

Dear citizens,

If we take into consideration that the most crucial and the only important moving force in the work of the ombudsmen all over the world are the citizens and their rights, the utmost truth is that the ombudsmen foremost and at every cost should and have to earn the citizens' trust.

Trust is built not only through promotion and criticizing bodies competent to decide upon citizens' rights. On the contrary, the issue is much more delicate and inevitably connected with the efficiency of the institution and its commitment, which is of special importance for the ombudsmen in multi-ethnic societies.

Trust is built through real protection and assistance provided to citizens on a daily basis at our offices. Trust should and has to be built, above all, on the authority which represents an immanent attribute in the functioning of the ombudsmen.

When I say an attribute, I primarily refer to the fact that the ombudsmen do not use sanctions in their conduct, meaning their activities are always of convincing type, on the basis of firm arguments, which on the other hand represents a need for constantly and totally determined conditions, and most of all, taking actions characterized by professionalism.

Those are our attributes while taking activities and I believe we are trying to maintain those particular directions in our work in order to encourage the citizens to request our assistance.

I consider the numbers to be a point of reference and that along with the rest of conditions in human rights; they represent at the same time, in a way, the trust citizens have in this institution.

Numbers indicate that there is trust which has been increasing over the years. This represents stimulation and a challenge for us.

I believe that authority and professionalism should always represent the ombudsman's virtues, for the reason of which they should be constantly advanced.



Ixhet Mehmeti

A handwritten signature in blue ink, consisting of stylized, cursive letters that correspond to the name Ixhet Mehmeti.

Highlights in 2009



The Ombudsman became a National Preventive Mechanism

After the ratification of the Optional Protocol to the Convention of Torture Prevention, the Ombudsman became a National Preventive Mechanism, having the authorization to include the non-governmental sector while performing prevention.

We managed to protect the rights of 787 citizens!

Having conducted procedures, found violations and addressed interventions, the Ombudsman assisted 787 citizens to exercise their rights.

Persistence brings results, after all

In order to protect a citizen's rights, in 2009 the Ombudsman requested from the Basic Public Prosecutor to initiate an investigation against four police officers on the basis of exceeding their authorizations.

However, the Basic Public Prosecution rejected the criminal file, and initiated an indictment against the victim. Because of that, as requested by the Ombudsman, the Higher Public Prosecution conducted a control and implied to the Basic Public Prosecutor the he was to reconsider the decision for initiating an indictment against the citizen, as well as the decision for rejecting the criminal file against the police officers.

Temporary location of Correctional-educational Center became permanent solution

Besides addressing continuous recommendations for dislocating of the Correctional-educational Center Tetovo from the Skopje Prison, no measures have been taken in that direction, although it represent violation of all standards regulating the issue of minors who have committed criminal activities.



A child passed away after family violence

Discovering about the case through the media, the Ombudsman addressed the Social Welfare Center, which previously had had information on problems in the family. After the report on family violence and several interventions by the Ombudsman, followed by an insight in the family, the Social Welfare Center did not find existence of family violence; however, they committed to monitor the situation further on.

Unfortunately, in 2009 one of the children in that family passed away, under the suspicion that death occurred as a result of violence and beating of the child by the mother. The Ombudsman requested an investigation whether the competent bodies intervened promptly in order to find and prevent family violence, as well as whether all prompt prevention measures and measures for protecting children's rights were undertaken.

Simultaneously, the Ombudsman recommended, in case uncoscientious and inappropriate actions taken by the officials responsible to take the necessary measures were confirmed, taking responsibility measures, so that in future the officials realize the conditions promptly and objectively and take all legal measures when needed to protect children's rights in order to provide efficient and prompt protection of the children and prevent violation of basic human rights of the children, particularly the right to a secure and safe life and the right to protection from any kind of violence, negligence and abuse.

Citizens of Tetovo have lived in smoke and odor for years

Citizens of Tetovo have had bad destiny to have to live in the vicinity of an illegal landfill which permanently poisons them with smoke and odor. The least important for them is whose responsibility it is, since they simply have the right to life in a healthy environment.

The excuses by the mayors of Tetovo and Gostivar before the Ombudsman that efforts had been made in order to solve the problem have been heard by the citizens of Tetovo on numerous occasions, therefore they decorated Christmas trees with tins and walked around the city wearing gas protection masks.



Denationalization Commission Kisela Voda does not respect the decisions by the Supreme Court

By a denationalization decision brought on 24.06.2002, the family of N.J. was entitled to regain possession of nationalized property; however, although the decision is executive, the Commission has been refusing to execute it and transfer the immediate possession right to the citizen.

More precisely, in 2009 a new decision was brought which partially annulled the previous decision, with an explanation that its execution was not possible at all. All of this would have been right in case the issue of annulment of the executive decision had not been absolved, since the Supreme Court of the Republic of Macedonia in 2005, at a general assembly, issued a verdict by which the decision by the first instance committee was declared illegal.

The Ombudsman's intervention addressed directly to the Minister of Finance was ignored as well, and the citizens are still victims of a bureaucratic behaviour and it is still not clear whether and when they will regain their property, as well who will bare responsibility for these tendentious activities and the situation the family was brought in.

Following an intervention by the Ombudsman, deadline for applying for new ID cards extended

Provoked by the headlines in the media concerning citizens' problems with replacing the present ID cards with biometrical ones, the Ombudsman ascertained a double standard of the Law on ID Card, referring to the obligations of the Ministry of Interior Affairs and the responsibilities of the citizens for replacing their old ID cards not later than 27.02.2010.

Taking into consideration that the introduction of the concept of the so called biometric personal documents implies a complete orientation of the citizens towards the interior affairs body instead of the opposite direction, i.e. non application of the principle for service orientation of the bodies which would lead to harmful consequences to the citizens being a party in the administrative procedure, the Ombudsman addressed an initiative for changes and amendments of the Law on ID Card, proposing extension of the deadline for replacing the ID cards.

The Parliament of the Republic of Macedonia accepted the Proposal Law on ID Card for prolonging the deadline for replacing ID cards until 2012.

Free elementary and secondary education still a declarative commitment

The Ombudsman found that in certain places (rural areas) transport for students to their schools was not provided, as a result of which the children were deprived of the possibility to attend classes regularly.

At the same time, it was confirmed that the municipalities concerned transferred the responsibility to the other one and did not provide transportation means for the students traveling from one place to another or from one town to another, because in the place where they live there is not a school offering the appropriate professional education the students express interest for, or conditions for attending classes in their mother tongue are not provided, as a result of which the students, meaning their parents were forced to pay the transportation expenses on their own. However, besides the Ombudsman's interventions as well as the ones by the Ministry of Education, the problem has not been settled yet for a part of these students.

Higher X-Ray technicians appointed in accordance with their professional title

Pursuant to the Law on University Education and the recommendations by the Ministry of Health, x-ray technicians gained university education, meaning the title of a graduated radiology technician. However, their requests for reappointing were not considered. Following the Ombudsman's indications, the Public Medical Institution Zdravstven Dom – Skopje issued decisions for appointing these persons to a higher post, according to the title gained.

Homeless persons only formally protected by the state

The Ombudsman found that a large number of homeless persons, among which there are children as well, are accommodated at the children rest facility “Ljubanci” – an object which is not equipped with the elementary conditions for a normal life. It was also noticed that using health protection services these persons faced difficulties, as well as that not a single child of these attended school.

The Ombudsman informed the Ministry of Labor and Social Policy and the Government of the Republic of Macedonia on the matter and requested taking measures for creating at least elementary conditions for a normal life and protection of the rights of these children. Unfortunately, the Government replied shortly to the Ombudsman informing that the case was forwarded to the competence of the Ministry of Labor and Social Policy, without taking precise measures.



Mass changes of teaching personnel to the detriment of the students

Reacting upon such cases, the Ombudsman implied to the Ministry of Education and Science that according the Convention on Children’s Rights, in all activities concerning children, their rights and interest should be of utmost importance, and in that sense it was emphasized that in all activities conducted in the educational institutions the best interest of the children should be taken care of, since children have the right to attend classes regularly and without any problems, taught by appropriate teaching personnel, especially at the beginning of the academic year, which is of great importance for the children.

The response by the Ministry did not correspond to the recommendations, meaning it was not stated which measures had been taken in order to protect children’s rights and to eliminate all causes with possible harmful consequences on the children’s development, so that one of the purposes of the educational process can be fulfilled, the one being: a harmonious, intellectual, emotional and social development of children.

An employee in an elementary school to be suspended because of physical violence over a student

Although it was confirmed that without doubt an employee in a school committed physical violence on a child in the school, and followed by several interventions and recommendations by the Ombudsman, the Principal of the school refused taking measures against the person who physically violated a child for a long period of time, especially because at the time the incident happened he was not the Principal of the school.

The Ombudsman continued intervening, referring to the measures taken by the Ministry of Interior Affairs and the State Educational Inspectorate on this incident, after which the Principal warned the employee in writing, stating a prerequisite that if in a period of one year the employee commits or participates in such or similar conflict situation again, the working relation shall be terminated.

Two different court decisions for a single case!

Although the Criminal Council at the Basic Court Skopje I, based on a suit by a citizen accepted the request in the suit, confirming that he was a victim of police activities and it found the police officer guilty, another criminal council at the same court found the citizen guilty.

Following the Ombudsman's intervention, persons with hearing disabilities realized their right to be informed

After an implication by the Ombudsman, TV news for persons with hearing disabilities was included on the program again on the public television service Macedonian Television.

An investigation against a police officer who wanted to settle personal disputes abusing the benefit of his uniform

I.S. from Veles became a victim of a police proceeding only because the number of his mobile phone was accidentally found in the phonebook of a member of the police officer's family. Exclusively that, and not the alleged traffic offences, was the real reason for I.S. to be invited and exposed to torture at a police station.

The Internal Control Sector, as usual, did not find abuse of official authorizations, but the Ombudsman, after conducting a large investigation and completion of documents for the case pressed criminal charges against the police officer, which was accepted by the Basic Public Prosecutor in Veles and the case was processed before the competent investigative judge.

Children in institutions without awareness of their rights and the most common victims of physical and mental molestation

In order to gain information on the conditions in terms of respecting and protecting children's rights, the Ombudsman conducted an anonymous survey of the children in the public institutions: "11 Oktomvri", "25 Maj" and "Ranka Milanovik".

The analysis of the answers provided by the children indicated that the majority of them are not aware of their rights and responsibilities, thus they are not able to recognize potential violation and abuse of their rights. The answers conveyed that, besides the prohibition for and the possibility to sanction an event of physical and mental molestation of children, these forms of molestation can still be seen in these institutions. An especially worrying fact is that the children are afraid to talk in public about these cases, and they have even less courage and information on how to seek protection by competent bodies and institutions.

Following the Ombudsman's indication, the working hours adjusted to patients' needs

In order to provide adequate therapy and treatment for drug addicts, a group of citizens asked the Ombudsman to intervene for the medical institution to adjust the working hours so that they could receive their therapy regularly and arrive at work on time, so that they would not lose their jobs. Following the Ombudsman's intervention, the medical institution changed the working hours according to the citizens' needs, in order to avoid hindering them from receiving the necessary therapy regularly.

If the Ombudsman had not intervened, the municipalities would not have acted in accordance with the Law on Protection of Patients' Rights

Acting upon a received complaint, the Ombudsman addressed all municipalities in the Republic of Macedonia and requested from them to act in accordance with the Law on Protection of Patients' Rights, after which they formed the commission foreseen in the Law, in a number of municipalities the procedure is in progress, and the rest of the municipalities informed the Ombudsman that they would establish the commission in the course of 2010.

Guards at Skopje Prison under suspicion for torture

After the Ombudsman confirmed, without doubt, that it was a classical case of torture over convicted persons, he submitted a request for determining criminal responsibility against Security Officers at the Skopje Prison.

Transparency in the work and international activities

Starting from the fact that we began the year facing a new challenge, meaning by gaining the role of a national preventive mechanism for prevention of torture, logically the year was marked with project activities in that direction – creation of conditions for conducting the newly gained competence.

Certainly, first of all, activities were

taken for changes of the Law on the Ombudsman, in accordance with the Optional Protocol to the Convention against Torture, as a necessary prerequisite for further activities in this area.

Further on, the activities were directed towards promoting the new competences of the Ombudsman in the area of prevention of torture. Supported by the



OSCE Mission to Skopje, several public events were organized with this aim.

More precisely, a mentor correlation was established with the Ombudsman of the Czech Republic and contacts were realized with the Committee against Torture at the Council of Europe and the Subcommittee on Prevention of Torture at the United Nations, and their representatives participated at a number of events which followed.



The project activity began by a conference which gathered in one place the high representatives of: the Ministry of Interior Affairs, Ministry of Justice, Management for Execution of Sanctions, as well as the heads of penitentiary-correctional and educational-correctional institutions and psychiatric hospitals.

The aim was to inform on the new role of the Ombudsman, as well as on the new responsibilities, meaning duties of the bodies and institutions concerned. Certainly, the event was organized in order to acquaint the public with the newly delegated Ombudsman's competence.

Later on, three workshops were organized, each one on a segment

which will be a subject of preventive activities of the Ombudsman, i.e. prisons, police stations and psychiatric hospitals.

All individuals holding a managing position in the institutions were invited, and an adequate expertise was presented by representatives of the Committee and the Subcommittee against Torture.

The project activity finished by a conference on which summarized conclusions were presented, thus the process of promoting the new competence of the Ombudsman ended.

All that referred to the promotion, what follows is the real coping with all aspects brought by the new role of the Ombudsman which, inevitably, will provide the Ombudsman with possibilities and conditions to realize his new competences effectively.

Taking into consideration that the establishment of the national preventive mechanisms is a challenge all countries in Europe are facing, the first meeting of the national preventive mechanisms in Europe was held in Strasbourg, France, at the headquarters of the Council of Europe, and at the same time, there was a symbolic celebration on the 20th anniversary of the establishment of the Committee against Torture at the Council of Europe.



In terms of other activities on international level, they were numerous this year as well; however, one of them deserves to be emphasized, taking into consideration its importance.

More precisely, the numerous family of Ombudsmen celebrated the 200th anniversary of the establishment of the first Ombudsman institution, that one being the Ombudsman of the Kingdom of Sweden.

The celebration was organized in the capital of Sweden – Stockholm and a large international conference was organized, on which the Ombudsmen of all countries in the world were present. This conference was a good opportunity to make a review on the beginnings of the establishment of the Ombudsmen institutions, as well as their present trends and challenges they are facing.

In the course of the year the Ombudsman participated at the International Conference of the Ombudsmen of the member countries, as well as candidate countries for accession to the European Union, which was organised in Pafos,

Cyprus.

The Conference was opened by the European Ombudsman, Mr. Nikiforos Diamanduros, and the main topics were the following: migration, the right to asylum, the procedure for gaining asylum and protection



against discrimination.

The activities based on the membership in the Ombudsmen Association of the Francophone Countries and the Mediterranean Ombudsmen Association did not lack, either.

In particular, in Quebec, Canada, the 6th Congress of the Ombudsmen and the Mediators of the Francophone Countries was held, where the Ombudsman of the Republic of Macedonia held a speech titled: “The Ombudsman in Promoting the Justice: Which vocabulary for dealing with political challenges – from an objection to an activity”. At the Congress, the Ombudsman of the Republic of Macedonia was reelected for a member of the Administrative Council of the Association.

The third meeting of the Mediterranean Ombudsmen Association was held in Athens, Greece, where the Ombudsman of the Republic of Macedonia had a speech on the following topic: “Access to institutions where the freedom of movement is limited”.



Concerning meetings in the region, the Ombudsman of the Republic of Macedonia participated at a conference organized by the Ombudsman of Montenegro which was held in Podgorica, at which the main topic once again, was torture and the national preventive mechanisms.

This year the Ombudsman of the Republic of Albania celebrated its 10th anniversary, and the Ombudsman of the Republic of Macedonia attended it.



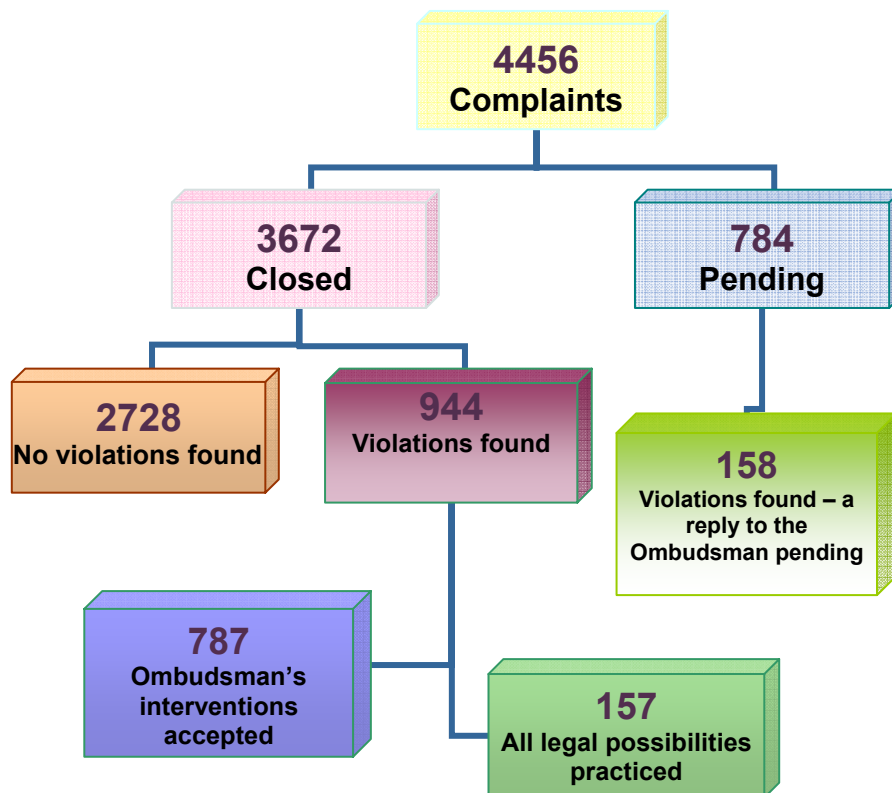
A bilateral meeting was held in the office of the Estonian Ombudsman, during which experiences were exchanged in the area of prevention against torture, having in mind that the Estonian Ombudsman has a multi-annual experience as a national preventive mechanism for prevention against torture.

This year was full of numerous events during which the Ombudsman of the Republic of Macedonia, by the assistance of the media, promoted his new role of a national preventive mechanism, as well as the rest of his general competences.

The media promotion and exposition presentation of attitudes and opinions on human rights in general and in particular on individual cases, were constantly performed based on a completely ascertained facts and well-based arguments, in order to inform the citizens and the public in an objective and appropriate manner.

What numbers say

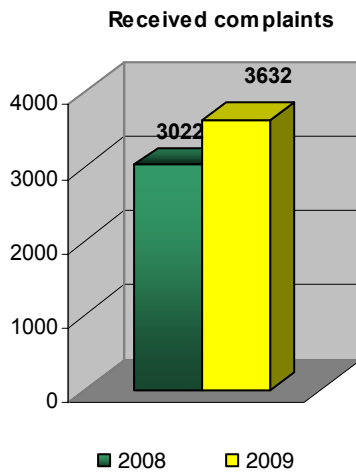
The number of complaints this year increased significantly. The numbers imply that a large number of citizens addressed the Ombudsman in order to realize and protect their freedoms and rights. On one hand it indicates the fact that the citizens recognize the Ombudsman for a protector of their freedoms and rights more and more, on the other hand it shows that the administration continues to provide an opportunity for the citizens to exercise their rights in an efficient and quality manner on a level which is not satisfactory yet.



3.632
new complaints

General data

Chart No.1

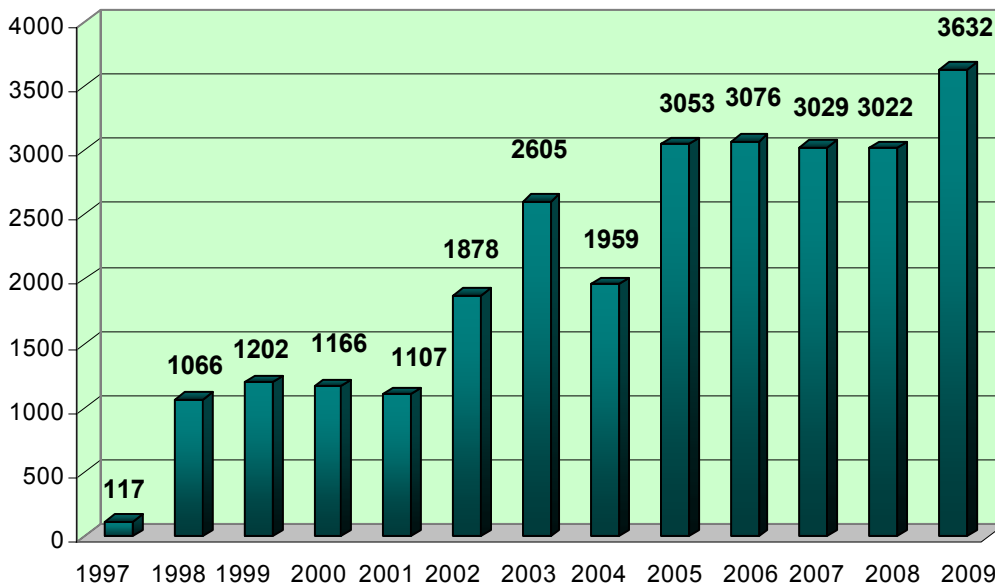


In 2009 the Ombudsman acted upon a total of 4,456 complaints, 3,632 of which were submitted during this report year by 3,847 citizens. In 16 cases the Ombudsman initiated a procedure on his own, more than 5,700 citizens were received for a discussion at the Skopje Office and the regional offices answered more than 7,500 phone calls.

During this report year the number of complaints was significantly higher, meaning 20 % higher than the number of complaints received in the last few years.

Chart No.2

Received complaints per years



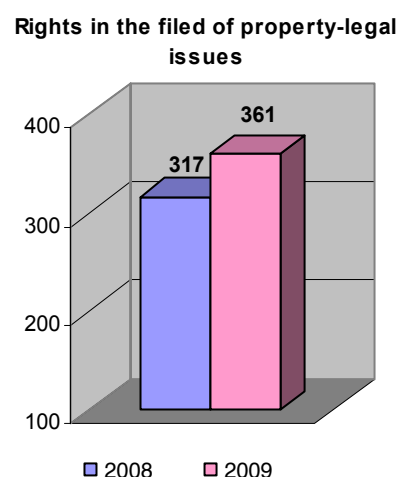
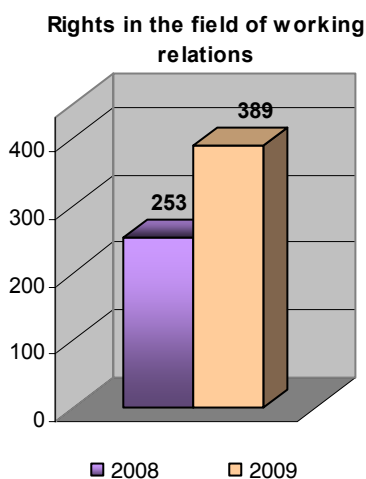
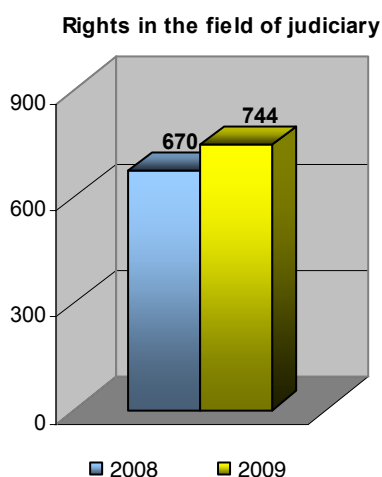
4456
complaints the
Ombudsman acted upon

Data by areas

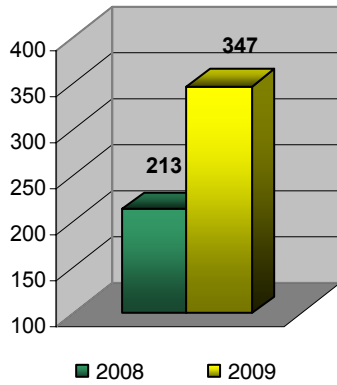
The majority of complaints were submitted in the areas of: judiciary 744 or 20.48%; working relations 389 or 10.71%; property-legal issues 361 or 9.55%; consumers' rights (communal and other expenses) 277 or 7.63%; in the area of protection of rights during police proceedings 252 or 6.94%; pension and disability insurance 181 or 4.98%; construction and spatial planning 170 or 4.68%; protection of children's rights 157 or 4.32%; civil status and other internal issues 154 or 4.24%; social protection 95 or 2.62%; health protection 72 or 1.98%; accommodation relations 57 or 1.57%; finances and financial activities 50 or 1.38%; education, science, culture and sport 49 or 1.35%; environment 21 or 0.58%; non-discrimination and adequate and equitable representation 20 or 0.55%; as well as 234 or 6.44% of complaints submitted in other areas. **(Table No.1, page.19 and Chart No.3).**

The review of complaints submitted indicates an insignificant decrease or increase compared with the previous year, except in the area of consumers' rights in which the number of complaints is almost doubled, as well as in the area of working relations, where the number of complaints is considerably increased.

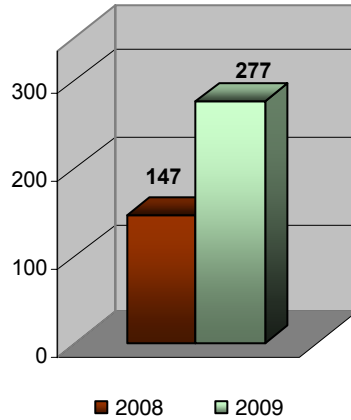
Chart No.3



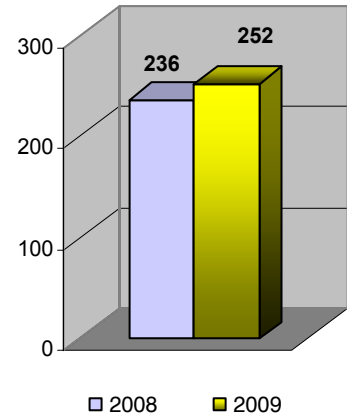
**Rights in the field of Penitentiary-
correctional and Educational-
correctional centers**



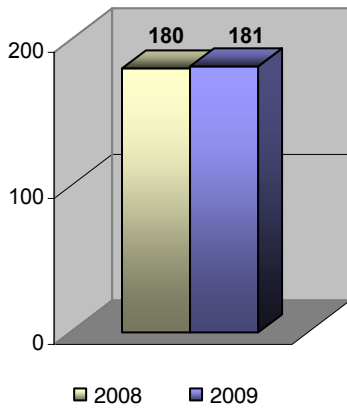
Consumers' rights



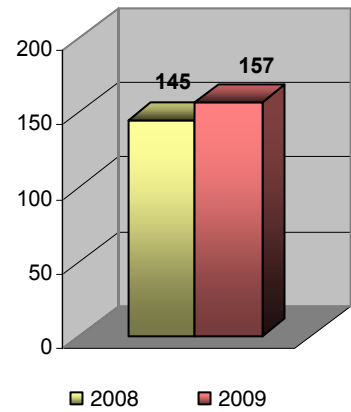
**Rights in the field of police
procedures**



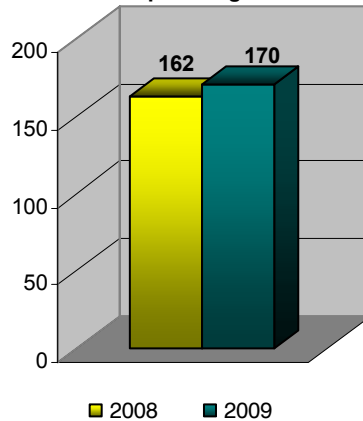
**Rights in the filed of pension and
disability insurance**



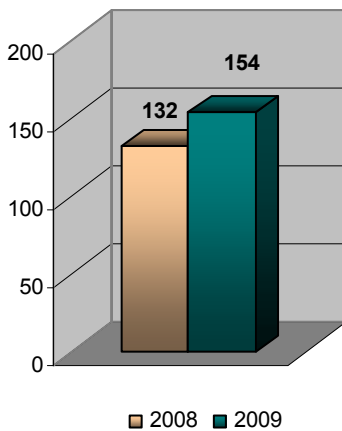
Children's rights



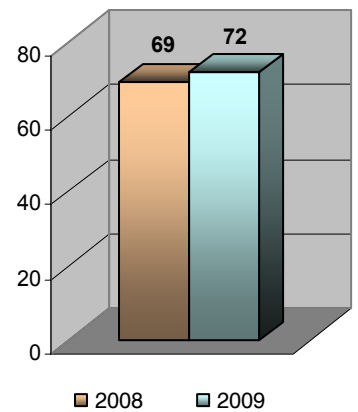
**Rights in the field of urban
planning**



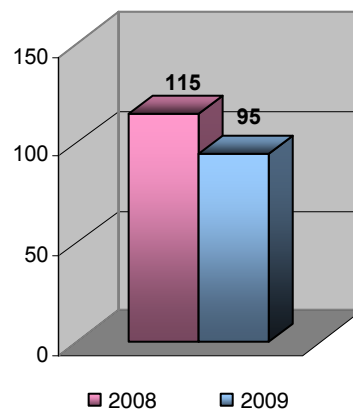
**Rights in the filed of civil states and
other interior issues**



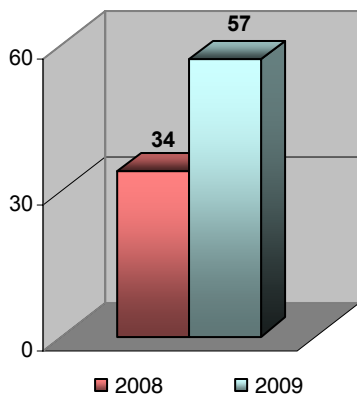
**Rights in the field of health
protection**



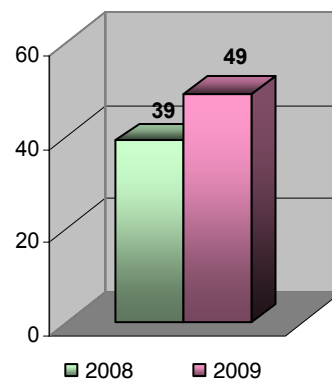
ights in the filed of social protection



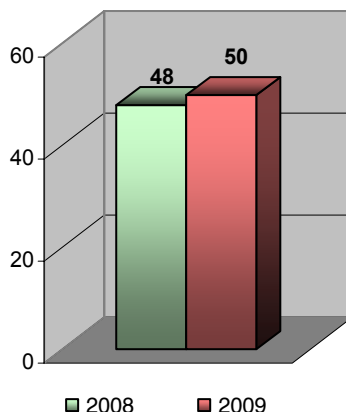
Rights in the filed of accommodation issues



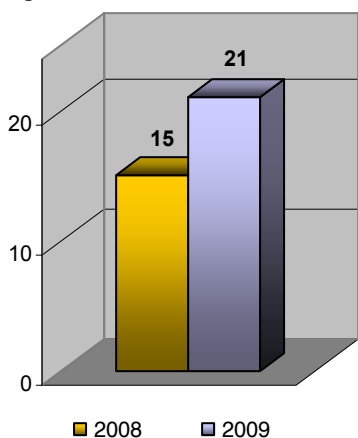
Rights in the field of education, science, culture and sport



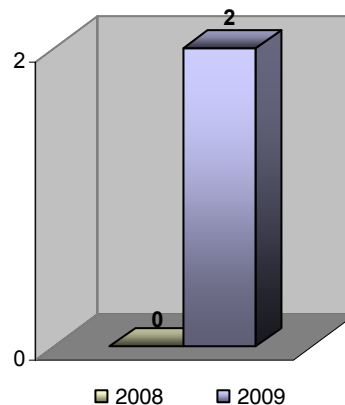
Rights in the filed of finances and financial issues



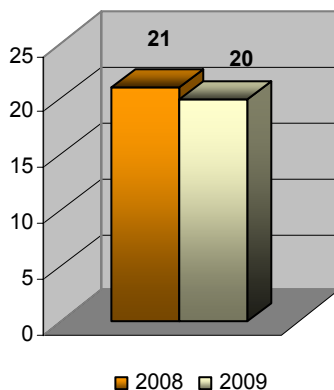
Rights in the filed of environment



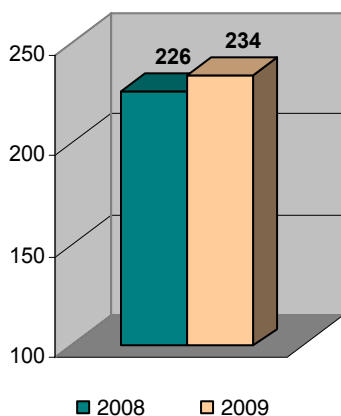
Rights of military persons and conscripts



Rights in the field of nondiscrimination and adequate and equitable representation



Rights in other fields



The majority of complaints referred to inefficiency of courts, i.e. delay in court procedures, a part of them referred to the acts and activities taken and adopted by the second instance commissions at the Government of the Republic of Macedonia, the Ministry of Finance, the Ministry of Interior Affairs, the Ministry of Transport and Communications, the Ministry of Labor and Social Policy and other bodies, as well as acts adopted by bodies with public mandates.

Table no. 1

REVIEW OF RECEIVED, CLOSED AND PENDING PROCEDURES FROM 01.01. TO 31.12.2009 PER FILEDS																
Fields	Received in 2009	Number of complainants	Transferred from the previous year	TOTAL in process	Anonymous	Manner of closing						Information to ministers	Information to the Government	Information to other bodies and institutions with public mandates	Total closed procedures	Pending
						Decided to discontinue or not to initiate a procedure	Closed in other manners	Violations found								
								Opinions, suggestions, recommendations given	Acted upon the Ombudsman's interventions	All legal competences taken by the Ombudsman	Not acted upon the Ombudsman's interventions					
Nondiscrimination and adequate and equitable representation	20	20	8	28		9	2	9	4	3	2	3		2	18	10
Police procedures	252	261	84	336	2	221	12	37	27	7	3	1			269	67
Civil states and other interior issues	154	154	59	213		92	7	81	43	17	21	2			259	54
Judiciary	744	765	138	882	1	644	17	106	85	11	10				758	124
Military persons and military conscripts	2	2	0	2		2									2	
Social protection	95	96	30	125	1	60		39	31	1	7			1	93	32
Working relations	389	433	78	467	6	236	9	140	84	39	17	23	4	5	374	93
Accommodation issues	57	57	4	61		29	2	27	20	2	5	1			53	8
Health protection	72	76	25	97		36	3	34	30	2	2	4		1	71	26
Pension and disability insurance	181	181	59	240	1	131	7	62	57		5		29		196	44
Education, science, culture and sport	49	50	7	56	1	21		29	28	1		3	1		51	5
Children's rights	157	161	14	171		107	5	48	42	5	1	10	4	3	159	12
Urban planning and construction	170	186	54	224		119	6	42	22	10	10	1		5	157	67
Environment	21	21	2	23		13	1	6	5		1				19	4
Finances	50	52	14	64		35		23	20		3				55	9
Property-legal issues	361	398	124	485		217	8	221	127	35	59	3	1		387	98
Consumers' rights	277	316	37	314		175	3	96	88	4	4		1	21	270	44
Prisons	347	349	27	374	3	287	5	49	33	10	6				338	36
Other	234	269	60	294	3	180	9	53	41	10	2	4	2		243	51
TOTAL:	3632	3847	824	4456	18	2614	96	1102	787	157	158	55	42	38	3672	784

Table no. 2

REVIEW OF RECEIVED, CLOSED AND COMPLAINTS IN PROGRESS PER YEAR																
	Transferred from the previous year	Complaints received during current year	Number of complainants	TOTAL in process	Anonymous complaints received	Manner of closing						Information to Ministers	Information to the Government of RM	Information to other bodies and organizations with public mandates	Total number of closed cases	Pending
						Decided to discontinue or not to initiate a procedure	Closed in other manners	violations ascertained								
								Opinions, suggestions and recommendations given	Acted upon the Ombudsman's intervention	All legal activities taken by the Ombudsman	Non-acting upon the Ombudsman's interventions					
2009	824	3632	3847	4456	18	2614	96	1102	787	157	158	55	42	38	3672	784
2008	679	3022	3309	3701	11	2143	89	713	605	33	75	32	23	19	2877	824

Table no.3

REVIEW OF SUBMITTED COMPLAINTS PER CITIES AND COUNTRIES OF FOREIGN SUBMITTERS					
	2008	2000		2008	2009
Berovo	8	8	Pehcevo	6	2
Bitola	235	320	Prilep	99	96
Bogdanci	2	3	Probistip	16	13
Valandovo	4	3	Radovis	31	37
Veles	50	53	Resen	11	12
Vinica	9	12	Skopje	1236	1663
Debar	23	10	Struga	64	67
Delcevo	11	21	Strumica	101	131
Demir Hisar	14	22	Sveti Nikole	10	9
Demir Kapija	8	8	Tetovo	219	224
Dojran	9	2	Stip	95	105
Gevgelija	29	25	Albania	1	-
Gostivar	76	105	England	2	-
Zletovo	-	1	Belgium	1	-
Kavadarci	67	50	Bosnia and Herzegovina	1	-
Kicevo	167	145	Bulgaria	1	-
Kocani	33	27	Germany	3	1
Kratovo	26	17	Greece	2	-
Kr.Palanka	19	39	Kosovo	7	3
Krusevo	8	19	R. Srpska	1	-
Kumanovo	165	240	Russia	1	-
M.Kamenica	1	9	Serbia	4	4
Mak.Brod	40	23	Italia		1
Mavrovo	2	2	Croatia	1	2
Negotino	18	18	Montenegro	1	-
Ohrid	82	80	Scotland	1	-
TOTAL				3076	3632

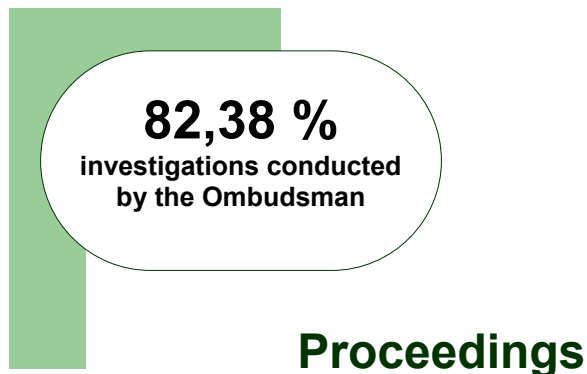
According to the complainants' place of residence, the majority of complaints are from Skopje – 1,663, followed by complainants from: Bitola, Kumanovo, Tetovo, Kicevo, Strumica and the rest of the major urban areas. It can be seen that the majority of complainants reside in the cities where the regional offices of the Ombudsman are located.

Table no.4

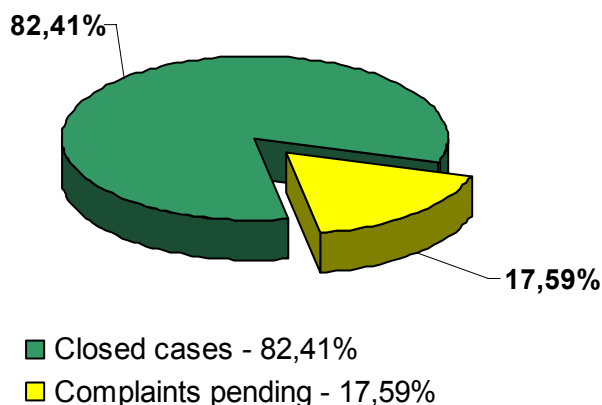
A REVIEW OF COMPLAINANTS REGARDING THEIR ETHNICITY PER FIELDS																
	FIELDS	Complaints submitted in 2009	Anonymous	Number of cases on the Ombudsman's own initiative	Organization (Associatopn)	Number of complainants	ETHNICITY									
							Macedonians	Albanians	Serbs	Roma	Macedonian-Muslims	Bosniaks	Vlah	Turks	Not declared their ethnicity	others
1	Nondiscrimination and adequate and equitable representation	20			3	17	1	3					1		11	1
2	Police procedures	252	2		8	251	63	41	1	9	2	1	3	129	1	
3	Civil states and other interior issues	154			1	153	17	60	2	5	3	3	1	3	58	1
4	Judiciary	744	1		5	759	261	109	4	8	4	3	2	16	352	
5	Military persons and military conscripts	2				2	1								1	
6	Social protection	95	1		1	94	23	25		7		1		3	33	2
7	Working relations	389	6	1	14	412	104	51	3	4		1	1	3	244	1
8	Accommodation issues	57			1	56	10	3	2	3	4	1		4	27	2
9	Health protection	72		3	4	69	21	5	1	1		1		3	37	
10	Pension and disability insurance	181	1		1	179	62	32	4	1	1	1		4	74	
11	Education, science, culture and sport	49	1			49	13	12	1						23	
12	Children's rights	157		5	12	144	28	14		4				1	97	
13	Urban planning and civil engineering	170			6	180	61	17	1	2				5	94	
14	Environment	21		1	5	15	10								5	
15	Finances	50				52	21	4	5			2			20	
17	Property-legal issues	361			2	396	153	16	4	1	1		1	1	218	1
18	Consumers' rights	277			15	301	64	12		2	1			1	220	1
19	Prisons	347	3	6	7	333	13	28	1	1	2	1		2	285	
20	Other	234	3		12	254	56	22	2	2	1	1	1	3	166	
	TOTAL:	3632	18	16	97	3716	982	454	31	50	19	16	8	52	2094	10

The majority of complainants who declared their ethnicity are Macedonians, i.e. 982 or 26.43%; 454 or 12.22% are members of the Albanian community; the smallest number of complaints were submitted by Vlachs, 8 or 0.22%, while 1879 or 50.57% of the submitters

did not declare their ethnicity. It can be concluded that the number of complainants who do not declare their ethnicity is still very high. **(Table No. 4 page. 21)**



Graph No.1-2009



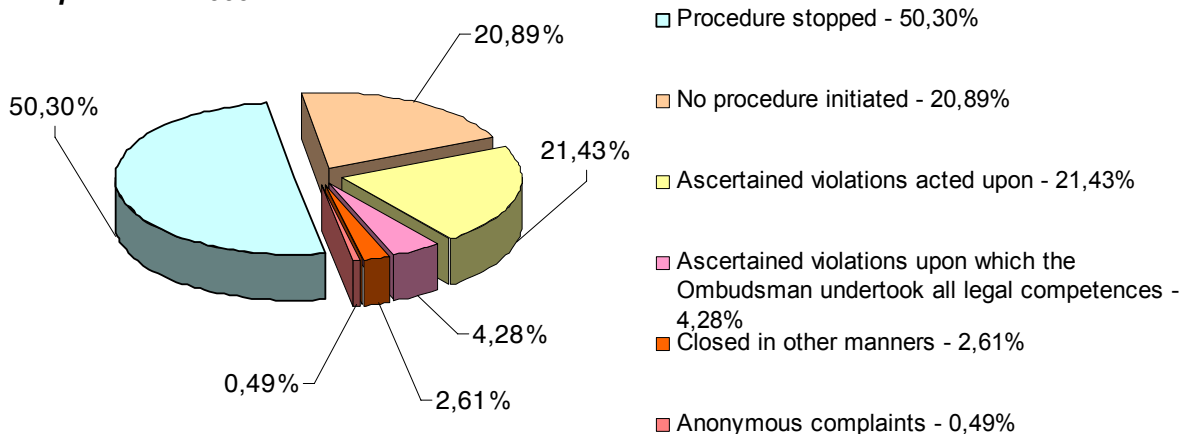
The manner of proceeding depends mainly on the appropriate documents attached to the complaint. In cases in which certain clarifications were needed for establishing the factual situation, requests were addressed to the competent bodies or to the complainants. In cases in which the factual situation could be undisputedly confirmed without additional interrogations, the activities were taken immediately. The factual situation was ascertained by conducting immediate insights on the spot in a great number of cases, and officials and other persons were invited for discussions.

officials and other persons were invited for discussions.

Out of 4,456 complaints, the procedure was completed for 3,672 or 82.41% of them, while 784 or 17.59% of the total number of complaints are still in progress. **(Graph No. 1)**

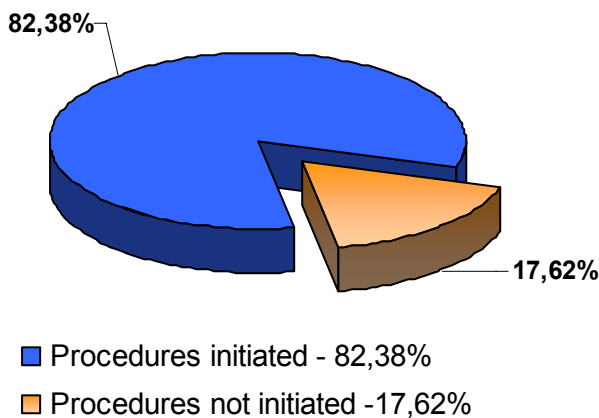
Out of the total number of completed proceedings – 3,672, the procedure was

Graph No. 2 - 2009



stopped for 1,847 or 50.30%, in 767 or 20.89% no proceeding was initiated, for 787 or 21.43% of complaints actions were taken after the Ombudsman had confirmed violation of constitutional and legal rights of the citizens. In 157 or 4.28% of complaints the Ombudsman undertook all legal activities, 96 or 2.61% of complaints were settled in other manners and 18 or 0.49% were closed without taking actions because the complaints were submitted by anonymous complainants. **(Graph No.2).**

Graph No. 3-2009



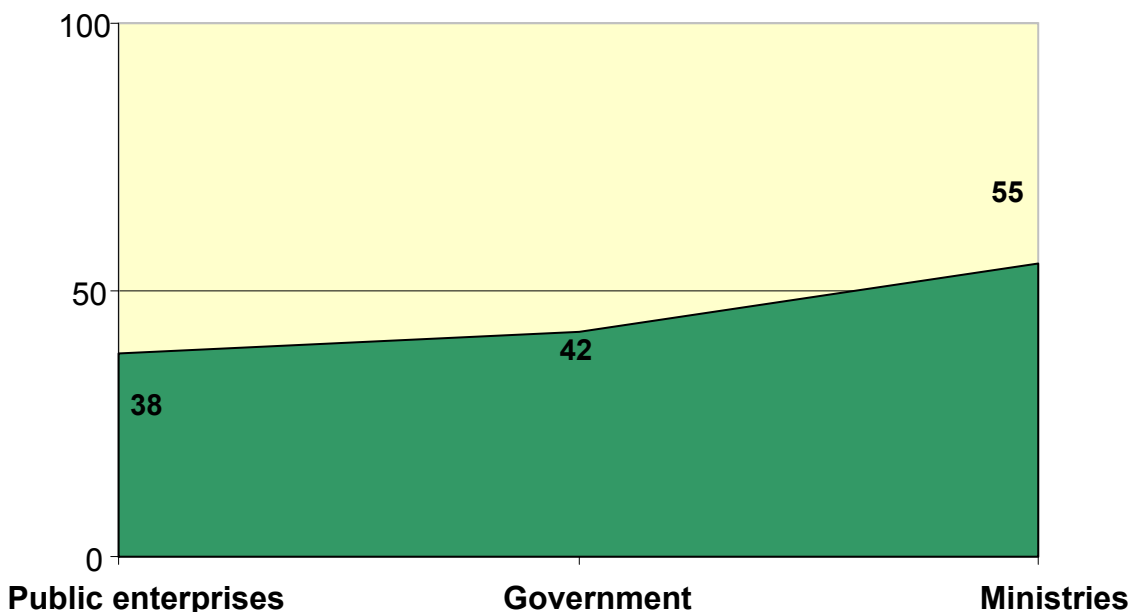
In 787 or 711.42% of cases out of 1102 complaints in which the Ombudsman ascertained violations of constitutional and legal freedoms and rights, actions were taken upon the Ombudsman's intervention, in 158 or 14.43% no actions have been taken yet upon the Ombudsman's intervention, and in 157 or 14.25% of the complaints the Ombudsman undertook all legal activities. Besides all activities taken, a significant number of those 157 interventions by the Ombudsman were not accepted, which at the same time means an increase of the number of interventions which were not accepted, compared with last year. The rest of these complaints

referred to interventions made during insights and were accepted, as well as complaints for which all activities by the Ombudsman were utilized.

In 2009 the Ombudsman acted upon 3,671 or 82.38% of complaints out of 4,456, and for 785 or 17.62% a proceeding was not initiated. Because of this number of complaints for which no proceeding was initiated, the Ombudsman believes that there are still citizens who have insufficient knowledge on the institution's legal possibilities. **(Graph no.3).** Out of 3,671 complaints upon which the Ombudsman initiated a proceeding, 2,887 or 78.64% are

Graph No.4

Information addressed by the Ombudsman



completed, and for 784 or 21.36% of the cases the procedure is in progress.

This is due to the complexity of the problem and the need for a more detailed research for confirming the factual situation, as well as to the untimely proceedings by certain bodies and institutions from which the Ombudsman either requested information or addressed another intervention for a corresponding proceeding.

Late proceeding by the competent bodies, besides the proclaimed obligatory deadlines is still a case. However, in certain procedures the delay was due to absence of formal replies by the bodies, which hindered the complete establishment of the factual situation.

This leads to a conclusion that although there is an improvement in the behavior of the officials towards the Ombudsman's requests, yet the necessary level of quality in the cooperation with the Ombudsman has not been achieved. In order to update the procedure and to improve the situation, 39 pieces of information were submitted to bodies and organizations with public mandates, 14 of which were accepted, 55 pieces of information were addressed to the Ministries, 22 of which were accepted, and 42 were submitted to the Government of the Republic of Macedonia – upon 20 of which actions were taken.



30,01 %
Violations found

Violations found and measures taken

After examining the factual situation in the complaints and depending on the confirmation for alleged violation of citizens' rights, the Ombudsman submits: recommendations, suggestions, implications, proposals, opinions, requests and other similar interventions to competent bodies in order to provide elimination of the irregularities and illegal aspects and eventually, to protect citizens' rights.

Out of the total number of complaints the Ombudsman acted upon in 2009, in 1102 of the cases violation of citizens' constitutional and legal rights was found. In 787 cases (71.42%) the public administration bodies, other bodies and organizations with public mandates acted upon the Ombudsman's interventions, for 158 cases (14.34%) the procedure is in progress, and in 157 (14.25%) the Ombudsman undertook all legal activities.

The majority of violations found in 2009 referred to the area of legal-property relations, 221 or 20.05%, in 127 or 57.47% of which the bodies and institutions with public mandates acted upon the Ombudsman's interventions. They are followed by complaints in the area of working relations, where violations were found in 140 cases or 12.70% and for 84 or 60% of which the Ombudsman's reactions were accepted. In the area of judiciary, violations were found in 106 or 9.62% of complaints, in 85 or 80.19% cases the interventions were accepted; in the area of consumers' rights violations were found in 96 or 8.71% of cases and in 88 or 91.67% of them actions were taken upon the Ombudsman's interventions, etc.

Out of the total number of violations found, the majority of not-taking measures upon the suggestions, recommendations and other interventions by the Ombudsman were found at the second instance commissions at the Government of the Republic of Macedonia, the

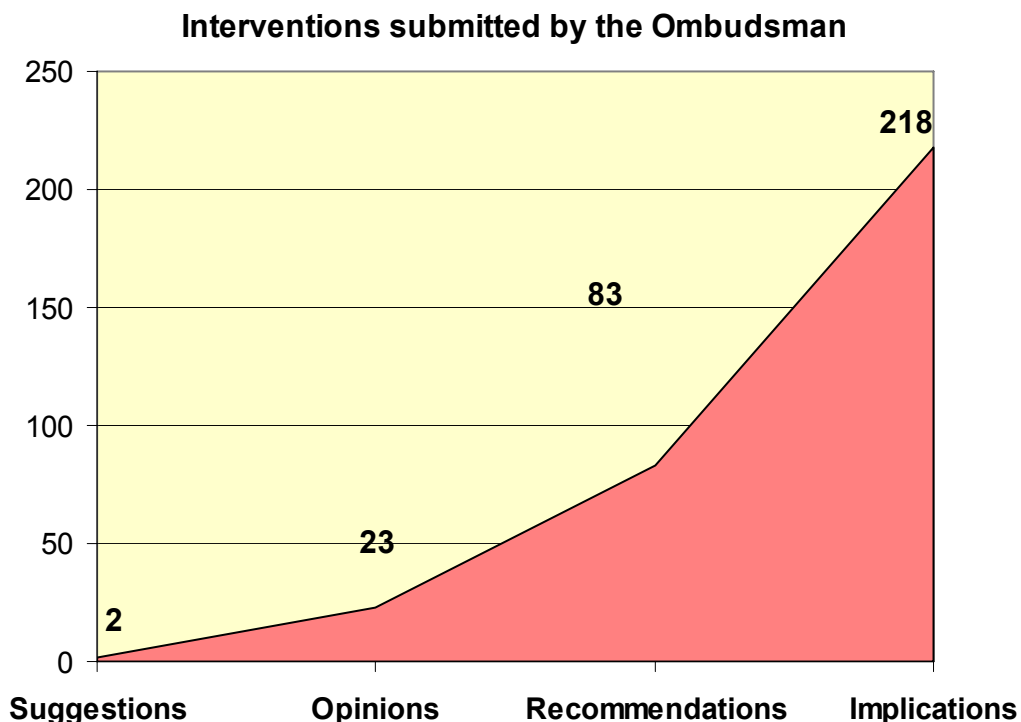
Graph No.5 - Bodies which, in the largest number of cases have not acted upon the Ombudsman's interventions yet



Ministry of Interior Affairs, the Ministry of Finance, the local self government units, etc.

Like every other year, the violations found referred to violations of legal and procedural provisions, meaning delay of procedures in which the citizens exercise their rights. In almost 90% of cases of the total number of violations found, the competent bodies did not respect the time limit for taking decisions upon the citizens' requests, and in a

Graph No.6



significant number of cases they abused the institution of silence of the administration.

In order to eliminate the violations found, the Ombudsman addressed 326 interventions to the competent bodies; more precisely: 83 recommendations, 218 implications, 23 opinions and two suggestions. Besides, the Ombudsman submitted three requests to the Public Prosecution for initiating a procedure in order to ascertain criminal responsibility against responsible persons or officials at the bodies and organizations concerned.

**Over 5700
citizens received
for discussions**

Citizens at the Ombudsman's office

One of the main features of the Ombudsman institution is its availability for the citizens - the reason it was founded for.

REVIEW OF RECEIVED COMPLAINTS								
FIELDS	<i>Review of received complaints at the Ombudsman's offices</i>							
	Skopje	Bitola	Kicevo	Strumica	Tetovo	Stip	Kumanovo	TOTAL
Nondiscrimination and adequate and equitable representation	12	3		1	1	1	2	20
Police procedures	149	27	19	15	18	8	16	252
Civil states and other interior issues	99	13	4		10		28	154
Judiciary	395	97	78	46	58	25	45	744
Military persons and military conscripts	2							2
Social protection	52	18	5	4	10		6	95
Working relations	269	44	11	5	30	12	18	389
Accommodation issues	37	11	1	1	4	1	2	57
Health protection	52	7	5	2	3	2	1	72
Pension and disability insurance	115	10	19	7	12	2	16	181
Education, science, culture and sport	35	2	2	1	4	1	4	49
Children's rights	140	2	1	1	3	2	8	157
Urban planning and civil engineering	86	21	18	8	12	5	20	170
Environment	11	1	4	1	3		1	21
Finances	29	7	3	3	3		5	50
Property-legal issues	231	28	25	17	29	9	22	361
Consumers' rights	232	13	5	5	9	4	9	277
Prisons	299	17	3		8	19	1	347
Other	163	34	6	6	6	1	18	234
TOTAL:	2408	355	209	123	223	92	222	3632

Because of that, the institution's work concept is to be open for the citizens whenever they face problems.

Hence, every week day at the office in Skopje, as well as at the regional offices in: Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip, citizens were received, and the Ombudsman, his deputies and the professional service employees led discussions with 5700 citizens, and in case there was a suspicion for committed violation of rights, cases were formed and actions were taken. However, in cases where no basis for activities by the Ombudsman was present, the citizens were given a legal advice on the manner they could protect or exercise their rights, as well as the title of the competent body. In 2009 the majority of complaints were received at the office in Skopje, 2408. The Ombudsman's office in Bitola received 355 complaints, in Tetovo 223, in Kumanovo 222, in Kicevo 209, 123 in Strumica and 92 complaints were received at the office in Stip.

At the Ombudsman's office in Skopje activities were taken upon 2232 complaints, in Bitola upon 437 complaints, in Tetovo 277, in Kumanovo 222, in Kicevo 198, in Stip 146 and in Strumica activities were taken upon 120 complaints.

Fields of activities



Nondiscrimination and adequate and equitable representation

Respecting the principle of adequate and equitable representation, among other issues, is of vital importance for the constitutional order of the Republic of Macedonia.

In the function of monitoring the conditions with the adequate and equitable representation of all communities and the gender equality, the Ombudsman, during the report year, conducted an analysis of the data gathered from the bodies it is competent to act towards.

NONDISCRIMINATION AND ADEQUATE AND EQUITABLE REPRESENTATION – 20 (0,55%)

Sub area	No. of complaints	%
Employment	7	35,00
Ethnicity	4	20,00
Gender	1	5,00
Election or appointing	1	5,00
Other	7	35,00

The received data reveal that a certain improvement in the area of conducting the principle of adequate and equitable representation can be noticed; however, the fact that several institutions have not achieved the obligatory level of representation remains.

From the analysis the Ombudsman found that the public administration bodies are more intensively realizing this principle, opposed to the public enterprises where the percentage of representation of the community members has not corresponded to the constitutionally guaranteed principle for years. According to the Ombudsman, the legally guaranteed principle of adequate and equitable representation has not been sufficiently promoted yet, meaning continuous activities and measures need to be taken for its complete implementation in the state administration bodies and other public institutions, i.e. activities directed towards integration of community members through the mechanisms of adequate and equitable representation in all institutions of the legal and political system.

In direction of monitoring the situation in the area of respecting the principle of adequate and equitable representation, the Ombudsman requested information from the Secretariat for Implementation of the Framework Agreement, as well.

The Secretariat informed the Ombudsman that continuous activities were being taken in terms of implementation of the principle of adequate and equitable representation of the communities' members, and the preparation of the Employment Program for the communities' members was based on the analysis conducted by the Secretariat, as well as on the information gained from the annual plans of state management bodies and public institutions.



Thus, the Secretariat for Implementation of the Framework Agreement informed that during 2009 it advertised positions for the communities' members which are not in majority in the Republic of Macedonia. During the process, 407 people were employed, 301 of whom with university education and 106 with secondary education, and the realization of advertisements 122/2009 and 135/2009 was in progress.

As an example of good practice in the implementation of the principle of adequate and equitable representation, the Ombudsman emphasizes the work of the Ministry of Defense since the respect of this principle is its strategic aim, implemented in the strategic documents such as: Human Resources Management Strategy, Programs for adequate and equitable representation of ethnic communities and other documents, on the basis of which transformation of personnel structure in defense is conducted. The Ministry of Defense and the Army of the Republic of Macedonia continuously keep records on the ethnicity of their employees, on the basis of which monthly reports are submitted to the General Secretariat at the Government of the Republic of Macedonia, and an Annual Plan on adequate and equitable representation is prepared, which contains a budget application and is submitted to the Public Servants' Agency.

Acting upon individual cases in which the citizens alleged violation of the principle of adequate and equitable representation in the field of practicing the right to a working relation, the Ombudsman addressed recommendations to the appropriate bodies stating that it was necessary to act in accordance with Amendment VI of the Constitution of the Republic of Macedonia, where the adequate and equitable representation of citizens from all communities in state bodies and other institutions on all levels is stipulated, as a crucial value of the constitutional order.

During this report year the number of



cases on discrimination protection is small. The Ombudsman finds that it is due to the fact that citizens, although feeling discriminated (which they allege in their complaints), still do not have the courage to ask for conducting the procedure on the basis of discrimination. Consequently, because of the citizens' insisting, the Ombudsman leads these procedures in the areas the citizens' rights are directly violated. Certainly, discrimination can always be hidden behind violations of other rights.

The complaints definitely indicate that the incidence of discriminatory behavior is mostly spread in the areas of social life which are especially important and sensitive for realization of citizens' rights, i.e. the complaints mainly refer to employment and the rights resulting from the working relation.

The Ombudsman would like to emphasize the complaint submitted by the Deaf and Hearing Impaired Persons' Association, which requested an intervention before the Public Enterprise Macedonian Radio Television because this enterprise, starting from June 2009, seized broadcasting the news for deaf persons. The complainants indicated that they were discriminated on the basis of being deprived from access to information.

After finding violation of rights for these citizens, the Ombudsman addressed the Broadcasting Council of the Republic of Macedonia and the Macedonian Radio Television stating that they had to respect the provisions of the Law on Broadcasting, pursuant to which this enterprise had the obligation



to develop, plan and broadcast programs, informative programs and news for the deaf, interpreted in the sign language. The Ombudsman indications were accepted and the news for the deaf was on the program again on 14.09.2009.

However, the small number of complaints does not reflect the real situation regarding the existence of discrimination. On the contrary, this phenomenon has a central place in violation of all citizen's rights and freedoms and it is present in all areas of social life. However, discrimination is difficult to confirm mostly due to the fact that in the Republic of Macedonia there is no a separate law on discrimination protection. Thus, discrimination is stipulated by certain separate laws referring to issues in the area of discrimination, but they are not precise enough and do not represent a consistent unity.

In order to assist the need for adopting a special law on discrimination protection, the Ombudsman actively participated at the work of the Working Group at the Ministry of Labor and Social Policy in the process of preparation of a Proposal-Law on Anti-discrimination. Representatives of competent ministries and non-governmental organizations are also members of this group.

Taking into consideration the situation, the Ombudsman emphasized, like in the previous years, the necessity for passing a law on Discrimination Protection, because that will represent a huge step forward towards creation of a legal system compatible with the

highly developed European democracies, and that is the only way to create efficient and effective prerequisites for prevention and protection from discrimination.

In order to monitor the activities in the area of equality, the Ombudsman in 2009 paid special attention to the plan for equal opportunities and implementation of the Roma Strategy.

In that sense, the Ombudsman addressed the Ministry of Labor and Social Policy and requested to be informed on the activities taken in 2009 regarding the implementation of this law, i.e. activities taken in direction of promoting gender equality, thus analysis conducted and conclusions made.

Equal Opportunities Department at the Ministry of Labor and Social Policy informed that after the Law on Equal



Opportunities entered into force, coordinators for equal opportunities of men and women were assigned in 13 ministries, and a representative from the Ombudsman institution was assigned as well. In this way the Ombudsman monitors the conditions with the gender equality.

In terms of realization of activities referring to Roma Decade, the Ombudsman requested information on this matter from the Ministry of Labor and Social policy. Following the insight of the activities taken designated by the Roma Strategy of the Republic of Macedonia, it is evident that the competent ministries took adequate measures during the report year.

Body	Total employees	Gender representation		ADEQUATE AND EQUITABLE REPRESENTATION																	
		Female	Male	Macedonians		Albanians		Turks		Roma		Serbians		Vlachs		Bosniaks		other			
				%	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	
Cabinet of the President of RM – Professional Service	27	16	59,3	11	40,7	23	85,2	3	11,1												
Parliament of RM – Professional Service	275	179	65,1	96	34,9	208	74,9	57	20,7	3	1,1	1	0,4	5	1,8	2	0,7	1	0,4		
Ombudsman of RM	69	42	60,9	27	39,1	34	49,3	27	39,1	1	1,4	2	2,9	2	2,9	2	2,9	1	1,4		
State Commission for Prevention of Corruption	7	2	28,6	5	71,4	5	71,4	2	28,6												
Members of SCPC administration	17	9	52,9	8	47,1	12	70,6	5	29,4												
Judges administration	9	4	44,4	5	55,6	6	66,7	2	22,2	1	11,1										
Constitutional Court of RM	21	19	90,5	2	9,5	19	90,5	1	4,8					1	4,8						
Judges administration	15	4	26,7	11	73,3	9	60,0	4	26,7	1	6,7							1	6,7		
Court Council of RM	32	24	75,0	8	25,0	29	90,6	1	3,1									1	3,1		
Judges administration	25	16	64,0	9	36,0	17	68,0	7	28,0	1	4,0										
Administrative Court of RM	50	37	74,0	13	26,0	47	94,0	3	6,0												
Judges administration	22	8	36,4	14	63,6	16	72,7	5	22,7												
Supreme Court of RM	58	43	74,1	15	25,9	51	87,9	1	1,7	1	1,7			3	5,2	2	3,4		4,5		
Public Prosecutors	207	94	45,4	113	54,6	177	85,5	23	11,1	2	1,0			2	1,0	2	1,0	1	0,5		
Public Prosecution of RM administration	203	164	80,8	39	19,2	181	89,2	15	7,4	2	1,0			1	0,5	4	2,0				
State Attorneys administration	28	12	42,9	16	57,1	26	92,9	1	3,6	1	3,6										
Judges administration	71	61	85,9	10	14,1	65	91,5	3	4,2	1	1,4			2	2,8						
Public Prosecutors Council	9	1	11,1	8	88,9	6	66,7	2	22,2					1	11,1						
Administration	4	3	75,0	1	25,0	4	100,0														
Ministry of Environment and Spatial Planning	164	84	51,2	80	48,8	104	63,4	49	29,9	1	0,6			5	3,0	1	0,6		4	2,4	
Ministry of Labour and Social Policy	351	210	59,8	141	40,2	259	73,8	60	17,1	1	0,3	7	2,0	10	2,8	10	2,8	3	0,9	1	0,3
Ministry of Local Self Government																					
Ministry of Culture	42	24	57,1	18	42,9	20	47,6	20	47,6										2	4,8	
Ministry of Interior Affairs	138	76	55,1	62	44,9	61	44,2	67	48,6	3	2,2	3	2,2	2	1,4	1	0,7	1	0,7		
Ministry of Education and Science	12226	1818	14,9	10408	85,1	9756	79,8	1927	15,8	76	0,6	79	0,6	211	1,7	12	0,1		166	1,4	
Ministry of Justice	228	140	61,4	88	38,6	131	57,5	82	36,0	3	1,3	1	0,4	6	2,6	1	0,4	3	1,3	1	0,4
Ministry of Economy	611	287	43,7	344	56,3	471	77,1	107	17,5	15	2,5	2	0,3	6	1,0	6	1,0	2	0,3	2	0,3
	447	194	43,4	253	56,6	320	71,6	106	23,7	4	0,9			6	1,3	6	1,3	2	0,4	3	0,7

Ministry of International Affairs	440	174	39.5	286	60.5	338	76.4	87	19.8	6	1.4	3	0.7	1	0.2	2	0.5	2	0.5	3	0.7
Ministry of Transport and Communications	200	90	45.0	110	55.0	157	78.5	36	18.0	2	1.0			4	2.0			1	0.5		
Ministry of Health	285	155	58.5	110	41.5	156	58.9	98	37.0	2	0.8	1	0.4	4	1.5	1	0.4	1	0.4	2	0.8
Ministry of Agriculture, Forestry and Water Economy	940	199	21.2	741	78.8	758	80.6	140	14.9	10	1.1	1	0.1	20	2.1	5	0.5	1	0.1	5	0.5
Ministry of Defense	8573	1109	12.9	7464	87.1	6344	74.0	1564	18.2	181	2.1	94	1.1	180	2.1	75	0.9	47	0.5	88	1.0
Ministry of Information Society	20	9	45.0	11	55.0	19	95.0	1	5.0												
Ministry of Finances	583	379	65.0	204	35.0	513	88.0	55	9.4	1	0.2	2	0.3	8	1.4	2	0.3	1	0.2	1	0.2
Government of RM General Secretariat	209					105	50.239	88	42.1	10	4.8	1	0.5	2	1.0	1	0.5	2	1.0		
Government of RM General Services	312	142	45.5	170	54.5	272	87.179	22	7.1	5	1.6	2	0.6	5	1.6	2	0.6	3	1.0	1	0.3
Government of RM Secretariat for Legislation	24	17	70.8	7	29.2	17	70.833	5	20.8							1	4.2			1	4.2
Government of RM Secretariat for European Issues	57	41	71.9	16	28.1	43	75.439	5	8.8	2	3.5	1	1.8			5	8.8			1	1.8
Government of RM Secretariat for Implementation of the Framework Agreement	889	292	32.8	597	67.2	2	0.225	802	90.2	43	4.8	18	2.0	2	0.2	4	0.4	18	2.0		
Higher Public Prosecutions	9525	1671	17.5	7854	82.5	7172	75.3	1648	17.3	189	0.0	99	0.0	193	2.0	84	0.9				
administration	1142	318	27.8	615	53.9	143	12.5	896	78.5	53	0.0	19	0.0	4	0.4	6	0.5				
Basic Public Prosecutions	33395	6184	18.5	27211	81.5	25664	76.8	5683	17.0	487	1.5	284	0.9	621	1.9	192	0.6	61	0.2	271	0.8
administration	5140	1963	38.2	2759	53.7	2437	47.4	2342	46.6	134	2.6	52	1.0	66	1.3	43	0.8	33	0.6	12	0.2
Judges	43289	8038	18.6	35251	81.4	33141	76.6	7366	17.0	683	1.6	386	0.9	819	1.9	283	0.7	64	0.1	273	0.6
administration	7195	2590	36.0	3978	55.3	2599	36.1	4045	56.2	230	3.2	89	1.2	72	1.0	54	0.8	51	0.7	13	0.2
Funds	1363	878	64.9	475	35.1	1126	83.2	165	12.2	5	0.4	6	0.4	24	1.8	18	1.3	1	0.1	8	0.6
Judges	506	295	58.3	211	41.7	436	86.2	45	8.9	2	0.4	0	0.0	7	1.4	8	1.6	2	0.4	6	1.2
administration	1936	1166	60.2	770	39.8	1639	84.7	187	9.7	27	1.4	24	1.2	15	0.8	28	1.4	5	0.3	10	0.5
Centers for Social Work	638	398	62.4	240	37.6	495	77.6	92	14.4	9	1.4	11	1.7	11	1.7	9	1.4	3	0.5	8	1.3
Local Self Government Units	4101	1545	37.7	2536	61.8	3261	79.5	606	14.8	75	1.8	26	0.6	64	1.6	30	0.7	11	0.3	30	0.7
Penitentiary-correctional and Educational-correctional Centers	721	123	17.1	598	82.9	612	84.9	91	12.6	0	0.0	2	0.3	5	0.7	10	1.4	0	0.0	1	0.1
Independent state bodies	6877	3191	46.4	3686	53.6	5848	85.0	696	10.1	81	0.9	27	0.4	122	1.8	62	0.9	17	0.2	38	0.6
Public Enterprises	6968	1322	19.0	5646	81.0	5918	84.9	571	8.2	100	1.4	53	0.8	185	2.4	60	0.9	34	0.5	64	0.9
Public Health	17519	12511	71.4	4868	27.8	14693	83.3	1707	9.7	231	1.3	181	1.0	392	2.2	136	0.8	88	0.5	187	1.1



Police procedures

Police procedures, opposed to the guaranteed constitutional and legal rights of the citizens, represent one of the most significant areas of activities under the Ombudsman's mandate.

This is a matter of a specifically delicate area in which the distinction line between the citizens' rights, their respect and enjoyment on one hand, and the legal responsibilities of the police who are responsible to maintain general order and peace and to provide the citizens with their safety and security, on the other hand.

The fact that the police is the only state body which has a legal right and authorization, in situations foreseen by the legislation, to use physical force and enforcement means which can endanger the physical integrity, even one's life, shall not be neglected.

Provoked by these legal authorizations of the police, as well as by the legal responsibility to protect citizens' rights, the Ombudsman acted in two directions in this report year.

One part of the activities was the legal obligation which derives from article 2 of the Law on the Ombudsman, i.e. acting upon complaints in which the citizens imply to particular, individual cases of violation of the their constitutional and legal rights by illegal activities taken by police officers, requesting protection of citizens' rights and taking definite measures and activities for ascertaining criminal or other kind of responsibility.

In this aspect it should be pointed out that the number of complaints registered in 2009 referring to illegal activities by police officers increased by 10%. The citizens complained on the following irregularities: surpassing the legal authorizations by unnecessary or overuse of force and enforcement means, not taking measures and activities for protection of citizens' property or physical integrity, delay of police procedures and other illegal activities.

The majority of complaints referred to the fact that the Police did not take measures and their attitude towards protection of citizens' physical integrity or property was passive.

A typical example condemned by the Ombudsman and the public was the case when the passive attitude of the police at the "Macedonia" Square in Skopje led to violation of the

POLICE PROCEDURES – 252 (6,94%)		
Sub area	No. of complaints	%
Detention at a police station longer than 24 hours	1	0,40
Violation or excessive use of force	61	24,21
Ungrounded or excessive deprivation from freedom	3	1,19
Not-taking measures to protect citizens' life and property	49	19,44
Delay	16	6,35
Other	122	48,41

right to a public protest of a group of citizens who were protesting against the intention for constructing a church on that square, during which they were physically attacked by another group of citizens with opposite opinion on the same matter.

Regarding abuse of force and enforcement means by police officers, several cases were investigated during the year, and as a result of the activities taken and the documents gathered, the Ombudsman submitted four requests the competent Public Prosecutor for initiation of a procedure for ascertaining penal responsibility against eight police officers, five of which are crime inspectors and three are members of the Special Police Unit "Alfi" for crime offences against citizens' freedoms and rights.

All four requests by the Ombudsman were found well grounded and the Public Prosecutor submitted requests for conducting an investigation on crime offences against the reported police officers: Torture and other inhumane or humiliating activities and punishment and molesting while performing duty.



It should also be accented that besides certain improvements in the functioning of the Sector for Internal Control and Professional Standards, as an interior control mechanism, in terms of conducting more detailed and broader investigations (as requested by the Ombudsman for years), lack of courage within the Sector can be still felt when it comes to the final decision on occurrence of over passing the official authorizations.

The impression that the Sector for Interior Control and Professional Standards continues to find excuses for the police authorization taken remains, which can be supported by the fact that in all four cases for which the Ombudsman requested initiation of a procedure for establishing penal

responsibility against police officers, this Sector found no violation of citizens' rights, and the police authorizations taken were justified.

This kind of a protective attitude towards police officers by the Sector, and the similar manner of acting by the Public Prosecution and the courts by which, the already initiated court procedures against police officers are prolonged and last for a very long time, are in favor of non-punishing the police officers for the abuses or over passing their official authorizations.

In the struggle against non-punishing, in order to prevent torture and degrading behavior and in order to discourage the police officers to commit severe violations of human rights, the Ombudsman during 2009, on two occasions, was forced to intervene to the higher prosecution instances and to request monitoring of the work of the Basic Public Prosecutor against the decisions by the Public Prosecutor by which, besides the presented extensive evidence materials, the Ombudsman's requests for initiating an investigation against police officers were rejected.

The second direction of the Ombudsman's activities towards protection of citizens' rights from possible abuses of police authorizations derives from the legal responsibility from the article 31 of the law on the Ombudsman, i.e. from the responsibility to monitor the conditions of respecting constitutional and legal rights of arrested and detained persons in police stations.

Like in the previous period, this report year in accordance with the legal responsibility and the Work Program, the Ombudsman performed unannounced visits to all 38 police stations of general competence and conducted insights in the material conditions where the detained persons are held, as well as in the police registration and general documents.

The Ombudsman findings that the conditions in the rooms for detaining persons in the majority of police stations with general competences are inappropriate and that even the minimum prerequisites for stay are not fulfilled, regardless that it is about a short-term detention of at most 24 hours, along with general recommendations for overcoming the situation were listed in a special information submitted to the Government of the Republic of Macedonia and the Ministry of Interior Affairs.

Regarding the legal police registration and documents keeping books, a slight improvement is evident in the majority of police stations.

During the insights it was evident that the comments given by the Ombudsman until then were accepted to a great extent, especially in terms of registering the time of detention and the written notes which should confirm whether the arrested or detained persons were provided with and used their legal rights to be informed on detention reasons, the right to defense and counseling with a lawyer, the right to inform a member of the family or a close person on detention, medical help, as well as other legal rights.

Although it was not included in the Work Program, the Ombudsman at the end of the year conducted several consecutive visits of police stations with general competences, during which he found that major construction activities were in progress for the improvement of the material conditions in the police stations.

These activities were mainly taken in Skopje police stations: Bit Pazar, Gazi Baba, Karpos, Kisela Voda and Centar I, however there are no indications that the same will be done in the police stations: Aerodrom, Dracevo, Gorce Petrov and Cair, where the conditions in the detention rooms do not comply with the minimum standards.

Taking into consideration that according to the information received by the Ministry of Interior Affairs there is a plan for reconstructing police stations in: Gevgelija, Gostivar, Prilep, Tetovo and Stip, it is expected that in the majority of police stations the conditions for short-term detention will finally be created, so that detention can be accompanied by a complete respect of the basic human freedoms and rights, the person and human dignity.



Civil States and other Interior Affairs

In this report year, in the area of civil states and other interior affairs, the Ombudsman faced reoccurring problems from the past.

Data implies that during the report year the complaints in this area referred to delay of procedures for realization of rights connected with citizenship status, place of residence and stay, issuing personal documents (passports, ID cards, certificates), as well as confiscation/return of objects upon previously submitted requests or procedures conducted at the Ministry of Interior Affairs or other bodies with public mandates in the Republic of Macedonia.

During this report year the Ombudsman paid special attention to the complaints requesting assistance in the procedure for gaining citizenship of the Republic of Macedonia, as a prerequisite for realization of other rights proclaimed by the Constitution and the legislation in the state.

Unlike the previous years, it is typical for this period that there was not a complaint requesting dismissal of citizenship of the Republic of Macedonia.

Although the number of complaints referring to acquiring Macedonian citizenship is smaller, the Ombudsman still finds that in certain cases the procedure was unreasonably delayed as a result of insufficient coordination of certain departments at the Ministry of Interior Affairs (Citizenship Department, Foreigners Department, and Security Department). Due to this, the Ombudsman contacted the Administrative-Monitoring Issues and Citizenship Department, regardless of the type and level of the procedure in progress. In certain cases the Ombudsman submitted opinions and implications in writing for the applicants who fulfilled the prerequisites of the Law on Citizenship of the Republic of Macedonia and the European Convention on Citizenship. The Ombudsman implied to the necessity of applying the administrative procedure principles for service orientation of the bodies and assistance to the ignorant persons, taking into consideration that the citizenship acquiring procedure is a special administrative procedure during which, the timeframes proclaimed by the Law on General Administrative Procedure are not applied.

CIVIL STATES – 154 (4,24%)		
Sub area	No. of complaints	%
Citizenship	60	38,96
Record Keeping	20	12,99
Taking and return of cases	16	10,39
Stay	2	1,30
Delay	11	7,14
Other	45	29,22

In order to improve the conditions with regulation of citizenship status for persons born in the Republic of Macedonia, and the so called “foreign element”, the Ombudsman still finds that the Law on Citizenship needs amendments in order to facilitate the circumstances for granting citizenship to persons regarded as citizens of the republics of the Former Yugoslavia to be defined. The basis for this request is seen in the application of the chapter of the European Convention on Citizenship referring to a state succession and citizenship and promotion of principles of real and effective ties of the person to the state, the permanent residence of the person at the time of succession, the will of the person and his/her territorial origin.

As a result of his activities, the Ombudsman finds that the number of positively closed procedures for acquiring citizenship increased, i.e. the number of requests and complaints regarding citizenship acquisition decreased.



Unlike the good cooperation with the body competent for citizenship, the Ombudsman once again did not experience appropriate cooperation with the body competent for foreigners, i.e. Border Affairs and Migration Department in several cases in which violation of the right to regulate the stay for foreigners

was found, who are staying in the country on various bases, and mostly on the basis of marriage. The Ombudsman submitted special reports on obstruction of work to the Minister of Interior Affairs. Considering the scope and complexity of the Law on Foreigners, which has been into force since 2008, the Ombudsman finds that the officials of this department apply the provisions of this Law partially and restrictively, because of which there is a need for their additional legal training and simplification of the procedures before this body.



The practice for issuing the so called biometrical documents (passports, ID cards, driving licenses) supported the findings of the Ombudsman from the previous year that the procedures at the Ministry of Interior Affairs are delayed on various grounds, the negative consequences of which are borne by the citizens. In the aspect of replacing the old ID cards with new ones in the legally proclaimed timeframe and the fines foreseen in case the citizens do not meet the deadlines, the Ombudsman submitted an initiative to the Government of the Republic of Macedonia, an authorized body for proposing laws, for changes

and amendments of the Law on ID Card, for prolongation of the deadline for replacing, which was acknowledged.

In this context, the Ombudsman indicates that for providing unobstructed realization of the citizens' rights in the area of book keeping records, the Book-keeping Records Management needs to be initiated, as a body within the frames of the Ministry of Justice, meaning conditions for its undisturbed functioning need to be created.

The complaints by citizens on returning of confiscated objects (mostly weapons and vehicles) mainly resulted in non-initiation of a procedure because it was about a temporary confiscation by the interior affairs body, until the finalization of a penal procedure before a court or the customs body.

In order to realize the rights of a part of complainants, the Ombudsman cooperated with the Ombudsmen in the neighbouring countries, mostly on problems in registry books for persons born on the territory of the Republic of Macedonia, who were not able to realize their rights unassisted.



Judiciary

The competences of the Ombudsman in protection of citizens' rights in the area of judiciary, apart from the other areas of acting, are separately defined in article 12 of the Law on the Ombudsman, which precisely proclaims that the Ombudsman takes activities and

measures for protection of unjustified delay and unconscientious and irresponsible conduct of work by the court departments. Hence, the Ombudsman is obligated to respect the independence of the judiciary. A proof for the limited competence in this segment, apart from the other areas of the Ombudsman's acting, is his non-acting upon cases for which a court procedure is in progress, except in the above mentioned circumstances.

During the Ombudsman's activities in this area special attention is paid to protection of the principles of righteous and fair trial, as well as the right to judging in reasonable time, guaranteed by article 6 of the European Convention on Human Rights and Fundamental Freedoms.

Considering that the public-prosecution function, the advocacy functions, notaries, executors and the State Public Attorney are in a wider scope of the judiciary and closely related to functioning of courts, the same principles and activities by the Ombudsman are applied when it comes to violation of citizens' rights before these bodies and services.

During 2009, the majority of complaints referring to violation of citizens' rights in the area of judiciary were addressed to the first instance courts, as well as to the Administrative Court of the Republic of Macedonia, mainly on delay of court procedures.

However, it has to be emphasized that citizens who are not satisfied by court decisions continued submitting complaints to the Ombudsman, expressing their dissatisfaction, their revolt on several occasions, and often, as a result of insufficient knowledge on the competences they requested their amendments, which is out of the legal competences and authorizations the Ombudsman is empowered with.



JUDICIARY- 744 (20,48%)

Sub area	No. of complaints	%
Abuse and corruption	9	1,21
Delay – extra judicial procedure	20	2,69
Delay – executive procedure	62	8,33
Delay – criminal procedure	59	7,93
Delay – litigation procedure	153	20,56
Delay – inheritance procedure	8	1,08
Delay – upon extraordinary remedy	14	1,88
Delay – administrative dispute procedure	79	10,62
Delay – misdemeanor procedure	1	0,13
Delay – liquidation procedure	10	1,34
Delay – other procedures	48	6,45
Violation of law	48	6,45
Reconsidering a court decision	105	14,11
Other	128	17,20

On the other hand, the aspects referring to: independence, professionalism and competence of judges were also a frequent reason for the citizens' complaints to the Ombudsman, however, due to absence of competence, complaints of this kind were directed to the competence of the Court Council of the Republic of Macedonia – a body which is competent to appoint and relief of duty of court officials, as well as to monitor and evaluate

conscientiousness and professionalism in their work.

Working upon cases indicates that court procedures, especially before first instance court bodies, are still slow besides wide reform measures taken in the past years through legislation changes in the process procedures, as well as liberation of first instance courts from non-essential cases and their transfer to other public services' competence (notaries and executors).

Similar situation is registered with the Administrative Court of the Republic of Macedonia before which the citizens are also facing violation of the right to judging in reasonable time limits.

According to the Ombudsman, the reason for long duration of procedures in administrative disputes is foremost the large number of cases inherited by the transfer of competences from the Supreme Court two years ago, a constant inflow of new cases in various administrative areas and perhaps, limited personnel resources. Opposed to these conditions, the Ombudsman finds no excuse for the long duration of administrative disputes, since the citizens wait for decisions even longer than two years.

Regarding the procedures before second instance judicial bodies and the Supreme Court of the Republic of Macedonia, the number of received complaints can not represent a relevant indicator for the efficiency in realization of the right to judging in reasonable time limits.

Although the competences in the area of judiciary are limited, the Ombudsman decided to address implications and recommendations, especially to first instance courts, requesting expedition of judicial procedures by taking definite activities.

The Ombudsman finds the functioning of the Department at the Supreme Court of the Republic of Macedonia an advantage, because its existence as a protective mechanism means a step forward towards a faster course of court procedures.

The number of complaints referring to realization of rights before criminal bodies – public prosecutions, was smaller compared with the ones referring to courts. The analysis conducted still



indicates that the reason for long duration of procedures before the Public Prosecution should be searched for in the subjective element, which is insufficient monitoring of cases mobility and not taking activities for hastening the procedure for reaching a meritory decision. Hence, in a large number of cases, in order additional information needed for a final decision upon a criminal charge to be gathered, special reports from certain state bodies are requested, mostly from the Police, and in this phase there is often delay before the Public Prosecutor, which can sometimes last for a long period of time, and only as a result of insufficient initiativeness of the public prosecution officials.

This type of behavior leads to expiry of the legal deadline in which the parties suffering detriment have legal right to file criminal suits as private plaintiffs.

The work upon cases also indicates that citizens often complain on not receiving feedback information on their criminal charges submitted to the Public Prosecution.

Concerning the realization of citizens' rights before executors, the Ombudsman received complaints both from creditors and debtors. While creditors mostly complained on delay of execution procedures, debtors complained on illegal activities by executors. Thus, it should be accented that the executors conducted the execution process mostly in the simplest and the easiest manner for both them and the creditors, i.e. through personal income on the basis of salary or pension, meaning through personal bank accounts of debtors in commercial banks. Although the manner of execution can be chosen by the creditor and the executor, still this manner of execution should not have brought in question the existential minimum of debtors guaranteed in article 105 of the Law on Execution, which limits the execution to 1/3 of the monthly income from salary or pension.

During 2009 the Ombudsman cooperated with and managed to protect debtors' rights in procedures before creditors, which resulted in elimination of certain irregularities in execution procedures and realization of legal rights for a number of complainants.

Unfortunately, it should be said that during this report year the Ombudsman ascertained unconscientious and unprofessional work by executors. Due to that, the Ombudsman addressed information to the Executors' Chamber and to the Ministry of Justice, recommending measures which needed to be taken.

The number of complaints submitted by citizens referring to Notary is of minor importance because the citizens realize undisputed rights before this institution. Regarding possible violation of citizens' rights by the lawyers, it must be taken into consideration that it is about a mutually established relationship on the basis of power of attorney, so possible disputes in this area could be a case of clarification and discussion before a competent court.



Penitentiary-correctional and Educational-correctional institutions

Execution of sanctions represents limitation of freedom of movement, which by definition, implies to a compulsory functioning of a system for protection of rights of convicted and detained persons.

Acting within the frames of his competences, the Ombudsman during 2009 acted upon complaints submitted by convicted or detained persons, and in accordance with the provisions of the article 31 of the Law on the Ombudsman, he continuously monitored the conditions in the penitentiary-correctional and educational- correctional facilities.

During this report year the Ombudsman conducted several regular visits, during which it was found that conditions at the penitentiary-correctional institutions are continuously worrying, especially the conditions in the semi-open ward at the Penitentiary-Correctional Center Idrizovo.

More precisely, the accommodation conditions in these facilities, with a few exceptions, have remained almost unchanged because of which it can again be stated that the penitentiary system in the Republic of Macedonia is functioning out of the norms stipulated in domestic and international legislation. The occurrence of non-application of the principles of humanity and respect of human personality and dignity is still present, principles on which the system of execution of sanctions is based.

In the most of the prisons, like in the previous years, the problem with overcrowdness remains, because of which convicted persons serve their time in inhumane conditions, as opposed to the penological standards for contemporary conditions for stay. It can be concluded that there is a positive development in the communication of convicted persons with the outside world, which was also achieved by installation of complaints boxes. The problem with the right to recreational activities for convicted persons remains in these facilities, even in places where in the meantime, sports halls were constructed and sports equipment was purchased. This is a result of the indifferent attitude of the officials towards organizing this kind of activities. Absence of a continuous realization of the monitoring function over the penitentiary-correctional facilities is still present as well, and the visits by the inspectors for execution of sanctions and the execution judges are only formal.

Regarding specific complaints by convicted persons, like in the previous report years, complaints on health protection prevail, because of which the Ombudsman in certain cases took measures to provide the complainants, as a result of health problems, medical treatment in appropriate medical institutions. In that sense, the Ombudsman indicated that convicted persons who had their teeth pulled out during serving their time, which hindered their normal nutrition, needed artificial teeth. The Manager of PCF Idrizovo accepted the indication and a few socially deprived convicted persons were provided with artificial teeth on the expense of the Prison.

The number of complaints concerning privileges, a part in which the Ombudsman does not have immediate competence, is not small; however, convicted persons were informed on the manner and procedure through which they could exercise them. At the same time, a great number of complaints referred to transfer of convicted persons from one prison to another or their progressing or re-progressing, upon which the Ombudsman acted in order to expedite the procedures. A certain number of complaints referred to non-acting by the Sanction Execution Management and the work of courts, meaning unjustified delay of procedures before the abovementioned bodies, and in some complaints it was stated that there was a problem with violation of the right to financial compensation for the convicted persons on the basis of assigned duties. The Ombudsman implied to the prisons' managers that their excuse that there was a lack of financial means was irrelevant for the convicted

PENETENTIARY-CORRECTIONAL AND EDUCATIONAL-CORRECTIONAL INSTITUTIONS – 347 (9,55%)		
Sub area	No. of complaints	%
Treatment of convicts	213	61,38
Torture and other types of inhumane behavior	7	2,02
Transfer or extradition	3	0,86
Treatment of confined persons	15	4,32
Delay	3	0,86
International criminal legal assistance	1	0,29
Using a privilege	3	0,86
Transfer of competence	7	2,02
Other	95	27,38

persons and directed them to their obligation to provide financial means in order to pay the convicted persons for their time spent working.

Unlike previous years, the number of complaints referring to transfer of convicted persons decreased. More precisely, Macedonian citizens from other states into the Republic of Macedonia or foreign citizens from the Republic of Macedonia to their native countries for further serving of time, during which the Ombudsman took all measures and activities in the sense of expediting this procedure.

One of the most specific cases is the self-initiated procedure for physical molesting of convicted persons in the Skopje prison. After conducting an immediate insight, interviews with convicted persons and discussions with officials at the Prison, the Ombudsman submitted a request to the Basic Public Prosecution to establish penal responsibility at the officials who had used enforcement means, opposite the regulations.

Within the frames of the competence for monitoring the situation in penitentiary-correctional and educational-correctional facilities during May and June 2009, the Ombudsman conducted preventive visits to all facilities in the Republic of Macedonia, during which it was found that the overall situation remained unchanged, just like in previous years. In this aspect, it was found that there was dissatisfaction of convicted persons in terms of using privileges, more precisely a weekend out because convicted persons believe to be discriminated in that aspect since a number of convicted persons have limited access to privileges because there are other court procedures against them in progress or their verdicts are not executive, apart from other persons who do not undergo such restrictions under the same circumstances. Because of that, the Ombudsman addressed the Manager of the Sanction Execution Management recommending taking actions in order to initiate a procedure for changing and amending the Law on Execution of Sanctions and the by-laws, especially in the domain of weekend-out privilege, for defining the possibility of using the privileges precisely.

On the other hand, because of the increased number of physical fights among the convicted persons as well as suicides, the Ombudsman implied to the competent institutions to their responsibility for necessary strengthening of the monitoring function during prison sentence, a complete and overall monitoring of a convicted person's personality at entrance and continuous medical protection of convicted persons, who practice violence, even suicidal attempts, as a manner of communication. In this sense it was pointed out to the necessity of promoting the educational-correctional function in the penitentiary-correctional institutions and creation of appropriate individual and group programs for treatment of convicted persons in order for their successful re-socialization to be realized.

In order to realize his competences, the Ombudsman simultaneously monitored the conditions in non-respecting the rights of detained persons, as well as minors for whom an educational-correctional measure for a stay in an educational-correctional center has been declared. It was found that there is no improvement in the conditions of the detention parts in prisons, although it is evident that by the construction of the new detention object in the



Prison of Skopje better accommodation conditions are to be created; however, the insufficient lightening in the detention rooms at certain prisons can still be seen. Due to overcrowding and insufficient personnel, detained persons do not practice the right to stay in the open air for one hour, as well.

Another problem which remains is the accommodation of minors. The accommodation capacities, hygiene and lack of organized way of education are the main problems related to execution of educational-correctional measure – stay at an educational-correctional center. The situation of non-defining the regime of activities for minors during their stay at the educational-correctional institution is worrying. A priority which remains as well is dislocation of educational-correctional center from the vicinity of the Skopje Prison. The Ombudsman addressed a recommendation to the Ministry of Justice on these issues. The execution of that recommendation is necessary for the overall improvement of the conditions at the penitentiary-correctional and educational-correctional institutions.



Property-legal relations

In the course of implementation of the Law on Denationalization so far, it has been seen that procedures before the first instance commissions were conducted with great difficulties and omissions. In that segment, the commissions demonstrated irregularities in application of the Law provisions, inefficiency and non-competence in solving cases. As a result of that, citizens have been deprived from realization and protection of constitutionally and legally guaranteed rights.

Besides the adequate legal act, after ten years from the initiation of denationalization process, it is a fact that a huge number of cases are still waiting before the competent institutions. Due to this, the majority of complaints in the property-legal area submitted to the Ombudsman in the course of 2009 referred to denationalization process.

Discussing the process of denationalization, an answer to one of the essential questions: “When is the process of denationalization going to end?”, can not be attained. Taking into consideration the manner in which the procedure is conducted, having in mind its basic features: breaking legally proclaimed deadlines for closing the cases and non-respecting the urgency principle in all instances of the procedure, that cannot be predicted with certainty.

There are still cases for which, although the requests were submitted immediately after the Law on Denationalization (1998) had entered into force, no decisions has been reached until present in first instance during 2009. This situation additionally complicates the

PROPERTY-LEGAL RELATIONS – 361 (9,94%)		
Sub area	No. of complaints	%
Construction land	66	18,28
Denationalization	135	37,40
Expropriation	10	2,77
Cadastre	102	28,25
Delay	19	5,26
Usurpation	1	0,27
Other	28	7,76

fact that in this last phase of the denationalization process, the most complicated and the most complex cases remain to be closed.

Hence, taking into account the manner of work of the denationalization commissions until present, it is not possible to determine the time of completion of these processes. The explanation for this condition is the permanent excuse that the denationalization commissions are facing many difficulties in obtaining necessary documents for deciding, which should be submitted by the citizens-requesters, or certain documents to be submitted by other bodies *ex officio* upon the commissions' request.

However, although the Ombudsman understands the objective circumstances that many of the documents are lost or destroyed due to their obsolescence, he finds that there is no excuse to justify the fact that certain requests have been in process for years.

Namely, pursuant to the provisions of the Law on Denationalization, the commissions have the responsibility to decide upon mediate and immediate evidence and to be oriented towards servicing citizens' requests, meaning assisting them, not hindering them.

Finally, under no circumstances can it be allowed for the citizens as clients to depend on the administration's and institutions' good will where they apply for gathering evidence, or they are not available for the applicants – cases in which the possibility of manipulating and complicating the property-legal relations definitely exists.

The unsolved property-legal relations in the state can only create great problems both for the applicants and for the other parties involved.

To illustrate the manner of work, the Denationalization Commission in the Municipality of Ohrid, among many other cases, should be emphasized. This commission has been prolonging a case for years, although there are implications and other instructions by higher instances on how to act.

Namely, instead of ascertaining the fact whether and what objects exist on the land in question, whether they are of permanent or temporary type, whether there is available land which can be a subject to a real return, what is the surface of that land and finally, if it is in the function of the objects constructed, in the exposition of the decision, the abovementioned commission stated that: "it can be concluded that the land is in the scope of the already existing auto-camp, meaning paths, parks with grass and trees have been planted", which compared with the real factual situation on the very spot is an absurd claim.

Another huge problem for citizens and other persons who want the buy-out construction land or want to exercise another right over construction land, is gaining data from the competent denationalization commissions on whether there is a request for denationalization for certain real estate or not, and if positive, by whom.

Although the Ombudsman, in accordance with the authorizations, informed the officer managing the Ministry of Finance through special information, and requested taking measures for overcoming this situation, the problem has not been practically solved. In that sense, like in many other cases, the explanation is that there are no technical possibilities for obtaining the requested information. This situation cannot be illustrated in a better way than by the fact that even the Ombudsman has not received such data by the Denationalization Commission in Kisela Voda, although the request was submitted in April, 2009.

This manner of conduct and non-acting is nothing more but a completely irresponsible and dismissive attitude towards citizens as well as towards the Ombudsman and it leads to the issue of responsibility for this omission, taking into consideration that there is no legal responsibility for the Ministry of Finance to keep records of this kind.

Thus, if the problem is really of technical nature (the software has not been completely created yet), what is the excuse for not performing the necessary coordination

and at least performing verification of the registries kept by the denationalization commissions in order to obtain the requested data on whether there is or there is not a denationalization request?

A special segment of the denationalization process, referring to cases considered closed by the Ministry of Finance, needs to be accented; cases in which the compensation process has been in progress for years.



Namely, it is about citizens whose right to denationalization has been confirmed, and because there were no prerequisites for a real return of the nationalized property taken by the state, pursuant to the Law on Denationalization the state is obligated to compensate them in the same manner (land, buildings etc) by issuing

another decision.

The response by the Commission on deciding upon the compensation manner in denationalization process that the state does not possess construction land for the needs of the denationalization process is absurd and legally unjustified. Certainly, the only reasonable explanation is that it serves as a method to condition the citizens to abstain from their request for an appropriate compensation of the same type upon every case and to accept compensation by shares.

In this sense, the case which needs attention, and is not the only one, is the case when the competent denationalization commission reached a decision by which compensation of the same kind is approved, that being a flat, without stating the surface, the cadastre parcel, the number, etc., as well as cases in which although the citizens submitted relevant evidence that they had found land of the same kind owned by the state (there are cases when they are even using the very particular land), their requests were rejected by the abovementioned explanation. These and cases alike have been trapped in the administration corridors for years, and the citizens bear enormous financial consequences.

Therefore, as a final conclusion there is the finding that this kind of unjustified delay of procedure for compensation of property which was taken from the owners in the previous system is not reasonable and questions the real implementation of the Law on Denationalization.

Further on, the basic feature of the work of the Commissions for deciding in administrative procedure in second instance in the area of denationalization, property-legal issues and awarding construction land and survey, cadastre and registration of the rights to real estate, is that over a long period of time they have not demonstrated any improvement on the quality of their work, cooperation and openness to citizens' needs, nor do they act upon the Ombudsman's requests and interventions.

Hence, in terms of procedures upon appeals before the above-mentioned commissions, what is typical is the inefficient, irrational, non-functional and untimely

execution of tasks, with unjustified delay of procedure for deciding upon submitted legal means.

Besides, a complete disorganization of the work is typical starting from the moment of receiving an appeal, along with the case acts until the final solution, which results in loose of complete cases and lack of their evidence, slow pace, great level of bureaucracy and subjectivity during the administrative procedure, not obeying and not respecting the legally set deadline for reaching a decision.

Having this in mind, in 2009 a special report on the general conditions, as well as on the measures which need to be taken, was prepared and submitted to the Government of the Republic of Macedonia and it was publicly advertised. The main point of the report was to indicate that the problem was of systematic nature and that it should be solved in the same manner.

In correlation to this, the only instance of improvement in the cooperation with the Ombudsman, as well as the undisputedly increased efficiency in its work, was noticed at the denationalization Commission, while concerning the two other commissions, the previously stated findings remain valid.

Namely, the President of the Commission in the area of survey, cadastre and registration of rights to real estate submitted a written notification in December 2009 stating that the Commission had a large number of pending cases which had not been properly handled for years and had not been closed until deadline. Analog to this, all of the cases were selected and their reorganization was made according to which they were to be solved according to the schedule starting from the pending old cases to the latest ones, in order to close them in the shortest possible time period.

The Commission in the area of property-legal issues and awarding construction land, in September 2009, of course following additional interventions by the Ombudsman, informed that due to both subjective and objective reasons it was not in a position to inform on the course of the procedure in due time. However, in August 2009 a new Secretary was appointed and three new cooperators who continued registering the received appeals (whose number is big) and especially registering the correspondence with the Ombudsman. In the period which followed, this Commission submitted only formal notifications, i.e. notifications stating that the appeal cases were to be solved.

Regarding the procedure for registering changes in the cadastre operate at the real estate cadastre of land in 2009, the number of complaints to the Ombudsman decreased. The basic reason for those results from the altered manner of work, i.e. a resolution in a form of conclusion or decision is not issued upon individual request, but only a certificate is issued. This manner of work of the Real Estate Cadastre Agency and its organizational units create the biggest problems for citizens and they turn to the Ombudsman mainly on this matter. Consequently, in cases when citizens receive a certificate for denial of registration application, the Ombudsman, among other issues, advises the citizens to file an appeal before a competent court, requesting for the basis to be established for the registration application and a license for registering of rights to the particular real estate under their name.

A tendency by the Agency to take activities in this direction can be noticed, through organizing so called "open days" on which meetings of the professional employees at the Agency with the citizens are held. Such activity has not been organized for the city of Skopje yet, i.e. it will additionally be planned.

However, in order to ascertain general views in terms of protection of citizens' rights in view of efficiency, accuracy, quality and transparency in the work, the Ombudsman monitored the condition in realization of citizens' and other persons' rights in 2009 in

procedures upon requests before the Real Estate Cadastre Centre – Skopje, as an office with the highest frequency.



Hence, the general conclusion on the Centre's work is that the efforts for greater accuracy in proceedings upon submitted requests are increased, through their prompt consideration and avoiding the overloadness with cases, because the big number of pending cases is lowered.

Still, apart from the objective omissions, subjective ones were also noticed, which mainly result from the inexistence of coordination between separate organizational parts within the Centre or due to late appointment of cases to another employee in case a previously appointed employee is absent for a longer period of time.

Besides this, regarding the employees at the Counter and Archive Department and General Services Department it was noticed that they do not always obey the communication standards, which are the following ones: kindness, correctiveness, availability, use of polite forms for addressing citizens, and under no circumstances raising the voice during communication.

In this aspect it should be pointed out that there is certain complete bureaucratic behavior in the work of the Cadastre, which can have no legal excuse and point.

This refers mainly to the circumstance when during procedures upon requests for changing the bearer of the ownership right based on a final decision for privatization of construction land, it is requested from the citizens to submit an original sample of the payment receipt for the fee for privatized construction land, although there is no doubt at all that the Property-Legal Issues Department would not issue a validation certificate if the fee was not paid in advance.



Urban Planning and Construction

The well-known situation in the area of urban planning and construction prevailed in 2009 as well, as a result of which the Ombudsman, like in the previous years, received a big number of complaints alleging violence of citizens' freedoms and rights in the area of urban

planning and construction. As usual, the complaints referred to non-acting by the construction inspection, unjustified delay of permission issuing procedures and procedures for adopting detailed urban plans, as well as complaints in which the citizens requested interventions in conducting procedures on executing administrative acts for eliminating illegal constructions in their immediate vicinity.

The complaints, in the most realistic way, demonstrate the condition and problems the citizens face every day in their attempts to realize a certain right or interest in order to improve the conditions of urban living. There is still lack of professionalism, efficiency, accuracy and etiquette, as a result of which the procedures are still long-lasting ones.

Besides all mentioned problems, the conditions in 2009 in the local self government units dealing with procedures in the area of urban planning and construction, indicated a slight improvement tendency especially in the organizational aspect, although there is still a partially present occurrence of insufficient personnel especially in the inspection services, and in the majority of small municipalities no executive services have been established yet.

During 2009, like in the previous years, the complaints to the Ombudsman referred to non-conducting, meaning selective and very rare conducting of procedures for forced administrative execution of valid administrative acts for elimination of illegally constructed facilities, practice which has been continuing for years, although there were certain pre-election promises made by the newly elected local politicians for a more accurate conduction of executive procedures and final solution for the conditions in this area.

Although to a lower extent, the occurrence of non accurate, unconsciencious and inert attitude of the authorized construction inspectors during execution of inspection monitoring and non-taking appropriate legal measures in cases of illegally constructed facilities remains. The

**URBAN PLANNING AND CONSTRUCTION - 170
(4,68%)**

Sub area	No. of complaints	%
Requests upon non-executing acts	6	3,53
Non-execution of administrative acts	32	18,82
Non-acting by the construction inspection	40	23,53
Delay – first instance procedure	13	7,65
Delay – second instance procedure	8	4,71
A procedure for issuing a construction permission	20	11,76
A procedure for amending and adopting a DUP	13	7,65
Other	38	22,35



same number of complaints was submitted by citizens alleging problems they face before local urban planning units in complex and long procedures for receiving construction permission, procedures for adopting detailed urban plans, non-realization of those plans in the area of construction of facilities for public infrastructure etc. Not-adopting detailed urban plans, meaning their inaccurate changing and amending, which should incorporate the real needs and interests of all entities – business and individuals, and the need for their correspondence with the public infrastructure, leads to increase of the number of illegal residential and business facilities.

All of the listed issues create resentment and dissatisfaction with the citizens and their mistrust in the institutions, most of all in the persons on high public positions. By adopting the long prepared law, which would regulate the conditions with the illegal facilities and their possible legalization, solution to the problems which have been piling for years is expected.

Frequent violations of citizens' rights were the reason for the Ombudsman to take actions within the frames of his competences this year as well. In order to protect citizens' rights, he addressed numerous recommendations, implications and information mainly to the municipalities' Mayors, since they are competent to deal with local urban issues, and a small scope of correspondence was directed towards the Ministry of Transport and Communications, as being the body competent to perform monitoring over the work of the local self government bodies in the area of urban planning and construction.



Environment

ENVIRONMENT – 21 (0,58%)		
Sub area	No. of complaints	%
Pollution of the environment	9	42,86
Increased level of noise	4	19,05
Delay	3	14,29
Other	5	23,81

The fundamental issue, regulated by the overall domestic and international legislative, which refers to the environment, is the right to live in a healthy in clean environment.

It is known that in order to realize the rights in the area of environment, all citizens involved should participate in the process, and the state should facilitate

and encourage the public awareness and participation, providing availability of ecological information to the public.

Although the importance of healthy and clean environment is great, which is a prerequisite for realization of human rights in general, the Ombudsman finds that the level of awareness of citizens concerning this issue, as well as the concern by the competent state bodies which should consider the protection and promotion of the environment with the utmost importance, is still very low.

Namely, in the period of this report, it can be said that the practice from previous years repeats, and that is the small number of complaints referring to violation of rights in the area of environment submitted to the Ombudsman's office.

It is known that the Republic of Macedonia has adopted numerous regulations on the promotion and protection of the environment, but it is also known that they are improperly and with difficulties implemented in practice by the competent state, and most of all local self-government, bodies.

A clear example of carelessness demonstrated by the competent bodies in the process of protection of the environment is the current problem with disposal of waste at the illegal landfill in Tetovo, a case the Ombudsman acted upon on his own initiative



The information gained from the procedure and the impression created by the public speeches of the mayors of the two largest municipalities in the region of Polog, whose needs for disposal of waste should be managed by the regional landfill near the village of Rusino, imply more to a fight for outwitting and creating prospects for personal gain or benefit for the municipality they manage, than to a real intention to work at the service of their electors and finally, to solve the problem with disposal of solid waste, which especially affects the citizens of Tetovo.

Considering the fact that the situation developed to an alarming level, that the odor and especially the smoke which filled the air in Tetovo became an everyday picture for the citizens in both the city and its surrounding, as well as the fact that it endangered people's health and lives, the Ombudsman along with the numerous intervention, addressed several implications to the Mayor of the municipality of Tetovo and requested taking immediate and concrete actions towards solving this problem and preventing hazardous consequences to the health of the citizens in Tetovo.



In 2009 the citizens of the surrounding places located in the immediate vicinity of the Okta Refinery faced similar problems. This is another case which has been lasting for years and directly endangering people's health.

The Ombudsman finds that the implementation of the regulations concerning issues of healthy and clean environment is highly dependant on elevating the citizens' awareness on the manner of realization of this right and the

mechanisms for its prevention. In that sense, appropriate instruction of the citizens is necessary, as well as of the employees at the public bodies, which have the responsibility to implement the legislation in this area.



Working relations

The right to a working relation is a guaranteed right for every citizen. The citizens have the right to work and choose their employment freely, and at the same time they have the right to appropriate protection before competent bodies in cases of violation of rights in the area of working relations.

In procedures initiated by the Ombudsman upon complaints submitted in the area of working relations, it can be said that the number of positively closed cases is significant, which implies to the conclusion that in this report year the employers more frequently accepted the Ombudsman's recommendations in the aspect of eliminating violences committed in particular cases.

In 2009, like in the previous years, the most typical cases referring to violation of right to working relations in conducting employment procedures at the state administration bodies, the unjustified reassigning, termination of the working relation, expressing dissatisfaction for calculated lower unemployment benefit, unrealized right to annual leave etc.

WORKING RELATIONS - 389 (10,71%)		
Sub area	No. of complaints	%
Discrimination	9	2,31
Disciplinary procedures	6	1,54
Unemployment compensation	5	1,29
Termination of working relation procedures	96	24,68
Reappointing and transfer of procedures	42	10,80
Employment procedures	45	11,57
Salary and contribution fees payment procedures	51	13,11
Procedures upon appeal or objection before a second instance body	27	6,94
Procedures before the Employment Agency	14	3,60
Adequate representation	5	1,29
Other	89	22,88

In terms of employment procedures at the state administration bodies, cases in which the applicants expressed their dissatisfaction of non-implementation of the principle of adequate and equitable representation by the employing bodies were typical. Their dissatisfaction resulted from the fact that the principle of adequate and equitable representation refers to all communities in the Republic of Macedonia.

Upon cases of this nature, the Ombudsman addressed implications to the Secretariat for Implementation of the Ohrid framework agreement requesting appropriate implementation

of the principle of adequate and equitable representation towards all ethnic communities. The Ombudsman also addressed an implication to the competent committee at the Public Servants Agency requesting to take into consideration all material evidence in deciding during appeal procedures or objections by the complainants, and in cases it was found that the first instance body had not respected the principle of adequate and equitable representation, a decision to be made for annulment of the selection decision. In the replies the Secretariat stated that during employment procedures the principle of adequate and equitable representation was fully respected, a proof of which were the decisions adopted by the competent commission at the Public Servants Agency, which complied with the Secretariat's decisions on the selection.

One interesting case was the one of an employment candidate who claimed that applied for the job properly upon an advertisement and included his phone number in order to be contacted during the employment process. However, after a long period of time he was not informed on the day of taking the professional exam, although he had learnt that the other applicants had been informed and had taken the exam.

The Ombudsman received a confirmation on this case by the Public Servants Agency that the applicant was not informed on the date of the professional exam because the telephone number included in the application was of the VIP Operator and the number of this provider could not be dialed from the switchboard of the Agency, so the candidate remained uninformed.

Since not informing the applicants on the date of taking the professional exam violates their right to involvement in the further employment process which further on violates their employment right, the Ombudsman requested from the Manager of the State Servants Agency to take measures for overcoming of this situation, i.e. to indicate to the competent persons, the presidents and members of the committees for taking the professional exam established at the Agency, to notify all applicants with complete applications submitted to bodies which have advertised a position, because that is the only way which can provide the applicants with undisturbed realization of the constitutional right to work and the right to availability of a position under equal circumstances.

Regarding appointment procedures regulated by the Law on Public Servants, the citizens continued submitting complaints in this report year, expressing their dissatisfaction with appointing positions in other cities, stating that during the procedure, the conditions under which a public servant could be appointed in other city were not respected, or the appointment to another post within the body but to a location far from the body's headquarters etc. In such cases, as usual, if the Ombudsman found violation of right to working relation, intervened with the Public Servants Agency requesting from it to consider the factual circumstances in the procedure for deciding upon an appeal, and to reach a decision for annulment of the appointment decisions.

In a number of complaints the public servants indicated dissatisfaction with the procedures conducted on disciplinary issues, in which the Ombudsman, on several



occasions, found that the state administration body did not conduct the procedure in accordance with the Law on Public Servants and the Rulebook on the Manner of Conduct of a disciplinary procedure for confirming a disciplinary violation. Having intervened, the Ombudsman was informed that the initiated disciplinary procedures were closed on the basis of their groundless initiation, which means that the commissions for conducting disciplinary violence procedures, established by the state administration bodies, accepted the Ombudsman's comments.

As regards employment procedures conducted pursuant to the provisions of the Law on Working Relations, citizens continued complaining about their dissatisfaction with employment of inappropriate or unprofessional personnel, followed by not appointing a person as a result of submitting documents after the deadline etc. However, the number of complaints on these matters was small.

The situation with the appointing procedures is the same. Citizens express dissatisfaction with the procedure conducted for appointing an employee to a lower position. These cases were especially found at the Ministry of Interior Affairs, where no implication was considered by the Commission for deciding in second instance in the area of working relations at the Government of the Republic of Macedonia, so the employees sought further protection before a competent court.

On the other hand, during an appointing procedure, the Manager of the Public Health Institution Zdravstven Dom – Skopje took positive measures, following the Ombudsman implication. He conducted appointing of all X-ray technicians in the city of Skopje to posts relevant to their education.



Namely, these citizens were employed as higher X-ray technicians. However, during their time of work, in accordance with the changes of the Law on High Education and the recommendations by the Ministry of Health, they gained university education, i.e. the title of a graduated radiology technician. After the submitted request for reappointment to a position relevant to their education

they did not receive a positive reply, although means were allocated for this purpose, and they had learnt that for certain individuals the procedure for reappointing to higher positions had already been completed. Considering the fact that they believed to be placed in an unequal position compared with their colleagues which had already been reappointed, upon the Ombudsman's intervention they were reappointed adequately.

There were complaints in which the citizens expressed their dissatisfaction with decisions upon termination of a working relation. One of the most significant cases in this area would be the case of interns at the City of Skopje who, following a procedure for taking the intern exam, received decisions for termination of the working relation because of not passing the exam. This group of interns considered that the exam contained questions on matters which did not correspond to the area they were trained on during the one year of intern period and that it was done on purpose in order to terminate their working relation. The Ombudsman addressed the Mayor of the City of Skopje indicating that pursuant to the

provisions of the Rulebook on the manner, procedures and criteria for conducting the professional and intern exam, a procedure is foreseen for examining the ability of a public servant – intern for independent performance of duties he/she was trained for during the intern period.

The Ombudsman's reaction was not considered by the Mayor of the City of Skopje, nor was it considered by the competent commission at the Public Servants Agency, who found that the procedure was conducted in accordance with the provisions of the Law on Public Servants.

There were other complaints submitted by employees at educational institutions, who after the expiry of the limited time working period, received decisions for termination of the working relations. The complainants requested an intervention in transformation of their working relation because they fulfilled the prerequisite for transformation of the working relation status, incorporated in the Treaty dating 02.12.2008 between the Ministry of Education and Science and the Education and Culture Union.

The Ombudsman reacted upon every single case to the school boards and the schools because the complainants had filed an appeal to the decisions for termination of the working relation. Indicating to the appropriate implementation of the legislation, the Ombudsman requested reconsidering of the procedure for termination of the working relation and acceptance of objections, due to the Treaty. The State Education Inspectorate was informed on these cases, and it was requested from the body to perform an inspection in the schools and in case during the inspection irregularities were found, appropriate measures were to be taken, i.e. the body should impose an obligation for the school principles to annul the decisions on termination of working relation and to extend the working relation agreements with the complainants.

The Ombudsman received positive replies upon a number of cases both from the State Inspectorate and from several school principles, who accepted the Ombudsman's reaction and issued decisions for extending the employment agreement for a determined period of time. However, what is typical for these cases is that the principles only extended the employment agreements for a limited period of time, and they did not perform transformation of the working relation, which means that the principles did not act in accordance with the Treaty at all. In the rest of cases the principles did not act upon the Ombudsman's implications at all, nor did they act upon the decisions issued by the education inspector. As a result of that, the education inspector, upon the Ombudsman's request, filed misdemeanor charges against the school principles.

The problem with the employees at the Ministry of Education and Science continued in 2009 – they are on the payroll list at the Ministry, and they do not perform any duties. A complaint on this issue was submitted to the Ombudsman in 2005 and until now, the problem has remained unsolved. The Ombudsman, through written correspondence and meetings with the competent persons at the Ministry of Education and Science, has been constantly requesting taking measures for regulation of the status for several employees at this Ministry, an issue on which the Prime Minister of the Republic of Macedonia was informed, as well. Unfortunately, all efforts were in vain because the Ministry of Education and Science does not take any measures in order to regulate the status of the persons who receive their salary and do not perform any duties.

In the report for the previous year the Ombudsman stated that regarding the initiative for adoption of a Law on Changes and Amendments of the Law on Public Servants, meaning article 35, paragraph 3 of the Law on Public Servants, pursuant to which the employees at the state administration bodies were placed in an unequal position compared with the employees at economy and non-economy entities on the matter of calculation of compensation for performed labor, the Ministry of Justice informed last year that changes

and amendments to the law on Public Servants were in preparation, which would encompass the Ombudsman's initiative for changing the abovementioned article. This report year the Parliament of the Republic of Macedonia adopted the changes of the Law on Public Servants (Official Gazette of RM no 114/09), which clearly indicates that the Ministry of Justice completely accepted the Ombudsman's initiative which creates equality for all employees in terms of calculation of compensation for performed labor, regardless whether they have the status of public servants or not.

Unfortunately, it is necessary to mention that in this report year, it is obvious by the documents attached to the complaints that the State Labor Inspectorate does not always take measures it is entitled to take in accordance with the competences. The competent labor inspectors only ascertain the situation and in cases of omissions or irregularities found, they do not take any appropriate measures, but they advise the citizens to seek further protection before a competent body.

During this report year there were complaints by citizens on accuracy of work by the Employment Agency, as well..



Accommodation relations

As a result of monitoring the issues over the years in the area of accommodation issues and taking actions upon individual requests for protection of constitutional and legal rights in this area, a conclusion can be made that citizens continuously face numerous problems in the realization of the right to minimum and appropriate housing and other legally guaranteed rights in this area.

The number of complaints referring to housing issues submitted to the Ombudsman in 2009 is bigger compared to the number in the previous year, and the majority of cases point out slow, illegal, non-professional and not coordinated work by the Public Enterprise for management of residential and commercial properties of Republic of Macedonia and its regional offices, the Commission for Housing Issues at the Government of the Republic of Macedonia and the Ministry of Transport and Communications.

ACCOMMODATION RELATIONS- 57 (1,57%)		
Sub area	No. of complaints	%
Awarding a flat owned by the state for use	2	3,51
Awarding a flat to rent	27	47,37
Delay	2	3,51
Buy-out of a flat owned by the state	9	15,79
Buy-out of a social flat	1	1,75
Other	16	28,07

Among other issues, one of the news in the Law on Housing was the legal possibility for regulating the status of using state-owned flats by the so called socially deprived cases, meaning citizens who were using the state-owned flats for years without any or inappropriate documents. This category of users were given an opportunity to buy out the flats, meaning to make an agreement for their

use through subsidized rent fees, with an explanation that this solution was incorporated in order to protect the citizens from forced moving out of the flats.

As opposed to the indicated efforts by the Government of the Republic of Macedonia for facilitating the solution of the legal status of using state-owned flats, during last months after adopting the new law, numerous problems and irregularities occurred in the implementation of the new solutions in practice.

The Ombudsman received several complaints in which the citizens complained on the work of the Public Enterprise for management of residential and commercial properties of the Republic of Macedonia and requested protection as a result of the illegally conducted procedure of forced moving out from the flats they had been living in undisturbed for years. There were cases in which the flats these people were living in were awarded for rent by the Commission for Housing Issues. Thus, both citizens who illegally used a flat and the ones who were awarded a flat for rent, but could not register the factual possession, addressed the Ombudsman.

Acting upon these complaints, the Ombudsman found that the Public Enterprise for management of residential and commercial properties of Republic of Macedonia committed numerous omissions in record keeping procedures for the state-owned flats, by which it violated the implementation of article 87 of the Law on Housing, which enables an illegally moved in person to be moved out of the flat by the owner assisted by officials from the interior affairs body, but only in case the information on violation of possession dated 30 days before, and not later than one year since the violation had occurred.

Finding that persons who were forcefully moved out from the flats by the Public Enterprise with the so called “allowed self-assistance” had lived in those flats for five, ten, even fifteen years, a period which was long enough for initiation of judicial procedures for moving out, the Ombudsman pointed out to the illegality in application of article 87 of the law and requested from the public enterprise to apply this provision adequately in future and to respect the time limits stipulated by the law, and to conduct the rest of cases of forced moving out upon a valid and final court decision.



At this point it is inevitable to mention a case of ultimate unprofessional and incompetent work be the Regional Office of the Public Enterprise in Tetovo, which upon the Ombudsman’s implication to the illegally conducted procedure for forced moving out on the basis of rent debt, obviously not knowing the legal solutions replied that the Ombudsman does not have legal competences to ascertain the grounds of written correspondence submitted to citizens by the Enterprise. The Ombudsman informed the Minister of Transport and Communication on this complete ignorance of legislation and not taking measures upon the implication.

Further on, citizens complained on irregularly calculated prices of flats for buy out and they requested corrections, liberation from the obligation to pay past debts and interests calculated on the basis of rent fees which had not been paid, as well as delay of procedure for signing rent agreements for the awarded flats. Depending on the grounds of a complaint, the Ombudsman sent numerous requests, implications or recommendations to the Public Enterprise, through which he requested realization of the complainants' rights. The Enterprise mainly replied and elaborated on certain cases and accepted a number of the implications.

This report year as well, the Ombudsman took numerous measures and activities in order to provide protection of citizens' rights who complained on requests to rent a flat under various circumstances submitted to the Accommodation Issues Commissions at the Government of the Republic of Macedonia.

The majority of complainants requested assistance in hastening procedures for deciding upon submitted requests for awarding a flat owned by the state, because they were not capable to settle the accommodation issue with personal means, the so called socially deprived persons. A smaller part of complaints referred to requests by persons who were using flats owned by the state without possessing proper documents and had been seeking regulation of the legal status for using for years, and only one case referred to a request for awarding a flat to rent on the grounds of the Law on Denationalization.

A fact which remains is the one from the previous years: the Ombudsman mainly received replies that the state does not possess enough flats to award to the applicants. On several occasions inappropriate and incomplete replies were received. However, it can be said that there is a positive tendency in the Commission's activities, taking into consideration that it replied to the Ombudsman's requests properly, and in certain cases it acted upon the instructions, which resulted in positive closing of cases.

The complaints referring to realization of rights before the Accommodation-Communal Issues Department at the Ministry of Transport and Communications on citizens' requests to buy-out the flats, pursuant to the Law on Selling Flats Owned by the State and transfer of tenants rights, were in a smaller number this year which leads to the conclusion that there is an improvement in realization of citizens' rights. The Ombudsman acted in order to expedite the decision making processes, and in certain cases he submitted corresponding information to the competent minister.

Near the end of the year there were complaints on awarding the flats by the "Program for construction and maintenance of flats owned by the Republic of Macedonia" for the City of Skopje for socially deprived persons, in which some citizens requested assistance in gaining a flat to rent. Following the Ombudsman's intervention, one person was awarded a flat to rent, and in the rest of the cases the procedure is in progress before the second instance commission, before a final decision is reached.



Social Security and Protection

Regarding realization of the constitutional right to social protection and social security, it can be said that the most common problems citizens requested assistance for by

the Ombudsman referred to using social financial benefits, both in terms of payment and late informing and submitting a certain act by the social work centers that this right had seized for the particular citizens under certain reasons.

At this point it can be said that after adopting the new Law on Social Protection, the number of complaints lowered which means that procedures of realization of social rights are facilitated and the competent bodies act in a more efficient manner.



However, there are still omissions and inappropriate manner of acting towards citizens, especially because at certain centers for social work the citizens' requests were not accepted or an administrative act upon a request was not issued on time. Acting in such cases, the Ombudsman pointed out to the legal responsibilities and competences of competent bodies, recommending to act upon each request and to issue an appropriate administrative act, which would allow the citizens to take further procedures after rejecting a request or cancellation of a right.

Although like in the previous years, during this report period the Ombudsman indicated to the legal possibility and responsibility of the competent bodies to obtain certain documents for realization of a certain right *ex officio*, there were still complaints by citizens on the huge number of documents needed and the difficulties they faced during obtaining those documents, financial means are needed for which as well. The Ombudsman found that the competent bodies utilize the right and the obligation to obtain necessary documents from other competent bodies *ex officio* to a very low extent or they do not use this opportunity at all, nor do they advise the citizens on the prerequisites and possibilities for realization of their rights. As a result of that, in case a citizen was not able to obtain the required documents, the Ombudsman indicated to the centers that it was their responsibility to obtain the documents *ex officio*, which stopped the practice of issuing a decision for non-recognition or cancellation of social rights due to incomplete documents.

In this report year the occurrence of deciding, meaning issuing negative decisions upon certain right on the basis of statements given by other persons, although the social aid applicants denied those statements, was seen. The Ombudsman indicated that during deciding upon realization of a certain right in the social area, the competent bodies should reach decisions upon documents and factual situation ascertained through immediate insights, and not upon not confirmed statements. Following the Ombudsman's interventions the omissions were corrected and the complainants realized

SOCIAL SECURITY AND SOCIAL PROTECTION - 95 (2,62%)		
Sub area	No. of complaints	%
Single financial aid	7	7,37
Delay –second instance body	9	9,47
Delay-LQCP	9	9,47
Assistance and care by another person	13	13,68
Special compensation	4	4,21
Permanent financial aid	8	8,42
Accommodation at institutions for social protection	1	1,05
Social financial aid	19	20,00
Other	25	26,32

their rights.

Citizens continued complaining on the amount of social financial aid and the difficult family material conditions, because of which they were advised to utilize the possibility to request single financial aid, and this kind of aid was most frequently awarded to seriously socially deprived persons.

Regarding appeal procedures before the Ministry of Labor and Social Policy, in the majority of cases, following the Ombudsman's interventions and immediate insights, the procedure was expedited and the Ombudsman's recommendations were most often accepted.

In terms of delay of procedures, especially regarding realization of the right to permanent financial aid and compensation for assistance and care by a third person, a particularly worrying fact is the delay of procedure before competent commissions for evaluation of the working ability and the necessity for compensation for assistance and care by a third person. The Ombudsman indicated that in such cases an immediate reaction is needed, because it is about severely ill people who can not take care of themselves, and in particular cases he immediately intervened to the competent commissions in order to initiate prompt reactions.

Referring to the working engagement of social financial aid users, the Ombudsman found that the users still do not have a clear knowledge of the legal possibility for their work engagement and the obligations and rights arising therefore, as a result of which there were cases when these people rejected a working engagement or terminated an already accepted



one, not knowing that by doing so they create a circumstance for termination of the right to social financial aid, although pursuant to the Law on Social Financial Aid, during the working arrangement their right should be on hold. Because of this there is a need for educating citizens, especially families with a low level of education, in order to lower the cases of losing the right to social financial aid on this bases, especially if that is the only income in the family.



Pension and Disability Insurance

Through realization of the rights to pension and disability insurance the citizens are provided with a social security, pursuant to the principles of social fairness, humanity, social justice and solidarity, which are fundamental values in the constitutional order of the Republic of Macedonia.

PENSION AND DISABILITY INSURANCE – 181 (4,98%)		
Sub area	No. of complaints	%
Disability pension	21	11,60
Minimum pension and lowest amount of pension	3	1,66
Compensation for physical impairment	4	2,21
Delay PDIFM	14	7,73
Delay – second instance body	31	17,13
Pension with foreign element	23	12,71
Pension subject to execution	3	1,66
Pension basis amount	9	4,97
Pension years of service	14	7,73
Right to PDI for certain categories of insured persons	1	0,55
Right on the basis of lowered or remaining working ability	10	5,52
Family pension	8	4,42
Age pension	11	6,08
Annulment and limitation of rights to PDI	2	1,10
Other	27	14,92

The rights to pension and disability insurance are of existential importance for the citizens, because of which there is a need for prompt and efficient realization of these rights. However, citizens face numerous problems in practice; most frequently they complain on delay of procedures and disrespect of legal time frames for realization of these rights.

The problem from the previous year which occurred due to non-functioning of the second instance commission at the Government of the Republic of Macedonia for deciding upon cases of pension and disability insurance, led to non proportional delay of procedures upon appeals, and that problem spilled over in this report period, which disabled prompt and efficient realization of rights in this area.

In order to overcome the problem, the Ombudsman indicated on several occasions

that violation of citizens' rights was committed, and for that reason he submitted a special information to the Prime Minister of the Republic of Macedonia requesting urgent establishment and functioning of the second instance commission, but this problem was solved in the second half of 2009.

Compared with the previous year, there were an increased number of complaints in which citizens indicated to groundless rejection of their requests for realization of the right to disability pension and, like in the previous years, it was especially pointed out that the competent commissions are not objective and they ascertain the factual health condition in

an unreal manner. The Ombudsman, although not being professional and competent to evaluate findings and opinions of the competent commissions, in certain cases where it was obvious that a citizen fulfilled the prerequisites for realization of the right to disability pension, especially when it was a case of a person entitled to the right to financial compensation for assistance and care by a third person, which means that they were not capable of taking care of themselves, he intervened in order for the commissions to reconsider the findings and ascertain the factual conditions. However, these implications were not always accepted.



In terms of realization of the right to disability pension, the competent commissions reached inappropriate findings upon which there were reactions by the Administrative Court of the Republic of Macedonia, and by the Ombudsman because instead of deciding whether a certain person is capable to work or not, the commissions reached a finding that the treatment was not completed. Taking into consideration that according to legal provisions disability occurs when as a result of permanent changes in the health condition, the person's working ability diminishes or disappears, the competent commissions have to confirm whether those changes have occurred or not, and in cases when the health and working ability of a citizen is not defined as a result of not completed treatment or when a diagnosis can not be defined because of a need for further medical examinations, the competent bodies have to wait for the results of the additional treatments, i.e. rehabilitation measures if needed, and on the basis of the ascertained condition they have to decide whether, according to the legislation, there is decrease or loss of the working ability and

whether the conditions for realization of disability pension are fulfilled.

Complaints by citizens requesting realization of the right to age pension and complaints on not registered or misregistered data in the record keeping books, as a result of contribution fees paid late or late submission of the necessary data, compared with previous years, were considerably decreased this report year. However, there are still problems with payment of contribution fees, because of which the Ombudsman insisted that the Pension and Disability Insurance Fund took the legally foreseen measures for payment of contribution fees, so that realization of the rights of the citizens could be provided, after which the Fund took appropriate measures and the citizens realized their rights. Compared with the previous years, the number of complaints on non-registration of years of service in the registry books kept by the Fund upon additionally paid contribution fees on the basis of a court decision was small; however, there were cases when the Fund, besides the payment of the contribution fee, did not register the years of service because the interest was not paid, although the court decisions did not include it as a prerequisite. After the Ombudsman's interventions, the Fund registered the years of service and the citizens realized their rights.

A problem which, unfortunately remains unsolved, is the one of the retired persons with accountative pension whose years of service were served in the former YPA, taking into consideration that by the Succession Agreement, the parties did reach an agreement on the military pensions. In order to overcome this problem, the Ombudsman, on several occasions,

sent special information to the minister of Labor and Social Policy and the Manager of the Pension and Disability Fund of Macedonia, indicating that a long period of time had passed and the citizens were still unable to realize their rights, thus it was necessary to find an appropriate solution. In this context, the Government of the Republic of Macedonia established an Assisting Body for Implementation of the Succession Agreement in the area of pension and disability insurance within the frames of the existing Committee for Implementation of the Agreement. However, although this body was formed, the problems persist, on the occasion of which the Ombudsman intervened several times to the competent bodies.



In this report year there were citizens who complained on difficulties in realization of the right to pension based on international and bilateral agreements. The number of complaints in this area decreased compared with the previous years, however citizens continued facing difficulties in realization of the proportional part of the pension or during retirement procedures, although the Pension and Disability Fund of Macedonia regularly intervened to the competent

bodies in the foreign countries, especially upon an Ombudsman's request. In order to overcome these problems and to quicken the procedures before foreign competent bodies, the Ombudsman conducted immediate contacts with the officials at the foreign bodies or addressed the Ombudsmen institutions in the corresponding countries, which contributed to hastening the procedures and realization of citizens' rights.

The number of complaints referring to the realization of the right to the lowest pension amount is small, whereas most frequently no violation of rights was found because the complainants gained foreign retirement amount as well, so the total amount of both funds was higher than the lowest pension fund, as a result of which the citizens did not have the right to receive the lowest pension fund, but only the legally realized pension fund.

A typical point in this report period was that by the changes of the Law on Pension and Disability Insurance, the right to be a retired person and an employee at the same time, thus the possibility to receive a part of the pension fund, was abolished. However, a part of retired persons, who were at the same time employed in accordance with the previous legal provisions, continued receiving a part of the pension fund, and considered this right to be an acquired one and requested from the Ombudsman to intervene to the Fund not to abolish their pension fund, regardless of the fact that they were employed and that the Law did not proclaim this opportunity any longer.



The Ombudsman, although finding that there was not a legal basis for receiving a pension fund by employed persons, still asked the competent bodies not to decide upon these requests because there was an initiative submitted to the Administrative Court of the Republic of Macedonia on these provisions. The Administrative Court, evaluating the constitutional grounds of the legal provisions did not find a basis for initiating a procedure, meaning it found that they were not in opposition with the Constitution of the Republic of Macedonia, because of which the citizens' requests for receiving a pension fund even when employed, were denied by the competent bodies.

Regarding the cooperation of the Ombudsman with the competent bodies, it can be said that it is on a satisfactory level, except that the Ombudsman's requests are not always promptly considered, thus this problem was often overcome by immediate insights in the cases upon which bodies competent for deciding in terms of rights related to pension and disability insurance acted.



Health Insurance and Protection

In terms of realization of rights in the area of health insurance and health protection, although there is no increase of the number of complaints submitted to the Ombudsman, citizens still face obstacles in the realization of these rights every day. The most common problem the citizens faced in the realization of health protection is the insufficient accuracy of the bodies in procedures upon requests and appeals.

Regarding delay of procedures before competent bodies, a big number of complaints referred to the right to reimbursement of funds, i.e. the right to compensation of expenses for treatment in medical institutions. After submitting a complaint, the citizens were able to realize their right following the Ombudsman's interventions. However, the competent bodies continued rejecting reimbursement claims for medical services in medical institutions the Health Insurance Fund does not have an agreement for cooperation with, because in a way, the legislation limited this right once again, although upon the Ombudsman's initiative the previous provisions of the Law on Health Insurance were abolished.



A part of the complaints referred to recognition of an insured person status and issuing certificates for paid contribution fees for health insurance, where as the competent bodies did not recognize this right to citizens who had pending contribution fees on a previous basis, although the current basis was paid regularly. Besides the Ombudsman's interventions and implications that the citizen was paying the contribution fees at that moment, and is not receiving a certificate for the payment and was not able to use health protection having the insured person status, the competent bodies kept their attitude and the citizens could not receive certificates for paid contribution fees and gain the status of an insured person until they had paid the pending debt.

A small number of complaints were submitted to the Ombudsman referring to realization of right to treatment abroad. Citizens most frequently complained on late responses upon requests for approval of treatment abroad, and a part of citizens complained that the competent bodies rejected their requests without grounds, not taking into consideration the medical documents attached and the facts that there were no conditions and possibilities for treatment in Macedonia. The Ombudsman intervened for hastening of the procedure and ascertaining the factual situation adequately, and in case it was found that the treatment could not be provided in the Republic of Macedonia, the citizen should be provided with a treatment abroad, after which, a number of citizens realized this right.

In terms of treatment at medical institutions in the Republic of Macedonia, the Ombudsman received several complaints on inappropriate, unprofessional and low quality treatment. Acting upon these complaints, the Ombudsman requested reevaluation of the cases, and forming special commissions which would confirm whether it was about unprofessional and unprofessional treatment. Upon a part of these complaints the previously mentioned commission were formed, however, they did not find any omissions in the treatment process, and for a number of complaints indications to the medical institutions were addressed. Upon the Ombudsman's requests, commissions were formed in order to establish the factual situation additionally.

Regarding protection of citizens as patients, there was a complaint in which it was requested by the Ombudsman to take appropriate measures so that the municipalities, pursuant to the Law on Protection of Patients' Rights, establish a commission for promotion of patients' rights and to display the text of the law on a visible place. The Ombudsman addressed all municipalities in the Republic of Macedonia, and requested them to act in

HEALTH INSURANCE AND PROTECTION – 72 (1,98%)		
Sub area	No. of complaints	%
Hospital treatment	6	8,33
Compulsory health insurance	13	18,06
Medical services and participation fees	8	11,11
Medical services for designated categories of insured persons	1	1,39
Treatment abroad	5	6,94
Medicaments supply	3	4,17
Compensation fee – pregnancy and motherhood	5	6,94
Compensation fee – sickness and injury	2	2,78
Несовечно, unprofessional and inferior treatment	2	2,78
Delay – second instance body	2	2,78
Delay – Health Fund	1	1,39
Participation exemption	1	1,39
Fundamental medical services	1	1,39
Reimbursement	7	9,72
Other	15	20,83

accordance with the Law. The majority of cases established such commissions, in a part of municipalities the procedure is in progress, some municipalities informed that such commissions would be established in 2010, whereas only a small number of municipalities have not replied to this intervention. The Ombudsman intervened in a part of medical institutions for establishing the legally foreseen commissions for protection of patients' rights and displaying the Law on Patients' Rights on a visible place, in order to inform the citizens on their rights and obligations as patients. The implications were accepted and the institutions acted in accordance with the legislation.

The Ombudsman continued paying special attention to drug addicts, both as a result of complaints and own initiatives. In order to provide appropriate therapy and treatment for drug addicts, a complaint was submitted by a group of citizens requesting adjustment of the working hours of the medical institution the therapy is provided at, in order for the patients to receive the therapy on time, to be able to arrive at work on time and not to lose their jobs. Following the Ombudsman's intervention, the medical institution, upon a previous consent by the competent ministries, adjusted the working hours to the citizens' needs, so that they could get the therapy without any obstacles.

Referring to providing adequate treatment for drug addicts, the Ombudsman, both upon complaints and his own initiative, on several occasions intervened to the Ministry of Health because of lack of capacity at prevention, abuse treatment and addition centers. Taking into consideration the factual situation that the number of drug addicts increases constantly, the Ombudsman implied to the need for opening additional daily centers, as foreseen by the Program for Health Protection for Addicts for 2009, adopted by the Government of the Republic of Macedonia.

In order to provide adequate protection of persons with mental disturbances in the course of 2009, the Ombudsman instigated a procedure on his own initiative because a



patient escaped from the Public Medical Institution – Psychiatry Hospital – Skopje in Skopje, indicating that the medical institution is responsible for providing conditions for personal safety and security of the patients and not allowing the patients incapable of taking care of themselves to be allowed to go outside unaccompanied by an official. The Ombudsman has not yet been informed whether the person has been found, although the Police was informed on the escape as well.

In order to establish the factual situation, respect and protection of persons accommodated in medical psychiatry institutions, in accordance with the Work Program of the Ombudsman for 2009, in the course of the year insights in the three psychiatric hospitals were conducted. While ascertaining the situation with providing respect and protection of the constitutional and legal rights of the persons accommodated in these institutions, the Ombudsman, apart from the Constitution and the international documents, considered the Law on Mental Health and the Law on Protection of Patients' Rights.

The insights revealed situations which do not lead to appropriate realization and protection of the rights of persons with mental illnesses. It should be emphasized that there

are still cases of forced accommodation in psychiatry institutions, without prior consent by the patient or a court decision, because they do not act promptly upon requests by medical institutions, and that manner of work is against the legislation. This problem is especially evident at the Psychiatry Hospital in Skopje. Regarding the voluntary hospitalization, it was seen that in all psychiatric hospitals the provisions of the article 58 of the Law on Extra Judicial Procedure are not applied, because of their inapplicability in practice in terms of providing witnesses foreseen and the obligation to inform the court in these cases. There is not an individual plan and program for a multidisciplinary treatment and rehabilitation of patients in all departments in the medical institutions, which means that article 23; paragraph 2 of the Law on Mental Health is not respected. In the majority of departments at the psychiatry hospitals there are not appropriate conditions for accommodation in terms of: low quality of food, inappropriate cooling and heating of the rooms, inappropriate decoration of the patients' room in the aspect of their visual stimulation and a feeling of pleasant stay; inadequate toilets; lack of sanitary rooms adjusted for elderly, disabled and handicapped persons; accommodating patients in larger bedrooms which does not influence their psycho-social condition positively and overcrowdness of separate departments. It can be said that in comparison with the previous period, the general conditions in terms of life and stay conditions have not progressed significantly, because in some departments there are holes in the corridors, the walls are decaying, the beds are old and the wardrobes are broken. In terms of application of restriction means, the so called "fixing" of patients, it was found that all hospitals lack elaborated policy and general rules for taking restriction measures. Taking inappropriate fixing measures was not noticed, except in certain departments at the Psychiatric Hospital in Skopje where fixing of patients is performed in presence of other patients because of lack of space and other prerequisites for separating these patients. It was also found that patients accommodated in these hospitals on the basis of a court decision remain in the hospitals for a longer period of time, due to rare reevaluation of court decisions.

It was also found that the measures for deinstitutionalization of psychiatric hospitals are not sufficient. The same can be implied to the measures for protection of persons with mental diseases in the community, because there are no centers for mental health, besides the positive mark on their work.

Namely, although the founding of more centers of this kind represents deinstitutionalization of the psychiatry institutions, their number is the same as in the previous period, i.e. although there is a need for opening more centers, they have not been open yet. Besides the legal responsibility and the need to inform citizens and their families on the institution's work and the patient's rights, this right is not respected yet because in the psychiatry hospitals there is a lack of special leaflets and other promotional materials which would be available to all patients and the members of their families.

In terms of the number and competence of the personnel, it was found that not only professional personnel lacks, but also a part of the personnel is not sufficiently trained and qualified to work in the process of treatment of patients, although training is provided for the personnel, but it is not sufficient to increase the personnel competence and their behavior.



Children's rights

The 20th anniversary of adopting the Convention of Children's Rights was celebrated in 2009. Unfortunately, we continuously discuss about violation of children's rights and insufficient education both for the children and the adults in terms of special children's rights and obligations.

As a result of this situation, children still do not recognize violations of their rights, and they have even less courage and information on how to seek protection when their rights are not respected and are violated by their parents, teachers or state bodies and institutions.

The complaints submitted to the Ombudsman in 2009 indicate that the attitude towards children and their rights is still on an unsatisfactory level, and the contents of complaints confirms that children are still not treated as subjects with special rights, interests and obligations, that their participation in making decisions on matters which concern them is not enough and that no attention is paid to their opinion.

This attitude towards children is mainly demonstrated by parents who, although obligated to create conditions for their normal development in a healthy family environment, seem to forget that, and they involve children in their misunderstandings and arguments, and by doing so they abuse them in a way, they traumatize them without considering the consequences on their further development.

In this context we would like to point out to the problems referring to the right of children to maintain personal relations and immediate contact with the parent they do not live with. The majority of complaints submitted to the Ombudsman in 2009 referred to this issue.

These complaints, like in the previous years, were submitted by the parents, and the Ombudsman acting before the competent social work centers, taking into consideration their inappropriate actions and omissions found in their work, inevitably accented the need for monitoring the family, more precisely indicated to the need for monitoring the parental right before a decision is reached upon a request, or before an activity is taken by the centers, concerning the children's rights and interests.

In order to provide the best interest of the children, according to the Ombudsman, it would be much more efficient and more righteous decisions would be reached in case monitoring of parental right was practiced more often by the centers and *ex officio*, which



would prevent overcoming the problems, and not wait for the problems to occur and develop to an extent to which no righteous and appropriate solution would be possible. According to the Ombudsman, by regular and continuous monitoring of families in which the relations among members have been ruined, the social work centers would have a real picture of the relations within a family, they would react on time in order to overcome possible problems and the decisions reached would be in the best interest of the children.

Namely, not taking care of the parental rights and obligations, and most of all of the rights and interests of the children, there is still the practice of one of the parents disabling contacts of the child with the parent he/she does not live with, a case in which although the legislative foresees measures against the parent who does not permit contacts of the child with the parent he/she does not live with, centers mainly restrain from taking such measures in order to protect the child from trauma and negative consequences. However, when the child does not have contacts with one of the parents, the possibility of resentment of the child towards that parent occurs, as a result of which the Ombudsman faced cases when a court decision was impossible to realize according to which a child was supposed to return to the parent who,

according to the court decision, has the right to look after the child, and the child continued living with the parent it had been taken away from. This confirmed the necessity for continuous advisory and professional work with the children and with the family in general, as well as the need for prompt taking measures in accordance with the best interest of the child, which is one of the permanent commitments of the Ombudsman.

Although in the majority of cases referring to this right of children the procedures ended successfully, the small number of pending cases is not satisfactory. In these cases the centers could not solve the problems and misunderstandings between parents successfully due to late prevention of the situation. Thus, the realization of a child's right to maintain regular contacts with both parents was hindered, which could have negative influence on the child's psychophysical development.

The Ombudsman intervened in a case when children were sexually molested by a parent, indicating to the social work centre that it was necessary to monitor the parent's behavior and the condition of the children, in order to prevent this situation on time, taking into consideration that the children were accommodated in an institution. At the same time, the Ombudsman indicated that after disclosure of a case, measures needed to be taken not

CHILDREN'S RIGHTS – 157 (4,32%)		
Sub area	No. of complaints	%
Children with special needs	4	2,55
Other kinds of violence	5	3,18
Protection from information harmful to their development	1	0,64
Health protection	2	1,27
Abuse and violence	2	1,27
Personal contacts between a child and a parent	30	19,11
Record keeping	3	1,91
Education – elementary and secondary	26	16,56
Delay	1	0,64
Rights in educational and other institutions	4	2,55
Sexual abuse	9	5,73
Family rights	24	15,29
Family violence	12	7,64
Social protection	7	4,46
Physical and mental molesting	17	10,83
Other	10	6,37

only for criminal responsibility of the parent, but also a request for annulment of the parental right was to be initiated. These activities were taken.

There were complaints on family violence this year as well. They mainly referred to physical or mental molestation. It was typical for these complaints that most often victims of the molestation were women, consequently the children, and the father of the children was mainly alleged to be the molester, i.e. the spouse regardless whether the parents live together or they are divorced, and very often the reason for violent behavior was alcoholism. There were cases of parents who live in alliance or cohabitation or they were divorced, who



in order to achieve certain goals and mostly to present the other parent in negative light, and by doing so they would prevent the contacts of the children with the other parent, reported inappropriate behavior and family violence towards the children by the parent with whom the child maintains personal relations and immediate contacts.

Taking into consideration that family violence is not solely a problem of the family, but it is a problem of the society, an efficient fight towards eliminating this kind of violence is needed, and for that reason the victims should be encouraged to report violence, and the competent bodies need to act efficiently, promptly and adequately in order to strengthen their proactive role in prevention and protection of family violence. Preventive actions are

especially needed, i.e. taking measures to include all children in the educational system, especially girls, to educate the children on the rights and freedoms of every single living being and on children's rights; to acquaint both children and adults with skills for recognition of violence and abuse of their rights and freedoms. At the same time, there is a need for a continuous training of professionals employed at the institutions dealing with these matters in order to be able to recognize existence of family violence easily and to assist the victim.

However, besides taking measures for protection of children from every kind of violence, including family violence, in the course of 2009 one child passed away as a result of family violence, which was allegedly committed by the mother, although in the previous period the Ombudsman as well, intervened in direction of taking appropriate measures for protection of children's rights and interests in this family, including prevention from family violence, on several occasions.

From the procedures led by the Ombudsman in this case, it can be said that the social work center had had information on problems in this family for a long period of time. However, following the report on family violence and the several interventions by the Ombudsman to the competent persons at the Center and the Ministry of Labor and Social Policy, after conducting an insight in the family, the center did not find family violence in the family. However, they committed to a permanent monitoring of the situation. Unfortunately, one of the children passed away in 2009, under the suspicion that death occurred as a result of violence and beating by the mother.

In order to clarify the case, special information was addressed to the Manager of the Social Work Center and the Minister of Labor and Social Policy, asking for verification whether competent bodies for ascertaining and preventing family violence reacted on time and whether they took preventive and protective measures concerning the children's rights. In case unconscientious and inadequate conduct by the officials responsible to take

necessary measures was found, the Ombudsman indicated to the need for taking responsibility measures.

Acting upon a complaint on family violence prevention, the Ombudsman learnt that some of the measures proclaimed by the court towards family violence perpetrators were not executed, especially measures for obligatory medical treatment, the competence of which falls with the Ministry of Health. The Ombudsman informed the Minister of Health on this issue who replied that there was no competence and possibility for forced bringing of persons to medical institutions upon a court decision, meaning the competence of the Ministry begins with the reception of a person at a medical institution for treatment. Hence, it seems that these measures are conducted in practice with difficulties, as a result of which family members continue suffering violence. In certain cases the victims restrained from continuing the already initiated process until final closure, which leads to the necessity for educating and encouraging citizens to report cases of family violence, and competent bodies need to provide real and appropriate protection of victims.

Commencing with the Convention of Children's Rights and in accordance with the legislation, apart from family violence protection, the state has the obligation to take measures in order to protect children from other kinds of violence and abuse, as well. However, besides the obligation of all subjects involved in protection of children against violence and abuse, in this report period children appeared not only as victims of family violence, but also outside of the family, meaning at schools, educational and other institutions, and there were cases of violence towards children by adults outside the families and schools. In order to protect children from violence, the Ombudsman did not only act upon complaints, but he also opened procedures upon his own initiative.



In order to realize the conditions of protecting children of any type of violence and molesting, the Ombudsman, in accordance with the program activities in 2009, conducted a survey among children living in public institutions: "11 Oktomvri", "25 Maj" and "Ranka Milanovik".

The findings from the anonymous questionnaire indicate that the majority of children living in these institutions do not have knowledge on their rights and obligations, and consequently, they are not able to recognize violation and abuse of their rights.

The children's answers reveal that besides the prohibition and the possibility to sanction cases of physical and mental molestation of children, they are still present over children living in institutions, and an especially worrying fact is that children are afraid to

talk about these cases openly, and even less to seek protection by competent bodies and institutions. Regarding sexual molestation and upsetting children, it was found that cases like these do exist; however, children do not report them because they are ashamed or do not have the courage to discuss cases of this nature.

In order to protect children from any kind of violence, the Ombudsman addressed the competent bodies stating, among other things, that there is a need for a regular and continuous training and education of officials and responsible persons on children's rights; taking all possible measures for creation of conditions for adequate respect and protection of children's rights and freedoms; preventing and eliminating any form of physical, mental or sexual molestation of children; encouraging children to report cases of violence and molestation, considering those reports seriously and taking appropriate measures for ascertaining the real factual condition and taking measures for responsibility towards officials who violate children's rights or do not take adequate measures to protect the children from violence and abuse.

In terms of inadequate behavior towards children living in institutions, the Ombudsman acted upon several complaints. He also conducted a procedure on his own initiative, because he was worried that children living in an institution without issuing a decision, were expelled from the institution for violating the rules and discipline in the institution. The Ombudsman indicated that leaving an institution without an act issued by the social work center is illegal, because the center decides whether children need to live in an institution or not, and the institution is obligated to foster them and provide adequate conditions for stay, and in case they do not respect the rules and discipline, the institution officials are supposed to take measures in order to improve children's behavior.

Regarding violence towards children, there were also cases of physical and mental molestation of children in schools by the teaching personnel and other employees at schools. In order to diminish violence towards children, as well as to eliminate deviant behavior by

children, the Ombudsman finds that the inspection and other competent bodies need to conduct more frequent controls in schools in order to act in a preventive and repressive way for protection of children, and for taking measures against competent persons at schools and the attempts for disguising cases of this kind. Regular and continuous training for teachers on children's rights and possible ways



for their violation, will contribute to an ability for the teachers to direct their teaching towards development of children's personality, their rights and freedoms and at the same time, to prepare the children for a responsible life in a free society in a manner of understanding, peace and tolerance, equality and friendship, which would lead to decrease of conflicts among children we face every day. In a number of such cases, following the activities taken by the Ombudsman and the competent bodies, it was not possible to confirm with certainty whether it was a case of violence, and where evidence existed, the Ombudsman requested

taking measures towards teachers, after which their behavior was sanctioned, and the school continued monitoring the conditions, meaning the teachers' attitude towards children.

Regarding rights in educational institutions, a number of complaints in this period referred to pedagogy measures taken – exclusion from school, for which the Ombudsman, in order to ascertain the conditions of legal acting by the schools, requested involving of the educational inspection. However, in the majority of cases no violation of laws was found, and in a number of cases where prerequisites and possibilities for taking another less strict measure existed, it was done following the Ombudsman's intervention.

In terms of protection of children's rights at school, there was a complaint on inadequate video monitoring in a school, and following the Ombudsman's indication to respect the legislation, the Principle of the school did not take measures finding that installing of video monitoring system was in accordance with the law and it was used to provide adequate, safe and secure stay of the children. Starting from the fact that the installation of a video monitoring system must not endanger children's privacy and rights, even more since cameras were installed only in certain classrooms; the Ombudsman explained that those cameras needed to be removed. The Ombudsman also informed the Headquarter for Protection of Personal Data, which after conducting control at the school, accepted the Ombudsman's attitude and directed removal of the inappropriately, meaning illegally installed video monitoring cameras.

During this report year school children faced other problems, as well. Thus, at the beginning of the academic year, the Ombudsman received complaints on protection of children's rights enrolling in the first grade, because some schools requested a birth certificate not older than six months for the enrolment, and the vaccination certificates issued by personal doctors needed for the enrolment process were charged by different prices by medical institutions in the Republic of Macedonia. The Ombudsman informed the Ministry of Education and Science and the Ministry of Health on the matter, after which the schools and the medical institutions were instructed to discontinue the practice and the enrollment process continued without the abovementioned problems.

Taking into consideration the information in the media that there were various changes of principals and teaching personnel at the beginning of the academic year, which mostly negatively influences the education and development of children, meaning they are not in the best interest of the children, the Ombudsman self-initiated a procedure. For that purpose, not discussing whether firing teaching personnel was legal or not, the Ombudsman requested from the Ministry of Education and Science to take measures so that the changes do not reflect negatively on children and their best interest. Because of that, the Ombudsman implied it was not in the best interest of children to conduct mass changes of teaching personnel at the beginning of the academic year, and that it might cause resentment to education and traumatic behavior because the purpose of education, among other issues, is harmonic, intellectual, emotional and social development of students, and in order to realize the basic purpose of education, it was necessary to take measures to prevent violation of the educational process and to provide quality in the teaching process.

However, (regarding this implication), the Ministry informed the Ombudsman only on the procedure for employing and appointing teachers and the measures taken by the Inspection in cases there are violations of the law, meaning if there was employment of incompetent personnel, opposite the provisions of the law, and in terms of children's rights and the Ombudsman's implications, it did not send any reply on an opinion and measures taken.

Monitoring the conditions in free and at the same time compulsory elementary and secondary education, during this report year the Ombudsman found that in certain places (rural areas) no transport was provided for students to the schools, which prevented the

students from attending classes regularly. Another problem was allocating means for transport of students who had to go to school to another city, i.e. municipality, because in the place where they live the desired professional education was not offered or attending classes in their mother tongue was not provided

Namely, neither the municipalities in which the students go to school to, nor the municipalities the students come from did not accept the transport expenses, as a result of which the Ombudsman informed the Ministry of Education and the competent education units at the municipalities, indicating that it was necessary to take measures and provide undisturbed attendance of classes and that the transport cost should be provided by the municipalities in which the children go to school, as it is foreseen by the Law. However, besides the Ombudsman's reactions, as well as the ones by the Ministry of Education and Science and although the first term is over, this problem has not been solved yet.

Another problem a part of students after completing secondary school faced, was the inadequate registration of applications by the students to take the state graduation exam.

Namely, because of mistakes at the schools, some students were not included in the list for taking the state graduation exam, as a result of which they were disabled to take the exam or they had to take school graduation exam instead of state graduation exam. The Ombudsman, without entering into technical problems which could possibly occur as a result of not entering the students' data in the database and registration of the exam as a school, and not state graduation exam, requested regular evaluation of tests, and in cases where omissions were found in the schools, the Education Development Bureau recognized the test as a state graduation exam.



Regarding taking the state graduation exam, there were certain problems in terms of evaluation of tests by the Commission for Evaluating Tests. More precisely, the persons who monitored the process of testing, although they did not notice any irregularities or cheating among students, during the final evaluation reduced the number of points because during the evaluation they found some or identical tests, a possibility which is not foreseen by the appropriate rules. Because of that the Ombudsman submitted special information to the Minister of Education and Science and the Head of the Education Development Bureau, requesting from them to take measures in order to find adequate legal solutions in future and to prevent taking measures which are not foreseen, and are on the detriment of the students taking the state graduation exam.

Regarding the right to education of children, the Ombudsman devoted his efforts to creation of prerequisites for undisturbed realization of the right to education in their mother tongue on equal basis for all students at elementary and secondary schools. The Ombudsman requested from the competent bodies to take measures in order to provide enrolment for students at secondary schools they have chosen on equal basis, i.e. to create prerequisites for children to attend elementary school in their mother tongue at elementary school in the region where they live.

Acting upon students' requests and the Ombudsman's indications, certain secondary schools allowed additional classes in order to include all children who wanted to attend a particular secondary school in case they fulfill the requirements, and there were conditions created to provide education for children in their mother tongue in elementary schools in their place where they live.

In 2009 the Ombudsman paid special attention to children with special needs, especially to the right to education for these children. In this direction he requested creation of adequate organizational, technical, personnel and urban circumstances in order to provide a greater inclusion of this category of children in the educational system. Unfortunately, besides the measures taken there are still problems in this area, and the suggested and accepted solutions, according to the Ombudsman, are implemented in a slow and long-lasting manner.

One of the problems certain categories of children face is their non registration in the birth registration books, because of which they are prevented from realization of the fundamental rights.

The Ombudsman found that this problem persists, the parents do not apply for registration of birth of their children, and additionally, they do not initiate a registration process due to the long procedures and lack of necessary documents on the child's birth, as well as documents by which they would confirm their identity.



During 2009 the Ombudsman acted upon a complaint by 100 (a hundred) citizens of the Roma community accommodated at the youth holiday camp "Ljubanci" in Skopska Crna Gora. During an immediate insight, the Ombudsman found that there were no elementary conditions for living, especially for the children who stay there with their parents.

Namely, the abovementioned facility does not provide elementary conditions for a normal life because the facility and the rooms the persons stay at are old, damaged and not adapted, without the appropriate inventory and heating. At the same time it was found that these persons have difficulties in using medical services, and regarding education, none of the children attends classes.

In order to improve the conditions of stay, meaning in order to provide adequate life conditions, health protection and education for the children, the Ombudsman informed the Ministry of Labor and Social Policy on this matter first. Among other issues, the Ombudsman indicated to the need for taking measures primarily in direction of realization and protection of children's rights, and further on, he informed the Government of the Republic of Macedonia in order to create conditions for a normal life of the children and realization of their rights. Apart from the complete analysis of the case, the recommendations given, the Government replied briefly stating that the case was redirected to the competence of the Ministry of Labor

and Social Policy, without taking precise measures for overcoming the found conditions and problems.

In terms of creation of adequate conditions for realization and protection of children's rights, the Ombudsman contributed through participation at numerous conferences and seminars, as a member of the National Commission for Children's Rights whereas he took part in the preparation of three leaflets on children and their rights, meant for the children at pre-school, elementary and secondary schools, after which the Commission prepared a CD which should be distributed to all kindergartens, elementary and secondary schools in the Republic of Macedonia through the Ministry of Labor and Social Policy and the Ministry of Education.

In order to educate children on their rights, besides the visits of several elementary and secondary schools, upon an invitation by a non-governmental organization, training was organized for students from several towns. The students were trained to become trainers for children's rights, whose task in future is to train their classmates on their rights.

In terms of protection of children with delinquent behavior, according to the Law on Juvenile Justice, the State Council for Juvenile Delinquency was established, in which, according to the Law, a representative of the Ombudsman's office is a compulsory member.

Regarding the cooperation of the competent bodies and organizations with the Ombudsman, it can be said that it is on a satisfactory level and that the Ombudsman's recommendations and indications are highly respected. However, there are cases in which competent institutions do not act promptly in terms of protection of children's rights, or they accept the indications, recommendations and other interventions by the Ombudsman late, as a result of which the consequences were prevented with difficulties in terms of respect and protection of children's rights.

This manner of acting and behaving to a great extent influences prompt protection and lays a shadow on prevention, which is of essential importance for the Ombudsman, because by prompt and efficient actions, violation, meaning disrespect of children's rights will decrease, and the children's best interest will become reality and priority both for the competent bodies and organizations in their actions and everyday work, and for the parents and every individual in general.



The number of complaints on rights in the area of protection of rights regarding education, especially at universities, does not indicate any significant change in 2009. The majority of cases referred to realization of rights in scholarship and credit awarding procedures. Acting upon complaints on realization of rights in scholarship and credit awarding procedures for pupils and students, the Ombudsman found that following an advertisement for awarding scholarships and credits, the applications were submitted electronically and after being considered, a list of persons who were awarded a scholarship or a credit was published electronically, as well. However, an appropriate act on accepting or rejecting an application had not been previously adopted, which in the Ombudsman's view is illegal.

Regarding this issue, the Ombudsman intervened in the past as well, implying to the need for adopting an administrative act upon the applications, which would enable realization of the right to an appeal and the right to further procedure for protection of rights. Taking into consideration that even though administrative acts had not been adopted, the applicants submitted appeals to the Commission for deciding in administrative procedure at second instance in the area of education at the Government of the Republic of Macedonia, the

Ombudsman, reacting before the Commission found that it had also ascertained that the first instance body had not conducted the procedure in accordance with the Law, as a result of which all objections were returned to a repeated consideration and deciding. The Ombudsman submitted special information to the Minister of Education and Science as well, after which a new commission was established which considered students' objections and the majority of persons who addressed the Ombudsman realized their right to scholarship, and for those being rejected decisions were issued, after which the students were able to use their right to appeal.

Members of security forces requested protection of rights in the area of university education from the Ombudsman, because they were made to pay participation fees upon enrolment at university, because the enrolment rules did not include an additional quota for these persons, although according to the Law on Special Rights of the security forces members of the Republic of Macedonia and the members of their families, these persons are supposed to be exempt from paying this participation fee.

Finding violation of rights for these people, the Ombudsman indicated that the legislation did not contain an additional prerequisite for existence or non existence of an additional quota for the security forces members and requested these persons to be exempt from paying participation fee, which was accepted by the universities.

In this report period the Ombudsman received complaints on rejecting by the faculties to issue a diploma to students who had completed university education, only because the students had not settled their debts with the faculty. The Ombudsman indicated that in accordance with the Law on University Education, when a student completes the studies according to the studies program, he/she has to be awarded a certificate and a diploma and this right can not be restricted only because of not paid debts, since in cases of this kind, according to the agreements signed, in a case of dispute, it is a competence of the court to decide. In this sense, the Ombudsman addressed recommendations to the faculties which were accepted and the citizens received diplomas on completed university education.

There were a small number of complaints referring to recognition and nostrification of foreign diplomas and the complaints referred to delay of procedure. However, following the Ombudsman's reaction, the nostrification was done.

The Ombudsman received a complaint on rejected request of a citizen to be enrolled in the registry book of the Lawyers' Chamber as a legal apprentice, on the basis of findings

EDUCATION, CULTURE AND SPORT – 49 (1,35%)		
Sub area	No. of complaints	%
Enrolment at universities	1	2,04
Inadequate behavior by the teaching personnel	4	8,16
Certificates nostrification	6	12,24
Participation fees	5	10,20
Rights of students at universities	3	6,12
Student credits and scholarships	13	26,53
Delay	2	4,08
Other	15	30,61

by the Chamber that he did not meet the criteria because he had graduated from a faculty of law according to the new principle of studying, i.e. in accordance with the Bologna Declaration according to which upon completion of the first turn the students gain 180 ECTS credits and a certificate for completed university education with a note to the professional title for completed studies. In this particular case the complainant was awarded a certificate and a diploma for being a graduated lawyer but his request to be enrolled in the registry book of the Lawyers' Chamber was rejected as a legal apprentice because it was estimated that he did not meet the criteria, although the Law on Advocacy proclaims that a citizen of the Republic of Macedonia who fulfils the prerequisites for establishing a working relation at the public administration bodies and has a diploma on a graduated lawyer in the Republic of Macedonia or nostrified foreign diploma, can be registered in the registry book of the Lawyers' Chamber. The Lawyers' Chamber requested from the person to have 300 ECTS credits, which pursuant to the Law on University Education are gained after completion of the second turn, which lasts for a year or two, and by completing it the person gains the professional title of Master of Studies.



In order to clarify this issue, besides the written correspondence with the Ministry of Education and Science, the Ministry of Justice and the Lawyers' Chamber of Macedonia, there was a consultation meeting with representatives of the University "Sv. Kiril i Metodij", FON University and the Ministry of Education and Science. The Ministry of Education and Science, quoting the Law on University Education, found that these persons can be employed at certain professional positions, but they expressed the opinion that it was the employer's decision to determine the necessary professional capability. The Ministry of Justice considered that in order to join the lawyer profession a person has to gain 300 credits on the basis of which the Chamber refused to enroll the legal apprentices with 180 ECTS, stating that it could be provided to lawyers who had completed university education with 300 ECTS.



Considering the fact that the Ombudsman finds this issue still open, meaning whether persons who completed university studies at a faculty of law with 180 ECTS and gained the right to a certain professional title, i.e. a diploma on completed university education, will be able to work in the filed of law, additional research and consultation will be conducted.

In terms of the collaboration with the competent bodies and

institutions, the Ombudsman finds that it has not been improved with the Ministry of Education and Science yet, because the Ministry still does not act promptly on the Ombudsman's requests and frequently, even after submitting several requests and pieces of information it does not reply promptly, which influences the efficiency and legality of procedures and hinders the realization of citizens' rights. The collaboration with the other bodies and institutions is on a satisfactory level as a result of which the realization of rights is achieved in a faster and more efficient manner.



Consumers' rights

Consumers' rights have been violated quite frequently in the last years by legal subjects providing services and products of public interest, which is indicated by the number of complaints submitted to the Ombudsman, which has been increasing more and more, thus being a case this year as well.

The problems citizens face in using public products and services are of various nature. However, the majority of complaints refer to problems and violations of rights in the area of using electricity supply by AD "EVN-Macedonia".

During this report year the Ombudsman intervened on collective disconnections from the electricity supply network because subscribers who regularly paid their bills were disconnected as well. Still, it can be said that the number of complaints regarding this issue declines, which leads to a conclusion that the persistent interventions by the Ombudsman resulted in practicing this measure less frequently.

CONSUMMERS' RIGHTS – 277 (7,63%)		
Sub area	No. of complaints	%
Water and other communal services supply	44	15,89
Electricity supply	103	37,18
Heating supply	56	20,22
PTT and communal services	49	17,69
Other	25	9,03

Regarding consumption of electricity, citizens faced another problem which was the reason for disconnections this year.

Namely, the Ombudsman received several complaints on electricity supply disconnection and enormous bills, allegedly as a result of illegal use of electricity or unauthorized connection to the electricity network. The complaints most frequently revealed that it was about establishing the factual situation without presence of users or another representative of the object, i.e. there was confirmation of unauthorized use and stealing of electricity, without conducting an appropriate procedure and without leaving a possibility for the users to prove that they had not done this action, and the citizens were disconnected from the electricity network and were requested to pay a certain amount of money. Unilateral actions were taken against unauthorized use of electricity although, according to the regulation on supply and use of electricity, the provider has the responsibility to initiate a procedure before a competent body against the user of the object that is found to use the electricity unauthorized, according to the law.

In view of these complaints, the Ombudsman found that neither the legislation nor the by-laws foresee a procedure for proving unauthorized use of electricity, the issue of the right to appeal, second instance procedures, as well as which body shall decide in case an appeal on a calculation is rejected, which was the case most often.

The Ombudsman, accenting that he was not protecting the uncoscinetious users and those who commit offensive acts, meaning those who steal electricity, still found that in order to blame a person for conducting a certain act and to take measures against that person, it should be proved that the person has really done that act and the person should be provided a possibility to defend, for the reason of which an appropriate procedure needs to be conducted.



In order to find a solution to this problem, the Ombudsman addressed information to the Regulatory Commission on Energy of the Republic of Macedonia and held several meetings with the persons in charge, during which the Regulatory Commission was attempting to clarify the cases at joint meetings with representatives of “EVN-Macedonia” and the user blamed to have used electricity illegally so that the

parties involved could settle the dispute. Not having the possibility to confirm the relevant facts and whether it was about illegal use of electricity, in case no settlement was reached between “EVN-Macedonia” and the consumer, the Regulatory Commission was not able to solve the case, so it directed the citizens to initiate a court procedure.

In order to overcome this problem and to protect the rights of the conscientious consumers, the Ombudsman informed the Government of the Republic of Macedonia, so that to the extent of its competences and authorizations, it could take appropriate measures. The Ombudsman especially accenting the consideration of the possibility and necessity for normative regulation of this procedure within the Law on Energy or in the Conditions for electricity supply adopted by the Government of the Republic of Macedonia. However, the Government forwarded the information to the Ministry of Economy, which has not provided a reply to the Ombudsman whether actions have been taken in order to overcome this problem.

Regarding the consumption of electricity, besides the Ombudsman’s interventions and implications, both in the previous period and in this report year, there were several complaints on charging users for a debt of a previous user and not changing the name of the user until the debt of the previous user was paid. The Ombudsman indicated that it was not grounded to encumber the new users of electricity with a debt of a previous user and not to register a change of the user’s name until the debt of the previous user was made. The Ombudsman indicated that it was not grounded to encumber new users with a debt they have not made, i.e. made by previous users, after which these irregularities were corrected and the new users were liberated from the obligation to pay the debt of the previous users and they were registered to be the new users, whose obligation to pay the debt started on the day they became owners of the object, meaning the owners of the measuring device for electricity used.

For the reason of protection of consumers' rights, near the end of 2009, the Ombudsman received a big number of complaints regarding broadcasting fee, because the citizens received decisions for paying near the end of 2009 and they referred to the period of 2008 and 2009 in total. Because of late receiving of the decisions, the citizens believed they had to pay the fee in total, not on a monthly basis, as foreseen by the Law. Another part of complaints referred to encumbered citizens to pay the broadcasting fee, although according to the law, they were supposed to be exempt from that obligation.

According to the provisions of the Law on Broadcasting, under which the broadcasting fee is a public expense, for which the Macedonian Radio Television based on the subjects register for broadcasting fee issues a decision of executive character, according to the Law on Execution, as well as the provisions according to which the subjects has the obligation to pay the broadcasting fee monthly, every month of the year, and not in total for the whole year, the Ombudsman indicated to the Macedonian Radio Television that the obligation for paying the broadcasting fee was not disputable, but it should be paid in 12 monthly installments. The Ombudsman also indicated that according to the Law, without issuing a decision there is no basis for paying the broadcasting fee, even less is there a basis for taking measures for forced execution and forced payment. At the same time, it was indicated that the categories of blind and deaf persons had to be exempt from paying this fee and during indebting citizens, care needed to be taken of obsolescence, after which no measures for forced payment could be taken.

In this sense, the Ombudsman indicated that the Law had to be obeyed when charging the broadcasting fee, i.e. it could not be requested from the citizens to pay the fee for the whole year in total and no measures for forced payment had to be taken in case they did not pay the fee until the end of 2009, because it was the MRT's fault that the decisions were sent to the citizens late, and not on a monthly basis, and no measures had to be taken in case a decision for indebting was issued or in case the decision was not executive, i.e. every citizen had to be allowed the right to appeal and to possible court protection.

Acting upon the Ombudsman's request and indication, the Macedonian Radio Television informed the Ombudsman that no measures were taken for forced payment towards any citizen on the basis of debt for broadcasting fee, that the citizens were informed on paying the fee in installments, that the obsolescence time limit was met, and that the designated categories of blind and deaf citizens were to be exempt from the obligation.



The Ombudsman received a number of complaints on heating, especially in terms of unreal bills or insufficient temperature, but the number of these complaints is significantly lower compared to the previous year when a big number of complaints were submitted on the huge increase of price for heating, when a new methodology of measuring and calculating the heating was introduced. In the majority of cases no violation of citizens' rights was found, as a result of which no special measures were taken regarding heating supply, although the process of installing individual measuring devices for every user has not been conducted yet, which would create the prerequisites for realistic calculation and charging the citizens for the heating supply.

Violations and disrespect of rights were found in using services by public communal enterprises supplying water and disposing urban waste materials. Like in the previous years,

this report year the citizens complained on high and unreal bills for water consumed, irregular registration of measuring devices indicators and lump-sum calculations or non taking measures for forced charging of bills which had become obsolete, although no court procedures had been initiated on time. The Ombudsman's interventions were respected in cases violation of rights was found and the problems were overcome.

A typical case of potable water supply was introducing a special fee by the enterprise which was paid by the citizens apart from the potable water supply fee. This fee was introduced upon a decision by the management board of the enterprise followed by permission by the municipality as a founder of the public enterprise. According to the public enterprise, the fee was economically justified due to the length of the water supply installation. And without that fee, maintenance of the water supply network on regular and current bases was not possible.

According to the competent legislation, the Ombudsman indicated to the public enterprise that the expenses for performing communal services such as potable water supply are covered by the price of the service because by the law, among other issues, it is stipulated that the price of the service, i.e. the price of potable water supply includes maintenance, spare parts replacement and other damages, as well as capital investments expenses and other expenses. It was also pointed out that the legislation did not provide the public enterprises performing communal services a possibility to introduce special fees for their users above the price of the service they provide, i.e. there was no possibility to introduce a maintenance expense which was to be paid by all consumers, regardless of the quantity of water used and above the determined price for water used.

The Ombudsman found that the illegal introduction of the abovementioned fee for water supply violated consumers' rights, since they were obligated to pay a fee without basis in the law, and for not paying it they suffered negative consequences, i.e. water supply was disconnected, although they had paid the bills for used water on time.

In order to protect citizens' rights, the Ombudsman recommended annulment of the introduced fee, i.e. liberation of citizens from the obligation to pay the fee on monthly basis and to stop disconnections from water supply in case they pay the bills for used water on time. A reply to this recommendation and adequate measures are pending.

Regarding land-line and mobile phone services, citizens mainly complained on the quality of services and the high and unreal bills or a request to pay for services the citizens had not used, as well as on illegal and inadequate disconnection from the service, monopoly conduct by certain service providers and forcing the citizens to accept the providers' terms without a possibility for the citizens to influence those terms. A number of citizens expressed their dissatisfaction with the work of certain providers and disrespect of the agreements signed for using certain services, especially regarding internet services.

In order to protect citizens' rights in the area of these services, the Ombudsman mainly reacted both to the operator concerned and the Electronic Telecommunications Agency, requesting from them to reconsider citizens' complaints. In cases where violations were found, adequate measures were taken in order to allow citizens to exercise their rights.

In the Ombudsman's view, citizens face problems in the area of consumers' right more and more. Those rights are of essential importance in realization of fundamental human rights, because of which all competent bodies and organizations need to pay special attention to the conditions and possibilities for using products and services of public interest and to respect citizens' rights as consumers, especially to eliminate the situations which lead to monopoly conduct by service providers and violation of citizens' rights..



Other rights

During this report year, like in the previous ones, the Ombudsman acted upon complaints referring to violation of citizens' rights in other areas. According to their contents and requests by the citizens, they were mainly complaints which do not fall into the constitutional and legal competences of the Ombudsman.

Acting upon these cases, the Ombudsman provided legal assistance to citizens and directed them to the manner and procedure for protection of their rights.

A significant number of complaints in this area referred to violation of the citizens' right for not receiving a reply, meaning non-acting upon their requests submitted to the state administration, thus, taking into consideration the constitutional provision that every citizen has the right to submit a complaint to a competent body of the state administration and receive a reply, in order to protect this constitutionally guaranteed right, the Ombudsman acted upon those complaints by implying to the competent bodies that they have the responsibility to take activities and reply to the submitters.

OTHER RIGHTS – 234 (6,44%)		
Sub area	No. of complaints	%
Requests for a legal advice	44	18,80
Requests by legal entities	9	3,85
Non-acting by competent bodies	87	37,18
Other	94	40,17



The Ombudsman and the Local Self Government

In order to fulfill the provisions of the Framework Agreement, which were later adopted as constitutional amendments, the aim of which among other issues was to promote the relation between the citizens and the Ombudsman, and thus to increase the efficiency and quality of protection of human rights, besides the main office in Skopje, starting from November 2004, 6 regional offices were established in: Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

The right of the citizens to local self government is guaranteed by the Constitution of the Republic of Macedonia. Local self government means a right and a real capability of the local authorities to proclaim and manage a significant part of the public matters in their competence, within the frames of the laws and certainly, for the benefit of the citizens. In the

municipalities, citizens directly and through representatives participate in taking decisions about matters of local importance, and especially in the areas of: public services, urban and spatial planning, and protection of the environment, communal activities, education and other areas proclaimed by the legislation. Taking into consideration these competences of the local self government, which refer to the majority of areas of the social life of every citizen, the Ombudsman pays special attention to the relation local authority – citizens and continuously takes measures and activities in order to improve that relation, as well as activities in a direction of permanent improvement and promotion of the cooperation between the local self government and the Ombudsman. This cooperation, unfortunately, is not on a satisfactory level and is still of formal, instead of crucial character, which mostly depends on the Mayor's personality and the personality of other public officials at the municipalities, more precisely, it depends on their knowledge on the institution Ombudsman, his authorizations and competences.

Hence, certain mayors and public officers reply to the Ombudsman's requests and act upon the indications or recommendations, and some of them do not reply at all or their replies are of completely formal kind. This type of cooperation reflects on the administration in the municipalities, since some units or departments act upon the Ombudsman's requests and indications, whereas others do not take activities regardless of the Ombudsman's reactions. This hinders both the work of the Ombudsman in the realization of his competences, that being protection of citizens' rights, and prevents undisturbed realization and respect of citizens' rights by the municipal bodies, whose basic function and competence is to be a real public service for the citizens.

For these reasons exactly, the Ombudsman uses every opportunity to indicate to the mayors, officials and municipal administration that his implications should not and must not be considered as mean, tendentious ones or as an intention to block the work of the local self government. The Ombudsman's reactions have the aim and the function to improve the work of the municipal administration by its legal and professional acting, while respecting the fundamental freedoms and rights of the citizens.

This endeavor of the Ombudsman for a permanent increase of the level of professional and legal actions taken by the municipal administration, most of all for the benefit of the citizens and every official of the local self government should have this in mind when acting upon the Ombudsman's requests.

Our Findings and Recommendations

Our findings

This report year was characterized by an increased number of complaints in comparison with previous years. Based on our activities, we found the following:

- the cooperation of the public administration bodies and other bodies and organizations with public mandates with the Ombudsman can not be estimated as crucial and of high quality yet;
- public administration remained unreformed and insufficiently transparent for the citizens;
- the principle of adequate and equitable representation of all communities' members is not realized on a satisfactory level yet, especially at the public enterprises. A law on discrimination prevention and protection was not passed this year;
- in the course of investigating cases on torture and other forms of police authorizations abuse by the Ministry of Interior Affairs, there was still a portion of subjectivity and partiality;
- the Ministry of Interior Affairs demonstrates inaccuracy in replying to the citizens on actions taken regarding their criminal reports on finding and possible prosecution of persons who have committed criminal activities;
- the conditions at detention rooms in the majority of police stations do not satisfy the requirements;
- the practice of delay of procedures for realization of rights to citizenship status, residence, place of stay continues, as well as personal documents issuing procedures;
- Border Issues and Migration Department continues hindering the Ombudsman's work;
- citizens continuously face long lasting and inefficient judicial procedures, especially before the Administrative Court, which violates the right to a trial in a reasonable time limit;
- procedures in progress against officials at the Ministry of Interior Affairs on criminal activities against citizens' freedoms and rights are delayed, which violates the principle of a trial in a reasonable time limit;
- executors do not take sufficient care of protecting the existential interest of debtors, by acting against the Law on Execution;

- penitentiary-correctional and educational-correctional institutions are still overcrowded and do not have the appropriate accommodating capacities, which indicate to inhumane acting;
- the educational-correctional measure – stay at an educational-correctional center for minors is not conducted according to the standards for re-socialization of minors;
- occurrence of violence among convicted persons is increased and there is a lack of adequate estimation of the conditions by officials in order to prevent incidents;
- absence of an organized form of educational training for the employees creates uncertainty and represents an obstacle for an efficient treatment system of convicted persons, detained persons and minors;
- even after 10 years since the initiation of the process, a huge number of denationalization cases have been pending, and a number of cases has been conducted uneconomically, tendentiously and with harmful effects on citizens;
- Denationalization Commissions do not always provide equal, impartial and objective application of the laws and other regulations, and the same refers to denationalization bodies in first and second instance;
- commissions for deciding in administrative procedures at second instance in the area of denationalization, property-legal issues and awarding land for construction, survey, cadastre and registration of rights for real estate, have not shown any signs of improvement for a long period of time, nor do they reveal cooperation and openness towards the citizens' needs, and they do not act upon the Ombudsman's interventions and requests;
- in the area of urban planning and construction there is inaccurate and selective acting by inspection and executive services, and the procedures for issuing a license for construction are long-lasting ones;
- local self government does not solve the communal problems of the citizens, especially in the field of and solid communal waste collecting and management;
- municipality inspectors do not conduct sufficient monitoring over subjects who produce communal waste as a result of which no measures are taken in order to sanction the polluters;
- respect of rights to a working relation is on an unsatisfactory level due to incomplete application of regulations;
- the provisions of the Law on Housing in terms of using flats owned by the state are not applied appropriately and correctly, and there is a selective application of provisions for forced moving out of citizens with the assistance by the Ministry of Interior Affairs, the so called "self assistance allowed";
- in the realization of social rights in the area of pension and health insurance and social protection, social security is not always provided and the social justice is not always practiced;
- psychiatry institutions have not provided adequate accommodation sanctions yet for the persons with mental disorders, and the de-institutionalization process has been wedged;
- untimely taking measures and illegal actions by competent bodies and institutions are the reasons for violation of rights in the area of education;
- insufficient education of children and adults on children's rights and responsibilities is an important reason for frequent violations of children's rights and their best interest;

- the conditions and possibilities for using products and services of public interest do not always provide adequate respect and protection of consumers' rights;
- local self-government bodies still lack professional capacity for a quality and efficient serving the citizens and they do not have sufficient knowledge on the Ombudsman's competences and authorizations.

Our recommendations

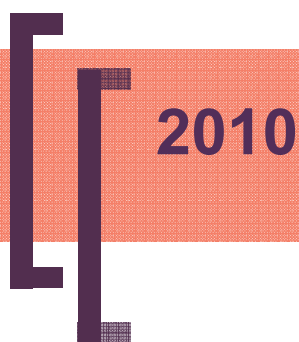
The conditions found and the level of respect and realization of human freedoms and rights in this report year imply to the need for taking adequate measures. In that sense we recommend the following:

- promotion of the profound cooperation of the public administration with the Ombudsman and adequate consideration of the Ombudsman's interventions;
- hastening of activities for reforming the public administration and continuous training of the officials and servants on accurate and quality work;
- appropriate implementation of the principle of adequate and equitable representation of members of all communities and adoption of a law on discrimination prevention and protection;
- the Ministry of Interior Affairs should continue promoting investigation in cases of police authorizations abuse, especially in cases of torture and it should inform the submitters of criminal reports on the course and results of police actions taken;
- the activities for reconstruction of detention rooms should continue, as well as a complete equipping in police stations encompassed with the programs so far, and programs should be designed for reconstructing and repairing the police stations: Aerodrom, Dracevo, Gorce Petrov, Cair and others which have not been included in the programs so far;
- expediting procedures for awarding citizenship and other status rights, as well as acceleration of procedures for issuing personal documents;
- judicial representatives should adequately respect the principle of taking decisions in a reasonable time limit in all procedures, including cases against police officers on actions against citizens' freedoms and rights;
- adequate application of legal provisions and international standards for treatment of convicted, detained and minor persons, solving the problems with the accommodation conditions in every aspect, and especially the semi-open wing; the personnel capacity should be strengthened;
- obligatory evaluation of mental health of the convicted persons, especially persons under a risk of violence, self-hurting and suicide, and obligatory professional trainings for the personnel in the prisons;
- dislocation of the correctional-educational center Tetovo and creation of prerequisites for efficient re-socialization of minors through a complete functioning of the activities regime;
- a hospital within the institution should be set up in order to provide efficient and quality health protection of the convicted persons;

- the dynamics of closing denationalization cases should be proportional to the number of pending cases, the processing of cases should be expedited through a better organization, efficiency, communication with the citizens and accuracy in their work;
- the process of establishing a cadastre office and registration of rights to property in all urban and semi urban areas in the Republic of Macedonia should be intensified, and the processes and procedures in the work should be improved through reorganization of office positions and implementation of IT technology and a website should be introduced;
- continuous training of the personnel for providing professional and adequate level of communication with the citizens and quality in their work;
- a complete reforming of the commissions at the Government of the Republic of Macedonia which decide in administrative procedure in second instance through creation of legal basis for a complete professionalization of the members;
- bodies competent in the area of urban planning and construction should respect and apply the legislation adequately in terms of time limits and legality of decisions;
- the preventive activity of inspection departments should be increased through more frequent insights on the spot in order to decrease the number of illegal construction activities;
- while preparing and adopting urban plans, the self-government units should consider the citizens' needs. Thus, the plans should provide both rational use of space and conditions for human life and work of the citizens;
- expediting the procedure for adopting the Law on Legalization of illegal constructions;
- local self government should make maximum efforts in order to solve the citizens' problems regarding the environment, especially in the area of solid and communal waste management;
- in cases of passive attitude, unpreparedness or incapability of local authorities to deal with mass violations of human rights due to continuous pollution of the environment, the competent central bodies should take adequate measures;
- during recruitment procedures, the laws need to be respected adequately, the principle of adequate and equitable representation of all communities' members should be applied in complete, and during appointing procedures, the conditions for appointing should be considered;
- the provisions of the Law on Housing should be applied adequately, which would facilitate the procedure for legal regulation of the status for using flats owned by the state for the socially deprived persons;
- in the process of realization of social rights, all possible measures should be taken in order to provide conditions for realization of the constitutionally guaranteed right to social security and justice for every citizen;
- measures need to be taken for improvement of conditions in psychiatric hospitals and the process of their deinstitutionalization should be expedited;
- measures for acting in accordance with the constitutionally guaranteed rights need to be taken promptly, and the regulation concerning adequate realization of rights in the area of education should be implemented;
- adequate training of all subjects concerned with children's rights and obligations is necessary, in order to protect children from violation and abuse and to provide respect of their best interest in all aspects concerning them;

- legal subjects providing products and services of public interest should eliminate the conditions and reasons which lead to violation of citizens' rights, particularly if they endanger fundamental human rights;

- adequate and prompt respect of requests, recommendations and indications by the Ombudsman by the bodies of the local self government, public enterprises, institutions and services under competence of the municipalities.



The Ombudsman shall continue monitoring and investigating individual cases and general conditions regarding realization and protection of human freedoms and rights, at the same time, he will monitor the realization of the principle of non discrimination and adequate and equitable representation of communities' members.

The Work Program of the Ombudsman for 2010, besides working on complaints, includes a list of projects referring to ascertaining the conditions in various areas in order to prepare special information and reports on the findings and measures proposed.

The focus of the Ombudsman's work shall remain on: penitentiary-correctional institutions, police procedures, judiciary, urban planning, construction and environment, property-legal relations and cadastre. Further on, social security and protection, pension and disability insurance, health insurance and protection, education, consumers' rights and especially rights of children and other vulnerable groups.

Taking into consideration that the Ombudsman, following the ratification of the Optional Protocol to the Convention against Torture was designated as a National Mechanism for prevention from torture and other kinds of cruel, inhumane and humiliating behavior or punishment, activities will be taken for creation of conditions for implementation of legal changes in accordance with the Optional Protocol to the Convention against Torture. These activities require additional funds which have not been planned in the present budget. Functioning of departments foreseen by the Law on Changes and Amendments of the Law on the Ombudsman depend on this issue, as well.

In terms of the newly appointed role of the Ombudsman for prevention of torture, activities on training the professional personnel, informing the public administration and institutions towards which the Ombudsman is competent to act in torture prevention shall be taken, as well as activities for informing the citizens. The activities shall be realized by the support of the OSCE Mission to Skopje and the Swedish International Development Agency – SIDA.

Meetings on local level will be organized in 2010 as well, in order to strengthen the dialogue between the local authorities and the Ombudsman, the topic of which will be the level of mutual cooperation and the possibilities for its improvement.

The international cooperation with the ombudsmen from the countries in the region will not lack either, as well as the cooperation with the institutions in the countries members of the EU and wider, while the exchange of experiences of the work will be realized through study exchange and visits to other ombudsmen institutions.

Cases

NP no. 2498/09

H.F. from Bojane in the complaint to the Ombudsman indicated that he was employed at the Ministry of Defense as an active military officer and that he was discriminated on national basis, meaning his ethnic origin was an obstacle for the realization of stimulative measures.

Acting upon the complaint, the Ombudsman indicated to the prohibition of discrimination on all bases, as well as to the constitutionally and legally guaranteed right to equality for all citizens of the Republic of Macedonia. Following the Ombudsman's reaction, the complainant was awarded a 7-day leave for the efforts made and the results achieved in the functioning and military training of his unit.

NP no. 1791/09

The Association of Deaf persons and persons with impaired hearing ability of the Republic of Macedonia requested an intervention by the Ombudsman before the Macedonian Radio Television because in June 2009 it stopped broadcasting news for deaf persons, which they found discriminating since they were deprived from the right to availability of information.

After ascertaining violation of citizens' rights, the Ombudsman indicated the Broadcasting Council of the Republic of Macedonia and the Public Enterprise - Macedonian Radio Television to the obligation of respecting the provisions of the Law on Broadcasting, according to which it has the obligation to develop, plan and broadcast programs, informative programs and news for

deaf people, which will be interpreted in the sign language.

The Ombudsman's indications were accepted, and the news for the deaf persons was on the program again from 14.09.2009.

NP no. 3605/09

S.D. from Kicevo complained on the Ministry of Interior Affairs, Police Station Kicevo, on groundless confiscation and detention of his passenger vehicle and documents for it.

Following the Ombudsman's intervention, the procedure for police inquiries was expedited and the vehicle and the documents were returned to the complainant.

NP no. 1638/09

Following a mass investigation and collecting material evidence, the Ombudsman during the procedure upon a complaint by Z.P. for Skopje against two police officers pressed criminal charges to the Basic Public Prosecution for the criminal act Torture and other cruel, inhumane or humiliating behavior and punishment, according to article 142, paragraph 1 of the Criminal Law.

The Public Prosecutor accepted the criminal charges and processed the case to the Basic Court Skopje 1 – Skopje.

NP no. 1411/09

Border authorities confiscated the Bulgarian passport from a citizen of the Republic

of Macedonia from Skopje, who possessed both Bulgarian and Macedonia passports.

After investigating the case, it was found that the confiscation of the passport was without legal basis as a result of which the Ombudsman contacted directly the police officer in charge and the following day, the complainant received his passport back.

NP no. 1574/09

Upon a request by the Ombudsman of the City of Subotica for issuing a birth certificate and citizenship certificate to K.M born in Kicevo, in order to regulate the citizenship status, following the Macedonian Ombudsman's intervention, the Administrative – Monitoring Issues Department sent a copy of the birth certificate, which was transferred to the Ombudsman of Subotica.

NP no. 1438/09

A citizen from Skopje requested an intervention as a result of unjustified delay of a court proceeding before the Basic Court Skopje 2 – Skopje, as a result of inability to execute a proper delivery to the respondent.

The Ombudsman recommended to the court in writing that it had a legal obligation to use all means and measures provided by the proceeding law, and in that direction he pointed to the application of specific legal provisions as a possible solution to the delivery problem.

Accepting the recommendation, the court informed in writing that it had acted in accordance with it and within the frames of the legal competences had taken measures and activities, which resulted in appointing a date for main hearing and initiation of the procedure.

NP no. 463/09

Lj.G. from Skopje requested an intervention by the Ombudsman because an executor from Skopje, during conducting execution, left her without existence means by issuing an order to the bank to withdraw all available means on her bank account in order to charge the debt.

The Ombudsman informed the executor that the financial means withdrawn from the bank account were solely income on the basis of pension, and he indicated that the executor was obligated to consider the protection of the

debtor's interests and limit the execution to 1/3 of the pension income.

Accepting the indication, the executor informed that he had withdrawn the previously issued order to the bank, he had kept only 1/3 of the amount, and the rest had been returned to the complainant. After de-blocking the bank account, the executor issued another order for execution and submitted it to the Pension and Disability Insurance Fund in order to execute the charging of debt by 1/3 of the monthly income.

NP no. 2763/09

The mother of a convicted person, a drug addict, who is serving the time at the Penitentiary-correctional Center Idrizovo, due to the poor health conditions of her son, requested by the Ombudsman to take measures in order to expedite the procedure before the competent court for allowing interval of sentence on the basis of necessity of treatment.

Taking in consideration the health condition of the convicted person, the Ombudsman, within his competences, requested from the judge for execution of sanctions at the Basic Court Skopje 1 – Skopje to take measures in order to expedite the procedure for taking decisions upon the request for interval of sentence. Acting upon the request, the Basic Court Skopje 1 – Skopje, made a decision in the shortest possible time and allowed an interval of the prison sentence for a period of three months.

Because of the severe health condition of her son, the Ombudsman, besides the actions taken to expedite the procedure, advised the complainant, according to a previously obtained opinion by a psychiatrist from the Psychiatric Hospital Skopje, to initiate a procedure before the Criminal Council at the Basic Court Skopje 1 – Skopje requesting alternation of the prison sentence with a compulsory psychiatric treatment and stay at a medical institution.

NP no. 807/09

S. and S.K., both from Skopje, submitted a complaint on the following: the decision for registering right to real estate in the cadastre operate issued by the Cadastre and Survey Department Skopje was annulled and the case was returned for a repeated consideration, although by a decision issued by the Commission for taking decisions in administrative procedure in second instance in the area of survey, cadastre and registration of

right to real estate. A new decision in the repeated procedure was not taken.

The Ombudsman found activities against the principles for the rules of administrative procedure stipulated by the provisions of the Law on General Administrative Procedure, as a result of which he recommended the Real Estate Cadastre Center – Skopje to take necessary and priority actions in order to pass a correct and legal administrative act in the repeated procedure, in accordance with the indications in the decision by the second instance administrative body.

The recommendation was accepted.

NP no. 3029/09

E.J. from Skopje pointed out to the delay of a procedure upon her request for annulling an Expropriation Decision 1992 by the Ministry of Finance of the Republic of Macedonia at that time – Republic Management for property-legal issues – Regional Unit Karpos.

The Ombudsman found that the case fulfilled the conditions from the Law on Expropriation in the part referring to annulment of an expropriation decision, so he addressed an implication for taking measures in that direction to the Administrative Procedure Unit – Karpos at the Management for property –legal issues.

In correlation with the activities taken, the complainant's right was realized because the implication was accepted.

NP no. 267/09

P.S. from Skopje complained about protection of rights to a working relation, following initiation of a disciplinary procedure for committed disciplinary infringement.

After studying the documents provided by the complainant, the Ombudsman found that she was on a sick leave, and according to the provisions from the Rulebook on the manner of conducting a disciplinary procedure for finding a disciplinary infringement, interruption of procedure is foreseen in case the public servant got ill immediately before or during the disciplinary procedure.

Following the implication, the Ministry of Economy informed the Ombudsman that the procedure against the complainant had been interrupted.

NP no. 1595/09

M.B. from Skopje requested an intervention and protection of rights to working relations in the procedure of salary payment because her salary was reduced for a period of four months without a legal basis by the Transfusion Medicine Institute.

After confirming the mistake done, the body acted upon the Ombudsman's indication and paid the complainant the amount according to the decision, and at the same time it compensated for the previous four months.

NP no. 457/09

G.I. submitted a complaint requesting intervention before the Public Enterprise for management of residential and business properties of the Republic of Macedonia - Regional Office Skopje, because of illegal conduct of a procedure for forced moving out of a flat owned by the state.

Finding that the procedure was conducted in an illegal manner by the Public Enterprise, because the complainant received a simple notification by which it was requested by the complainant to move out of the flat, which is against the law, the Ombudsman initiated a procedure and indicated to the competent commission to restrain from any further activities and actions, until a final and executive decision by a competent court was reached.

The Public Enterprise for management of residential and business properties of the Republic of Macedonia - Regional Office Skopje informed the Ombudsman that they would not take additional activities for conducting the forced moving out of the flat.

NP no. 575/09

A citizen from Skopje requested from the Ombudsman to intervene with the Social Work Center to collect the necessary documents for extension of the right to a permanent financial aid *ex officio*, because the complainant was not able to collect them by himself, both because of his age and his health condition.

Following the Ombudsman's request and the contacts with the officials at the Inter-municipal Social Work Center, the necessary documents for extension of the right to permanent financial aid were obtained by the Center *ex officio*, and the complainant's right to

extension of the right to permanent financial aid was realized.

NP no. 276/09

A citizen from the region of Strumica submitted a complaint because by a decision issued by the Pension and Disability Fund his right to pension and disability insurance was not recognized due to a not completed medical treatment, against which he promptly submitted an appeal to the second instance body.

However, the second instance body rejected his appeal as not grounded because of which the complainant initiated an administrative procedure. The Administrative Court reached a decision by which the appeal was accepted, annulled the decision by the second instance body and returned the case to a repeated consideration.

Taking into consideration that the competent second instance body was taking a decision on the court decision over a longer period of time, the Ombudsman submitted information and several indications to the Commission, as well as to the Prime Minister of the Republic of Macedonia, pointing out to the non-taking measures within the legally determined time limit, after which the appeal was accepted as grounded and the decision by the first instance body was annulled.

NP no. 1754/09

A citizen from Skopje complained on protection of his son's rights, who needed permission for treatment abroad. This permission was not issued over a longer period of time, although the Doctors Council at the competent clinic in Skopje where the person was treated, confirmed that the treatment could not be done in the Republic of Macedonia and recommended treatment at a foreign clinic. After making contacts with the foreign clinic, confirmation was received that the treatment could be realized abroad.

However, besides these proposals, the Health Insurance Fund issued a decision by which it rejected the request for treatment abroad, because according to the findings by the first instance doctors' commission, no healing was expected. An appeal to the Ministry of Health followed.

After the Ombudsman's interventions to the Ministry of Health and the Health Insurance Fund, the second instance doctor's commission

reconsidered the case and decided to give a new proposal for treatment abroad. The complainant's son was sent abroad for treatment.

NP no. 512/09

A citizen from Kumanovo submitted a complaint on behalf of employees at the Institute of Cattle Breeding - Skopje, requesting measures for closing or dislocating the Anatomy Laboratory for domestic animals, because it was in the vicinity of their working premises and represented a direct threat to their health.

The citizens had addressed numerous institutions on this matter, however they all declared incompetent to take any measures. However, after the Ombudsman's interventions, monitoring of the abovementioned laboratory was conducted by the State Sanitary and Health Inspectorate and a decision was reached ordering the Faculty of Veterinary Medicine – Reproduction Institute, which had been using the laboratory, to take measures according to the Law on Waste Management. The decision by the State Sanitary and Health Inspectorate referred only to measures on waste management, and this particular case was about examination materials and scientific-research works, as a result of which, in accordance with the provisions of the Law on Environment, the Ombudsman addressed the Ministry of Environment and Spatial Planning – State Environment Inspectorate, the Faculty of Veterinary Medicine and the Ministry of Labor and Social Policy – State Labor Inspectorate, requesting from them to reconsider the case, i.e. to conduct an inspection and based on their findings to take all legal measures for protection of employees' and other persons' health.

After the Ombudsman's interventions, a repeated inspection was conducted, and it was found that construction activities were in progress for physical separation of the laboratory and the space where the working premises of the employees at the Institute – the complainants - were located. At the same time the Faculty of Veterinary Medicine took appropriate measures for protection of the employees from direct influence of the chemicals used, in order to overcome the problem and in accordance with all rules for undisturbed working, it took measures to separate the laboratory and to dispose the medical waste adequately.

NP no. 193/09

A citizen from Pristine submitted a complaint since she was the mother of two minor children whose father was her unwed husband from Skopje. During a long period of time, she was unable to keep personal contacts with the children, who after ending their life together, remained with their father, although he was supposed to serve a sentence in jail.

In order to realize and protect the children's rights, the Ombudsman requested from the Inter-municipal Social Work Center to take measures for maintaining personal contacts of the mother with the children. The Center conveyed a professional-methodological activity with the father, who was also informed on the measures the Center was going to take to protect the children after he had gone to jail.

Later on, personal contacts were established of the mother and her children, and the mother was informed on the obligation to look after the children after their father had gone to jail.

NP no. 1257/09

A citizen from Skopje requested interventions by the Ombudsman because while trying to enroll a first grade pupil at elementary school, he was made to pay for the personal doctor's certificate on vaccinations.

Investigating the case, the Ombudsman found that various amounts of money were charged by other medical institutions for issuing vaccinations certificates, and that there was no legal basis for this matter.

As a result of that, the Ombudsman intervened through the Ministry of Education and the Ministry of Health, after which the medical institutions were informed they were not supposed to charge anything for issuing these certificates, and this practice was stopped.

NP no. 219/09

The Ombudsman received numerous complaints from pupils and students who had applied for scholarships. The Ombudsman found that after the announcement for awarding scholarships and credits, the applications were submitted electronically and after their consideration, the list of students who qualified for a scholarship or credit was also published electronically. However, there was no act proclaiming the basis for accepting or rejecting

an application, which the Ombudsman found to be illegal.

Taking into consideration that there were not any administrative acts on rejecting the applications, the applicants appealed to the second instance Commission for deciding in administrative procedures in the area of education at the Government of the Republic of Macedonia. The Ombudsman intervened at the Commission and he found that it had also ascertained that the first instance body did not conduct the procedure in accordance with the Law, as a result of which all objections were returned to the first instance body, i.e. to the Ministry of Education and Science for reconsideration and decision.

The Ombudsman submitted special information on this matter to the Minister of Education and Science. Further on, a new commission was established to consider the objections of the students and the majority of persons who turned to the Ombudsman realized their right to scholarship, and decisions for the rejected applicants were issued, after which they were able to exercise their right to appeal.

NP no. 704/09

A citizen from Skopje submitted a complaint on protection of rights before PE "Vodovod i Kanalizacija" - Skopje because no actions were taken on her request for connecting to the water supply network as a new user, because although she was using the water for her household, she was charged industrial fees. The Ombudsman indicated that actions had to be taken upon her request and the complainant had to be registered as a new user by installing a new measuring device at her home, if there were no technical obstacles for that.

Acting upon the request, the PE "Vodovod i Kanalizacija" explained that there were technical difficulties for installing a separate measuring device because of the non-existence of a street water supply network. However, the enterprise suggested the complainant separation of the pit at some of the neighbors, which would be performed by the Public Enterprise with a previously obtained consent by the neighbor and with a certificate by the Payment Service that the bills had been paid. Through further actions by the Ombudsman and the consent by one of the neighbors, the problem was solved.

NP no. 1955/09

A citizen from Skopje complained that employees at the "EVN" disconnected the electricity supply on the basis of a report by the neighbors on alleged illegal use of the electricity.

Namely, although the consumption of electricity was not changed in amount, the officials at "EVN" found that there was illegal use of electricity and requested from the complaint to sign a calculation for "stealing" of electricity which, according to the allegations, was around €5,000. Dissatisfied with this attitude by the officials from "EVN" and finding that she was unjustly blamed for stealing electricity, the complainant submitted an appeal which she did not receive a reply on.

In order to protect the complainant's rights, the Ombudsman indicated to the Management Board of "EVN – Makedonija" AD Skopje and to the competent regional unit that during the procedures for alleged stealing of electricity, the citizens were not provided a possibility to prove the opposite, but the electricity supply was disconnected and the citizens were forced to pay the calculation expenses. Because of that, the Ombudsman requested a definite confirmation that it was a case of stealing electricity, thus a basis for disconnecting the supply. Hence, like for the previously submitted complaints, the Ombudsman indicated once again that this issue needed a serious consideration most of all in order to protect the citizens, especially in terms of conducting a procedure for confirming the fault with the users, and the control and the confirmation should not be performed without the presence of the user and that the supply must not be disconnected without prior proof for stealing.

Following several interventions by the Ombudsman, the calculation on the alleged illegal use of electricity was canceled by "EVN" and the object was reconnected to the electricity network.

NP no. 214/09

V.N. from Tetovo requested protection of rights in the procedure before the municipality of Tetovo for issuing a certificate from a present detailed urban plan. After confirming violation of rights because a certificate was issued from a detailed urban plan which was not in force, the Ombudsman submitted a recommendation to the Mayor, i.e. to the Urbanism Department at the

Municipality of Tetovo requesting issuing a certificate from the detailed urban plan which was in force.

On the basis of notification received, the Ombudsman found that the recommendation was accepted and the requested document was issued.

NP no. 28/09

M.T. from Skopje submitted a complaint on non-conducting executive administrative acts for removing illegal constructions in his neighborhood.

The Ombudsman addressed the Mayor, i.e. the authorized construction inspector at the Municipality of Centar requesting information on the reasons for non-conducting the forced removal of an illegal construction and recommended taking adequate measures for legal actions.

Based on the notification received, the Ombudsman found that the body acted upon the request and the construction site was closed.

NP no. 472/09

K.S. from Novo Selo, Strumica, pointed out to non-acting by the authorized construction inspector at the Municipality of Novo Selo upon a report on performing an inspection of an illegal construction.

Following the intervention, the competent inspection body performed an inspection on the spot and administrative acts were issued for removal of the illegal construction.

NP no. 823/09

A citizen from Stip alleged that the authorized construction inspector at the Municipality of Stip, although he had performed an inspection and found illegal construction, did not prepare the necessary administrative acts.

Acting upon the complaint, the Ombudsman conducted a direct insight and addressed the authorized construction inspector in writing, after which the administrative acts were issued for removal of the illegal construction.

About the Institution

Organization and manner of work

The organization of the Ombudsman's work is stipulated under the Law on the Ombudsman and other by-laws on the Ombudsman.

In order to achieve a more systematic feature in the course of its work and in order to realize the programmed tasks, the Ombudsman in 2009 decided to elevate the level of independence of the deputies in the regional offices in: Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

Personnel

During 2008 the Ombudsman employed one person at the head office in Skopje.

According to the professional background of the employees, 48 of them have university degree, 20 have finished high school. 41 of them are female and 27 are male.

The Ombudsman employs: 34 Macedonians, 26 Albanians, 2 Serbs, 2 Roma and 2 Vlachs, one member of the Turkish community and one Bosniak.

The procedure for employment of new public servants and other employees is in progress.

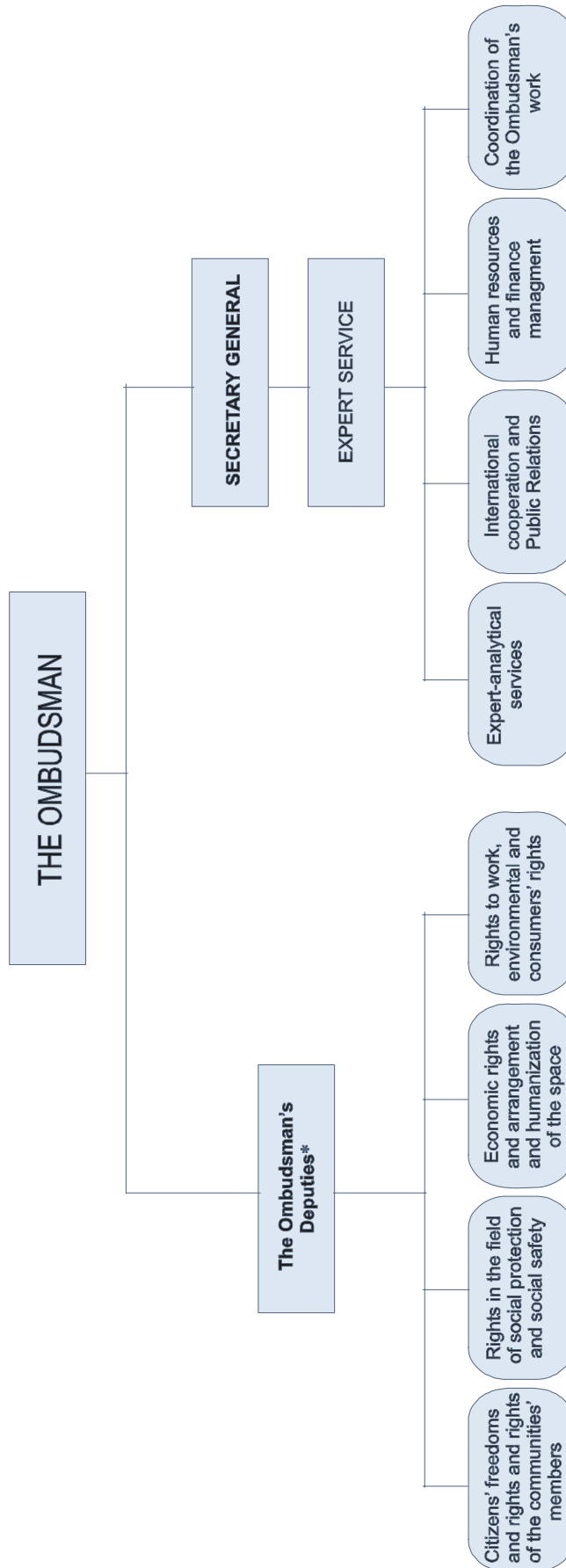
Funds

The funds for the functioning of the Ombudsman are provided from the Budget of the Republic of Macedonia. In 2009, the scheduled activities of the Ombudsman, according to the existing regulations, were realized with 58.213257,50 denars, or 85% of the planned funds.

Lack of funds for realization of other activities, in the sense of promotion of the Institution, were provided by the financial support of the Swedish International Development Agency (SIDA) and the OSCE Mission to Skopje.

Like in the previous years, it should be pointed out once again that this kind of financing the Ombudsman in the constitutional-legal system of the Republic of Macedonia is not adequate, since the dependence in terms of funds from the executive authorities significantly decreases the autonomy and independence and represents an obstacle in the process of realization of its function. Because of that, it is necessary to reconsider this issue by establishing a new, modern, transparent and independent system of funding the Ombudsman.

Even more, the Optional Protocol to the Convention on Torture Prevention implies an obligation to the state to provide a special budget to ensure functioning of the National Preventive Mechanism.



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