

Republic of Macedonia  
Ombudsman

**ANNUAL  
REPORT**

*2005*

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# What marked the work of the Ombudsman in 2005

## ■ New way of working and new working methods of the Institution

- *Self initativeness*
- *Follow up of the situations*
- *Direct insight*

The interest was oriented towards:

- *Informing citizens about the competencies and the possibilities of the Institution regarding the fulfilling (embodying) and protecting their rights;*
- *Self imitativeness as a working principle, through direct investigation of situations in respective fields;*
- *Undertaking measures and activities for analyzing and identifying the situation (circumstances) in relation with the principle of non discrimination and equitable representation;*
- *Utilization of the means of disclosure to Public criticism, and in that sense a closer cooperation with the press and media for public information.*

This is all based on the moto:

We help citizens to fulfill their rights in an easier way, the public administration to become real service and to improve the relations between the government bodies and citizens.

and the principles:

We follow and supervise publicly, honestly and professionally the performance of the authorities.

Equal approach in relation with everyone.

## ■ Names of three Judges exposed to the public

The Ombudsman publicly indicated names of three judges and requested from the Republican Court Council to initiate a proceeding for determination of responsibility because of unprofessional and unscrupulous performance and absence of ethical attitude.

Outcome: The Republican Court Council initiated proceeding for evaluation of the professionalism of one of the Judges, and afterwards suggested his suspension, while the Parliament of the Republic of Macedonia suspended the Judge. For other Judges was initiated prior proceeding for determination professionalism, and consciousness in performing the function of a Judge.



## ■ The Sector for Internal Control and Professional Standards doesn't act upon the requests of the Ombudsman

On the basis of completed proceedings Ombudsman ascertained violation of human rights and liberties due to unlawful deprivation of liberty, torture and other brutal, inhuman treatment and maltreating by members of the Ministry of Internal Affairs, therefore the Ombudsman publicly called the Minister of Interior to take all measures of his competence in order to eliminate such phenomena.

At the same time the Ombudsman informed the public that he has been prevented in his work since the Sector for Internal Control and Professional Standards is not submitting the necessary information for complete investigation.

The Sector for Internal Control and Professional Standards continues with the obstructions of the Ombudsman work since it is not submitting the requested information.



## ■ Billboards containing photos of children during the Local Elections removed Otstraneti bilbordite

The Ombudsman publicly criticised the Mayor of Skopje Town, after learning that the candidates for Mayor have been putting billboards with photos of children that represents abuse of children for political goals.

After launched criticism the billboards were removed.

## ■ The Ombudsman against the billing practice of Public Enterprise for Water supply and sewarege "Vodovod i Kanalizacija"

The Ombudsman informed the public that the Director of Public Enterprise for Water supply and sewerage "Vodovod i Kanalizacija" is applying unlawful methods for billing the dues for provided services requesting from certain institutions not to issue documents to citizens who have not paid the water bills.

*Outcome:* Public Enterprise "Vodovod i Kanalizacija" withdrew the request to the institutions not to issue documents to citizens that have not paid their water bills.

## ■ Pull down of Social huts in St. "Leningradska" in Gostivar temporarily stopped

The Ombudsman requested from the local authorities in Gostivar to stop temporarily the pull down of social huts that had already started.

The Mayor of Gostivar Municipality accepted the request of the Ombudsman.

## ■ Cassation of 75 decisions for discontinuation of working relations

After ascertaining that in the Ministry of Transport and Connections were taken decisions for discontinuation of employment since many Mayors did not sign agreements to take over state administration employees in the Municipalities, thus violating the labor rights of employees, the Ombudsman conveyed an Reference to the Agency for state administration. The Agency proceeded in accordance with the Reference, and approved the claims of all employees, and abrogated all decisions for discontinuation of employment.

## ■ The Ombudsman elected as a member of the AOIF Secretariat

At the 4<sup>th</sup> Congress of the International Association of Ombudsmen in Francophone Countries in Paris Mr. Ixhet Memeti was unanimously elected as a member of the Secretariat of the Association of Ombudsmen in Francophone Countries.

## ■ Mr. Ervan Fuerre at the Ombudsman Office

The Ombudsman met the new Special Representative of the European Union – the Ambassador Mr. Erwan Fouéré.

A mutual conclusion during the meeting was that Ombudsman is extremely important factor for the development of the Republic of Macedonia especially in the process of gaining the membership status in European Union.

## ■ "Justice is however attainable

This is how a Skopje citizen expressed her gratitude to the Ombudsman since, after three years strolling around in State institutions only after the Ombudsman intervention she was able to realize her property right for the flat.

## ■ Ombudsman Memeti "the brightest" event in 2005

Corruption barometer – a survey carried out by Mak-Fax and "Transparency Macedonia", in which were included 19 Chief in Editors of national media, showed that the Ombudsman's reaction, respectively disclosure of three Judges for unprofessional and unethical working, certainly represents "the brightest event" in the fight against corruption in 2005.



# Public Relations and International Cooperation

The scheduled program goals for the report year, and shaping of a course for larger openness and transparency in order to bring the Institution closer to the citizens imposed completely different attitude of proceeding in this sphere.

Namely, despite the general ascertaining that the Institution has built up solid bases for efficient functioning it was noticeable its inappropriate positioning in the system, respectively in the public in relation with its essential importance of control mechanism, which is necessary for functioning of the Rule of Law and Legal State principles.

Establishment of a different approach by exposing negative aspects of the work of public administration, and of other state organs primarily depends on thorough analysis of subject-matters and direct insight in the work of organs, organizations and Courts in order to create clear and objective overview of the circumstances.

The instrument of public criticism was utilized as additional mean of pressure with the sole goal elimination of negative aspects in the state organs work, which have been representing obstacle for consequent and forehand realization of citizens' rights

The Ombudsman took this approach after series of investigations carried out in relation to Court proceedings that citizens have been indicating to be delayed due to subjective reasons. These circumstances were made public, and concrete measures were undertaken by the Republican Court Council.



Utilization of the instrument public criticism fulfilled the expectations perfectly, and it resulted with increased confidence of citizens towards the institution that is obvious by the rapid increment of number of complaints, and it also resulted with increased promptness of the Court organs in proceeding upon the Ombudsman requests. Such trend continued throughout the entire report year with permanent follow up of the situation and informing the public for all findings regarding the work of the public administration and of other organs, which have public mandates.

On the other hand it contributed to improve the information of citizens for the Institution that is proved by the data collected by the NGO "Kaldrma", which carried out an opinion poll. This poll was conducted afore the start of a media campaign for six new Ombudsman Offices, and the OSCE Mission to the Republic of Macedonia financed the campaign.

Namely, the poll showed that 80% of the citizens on local level were informed for the Institution Ombudsman, but the level of information within the state administration employees was

unsatisfactory. This verified the Ombudsman conclusion that state administration employees do not have adequate and complete knowledge of the Institution.

A Public Relation training course, in which key actors were the newly appointed Deputy Ombudsmen in the Regional Offices, was organized for the media campaign needs. The "Macedonian Media Institute" carried out the course that was financed by the OSCE Mission to the Republic of Macedonia.



With the media campaign were promoted Regional Offices that contributed to larger information of citizens for the presence of new Offices, and for services provided for protection of citizens' rights.

During the campaign public debates were organized in municipalities where the Offices

function, as well in other bigger municipalities. Public debates were tailored in order the information to reach to the other segment necessary for functioning of the Institution, and that is the local government.

Namely, main topics that were determined during the debates were obstacles in the communication between the Ombudsman and local administration bodies that contributed to detect the main problems in this regard as well to find solutions for overcoming them in order to proceed timely upon Ombudsman requests.

The media campaign lasted for three months, and TV clips promoting the Regional Offices were showed in TV stations broadcasting both on national and on local level.

Efforts for larger access to the citizens during the report year resulted with a Web Site that provides maximum access to the database regarding the Ombudsman work, daily communication of citizens with the Institution, and accepting complaints via electronic mail. The Web site also satisfies the principle of accessibility to a larger group of citizens and International Organizations since the content is published in three languages: Macedonian, Albanian and English language.



A Press Conference was organized to inform citizens for the new communication possibility with the Ombudsman. The immediate and obvious effect was increased number of complaints and questions that citizens launched via electronic mail, which were related to specific situations in the society, which are important for fulfillment of citizen's rights.

The Ombudsman position in the domestic scene largely depends on his position in International level therefore, in the activities and communication on international level was taken the same direct and more analytical approach with larger self-initiative ness and more committed participation of the Ombudsman in International conferences.

The Ombudsman firstly focused on the Institutions in the region since these countries have been going through the same difficult path of transition, and they face with same or similar challenges and difficulties.

So, the Ombudsman had meetings, respectively he visited or hosted the Ombudsman of Greece, Albania and Montenegro, while with the Kosovo Ombudsman professional staff was exchanged in order to share working experiences between the two Institutions.

In the frame of cooperation with the Ombudsman of Greece, who is chairing the Project "Eumonia" – representatives of Ombudsman Office participated in a Seminar in Prespa-Lemos, Greece, and the topic of this Seminar was "Environment Protection".



The Ombudsman used the participation in International conferences during the report year for continuous promotion of the Institution by presentations related to the work on the field and issues concerning Macedonian society, and at the same time presented the success that Ombudsman has achieved in his work.

In this context the Ombudsman Office presented activities and results in the filed of protection of Children's rights in international level since within the Institution there's a special Department for Protection of Children's

Rights, which is member of European Network of Ombudsmen for Children.

Taking into consideration the world trend and newly established standards in the field of Human Rights especially racial and any other kind of discrimination, an International Conference was organized in Kazan-Russian Federation, by the European Ombudsman Institute and the Ombudsman of the Republic Tatarstan, in which the Ombudsman presented Macedonian experience in dealing with conflicts on ethnic basis, situation that our country has been faced with.

Having in mind that this issue is essential to many countries, which are multiethnic therefore, the Macedonian experience in dealing with such type of conflicts drew special attention of the Ombudsmen Offices members of the European Ombudsman Institute, and the presentation was published by this prominent Organization, whose member the institution Ombudsman is.

The Ombudsman had another presentation on the same topic in the Conference in Novi Sad, which was organized by the Ombudsman Office of Vojvodina where the Macedonian Ombudsman was indicated as the Institution that has been developing better than other Ombudsman Offices in the countries that used to be part of former Yugoslavia.



As the strategy for International cooperation was based primarily on more active participation in Ombudsmen Organizations and Associations, the Ombudsman of the Republic of Macedonia participated in the General Assembly of the European Ombudsman Institute, in which the new Statute of the Institute was reviewed and adopted.

The Ombudsman was also accepted as a voting member in the American Association of Ombudsmen, and in the Association of Ombudsmen in the Francophone countries, ans as a result he participated in the 8<sup>th</sup> Congress of this Francophone organization, in which he was accepted as a member of the Secretariat.

The Ombudsman was also accepted as a voting member in the American Association of Ombudsmen, and in the Association of Ombudsmen in the Francophone countries, ans as a result he participated in the 8<sup>th</sup> Congress of this Francophone organization, in which he was accepted as a member of the Secretariat.

Effectuated contacts, and daily communication with the international organizations in the country, especially with the OSCE Mission to the Republic of Macedonia greatly reinforced the position of the Institution internationally especially in regard to Euro integration processes of the Republic of Macedonia, because the Ombudsman is accepted and evaluated, by the International Community, as a control mechanism of essential importance that was clearly illustrated in the recommendations that Republic of Macedonia received when the European Union gave the opinion for membership candidacy status to the country.

Addressing this issue of great importance are the conclusions of the International Community leaders regarding the “dispute” between the Ombudsman, and the dispute arose as a result of conclusions of the Ombudsman, and the Ministry of Internal Affairs, which resulted from the Ombudsman conclusions that a very important segment of this Ministry or the so-called internal control mechanism- the Sector for Internal Affairs refuses to provide to the Ombudsman the necessary data and information referring to the Law for Classified Information. This move of the Ministry of Internal Affairs in the latest Report of International Crisis Group was named “legal hanky-panky” in order to find a reason not to provide information to the Ombudsman.

The International community saluted reactions or more precisely critics addressed to the Courts and Ministry of Internal Affairs - two segments that according to the European Union necessarily need reforms, while the Ombudsman was characterized to be a real corrective of the government.

Cooperation with the OSCE Mission to the Republic of Macedonia in order to upgrade the possibilities of the Institution resulted with initiation of the Project “SIDA” supported by the Kingdom of Sweden and the OSCE Mission to the Republic of Macedonia. Besides equipping the office with the necessary IT equipment and trainings for additional professional upgrade of the staff for in order to improve their skills for investigating the subject matters, and world standards in the field of Human Rights. During the report year was carried out training for refinement of investigative skills for subject matters in which participated professional staff of Skopje Office and the Regional Offices. An expert conducted the training, and on the basis of his Evaluation report started the implementation of the Project “SIDA”. The Project will be conducted throughout the whole 2006, and all the professional staff in the Ombudsman Office will be involved in.

# The Year in Numbers

Given the numbers in the Ombudsman work in protecting citizen's rights during the year 2005, lead to a conclusion that the legal provisions in the Republic of Macedonia are still not apply adequately, and not fully respected therefore human rights and liberties are violated by state administration bodies, and by organizations that practice public mandates.

Functioning of the Rule of Law presumes existence of appropriate legal frame, efficient and professional institutions and competent servants who would apply and practice the law in an impartial, objective and equal manner. Such characteristics of efficient and effectual justice have been lacking last year, too, and this is referred by the type and number of complaints submitted to the Ombudsman.



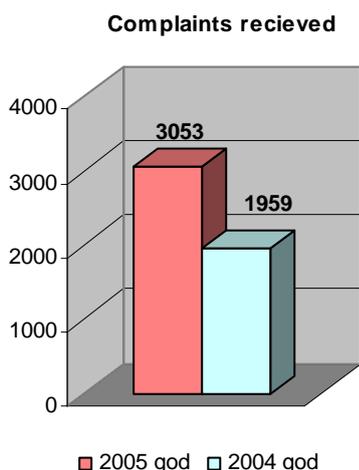
# 3053

New complaints

## General Indexes

In 2005 the Ombudsman preceded a total of 3.935 complaints; out of 3.035 submitted complaints from 3.440 citizens. In 17 cases the Ombudsman initiated proceeding on his own initiative, and more than 5.000 citizens were interviewed in Skopje and in the Regional Offices, and more than 7.000 phone calls were answered.

**Chart No.1**

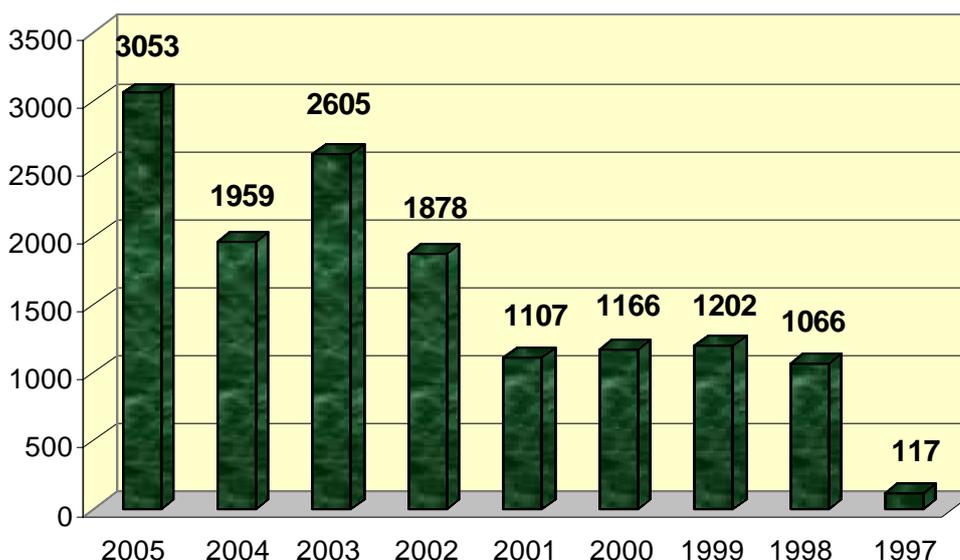


By analyzing the data for received complaints in 2005 and comparing them to previous years it can be seen that in 2005 the number of received complaints is increased for 55.84%.

This is due to the new way of working and new working method of the Institution, and utilization of the instrument of exposure to Public criticism, and by that a closer cooperation with the media as well due to the media campaign that was carried out, which enabled the citizens to be introduced and to better know the competences, the role and the importance of the Institution Ombudsman in protecting their constitutional and legal rights.

**Chart No.2**

Complaints received per year



# 3935

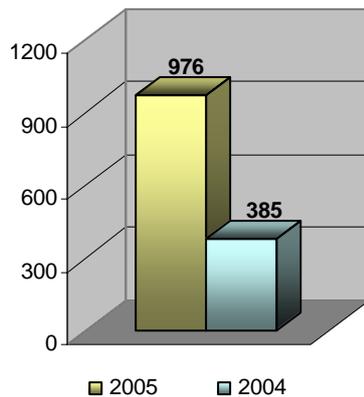
Number of  
proceeded  
complaints

## Fields of Complaints

Most of the complaints, by which the citizens were seeking protection of the rights, are as follows: in the field of Judiciary 976 or 31,97%; then in the field of property rights 403 or 13,20%; in the field of protection of rights during police proceedings and other internal issues 391 or 12,81%; labor relations 315 or 10,32%; in the field of urban planning and construction building 184 or 6,03%; in the field of pension and invalidity insurance 170 or 5,59%; in the field of social rights 118, respectively 3,87%; in the field of protection of consumer rights (communal and other taxes) 94 or 3,08%; accommodation relations 64 or 2,10%; in protection of the children's rights 63 or 2,06%; in health protection 43 or 1,41%; in the field of education, science, culture and sport 38 or 1,24%; in the field of environment protection 23 or 0,75%; then in the field of finances and finance issues 19 or 0,62%; in the field of discrimination 6 or 0,20%; rights of military personnel and military tributaries 5 or 0,16%; rights of communities that are not majority 4 or 0,13%; in the field of Customs duty 1 or 0,03%; as well in other fields in which have been submitted 136 or 4,45% complaints. **(Review No.2, page 13 and Chart No.3 and 4 page 11)**

**Chart No.3**

Rights in the field of Judiciary

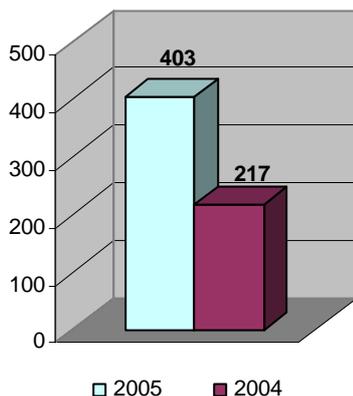


The Review of submitted complaints in regard with the fields, compared to the previous year shows inconsiderable decrement or increment, except in the field of Judiciary where number of submitted complaints is increased for 253, 51%. **(Chart No.3 page 11)**

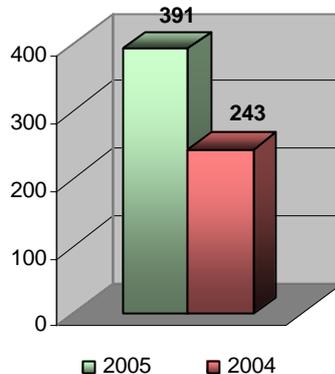
Most of the complaints are related to Courts' inefficiency, respectively delay of Court proceedings, while the rest are related to other acts and activities undertaken by the Government of the Republic of Macedonia, Ministry of Finances, Ministry of Internal Affairs, Ministry of Transport and Connection, Ministry of Labor and Social Policy and other bodies, and the others are related to bodies and organizations that public mandates.

**Chart No.4**

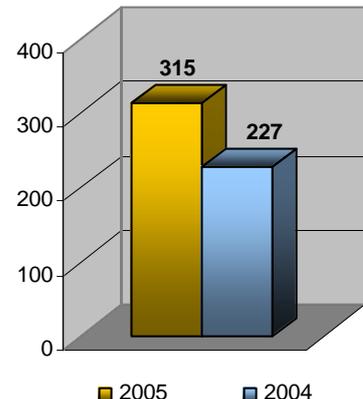
Rights in the field of  
Property rights



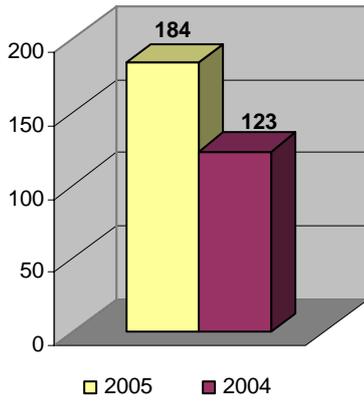
Rights during police proceeding  
and other internal issues



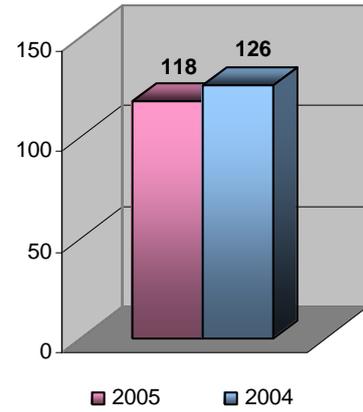
Rights in the field of  
Labor relations



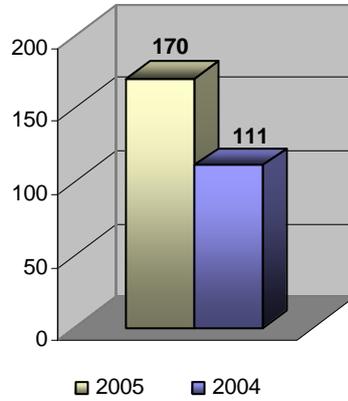
**Rights in the field of Urban planning**



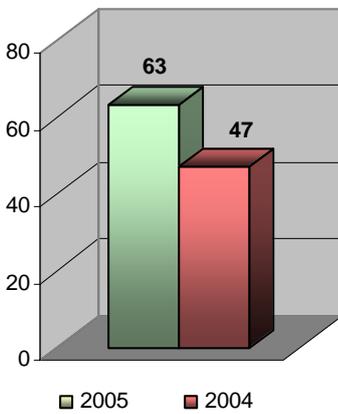
**Rights in the field of Social protection**



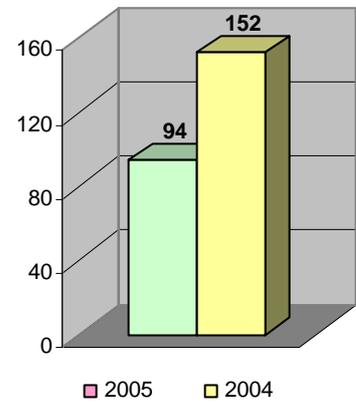
**Rights in the field of Pension and disability insurance**



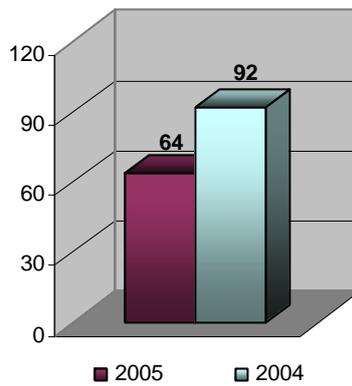
**Children's rights**



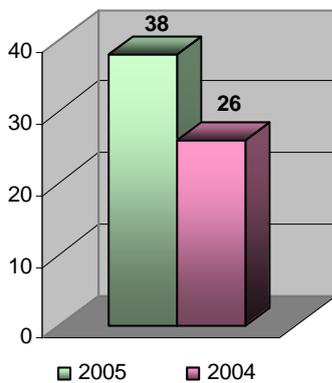
**Consumers' rights**



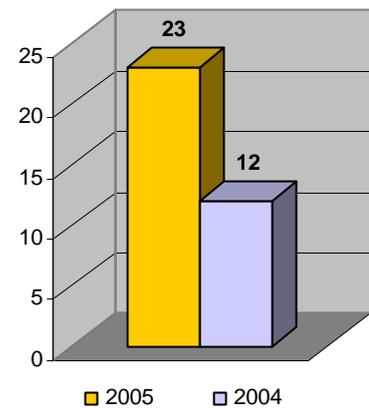
**Rights in the field of Accommodation issues**



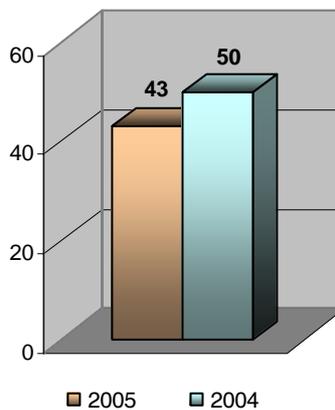
**Rights in the field of Education, science, culture and sport**

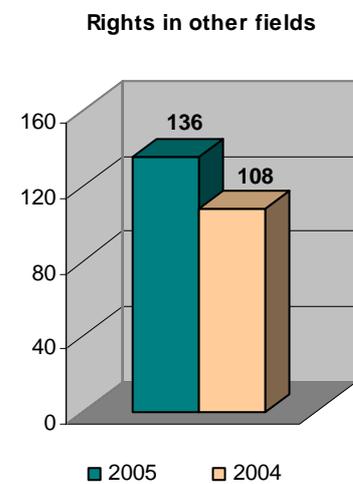
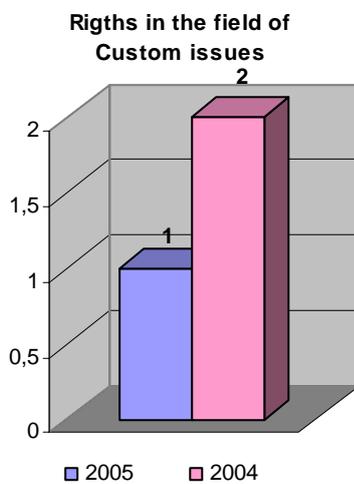
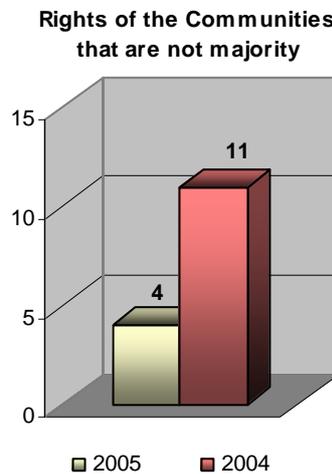
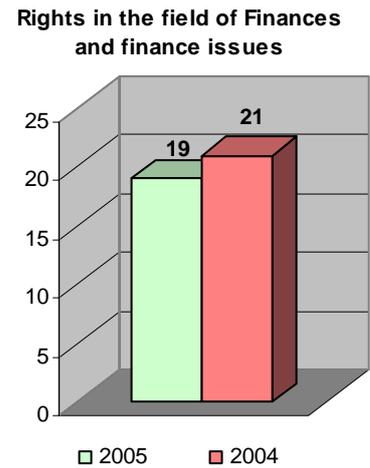
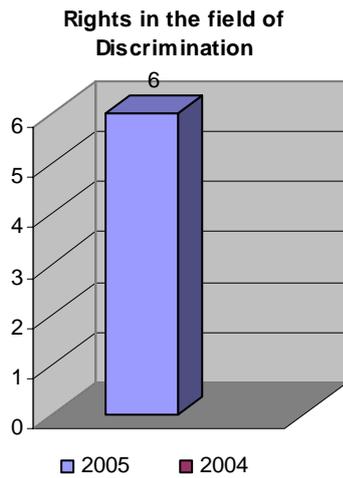


**Rights in the field of Environment**



**Rights in the field of Health protection**





According to the ethnic background, based on complaints, in which citizens have declared the ethnic background, the biggest number are ethnic Macedonians 1061 or 64,00%, 429 or 25,87% are members of the Albanian ethnic community; and least complaints, respectively 7 or 0,42% are submitted by Macedonian-Muslims, while 1732 or 51,10% of citizens did not declare their ethnic background. **(Review No.3 page 15)**

**Review No.1**

REVIEW OF RECEIVED, SOLVED COMPLAINTS AND OTHER COMPLAINTS IN PROCESS PER YEAR																	
	Transferred complaints from the previous year	Complaints received during this year	Number of submitters	TOTAL in process	Method of solution								Information to the Minister	Information to the Government of RM	Information to other bodies and organizations with public mandates	Total number of solved cases	Subjects-matters remained in process
					Number of anonymous complaints received	With a decision to discontinue the proceeding	With decision not to initiate proceeding	Solved in another manner	Found violations								
									Opinions, suggestions and recommendations given	Acted upon Ombudsman intervention.	Cases where the Ombudsman has undertaken all legal acts	Not acted upon Ombudsman intervention					
<b>TOTAL in 2005</b>	882	3053	3440	3935	33	1347	761	84	803	478	26	299	77	225	12	<b>2729</b>	1206
<b>TOTAL in 2004</b>	1243	1959	2299	3202	25	1145	683	50	569	417	-	152	102	116	33	<b>2320</b>	882

According to the residence ship citizens that have submitted the biggest number of complaints, respectively 1.169 are from Skopje then other urban areas, though there are some small variations, match with the number of citizens according to their residence ship in the Republic of Macedonia. **(Review No.4 page 15)**

**Review No.2**

<b>REVIEW OF RECEIVED, SOLVED COMPLAINTS AND OTHER COMPLAINTS IN PROCESS FROM 01.01.2005-31.12.2005</b>																	
	Complaints received in 2005	Number of submitters	Complaints transferred from the previous year	TOTAL in process	Method of solution								Information to the Minister	Information to the Government of RM	Information to other bodies and organizations with public mandates	Total number of completed cases	Subjects-matters remained in proceed
					Number of anonymous complaints received	With a decision to discontinue the proceeding	With decision not to initiate proceeding	Solved in another manner	Found violations								
									Opinions, suggestions and recommendations given	Acted upon Ombudsman intervention.	Cases where the Ombudsman has undertaken all legal acts	Still not acted upon Ombudsman intervention					
Rights of communities that are not majority	4	4	9	13		2	2			1	1					5	8
Rights during police proceedings and other internal issues	391	415	138	529	2	129	55	7	133	83	9	41	9	1		285	244
Rights in the field of Judiciary	976	1093	62	1038	6	385	366	16	84	76		8	1		4	849	189
Rights of military personnel and military tributaries	5	5	8	13		2	3		1	1			1			6	7
Rights in the field of Social protection	118	118	70	188		77	12	3	64	58	2	4	11	3		152	36
Rights in the field of Labor relations	315	359	197	512	7	265	50	3	89	53	6	30	6	6	1	384	128
Rights in the field of residency relations	64	69	56	120		50	16	2	18	13		5	2			81	39
Rights in the field of health protection	43	44	17	60		22	9		19	17		2				48	12
Rights in the field of pension and invalidity insurance	170	171	39	209	2	90	32	1	36	27		9	2	10		152	57
Rights in the field of education, science, culture and sport	38	38	10	48		16	9		15	12	1	2	4		1	38	10
Children's rights	63	65	12	75		31	1		25	23		2	5	2	2	55	20
Rights in the field of urban planning and construction building	184	218	67	251	4	101	41	41	25	10		15	29			197	54
Rights in the filed of environment	23	23	1	24		9	2	1	3	2		1				14	10
Rights in the field of finances	19	19	16	35		9	9		8	3	2	3	1			23	12
Protection of rights in the field of Custom relations	1	1		1			1									1	0
Rights in the field of property rights	403	446	100	503		57	63	5	231	61	6	164	3	201	2	192	311
Consumer rights	94	195	41	135		48	22	2	36	31		5	2	1		103	32
Rights in the field of discrimination	6	6		6		1	2		2			2				3	3
Rights in other fields	136	151	39	175	12	53	66	3	13	7		6	1	1	2	141	34
<b>TOTAL</b>	<b>3053</b>	<b>3440</b>	<b>882</b>	<b>3935</b>	<b>33</b>	<b>1347</b>	<b>761</b>	<b>84</b>	<b>803</b>	<b>478</b>	<b>26</b>	<b>299</b>	<b>77</b>	<b>225</b>	<b>12</b>	<b>2729</b>	<b>1206</b>

**Review No.3**

**REVIEW OF PERSONS THAT HAVE SUBMITTED COMPLAINTS  
ACCORDING TO THEIR ETHNIC BACKGROUND**

		Number of complaints in 2005	Number of anonymous complaints received	Number of proceedings initiated by the Ombudsman incentive	Number of submitted complaints	ETHNIC BACKGROUND									
						Macedonian	Albanian	Serbs	Roma	Makedonian-Muslims	Bosnians	Vlachs	Turks	Did not declare their ethnic background	Others
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1	Rights of communities that are not majority	4			4		2				1			1	
2	Rights during police proceedings and other internal issues	391	2	1	412	77	171	4	4	1	5	3	9	134	4
3	Rights in the field of Judiciary	976	4	3	1085	331	83	9	13	2	5	2	14	625	1
4	Rights of military personnel and military tributaries	5			5	1								4	
5	Rights in the field of Social protection	118		1	117	35	25	1	8	1	1		2	43	1
6	Rights in the field of Labor relations	315	5	1	350	133	28	2	5		1		2	177	2
7	Rights in the field of residency relations	64			69	27	3	3			1		4	31	
8	Rights in the field of health protection	43			44	15	9	2		1			1	16	
9	Rights in the field of pension and invalidity insurance	170	2	1	168	53	35	2		1		1	5	71	
10	Rights in the field of education, science, culture and sport	38			38	14	3	1	1					19	
11	Children's rights	63		4	61	17	9	1						34	
12	Rights in the field of urban planning and construction building	184	4		214	61	13		2	1			2	134	1
13	Rights in the filed of environment	23		4	19	5	3							11	
14	Rights in the field of finances	19			19	5	2	2						10	
15	Protection of rights in the field of Custom relations	1			1									1	
16	Rights in the field of property rights	403		1	445	202	29	6	5		1	2	8	191	1
17	Consumer rights	94			195	43	7	3			1		2	139	
18	Rights in the field of discrimination	6		1	5				1					4	
19	Rights in other fields	136	9		139	42	7		2					87	1
20	<b>TOTAL</b>	<b>3053</b>	<b>28</b>	<b>17</b>	<b>3390</b>	<b>1061</b>	<b>429</b>	<b>36</b>	<b>41</b>	<b>7</b>	<b>16</b>	<b>8</b>	<b>49</b>	<b>1732</b>	<b>11</b>

## Review No.4

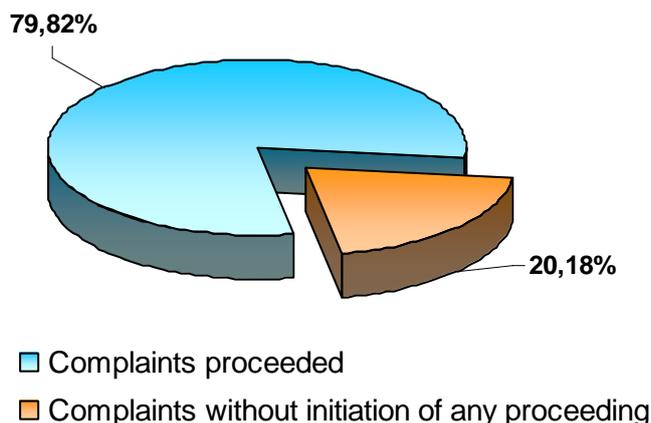
SUMMARY OF RECEIVED COMPLAINTS							
Nr.	Towns and States	Nr. of complaints per towns		Nr.	Towns and States	Nr. of complaints per towns	
		2004	2005			2004	2005
1	Berovo	6	18	26	Pehcevo	3	3
2	Bitola	88	263	27	Prilep	50	57
3	Bogdanci	-	3	28	Probistip	14	20
4	Valandovo	5	3	29	Radovis	22	46
5	Veles	33	77	30	Resen	11	13
6	Vinica	7	6	31	Skopje	1104	1169
7	Debar	8	12	32	Struga	12	36
8	Delcvo	16	22	33	Strumica	29	169
9	Demir Hisar	7	15	34	Sveti Nikole	5	15
10	Demir Kapija	1	4	35	Tetovo	64	185
11	Dojran	3	1	36	Stip	57	173
12	Gevgelija	12	27	37	Austria	2	1
13	Gostivar	78	119	38	Italy		2
14	Zletovo	1	-	39	Kosovo	3	7
15	Kavadarci	48	56	40	Poland		1
16	Kicevo	42	121	41	Albania	2	3
17	Kocani	28	45	42	Bulgaria	-	1
18	Kratovo	10	16	43	Croatia	-	1
19	Kr.Palanka	17	19	44	Slovenia	1	
20	Krusevo	6	14	45	Serbia and Montenegro	1	3
21	Kumanovo	85	221	46	Stockholm	1	
22	M.Kamenica	2	4	47	USA		2
23	Mak.Brod	8	10	48	Turkey	1	1
24	Negotino	16	21	49	Switzerland	1	
25	Ohrid	49	48				
<b>TOTAL</b>						<b>1959</b>	<b>3035</b>

**79,82 %**

Investigations carried out by the Ombudsman

## Investigation of Complaints

Picture No. 1-2005

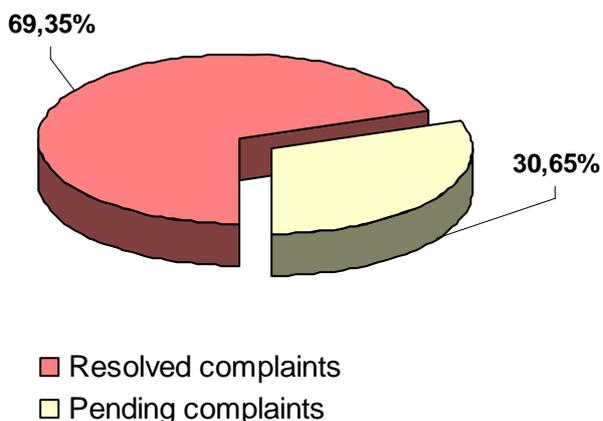


After receiving the complaints, if further investigation was not needed, the proceeding was done immediately, and if investigation was necessary requests have been submitted to competent bodies or to submitters of the complaints. In some cases were conducted inspections, and competent persons as well other persons have been invited for interviews.

Out of the total 3.935 complaints 2.729 or 69,35% are completed, and for 1206 or 30,65% complaints the proceeding is ongoing. **(Picture No.2 page 17)**

Out of completed 2.729 complaints, 1347 or 49,39% are complaints upon which the proceeding is discontinued, 761 or 27, 89% are complaints upon which the proceeding has not been initiated, in 478 or 17,52% complaints on which the Ombudsman has ascertained violations on which has been proceeded, in 26 or 0,95% complaints the Ombudsman has ascertained violation and undertook all legal actions, 84 or 3,08% complaints were solved in another manner, while 33 or 1.21% are anonymous, therefore these cases were closed without any proceeding. **(Picture No.3 page 17)**

**Picture No. 2-2005**



Out of 803 complaints in which the Ombudsman ascertained violation of constitutional and legal liberties and rights in 478 or 59,53% it was proceeded upon Ombudsman intervention, in 299 or 37,24% the proceeding upon Ombudsman intervention is ongoing, and in 26 or 3,24% cases the Ombudsman carried out all legal acts.

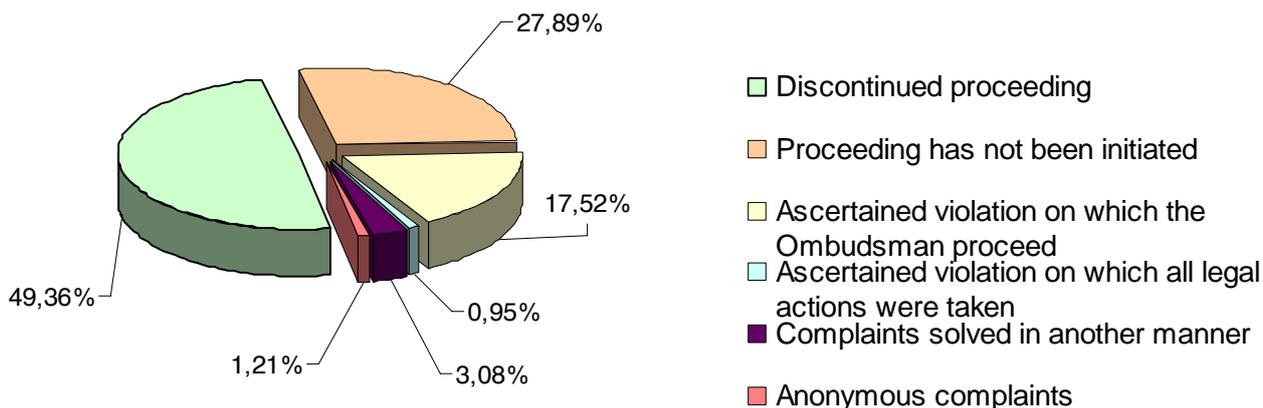
In 2005 the Ombudsman out of 3935 complaints proceeded on 3141 or 79.82%, and in 794 or 20, 18% complaints he did not initiate any proceeding. **(Picture No.3 page 17)**

The Ombudsman believes there are still citizens, who do not know enough the legal possibilities of the Institution.

Out of 3141 complaints, on which that Ombudsman initiated proceedings, 1935 or 61, 60% are completed, and on 1206 or 38, 40% the proceeding is ongoing.

Complaints, on which the proceeding in front the Ombudsman is still in process, respectively in the investigation phase is due to complexity of the problem, the need of collecting more information and evidences from more bodies and organizations, but for a significant number of them it is due to untimely respond to the Ombudsman requirements.

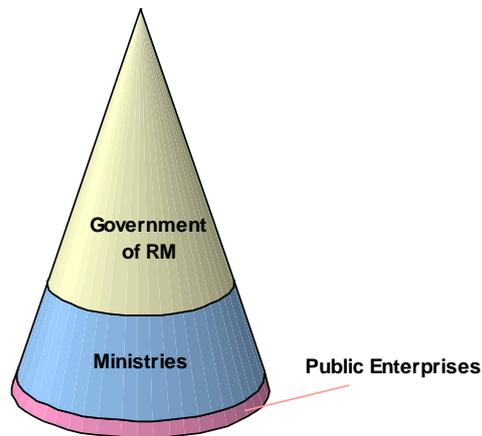
**Picture No.3- 2005**



It should be stressed out that in some cases the citizens, whom have submitted complaints, reacted that the proceeding is lasting too much, although the delay was due to untimely proceeding or to nonproceeding at all by the state administration bodies upon the requests of the Ombudsman.

The new Law on the Ombudsman established compulsory terms within which competent bodies should respond to the Ombudsman requests, but unfortunately very often these bodies don't proceed in accordance with the terms provided.

**Chart nr.5**

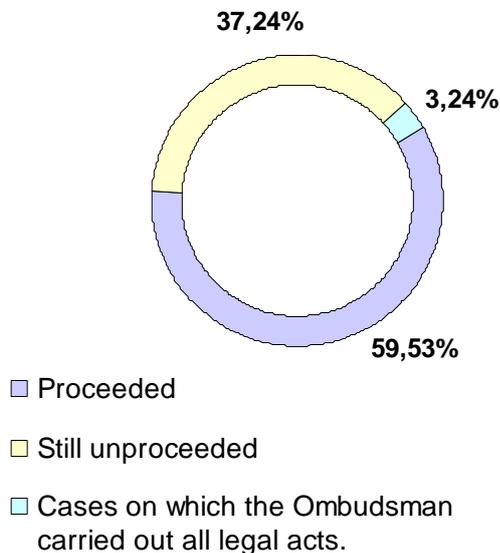


Form the practice it can be concluded that the attitude of competent persons in regard the Ombudsman requests isn't satisfactory. In order to speed up the proceeding and to improve the situation 12 information were sent to bodies and organizations with public mandates; out of which 3 were accepted. 77 information were sent to the competent Ministries, of which 31 were accepted. 225 information were sent to the Government of the Republic of Macedonia, and the Government proceeded only upon 31 of them.

**20,41%**  
ascertained  
violations

### Ascertained Violations and Reduction of Injustice

**Picture No.4 - Ascertained violation in 2005**



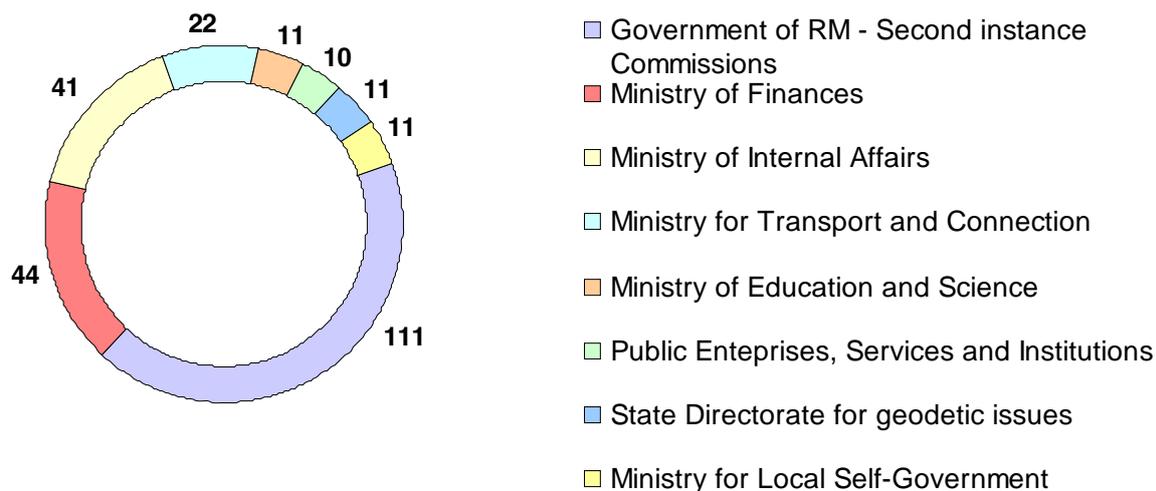
Should, after analyzing complaints, the Ombudsman ascertain violation of constitutional and legal rights of the citizens, the Ombudsman with his recommendations, opinions, suggestions, indications and proposals, requests and other similar interventions requires by the competent bodies to remove anomalies and illegibilities so that the citizens would be able to fulfill their violated rights in a more economic and more efficient manner.

In this direction is the Ombudsman intervention for improvement and refining the organizing and the performance of

the professional services in state administration bodies and of other organizations that have public mandates.

Out of the total number cases on which the Ombudsman proceeded in 2005. in 803 he ascertained violation of constitutional and legal rights of the citizens. Out of them in 478 cases (59,53%) state administration bodies and other organs with public mandates have proceeded after the Ombudsman intervention, for 299 cases (37,24%) the proceeding is ongoing, and in 26 (3,24%) cases the Ombudsman undertook all legal actions. **(Picture No.4 page 18)**

**Picture No.5 - Bodies that in most of the cases still have not proceeded upon the interventions of the Ombudsman**



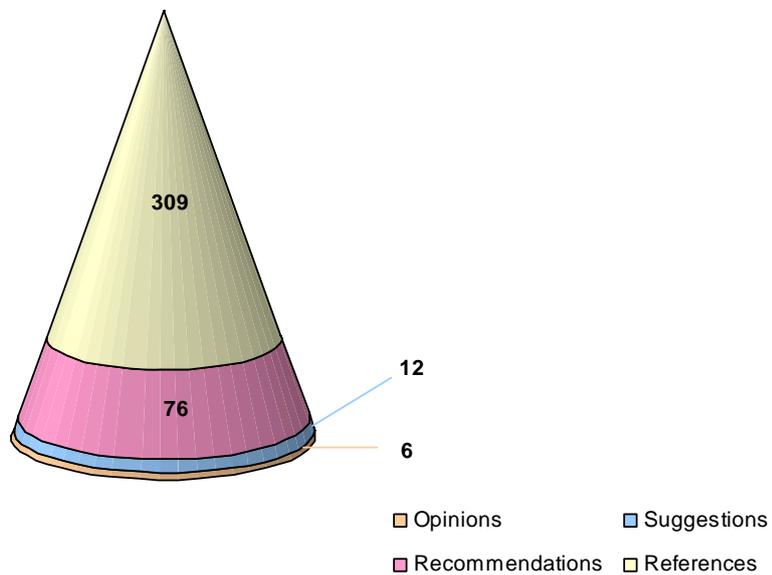
The biggest number of ascertained violations in 2005 was in the field of property rights that 231 or 28,77%, out of which in 61 cases or 26, 41% bodies and organizations with public mandates proceeded upon the Ombudsman intervention. Then follow the complaints in the field of police proceedings with ascertained violations in 133 cases or 16,56%, and in 83 or 62,41% the Ombudsman interventions were accepted; in the filed of Labor relations violations were ascertained in 89 or 11,08% cases, in 53 of them or 59,55% it was proceeded upon the Ombudsman intervention; in the field of Judiciary 84 or 10,46%, and in 76 or 90,48% cases it has been proceeded; etc

From the total number of ascertained violations on which the Ombudsman opinions, suggestions and recommendations have not been accepted and it was not preceded upon, the biggest number is referred to the Government of the republic of Macedonia, Ministry of Finance, Ministry of Internal Affairs, Ministry of Transport and Connection etc. **(Picture No.5 page 19)**

Most of the ascertained violations, similar to previous years, have been related to transgress of law and procedural breaches respectively delay of proceedings in which the citizens fulfill their rights. Almost in more than 80% of the total number of ascertained cases is related to delay of administrative and court proceedings. In other words in more than 80% of cases competent bodies did not respect terms for bringing decisions upon citizens' requests, and in significant number they misused the Institute silence of the administration.

In order to eliminate the ascertained violations the Ombudsman sent to the competent organs 403 interventions including: 76 recommendations, 309 references, 6 opinions and 12 suggestions. In addition, the Ombudsman submitted 8 requests to the Public Prosecutor Office to initiate proceeding for verification of penal responsibility, one initiative to the Government of the Republic of Macedonia for change of Laws, many proposals for initiation of disciplinary procedure against responsible or authorized persons in bodie and organizations.

Chart nr.6



**5123**  
citizens accepted on  
conversations

## Citizens and Ombudsman

The Ombudsman in the Skopje Office as well in the Regional Offices in Bitola, Kicevo, Tetovo, Kumanovo, Stip and Strumica organized daily reception of citizens. The Ombudsman, his Deputies or the employees in the Office interviewed more than 5123 citizens, and afterwards compiled official reports in case of suspicion for violation of the rights, and later on based of the reports the Ombudsman either proceeded or advised the citizens on how to fulfill their rights. The Ombudsman Office in Skopje received the biggest number of complaints, respectively 2168. In Bitola Office were received 222 complaints, in Kicevo 112, in Strumica 139, Tetoivo 118, Stip 138, and 156 complaints were received in Kumanovo Office. **(Review No.5 page 21)**

**Review No.5**

<b>REVIEW OF RECEIVED COMPLAINTS IN THE OMBUDSMAN OFFICES</b>								
<i>Received complaints in the Ombudsman Offices</i>								
	Skopje	Bitola	Kicevo	Strumica	Tetovo	Stip	Kumanovo	<b>TOTAL</b>
Rights of communities that are not majority	4							<b>4</b>
Rights during police proceedings and other internal issues	285	19	12	11	23	10	31	<b>391</b>
Rights in the field of Judiciary	659	78	37	62	30	67	43	<b>976</b>
Rights of military personnel and military tributaries	4	1						<b>5</b>
Rights in the field of Social protection	79	15	1	3	6	6	8	<b>118</b>
Rights in the field of Labor relations	255	15	16	5	11	7	6	<b>315</b>
Rights in the field of residency relations	51		2	3	1	4	3	<b>64</b>
Rights in the field of health protection	32	2		5	1	2	1	<b>43</b>
Rights in the field of pension and invalidity insurance	106	16	13	6	14	5	10	<b>170</b>
Rights in the field of education, science, culture and sport	33	1			1	2	1	<b>38</b>
Children's rights	56	2		1	1	1	2	<b>63</b>
Rights in the field of urban planning and construction building	121	16	3	16	12	9	7	<b>184</b>
Rights in the field of environment	15		1	2	2		3	<b>23</b>
Rights in the field of finances	16	1		1			1	<b>19</b>
Protection of rights in the field of Custom relations						1		<b>1</b>
Rights in the field of property rights	264	42	21	15	13	15	33	<b>403</b>
Consumer rights	71	3	2	8		5	5	<b>94</b>
Rights in the field of discrimination	6							<b>6</b>
Rights in other fields	111	11	4	1	3	4	2	<b>136</b>
<b>TOTAL</b>	<b>2168</b>	<b>222</b>	<b>112</b>	<b>139</b>	<b>118</b>	<b>138</b>	<b>156</b>	<b>3053</b>

# In the Service of Citizens

0,13 %

of the total number  
of received  
complaints

## Adequate and Equitable Representation

With the Program of work for 2005 one of the scheduled tasks and activities for realization was to carry out analysis for implementation of the constitutional principles for adequate and equitable representation in state administration bodies, in the units of local self-government and other public institutions and services.

The Ombudsman proceeding in accordance with scheduled activities, in order to get comprehensive overview of the situation of adequate and equitable representation during 2005, conducted an analysis of all Institutions, over which he proceeds according to his competencies.

In concrete detailed data related to adequate and equitable representation of all communities, ethnic composition of the employees, and percents of representation of members of communities as well data for accomplished and projected employments were requested.

Simultaneously, the Ombudsman requested the data regarding the implementation of Article 17 of the Law for state administration, according to which competent organs have the responsibility to prepare Annual Plan for adequate and equitable representation of communities that needs to be submitted to the Agency for state administration.

In this context, the Ombudsman addressed: the Parliament, the Government, Ministries and Independent state bodies (Agencies, Directorates, Commissions, and Institutions) Funds, Public Enterprises, Republican Court Council, Constitutional Court of the Republic of Macedonia, Supreme Court, Appellate Courts and Basic Courts, Public Prosecution Office, and Penitentiary-Correction institutions.

Indeed, Units of local self-government have been excluded of this list.

Namely, the Ombudsman considered the present personnel restructuring in the Self-government units in relation Central Government-Local Government, and it was the main reason for not addressing the local government. It's was done also because after a certain period the local government would be a subject for analysis in order to inspect the situation regarding the adequate structure of employees.

The data provided by Institutions treat the total number of employees in accordance with the Law for employees in the state administration, Law for Labor relations and the Law for public enterprises, and the Ombudsman prepared a Review Table. **(Table No. page.26 )**.

From the available data analysis it was verified that competent organs especially executive organs are more intensively implementing the principles of adequate and equitable representation of members of communities.

On the other hand, data provided for the professional personnel in the independent state bodies (Agencies, Directorates, Commissions, and Institutions) indicate that respecting of the principle of adequate and equitable representation of the members of Communities in these institutions is to the minimum extent.

In the same line are funds and public enterprises, in which the representation of the members of communities is insufficient and it doesn't correspond to the constitutionally guaranteed principle.

Situation does not differ much in the judiciary, where the process of implementation of the principle of representation of members of communities is moving slowly.

On the basis of available data the Ombudsman points out organs that haven't employed any members of communities, especially:

- Agency for Support of Entrepreneurship in the Republic of Macedonia;
- Fund for Deposit Insurance;
- Public Enterprise(PE) for Water Economy with Hydro System "Dojransko ezero"-Star Dojran;
- PE Water Economy "Gevgelisko-Valandovsko pole"-Gevgelija;
- Basic Court in Kavadarci;
- Basic Court in Radovis;
- Basic Court in Sveti Nikole and
- Penitentiary-Correction Institute (PCI)-Jail Stip.

Organs, in which the percentage of members of communities is minimal or under 10% of the total number of professional staff, are:

- Agency for Stimulation of Development of Agriculture -Bitola;
- Directorate for Protection and Salvation of Skopje;
- State Geodetic Institute;
- Public Revenue Office;
- Civil-Air navigation office;
- Bureau for State Stock-Reserves;
- Central Register of the Republic Macedonia-Skopje;
- Central Bank of the Republic of Macedonia;
- Police Academy;
- Fund for Health Insurance of Macedonia;
- PE for Economizing with Accommodation and Business Space of the Republic of Macedonia-Skopje;
- PE "Makedonska radiodifuzija"-Skopje";
- PE Water Supply "Studencica"-Skopje;
- PE "Strezevo"-Bitola;
- PE for Water Supply "Gevgelisko-Valandovsko pole"-Gevgelija;
- The Appellate Court -Bitola;
- The Appellate Court -Stip;
- Basic Court in Berovo;
- Basic Court in Bitola;
- Basic Court in Veles;
- Basic Court in Gevgelija;
- Basic Court in Delcevo;

- Basic Court in Kriva Palanka;
- Basic Court in Kocani;
- Basic Court in Ohrid;
- Basic Court in Prilep and
- Basic Court in Strumica.

However, the general conclusion of the Ombudsman is not based on the data of all bodies because one part of them despite additional interventions did not submit requested information or they submitted partial and other data, which are not relevant to the subject of analysis, so they obstructed the Ombudsman functioning.

In this context, institutions that didn't proceed on Ombudsman request are the following:

- Ministry of Internal Affairs;
- Ministry of Transport and Connection;
- Agency for Development and Investments of the Republic of Macedonia;
- Agency for Privatization;
- Agency for Electronic Communication;
- Bureau for Development of Education;
- Bureau for Forensics;
- Bureau for Tourism;
- Regulatory Commission for Energetic;
- Center for Education of Personnel in the field of Security;
- Directorate for Protection and Salvation;
- Fund for Pension and Invalidity Insurance of Macedonia;
- PE for Economizing with Forests "Makedonski sumi"-Skopje;
- PE for Purchase, Transport and Distribution of Natural Gas "GA-MA"-Skopje;
- PE for conducting water activities HS "Zletovica"-Probitip;
- PC for Water Supply "Lisice"-Veles;
- Basic Court in Kratovo;
- Basic Court in Kumanovo;
- Basic Court in Negotino;
- Basic Court Skopje 2;
- PCI-Jail-Skopje;
- PCI Jail-Bitola;
- PCI Jail - Gevgelija;
- All Public Health Institutions, with exception of PH "Klinicki Centar"-Skopje;
- Institutions of Primary and High education
- Institutions in the field of culture.

On the other hand partial data, out of which isn't possible to determine overall situation regarding the adequate and equitable representation, were submitted by:

- Ministry of Education and Science;
- PC "Sluzben vesnik na RM" (Official Gazette of the RM);

- Directorate for Security and Classified Information, and
- Education-Correction House -Tetovo.

Due to absence of data by the bodies, which didn't submit or submitted partial information the Ombudsman was not able neither to fully inform the Parliament of the Republic of Macedonia nor to report to the Committee for relations between communities about the determined situation regarding the adequate and equitable representation of members of communities in the Republic of Macedonia.

Hence, it's necessary the Ombudsman to get relevant data that would enable him to fully analyze the situation regarding the adequate and equitable representation, which presumes unobstructed and regular submission of data by the bodies that Ombudsman in accordance with competences has been requiring from.

However, from the data submitted to the Ombudsman it can be determined that in most institutions, despite the efforts for implementation of the principle for representation of the members of communities, the achieved level is still not satisfactory. The Ombudsman believes that institutions should maximize efforts to intensify the process of participation of the members of communities in the public sector and judiciary, respectively to consequently implement the constitutional and legal provisions, which guarantee the rights of communities.

The data are not complete since certain institutions despite additional interventions of the Ombudsman did not submit requested information thus obstructing his functioning.

Although it is to be emphasized that in the Army, public administration, primarily in the Ministries and other public institutions except in public enterprises and judiciary there is increment of representation, the Ombudsman is not able to present any comparative Review of data of the previous years, since the new competence of following the adequate and equitable representation of members of communities started to be implemented in 2005.

## TABLE REVIEW

	Macedonians		Albanians		Turks		Roma		Vlachs		Serbs		Bosniacs		Others		Total
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	
<u>Parliament of RM</u>	148	81,31	24	13,18	3	1,6	2	1,09	/	/	3	1,64	1	0,54	1	0,54	182
<u>Government of RM</u>	406	82,52	46	9,34	9	1,82	7	1,42	7	1,42	10	2,03	5	1,01	2	0,4	492
<u>Ministries</u>	2507	85,21	259	8,8	48	1,6	21	0,71	27	0,91	52	1,76	10	0,33	18	0,61	3042
<u>Independent State organs</u>	8572	89,8	469	4,91	56	0,58	53	0,55	64	0,67	212	2,22	33	0,34	86	0,9	9545
<u>Funds</u>	616	94,62	25	3,84	2	0,3	1	0,15	5	0,76	2	0,3					751
<u>Public Companies</u>	5597	85,5	473	7,22	49	0,74	68	1,03	54	0,82	212	3,23	25	0,38	68	1,03	6646
<u>Judiciary</u>	1741	85,4	182	8,93	26	1,27	25	1,22	37	1,81	12	0,58	5	0,24	9	0,44	2037
<u>CPI</u>	188	81,38	35	15,15			1	0,43	2	0,86	2	0,86			3	1,29	331
<b><u>TOTAL</u></b>	<b>19775</b>	<b>86,77</b>	<b>1513</b>	<b>7,42</b>	<b>193</b>	<b>0,83</b>	<b>178</b>	<b>0,77</b>	<b>196</b>	<b>0,85</b>	<b>505</b>	<b>2,19</b>	<b>79</b>	<b>0,34</b>	<b>187</b>	<b>0,81</b>	<b>23026</b>

\*NOTE:

The table shows complete Review of data presented to the Ombudsman, out which is not possible to get a clear picture regarding the overall situation regarding the implementation of the principle of adequate and equitable representation.

**REVIEW**  
**of institutions that didn't proceed upon the Ombudsman requirements,**  
**respectively they didn't submit required data**

- Ministry of Internal Affairs;

- Ministry of Transport and Communication

- Agency for Development and Investments in the Republic of Macedonia

- Agency for Privatization

- Agency for Electronic Communication

- Bureau for Development of Education;

- Bureau for Forensics;

- Bureau for Tourism;

- Regulatory Commission for Energetic;

- Center for Education of Personnel in the field of Security

- Directorate for Protection and Salvation;

- Fund for Pension and Invalidity Insurance of Macedonia;

- PC for Economizing with Forests "Makedonski sumi"-Skopje;

- PC for Purchase, Transport and Distribution of Natural Gas"GA-MA"-Skopje

- PC for conducting Water Supply activities HS "Zletovica"-Probistip;

- PC for Water Supply"Lisice"-Veles

- Basic Court vo Kratovo

- Basic Court vo Kumanovo

- Basic Court vo Negotino

- Basic Court Skopje 2

- PCI-Jail-Skopje

- PCI-Jail-Bitola

- PCU-Jail Gevgelija

- All Public Health Institutions, with exception of PH "Klinicki Centar"-Skopje;

- Institutions of Primary and High education

- Institutions in the field of Culture.

<b>REVIEW</b> <b>of institutions that have no members of communities employed</b>
- Agency for support of Entrepreneurship in Republic of Macedonia
- Fund for Deposit Insurance
- PC for Water Supply with the Hydro system "Dojransko ezero"-Star Dojran
- PC for Water Supply "Gevgelisko-Valandovsko pole"-Gevgelija
- Basic Court – Kavadarci
- Basic Court – Radovis
- Basic Court - Sveti Nikole
- CPI-Jail- Stip

**0,20 %**

of the total number  
of received  
complaints

## Non-discrimination

In 2005 twelve (12) complaints were submitted to the Ombudsman in which the citizens were complaining to discriminatory attitude, most often in the field of labor relations, respectively they requested protection of the principle for adequate and equitable representation of members of communities that are not majority in the Republic of Macedonia. After carrying out adequate proceedings in three cases were found violations of citizens' rights, therefore the Ombudsman undertook adequate actions to protect their rights. One case is solved positively, and for the rest the proceeding is ongoing.

Small numbers of complaints in which citizens indicated to have been deprived of their rights, respectively they have not been able to realize certain rights because of their ethnic, religious or other background doesn't mean that discrimination in the Republic of Macedonia is not present. On the contrary, cognizance indicate the fact that the phenomena of discrimination exists in a hidden form, and it's rarely brought to light because of different reasons due to fear or because the information of citizens is insufficient, respectively due to inability to recognize behavior that implies or presumes discriminatory behavior.

Taking into consideration this situation and having in mind: the Directive 76/207/EEC of the Council of European Union for Equality between Men and Women, the Directive 2000/43/EC (6) by which is implemented the principle of equal treatment between people regardless their racial or ethnic background, and the Directive 2000/78/EC which establishes the general frame of equal treatment during employment and occupation, adopted to prevent the possible discrimination in the quoted field against quoted category of people, the Ombudsman thinks it's necessary to adopt adequate regulation, which would regulate this issue.

This conclusion derives from the fact that in the Republic of Macedonia, in daily life, there are still cases of discriminatory behavior with elements of xenophobia. Refusal and preclusion of access to Roma community members to public facilities that are private property such as: restaurants and sport recreation facilities were evident during the last year, too. After some articles in the press, the

Ombudsman on his initiative requested from the State market inspectorate to undertake actions in order to discover cases of discrimination against members of Roma ethnic community and prevention, respectively sanctioning such behavior.

In the report year Ombudsman received a complaint by members of the Albanian community, who requested intervention because of discriminatory behavior of the employees at the Coffee-bar "Blue Café"-Skopje that refused to serve them. On that account the Ombudsman and State market inspectorate conducted an insight, respectively inspection in the Coffee-bar.

Similar to many earlier cases the effort to identify whether discrimination exists was unsuccessful because the Law on nondiscrimination, in which precisely would be defined the term discrimination as well as the competent organ that would be responsible to undertake adequate measures for elimination of discriminatory behavior, is not adopted yet. In that sense absence of legal regulation represents obstacle for consequent realization of citizens' rights. Such conclusion and determination the Ombudsman presented also in the previous Report to the Parliament of the Republic of Macedonia with recommendation for bringing the Law for nondiscrimination as soon as possible.

The Ombudsman, in the meeting with the representative of the so called "female lobby" in the Parliament of the Republic of Macedonia, announced the support for bringing a separate Law for Nondiscrimination, and in that occasion most of the NGOs and part of legal experts took the stand that bringing such a law is necessary.

Although in certain legal provisions such as the Law for labor relations are included provisions, which are related to discrimination, and in which direct i indirect nondiscrimination are determined bringing of a separate law is necessary since discrimination is occurring in other fields, too.

With the separate Law should be defined the term discrimination, possible areas of discriminatory behavior, forms of manifesting discrimination, pointing out the possible offenders and victims of discriminatory acts and activities, the manner, forms and organs in front of which citizens can require protection, rights that originate in case of violation, as well defining the responsibility of those who conduct discriminatory acts, actions or admit actions. The Ombudsman believes that brining the Law for nondiscrimination would enable more consequent implementation of the proclaimed constitutional principle for equality of citizens in the liberties and rights regardless their gender, race, color of the skin, national and social background, political and religious conviction, property and social situation.

Through the last year the Ombudsman took part in preparation of Draft-Law for equal opportunities of men and women where with proposals and suggestions that were accepted he contributed in the drafting process. According to the latest information the Law for equal rights of men and women is in Parliamentary procedure, and adoption of the law is expected soon.

Besides the mentioned activities in order to overcome problems that citizens are facing while realizing their rights the Ombudsman undertook measures for citizens education by increasing the awareness for fulfillment of the proclaimed constitutional principle for equality of citizens in their liberties and rights, thus contributing to more consequent implementation of the principle.

Activities for preparation of brochures, with educational character and media activity will successfully promote Ombudsman's commitment to protect citizens' rights and mediate in solving all discriminatory situations.

Simultaneously, for more efficient functioning of bodies and institutions in the Republic of Macedonia, for more consequent respecting, fulfillment and protection of human rights and liberties, and in that sense preventing discrimination and cases of xenophobia training of the servants and public administration employees is needed. The efforts are also directed to increment of employees' awareness in organs and institutions that deepening the cooperation with the Institution Ombudsman will contribute to their more efficient performance.

**12,81 %**

of the total number  
of received  
complaints

## Police Proceeding and Execution of Other Internal Issues

As a controlling mechanism of the public administration work the Ombudsman, while conducting competencies determined by law, has an important role in protecting and fulfilling the citizens' rights in the field of police proceedings and other internal issues. However regarding the volume and level of violations of basic liberties and rights the Ombudsman can make an evaluation on the basis of proceedings upon citizens' complaints received in the report year, and the proceedings that Ombudsman has initiated with his initiative.

While realizing the constitutional and legal rights, and fulfilling legal obligations citizens of the Republic of Macedonia in their daily life very often communicate with organs and employees of the Ministry of Internal Affairs, and due the employees act, actions, or omissions basic human liberties and rights could be violated.

For protection of basic liberties and rights in cases of violation caused by acts or actions of bodies of the Ministry of Internal Affairs or the employees in this Ministry, a total of 391 citizens addressed the Ombudsman, which represents 50% increment compared to the previous year, and almost one fourth of them were related the abuse of different police authorizations. The Ombudsman believes that such increment of complaints is due to the publicly addressed criticism to the Sector for internal control and professional standards.

Proceeding in this part, through the report year, regarding the legal competences there were contradictions in opinions between the Ombudsman and the Ministry of Internal Affairs.

Namely, in some cases, in which the Ombudsman ascertained violation of human rights with excessive use of force or means for constraint by authorized members of the Unit for special tasks, the Sector for internal control and professional standards refused to provide required data by referring to the Law for Protection of classified information, and with that the Sector derogated Ombudsman's authorization consisted in Article 27 of the Law for the Ombudsman, according to which it's compulsory for all state bodies to cooperate with the Ombudsman, and on his request to provide all data regardless the level of confidentiality.

Since the refusal to provide required information meant obstruction of his work, the Ombudsman informed the public.

Although it was interpreted to be an attempt of particular structures through the Ombudsman to tighten the Ministry of Internal Affairs efforts for suppression and prevention of criminality, this reaction was in accordance with the legal competences of the Ombudsman, according to which the Ombudsman could inform the public, and the goal was to put additional pressure on the institutions that, advisedly or unadvisedly violate basic human liberties and rights.

Ombudsman once more emphasizes that the main goal in conducting this function is protection of citizens' basic liberties and rights through professional, complete and efficient implementation of legal responsibilities using all the legal means, while his interventions shouldn't be considered as malevolent or intention to block the work of state bodies and other organizations, over whose work the Ombudsman is acting as controlling mechanism. The objective and the function of the Ombudsman interventions is improvement of public administration work through legitimate and professional proceeding respecting the basic liberties and rights of citizens, and measures are undertaken when their internal control mechanisms fail. The Ombudsman commitment for permanent

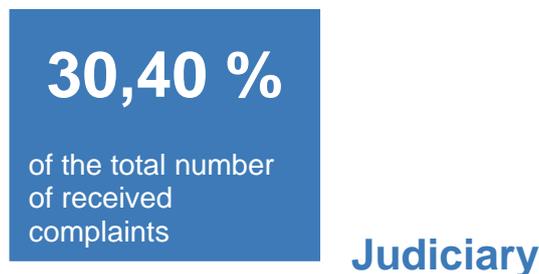
improvement of the level of professional conduct is also a position of the international organizations in the Republic of Macedonia.

The Ombudsman considers that Sector for internal control and professional standards in the report year didn't achieve satisfactory level in fulfilling goals and duties for which the Sector has been established due to partiality in favor of authorized persons in the Ministry while evaluating whether, in the cases presented by the Ombudsman, which he supported with medical reports, the employees have exceeded their official authorizations by excessive use of force.

Due to such unprofessional attitude the Ombudsman, as a supervisor, and on basis of legal authorizations, submitted 7 criminal charges in front of Basic Public Prosecution in Skopje, Kumanovo and Stip. The charges were against authorized persons in the Ministry of Internal Affairs, which while undertaking police actions have exceeded their official authorizations, and by excessive use of force they have committed criminal acts against liberties and rights of the citizen.

This is supported with the data of the bigger Courts except the Basic Court Skopje2-Skopje, which didn't respond to Ombudsman request. The Investigative and criminal departments in these Courts, in the period 01.01. until 31.12.2005 proceeded in more than 18 criminal proceedings initiated by citizens against whom authorized persons have committed criminal acts violating their human liberties and rights, and in proceedings for body injuries inflicted by authorized persons of the Ministry of Internal Affairs.

In other segments of the work with citizens for problems related with the citizenship, residence ship or habitation and registration or proceedings for return of temporary seized objects after completion of adequate proceedings, though in front the Ministry of Internal Affairs the proceedings are still lasting, yet it is notable increased respect and acceptance of the Ombudsman interventions, as well improved respect of citizens rights.



General characteristic for the report year regarding the Judiciary is enormous increment of the number of complaints submitted to the Ombudsman Office as well as the number of citizens requesting reception and interview in the Main Office and Regional Offices.

Statistic data presented in the Review show that number of registered complaints in this field is 2,5 times higher compared to the previous year, and almost 1/3 of the total number is related to issues and problems that submitters have with their Court proceedings.

The enormous increment of complaints in this field is outcome of activities and measures taken by Ombudsman when after ascertained violation of the citizens rights and violation of the principle for trial within a reasonable deadline upon the Ombudsman initiative was dismissed a Judge in the Appellate Court – Stip. It's also due to personnel stuffing in the Ombudsman Regional Offices and circumstances in the Judiciary that are almost unchanged in relation with the previous years.

However it's necessary to emphasize that despite the legal limitations of the Ombudsman authorizations in the field of Judiciary only in protecting citizens from unjustified delay of Court proceedings and from unscrupulous and irresponsible performance of the Court services, the citizens in their complaints are still requiring revision of Court decisions, referring to partiality and corruption in Judiciary.

Results of the Ombudsman proceedings confirmed the notorious facts accepted by the most relevant factors in Judiciary that the Judiciary in the Republic of Macedonia especially in litigation, executive proceedings and in the bankruptcy proceedings it is largely corrupted and incompetent, and therefore it still cannot provide the proclaimed efficient protection of the constitutional and legal rights of the citizens and other subjects.

Such anomalies, as well partial changes in some procedural proceedings in the period after the independence of the Republic of Macedonia did not increase efficiency of Court proceedings, affirmation and implementation of the principle *trial within a reasonable deadline*.

This, the objective circumstances that the Judiciary in the Republic of Macedonia is facing with, which is functioning according to inadequate organizational setting of the Courts, opposite the situation and the need for their specialization on specific areas, the inadequate technical and technological equipping, the insufficient number of court and subsidiary personnel is still leading to the conclusion that law regulation are not the only reasons for inefficient Judiciary and lasting proceedings, but that big impact have the subjective elements: absence motivation for professional performance due to small salaries, which generates dependence from particular influential groups in the society represents a generator of corruption, falling under emotional influence that is characteristic for Judges in smaller places, insufficient competency and absence of readiness for self education and other.

Overcoming such phenomena is basic condition to reinstate the lost confidence in Judiciary, and the respect of the Court decisions.

New legal provisions regulating litigation proceedings, especially the Law on Litigation Proceeding and the Law for Execution that should start to be applied at the beginning of 2006 would create realistic basis for more rational Court proceedings and more efficient Judiciary. Changes of Constitution of the Republic of Macedonia eliminated the last obstacles for further realization of the Strategy for Judiciary reforms and the Action plan for its implementation, while now remains their real projection and quick implementation of reorganization in the Judiciary, and in education and selection of the best Judges from potential candidates for this important occupation.

Half-open door of the European Union will remain only half-open if we stumble in front the shouldered obligations in front citizens and other subjects, and we don't provide them legal safety, which is one the basic values of the Constitutional the Republic of Macedonia and of any democratic society in general until the citizens don't feel they live and work in society in which *Rule of Law and Legal State is functioning*.

These conclusions regarding the situation in Judiciary are based on conclusions resulting from the analysis of this subject as well on unanimous public opinion for the situation in this sphere in the Republic of Macedonia.

During the report year Ombudsman received only few complaints related to legal functioning of the Public Prosecution offices in the Republic of Macedonia, which were for delay of proceedings on criminal charges, and thanks to sportive cooperation, especially with the Public Prosecution Office from Skopje, the Ombudsman has been receive prompt information regarding the flow and the results of their proceedings.

During the proceeding the Ombudsman ascertained that causes for delay of proceedings of the public prosecution are primarily due to slow acting of the Ministry of Internal affair organs, which were providing responds to the Public prosecution requests after several months delay.

Yet the problems and situations that the Judiciary are facing with do not leave immune the Public Prosecution, and the same problems are reflecting on the flow and results of Court proceedings, and sometimes they are direct reason for prescription of the criminal procedure, and in the period in front criminal procedure.

Because of valid suspicions for exceeding official authorizations by authorized persons in the Ministry of Internal Affairs the Ombudsman raised 8 criminal charges at the public prosecution offices in Skopje, Stip and Kumanovo. One of the charges was rejected because the prosecutor didn't find ground for act that should be prosecuted formally. Proceeding on the other subject matters is ongoing

The Ombudsman is expecting from this organ to improve the efficiency and to achieve higher level of professionalism in proceeding and deciding, especially after the implementation of the reforms that should happen in the coming period in the Public prosecution organization, which should significantly change not only organizational setting, but should also mean changing and increment of responsibilities, larger independence from the executive government, simultaneously higher efficiency and professionalism of the organ authorized to discover and pursue those who commit criminal acts.

Advocacy and Notary as separate public services in front of which the citizens fulfill rights and interests during the last year were not pointed out for violating the constitutional and legal rights. The reason behind it most probably is not the fact that these services did not violate any of the citizens' rights, or that these services function perfectly, but probably due to the fact that Notary decides on uncontroversial issues, and the relations between these two services and citizens is of different nature of the relation between the citizens and the Courts and Public Prosecution.

Another reason for no complaints against these services is probably the insufficient information of the citizens that in case their rights are violated by these services they can address the Ombudsman and seek assistance. It shows that the Ombudsman should pay more attention to their education.

In contrast to them the Ombudsman received several complaints by citizens in which they complained that the Public Attorney is not protecting enough the property rights of the Republic of Macedonia in cases of usurpation of land in state property, and it hurts their property rights or the reliance rights.

**1,57 %**

of the total number  
of received  
complaints

## Penitentiary–Correction and Educational-Correction Institutions

On the basis of legal authorizations to follow up situation of respect and protection of constitutional and legal rights of detained persons and persons in custody, and arrested persons who are in servitude in Penitentiary-Correction or Educational-Correction institutions, as control mechanism over the work of the public administration, while realizing the Working Plan, during May 2005 the Ombudsman conducted general inspection in most of Penitentiary-Correction institutions in the Republic of Macedonia, and in the Educational-Correction House Tetovo.

General impression was that the Penitentiary system in the Republic of Macedonia despite undertaken measures for sanation and other measures to improve the situation in some of Penitentiary-Correction institutions there are still numerous weaknesses, and that the state still has not created sufficient conditions for its normal functioning, and it has negative impact on constitutional and legal rights of arrested and convicted persons, and it doesn't allow their real resocialization.

Because of that convicted persons still have the feeling they are at the margins of the society, and the punishment represents revenge of the state for the committed act.

Having in mind the principles of penological standards of penitentiary system, which normatively completely corresponds to the same systems in developed democratic societies, and absence of catholic program for dealing with the negative phenomena and tendencies like the recent developments in Penitentiary-Correction institutions in the Republic of Macedonia it can be rightfully concluded that situation related to the safety aspect of execution of the punishment confinement during the report year were significantly undermined by frequent armed disputes between convicted

persons or kidnapping persons deprived of freedom, runaways of convicts, increased number of suicides, addicts on heavy drugs, and alcohol found at convicted persons. In Penitentiary-Correction Institutions as well in the Educational-Correction huse Tetovo were also registered series of failures that are wriggling for years, and as a result of chronic shortage of finances, which is necessary to improve and advance the conditions of premisses, and technical equipment, insufficient stuffing in the safety and professional functioning of the institutions, poor professional education of the persons included in the educational process, and it also lacked the permanent inspection by the competent organs determined by the law.

Although forms of severe torture, and other forms of violence over the convicted population have not been registered, yet there has been incidental use of force that was justified with the aim of keeping order in the institutions, as well as other anomalies that don't correspond with the needs of functioning of a consistent re-socialization process of the convicted persons. It was noticed that in most of the Penitentiary-Correction Institutions, with exception of the Penitentiary-Correction Jail - Stip, and the open Section of the Jail "Bitola" in Prilep arrested and convicted persons are serving the sentences of custody and confinement in inhuman conditions (ruined furniture, presence of cockroaches and other insects, insufficient hygiene, light, humidity in the premisses, sleeping on the floor or in corridors) thus undermining human dignity, which don't provide opportunity to a process of real re-socialization and adaptation.

Weaknesses were noticed also in regard the quality and quantity of the food, absence of hygiene and inventory in the kitchens therefore, most of the arrested and convicted persons are getting food from outside and keep it in inappropriate conditions.

Most of the Penitentiary-Correction institutions do not have sufficient quantity of quality clothes, footwear, sheets, and the level of their maintenance is not satisfactory, and frequently it is responsibility of the prisoner. The convicts are faced with difficulties in telephone communication with the outward due to insufficient number landline telephones, or due to restriction of their usage to a certain period of the day. The prisoners are not engaged enough with working activities, and the compensation to those who are engaged is not paid in accordance with the law.

Due to insufficient number of professional stuff for re-education, and poor management with the existing human resources (psychologists, pedagogues, social workers, and instructors) re-educational process is not fulfilling the real function.

Health protection of the convicted and arrested persons dos not fulfill their needs due to inadequate system of health protection, and small number of recruited doctor that work on the basis of Contracts for piece.

Stay of the arrested and convicted persons in fresh air is not in accordance with the law, and it is justified with the ample number of arrested and convicted person in relation to the employees in the security services.

And, finally a fact that hasn't been contested neither by the institutions nor by the Office for execution of sanctions, is presence of drugs, alcohol and weapons, which has a huge negative impact on the safety aspect of the institutions.

The specified issues are only some of the ascertained weaknesses during the inspections of the Penitentiary-Correction institutions in the Republic of Macedonia, which are presnet not only due to limited financial possibilities, but also due to poor management of the existing Human resources.

It should be notified that in the report year some Penitentiary-Correction institutions tried to obstruct the work of the Ombudsman.

Exceptionally characteristic was the case of obstruction of the Deputy Ombudsman of the Regional Office in Stip, whom the Director of the Penitentiary-Correction institution Jail "Stip" precluded of a meeting with an arrested person with justification that the Deputy Ombudsman did not have permission by the competent Investigative Judge, and that Deputy Ombudsman did not have certificate for utilization of classified information.

Although the problem was solved by referring to the dispositions of the Law for the Ombudsman, which includes th Ombudsman competencies and authorizations regarding the

protection of the constitutional and legal rights of arrested and convicted persons, it refers to a conclusion that even steering persons in some state institutions don't know well enough the legal regulation, which they are supposed to apply in their daily work, thus professionalism and competency to perform the function they have been selected or appointed for can be put under question.

All this shows that the Penitentiary system in the Republic of Macedonia is burdened with numerous problems, and that it's not functioning in accordance with the Law for execution of sanctions. Even though normatively the system for execution of sanctions is based on the principles of humanity, morale values, justice and respect of human personality and dignity in practice the institutions of the system in charge of implementation of law and bylaw regulation when it comes to the arrested and convicted persons they have moved out this category of people in the margins of the society without taking real care of them, thus violating their basic human liberties and rights.

**13,20 %**

of the total number  
of received  
complaints

## Property rights

One of the basic elements in property right relations, in which the Ombudsman undertakes certain activities in accordance with his authorizations in order to protect citizens' rights is inspecting and deciding on requests for denationalization in first and second instance.

It is characteristic that the organ for denationalization - the Ministry of Finances together with respective Commissions for denationalization is not complying and is not respecting almost at all the deadline for bringing decision for submitted requests, although according to stipulations in the Law for Denationalization such proceeding is treated to be *uregnet*.

Also, there many cases where, despite valid decisions and executive administrative acts by which the submitted requests are approved, the responsibility for undertaking activities for execution and hand over of property rights of the denationalized property to former owners, respectively to their legal successor.

Besides, the fact is that the Ombudsman correspondence (requests, recommendations, referrals) related to proceedings for inspection and deciding on requests for denationalization has been continuously avoided and not proceeded upon them, as well as some commissions submit only formal answers with an information that the proceeding for completion of requests is ongoing that they're waiting the opinion of the Commission for determination of functionality of denationalized properties or opinion of the Commission for coordination, or that the Commission is not working at all etc. This is obstructing the Ombudsman work and it precludes citizens, whom have submitted complaints, of realizing their rights.

Characteristics in first instance proceedings could be grouped as follows:

- Inefficient, irrational, dysfunctional, and untimely of completion of work with a significant tendency for obstruction of fulfillment of the rights and direct interests of the legal parties in the proceeding;
- Slackness, high level of beurocracy and subjectivity while carrying out the litigation proceeding;
- Non cooperation and unprofessional behaviour towards subjects involved in the proceeding, thus causing damages to the citizens – parties in the proceeding;
- Unequal application of dispositions and similar.

Proceeding in the first instance is additionally complicated by Commissions within the Ministry of Finances, which do not have decision-making character, established to provide advice on certain issues, and their permanent discoordination with the Commissions that bring decisions upon denationalization requests (these Commissions independently make assessment for legitimate decisions in the cases) and with other state organs and organizations that have public authorizations, and which are included in the process of denationalization.

Withal, all decisions in draft-decision form or conclusions in order to be approved should preliminarily be submitted to the so-called Commission for control, which submits the remarks not in a form, but in a plain sheet of paper, and the remarks most of the time are handwritten. It's not rare that this Commission in series that last for years is suggesting that request for denationalization should be refused as ungrounded although it is obvious that such a decision would be result of irregular application of dispositions for material rights of the Law for Denationalization that is supported with previously stated legal comprehension of the second instance administration organ or the Supreme Court of the Republic of Macedonia, which is given in the context of decisions upon submitted appeals or suits for Administration disputes with same or similar factual or legal situation of the circumstances.

This is especially related to application of Article 8, paragraph 1 of Law for Denationalization, for which the Commission for coordination of works of commissions that decide upon requests for denationalization produced a Guideline for work, which is registered under Nr. KKD 03/sl.; according to which the requests for denationalization should be refused with a justification that confiscated property- subject of denationalization is not a confiscated property that has been paid for, respectively no compensation has been given for, and in such case the first instance organ should only conclude that to the former owner of the confiscated property-subject of denationalization, has been prescribed compensation, without indulging into additional determination of the fact if the settled compensation has been paid respectively given in meantime, although for application of the quoted disposition it's not enough the compensation to be settled, but also that the compensation has to be remunerate to the former owner. Such Guideline is contradictory to Law and it damages the citizens-submitters of requests for denationalization. This is an example of wrong and purposeful interpretation of the quoted disposition of the Law for Denationalization.

In order to overcome this situation the Ombudsman submitted legal opinion to Minister of Finances, and although the Commission informed the Ombudsman that it is aware of the content of the opinion, the Commission is still continuing with the established routine of wrong application of the quoted disposition meaning that the Commission for control is not approving draft-decisions of the Commissions that decide on requests for denationalization and the subject matters remain in the process of proceeding in the first instance for years.

The Minister of Finances in many occasions has been informed about these and other similar cases, but so far, at last on the basis of available information, the Minister has not taken any actions to overcome the problems. Such behaviour is in contradiction with the dispositions of Article 15 of the Law on Denationalization, according to which the Minister of Finances is direct and the single responsible person to conduct proceedings for denationalization, respectively for consequent application of the dispositions of the Law for Denationalization.

In cases when valid and executive administrative decisions have been adopted, by which the requests of the citizens for returning nationalized property are approved, various excuses are used to avoid the responsibility for undertaking actions for execution, and to return the property at former owners' disposal, respectively to their legal heirs, and the cases are kept for a longer period without any proceeding. Thereat, the provisions of general administrative proceeding are not respected at all, and according to the law of General administrative proceeding, if the organ considers that execution would cause irrecoverable damage to the third persons rights or to the state in no case adequate administrative act –conclusion can be brought, by which the execution would be delayed temporarily, and with that the citizen would be nabled to apply the constitutional endorsement for appeal.

There are final and valid decisions for denationalization, which are not being executed with the justification that in the denationalized property (house or flat) are living persons to whom the state, in accordance with the Article 70 of the Law for Denationalization, should provide another flat, but

it imposes that they can use it at most one year starting from the moment when in accordance with the provisions of the same Law former owner or his legal heir has acquired the right of returning the flat.

In ensuring this right is involved the so-called Commission for evaluation of the real property, but the analysis of subject matters shows that this Commission has not achieved any result, and it only damages the state because the citizens, to whom the denationalized property should be returned at disposal, acquire the right to charge the state with request for damage compensation.

As mentioned at the beginning, the Ombudsman also proceeds upon complaints, which by their content are related to providing efficient fulfillment and protection of citizens' rights in the proceeding for inspection and deciding of their regular legal means – appeals, submitted against administrative acts brought in the first instance by commissions deciding upon requests for denationalization of the Ministry of Finances.

The Ombudsman, in this context, during the last years by submitting correspondence – requests, proposals, opinions, recommendations or referrals in many cases addressed the Commission for deciding in administrative proceedings in second instance in the field of denationalization.

Simultaneously, Secretary and the Chairman of the Commission have been informed with the findings regarding the general situation, and it's not disputable that in context of undertaken activities the Commission brought adequate decisions for a small number of concrete cases.

However, analysis of the general situation leads to conclusion that there's continuous nonproceeding upon acts submitted by the Ombudsman, and it's obstructing the work and precludes citizens that have submitted complaints of fulfilling their rights.

Regarding the work of the second instance administration organ, firstly it should be stressed out that from the beginning until mid of 2005 this commission did not function at all with justification of not having Chairman, that the stuff should be completed etc. The outcome was that not solving cases related to submitted legal means, which by the way have not been solved for many years in the past, and the most characteristic and alarming issue is that the total number of subject matter, which are in the second instance commission cannot be determined .

The situation gets more complicated because conditions for timely, prompt and fast completion of works have not been assured, and at the moment there was nobody to accept the memorials and other acts of the parties, including the correspondence of the Ombudsman, which had to be delivered personally to the Secretary of the commission.

Withal, according to the latest there's still no adequate address to obtain all data regarding the number of submitted complaints, number of formed subject matters, registered acts, insight in the acts of formed subject matters and chronological order of reception, schedule in the work, order of solving the subject matters, decisions brought, and the day of submitting acts at the Supreme Court of the Republic of Macedonia in context of submitted charges for initiation of administrative dispute in front of the Supreme Court of the Republic of Macedonia.

Because of these reasons for the proceeding regarding submitted appeals in front of the second instance Commission, in the field of denationalization, the following is characteristic:

- Inefficient, irrational, unfunctional and undue execution of works with unjustified delay of proceedings for deciding upon submitted legal means;
- Complete disorganizing of the work from the moment of receiving the appeal together with the acts of the subject matter until the final decision that results with loss of whole subject matters and missing records for them;
- Slackness, huge bureaucracy, and high level of subjectivity while carrying out administrative proceeding by not complying and disrespecting the legal deadline for bringing decision;
- Non-cooperative and unprofessional behaviour against the subject involved in the proceeding causing damages to the citizens – parties in the proceeding;
- Unequal application of rules, and

- The Commission neither provides any explanation, information and evidences to the Ombudsman for undertaken measures for implementation of requests, proposals, recommendations or referrals nor submits the brought decisions.

Simultaneously, though the Secretary and the Chairperson of the commission as well the Government of the Republic of Macedonia is informed with special information for not taking actions on concrete subject matters, as well the ascertained general situation by not proceeding upon Ombudsman interventions, no decisions have been brought yet, despite the submitted legal means. Therefore it is indisputable that no organ has undertaken activities to overcome the existing situation.

Regarding the situation with fulfilling the right for privatization of the construction land it's clear that in 2005 was approved the Law for Privatization of the construction land owned by the state, but it should be emphasized that it's still not in function, respectively it's application cannot start because the Government of the Republic of Macedonia hasn't adopted yet the sublaws prescribing the price for compensation for the construction land, which is subject of privatization as well the manner of proceeding for remunerating the compensation for privatizing, respectively it's adopted only the act for determination of areas and zones of the cities and inhabited areas in the Republic of Macedonia.

In the part of proceedings for assuring citizens' rights in relation to the Law for construction land, the Ombudsman in front the Commission for administrative proceeding in second instance in the field of property rights and construction land in the Government of the Republic of Macedonia does not have any cooperation since no respond for any case regarding the taken activities and decision brought has been received so far.

When it comes to proceedings for property registration, respectively registration of the land in the cadastre remains the conclusion, which has been repeated several times. The employees in the Sector for measurement and cadastre- Skopje have unprofessional attitude, extreme disrespect, and ignore the Ombudsman interventions in almost all submitted complaints to the Government of the Republic of Macedonia, which are in the area of measurement, cadastre and registration of the right on properties. In that segment, all previous conclusions for the first and second instance organ for denationalization refer to these administration organs, too.

**6,03 %**

of the total number  
of received  
complaints

## Urban Planning and Construction Building

Arrangement and humanization of the area is part of social living that is completely regulated by law. However the citizens are facing with numerous problems resulting from: inconsistent legal regulation and its application and incomplete demarcation of responsibilities between the central and local government, thus creating space for inefficiency and corruption in the public administration. This resulted with urban chaos, in which despite the declared citizens' basic liberties and rights for living in arranged and human areas are being violated.

These circumstances are the basic reason that in the report year the Ombudsman received big number of complaints, in which citizens have been complaining about the inefficiency of the central and local government public administration when it was supposed to be a service in proceedings for bringing Urban Layout, issuing permission for construction, carrying out acts for illegal constructions, which have violated property and other rights of citizens, or while fulfilling the obligations for construction of roads and byways.

Citizens in their complaints very often rightfully refer to corruption and abuse of the social position of individuals in the local and central government as the biggest evil in the Macedonian

society. The correctness of their statement is proved with the urban chaos created by the huge number of illegal constructions in urban areas and locations foreseen to be green areas even in national parks all over the country, especially in the Capitol.

With the Law for construction building, which was adopted in the Parliament of the Republic of Macedonia, and it's valid from 1<sup>st</sup> July 2005 discontinued the validity of the Law for construction of investment facilities, and the biggest part of competences in the sphere of Urban Planning are transferred to the Units of Local selfgovernment. Nevertheless, the experience of his implementation during the six month, according to the complaints received by the Ombudsman in the second half of the year showed that the Units of local selfgovernment were not prepared for prompt and effective transformation into an efficient service. Therefore, the obstacles citizens used to have with the state organs for realization of their rights in urban planning are present in front the organs of the local selfgovernemnt units, too.

The Local self-govrnment units according the Law for construction have completely or partially accepted the employees in the regional offices of the Ministry of Transport and Connection, and some Mayors failed to change their mentality so they are now trying to take advantage of their position for themselves and for others, often in connection with business and other social elites.

Exactly such reasons, passive attitude of inspection organs, which now are part of the local self-government units as well failure of using the opportunity the Judiciary to be a real corrector of the public administration work is the main reason for many citizens to address the Ombudsman requesting legal protection of their rights. Hence, it can be conclude that Law regulations have not been the only reason for the citizens' problems and obstacles they've been facing in fulfilling their rights in the field of Urban planning and construction building, but the cause is the human factor.

Selective approach in pulling down illegal constructions, which the Ombudsman has indacted previous years also that was characteristic for the State inspectorate for urban planning and construction building continues, but it is now referred to the Inspection organs supported by the Mayors in the Municipalities. In their public appearances they give priority to the public interest, but when it is related to the personal interests then they allude to absence of funds for excecution.

Therefore it can be concluded that there's absence of readiness for radical changes in the mentality to take over the responsibilities in this field for everybody in the public administration, especially for the ones at the top of the hierarchy.

This indicates the data and the Review for received and resolved subject matters, which were processed in the report year. Only in six cases out of 19, in which the organs have been bringing decision in the field of Physical planning and construction building were accepted the Ombudsman interventions, and in the remaining cases the organs either did not declare upon or justified nonproceeding with objective situations.

The Ombudsman during the report year sent 10 information related to individual cases of violation of citizens' rights in front the organs in the Ministry of Transport and Connection for the general situation in the field of Urban planning and construction building, but similar to previous information in which the same problems have been indicated regularly they did not achieve expected outcomes. Presented problems in fulfilling citizens' rights and responsibilities in the field of Urban planning and construction building especially cases of incorrect application of legal regulations due to incompetency or due to corruption of the organs bringing decisions are reasons for requesting legal protection in front the Supreme Court of the Republic of Macedonia, which is burdening the work of this Court, which according to the practice is not deciding in a meritorious manner even when conditions for such decisions exist, and by this the Court maybe fulfills the control function, but it doesn't fulfill the function of legal protection from illegitimate acts of the administration organs.

0,75 %

of the total number  
of received  
complaints

## Environment

Throughout the years of transition of the Macedonian Society, and as a result of foreign investments were reactivated major industrial facilities; chemical-metalurgic combinates: "Silmak", "Mak-Stil", "Balkan-stil", "Feni-mak", The Cement Factory "Usje", while some mines continued exploitation of the lodes. All the combinates, Thermic power plants in Bitola and Oslomej, and the work of smaller industrial facilities became potential emitters of detrimental substances that significantly could undermine and degrade the environment.

If it's indisputable that healthy environment is precondition for plants and animals to survive, which means survival of the human being too, and that besides natural disasters the human being is the only being that with his actions can cause changes of the structure of elements in the nature and to change the natural processes, and thus polluting the environment then it's clear that the destiny of humanity and its survival are in his hands.

However, the greediness and the rush for profit is driving the human being to think only of the present time and to disregard the consequences of his impact on the nature without taking care of his own survival.

It means the level of ecological awareness for the consequences is very low, and the society with its organs and completed legal regulation should influence at least in affordable limits to maintain the environment.

The Republic of Macedonia is, maybe, in the group of few countries that have adopted ample legal regulation in this field, which regulates the issues, problems and measures for environment protection. The Law for Environment as a framework law, Law for Nature, special laws for protecting the soil, air, waters, protection from harmful noise, law for protecting particular natural sites of special importance as well as numerous sublaws, most of them adjusted to European regulations and international standards. The Republic of Macedonia has also ratified many International Acts and Documents such as: The UN Framework Convention for Climatic changes, The Kyoto Protocol, The Montreal Protocol, The Stockholm Convention, Convention for Access to Information, Public participation in decisionmaking and Access to Justice for issues related to Environment.

However, the practice shows that the Legal regulation is not sufficient itself if the competent organs in both local and central level don't apply it completely and consequently, and if the awareness of the other subjects and of the whole population for issues related to Environment is in low level.

It seems that the competent Ministry for Environment and Physical Planning and in this frame the State inspectorate for environment is not undertaking all legal measures to deal with the bigger contaminants of the environment. This statement was proved when the local population living close to Refinery "OKTA" and the Cement Factory "Usje" reacted although the official records of the Service of environment for measurement for the pollution were indicating that concentration of emitted harmful substances are within the maximum allowed limits.

According to Article 21 of the Law for Ombudsman, the Ombudsman follows up the situation and problems, but again ascertained passiveness and insufficient interest of the biggest number of ecological associations and citizens as individuals.

Due to low ecological awareness citizens usually react only in cases of direct personal threat or when their individual interests are threatened. This is proved by the small number of complaints submitted to the Ombudsman with regard to this issue.

Since the situation with the environment is not in satisfactory level or in an affordable level, due to absence of awareness it's needed a wider social action of all relevant factors primarily the Ministry of Environment and physical planning, local selfgovernment units, educational institutions, echological associations, the Ombudsman, too, in order to increase the echological awareness of the citizens.

Despite the pretended correct cooperation between the Ombudsman and Inspectorate for environment protection during the report year we still believe this organ also isn't taking enough energetic measures against subjects that disrespecting the legal provisions are violating citizens' rights for personal peace and calmness, and the right for life and healthy environment. As stressed out in the previous report such attitude encourages individuals-owners of industrial facilities, hotels or restaurants, and other businees facilities that deteriorate the enviroment, and violate citizens' rights.

On the basis of legal authorization, on his own incentive the Ombudsman initiated proceeding for protection of the environment that was undermined due to usurpation of agricultural land, which belongs to the Natural Reservate "Ezerani" on the Prespa Lake. From the Ministry of Agriculture, Forestry and Water Economy was requested to refuse submitted application, for concesion of a part of the land, individual from v. Asamati, who already had usurped the land, and had strated agricultural works on that piece of land. From the Public Prosecutor was requested to take measures for protection against the usurpator because the land is property of the Republic of Macedonia. Unfortunately both organs neither took any measures in accordance with their competences, nor made any coments upon the Ombudsman requests.

Regarding this case it was only the Ministry for Environment and Physical Planning that undertook measures in accordance with the competences in a procceding intitiated by the Ombudsman recommendation. On the basis of these activities the land usurpator was sentenced for infraction.

However there's still no final legal decision in this case because the Public Prosecutor didn't require Court protection for the property of the Republic of Macedonia, and the usurpation continues so the land is still being used, which is a threat for its degradation. It can result with extermination of biotops and biocenosis, which is contrary to the objectives of the Law for Declaration of the Ornitological locaclity "Ezerani" –Prespa Lake as Rigorous Natural Reservate.

With intention to influence on citizens awareness for protection and advancement of the Environment the Ombudsman prepared and distributed a information leaflet, which included many questions about the environment and for the rights, obligations and responsibilities for environment protection.

**10,32 %**

of the total number  
of received  
complaints

## Labour Relations

In the beginning of the report year employees, who had received decisions for discontinuation of the working relation due to overbalance with employees, and as a result of obliogation taken by the Goevernment in the negotiations with the International Monetary Fund for rationalization of the public administration continued to address the Ombudsman. Therefore the employees of Railway Public Enterprise " Makedonski Zeleznici" requested protection of their rights, and the Ombudsman suggested adequate procceding for implementation of such rationalization, respectively to take into consideration the legal provisions regulating this matter. The Ombudsman concluded that in this case the process is very difficult and important, and the effects will have wider impact and influence on the social living since with discharging of the employees 850 families, primarily in economical and social

aspect, would be brought in very difficult situation. It would have direct impact on the social living, which in Macedonia is anyway in the level of social risk.

The Ombudsman goal was not to indulge in the assessment of the need for introducing such changes since the right of the employer for taking such steps, if he assesses that it would improve the results of the business and realization of ratable profit that is the basic goal of every company, is indisputably stipulated in the Law for Labor Relations. However the Ombudsman believes that in the concrete case should be considered the provision of the Law for Labor Relations and Collective Contract for Public Enterprises, which foresees the number, and the structure of the employees that should be discharged due organizational, technological and structural changes, respectively due to reduction of the number of executors on the basis of criteria specified in the collective contract that are used for ranking, respectively point rating of the employees, and afterwards to pronounce dismissal from job. According the Ombudsman it's not in compliance with the law if the pronounced dismissal from job is because of organizational, technological and structural changes is pronounced without criteria and completed point rating, respectively without rating the employees. Such dismissal from job is considered illegitimate, and will not produce any legal consequences for the employee.

The Public Company, „Makedonski Zeleznici”-Skopje after reexamining the factual situation submitted only one positive answer, respectively violation in the proceeding for pronouncement of dismissal from job was ascertained, therefore the party after the Ombudsman indication was returned to job. In other cases no violations were ascertained, so the parties initiated a proceeding in front the competent Court.

In the proceedings for employment actual were the circumstances for employment of professional staff in all Basic Courts and Appellate Courts, as well in the Supreme Court of the Republic of Macedonia. After announcing the vacancies for employment of professional staff in the Courts, the Ombudsman sent information to the Presidents of all Courts that in the employment proceeding attention should be paid to the principle of adequate and equitable representation of the citizens that are members of all communities.

After submission of complaints since the proceeding for deciding upon an appeal in front of Commission of second instance responsible for appeals and objections of the state servants in the Agency for State Administration was ongoing, the Ombudsman submitted to this Commission a referral that in the proceeding for deciding should be taken into consideration all material evidences and facts in order to bring a regular decision. The Commission refused most of the complaints as ungrounded because it didn't ascertain violation in the selection proceeding. The Ombudsman reference was accepted only in one case when the President of the Basic Court Negotino selected two candidates from one suggested list instead selecting one candidate from each proposed list. After abrogating the decision for selection by the Agency for state administration, the President of the Basic Court Negotino repeated the selection process, and this time was selected one candidate from each proposed list.

Characteristic violation of the rights in Labor relation was the proceeding for employment of the persons that successfully completed the training course in “The Training Program for professional administrative state servants, members of communities, for the work in the state administration” in the period 15.03-19.11.2004, whom after passing the probation exam had gained the right of employment in a state organ, where they have been practicing in an adequate position. Violation of the rights is consisted in the fact that certain employers would not sign employment contracts with the candidates, although they were obligated to sign the contracts by 01.02.2005. The Ombudsman referred that measures should be undertaken for regulation the candidates statues, respectively new employment decisions should be brought for the candidates because the deadline 01.02.2005, when they had been supposed to be employed in the state organs in which they have had the course, had passed long time ago. After the Ombudsman reference two cases were solved positively so far. The Director of the Penitentiary-Correction institution has signed contract with two candidates. The Ministry of Internal Affairs in Tetovo as an employer acted upon Ombudsman reference.

There was violation of Labor rights in the proceeding for employment of a group of Officers Sublieutenants of the Military Academy. Employment of these officers was legal obligation of the Military Academy, and reason for proceeding was that due to implementation of reforms the Ministry of Defense has come to reduction of jobs. The Ombudsman requested the Ministry to undertake

measures for employment of this group of officers, as it has done with the previous 10 generations of Officers Sublieutenants. The Ombudsman is informed that because there are no available jobs for employment the Ministry of Defence offered the Officers to continue their Master studies or to be employed in the Courts as Court Police or as Guardians in the Penitentiary-Correction Institutions, and the proceeding for realization is ongoing.

The report year was marked with the issue of determining the that organ decides upon request for payment of salary after discontinuation of the function Ambassador because competent organs, respectively the Commission for selection and appointment in the Parliament of the Republic of Macedonia so far has not decided on such case. Utilising the possibility determined in the Book of Conduct of the Parliament of the Republic of Macedonia the Ombudsman initiated proceeding submitting a request to the Spiker of the Parliament for authentic interpretation of the Article 19, paragraph 1 and Article 20 of the Law for salaries and other compensations of the members of Parliament of the Republic of Macedonia and other selected and appointed persons in the Republic („Official Gazzette of RM" No. 36/90; 44/90; 11/91; 38/91; 23/97; 37/05), respectively to determine which organ decides on requests for paying salary, after cessation of the function Ambassador or other function, to persons that are not appointed or released by the Commission for selection and appointment in the Parliament of the Republic of Macedonia, and other organs and bodies. After the submission of request for authentic interpretation the proceeding for giving opinion on this issue, which is under competency of the competent Commission is still going on.

In the year 2005 important issue was the decentralization or transfer of competencies form central to local level, and the biggest damage or injustice suffered the employees in the Ministry of Transport and Connection, and its regional units.

Namely, before the start of decentralization were changed several Laws, in which it's clearly stated that with the transfer of competitions from central to local level the employees, equipment, utilities, documentation of the regional units of the state administration organs, whose competencies according the law become competencies of the Municipality are taken over by the Municipality in a manner and under conditions stipulated by adjusted special laws.

At the beginning of implementation of the Law for Construction Building and the Law for Physical and Urban Planning that were changed the Ministry of Transport and Connection prepared Contracts for take over. Mayors signed most of the contracts, while the Ministry dismissed the employees to whom the Mayors did not sign the contracts. The Ombudsman analysed the factual situation and the legal provisions, and then he submitted referrals to all relevant organs that he considered that carrying out their competences could prevent such situations, respectively could contribute to eliminate failures and anomalies against the employees in the process of decentralization.

Due to ascertained violations of employees' rights, respectively incomplete application of material right by the Ministry for Transport and Connection and by particular Mayors that didn't want to sign contract for take over, the Ombudsman undertook concrete measures for protection of the employees' rights. He submitted referrals to the second instance commission deciding on appeals and objections of state servants in the Agency for state administration related to the employee appeals for dismissal from job. The same information was sent to the Minister for Transport and Connection, Minister for Local self-government and separately to each Mayor, who didn't act in compliance with the law, respectively didn't sign the take over contracts, and therefore the employees were dismissed. The Ombudsman submitted references also to the Government of the Republic of Macedonia, and the Chairperson of the Union of Local Self-government Units -ZELS.

Ombudsman on the basis of provisions of the Law for Local Self-government, the Law for Physical Planning, the Law for Construction Building, and the Decision for Devolution of the Right on Movable Property and the procedure of taking over the state administration employees indicated that the mentioned laws should be respected principally, and they should be fully applied, respectively measure should be undertaken for signing all contracts for take over of the employees from central to local level.

After submitting the information the Ombudsman didn't receive positive respond from any of the Mayors whether the reference is accepted and concrete measures are undertaken to sign the contracts with the employees. On the contrary, justification is that according to the act for

systematization there are no vacancies, respectively there are no sufficient funds, but this justification is not acceptable for the Ombudsman. Some Mayors stated they have completed the legal obligation and they have signed all the contracts, while the Ombudsman is contacted by dissatisfied citizens, employed in the Ministry of Transport and Connection that haven't been accepted by exactly those Local Self-government units, which informed the Ombudsman to have fulfilled their legal obligations.

Only the Agency for state administration accepted the Ombudsman reference, and approved the appeals of dismissed employees. The Agency returned the subject matters for review in front the Ministry for Transport and Connection.

Ombudsman received very small number of complaints form citizens during the decentralization process in Education, which are related to non-appliance of the transfer procedure from central to local level. However the Ombudsman submitted reference to the Minister of Education for adequate proceeding upon these subject matters, too, respectively for allocation of regional representatives in the Ministry of Education and Science in order not to dismiss them. The Ministry of Education and Science is undertaking concrete measures, respectively only few citizens haven't got decisions for transfer to the Local self-government units or within the Ministry of Education and Science, but the Ministry is making efforts to allocate them, too.

It has to be stressed out the proceeding for employment and allocation of the teachers in the Education sector, which is a problem that Ombudsman reported in the previous Report. In 2005 progress was made in the sense of elimination conclusions related to employment proceeding and allocation of teachers because the Inspectorate in accordance with the new competences undertakes concrete measures for protection of rights of the personnel in education that resulted with reduction of submited complaints related to violations in the procedeeding for employment and allocation.

Generally, the Ombudsman has the best cooperation, in the field of Labor rightsd, with the Ministry of Labor and Social Poolicy, which on every request for conducting inspection, always, regardless if it's a state administration organ or private company, in which the Ombudsman doesn't have authorization for proceeding, conducts inspection and submits complete documentation for the inspection in a particular organ, and gives it to the Ombudsman for further proceeding.

**2,10 %**

of the total number  
of received  
complaints

## Accomodation Issues

Likewise the previous reports this year also the biggest number of citizens complaints in this field were related to the work of the Government commission for accommodation rights. Citizens most ofently requested intervention because the Commission didn't procede upon submitted requests for solving the accommodation problem issue in connection with the provisions of the Law for Accommodation, applications for renting flats for living on the basis of the Law for denationalization, and applications for allocation of flats for rent, respectively for purchase on the basis of the Law for special rights of members of security forces and their family members.

While proceeding upon submitted complaints the Ombudsmen ascertained that in most cases the competent commission, almost bar none, has exceeded the legal deadline for bringing decision, respectively the deadline for shipment of reply on submitted applications, thus violating constitutional and legal rights of applicants.

In order to overcome such practice, the Ombudsman in several occasions met the responsible persons of the commission for accommodation issues, and indicated the need for timely deciding upon citizens applications. In the meetings the Ombudsman stressed out that he's aware of the fact that due to poor economic and social situation, the state does not have sufficient number of

available flats therefore, in most cases it's not possible reply positively. However, the Ombudsman believes the commission is obliged within a reasonable deadline to process the applications, and in due time to inform the applicants with the outcome. Despite promises of Chairperson of the commission for accommodation issues to process and decide for the subject matters, for which the Ombudsman intervened so far there's no information whether the commission has proceeded or not.

The Ombudsman evaluates as satisfactory the cooperation with the Ministry for Transport and Connection, respectively the sector competent for accommodation-communal and infrastructural issues, which according to the legal authorizations proceeds on applications for transfer of accommodation rights to a family household and for purchase of flats that are state property.

Namely, the Ombudsman received many complaints by citizens, who requested to speed up the proceeding for transfer of the accommodation right and the right for purchase of flats in state property to the bearers of the accommodation right in accordance with the Law for selling flats in state property. Irrespective if the base for positive decision on application exists or not, the Ministry of Transport and Connection in most cases cooperated and promptly proceeded on Ombudsman requests. On the other hand the Ombudsman has a remark on the work of the Ministry of Transport and Connection for tardiness in making decisions upon citizens applications, so some citizens are unnecessarily waiting too long to fulfill certain rights.

The Ombudsman had a meeting with the employees of the Ministry of Transport and Connection, and asked for concrete information for the course of the proceeding for allocation of flats dedicated to persons with low incomes, and related to the purchase of state owned flats that are being utilized by persons that don't have adequate documentation, respectively persons who have illegally occupied flats.

Since by the end of 2003 was published the second Announcement for allocation of flats constructed for "Project for construction of flats for rent to persons with low incomes" in Gostivar, allocation is not completed due to initiation of Court proceeding by the Public Prosecutor for denouncement of contracts that were signed, on the basis of the previous announcement, between the Ministry of transport and Connection and citizens, it was requested an information whether the proceeding for denouncement of contracts is completed with a valid decision.

Due to the fact that Court proceeding for denouncement of the contracts for flat rent was not completed with a valid decision, the Ministry for Transport and Connection will wait with the allocation of the flats in Gostivar. Regarding the problem with the so-called social flats, the Ombudsman was informed that the Ministry of Transport and Connection has contacted experts of the Bank for Development of the European Council that is financing construction of the flats and asked for opinion in order to resolve the problem of allocation of the flats. The experts' position coincides with the government's opinion that solution should be sought in a legal proceeding for denouncement of the contracts signed with persons who do not meet the criteria for disbursement of a flat for rent, and to confirm the contracts with the persons meeting the prescribed criteria. For that purpose the Government of the Republic of Macedonia obligated the commission for allocation of the flats in the Ministry of Transport and Connection to conduct a revision of the requests of persons that previously did not gain the right for rent, to review the documentation, and to check on the spot if the persons that in the previous proceeding got a flat fulfilled the conditions for allocation of state owned flat for renting. According to the last information the review proceeding is still ongoing.

Regarding the problem with persons that have illegally occupied state owned flats, which the Ombudsman in many occasions has indicated that needs to be solved in a fair manner, the Public enterprise provided information that it has prepared a review with the state owned flats in the Republic of Macedonia that are occupied illegally by individuals. In meantime the Government brought a Decision for selling the flats property of the Republic of Macedonia. With the Decision is determined the proceeding for purchasing state owned flats which are utilized by individual without any legal ground. With respect to the content of the Decision, the flats will be sold with a tender procedure, and the Public enterprise for economization with flats and business space of the Republic of Macedonia will announce the tender. In October tenders were published in the media, so the interested persons submitted their offers, and certainly the persons who are already utilizing the flats without appropriate documentation will have priority to purchase them. Since the procedure did not

apply for all the state owned flats, and the Public enterprise needs to correct and to fill up the review with the flats that had remained unregistered there will be in tenders in the coming period.

Several citizens submitted complaints, and requested Ombudsman intervention in form the Public Company for Economization with flats and bussines space of the Republic of Macedonia for sogning contrat on the basis of brought decision pronounced by the Government Comission for accommodation issues to start proceeding for eviction of persons who have illegally occupied state owned flats. The Public enterprise regioanl units have proceeded bar none upon the Ombudsman correspondence.

General evaluation for the report year is that, following up the circumstances regarding the protection of citizens' rights in the field of habitation in the cases that Ombudsman has found violation, he has reacted forehand by pronouncing his position, opinions, suggestions and acts. Despite the problems that Ombudsman is facing in relation with the administration organs and organizations, the Ombudsman believes that during the report year cooperation with organs and institutions, over which he's authorized to proceede has been more efficient and significantly improved.

But when it comes to implementation of citizens' rights in the field of habitation, despite the efforts of the Government of the Republic of Macedonia by adopting bylaws in order to focrcce the pace of resolving the stratified negative circumstance (alltoment of social flats, selling of state owned flats occupied illegally by individuals etc.), it stil remains the conclusion that these problems are hard to be sovled. The Ombudsman believes that bylaws are good ground to solve the longlasting problems that appear in the field of accommodation, but the outcome will become visible in the coming period.

**3,87 %**

of the total number  
of received  
complaints

## Social Safety and Social Protection

While procerding for protection of the right for social safety and social protection the Ombudsman ascertaine that, although in 2005 there was minimal decrement of complaints in this field, social and economical situation of the citizens is not improved. The social assistance is not sufficient for fulfilling the basic needs for existence, and therefore it cannot be stated that the constitutional pledge for social safety and social justice is implemented consequently.

Although, during the reporting period for impelmantion of rights in the field of social protection, the Social Policy Centers continued to consequently apply the stipulation for direct inspection of the applicant-families in order to determine the factual situation correctly, which is precondition for legality in fullfilling the rights for social protection, yet there are cases when the factual situation is determined correctly, and the cictizens have been deprived of this right. Therefore the Ombudsman intervened several times, and requested direct inspction for correct determination of the factual situation in order to avoid illegitimate deprivation of any of the rights for social protection.

In this sense the Ombudsman ascertained in several cases that the social assistance has been deprived to some applicants for several years on the basis of incorrect detrmination of the factual situation. After Ombudsman intervention the right for social assistance has been approved to them and the approval applied retroactively for all the years since these rights has been deprived illegitimately. Also in particular cases the permanent financial assistance to some invalid persons has been cut off only because they have been receiving pensions or other income regardless tha fact if that income exceeds the provided legal average amount. In cases in which the permanent financial

assistance was cut off due to these reasons the requestors fulfilled their rights after the Ombudsman interventions.

Citizens had particular obstacle in fulfilling their rights for social protection due to untimely inspection of Commissions for evaluation of working capability. These Commissions in some cases did not conduct inspections only because of absence of forms therefore, Ombudsman reacted and requested appropriate measures to be taken, and he pointed out that citizens should not be prevented in fulfilling their rights due to technical problems. Also part of complaints was related to delay of the proceeding for preparation and submission of Commission findings and opinion in cases the inspection has been completed long time earlier.

In relation with fulfillment of the social rights on the basis of working capability there were cases in which from the submitted documentation it is indisputable that the person is completely incapable, and yet the right for compensation for assistance and care by another person or the right for permanent financial assistances has not been accepted. In such cases the Ombudsman insisted to conduct direct inspection of the applicant, and in cases the applicant has not been able to go personally for an inspection it was requested the commission to visit applicant's house. These suggestions were accepted in some cases and after completion of the inspection some citizens fulfilled their rights. Some citizens living in remote areas especially in remote villages of Tetovo haven't been visited by the commission for evaluation of working capability for a long time. Therefore, some citizens have been waiting many years for the commission to conduct inspection in order to receive financial compensation for assistance and care by another person or for permanent financial assistance. The Ombudsman addressed all involved organs with a request for establishment of cooperation between all organs, and not to prevent citizens of fulfilling their rights only due to the remoteness of the place they live in or due to other unjustifiable reasons. After Ombudsman interventions competent commissions conducted direct inspection in the remote places, and citizens after several years fulfilled their rights.

In order to overcome problems in the work of commissions for evaluation of working capability a meeting with representatives of relevant organs responsible for the commissions' work was held, and citizens' complaint, which mainly were related to impartiality of the commissions and delay of proceedings, were pointed out. In the meeting was evaluated the necessity to establish a special commission for evaluation of working capability for realization of the right for compensation for assistance and care by other person. Regarding the delay of proceeding in the second instance organs it was evaluated that very often the Chairperson of the second instance commission delays the proceeding due to untimely signing of the prepared decisions, and therefore it was evaluated that the Government Book of Rule needs to be changed by adding the possibility of appointing a Deputy Chairperson of the second instance commissions, who in specific cases would be authorized to sign the decision, and speed up the proceeding.

In the meeting it was also concluded that proceeding on complaints, communication with the citizens and the competent organs shows that citizens to a large extent still do not know their rights, and the conditions to fulfill these rights therefore these organs are burdened with ungrounded requests. It was pointed out to all organs to post up in visible places the main conditions for fulfillment of rights that citizens have in front that organ. It should be done to educate the citizens as well to disburden the organs of ungrounded requests.

Certain illegitimate proceeding of particular centers for social works in the previous year was eliminated, respectively the discontinuation of utilization the rights was not conducted without bringing an administrative act, that used to be a case especially Intermunicipal center for social works -Skopje.

Similar to previous reports the Ombudsman found out that there's no distinct improvement in respecting the principle for administrative proceeding for quick and efficient deciding for the rights and interests of the parties, respectively in most cases delay of proceedings is inadmissible, especially in the second instance proceedings, in which the decisions are brought rarely within the legal deadline.

In some cases the Ombudsman intervened because the centers for social work did not accept the documentation of some citizens, who wanted to fulfill certain rights, due to allegedly not fulfilling conditions. Assessing that with such proceeding decision for the rights is made by the person

receiving the documents, the Ombudsman pointed out that all submitted applications should be accepted, and in accordance with the general administrative proceeding official servants should advise and to help uninformed parties for realization of their rights, and if after providing the information citizens do not submit necessary evidence their application should be refused due to incomplete documentation or for not fulfilling the conditions. The clerk in the reception desk cannot refuse applications.

Regarding the cooperation of the competent organs with the Ombudsman it can be concluded that during the year 2005 cooperation has been improved. It was achieved by many direct inspections of the competent organs by the Ombudsman, and meetings and interviews with responsible persons in those organs, which were held in Ombudsman Office. The direct communication with organs and organizations proved to be very efficient for fast and legitimate decisionmaking on citizens' requests. In order to have a more thorough understanding of the way the citizens' rights have been fulfilled, as well to improve the cooperation the Ombudemen visited several centers for social work and made recommendations for improvement of their conduct, respectively for more efficient, more accountable and legitimate decisionmaking regarding citizens' constitutional and legal rights.

Similar to previous years, last year the Ombudsman visited collective centers, respectively displaced persons accommodated in Hotel "Kristal" and Hotel "Kuba" in Kumanovo, and in the collective centers "Ranka Milanovic" and "Stiv Naumov" in Skopje, as well in "Cicino Selo" in Saraj.

Still, basic problem that displaced persons that are accomnmodated in collective centers are facing with are inappropriate living conditions, inadequate health services, hygiene, untimely re-registration and issuing new cars for registration, which complicates utilization of the rights they are entitled to as displaced perons.

Since the most difficult living conditions were in the collective center Cicino Selo the Ombudsman in cooperation with the Ministry of Labor and Social Policy eliminated all found defects, in regard the hygiene and living conditions.

In this context the Ombudsman, in front all relevant institutions in the country and international institutions responsible to take care of the displaced persons, has been pointing out that they should take urgent measures and actions to finally solve the problem with the displaced persons, and their returining to their homes, thereat each responsible institution undertook measures in that direction within their responsibilities and these activites resulted with dimidiation of the number of displaced persons.

However, still remains the responsibility of the state and other relevant organs and organizations to undertake additional measures for complete solution of the displaced persons' issue, and their returning to their homes.

**5,57 %**

of the total number  
of received  
complaints

## **Pension and Invalidity Insurance**

Charachterstic of the reporting period is that most of submitted complaints that had to do with Pesnion and Invalidity Insuarance were about untimely proceeding of competent organs, incorrect determination of the base amount for pension or for incorrect determination of working experience for pension or pension base, as well due to impossibility of the citizens to fulfill the right for pension by age, family pension and especially invalidity pension.

The Ombudsman in 2005 also ascertained unjustified lasting proceedings on citizens' requests, and disrespect of legal deadlines for answering the applications, especially deciding upon submitted appeals. Withal, legal deadlines for submitting answers to requests, recommendations and references by the Ombudsman have been rarely respected.

Special concern are lasting proceedings in front second instance Government Commissions, because very often already prepared decisions by the professional services have been waiting long time to be signed by the Chairperson of the commission. Therefore, it's necessary to find appropriate solutions in order to overcome this problem, which has significant impact on efficient fulfillment realization of citizens' rights.

In cases ascertained violation of rights and after submitting recommendations or references by the Ombudsman it can be concluded that they are respected and that illegibilities or defects in acts and the work of competent organs have been eliminated, therefore in most of the cases the proceeding is completed so that citizens fulfilled their rights after Ombudsman interventions.

In regard with the right to age retirement, the Ombudsman ascertained that citizens in most cases had problems to postpone the proceeding for fulfilling this right, although they fulfilled the retirement terms. However, in a great deal of complaints related to this right citizens did not fulfill the terms for gaining age pension (unpaid contributions for pension and invalidity insurance, lack of experience for retirement, absence of necessary forms of the Fund, respectively absence of necessary data and evidences for realization of the right) therefore, the Ombudsman did not have opportunity to intervene.

Most of the complaints related to fulfilling the right for age and family pension had to do with the problems of citizens to provide data for working experience abroad. In such case all what Ombudsman could do was to intervene in front the Fund for Pension and Invalidity Insurance of Macedonia in the scope of mutual cooperation to undertake measures towards foreign organs in order to provide the needed data faster.

Biggest number of complaints was related to problems that citizens were facing with fulfillment of the right for lowest rate of pension, especially in realization of foreign pension. The Ombudsman evaluated unfounded most of the complaints in which citizens kept looking to realize the right for the lowest rate of pension although they have fulfilled the right for pension from another country and the rate of that pension is higher than the lowest pension or the proceeding for realization of the right for fulfilling the terms is ongoing. In such cases it's obvious from the work of the Fund that the pension is being paid therefore, it is citizens' obligation to inform the Fund for any change regarding the realized right. Very often citizens don't fulfill their obligation, and they unfoundedly receive the lowest pension so the pension is overpaid, and that's the amount that Fund is deducting from their pension.

However, the already paid amount of pension is deducted without any decision for such deduction, and attention is not paid to protection of dispositions for forced remuneration. The Ombudsman intervened in the context of respecting the dispositions of the Law for Pension and Invalidity Insurance. According to the dispositions the pension could be a subject of execution and insurance up to one third, and in most cases the Fund for Pension and Invalidity Insurance, after Ombudsman interventions, proceeded in accordance with the quoted legal provisions.

Many complaints subject matters of the work during the report period were related to realization of the right of invalidity pension in which citizens expressed their dissatisfaction with the decisions of the competent commissions regarding their working capability and regarding the lasting proceeding for inspection or preparing findings and opinion.

The Ombudsman is not able to assist citizens in fulfilling their right for invalidity pension, because the Ombudsman is neither competent nor expert to review findings and opinions of the competent commissions for citizens' health and their working capability. However, in cases of obvious heavy sickness of the persons the Ombudsman intervened that competent organ should correctly verify the factual situation for realization of the Invalidity pension.

In order to overcome problems with the work of Commissions for evaluation of working capability the Ombudsman held a meeting with the representatives of the Ministry of Labor and Social Policy, Fund for Social and Invalidity Insurance of Macedonia and authorized person of the

Commissions for evaluation of working capability. In the meeting, amongst others, it was concluded that it's necessary to undertake measures to speed up the proceedings in front commissions for evaluation of working capability; to speed up the proceeding in front the second instance Government commission. For this it would be desired to appoint Deputy Chairperson of the second instance commission, who in absence of the Chairperson would sign the decisions, in order to improve the attitude towards the citizens, and to inform citizens with their rights.

Part of complaints was submitted due to dissatisfaction with the sum of the pension. The Ombudsman intervened only in cases, in which in the process of determining the sum of the pension the total working experience hasn't been taken into consideration, and realistically paid salaries. The Ombudsman intervened in some cases that Fund did not accept the paid salaries due to their alleged increment before cessation of their job. The Fund most of the time did not respect the Ombudsman information that the Fund is not competent to conduct inspection in relation with the sum of paid salaries, and often after conducted inspections of the employer, and the Fund did not take for base the paid salaries, but the paid salaries to the persons employed at the employees in same or similar job position.

Regarding acknowledgement of working experience and its registration in the Register of the Fund for Pension and Invalidity Insurance there were complaints this year, too. Characteristic complaints are the ones from persons, who part of their working experience have had in the former JNA (Yugoslav Army), or the have worked in Serbia and Montenegro. Regarding the problem of citizens that have been working in former JNA although problems related to getting the data, and their registration and acknowledgement were supposedly overcome, this problem still exists because the necessary data is not found yet. Small part of complaints were regarding payment of pension to citizens of the Republic of Macedonia, who have got their pension from former JNA, and who were not included in the Agreement for Social Insurance. However, when the Agreement for Succession between former republics of former SFRJ became valid, the Ombudsman intervened for a solution of the problem. In a joint agreement between the Republic of Macedonia and Montenegro, the Fund for Pension and Invalidity Insurance of Macedonia took over the responsibility to pay pensions to these persons, and the problem is considered solved. However the citizens are still dissatisfied for they do not receive the legal part of the pension, but only accountative part of their pensions. In order to overcome this problem, according to competent persons at the Fund, it's necessary to have additional negotiations with Serbia and Montenegro. During the report year there were complaints related to money collection from the pensionists in the Solidarity Fund. Likewise previous year the complaints were submitted by associations of pensionists not being able to reach agreement and common solution for disposal of Solidarity Fund, and each association requires the money of the Solidarity Fund to be transferred in their account. The Fund for Pension and Invalidity Insurance is transferring the money to the Unions of the Associations, because problems would be caused if the money would be allocated to each association, since the number of such associations is increasing, and the Fund does not have any information for the members in those associations. The problem still remains unsolved.

**1,41 %**

of the total number  
of received  
complaints

## Health Insurance and Health Protection

Citizens are facing big number of obstacles in realizing the right for Health protection, especially because the competent organs very rarely decide upon their applications timely and efficiently, and as a result the citizens are prevented from timely health protection.

The Ombudsman, in order to provide information and data on submitted complaints in faster and more detailed manner, continued the established practice of direct inspection of the competent

organs. The outcome is faster and illegitimate deciding on citizens' applications. Yet there are cases where despite the written and verbal applications and inspections the needed data and information, essential for adequate proceeding upon complaints, were not submitted timely, and it obstructed the Ombudsman work.

In cases where violation of the rights was ascertained the citizens often realized their rights after Ombudsman interventions.

In this report period, too, there have been complaints related to violation of citizens rights for not admittance of the status of Insured person although the Ombudsman in the previous years has been indicating for absence of legal ground for not admittance of the status of insured person or for not changing the insurance only due to a previous ground, which is layed off, according to which the debt against the Fund has not been paid of. And in this period, also due to remaining debt on the basis of Health Insurance benefits of previous ground for insurance, citizens could not get health coupons, although as insured persons on different ground, they have started to pay regularly the benefits in accordance with the law. The Ombudsman continued to intervene in all similar cases, and citizens could fulfill their rights, respectively they signed out or signed in, and health coupons were handed over to them, while regarding the remaining debt a new proceeding could be initiated in a legal procedure.

In this period citizens had difficulties to fulfill, or were not able to fulfill at all the right for payment of compensation for salary because of unemployment due to illness or pregnancy or delivery.

The Ombudsman was not able to provide protection of rights in a part of these complaints because the employer had not paid the contributions regularly, and according the law if the contributions have not been paid regularly the quoted right cannot be utilized. In cases where despite fulfillment of legal provisions for payment this compensation was not paid. The Ombudsman found out violation of citizens' rights and recommended the competent organs, which most of the time proceeded upon recommendations, and the citizens fulfilled the quoted right.

While realizing their right for health protection citizens had problems in supplying medicines, especially with money reimbursement by the Fund for Health Insurance in cases they have been forced to pay the whole sum for a service or to buy medicine that is in the so-called "positive list" with their money. They have also been facing problems to fulfill the right for money reimbursement related to the difference between the price that citizens pay, and the tender price, which is determined by the Fund for Health Insurance. Although some measures to overcome the problem have been undertaken the Ombudsman considers the problem is still not solved.

In this reporting year was submitted a small number of complaints compared to previous reporting periods related to the right for treatment abroad and acknowledgement of expenditures by the Fund for Health Insurance. Conclusion that can be drawn out of this is that regarding the fulfillment of this rights the regulations have been respected consequently.

During the reporting period was increased the number of complaints related to unscrupulous or poor quality cure (treatment). The Ombudsman, in order to clarify the cases requested thorough investigation and adequate measures to be undertaken from both Health Institutions that provided the health services and from other organs, respectively from the Ministry of Health and Doctors' Chamber of Macedonia

However, in most cases after investigating the case by health institutions it was concluded that elements of unscrupulous and inappropriate treatment did not exist.

Regarding some complaints that were related to this issue the Ombudsman, not being able to evaluate health institutions' answers and to evaluate the doctors' professionalism, respectively to evaluate whether appropriate measures have been undertaken in the concrete cases despite the meeting with the Doctors' Chamber of Macedonia requested from the Ministry of Health to conduct an expert inspection of doctors' work, but so far he's not informed about the taken measures for correct identification of factual situation. Special problem that citizens have been facing with in realizing the right for health protection was not acknowledgement of the right for money reimbursement for hospital or other kind of treatment in private health institutions, and it happened only due to the fact that these health institutions have not signed contacts with the Fund for Health

Protection. Since there was no legal ground for not acknowledgement of the expenditures only because of absence contract with the last changes of the law it's foreseen that reimbursement of money for health services in private health institutions would be possible to be done only if the health institution has signed a contract with the Fund for Health Insurance.

Since in the previous period did not exist such disposition the Ombudsman found out violation of citizens' rights, and requested the Fund to reimburse the money to the citizens. In some cases recommendations were accepted and the complaints were approved, and the money for treatment or other health services in private health institutions were reimbursed. However, upon a part of recommendations it was not proceeded because the Fund and the second instance organ changes up to then existing position and started not to acknowledge citizens' expenditures therefore, citizens were forced to launch administrative dispute.

For the complaints in this field, even though in 2005 their number was not high in relation with the complaints in other fields, The Ombudsman cannot express any satisfaction regarding the fulfillment in respect of citizens' rights, especially in regard to timely, quick and efficient deciding on citizens' requests, respectively the proceeding has been delayed unjustifiably in front the first instance and second instance organs, as well on requests, referrals and recommendations by the Ombudsman.

**2,06 %**

of the total number  
of received  
complaints

## Children's rights

From the Ombudsman proceedings in protection of childrens' rights it can be concluded that the situation is still not changed much, and it means that children are still on the top in undertaking concrete measures or in creating the State Policy, and the big number of submitted complaints in this field during 2005 only refer to this.

Children still do not show up alone in front the Ombudsman for protection of their rights, but often on their behalf their parents submit complaints, and it results that the children still do not know enough the rights and responsibilities, they don't know enough for the Ombudsman and his competencies and their extraordinarity for selfprotection in case of violation or abuse of their rights is not in a satisfactory level. Accordingly the Ombudsman still believes that studying of Human rights should be taught in all levels of the educational process in order th children to be enabled for selfprotection from different violations and abuses.

Most of the complaints in 2005 were related to the fulfillment of the child to maintain personal contacts with the parent that he/she is not living with, but subject matter of these complaints most frequently was fulfillment of the right parents to maintain personal contact with the child, while the applicants not always cared of the child's rights.

With the implementation of last amends of the Law for the Family, which includes more measures that provide fulfillment and respect of the child's rights to maintain personal contacts with both parents, and that right not be abused to harm child's interests in 2005 the number of complaints at the Ombudsman was reduced. However, despite the legal measures for fulfillment of this child's right the parents quite often try to prevent or to reduce by cheating the legal provisions.

However, the Ombudsman thinks that changes of legal regulation provide more consequent fulfillment of the child's right for maintaing personal contacts with the parent he/she is not living with.

A specific problem in realizing this right are the lasting Court proceedings for divorce and assignment of the children because of what very often the links between the children and one of the parents are get disrupted, and after the divorce and assignment of child the contacts are

reestablished very hardly, and it happens because of instructions by the parent that the child lives with the child refuses to contact the other parent with whom due to the lasting court proceeding the child has not had personal contact regularly.

Part of problems, which appear in the fulfillment of the child's right to maintain regular contacts with the parent he/she is not living with are disrupted family relations and interpersonal relations of the parents. In such cases Center for Social works and protection of the children's rights can direct the parent and the child in special Advisory institutions that should assist the parents to overcome the conflictual relations, and assist the child to overcome the trauma caused by the inadequate relations of the parents. But in the Republic of Macedonia there are no specialized Advisory Institutions that regularly work with the problematic families and children. Likewise, in cases of disrupted relations the Center for Social works can direct the child and one or both parents to a specialized health institution, and at the moment it is the Institution for Mental Health. But very often parent are reluctant to go for treatment or to take their children at the Institution for Mental Health. Therefore, it's suggested within the Centers for Social Works or Mental Health Institutions to establish special professional department for Marriage and Family, which would include experts of many different fields. The Department would work without charging clients for provided services, because parents very often due to lack of money do not visit Mental Health Institutions.

In order to involve children in making decisions for maintaining personal contacts with the parent they are not living with the new changes and amendments of the Law for Family it is provided that when regulating this issue the Center for Social Works should inform the child, and the center should take into consideration child's attitude, opinion according to his age, maturity, and level of development, and to inform him/her for the possible consequences of the decisions. According to these legal provisions the Ombudsman is especially trying this child's right to be fulfilled and respected, while in particular cases referred to the Centers for Social Work that along with involvement of the children in making such decisions it is necessary to pay appropriate attention to children's opinions, needs and interests. Unfortunately in front the Center for Social Work in most cases children are providing their opinions under pressure by one of the parents, and very often they are instructed.

Some complaints were submitted for protection of children's rights while appointing tutor or accommodation in safe haven family. Particularly characteristic case was the one when children without parent care were accommodated in safe haven family being their grandmother and grandfather, and due to the parental relations they were not receiving the whole amount of compensation for safeguarding. The Ombudsman evaluated that proceeding is contrary to the law and bylaw provisions according to which there's no difference if the children are safeguarded at their relatives or another safe haven family therefore, the Ombudsman requested that this family should be paid the total amount as safe haven family. The request was accepted and the compensation was paid for the whole period that it hasn't been paid.

In this period also in front the Ombudsman were submitted complaints that were related to fulfillment of the right for addition for child, and the Ombudsman concluded that still according to the positive legal provisions child's addition cannot fulfill the children that are not attending school and children whose parents don't have any incomes, respectively parents that are not employed, that are not pensionists, and do not receive compensation due to unemployment and those that don't have right to submit request and fulfill the right for child addition. Due to such law regulation, and starting from the children's right for adequate living standard that is provided with the Child addition, the Ombudsman similar to the previous year believes that the law regulations should be changed and to foresee the possibility all children that are in difficult financial situation to fulfill the right for child addition. Simultaneously, due to the increasing poverty of families because of what the children have the heaviest consequences, the Ombudsman, similar to previous period in this occasion also evaluated that the state should foresee by law the obligation for assurance and guarantee of at least minimum living standard for each child since according the Convention for the child's rights the state is obligated to assure to each child living standard adequate to physical, mental, spiritual and moral social development.

The Ombudsman during 2005, too, intervened for registration of children in Registry Book of born persons, and in this occasion concluded that there's still a big number of children not registered,

thus prevented to fulfill their rights. Most of the time parents do not register the newborn babies timely in cases the baby has been delivered at home. Even in such cases upon Ombudsman interventions were found ways to prove and to register the child in the Registry Book.

In order to protect children's rights from violation especially from domestic violence the Law for the Family has been changed and amended. With the changes is treated the domestic violence on child, and are foreseen more measures that Centers for Social Work and the Courts could undertake for protection of children victims of domestic violence. The Ombudsman received several complaints for children protection from domestic violence during the year 2005.

From submitted complaints it can be concluded that persons who commit violence appear to be both mother and father, but in most cases it is the father and there were cases of children accommodated in safe haven family have been victims of violence by their safeguards. In all cases the Ombudsman requested from Centers for Social Work and from the Ministry for Internal Affairs to undertake legal measures for protection of domestic violence victims. In most cases, in which family members cooperated with the Center, appropriate measures were undertaken, yet in certain cases even after referral by the Ombudsman the victims of violence, especially women, didn't want to report the violence and to cooperate with the Center for Social Work.

Problem for inefficiency of protection measures of domestic violence victims are lasting Court proceedings. Especially for pronouncement of temporary measure against the person that commits the domestic violence. With untimely pronouncement of temporary measures not only effects of victim protection miss, but the situation regarding the initiation of a Court proceeding deteriorates, too. Special problem in children protection, in which they are victims of domestic violence, is absence of Advisory Institutions or other centers, where the person who commits violence would be isolated, although such measure is provided with the law. Therefore, most frequently the child is isolated of his biological family, and it causes additional trauma on the child.

During the reporting period were submitted several complaints related to physical and psychological maltreatment of students by teachers. The Ombudsman referred that legal regulation is not enough precisely and objectively determined what presents physical and what presents psychological maltreatment of children in schools and that in case of frequent utilization of physical and psychological maltreatment by a particular teacher should be foreseen measure ban of conduction educational work, in order to exclude such persons from the schools and education of children. Unfortunately Ombudsman proposals have not been considered so far, therefore the children in schools are more and more complaining for physical and psychological maltreatment by the teachers that in most cases remains unpunished. In some concrete cases related to physical and psychological maltreatment of children in schools the competent organs reacted untimely, and they didn't undertake measures upon Ombudsman referral and recommendations.

One of the basic principles of the Convention for Child's Rights is children participation in decisionmaking for everything that is related to them, which means that children should express their opinion, and due attention should be paid to that opinion. However, the students are stating they rarely are given the right to express their opinions on specific issues in Education and in the schools, and their opinion is not respected at all. Hence the Ombudsman believes that this principle of the Convention is not respected enough, and with that are created preconditions for child abuse, their discrimination and disrespect of their best interest.

During the 2005 a problem that caused parents' reactions for threatening children's rights were the announcements for cessation of the all-day course and daylong stay in schools, respectively for cessation of financing by the Budget of the Republic of Macedonia with a proposal the parent to cover the expenditures. Since for the moment the curriculum for the schools, in which all day long education process is introduced the whole day, it was evaluated that by ceasing this type of educational process will be neutralized fulfillment of lessons of the curriculum, and at the same time the children would remain out in the streets, respectively unaccommodated. Therefore the daylong process was continued till the end of the year, and in meantime parents organized a petition to change the law and inclusion of daylong process as a possibility.

A specific problem on which the Ombudsman reacted was releasing the High school students with excellent marks from the obligation to have final exam. The Ombudsman found out and referred

to the Ministry of Education and Science that it is proceeding contrary to the Law which doesn't provide the possibility of releasing the students with excellent marks from the obligation to have the final exam. However, under the pressure of the students and the parents students that had excellent marks were released of the obligation to have the final exam on the basis of a bylaw from 1993, which wasn't valid any more.

Rights of the children should be respected and protected in the preschool institutions, too, respectively in the kindergarden. From the visits of different kindergardens it could be concluded that via games and other creative activities the children gain the first cognitions for Human Rights. However, in most of the Kindergardens are being accommodated bigger number of children than prescribed standards allow, and it prevents the possibility of individual work with each child or in smaller groups. Special concern is that in Kindergardens accommodating children do not exist professional teams that would work with those children. In the work with these children are not included defectologists, for easier involvement in the social living. However, despite absence of professional personnel satisfaction can be expressed because of improvement of acceptance and socialization of the children with special needs together with the other children, and in that way they are not stigmatized and isolated.

After several years of interventions by the Ombudsman for undertaking measure for protection of the rights of children in street the changes and amendments of the Law for Social Protection foresee the possibility of social protection of the children in street, and they foresee establishment of daily centers for this category of children. In order to have an overview on the results of the daily center for children in street, The Ombudsmanin, visited the Daily Center in Skopje and concluded that in the Center have passed 265 children.

Biggest number of registered children in street is from the Roma community. In the Daily Center the children learn to read and write, train for the basic hygienic habits, and they carry out different activities in order to remove them from the streets and to get socialized. Since the biggest number of them does not attend even the primary school the Daily Center is making efforts to include them in the Primary education process, too, but in most cases it is unsuccessful because the children have no documents, and they are not registered in the Registry Book of born persons. During the visit it was concluded that still very little work is done with the family, respectively with the parents of these children, even though most often they are the reason for the children to be on the street. Professional staff of the Daily Center visits the families, but the Center for Social Work is not conducting regular inspections to check the parent's right because, according to the responsible persons, there's no sufficient professional staff that would be able to cover all families in which are registered children on the street. However, update functioning of the Center has achieved positive results, since the biggest number of included children have not returned on the street again.

In order to decrease the number of children on the street that is there due to poverty, and poor habitation conditions, it's necessary the state to undertake measures to improve the financial and habitation situation of the families of these children. It should be done by employment of at least one family member or by a special type of social assistance in money and in goods (food, clothes, footwear, needed materials for school etc). In cooperation with the Ministry of Education and Units of Local Selfgovernment the Daily Center is necessary to undertake adequate measures all children to be included in the primary education, which is compulsory and it should be free of charge. In order to help families with their financial situation, which in most cases is reason the children not to attend the school, the Ombudsman similar to the previous period, in this occasion, too, is suggesting that the law should provide possibility and obligation for financial support for the children in order to attend primary education in cases when they don't attend school due to poor financial situation.

In order to overcome the traditional understanding of parents of the children in the street, and for their education to prevent the possibility these children to be abused by their parents the Ombudsman thinks that an adequate professional team needs to work more frequently with the parents of these children, and the Centers for Social Work should be obligated to inspect the registered children on the street and to control the parent's right, and if the previous measures are not efficient to submit proposal in front the Court for requisition of the parent's right.

Since positive results are achieved by the functioning of such daily centers, new centers should be opened in areas where these children live for easier access, and the centers should work

around the clock due to the eventual need of accommodating any child found on the street during the night. Children on the street most often don't have health insurance, and because of that they are deprived of using health protection. Therefore, it's necessary to find ways and means for free health services and free medicines.

In order to include the children in the Ombudsman work and expression of their opinion, respectively for fulfillment of their right to participate in discussions concerning their rights and interests the Children Council continued with the work in the 2005, too.

In the previous period the Ombudsman informed the Ministry of Education and Science and the Government of the Republic of Macedonia with proposals and opinions of the Children Council, and expects proposals of the children to be considered seriously and to undertake measures with regard to changing and amending the legal regulation and its implementation, in order to create adequate conditions for fulfillment, respect and protection of the children's rights.

In order to assure quick and efficient protection of the children's rights good cooperation between all competent organs and organizations, as well with the NGO sector is essential. The Ombudsman cooperation with State Administration organs is satisfactory in the period too. However, due untimely proceeding upon request, opinions and recommendations by the Ombudsman in fact are tolerated violations of children's rights. Therefore the Ombudsman thinks that there's still a need to undertake continous measures for creation of conditions for fulfillment of children's rights, and the Republic, also, should create to the children material and other possibilities for normal development, safe life, highest possible level of health protection and other rights guaranteed with the Convention for the rights of the child.

1,24 %

of the total number  
of received  
complaints

## Education

The fulfillment of the right in the field of education, especially in the higher education in a certain level is not accessible for all citizens because of the inability of defraying the costs for studying. According to the Ombudsman the situation of the students is getting complicated not only because of the participation, but because of the introduction of different fees by the high educative institution that obligate all the students regardless of whether they are enrolled with participation or with the so called state quota. Proceeding upon the complaints that refers to the participation of the students in the study costs, the Ombudsman indicates the consistent implementation of the legal regulative in regard to obligation, or release from the participation, and during the introduction of different fees that the students are obliged to pay indicated that should be taken into consideration the legal grounds for introduction of these fees, protection and promotion of students standard. Upon the interventions of the Ombudsman for introduction of fees only for the services foreseen with the law and for the introduction of these fees in all the public institutions of the higher education during 2005 only price list for administrative – technical fees was enacted, reached by the Council for development and financing of the higher education branch. The price list was distributed to all faculties with the obligation of unifying the service fees

The complaints that were referring to the co financing of studies, in most of the cases were lodged by persons who were referring to the Law for special rights for members of the security forces of the Republic of Macedonia and their family members, considered that they should be released from the participation. Moreover, some complaints were lodged by members of security forces with the request for release from participation of their children only because of the fact that they participating in the security forces of Republic of Macedonia. In these cases the Ombudsman did not have basis for undertaking measures because the right for release from participation can be used

only by members of the security forces if they are personally registered in the higher education institution, while their children can be released from participation only if the parent member of the security forces is deceased or dead or if announced as disabled person.

In regard to the co financing, there was cases when in the contract signed between the faculty and the student was foreseen that the participation for each studying year will be determined according to the competition for respective study year. However, taking into consideration that the participation was lower in the next years in regard to the participation when the contract was signed, the faculty did not respected the signed contract and charged the participation determined in the competition, that was in higher amount. Assessing that in this way the rights of the student and the provision of the legal security are violated, the Ombudsman intervened in order to respect the contract signed between the faculty and the student, and the student to be charged with the participation depending on the amount of the participation determined by the competition for each studying year. The recommendation of the Ombudsman was accepted and was acted upon the provisions of the signed contract.

Regarding the registration and the rights of the students in the higher education institutions there was a complaint from a group of students transferred from the Tetovo University to the University of "St Kiril and Metodij" in Skopje, who requested the Ombudsman to undertake measures for acceleration of the procedure for their registration in to the appropriate semester. Upon the intervention made by the Ombudsman and enabling these students to take exams for many times for checking their knowledge in order to properly determine in which semester they should be registered also a proper registration of every student into a proper semester was done.

During the reporting period there were complaints regarding the distribution of scholarships and loans for studying, though the Ombudsman determined that the not only the procedure for conveying an answer to the Ombudsman is delayed but also the response to the requests lodged by the citizen is delayed or is not conveyed at all.

It was also determined that for rejection of the requests for scholarships a specific decision is not reached, but the clients are informed by ordinary letters sent by a regular mail though the Ministry does not have any prove that the clients have received the notification. Part of the client that approached the Ombudsman claimed that they have not received any notification, therefore were unable to lodge an objection. On the other hand, when there was an objection lodged, it was not decided on time and decisions were not reached. Regarding these gaps besides the written information and during the revision in the Ministry they were advised that for every request should be decided with a decision that needs to be should be sent to the client as recommended mail with a confirmation thus giving an opportunity for lodging a complaint and other legal remedies for fulfillment of the right.

In regard to the receiving the documents for distribution of student's loans and scholarships the inappropriate practice continued, where the clerk that receives the documentation refuses to receive the documentation because according to him the conditions are not fulfilled. According to the statements of the clients in cases where they are insisting to accept their documents, they are requested to sign a statement that they are submitting incomplete documentation. The Ombudsman considers that in this manner about this right is decided by the person receiving the documents, and not by the responsible body, because of this, about the necessity of ceasing this practice was advised even in the past years.

During this year the Ombudsman has received only one complaint about the accommodation in the students dormitory, besides that the Ombudsman has again indicated about the need of eliminating the gaps and illegibility's during the accommodation in the dormitories, especially in the view of determination of points based on specific criteria's.

Actual problem during 2005 for whom the Ombudsman acted was the taking the special exam for directors of elementary schools, while intervention by the Ombudsman for taking this exam have been requested persons that have not completed high education and did not fulfill the legal, but still were elected as directors. These requests have been rejected, because the right for taking the director's exam had only persons that fulfilled the legal conditions for been elementary school director.

Regarding the cooperation of the Ombudsman with the respective bodies, also in this reporting period can not be considered any improvement because in the majority of cases did not acted upon his requests in the legally determined deadlines, and in certain cases besides many urgencies did not submitted any response. For overcoming these problems and obstacles in the work of the Ombudsman, for part of the complaints, information were submitted to the Minister of Education and Science, and for the remaining complaints for not undertaking any measures by the Minister, special information were submitted to the Government of the Republic of Macedonia.

These attitude of the bodies and organizations results with ineffective and irresponsibility in the decisions about the rights of the citizen and ineffective and obstruction in the work of the Ombudsman.

**3,08 %**

of the total number  
of received  
complaints

## Consumer's rights

As a result from the data from the conducted statistical analysis of the work of the Ombudsman can be concluded that during 2005 the number of cases in the field of consumer's rights has decreased.

This situation shows that the citizen reacts in a lower scale in regard to the treatment of the service providers. The Ombudsman considers that this is caused by the increased level of persistent respect of the legal provisions by the persons providing public services.

Moreover, the Ombudsman considers that kind of influence in the positive trend of the behavior of the institutions with a public authority in the scope of consumer's rights has its thus far proceeding while permanently directed them about the duties and responsibilities that they have towards the consumers of their services, thus adequate level of communication and cooperation was reached for more effective fulfillment and protection of the rights and the interests of the consumers.

However, the general evaluation of the service providers is not satisfactory because the Ombudsman considers that between the service providers and the citizen's – consumers of these services has not been built an appropriate, professional, competent and satisfactory level.

In this context indisputable important factor is still the unfavorable constellation of unregulated segments, or lack of regulative that will determine the establishment of condition and would have positioned the subjects – persons carrying out public services on the aspect of market behavior, instead of the current monopoly functioning.

As a support of this conclusion is the evaluation of the Ombudsman that the former Monopoly bureau, currently Commission for protection of competition did not succeeded to provide protection and appropriate control over the possible misuses of the market committed by the monopolies.

It is expected that with the transformation and the new positioning of the current Commission for protection of the competition, appropriate proposition are created for more successful management of the appearance of monopolist behavior of the service providers.

The problems, for which the citizen requested the assistance of the Ombudsman, are referring to the services provided by the persons carrying out public services, especially on the quality of the service, the method of remuneration and the determined price. Further in the presentation we will focus on these three areas of public interest.

Proceeding upon the complaints of the citizen, the Ombudsman concluded that part of them are referring to the treatment of the AD "Makedonski Telekomunikacii" (Macedonian Telecommunications) as provider of a service of a public interest.

The Ombudsman again concluded that AD "Makedonski Telekomunikacii" using the monopoly position created the condition in the landline telephony, therefore the citizen – subscriber are always in exclusively unfavorable situation to accept the responsibilities that are offered during the establishment of relation as a subscriber, regardless if they are in collaboration with their material condition.

Evaluating the current situation, especially in the part drafting and make an operational regulative, the Ombudsman is expecting in a very short deadline to enact necessary by-laws that will implement the Law on electronic communication, that will enable de-monopoly of AD "Makedonski Telekomunikacii" and in the landline telephony new telecommunication operators will function

Concretely, part of the requests of the requesters that approached the Ombudsman were mainly referring to the high amount of their bills, for whom does not exists minimal objective opportunity to determine the realistic situation, or to confirm the allegations of the citizen for eventual misuse by third person or existence of certain mistake in the equipment or the appliance of the public telecommunication operator.

The Ombudsman acting upon the request of the complainant to whom besides the signed contract for establishing subscriber relation and paid fees; however AD "Makedonski Telekomunikacii" did not install the telephone line, but after a long period the contracts were discontinued only by one side and a small amount of money was refunded. The Ombudsman indicated in this manner AD "Makedonski Telekomunikacii" tricked the citizen and in a illegal manner are managing with their means, for this reason part of citizen in this sense initiated a procedure in the responsible court bodies.

Up to date problems that were referring to the collective discontinuation that was implemented by AD "Elektrostopanstvo na Makedonija" (Electric Company of Macedonia) towards the users of electric energy in apartments or populated areas, because of unpaid bills of part of the consumers, as well as not registering new users because of not paid bills by the former owners or users of apartments or business premises, can be concluded that mainly are overcome. Therefore, these kinds of cases of discontinuation determined by the Ombudsman are rare.

Namely, rare are the cases referring to the practice of AD "Elektrostopanstvo na Makedonija" in regard to conducted discontinuation of citizens because of unpaid bills for the spent electricity, the Ombudsman has concluded that the actions are in compliance with the General condition for delivery of electric power according to which the distributor can discontinue the delivery of the electricity to the consumers, besides if the spent electricity is not paid for at least one month, for which issue is obliged to inform previously the consumer.

In any case the Ombudsman constantly had into consideration the objective condition in regard to the economic power of the citizen, in which sense it resulted with a position of restrictive approach towards discontinuation of the delivery of electricity.

Acting upon a self initiative in regard to the distribution of bills for electricity in which bills concretely is not stated the Radio – Diffuse tariff, as well as the amount of the same, the Ombudsman submitted a recommendation to AD "Elektrostopanstvo na Makedonija" and to the Government of Macedonia, as the only shareholder to conduct a delivery of the bills where it will be clearly presented the above mentioned tariff.

Namely, proving that the tariff represents a public fee that the citizen are obliged to pay, the Ombudsman evaluated that is necessary to be transparently shown in the electricity bills, by what the citizen are concretely familiarized with all the relevant elements in regard the amount and the period that they are obliged to pay the bill.

The competent institutions acted upon the proposed recommendation by the Ombudsman, therefore in the distribution of the electric bills separately is noted the amount of the radio- diffuse tariff.

Otherwise, during the reporting year the reform in the energetic system continued, a process that started last year, after what a de-monopolization and privatization of electric company is expected, or a free flow of goods and services in the electricity industry in a conditions of liberalized market.

Within the frame of the activities of the Ombudsman there were few citizens who requested intervention in regard to the work of the AD “Toplifikacija” (Heating Company).

In the complaints, the clients frequently requested legal assistance regarding left behind and unpaid bills and enabling them to pay the same in many installments, but they as well complained on the temperature of the distributed heating energy.

In general, can be concluded the up to now contacts with AD “Elektrostopanstvo na Makedonija” and AD “Toplifikacija” can be concluded that solid cooperation and communication has been reached which at the bottom line positively

The Ombudsman in the past period acted upon concrete complaints that referred to the discontinuation of citizen from the water supply system because of unpaid bills, by the public companies that are dealing with the public activity in the field of water supply system and sewage.

The Ombudsman concluded that there are cases when the public companies to certain citizen have discontinued the distribution of water besides that the unpaid bills are with very old date, or have occurred the outdate for claiming. The given referrals by the Ombudsman are accepted by the Public companies, especially by JP “Vodovod i Kanalizacija” Skopje (Water supply and sewage company).

Otherwise, the Ombudsman considers that the citizens are obliged timely and regularly pay their bills for communal services, because on the contrary the service providers have the right to request forced payment of their demands before the responsible court bodies.

Upon certain information announced in the media, the Ombudsman on his own initiative initiated a procedure during which procedure additional evidences were collected, concluded that JP “Vodovod i Kanalizacija” has sent letters to the Mayor of city of Skopje and to AD “Postenska Banka” for them not to issue any appropriate documents to the citizen if they can not provide proves of paid bills for water and garbage. At the same time, upon its own assessment for more efficient payment of bills. The public company has requested from the Mayor of city of Skopje to deduct from the salary of employers in the professional offices.

The Ombudsman reacted through the media and submitted written referral to the Public company that the stated behavior creates possibilities for violation of the citizen’s rights and that the payment should be carried on a legal way, the same was accepted.

**0,62 %**

of the total number  
of received  
complaints

## Finance

During 2005 the citizens expressed their dissatisfaction from the work of the Ministry of Finance, or the Bureau for Public revenue in accordance with the Law on property tax, the amount or the basis for determination and the collection of taxes.

Also this year part of the complaints are referring to the obligation of paying taxes for trade of real estate and the rights related to signed contracts for buying of apartments property of the state, where as a vendor appear a body from the state administration, as a buyer physical person, or a citizen. In these cases in accordance with the provisions of the Law on property taxes, formally in the enacted administrative acts – decisions the vendor, or the state administration bodies were obligated by trade tax for real estate and rights, but the decisions were not submitted due to unpaid trade tax. During this condition, taking into consideration that they were not able to fulfill their rights in the procedure before the geodetic bureau, regarding the registration of the rights in the public books, the citizens were obliged to pay the determined tax. The Ombudsman acting upon these cases, having in mind the legal regulative, considered that the buyers are not obliged to pay the tax, or does not have

the role of tax payers. In that sense the Ombudsman sent recommendation to the Ministry of Finance and to the Bureau for Public Revenue, to forward the decisions to the stated organs. After sending the recommendation representative from the Ministry of Finance and Bureau for Public revenue agreed with this position.

In that direction acted upon complaints that were referring to the procedure for determining and collection of taxes on basis of: property tax, tax on heritage and gifts, as well as taxes on trade of real estates and rights, that have been initiated before 01.07.2005, the Ombudsman concluded unjustifiable delay of the procedures that is causing harmful consequences.

This is because there is lack of coordination between the Ministry of Finance – Bureau for Public Revenue – Regional directorate – Skopje and the Sector for Finance – Unit for determination and collection of taxes and tariffs in the city of Skopje, even though a longer period has passed and the handover of this cases has not been done.

Namely, in accordance with article 26, paragraph 1 of the Law for property taxes (“Official Gazzete of RM” no. 61/04), determination of the collection of the property taxes is conducted by the municipality administration, administration of the municipalities of city of Skopje in the area of the municipality where the property is located.

The Ombudsman considers that this attitude of the Ministry of Finance – Bureau for public revenue Regional directorate Skopje and the Sector for finance – Unit for determination and collection of taxes and tariffs in the city of Skopje for sure is not in the benefit of building a legal state, development and strengthening of the democratic relation and the legal security and at the bottom line is contrary to the provisions for efficient fulfillment of the right and the interest of the client in the administrative procedure.

Starting from this legal and factual situation, and in accordance with the determined competency of the Law for the Ombudsman (“Official Gazzete of RM” no. 11/05), the Ombudsman indicates the need for the Ministry of Finance – Bureau for public revenue Regional directorate Skopje and the Sector for finance – Unit for determination and collection of taxes and tariffs in the city of Skopje as a priority to conduct a handover with the Unit for determination and collection of taxes and tariffs in the city of Skopje, of cases that are referring to property taxes with the aim the citizen not to suffer further harmful consequences.



This year also the complaints in this field were in smaller numbers, the citizen expressed their dissatisfaction from the conducted procedure for transformation of the enterprises with state capital. In that sense the Ombudsman advised the citizen, if they consider that in the procedure for transformation are committed important violation of legal provisions that results with damaging of the state capital to approach the Public Prosecutor and Public Attorney who can request financial, accountancy and legal control of the legality of the implementation of the procedure in accordance with the provisions from article 52 from Law on transformation of the enterprises with state capital.

# What we determined

## And what needs to be done

### Conclusions

During the reporting year the number of complaints drastically increased which means that the citizen more and more are convinced that through the institution of the Ombudsman can in a efficient way protect their rights, that is a result of the new manner and method of work, as well as the usage of the instrument calle public critic.

Proceeding upon the complaints showed that:

- ☑ The Public administration continues to show elements of bureaucratic behavior, inefficiency, inaction and non-interest about the needs of the citizen, as well as lack of awareness about their rights. Because of that the citizen fulfill their rights with difficulties, untimely and through long administrative procedures faced with misuses of official authorization, incompetent and careless behavior with disrespect of the human dignity and the legal regulative and its inappropriate implementation.
- ☑ The court proceedings since many years are slow and inefficient that is partially a result of subjective weaknesses because of incompetent and careless behavior, lack of sufficient training of the court and administrative personnel, but as well from objective condition and possibilities in which the court system is functioning. Because of this the clients can not fulfill their right of trial in a reasonable deadline.
- ☑ In the police proceedings it was determined violation of human rights with excessive use of means of coercion and misuse of other police authorization by police officials.
- ☑ The Sector for internal control and professional standards shows unprofessional attitude in fulfillment of the function internal control mechanism by covering the negative condition during the police procedure, which obstructs the work of the Ombudsman.
- ☑ The Penintentionary system is overburdened and is functioning with numerous problems because of the bad material condition, disorganized security situation, unprofessional management of the houses of correction and borstal insitutions and can not secure dignified stay of the convicted persons which places that group of population in the margins of the society.
- ☑ Denationalisation – return of the property to the former owners is stopped because of the selective approach of the Commission for solving in the administrative procedure at a second instance upon the cases in the field of denationalization and it brings to a question mark all the process.
- ☑ The administrative acts for demolishing of the illegal constructions are not executed, whereas at the small percent of excution that is done selectively.
- ☑ There is a lack of conscious and awareness for protecting the environment and the measures for its protection are not undertaken.
- ☑ There are gaps and illegal proceedings during the procedures for fulfillment of the right of working relation, especially while undertaking employees from state level to local level.

- ☑ The Commission for accommodation issue within the Government of Republic of Macedonia acts timely upon the requests of the citizen.
- ☑ The level of the social security is not in a satisfactory level and is facing difficulties, inconsistency and untimely in fulfillment of the rights from the social security, pension and disability insurance and the health insurance, as well as untimely, partiality and bribery proceeding of the commission for evaluating the working abilities.
- ☑ There are inadequate condition and unequal opportunities for dignified fulfillment of the rights for every child in the Republic of Macedonia, but the number of cases of violence towards children is increased.
- ☑ The law for higher education is inappropriately implemented during the obligation or release from the study costs, whereas the student standard is unsatisfactory.
- ☑ The level of communication between the service providers and citizen – users is unprofessional, unsatisfactory, and there is a lack of appropriate regulative that would have secured appropriate protection and control over the monopoly on the market.
- ☑ The absence of special law for protection from discrimination does not give any opportunity to determine appearances of discrimination and to provide appropriate protection to victim's of discrimination.
- ☑ Inconsistent implementation of the Principle of appropriate and equal representation of members of the communities.
- ☑ The cooperation with the Public Attorney in 2005 was at a higher level than the previous years, but there were cases of non-cooperation and non-implementation of referred recommendation that was an obstacle in the work.
- ☑ The non-cooperation was especially expressed from the Ministry of Internal Affairs – Sector for Internal Control and Professional standards because not delivering the information and data upon complaints that were referring to violation of the rights by exceeding the official authorization and the exceeded use of force.
- ☑ The Commission for solving the administrative proceedings in a second instance in the area of denationalization did not act upon the recommendation of the Ombudsman; completely stopped the process of denationalization, fulfillment of the rights on this basis obstructed the work of the Ombudsman.
- ☑ Incorrect relation and non-cooperation was noticed as well in the second instance governmental commission that decides upon cases in the field of property - legal issues and allocation of working land, measuring, cadastre and including rights of real estate, from transport and communication, environment until Ministry of Education and science and Ministry of labor and social policy, Commission for denationalisation within the ministry of Finance, sector for arranging and documenting the construction land within Ministry of transport and communication and the Sector for measuring and cadastre of the State bureau for geodetic matters.

## What should be done ?

Responsible bodies to undertake measures for removing the irregularities and other negative appearances in the work.

Therefore the responsible bodies should ensure:

- ➡ Upgrade the legal frame in the Republic of Macedonia by complete implementation of the constitutional postulates and international standards for respecting human rights and freedom.
- ➡ Acceleration of the already started process of reform of the public administration and its transformation into a real service for the citizen;

- Timely, consciously and responsibly acting upon the requests of the citizen for fulfillment of their rights and freedom;
- Respecting the constitutional provisions for non-discrimination and appropriate and equal representation of the members of all communities in the state organs, bodies of the local self-government and public institutions and services;
- Higher transparency in the work of the bodies of the state, the units of the local self-government and public institutions and services;
- Continues training of the state officials for implementation of the legal regulative and improvement of their attitude towards the citizen;
- Higher transparency, responsibility and consistent respect of the requests, recommendation and other intervention by the Ombudsman.

Having in mind determined conditions in the plan of fulfilling the rights of the citizen in certain areas, the Ombudsman considered that is necessary to:

Encircle the reform process in the judiciary system by operationalising the constitutional amendments because of ensuring conditions for effective fulfillment of the rights of the citizen and rule of law.

Continued training and education of the officials in order to reach higher level of professionalism while conducting police work, transformation of the sector for internal control and disconnection of the partiality in the procedure for determining responsibility of the officials that have committed by exceeding the official authorizations.

The Sector for internal control and professional standards to consistently respect the request and the recommendations by the Ombudsman, regardless of the level of secrecy of data, that will enable undisturbed fulfillment of the function of Ombudsman.

Consistent implementation of the legal regulative in the functioning of the correction-borstal and education-correction institutions and respecting the right of the convicted and detained persons in accordance with the domestic regulations and international standards and strengthening the control mechanisms in the plan of security.

Undertaking measures for deblocking of the process of denationalization, especially in the procedures for solving the cases in the second instance and initiating procedures for determining responsibility for these situations.

Second instance governmental commission that decides upon the cases of property – legal issues and granting construction land, measures cadastre and inclusion of rights for real estate, as well as from transport and communication and environment to respect the legal deadlines for decisions and to act responsibly towards the intervention made by the Ombudsman.

The Ministry of Education, the commissions for denationalisation in the Ministry of Finance, Ministry of Labor and Social policy, Sector for arrangement and documenting the construction land in the Ministry of Transport and Connection sector for measurement and cadastre of the State bureau for geodetic issues to act more efficiently in improving their work and cooperation with the Ombudsman.

The state secretariat for protection of the environment continuously to follow the condition in the environment, and the service for environment to stop issuing concordance for work without securing ecologic- technological elaborate.

Undertaking continued activities by the responsible state institutions and the bodies of the local self-government for improving the situation in the environment and raising citizen ecological awareness.

Respecting the legal provisions that regulate the subject of working relation in the fulfillment of the right of the employees by the employers and more engagement of the labor inspection especially in the private sector.

Securing conditions for accommodation of social jeopardized – accommodation insecure persons.

Legal distribution of the social assistance to citizens who have realistic need by this condition are created for increase of the amount of the assistance.

Timely and legally proceeding upon the requests of the citizen for fulfillment of the right of pension and disability insurance especially in the procedure before the Second instance commission of the Government of Republic of Macedonia, eliminating the appearance of corruption while evaluating the working ability.

Consistent implementation of the legal regulative for fulfillment of the right for health protection of every citizen and respecting the doctor's codex in providing health services.

The best interest of the child should be priority when creating the policy for protection of children rights, to ensure pre-condition and means for fulfillment of the needs of every child by respecting the non-discrimination, the best interest and participation of children in issues of their interest. Implementing efficient measures for protection of children from any kind of violence.

Legitimate decision and respect of deadlines while fulfilling the rights of the citizen in the field of education and protection and improvement of the pupils and students standard.

More efficient proceeding of the commission for protection of competition in preventing from misuse of monopoly position of the service providers and drafting of complete regulative for liberalisation of the market of the landline telephony.

Consistent implementation of the constitutional obligation of the adequate and equal representation of citizen that belong to all communities in the state bodies and other public institutions at all level, as well as fulfillment of the annual plans for adequate and equal representation.

Enacting special law for protection from discrimination that will create legal frame for implementation of the constitutional principals and international standards in this area.

Intensification of the activities for encircling the process of decentralisation, informing the citizen about their rights before the bodies of the local self-government and improvement of the cooperation with the Ombudsman.

# The Ombudsman in 2006

In 2006 the Ombudsman will continue to direct the activities towards fulfillment and protection of citizen's rights and freedom, in accordance with Constitution of the republic of Macedonia, laws and international standards.

The ombudsman will participate and contribute in completion of the legal regulative for successful implementation of the process of eurointegration of Republic of Macedonia and harmonisation of the domestic judiciary with the European Union's judiciary.

The already established method will be intensified in conducting immediate inspection of the work of bodies towards which the Ombudsman proceeds in accordance with its competencies, because of immediate investigation of the violation of the rights of the citizen.

Special attention is given to the following the conditions in the fulfillment and protection of the principles of non-discrimination and adequate and equitable representation.

The Ombudsman will continue in finding new forms and methods for closer cooperation and communication with the bodies and institutions of the central and local government, as well as with the non-governmental organisation for joint action on the plan of prevention, protection and respect of the freedom and rights of the citizen.

The activities for promotion of the institution will continue as well as education of the citizen for the role and the meaning, by programming the activities for promotion of the rights of the citizen.

Special attention will be dedicated to the cooperation and use of means for public information as very important and effective instrument in the functioning of the Ombudsman.

On the organisational plan the activities will continue for improvement of the accommodation and technical condition for the work of the institution.

Of special importance for the institution in 2006 will be the fulfillment of the project for technical assistance of the Ombudsman, financed by the Swedish Government, with the support of the OSCE Mission in Skopje. With the fulfillment of this project is expected to secure improvement and professional upgrade of the employees in the institution and familiarizing them with the international standards and practices in the field of protection of human rights and freedom.

The Ombudsman will continue the cooperation on bilateral, regional and international level with the Ombudman's from other countries and similar institutions whose primary goal is protection and improvement of human rights and freedom by participating workshops, conferences and other events of interest of improvement of the work. With special attention will be reviewed and accepted offered projects and programs that will be important for the improvement of the human rights. In cooperation with the Ombudman from Greece will implement the project "The Ombudsman and the public administration", and with the support of the European commission will implement the project "Fulfillment and protection of the right of non-discrimination".

As member of the Secretariat of the Association of the Ombudsman of the Frankophone countries, European Ombudsman institute, International Ombudsman Institute and the European Ombudsman Institute as well as Children's Ombudsman. The ombudsman will continue to actively participate in the work of these eminent organisations.

# Ombudsman in practice

## Non-discrimination

### **NP. No. 420/05**

To the Ombudsman a complaint was lodged by I.L. from Skopje where stated that the rights were violated by JP "Makedonski Zeleznici" – Skopje because of disrespect of the constitutional and legal right of adequate and equal representation of the members of the communities in the state bodies and other public institutions.

The complaint showed that the public enterprise has reached a decision to cease the working relation by decision for dismissal because of economic, technologic, structural and similar changes, to which the submitter has lodged objection to the Commission for working relation of JP "makedonski Zeleznici".

The Ombudsman concluded violation of the rights of the submitter, taking into consideration that the Managerial Board of the public enterprise while reaching the decision did not proceed in the sense of Amendment VI of the Constitution of Republic of Macedonia, where as a fundamental value of the constitutional order is foreseen as well adequate and equal representation of citizen belonging to all communities in the state bodies government and other public institution at all levels.

Having into consideration the authorities that results from Amendment XI of the Constitution of Republic of Macedonia the provisions of the Ombudsman's Law, the Ombudsman with many with several letters addressed the public enterprise "Makedonski Zeleznici"-Skopje and requested to accept the objection of the submitter, and in that sense to cease the decision for cease of working relation who should be followed with a new decision according to what the submitter will be designated to working place that suits her professional background.

JP "Makedonski Zeleznici" informed the Ombudsman that the objection is accepted, and that the submitter has been assigned to adequate working place.

## Police proceedings

### **NP. No.153/05**

S.R from Skopje lodged a complaint for violation of his rights by the Unit for special Tasks within Ministry of Internal Affairs during the police action for apprehension of his brother I.R where towards him excessive use of force was done that have resulted with physical injuries. During the procedure the Ombudsman concluded that the allegation are grounded thus from the Sector for Internal control and professional standards requested to conduct internal control, discover the identity of the authorized officials who have caused injuries complainant, initiating a procedure for the same and submitting their identity to the Ombudsman.

The sector for internal control and professional standards did not accept the facts for exceeding of authorization and excessive use of force by the police officials and did not discover the identity of the officials referring to the Law on classified information.

For the Ombudsman these meant obstructing his function because the request for access to classified information is in contradiction with Article 27 of the Ombudsman Law according to which the bodies of the state administration and other state bodies and organisations are obliged to make available to the Ombudsman all requested proves, data or information regardless of the level of the confidentiality and to enable implementation of the procedure.

For all the aspects of the problem that the Ombudsman faced, with a special information the Minister for Internal Affairs was notified, but since this side not gave the expected results, the Ombudsman submitted the case to the Public Prosecutor for initiation of a procedure for determining punishable responsibility against unknown officials from Ministry of Internal Affairs.

According to the information from the Public Prosecutor's office the request is accepted and the re-criminal procedure is underway before the Basic Public Prosecutor in Skopje.

### **NP. No. 2257/05**

The submitter of a complaint T.A from Skopje requested the Ombudsman to intervene in the Sector for Internal Affairs in Skopje in order to get back his hunting shut gun and the permit for possession of the same.

After concluding that the respected items of the complainant with the decision of the Sector are temporary confiscated because of the reasonable doubts of committed criminal act, and the criminal charges were dropped by the Basic Public Prosecution, the Ombudsman on 02.11.2005 to the Sector for internal affairs sent a referral where he is requesting to review the the decision for temporary confiscation of of items from the complainant, and to decide in accordance with the Law and in the meantime to take into consideration the fact that criminal charges that was a reason for the confiscation is dropped by the Basic Public prosecution from Skopje.

Based on the presented referral, the Sector for internal affairs with informed the Ombudsman that on 28.11.2005 reached a decision for ceasing the procedure, and from the complainant was informed that the temporary confiscated items are returned.

## Judiciary

### **NP. No.67/05**

The convicted A.D. in the complained stated that because of the worsened health condition to the Management of the penitentiary-correction institution "Idrizovo" has lodged a request for enabling him medical treatment in adequate institution, but upon the request for a longer period has not been decided.

After determining that the allegation is grounded, the Ombudsman submitted a recommendation to the institution, requesting to refer the convicted to a specialist who will evaluate the need and the necessity of health protection out of the institution.

The referrals of the Ombudsman given in the recommendation were accepted by the doctor of the institution, the convicted person was sent to the Bureau for physiscal therapy and rehabilitation where appropriate medical protection was given.

### **NP. No.109/05**

In the complaint of M.T. from Strumica was stated that more than five years unjustiscably the procedure was delayed upon a complaint before the Appellate Court in Stip upon a case G No. 847/00 where appears as a client.

Because it is about a serious violation of the right for trial in a reasonable deadline, the Ombudsman after the immidiate review concluded that the complaint is competely grounded and that the case has not been processed therefore requested immidiate proceeding. Because of

concluded flagrant violation of principles of the trial in a reasonable deadline, the Ombudsman for the inappropriate work of the judge who was supposed to proceed upon the case informed the Republican Judicial Council and requested initiation of determination of professionalism and counceness in preforming the function of judge.

Based on this kind of intevention upon the conducted procedure by the Republican Judicial Council, the judge of the Appellate Court in Stip was dismissed from his function.

## Property-legal matters

### **NP. No. 1729/03**

The citizen M.R. from Gostivar submitted request for the Committee for Denationalization in Gostivar for denationalization in 12.10.2000 of which yet to be brought first level decision. That is why the citizen submitted petition, in that context the Ombudsman submitted recommendation to the first level steering body to prioritize the procedure and to bring decision for that context, that in the case the surrounding is without importance which in regard to the property matter of denationalization with the proper decision from the basic court replacement is offered. This because apart from others a case of denationalization property was not taken (article 8, line 1 from the Law for denationalization), and in this particular case the decided replacement was not paid at all, exactly given, therefore without importance is the surrounding that the submitter could request payment of replacement in an eventual court procedure.

The Ombudsman was informed that the given recommendation is accepted and the first level body prepared draft –decision with which the request will became valid, but in the meantime the Control Committee returned the case with notice that the request is refused since the citizen was not informed in the past period and could request payment of the dedicated replacement for the taken property in the court procedures, therefore, recalling on the content of the Manual published by the Coordination Committee on the work of the committees who decide for the requests regarding the denationalization the request was refused.

Having in mind the situation, the Ombudsman during the ongoing process submitted legal judgement to the Minister of Finance, where from the Coordination Committee was informed that the body for denationalization completely has in mind the content of the judgment, but the Committee for control did not approved the draft-decision. Although the Committee who decides for the requests for denationalization among others recalled that in the content of the letters/recommendations submitted by the Ombudsman permanently requested approval of

the decision, which was confirmed with the direct access to the registries of the case.

Clearly because of this uncoordinated work the body for denationalization has not brought a decision for first level, although after the submitting of the case almost 5 years have passed.

### **NP. No. 509/05**

The citizen D. K. from Skopje, submitted request to Ombudsman Skopje, with the petition to undertake activities for the Sector of measures and cadastre- Skopje in the State Institution for geodesy works because they violated his guaranteed property rights with the constitution. After a long period it was not implemented in regard to the request to make changes in the cadastre of real estate for KO Kisela Voda II.

Proceeding with the prepared case the Ombudsman states that the petition is based because this way of acting, actually enacting is in contrary with the regulations of the Law for general institution procedures, as well as the related regulations which regulates the area of measures, catastar and writing the rights of the real estate.

Namely, firstly unrighteous was because in the case the normal dedicated period for providing decision was not taken into consideration according Article 218 of the Law for general institution procedures, who predict mostly two months calculating the day of the submitting of complete request. In this case since the day of submitting of a case request has passed six months.

On the other side from the same petition, the surroundings and the submitted facts as well unrighteously results that the property right in regard to the case real estate results from the content of the proper license – Contract for trade of real estate property conspired from authorized notary, which according to the material-legal regulations in the area of measures, catastar and whitening of the rights of the real estate represents legal base for changing the catastar of real estate. Because of this legal and tactical situation the Ombudsman submitted a document to the abovementioned body its recommendations to prioritize this case to act and to decide in regard to this particular request submitted by requester to be respectable.

During the timeframe the authorized body acted in line with the provided recommendation and the citizen fulfilled its right.

## **Urban planning and Construction**

### **NP. No.07-2525/05**

In regard to the complaint lodged by V. and D.N. from Gostivar, the Ombudsman referred to the Mayor of Gostivar and requested to temporarily cease the decision for forcible execution of the Decision for demolition no. 08-3510/1 dated

10.11.2005 until the finalisation of the administrative procedure upon the administrative procedure upon the decision or until the decision of the second instance body upon the lodged complaint, with the aim of early demolition and movement not to result with hardly compensated material damage that might occur if the responsible second instance body eventually annuls the above mentioned decision. The same day a notification was received where it could be assessed that the Mayor is ready to respect the request of the Ombudsman for temporary cease of the execution of the decision until the second instance decision upon the appeal is reached.

## **Environment**

### **NP. No. 499/05**

The Ombudsman upon his own initiative raised a procedure upon an article published in the daily press about the destruction of natural rarity "Ezerani" in the Prespa Lake.

During the procedure the Ombudsman addressed and conducted many contacts with officials from many respective bodies.

From the Ministry of Environment and the State Inspectorate for Environment was requested to conduct inspection review over the respective area and based on the conclusions to reach an appropriate decision. A request with the same content was sent to the State inspectorate for agriculture. The state inspectorate informed the Ombudsman that in the conducted inspection review and the concluded factic situation, reached a decision that forbids the person S.A from village Asamati conducting agriculture activities on the land parcel on the territory of natural reserve "Ezerani". From the answer of the State inspectorate for agriculture, the Ombudsman concluded the same factic situation and that the Ministry of agriculture, forestry and water resource management is underway a procedure upon the request of the person S.A for allocation of a land for long term rent.

Further during the procedure, regarding the request for allocating the land for long term rent, the Ombudsman sent an opinion to the Ministry of agriculture, forestry and water resource management where he stated that there is no legal grounds the agriculture land that is a case in the procedure of allocation for rent for longer period, considering that the same is under rigorous protection.

About the outcome of the procedure upon this request, the Ombudsman is not notified. Since the matter of this proceeding represents endangerment of part of the land property of Republic of Macedonia, the Ombudsman addressed the issue to the Public Attorney in Bitola and Resen region requesting from him to undertake

legal measures against the person S.A for protection from usurpation, and the Ombudsman was informed that it has been proceed upon the request.

The procedure upon this case is ongoing.

## Labour issues

### **NP. No. 1732/05**

The submitters of the petition requested intervention in the procedure of recruitment process for young assistants in the Punishment-Repairing institution in Tetovo, which was based on the successful finalization of the training as students in "PACE" programme. The deadline for the recruitment process was on 01.02.2005 and the above mentioned institution did not fulfil its obligations to employ the students for more than seven months.

After the reference made by the Ministry of Justice regarding the violence of the labour rights of the students of the programme "PACE" and although after the dedicated period for establishing contracts for the submitters of the petition on 20.09.2005 the abovementioned persons received decision, exactly contract to work in the Punishment-Repairing institution in Tetovo.

## Accommodation issues

### **NP. No. 688/05**

E.S from Stip submitted petition to the Ombudsman, in which one he requested intervention for the Public Company for entrepreneurship with accommodation and business space in the Republic of Macedonia – Regional office Stip for non implementation of the contract for leasing the apartment because in the same apartment another person already moved in.

Even after many requests regarding the movement of the person from that apartment the Public Company did not undertake any action, the Ombudsman submitted report to the Company with recommendation to proceed according the domicile Law, by which the lessee he apartment under the conditions stated in the lease is obliged to enable the lesser responsive use of t contract.

Namely the Ombudsman prevented that the same law predict penalty provision of legal bodies which does not allow the lessee to use the apartment, or do not transfer the apartment for use the Ombudsman requested for the short period to undertake all necessary actions and activities to implement the legal rights of the submitter of the petition, meaning to create conditions for transferring the apartment into his ownership.

In accordance to the recommendation submitted by the Ombudsman the Public Company for entrepreneurship with accommodation and business space in the Republic of Macedonia – Regional office Stip replied that have transferred the ownership of the apartment to the submitter.

## Social insurane and protection

### **NP. No.1032/04**

The complainant R.J several times in 2002 approached with a request for fulfillment of the right for financial compensation for assistance and care of another person to the Inter-municipality center for social work in Tetovo, but was not acted regarding the request.

The Ombudsman several times intervned first at the Center for social work and than with the responsible commissions for evaluation of working ability to decide sooner upon the request of the citizen emphasizing the fact that it is about a person 80 years old and according to the assessments of the personal doctor and a specialist doctor there is a need for assistance and care by another person.

Taking into consideration that the complainant several years requested fulfillment of the right to financial compensation for assistance and care by another person, but because of lack of coordination by the respective bodies and untimed review of the commission for evaluation of the working ability was not able to fulfil his right, the Ombudsman assessed that the responsible bodies without any grounds are delaying the procedure for deciding upon his request. For these reasons the Ombudsman intervned before the responsible bodies imidiately to proceed upon the request of the complainant, the Commission for evaluation of the working abilities immediately to conduct insight and provide an opinion and findings, and the center for social work without any delays based on the findings of the Sommission to reacha adequate decision.

Proceeding upon these requests and interventions the Center for social work upon the received findings of the responsible commission reached a decision recognizing the right for financial compensation to the complainant for assistance and care by another person for several years retroactively from the day of the submission of the request.

## Pension and disability insurance

### **NP. No.2102/05**

The citizen R.D. from Skopje lodged a complaint to the Ombudsman stating that his rights for pension and disability insurance has been violated, in the way that the responsible bodies unabled him to fullfil the right for compensation because of a physical damage for what he was forced to initiate an administrative dispute that ended with a Verdict reached by the Supreme Court accepting his suit.

After studying the stated allegation and supporting documents the Ombudsman concluded violation of the rights of the complainant have been done, to the respective second instance body referred immediately to undertake adequate measures in the direction of reaching a legal decision by consistent respect of the guidance of the Supreme Court of Republic of Macedonia in the reached decision.

Further during the procedure after the submitted urgency letter to the second instance body, a decision was reached enabling the complainant to materialize the right of financial compensation for physical damages.

## **Health Protection**

### **NP. No. 470/05**

The Ombudsman has received a complaint by a citizen A.P from Sturmica where is stated that his rights of health insurance has been violated by the Fund for health insurance of Republic of Macedonia because of not issuing blue cupons.

After finding the allegation in the complaint and the supporting documentation the Ombudsman assessed that the right of the complainant are violated by the Fund for health insurance of Republic of Macedonia, that has not issued blue cupons because of former unpaid debt by the employer, thus submitted a recommendation requesting the Fund to register as insured based on new grounds and to issue blue cupons, and for the past mentioned period to be obliged to pay the revenues. If there is no readiness for voluntary payment to initiate a procedure foreseen in the law for its payment.

The Fund informed the Ombudsman that it has been acted upon the referral or the complainant has fulfilled the right of health insurance.

### **NP. No.363/05**

G.A.K. from Skopje in his complaint stated that in the procedure for payment of salary during prevention from work because of pregnancy, giving birth and motherhood, before the Fund for health insurance her legal and constitutional right are

violated by incomplete of payment of salary during the time of prevention from work .

The Ombudsman concluded that the complaint has grounds and refered to the fund that there are no legal obstacles in meet the request of the complainant and requested by a legal decision that is suitable for her salaries. The Fund for health insurance regional office Skopje again reached a negative decision.

Further in the procedure the Ombudsman in many occasion intervned with the Minister of Health referring that all the legal preposition are meet for reaching a decision that will enable the complainant to fullfil her right for suitable compensation.

The referral of the Ombudsman has been completely respected with an act of recognizing the requested compensation to the complainant during the period of prevention from work because of pregnancy, giving birth and motherhood.

## **Children rights**

### **NP. No. 665/05**

The complainant S.S requested protection of the right of his juvenile child in the procedure for regulating the personal relation between the child, and the mother that he was not living with or requested an intervention by the Ombudsman because of not taking into consideration the opinion and the position of the child in regard to the fulfillment of the right to maintain personal contact with his mother during the process of reaching a decision by the Centar for Social work.

Assessing that the children rights are violated who according to the age and maturity was capable to express his opinion, the Ombudsman referred to the responsible bodies that in accordance with the Convention for children's rights and Family Law during the process of settling the relation between the mother and the child has to take into consideration the opinion and the position of the child and to payu special attention to that opinion, and taking into consideration the best interest of the child.

Proceeding upon these referrals the Ministry of labor and social policy an institution to whom the appeal was sent abolished the decision of the Inter-municipality center of social work and returned the case for review and decision.

## **Education**

### **NP. No. 1173/05**

The submitter of the petition M.K requested protection of the rights because of not implementation of the court decision to oblige the

Faculty were he study to give back the amount allocated as participation fee with legal interest rate and to cover its court expenses. In the same time, against the submitter a disciplinary measure was prompted and he was indicted to disciplinary measure by which he lost the status of a student for the year when the disciplinary measure was in forced.

The Ombudsman stating the neprikosnovenosta and obligation of the court decisions requested the Faculty to undertake the court decision and the re-investigate the importance of the indicted disciplinary measure in regard to the decision which apply only for the study year where the measure is indicted.

In that regard the Ombudsman informed the Faculty that the disciplinary measure is closed, and because the new study year started requested from the Dean to decide if the submitter of the petition is going to gain the status of a student.

The recommendations provided by the Ombudsman were accepted and the decision for gaining the status of a student for the second time was given to the submitter of the petition, in the same time the amount according to the court decision were paid.

## Consummation rights

### **NP. No. 1668/05**

The citizen V.S. from Strumica addressed to the Ombudsman with the request to protect its rights that he thought were violated from "Elektrodistribucija"-Strumica.

From the petition and the enclosed evidences resulted that the submitter posses the right to own an apartment according the responsive contract for buying the apartment (trade), therefore addressed to the (regional office) "Elektrodistribucija"-Strumica with the request to get evidential as a consumer of electric energy for the abovementioned apartment. The indication that he received was that because of the non payment of the bills for the period when the apartment was not his belonging, exactly the owner of the apartment, the counter i.e. the bills still will be evidenced to the previous user

Explicitly, the requester is obliged to cover all non played bills for the period that he was not the owner.

The Ombudsman according to the Law for obliged aspects submitted recommendation to (Podru'nica) Strumica with the request as soon as possible to enable the requester permanent use of the services, exactly to include him in the list for evidential and not to be obliged to cover the disputed debt.

The recommendation was accepted.

## Financies and finance issues

### **NP. No. 426/05**

To Ombudsmen the citizen V.I from Skopje submitted a petition where he stated that in role of buyer with AD "Promet Tutun"-Skopje signed a Contract for (trade of real estate)- business space in Kumanovo. Namely, the requester stated that even after that he paid the (danokot na promet na nedv`nosti) and rights the Ministry of Finance – Office for public incomes – Regional office –Stip – Taxes sector in Kumanovo did not appraised the contract, as a consequence he do believe that that his constitution and legal rights are violated.

After the analysation of the proofs in the submitted petition material evidences were enclosed, the Ombudsman according to the authorities of article 24, paragraph 1, line 3 of the law for Ombudsman held a meeting with the director of the Taxes sector in Kumanovo, where it was stated that the contract for trade is the reason why AD "Promet Tutun"-Skopje has not played obligations for various basis (VAT, personal taxes and other taxes) and that came out from the conclusions of the Office for public incomes published on November 2004 which does not allow appraisal of contract for trade, if the lesser and he lessee did not played all obligations towards the Office for public incomes.

The Ombudsman according to the authorizations submitted recommendation to the Office for public incomes to appraise the contract for trade so the requester will secure the right to transfer the ownership of the nedviznosti in the catastar and other public books.

During the implementation of the procedures the Ombudsman states that was preceded according to the recommendation.

## Other areas

### **NP. No..224/05**

The Ombudsman received a petition from S.L. from Pirok Tetovo where it was stated that the Ministry of Internal Affairs – Sector for Organized Criminal- Tetovo violated his constitutional and legal rights because the Ministry did not submit judgment to the Ministry of Finance- Skopje if the security aspect is obstacle for implementing the activities in regard to organization of lucky and party games in the object called "Gold Club"

The Ombudsman in accordance to the authorities refer to the needs of proceedings in context of previous displays, especially the Ministry of Internal Affairs – Sector for Organized Crime-Skopje to the Ministry of Finance- Skopje to submit a judgement which according to the article 55, paragraph 1 from the Law on lucky games i play

games represents requirement that the competent body of the designated citizen would provide a license for organizing lucky games and play games. Several times the Ministry of Finance – Sector for lucky games and play games requested the abovementioned license

With this the Ombudsman states that the Ministry of Internal Affairs proceeded after the referral.

# Inside the Institution

## Organisation and arrangement of work

Organisation of the work of the Ombudsman is determined from the definite authority with the Constitution of the Republic of Macedonia with the law for the Ombudsman. In the function of securing systematization in labor, and in the direction of fulfillment of program tasks the Ombudsman executes the extensive range of activities through organization centers based in the Institution in Skopje as well as from other regional offices in: Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

## Fulfilment of Institution with the personnel

In the first quarter of 2005 the Ombudsman Institution functioned with total 45 executors in the specialized sector, and together with the bearier of the function the Ombudsman and four deputy Ombudsmen based in the Institution. In the second quarter of 2005 the Assembly of the Republic of Macedonia selected four deputy Ombudsmen in the regional offices in: Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

By the end of 2005 fulfillment with personnel for the specialized sector was partially fulfilled, with the engagement of 12 executors, hence, by the end of reporting period in the Institution the activities of the work was fulfilled with 10 deputy Ombudsmen and 57 executors in the specialized sector.

According to the qualification structure of the employees 49 are with higher education, 18 with secondary education and 1 with the elementary education. From them 42 persons are female and 25 male.

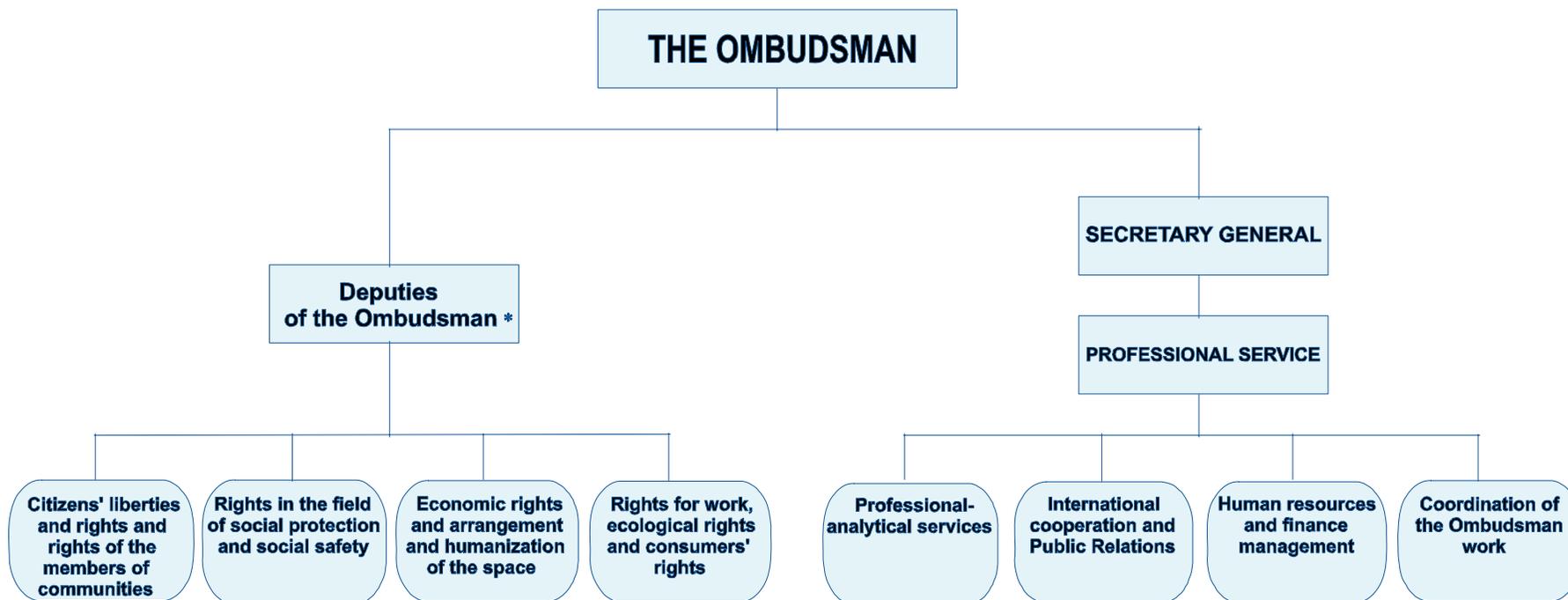
The Specialized sector has 30 ethnic Macedonians, 20 Albanians, 2 Serbs, 2 Roma, 2 Vlah and 1 representative of Turkish community.

## Work assets

Assets for the Ombudsman work are secured by the Budget of the Republic of Macedonia. In 2005 the Ombudsman completed the program activities according to the regulations with the amount of 17.972.000, 00 MKD, which was not sufficient for successful performance of the Institution.

Given the assets allocated by the Budget of Republic of Macedonia were not sufficient to fulfill the needs for fulfillment of planned activities the Organization for Security and Co-operation in Europe –Mission in Skopje (OSCE) and Open Society Institute of the Republic of Macedonia – SOROS partially assisted the Institution with donation which obviously helped the implementation of the program tasks.

As in the previous years, one more time can be stressed that this way of financing is not adequate for the position and the competencies of the Ombudsman in the constitution-legal system of the Republic of Macedonia because the dependence in view of financial assets from the executive government is significantly decrease the autonomy and the independence and presents barrier for fulfillment of the function.



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