



REPUBLIC OF MACEDONIA
O M B U D S M A N

ANNUAL REPORT 2010

Skopje, March 2011



CONTENT

OUR WORK IN 2010	4
DOMESTIC AND INTERNATIONAL ACTIVITIES AND PUBLIC RELATIONS	8
RESPECT, REALIZATION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS THROUGH NUMBERS	12
General data	14
Data in areas	15
Proceeding	20
Violations found and measures taken	22
From the work of the Ombudsman's offices	25
PROTECTION OF RIGHTS IN AREAS	28
Non-discrimination and adequate and equitable representation	29
Police proceeding	34
Civil states and other interior affairs	36
Judiciary	39
Penitentiary-correctional and educational-correctional institutions	41
Property – legal relations	44
Urban planning and construction	50
Environment	52
Working relations	54
Accommodation relations	59
Social security and protection	62
Pension and disability insurance	65
Health insurance and protection	68
Children's rights	71
Education	77
Consumers' rights	79
Other rights	83
Local self government	83
CONDITIONS WITH HUMAN RIGHTS IN THE REPUBLIC OF MACEDONIA	86
FOCUS ON THE ACTIVITIES IN 2011	90
ABOUT THE ORGANIZATION	92
CASES	96

1
2
3
4
5
6
7
8



Dear citizens,

Achieving the level of realization, respect and protection of your rights which would demonstrate achieving a feeling of security in the functioning of the system institutions, is the ultimate goal in the work of our institution.

This, besides your individual protection, also supposes a need for promotion of your guaranteed rights as well as promotion of this institution's competences, meaning the manner in which it can assist you.

In a situation when the number of complaints is continuously rising, the promotion is a necessity. The reason is within the fact that the awareness of the rights you have at the same time means prevention of possible violence of those rights.

Hence, although the level of accepted Ombudsman's recommendations upon individual complaints is not low, it does not illustrate the overall effect of protection, meaning the efficient and quality manner of functioning of the system institutions.

There is a simple reason for this statement – the negative conditions on global level ascertained by our institution, and which affect large groups of citizens, are not settled in the same manner and with the same final effect as it is the case with individual ones.

Unfortunately, occurrences which represent a serious attack of citizens' rights and which require overall action by all relevant bodies are overcome with difficulties.

Thus, I find that a higher level of knowledge of your rights and the manners of their protection are well-founded subject of our engagement. It is not in vain when one states that a society characterised by citizens aware of their rights is a society which invests in their well-being and dignified life as well.

The process of achieving this situation is the greatest challenge for our institution, but at the same time it is a motif for a greater promotion of your rights and our possibilities.

The smallest step in this direction is a step towards a higher level of democracy, as well as a higher level of protection of your rights!



Ixhet Memeti

1

OUR WORK IN 2010



Number of consumers' complaints drastically increased

Utilizing public services and products is becoming more and more common problem for the citizens. The Ombudsman contributed to solving citizens' problems, especially regarding use of services provided by "EVN".

„You are not alone“

Citizens discussed about their freedoms and rights in various areas and possibilities for their protection directly with the Ombudsman in a television show.



„Same in a different manner“

Through a theater performance the Ombudsman introduced the citizens to various forms of discrimination in the society and promoted his competence regarding their protection.

Court procedures against police officers on the basis of torturing citizens

Upon the Ombudsman's request, procedures against police officers were initiated. However, as a result of the infinite delay of procedures, there is a possibility of avoiding responsibility. On the other hand, in case a procedure is initiated against a citizen for the same event, it is processed in a rapid and efficient manner.

Number of citizens addressing the Ombudsman permanently increasing

11% increase of complaints compared with the previous year as a result of a greater need for the citizens to be assisted by the Ombudsman.

Semi-open wing in PI Idrizovo closed

Following the Ombudsman recommendation, the Ministry of Justice transferred the convicts to other departments in the Prison, and the semi-open wing in the PI Idrizovo was closed due to extremely poor accommodation conditions.

Possessing an university diploma – no possibility for employment

Upon the Ombudsman's intervention, the legal gap was amended which allowed persons who have completed the first level of university education with 180 ECTS to gain the right to employment.

The Ombudsman's Bulletin

Publishing of the Ombudsman's Bulletin was launched. It is printed every 4 months in Macedonian, Albanian and English language.

The Ombudsman institution awarded

The institution was awarded for special contribution to protection of persons with special needs.

Loss of a court case – an obstacle in the procedure for transferring a convicted person

Following the Ombudsman's finding that documents were lost during the procedure for transferring a convicted person, he indicated to the need for renewing the court case. The Court accepted the implication and renewed the case, after which the transferring procedure continued.

Right to appeal violated in denationalization procedure

Denationalization Commission in Tetovo, acting in an illegal manner, archived a case, without delivering the decision to the citizen, which deprived the citizen from the right to appeal. Following the Ombudsman's reaction, the Commission was forced to reopen the case, to deliver the archived decision to the citizen and enable him to practice the right to appeal. Although illegal activities were ascertained, the Ombudsman's request for allocating responsibility of officials was not accepted.

Following the Ombudsman's intervention, the problem with paying transport expenses to children with special needs and persons accompanying them was overcome

In order to provide unobstructed realization of the right to education and attending classes for the children with special needs in elementary schools, who have to be accompanied while traveling according to a medical report, the Ombudsman recommended the municipality and the schools to take measures in order to provide funds for transportation of the students with special needs as well as persons accompanying them; the recommendation was accepted.

Upon the Ombudsman's reaction, public servants in the City of Skopje were issued decisions for career subsidy

Ascertaining that public servants do not realize their right to career subsidy, the Ombudsman indicated to the legal responsibility; the Mayor of the City of Skopje accepted the implication.

Inaccuracy of courts to the detriment of citizens

Due to infringement of judging in reasonable time principle, the price is paid by the citizens and the damaged party is financially compensated.



A Second Instance Government Commission did not act upon a single Ombudsman's intervention

Due to preventing the Ombudsman's work by the second instance Commission for cases of survey, cadastre and registering property rights, the Ombudsman informed the Government of the Republic of Macedonia by a special report which subsequently obliged the Commission to act upon all interventions.

Paid garbage bills – a prerequisite for being buried

The finding that the Public Communal Enterprise in Kumanovo issued a decision to deprive citizens from funeral services on the basis of not paid bills for communal services, served as grounds for the Ombudsman to initiate a procedure and intervene over the disputable decision. The illegal practice continued even after annulling the decision. Upon the repeated intervention by the Ombudsman, citizens were informed that the abovementioned practice was to be stopped.

“First come – first served” principle annulled

Following the Ombudsman’s finding that the “first come – first served” criterion practiced by the Public Enterprise for Managing Housing and Business Premises regarding selling flats to persons who do not possess a flat – young couples and single parents in the city of Skopje places the citizens in an unequal position, indicated the need for its annulment.

After the indication, the Government of the Republic of Macedonia issued a decision which abolished the advertisement and adopted a new program according to which the selling process is to be practiced without applying the disputable criterion.

Dislocation of the Educational – Correctional Center Tetovo did not solve the problem completely

Although the Educational – Correctional Center Tetovo was finally dislocated, the aim was not reached as a result of which the Ombudsman reacted. The educational measures are practiced in exceptionally poor conditions.

An official punished for letting children cross the border without parents’ presence or a person authorized by the parents

After gaining information through the media that police officers did not react at a border and allowed children – members of a cultural-artistic ensemble to travel abroad without their parents or a person authorized by the parents to accompany them, the Ombudsman requested from the Ministry of Interior to investigate the case and take responsibility measures. Following a disciplinary procedure, the official committing the omissions was disciplinary punished.

THE OMBUDSMAN’S RESEARCH HAS INDICATED THE FOLLOWING:

Girls aged 14 to 16 are the most common victims of trafficking

Data gathered indicated that the most common victims of trafficking in the state are girls aged 14 to 16.

In order to eliminate the situation and protect the girls – victims of trafficking, the Ombudsman submitted recommendations indicating to the need for prevention and protection of children from this sexual and labor exploitation of the most severe shape.

Roma children majority at schools for children with special needs

The fact that Roma children are the majority at schools for children with special needs represented a motive for the Ombudsman to suspect the objectivity of issued findings and professional opinions regarding the level of disability. Believing that there is not a single commission determining the level of disability, the Ombudsman recommended issuing an adequate common act which would determine bodies and institutions authorized to determine and issue findings and opinions on children’s disability level as well as to determine a controlling mechanism for reconsidering first – instance findings.

2

DOMESTIC AND INTERNATIONAL ACTIVITIES AND PUBLIC RELATIONS



The completion of the process for determining the Ombudsman's new competences by a law and other institution's acts opened the door for enhanced activity in the field of promoting the institution.

Enabled by continuation of the Institution Support Project, financed by the Swedish International Development Agency – SIDA and the OSCE Mission to Skopje, the public was introduced to the competences and activities of the Ombudsman in general in a different and more attractive manner, certainly with a special emphasis on indiscriminate and torture prevention principles.

Namely, a theater performance was set, which reflected the prejudices in our society through examples of everyday life, as well as cases of discrimination which had previously been cases upon which the Ombudsman reacted. The performance met its aim, meaning it reached the citizens in the correct direction and made them



think about their understanding of equality and situations in which they were subject to discrimination, or the ones committing discrimination. Besides in Skopje, the performance was played in every municipality the Ombudsman has Regional Offices in.

Another activity within the frames of the same project, which contributed to bringing the Ombudsman closer to citizens, was the television show titled "You Are Not Alone", broadcast on the national television "A1". Every second Saturday the Ombudsman discussed an area of activity, and citizens' testimonies were presented regarding the reasons for addressing the Ombudsman and the manner in which they were assisted in protection of their rights.

During the show, depending on the area being covered, the following persons participated as well: Ministries of interior, justice, labor and social policies, the European Commissary Mr. Erwan Fuere, the Ambassador of OSCE, Mr. Jose Luis Herrero and the President of the Consumers' Organization of Macedonia. The transparency aspect, which is the main feature of the institution, by this approach completely satisfied the citizens' needs for getting acquainted with the competences and the possibilities of the institution.

Media promotion was on an appropriate level this year as well, concerning the Ombudsman's position in the society, meaning the attitudes and



decisions were commented exclusively following a completely confirmed facts and undisputedly ascertained violation of citizens' rights.

The Ombudsman's relations and communication on international level were mainly practiced through meetings organized by the International Ombudsman Institute and other organizations and institutions the Ombudsman is a member of. Thus, the Ombudsman participated at the annual conference of Ombudsmen in Barcelona, during which the highest positions at the International Ombudsman Institute and future activities were considered. During the same period, the Ombudsman had a bilateral visit of the Ombudsman of Aragon area, during which they discussed the citizens' problems in realization of their rights in a time of financial crisis.

On regional level there was a meeting organized in Crikvenica, Croatia, where the Ombudsmen from Bosnia and Herzegovina, Kosovo, Macedonia, Serbia, Croatia and Montenegro gathered in one

place; new trends in Ombudsmen's manners of taking actions in the field of prevention from torture and discrimination were discussed.

The twinning project, financed by the IPA Funds, technically speaking was finalized by selecting twinning partners – the Spanish national Ombudsman and the Ombudsman of France. The project's practical realization is to be initiated at the beginning of 2011.

The promotion on international level was fortified through distribution of the Ombudsman Bulletin, which was published every four months and it was simultaneously published in Macedonian, Albanian as well as in English language.

In order to strengthen the collaboration with bodies on local level, round tables were organized in: Bitola, Kumanovo and Stip, one on a central level in the capital city, during which the topic of discussions were once again the competences of the Ombudsman in the area of prevention from torture and discrimination protection.



The Ombudsman personnel had an opportunity to promote its capacities by participating in strategic planning training as well as advanced antidiscrimination training, both organized in Skopje.

The Ombudsman, like in the previous years, had meetings with various missions of the European Union, as well as with representatives of various institutions dealing with human rights such as the Human Rights and Peace Institute in Caen, France, and the delegation of the Ombudsman Office from Morocco.

The cooperation with civil organizations was mainly on a satisfactory level with non-governmental organizations the Ombudsman has been cooperating in the previous years.

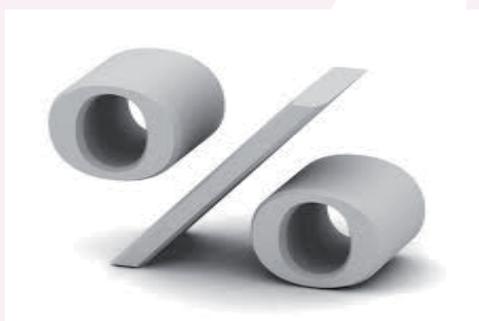
The challenge for achieving an appropriate level of cooperation with bodies and organizations the Ombudsman is competent to act towards through promotion, besides the achieved results, remains a challenge which needs to be reached through further activities on this plan.

Citizens, with their rights and knowledge of their protection, represent a field of activities which should and must never stop, taking into consideration the fundamental aim for the existence of the Ombudsman's institution.



3

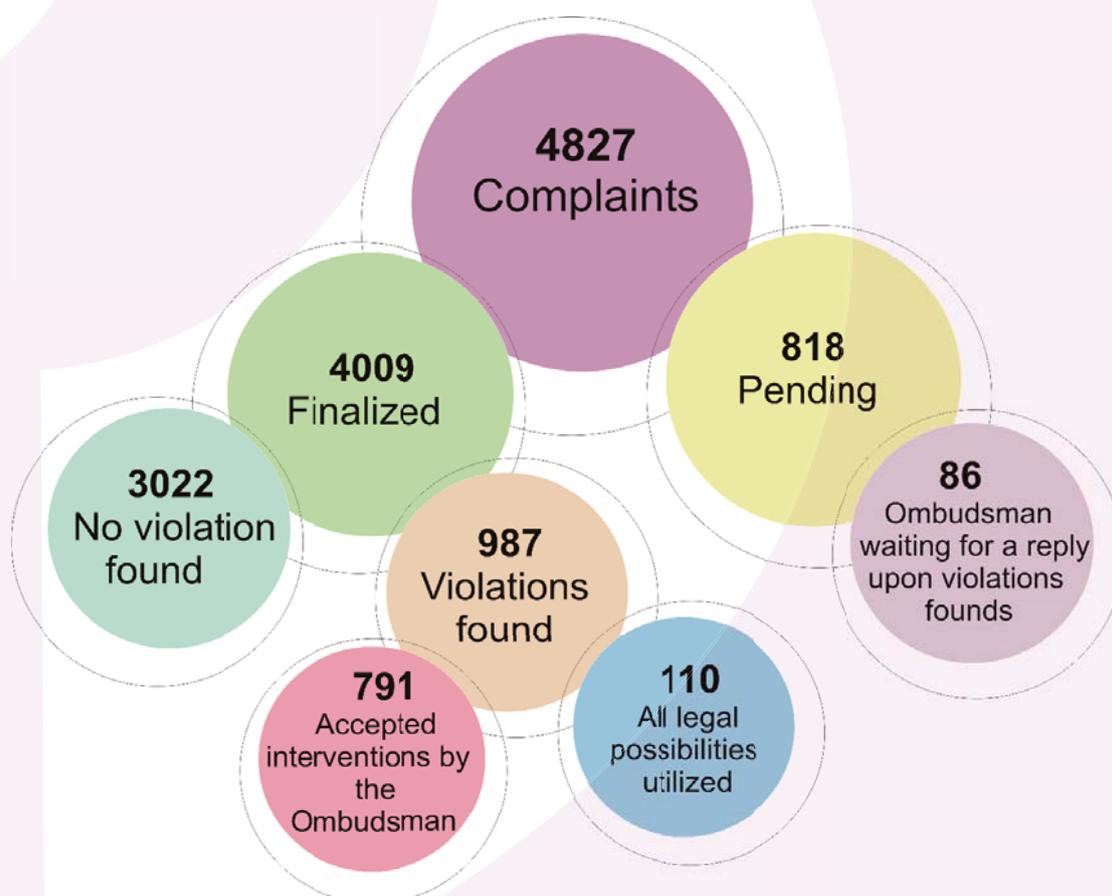
RESPECT, REALIZATION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS THROUGH NUMBERS



**Increase of 11%
of the number of
complaints**

The increase of the number of complaints indicates that citizens demonstrate greater interest in requesting protection of their rights and freedoms by the Ombudsman.

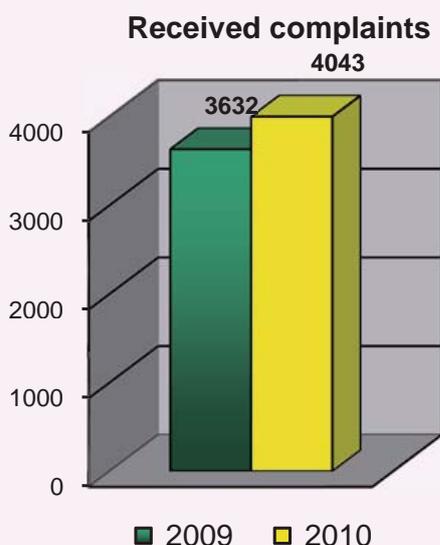
At the same time, this fact also shows that the manner in which citizens realize their rights is still on an unsatisfactory level which does not provide an efficient and quality manner of realization of their rights.



4.043
New complaints

GENERAL DATA

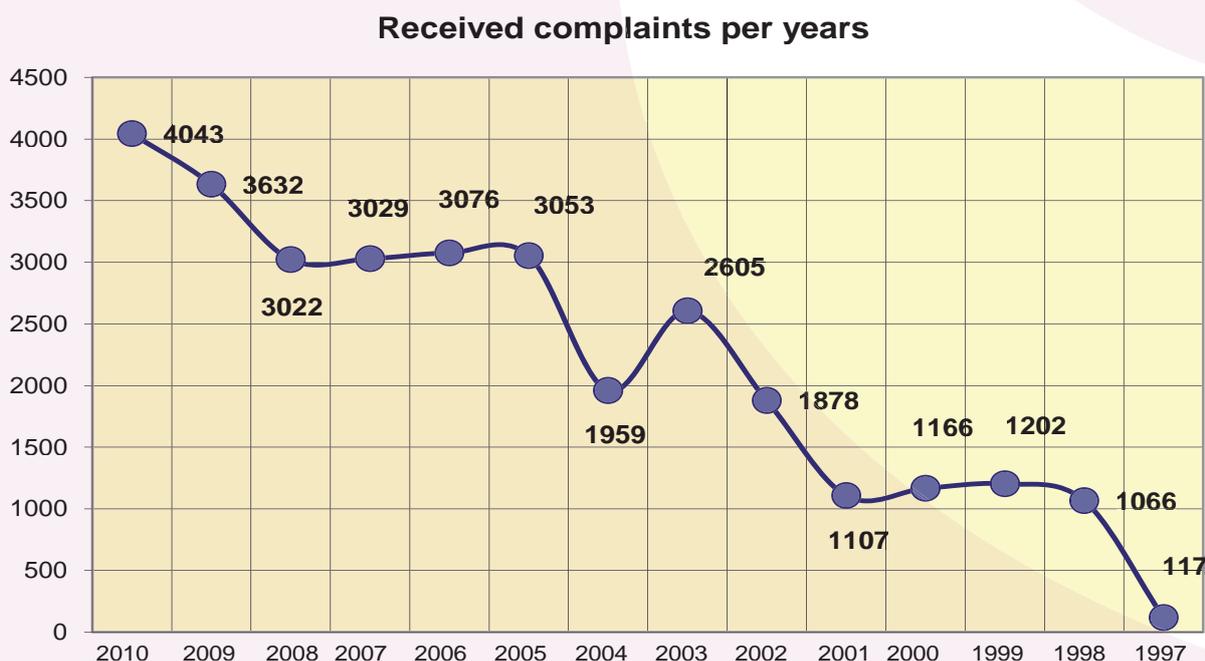
Graph no.1



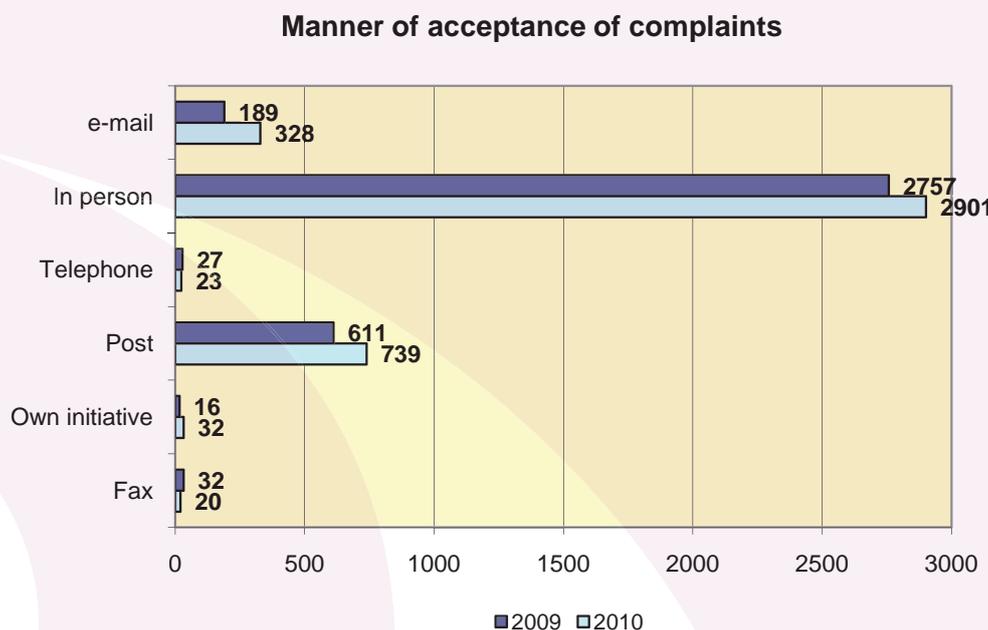
In 2010 the Ombudsman acted upon a total of 4.827 complaints, 4.043 submitted by 4.125 citizens during the report year. In 19 cases the Ombudsman opened a procedure on his own initiative, more than 6.000 citizens were accepted for a discussion at both the Skopje and the regional offices and more than 8.500 phone calls were answered.

This report year the number of complaints increased for 11,32% in comparison with the number of complaints received last year.

Graph no.2



Graph no. 3



The majority of complaints this year as well (2.901) were submitted in person by citizens at the Ombudsman's offices, followed by complaints sent by mail 739, through e-mail at the Ombudsman's website 328 (which indicates that the citizens use this manner of communication more and more), 32 complaints were formed by acting upon own initiative, 23 by telephone calls and 20 complaints were received by fax.

4.828
Complaints the
Ombudsman acted
upon

DATA IN AREAS

The majority of complaints referred to the areas of: judiciary 757 or 18,72%; consumers' rights (communal and other fees) 553 or 13,67%; property-legal area 401 or 9,92%; penitentiary-correctional and educational-correctional institutions 395 or 9,77%; working relations 365 or 9,03%; police procedures 238 or 5,91%; urban planning and construction 170 or 4,20%; states and other interior issues 169 or 4,18%; pension and disability insurance 159 or 3,93%; social protection 140 or 3,46%; children's rights 111 or 2,74%; health protection 93 or 2,30%; accommodating relations 89 or 2,20%; finances and financial working 71 or 1,76%; %; education, science, culture and sport 48 or 1,19%; environment 20 or 0,49%; non-discrimination and adequate and equitable representation 16 or 0,40%; defense 3 or 0,07%, as well as 245 or 6,09% of complaints referring to other areas.

The review of complaints in areas indicates a minor decrease or increase in connection with the previous year, except in the area of consumers' rights in which the number of

complaints is double, as well as in the area of social security and protection in which the number of complaints is significantly increased.

Graph no. 4



Review no.1

REVIEW OF RECEIVED, CLOSED AND PENDING COMPLAINTS FROM 01.01. TO 31.12.2010 IN AREAS																
AREAS	Received in 2010	Number of complainants	Transferred from the previous year	TOTAL in process	Anonymous	Manner of settling						Information to Ministers	Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures	Pending cases
						With a decision for stopping or not initiating a procedure	Settled in other manners	Violations found								
								Given opinions, suggestions, recommendations	Acted upon the Ombudsman's intervention	All legal actions taken by the Ombudsman	No actions taken upon the Ombudsman's interventions					
Non-discrimination and adequate and equitable representation	16	16	10	26		12	2	4	3	1					18	8
Police procedures	238	243	67	305	1	213	9	30	21	6	3				250	55
Civil states and other interior issues	169	172	54	223		109	3	77	55	9	13	1		1	176	47
Judiciary	757	772	124	881	1	686	14	99	91	3	5	1			795	86
Military persons and military conscripts	3	3		3		2		1	1						3	0
Social protection	140	141	32	172		91	3	48	47	1		1		2	142	30
Working relations	365	381	93	458	1	296	22	73	48	24	1	2	11		391	67
Accommodating relations	89	91	8	97	1	58	2	23	15	5	3		1	1	81	16
Health protection	93	94	26	119		49	4	25	23	2		15	15	2	78	41
Pension and disability insurance	159	160	44	203	2	109	6	49	39	3	7	1		1	159	44
Education, science, culture and sport	48	50	5	53		33	1	15	14		1	1	1	1	48	5
Children's rights	111	114	12	123		74	3	37	33	2	2	8	1	1	112	11
Urban planning and construction	170	178	67	237		124	5	48	29	10	9				168	69
Environment	20	25	4	24		15	2	5	5						22	2
Finances	71	72	9	80		44		30	26	1	3				71	9
Property-legal relations	401	417	98	499		237	10	189	130	31	28	2			408	91
Consumers' rights	553	556	44	597	2	318	4	123	109	6	8			2	439	158
Penitentiary-correctional and educational-correctional institutions	395	397	36	431	5	321	7	72	65	4	3	6	1	1	402	29
Other	245	243	51	296	6	190	11	39	37	2		1	1	2	246	50
TOTAL:	4043	4125	784	4827	19	2981	108	987	791	110	86	39	31	14	4009	818

The majority of complaints referred to courts, a big number of them referred to issues in the area of consumers' rights, property rights, the rights of persons deprived from their freedom and other acts and activities taken by the Ministry of Interior Affairs, the Ministry of Transport and Communications, the Ministry of Labor and Social Policy, the Ministry of

Health and second instance commissions at the Government of the Republic of Macedonia, as well as acts issued by bodies and organizations with public mandates.

Review no. 2

REVIEW OF RECEIVED, SETTLED AND PENDING COMPLAINTS PER YEARS																
	Pending from the previous year	Received in the report year	Number of complainants	TOTAL in process	Anonymous	Manner of settling						Information to Ministers	Information to the Government	Information to other bodies and organizations with public mandate	Total closed procedures	Pending cases
						With a decision for stopping or not initiating a procedure	Settled in other manners	Violations found								
								Given opinions, suggestions, recommendations	Acted upon the Ombudsman's intervention	All legal actions taken by the Ombudsman	No actions taken upon the Ombudsman's interventions					
2010	784	4043	4125	4827	19	2981	108	987	791	110	86	39	31	14	4009	818
2009	824	3632	3847	4456	18	2614	96	1102	787	157	158	55	42	38	3672	784

Review no. 3

REVIEW OF RECEIVED COMPLAINTS PER CITIES AND STATES OF FOREIGN COMPLAINANTS					
	y. 2009	y. 2010		y. 2009	y. 2010
Berovo	8	18	Negotino	18	31
Bitola	320	398	Ohrid	80	108
Bogdanci	3	7	Pehcevo	2	2
Valandovo	3	1	Prilep	96	131
Veles	53	85	Probistip	13	15
Vinica	12	20	Radovis	37	38
Debar	10	19	Resen	12	28
Delcevo	21	16	Skopje	1663	1743
Demir Hisar	22	27	Struga	67	67
Demir Kapija	8	7	Strumica	131	86
Dojran	2	1	Sveti Nikole	9	7
Gevgelija	25	43	Tetovo	224	195
Gostivar	105	83	Stip	105	133
Zletovo	1		Albania	-	1
Kavadarci	50	65	Germany	1	-
Kicevo	145	181	Italy	1	-
Kocani	27	20	Kosovo	3	-
Kratovo	17	14	Czech Republic	-	1
Kr. Palanka	39	35	Serbia	4	4
Krusevo	19	14	Croatia	2	
Kumanovo	240	245	Turkey	-	1
M.Kamenica	9	9	Switzerland	-	1
Mak.Brod	23	27	No city or state indicated	-	116
Mavrovo	2				
TOTAL				3076	4043

According to the place of residence of the complainants, the majority of complaints are from Skopje, meaning 1.743, followed by complaints from: Bitola, Kumanovo, Tetovo, Kicevo, Strumica and other major urban areas. It can be seen that the majority of complaints come from cities in which there is a regional office of the Ombudsman.

Review no. 4

REVIEW OF COMPLAINANTS PER ETHICITY PER AREAS																
	AREA	Received complaints in 2010	Anonymous	Number of cases on own initiative	Organization (association)	Number of complainants	ETHICITY									
							Macedonian	Albanian	Serb	Roma	Macedonian-Muslim	Bosniak	Vlach	Turk	Ethnicity not declared	Other
1	Non-discrimination and adequate and equitable representation	16		1		15		2		2		2			8	1
2	Police procedures	238	1	1	2	239	87	38	1	9	2	1		2	98	1
3	Civil states and other interior issues	169		1		171	23	68	3	9		2	1	2	62	1
4	Judiciary	757	1		9	762	317	69	4	5	4	3	2	21	335	2
5	Military persons and military conscripts	3				3									3	
6	Social security and protection	140			2	139	51	23	1	11	1			6	45	1
7	Working relations	365	1		12	368	139	32	5	3				3	185	1
8	Accommodating relations	89	1	2	1	87	30	5		2				1	49	
9	Health protection	93			4	90	49	6	1	1				2	30	1
10	Pension and disability insurance	159	2		1	157	53	23	1	2	1				76	1
11	Education, science, culture and sport	48		1	3	46	14	11						1	20	
12	Children's rights	111		5	6	103	17	17		3	1		1	1	63	
13	Urban planning and construction	170			4	174	90	17	1	3				1	62	
14	Environment	20		1		24	13								11	
15	Finances	71			1	71	36	10							23	2
17	Property-legal relations	401				417	189	29			2	1	3	6	184	3
18	Consumers' rights	553	2		12	542	223	34	1	9	2	2	2	3	264	2
19	Penitentiary-correctional and educational-correctional institutions	395	5	20	10	362	38	26		6				1	291	
20	Other	245	6		12	225	81	18	1		1	1	1	1	121	
	TOTAL:	4043	19	32	79	3995	1450	428	19	65	14	12	10	51	1930	16

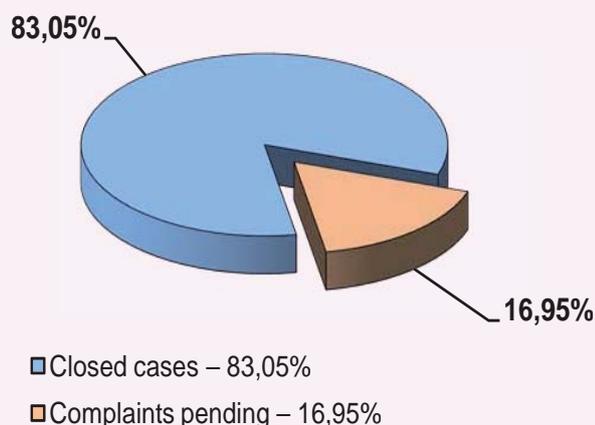
The majority of complainants who declared their ethnicity are Macedonians, i.e. 1450 or 36,30%; 428 or 10,71% are members of the Albanian community; the smallest number of complaints, meaning 10 or 0,25% were submitted by Vlachs, while 1930 or 48,51% of complainants did not declare their ethnicity. It can be concluded that the number of complainants who do not declare their ethnicity is still large.

80,42%
investigations
conducted by the
Ombudsman

PROCEEDING

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.

Picture no. 1



Out of 4.827 complaints, the procedure was completed for 4.009 or 83,05% of them, while 818 or 16,95% of the total number of complaints are still in progress. (Picture no.1)

Out of the total number of completed proceedings – 4.009, the procedure was stopped for 2.055 or 51,26%, in 926 or 23,10% no proceeding was initiated, for 791 or 19,73% of complaints actions were taken after the Ombudsman had confirmed violation of constitutional and legal rights of the citizens. In 110 or 2,74% of complaints the Ombudsman undertook all legal activities, 108 or 2,69% of complaints were settled in other manners and 19 or 0,47% were closed

without taking actions because the complaints were submitted by anonymous complainants. (Picture no.2)

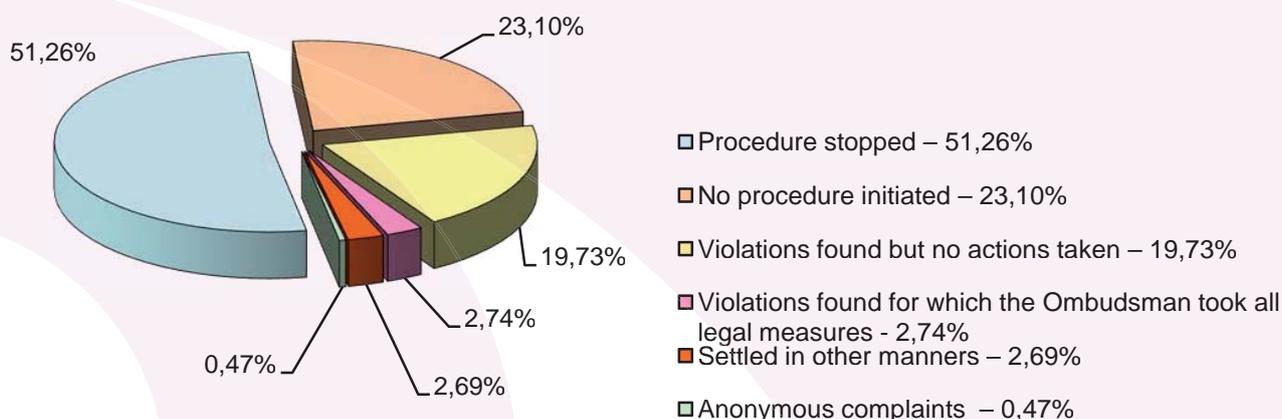
In 987 of complaints in which the Ombudsman ascertained violations of constitutional and legal freedoms and rights, actions were taken upon the Ombudsman's intervention for 791 or 80,14% of cases, in 86 or 8,71% no actions have been taken yet upon the Ombudsman's intervention, and in 110 or 11,14% of the complaints the Ombudsman undertook all legal activities. Besides all activities taken, a significant number of those 110 interventions by the Ombudsman were not accepted, which at the same time means an increase of the number of interventions which were not accepted by bodies before which the Ombudsman reacts.

In 2010 the Ombudsman acted upon 3.882 or 80,42% of complaints out of 4.827, and for 945 or 19,582% 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. (Picture no.3). Out of 3.882 complaints upon which the Ombudsman initiated a proceeding, 2.981 or 76,79% are completed, and for 818 or 21,07% of the cases the procedure is in progress.

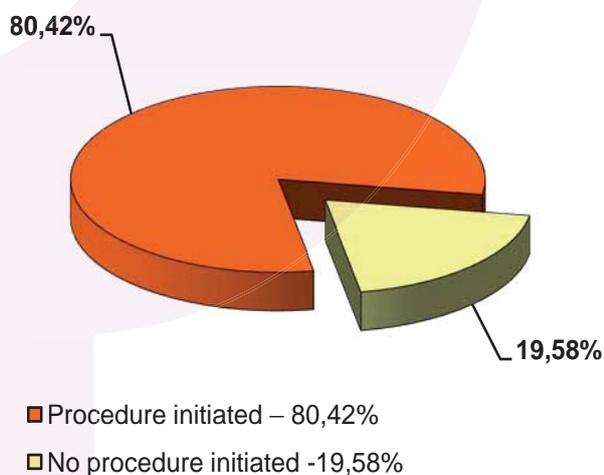
This is due to the complexity of the problem and the need for a more detailed research for confirming the factual situation, as well as to the untimely proceedings by certain bod-

ies and institutions from which the Ombudsman either requested information or addressed another intervention for a corresponding proceeding.

Picture no. 2



Picture no. 3



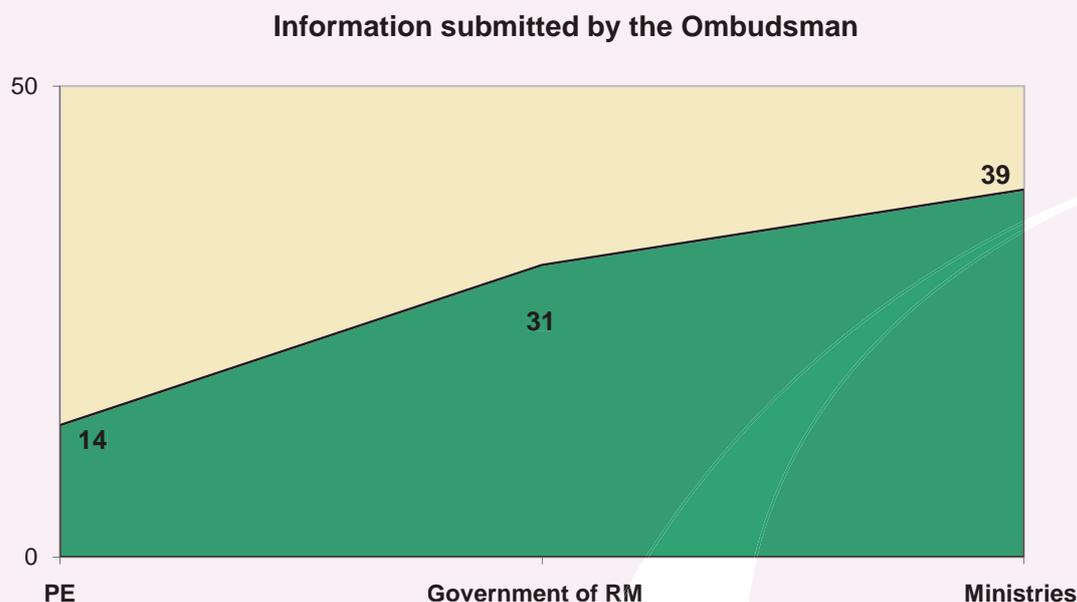
Late proceeding by the competent bodies, besides the proclaimed obligatory deadlines is still a case. However, in certain procedures the delay was due to absence of formal replies by the bodies, which hindered the complete establishment of the factual situation.

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, 14 pieces of information were submitted to bodies and or-

ganizations with public mandates, 13 of which were accepted, 39 pieces of information were addressed to the Ministries, 17 of which were accepted, and 31 were submitted to the Government of the Republic of Macedonia – upon 17 of which actions were taken. (Graph no.5)

Practice of submitting information to the General Secretariat at the Government of the Republic of Macedonia continued this year as well, on the number and type of submitted requests by the Ombudsman to the bodies within the Ministries. This contributed to hastening certain procedures at the Ombudsman; however the level of cooperation needs further improvement.

Graph no. 5



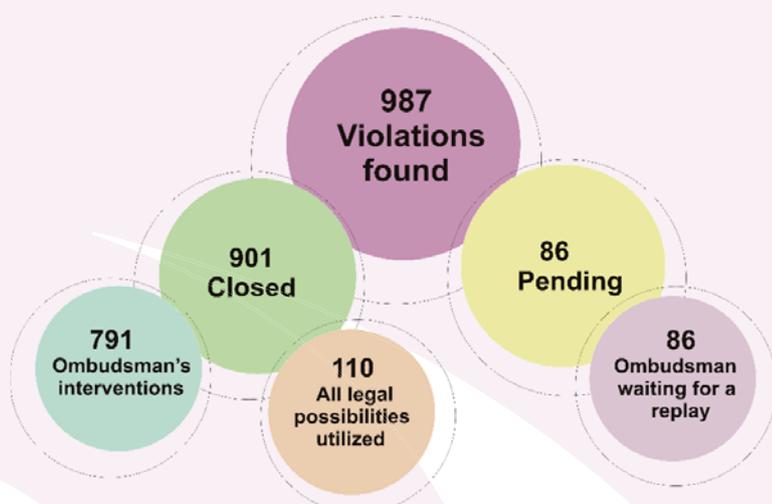
20,45%
Violations found

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 2010, in 987 of the cases violation of citizens' constitutional and legal rights was found. In 791 cases (80,14%) the public administration bodies, other bodies and organizations with public mandates acted upon the Ombudsman's interventions, for 86 cases (8,71%) the procedure is in progress, and in 110 (11,14%) the Ombudsman undertook all legal activities.

The majority of violations found in 2010 referred to the area of legal-property relations, 189 or 19,15%, in 130 or 68,78% of which the bodies and institutions with public mandates acted upon the Ombudsman's interventions. They are followed by complaints in the area of consumers' rights, where violations were found in 123 cases or 12,46% and for 109 or 88,62% of which the Ombudsman's reactions were accepted. In the area of judiciary, violations were found in 99 or 10,03% of complaints; in 91 or 91,92% of cases the interventions were accepted. In the area of civil states and other interior issues violations



were found in 77 or 7,80% of cases and in 55 or 71,42% of them actions were taken upon the Ombudsman's interventions, etc.

Graph no. 6





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

Picture nr. 4 Bodies which, in the largest number of cases have not acted upon the Ombudsman's interventions yet

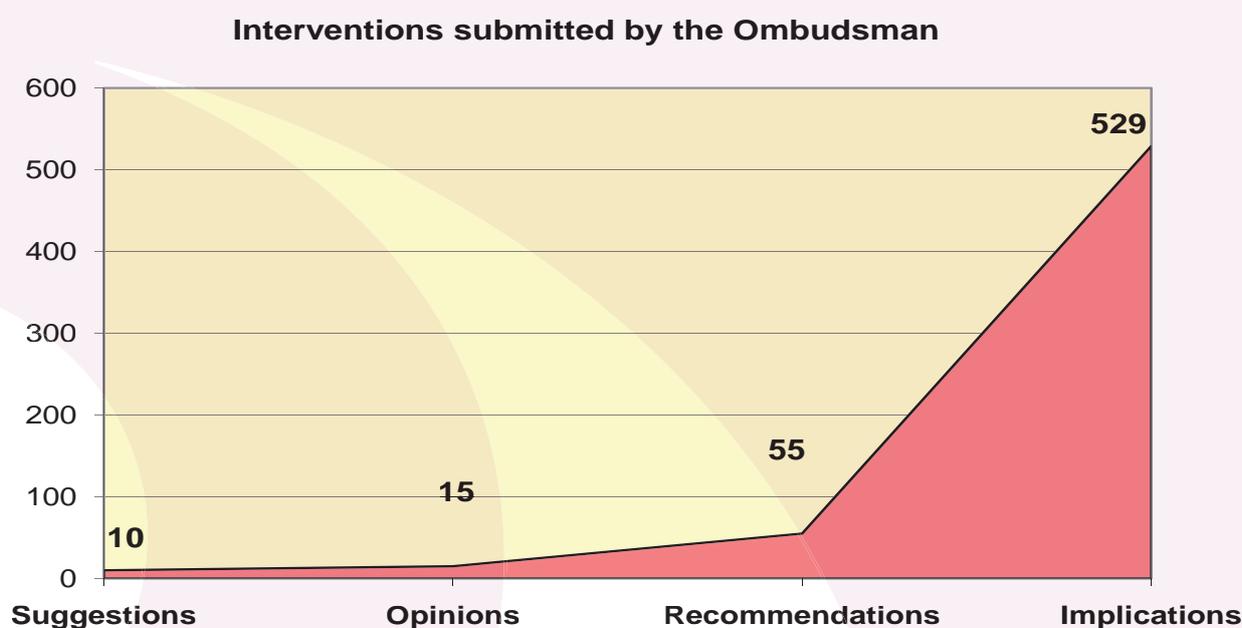


Like every other year, the violations found referred to violations of legal and procedural provisions, meaning delay of procedures in which the citizens exercise their rights. Almost 90% of cases of the total number of violations found referred to delay of administrative procedures. In other words, in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

In order to eliminate the violations found, the Ombudsman addressed 3.609 interventions to the competent bodies; more precisely: 55 recommendations, 161 implications, 15

opinions and 10 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. (Graph no.7)

Graph no. 7



**Over 6.500
citizens received
for discussions**

FROM THE WORK OF THE OMBUDSMAN'S OFFICES

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

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 over 6000 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 2010 the majority of complaints were received at the office in Skopje, 2632. The Ombudsman's office in Bitola received 476 complaints, in Tetovo 185, in Kumanovo 220, in Kicevo 291, 117 in Strumica and 122 complaints were received at the office in Stip.

At the Ombudsman's office in Skopje activities were taken upon 2.359 complaints, in Bitola upon 627 complaints, in Tetovo 229, in Kumanovo 247, in Kicevo 198, in Stip 146 and in Strumica activities were taken upon 151 complaints.

The number of received complaints and the number of complaints activities were taken upon at the Regional Offices differ due to distribution of complaints in accordance with the location of the body the complaint referred to. The reason for this is to hasten the procedure and make the activities more efficient.

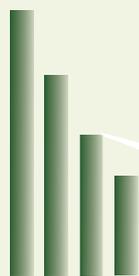
REVIEW OF RECEIVED AND PENDING COMPLAINTS AT THE OMBUDSMAN OFFICES

AREAS	Skopje		Bitola		Kicevo		Strumica		Tetovo		Stip		Kumanovo	
	Proceeded complaints	Received complaints												
Non-discrimination and adequate and equitable representation	12	13	1	1	1	1			1				1	2
Police procedures	112	110	41	34	33	47	8	6	15	13	10	8	21	18
Civil states	88	85	22	21	11	10	2	1	10	11	1	2	38	36
Judiciary	430	345	146	101	90	95	44	31	61	43	40	29	31	28
Military persons and military conscripts	2	2	1	1										
Social protection	70	65	42	38	5	7	4	2	6	6	2	3	16	14
Working relations	237	209	70	59	20	18	11	10	26	23	16	10	13	8
Accommodating relations	65	67	14	11	1	3	4	3	2	2	1	5		
Health protection	56	55	21	16	2	2	4	6	1	1	2	2	8	10
Pension and disability insurance	98	101	18	16	3	9	3	5	12	14	4	2	18	15
Education, science, culture and sport	33	33	5	4	1	2			6	5			3	4
Children's rights	85	101	1	1	1	4	1	5	3	5	2	5	2	6
Urban planning and construction	92	69	26	19	34	29	9	7	9	5	8	7	15	11
Environment	8	10	5	4	3	7			1				1	1
Finances	39	35	17	15	3	3	1	2	3	2	1	1	11	9
Property-legal relations	244	215	57	51	34	22	26	22	29	24	14	19	26	19
Consumers' rights	459	401	59	29	25	15	18	5	19	15	5	8	26	22
Penitentiary-correctional and educational-correctional institutions	332	324	27	20	10	11	4	4	5	6	24	18	1	4
Other	170	119	54	35	11	6	12	8	20	10	13	3	16	13
TOTAL:	2632	2359	627	476	287	291	151	117	229	185	143	122	247	220

4

PROTECTION OF RIGHTS IN AREAS





NON-DISCRIMINATION AND ADEQUATE AND EQUITABLE REPRESENTATION

Protection of citizens' rights regarding violation of the principle of non-discrimination and adequate and equitable representation of communities' members is one of the areas the Ombudsman pays special attention to.

Following the constitutional changes in 2001 and passing of the Law on the Ombudsman, among other issues, it is stated that the institution takes activities towards protection from discrimination and monitors the conditions in respecting the application of the adequate and equitable representation of communities' members principle in state bodies, bodies of the local self government units as well as in public institutions and services.

Guided by these constitutionally determined authorizations, this year the Ombudsman monitored the conditions of adequate and equitable representation of all communities as well, and prepared special information containing graphic representation of data gathered from bodies it competently acts towards. This year data was gathered on managing posts regarding the application of this principle too, a competence which provides a **double role** of the Ombudsman in the society. One of them which, considered from a formal-legal aspect represents an image of quantitative implementation of this aspect, and the other one, more immanent to the human dimension of the institution, to monitor the balance of realization of the rights of the communities and their sense of belonging to the system institutions.

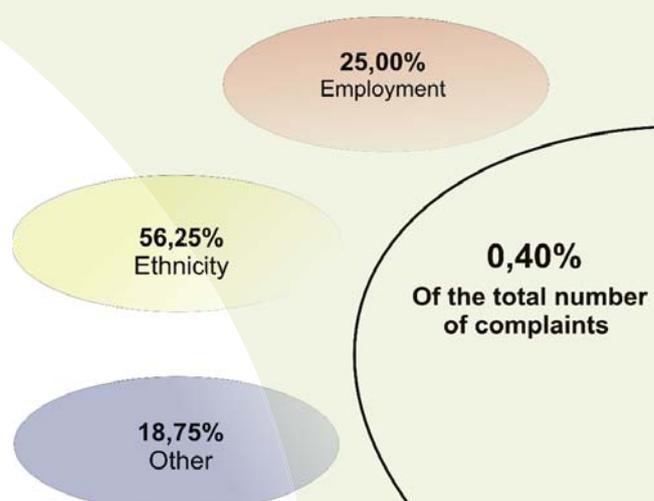
Monitoring the level of representation through numbers is only a basis on which general conclusions on the conditions in this area are drawn.

Gathered data from the bodies the Ombudsman competently acts towards once again this year indicated that the level of representation was not achieved by the majority of institutions, although it can generally be said that progress can be seen.

This is a feature of bodies of state administration, however it does not refer to the managing personnel, since data reveals that there is representation of the major community.

Public enterprises this year again demonstrated a **low level of implementation** of the adequate and equitable representation principle, which especially refers to employees who are part of the non-managing personnel at the enterprises. Taking into consideration that these conditions have been present for years, the Ombudsman finds that measures and activities are needed which would affirm this principle to a greater extent, the implementation of which is of great importance for a multi-ethnic and multi-cultural society like ours.

Concerning the level of disrespect of the adequate and equitable representation principle, information was requested from the Secretariat for Implementation of the Framework



Agreement which informed on the realized activities in terms of implementation of the Equitable Representation Strategy and the Action Plan for conducting the Equitable Representation Strategy, as well as the reports on the level of realization of this principle.

Hence, the Secretariat for Implementation of the Framework Agreement informed on realized job advertisements for members of communities in the previous year as well, the current job advertisements and indicated the activities planned for 2011.



The application of adequate and equitable representation principle may have an effect only in case it encompasses all communities, meaning if a balance is achieved in terms of interest of all ethnic communities. This contributes to building multi-ethnic trust and tolerance among different communities, which represents a basis for coexistence in our society.

Discrimination, as an area which is inevitably connected with representation,

once again this year was an area in which the number of complaints by citizens was small. Certainly, the Ombudsman finds that the small number of complaints does not reflect the factual situation. On the contrary, it is due to insufficient information and inability to recognize forms of discrimination as well as disbelief citizens have towards system institutions, and in the majority of cases it is about lack of courage to report discrimination as grounds for violation of their rights.

This conclusion is based on the fact that citizens, quite frequently during a procedure, decide to lead the case as violation of a right in a certain area, and not as violation of rights on the grounds of discrimination.

Citizens indicate discrimination in the following areas: working relations, judiciary, health, education and public administration, and victims of discrimination in our society are most often the **vulnerable groups**.

The Ombudsman this year as well, found that during employment procedures citizens most frequently indicate discrimination, and there were also cases on violation of the adequate and equitable representation principle, as an affirmative measure in the state. Another worrying fact is that discrimination is practiced on the basis of: gender, national, religious and political orientation, which unfortunately is the cruelest one.

Acting upon these complaints, the Ombudsman emphasized the prohibition of all forms of discrimination, including discrimination on ethnic basis, of course with a special accent on the fact that the employment procedure must not be burdened with the political or other orientation of the candidate.

A typical case in which direct discrimination was found was the case of the event supported by the City of Skopje, and on its posters there was language of hatred and discrimination of certain target groups. The Ombudsman pointed to the discriminatory contents of the advertising poster, especially because it was estimated as hatred speech. The Ombudsman's reaction was accepted, the City of Skopje declined from such behavior, condemned the activities by the organizer and the disputable content was publicly withdrawn.



When it comes to the long expected legal frame on this phenomenon, finally a Law on Prevention and Protection from Discrimination was adopted; however, according to the Ombudsman, it must undergo amendments soon if we really want this Law to provide effect in discrimination protection.

The only problem is not only that this Law does not contain all forms of discrimination, which disables protection of particular vulnerable groups in the society, but it also contains many inconsistencies which may lead to an inefficient protection system in general.

Elevating citizens' awareness is needed, which takes necessary global activities on this plan not only in the aspect of their comprehension of the manners of discrimination protection, but also breaking all existing prejudices which may lead to a conflict, instead of respecting and understanding the differences and tolerance as the basis for coexistence.

The necessary level of representation has not been reached yet, especially for members of minor ethnic communities, although there is a progress in the implementation of the adequate and equitable representation principle. On the other hand, this principle is not implemented adequately in terms of managing posts.

The existing implementation system for the adequate and equitable representation does not provide an essential effect in the implementation of this affirmative principle.

The necessary level of citizens' knowledge of discrimination in all its forms lacks, as well as of those who implement laws and decide upon citizens' rights.

Adequate respect and implementation of the adequate and equitable representation principle of members of all communities, especially by public enterprises and in terms of managing personnel in the state administration bodies.

Upgrading the implementation system regarding adequate and equitable representation principle.

Developing activities directed towards education for recognizing forms and shapes discrimination is manifested through.

Strengthening discrimination prevention and protection system, as well as inter-institutional collaboration.

		Total	ADEQUATE AND EQUITABLE REPRESENTATION															
			Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other	
			Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Cabinet of the President of RM - Expert Service	managerial posts	10	8	80,0	2	20,0												
	other employments	19	17	89,5	1	5,3					1	5,3						
Parliament of RM - Expert Service	managerial posts	57	44	77,2	13	22,8												
	other employments	215	162	75,3	41	19,1	3	1,4	1	0,5	5	2,3			2	0,9	1	0,5
Ombudsman of RM	managerial posts	43	30	69,8	11	25,6				1	2,3			1	2,3			
	other employments	24	4	16,7	14	58,3	1	4,2	1	4,2	2	8,3	1	4,2	1	4,2		
State Commission for Prevention from Corruption	managerial posts	5	5	100,0														
	other employments	12	6	50,0	5	41,7			0,0								1	8,3
Constitutional Court of the RM	managerial posts	10	7	70,0	2	20,0	1	10,0										
	other employments	19	17	89,5	1	5,3			0,0			1	5,3					
Judicial Council of the RM	managerial posts	28	21	75,0	4	14,3	1	3,6							1	3,6	1	3,6
	other employments	19	16	84,2	1	5,3	1	5,3				1	5,3					
Administrative Court of the RM	managerial posts	25	17	68,0	7	28,0	1	4,0										
	other employments	44	42	95,5	2	4,5												
Supreme Court of the RM	managerial posts	35	27	77,1	6	17,1						1	2,9				1	2,9
	other employments	57	50	87,7	1	1,8	1	1,8	1	1,8	2	3,5	2	3,5				
Public Prosecution of the RM	managerial posts	14	9	64,3	3	21,4						1	7,1	1	7,1			
	other employments	13	12	92,3	1	7,7												
Public Attorney of the RM	managerial posts	34	33	97,1			1	2,9										
	other employments	68	62	91,2	3	4,4	1	1,5			2	2,9						
Public Prosecutors Council	managerial posts	10	7	70,0	2	20,0						1	10,0					
	other employments	5	5	100,0														
Ministry of Interior Affairs	managerial posts	422	365	86,5	44	10,4			2	0,5	4	0,9	1	0,2			6	1,4
	other employments	10886	8550	78,5	1841	16,9	72	0,7	72	0,7	187	1,7	11	0,1			153	1,4
Ministry of Economy	managerial posts	80	58	72,5	20	25,0	1	1,3							1	1,3		
	other employments	362	255	70,4	88	24,3	3	0,8			6	1,7	6	1,7	1	0,3	3	0,8
Ministry of Environment and Spatial Planning	managerial posts	45	38	84,4	4	8,9	1	2,2			2	4,4						
	other employments	112	63	56,3	43	38,4					2	1,8	1	0,9			3	2,7
Ministry of Health	managerial posts	68	57	83,8	9	13,2											2	2,9
	other employments	207	102	49,3	96	46,4	2	1,0	1	0,5	4	1,9	1	0,5	1	0,5		
Ministry of Agriculture, Forestry and Water Supply	managerial posts	171	157	91,8	11	6,4	1	0,6			1	0,6	1	0,6				
	other employments	787	619	78,7	125	15,9	9	1,1	1	0,1	22	2,8	5	0,6	1	0,1	5	0,6
Ministry of Informatics Society	managerial posts	7	6	85,7									1	14,3				
	other employments	19	18	94,7	1	5,3												
Ministry of Culture	managerial posts	42	33	78,6	5	11,9	2	4,8			1	2,4			1	2,4		
	other employments	93	31	33,3	57	61,3	1	1,1	2	2,2	1	1,1	1	1,1				
Ministry of Local Self Government	managerial posts	15	11	73,3	3	20,0											1	6,7
	other employments	26	10	38,5	14	53,8											2	7,7
Ministry of Foreign Affairs	managerial posts	168	142	84,5	24	14,3					1	0,6					1	0,6
	other employments	301	206	68,4	81	26,9	5	1,7	2	0,7			2	0,7	3	1,0	2	0,7
Ministry of Education and Science	managerial posts	35	26	74,3	6	17,1			1	2,9	1	2,9					1	2,9
	other employments	225	145	64,4	69	30,7	4	1,8			2	0,9	1	0,4	3	1,3	1	0,4
Ministry of Defense	managerial posts	65	58	89,2	5	7,7					1	1,5	1	1,5				
	other employments	569	465	81,7	72	12,7	6	1,1	1	0,2	12	2,1	6	1,1	3	0,5	4	0,7
Ministry of Justice	managerial posts	65	60	92,3	3	4,6					1	1,5			1	1,5		
	other employments	211	155	73,5	40	19,0	3	1,4	3	1,4	3	1,4	5	2,4	1	0,5	1	0,5
Ministry of Transport and Communications	managerial posts	52	48	92,3	3	5,8					1	1,9						
	other employments	166	117	70,5	41	24,7	4	2,4			3	1,8	1	0,6				
Ministry of Labor and Social Policy	managerial posts	53	40	75,5	7	13,2			2	3,8	2	3,8	2	3,8				
	other employments	332	224	67,5	81	24,4	1	0,3	5	1,5	7	2,1	9	2,7	4	1,2	1	0,3
Ministry of Finances	managerial posts	112	99	88,4	9	8,0							1	0,9			3	2,7
	other employments	484	427	88,2	44	9,1			1	0,2	3	0,6	1	0,2	1	0,2	7	1,4

		ADEQUATE AND EQUITABLE REPRESENTATION																
		Total	Macedonian		Albanian		Turk		Roma		Serb		Vlach		Bosniak		Other	
			Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Government of RM - General Secretariat	managerial posts	64	58	90,6	4	6,3	1	1,6			1	1,6						
	other employments	246	145	58,9	79	32,1	10	4,1	4	1,6	2	0,8	2	0,8	3	1,2	1	0,4
Government of RM - General Services Department	managerial posts	13	13	100,0														
	other employments	368	321	87,2	23	6,3	5	1,4	5	1,4	6	1,6	3	0,8	4	1,1	1	0,3
Government of RM - Legislation Secretariat	managerial posts	10	8	80,0									1	10,0			1	10,0
	other employments	14	9	64,3	5	35,7												
Government of RM - Secretariat for European Issues	managerial posts	20	18	90,0			1	5,0					1	5,0				
	other employments	64	52	81,3	3	4,7	2	3,1	1	1,6	1	1,6	3	4,7	1	1,6	1	1,6
Government of RM - Secretariat for Implementation of the Framework Agreement	managerial posts	37	2	5,4	33	89,2	1	2,7			1	2,7						
	other employments	1344	12	0,9	1176	87,5	84	6,3	30	2,2	10	0,7	7	0,5	25	1,9		
Higher Public Prosecution	managerial posts	31	23	74,2	7	22,6											1	3,2
	other employments	34	33	97,1	1	2,9												
Basic Public Prosecution	managerial posts	161	139	86,3	16	9,9	2	1,2			1	0,6	1	0,6	1	0,6	1	0,6
	other employments	142	116	81,7	15	10,6	2	1,4	1	0,7	2	1,4	5	3,5	0	0,0	1	0,7
Appellate Courts	managerial posts	113	86	76,1	21	18,6							3	2,7			3	2,7
	other employments	238	202	84,9	19	8,0	2	0,8	1	0,4	2	0,8	8	3,4	2	0,8	2	0,8
Basic Courts	managerial posts	548	462	84,3	60	10,9	3	0,55			8	1,46	8	1,5	3	0,5	4	0,7
	other employments	1890	1605	84,9	175	9,3	25	1,3	24	1,3	17	0,9	30	1,6	4	0,2	10	0,5
Funds	managerial posts	108	83	76,9	24	22,2					1	0,9						
	other employments	1477	1238	83,8	191	12,9	5	0,3	4	0,3	16	1,1	17	1,2	1	0,1	5	0,3
Social Work Centers	managerial posts	79	57	72,2	18	22,8	2	2,5	1	1,3							1	1,3
	other employments	915	730	79,8	117	12,8	9	1,0	17	1,9	14	1,5	14	1,5	3	0,3	11	1,2
Local Self Government Units	managerial posts	547	436	79,7	81	14,8	8	1,5			4	0,7	4	0,7	5	0,9	9	1,6
	other employments	3484	2793	80,2	491	14,1	69	2,0	26	0,7	56	1,6	26	0,7	4	0,1	19	0,5
Penitentiary-correc-tional and Educational - correctional Institutions	managerial posts	52	43	82,7	9	17,3												
	other employments	705	608	86,2	81	11,5			2	0,3	3	0,4	10	1,4			1	0,1
Independent state bodies	managerial posts	1014	890	87,8	86	8,5	4	0,4	2	0,2	12	1,2	10	1,0	4	0,4	6	0,6
	other employments	7238	6090	84,1	801	11,1	67	0,9	53	0,7	112	1,5	64	0,9	15	0,2	36	0,5
Public Enterprises	managerial posts	426	360	84,5	42	9,9	1	0,2			13	3,1	1	0,2	2	0,5	7	1,6
	other employments	6464	5482	84,8	522	8,1	97	1,5	62	1,0	172	2,7	53	0,8	22	0,3	54	0,8
Public health	managerial posts	1994	1657	83,1	210	10,5	24	1,2	1	0,1	47	2,4	19	1,0	14	0,7	22	1,1
	other employments	12445	10365	83,3	1304	10,5	158	1,3	139	1,1	235	1,9	85	0,7	41	0,3	118	0,9
Elementary education	managerial posts	400	240	60,0	113	28,3	20	5,0	1	0,3	19	4,8	4	1,0	1	0,3	2	0,5
	other employments	14700	9903	67,4	3804	25,9	535	3,6	83	0,6	149	1,0	62	0,4	60	0,4	104	0,7
High education	managerial posts	156	118	75,6	30	19,2	1	0,6			4	2,6	2	1,3			1	0,6
	other employments	5885	4460	75,8	1181	20,1	64	1,1	15	0,3	82	1,4	41	0,7	10	0,2	32	0,5
University education	managerial posts	289	239	82,7	35	12,1	2	0,7			5	1,7	4	1,4	1	0,3	3	1,0
	other employments	1894	1479	78,1	223	11,8	10	0,5	5	0,3	36	1,9	20	1,1	4	0,2	117	6,2
TOTAL		82555	63761	77,3	13966	16,9	1340	1,6	574	0,7	1315	1,6	570	0,7	256	0,3	773	0,9

раќ. работни места	7733	6338	82,3	992	12,5	79	1,0	11	0,1	134	1,7	67	0,9	36	0,5	76	1,0
други вработени	74822	57423	76,7	12974	17,3	1261	1,7	563	0,8	1181	1,6	503	0,7	220	0,3	697	0,9
TOTAL	82555	63761	77,2	13966	16,9	1340	1,6	574	0,7	1315	1,6	570	0,7	256	0,3	773	0,9

Note: The Ombudsman requested information from 886 institutions. 719 of which responded and 167 did not submit any information. The number of institutions not responding is still large.

In 567 institutions, out of 719 which submitted information, there is not any Bosniak employed, in 506 there is not any Roma employed, in 497 no Vlach, in 457 no Turk, in 418 no Serb, in 335 no Albanian and in 20 of them there is not any Macedonian employed.

The Secretariat for Implementation of the Framework Agreement submitted summarized data without the number of employed persons through realized job advertisements by the Secretariat.



POLICE PROCEEDING

Taking into consideration that the Police is the only state body which have a legal right to use physical force and enforcement means, the need implies for a special monitoring of the conditions regarding legality in realization of their authorizations, necessity to use it in a given moment, as well as proportionality depending on the circumstances.

Having in mind the delicacy in investigating cases in which citizens complain on excessive use of force by the Police or inadequate behavior and actions, the effectiveness in investigating and a complete ascertaining of the realistic conditions represents a necessity before taking certain activities and measures by the enforcement body.

Working on cases this year mainly dealt with **not-taking measures** by police officers for protection of life and property of citizens, delay of police activities, excessive use of force or enforcement means, as well as other illegal activities such as: delay of procedures upon submitted reports, temporary confiscation of objects or not-issuing certificates for confiscated objects, ungrounded invitations for discussions at a police station etc.

In cases where violation of citizens' rights was found as a result of **unprofessional behavior and abuse of authorizations** by police officers, the Ombudsman through recommendations, indications and other manners of intervening requested elimination of irregularities and realization of legal rights for the complainants.

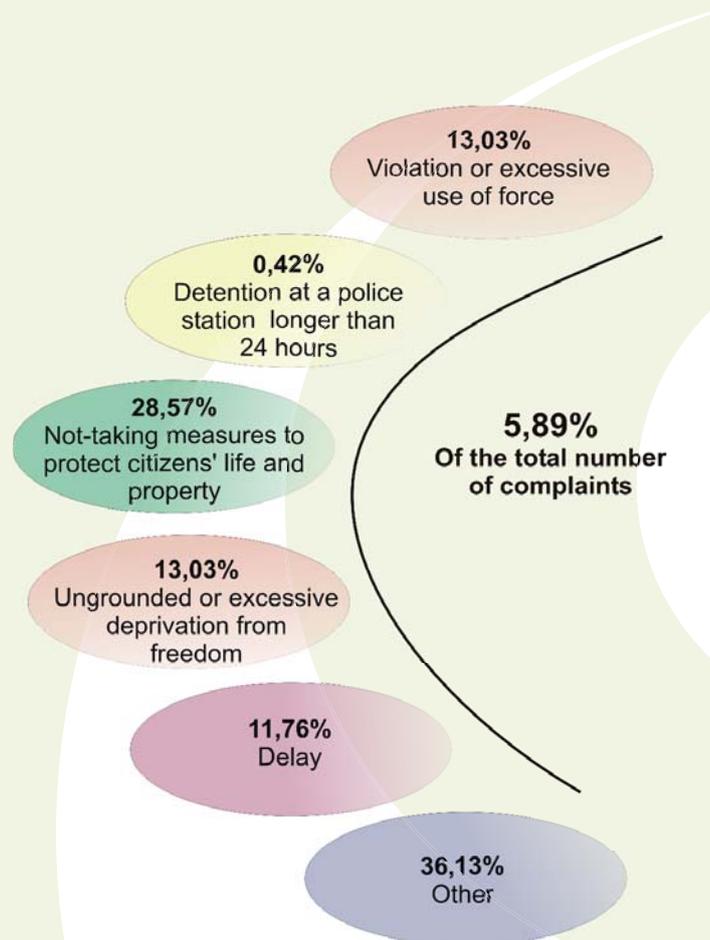
It is the Ombudsman's finding that the Sector for Internal Control and Professional Standards consistently in it replies negates the citizens' testimonies for over passing authorizations by certain police officers and their unprofessional or inadequate conduct.

The contents of replies received by the Sector, according to the Ombudsman, lead to a conclusion that this internal controlling mechanism continues its practice of not fulfilling the aim, meaning it does not conduct thorough and analytical investigations for certain cases.

In that direction were the Ombudsman's implications it continuously submitted to the Sector for Internal Control and Professional Standards.

The Ombudsman, on his own initiative, conducted a procedure for investigating violation of freedom of the "A1" Television, with a special emphasis on the freedom of public informing, freedom of movement of journalists and citizens, as well as for the suspicion that Police members overused force and enforcement means.

The Ombudsman found that activities taken by bodies did not prevent freedom of public informing, that there were non professional and not coordinated activities in terms of coordination between orders issued and activities taken, meaning explanation of reasons for detaining and identifying was



performed in an insufficiently transparent, clear and unequivocal manner and did not find use of physical force or enforcement means.

However, taking into consideration the limits of the right to freedom of public informing and the **importance of professional journalism**, in terms of development of democracy in our society, the Ombudsman believes that a greater level of sensibility regarding the approach towards the event in general was needed. This **drawback** unfortunately created a perception for a division which is of great concern for the Ombudsman. In our society there is a need for restraining from activities which lead to further divisions, thus tolerance and rule of law are of utmost importance.

Absence of punishing and solidarity with police officers by covering committed omissions by officials remains the basic reason for non objective, non professional and non quality execution of investigations for over passing official authorizations.

This tendency of acting was not only found in the course of work of Internal Control and Professional Standards Sector, but unfortunately, in the work of enforcement bodies, courts and public prosecutions, where it was noted that procedures against police officers, as a rule, are endlessly delayed, while priority is given in taking actions upon reports accusing citizens of attacking officials.

Regarding the constitutional principle of **presumption of innocence** this year as well, there were tendencies for its breaking by public exposure of suspected persons and extreme publicity, especially when it was about public officers and other persons who were known to the public and the society. Public exposure, which results in marking both the suspects and their families with long-term consequences, according to the Ombudsman represents a situation which besides **harming the person**, harms the overall democratic atmosphere in the society and creates distrust by the citizens in the legal system and the system of values in general. This especially refers to cases in which, by certain institutions, findings were presented which directly influenced the citizens' perception that the suspects were guilty without the existence a judicial verdict saying they were guilty.

Acting ex officio, as a result of the competences stipulated in article 31 of the Law on the Ombudsman, for monitoring the conditions in terms of respect and protection of constitutional and legal rights of persons deprived from their freedom, the Ombudsman during the year visited and conducted insights in all 38 police stations with general competence.

On the basis of a previously prepared methodology, the insights encompassed police records and rooms for detaining persons whose freedom of movements was restricted under suspicion of having committed a punitive action.



for human stay of persons deprived from their freedom, is worrying.

At the same time, the Ombudsman believes that continuous education should maintain an inevitable part of the police officers' development processes, especially in the part concerning human



The weak points of material nature found, as well as the irregularities found in keeping police records, were included in special **information** prepared by the Ombudsman and submitted to the Government of the Republic of Macedonia, along with precise recommendation for overcoming them.

It was noted that there is a certain progress in material conditions of the rooms persons deprived from their freedom stay at, and the manner of keeping police records is neater, which is an indicator of providing realization of legal rights for the persons deprived from their freedom during detention procedures, the detention itself and their overall stay at detention places. However, on the other hand the fact that there are still police stations in which detention rooms are **below standards**

rights, taking into consideration that citizens still demonstrate distrust and fear when it is about the legal possibility for police officers to use force and enforcement means.

Incomplete research of cases of abuse or surpassing police authorizations by the Sector for Interior Control and Professional Standards.

This year as well, the presumption of innocence principle was fringed by many subjects in various manners.

Although measures were taken in direction of improving the conditions in detention rooms at police stations, there are still detention rooms below standards.

Internal controls at the Ministry of Interior should be conducted promptly and thoroughly in order to be of higher quality and more objective so that no space is left for suspicions that actions taken were biased.

We advocate for restraining from any comments and opinions on guilt and responsibility by all subjects in the society until a final judicial decision is reached, confirming responsibility for a punitive action.

Activities for creation of higher standards in all police stations with general competence should continue.



CIVIL STATES AND OTHER INTERIOR AFFAIRS

Protection of citizens' rights in the area of civil states and other interior affairs are of special importance for the personal and social status of each citizen of the state, as well as for the status of persons requesting from the state to recognize some of the constitutionally guaranteed rights and freedoms, foreseen by international legal instruments and mechanisms.

This report year as well, complaints addressed to the Ombudsman in this area indicate **delay of procedures** for realization of rights related to citizenship status,

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 at other bodies with public mandates.

Compared with previous years, although the number of cases for gaining citizenship of the Republic of Macedonia is decreased, delay of these procedures results from **insufficient**



coordination of bodies at the Ministry of Interior Affairs (Citizenship Department, Foreigners Department, and Security Department) in the procedure for accepting applicants to requested citizenship.

The Ombudsman permanently contacted the Administrative-Monitoring Issues and Citizenship Department for certain cases, regardless of the type and level of progress of the procedure, both before a first or second instance body.

The Ombudsman submitted opinions and implications in writing on certain cases for applicants who fulfilled the prerequisites according to the Law on Citizenship of the Republic of Macedonia and the European Convention on Citizenship, as an integral part of local legislation.

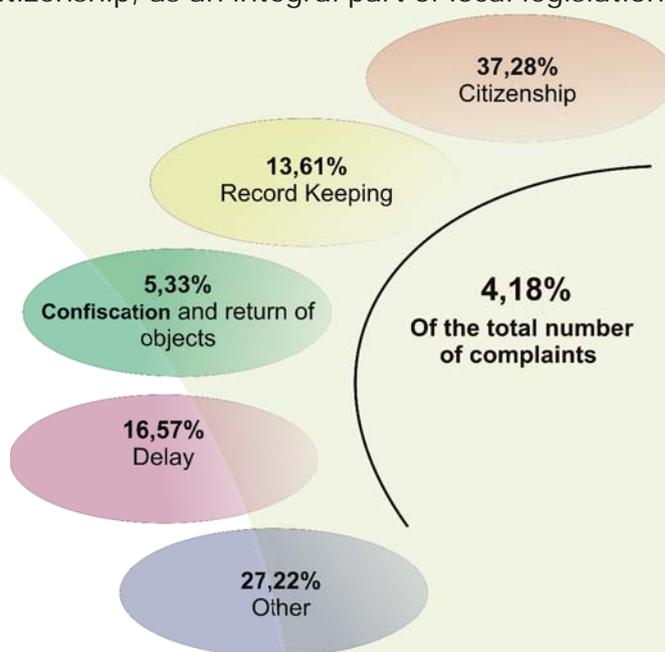
The Ombudsman continuously implied to the necessity of applying the administrative procedure principles for service orientation of the bodies and **assistance to the ignorant persons**, taking into consideration that the citizenship acquiring procedure is a special administrative procedure during which, the timeframes proclaimed by the Law on General Administrative Procedure are not applied and more frequent contacts with the applicants are needed in order to enclose valid evidence.

In order to improve the conditions with regulating the citizenship status for persons born in the Republic of Macedonia and the so called "foreigners on the spot", the Ombudsman repeats 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 SFRYugoslavia, and are practically persons with not defined or without any citizenship status. 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 procedure for acquiring citizenship status has an increased number of positive cases, meaning the number of complaints on acquiring citizenship of the Republic of Macedonia is decreasing.

On the other hand, the number of complaints on issuing the so called **biometric documents** (passports, ID cards, driving licenses) by the interior issues body is increased. The finding by the Ombudsman from the previous report that at the Ministry of Interior Affairs there is delay of issuing of these documents for various reasons, the negative consequences of which are borne by the citizens, was confirmed this year again. Citizens' reaction that late service while having their personal documents replaced limits the everyday realization of their freedoms and rights guaranteed by the Constitution and laws is justified. The research by the Ombudsman concerning **freedom of movement and choosing a place to live** indicated that the Law on Registering Place of Stay and Residence contains provisions opposite to the Constitution of the Republic of Macedonia, as a result of which the Ombudsman believes that the abovementioned law should undergo amendments in terms of elimination of the existing limiting nature of these provisions.

Unlike the good cooperation with the body competent for citizenship, the Ombudsman once again **did not experience adequate 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.



Concerning this **hindering of his work**, the Ombudsman regularly submitted special reports on non-cooperation to the Minister of Interior Affairs. It is certain that in case this practice continues, the Ombudsman will be forced to utilize the possibility for initiating infringement procedures against officials at the Foreigners Department. Considering the scope and complexity of the Law on Foreigners, the Ombudsman finds that officials from this department apply the provisions of this Law **randomly and restrictively**, because of which there is a need for their additional legal training and simplification of the procedures before this body.



The Ombudsman experienced good cooperation with the newly formed body – Book-keeping Records Management (as a body within the frames of the Ministry of Justice) in realization of citizens' rights in the area of records keeping.

Unlike the previous year, the complaints by the citizens on returning of confiscated objects (registering vehicles / driving licenses) mainly resulted in initiation of a procedure because it was about rights **once recognized and then annulled** by the interior affairs body, for the annulment

of which the complainant did not provide a reason or cause. In cases like this the Ombudsman gave an opinion that the principle of legal security of citizens needs to be respected by the competent body and it should reach decisions in accordance with the rules for administrative procedure.

At the same time, it is typical for this report period that the Ombudsman acted upon requests by Ombudsmen institutions in the neighboring countries, mainly for realization of rights in the area of book keeping records for persons who were born on the territory of the Republic of Macedonia and are not able to realize their rights on their own.

Citizens still face difficulties in procedures for realization of their status rights (issuing personal documents, passports, ID cards, book-keeping records certificates, residence, stay, citizenship status); inaccuracy in procedures is worrying.

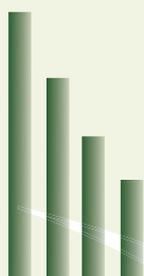
Criteria stated in the Law on Registering Residence or Stay of Citizens restricts the constitutional right of freedom of movement on the territory of the Republic of Macedonia and the freedom to choose the place of residence.

An especially worrying moment is not taking actions upon the Ombudsman's interventions by the Border Affairs and Migration Department, lack of cooperation which has been hindering the Ombudsman's work for years in protection of citizens' rights.

Hastening the activities for upgrading the infrastructure and personnel capacities in any aspect, in order to provide timely service for citizens, regarding their status rights.

Amendments of the Law on Registration of Residence and Stay are needed, in order to avoid limitations of freedom of movement and freedom to choose the place of residence.

Claiming responsibility by the Border Affairs and Migration Department on the basis of hindering the Ombudsman's work.



JUDICIARY

If we take into consideration the formal-legal position of the Ombudsman institution in the Republic of Macedonia and the legal frames of other Ombudsmen institutions in other European countries, the Ombudsman of RM has the possibility for relatively stronger interventions regarding judiciary, when it comes to delay of court procedures, as well as monitoring the work of court administration, without violating the principle of independence of judiciary.

Checking complaints allegations by citizens on delay of court procedures and control of court administration is, by the rule, done through addressing court presidents, public prosecutors, Lawyers' Chamber bodies, notaries and executors in writing, but direct communication with them is often the case, as well as with court departments or departments at other judicial institutions.

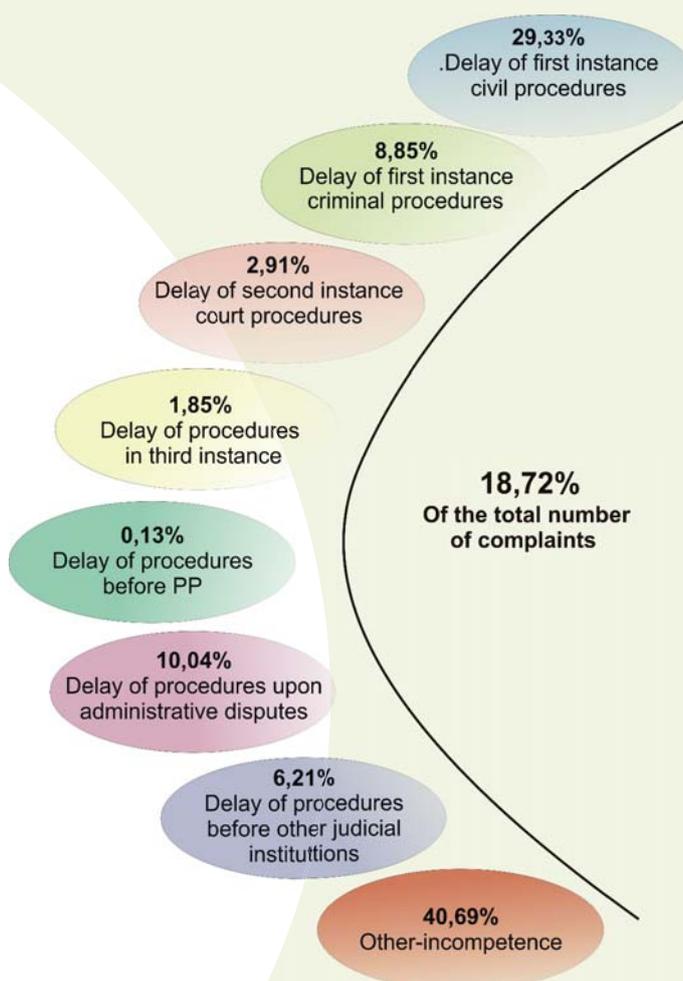
Besides the enormous number of activities and reforms directed towards the organizational position and issuing a new change and adjustment of the existing legislation in material and process-legal terms, still, concluding from citizens' complaints, it seems that in practice this system is not sufficiently consistent and fluent and does not provide **legal security** for the citizens. Thus, citizens find that it is impossible to realize justice before courts. However, the fact that every report year is marked by the largest number of complaints in the area of judiciary can not be disputed.

It is certain that realization of the **right to fair trial and trial in reasonable time limit** remains the biggest problem in realization of citizens' rights.

During this report year, like in the previous ones, this is the area in which citizens complained to the Ombudsman the most on delay of court procedures before first instance court bodies.

There was a large number of complaints on **quality of court decisions** as well, as a result of the unprofessional and unconscientious actions by decision makers, because of which the Ombudsman, having it as its competence, provided legal advice for the citizens.

There was also a large number of complaints by citizens who were not satisfied with first instance court decisions, claiming that they were brought under pressure or other forms of influence, and although without adequate evidence or convincing arguments, they re-



requested the Ombudsman to alter court decisions or taken measures for their sanctioning.

Taking into consideration the legal competences while acting upon these complaints, the Ombudsman **advised** citizens that they could realize their right to protection by initiating procedures before other state bodies and institutions.

Data indicates that the number of complaints on delay of procedures before courts in second instance is much smaller; however, in practice it was found that in one case, the appellate procedure before the Appellate court in Skopje has been in progress for more than a year (15 months), as a result of which, the Ombudsman, on the basis of violation of the **judging a in reasonable time limit principle**, submitted a recommendation requesting taking urgent measures for reaching second instance decision.

While realizing the right to judging in reasonable time limit citizens face problems in the course of the process and bringing decisions by the Administrative Court of the Republic of Macedonia. The Ombudsman is especially worried for the long duration of procedures before this court, which makes decisions without holding a public discussion and because of the fact that most frequently it deals with suits against legal acts of the executive authority, which concern the existent ional interests of the citizens.

During this report year the number of complaints submitted on delay of public prosecutor procedures was insignificant, however there was a case in which, due to unjustified absence of the public prosecutor, there was a postponement of a court debate.

Regarding violation of citizens' rights by lawyers, being performers of public service the Ombudsman is also competent to act towards, although their number is small, it was noticed that the disciplinary bodies of the Lawyers' Chamber act with slow pace upon citizens' complaints. They often do not act upon the Ombudsman's requests, which leaves space for suspicion that there is partiality towards their colleagues.

Apart from notaries and mediators, for which no complaints were received during this year by the citizens, the Ombudsman received a large number of complaints on **irregularities in the executors' work**.

In their complaints on executors, citizens mainly alleged endangering their existential rights by the executors because by orders submitted to banks by executors, citizens were placed in a **state of poverty**.

The Ombudsman registered cases in which opposite the laws, an executor, through a bank payment order requested realization of the total income on the bank account, although the debtor had income only on the basis of legal financial support, which is against the Law on Execution, which guarantees the minimum existence of the debtor.

Although the Law on Execution foresees legal protection of debtors' rights in an execution procedure, however, thanks to the correct cooperation established between the Ombudsman and the Executors' Chamber, in the majority of cases the debtors' legal rights were protected, without a formal court procedure.



Although the reform process of the judicial system in the Republic of Macedonia has been going on for many years, citizens still suffer violation of the right to trial in a reasonable time limit, meaning it is not provided at all.

A worrying fact is that procedures against police officers under suspicion to have violated human rights are delayed.

The infrastructure of the judicial system is a problem which affects the quality of work of this system.

Judicial functions bearers in future should pay greater attention to respect of the principle of judging in a reasonable time limit, in order for the citizens to be able to realize their rights.

The improvement of the material conditions in judicial bodies should be an ongoing process.

Education of judicial functions bearers and all employees in this area should be strengthened, especially in the part of human freedom and rights, as well as application of good practices by the European Court of Human Rights.



PENITENTIARY-CORRECTIONAL AND EDUCATIONAL-CORRECTIONAL INSTITUTIONS

As a result of its delicacy, the situation in the area of rights of persons deprived from their freedom was in the focus of the Ombudsman's interest this year as well.

Monitoring the conditions was performed through visits and like in the previous period, the Ombudsman found **worrying conditions** both in terms of accommodating facilities and all other aspects such as: treatment of convicted persons, health protection, the overall atmosphere and the relations among convicts, as well as the attitude of the officials towards convicts.

At the very beginning of the year, during a visit the Ombudsman found **sub-standard conditions**, under any humane dignity level, at the Semi-open wing at the Penitentiary – Correctional Center Idrizovo, as a result of which he publicly requested from the Ministry of Justice to close this ward immediately and transfer the convicts to other parts of the Prison.



The implication was accepted and realized so the abovementioned ward was renovated

in the course of the year. However, at the Idrizovo prison, especially at certain wards, the **conditions** are **still worrying**.

After many years of indicating, finally the Educational-Correctional Center Tetovo was dislocated from the Skopje Prison and transferred to Veles, in the facilities of the former prison, but according to the Ombudsman, **the effect of the dislocation has not been achieved**, taking into consideration the accommodating facilities.

The Ombudsman's findings in terms of accommodating capacities and special conditions indicate that penitentiary-correctional and educational-correctional institutions do not function in concordance with the standards stipulated in domestic and international norms.

This is particularly the case at the Penitentiary-Correctional Center Idrizovo which experiences **overcrowdness** which, like the previous years, remains the most significant problem, and the evaluation of **hygiene and nutrition** is negative as well. Any recreational activities for the convicted persons still lack, as well as any other activities which would contribute to strengthening of their physical and mental health, which indicates that the resocialization process is completely absent, which means there are no prerequisites for achieving the **punishment effects**.

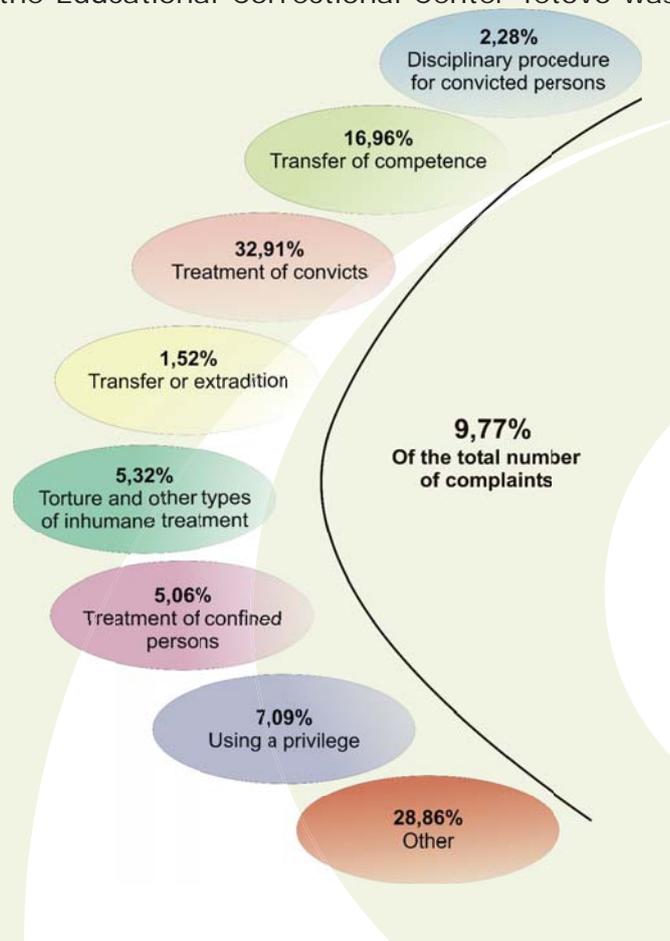
The personnel at the penitentiary-correctional institutions, as well as their professional profile are still subject to objections because there is lack of an organizational form of professional development and training for the employees. This is one of the reasons for the inadequate treatment of the convicted persons, which creates the basis for cases of inhumane and generally inappropriate treatment of convicted persons, which is supported by the cases of torture in prisons which still occur. At the same time, it should be mentioned that the controlling mechanisms, meaning prison inspection, do not indicate positive results in their work.

Security aspect was also an issue during this report year because there were cases of fights among convicted persons, as well as suicide cases and escapes of convicted persons from the penitentiary-correctional institutions. This once again speaks for the finding that the management and organization of certain departments in the Prison is poor and it influences the overall conditions, especially in terms of respecting the rights of the convicted persons. These conditions normally influenced the number of complaints in this area, which was increased, and the majority of them referred to the right to health protection.

The complaints by the convicted persons were a result of the fact that they were deprived from the right to **adequate health protection** in cases in which due to health problems, convicted persons were not allowed to get medical treatment in adequate medical institutions outside the Prison. Regarding these conditions, the Ombudsman on several occasions indicated the responsibility for unobstructed realization of the right to health protection for the convicted persons to the institutions.

A typical example reflecting lack of coordination to the detriment of the convicted persons is the case with the Prison Skopje and the Basic Court in Kicevo.

Namely, there was a complaint in which it was found that the Basic Court issued an



order for imprisoning on the basis of a previous decision for the imprisoned person to his home address, although the person had already been at the detention Department in Prison Skopje and at the same moment the detention measure was annulled. During a procedure conducted by the Ombudsman, it was found that the convicted person was not provided with the right to appeal for delay of execution of the measure – an action which has a suspensive value towards the order. During the activities, it was found that there is lack of communication among courts, while the communication with the penitentiary – correctional institutions is untimely, as a result of which the Ombudsman submitted an indication to the Manager of the Prison Skopje on the violations found, as well as special information to the Minister of Justice and the President of the Court Council.

In 2010 the Ombudsman took activities upon complaints referring to quickening procedures for **transfer or extradition** of convicted persons serving prison sentence in the Republic of Macedonia and citizens of the Republic of Macedonia serving prison sentence out of the state. During the activities on these cases the Ombudsman cooperated with the ombudsmen of states where the convicted persons served their sentence or requested transfer to.



Subject to activities on the Ombudsman's own initiative were cases of dissatisfaction and protests of convicted persons and their physical molesting by officials, so depending on the findings, adequate measures were taken by indicating to the responsibility to protect the safety of the convicted persons, especially their health.

The Ombudsman continuously monitored the conditions with respect of convicted persons' rights, as well as the rights of juveniles which have been ordered to serve a sentence – stay at an educational-corrective institution. The mark for this segment is that although certain activities in direction of improvement of stay conditions for detained and juvenile persons have been taken, the adequate level has not been reached yet and particular measures need to be taken in order to improve them.

This report year the Ombudsman monitored the conditions with prisons in the aspect of conditions stipulated in the international documents, especially in the **European Prison Rules**, taking into consideration that the Republic of Macedonia, being a country member of the Council of Europe, is obligated to accept and respect these rules. Hence, the Ombudsman found discrepancy between domestic legislation and international documents.

The penitentiary system still can not provide real respect and conduct of penological standards. The European prison rules are neither transferred into domestic legislation nor applied and respected in practice.

The accommodating capacities and conditions, especially at the Penitentiary-Correctional Center Idrizovo, are still under the necessary level.

Physical fights among convicted persons occur more and more frequently, as a result of the inadequate and unprofessional functioning of security departments at the institutions.

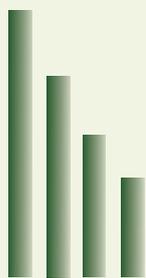
Insufficient personnel and lack of equipment in medical departments remains a problem because of which adequate medical protection can not be provided for the convicted persons – a worrying condition.

Insufficient level of expertise and professionalism at the employees, which has a negative reflection on the resocialization process.

Proper approximation of domestic legislation with international norms, especially the European Prison Rules and Standards as a prerequisite for realization of guaranteed rights of the convicted and detained persons, through application of principles on legality and humanity and effective realization of the resocialization process, as well as achieving the aims of the punishment.

Providing adequate conditions, strengthening the personnel capacities and improving the overseeing function of the security department as a prerequisite for a higher level of safety and prevention of fights among convicted persons.

Continuous education and training for the employees and the managing personnel in order to elevate the level of their professional competences.



PROPERTY – LEGAL RELATIONS

Like many years so far, in 2010 the majority of complaints in the property-legal area referred to realization of citizens' rights regarding **denationalization**.

In that sense, taking into consideration the practice so far, the efficiency of the property return process as a legal responsibility can be clearly evaluated only as a declarative one.

More precisely, although state bodies, most of all the Government of the Republic of Macedonia, in the past period continuously proclaimed the effort to intensify and conclude the denationalization process rapidly, in 2010 it was even approached towards changing and amending the Law on Denationalization.

Here it has to be emphasized that the purpose of this change was primarily directed towards the property – subject of denationalization – not to be returned in real sense, and the previous owners, meaning their successors should be **compensated only in securities**.

Thus, it was expected that this norm would place the realization of human rights in question because it additionally includes legal insecurity and restriction in realization of the right to property.

Namely, by the above stated law, which after being voted for at the Parliament of the Republic of Macedonia and entered into force in May 2010, the State gained the right to dispose the property – subject to denationalization, while its real return was conditioned with the following - the submitted request for denationalization **was to be pre-registered** at the cadastre office at the moment of its entering into force, meaning in 1998. However, there was barely any citizen in 1998 who could suppose that they would ever suffer any consequences if they had not pre-registered the denationalization request at the cadastre office, especially since that activity was not a legal responsibility at that time.

Further on, the application of the provisions of the new law was intended for the pending cases, which **is not in favor of the citizens** at all, but in favor of the state. That, on the other hand, violates the Constitution of the Republic of Macedonia, which among other things, stipulates that laws could not have reversible effect, only if it is not in favor of the citizens.

At the same time, a different regime between citizens and religious communities was

created because return of property for these subjects was not bound to the period of August 2nd 1944, and in accordance with the appropriate laws, the religious communities regarding realization of rights were equalized with the citizens. However, it is not disputable that religious communities experience difficulties in return of their property as well.

Finally, it is a definite fact that the establishing of a special second instance government commission for denationalization proved to be substantially **inefficient**, expensive and irrational because the appeal procedures were delayed endlessly and they are still being delayed. However, regarding the present decision (instead of an appeal the unsatisfied party can file a suit for initiation of an administrative dispute) a question arises whether there will be any effect in terms of reaching higher efficiency in procedure.

This is fortified by the fact that there will be an increased number of cases before the Administrative Court of the Republic of Macedonia, which demonstrates inefficiency anyhow taking into consideration the big number of pending, unsolved cases in the area of denationalization. Consequently, the circumstance that the number of cases before the Supreme, meaning Higher Administrative Court will increase should not be neglected.

In this segment it must be accented that the courts mentioned, as well as the second instance government commission, do not decide upon cases based on the merits. Instead, if they accept an appeal by a citizen, it is almost always the case to return the case two or more times to the first instance body for reconsidering and deciding, which besides slowing the process means violation of provisions of the Law on General Administrative Procedure and the Law on Administrative Disputes to the detriment of the applicants.

Thus, the conclusion is doubtless that the state, instead of providing a faster, easier and simpler manner for realization of the denationalization process, creates even **less favorable** conditions for return of the confiscated property.

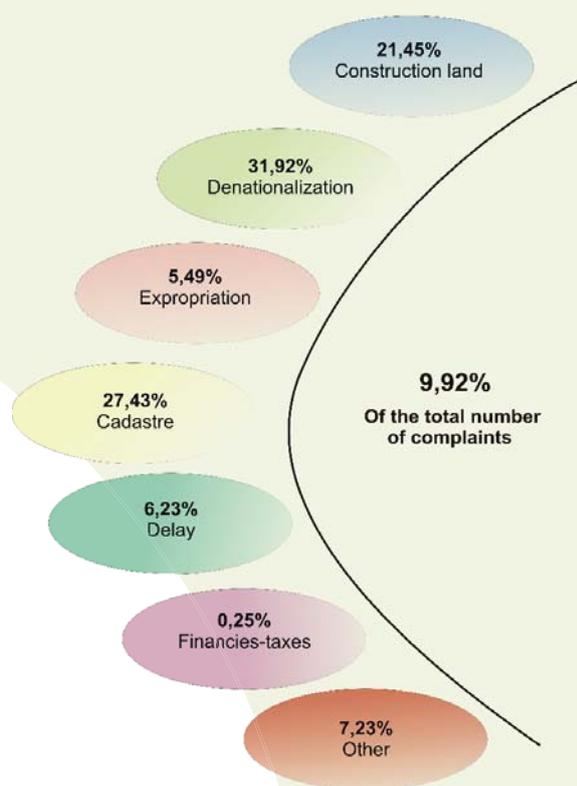
Related to this, the general mark for the denationalization process is that it is stopped, that the number of pending cases is still not small, cases in the phase of formal investigation, meaning blocked cases as a result of lack of coordination between state bodies and local self government, as well as partially closed cases (the citizens' requests were accepted formally, but a new decision on determination on compensation type is not issued).

The reasons for this situation should still be sought at the continuous **inaccuracy, inefficiency, non-professionalism, unconscientiousness and selectiveness in procedures**. Also, in certain cases corruption of officials in charge of cases can not be excluded, but it is the competence of other bodies.

There is no better illustration for this condition, meaning an example of the way the state implements in practice its declaration for fast and efficient closing of the denationalization process than the following one:

In 2010 certain presidents and denationalization commissions members were dismissed by the Minister of Finances. Besides the Ombudsman's intervention that commissions were to be formed immediately, it was done on July 1st, 2010.

However, only a glance at the members of the concerned commissions displays that it



was a decision of a formal type because the change of the personnel can only be seen in the rotation of the presidents of the same commissions.

Namely, if a person was previously the President of the Denationalization Commission in Tetovo, now he/she is the President of the Commission in Prilep and vice versa.

At the same time, the practical experience so far does not permit us to declare that while forming these commissions due care was taken while appointing professional persons from the property-legal area who would certainly contribute to a higher competence, professionalism, objectivity and efficiency.

On the contrary, with rare exceptions, they are formed of persons who are most frequently **without the necessary professional education**, knowledge and experience in administrative matters and denationalization, and it can be also said that they are **partised** to a certain extent. The consequences of that, meaning the damage is always borne exclusively by the citizens, who are exposed to additional expenses for gaining legal assistance and conducting adequate legal means to the higher bodies.

In this report year there was even a situation when presidents and members of denationalization commissions did not act upon cases because they were not financially compensated for their work, which should not have been permitted and left unsanctioned in any case and because it influences the efficiency of realization of citizens' rights.



Analog to this, this fact leads to another conclusion – that denationalization procedure is being delayed for subjective reasons of the persons in these commissions as well, because otherwise they would lose substantial financial means.

Return of property becomes impossible to be conducted because of the long procedure, slow pace and lack

of coordination of state bodies as well.

There is no other explanation for the fact that during a whole year, meaning for years certain facts of crucial importance for legal decisions can not be confirmed, certain evidence to be presented, delivery of decisions brought to be proper to the parties in the procedure or to find a real estate which would be appointed for return of the same kind.

More precisely, the Denationalization Commission at the Government of the Republic of Macedonia during 2009 requested through the first instance Denationalization Commission in Tetovo to confirm the functionality of a certain construction land which is subject of denationalization and to provide a copy of the detailed urban plan which was in force at the moment of submitting the request for denationalization. Besides the Ombudsman's intervention, **that evidence has not been provided yet** as a result of various bureaucratic excuses (whose competence it is, where the copy is, etc) and the case remains unsolved.

The Commission for Estimating Property – Subject to Denationalization, without taking activities to overcome the situation if it finds that there are objective circumstances for its not-taking actions, only by a formal excuse (lack of adequate methodology) refuses to perform estimation of a certain number of stocks the legal ancestors of denationalization applicants possessed in a bank at that time. Because of that, the case at the Denationalization Commission in Centar – Skopje remains pending for years, meaning since 2006.

Instead of a real return of property of the same kind, the state most often **chooses to do it through securities**, meaning the parties are forced to accept this kind of compensation since otherwise they would never receive the requested compensation – construction land, a flat, business premises and other real estate.

For the purpose of that, the Commission for Coordination of the work of Denationalization Commissions indicates that the state does not possess property (land and buildings) which would be appointed as compensation of the same kind to the citizens. On the other hand, we witness the state selling construction – non constructed - land owned by the state on every-day basis.

This is nothing else but disabling realization of rights of the citizens guaranteed by the Constitution of the Republic of Macedonia and the Law on Denationalization and implies to a conclusion that denationalization process is conducted **selectively and subjectively** and creates space for this process to take place endlessly due to long appeal procedures.

In the aspect of realization of citizens' rights in this area in administrative procedure of second instance before commissions for denationalization and property – legal issues and allocating construction land commissions, unlike previous years, there was a trend of acting upon the Ombudsman's requests and interventions, as well as taking activities to accurate the cases through increased efficiency in work and decreasing the number of pending, not settled cases.

However, the above stated does not refer to the Commission for Deciding in Administrative Procedure in Second Instance in the area of survey, cadastre and registration of property rights. This is because there is no reply for any case the Ombudsman has intervened for in terms of realization of requests, suggestions, opinions, recommendations or implications.

Still, the situation found at all these commissions, according to which certain parties can not receive a decision upon appeals even after several years since the day of submitting one (there are cases for which the appeal procedure has been in progress for more than six years), besides being ultimately unallowable and is out of any legal standard which stipulates implementation of a legal responsibility for providing protection of citizens' rights, the competent bodies in their work, persistently and with no exceptions should respect the principles of urgent, efficient and timely proceeding and deciding.

Referring to the area of property-legal relations in terms of realization of citizens' rights before the Cadastre Agency, Property-Legal Issues Administration and the Sector for Documenting and Management of construction land at the Ministry of Transport and Communications, citizens mainly complained to the Ombudsman on delay of procedure.

In that sense, the intensifying of the privatization process of construction land, especially at the second half of 2010, caused chaos at the counters at the Cadastre Agency and its regional offices all over the state, and especially at the largest one in Skopje.

Namely, in all procedures for changing the bearer of the property right or privatization of the right for use of construction land, citizens need to secure certain evidence for their property – property certificates, copies from the cadastre plan, as well as other documents from the geodesy-computer system.

So, although there is a system for queuing at the counters, it never functions which creates crowds and boosting every day.

As a result of this, the Cadastre finds it difficult to satisfy citizens' needs and issue the requested documents in the time limits determined by the by-laws of the Cadastre Agency.

However, taking into consideration that citizens pay in advance for all services they request, they have every right to be served on time, rapidly and adequately. As a result, in a situation of enlarged scope of work, the Cadastre has to improve the processes and work procedures on current basis in order to respond to citizens' requests appropriately.



Regarding privatization of construction land which is supposed to finish at the beginning of 2011, and after that, according to the law the right to use the construction land seizes and a long-term rent relation is established for a rent amount which will be determined, it is a fact that during this process only small number of citizens had a property certificate and could buy their land without any obstructions. The unfavorable condition is additionally complicated by the great number of obstacles of legal and factual nature, unnecessary expenses of the citizens and numerous procedures, frequent changes of the legislation as well as situations of non-compliance of the cadastre with the urban plans.

There are also citizens who are not able to initiate the procedure for buying the construction land although they immediately or factually have had the dispose of it over a long period of time because in the cadastre records they are not registered as bearers of the right to use the construction land on which they have build housing objects.

Namely, the problem for these citizens is that they gained the construction land from previous owners through an immediate agreement, which was not registered before competent bodies (courts).

For these citizens, a question arises regarding **fairness, equality and non-discrimination** if they are supposed to buy the same land once again from the state or to rent it and pay a rental amount, but they have bought it already paying the market value from the previous owners.

It is certain that it is not fair, nor cheap, the citizens to conduct the so called transformation of the right to use construction land into a right to property by paying adequate tax on trade, but under present conditions.

On the other hand, it is not a question whether the state compensated the previous owners for the nationalization, but they do not request return or compensation for the land because they had sold it.

Another inconsistency of this Law, although in no case can it make legal sense, is its provision for the previous owners of the construction land to be equalized with the other users and upon expiry of privatization time limit to pay rent for their own land.

On the basis of the above mentioned, there is a **necessary need for a certain reconsideration of these normative solutions** and making adequate changes and amendments of the Law on Privatization and buying of construction land, in order for the procedure to be simplified and the number of people who could buy the land under the object and the yards to increase.

Finally, a special case of not taking actions upon the Ombudsman's interventions by bodies conducting this procedure, which is completely unallowable and against the provisions of the Law on the Ombudsman, and not for the first time, but over the years, the following institutions have to me mentioned: Administrative Procedure Department Kisela Voda and the Administrative Procedure Department Cair at the Property-Legal Issues Administration, as a body within the frames of the Ministry of Finances.



Although it seems that a progress has been made in a formal – legal aspect in the area of property-legal relations, still there is a worrying fact that instead of providing a faster, easier and more simple way for concluding the denationalization process, which has been going on for years, the state still creates unfavorable conditions for return of the confiscated property, changes the Law on Denationalization and among other things, it is foreseen for the property which is subject to denationalization not to be returned in real, but the state can have a dispose of it without any restrictions. In the application of material right and respect of rules for a procedure in this area there are worrying cases, especially in the denationalization process.

Due to long procedures, slow pace and lack of coordination of state bodies, return of property, as well as awarding compensation of the same kind can not be performed.

Instead of crucial changes which would lead to presidents and denationalization commission members who are professionals and who would contribute to higher competence, objectivity and efficacy in their work, persons without the necessary education, knowledge and experience in the area of administrative matters and denationalization are appointed.

The Cadastre charges for its services in advance, and due to lack of capacity and inadequate interior organization and coordination it is not in a position to respond to citizens' requests efficiently and on time.

The Commission for deciding in Administrative Procedure in second instance in the area of survey, cadastre and registration of property rights has not demonstrated any improvement for years in terms of quality of work, cooperation and openness towards citizens' needs, endlessly over passing legal time limits for deciding upon cases and does not take any actions upon the Ombudsman's interventions at all.

Privatization of construction land is obstructed by unclear property-legal relations, non-practical and non-functional urban solutions and frequent changes in the urban plans.

A large number of citizens, although willing to, are not in a position to conduct the privatization of construction land which they have been practically using for a long period of time, due to lack of adjustment of the real with the legal condition.

Removal of inconsistencies found in the Law on Denationalization and the Government should take an activity in order for all pending denationalization cases to be closed.

The Cadastre, in a situation of increased scope of work, should update the processes and procedures of work in order to respond to citizens' requests.

Measures and activities need to be taken for the Commission of the Government of the Republic of Macedonia which decides in administrative procedure in second instance upon cases for survey, cadastre and registration of property rights in the determined time limit, to submit to the Ombudsman reports on actions taken regarding his requests, suggestions, opinions, recommendations or indications.

The Government should reconsider the need for changing and amending the Law on Privatization and Buying of Construction Land in direction of prolonging the time limit for privatization of yards.

By proper application of principles of equality and non-discrimination, the problem with privatization of construction land for private and legal subjects needs to be solved, who are not registered at the cadastre records as bearers of the right to use, although they directly and in real have had the dispose of that property over a long period of time, and they gained it through an agreement with the previous owners, which has not been certified.



URBAN PLANNING AND CONSTRUCTION

The manner of arranging the space and its humanization represent a prerequisite for realization of the right to own home as a prerequisite for urban living, as well as for harmonized property – legal relations which is of great importance for dignified life of the citizens in a society.

The prerequisites, like in the rest of social areas, are created by the state through its institutions on central and local government, and in the area of urban planning and construction by adopting a consistent legislation and creation of institutions capable of its proper implementation.

In the last few years there have been significant changes in the legal regulation of this important social area because the existing legislation was almost completely replaced by a new one, which like the previous one was also a subject to permanent changes and amendments, as a result of the fact that it is about a very complex area the arranging of which requires numerous legal regulations.

In any case, the **weaknesses of the legislation** along with the weaknesses in functioning of the institutions on central level, and since 2005 of the institutions on local level as well, created space for manipulation of material and process laws and a possibility for earning profits for a short period of time and all of this on the detriment of the public interest, which was taken behind.

The created urban planning chaos very often represents a reason for violation of numerous legal rights of the citizens due to which they are forced to seek protection of their legal rights in court and administrative procedures.

The number of complaints through which the citizens address the Ombudsman requesting assistance is not small. Sometimes it is for an advice, but often they request taking particular activities for protection of their legal rights.

This report year is characterized by a large number of complaints in which the citizens mainly complained and requested assistance for lack of measures and activities by the construction inspection for sanctioning the investors and building companies for illegal constructions, unjustified delay of procedures for issuing construction permits, inadequate solutions in the detailed urban plans, non-execution of final administrative acts for removal of illegal constructions, temporary stopping the execution of final acts as well as finalization of court or administrative procedure in force, unjustified delay of procedures in second instance or other problems.

It was noticed that like in the previous years, this report year citizens alleged tendentious, selective, unprofessional and improper conduct.



Regarding local self government units where procedures in the area of urban planning and construction are processed, there were efforts for improvement in the organizational part; however, there was still insufficient personnel, especially in the inspection departments, and in the majority of smaller municipalities departments for execution of final administrative acts **were not formed** yet.

This report year is marked by inaccurate, improper and inert acting by authorized urban and construction inspectors while performing inspection insights, by which the preventive role of the construction inspection is completely neglected.

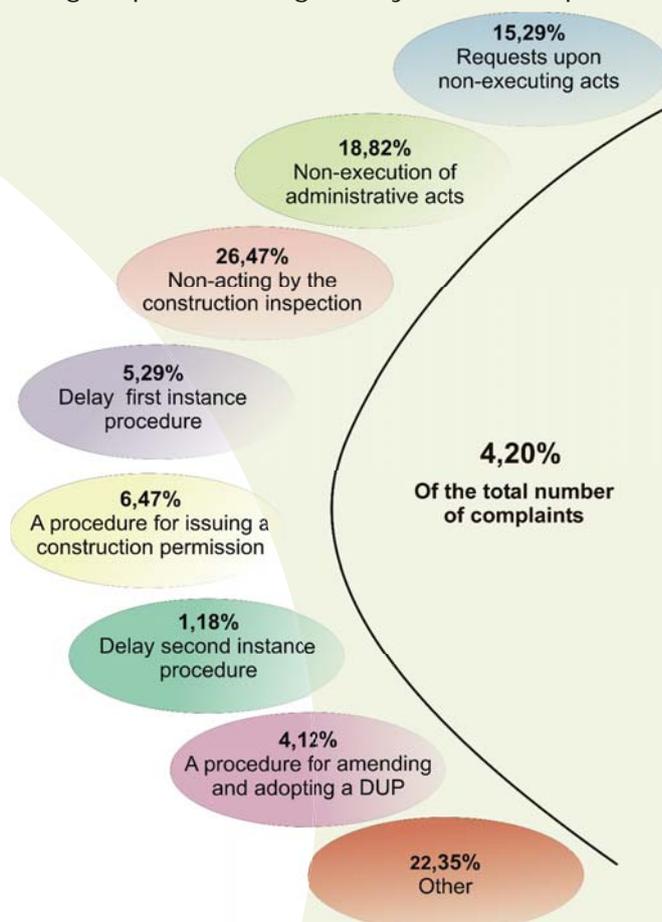
Procedures before first instance bodies, by the rule do not meet legal time limits, and public servants continue the procedure only after the applicants ask for an explanation for the delay.

Due to violation of citizens' rights ascertained in this area, the Ombudsman intervened requesting for the required inspection activities to be performed, requests for temporary stopping the execution of administrative acts, recommendations and implications mostly to the mayors of the municipalities, who are competent for dealing with local urban planning problems and in a small number of cases to the Ministry of Transport and Communications, for being a body competent to perform monitoring the work of local self government units in the area of urban planning and construction.

Based on the activities in this area, it can be said that **the cooperation with the competent bodies at the local self government units**, before which the citizens realize their rights in the area of urban planning and construction, with the Ombudsman is still not on the desired level and there are still cases on late responses to the requests addressed, as a result of which the procedure before the Ombudsman is delayed as well.

There is still **inaccurate and selective proceeding by inspection units**, and the procedures for issuing construction permit still last long, mostly due to the inert and unprofessional conduct by the public servants in charge.

The Ombudsman finds that passing of the long announced law which would regulate the conditions with illegal constructions and their possible legalization, as well as the amendments planned for the existing legislation in this area, should be a priority in the coming period as a result of the fact that it would solve the problems the citizens have been facing for years in the process of realization of their rights in this area.



When adopting or changing the urban plans, instead giving priority to the public interest, it is frequently given to the personal or commercial interest of individuals.

The preventive activity of construction inspections is completely neglected, and decisions for sanctioning illegal constructions are brought when the construction activities are in a later phase.

High fees citizens pay do not guarantee and do not provide adequate standards of the communal infrastructure.

When adopting or changing detailed urban plans, the citizens' needs and requests need to be respected.

The inclusion of the existing illegal construction should be of a maximum possible scope, which would not damage other citizens or the public interest.

Legal time limits should be met in procedures following citizens' requests, especially in the procedure for issuing a construction permit.

Inspection units should be strengthened with personnel and material resources in order to be able to respond to the preventive role for prevention of further illegal construction and their eventual sanctioning.



ENVIRONMENT

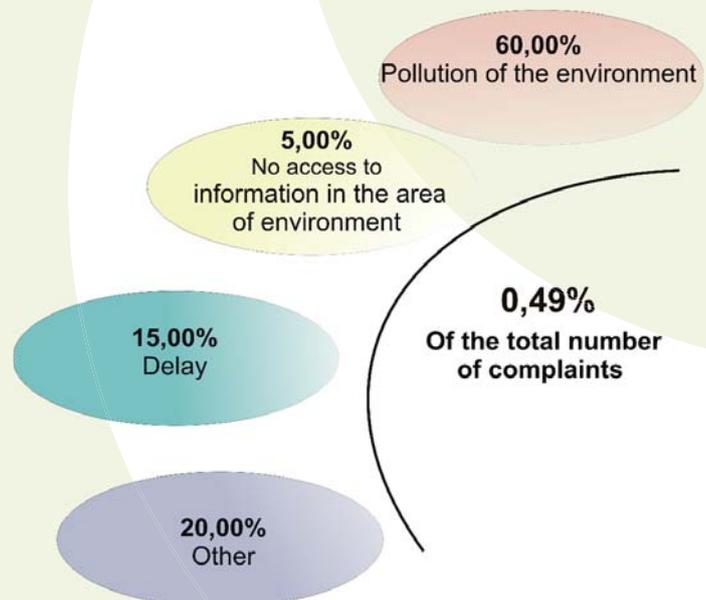
Everyday life indicates that the high standard and the increased civilization headway, unfortunately instead of promoting, directly harm the environment, and as a result of that, humanity faces more and more climate changes and disturbances in the atmosphere which could have long-term consequences.

The enormous material damage and loss of people, as a result of weather disasters and other catastrophes seem not to be a sufficient warning for the relevant social subjects. On the contrary, there is a reoccurring confirmation on daily basis that especially the most developed countries or the ones experiencing a fast economical development are not prepared to accept or implement the numerous declarations, resolutions and protocols of the international community, most of all due to their own interests and profit race.

Besides adopting the most significant international documents and the numerous laws and by-laws regarding protection and promotion of the environment, our society is characterized by low level of comprehension of the need for protection and promotion of the environment, and by that a completely negligent attitude towards everyday disturbances.

Still, starting from the interest of its citizens, the state is obligated to arrange the relations in this area and through the bodies of central and local self government to implement them properly in practice, providing protection of citizens' rights in this aspect.

Unfortunately, besides the crucial necessity for a healthy environment, during the institution's functioning so far, although the number of negative conditions is high, there is an



unusually small number of complaints by citizens on protection of their rights in this area.

This indicates the fact that the citizens, due to **insufficiently developed ecological awareness**, usually react only when their rights and interests are concerned immediately, and not when it is about cases and conditions of wider interest and importance.

Exactly as a result of this inert attitude of citizens towards the conditions in the environment, during the report year only around twenty complaints were received by the Ombudsman, the majority of which referred to issues about non-taking activities by the communal inspectors in terms of releasing waste waters or increased noise coming from catering or craftsmen objects.

However, the Ombudsman's activities were not limited only to the complaints received, but on the basis of general monitoring of the conditions in this area as well, so a procedure on its own initiative was conducted referring to the pollution of the water in the river Vardar caused by **improper disposal of construction and communal waste** along its banks.



After performing an insight on the spot and finding that the conditions were becoming worrying, the Ombudsman submitted a recommendation to the managerial personnel at the local self government unit requesting increased activity of the Communal and Environment Inspection unit in order to take measures and precise activities for improvement of the condition by including local inhabitants, finding that it would have a positive effect on raising the awareness for protection and preservation of the immediate environment.

This recommendation was accepted and the Ombudsman was informed on the conditions and proposals for the manner of its execution, and that it would be on the agenda at the next meeting of the municipality council.



As a result of the overall monitoring of the general conditions, the Ombudsman this year again finds that the omissions in taking activities by the communal hygiene on the territory of the whole country become serious in dimension concerning the environment, consequently the health of the citizens. Thus, the Ombudsman finds that **hastening of activities for construction of regional landfills**, strengthening of inspection units, as well as increased activity by all subjects in charge responsible for the conditions with the environment, are a necessity in the forthcoming period.

Low level of environmental awareness, poor organization of inspection units and bad management of local self government units led to worrying indicators in terms of soil and water pollution by various types of waste, which represents a direct attack on the people's health as well.

Lack of regional collaboration among local self government units and mutual solving of problems related with disposal of communal waste and mutual activities for promoting the need for healthy environment and raising the people's awareness.

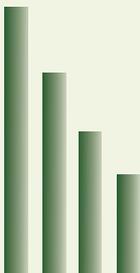
There is lack of adequate education in the educational system on all levels, besides the serious challenges and dangers which the environment media face and the threats to the human life and health.

Local self government units, especially in the north-west and north-east region should take activities for urgent construction of regional landfills.

Building capacities of communal and inspection for environment in all aspects at the self government units.

Working on raising the environmental awareness of the population, increasing the preventive activities by inspection bodies on local and central level and taking serious measures for sanctioning subjects which pollute the environment.

Enriching the educational programs with topics related with protection and promotion of the environment on all educational levels, starting at the earliest age.



WORKING RELATIONS

The realization of citizens' rights and freedoms, including the rights to a working relation, taking into consideration the economical – social aspect it contains and thus directly influencing the dignified existence of the citizens, is directly dependant on the quality and efficient functioning of the system institutions and rule of law.

Monitoring the conditions in realization and protection of right to a working relation, the Ombudsman finds that violation of constitutional and legal rights of the citizens in the area of working relations is most frequently a case due to subjective segment, meaning **frivolous, bureaucratic and unprofessional conduct by employers** which is manifested by non-acting upon requests, not submitting acts, unequal treatment of employees or adopting acts based on subjectively found factual situation and wrong application of a material law and other types of conduct and actions which, as a consequence, violate employees' freedoms and rights.

Namely, the major number of complaints submitted to the Ombudsman this year as well were the ones referring to employment and appointment procedures, procedures for termination of job contract, procedures for annulling salary and salary contributions, and

a smaller number of complaints referred to disrespect of the principle of equal approach by the employers.

There is a typical case of a public servant who did not realize the right to employment yet with certainty because he had the status of an intern, and he requested assistance by the Ombudsman regarding protection of rights from the procedure conducted for taking the intern exam which contained breaches of the rules for conducting the exam.

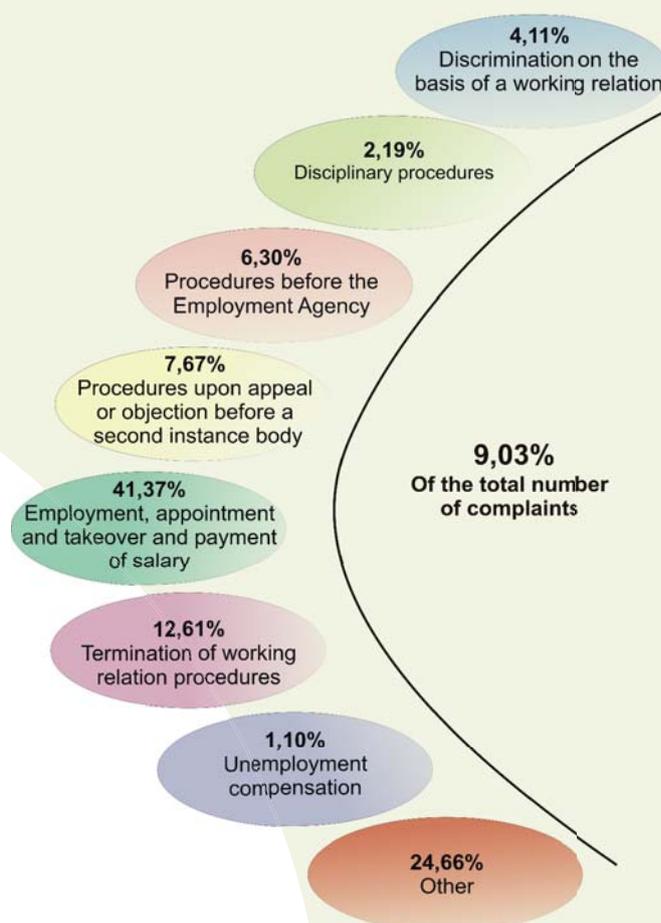
The Ombudsman indicated to the Mayor of the municipality of Petrovec that while conducting the procedure for taking the intern exam the time limit for taking the exam was not considered after which the intern was given more exam questions than needed concerning the post he had with an intern status, then he was given questions from an area he was not trained for during his training period. The Ombudsman also requested reconsidering of the complete procedure and conducting a new one for taking the intern exam, and the Mayor accepted it and conducted a repeated procedure for taking the intern exam after which, the candidate having passed the exam successfully, gained the status of a public servant.

Complaints on employment of public servants contained dissatisfaction from disrespect of indications by the Government of the Republic of Macedonia for regulating the status of persons with temporary employment through temporary employment agencies, meaning these persons were supposed to gain the status of employed for a definite period of time through an adequate procedure, as foreseen by the Law on Public Servants and the Law on Working Relations.

Namely, during employment procedures, **instead of selecting persons who had worked having the status of temporary employed until that moment, recruitment of other persons was done** who fulfilled the prerequisites of the advertisement. In those cases the Ombudsman indicated that the Government of the Republic of Macedonia with its implication intended to solve the status of the temporary employed persons, and not to suggest employment of other persons thus abusing the consent for employment for other persons. The replies received by the Ombudsman stated that recruited candidates fulfilled the prerequisites, without a detailed explanation on the reasons for not recruiting the persons who had worked as temporary employees.

Through complaints by citizens the Ombudsman also found out that **there was no legal possibility for employment** at state administration bodies with the status of a civil servant **for persons with earned 180 EKTS points**, as a result of which opinion from the Public Servants Agency and the Ministry of Justice was requested on their attitude towards this issue.

Their responses revealed a clear finding that they had also noticed the omission which creates and obstacle for employment of these persons at the state administrations. Further on the Ombudsman took measures for overcoming these omissions which led to a positive result, meaning changes and amendments of the Law on Public Servants were adopted,



which included a possibility for employment of these persons at the state administration bodies.

Complaints on termination of a working relation of public servants, typical for this report year, were on procedures conducted by the Mayors of several municipalities on the territory of the Republic of Macedonia.

Namely, according to the provisions of the Law on Changing and Amending the Law on Public Servants ("Official Gazette of RM" no. 114/09), bodies stated by the Law on Public Servants were supposed to adjust their post systematization acts with this law until the moment of its application.



Certain mayors did this by adopting rulebooks on post systematization of the municipal administration, which altered the internal organization by annulling certain posts, new departments or sectors were established and new titles of the posts were introduced which did not differ in terms of job description at all from the annulled posts. All of this had an **aim to create space for issuing decisions for termination of employment of public servants**, whose posts were annulled, so that later on employment procedures could be conducted for other persons.

These actions for termination of employment relation of public servants were taken before the application of the Law on Changing and Amending the Law on Public Servants ("Official Gazette of RM" no. 114/09), since until the application began there was a legal possibility to terminate the working relation of a public servant in a period of one month in case he/she is not reappointed, while with the adoption of this Law, meaning with the application of the procedure for termination of employment relation of a public servant, in case there is alteration of the internal organization by annulling certain posts, it became more complex for the employers and they are not able to conduct this kind of termination only in case the public servant rejects the reappointment. Cases like this were found for public servants employed at the municipal administration in the municipalities of: Cesinovo – Oblesevo, Cucer Sandevo and Sopiste.

Taking into consideration that the complainants had filed appeals to the competent commission at the Public Servants Agency, the Ombudsman's activity was directed towards this commission by indicating the necessity to consider the provisions of the Law on Public Servants, as well as the rulebooks adopted on post systematization. The competent commission accepted the Ombudsman's reaction and accepted the appeals, but in the repeated procedures the mayors did not respect the Commission's directions and continued issuing decisions for termination of employment relation, as a result of which the public servants were directed to seek further protection of their rights before competent courts.

The positive effect from the activities towards the Mayor of the City of Skopje should be mentioned, who was addressed an implication on the right of public servants to career salary contribution for all public servants who fulfilled this prerequisite in accordance with the legal provisions.

The Mayor of the City of Skopje accepted the implication by the Ombudsman, issued decisions for career salary contributions for all public servants who fulfilled the prerequisites for this benefit and they were paid the contribution.

Regarding employment procedures conducted in accordance with the provisions of the Law on Working Relations, there were no major occurrences which could be accented as typical ones. However, like in the previous years, it is inevitable to mention the procedures conducted for employment of teaching personnel for a definite period of time at elementary schools. Complaints referring to this issue mostly expressed dissatisfaction from employment

of teaching personnel without passed professional exam, employment without prior advertisement or employment of a candidate who did not fulfill the prerequisites.

The Ombudsman is aware that by the Law on Elementary Education the school principles were allowed to conduct employment procedures for teaching personnel without prior advertisement three months latest and that the principle is allowed, following an advertisement, to employ a person who has not passed the professional exam, but in procedures of this kind, the provisions of the Law on Elementary Education should also be considered, which precisely state the general and special prerequisites for a teacher, and one of them is the prerequisite for having passed the professional exam.

Thus the Ombudsman constantly indicated that the candidates employed for urgent and matters which could not be postponed for a period of three months, as well as candidates with an employment relation for a definite period of time, should fulfill the general and special prerequisites stated by the Law on Elementary Education, because such a candidate, regardless whether employed for a period of three months of a whole year, is part of the teaching process and conducts the teaching process at a school which means that that person needs to be qualified. There were also indications to the principles that they could employ persons by exceptions stipulated by the Law when there are justified reasons for such actions, but **that practice should not happen at the beginning of every academic year**, which reasonably leads to a conclusion that these employments for a definite period of time are only a manner to satisfy political interests more easily, meaning employment of a ruling political party members. The Ombudsman's implications in this direction were not accepted by the principles of elementary schools they were addressed to, because they found that the procedures taken were completely in accordance with the provisions of the Law on Elementary Education.

Another important issue worth mentioning is the **non-taking actions by principles** in terms of issuing decisions for **transformation** of the working relation from a definite to indefinite period of time for the teaching personnel who fulfilled the transformation prerequisites, meaning persons who were on the list for transformation by the commission established by the Ministry of Education and Science and for whom letters of consent were signed.

The Ombudsman requested from the principles to conduct the transformation process, but unfortunately we have to say that those requests were not accepted. In one case the process was not conducted because the teacher was not awarded an extension contract for employment of definite period of time, for reasons known only to the principle, and in another case the transformation was not conducted under an explanation that the teacher signed an employment contract for a definite period of time for another school, and not for the school the list was submitted to.

There were also complaints by teachers who had performed duties for a period of four years definite period – persons who were not awarded extensions of their contracts by the principles for another year because of which they could not fulfill the prerequisite for transformation of the working relation. The Ombudsman was not in a position to react upon these cases because teachers' job contracts were terminated after the period of time they were signed for. As a result, the Ombudsman indicated to the principles to reconsider the procedures for employment contracts with the new personnel because their conclusion was mostly to the detriment of teachers who had worked until then and at the very moment of fulfilling the transformation prerequisite, they were not awarded new employment contracts.

It is also important to mention that the Ombudsman supported a group of kindergarten



teachers and other personnel from kindergartens in their efforts to regulate their employment status because they had been performing duties for years without having signed employment contracts. This problem was exposed in information addressed to the Minister of Labor and Social Policy and the Cabinet of the President of the Government, in which it was requested from them to find a systematic solution for this category of persons so that they could be given employment contracts, regardless whether it would be about definite, indefinite or temporary employment, in order to avoid the practice of signing services agreements which do not produce rights and obligations neither for the employee nor for the employer.

However, here we have to bear in mind the best interest of children because the one responsible for performing educational activities who **has not signed any document, i.e. contract** which would define his/her duties and responsibilities, could not be sanctioned in case of any surpass of professional duties with harmful consequences for the children.

The activities in this direction had a positive effect, meaning the majority of teaching and other personnel at kindergartens signed employment agreements.

The Ombudsman took activities upon a complaint by a union representative who was issued a decision for job removal with an intention to be issued an employment termination decision because he had used media for realization of economic and social rights of the union members.



In this case it was indicated to the provisions of the Law on Working Relations which stipulate certain rights of the union representative and the union members, which were neglected while issuing the removal decision. The Ombudsman's indications were accepted and the union representative continued performing his duty without any obstructions.

Complaints, in which citizens expressed their feeling that their employer **had placed them in an unfavorable or unequal position** compared with other employees in similar circumstances, did not lack as well. The reaction in these cases was towards indicating the

provisions of the Law on Working Relations, which foresees a prohibition for direct or indirect discrimination, disturbance or mental molesting. The majority of employers addressed rejected the indications for discrimination.

When it comes to cooperation with competent bodies it has to be said that the Commission for deciding in second instance in the area of working relations at the Government of the Republic of Macedonia, which upon the Ombudsman's requests for respecting the procedure for urgency and economics while reaching decisions upon appeals, replied that the cases would be considered at a session or that they were waiting for certain documents from the first instance body. This commission has not submitted a decision upon appeal or objection to the Ombudsman for more than a year.

Taking into consideration that the consequences of these activities are borne by persons who appeal or object, the Government has been informed on several occasions, however, the situation has not been overcome yet.

Citizens' rights in the area of working relations during employment procedures and termination of employment procedures are constantly violated, as a result of incomplete and wrong application of legal provisions and occurrences of placing employees in unequal position is a worrying one.

During procedures for regulating the status of temporary employed persons it is evi-

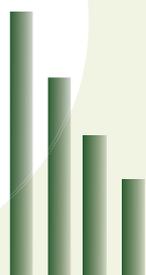
dent that there is abuse of consent issued for the benefit of other persons, who did not have the status of employed persons at the body/institution in question before.

In procedures for regulating the status of teaching personnel, besides the legal obligation, signing employment contracts for a definite period of time for one more year is avoided – a period which is needed for the teaching personnel to fulfill the post transformation prerequisite.

Employers should adequately and completely apply the laws on material working relation and should pay special attention to the unequal approach while applying the laws towards every employee.

During employment procedures, the overall documents enclosed upon the advertisement for every candidate should be considered and while employing a new employee the rules should not be deceived.

Employer should not neglect and ignore the employees' rights and they should not issue decisions without an objective and legal basis.



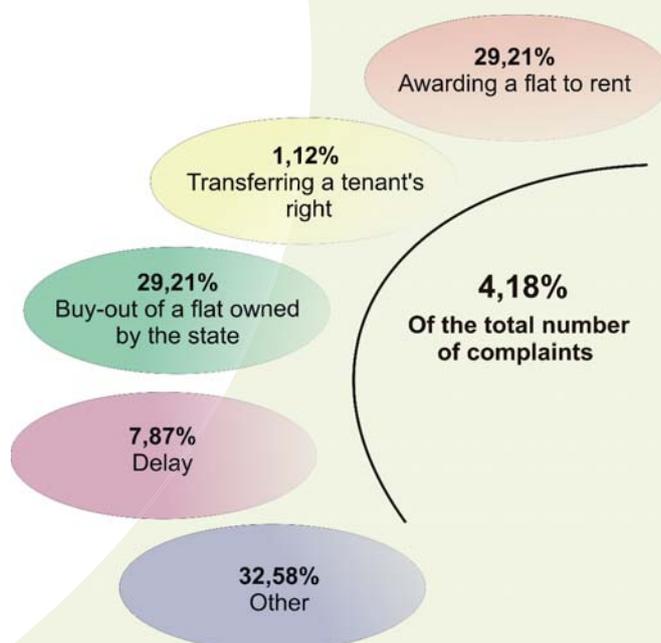
ACCOMODATION RELATIONS

Protection of the right to housing, as a constitutional and legally guaranteed right of the citizens, was a subject to activities by the Ombudsman in 2010 as well.

While analyzing data in this area, an increase of the number of complaints which referred to violation of rights in housing area was noticed, and the content of complaints led to the fact that the conditions in this area do not improve, on the contrary, in certain segments they become more complex.

The expectation that the new Law on Housing from 2009 would define the rules in the housing area and would enable a more adequate and more efficient protection of citizens' rights was not realized. Almost two years have passed since the Law was adopted, a period in which it did not start functioning, and due to inadequate

and imprecise definitions of several provisions in certain parts, the Law proved to be vague and inapplicable. As a result of this, certain provisions of the Law were amended, and others were abolished by the Constitutional Court of the Republic of Macedonia. The findings on inapplicability and vagueness of certain provisions of the Law were confirmed with the complaints addressed to the Ombudsman during the report year.



Namely, several citizens requested from the Ombudsman a clarification on the manner in which the owners could get organized in order to manage the buildings, requested an answer whether they should leave the management to a manager or form an association of owners, how to process the registration of the association at the Central Register as a legal subject, which acts and in what time limit they should be brought by the owners and other issues which remained insufficiently clarified in the provisions of the Law on Housing, which stipulated pretty short time limits for their application. The Ombudsman took timely actions, and requested answers were forwarded to the complainants, as well.

During last year citizens continued requesting protection of rights and interventions by the Ombudsman before the Sector for housing-communal issues and infrastructure at the Ministry of Transport and Communications. The requests referred to problems occurring



while **transferring the tenant's right, buying out state-owned flats** according to the conditions stipulated by the Law on selling state-owned flats, for which the citizens had tenants rights and buying out of state-owned flats under conditions determined by the Law on Housing.

Several citizens who used state-owned flats without adequate documentation, and who were registered by the Public Enterprise for management of residential and commercial properties, as of December 31st 2008 requested buying-out of the flats. According to the new Law on Housing, these persons were given an opportunity to buy out the flats, and the Ministry of Transport and Communications was in charge of the process.

However, in these cases the vagueness of the provisions of the Law caused numerous problems as well, thus the Ombudsman received complaints

by citizens requesting hastening of the procedures before the Ministry, which did not act upon the requests due to the fact that it could not determine which applicants belonged to the group of those without proper documentations.

Namely, the Law on Housing did not provide clear distinction what would be considered proper documentation, meaning who were the people without proper documentation. The Constitutional Court abolished this article of the Law, but as usual, the consequences of the abolition were felt by the citizens because the **initiated procedures for buying-out were stopped**, and these citizens were temporarily deprived from the right to regulate their status of using the state-owned flats.

Complaints were addressed to the Ombudsman requesting assistance in transferring tenants' rights from a deceased parent, procedures which were also taken before the Ministry of Transport and Communications and which were successfully finalized.

It has been a practice for several years now and this year as well for the Ombudsman, in his written communication as well in the annual reports to the competent minister to warn that the records of state-owned flats are incomplete as a result of which it is often the case for **certain citizens not to be able to realize the right to buy-out the flats** which, through legal procedures, were awarded to enterprises with headquarters in the Republic of Macedonia, as well as on the territory of former Yugoslavia. In the rent awarding procedure these flats are treated to be owned by the state, but the users are requested to pay a certain amount of money for rent and in case they do not pay it, suits are filed for forced charge of the debt.

On the other hand, if it is about a procedure for buy-out of the same flats, the users are rejected by the Ministry of Transport and Communications with an explanation that the flats are not owned by the Republic of Macedonia, meaning that at the Agency for Cadastre and

Property they are listed as flats owned by the former enterprises.

Taking actions upon a complaint by a citizen who has been trying for years to buy out the flat which was awarded to him by an enterprise from the territory of former Yugoslavia, the Ombudsman in cooperation with the rest of the competent bodies, requested from the Ministry of Transport and Communications to take measures for clarification of the occurred situation regarding records of state-owned flats, their awarding for rent and realization of the right to buy them out. The Ombudsman indicated that there is an inevitable conclusion that in case the Republic of Macedonia is not the owner of these flats, from a formal-legal point of view the rent agreements are not valid, and at the same time charging rent from the users of the flats is **without legal basis**. The Ombudsman has not received a proper reply concerning this issue yet.

In terms of realization of projects for construction of flats which were to be awarded for rent to people in social risk and other vulnerable groups, conducted by the Ministry of Transport and Communications, during the report year a small number of complaints was received in which the complainants requested quickening of the procedure before the second instance commission. In several cases, upon the Ombudsman's intervention, the Commission brought adequate decisions.

The Ombudsman received a significant number of complaints on **slow and unprofessional work** by the Public Enterprise for management of residential and commercial properties of the Republic of Macedonia and its regional offices. Citizens most often complained on the **illegally conducted procedures** for forced moving out of state-owned flats, inadequate calculations of the prices of the flats subject to buying out, and there were frequent requests from the citizens to be liberated from paying interest and debts for rent. In case the complainants' requests were grounded, the Ombudsman initiated appropriate procedures and depending on the ascertained condition he addressed numerous requests and implications to the Public Enterprise, and in cases of untimely reactions, he intervened in order to expedite the initiated procedures.

During the first half of the year, the Public Enterprise for management of residential and commercial properties of the Republic of Macedonia, based on previously reached decision, announced an Advertisement in the daily printed media for selling flats to persons who do not own a flat – young couples and single parents in the city of Skopje, under more favorable conditions compared with the market ones.

The advertisement contained the criterion for selling state owned flats, one of them being the principle **"First come – first served"**. According to this criterion, in case there were several applicants who fulfilled the buying prerequisites for one flat, the one who submitted an application first gained the right to buy out the flat.

The ombudsman, on his own initiative, initiated a procedure for reconsidering and estimating the legality of the buy out procedure for the flats concerned, and he found that the citizens were placed in an **unequal position** when applying, which to a certain extent can be considered as **discrimination**.



The Ombudsman also reacted to the inability of the citizens to file appeals to the Commission's decisions, as a result of which he addressed an indication to the Public Enterprise and requested annulment of the decision.

Following the indication, the Government of the Republic of Macedonia issued a decision for annulling the previous advertisement and obligated the Ministry of Transport and Com-

munications to conduct the awarding process, meaning the selling of state-owned flats to be performed electronically, without the disputable principle.

In this report year protection and realization of citizen's rights who submitted complaints continued, in procedures for awarding a flat to rent on various grounds before the Commission for Housing Issues at the Government of the Republic of Macedonia. Applications for awarding a state-owned flat were most often by **persons in social risk**, who were looking for a solution to their housing problem because due to the poor economical position they were in, they were not able to do it unsubsidized. Without any exemptions, the Commission replied that the state housing fund did not have enough flats which could be awarded for rent.

Near the end of the year, several complaints were received in accordance with the provisions of the Law on Special Rights of Security Forces Members of the Republic of Macedonia and the members of their families, in which the complainants requested hastening of the procedure for awarding a flat to rent on the basis of the above-mentioned law. The Ombudsman requested from the Commission for Housing Issues to act in accordance with the requests, but the procedure for these cases is still pending.

Finding that a request was grounded, the Ombudsman recommended the Commission for Housing Issues to award a flat to rent on the basis of rights deriving from the Law on Denationalization, for a housing right bearer, but the reply this time, once again, was that the Commission did not have the dispose of available flats. In this case, although the Ombudsman did not manage to realize the protection of the complainant's right to be awarded a flat to rent, still succeeded in making the Public Enterprise reach a decision for refunding financial means the complainant is paying as a rent to his landlord.

Legislation in this area, especially the Law on Housing, due to inadequate and vague provisions is a reason for occurrence of violation of citizens' rights.

The problem with lack of exact data on the number of state-owned flats and business premises remains.

Upgrading the existing legislation, especially the Law on Housing, which would enable a more efficient regulation of relations in this area.

Precise determination of criteria in order to regulate the procedure according to which the users – persons without proper documentation – could realize the right to buy-out a state owned flat.



SOCIAL SECURITY AND PROTECTION

Declaring itself to be a social, the state should be headed by humanism, social justice and solidarity, which are a part of the fundamental values of the constitutional order. In this sense, with the Law on Social Protection, it is predicted that the state cares about the social protection of the citizens, in accordance with the principle of social fairness.

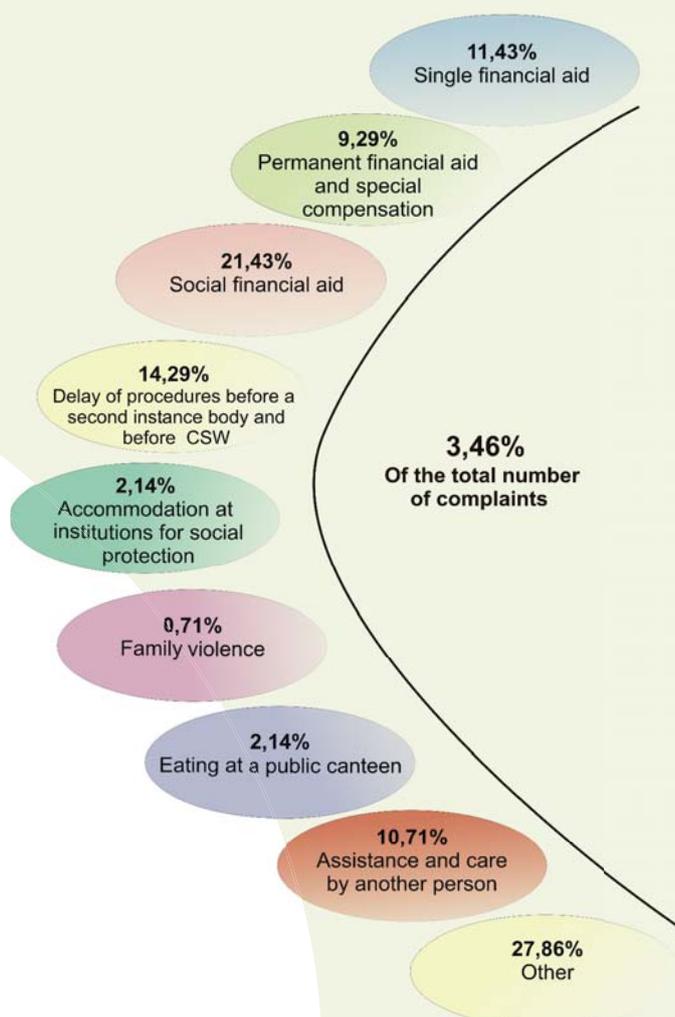
As opposed to this declaration, the citizens believe that insufficient care is taken of their social conditions, meaning that social protection does not correspond with the real conditions

and their essential needs for life, because with the social aid they receive, they are not able to satisfy their everyday existential needs. Consequently, the most socially endangered citizens most often are forced to apply for a single financial aid or they eat at the free public canteens. However, even in realizing these rights they face problems and difficulties, which additionally worsen their condition. The situation is especially severe for persons incapable to work, who in certain cases, **without any grounds, are deprived from the right to permanent financial aid**, or they realize this right through long-lasting procedures.

Acting upon a citizens' complaint, the Ombudsman found that realization of rights from the social area is hindered because the procedures for deciding upon applications are often long and rarely are they reached within the legally foreseen time limits. Also there are often decisions against which the citizens file appeals on the bases on incompletely ascertained factual condition, and there were also cases when in a very short time (a day or two) three different decisions were issued – one of them recognizing the right, the other one prolonging it and the third one annulling the right. Thus, the citizens were not only confused but they did not know what to do next. However, besides the Ombudsman's interventions and indications, the Ministry of Labor and Social Policy most often confirmed the decisions of the Social Work Centers for cases in appeal procedures, as a result of which the citizens were forced to initiate court procedures, which additionally worsened their social position.

During this report year it was noticed that special services at the Center for Social Work in Skopje, deciding on a certain right from social protection, reached a negative decision only as a result of local competence and made the applicant reply to the locally competent center. This conduct unnecessary delayed the procedure, as a result of which the Ombudsman indicated that the case should be transferred to the center competent to take actions and the citizens should be informed on the above in order to obey the principle of administrative procedure for fast and efficient deciding upon citizens' rights.

A special problem the socially deprived citizens faced was the **untimely payment of social types of aid**. This problem was especially present at payment of a single financial aid cases which is awarded to a person or a family in a situation of a social risk, as well as to a person or family for suffered



natural disaster or epidemics or a long—term treatment at a medical institution. Taking actions upon citizens' complaints regarding single financial aid, the Ombudsman found that even several months after issuing decisions for recognition of the right to a single financial aid, money was not paid to the entitled persons.

The Ombudsman stated that any prolonging of payment additionally complicates the situation of the citizens whose right to a single financial aid was recognized because it is about persons who are in a very difficult social crises at that moment, so prolonging the payment not only makes it even more difficult, but the purpose of the aid is lost. This was the content of the information sent to the Minister of Labor and Social Policy by which it was requested to take measures for overcoming these problems of the socially most endangered category of citizens, meaning to find means and possibilities for timely payment of the single financial aid.

Regarding social protection of the ultimately endangered category of citizens, the Ombudsman found that a part of this category of citizens, users of social or permanent financial aid, are not able to use a meal at the public canteen although they fulfilled the prerequisites like the persons who had this right. The Ombudsman's interventions were respected only in case a place was freed, but the list of present users was not extended due to limited funds. Informing the Minister



of Labor and Social Policy on the matter, the Ombudsman indicated that the purpose of the project is not reached and that the **persons in social risk are discriminated** due to their non-inclusion in the public canteen, although fulfilling the prerequisites foreseen.

The Ombudsman received complaints on using subventions for electricity and other types of energy and found that the citizens are still not sufficiently informed on the conditions and possibilities for realization of this right.

Regarding the complaints on appeals before the Ministry of Labor and Social Policy, although it can be said that the procedures are delayed and decisions are not made in the legally stipulated time limits, still in the majority of cases the procedure was hastened after the Ombudsman's interventions and immediate insights and the Ombudsman's indications and recommendations were mostly accepted.

Social security and fairness are still not secured because of the low social aid, inaccuracy of bodies and untimely payment of social aid.

The activities and measures are not sufficient for realistic easing of the social situation for the most endangered category of citizens, and the situation of poor families with juveniles who do not have the elementary living conditions is especially worrying since it disables the normal growth and development of the children.

Social aid should provide a realistic realization of the constitutional principle of social security and fairness for the socially deprived categories of citizens.

Measures need to be taken in order to decrease the number of socially deprived citizens by their employment or providing conditions for earning income from their own work, especially when it is about citizens capable of working.

For the families without any income, and who have juveniles, realistic possibilities need to be created for social support which would enable realization of basic children's rights for their growth and development.



PENSION AND DISABILITY INSURANCE

Rights in the pension area are social rights which citizens realize on the basis of the Constitution of the Republic of Macedonia and in accordance with the laws, and through respecting humanism, social justice and solidarity, as basic values of the constitutional order.

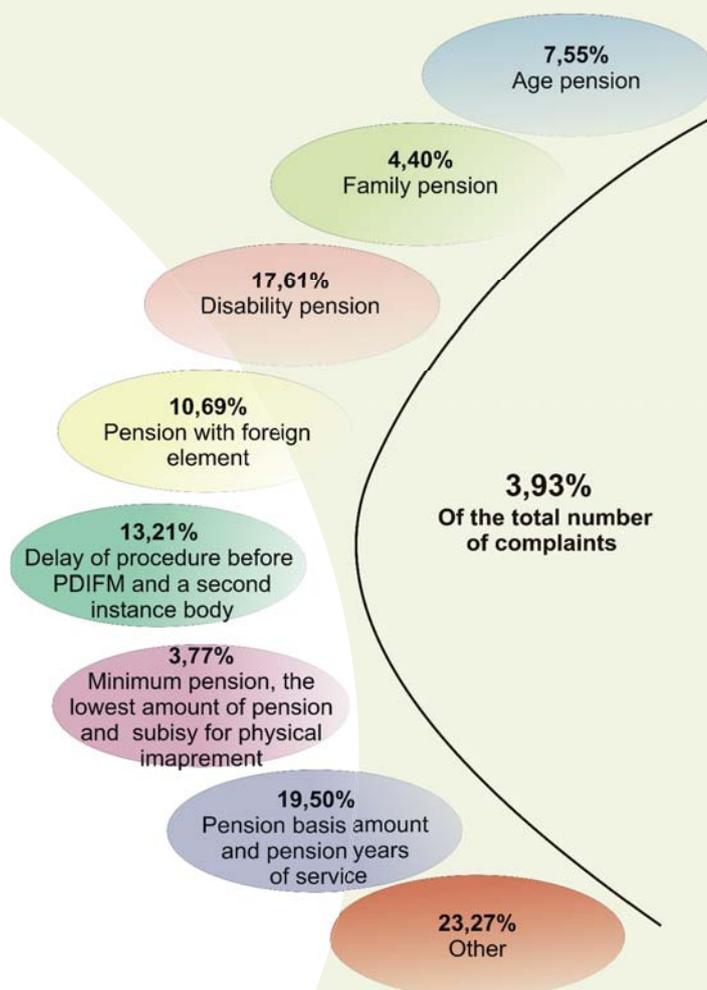
Taking into consideration that realization of rights in the area of pension and disability insurance is of existential importance for the citizens, it is logical that they should be realized swiftly, efficiently and without any delays.

However, the citizens this report year as well, mostly complained on violation of rights due to **unjustified delay of procedure and disrespect of legally set time limits** for deciding, a problem which is especially present at the second instance procedure while deciding upon an appeal.

A typical issue for the beginning of the year is that there was not a drastic delay of procedures before the competent second instance government commission; however, in the second half of the year this problem reoccurred because no decisions were made over a longer period of time upon appeals or draft-decisions were prepared which were waiting to be signed for months. In order to expedite the procedures, the Ombudsman constantly intervened through immediate insights and written implications, finding that there was violation of citizens' rights by unjustified delay of procedures.

A typical feature is that unlike previous years, the number of complaints on violation of citizens' rights in realization of the **right to age pension** increased, because citizens had difficulties in realization of this right due to long lasting and inefficient activities by the competent bodies. The majority of citizens expressed dissatisfaction with the first instance decision because they considered that the stated non-fulfillment of the prerequisite for realization of age pension was not grounded or an inadequate amount of the pension was calculated. One of the reasons for disability to realize the right to age pension was not registering the years of service in the record keeping books at the Fund, following additionally paid contribution fees for pension and disability insurance on the basis of a first instance decision, without having paid the interest. Citizens realized their rights following the Ombudsman's interventions if they fulfilled the legal prerequisites with the registered years of service.

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An obstacle for realization of the right to age pension was the **incorrectly entered or not entered data** in the record keeping books of the Fund, untimely submitted data by the employers or untimely payment of contribution fees.

In terms of the problem with payment of contribution fees, the Ombudsman insisted the Fund for Pension and Disability Insurance to take the legally foreseen measures for payment of contribution fees, in order to provide realization of the insured persons' rights, upon which the Fund took adequate measures and the citizens were able to realize their rights.

The number of complaints referring to realization of the right to pension (mostly **age pension**, and a small number of **family pension**) on the basis of international and bilateral agreements was drastically increased in comparison with the previous period.

The insured persons had difficulties in realization of the right to **pension with a foreign element**, meaning the **proportional part** of the pension or re-retirement. In all these cases the Ombudsman intervened with the Fund for Pension and Disability Insurance to take measures for expediting the procedure before competent foreign bodies, which was regularly done by the Fund.



For the purpose of realization of rights to pension and disability insurance in the former republics of former Yugoslavia, the cooperation of the national Ombudsman with the Ombudsmen institutions in those states was intensified and more frequent this report year, which resulted in successfully closed cases. However, the problems for a part of complainants have not been solved yet, thus further activities are being taken. At the same time, a part of complainants with years of service abroad, who along with the years of service in the Republic of Macedonia fulfilled the prerequisite for pension, following the Ombudsman's interventions realized their right to pension, meaning temporary decisions were made which will undergo changes once the foreign years of service are confirmed.

The number of citizens complaining on the disability to realize the **right to disability pension was also increased**, and the citizens mostly expressed their dissatisfaction with the opinions received which were not in correlation with their health condition and working ability or because they did not fulfill the other legal prerequisite regarding disability pension.

The Ombudsman, although not professionally competent and authorized to abandon and amend professional diagnosis and opinions, still intervened for every complaint to the competent commissions and to the Fund and requested a realistic determination of the factual condition as well as issuing an adequate objective act.

Simultaneously, the Ombudsman informed the Fund on the allegations by the citizens for corruption cases by officials at the Fund when it is about a disability pension, but due to lack of concrete evidence for initiating responsibility procedures, only indicated the allegations and requested their investigation and taking adequate measures.

In this direction, acting upon citizens' complaints on realization of the right to disability pension, the Ombudsman found out that a procedure was initiated against several members of the commissions for estimating the working ability exactly on the basis of a suspicion for corruption. Taking into consideration that a large number of cases were investigated during these procedures, the Ombudsman addressed the Ministry of Interior Affairs to return the cases in which no irregularities were found and no procedure was initiated to the Fund, in order realization of citizens' rights to be provided.

Also, the citizens who applied for a disability pension complained on delay of proce-

dures, especially on **untimely issuing diagnosis and opinion** by the commissions for estimating the working ability.

In this report period, a still current and unfortunately not solved problem is the one with the retired persons with accountative pension whose pension years of service was done in the former YPA, taking into consideration that in the Succession Agreement, the agreement parties did not reach mutual consent on the pensions.

In order to overcome the stated problem, a special information was addressed to the Minister of Labor and Social Policy and the Manager of the Fund for Pension and Disability Insurance on several occasions, indicating that the rights of the concerned citizens were violated and that measures need to be taken in order these issues to be solved.

The Ombudsman was informed that in order to overcome the problem, by a conclusion by the Government of the Republic of Macedonia, an Assistance body for Application of the Succession Agreement in the area of pension and disability insurance was established, within the frames of the existing Committee for Implementation of the Agreement. However, even after several interventions, no reply was received on whether this body has started functioning, which would result in solving the problems of these citizens.

Military invalids addressed the Ombudsman on several occasions, due to **delay of invalidity fee payment**, so in order to hasten the procedure for realization of the above stated right, the Ombudsman intervened to the competent bodies. In the meantime the invalidity fee was paid, so the procedure was stopped.

The collaboration of the competent bodies with the Ombudsman **was not realized on a satisfactory level** and there were rare cases of taking timely and adequate actions of crucial aspect upon the Ombudsman's requests, which hindered the efficient activities upon the citizens' complaints.

Delay of procedures for deciding upon requests and appeals hinder realization of rights to pension and disability insurance.

Due to subjectivity of competent commissions and long lasting procedures it is still difficult to get a disability pension.

Competent bodies not always took the legally foreseen measures for payment of contributions, by which the citizens were disabled to realize the rights to pension and disability insurance.

Upon citizens' requests for realization of rights in the area of pension and disability insurance and upon appeals it should be decided in legally foreseen time limits, taking into consideration the existent ional importance of these rights for the citizens.

Monitoring of the work of commissions for estimating the working capability should be strengthened for the purpose of their objective actions and elimination of cases of corruptive behavior.

Measures for payment of contribution to pension and disability insurance should be taken regularly and on time in order not to restrict the citizens in realization of their rights.



HEALTH INSURANCE AND PROTECTION

The number of complaints in the area of health insurance and protection during this report year was not significantly changed compared with 2009.

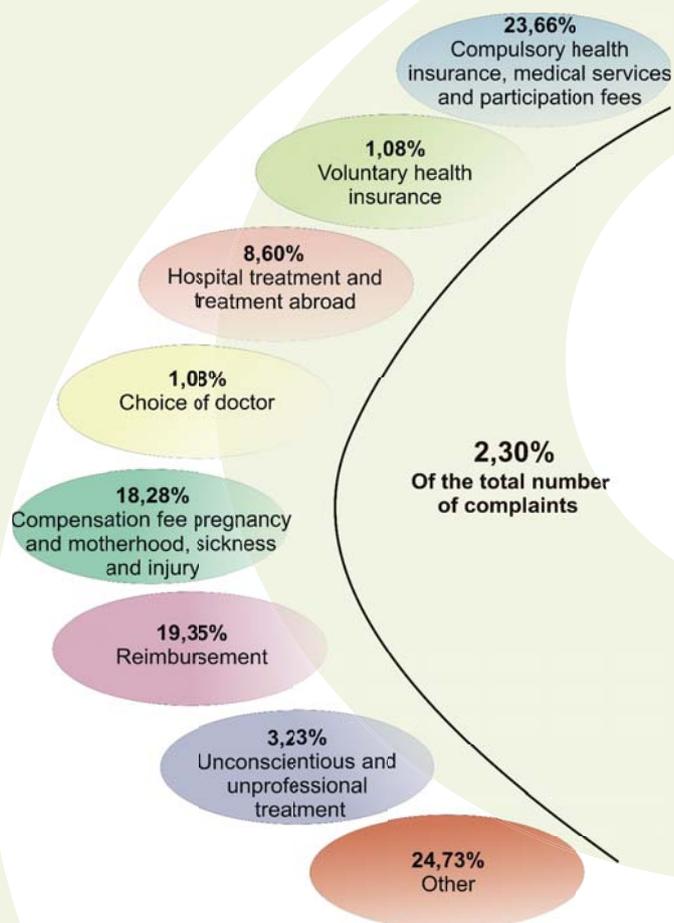
Both in the previous and this report year, the most common problems citizens faced while realization of health protection were the **insufficient accuracy of the bodies** while taking actions upon their requests, especially upon appeals. An especially worrying fact is that the Ministry of Health, being the second instance body deciding upon appeals against acts issued by the Fund of Health Insurance, **did not act upon a single request by the Ombudsman**.

This conduct by the Ministry does not only hinder the citizens' realization and protection of their rights, but it also **prevented the Ombudsman from taking actions** upon complaints. The Ombudsman addressed special information on this issue to the Minister of Health at the Government, but it also did not result in any change of the situation, meaning gaining information on whether actions were taken upon citizens' appeals.

The majority of complaints referred to restriction of rights from mandatory health insurance due to not paid contribution fee from a previous period or on the basis of expired grounds.

Namely, because of these reasons, citizens were not treated as insured persons, although they paid the current contribution fees on time and regularly. The Ombudsman believes that if the current contribution fees are paid regularly and without delays for the insured person, he/she should regularly receive certificates as well ("blue cards"), and for the period in which the contribution fees were not paid, there are other payment mechanisms which could be utilized.

However, besides these indications, certain insured persons did not receive any certificates for the contribution fees paid, although the Fund for Health Insurance conducts regular charging of contribution fees by collecting money from the citizens. Previously the Fund used to accept the Ombudsman' indications and issued certificates to persons who regularly paid the current contribution fee, which allowed them to use health services having the status of insured persons. In the recent years that practice has stopped, meaning the Fund does not issue "blue cards" until past contribution fees are paid.



There is a typical case of an insured person who had a debt for not paid contribution fees for almost a year, after which period he was regularly paying current contributions fees for five years, and the Fund did not treat him as an insured person until the past debt was paid. The Ombudsman's interventions and indications did not help in this case either.

Persons employed through temporary employment agencies faced the same problem because the Fund **did not issue certificates for paid contribution fees** even to persons for whom they were paid because for a number of these employees the contribution fees were not paid by their employees. Finding that there was no basis for a **collective restriction of rights**, which restricted the rights of those persons who regularly and timely paid the contribution fees, only on the basis that a number of employees did not fulfill their obligation, the Ombudsman intervened with the competent bodies. However, the problem has not been solved yet, although according to the response, the solution is expected at any moment.

It is important to accent that although the changes and amendments of the Law on Health Insurance were expected to enable all citizens of the Republic of Macedonia to be medically insured, there are still citizens who are not able to realize this right, although in a formal-legal aspect they are treated as insured persons. It is about citizens who formally do have the status of insured persons on the basis of employment or family members of an employed person, but due to not paid salaries and contribution fees for a longer period of time, they realize their rights as not insured person because they are not issued the "blue cards", and in case the contribution fees are additionally paid and they are issued the blue cards, they still can not utilize the services as insured persons because the cards have already expired.



The realization of the right to **reimbursement of means** for medicines or medical devices, which the citizens have purchased with their personal finances, although they should be paid by the Fund and the medical institutions were supposed to purchase them, especially during hospital treatments, **is still difficult**.

There are still cases of lack of medicines on the Medicines List subsidized by the Fund or lack of medical devices, as a result of which the citizens are forced to purchase them with their personal finances. After applying for reimbursement, citizens faced problems due to long duration of the procedure or receiving a refund of a smaller amount than the one they had paid, due to the difference between the reference price recognized by the Fund and the actual price they had paid. There were also cases when following the Ombudsman's interventions, the procedure was expedited and the insured persons were entitled to reimbursement.

The practice of **non-recognition of expenses** for basic medical services included in the mandatory health insurance has not changed, because they were performed at medical institutions the Fund has no agreement with, although the Constitutional Court of the Republic of Macedonia twice, once upon the Ombudsman's initiative, annulled the provisions restricting the right to choose the medical institution for treatment by the citizens. The Administrative Court has also issued decisions on this matter which indicate to the competent bodies that they should recognize the right to reimbursement of expenses for medical services provided at institutions the Fund has no agreement with as well.

The Ombudsman also received complaints on **recognition of expenses for medical treatment abroad**. The majority of them were about interventions in a foreign country due to the urgency and impossibility to postpone them, which had to be performed in order to

protect one's health and life. In cases like these the Ombudsman reacted towards confirmation of the urgency of those treatments, because then there is a basis for recognition of expenses for a medical treatment abroad.

The Ombudsman reacted in cases of **payment of participation fee by persons liberated from payment by the law** (children with special needs, persons with severe diseases), and he addressed special information to the Minister of Health and the Government of the Republic of Macedonia.

Regarding realization of regular health protection for persons with severe diseases which need to take their therapy regularly at the clinics, the Ombudsman found that there is lack of medicines for all patients which need such therapy, which places these persons in an **unequal position**.

A special problem occurred in providing gynecological health protection for more than a thousand women, members of the **Roma population** in the Municipality of Suto Orizari, because there is not a gynecological institution in their region. The Ombudsman intervened on several occasions to the competent institutions in order to take adequate measures, to allow certain subsidies and to stimulate the doctors to open a gynecological institution in this municipality so that the women of this municipality could have a better and easier access to



necessary services. The Ministry of Health informed that although an advertisement was published several times for awarding concession for the opening of such medical institution, no one applied, as a result of which this problem remains unsolved.

Regarding recognition of the right to compensation of salary on the basis of pregnancy, giving birth or maternity, it was found that there is **delay of procedures**, incorrect calculation of the contribution or its non-payment as a result of not paid contribution fees. In cases referring to recognition of incorrect amount of the compensation, in opposition with the legislation, upon numerous interventions by the Ombudsman, the right was

realized. In cases when the compensation was not awarded due to unpaid contribution fees, it was paid after the payment of contribution fees.

A fact which needs to be emphasized for this report period is that unemployed mothers who had the right to compensation for every live born child stipulated by the Law on Health Insurance did not realize this right because a program was not adopted by the Government and no financial means were allocated for this purpose in the budget. Additionally this legal right was abolished, thus even mothers who had decisions for being awarded the amount, did not realize this rights, although the Ombudsman addressed information to the Government of the Republic of Macedonia on this matter.

In terms of legal authorization for monitoring the conditions in respect and protection of the rights of citizens deprived from their freedom placed in psychiatric institutions, **all psychiatric institutions were visited**, after which we reached a conclusion that the existing conditions **do not provide dignified and humane stay**. The treatment is also an issue the Ombudsman constantly indicates that can not be adequate because these institutions not only face lack of personnel, but the existing personnel does not possess the necessary education, professionalism nor the capability to respond to the needs of persons with diminished mental health.

Citizens still face difficulties with timely and quality realization of health protection besides reform measures taken for easier access to medical services.

Due to not paid contribution fees and not recognized status of an insured person, health protection is not available for all citizens.

There was lack of a second instance point concerning cases of health insurance because the Ministry of Health did not act upon appeals.

Citizens were forced to spend their own financial means in order to purchase medicines and medical devices which should be provided by the Fund, and later on through long lasting procedures and with difficulties they were attempting to receive reimbursement.

Reforms in the health area should provide realistic conditions for the citizens to access health protection they need in a timely and quality manner.

Measures for overcoming real problems of the citizens need to be taken in the process of realization of health protection.

Citizens need to be provided with the possibility to appeal.

Citizens must not be forced to purchase medicines and medical devices with their own financial means in order to avoid exposure to further reimbursement procedures.



CHILDREN'S RIGHTS

Monitoring the conditions in realization, respect and protection of children's rights indicates that still **there is not an adequate level of understanding and realization of these rights**, nor an adequate system for prevention and protection, meaning education of children and adults on special children's rights and obligations.

This statement is supported by the fact that self-initiative at children still lacks for requesting protection of their rights by the Ombudsman, although the complaints submitted by other persons on their behalf indicate violation of rights and children abuse.

The analysis of the number of complaints in this area also indicates that like in the previous years, a child's right to **maintain personal relations and immediate contacts** with the parent he/she does not live with, is still the most common problem and unfortunately, such complaints were regularly submitted by the parents or relatives concerned.

In that sense, the Ombudsman permanently emphasized the importance of continuous monitoring of the relations in the family as a preventive method, meaning prevention of occurrences which directly violate children's rights.

This especially in direction of activities taken by the centers of social work which before making a decision and taking other measures, should always be led by the **best interest of the child** and to respect his opinion, depending on child's age and maturity.

The Ombudsman indicated to the importance and role of professional monitoring, meaning monitoring performance of a parental right by the centers for social work ex officio,

not only upon someone's request.

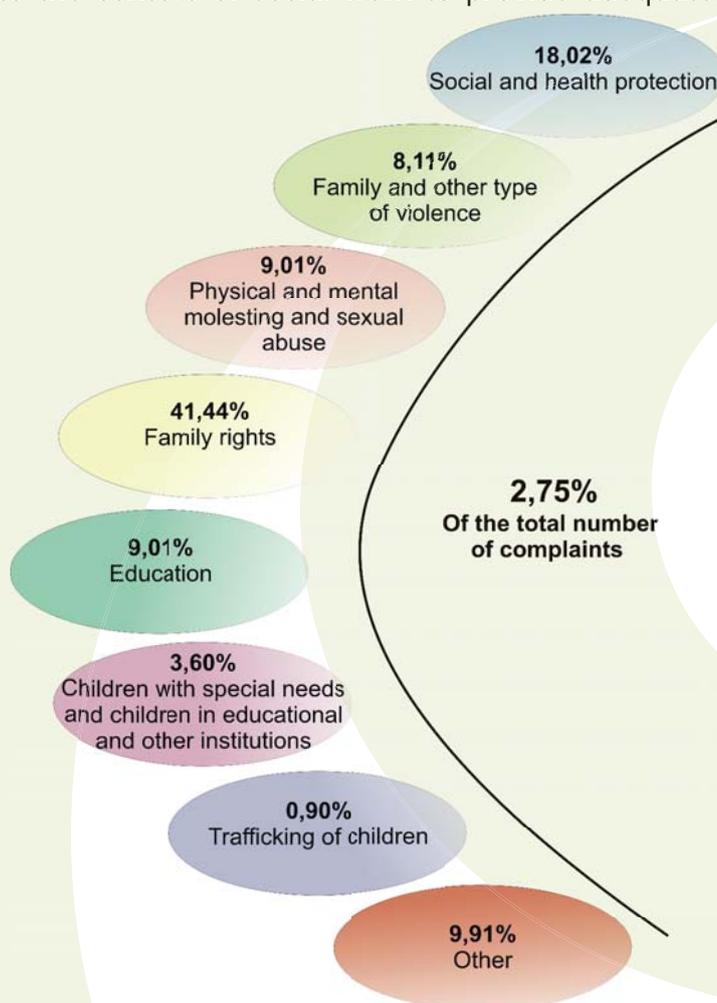
Namely, there is a prevailing finding that the centers still take little ex officio measures and most frequently they act upon someone's request, and they take activities after the problem has occurred. Thus, the problems become long lasting and difficult to solve, and most of all **they have negative effect on the psycho-physical development of a child.** Due to this, the Ombudsman indicated to the centers of social work to provide adequate, professional and other type of assistance more frequently to the families in order to realize their protective, educational and reproductive function and to instigate the significance of the role of both parents for the proper development of the child.

Although the Law foresees a possibility for the centers for social work, while performing monitoring of the parental right, to direct the parents alone or with the child to attend an adequate counseling center or another medical, social or educational institution which could provide advice for them, in practice the Ombudsman found that the centers utilize this possibility quite rarely. The reason is the financial expenses which should be borne by the center directing the persons to a treatment, as well as lack of adequate counseling institutions for this purpose. So, very often the parents, and their children as well, are only informed on the need for visiting a counseling institution and they are left to decide whether they would seek professional assistance or not. A special problem for the undisturbed realization of the right for a child to maintain contacts with the parent the child does not live with is **execution of decisions** determining the dynamics of those contacts.

Legal measures against the parent preventing the contacts are rarely taken, with an explanation by the centers that in this manner the children are protected from trauma and negative consequences. However, the long term separation of a child from one of the parents often has negative influence on the child and results in resistance for keeping contacts with the parent the child does not live with, after which it is very difficult to re-establish contacts. Special information was submitted to the **Minister of Labor and Social Policy** on all problems children as well as parents face in realization of a child's right to maintain personal contacts.

In the majority of cases the Ombudsman took actions upon, he managed to establish communication and contact between the child and the parent the child does not live with, but there were also cases in which due to untimely prevention there was no possibility to establish immediate and quality realization of this right of a child. This demonstrates that much work needs to be done in the area of creating a happy family and responsible parenthood.

This report year was marked by events of **violence and abuse of children**, for which the Ombudsman took actions both upon received complaints as well as on his own initiative. Children, unfortunately remain subject to physical, mental and even sexual molesting, both within their families and at schools.



Although in the majority of cases measures were taken against the persons who committed the abuse, still there is the worrying fact that schools do not always take measures on their own initiative to investigate a case and measures against the doer, but they did that following the Ombudsman's indications and interventions.

Hence, the Ombudsman often informed the competent inspection bodies on this kind of matters as well, emphasizing the need for more frequent controls at schools in order to provide preventive protection of children, as well as for taking measures against persons at schools who envelop these events and allow the doers to go unpunished.

One of the factors for protection and self protection of children from any kind of violence and abuse is the appropriate knowledge of children's rights and responsibilities, both by the children and the teaching personnel, as well as by the parents. The Ombudsman visited several elementary and high schools in order to find out how much children are informed on the existence of rights and responsibilities and to what extent those rights are respected at schools, especially whether children are able to recognize possible violations of their rights.

After these visits, during which the children's rights and responsibilities were presented as well as the possibilities for protection before the Ombudsman and other bodies and institutions, it can be said that children are generally informed on the existence of such rights and responsibilities, but rarely can they explain how they understand a certain right and how and where they can address in case of violation or disrespect of a certain right of theirs.

This indicates to the need for a more frequent promotion of children's rights and responsibilities and treating children as subjects with special rights, interests and responsibilities, but that, among other things, requires regular training for the teaching personnel as well.

Cases of **family violence and sexual molesting** of children by parents or other persons who live in a family community were more frequent. A typical feature for this kind of violence is that children report this kind of cases rarely because they are not aware that it is about violation of their rights and abuse or they are ashamed to report these cases to institutions which are obligated to take measures.

During practice, the Ombudsman found that children are rarely informed on what sexual molesting is, and very often it is the case with their parents as well, who are not informed on indicators for sexually abused child and they almost never explain to their child what to do in case he/she faces an abuser.

As a result, the Ombudsman believes that it is not only important to punish the abusers, but a timely reaction and adequate protection of children by competent institutions is also needed, in order to prevent long-term consequences for the children, who are most often at the age of under 14.

In a case of sexual abuse of three children by their parent, the Ombudsman took activities on his own initiative and among other things, recommended for the children to be fostered and protected from any further abuse and influence by their parents, to take measures for psycho-social support, treatment and rehabilitation of children so that they could overcome the trauma, as well as measures against the parents in concordance with the Law on Family. The indications were accepted and one of the parents was deprived from the parental rights, and the other parent, who was also a victim of family abuse, was directed to professional assistance.

Trafficking with children in this report year was a subject of investigation by the Om-



budsman, for the purpose of what information was requested from: the Ministry of Interior Affairs, the Ministry of Labor and Social Policy and all centers for social work regarding registered children – victims of trafficking as well as the measures these bodies take in order to assist and protect this category of children.

Received data reveals that the majority of registered cases of children – victims of trafficking inside the country are female at the age of 14 to 16, and there were also cases of children from Macedonia - victims of trafficking outside the country. The greatest number of registered children are citizens of the Republic of Macedonia, and a smaller number of them are foreign citizens. In terms of activities by the centers, among other issues, it was found that they have not elaborated and implemented an adequate system of informing and acquainting children – victims with their rights and that those children rarely actively participate in conducting of individual work plans, meaning they are not given a possibility to express their opinion regarding measures and decisions for their protection and assistance. At the same time, all children victims are not entitled to a fostering person and there are no trained fostering persons for working with children victims of trafficking, but trained officials from the centers are appointed as fostering persons.



Besides the legal obligation, centers for social work do not make a decision for monitoring of performing the parental right when a child is registered as a victim of trafficking, neither do they issue a decision for a permanent monitoring when a child – victim of trafficking returns to the family, and if the child remains or returns to his/her family, the centers do not always work with the family and provide professional assistance. Thus, after returning to the family, **the child is left on his/her own** without further protection by the centers for social work, which indicates that the centers are not sufficiently involved in the reintegration of the child – victim, although a continuous monitoring of the conditions is necessary.

Accepting and accommodating children – victims of trafficking is still not performed in sufficiently safe and adequate fostering centers, meaning there is no state center for accommodating, so it is done by a non-governmental organization which is not awarded financial means by the state. At the same time, **there is not a special center only for children – victims of trafficking**, so children are accommodated together with adults and there are no centers for children younger than the age of 12 or a center for boys – victims of trafficking, and measures for rehabilitation and resocialization of children victims are completely missing.

The Ombudsman submitted several recommendations to competent bodies on the conclusions from the research, in which he particularly indicated to the need for adequate implementation of legally stipulated measures for prevention and protection of children from this negative act, as well as protection of children who are already victims of trafficking.

In that direction it was indicated to the need for a special education of the children on trafficking with children and on its various forms and possible manners for indenting children, proactive role by all competent institutions in taking preventive measures for protection of children in risk who could become victims of trafficking.

In this report year as well, the Ombudsman found that in certain municipalities there are still problems with providing **free transportation for children** from elementary and high schools, according to the legally foreseen conditions. The Ombudsman informed the Government on this issue. The problems were overcome for a part of the complaints after the Ombudsman's interventions.

The problem with covering transportation expenses was present for the persons accompanying **children with special needs**, whose diagnosis and opinion on the type and level of disability in their physical or mental development and specific needs issued by the Department for Mental Health, in accordance with the categorization of children, states that the child has a need for an accompanying person with a shuttle transport while traveling from home to school and back. Monitoring the case which concerned a big number of children with special needs, meaning persons accompanying these children, the Ombudsman found that due to lack of financial means for covering the transportation expenses, the municipality was not in a position to cover these expenses.

Reminding the school and the municipality on their legal obligation to provide transportation for the children and covering the expenses for persons accompanying them, the Ombudsman requested from them to act in concordance with the Law, after which the school and the municipality took measures in order to overcome this problem.

Regarding the right to education of children, the Ombudsman this year as well intervened upon complaints on **realization of the right to education in mother tongue** in elementary schools in a manner which indicated the need for creation of conditions for unobstructed realization of this constitutionally guaranteed right. However, despite several interventions to several elementary schools, the problem has not been overcome yet. Special information on this matter was addressed to the Minister of Education and Science; a response and adequate measures are still pending.

Monitoring the conditions in realization of rights of children with special needs, more precisely realization of the right to health protection, the Ombudsman intervened in terms of problems of children with impaired hearing who were indebted by the Fund for Health Insurance to pay 20% participation fee for treatment abroad, although according to the law, children with special needs are freed from paying participation. The Ombudsman intervened to the Fund of Health Insurance and the Ministry of Health, requesting reconsideration of the case and taking measures for protection of children's rights, both in terms of the illegally charged participation, and in terms of overcoming the problem with treatment of children which need special medical interventions, meaning implantation of a hearing device.

Taking into consideration that the decisions for approval of the treatment abroad became final because the parents did not file an appeal, the Fund found that there was no legal basis for reimbursement of the amount charged, and the Ministry of Health has not replied yet upon the recommendation and the additional interventions by the Ombudsman, as a result of which special information was addressed to the Minister of Health.

The Ombudsman found that this category of children still face problems with untimely treatments because they wait for a long period of time in order to receive an intervention at medical institutions in the country, and at the same time treatment abroad is not approved for them.

Regarding the rights of children with special needs according to the report by EKRI and the notes that in the state **a large number of children, especially from the Roma community, attend schools for children with special needs, although they have not been categorized as such**, the Ombudsman visited the elementary and high special schools.



Data received reveals that although there are children with special needs from several ethnic communities, the majority of children are from the **Roma ethnic community**. Although the insights confirmed that at elementary and high schools there are no children enrolled without a previously issued diagnosis and opinion by a professional team which performs the process of categorization of children, it was found that this kind of diagnosis can be issued by various institutions, and recently in Skopje they have been issued by the Department for Mental Health. Besides the positive results from the education of the children with special needs at these schools, it was found that for a part of the children the educational process is hindered or they do not complete it due to lack of good and adequate cooperation with their parents, and in certain cases an obstacle for good cooperation is the low level of education of the parents and their unfavorable material situation, as well as **lack of engagement by the centers for social work**.



In this sense, the Ombudsman recommended for the competent bodies to take measures for timely recognition and registration of children with special needs and finding manners of establishing regular cooperation between the schools and the parents in order better results to be achieved in the educational process, and especially for its completion. At the same time, it was suggested that parents need to be educated to work with the children with special needs. In order to prevent possible omissions and abuse in issuing the diagnosis and opinion on a child's disability, the Ombudsman recommended determination of bodies and institutions which would be authorized to issue such documents and finding a possibility a commission to be established which would consider the issued diagnosis in first instance.

There was also a problem in terms of realization of the right **to parental subsidy for a child and the right to child's subsidy**. The Ombudsman found that parents from objective or subjective reasons missed the deadline for submitting a request for realization of the right to parental subsidy, as a result of which they could not realize this right, and the time limit for applying is until the baby reaches three months of age. This problem was especially expressed after the changes and amendments of the legislation were adopted for recognition of this right on the territory of the whole country.

Namely, by the changes of the law the time limit for applying remained three months since the child's birth. Thus, the centers for social work did not recognize this right to mothers who applied after the changes of the law came into force, because three months since the child's birth had passed, and the Ministry of Labor and Social Policy, besides the Ombudsman's indication that some of the mothers were placed in an unfavorable position not because of their own quilt, rejected the appeals for being ungrounded.

The status of a child in the legal system still does not provide their adequate treatment as a bearer of special rights.

There is lack of adequate normative and practical solutions for inclusion of children in decision making processes which refer to their rights and interests.

There is lack of appropriate education of children which would enable adequate preparation for the children to recognize their rights and responsibilities, as well as violation of those rights.

There is lack of real prevention and protection of children from any kind of violence and trafficking.

Taking measures for appropriate adjustment of legislation on children's rights with international acts, as well as inclusion of children in making decisions which are of their rights' concern, depending on their age and maturity.

Adequate syllabus needs to be included in the educational process which would enable preparation of children for knowledge of their rights.

An effective prevention and protection system for the children needs to be established from any kind of violence and abuse.

While making decisions, the institutions need to pay due attention to the best interest of the children.



EDUCATION

Citizens' complaints on realization of rights in the area of education, especially at high education institutions, in 2010 referred to the same problems as before. Students complained on the procedure for awarding student scholarships and credit lines, but unlike the previous year, in this report year formal decisions were brought upon students' requests, which gave them an opportunity for a possible further protection of rights. However, besides the elimination of formal gaps, students still had problems in realization of this right due to delay of the procedures for payment of scholarships and credit lines.

Although the number of complaints on realization of students' rights at high education institutions is not a very big one, the activities taken upon them led to a conclusion that the problems the Ombudsman intervened for were actually problems which concerned a great number of citizens, i.e. students.

An example case was the one of the students at the University "Sveti Kliment Ohridski" in Bitola who complained that on the website containing the final results of exams, along with the index number, **their unique identification number was displayed as well**, which is personal data which needs to be protected under legally determined conditions.

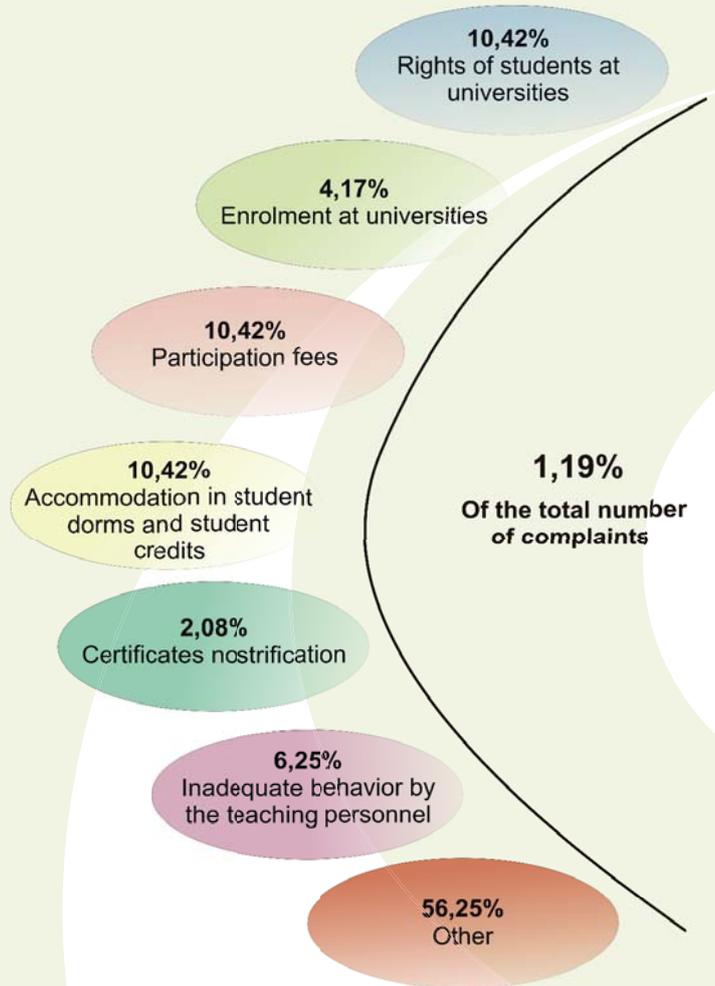
Finding that displaying the unique identification number is violation of students' rights, along with the interventions to the University, the Ombudsman informed the Department for Protection of Personal Data on this case as well which accepted this attitude and found that this was a case of activities against the Law and ordered the University not to display the students' unique numbers because it is a **violation which is sanctioned with a financial fine**. The interventions and the indication were accepted.



A problem which concerned a big group of citizens was the inability for the persons who finished **university education with 189 ECTS credits** to get employed at state administration bodies, as a result of the provisions of the Law on Changes and Amendments of the Law on State Servants.

The Ombudsman noticed this problem in 2009 as well because of which he intervened to the competent Ministries and the Government of the Republic of Macedonia, but taking into consideration that the problem was not overcome even in 2010, he submitted special information to the Government and the competent ministries. He indicated that persons who have finished the first cycle of studies with 180 credits gained according to the Bologna credit transfer system and gained the professional title of a graduated person in a corresponding field can not be employed at the state administration bodies. Finding that these persons were **placed in an unfavorable position**, the Ombudsman requested from the Government of the Republic of Macedonia to reconsider this problem and take adequate measures in order for the persons who have finished the first cycle of university studies with 180 ECTS credits to be enabled to get employed at appropriate professional post, like the persons who have finished the first cycle of university studies with gained 240 ECTS credits and the persons with 7/1 level of education.

Following the interventions, near the end of 2010 changes and amendment of the Law on State Servants were adopted which stipulated that persons with gained 180 ECTS credits **are able to get employed** at adequate posts at the state administration and gain corresponding titles in the group of state servants.



Protection of rights in the area of university education was requested by members of security forces because at enrollment at universities for post graduate studies they were charged with a participation fee. They believed that they should be liberated from this obligation in accordance with the Law on Special Rights of the Members of Security Forces of the Republic of Macedonia and the members of their families.

The Ombudsman found that the provisions of this law stipulated the right to enroll at a university institution without paying a participation

fee, without precise defining whether this right could be realized only at state university institutions or the private ones as well, and it was insufficiently clear whether the members of security forces could enroll at all cycles of university education, meaning whether they could utilize this right when enrolling the second and third cycle (post graduate and doctorate studies) or only at the first cycle.

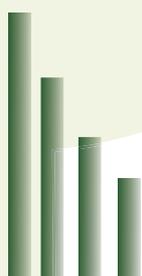
Regarding regular, quality and meaningful cooperation with the Ministry of Education and Science, unfortunately **remained on an unsatisfactory level** both in terms of untimely activities upon the Ombudsman's requests and in terms of submitting delayed and incomplete (inadequate) responses, which leads to difficulties in taking actions and influences the efficient and legal realization of citizens' rights.

There are still difficulties in realization of rights in the educational system, especially at university education, due to inaccuracy when deciding by the competent bodies.

The level of cooperation of the Ombudsman with the Ministry of Education and Science is worrying.

Timely and objective actions by the competent bodies regarding the rights to education, and especially students' rights.

The Ministry of Education and Science should act upon the Ombudsman's interventions with greater seriousness.



CONSUMERS' RIGHTS

The analysis in the report year indicated that the **tendency of increase** of complaints on consumers' rights **continues**.

In order to provide more efficient and quality protection of citizens' rights as consumers, the Ombudsman besides the written communication with public enterprises and organizations, continued conducting immediate insights and direct contacts with officials in order to ascertain the realistic situation correctly and to find solutions for realization of consumers' rights.

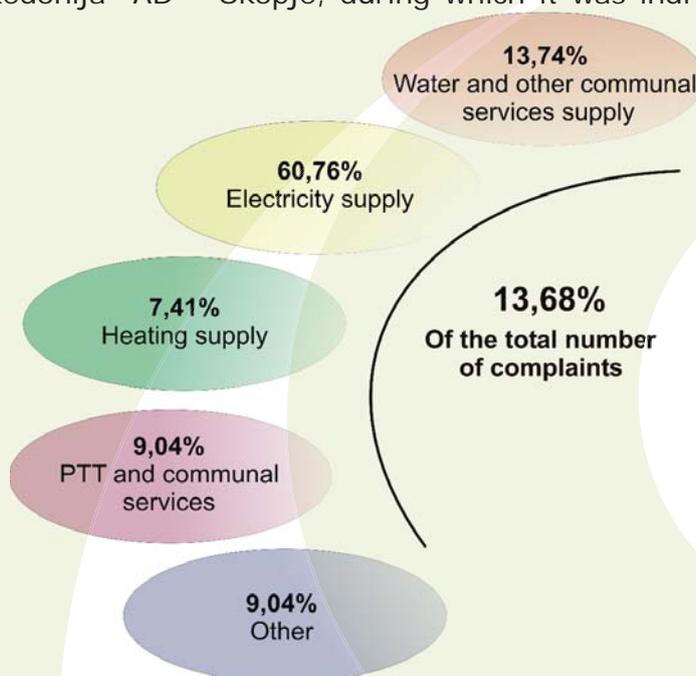
The majority of complaints requesting protection of consumers' rights referred to **use of electricity**, but the number of complaints on heating supply and telephone services was no small either, as well as on services by public communal enterprises, especially on water supply and disposal of urban waste material.

Taking into consideration that during the report year "EVN" started working with a new

system for monitoring the conditions with the used electricity bills, in which besides the main debt, past debt was displayed as well, without indicating the period the debt refers to, the number of complaints to the Ombudsman **drastically increased**.

The fact that the period the debt refers to is missing is a very important one because according to the Law on Obligations, the bills for electricity become obsolete in one year, after which forced payment could not be conducted, in case there is no procedure initiated on time.

Regarding this problem, the Ombudsman performed several insights and meetings with the persons in charge at "EVN Makedonija" AD – Skopje, during which it was indicated that changes of the system and the bills needed to be done, in order to avoid confusion with the citizens which leads to legal insecurity. In that sense the Ombudsman recommended that the in the part of the bill in which the past debt is displayed, there should be a **precise amount of current unpaid bills**, the amount of unpaid bills under court procedure and the amount of the interest for late payment. At the same time, he indicated that the past debt for which there is no timely court suit is considered obsolete and **there is no legal basis for forced payment** due to which measures for forced payment against the consumer should not be taken.



Regarding collective consumption of electricity in buildings which according to the Law on Housing, is noted as

debt of a community of residents, it was found that there are difficulties in collecting means from the tenants as a result of which it was requested from "EVN" to make efforts in order to overcome the possible problems. Taking into consideration that consent from all tenants is required, this problem has not been overcome yet.

Having in mind the information that officials of "EVN", without presence of the users read the measuring devices and perform other interventions, and especially when it is about ascertaining unauthorized use of electricity, the Ombudsman indicated to the illegality of such practice and requested performing of any intervention in future to be conducted with the presence of the users.

The Ombudsman also intervened in payment of past debts or debts under court suits because there were various approaches towards consumers who paid their debts during the "EVN" campaign and the consumers who paid their debt before or after the campaign. In that sense, a large number of complains were received mostly by consumers who paid the debt in a period other than the campaign because they were charged with interest as well, which was often higher than the debt, which placed them in an **unfavorable position** compared with consumers who paid the debt during the campaign in installments and were not charged with interest.

Taking into consideration the fact that the campaign for payment of current or debts under court suits liberated the consumers from interest for late payment, the Ombudsman faced the following question: is it fair for those who paid their debt before the campaign to be charged with interest, and the consumers paying their debt during the campaign to be liberated from interest for late payment?

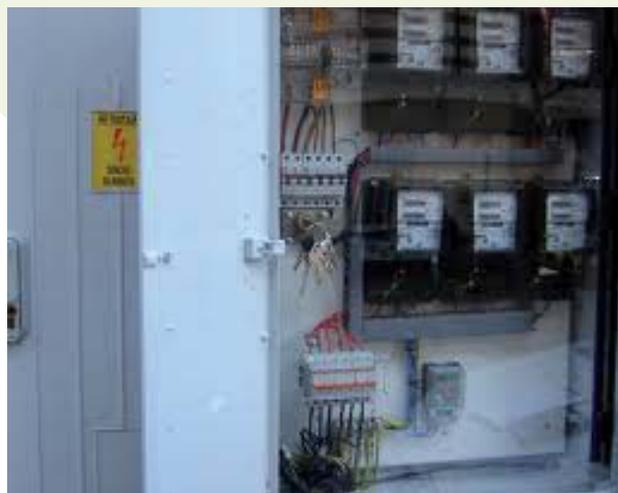
The number of complaints **increased on daily basis**, thus the Ombudsman requested finding adequate solutions which would be of both consumers' and "EVN" 's interest.

The reaction by "EVN" was that consumers who paid their debt before or after the campaign could not be liberated from paying the interest, but an initiative was started for solving this problem.

When discussing the problems with consumption of electricity, we should also mention the frequent complaints by citizens on disconnection from the electricity supply network and indebting with high amounts, allegedly on the basis of **unauthorized consumption** of electricity or illegal connection.

Besides the indications and information on inadequate activities while confirming unauthorized consumption of electricity upon complaints as well as upon responses from "EVN", it can be concluded that the **practice** by teams of "EVN" **continued to ascertain unauthorized consumption of electricity** unilaterally, i.e. **without the presence of owners** – consumers, and the citizens did not have a possibility to prove that it was not stealing, although in accordance with the provisions for consuming electricity, the supplier is obligated to initiate a court procedure for a consumer found to use the electricity illegally. However, it was ascertained that this kind of procedures are mainly not initiated.

During this report year there was a small number of complaints on the work of **companies for heating supply**. They mainly referred to insufficient heating, as well as the height of advance bills. The company explained that heating consumers use the heating energy for only 6 months, they pay the bills in 12 monthly installments, and every month an advance bill is delivered, but the amount paid is balanced at the end of the year after reading the measuring device.



Complaints on **services by public communal enterprises supplying water and disposing urban waste material**, during this report year referred to: high and unrealistic bills for consumed water, irregular water consumption measuring devices, irregular reading of those devices and lump sum indebting. The Ombudsman's interventions and recommendations on complaints in which violation of rights was found were mainly respected, the competent teams went on the spot and the problems were solved, and the consumers who were not able to pay their debt at once due to the height of the bills were immediately allowed to pay it in installments.

Regarding **services by landline and mobile telephone operators**, like in the previous years, citizens mainly complained on high bills or indebting with a fee for talks which according to the complainants, were not realized by them. A part of the complainants expressed their dissatisfaction with the work of certain operators especially those providing mobile telephone services. In the majority of cases the Ombudsman requested from the Electronic Communications Agency, as a competent body for monitoring and controlling the work of these service providers, to reconsider the citizens' complaints, after which some of the citizens realized their rights.



During 201 there were cases of citizens receiving information letters or law

suits for allegedly not paid bills from 5 or 10 years ago, and they were obligated to pay them in a forced manner. During activities upon these complaints it was found that the citizens were not always informed on filed law suits for forced payment of a possible debt, nor they received the court acts for payment of debt, but they found out about the procedure when execution with forced payment is done or the service is not provided any longer. Due



to this, the Ombudsman, apart from addressing the public enterprises, addressed the President of the Basic Court Skopje 2 and requested an answer to the question whether the law suits were filed on time and if yes, what are the reasons for their executions years later? It was found accented that citizens who do not receive the law suits and court decisions, are deprived of the right to objection, they can not prove whether they have paid the bills and at the same time they are **exposed to high expenses for the executors**. In that sense, the Ombudsman indicated that it was the court's responsibility to submit a law suit and a court decision to the citizens so that

they could use their right to objection.

The monopoly conduct by public services providers was expressed in this report period, and it was confirmed by initiated procedures by the Commission for Protection of Competition and court decisions stating that "EVN, "T-Mobile Makedonija" and former "Cosmofon" abused their dominant positions – "EVN" by charging a fee outside the legislation, and telecommunication operators by imposing unfair prices which materially damaged the users of their services. In order to protect the consumers, the Ombudsman initiated a procedure upon complaints by the Consumers' Association of the Republic of Macedonia, requesting these legal subjects to find a manner to compensate to the consumers they charged illegally from. The procedure is still in progress, although the telecommunication operators replied that they have objective obstacles in finding which citizens were damaged, and "EVN" replied that the possibility for solving this problem will be considered in the consumers' interest.

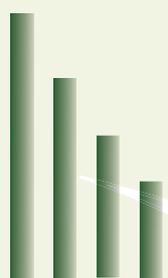
Complaints and activities taken upon them demonstrate that citizens face more and more problems in realization of their consumers' rights. Thus, the responsibility of all competent bodies and organizations remains in order to pay special attention to the conditions and possibilities for using services of public type and at the same time to respect the citizens' rights as consumers.

Enormous increase of the number of complaints indicates to the fact that consumers' rights are more frequently violated.

Citizens are forced to accept the conditions of the service providers and they can not influence their decisions, as a result of the dominant position the public product and service providers have.

Public Service providers should not abuse the dominant position on the market and during their work they should be directed by the basic human rights of the citizens as consumers.

Public service providers, especially electricity providers, should apply the regulations in their work properly and objectively.

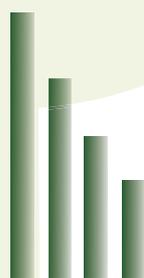
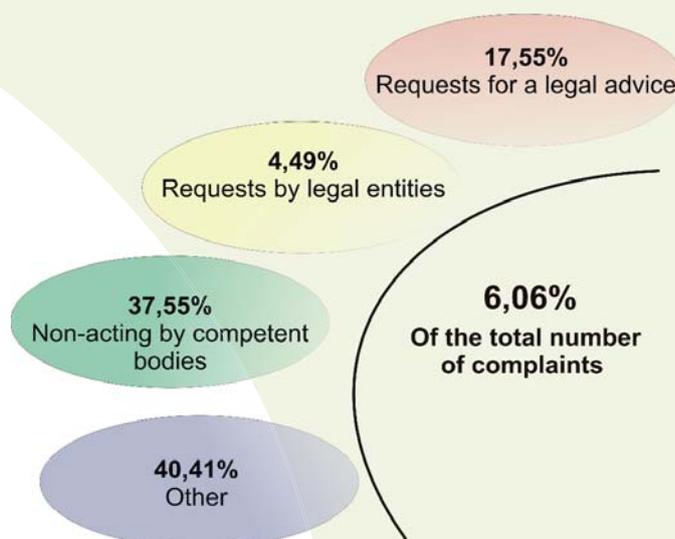


OTHER RIGHTS

In 2010 the Ombudsman acted upon complaints by citizens referring to violation of rights in other areas.

A certain number of complaints referred to violation of the right of the citizens to receive a response on a request to state bodies. For those cases the Ombudsman took activities in order to protect their rights by indicating the competent bodies that they have a constitutional obligation to act upon and to respond to requests.

Both in previous years and this year the citizens addressed the Ombudsman requesting advice on the manner of realization of a certain rights. The Ombudsman provided adequate legal advice and informed them on the manner and procedure for protection of their rights.



LOCAL SELF GOVERNMENT

The Constitution of the local self government, as a part of the fundamental values of the constitutional order, guarantees independence and self-governance and provides a status of a basic democratic institution. The development of local self government is of crucial importance for stimulation of citizens to participate in the democratic life and in the **promotion and respect of the communities' identity**. Since the local self government is a place where the citizens should realize their rights in the area of social life under its competence in an unobstructed manner, the **unprofessional performance of works** by the municipal administration may be and is a source of **violations or obstacles** in the realization and use of those rights.

This year as well the Ombudsman paid special attention to the relation local government – citizens and monitored the level of respect of the basic freedoms and rights of the citizens by the local authorities. In that sense, the Ombudsman took measures towards local authorities for **protection of the principles of non-discrimination and adequate and equitable representation** of communities, and acted upon complaints on protection

of these rights and freedoms as well.

In 2010 citizens complained on all areas under competence of the local self government. They reacted on **not receiving a response** upon submitted request before local authorities in a period much longer than the legally set one, as well as on the inability to realize personal contact with officials. Citizens indicated to the **non-application of the right to equal treatment**, insufficient participation of communities' members and vulner-



able groups in the decision making process on local level and objected that **equal approach is not provided** for vulnerable and socially excluded groups on the labor market. Citizens also reacted to the occurrence of stereotypes in the educational system, **segregation of children from vulnerable groups** (especially Roma children) and non-realization of the right to education in mother tongue for the communities' members. Further on, citizens complained on **violation of the equality right** during employment procedures at the municipal administration, as well as **violation of rights to working relation**, according to them on political grounds. Al-

though this basis is difficult to prove, still citizens find that it is the most present one in the everyday functioning of the local self government. Citizens indicated to disrespect of the principle of adequate and equitable representation during employment procedures at the municipal administration.

Every time violation of citizens' rights was found, the Ombudsman took measures against local self government and municipal administration bodies and requested proper and complete respect of legal provisions in acting and deciding upon citizens' requests, as well as a complete and proper respect of the right to equality and non-discrimination, indicating to the manner of removal of violations.

A positive step forward in the cooperation of the Ombudsman with the local self government in 2010 was achieved because every local self government body and every municipal administration responded to the Ombudsman's requests and supplied the requested information and evidence. However, **there were differences in taking activities** upon the indications and removal of violations because it depended on the bearers of public function of local government, meaning to what extent the bearer of a public function was familiar with the nature of human rights and freedoms and his/her level of awareness for the necessity and obligation for every local government to provide their unobstructed realization. Certain mayors, sector heads at the municipal administration, as well as other bearers of public functions at local government completely accepted the indications and measures by the Ombudsman, while others still communicate and collaborate with the Ombudsman on formal level.



On the basis of all measures and action taken, the Ombudsman found that during this report year realization of citizens' rights and freedoms remained on an **unsatisfactory level**. The **increased number of complaints** clearly indicates that citizens become more and more aware of their rights every day and they are more persistent and decisive

in requesting their unobstructed realization. However, on the other hand, municipal administration does not promote its professional functioning and respect of citizens' rights with the same pace. Thus, besides the positive step forward by municipal administration in direction of acting upon Ombudsman's requests and indications, still the **dissatisfaction of the citizens increased**. Citizens' expectations, on a justified base, are much higher than what they are realistically provided by the local authorities.

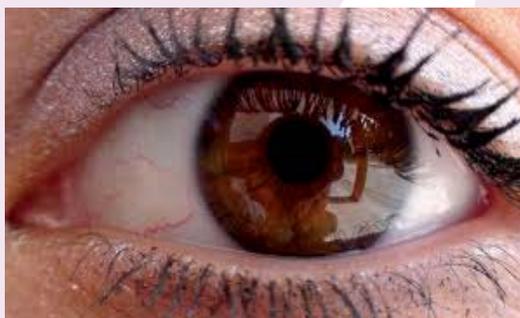
Citizens face **obvious discrepancies between rights and freedoms** guaranteed by the Constitution, laws and international documents on one hand and rights and freedoms they realize in reality on the other hand. Local authorities still do not apply the laws completely and bears no responsibility for that, nor faces consequences. Local authorities are not sufficiently aware of its duty to implement the equality right in all areas of its competence either, including the obligation to remove all forms of discrimination. Local government still **does not provide quality services** to the citizens and not every decision is made in a transparent manner, for the interest and needs of the citizens.

The ombudsman will continue taking measures and activities towards local self government in order to provide the citizens with a possibility to realize their rights and freedoms in a complete and unobstructed manner, equally in all areas of its functioning. The local community should be based on the fundamental postulated which guarantee: legality, fairness, equal opportunities, morale, trust, tolerance and respect to the citizens. As soon as local self government accepts this, it can be said that it has reached its goal and justified its existence. Only than and in that manner will the municipal administration approximate the local self government to the citizens, it will be their public service and the citizens will have complete trust in its capacities to solve their problems and realize their rights. In that manner the local self government will have satisfied citizens and realized freedoms and rights that today we consider to be the summit of democratic values in a civilized society.



5

CONDITIONS WITH HUMAN RIGHTS IN THE REPUBLIC OF MACEDONIA



In order to achieve respect, realization and protection of human freedoms and rights which would provide legal security, well-being and dignified life for the citizens is of exceptional importance for the democratic feature of a society.

Hence, this is the purpose of defining international documents which in their essence represent a direction for the activities for the societies in the world, when it comes to human freedoms and rights.

The obliging character of these documents, as well as the establishment of mechanisms for monitoring their implementation, are a sort of guarantee that the societies are heading in the desired direction.

Thus, cherishing values which contribute to development of **human relations and tolerance** represents a foundation for a democratic functioning of a pluralistic society, like ours.

The Ombudsman institution, in its essence is a mechanism which monitors the conditions with human rights and in this aspect his findings are not only a product of activities taken upon individual complaints by citizens.

Certainly they are the first impulse which provides the basis for a more voluminous monitoring of conditions because they are directly connected with individual problems of the citizens or they are the reasons for their occurrence.

Complaints indicate what is behind; and that is a situation which violates human rights and freedoms in many forms.

Unequal treatment of citizens on various basis, which is noted, should not and can not be considered only through the prism of complaints submitted to the institution, because that would create an incomplete picture on conditions connected with its general manifestation in the society.

In a multicultural society there is always a need for respect, understanding and tolerance of differences and in no case **separations and exclusions on various bases** should be allowed.

Unfortunately, the reality shows that there are examples of separation on numerous bases, which gives **discrimination** as a phenomenon a basis for its spreading all over the society.

On the other hand, the fact that the citizens themselves, on a daily basis, in a way and on various bases face unequal treatment or they demonstrate prejudices towards differences also has a major effect, and in certain cases they are not aware of that. Unfortunately, the ignorance itself shortens the space for protection of discrimination victims.

Findings on the type and level of its manifestation demonstrate that in a situation of separations in the society, including on the basis of political beliefs, this separation is the strongest one.

This is mainly felt in areas of special importance for the existence of the citizens – the rights in the area of working relations.

Another worrying fact is spread in other areas where it is decided on citizens' rights and selective approach is evident as well as **unequal treatment in approaching justice**, which is obvious in cases of the same factual condition, but different decisions which recognize, meaning do not recognize a certain right.

The selective approach, like the dissatisfaction with decisions, unfortunately is the citizens' perception which they report to our institution to a great extent, especially since it creates a feeling of legal insecurity for them.

Although the institution is not competent to influence decision making processes of judicial bodies, it directs citizens to the manner and opportunities for possible further protection of their rights.

The effect of reform processes at the **judicial system** have not been felt by the citizens yet, neither from the aspect of consistency of the system itself nor from the aspect of its fluency, which directly influences the efficiency in realization of justice before judicial bodies.

Overcoming the negative perception of this system may be achieved only through precisely set guarantees which would define the manner of control of the work, as well as through building of their integrity, which goes in line with the level of their professionalism.

Selective approach is noticed as an occurrence during deciding on **property rights** of the citizens, which in many makes the constitutional guarantee for the right of property questionable.

The long denationalization process and the large number of changes of the legislation, which only limits the possibilities for a realistic and justified compensation for former property, additionally increase the intensity of feelings of legal insecurity, especially since these processes affect the economical segment of citizens' lives.

This is accompanied by the rising dissatisfaction of the manner in which **citizens** are treated **as consumers** as well as the quality of services they get as a result of the highly expressed dominant position of certain services providers, which in a condition of a difficult economical position directly influences the everyday life of the citizens.

Certainly, this is a consequence of the **social risk** which is more and more expressed for a certain category of citizens on one hand and the lack of efficient and adequate social protection on the other hand. This shortage, along with the shortage of a preventive system, hinders quality protection of **children's rights**, who are the most vulnerable group, which leads to increase of cases of violence over them, including cases of **family violence** and **trafficking**, in which children are mostly victims.

Another worrying aspect are the conditions with the **environment** which is endangered every day as a result of negligence and irresponsibility, and the system institutions, not being agile, tolerate this kind of behavior, not taking into account that consequences affect all citizens and their health.

Here comes the issue of awareness, which is confirmed to be on a low level not only for those competent to protect the environment, but also for the citizens in general, if we take into consideration the small number of complaints in this area.

All these aspects speak of the level of professionalism and responsibility in performing duties, which is in direct relation with the manner of functioning of the public administration in general.

If we take the **public administration** as a segment which citizens contact inevitably and on daily basis, it is obvious that its functioning needs to be protected from separations.

Consequently, employment of state servants needs to be liberated from any influences on political basis because it directly concerns the quality, professionalism and responsibility in execution of their work and certainly in realization of citizens' rights.

Public administration must prove that during its work it acts in direction to make the citizens feel that it exists for their benefit. That is the only way for narrowing the existing gap and improving the relationship between the citizens and administration.

When talking about separation in our society, it is inevitable to mention that separation in **public informing** only created space for confusion in the public opinion, as well as room for tensions.

Cases which represented obstruction of **freedom of speech and public expression of opinion** with elements of disrespect of differences additionally increased the tendencies for deepening the gap and prejudices.

Stigmatization of certain groups with different orientation with elements of discrimination represents another feature of the puzzle of prejudices which were present in the society.

Uncertainty, which appeared as a consequence of all these violations of freedoms and rights, especially public exposure of suspects in certain cases, with violation of the **principle for presumption of innocence**, made the separation even bigger.

The level of achieving promotion of conditions with human rights can be seen in the conditions of realization, respect and protection of persons deprived from their freedom.

The finding that domestic legislation has not been adjusted in accordance with the international documents yet, and especially with the European Prison Rules, as well as the existing conditions in certain **prisons and psychiatric institutions** are inhumane, that the treatment is against the humanity and dignity standards, represent an indicator for lack of sensibility and humanity in approaching this vulnerable category.

Solving system problems can not be achieved through the need for strengthening the legislation because the norms are not the only factors for overcoming prejudices which are the essence of all negative events which affect the citizens' rights and have negative influence on conditions with human rights in general.

Legislation is only the foundation on the basis of which all persons involved in decision making processes on citizens' rights would utilize their integrity and professionalism in deciding in order to contribute to a change in the commonly accepted negative practices of treating human rights.

All institutions and all citizens need to contribute to development of a feeling of acceptance, understanding and tolerance through their behavior, as a manner of dealing with exclusions on various bases, which definitely means a prerequisite for cohabitation and well-being.

Finally, the essence of all fights for human rights is based on providing humane and dignified life of the citizens, which is the basic aim and function of the institution Ombudsman of the Republic of Macedonia.

6

FOCUS ON THE ACTIVITIES IN 2011



Along with taking actions upon single cases for protection of citizens' freedoms and rights, the Ombudsman in the coming year will continue monitoring and investigating general conditions regarding realization, respect and protection of human rights and freedoms.

Ascertained negative conditions in the area of discrimination and its manifestation in all segments of the system will be of special interest for the Ombudsman. Apart from conducting researches, education of the citizens will continue through the performance "Same in a Different Manner", as well as monitoring the conditions with the implementation of the principle of adequate and equitable representation.

There will also be activities for monitoring the conditions with realization of rights of persons deprived from their freedom, with greater capacity, taking into consideration that the Department for Prevention from Torture will start functioning at the beginning of the year.

In order to promote the professional capacities of the team who will be working at the Department for Prevention from Torture, as well as of the employees at the Department for Protection from Discrimination and monitoring of the principle of adequate and equitable representation and the Department for Protection of Children's Rights and persons with special needs, trainings and study visits will be conveyed in other Ombudsmen institutions.

Finances for these activities will be provided by the Swedish International Development Agency and the OSCE Mission to Skopje, as well as through a twinning project supported by IPA Funds, during which mutual activities with the Office of the National Ombudsman of the Kingdom of Spain and the Mediator of the Republic of France will be realized.

As a result of the long-term bilateral cooperation with the Ombudsman of Catalonia, a project on strengthening the promotional activity of the Department of Protection of Children's Rights will be conducted, by upgrading the institutions website which refers to children's rights with a special accent on this department.

Other areas in which occurrences of disabling realistic realization of citizens' rights were found will not lack: judiciary, urban planning and construction, environment, property-legal relations and the cadastre, as well as the weakness of the system in terms of: social protection, pension and disability insurance, health insurance and protection, education and consumers' rights.

Meetings on local level will be organized as well in 2011, for strengthening the dialogue between local authorities and the Ombudsman, and a regional conference of Ombudsmen will be organized, which will encompass the new tendencies of activities by the Ombudsmen in the areas of non-discrimination and prevention from torture.

As a result of the active participation of the Department for Protection of Children's Rights in the Children's Ombudsmen network, supported by the Swedish non-governmental organization "Save the Children", an annual meeting will be organized for the network members, and it will be hosted by the Ombudsman of the Republic of Macedonia.

The international cooperation with the Ombudsmen from Europe and other human rights institutions and organizations will not lack either.

7

ABOUT THE ORGANIZATION



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.

As a result of the changes of the Law on the Ombudsman and the need for establishing three new departments: Department for Prevention from Torture, Department for Non-discrimination and monitoring the principle of adequate and equitable representation and Department for Protection of Children's Rights and persons with special needs, the Rulebook on systematization of the posts and the Rulebook on Internal organization of the institution were altered.

Personnel

During 2010 the Ombudsman did not employ new persons either at its main office in Skopje or at the Regional Offices. One employee terminated the working contract.

According to the professional background of the employees, 47 of them have university degree, 20 have finished high school. 40 of them are female and 27 are male.

The Ombudsman employs: 34 Macedonians, 25 Albanians, 2 Serbs, 2 Roma and 2 Vlachs, one member of the Turkish community and one Bosniak.

Funds

The funds for the functioning of the Ombudsman are provided from the Budget of the Republic of Macedonia. In 2010, the scheduled activities of the Ombudsman, according to the existing regulations, were realized with 61.895000,00 denars, or 95.7% 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.

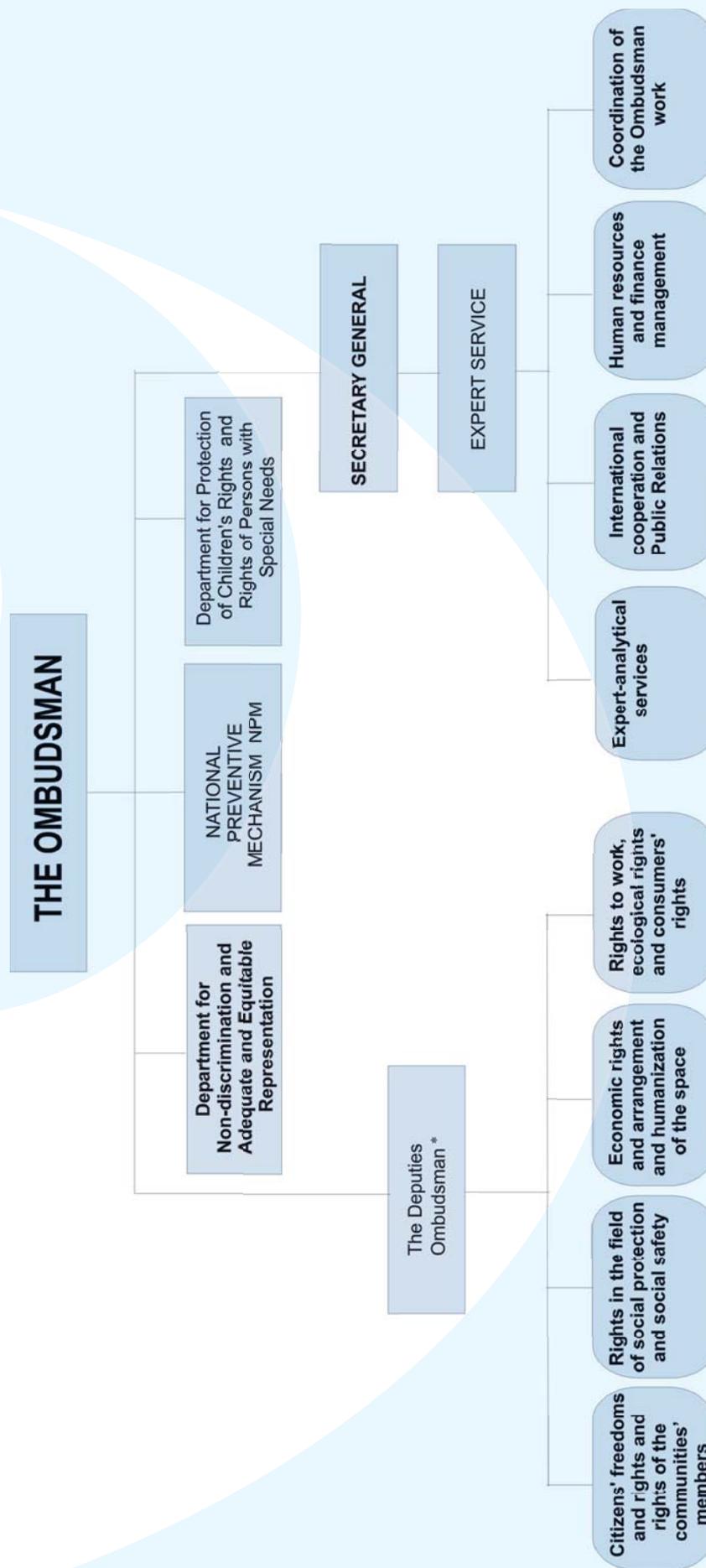
Like in the previous years, it should be pointed out once again that this kind of financing the Ombudsman to its competences and position in the constitutional-legal system of the Republic of Macedonia.

Because of that, the Ombudsman will continue indicating to the need of establishing a new, modern, transparent and independent system of funding the Ombudsman, imminent to all Ombudsmen institutions in the world.

This is of exceptional importance because the Ombudsman is not given an opportunity to participate at the budget preparation, and the Law states that he should defend the requested means at a Parliament session. This is only a formal obligation without crucial

importance.

It should be pointed out that in this report year as well, no special budget was provided for the National Preventive Mechanism, which is an obligation of the state according to the Optional Protocol to the Convention on Torture Prevention and other kind of cruel, inhumane and humiliating activities or punishing.



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

8

CASES



NP no. 793/10

A citizen addressed the Ombudsman indicating that he was not provided equal rights for work like the rest of the employees at the body he was employed at, due to which he believed to be discriminated.

In a procedure taken by the Ombudsman, he found that the citizen's allegations were correct and requested from the employer to act in concordance with the provisions in the area of working relations, creation of working conditions with all necessary means and working material, as well as an adequate room for performing the given tasks.

The Ombudsman's intervention was accepted and the citizen was provided with adequate conditions and means for work, as well as a room for performing his duties.

NP no. 2835/10

A citizen addressed the Ombudsman requesting an intervention before the Department for conducting insights at traffic accidents because even one year after the accident there was no minutes of the insight – a document which was needed by the complainant in order to realize rights in other procedures.

Upon the Ombudsman's intervention, the document was prepared and submitted to the citizen, which represented realization of his rights.

NP no. 580/10

A citizen from Skopje stated in his complaint that while applying for a passport with biometrical data, the interior affairs department kept his old passport which limited his right to movement outside the country and realization of his official duties abroad.

As a result of the Ombudsman's intervention, the citizens was issued a new passport in a few days, and the old one was returned to him as well.

NP no. 777/10

A family permanently residing in Germany requested an intervention from the Ombudsman

for expediting the procedure for gaining Macedonian citizenship. During the procedure the Ombudsman intervened before all bodies involved in the procedure for gaining citizenship of the Republic of Macedonia. During the activities, the evidence for completed education in Macedonian language were submitted to the Commission for Knowledge of Macedonian Language which further on issued a positive opinion to the body competent for citizenship.

Subsequently, the Ombudsman suggested the body competent for issuing opinion on fulfillment of the prerequisite for non-endangering the security of the Republic to issue opinion in a shortest possible time limit.

Finally, the Ombudsman submitted the address of permanent residence for delivery of decisions for acceptance in the citizenship for the applicants to the citizenship body, through the Consular Office of the Republic of Macedonia in Bonn.

NP no. 1474/10

The Ombudsman received a complaint on delay of procedure for acceptance in Macedonian citizenship, which was on obstacle for gaining the right to child's subsidy. Taking into consideration the time period since application, the Ombudsman addressed the Sector for Administrative – Monitoring Issues which replied that the procedure was in progress.

Following the second Ombudsman's intervention, the applicant was accepted in Macedonian citizenship, and was able to realize other rights consequently.

NP no. 3036/10

The Ombudsman was requested to intervene in a procedure for issuing, meaning replacement of a driving license which developed in a way that the new driving license was issued with the same date of expiry as the old one, meaning the new driving license had expiry period shorter than 10 years.

In a procedure conducted by the Ombudsman, it was found that the allegations in the complaint were grounded and true due to which the Ombudsman indicated to the competent body in future to issue new biometric driving license as

replacement for old ones with expiry period of 10 years. The indication was accepted.

NP no. 1909/10

A citizen from Skopje requested an intervention in a procedure for execution because during the execution she was left without minimal means for living, taking into consideration that the execution order submitted to the bank requested charging all available means from her bank account.

The Ombudsman during the procedure found that the only income to the account were means from personal pension, as a result of which he indicated to the executor that he was obligated to limit the execution order to one third of the monthly income at most, which is according to the law.

The indication was accepted, the first order was withdrawn and a new one was issued which requested for charging one third of the monthly income on the bank account on the basis of personal pension.

NP no. 1064/10

B.P. from Skopje requested an intervention because an executor from Skopje, while conducting execution from a debtor, left her without minimum means for living after issuing an execution order and indebted the bank to charge the debt from all available finances on her bank account.

The Ombudsman informed the executor that the means transferred from the debtor's account were solely income on the basis of disability pension. Thus, the Ombudsman obligated the executor to pay attention to the protection of the debtor's interest and in accordance with article 104 of the Law on Execution, the disability pension can not be a subject for execution.

Accepting the recommendation, the executor informed the Ombudsman that the previously issued order to the bank was withdrawn, the account was unblocked and that in future the execution would not be performed from disability pension the debtor's receives on monthly basis.

NP no. 2545/10

On the basis of information gained on torture over a convicted person by members of the security unit at the Penitentiary-Correctional Center Idrizovo, the Ombudsman on his own initiative conducted a procedure and based on the insight, information collected and discussions made with officials, ascertained that there was a grounded suspicion that the act was committed. The Ombudsman requested from the public Pros-

ecution for initiating a procedure for proving punitive responsibility of officials.

NP no. 2872/10

A citizen requested an intervention from the Ombudsman for expediting the extradition procedure of her husband from a penitentiary-correctional institution in the Republic of Serbia.

Acting upon the request, the Ombudsman addressed the Ministry of Justice asking for hastening of the procedure, and at the same time addressed the Ombudsman of the Republic of Serbia pleading him to accurate the activities before the competent body of the Republic of Serbia. The request was accepted, and the detained person was extradited in the Republic of Macedonia.

NP no. 716/10

A group of citizens submitted a complaint expressing dissatisfaction with the contents of a decision by the Commission for deciding upon denationalization processes with its headquarters in Prilep, which stated that their denationalization request was rejected for being ungrounded.

In the procedure conducted by the Ombudsman, it was found that during the first instance procedure the Commission did not introduce any evidence whether for the real estate – subject to denationalization, any compensation was awarded and paid.

Although the rationale of the decision states that the orders of the former Jugoslovenska Narodna Banka were paid for the denoted amount, the Ombudsman found that they referred to confiscated property with another decision on expropriation, and not for the property – subject to the particular denationalization request.

Hence, the Ombudsman recommended the Commission for Deciding in administrative procedures in second instance in the area of denationalization to accept the appeal, to annul the first instance decision and to return the case for reconsidering and deciding. The recommendation was accepted.

NP no. 1350/10

A citizen explained in his complaint that although he had paid the agreed price and the adequate tax on trade, he could not perform solemnization of the agreement for selling construction land, property of the Republic of Macedonia, through an immediate agreement for forming a construction part foreseen in the urban plan, of which he is the owner of 30%.

During the procedure upon the complaint, the Ombudsman found that the reason for de-

lay of procedure was the request by the Public Attorney of the Republic of Macedonia submitted to the seller – the Ministry of Transport and Communications – Skopje to clarify certain facts, meaning first of all it had to be confirmed that there was or was not a denationalization procedure on the particular agreement. Precisely, the reports by the Commission for Deciding upon denationalization request for the Municipality of Karpos were not clear, meaning it could not be definitely confirmed whether a denationalization procedure was initiated or not.

In that sense, in order for the citizen to realize his right, the Ombudsman indicated to the Ministry of Transport and Communications to finalize the necessary coordination as soon as possible with all involved bodies and to create conditions for the subject agreement to be solemnized before a competent notary.

At the same time it was indicated that there is a need for respecting the interpretation of article 64 of the Law on Denationalization which, among other things, indicates that for the period after May 7th 2003, regardless of the date of applying for denationalization, the right to use the property – subject to denationalization is permitted and legal acts and unilateral announcements are not void.

Following the indication, actions were immediately taken and the agreement was solemnized.

NP no. 1577/10

A citizen from Negotino complained to the Ombudsman requesting an intervention because the Municipality of Negotino unjustifiably delayed the procedure upon his request for return of incorrectly paid financial means for the purpose of tax on real estate trade.

Taking into consideration the clear fact that the complainant, with an adequate decision issued during 2009, was liberated from paying tax on real estate trade, which he had previously paid, the Ombudsman requested from the Mayor of the Municipality of Negotino to take necessary activities so that the financial means could be returned to the complainant.

The Ombudsman's intervention was accepted.

NP no. 2911/10

A citizen from Skopje requested an intervention before the Commission for deciding in administrative issues in second instance in the area of denationalization at the Government of the Republic of Macedonia.

Namely, on July 30th 2004 (through personal mail) the complainant filed an appeal to a decision from June 2nd 2004 by the Minister of Finances, issued through the Commission for Deciding upon requests for denationalization with headquarters in Kumanovo, which rejected his denationalization request for property in KO Kriva Palanka. However, even after six years, activities upon the appeal were not taken, although the citizen filed additional requests – interventions.

Taking into consideration the duration of the procedure, and finding that this condition must not be allowed in any case since it is out of any legal standards which should provide respect of rights of parties in an administrative procedure, the Ombudsman indicated to the Commission to take actions immediately for considering the case and issuing an adequate decision.

Although the legal time limit for taking actions in contents of the content of the indication has long passed, the Commission has not informed the Ombudsman yet on activities taken.

NP no. 78/10

The Ombudsman received a complaint requesting protection of rights in a procedure before the authorized construction inspector at the Municipality of Centar. Acting upon the complaints, in order to protect the complainant's rights, the Ombudsman addressed the Mayor, meaning the authorized construction inspector requesting an inspection on the spot.

From the reply the Ombudsman found that the authorized inspection body acted upon the request, meaning performed an inspection on the spot and issued administrative acts for removal of the illegal construction.

NP no. 3629/10

A citizen from Stip complained to violation of his right by the Public Enterprise for Urban Planning and the Department for Urban planning at the local self government because the new urban plan foresaw access to parcel 172 (property of the complainant) for parcel 171, although on the north side, from the urban plan print for parcel 171, it can be seen that there is a direct entrance to that parcel from the other street.

Acting upon the Ombudsman's intervention, the Public Enterprise informed that a proposal – urban plan was prepared which was submitted to the Department for Urban Planning which annuls the access through parcel 172 of the complainant.

NP no.2748/10

A citizen from Makedonski Brod complained on disturbance of order due to noise from machines and tools at a craftsman's workshop, located in the vicinity of his place of residence.

Upon the Ombudsman's intervention, an inspection was conducted on the place and a decision was issued obligating the owner of the workshop to act upon them, and in case he does act in accordance with the State Inspectorate's indications, further activities will be taken in accordance with the legal competences.

NP no.150/10

A citizen from Skopje requested an intervention for protection of rights from working relations due to subtracted means from her salary without legal basis and without a decision for salary subtraction.

After conducting an investigation, the Ombudsman found that without legal basis and without an issued act – a decision by the employer, a part of the complainant's salary was deducted. Thus, the Ombudsman indicated to the Ministry of Environment and Spatial Planning, which was accepted and deducted amount was returned to the complainant through the following salary payments.

NP no.212/10

A citizen from Skopje requested protection of rights from working relation for compensation of not-used part of leave.

The Ombudsman indicated to the Manager of the Fund for Health Insurance the legal provisions regulating this right and requested payment of compensation for the not-used part of the complainant's leave. The Ombudsman's intervention was accepted and the complainant was issued a decision for regulation of this rights.

NP no.2999/10

A citizen from Skopje was deleted from the unemployed persons' records due to crash of the IT system of the Employment Agency of the Republic of Macedonia – Employment Center Skopje, although he registered properly and fulfilled his obligation towards the body.

In order for the complainant to be re-registered as an unemployed person and to be able to realize his right to health protection without any obstructions, upon the Ombudsman's indications, first the Ministry of Labor and Social Policy issued a decision for accepting the complainant's appeal, and further on, upon the Ombudsman's

indication, the Employment Center – Skopje issued a decision for the complainant for re-registering in the unemployed persons' records.

NP no.1676/10

A citizen requested an intervention before the Ministry of Labor and Social Policy because no actions were taken upon his appeal against a decision by the Inter-municipal Center for Social Work which abolished his right to social financial aid. The complainant was abolished the right to social financial aid because during an insights he was not found at home, although he regularly reported to the Center in the period of 1st to 15th each month.

The Ombudsman requested from the Ministry of Labor and Social Policy to ascertain the factual situation while deciding upon the appeal on the basis of relevant evidence and to take into consideration the allegations in the appeal, especially the statement which refers to the complainant's regular reporting to the Center and that at that moment the citizens lived at the given address, i.e. it is necessary and inevitable to confirm whether the person really live at that address, on which the realization of the right to social financial aid depends.

The Ministry accepted the appeal, and the decision by the Center was annulled and the complainant realized his right.

NP no.2578/10

The Ombudsman initiated a procedure on his own initiative for a case in which a father of three minor children sexually molested them and at the same time committed family violence over their mother. The Ombudsman recommended the competent bodies to foster the children and protect them from further abuses and influences by their parents, to take measures for psychosocial support, treatment and rehabilitation of the children in order to overcome trauma and to initiate a procedure for annulling the parental right.

The competent bodies took adequate measures for protection and treatment of children in order to overcome the trauma; regarding family violence present in this case a procedure was initiated against the father and preventive measures were issued, and an ex-officio procedure was initiated for annulment of parental rights and the Basic Court issued a decision for annulling the parental right of the father.

NP no.1359/10

The Center for Social Work ex officio restricted the right to D.E. from Skopje to permanent financial aid and indebted the client to return the financial means in a total amount of 217,115.00 denars because it found that the family was not exposed to social risk due to the fact that in the time the client practiced this right, her spouse was a party in a trade agreement, although it was about selling a mutually owned flat for the purpose of buying two smaller flats.

The Ombudsman indicated that in accordance with the provisions of the Law on Social Protection, the fact itself that a person owns or has gained a flat, if no income is produced on that flat, it can not be an obstacle for realization of the right to permanent financial aid. This is also because according to the adequate rulebook, it is foreseen that for property and property rights from which the user can earn for a living are considered another family house or flat, a house under construction or a holiday home.

Upon the Ombudsman's indication, the Ministry of Labor and Social Policy accepted the appeal and annulled the Center's decision.

NP no.69/10

B.M. from Kicevo complained that although he had requested realization of the right to age pension in August 2005, the Fund for Pension and Disability Insurance did not decide upon his request yet. Following the Ombudsman's interventions and indications that by delaying the procedure the complainant's rights are violated, for age of service realized in the Republic of Macedonia the Fund issued a decision on recognizing the right to a proportional part of age pension of a certain monthly amount, calculated from August 2005.

Since the complainant had realized pension age of service in the Republic of Serbia as well, the Ombudsman requested from the Fund to take measures in order to expedite the procedure before competent bodies in Serbia, and at the same time asked the Ombudsman of Serbia to assist. Following all these activities, the citizens realized his right to a proportionate part of pension from the Republic of Serbia as well.

NP no.3752/10

A citizen from Tetovo complained on irregular calculation of the percentage of invalidity by the competent body at the State Management for Soldiers and Military Invalids' issues.

The Ombudsman intervened with the competent body requesting ascertaining of the real

condition and considering the possibilities for increase of the percentage of invalidity of the complainant. The Ombudsman was then informed that the complainant was awarded a higher percentage of invalidity.

NP no.885/10

The Ombudsman received a complaint on violation of rights by the Fund for Health Insurance because over a long period of time the additionally calculated amount of money for compensation of salary during absence from work due to pregnancy, giving birth and maternity was not paid.

The Ombudsman found that the Fund violated rights by unjustified delay of procedure and not paying the compensation as a result of which he intervened on several occasions for the Fund to take payment measures. Following the Ombudsman's reaction, the amount of money was paid.

NP no.780/10

A citizen addressed the Ombudsman requesting an intervention because the Inter-municipal Center for Social Work Prilep did not act upon his request for regulating personal relations and immediate contacts with the grandson from his deceased son.

The Ombudsman requested from the Center for Social Work to consider the request and issue a decision on maintaining immediate contacts of the child with his grandparents, led by the child's best interest. The Inter-municipal center accepted the Ombudsman's request and issued a decision by which the grandparents were entitled to immediate contacts with their grandson from their deceased son.

NP no.1716/10

A.G. from Tetovo was obstructed in defending his master thesis only because the University did not have paid all its obligations to his mentor. The Ombudsman indicated to the University that if it was not about omissions by the student, the problem should be overcome and the student should be provided with the opportunity to defend his thesis in order not to violate the rights deriving from the Law on University Education and other rights.

The Ombudsman's interventions were accepted and instead of the mentor at that time, who refused to participate in the defense of the thesis, a new mentor was proposed and a commission for defense of the thesis was formed.

NP no.1894/10

P.D. from Skopje requested protection of rights before "EVN Makedonija" AD-Skopje, because he was charged with a debt for alleged illegal use of electricity without any grounds.

Acting upon the Ombudsman's request, "EVN Makedonija" AD-Skopje confirmed the statement that there were two calculations for the complainant for illegal use of electricity, but upon the Ombudsman's intervention, the case was reconsidered and after the ascertained factual condition one of the calculations in the amount of 195.794.00 denars for alleged illegal use of electricity was returned.

NP no.2913/10

G.A. from Skopje complained that PE "Vodovod i Kanalizacija" – Skopje, with the bill for June 2010 charged him with a higher amount which was not relevant with the factual consumption of water in the family, and the stated reason was the irregularity in functioning of the water consumption measuring device which indicated consumption higher than the real one. At the same time, the request for checking the regular functioning of the measuring device was not accepted by the Public Enterprise because it first requested paying of the disputable bill, and then replacing the device.

The Ombudsman requested from the Public Enterprise to take measures and actions for overcoming of the problem after which the PE informed that in the bill (prepared in accordance with the situation seen on the measuring device) there was difference with the consumed water. As a result, a commission checked the regular functioning of the device and it found that it was not functioning regularly, but it measured 16% more than the allowed limits. Taking into consideration that the ascertained situation, all bills until the moment of checking the device were corrected for 16 %, in accordance with the results of the check, and the Public Enterprise replaced the malfunctioning device immediately at its own expense.

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O m b u d s m a n**

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