in the provisions of the Law on Administrative Servants such a compensation is 60% of the employee's salary, but it is also true that the employer should apply the provisions of the collective agreement if they are more favourable to the employee, which in these specific cases is applicable. Specifically, the Ombudsman pointed out the provisions of the Law on Labour Relations, according to which employment is regulated by this and other laws, collective agreement and employment contract. The provisions of the same Law stipulate that the general collective agreement for the public sector is applied directly and is obligatory for the employer and the employees in the public sector, and the collective agreement at the branch or department level, is applied directly and is obligatory for the employers who are members of the employers' association signatories to the collective agreement. These provisions clearly and unambiguously indicate the obligation to apply the provisions of the collective agreements - the Collective Agreement on Communal Activities of the Republic of North Macedonia and the Collective Agreement of the Public Enterprise, regarding the determination of the employee's salary compensation during job suspension. The provisions of the Collective Agreement for the Communal Activities of the Republic of North Macedonia stipulate that for the duration of the dismissal of the employee, the employee is paid a salary in the amount of the employee's salary until the decision is adopted. According to the provisions of the Collective Agreement of the public enterprise itself, it is also provided that by written order of the director the employee is removed from the enterprise with compensation in the amount of the employee's salary until the decision to dismiss the employee and annul their employment contract was adopted. Taking into account the above-mentioned provisions of the collective agreements, the Ombudsman pointed out the violation of the right of the two employees by paying 50% of the salary they received for the last month before the suspension decision was adopted, and requested the director to remove the violation immediately, in a way that appropriate actions will be taken and an administrative act will be adopted which will regulate the pay of the amount of compensation to the workers before the adoption of the decisions for their suspension from their job, and at the same time asked for additional payment of up to 100% of the salary for the months for which the workers had already been paid only 50% of the amount of the salary they received.

At such an Indication and request for removal of the violation of employment rights, the public enterprise informed the Ombudsman that the employees had meanwhile filed a lawsuit before a competent court, in which case the Ombudsman in accordance with the provisions of the Law on Ombudsman stopped the procedure.

A complaint was submitted to the Ombudsman by an employee of the municipal administration, who considered that his employment rights were violated by an order issued by the Mayor to perform the work tasks in the premises of a public enterprise, instead of performing his tasks in the municipal building. Taking into account the general regulations on labour relations, according to which the employee is obliged to conscientiously perform the work at the workplace for which he has concluded an employment contract, in time and place, which are

determined for the performance of work by the employer, the Ombudsman requested information on the reasons that led to this decision of the Mayor, and in order to check whether they are objectively sustained. Such a request received a short response from the Mayor that the order had been withdrawn.

In this domain, the Ombudsman points out that such powers should be exercised by the mayors only in order to improve the work of the Municipality, easier and more efficient performance of work tasks by the employee and extremely easier access of citizens to the specific service, and in no case to violate the dignity of the employee and to discriminate against him/her on any grounds.

The secretaries in the primary and secondary schools in the Municipality of Ohrid requested the intervention of the Ombudsman to ascertain the legality of the reduction of their salaries after the conclusion of the Agreement between SONK and the Ministry of Education and Science, concluded on 06.09.2018. Namely, the Municipal Council adopted a Decision on determining the value of the point for the salaries of the administrative employees in the educational institutions, in accordance with the provisions of the Law on Administrative Servants. 4 months after the conclusion of this agreement, the Ministry submitted to the Municipality of Ohrid, more precisely at the end of November, an indication indicating the miscalculation of the salaries of the employees in primary and secondary education, with the explanation that the calculation should be performed in accordance with the Collective Agreements for primary and secondary education, and not in accordance with the Law on Administrative Servants. The legal chaos arose due to the different interpretation of the provision of the Law on Administrative and Civil Servants. The Municipality of Ohrid stated that the secretaries of the schools as administrative employees should have their salaries calculated in accordance with this law, contrary to the indication of the Ministry of Education and Science that the calculation of salaries for school secretaries should be done in accordance with the Collective Agreements for primary and secondary education. The situation was further complicated by the blocking of the payment of salaries to all school employees in the Municipality of Ohrid by the Ministry of Finance, until all previously paid higher salaries to school secretaries and other administrative servants in the schools are returned.

In order to overcome the situation, the Municipality of Ohrid submitted to the Assembly of the Republic of North Macedonia a request for authentic interpretation of Article 85 paragraph 1 of the Law on Administrative Servants. However, this request was not justified by the Assembly of the Republic of North Macedonia, because this legal provision is clear and precise, explaining that the secretaries in the primary and secondary schools are administrative servants and for them the provisions of the cited law in the part of salaries and salary allowances are applied, unless it is not regulated in a different manner by a specific law or collective agreement.

For that reason, the school principals adopted decisions that oblige the administrative servants with a refund of extra paid funds relating to salaries for the months when they were paid according to the Law on Administrative Servants.

Such untimely communication between the central and local government on issues that are essential for employees, such as the amount of their salary is inadmissible and extremely unprofessional and leads to legal uncertainty among employees in the enjoyment of their employment rights.

In the procedures related to the selection of candidates upon the published job advertisements, the Ombudsman does not find any violation of the rights of the applicants - unselected candidates, because either they did not fully meet the conditions provided by law, or in the candidate selection the directors of public enterprises and schools exercised their discretionary right to choose a candidate from the candidates who meet the requirements for the specific job.

The Ombudsman pays attention to the fact that if one of the basic principles of the Law on Public Employees is the principle of expertise and competence, according to which the employment in the public sector is conducted by publishing a public/internal announcement, whereby "in a transparent, fair and competitive procedure for selection, the most professional and com-

petent candidate for the job is selected ", it is necessary in the special laws for this procedure to be determined, so that it will enable the application of this principle, but in most special laws it has not yet been provided.

Finance and taxes

Unlike last year 2018, when no complaints were filed with the regional offices in this area, this reporting year most numerous requests were received for the demands of local authorities to collect taxes for a period longer than 10 years.

In acting on the complaints, the Ombudsman concluded that the citizens themselves do not comply with the provisions of the Law on Property Taxes in terms of their obligation to submit tax report for inherited property within 15 days from the date of entry into force of the inheritance decision. So, when they initiated a procedure for registration of real estate before the Agency for Real Estate Cadastre, usually after a period of 10 and more years from the adopted inheritance decision, they encountered a problem, because according to the provisions of the Law no registration can be performed without proof of paid tax on the transfer of the right of ownership of real estate in the cadastral and other public books. On the other hand, the municipal administrations, unaware that the registered taxpayer has died, continue to submit property tax decisions in his name, warnings for forced collection or decisions for forced collection. According to the provisions of the cited Law, if the taxpayer dies before the amount of the tax liability is determined, the obligation passes to the heirs, and the collection is maximally done up to the amount of the inherited property. This obligation of the heirs is also provided by the Law on Inheritance, according to which the heir is responsible for the debts of the testator up to the amount of the value of the inherited property. However, the question arises as to whether the municipal administration should write off such debt, once it was determined that a person who died a long time ago was being indebted, not only because of the inability to collect such debt from a deceased person, but also on the basis of the occurrence of the institute of obsolescence. In cases where the heirs file a tax report in their own name after the inheritance procedure and they are registered as taxpayers of the inherited property, cases are usually noted that the tax is usually paid on behalf of the deceased. It is also common for heirs to initiate the inheritance proceedings themselves after several years had elapsed since the testator's death. To overcome such real problems with the collection of property tax, systemic solutions are needed, such as regulating the time period in which citizens will be obliged to initiate an inheritance procedure, in order to determine the right to property in time, and thus to enable legally established collection of property tax, as well as the possibility for the municipal administrations to be notified ex officio by a notary public or a competent court of a conducted inheritance procedure, in order to register the new taxpayers and deliver the tax decisions to them.

Regarding the requests for collection of property tax from taxpayers for a period of more than 10 years, the Ombudsman found this year, as well, that the municipal administration in most cases could not prove that the warnings for payment of unpaid tax, or decisions for forced collection were submitted, but also received personally by the taxpayer in order to create an indisputable cessation of obsolescence. In the absence of a personal signature from the taxpayer of the delivery note, or a signature that the taxpayer does not recognize as his own, it is reasonable to doubt whether such a manner of delivery terminates the institute of obsolescence. The Ombudsman considers that he should indicate the need for the municipal administration to unequivocally apply the provisions of the laws that regulate the manner of delivery of administrative acts that oblige citizens to pay taxes. At the same time, to fully professionally and indisputably record in which of the ways provided by law, the notices for overdue and unpaid tax debt to taxpayers are submitted, as they would be an undisputed tax administrative act that produces legal consequences for taxpayers. As for the payments made in the name of property

tax - to fully apply the principle of determining the factual situation, provided by Article 10 of the Law on Tax Procedure and with the payments made by citizens (although most often citizens stated the year for which the tax is paid) the debts from several years ago are not closed.

Regarding the indication of the municipal administration that it must collect taxes for 10 years back, because the Mayor did not submit a proposal for permanent write-off of tax liabilities to the Municipal Council, this reporting year, as well, the Ombudsman indicates that it is unacceptable and legally unsustainable. The municipal administration is obliged to respect the Law in terms of obsolescence for tax collection and not to require citizens to pay for tax that is obsolete, regardless of whether it is relative (5 years) or absolute (10 years) obsolescence. There is no causal link between the bookkeeping permanent write - off of tax liabilities with the legal collection of those liabilities, namely the obsolescence of tax claims, in none of the provisions of the Law on Property Tax is it conditioned on whether the obsolete claims are written off or not in terms of bookkeeping.

Although the Law on Property Taxes does not provide for the possibility of payment of property tax based on solidarity, still some municipal administrations, although they adopt individual decisions on property tax, still receive tax payment from only one heir, at his request, and who has interest in transferring the right of ownership in his name, as they receive tax payments, in the name and at the expense of the owner, from persons who are not owners of the property. In such cases, the Ombudsman pointed out that by the municipal administration these persons should be warned that if they pay a debt in the name of a third party, according to the Law on Obligations they have no right to demand return, that is, compensation of those funds.

This reporting year, the Ombudsman paid attention to the need to reconsider the legal solution that abolished the second instance body for deciding on citizens' complaints in relation to the decisions that oblige them to pay taxes. This, especially since most of the citizens who have faced any problem in this procedure, do not file lawsuits with the Administrative Court. The main reasons for this are the citizens' disbelief that the lawsuit would change something, the costs required to initiate the procedure, as well as the long duration of the administrative disputes.

Environment

Local self-government has a key role in solving environmental problems and environmental protection and in accordance with the legislation in this area has the right, but also the duty in its area to undertake all measures and activities for protection and improvement of the environment, to provide all necessary measures and to prescribe procedures that ensure the realization of the right to access information and public participation in the adoption of decisions related to the state of the environment. Naturally, for the actual realization of these competencies, it is necessary to provide sufficient financial resources for the protection and improvement of the environment in the budget of the Municipality.

Besides such responsibilities, local authorities have been failing to deal effectively with environmental issues for years, especially with ambient air pollution, waste management, illegal landfills and fires. This reporting year, as well, in the major cities of Skopje, Tetovo, Bitola, Kicevo, Kumanovo, air pollution is again at an alarming level.

Progress has been made in taking concrete measures to reduce ambient air pollution by larger municipalities, where the problem is most pronounced: introducing two-shift work to inspection services, subsidizing inverters, installing environmentally friendly heating and cooling systems in kindergartens, change of old doors and windows in schools to provide energy efficient facilities, providing air purifiers in kindergartens and schools, frequent washing and

cleaning of streets and sidewalks, aerosolization and so on.

All of these measures to reduce ambient air pollution, however, have not had a significant effect, and PM10 particles remain several times above the allowable limit in the most polluted cities. Outdoor waste incineration, which in addition to air pollution poses a threat to the safety of citizens, the uncontrolled use of inappropriate fuels in individual homes and in small-scale industrial installations under the jurisdiction of local self-government, cannot yet be effectively controlled and thus sanctioned by local authorities. There is also insufficient coordination of state and local inspectorates, which creates gaps and daily non-coverage of a number of ecologically most problematic points, especially in municipalities where there are industrial facilities, which actually lowers the efficiency in reducing air pollution.

The situation with waste disposal is more than alarming. In no municipality, with the exception of the city of Skopje, is there a landfill that meets minimum environmental standards. Landfills are usually places on the outskirts of settlements that are neither marked nor fenced, nor do they have a guard service, and the only thing that indicates that the waste is deposited here is the scattered garbage around the road and the unbearable stench. In May, the Ministry of Environment drafted a new Draft-Law on Waste Management. With the adoption of the new law on waste management, it is expected to enable the establishment of a functional system for regional waste management and construction of regional landfills, and at the same time closing of all non-standard landfills and garbage dumps. Although the law was not adopted during 2019, there are already projects funded by IPA funds, all the necessary documentation has been prepared for the system to enter into force and based on that certain locations for construction of landfills have been determined, but now the problem is that some of the local authorities are not satisfied with these locations, because the citizens do not want landfills in their municipalities. According to the Ombudsman, this reaction of the citizens only is due to their insufficient information, which means what a landfill built according to standards looks like, where waste will be selected and recycled, where it will be treated and used, which will not endanger their health, and the level of environmental protection will increase. Having in mind all this, the Ombudsman again points out the need to take effective and continuous measures for educating the citizens about the importance of living in a healthy environment, as well as to provide them with detailed and understandable information about all activities undertaken in the direction of its protection and promotion.

However, despite this situation that we had in 2019 in this area, still, similarly as in the previous year, only a few complaints have been filed with the regional offices. Again, the complaints concerned specific personal problems faced by the complainants, which involved unbearable noise from the propulsion engines of a private sawmill, clogging of a sewer leading to the splashing of wastewater from a manhole, a clogged water canal that floods the settlement in the case of heavy rain, smell and smoke from a brewery facility located in a city area.

Acting on the complaints, the Ombudsman stated that although the inspection services reacted and performed control inspections, the citizens still did not receive efficient and timely protection, due to lack of an environmental inspector, or starting a business without a previously submitted and approved environmental report by the local government. Therefore, the Ombudsman again points to the need to improve the organization of inspection services, especially providing financial resources for the employment of at least one environmental inspector in municipalities where there is none, as a basic precondition for preventing environmental pollution, and then for securing the right to protection.

It is time for local authorities to find mechanisms to sustainably integrate environmental protection into the municipality's local, economic and social development. When preparing local environmental plans, specific, realistic, but also achievable goals should be set with appropriate measures and actions that need to be implemented, as a precondition for realistically improving the situation in the field of environment. The Ombudsman points to the need for integrated and coordinated action by all stakeholders in local and central government, as well as cooperation with the NGO sector for easier and above all more efficient and effective management of environment protection challenges.



EXAMPLES FROM THE PRACTICE

NP no. 105/19

A citizen from Tetovo filed a complaint with the Ombudsman, requesting intervention in the Office for Fighters and War Invalids' Affairs (the Office) due to non-action upon his request.

This is because the applicant submitted a request in Albanian to the Office, but received a letter from the Office informing him that the request should be submitted in the official language of the Republic of Macedonia to the Office for Fighters and War Invalids' Affairs, Regional Unit – Tetovo, which would provide him with relevant and specific information.

The Ombudsman, acting upon the complaint, initiated a procedure and addressed the Office for Warriors and War Invalids' Affairs, pointing out to the Office the obligation to consistently apply the provisions of the Law on the Use of Language spoken by at least 20% of citizens in Republic of Macedonia also in the units of local self-government.

After the actions taken by the Ombudsman, the Office for Fighters and War Invalids' Affairs reported that it acted upon the indication of the Ombudsman and a response was submitted to the applicant in accordance with the Law on the Use of Language spoken by at least 20% of citizens in the Republic of Macedonia and in the units of local self-government.

NP no. 1787/19

A citizen from Skopje filed a complaint with the Ombudsman, requesting intervention because the Commission for Deciding on Denationalization Requirements for the Municipalities of Gostivar, Tetovo, Kicevo, Debar and on the Request for Denationalization submitted by the elders of the religious buildings of the religious communities in the Republic of Macedonia, based in the Municipality of Gostivar, did not act upon the request of the applicant requesting the issuance of a copy of the Agreement-Settlement between the Republic of Macedonia and the Holocaust Fund of the Jewish People of Macedonia and the Jewish community in the Republic of Macedonia.

Following the request of the applicant, the Ombudsman initiated a procedure, addressing the Commission and requested that a copy of the Agreement - Settlement between the Republic of Macedonia and the Holocaust Fund of the Jewish People of Macedonia and the Jewish community in the Republic of Macedonia be issued.

As a result of the undertaken actions, the Ombudsman was informed that the Commission submitted a certified copy of the Agreement to the submitter, as well as data on the period in which the settlement between the Republic of Macedonia and the Holocaust Fund of the Jewish People from Macedonia took place.

NP no. 3059/19

After receiving information that settlements in the village of Grcec, Municipality of Saraj, including the primary school, have been without electricity for several days, the Ombudsman initiated a procedure on his own initiative, and immediately established contact with the responsible officials of EVN Macedonia JSC - Skopje, pointing out that collective disconnection was unacceptable and it represented a collective punishment and injustice, especially to pupils and residents who are regularly connected to the network and regularly pay their electricity bills.

After the intervention and the indications given by the Ombudsman, the problem with the electricity supply in the village of Grcec was solved and normalized.

NP no. 359/19

The citizen K.S. from Skopje submitted a complaint for protection of his constitutional and legal rights on the basis of denationalization to the Ombudsman.

Acting upon the complaint, the Ombudsman from its content, the received explanations, information and evidence, the circumstances of the case, concluded that it was established.

Specifically, although with the final Verdict U-2 No.165/2016 dated 23.02.2017 of the Administrative Court, the lawsuit of the aforementioned citizen was proclaimed to be grounded by the Commission for deciding on the requests for denationalization based in the Municipality of Centar – Skopje, it has still not been acted thereupon.

Taking this situation into consideration, the Ombudsman pointed out to the relevant Denationalization Commission to take action in order to execute the relevant verdict of the Administrative Court and to adopt a new decision on the subject request for denationalization.

Thereby, from the received explanations, information and evidence, the Ombudsman concluded that the Commission for Denationalization based in the Municipality of Centar acted upon the indication.

NP no. 1863/19

Lj. E. from the village of Semeniste-Saraj filed a complaint with the Ombudsman against the City of Skopje on the basis of property tax.

Namely, the City of Skopje deprives the aforementioned citizen of the entire amount of money that he receives on his transaction account for more than two years, on behalf of the pension, for a debt based on property tax by, prohibiting the use of funds.

Taking this situation into consideration, the Ombudsman pointed out to the City of Skopje that actions should immediately be undertaken to unblock the transaction account of the respective citizen and all unjustifiably collected funds that are his income on the basis of pension to be returned.

Thereby, from the received explanations, information and evidence, the Ombudsman concluded that the City of Skopje acted upon the given indication.

NP no. 396/19

A TV station from Skopje, submitted a complaint to the Ombudsman requesting intervention in the Centre for Real Estate Cadastre in the Agency for Real Estate Cadastre (the Centre).

Acting upon the complaint, the Ombudsman from its content, the received explanations, information and evidence, the circumstances of the case, concluded that it was established.

Taking the situation into consideration, the Ombudsman, in accordance with his authorizations from the Law on the Ombudsman, pointed out to the Agency for Real Estate Cadastre regarding the specific case to undertake actions ex officio in order to eliminate the technical error in the property certificates in the Real Estate Cadastre for CM Centar 2.

Thereby, from the received explanations, information and evidence, the Ombudsman concluded that the Agency acted upon the indication.

NP no. 3416/19

A citizen from Skopje addressed a written request to the Ombudsman for reconnection to the electricity distribution network, as well as enabling the conclusion of an agreement for payment of the overdue debt in several instalments with lower monthly annuity.

After the inspection by the Ombudsman in the Billing Service of EVN Macedonia JSC - Skopje, the subject measuring point was reconnected to the electricity distribution network and the citizen was offered to conclude an agreement for payment of the debt in 96 instalments.

NP no. 2332/19

A complaint was submitted to the Ombudsman for protection of the debtor's rights in an enforcement procedure, in which the applicant stated that he was a beneficiary of an old-age pension in the amount of 12,800.00 denars and that from 2018 he started paying consumer loans in NLB Bank JSC Skopje in the amount of MKD 4,000.00 (1/3 of the pension). Nevertheless, in August 2019, an enforcement agent started conducting an enforcement procedure by stopping 1/3 of the pension through the Pension and Disability Insurance Fund of the Republic of North Macedonia.

After determining the factual situation, the Ombudsman pointed out to the enforcement agent during the enforcement procedure to apply Article 5 paragraph 2 of the Law on Enforcement, where it is clearly stated that when conducting the enforcement procedure, it is necessary to take into account the dignity of the person, as well as for the enforcement to be favourable for the debtor and his family, and accordingly asked the enforcement agent to reduce the amount of the instalment for monthly payment.

The enforcement agent accepted the request of the Ombudsman and continued the enforcement procedure by stopping 2,000.00 denars per month from the debtor's pension, which means that he reduced the monthly instalment for debt payment by 50%, despite the fact that it was determined that the debtor did not have any other pension deductions, as the loan was not paid with an administrative ban on the debtor's pension.

NP no. 2946/19

The Ombudsman acted upon the complaint of a convicted person serving a prison sentence in the Idrizovo Penitentiary, in which he reported that a hunger strike was organized by the prisoners in the Prison, because the new part of the Idrizovo Prison did not include heating for three days.

In order to investigate the allegations of dysfunction of the heating system in these departments, immediately after the submission of the complaint, after the working hours of the Ombudsman, representatives of the institution paid an unannounced visit to the Idrizovo Penitentiary. During the inspection of the building of the semi-open unit, it was concluded that there is no heating in the whole building, and from the conversations with the convicts and officials, information was received that the temperature in the premises of the convicts is extremely low, especially at night.

During the unannounced visit of the Ombudsman's representatives and talks with the convicts for examining the allegations related to the dysfunctional heating system, we were informed by the officials that the repairing workers had already arrived and that the heating problem had been fixed.

The Ombudsman also visited the basement, assuring that attempts were made to connect the heating system in that part, and based on this factual situation, the Ombudsman pointed out that it is inadmissible for convicts to be left for a longer period of time without appropriate heating in the premises where they are housed and that it is necessary to take urgent measures to repair the defect in order to properly heat the premises of the convicted persons.

After the visit, the established condition and the given indication, by the submitter of the complaint, the following day the Ombudsman was informed that the problem with the non-functional heating system after the indication was solved and that the heating was functional in the whole building.

NP no. 797/19

The Ombudsman intervened to protect the mother and two minor children, who are being abused by the submitter's ex-husband. Considering that in the complaint the applicant stated that she had submitted reports to the Ministry of Interior, that is the police station, and pointed out that the local competent centre for social work did not act upon the reports for protection from violence, the Ombudsman addressed both bodies.

Namely, with a request for notification and evidence, he addressed the Ministry of Interior in order to be notified of the handling of the submitted reports, and submitted an indication to the PI Inter-Municipal Centre for Social Work of the City of Skopje, as a competent body to undertake all measures within its competence for protection of the victims from such behaviour, as well as consideration of the possibility of submitting a proposal to the competent court to impose another temporary measure on the perpetrator of the violence.

After the intervention of the Ombudsman, appropriate measures were undertaken by the competent Centre for Social Work, that is, the expert team concluded that the measures for temporary protection were violated, with the father calling the children at least once a week and harassing them, using abusive words to the mother. Therefore, the expert team from the Department for Domestic Violence filed criminal charges for violating the temporary measure for protection from domestic violence to the Basic Public Prosecutor's Office in Skopje, and the Public Security Bureau-Department for Internal Affairs Skopje submitted a notification that it was acted upon the respective case and a verbal warning was given to the perpetrator.

NP no. 719/19

The mother was prevented from seeing her three-year-old child for more than six months due to broken relationships and constant threats from her husband.

On several occasions, the Ombudsman submitted letters for the purpose appropriate measures to be undertaken by the Centre, especially regarding the determination of the child's condition, the father's attitude towards the child, as well as the mother's right as a parent to receive information and contact the child, without any obstruction by the child's relatives from the father's side. However, despite the Ombudsman's indications for violation of the rights of the mother and the best interest of her three-year-old daughter, the PI Inter-Municipal Centre for Social Work of the City of Skopje rejected the mother's request to meet with the child, explaining that the father did not answer the phone, that is, he did not comment on the request. The Centre did not undertake all measures to protect the rights of the child and its best interests, despite the knowledge that the father is not in the country and the mother does not have meetings with the child, it did not undertake measures through direct inspection to determine the child's condition, whether the child receives the necessary care and attention, nor did it undertake measures to indicate to the other parent/relatives of the father to respect the rights of the child and the mother to have personal relations and direct contacts with the child.

Given that the mother was advised to appeal against this decision, the Ombudsman joined the appeal procedure. However, the Centre initially reported that the complaint could not be considered because it was again awaiting a response to the complaint from the father, and the Centre could not to contact him. However, upon the indication of the Ombudsman, the submitter's complaint was accepted, and in the second procedure the Centre ordered for the minor to have regular personal contact and direct contact with the mother.

NP no. 2654/19

A citizen from Kicevo filed a complaint with the Ombudsman's Office, due to the inaction of the Ministry of Labour and Social Policy - Struga Medical Commission for establishing a finding, assessment and opinion on the need for assistance and care from another person after a verdict of the administrative court. It was a request for exercising the right to monetary compensation for assistance and care from another person.

The Ombudsman submitted a request to the Ministry of Labour and Social Policy to state the reasons for the inaction and delay of the procedure, especially since it is a person who is at social risk. The Ministry received a response that it acted in accordance with the instructions of the Administrative Court by adopting the necessary decision and the case together with all documents was submitted to the Inter-Municipal Centre for Social Affairs-Kicevo, for further jurisdiction.

Also, the Ombudsman found a violation of the rights by delaying the procedure and consequently addressed the Inter-Municipal Centre for Social Affairs - Kicevo, indicating the case to be taken into operation without delay, and taking into account the provisions of the Law on Social Protection and the Rulebook for the manner of exercising the right to monetary compensation for assistance and care by another person, to adopt a legal decision.

Owing to the intervention of the Ombudsman, a decision was adopted whereby the submitter exercised his right.

NP no. 636/19

The Ombudsman initiated a procedure on his own initiative, due to the information received from the print and electronic media that "there was no registration number on the specialist referrals, so the patients were returned by the healthcare institutions", then that "the doctors could not issue referrals for microbiology, sick leave and etc."

Considering that the national system "My Term" is the only means through which patients can achieve the necessary healthcare in health institutions, the Ombudsman, in order to protect the rights of citizens from the Office of Electronic Health requested information about the news in the national system "My Term" and whether the Office had undertaken activities to inform citizens and health professionals about the novelties of the system.

Acting upon the intervention of the Ombudsman, the Office of Electronic Health reported that the introduction of innovations in the system "My Term" and upgrade of the software solution was due to the amendment to the Rulebook on the content and manner of exercising the rights and obligations of compulsory health insurance, changes were made in the division of specialist/subspecialist referral, two new types of referrals were introduced - Emergency 24 referral issued by the personal doctor or by a specialist exclusively for life-threatening conditions and referrals without a deadline for exercising certain rights from the compulsory health insurance, as well as determination of new forms for emergency medical reports, from home visits and from the on-duty service.

At the same time, the Office of Electronic Health announced that from November 2018, when the novelties were incorporated in the system, until April there was a regular communication with software companies and health professionals, in order to remove all system defects and naturally the users of the system to be informed.

NP no. 215/19

A complaint was submitted to the Ombudsman by the Association "Polio Plus" - movement against disability from Skopje, which expresses a complaint for violation of the rights of persons with disabilities in the field of service activities, that is, discrimination on the basis of mental and physical disability in a vehicle registration procedure.

After the analysis of the complaint, the Ombudsman concluded that the provision that obliges the technical inspection stations when registering vehicles to request from persons with disabilities certified and signed booklet by the Public Enterprise for State Roads (then Agency), was adopted by the amendment of the reference law back in 2012 with the publication of an amendment to the Law on Public Roads, but so far this provision had not been applied by these legal entities.

At the same time, the Ombudsman notes that the provisionally stated diagnoses referred to in Article 65 of the Basic Law on Public Roads from 2008 can be interpreted as discrimination on the basis of mental and physical condition, as the law provides only a diagnosis, but not a condition that can be a variable category.

Following the established situation, the Ombudsman in accordance with Article 32 of the Law on the Ombudsman sent a recommendation to the Ministry of Transport and Communications, pointing to the need to urgently harmonize the existing law with the Convention on the Rights of Persons with Disabilities, and also recommended public debate and meeting with representative associations representing persons with disabilities.

The Ministry accepted the recommendation of the Ombudsman and our indications, after which the case was closed in accordance with Article 35 of the Law on the Ombudsman.

NP no. 3083/18

A complaint was filed with the Ombudsman by an employee of the Municipality of Lozovo, in which she complained about discrimination in the employment relationship with elements of harassment in the workplace, actions committed by the mayor and the secretary of the Municipality of Lozovo.

Acting upon the complaint, the Ombudsman conducted an unannounced inspection in the premises of the Municipality where the state of unequal treatment of the complainant was ascertained.

When examining the factual situation, it was concluded that the complainant was isolated in the meeting hall of the Municipality, where she was not provided with normal working conditions, that is, her personal computer was seized, there was no telephone for communication, and the mayor issued an illegal order banning the use of private mobile phones in the Municipality.

After reviewing the overall situation, the Ombudsman submitted a Recommendation to the Mayor for removal of the established irregularities, in which he pointed out the illegality of the unequal treatment of the administrative officer. The recommendation requested the employer to provide the complainant with normal working conditions and the employee to be returned to the office with the other employees of the municipal administration, as well as to be given a computer whereby she could perform her regular work duties. At the same time, the Ombudsman recommended the abolition of the Order banning the use of private mobile phones in the building of the Municipality.

The Mayor and the Secretary of the Municipality reluctantly accepted the submitted recommendation, but within the legally prescribed deadline they acted upon it, whereby the employee was returned to the office with the other employees in the municipality, and at the same time the Order for using private mobile phones in the building of the Municipality of Lozovo was withdrawn.

NP no. 1879/19

After receiving information from the media that the detainee M.J. began a hunger strike, the Ombudsman opened a case on his own initiative, visiting the Skopje Prison.

During the inspection, he discussed with the officials of the institution, as well as with the detained person-submitter of the complaint who confirmed the allegations that a hunger strike was started, due to dissatisfaction with the work of the competent court regarding the pronounced detention measure.

During the proceedings upon the complaint, the Ombudsman regularly monitored the health condition of the detained person in the frequent contacts with the prison doctor, that is regarding the health treatment given to the detained person.

Given the findings of the inspection of the Skopje Prison, the Ombudsman instructed the director of the institution to take all measures to ensure the unimpeded exercise of the rights of the detainee, especially in terms of providing adequate healthcare and full protection of his health, with continuous monitoring of the condition and health of the detainee.

In fulfilment of the given indication, the director of the Skopje Prison informed that it is fully respected, stating that the Malta Declaration on Hunger Strike was also respected in the case.

As a confirmation of the allegations of the director of the institution, is also the fact that during the regular contacts with the health service of the institution, as well as during the inspection of the medical documentation of the detainee, it was clear that his health condition is regularly monitored and that all norms regarding action against people on hunger strike, that the detainee had meanwhile interrupted, were respected and he was in good health and without any accompanying health consequences as a result of the strike.

NP no. 1023/19

The Ombudsman acted upon a complaint from a doctor employed in the Public Health Institution, regarding the delay of the procedure for obtaining a decision for specialization. Having in mind the information received from the Medical Faculty-Skopje, as well as the information obtained from the direct inspection performed in the competent Department for Postgraduate and Doctoral Studies at the Medical Faculty-Skopje, the Ombudsman determined that the reason for postponing the procedure for decision on specialization was unfulfilled payment of financial resources for the first semester of specialist internship and for the first semester of theoretical teaching by the health institution where the submitter is employed.

Given that the Agreement on Regulation of Mutual Rights and Obligations between the Public Health Institution referring trainees and the Medical Faculty in Skopje has not yet been acted upon, and the procedure for issuing a decision has not been completed, the Ombudsman pointed out a violation of the rights of the submitter, due to which he requested from the PHI, to make the payment of the required funds and to submit the appropriate invoices to the Medical Faculty-Skopje, after which a Decision for initiation of the specialization can be issued.

Acting upon the indication of the Ombudsman, PHI informed that measures had been undertaken and in that context the submitter was called to sign a Specialization Agreement, which will regulate the mutual rights and obligations with the institution, on the basis of which the payment of invoices for specialization would be made.

NP no. 1046/19

Acting upon a citizen's complaint for payment of a difference of funds on the basis of insurance in the second pillar and transition to the first pillar of the pension system, a direct inspection of the documentation was performed, and it was concluded that there is no disputed situation in the submitter's case and the Fund is obliged to pay the difference determined by the decision without delay.

After the actions undertaken by the Ombudsman, the Fund implemented the adopted decision and the citizen exercised his right.

NP no. 1885/19

The Ombudsman acted upon a complaint in which the submitter stated that the Private University did not act upon a request for access to public information.

From the inspection of the submitted documents within the complaint, the Ombudsman determined that the University, instead of a Decision, adopted a Conclusion informing the client that the University has no obligation to act upon the request to inspect the file of the person N.D – a graduate economist.

In the context of the above, the Ombudsman found a violation and pointed out to the University of Article 20 paragraph 2 of the Law on Free Access to Public Information, according to which "if the holder of the information partially or completely rejects the request, it will adopt a decision thereof", and not a conclusion. The University informed us that after the indication of the Ombudsman, a Decision was issued rejecting the request for free access to public information. However, due to the fact that the adopted Decision did not contain the essential elements, again, upon the indication of the Ombudsman, the University informed the Ombudsman that it had adopted a Decision amending the decision rejecting the request for free access to public information that is being supplemented with Legal instruction, after which the submitter was notified of the right to appeal the aforementioned decision.

NP no. 2336/19

K.D. from Skopje addressed the Ombudsman with a complaint, in which he expressed dissatisfaction with the work of the Pension and Disability Insurance Fund regarding his request related to non-calculation of length of service with increased duration 12/15 (preferential years of service). The submitter of the complaint is a completely blind person and was insured on the basis - an employee of the National Union of the Blind, in the period 2006-2008 and for that period he was not paid and recorded increased length of service (preferential years of service). The basic length of service was regularly paid, which was evident from the Review of registered data in the personal records (the years of service list of the insured). The National Union of the Blind agreed to pay the preferential length of service (increased length of service) for 2006, 2007 and 2008, which is why it referred to the Pension and Disability Insurance Fund of the Republic of North Macedonia to prepare a calculation, so that a payment would be made. However, since the problem has not yet been resolved, considering that his right is being violated, he addressed the Ombudsman for intervention.

The Ombudsman, taking into account the above, asked the Pension and Disability Insurance Fund to be informed about the situation in this case, the measures taken to overcome the problem of the above-mentioned person, after which the Fund submitted a response that the National Union of the Blind was provided a technical opportunity within 30 days to make a payment for the preferential length of service for the specific person.

The case initiated upon the complaint by the Ombudsman before the Pension and Disability Insurance Fund of the Republic of North Macedonia is fully completed and positively resolved for the insured, to the great satisfaction of the person (K.D.) - member of the Association of the Blind and Persons with Eyesight Impairment of the City of Skopje and to the satisfaction of the National Union of the Blind of the Republic of North Macedonia.

NP no. 2490/19

M.F. asked the Ombudsman to intervene before the Municipality of Studenicani, where her request for payment of financial assistance in case of death of a family member has been in process for seven years, whereupon it has not been decided yet.

The Ombudsman addressed the Municipality of Studenicani, pointing to the obligation arising from Article 15 paragraph 2 of the Law on Budget Execution, according to which "the employee, in case of death of a member of the immediate family (parent, spouse, children born in marriage or out of marriage, adopted children and children admitted for maintenance), should receive financial assistance in the amount of 15,000.00 denars.

At the request of the Ombudsman, the submitter informed the Ombudsman that the Municipality of Studenicani had transferred funds in the name of assistance in case of death of a family member in the amount determined by law.

NP no. 2266/19

A complaint was submitted to the Ombudsman for protection of the debtor's rights during the enforcement procedure, in which Makedonska Banka JSC Skopje - (in liquidation) appears as a creditor.

The submitter stated in the complaint that an enforcement order had been submitted to him requesting debt collection, and that the payments previously made by the submitter whereby he had settled the debt had not been taken into account, and he submitted the receipts as proof.

After the intervention of the Ombudsman, the creditor's request for execution was specified, so that the entire amount paid by the debtor was recognized and deducted from the amount with which he was initially indebted in the execution order, and in the enforcement procedure they remained to claim only interest for late payment of the principal debt.

NP no. 1104/19

Dissatisfied with the inaction of the Pension and Disability Insurance Fund, which decided to terminate the citizen's right to a temporary disability pension, but at the same time acknowledged his right to a disability pension as a labour disable person with established general incapacity for work, the submitter requested intervention from the Ombudsman.

After the actions undertaken, it was determined that the procedure with the application of the new act was unnecessarily delayed, due to which the Fund was instructed about the inconsistency.

Acting based on the intervention of the Ombudsman and the actions undertaken, the citizen exercised his right.

NP no. 1478/19

The convicted person S.M. filed a complaint with the Ombudsman, stating that despite being examined by a dentist and based on a specialist report, he was issued a specialist referral to the Dental Clinic for performing the necessary dental examinations, and the convict a person was placed on a programme to be taken to a clinic on several occasions, for unknown reasons it was not realized.

Considering that in the specific case it was indisputably determined that the convict's right to adequate healthcare was violated, the Ombudsman submitted an indication to the director of the Penitentiary Idrizovo in order to take all necessary measures and the convicted person S.M. to be taken to the Dental Clinic, in order to be given adequate healthcare, that us setting up a denture at the expense of the institution, in accordance with the Law on Execution of Sanctions and the House Order for Convicts serving a prison sentence in a penitentiary.

In relation to the indication given by the Ombudsman, the director of the Idrizovo Penitentiary informed that the control examination was realized, that is that the convicted person was taken to the Dental Clinic-Department of Oral Surgery where the necessary dental examinations were performed.

NP no. 2739/19

Acting on the case of a group of employees in PCE Komunalna Higijena "Makedonski Brod", in which they indicated a violation of employment rights, and regarding the poor working conditions in this public enterprise, the Ombudsman initiated a procedure, whereby requesting an inspection he addressed the State Labour Inspectorate.

Acting upon the request of the Ombudsman, the State Labour Inspectorate - Prilep Area informed him that the allegations made in the complaint were well-founded, that is during the inspection a number of shortcomings and irregularities were found, after which a decision was made ordering the employer to act on four points: 1. To perform periodic health examinations from an authorized health institution; 2. To assess the risk at the workplaces and to prepare a statement for safe work by a licensed company; 3. To perform training for safe work of all employees by a licensed company; 4. When assigning work and protective clothing and equipment to oblige workers for it, a constant task.

For the stated decision, a deadline of 30 days from the day of receiving the decision was given.

NP no. 1117/19

The Ombudsman, after receiving information from the media that a 70-year-old woman from Skopje lived alone, without electricity, and in very bad conditions, without means of subsistence, opened a case on his own initiative. After providing information and data about the mentioned person, the Ombudsman immediately inspected the home of the above-mentioned person and determined that it was a woman who lives without water and electricity in the flat, there were no conditions for maintaining personal hygiene and hygiene in the flat. The Ombudsman found a violation of the right, due to which he submitted an indication to the PI Inter-Municipal Centre for Social Work of the City of Skopje, to undertake measures so as to provide assistance, support, security and protection of the respective person, from any aspect.

In that context, he pointed out the need to involve all competent services at the PI Inter-Municipal Centre for Social Work, and everyone within the scope of their work to undertake measures, to consider the possibility of appointing a guardian for this person, the person's appropriate accommodation in an institution, where she will receive the necessary care and protection, as well as measures for appropriate support of the respective person. As a result of the intervention of the Ombudsman, all necessary measures were undertaken by the Centre for Social Work to protect this person.

NP no. 79/19

Acting on a complaint from a citizen for inappropriate conditions in the PHI Psychiatric Hospital, the Ombudsman requested the State Sanitary and Health Inspectorate to perform supervision.

During the supervision, a state of insufficient and outdated inventory, a serious problem with the and the presence of lice in the patients were found, due to which depedication and disinsection were ordered, procurement of means for haircutting, extraordinary and regular cleaning, especially in the chronic wards and sanitary facilities, procurement of mattresses, blankets, pillows and other necessary items, repairing the damaged floor covering in the eighth ward, etc.

After the given instructions towards the management of the medical facility, at the request of the Ombudsman, control inspections were made and it was concluded that the obligations were fulfilled, the hygiene was regularly maintained, the necessary funds were procured, disinsection was carried out, patients were given a haircut, replacement of roofs in chronic wards was being performed and the like.

NP no. 1962/19

The citizen G.I. submitted a complaint for protection of the right in the field of labour relations, stating that the officials of the State Education Inspectorate (the director and the head of the Department) are threatening, pressuring and mobbing him.

The Ombudsman determined from all undertaken measures and actions, as well as from the submitted response from the State Education Inspectorate that there are certain inconsistencies, that is, irregularities both in the part of the disciplinary procedure and in the part of the procedure after the inspection supervision, for which the Ombudsman submitted Indication of the manner of removal of the established violations.

The State Education Inspectorate had an authorized lawyer representing the institution during the disciplinary proceedings, which is contrary to the Law on Administrative Servants.

Regarding the disciplinary procedure conducted against the submitter, it was determined that the State Education Inspectorate had adopted a Decision on imposing a disciplinary measure - assignment of a job at a lower level, before a decision is made by the Administration Agency, regarding the complaint filed by the employee. In fact, in accordance with Article 19 paragraph 10 of the Law on Administrative Servants, the appeal postpones the execution of the act adopted by the first instance body.

However, after this Indication, instead of finding a solution to the problem, the Director of the Inspectorate submitted a letter, which, among other things, deals with commenting on the actions of the Ombudsman, and commenting on the given Indication.

NP no. 545/19

The citizen N.B. from Skopje, submitted a complaint to the Ombudsman, in which he pointed out the delay of the procedure upon submitted requests to the State Student Dormitory "Skopje".

The Ombudsman, analyzing the case, found that due to the possibility of additional work outside the institution in which he is employed full time, the submitter in two occasions submitted a Request to the director of the institution to obtain consent for additional work, but was not notified by the employer of the outcome of his requests.

The Ombudsman, acting on the case, addressed the employer and pointed out that the submitter's right guaranteed by the Constitution was violated, stating that every citizen has the right to submit a complaint (request) to the state authorities and other public services and to receive a response thereto.

Also, having in mind that the Law on Labour Relations provides for the possibility of additional work, the Ombudsman asked for explanations and information on whether the possibilities for giving such consent have been considered, and otherwise the reasons should be explained.

The state institution informed us that it was acted upon the request of the Ombudsman and that the submitter was given a consent to conclude a part-time employment contract with another employer, up to 10 (ten) hours per week, which was proven by properly received and signed consent by the submitter.

NP no. 867/19

The Ombudsman's family filed a complaint with the Ombudsman's Office regarding the events in the Assembly of the Republic of North Macedonia on April 27, 2017, in order to protect the rights of the defendants in this case, because the court simultaneously imposed two measures to ensure attendance, the measure guarantee (which has not been revoked) and detention.

Namely, the submitters stated that during the trial the defendants were released to defend themselves with guarantees that were accepted not only by the Criminal Council of the Basic Court Skopje I Skopje, but were also confirmed by the Skopje Court of Appeal. In the adoption of the decisions for determining the measure of detention, intentionally or accidentally, the trial judge forgot the guarantee and in the decisions whereby the detention was determined, he did not state the guarantee at all and now there are defendants in custody who also have approved high guarantees (some up to 800,000 euros) to defend themselves in freedom, that is, the guarantee is still in force, although the defendants have been pronounced a measure - detention.

After the violation, the Ombudsman informed the public through the media about mass communication that this should not have happened and that the Law on Criminal Procedure did not provide for such a situation. He further added that the Judicial Council would be notified thereof and that it would not be allowed for the convicts to be in prison at the same time and have a mortgage on the property, which would guarantee that they would not flee.

Furthermore, within his competence, the Ombudsman submitted a letter to the Judicial Council informing it of this situation, requesting that actions be taken to protect the rights of the defendants and requesting that the outcome of the proceedings be reported to him.

We were informed by the Judicial Council with a notification that it was acted upon after the letter submitted by the Ombudsman, that they also found a violation, but it was concluded that an unintentional omission by the trial judge was concerned, because it was a case with many defendants and the proceedings were very extensive.

In order to resolve the situation, the Court of Appeal officially revoked the previously determined guarantees.

In this case, the families of the defendants requested protection from the Ombudsman in the procedure upon the appeal filed before the Supreme Court for revocation of the measure of guarantee and the determined detention, because they waited five months for a decision in reference thereto.

The Ombudsman also undertook action regarding this procedure and addressed the Supreme Court requesting that the appeal be acted upon as soon as possible, on the grounds that it was a matter of determined detention. With regard to this request, the Ombudsman received a response that the case had been transferred to the Criminal Court, at their request, and that it had not been returned to the Supreme Court.

The Ombudsman further received information that the case had been submitted by the Criminal Court to the Court of Appeal for a decision on the appeal of the main matter and therefore had not been returned to the Supreme Court. Following the established situation, the Ombudsman submitted to the Court of Appeal an indication of the manner of removal of the established violations and requested that the case be submitted to the Supreme Court as soon as possible so that it could act on the appeal. In the given indication, the Ombudsman pointed out Article 5 paragraph 4 of the European Convention on Human Rights where it is stated that regarding the appeal against a determined measure of detention, the Court is obliged to review it as soon as possible and make a decision on it, and not to extend the procedure for more than five months.

It was acted upon in relation to this Indication, after which the case was submitted to the Supreme Court for decision regarding the primarily filed appeal which referred to the revoked measure-guarantee and the determined detention. Immediately after the submission of the documents, the Supreme Court ruled on the specific procedure.

The submitters of the complaint were informed that the Ombudsman had taken all measures and actions under his legal jurisdiction, after which they were satisfied with the actions taken and reported that they would require further protection of their rights before the European Court of Human Rights in Strasbourg.

NP no. 768/19

S.P. from Skopje, filed a complaint with the Ombudsman, requesting his intervention before the PHI Centre for Public Health - Skopje, from which she repeatedly requested to be notified of the decision on the internal announcement for specialization, requesting a Decision and a ranking list of candidates, but she was not informed thereof.

Having in mind that the request of the submitter was submitted a long time ago, the Ombudsman addressed the said public institution with a request to act as soon as possible upon the request of the submitter.

After the intervention of the Ombudsman, the entire documentation subject to her request was submitted to the submitter.

NP no.2291/19, NP no.2326/19, NP no.2433/19, NP no.2571/19

During 2019, the Ombudsman repeatedly received complaints from parents of children with disabilities, as well as from citizens' associations that submitted complaints on behalf of parents of children with disabilities, which referred to the inability to provide a teaching assistant in the municipal primary schools for the school year 2019/20.

The complainants clarified that in the past this kind of support was provided through the United Nations Development Programme (UNDP) in cooperation with the Employment Agency of the Republic of North Macedonia and the municipalities that through the programme for generally useful work from the Government's operational plan for active measures and programmes for employment and services in the labour market, had activated the unemployed, in order to include them in a project to provide social services in the community.

The complainants complained that although they duly submitted requests to the schools, which were then collectively submitted to the municipalities by the schools, the municipalities did not respond positively. Also, many of the parents were not informed in writing whether their child would receive an assistant, and those parents who were verbally informed that they were rejected were not provided with an explanation regarding the basis of the criteria for making the selection of pupils. It was unclear how and under what conditions some pupils with disabilities received an assistant, while for others the same was not possible, which directly violated the right of children with disabilities to be fully and on an equal level with other children involved in education. At the same time, the submitters of the complaints pointed out that compared to the previous school year (2018/19), this school year the number of assistants in schools has drastically decreased. The fact that at the moment certain children in primary education have an educational/personal assistant, and others do not, although they need one, is nothing but inequality of children in accessing and providing unimpeded education, which is unacceptable and prohibited by law.

Having in mind the above, the Ombudsman submitted a Request for explanation, information and evidence for the allegations in the complaints to the municipal primary schools, to the municipalities on the territory of which the schools are located, to the United Nations Development Programme (UNDP), and submitted an Opinion to the Ministry of Education and Science, which emphasized the need to involve the relevant Ministry in solving the problems by providing legally provided support to pupils with disabilities in primary schools and undertaking of measures in order to provide the necessary conditions for smooth implementation of the inclusion of children and their education, which will be based on the best interest and full development of the pupil, based on equality, availability and accessibility of legally guaranteed support services, and more effective and substantial inclusion of children with disabilities.

PROMOTION OF HUMAN FREEDOMS AND RIGHTS (PROJECT WORK)

As part of the project that the Ombudsman has been implementing for several years in a row with the support of the UN High Commissioner for Refugees - Skopje Office, *"Improving the legal protection system regarding asylum and naturalization"*, in 2019 a regional event was held as part of the presidency of the Ombudsman-National Preventive Mechanism (NPM) with the network of National Preventive Mechanisms from the region of Southeast Europe and it was dedicated to the rights of the child in places of deprivation of freedom. This was the second event in the framework of the obligatory requirement of each Chairperson of the Network to organize two regional meetings where the member states will exchange experiences and practices on topics from the scope of the operation of the National Preventive Mechanisms.

As a result of the field visits in places of detention of migrants, the project team prepared a report with the main findings of the field visits, but also a comparative review with the countries in the region. The report is available in Macedonian, Albanian and English.

The project will continue to be implemented in 2020.

The long-time partner of the Ombudsman, the OSCE Mission to Skopje, in 2019 supported two major events, the first under the chairmanship of the Ombudsman-National Preventive Mechanism (NPM) with the Network of National Preventive Mechanisms from the Southeast European Region held in June in Skopje, which dealt with the policy of the National Preventive Mechanisms for Punishment, a regional event in which all countries participated, that is, NPM members of the Network. While the second event took place on December 3, World Day of Persons with Disabilities, when the new Ombudsman Mechanism for monitoring the implementation of the United Nations Convention on the Rights of Persons with Disabilities was promoted. This event was also supported by the USAID partner, "Eden na Eden", which will be discussed further in the text.

The OSCE Mission to 2019 continued to support the Institute in terms of its competence Friend of the Court (*amicus curiae*) which began in 2018 when the team was established and when the first trainings to strengthen the team's capacity were conducted.

In 2019, a two-day workshop was organized for the needs of this competence, at which colleagues from the Ombudsman institutions of Croatia and Slovenia shared their experiences and knowledge. In addition to the employees of the Department, other employees of the Ombudsman Institution also participated in this workshop.

In 2019, the Ombudsman for the first time started cooperation with USAID, which focused on the promotion of the institution, especially the newly acquired competencies.

For the needs of the cooperation, first a Memorandum of Cooperation was signed, and then through an external partner hired by USAID, "Eden na Eden" media and communications training was conducted for the needs of the newly hired staff of the Ombudsman, namely the Ombudsman-mechanism for civil control, Ombudsman-mechanism for monitoring the implementation of the United Nations Convention on Persons with Disabilities and Ombudsman-friend of the court (*amicus curiae*).

The cooperation between USAID and the Ombudsman also included the organization of an event to promote the newly established Mechanism for Monitoring the Implementation of the United Nations Convention on the Rights of Persons with Disabilities, held on December 3

in Skopje. The event was financially supported by the OSCE Mission to Skopje, and logistically organized by USAID's External Partner, "Eden na Eden".

In addition to the above activities, in the framework of the cooperation with USAID, an interview was conducted by the media "Slobodna Evropa" with the Ombudsman, Mr. Ixhet Memeti, while the USAID partner, "Eden na Eden" prepared a strategic communication that will serve the institution as platform for organizing its future activities in the area of promotion and communication with citizens.

Although the above activities were part of the basic framework for cooperation between USAID and the Ombudsman, the interest in deepening the relations between the two partners did not stop there, so an additional Memorandum of Cooperation was signed with the USAID Partner "Onlimit Media", that were in charge of the preparation, staging and implementation of the theatre play "Human Story" in ten cities throughout the country, in: Skopje, Kumanovo, Kriva Palanka, Sveti Nikole, Tetovo, Gostivar, Bitola, Veles, Negotino and Stip. The play consisted of several stories, each dealing with a different aspect of the protection of human rights and freedoms. After the performance, the Ombudsman with his representative directly answered questions from the audience, achieving close communication and directness with the audience, and at the same time helping them to exercise a certain right. The cooperation with this partner will continue in 2020.

OMBUDSMAN - NATIONAL PREVENTIVE MECHANISM

The Ombudsman, as a National Preventive Mechanism, within its mandate and competencies, continuously monitors the actions upon and respect of the rights of persons in places of deprivation of freedom and detention, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

The National Preventive Mechanism functions as a team composed of one state counsellor and two torture prevention counsellors, and in order to provide multidisciplinary approach to the activity, external collaborators, professionals from various fields, organizations and associations were hired to conduct the preventive visits. With them the National Preventive Mechanism signed memoranda of cooperation, including: members of the Association of Psychiatrists, the Institute of Forensic Medicine, Criminology and Medical Dentology, the Macedonian Young Lawyers Association, the Association for Criminal Law and Criminology, the Association of Social Workers of the City of Skopje, the Association of nurses, technicians and midwives of RM, the Chamber of Psychologists, and the Union of special educators.

In this regard, during the reporting year, the National Preventive Mechanism conducted a total of 22 regularly scheduled visits in accordance with the work plan and programme and several extraordinary (ad-hoc) visits, in coordination and cooperation with other departments within the Ombudsman. All visits by the team of the National Preventive Mechanism were conducted as unannounced, of which 13 visits to police stations, 3 visits to psychiatric hospitals, 4 visits to penitentiary institutions, as well as 2 visits to penitentiary and correctional institutions for children. For the performed visits and for the established conditions, NPM prepared special reports with specific recommendations, which were submitted to the heads of the institutions and to the relevant ministries in order to undertake measures and activities to eliminate the identified shortcomings. Regarding the activities carried out during the year, the team of the National Preventive Mechanism at the end of the year prepared an Annual Report summarizing the specific findings and recommendations arising from the visits to the places of deprivation from freedom.

Police stations that were visited during 2019 include: Police Station of General Competence (PSGC) Bit Pazar, PSGC Karposh, PSGC Centar, PSGC Gostivar, PSGC Debar, PSGC Kratovo, PSGC Krushevo, PSGC Demir Hisar, PSGC Stip, PSGC Probistip and PSGC Radovish. None of the police stations has a special room for keeping children, different from the rooms for keeping adults as provided by the Law on Justice for Children, and from the police stations that were visited only PSGC Gostivar has special rooms for talking with children in a special facility for dealing with children, which is in the immediate vicinity of the police station. Most police stations do not meet the minimum required standards for the square footage of detention facilities, and hygiene is a serious problem in all police stations visited. Blood surgical gauzes, pillows with traces of blood, bedding with faeces, etc. were found in the detention rooms. Due to the disastrous conditions from a material point of view and the extremely low level of hygiene, the team of the National Preventive Mechanism recommended to PSGC Delchevo to immediately close the premises for detention, that is to be converted and not to perform long-term retentions. Some of the police stations also face a shortage of appropriate vehicles for transporting persons, due to which the team of the National Preventive Mechanism recommended to the Ministry of Interior to provide appropriate vehicles for transporting detainees, that is to

ensure that the transport of persons deprived of freedom and detainees is always conducted in a humane, safe and secure way.

During the visit to the correctional facility and the children's prison in Ohrid, the team of the National Preventive Mechanism concluded that the children were accommodated in a facility that did not meet even the minimum international standards for accommodation and detention of children, inappropriate healthcare system, fully neglected education system, dysfunctional re-socialization system, as well as improper and unprofessional staff. Of particular concern were the allegations of the children for abuse by the prison police, as well as the referral of children from the juvenile prison to undergo a disciplinary sanction in substandard conditions, in premises for which prison officials initially informed us that were not used¹.

From the visits to the Prilep Penitentiary, the Stip Prison and the open ward of the Kumanovo Prison in Kriva Palanka, the team of the National Preventive Mechanism concluded that most of the complaints of the convicts still refer to the access to and quality of healthcare. A serious problem in penitentiary institutions is the general lack of staff and/or its appropriate deployment, which reduces the opportunities for direct contact with convicts and detainees and generates an uncertain environment for both staff and prisoners. The National Preventive Mechanism, from the conversations with the convicts, stated that they are not sufficiently familiar with their rights and obligations as convicts while serving their prison sentences, which is why they sent recommendations to the competent authorities in the penitentiary institutions aimed at undertaking activities that will be targeted at acquainting the convicted persons, in a way that is appropriately understandable for each convicted person separately, with their possibility to file a complaint or request for exercising the right or legal interest.

During 2019, all three psychiatric institutions in the country were visited, as follows: PHI Psychiatric Hospitals Demir Hisar, PHI Psychiatric Hospital Negorci and PHI Psychiatric Hospital Skopje. The lack of professional and medical staff is alarming in all three institutions, and the lack of staff during the afternoon, evening and weekends (shifts) is especially worrying, when most frequently whole departments, which in certain institutions number up to over 50 patients, are left at the sole responsibility of one caretaker and one nurse. Indications for the use of physical force on patients are present, as well as indications for inhuman and degrading treatment, especially if the poor material conditions, unhygienic conditions, overcrowding and violation of privacy are taken into account cumulatively, in some of the departments of the institutions. Undisputable is also the need for intensified active involvement of patients in occupational/working therapies, for more constructive use of time spent in psychiatric institutions.

The Ombudsman - the National Preventive Mechanism in 2019 was also chair of the Network of National Preventive Mechanisms of Southeast Europe and hosted two meetings of the Network the organization of which was supported by the OSCE Mission to Skopje and the Office of the High Commissioner for Refugees in Skopje (UNHCR). The first meeting was devoted to building strategies to protect against repression of individuals or organizations that share information with the National Preventive Mechanisms, while the topic of the second meeting was "Specific needs of children in detention facilities." The conclusions of the meetings are contained in special publications, which also contain the presentations of the participants.

Representatives of the National Preventive Mechanism team also took part in a series of events organized by the **Association for the Prevention of Torture (APT)**, the Department of Human Rights in the Council of Europe and the OSCE/ODIHR from 4 to 6 November 2019 in Strasbourg, France, on the occasion of the 30th anniversary of the European Committee for the Prevention of Torture, which focused on guarantees of protection against torture and other inappropriate actions in the early stages of restricting freedom of movement.

¹ Following the recommendations for sealing these premises, the NPM team in an extraordinary visit (ad-hoc) visit concluded that the recommendation was acted upon and the premises were sealed/welded."

OMBUDSMAN-FRIEND OF THE COURT (AMICUS CURIAE)

In accordance with the new competence, the Ombudsman continued to act as a friend of the court (*amicus curiae*), with the authority to participate in all stages of the court proceedings with the right to give suggestions and opinions, which the court should take into consideration.

In this capacity, the Ombudsman in the reporting year acted in five cases filed in 2019, in two cases for which he initiated proceedings in 2018 and in one case upon which the proceedings were initiated in 2017.

Regarding the complaints filed this reporting year, in which the submitters requested the Ombudsman to be involved as a friend of the court, the Ombudsman after studying the content of the complaints, as well as the submitted evidence, in one case did not establish grounds for involvement in court proceedings and upon four complaints, after determining the factual situation, he acted as a friend of the court in the court proceedings.

In that context, in one of the appeals, the submitter complained that the court did not accept his submissions, the trial judge did not allow him to give his statements, and no audio recording was made during the court hearings. In order to examine these allegations, the Ombudsman within his competence participated in the procedure before the Basic Court Skopje II Skopje as a friend of the court, after which the submitter was allowed by the Court to give his statement in the trial and to inspect that the submission has been received by the Court and taken into account. Furthermore, the submitter showed no interest in the Ombudsman continuing to conduct the proceedings as a friend of the court, after which the case was closed.

As a friend of the court, in this reporting year, the Ombudsman acted in two cases, in which the complaints were filed by the same person, who complained of certain irregularities in civil and criminal court proceedings. The Ombudsman was asked to act as a friend of the court, to follow the court hearings, because there was no sound recording during the court hearings, and the value of the dispute was very high (an amount of several millions), the composition of the court was illegally composed, that is the trial was performed by an individual judge, although according to the value a council should have judged, as well as other irregularities. The Ombudsman, as a direct remark regarding these court proceedings, became a friend of the court. The court proceedings regarding these cases are still ongoing, so that the Ombudsman follows them and in case of possible determination of the violation he will give his appropriate submission as a friend of the court (*amicus curiae*).

This reporting year, in one case a lawyer was asked to involve the Ombudsman in a lawsuit as a friend of the court due to, according to his allegations, non-rule of law, dependent and biased judiciary immediately after the issuance of a power of attorney by his party. In this case, the Ombudsman explained to the complainant/ lawyer the mandate and competencies of the Ombudsman, as well as the new competence of a friend of the court and in which situations the Ombudsman acts in that capacity and indicated that competent to monitor the work of the judges and their actions is the Judicial Council of the Republic of North Macedonia, after which no procedure was initiated.

In his capacity as a friend of the court, the Ombudsman also acted in the case known to the public as "Durmo Tours", that is the unfortunate event - the traffic accident that occurred

near the village of Laskarci, in which there were a large number of casualties. In the complaint filed by the wife of one of the defendants, the Ombudsman was asked to intervene before the court regarding the long non-decision regarding the submitted Proposal for lifting the detention measure with a guarantee by the Criminal Council, and it was stated that the husband, who was accused was in a very poor health and that he was not taken to the Clinic for examinations/ controls by the prison services, although he has heart health problems. The Ombudsman, within his competence, immediately visited the detainee and addressed the court with a request to be notified of the reasons for not deciding on the submitted Proposal for revoking the detention measure with a guarantee, and also requested if actions regarding the submitted Proposal were not undertaken, such actions to be undertaken as soon as possible. Due to the fact that the Court did not submit a response to this request, the Ombudsman also submitted an Urgency, after which a response was submitted that the Proposal was acted upon and it was accepted, that is, the detention measure with a guarantee was accepted. After the actions taken by the Ombudsman, the submitter of the complaint reported that she was satisfied with the intervention of the Ombudsman, after which the case was closed.

Regarding the cases from 2018, the Ombudsman continued to act as a friend of the court in the case for the event - "Serious theft", upon which even after 24 scheduled hearings no hearing was held, that is, they were postponed even though the indictment in court was filed as early as in 2015. Following the involvement of the Ombudsman as a friend of the court, court hearings began, but due to the large number of defendants, the case remained active and was monitored this reporting year, as well. The Ombudsman submitted relevant opinions and proposals to the Court, the Public Prosecutor, the Skopje Prison and the Bureau of Judicial Expertise regarding this case in the capacity of a friend of the court (*amicus curiae*) through which he contributed to the active holding of the hearings and undertaking of procedural actions, which in the end resulted in a court decision and the case before the first instance court was completed.

The Ombudsman, as a friend of the court, is also following the court procedure for the criminal offense "Sexual assault on a minor under 14 years of age", which he has been following with special attention from the very beginning, taking care not to violate human rights of the participants, including the minor who has not reached the age of 14 and is the child of the accused.

Regarding the case filed upon a complaint that was filed in 2017, the Ombudsman did not take any action this reporting year, because the court procedure is currently not active, due to the fact that there are unresolved property and legal relations between the parties to the dispute.

It is important to note in this annual report that in order to strengthen the capacity of the Department for Operation of the Ombudsman as a friend of the court and better acquaintance of the professional service with the new competence, a workshop was organized with the help of the OSCE Mission to Skopje. Representatives of human rights organizations from Slovenia and Croatia took part, who, in accordance with their laws, have the mandate and authority to file *amicus curiae* in court proceedings. From the conclusions drawn from this workshop and the previously established in the workshop with the representative of the Polish Ombudsman, as well as the collected experiences in our activities so far as a friend of the court, the Ombudsman prepared his strategy for further action in that capacity. The Strategy defined the manner of action, selection of cases, presentation in the media of this competence, trainings by relevant experts, preparation of samples (giving an opinion and giving a proposal) in order to equalize the submissions and take actions in court proceedings.

In accordance with the legal competence and the built strategy, the Ombudsman will take further actions in the coming period to strengthen and promote this department. In this regard, the preparation of brochures is underway that will promote the competence of the Ombudsman to act as a friend of the court (*amicus curiae*), both before the citizens and before the judiciary,

in order to bring this competence as close as possible to them and ensure uninterrupted action in that capacity before the courts. Also, with the support of the partners of the Ombudsman-OSCE Mission to Skopje and USAID, there are planned and agreed activities, which will also contribute to strengthening the capacities of the Department for acting as a friend of the court, within the Institution Ombudsman, and thus the citizens whose human rights have been violated to be able to obtain as high quality and professional representation as possible through this tool. These activities are planned to be realized together with experts in this field who have already established this competence and through that our Department to gain practical experience.

The Ombudsman estimates that communication with the courts has improved this reporting year, but believes that space should be left and in the coming period to see if the court will respond positively to this competence before which the Ombudsman will act as a friend of the court and whether the Court will take a delivered submission into consideration, that is, whether it will incorporate it in its decision.

If the Ombudsman is prevented from acting as a friend of the court (*amicus curiae*) by the court and if he is not enabled to act as a protector of the constitutional and legal rights of the citizens in court proceedings he will notify all competent institutions and bodies of such obstruction and will require from them to contribute to the consistent application of the Law on the Ombudsman.

OMBUDSMAN - MECHANISM FOR CIVIL CONTROL

With the amendments to the Law on the Ombudsman (Official Gazette of the Republic of Macedonia No. 35/18), within the professional service, the Ombudsman established a special organizational unit Ombudsman - Mechanism for Civil Control.

Pursuant to the Law, the Ombudsman together with representatives of competent organizations (associations) undertakes actions and measures to provide support and protection to the victim/s, their rights and the presentation of their interests in all proceedings conducted in the state administration bodies, as well as proceedings before the prosecution and the courts through effective and transparent investigation of the actions by persons with police authorizations and members of the prison police, for criminal offenses in the performance of official duties and for crimes committed outside the service using serious threats, force or means of coercion resulting in death, grievous bodily harm, bodily injury, unlawful deprivation of liberty, torture and other cruel, inhuman or degrading treatment or punishment if criminal prosecution is envisaged ex officio as required by law.

The Ombudsman-Mechanism for Civil Control, started working on July 1, 2019, after which it took over the cases received in the period from 2016-2018, whereupon it was acted based on complaints from citizens who complain about illegal actions and the use of force by police officers and members of the prison police.

Also, this mechanism made an unannounced visit to the Penitentiary Prison - Ohrid, after receiving information about torture and inhuman treatment of a convict by members of the prison police, and after receiving a complaint from convicts serving a prison sentence in the Idrizovo Penitentiary. The Ombudsman- Mechanism for Civil Control visited the women's department in this institution, talked to these convicts, and they complained of serious physical and mental abuse, poor and inhumane treatment and degrading behaviour by prison officers to them.

In addition, it acted on a specific complaint filed by a citizen complaining of physical harassment, brutality and humiliating treatment by police officers during her deprivation of freedom and detention at a police station.

The Ombudsman-Mechanism for Civil Control, after examining all the above cases, continued the procedure during 2020 by submitting an appropriate indication to the director of the Penitentiary, as well as by submitting a request for initiating a procedure for determining criminal responsibility to the competent Public Prosecutor's Office for a criminal offense punishable by law.

During this year, in addition to conducting preventive visits and handling specific cases, the Ombudsman- Mechanism for Civil Control conducted activities aimed at promoting and familiarizing with the competencies of the Mechanism, as well as defining and expanding the ways of cooperation with the Department of Internal Control, Criminal Investigations and Professional Standards (DICCIPS) at the Ministry of Interior, and the Special Unit at the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, which is responsible for investigating and prosecution of all crimes committed by persons with police authorizations and members of the prison police, through regular meetings and discussions.

Given that torture, in the physical and mental sense, is the most serious violation of fundamental human rights, and especially when committed during service, the prohibition of torture in domestic and international law is the ultimate achievement in terms of protection of human life and preservation of the physical and mental integrity of every human being and his safety.

Hence, the Ombudsman's position-mechanism for civil control is that any kind of harassment, humiliating and abusive behaviour and action is completely unacceptable and must be investigated and acted upon, both by the Department of Internal Control, Criminal Investigations And Professional Standards at the Ministry of Interior, as well as by the specialized department at the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption.

Otherwise, according to the Law, the Mechanism for Civil Control is composed of representatives of three external civic associations elected by the Assembly of the Republic of North Macedonia through a public competition, which, in turn, nominate one representative from its association for external Member of the Ombudsman - a mechanism for civil control, with a term of one year.

In the reporting period, on December 23, 2019, the Assembly of the Republic of North Macedonia adopted a Decision which, as part of the Ombudsman-Mechanism for Civil Control, elects: the Association for Criminal Law and Criminology of Macedonia, the Macedonian Association of Young Lawyers and the Helsinki Human Rights Committee.

The new mechanism has a strong preventive effect and should greatly contribute to increasing the safety and trust of citizens by ensuring the effective implementation of external control over persons with police authorizations and members of the prison police.

**OMBUDSMAN IN THE FUNCTION
OF A NATIONAL RAPPORTEUR ON
TRAFFICKING IN HUMAN BEINGS
AND ILLEGAL MIGRATION**

As of December 1, 2019, a new Department of the Ombudsman has been established within the Institution of the Ombudsman in the function of the National Rapporteur on Trafficking in Human Beings and Illegal Migration.

This Department was established on the recommendation of the expert group GRETA of the Council of Europe, on the basis of which the Government of the Republic of North Macedonia adopted a Decision amending the Decision on the formation of a national commission for combating trafficking in human beings and illegal migration No. 45-278/1 of 22.01.2019, whereby the Ombudsman agreed to have such a mandate as the most competent, and to be appointed National Rapporteur on Trafficking in Human Beings and Illegal Migration.

The Ombudsman, pursuant to Article 43 paragraph 2 of the Law on the Ombudsman (Official Gazette of the Republic of Macedonia No. 60/03, 114/09, 181/16, 189/16 and 35/18), and in accordance with the Government Decision No. 45-278/1 dated 22.01.2019, adopted a Rulebook on amending the Rulebook on organization and systematization of jobs in the Professional Service, the Team of the National Preventive Mechanism, Special Departments and the Offices of the Ombudsman, NPR no. 01-1720/1 dated 13.03.2019, whereby the Department Ombudsman - National Rapporteur for Human Trafficking and Illegal Migration was established, and to these legal acts the Assembly of the Republic of North Macedonia, by Decision no. 08-2176/1 dated 27.03.2019 gave its consent.

The Ombudsman in the function of the National Rapporteur on Trafficking in Human Beings and Illegal Migration is responsible for monitoring the overall activities to combat trafficking in human beings and migration, collecting and analyzing data from relevant partners, drawing conclusions and making recommendations for improving and promoting the fight against human trafficking and illegal migration in order to implement a policy for a better institutional response and recommendations for strategic goals and the preparation of an annual report.

In addition to the above, the newly established Department - Ombudsman in the function of the National Rapporteur on Trafficking in Human Beings and Illegal Migration should perform the following tasks: collecting and analyzing data, qualitative and quantitative information from relevant partners, performing monitoring activities and evaluation of the implemented activities based on the national action plan, participation in the work of the National Commission for Combating Trafficking in Human Beings and Illegal Migration, Adopting Conclusions and Giving Recommendations relating to the improvement of the efforts to combat trafficking in human beings and illegal migration in terms of law enforcement, policies for a better institutional response and recommendations for the revision of strategic goals, initiating and proposing views on issues related to the fight against trafficking in human beings and illegal migration, communication and cooperation with institutions and organizations involved in the fight against human trafficking and illegal migration, preparation of an annual report as a National Rapporteur on Trafficking in Human Beings and Illegal Migration.

**RESEARCH, SPECIAL REPORTS,
OPINIONS, INITIATIVES**

The Ombudsman's views on the level of respect for human rights and freedoms in 2019, among other things, were made through research, which was then a good basis for preparing special reports. These reports show in detail the established conditions, and at the same time recommendations are given for overcoming them, in order to reach improvement/changes that will be aimed at raising the level of protection of citizens' rights.

Also, following the general situation, which referred to larger groups of citizens, the Ombudsman prepared opinions and gave recommendations for both legal projects and decisions made by the authorities, which were directly related to the rights of a certain category of persons.

In the reporting year, a visit was made to the Educational-Correctional Home Tetovo (which operates in the Ohrid Penitentiary) in order to see the degree of implementation of the given recommendations of the Ombudsman during the previous visit, conducted three years ago (in 2016 after which A special report on the situation was prepared). From this visit, the Ombudsman concluded that the dislocation of this institution is delayed that goes to the direct detriment of the children placed here, due to the fact that the children from ECH cannot be separated from the other persons who are serving a juvenile sentence, that is, that communication and contact between children and convicts cannot be prevented. Also, after three years, it has been determined that there is a lack of staff for the complete treatment of children, as well as that there are no changes regarding the implementation of education and the process of resocialization. This directly affects the literacy of children who remain illiterate, thus depriving them of the right to correspond with their parents and relatives. When it comes to children's health treatment, the fact that no health service has been established in this institution, but once a week a doctor from the Ohrid Health Centre comes to the institution, is especially disappointing, as well as the fact that children receive strong sedative therapy and no measure are being undertaken to check the therapy, which would lead to a change or reduction in the dose of the drug therapy.

The Ombudsman made appropriate recommendations for these and other identified weaknesses.

The focus of the Ombudsman's interest was peer violence, for which a survey was conducted (by submitting special survey lists) to all primary schools in the country, after which a special report on violence among primary school pupils (peer violence) was prepared. The study found that peer violence is present in a number of primary schools, even though they have a Violence Prevention Programme. This violence manifests itself in the form of physical, emotional and verbal, and it is particularly worrying that the reasons for this are intolerance, hatred, envy, jealousy, but also misunderstandings, intolerance and even social and family status, as well as ethnicity.

To overcome these conditions, the Ombudsman recommended, among other things, continuous activities (talks, tribunes, debates) to create an atmosphere of mutual understanding and cooperation, as well as to resolve misunderstandings in a peaceful manner. He also recom-

mended the active involvement of the Parents' Council, School Boards as a resource for preventing the occurrence of violence among pupils. The Ombudsman believes that the elimination of this deviant phenomenon requires the involvement of families and centres for social work, as well as the wider community.

In order to understand the situation with the conditions and the manner of treatment of children with educational and social problems and impaired behaviour placed in the Public Institution "Ranka Milanovic", in the reporting year a visit to this institution was made, after which a special report was prepared from the visit, giving a number of findings and recommendations.

The visit showed extremely bad and degrading conditions, under any standard for accommodation of children in this category, with educational and social problems and impaired behaviour. Given the conclusion that in this institution the children were left without any organization of their free time, as well as the lack of other activities, the process of their re-socialization was called into question. It has been established that the documentation that is kept for the beneficiaries is more from a formal aspect and that the plans and programmes for the beneficiaries are not sufficiently precise and individualized. Additional difficulties are created by the lack of a multidisciplinary approach in the treatment of beneficiaries, especially those who needed continuous psycho-social treatment. During the inspection of the documentation, it was determined that although a large number of children come from families with low socio-economic and educational-cultural status the local competent centres for social work do not practice working with these families. Regarding the escapes from this home, although they are a common occurrence, the only measure that is practiced is to report them to the competent authorities.

Appropriate recommendations have been made for these findings, and it should be noted that in the meantime, the beneficiaries of this institution have been transferred to small homes, which was part of the recommendations of this report.

In order to see the situation in the Daily Centre for Children with Cerebral Palsy in Skopje, the team for monitoring the implementation of the Convention on the Rights of Persons with Disabilities visited this centre which at the time of the visit was located in a building of the former urban community "Slave Georgievski - Snajder", after which a Special Report was prepared.

From an inspection of the Daily Centre for Children with Cerebral Palsy, which still operates in the building of the former urban community "Slave Georgievski - Snajder" in the Municipality of Centar, the Ombudsman **concludes** that the conditions, materially and technically, as well as equipment meet the standards prescribed by the Rulebook on norms and standards for establishment and operation of social protection institutions. Among the findings is the lack of professional staff, given the number of beneficiaries. Given that the current beneficiaries of the Daily Centre are between 6 and 31 years old, the Ombudsman stated that this is not in accordance with the Guidelines for the organization and operation of the Daily Centre for Children and Adolescents with mild and moderate intellectual disability and cerebral palsy, in which it is indicated that beneficiaries may be children and adolescents aged 4 to 18 years.

Also, starting from the type and degree of disability (where most of the beneficiaries, 92% of the total number) are with combined disability, it is concluded that the above is contrary to the provisions of the Rulebook on norms and standards, according to which the Daily Centre is intended for people with moderate and severe mental development impairments and for people with severe physical disabilities. At the same time, this situation is not in accordance with the Instruction of the Institute for Social Activities, according to which the Daily Centre is intended for children and adolescents with mild and moderate intellectual disability.

According to these findings, **recommendations** are given, including the Ministry of Labour and Social Policy and the Municipality of Centar to take urgent measures to complete the

construction and craft works as soon as possible in the part of the building of the primary school "Kiro Gligorov" which will be used as a daily centre for children with cerebral palsy, as well as measures for full equipping of the Centre, in accordance with the prescribed standards.

It was also recommended to increase the number of employed professionals (social workers, special educators and rehabilitators, physiotherapists, etc.), taking into account the needs and number of beneficiaries, as well as taking measures to harmonize the number of beneficiaries as prescribed in Rulebook on norms and standards for establishment and operation of social protection institutions.

Also, for harmonization of the age limit of the beneficiaries of the Daily Centre with the Instruction of the PI Institute for Social Activities, it is recommended to consider the possibility in the Daily Centre that should function in the building of the primary school "Kiro Gligorov", to move the beneficiaries (children with cerebral palsy) aged 4 to 14 years/ or up to 18 years, so that they can to be involved in the regular educational process.

Considering the fact that in 2019 a new Law on Primary Education was adopted, which offered a different concept, especially in the area of inclusiveness, the Ombudsman actively participated in the public debate when the law was drafted, but also submitted his **opinion to the Ministry of Education and Science**, in order to improve the provisions that go in the direction of greater protection of children.

Thus, the Ombudsman in his opinion, among other things, stated that the part of the Draft Law on Organizing Teaching at Home or Health Institution (Article 14) does not regulate the exercise of the right to education at home or health institution for children with disabilities and children with special educational needs, and therefore asked for an arrangement of this issue, as well as the issue of the composition of the inclusive team.

Namely, the Ombudsman considers that it is necessary for this team to include other professionals, if necessary, which will give a legal opportunity to include a speech therapist, psychiatrist, social worker or another professional in the school inclusive team, depending on the need/child disability.

The opinion also referred to the part that regulates the provision of personal assistants, whereby the Ombudsman considered that they should be provided compulsorily, and not to depend on the interest and assessment of the schools.

In order to understand the situation with the realization of the right to education of children with special needs in primary schools in the Skopje region, the Ombudsman conducted a survey, after which he prepared a special report on the situation with the realization of the right to education of children with special educational needs in primary schools in the Skopje region.

The analysis of the obtained data, among other things, shows that in 93% of the municipal primary schools a total of 1,236 children with special educational needs study, of whom 513 are pupils with disabilities. The most common type of disability is mild intellectual disability and autistic spectrum disorders. On average, the number of pupils with disabilities in the classes is one to two students per class, and almost all schools have formed inclusive teams. In 41 schools there is no employed educator and rehabilitator as a professional associate and it is 49 percent of the total number of schools that were part from the research. In a total of 8 municipalities, there are educational/personal assistants, while nine have not hired such staff, and the number of schools in which the entire teaching staff and the professional service have attended trainings for working with children with disabilities is small.

Due to the established conditions, the Ombudsman recommended providing human and material-technical resources without which quality inclusion is not possible, as well as training of the teaching staff.

In the reporting year, a visit was made to the Public Institution for Rehabilitation of Children and Youth Skopje, where children, youth and adults with moderate and severe intellectual disabilities are cared for or they visit it. The inspection, after which a special Information was made, showed that the Office lacks staff, as well as that the accommodation conditions are not at a satisfactory level, and that there is no doctor employed in this institution for more than a year. In accordance with the findings, recommendations are given in the direction of immediate provision of staff, as well as consideration of the possibility for faster deinstitutionalization of beneficiaries who are perceived to be ready to live independently or supported living in housing units.

The Ombudsman after realizing that the citizens who are beneficiaries of permanent financial assistance cannot exercise the right to be exempted from participation in healthcare, due to the fact that with the new Law on Social Protection the categories of beneficiaries of social financial assistance and beneficiaries of permanent financial assistance have been replaced by one category-beneficiaries of guaranteed minimum assistance, submitted to the Government of the Republic of North Macedonia an **Initiative for amending Article 34 of the Law on Health Insurance.**

Namely, with the adoption of the new Law on Social Protection, the categories of beneficiaries of social financial assistance and beneficiaries of permanent financial assistance have been replaced and are included in one category - beneficiary of guaranteed minimum assistance.

In this way, a legal gap has been created which indisputably points to the fact that a certain category of citizens are disabled in the enjoyment of the rights established so far, and the healthcare institutions that apply the regulations in the field of health insurance are unable to apply a certain norm exemption from participation, in cases when the citizens beneficiaries of the right to guaranteed minimum assistance request to be exempted from co-payment.

For these reasons, an amendment to the Law on Health Insurance was requested, in order for the categories of insured persons who are exempt from co-payment to comply with Article 27 item 1 of the Law on Social Protection. The Ombudsman considers that the adoption of the amendment to Article 34 of the Law on Health Insurance, in addition to filling the legal gap, will create preconditions for exercising the rights of persons who need social care, and based on the principle of social justice a basic and adjustable standard of living will be provided for them and their families, and especially for the citizens who completely or partially lack income and means for living and treatment, that is, for satisfaction of the basic needs.

This initiative was accepted and the Law on Amendments to the Law on Health Insurance was adopted.

COMMUNICATION AND COOPERATION OF THE OMBUDSMAN WITH INTERNATIONAL BODIES AND ASSOCIATIONS

COOPERATION WITH INTERNATIONAL INSTITUTIONS AND BODIES IN EUROPE AND THE WORLD

When it comes to the cooperation that the Ombudsman has with institutions and bodies from Europe and beyond, in 2019 it was at a high level, followed by multiple participation in conferences, roundtables and other meetings aimed at exchanging experiences with related institutions and bodies.

Earlier this year in Tirana, Albania, representatives of the Ombudsman participated in a meeting of the Executive Committee of the Association of Ombudsmen of the Mediterranean (AOM) to discuss the Association's activities during 2018, as well as the Association's plans and activities plans for 2020.

In Strasbourg, France, the Committee of Ministers of the Council of Europe organized a thematic debate on the obligation to conduct investigations under Articles 2 and 3 of the European Convention on Human Rights (ECHR), attended by Deputy Ombudsman Ms. Vaska Bajramovska Mustafa. The Council of Europe debate focused on three areas: shortcomings identified through the Court's judgments, independent control of investigations and compensation for victims.

The Deputy Ombudsman, Mrs. Vaska Bajramovska Mustafa, presenting the mandate of the Institution Ombudsman for Civil Control, emphasized the importance of this new mechanism which together with representatives of the NGO sector will provide support and protection to victims and will represent their interests in all proceedings, through an efficient and transparent investigation of criminal offenses and other illegal acts committed by persons with police authorizations and by the prison police.

As part of the country's commitments to join the European Union, there was an Explanatory Meeting (screening) for Chapter 19: Social Policy and Employment. Such meetings are the first step towards preparations for the start of negotiations between the country and the European Union. The meeting took place at the headquarters of the European Commission in Brussels, Belgium, in the period from 3 to 5 April 2019, and was attended by representatives of the Ombudsman.

This Explanatory Meeting referred to two candidate countries for membership in the European Union, so in addition to representatives from the Republic of North Macedonia, representatives of relevant bodies and institutions of the Republic of Albania also took part in the meeting.

During the three working days, representatives of the European Commission's directorates introduced the participants to all relevant directives regarding the topic of the meeting and their practical application. Information related to labour relations, health and occupational safety, social inclusion and social protection, gender equality, persons with disabilities, etc. were exchanged.

In April last year in Zagreb, Croatia, a working meeting of the Asylum and Migration Working Group (A&M WG) was held, which is part of the European Network of National Human Rights Institutes (ENNHRI). The representative of the Institution from the National Preventive

Mechanism, who is also a member of the working group, took part in the meeting.

The purpose of the working meeting was to build capacity, as well as exchange experiences and practices for operations, activities and results achieved over the past year, in terms of protecting the rights of migrants and refugees, as well as highlighting future activities in the same area.

In the period from 15.05.2019 to 24.05.2019, the Helsinki Committee of the Netherlands within the programme MATRA, in Hague, Netherlands held a training on Human Rights and the rights of community members.

During this ten-day training, the participants received an overview of the functioning of the rule of law in the Netherlands, the hierarchy in the judicial system, the implementation of decisions of the European Court of Human Rights and the decisions of this court that serve as practice in the work of courts, rights of women and children, the rights of members of the LGBT community, the work of the state and municipal Ombudsman, as well as the work of NGOs related to human rights and community rights.

Later in December, an alumni meeting was held in Skopje, at which the undertaken activities and achieved results were presented in relation to the Action Plans that the participants were obliged to implement in accordance with the programme. The Ombudsman together with the representative of the Ministry of Labour and Social Policy, presented the achieved results related to the problem chosen by the two institutions - Regulating the status of undocumented persons in the Republic of North Macedonia and enacting the Law on Persons without Regulated Civil Status.

A representative of the Ombudsman attended a meeting organized by the European Union Agency for Human Rights (FRA) in Vienna, Austria for the National Institutions of Human Rights of the European Union member states, Serbia and North Macedonia.

The purpose of the meeting was to provide professional contributions in the context of the current research conducted by the Agency regarding the situation of the National Institutes of Human Rights in the EU, but also of the two countries with observer status in the Agency, Serbia and North Macedonia, and exchange of opinions and views on the current challenges and opportunities faced by the National Institutes of Human Rights in the EU. The FRA report will be published in 2020.

As every year, the European Network of National Human Rights Institutions (ENNHRI) organized an Academy for representatives of its member institutions. In 2019, the academy was held in Venice, Italy, and the Ombudsman participated with his representative. The academy's focus was on strengthening the national capacity of human rights institutions to implement economic and social rights.

In September 2019, the Deputy Ombudsman, Ms. Vaska Bajramovska Mustafa, paid a study visit to the Republic of Slovenia as part of the Delegation of the Republic of North Macedonia composed of Members of the Assembly of the Republic of North Macedonia, Secretary General of the Assembly, NGO representatives and the Commission for Personal Data Protection, as well as the State Commission for the Prevention of Corruption.

The purpose of the study visit was to exchange experiences and good practices in reviewing, adopting and monitoring the actions following the recommendations of the Annual Report of the Ombudsman and other independent state bodies, in accordance with the Belgrade principles. In that regard, meetings were held with the Ombudsman of the Republic of Slovenia, the Commissioner for Information, as well as with several parliamentary committees the competence of which is the control of public finances, handling petitions, protection of human rights and equal opportunities, prevention of corruption and the like.

In Riga, the Republic of Latvia, representatives of the Ombudsman participated in a two-

day training/workshop on personal data protection entitled “General Regulation on Personal Data Protection and Human Rights Challenges” organized by the European Network of the International Ombudsman Institute (IOI) and the Ombudsman of the Republic of Latvia.

The main purpose of the training was to get acquainted with the rules of the General Regulation of the European Union (GDPR 2016/679 OJ L 119, 04.05.2016), which refers to the protection of personal data and various aspects of its implementation by member states. This regulation protects the fundamental rights and freedoms of individuals, and in particular their right to personal data protection.

Organized by the Council of Europe, a conference was held in Montenegro on “Preventing Inhuman or Degrading Treatment or Punishment by the Police: Dealing with Challenges Arising from the Judgments of the European Court of Human Rights and Other Institutions at the Council of Europe”. Deputy Ombudsman, Ms. Vaska Bajramovska-Mustafa and Adviser from the Ombudsman’s Office participated in this conference.

The international conference addressed a number of issues, including the inhumane treatment of police officers by the performance of police authorizations. Thereby, a strong message was sent for zero tolerance for inhuman and brutal treatment by law enforcement officers.

In her speech at the conference, Ms. Bajramovska-Mustafa focused on the work of the Ombudsman’s Office and presented the new Police Civil Control Mechanism.

Organized by the Association of Ombudsmen of the Mediterranean (AOM) and supported by the Ombudsman Institution of Turkey, a study visit to the rights of migrant children was held in Ankara in October, which provided information and status exchange between representatives of AOM member states, which were part of the visit. During the study visit, several Centres which provide assistance and protection to migrants in Turkey were visited.

At the end of October, the Ombudsman, Mr. Ixhet Memeti, participated in a meeting in Valona, Albania together with his colleagues, the Ombudsman of the Republic of Kosovo, Mr. Hilmi Jashari and the Ombudsman of the Republic of Albania, Ms. Erida Balanca. Representatives of the Commissions for Prevention and Protection against Discrimination also took part in the meeting.

At this third meeting (the first two were held in the Republic of North Macedonia and the Republic of Kosovo), a Cooperation Agreement was signed between the Ombudsman Institutions and members of the Commissions for Prevention and Protection against Discrimination aimed at raising the level of cooperation between the institutions in the interest of greater protection of citizens’ rights.

A representative of the Ombudsman participated in a workshop entitled “Exploring the Role of National Human Rights Institutions in Building Peace”, organized by the European Network of National Human Rights Institutions (ENNHRI) in Zagreb, Croatia, in November 2019.

The workshop aimed to explore the relationship between human rights and peacebuilding, as well as the role that human rights institutions could play in this area. Various examples have been taken from countries in Europe and beyond, discussing various strategies and approaches to building peace in conflict societies, maintaining lasting peace, and building and strengthening trust between parties involved in conflict in post-conflict societies, the role of education and the importance of campaigns to raise awareness among citizens for peace and peaceful resolution of conflicts.

In October, a thematic meeting of the Network of Children’s Ombudsmen of Southeast Europe-CRONSEE was held. The meeting was dedicated to the rights of migrant children and was held in Tirana, Albania, hosted by the Ombudsman Institution of the Republic of Albania. The People’s Representative participated with his team and presentation.

The same month in Podgorica, Montenegro, organized by the Organization for Security

and Co-operation in Europe (OSCE), a regional conference of the Equality Bodies of the South-east European Region was held, attended by the Ombudsman Institution with its representative.

Ombudsman - the National Preventive Mechanism participated in a conference marking the 30th anniversary of the formation of the Committee for the Prevention of Torture in Strasbourg, France.

The conference served as a forum for exchanging experiences and good practices in reviewing and following the recommendations of the reports of the national preventive mechanisms with emphasis on the right to a lawyer in the first hours of police detention.

The Association of Ombudsmen of the Mediterranean (AOM) in Rabat, Morocco, organized training for its member institutions with the working title "Acting on complaints on its own initiative". At this working session, which was attended by a representative of the Ombudsman, the possibility of acting on cases on its own initiative was considered as a tool for improving the public service.

A representative of the Ombudsman participated in the General Assembly of the European Network of National Human Rights Institutions (ENNHRI), held in Brussels, Belgium, on 13 and 14 November 2019, where the results achieved during 2019 were shared, the realized budget, the challenges that the Network faced during the year, but it was also informed about the activities planned for 2020.

Every year at the end of November, the European Commission organizes a legal seminar dedicated this year to non-discrimination and gender equality. As in previous years, this legal seminar was divided into several workshops dedicated to the protection of the rights of the most vulnerable categories in society, transgender people, the prohibition of discrimination, the rights of persons with disabilities under the United Nations Convention and others.

The Association of Ombudsmen of the Mediterranean (AOM), together with the Council of Europe and the Commissioner for Administration and Protection of Human Rights of Cyprus, organized a conference in Nicosia, Cyprus, presenting the principles for protection and promotion of Ombudsman institutions "Venetian Principles", adopted on the 118th plenary session, which was held in Venice, Italy in March of the same year. These principles and rules should be the basis for how an Ombudsman institution should be regulated.

At the regular international conference held every year by the High Commissioner for Human Rights of the Russian Federation in Moscow, the Ombudsman Institution participated with its representative.

This year, the conference discussed the rights of citizens in the Eurasian region, as well as the situation with the protection of the rights of migrants, refugees and stateless persons. The working day of the conference ended with the adoption of a Resolution on the protection of the rights of persons from the Eurasian region with a focus on the exchange of information and best practices between Ombudsman institutions in the region, as well as joint action and implementation of joint activities aimed at greater protection of human rights and freedoms.

COOPERATION IN THE REGION

Organized by the Ombudsman, the Bosnia and Herzegovina Human Rights Institution, with the support of the OSCE, held a conference in Banja Luka entitled "Environmental Protection - the Role of the Ombudsman", which was attended by Deputy Ombudsman PhD Jovan Andonovski. The event was attended by representatives of the Environmental Ombudsman Network from Bosnia and Herzegovina, Croatia, Slovenia, Serbia, Montenegro and North Mac-

edonia, as well as representatives of the relevant state institutions of the host country, the academic community and non-governmental organizations dealing with the issue of environmental protection. At the conference, the so-called Banja Luka Declaration on the Participation of Ombudsmen in the Field of Environment and Human Rights was signed and adopted.

Deputy Ombudsman Ms. Vaska Bajramovska-Mustafa and State Counsellor Vjolca Rushaj participated in the sixth Regional Forum for the Rule of Law in Southeast Europe, held in Dubrovnik, Republic of Croatia, organized by AIRE Centre and Civil Rights Defenders.

The purpose of this Forum was to promote the implementation of the European Convention on Human Rights at the national level, to promote regional cooperation in conditions of continuous development of the rule of law and human rights and to assist in the EU integration process.

Organized by the institution Protecting the Citizens of the Republic of Serbia, in Nis, a regional conference was held in November dedicated to strengthening the capacities of the institutions and bringing the Ombudsman institutions closer to the citizens. The Deputy Ombudsman, PhD Jovan Andonovski, took an active part in the conference. The conference was a forum for exchanging views on issues of interest to institutions, including the status of minorities in Serbia, independent monitoring of activities undertaken to prevent trafficking in human beings, and strengthening the capacity of Ombudsman institutions in accordance with the Venetian principles.

STATISTICAL DATA

In the reporting year, the Ombudsman acted on a total of 4.705 complaints, of which 3.453 from the reporting period, and the remaining 1.252 were transferred from the previous year.

The largest number of complaints, 2.158, were submitted in person by the submitters in the Ombudsman's offices, by mail 605, by e-mail 313, through the website 268, by telephone call 70, by fax 2, and 37 complaints were filed on their own initiative.

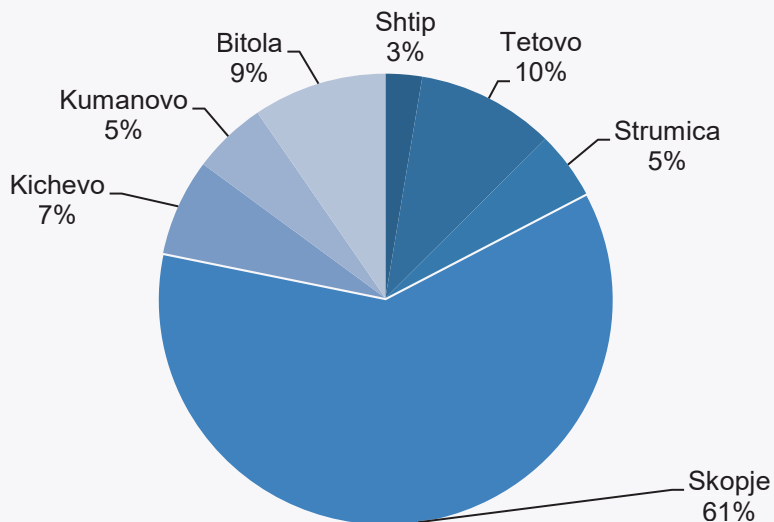
Review no.1

	PRESENTATION OF RECEIVED COMPLAINTS																							
	2008		2009		2010		2011		2012		2013		2014		2015		2016		2017		2018		2019	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Non-discrimination and appropriate and equitable representation	21	0,69	20	0,55	16	0,4	42	0,99	32	0,74	51	1,35	66	1,55	53	1,2	69	1,83	70	2,17	77	2,23	60	1,74
Police authorizations	236	7,81	252	6,94	238	5,89	179	4,21	220	5,06	177	4,68	173	4,07	156	3,54	133	3,52	152	4,72	199	5,75	170	4,92
Civil status and other internal affairs	132	4,37	154	4,24	169	4,18	126	2,96	156	3,59	97	2,57	85	2	90	2,04	45	1,19	53	1,64	57	1,65	70	2,03
Judiciary	883	29,22	744	20,5	757	18,7	732	17,2	710	16,34	732	19,37	901	21,2	850	19,32	577	15,28	576	17,87	945	27,33	639	18,51
Prosecution																								63
Social protection	115	3,81	95	2,62	140	3,46	193	4,53	240	5,52	206	5,45	279	6,57	382	8,67	245	6,49	157	4,87	127	3,67	159	4,60
Labor relations	253	8,37	389	10,7	365	9,03	412	9,68	306	7,04	246	6,51	299	7,04	265	6,02	155	4,11	199	6,17	335	9,69	282	8,17
Housing relations	34	1,13	57	1,57	89	2,2	65	1,53	57	1,31	76	2,01	36	0,85	42	0,95	48	1,27	11	0,34	35	1,01	17	0,49
Health protection	69	2,28	72	1,98	93	2,3	115	2,7	166	3,82	128	3,39	125	2,94	79	1,79	83	2,2	101	3,13	77	2,23	106	3,07
Pension and disability insurance	180	5,96	181	4,98	159	3,93	237	5,57	241	5,55	224	5,93	221	5,2	175	3,97	135	3,58	138	4,28	142	4,11	146	4,23
Education, science, culture and sports	39	1,29	49	1,35	48	1,19	45	1,06	35	0,81	34	0,9	21	0,49	41	0,93	29	0,77	17	0,53	27	0,78	22	0,64
Children's rights	145	4,8	157	4,32	111	2,75	144	3,38	161	3,7	116	3,07	124	2,92	158	3,59	106	2,81	119	3,69	153	4,42	246	7,12
Urbanism and construction	162	5,36	170	4,68	170	4,2	146	3,43	155	3,57	140	3,7	168	3,95	168	3,81	165	4,37	158	4,90	131	3,79	185	5,36
Environment	15	0,5	21	0,58	20	0,49	26	0,61	35	0,81	20	0,53	26	0,61	16	0,36	15	0,4	22	0,68	16	0,46	18	0,52
Finance	48	1,59	50	1,38	71	1,76	101	2,37	130	2,99	106	2,8	407	9,58	865	19,64	1039	27,52	510	15,82	166	4,80	137	3,97
Property-legal relations	317	10,49	361	9,94	401	9,92	360	8,46	272	6,26	261	6,9	239	5,62	224	5,09	174	4,61	125	3,88	175	5,06	188	5,44
Consumer rights	147	4,86	277	7,63	553	13,7	673	15,81	948	21,81	646	17,09	486	11,44	368	8,36	309	8,19	281	8,72	230	6,65	367	10,63
Penitentiary – correctional and educational – correctional institutions			347	9,55	395	9,77	352	8,27	278	6,4	247	6,53	274	6,45	257	5,84	198	5,25	264	8,19	247	7,14	267	7,73
Children and people with special needs									10	0,23	10	0,26	11	0,26	9	0,2	15	0,4	5	0,16	21	0,61	24	0,70
Ombudsman as friend of the court																							5	9,26
Census							12	0,28	3	0,07														
Election rights							90	2,11			42	1,11	78	1,84	2	0,05	65	1,72	25	0,78	35	1,01	54	1,56
Other	226	7,48	236	6,5	248	6,13	206	4,84	191	4,39	221	5,85	230	5,41	203	4,61	170	4,5	240	7,45	263	7,61	228	6,60
TOTAL:	3022	100	3632	100	4043	100	4256	100	4346	100	3780	100	4249	100	4403	100	3775	100	3223	100	3458	100	3453	100

The Ombudsman continued the practice of direct admission and conversation with citizens in the office in Skopje, as well as in the offices in Bitola, Kicevo, Tetovo, Kumanovo, Stip and Strumica, where the citizens presented the problems, their thoughts and perceptions about the actions and attitude of the bodies/institutions towards them. In this context, many citizens were advised about the legal possibility of exercising their rights before the administrative and other bodies.

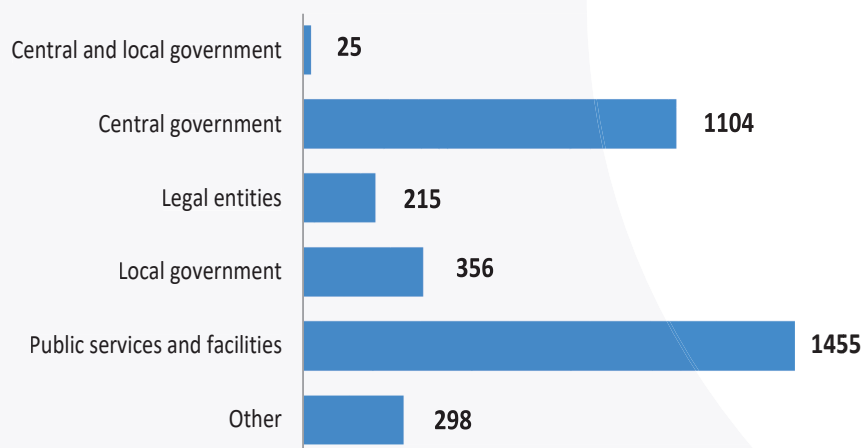
The Ombudsman’s Office in Skopje acted on 2,104 complaints, the office in Bitola 329, in Tetovo 340, in Kicevo 240, in Kumanovo 183, in Strumica 167 and in Stip 90 complaints.

Figure no.1



Out of a total of 3.453 complaints received in 2019, the largest number 1.455 or 42,14% relate to violations of rights by public services and institutions, 1.104 or 31,97% relate to violations of rights by the central government, in 356 complaints or 10,31% there was violation of the rights by the local government, in 215 complaints or 6,23% the rights were violated by the legal entities, in 25 complaints or 0,72% there was a violation of the rights, both from the central, as well as by the local government, and in 298 complaints or 8,63% the complainants complain of violation of the rights by others entities.

Graph no.1



Out of the total number of complainants, 54,97% or 2.227 citizens declared their ethnicity, and 1.824 or 45,03% did not declare themselves, which is approximately the same as the previous year. In addition, the largest number of citizens who declared themselves are Macedo-

Review no.2

REVIEW OF COMPLAINTS ACROSS DOMAINS BASED ON ETHNICITY															
AREA	Complaints received in 2019	Anonymous	Number of formed case upon a self-initiative	Organization (Association)	Number of complainants	ETHNICITY									
						Macedonians	Albanians	Serbs	Roma	Macedonians – Muslims	Bosniaks	Vlachs	Turks	Ethnicity not declared	Other
Non-discrimination and appropriate and equitable representation	60		1	6	53	20	3	2	2			1		25	
Police authorizations	170	1	1	8	213	104	17	1	2		1		4	84	
Civil status and other internal affairs	70		1	12	58	11	12		3	2	1		1	25	
Judiciary	639	2		12	636	223	95	5	11	3	1	2	18	276	
Prosecution	63			6	57	31	5		1				2	18	
Social security and protection	159		2	2	155	34	63		19		2	1	5	29	
Labour relations	282	3	1	15	321	100	23	2			1		1	194	
Housing relations	17	1		1	63	5			1		1			55	
Health protection	106		4	1	100	16	9		45				5	25	
Pension and disability insurance	146			2	163	57	25		3				5	73	
Education and science	20			1	24	7	8							9	
Culture and sports	2				2		2								
Children's rights	246		9	12	244	68	5	1	7		2	1		158	
Urbanism and construction	185	2		12	270	70	12		1		1	1	7	178	
Environment	18	1	1		17	4	2				1		1	9	
Finance	137	2		6	133	64	19		6		2		2	39	
Property-legal relations	188			13	184	73	15	1					8	87	
Consumer rights	367	1	2	7	408	193	46	3	9	1	4	1	8	141	
Penitentiary – correctional and educational – correctional	267	1	12	10	254	7	31		8	1	1		2	204	
Children and people with special needs	24		2	7	14	3	1					2		8	
Ombudsman as a friend of the court	5			2	3	1								2	
Election rights	54			8	45	9								36	
Other	228	3	1	15	634	69	28		4	3		377	1	149	
TOTAL:	3453	17	37	158	4051	1169	421	15	122	10	18	386	70	1824	

nians 1.169 or 52,49%, 421 or 18,90% are members of the Albanian ethnic community, 386 or 17,33% are members of the Vlach ethnic community; 122 or 5,48% are members of the Roma ethnic community; 70 or 3,14% are members of the Turkish ethnic community; 18 or 0,81% declared themselves as Bosniaks; 16 or 0,72% are members of other ethnic communities, 15 or 0,67% are Serbs, and the lowest number of complaints, 10 or 0,45%, are from complainants who have declared themselves as Macedonian-Muslims.

Compared to the previous year, there is an increase in the number of citizens who declare their ethnicity in each ethnic community, which is especially visible among the members of the Macedonian and Vlach ethnic community.

Review no.3

REVIEW																					
by year of submitters who have declared their ethnicity																					
ETHNICITY																					
Year	Total	Macedonians		Albanians		Serbs		Roma		Macedonians – Muslims		Bosniaks		Vlachs		Turks		Ethnicity not declared		Other	
		Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
2018	3490	1212	34,73	477	13,67	16	0,46	91	2,61	7	0,20	12	0,34	9	0,26	73	2,09	1577	45,19	16	0,46
2019	2227	1169	52,49	421	18,90	15	0,67	122	5,48	10	0,45	18	0,81	386	17,33	70	3,14	1824	81,90	16	0,72
% increase		17,76		5,24		0,22		2,87		0,25		0,46		17,07		1,05		36,72		0,26	

According to the place of residence of the complainants, most of the complaints are from Skopje, that is, 1.473, followed by complaints from: Tetovo, Bitola, Kicevo, Kumanovo, Strumica, Stip, Veles and other major urban areas, as well as from other countries.

Review no.4

REVIEWS OF RECEIVED COMPLAINTS ACROSS CITIZENS AND STATES OF FOREIGN COMPLAINANTS						
City	2018	2019		City/State	2018	2019
Berovo	5	5		Ohrid	59	51
Bitola	303	297		Pehchevo	1	4
Bogdanci	4	1		Prilep	57	63
Valandovo	3	2		Probistip	11	12
Veles	89	53		Radovish	14	13
Vinica	5	7		Resen	8	7
Debar	7	11		Skopje	1558	1473
Delchevo	10	19		Struga	26	42
Demir Hisar	7	7		Strumica	137	150
Demir Kapija	1			Sveti Nikole	11	17
Dojran				Tetovo	259	348
Gevgelija	27	12		Stip	96	64
Gostivar	37	52		Austria		1
Kavadarci	45	29		Albania		1
Kichevo	178	192		Bosnia and Herzegovina	1	1
Kocani	22	33		Germany		1
Kratovo	15	9		Kosovo	1	1
Kriva Palanka	22	25		Serbia	1	4
Krushevo	5	6		USA	1	1
Kumanovo	187	177		Turkey		2
Makedonska Kamenica	3	6		Hungary	1	
Macedonian Ship	30	13		France	1	
Mavrovo		5		Sweden		1
Negotino	13	7		No city or state is selected	197	228
TOTAL:					3458	3453

DATA BY AREAS

This reporting year, like the previous ones, the largest number of complaints are in the field of justice 639 or 18,51%; followed by consumer rights complaints 367 or 10,63%; from labour relations 282 or 8,17%; from the penitentiary and correctional institutions 267 or 7,73%; in the field of children's rights 246 or 7,12%, in the area of property law 188 or 5,44%; from urbanism and construction 185 or 5,36%; in the field of protection of rights under police authorizations 170 or 4,92%; from social protection 159, that is, 4,60%; from pension and disability insurance 146 or 4,23%; from finance and financial operations 137 or 3,97%; from health care 106 or 3,07%; from civil status and other internal affairs 70 or 2,07%; from the prosecution 63 or 1,82%; from non-discrimination and the appropriate and equitable representation 60 or 1,74%; 54 or 1,56% of the election rights, 24 or 0,70% of the children and persons with special needs; from education and science 20 or 0,58%; from the environment

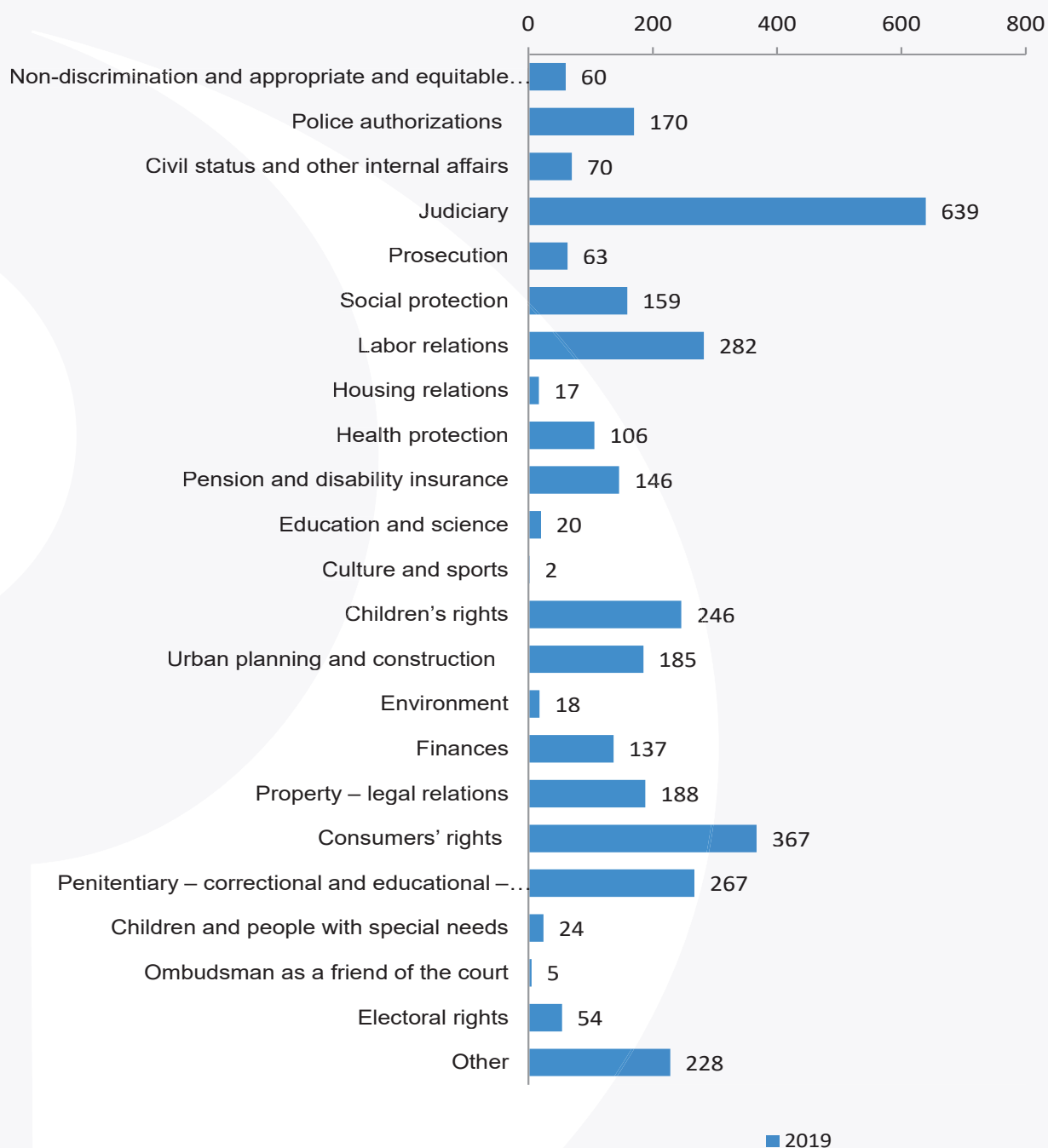
Review no.5

REVIEW ON RECEIVED, CLOSED AND PENDING COMPLAINTS FROM 01.01. TO 31.12.2019 ACROSS DOMAINS																		
AREA	Received in 2019	Number of complainants	Transferred from the previous years	TOTAL in progress	Anonymous	Number of formed case upon a self-initiative	Manner of closing										Total closed procedures	Pending case
							With decision for termination or non-initiation of procedure	Legal advice	Violations found				Information to ministers	Information to the Government	Information to other bodies and organizations with public mandate			
									Opinion, suggestions and recommendations provided	Acted upon the Ombudsman's intervention	All legal activities taken by the Ombudsman	No activities taken upon the Ombudsman's interventions						
Non-discrimination and appropriate and equitable representation	60	59	15	75	1	50	24	7	15	2					72	3		
Police authorizations	170	221	129	299	1	1	152	2	70	19	50	1		6	224	75		
Civil status and other internal affairs	70	70	44	114	1	51	5	34	12	20	2	1			88	26		
Judiciary	639	648	498	1137	2	639	8	413	92	316	5				1057	80		
Prosecution	63	63		63		38		8		8			1	46	17			
Social protection	159	157	47	206	2	145	2	33	27	3	3			177	29			
Labor relations	282	336	86	368	3	1	248	10	57	40	15	2		316	52			
Housing relations	17	64	9	26	1	23		1		1				25	1			
Health protection	106	101	20	126	4	50		68	19	49				118	8			
Pension and disability insurance	146	165	40	186		110	4	63	60	2	1			176	10			
Education and science	20	25	5	25		17	1	3	3			2		21	4			
Culture and sports	2	2		2		2		0						2	0			
Children's rights	246	256	12	258	9	97	8	139	32	105	2	1		242	16			
Urban planning and construction	185	282	55	240	2	187	2	24	19	4	1			214	26			
Environment	18	17	6	24	1	1	13	1	5	2	3			20	4			
Finances	137	139	53	190	2	105	1	78	72	2	4			182	8			
Property – legal relations	188	197	34	222		160	1	35	28	6	1	2		195	27			
Consumers' rights	367	415	39	406	1	2	333	3	44	38	6			381	25			
Penitentiary – correctional and educational – correctional institutions	267	264	58	325	12	239	24	40	33	6	1			302	23			
Children and people with special needs	24	21	7	31	2	15		17	8	6	3			29	2			
Ombudsman as a friend of the court	5	5		5		3		0						3	2			
Electoral rights	54	53	4	58		25		31	2	29				56	2			
Other	228	649	91	319	3	1	246	2	31	19	9	3	3	3	279	40		
TOTAL:	3453	4209	1252	4705	16	37	2948	74	1218	532	655	31	4	5	10	4225	480	

18 or 0,52%, from the housing relations 17 or 0,49%, Ombudsman as a friend of the court 5 or 0,14%, from the culture and sports 2 or 0,06%; as well as from other areas for which 228 or 6,60% of complaints were received.

Graph no.2

Received complaints by areas



Compared to the data from 2018 in the reporting year, there is an increase of more than 50% in the number of submitted complaints in the field of child rights, consumer rights and election rights, and in the area of housing there is a decrease of more than 50%.

ACTION

Out of a total of 4.705 complaints that were handled in 2019, the procedure was completed upon 4.225 or in 89,80% of cases, while upon 480 complaints or 10,20% the procedure is ongoing. (Figure no. 2)

Out of the completed 4.225 complaints, in 697 or 16,50% of cases no procedure was initiated, in 3.454 or 81,75% of cases a procedure was initiated, and in 74 or 1,75% of cases the Ombudsman when asked a question from the citizens, and after analyzing to the legal regulation, gave legal advice to the citizens, and directed them in solving their problems, and thus exercising their rights. (Figure no. 3)

Figure no.2

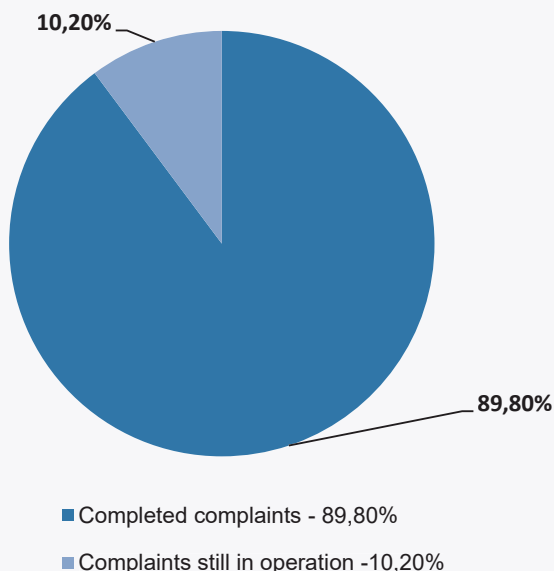
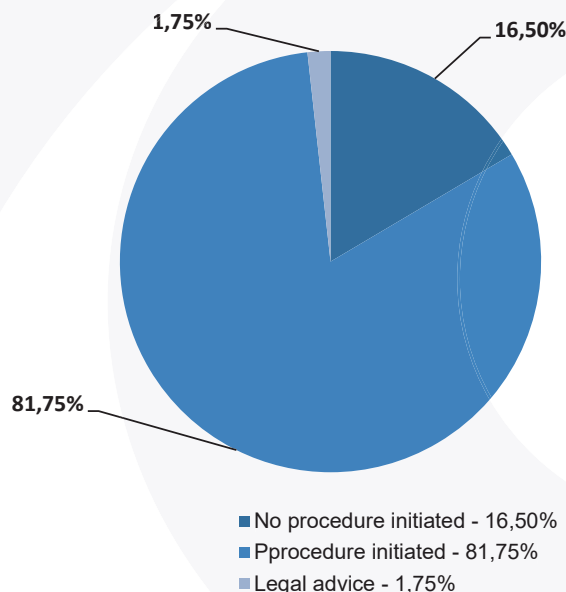
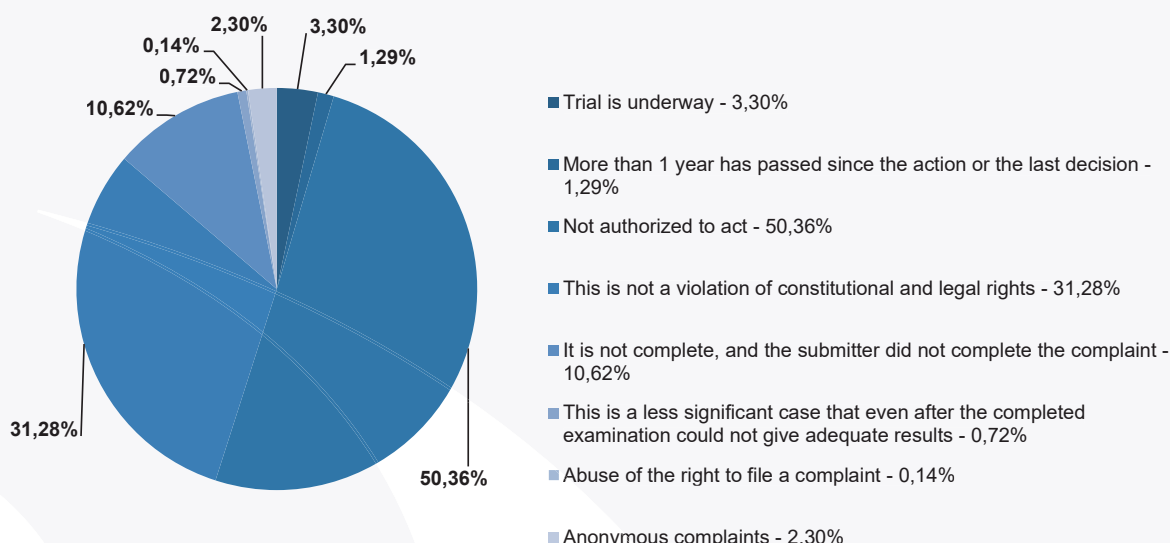


Figure no.3



Out of 697 complaints for which no procedure has been initiated, in 351 or 50,36% of cases the Ombudsman is not authorized to act, and in 218 or 31,28% of the cases it is not a violation of the constitutional and legal rights. Furthermore, in 74 or 10,62% of the cases the complaint was not complete, and the submitter did not complete the complaint, in 23 or 3,30% of cases a court procedure was in progress, in 9 cases or 1,29% of the action or the last decision more than 1 year passed, in 5 cases or 0,72% it is a case of less significant cases that even after the examination could not give appropriate results, in 1 case or 0,14% it is a case of abuse of the right to submit complaint, and 16 or 2,30% of cases were anonymous, in which dissatisfaction with certain conditions was most often expressed or there is a violation of a specific right, and no information is provided about the body and the person whose right has been violated, nor data on possible contact for requesting to supplement the complaint. (Figure no.4)

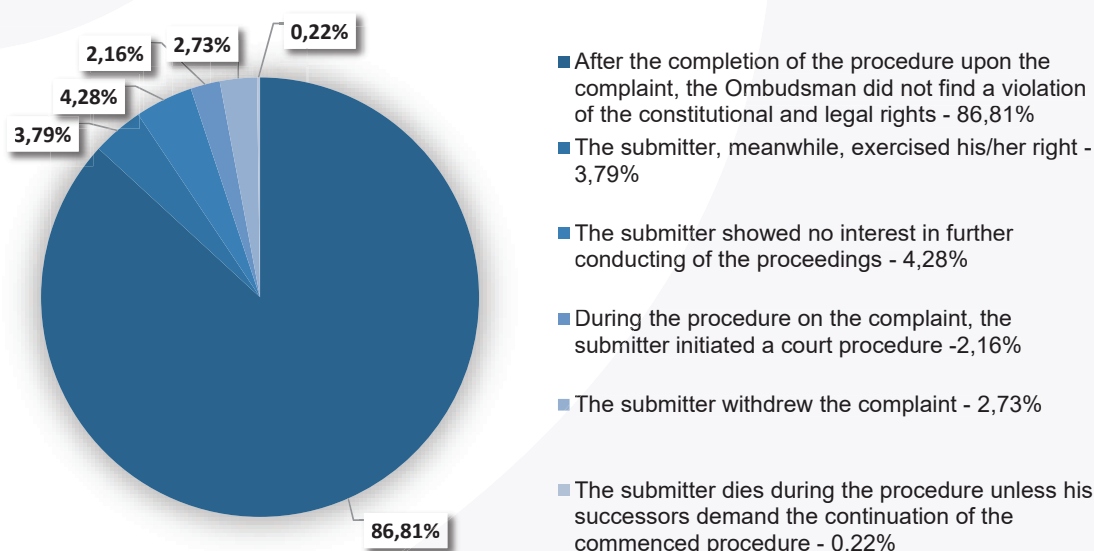
Figure no.4



Out of 3.454 completed cases whereupon the Ombudsman took actions, in 1.187 or 34,37% he concluded a violation of human rights and freedoms, and intervened in order to eliminate the violations, that is, exercise the rights of citizens-submitters. While, in 2.267 or 65,63% after the undertaken measures and actions for examination of the allegations from the complaint, no violation of human rights and freedoms was ascertained, and consequently the procedure was stopped.

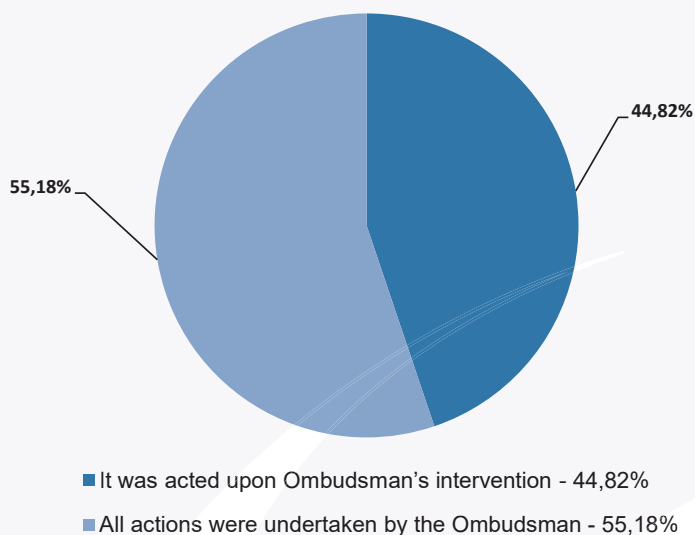
Specifically, in 1.968 or 86,81% of cases the procedure was stopped, because no violation of the rights was found, in 97 or 4,28% the submitter did not show interest in further conducting the procedure, in 86 or 3,79% the submitter in the meantime exercised his/her right, in 62 or 2,73% the submitter withdrew the complaint, in 49 or 2,16% during the procedure upon the complaint the submitter filed a lawsuit, and in 5 or 0,22% the submitter died and his/her heirs did not requested an extension of the proceedings. (Figure no.5)

Figure no.5

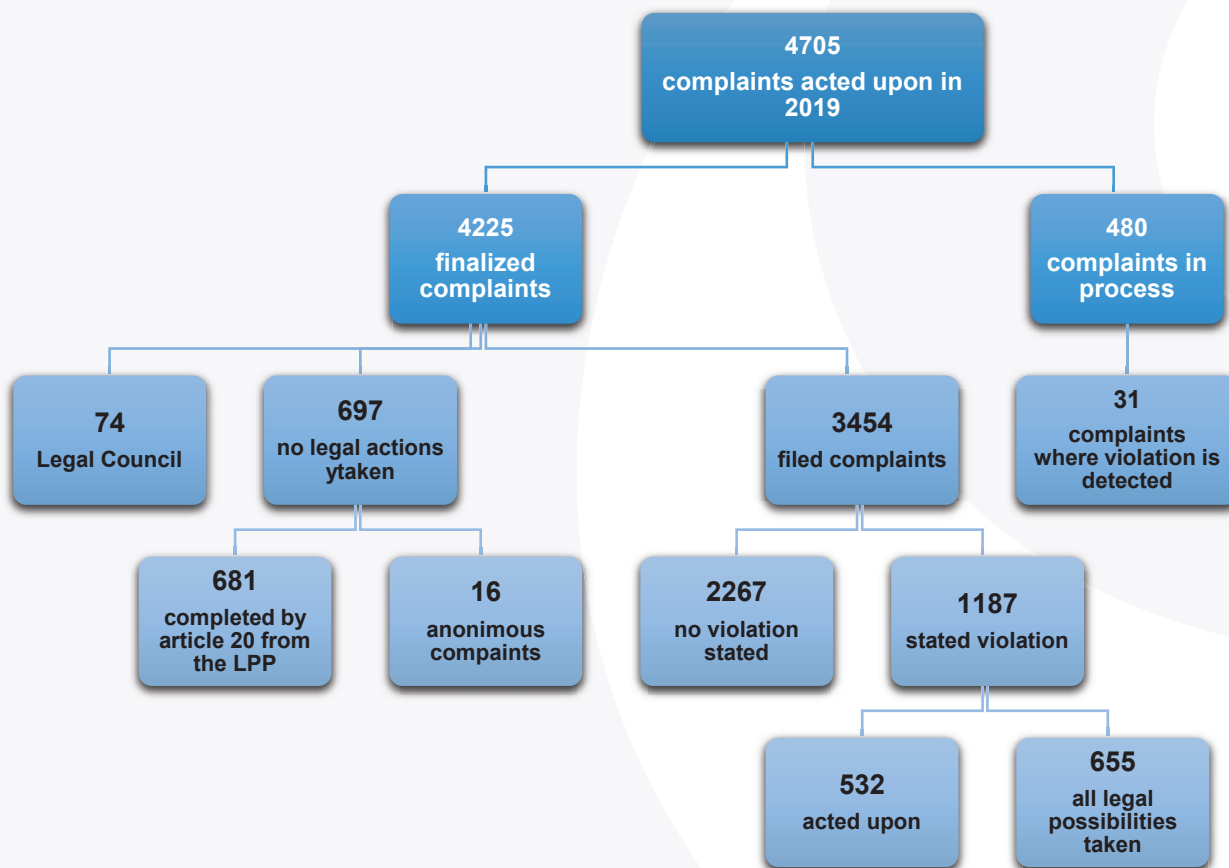


Out of the total number of completed complaints, in 1.187 cases the Ombudsman found violations and took all legal actions. Of these, in 532 or 44,82% of cases, the state administration bodies, other bodies and organizations with public authorizations accepted the interventions of the Ombudsman, and for 655 or 55,18% of cases after the established violation the Ombudsman submitted a recommendation to the relevant body, which was not accepted, after which he undertook other actions, that is, he submitted information and special reports to the higher body, after which all the possibilities were exhausted. (Figure no.6)

Figure no.6



Graph no.3



DETERMINED VIOLATIONS AND MEASURES TAKEN

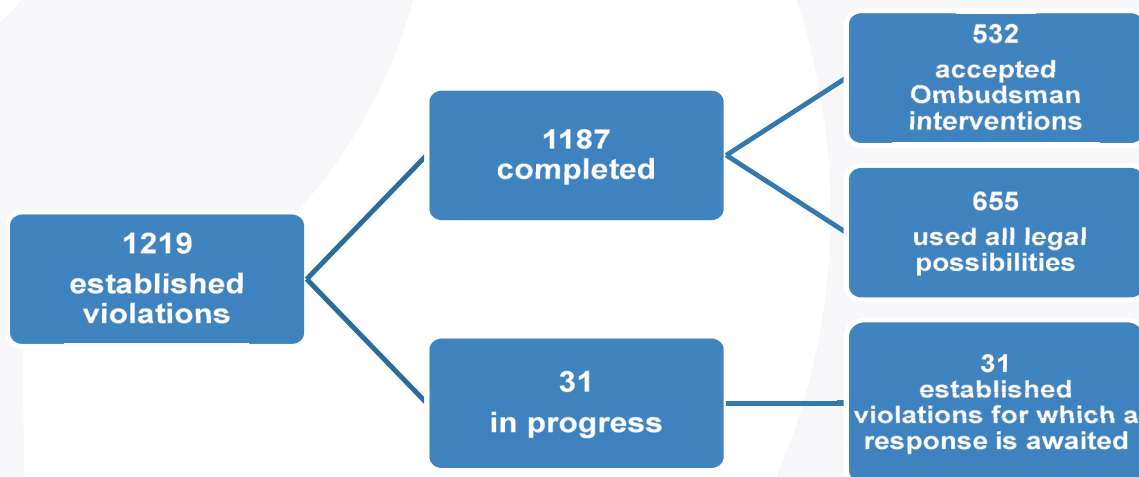
Out of a total of 3.454 cases handled by the Ombudsman, in 1,219 or 35,29% of cases, violations of human rights and freedoms of citizens were found. Of these, in 532 cases (43,64%) the state administration bodies, other bodies and organizations with public authority accepted the interventions of the Ombudsman, for 31 cases (2,54%) the procedure is still ongoing, and in 655 cases (53,73%) (after a violation was found and a recommendation was submitted which was not accepted, other actions were taken in the form of information and special reports). The Ombudsman exhausted all legal possibilities.

Compared to 2018, the data show that in 2019 there is an increase in the number of found violations by 5,82%. On the other hand, the analysis of data regarding accepted recommendations/indications shows a decrease of 28,25% compared to 2018 when the percentage of accepted recommendations was 71,89%.

The fact that 53,73% of the cases in which violations were found and the Ombudsman intervened for their removal the authorities did not act, that is, maintained that the violation was not performed, so that the Ombudsman exhausted all legal options and usually referred citizens to seek further protection in court proceedings. This points to the fact that still the ambiguities in the legal regulations, as well as the unwillingness of the responsible persons to cooperate with the Ombudsman cause damage to the citizens in terms of respect and exercise of their rights, as is the case of non-acceptance of recommendations for violation of the right to education of children with incomplete vaccination status, leaving 200 children out of the education system.

Also, in the part of the judiciary, about 300 complaints were submitted by OHIS employees in which after the actions taken by the Ombudsman, recommendations were given to various bodies: enforcement agents, lawyers, bankruptcy trustees, courts and other bodies most of which, that is, 230, were not accepted.

Graph no.4



This reporting year, the highest number of violations were in the field of justice, 413 cases or 33,91%, of which only in 91 cases or 22,03% were acted upon after the interventions of the Ombudsman. Then follow the complaints from the protection of children’s rights, whereupon violations were found in 139 cases or 11,41% of which in 32 cases or 23,02% the interventions of the Ombudsman were accepted. Then the complaints in the field of finance and financial operations follow, whereupon violations were found in 78 cases or 6,38% of which in 72 cases

or 92,31% the interventions of the Ombudsman were accepted. In the complaints in the field of police authorizations, 70 or 5,75% were determined, out of which in 19 cases or 27,14% the instructions of the Ombudsman were accepted. This is followed by complaints from the healthcare, which found injuries in 68 cases or 5,58% of which in 19 cases or 27,94% were accepted the interventions of the Ombudsman. In the complaints from the pension and disability insurance, 63 or 5,17% were ascertained, out of which in 60 cases or 95,24% the indications of the Ombudsman were accepted. This is followed by employment complaints, in which violations were found in 57 cases or 4,68% of which in 40 cases or 70,18% the interventions of the Ombudsman were accepted. In the complaints in the field of consumer rights, 44 or 3,61% were determined, out of which in 38 cases or 86,36% the indications of the Ombudsman were accepted, followed by the complaints from the penitentiary and correctional homes, property and legal relations, civil status, social protection, election rights, etc.

As a result of the presented data, the Ombudsman believes that this reporting year he should emphasize the cooperation with the Pension and Disability Insurance Fund, the Public Revenue Office and the Public Enterprise Vodovod I Kanalizacija - Skopje.

ABOUT THE INSTITUTION

ORGANIZATION AND MANNER OF OPERATION

Expanding the competencies of the Institution through the establishment of the Ombudsman as:

- mechanism for civil control of the actions of persons with police authorizations and members of the prison police,
- mechanism for promotion, protection and monitoring of the Convention on the Rights of Persons with Disabilities and the Optional Protocol to it as well as
- the actions of the Ombudsman as a national rapporteur on human trafficking and illegal migration have caused a need to undertake action to harmonize the acts of the internal organization and the manner of operation.

Having in mind that the Government of the Republic of North Macedonia adopted a Decision on amending the decision of the National Commission for Combating Trafficking in Human Beings and Illegal Migration No. 45-278/1 dated 22.01.2019, in the reporting year changes were made in the Rulebook on Amending the Rulebook on organization and scope of work of the Professional Service, the Team of the National Preventive Mechanism, the Special Departments and the Offices of the Ombudsman and the Rulebook on Amending the Rulebook on Systematization of Job Positions in the professional service, the team of the National Preventive Mechanism, special departments and offices of the Ombudsman in order to allow the establishment of the Ombudsman as a National Rapporteur on trafficking in persons and illegal migration.

With the amendments to the legal acts for the organization of work and for the systematization of jobs, the Ombudsman will be able to fully respond to the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings, which, among other things, requires a signatory state to appoint a national rapporteur on the fight against trafficking in human beings and illegal migration, which with its independent position in the society will uninterruptedly provide effective monitoring of the activities undertaken by all state institutions in the plan to combat human trafficking.

Consequently, the organization and scope of work of the Professional Service is regulated in accordance with the competencies of the Ombudsman of the Republic of North Macedonia, established in the Constitution and the Law on Ombudsman and as internal organizational units, comprise 11 departments, Team of the National Preventive Mechanism, Ombudsman - Civil Control Mechanism and 3 Units.

STAFFING STATUS

With the latest Rulebook on Amending the Rulebook on Job Systematization in the Professional Service, the Team of the National Preventive Mechanism, the Special Departments and the Ombudsman Offices NPR No. 1720/2 of 13.03.2019, 155 jobs are provided for execution of job duties, of which 90 were filled in December 2019.

In the reporting year, the Ombudsman practically implemented the legal provisions to decide on employment, promotion and establishment of employment in the Professional Service and independently conducted an employment procedure, whereby only technical support was provided by the Agency for Administration.

In addition, with the employments carried out in the second half of 2019, the Department for Protection of Children and Persons with Disabilities was staffed with one state counsellor and two counsellors, and one state counsellor and two counsellors were hired for the action of the Ombudsmen as civil control mechanism. At the very end of 2019, one state counsellor and one counsellor were hired in order to realize the role of the Ombudsman as a national rapporteur on human trafficking and illegal migration.

The total number of employees at the end of the year in the institution is 90 people, including 10 appointed persons - 1 Ombudsman and 9 deputies.

Qualification, gender and ethnic structure of the employees:

	LEVEL OF EDUCATION										Total	
	Employees by gender		Higher education		Post-secondary education		Secondary education		Primary education			
	M	F	M	F	M	F	M	F	M	F		
Managerial job positions	12	14	12	14								26
Non-managerial job positions	17	37	9	28			8	9				54
Total:	29	51	21	42			8	9				80

	COMMUNITY AFFILIATION								total employees
	Macedonians	Albanians	Turks	Roma	Serbians	Vlachs	Bosniaks	Other	
Managerial job positions	17	6			1	1	1		26
Non-managerial job positions	23	23	1	2	2	1	2		54
Total:	40	29	1	2	3	2	3		80

OPERATION FUNDS

The Ombudsman provides the funds for work as a budget institution from the Budget of the Republic of North Macedonia. Since 2015, it has been assessed as necessary and started cooperation with the UNHCR, which is still active, and consists of a donation of funds needed to work in the field of migrants in the country in accordance with the current situation in recent years. Thus, the funds donated by UNHCR supplement the basic budget of the institution in a certain amount that is used for the purposes of the project.

The basic budget for the Ombudsman for 2019 was 19% higher compared to the 2018 budget. This increase was largely due to the opening of new sub-programmes needed for the functioning of the special departments of the Institute, following the amendments to the Law

on the Ombudsman.

In 2019, two more sub-programmes were opened, in addition to the existing one on the National Preventive Mechanism, for the functioning of the separate civil control mechanism and the mechanism for the rights of children and persons with disabilities. The funds were approved in a sufficient amount, but not used due to the late staffing of the departments and the adaptation of the newly employed persons, which was expected to happen earlier.

Expressed in numbers, the budget for the Ombudsman after three performed conversions amounted to 83.125 000,00 MKD, the NPM sub-programme 800,000.00 MKD, for the mechanism of civil control were allocated 1,184,000.00 MKD, as well as for the mechanism for children and persons with disability. In total, we had 86.293 000,00 MKD at our disposal.

The supplementary budget of the Republic of North Macedonia in the reporting year did not have negative repercussions on the work of the Institution.

In percentage terms, the budget was implemented as follows: 66% of the Ombudsman's Budget was realized for basic salaries and social security contributions, 31% for goods and services and 3% for capital expenditures.

The budget of the Ombudsman's programme for 2019 has been realized with 86%.

As for the NPM sub-programme, there is an increase compared to 2018 by less than 300,000.00 MKD. The realization here, as every year, is concentrated on the group of goods and services, and the largest is on the item for Contractual services. Regarding the approved budget, the realization is 46%.

The sub-programmes for the new two departments did not show any realization as mentioned above, which affected the reduced realization of the full budget at 83%.

Subitems	Description	NP budget 2019	NPM budget 2019	MGK budget 2019	МДЛП budget 2020	NP realization 2019	NPM realization 2019	MGK realization 2019	MDLP realization 2020	remaining	% NP	+	% MGK
401	Basic salaries	39.174.000,00				34.295.660,00				4.878.340,0	87,55		
402	Contributions for social insurance	14.489.000,00				12.988.404,00				1.500.596,0	89,64		
40	Salaries and supplements	53.663.000,00				47.284.064,00				6.378.936,0	88,11		
420	Travel and daily allowances	2.000.000,0	100.000,0	160.000,0	160.000,0	707.216,0	23.055			1.369.729,0	35,36	23,06	0,00
421	Public utility services	5.510.000,0	100.000,0	80.000,0	80.000,0	4.314.785,0	29.204			1.266.011,0	78,31	29,20	0,00
423	Materials and tools	990.000,0	50.000,0	40.000,0	40.000,0	673.495,0	25.000			341.505,0	68,03	50,00	0,00
424	Repair and current maintenance	1.824.000,0				1.374.566,0				449.434,0	75,36		
425	Contracted services	14.940.000,0	500.000,0	864.000,0	864.000,0	13.963.037,0	293.539			1.183.424,0	93,46	58,71	0,00
426	Other operational expenses	1.092.000,0	50.000,0	40.000,0	40.000,0	928.068,0	0			213.932,0	84,99	0,00	0,00
42	Good and services	26.356.000,0	800.000,0	1.184.000,0	1.184.000,0	21.961.167,0	370.798	0	0	4.824.035,0	83,33	46,35	0,00
464	Various transfers	146.000,0				130.664,0				15.336,0	89,50		
46	Total transfers	146.000,0				130.664,0				15.336,0	89,50		
480	Payments after executed documents	800.000,0				12.086,0				787.914,0	1,51		
483	Buying furniture	160.000,0				99.934,0				60.066,0	62,46		
485	investment and non-financial assets	2.000.000,0				1.999.982,0				18,0	100,00		
48	Total capital expenditures	2.960.000,0				2.112.002,0				847.998,0	71,35	0,00	0,00
	TOTAL	83.125.000,0	800.000,0	1.184.000,0	1.184.000,0	71.487.897,0	370.798	0	0	12.066.305,0	86,00	46,35	0,00
	TOTAL		86.293.000,0				71.858.695,0						83,27

Regarding the addressed ongoing cooperation with UNHCR, this year's financial support was given in the amount of 3.267 656,00 and spent in 88% amount by following the provisions of the Law on Public Procurement and the concluded agreements on that basis, as well as with the persons acting as project executors. The rest of the funds remain available for use in 2020.

75% of the realized amount belongs to the item contractual services, 17% to travel and daily expenses and 8% to other current expenses.

Subitem s	Description	UNHCR budget 2019	UNHCR realization 2019	remaining	%
420	Travel and daily allowances	490.000,00	490.000,0	0,0	100,00
425	Contracted services	2.537.656,00	2.168.754,0	368.902,0	85,46
426	Other operational expenses	240.000,00	231.831,0	8.169,0	96,60
42	Good and services	3.267.656,0	2.890.585,0	377.071,0	88,46

**Republic of North Macedonia
Ombudsman**

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