



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

ANNUAL REPORT 2001

Skopje, March 2002

Introduction

This is a fourth annual report that, in compliance with Article 24 of the Law on Ombudsman ("Official Gazette of the Republic of Macedonia" No. 7/97), the Ombudsman submits to the Assembly of the Republic of Macedonia with the aim to inform the deputies what kind of problems, grievances, and irregularities the citizens of the Republic of Macedonia are facing in the realization of their constitutional and legal rights before the organs of the state administration and other organs and organizations with public authorities; also, it includes the measures and activities this institution is undertaking for the purpose of the protection of the rights of citizens and the elimination of stated irregularities and maladministration in the work of these organs.

Hence the evaluation that the Assembly of the Republic of Macedonia, within its authorities, should undertake measures and activities for the overcoming of stated irregularities, which will ensure a consistent respect for the constitutional and legal rights of the citizens. Also, within its powers, the Government of the Republic of Macedonia, ought to demand from the organs of the state administration and other organs and organizations with public authorities to promptly act upon the suggestions of the Ombudsman and respect his interventions, which will entail the elimination of irregularities and, ultimately, the violations of the constitutional and legal rights of the citizens.

The Ombudsman is bound by law to submit a report on his work to mass media thus enabling the citizens of the Republic of Macedonia to obtain information pertaining to the work and authorities undertaken by him in order to protect their rights. The Ombudsman expects his Report to be seriously taken by the public as well because it can exert additional pressure over the state administration and organs and organizations with public authorities thus enhancing the respect for the rights of the citizens.

With regard to the previous reports, the methodological approach adopted for the drafting of this Report was altered in one segment, so that the overview and the situation pertaining to the respect of human rights was not presented according to organs but fields, along with the analysis of the stated problems, evaluation and corresponding conclusions, recommendations, and including the measures for the overcoming and elimination of stated violations. The Report presents comparative data on the number of admitted, solved, and rejected complaints, violations of rights ascertained in the complaints according to various fields followed by corresponding figures, tables, and charts. The rest of the Report has remained unchanged with respect to the last years' Report and contains the evaluations of the respect for human rights on the part of the organs in the reporting period; also, there is a critical evaluation of the rights of citizens according to fields, evaluation of the cooperation of the Ombudsman with the organs and organizations with public authorities over which he handles with authority, as well as other evaluations respecting more significant activities of the Ombudsman. As a special sup-

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plement is enclosed a brief description of more characteristic examples form practical work that might be of interest both to the experts and individuals as well as the public.

1 REALIZATION OF THE SCOPE OF WORK

Acting as a unique, autonomous, and independent organ with the competence to protect the constitutional and legal rights of citizens when they shall be violated by the organs of the state administration and other organs and organizations with public authorities, in addition to the usual problems he dealt with in the realization of his scope of work, this year, unfortunately, the Ombudsman witnessed numerous and severe violations of basic human rights brought about by the armed conflict that occurred on one part of the territory of the Republic of Macedonia.

During the armed conflict in the north-western part of the Republic, the acting of the Ombudsman was virtually obstructed because, due to safety reasons, the institution could not check the allegations in the submitted complaints, or, on the other hand, when necessary, at its own initiative undertake activities and issue adequate comments, recommendations, opinions, and suggestions. The Ombudsman's role in this period was reduced to making requests, reminders, and appeals to competent organs urging them to undertake all the requisite measures for the prevention of the armed conflict, bloodshed, abductions, murders, banishing of people, demolition of buildings and property, etc. At the same time, he pointed out that a peaceful solution to the conflict, compromise, communication, cooperation, respect for one's identity, rejection of the use of force as a means for the accomplishing of political aims, conformity of domestic regulations with international standards, and encouragement of a democratic participation of citizens are the underlying principles leading to the preservation of democracy in the Republic of Macedonia and a development of civil society.

The armed conflict had a negative impact on every segment of social, political, economic, and cultural coexistence among the members of various ethnic communities. Fragile democratic bridges among these communities have been shattered loose so much that an enduring and continuous cooperation, education, and a promotion of reconciliation will have to be restored in order to build the trust requisite for multiethnic coexistence. Due to the emerged polarization in the ethnic relations, during the crisis and in the aftermath of the signing of the Framework Agreement, many sacral buildings, churches, monasteries, mosques, all of which represented invaluable cultural-historical heritage in the Republic, were demolished and desecrated; furthermore, many estates and constructions owned by members of various ethnic communities were burned down.

The armed conflict was a suitable breeding ground for various types of criminal and terrorist actions practiced by individuals or groups for the realization of their personal interests. On the other hand, the members of security forces and responsible persons in the competent organs, first and foremost, the Ministry of the Interior and the Ministry of Defense, failed to ensure the protection of citizens from the actions of these ex-

tremist, armed groups or individuals, which resulted in the kidnapping of innocent civil population, murders, destruction of property, cultural-historical monuments, economic facilities, etc.

Therefore, the questions begs - how the Ombudsman can act as a democratic institution and deal with the newly created situation at the same time playing his role of an efficient safeguard mechanism controlling the realization and protection of the rights of citizens when virtually, primarily due to security reasons, on a certain part of the territory of the Republic the operations of the institutions of the state system were suspended.

However, notwithstanding the exacerbated situation, the Ombudsman put forth efforts, firstly in the field of prevention, to contribute to the improvement and stabilization of the situation. To that end, and within his constitutional and legal competences, endeavors were made and forms and methods sought that would be highly efficient, and which we will address further on in the Report.

1.1. Scope of work

In the reporting period, the Ombudsman handled in total 1.432 complaints lodged by over 5.000 citizens, of which 1.107 were lodged in the reporting period, and 316 were transferred from the previous year. With respect to the previous year, when 1166 complaints were admitted, this year that number was slightly smaller - for 0.05 %. This year, again, for interviews were summoned over 3.000 citizens of which 580 were received outside of the Ombudsman's Office. Telephone consultations were held with over 4.000 citizens. Nevertheless, it should be always borne in mind that the scope and effects springing forth from work should not be evaluated solely on the accounts of the interviews held with the citizens; rather, this parameter should also encompass the measures, actions, and activities undertaken by the Ombudsman relating to the overall operating and functioning of this Institution.

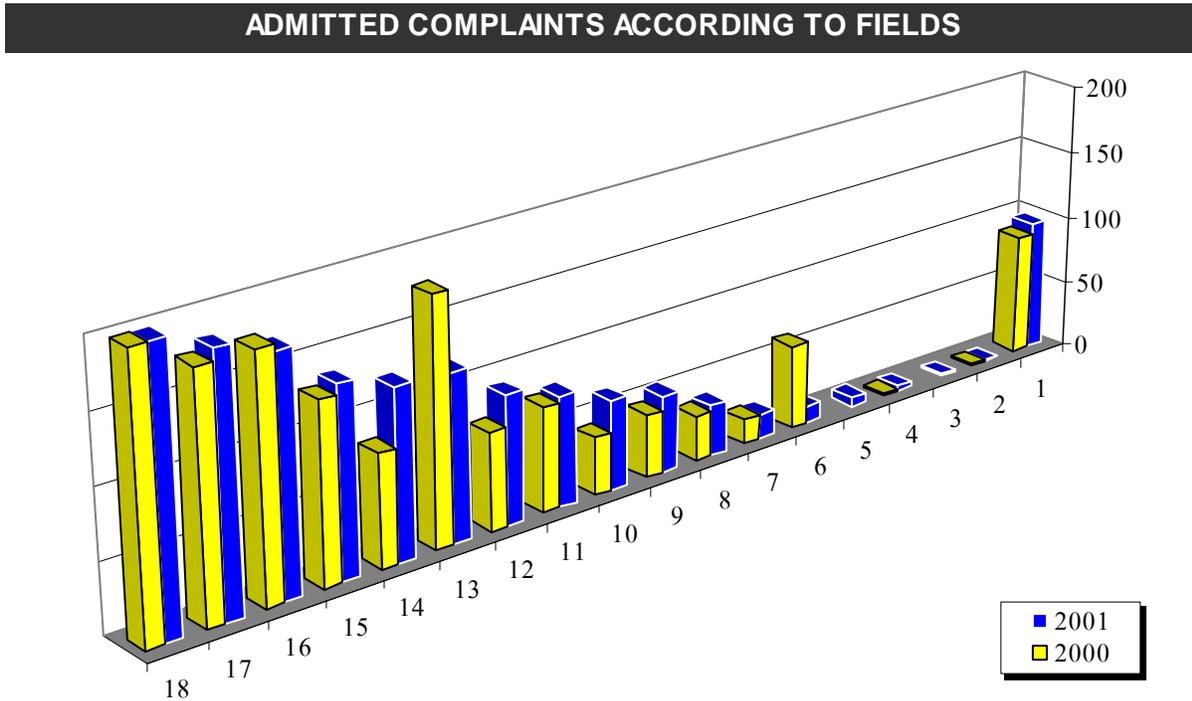
1.2. Overview of the complaints according to fields

A largest number of complaints by means of which the citizens sought protection are from the field of urbanism and construction building, 217 or 15,24%; it is followed by the labor relations, 184 or 12,93%; from the field of judiciary 171 or 12,02 %; from the field of property rights 137 or 9,63%; from the field of retirement and disability insurance 123 or 8,64%; from the field of consumer rights (communal care and other contributions) 121 or 8,50%; police proceedings 93 or 6,53%; social rights 80 or 5,62%; housing sphere 65 or 4,57%; child protection 56 or 3,94%; medical protection 37 or 2,60%; finances 18 or 1,26 %; education, science, culture, and sport 12 or 0,84%; living environment 7 or 0,49%; military officers and draftees s 4 or 0,28%; the rights of the communities that are not in the minority, 1 or 0,07%; customs 1 or 0,07, and from other fields 96 or 6,74% (Table 1 and chart 1)

Table 1

OVERVIEW OF THE FIELDS															
Admitted, resolved and pending cases from 01.01.2001 -12. 31.2001															
	Admitted complaints in 2001	Number of lodgers of complaints	Number of complaints transferred from 2000	Total number of complaints processed	Handling method							Information to the Minister	Information to the Government	Total resolved cases	Pending cases
					No. of acknowledged anonymous complaints	Rejected complaints	Lodgers given up complaints	Resolved differently	Ascertained violations						
									Issued opinions, recommendations	Complied with the intervention	Not complied with the intervention				
Protection of the rights of communities not in the majority	1	1		1		1								1	
Protection of the rights in police proceedings	72	1321	21	93		40		6	17	14	3	1	1	63	30
Protection of the rights from the field of judiciary	148	228	23	171		112	2	3	20	18	2			137	34
Protection of the rights of military officers and draftees	2	2	2	4		3			1	1				4	
Protection of the social rights	65	64	15	80	1	56	1	2	12	8	4			72	8
Protection of the rights from labor relations	159	984	25	184	1	83	3	7	57	21	36	3		151	33
Protection of the rights from housing relations	59	59	6	65	1	17	2	6	13	4	9		27	39	26
Protection of the rights from the field of health insurance	25	25	12	37		8		3	21	13	8	1		32	5
Protection of the rights from the field of pension and disability insurance	102	103	21	123		59	3	3	28	17	11			93	30
Protection of the rights from the field of education, science, culture, and sport	11	11	1	12		4		1	6	1	5			11	1
Protection of the rights of children	47	47	9	56		19			23	18	5	1		42	14
Protection of the rights from the field of urbanism and construction building	123	142	94	217		63	3	7	38	22	16	6		111	106
Protection of the rights from the field of environment	7	1654		7		2		1	2	2		1		5	2
Protection of the rights from the field of finances	16	32	2	18		14			3	2	1			17	1
Protection of the rights from the field of customs	1	1		1		1								1	
Protection of the rights from the field of property rights	107	124	30	137		63	2	8	33	16	17	1		106	31
Protection of consumer rights	80	127	41	121	1	50	3	5	32	19	13			91	30
Protection of the rights from other fields	82	101	14	96		67	1	7	12	10	2			87	9
TOTAL	1107	5026	316	1423	4	662	20	59	318	186	132	14	28	1063	360

Chart 1



- | | |
|--|---|
| 1. Protection of the rights from other fields | 10. Protection of the rights from the field of housing |
| 2. Protection of the rights from the field of customs | 11. Protection of the social rights |
| 3. Protection of the rights of the communities that are not in the majority | 12. Protection of the rights in police proceedings |
| 4. Protection of the rights of army officers and draftees | 13. Protection of consumer rights |
| 5. Protection of the rights from the field of living environment | 14. Protection of the rights from the field of pension and disability insurance |
| 6. Protection of the rights from the field of education, science, culture, and sport | 15. Protection of property rights |
| 7. Protection of the rights from the field of finances | 16. Protection of the rights from the field of judiciary |
| 8. Protection of the rights from the field of health | 17. Protection of the rights from the field of labor relations |
| 9. Protection of the rights of children | 18. Protection of the rights from the field of urbanism and construction building |

With regard to last year, the overview of the lodged complaints according to fields shows that that proportion did not significantly change, that is, there was a negligible decrease or increase in the number of complaints with respect to certain fields. Regarding the organs and organizations the complaints refer to, it is noteworthy that the largest number of complaints refers to the acts and activities taken by the Ministry of Transport and Connections and the Ministry of Labor and Social policy, followed up by public enterprizes and the Ministry of the Interior, that is, the organs and organizations these and other ministries are governing (Table 2)

Table 2 – 2001

OVERVIEW ACCORDING TO ORGANS AND ORGANIZATIONS																
Organs the complaints refer to	Admitted complaints	Number of complaints transferred from 2000	Total number of complaints in 2001	Handling method								Information to the Minister	Information to the Government	No. of total resolved cases	Pending cases	Percentage of ascertained violations in resolved cases
				Number of acknowledged anonymous complaints	Rejected complaints	Given up complaints	Resolved in other ways	Ascertained violations of human rights								
								Issued opinions, suggestions, recommendations, comments	Organs and organizations complied with the interventions	Organs and organizations did not comply						
1	2	3	4	5	6	7	8	14	15	16	17	18	19	20	21	
1 Ministry of Defense	2	2	4		3	1								4		0.00%
2 Ministry of the Interior	89	30	119		54		5	21	17	4	1	1	80	39	17.65%	
3 Ministry of Justice	140	59	199		112	2	1	19	16	3			134	65	9.55%	
4 Ministry of Transport and Connections	155	44	199		62	3	12	46	20	26	5		123	76	23.12%	
5 Ministry of Economy	3	1	4		2		2						4		0.00%	
6 Ministry of Finances	61	8	69		32	1	1	20	8	12	1		54	15	28.99%	
7 Ministry of Labor and Social Policy	196	48	244	1	122	5	5	63	44	19	3		196	48	25.82%	
8 Ministry of Education and Science	62	3	65	1	33		2	21	11	10	1		57	8	32.31%	
9 Ministry of Culture	5	2	7		3		1	3		3			7		42.86%	
10 Ministry of Health	36	7	43		10	1	5	24	15	9	1		40	3	55.81%	
11 Ministry of Foreign Affairs	3		3				1	1		1			2	1	33.33%	
12 Ministry of Agriculture	8	2	10		5			4	1	3			9	1	40.00%	
13 Ministry of Environment and Planning	6		6		2		1	2	2		1		5	1	33.33%	
14 Government of the Rep. of Macedonia	71	2	73	1	28	2	6	19	7	12		27	57	16	26.03%	
15 Privatization Agency of the Rep. of Macedonia	3	9	12		3		2	1	1				6	6	8.33%	
16 State Institution for Geodesic Affairs	33	4	37		23	1	2	10	5	5	1		35	2	27.03%	
17 Ministry for the Local Self-Government	47	19	66	1	30	2	2	22	10	12			57	9	33.33%	
18 Public enterprises, institutions, and services	112	62	174		74	2	8	34	22	12			118	56	19.54%	
19 Other organs and organizations	1	4	5		2								2	3	0.00%	
20 Other	74	10	84		62		3	8	7	1			73	11	9.52%	
21 TOTAL	1107	316	1423	4	662	20	59	318	186	132	14	28	1063	360	22.35%	

However, it should never be forgotten that this proportion is not necessarily realistic, that is, it does not follow that the organs and organizations to whom a small number

of complaints refers do not violate, or violate less, the rights of citizens; simply this phenomenon is owed to the fact that the citizens are still not sufficiently informed about the competences and the fields for which they can seek redress from the Ombudsman for their grievances.

Regarding the residence, the overwhelming number of complainants are from Skopje, 386, and the smallest, 1 complainant, from Bogdanci, Vinica, Demir Kapija, Dojran, and one lodged by a citizen of the Republic of Croatia, Bulgaria, Albania, and Sweden respectively. This ratio is plausible and corresponds to the number of citizens according to their residence, only with negligible deviations (Table 3).

Table 3

No.	Cities	No. of complaints per city		No.	Cities	No. of complaints per city	
		2000	2001			2000	2001
1	Berovo	11	4	22	Mak.Brod	7	8
2	Bitola	54	65	23	Negotino	8	2
3	Bogdanci	1	1	24	Ohrid	52	52
4	Valandovo	2	4	25	Pehcevo	19	5
5	Veles	43	43	26	Prilep	56	76
6	Vinica	3	1	27	Probistip	20	23
7	Debar	5	4	28	Radovis	80	47
8	Delcevo	16	10	29	Resen	16	15
9	Demir Hisar	6	5	30	Skopje	441	386
10	Demir Kapija	1	1	31	Struga	25	27
11	Dojran	1	1	32	Strumica	23	34
12	Gevgelija	18	16	33	Sveti Nikole	5	12
13	Gostivar	21	21	34	Tetovo	29	22
14	Kavadarci	25	36	35	Stip	39	66
15	Kicevo	25	28	36	Rep of Albania	-	1
16	Kocani	19	21	37	Rep. of Bulgaria	-	1
17	Kratovo	16	5	38	Rep. of Slovenia	1	-
18	Kr.Palanka	18	7	39	Rep. of Yugoslavia	1	-
19	Krusevo	7	6	40	Republic of Croatia	-	1
20	Kumanovo	46	37	41	SSweden	-	1
21	M.Kamenica	6	11				
					TOTAL	1166	1107

1.3. Handling method and deciding on the complaints

Of total 1423 complaints, 1063 were finished and the remaining 360 complaints

Figure No.1.1 - 2001

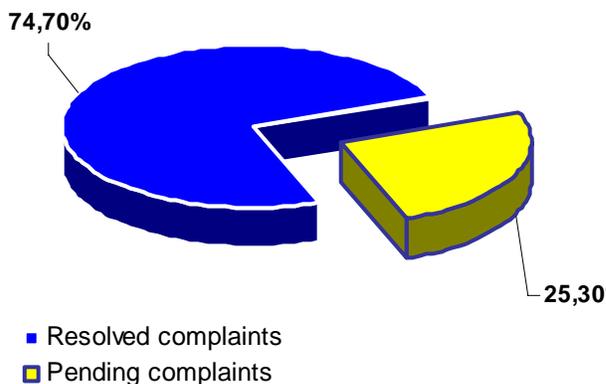
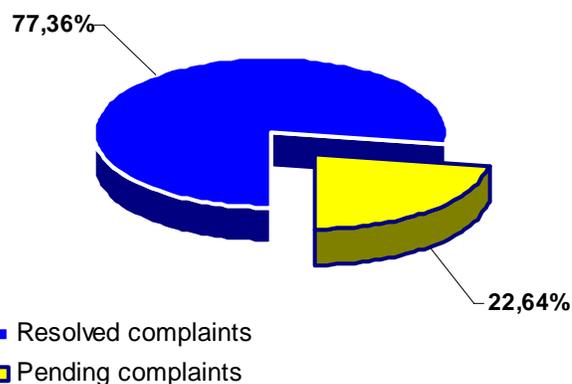


Figure No.2.1 - 2000



are pending.

Of the completed complaints, 686, or 64,53% were rejected; in 318 or 29,92% were ascertained specific violations of the constitutional and legal rights of citizens, while 59 complaints, or 5,55% were resolved in a differently.

Figure No.1.2. - 2001



Figure No.2.2. - 2000



The Ombudsman handled the complaints in a speedy manner, and if it was deemed that the intervention could be carried out without checking the allegations first, it was decided upon immediately; if the need arose to supplement and check the complaint, it was requested either/both from the complainant or the organ or organizations to whose acts and activities the complaint referred to provide all the necessary clarification and supplementing. Also, if necessary, an investigation into the organs was launched, and responsible or other officials were summoned for interviews for the purpose of the additional clarification of the complaints. However, very frequently the organs and organizations either did not act timely upon the requests of the Ombudsman or did not act at all.

1.4. Rejected complaints

Analyzing the data on the rejected 686 complaints, it is evident that the largest number, that is, 505, were rejected because it was ascertained that no violations of basic rights and freedoms of the complainants existed. 118 complaints were rejected because the cases were pending in courts of law; 32 were rejected because within the additionally set time framework the party failed to supplement the complaint; 4 complaints were rejected because they were not taken into handling at all and were rejected since the complainants remained anonymous; for 7 complaints the procedure was not initiated because it was ascertained that from the last activity or act of the organ that decided upon the claim of the citizen more that a year had elapsed, and 20 complaints were withdrawn because in the meantime the complainants succeeded in exercising their rights.

A great number of complaints was rejected on the grounds of no ascertained violations of rights. This ensues from the lack of information of the citizens about both the

competence of the Ombudsman and their rights; in addition, the citizens often only demonstrated a desire to check through the institution Ombudsman the legitimacy of the acts made by the organs.

1.5. Ascertained violations of the rights of citizens

Of the total number of 1063 solved complaints, in 318 (29.92%) the Ombudsman ascertained violations of the rights of citizens incurred by the organs of the state administration and other organs and organizations with public authorities. For the purpose of the elimination of the stated violations, 116 recommendations, 95 opinions, and 84 suggestions were issued. In addition to the issued recommendations, opinions, and suggestions, the Ombudsman forwarded seven proposals for the reconsideration and appropriate action of administrative proceedings, nine orders for the stay of execution of administrative acts, two requests to the Public Prosecution for the initiating of proceedings for the determining of criminal responsibility, two proposals for the taking of disciplinary measures, and several proposals for improvement of their work and treatment of parties sent out to the organs and organizations. (**Table 1** and **Table 2**).

Of the issued recommendations, opinions, and suggestions, and other appropriate interventions, the organs of the state administration and the organs and organizations with public authorities adopted 186, thereby complying with the Ombudsman's stances, and 132 interventions still haven't been acted upon; moreover, the Ombudsman still hasn't been informed about the reasons for the delay, albeit the organs and organizations are bound by law to do it. If we compare this year's with the last year's data, it is evident that the level of respect for the Ombudsman's interventions is as good as unchanged, that is, in 2000 that percentage was 60,97% whereas in the reporting period it is 58,49%.

Within the same context, we should mention the unaccepted 96 recommendations, suggestions, and other interventions addressed to the organs and organizations in the course of last and the year before it. Despite Ombudsman's persistence and commitment to induce the organs and organizations to act promptly, unfortunately, very often these attempts yielded no results, so that after a considerable period of time had elapsed and no handling occurred, the interventions remained pointless.

In order to improve the situation in that respect, in the course of the year, in addition to repeatedly pointing out to the organs and organizations that they have the obligation to comply with his requests and interventions, the Ombudsman drew up reports by means of which he informed the competent ministries and other responsible officials about the need to undertake measures and activities that would command respect for his interventions. Also, he submitted 37 reports to the Government of the Republic of Macedonia, one report to the Polling Commission for the Protection of the Freedoms and Rights of the Citizen by the Assembly of the Republic of Macedonia, and in numerous instances he informed the public through mass media. However, unsettling is the conclusion that the ministries and the Government of the Republic of Macedonia have not dedicated due attention to these information, therefore resulting in a situation that hasn't changed with respect to last year.

1.6. Pending complaints

At the end of the reporting period 360 complaints remained pending. The reasons due to which they have not been resolved are a great number of acknowledged complaints at the end of the calendar year, their complexity and comprehensiveness, the necessity to gather data and evidence from several organs and organizations, as well as untimely responses from competent organs and organizations and non-compliance of the initiatives issued by the Ombudsman.

1.7. Reception of citizens in and out of the Ombudsman's Office

The reception of citizens in the Ombudsman's Office is every workday. This year over 3.000 citizens were received in the Ombudsman's office. If during these visits it was assessed that the Ombudsman was not competent to handle in a given case, the party was extended adequate professional-legal assistance as to where and how to exercise said right.

Table 4

No.	Visited Cities	Received citizens for interviews		Number of formed cases		No.	Visited cities	Received citizens for interviews		Number of formed cases	
		2000	2001	2000	2001			2000	2001	2000	2001
1	Bitola	23	71	14	41	16	Kriva Palanka	25	-	14	-
2	Berovo	9	-	3	-	17	Mak. Brod	7	10	4	8
3	Veles	28	26	12	11	18	Mak. Kamenica	-	25	-	9
4	Gevgelija	22	11	11	7	19	Negotino	3	9	2	-
5	Gostivar	4	-	3	-	20	Ohrid	36	37	18	25
6	Delcevo	3	10	2	5	21	Prilep	52	78	21	48
7	Demir Hisar	9	14	3	5	22	Pehcevo	5	-	1	-
8	Demir Kapija	5	-	2	-	23	Probistip	25	20	14	11
9	Dojran	10	3	5	-	24	Resen	13	16	8	11
10	Kicevo	29	16	9	9	25	Radovis	25	22	14	12
11	Kavadarci	28	15	10	6	26	Strumica	10	24	6	13
12	Kocani	-	15	-	6	27	Struga	13	10	6	8
13	Kumanovo	43	26	21	11	28	Sveti Nikole	6	14	1	5
14	Krusevo	4	8	1	4	29	Tetovo	25	7	10	4
15	Kratovo	21	11	13	4	30	Stip	37	20	12	5
							TOTAL	520	518	261	268

In the realization of his program activities, the Ombudsman organized in the reporting period a reception of citizens outside of his Office as well, which is his established work method, particularly in larger centers - in the units of the local self-government. Thus, in the course of the months of May and September, meetings in 29 towns and cities were organized. During these meetings, 518 citizens were received and after the conducted interviews, 268 cases were formed and corresponding proceedings initiated on the grounds of a reasonable doubt that constitutional and legal rights of citizens were violated.

With the aim to facilitate the access of the citizens to the institution Ombudsman, a complaint form designed this year was regularly distributed to the municipalities where the citizens had the opportunity, if they found that in the course of the handling of the state administration a certain right of theirs had been violated, to fill it in and send it to the Ombudsman.

1.8. Ombudsman's cooperation with the organs and organizations

A main prerequisite for a successful exercising of the function ombudsman is a cooperation and communication that should exist between this Institution and organs and organizations over which he handles with authority. In compliance with Article 20 of the Law on Ombudsman, the organs and organizations have the obligation to cooperate with the Ombudsman and, at his request, provide all the data and information, regardless of the degree of confidentiality, and to make provisions for the conducting of the procedure. The Ombudsman is bound by the regulations respecting keeping a secret. The organs, that is, the organizations, have the obligation to inform the Ombudsman about the measures, suggestions, and recommendations undertaken on the grounds of his proposals, opinions, and recommendations. If the organs, that is, the organizations, fail to do so, or only partially accept his proposals, the Ombudsman can inform about it the next higher organ, a competent ministry, the Government of the Republic of Macedonia, and by means of a special report, the Assembly of the Republic of Macedonia, or, eventually, publish the case.

Such legal obligations inevitably necessitate a functional and efficient cooperation of the organs and organizations with the Ombudsman. It must be in the best interest of the citizens and geared towards the consolidation of the constitutionality and lawfulness as the fundamental principles of a lawful state and a foundation for the acts and activities of these organs and organizations for the purpose of the realization of the rights and freedoms of the citizens.

To that end, last year, by way of written addresses sent out to the organs and organizations, the Ombudsman requested promptness in handling and respecting of issued recommendations, opinions, proposals, and reports. With the same aim, there were also held meetings with the heads of departments and senior officials in these organs; however, numerous initiatives and requests of the Ombudsman to have meetings with certain ministers remained not realized.

Hence a general evaluation that the cooperation of the Ombudsman with the holders of public offices and responsible officials in these organs and organizations is not at a satisfactory level, so that frequently there are instances, that is, manifestations of uncaring and unresponsive behavior of some of the managerial and other officials whenever the Ombudsman attempted to establish a contact and conduct an investigation of the documents pertaining to the lodged complaints. Very often these officials tried to hide their presence, and their colleagues either proffered misinformation or incomplete information.

However, a cause for major concern remains to be the fact that Ombudsman's requests addressed to competent senior officials to undertake corresponding measures for the overcoming of this situation usually proved to be futile, so that instead of penaliz-

ing those that practice such types of defective behavior, on the contrary, they were often covered up.

In compliance with law, the Government of the Republic of Macedonia was informed about the stated situation through 26 special reports. Unfortunately, the Government neither acted itself upon most of the reports nor informed the Ombudsman about it.

Therefore, after a four year long period of work and constant stressing that they have a legal obligation to cooperate with the Ombudsman, it can rightly be concluded that in cases of certain organs and organizations, though they resort to such feigning, they can not claim any longer they did not know about this Institution. Rather, it is a blatant disrespect or deliberate ignoring on their part.

This situation inevitably calls for more energetic measures and activities on the part of the Assembly of the Republic of Macedonia by means of which not only shall the organs and organizations with public authorities be made aware of their legal obligation to cooperate with and respect the interventions of the Ombudsman, but also to take to task the holders of public offices responsible before the Assembly, that is, those that do not behave conscientiously, responsibly, and lawfully in the provision, realization, and protection of the rights of the citizens.

On this occasion we would like to, once again, urge the organs and organizations to act conscientiously and respect the decisions and interventions of the Ombudsman. On the contrary, if they proceed acting in the same manner, they will seriously imperil the work of this Institution, which will have grave consequences on the evaluation of the Euro-Atlantic structures when considering the admission of the Republic of Macedonia into their family, that being our indisputable declared goal.

1.9. Transparency

There are two segments pertaining to the transparency in the work of the Ombudsman. Firstly, to what extent was the work of the Ombudsman in the preceding period transparent, that is, how much the Ombudsman used mass media for the purpose of the informing of the public about his work; secondly, how much were they used as an additional instrument of pressure over the state administration for inducing it to respect the rights of the citizens.

This year, again, the Ombudsman frequently used mass media both for the informing of the public as well as an instrument fit for exerting pressure on the organs of the state administration and other organs and organizations with public authorities in order to effectuate respect for his interventions. This was done very transparently through press conferences, issuing of statements and press releases, and information offered to mass media, as well as through his participation in various electronic media programs. By way of the power public opinion wields, this kind of practice helped bring about a successful resolving of some situations and individual cases.

The Ombudsman deems that mass media, in coordination with the other institutions that work in the field of the human rights protection, especially non-government organizations, can significantly more contribute to the development and protection of human rights and the education of citizens about their rights.

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However, disquieting remains the fact that albeit we are of the opinion that the information the Ombudsman renders to the mass media are in the interest of the citizens, the mass media were not ready to inform the public if there was any remuneration provided; on the other hand, the Government does not procure the Ombudsman with any additional funds for that purpose, which poses a problem that needs to be urgently solved.

2 Overview of the situation with respect to the provision, respect, and protection of human rights according to fields

2.1. Rights of citizens that belong to the communities not in the majority in the Republic of Macedonia

Beside the Macedonian nation, in the Republic of Macedonia live members of other twenty-six communities that do not belong to the majority population.

According to the consensus conducted in 1994, the Albanian ethnic community participates in the total population with 23%; members of the Turkish community follow up, whose participation consists of 4%; Serbian and Romany population participates with 2% each, and the rest are the members of the Vlach, Bosnian, and other communities.

With regard to this heterogeneous composition of the population, the securing of the conditions for multi-ethnic coexistence is of paramount importance for a further development of democratic processes in the Republic of Macedonia, rule of law, and the functioning of a lawful state. Hence the need for a thorough and consistent legislative regulations, as well as its practical implementation.

As an autonomous and independent state till 1991 and a successor of the former SFRY, the Republic of Macedonia has signed and ratified a great number of international legal documents that refer to the freedoms and rights of citizens, encompassing thus also the ones that refer to the protection of the rights of ethnic minorities. They include: the General Declaration on Human Rights of the United Nations from 1948, the Convention on the Protection of Human Rights of the Council of Europe, and the Framework Convention on the Protection of Ethnic Minorities. Thereby the Republic of Macedonia expressed its full readiness to comply with all the international standards in the field of the protection and improvement of basic human freedoms and rights, inclusive of the rights of the members of the communities that do not belong to the majority population.

On that level, and with the aim to realize, protect, but also promote the rights and freedoms of the members of the communities that are not in majority, the Republic of Macedonia, as a member of the United Nations, OSCE, the Council of Europe, UNESCO, and other international organizations and associations, realizes a wide-ranging international cooperation in which a free expression of ethnic background and widely accepted international norms related to the rights of ethnic minorities, beside

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other basic human freedoms and rights, represents a part of the fundamental values of the constitutional order in the Republic of Macedonia.

In terms of the concept applied, the Constitution of the Republic of Macedonia from 1991 is a civic one, and as such has already gained international verification. It sets forth that all the citizens of the Republic of Macedonia are guaranteed full equality while enjoying their rights and freedoms, irrespective of their nationality, sex, race, faith, social and economic standing. It entails that any limitation of freedoms and rights on these grounds can be interpreted as discriminatory.

In keeping with the constitutional provisions thus set down, every citizen, which automatically includes the citizens that belong to the communities that are not in the majority in the Republic of Macedonia, has the right vouchsafed to demand protection of his rights and freedoms before regular courts and before the Constitutional Court of the Republic of Macedonia by way of procedures based on the principles of preferential order and expediency.

Despite the fact that the citizens that belong to the communities that are not in the majority in the Republic of Macedonia have equal treatment as the more numbersome Macedonian population, with regard to human rights and liberties, the Constitution, and especially the constitutional amendments, guarantees them additional rights, particularly in the field of education at all levels, participation in political decision making, the use of languages, and especially in the exercising of public authorities at the local level.

Past constitutional solutions have been now incorporated into a legislation whose modification is under way, resulting from the Ohrid Framework Agreement and the constitutional amendments. Nevertheless, we should always bear in mind that the quintessence of the exercising of human rights and freedoms for the citizens that belong to the communities that are not in majority does not consist solely in the legislation; rather it focuses on the creation of conditions for its practical realization.

The modifications in the Law on Ombudsman, which this Institution was seeking even before the security situation in the Republic deteriorated, will have to be made before 2002 as an obligation that springs forth from the Framework Agreement. It will also substantially endorse the endeavors this Institution is making in the field of a more consistent realization of the rights of all citizens in the Republic of Macedonia, thereby encompassing those that do not belong to the majority population as well.

In the past handling practice, at the Institution no record of the ethnic background of the complainants was kept. The reasons for it are twofold: firstly, it is not practiced in other countries as well, and, secondly, such a record keeping would mislead the Institution and present time wasted on the determining of this fact, which, also, ultimately might cause a revolt of citizens primarily because of their freedom to express their own ethnic background as they wish and also because it would be carried out at the expense of the very issue that concerns the complainant – a violation of his/her rights, if any, and how to protect them. Therefore, the Ombudsman deems that absence of this kind of practice does not represent an inadequate approach to work, the more so because from the personal data of the complainants, an approximate estimate of their ethnic background can be easily inferred.

This was the reason why the Report does not contain any numerical indicators with regard to the ethnic background of the complainants; however, a closer inspection into the official documentation reveals that a large number of complaints was lodged by citizens that belong to various communities. This situation indicates that this Institution has the same treatment towards all the complainants, regardless of their ethnic background; thus the Institution is promoted through appearances in public and the media that air their program in Albanian, or are printed in the same language. To the same end, the Ombudsman's Brochure published two years ago, aimed at informing the citizens about this institution, beside the editions in Macedonia, was printed and distributed in a corresponding number of copies in Albanian. These and similar methods used for informing the citizens will continue to be practised in the future as well, and depending on the funds, the Institution will do the same thing in for the benefit of other communities that also do not belong to the majority population.

In the reporting period no complaint that refers to the violation of minority or ethnic rights was recorded; however, it does not mean that violations of this type did not occur. The reasons thereof can be ascribed, among other things, to the general loss of trust among all the citizens, even among the members of the minority groups in all the institutions of the system, which, undoubtedly has corresponding reflections on the Institution Ombudsman.

Setting about to improve the position of the members of the communities that do not belong to the majority population in the Republic of Macedonia, the Ombudsman will undertake activities and measures to the following ends:

- Follow the situation with regard to the respect of the rights of citizens that belong to the communities that are not in the majority;
- Protect the principles of non-discrimination and representation of citizens-members of the communities that are not in the majority in the organs of the state administration, organs of the local self-government and public enterprises and services;
- Give proposals and opinions for the promotion of the legislation that refers to the rights of the members of the communities that are not in the majority, and to that objective adjust domestic legislature to international documents on the protection of human rights, that is, rights of ethnic minorities;
- Continuously inform the members of the communities about the role and function of the Ombudsman and the method for the complaints handling.

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For the purpose of the harmonization of inter-ethnic relations and a more successful multi-ethnic cohabitation, by means of which conditions for a faster social-economic development will be created, the Ombudsman holds the view that competent organs should undertake the following measures and activities:

- fully implementation of the Framework Agreement and a faster adjustment of the legislation to international acts, especially to the Framework Convention on the Protection of Ethnic Minorities and to the European Chart on Regional and Minority Languages;

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- devise forms and methods for the building of common values and needs that would create a foundation for a peaceful and tolerant multi-cultural society free from ethnic, religious, political, and other prejudices.

2.2. Protection of the rights in police proceedings

As a fundamental legal document, the Constitution of the Republic of Macedonia and the 18 amendments, set forth civil and political freedoms and rights as basic, as well as economic, social, and cultural rights of the citizens of the Republic of Macedonia, regardless of their ethnic or religious background, sex, race, color of skin, political creed, social or financial standing. The guarantee for the exercising of these rights is secured through the possibility of the protection of said rights before courts of law and before the Constitutional Court of the Republic of Macedonia in proceedings based on the principles of priority and speediness. The Constitution, also, guarantees a court protection of the lawfulness of certain acts of the state administration and other institutions with public authorities.

The basic values vouchsafed by the Constitution comprise the following: inviolability of the physical and moral integrity of man, prohibition of any form of torture, inhumane or degrading treatment and punishment, freedom of movement, freedom of thought, freedom of speech, freedom of confidentiality of letters and other forms of written communication, freedom of peaceful gathering and expressing public protest, inviolability of home, right to ownership, and other basic freedoms and rights generally accepted by virtue of international legal documents.

The implementation of the freedoms and rights of citizens guaranteed by the Constitution was incorporated into the legislation enacted after the Republic of Macedonia gained independence. Furthermore, it is endorsed by many sub-statutory acts, thus the criminal legislature foresaw penalty sanctions for those who limit or in any other manner violate basic rights and freedoms of citizen and man.

Speaking generally, the Ombudsman shares the general evaluation that in the reporting period the Ministry of the Interior did not succeed in functioning up to the demands of its duty in compliance with the Constitution. The year started with still unresolved affair with unauthorized wiretapping of phones of certain individuals from the public and political life in the Republic of Macedonia; it was followed by numerous affairs related to fixing and allotting quotas for import of certain goods and products, and culminated in the disruption of general safety of citizens triggered off by the outbreak of armed conflicts instigated by groups of armed Albanian extremists. An undermining attitude and a conscious covering up and minimizing of the initial military actions led to their flaming up, and, later on, even to the involvement of the population of this ethnic group, so that the armed conflict spread to a large part of the territory of the Republic of Macedonia. The final outcome was a lawful state suspended on a part of its territory, thousands of refugees and displaced persons, killed, raped, kidnapped and brutally tortured innocent people, separated families and demolished homes, religious, cultural-historical monuments, and economic facilities. The effects of this conflict will be long lasting, and the traumas of the directly involved indelible.

The problem of the twelve kidnapped citizens of Macedonian and six of Albanian ethnic background is still an unresolved mystery for this Ministry, but also for the international organizations that made some attempts to help out, so that the families of the kidnapped are still living in hope that maybe the worst has not yet happened.

In the exercising of the most of their constitutional rights, the citizens are closely connected with the police, that is, the Ministry of the Interior, and its regional departments.

While the citizens exercise their rights before the civil services of this Ministry with regard to the following: master registry, citizenship status, permanent and temporary residence, and other status issues, before the uniformed part of this ministry, that is, citizen-policeman, contacts are realized when public peace and order, general safety, personal safety of citizens, or safety of property are endangered.

In the course of concrete handling at the Ombudsman's Office in the reporting period a certain rising trend with regard to the admitted complaints relating to this Ministry was noted, especially when compared to the previous year's data. However, it cannot be asserted that it is the result of the conflict because the number of complaints does not represent a real reflection of the situation and the consequences caused by it. On the other hand, the structure of the registered cases, unlike the preceding period when the registered complaints mainly referred to not regulated right to citizenship, shows that this year the overwhelming number of complaints referred to excessive use of force by the members of the police forces while calling for or bringing to interrogation, while searching living quarters, direct arrest of perpetrators of criminal offences, or while detecting traces of committed torts without court orders, while handling suspicious objects, or other contacts with the police. In several cases, the Ombudsman ascertained excessive use of force, which means acting in contravention with the Law on the Internal Affairs, the Rules of Procedure of the Ministry of the Interior, and the Enactment on the Use of Coercive Measures and Firearms. The best illustrations of said activities were: the case with a citizens from the village of Romanovce-Kumanovo, a worker in the factory "Cik"; the case with the citizen from the village of Rasce-Skopsko, as well as in several other cases when on the grounds of an on-site investigation bodily injuries were confirmed as a result of excessive use of force by the police. Also, an infamous example is the case with the attack on the police precinct in the village of Tearce, when the police in the aftermath of the attack, and with the aim to detect the offenders, searched the houses of several citizens of the village of Sipkovica and, according to the allegations of the citizens, they were ill-treated and a part of their property was damaged. All these cases were investigated, but it must be pointed out that, almost without an exception, the police did not comply with the request of the Ombudsman to reveal the identity of the officers that overstepped their official authorities. Moreover, very frequently the persons on whom physical force was used were not capable to identify the officers who had inflicted bodily injuries. Such an attitude of the police toward the Ombudsman and non-undertaking of disciplinary and other measures against their officers who overstepped their official authorities, if any, only further undermines the reputation of the Ministry and increases the distrust in this Institution that should be a synonym for collective and individual safety of the citizens, as well as the safety of their property.

Although the number of the complaints relating to the unsolved or rejected requests for the acquiring of Macedonian citizenship is dwindling with respect to the previ-

ous years, still puzzles the fact that there are cases when a request for acquiring Macedonian citizenship was turned down although *de facto* the citizenship status was confirmed because the same people were either summoned to serve or already had served in the Army of the Republic of Macedonia, which, as is well known, is a legal obligation binding only the citizens of the Republic of Macedonia. It is expected that the long awaited changes in the Law on Citizenship will not only contribute to the speeding up of the unsolved requests for acquiring citizenship, but also to the liberalization of the legal solutions with respect to the economic and medical situation of the complainants; also, hopefully, it will extend the time foreseen for uninterrupted stay on the territory of the Republic of Macedonia.

Lately, and especially in the wake of the armed conflict, frequent cases of abuse of weapons by the members of the reserve forces of the police were recorded, which sometimes resulted in tragic deaths.

What features other organs of the administration with regard to unjustified delay of proceedings initiated by individual citizens for the purpose of the exercising of their rights related to the acquiring Macedonian citizenship or the regulation of other civil status issues certainly characterizes the Ministry of the Interior as well, although recently there have been noted some improvements.

A negative phenomenon, the most prominent in the reporting period, and within the competence of the Ministry of the Interior, is a large number of vehicles in the traffic without requisite registration cards or displayed symbols that are not an integral part of the form prescribed by the Ministry. This has a negative impact not only on the safety but also on the general security of citizens, and as such cannot be tolerated.

The Ombudsman cannot be fully satisfied with the cooperation with the Ministry of the Interior not only in terms of their slow response to his requests for data or information, but also with regard to the inadequate respect for his recommendations, opinions, and suggestions, and especially with respect to the unresponsiveness of the heads of the departments to directly contact the Ombudsman for the purpose of exchange of opinions related to his intention to suggest improvement of work and handling manner of the authorized officials in their work with the citizens. Unfortunately, not realized also remained the meeting with the first man of this Ministry.

Still, we should greet the initial steps made by the Ministry with the aim to better inform the citizens by means of published brochures that will give the citizens a much better insight into their own rights and the way for their exercising before the departments of this Ministry.

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In order to remove the unlawfulness and irregularities in the work and to improve the situation respecting the protection of the rights and freedoms of citizens in police proceedings, to the Government of the Republic of Macedonia are recommended the following measures and activities:

- thorough lawfulness in the treatment of the summoned or brought in citizens, which presupposes avoidance of forceful measures for the extorting of evi-

- dence against suspects or witnesses and providing a defense attorney in police proceedings;
- intensified activity of the department for internal control that would lead to the reduction of the unlawfulness in the proceedings on the part of the police and also taking penalty measures against the perpetrators;
 - undertaking of all legal actions for the purpose of a successful detection of the doers of criminal offences with the provision of necessary evidence for a further criminal prosecution;
 - speeding up of the procedure for the drafting of the draft-law on the changes in the Law on Citizenship and its use in the forthcoming procedure;
 - enactment of sub-statutory acts that will facilitate a practical realization of legal provisions with regard to the civil status of citizens;
 - permanent vocational training of the employees at the Ministry, especially those that participate in the enactment of administrative acts and those that directly communicate with the citizens;
 - much greater promptness in the communication with the Ombudsman and a much greater respect for his recommendations, suggestions, or opinions.

2.3. Protection in the field of judiciary

The Ombudsman carries out the protection of the citizens in this field by way of following up of the situation at courts, public prosecutions, the Public Attorney, Notary Public, the Ministry of Justice, and penitentiaries in the Republic of Macedonia.

It must be noted here that the impression gained is solely based on the allegations stated in the complaints lodged by the citizens and their check-up through a written communication with the Ministry of Justice. Therefore, the stated impressions must not necessarily represent a realistic and complete picture of the situation, but it suffices to say that they are not as they should be, which is a generally shared view, and can be bettered only if the situation is permanently followed by all the subjects charged with that task, through pointing out irregularities in their work, and through undertaking of measures for their overcoming.

From the very first beginning of the functioning of this institution, the Ombudsman collided with a very important contentious issue: whether, how, and in what manner the Ombudsman can make provisions for the protection of the rights of citizens when they shall be violated by the very holders of judicial function or by the employees at the court administration. This was brought about by the fact that he does not have any concrete legal support, and yet a large number of the complaints refers exactly to the rights for which the complainants' claims were violated by these subjects.

Although in the lodged complaints the citizens requested from the Ombudsman to intervene in the courts of law and effectuate a way the proceedings were conducted, the way decisions were made, or change the type of court decisions, starting out from the independence of the courts, guaranteed by the Constitution and the Law on Courts, the Ombudsman only checked the allegations, save in cases of delayed court proceedings.

With a Conclusion made at a general session, the Supreme Court of the Republic of Macedonia disputed the Ombudsman's right to directly address courts regarding this issue, so that in the ensuing period the checking of allegations was carried out through

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the Ministry of Justice on the grounds of the competences conferred on it by the Law on Courts and Rules of Order of the courts. This indirect communication with the courts has not been disputed up to day, but it is of vital importance not only for his handling but because it further exacerbates the situation with the delay in the exercising of the rights of citizens that turned to him for the elimination of the very same issue.

The tabular presentation clearly shows the situation ascertained in this field in the reporting period, but the general conclusion is that a lot of work remains to be done in order to improve the same. The introducing of computerized operations, that is in the process, will to a great extent contribute to a more efficient work, especially at trial courts where the largest number of delays of court proceedings is recorded; however, by itself, it can not contribute to the improvement of the situation if there is no corresponding influence on the overcoming of subjective flaws most evidently present in the holders of judicial functions and the court administration. The motto *Trial within a reasonable timetable* and *Delayed justice is the worst injustice* should be the leading mottos governing every executor in this line of work in the face of all the hardships he encounters along the way. On the other hand, by means of a more specified legislation, the judicial and the executive branch of power have the obligation to create a material foundation suitable for a more efficient functioning of this segment of power, which will ultimately lead to a more efficient and speedy exercising of the rights of citizens.

The **Public Prosecution**, as an autonomous organ of the state for the prosecution of felons, the **Public Attorney**, as an autonomous agency for the protection of property interests of the Republic of Macedonia, and **Notary Public**, as a public agency, in the reporting period were not particularly singled out in the complaints addressed to the Ombudsman. Nevertheless, a general evaluation that pertains to all the holders of public offices and public authorities is that they should acquire a much higher degree of conscientiousness and competence in the exercising of their public function, which can be accomplished firstly by means of a permanent vocational training and following of legal regulations. This comment certainly refers to the holders of these functions.

In the past period, the Public Prosecution seemed to have become oblivious of its legal obligation to take measures for the detection and prosecution on the grounds of rumours that reached the Public Prosecutor. In the course of 2001, there were numerous affairs presented in the media, and it should have served as the legitimate grounds for acting on the part of the Public Prosecution. If nothing else, it should have been done to satisfy the public, that, otherwise, remains wondering whether a certain affair really happened or it was only a fabrication launched for the purpose of achieving a certain goal. Absence of response sometimes leaves space for doubt in cases when something is not really disputable at all.

In the **Penitentiaries** (homes/institutions and prisons) are placed persons with a limited freedom of movement on the grounds of valid court decisions or decisions by means of which are pronounced detention measures. The residents (inmates) in these institutions exercise their rights just like all the other citizens in the Republic of Macedonia, but also in compliance with the Law on the Execution of Sanctions and House Rules of the institution in which they are serving their sentence or measure.

In the reporting period the exercising of the rights of these persons was followed through sustained visits to prisons and homes, as well as through the checking of the

allegations stated in the complaints lodged by the residents of these institutions or their relatives. With regard to the standard of living quarters and food of the detained or imprisoned persons there haven't been any considerable changes made respecting the situation presented in the previous reports, although to that end some efforts have been put forth. Therefore, we would like to repeat already given recommendations, primarily directed to the executive power, referring to the need to improve the living standard of the convicts and detained persons with respect to living quarters and food and their adjustment to the international standards in all the prisons and penitentiaries.

In one part of the complaints, sent by the residents in these institutions, the Ombudsman was asked to intervene for the purpose of the reducing of the sentence, or there were stated allegations about unfair verdict, which, of course, is not within the competence of the Institution. However, a great number of the complaints present allegations related to improper treatment of the complainants by the caretakers and other personnel tasked with the re-socialization of the convicts. The allegations were checked by means of visits to prisons, especially the Penitentiary "Idrizovo", from where the largest number of complaints was sent to the Ombudsman's Office. However, it should be noted that it is very difficult to check the allegations through the interviews held with the people designated by the management of the Penitentiary, especially in the absence of any material evidence. The response of the persons the complaints refer to would usually be, *"the convict can not accept the fact he is not free, but rather in an institution in which law restricts his freedom of movement."* On the other hand, in the process of checking certain complaints that referred to the withheld right to weekend or vacation outside the institution, it was ascertained that the conditions for the consuming of this privilege were not met in terms of the provisions prescribed by the House Rules of the institution the complainant was the resident of. Of course, this does not mean there were no violations of this kind, but the question is their frequency and how to overcome them.

If we draw a parallel with the preceding period, and if take as a parameter the number of the lodged complaints, we will reach a conclusion that no significant changes were made with respect to the number of the complaints. However, if we seek to overcome this situation, we should first think of the strengthening of the internal control, as well as of a more frequent control by the Agency for the Execution of Sanctions at the Ministry of Justice. Thus not only would there be achieved a much better protection in the field of the rights of convicts, but also a higher degree of professional execution of work by the persons charged with the process of re-socialization of the convicts. Otherwise, the penitentiaries will remain only a shelter for the people to whom by means of a court decision a prison sentence was determined, and not a place for their re-socialization, preparation for their successful return to normal social life, which is one of the primary goals of the penalty policy.

In the reporting period were not registered complaints that refer to a directly incurred violation on the part of the Ministry of Justice. Nevertheless, it was previously stated in the part that refers to the delay of court proceedings that the Ombudsman checks these allegations through this Ministry, that, in keeping with the Law on Organization and Functioning of the Organs of the State Administration, follows the situation in this sphere. It follows then that this government agency should take measures for the overcoming of the negative situation in this sphere. The Ministry of Justice routinely re-

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sponds to the requests of the Ombudsman, thereby in this section of its work, it turns into an organ for the transmission of set requests and given responses.

Therefore, the Ombudsman is of the opinion that the Ministry of Justice should check the allegations through a close inspection into court documents, and they should refer solely to the justified or unjustified delay of the proceeding, and then on the grounds of overall insight gained, take measures for the overcoming of the stated condition. This kind of handling would not at all mean neither any interfering with the work of the courts nor any infringement upon their autonomy in leading proceedings and deciding upon them. On the contrary, by way of undertaking measures for the elimination of the reasons that make the proceedings long and inefficient, a more efficient judiciary will emerge, and through a real rule of law and a fully functional lawful state.

2.4. Protection of the army officers and draftees

The rights of the army officers and conscripts that are the subject matter of the protection in this field are regulated by the Law on Defense enacted in the reporting period, as well as other sub-statutory acts of the Ministry of Defense.

Compared to the previous, this Law incorporates several new solutions respecting the provision of rights of these persons. A novelty in this Law is the regulation of the rights of the draftees that not only out of religious but also out of moral convictions (conscientious objector) do not want to serve in the army under weapons, so that now they can serve in the army without weapons or in some kind of civil service such as health, humanitarian, or social organizations and institutions, fire-fighting units, all of which will be set down by the Government of the Republic of Macedonia. The military service is 14 months. The new law also regulates the issue of exempting a draftee from the obligation to participate in military drills. During the enactment of the Law, said issue was regulated by the Rules of Procedure drafted by the Ministry of Defense of the Republic of Macedonia; however, those provisions from the Rules of Procedure were annulled (abrogated) by the Constitutional Court of the Republic of Macedonia since such issues should be regulated law.

The Ombudsman realized meetings with representatives of the religious sect "Jehovah's Witnesses" because they asked for his intervention in the stay of execution of then pending proceedings for an offence Avoiding Military Service; at the Ombudsman's recommendation those persons were sent to do military service in compliance with new legal regulations. They, also, asked for a practical implementation of the Law. Within this context, the Ombudsman, handling the complaints, turned to the Ministry of Defense with the request to implement the new legal solutions for the draftees - members of this religious sect, since the Constitution guarantees everyone the right to conscientiously object. The Ombudsman is of the hope that the Ministry will act according to these requests and will speed up the procedure for the enactment of sub-statutory acts.

At the Ombudsman's Office was also held a meeting with the family members of the killed members of the security forces during the military conflict. During the meeting, they expressed their indignation and revolt toward the authorities that only declaratively convey their concern for the families of the killed; however, they fall short in the practical realization. The Ombudsman, on his part, informed them about their rights foreseen by

the Law on Special Rights of the Members of Security Forces of the Republic of Macedonia and their Family Members ("Official Gazette of the Republic of Macedonia" No. 2/2002), as well as about the procedure for its realization. They were also offered adequate legal assistance for its realization.

For the purpose of the informing of military officers and draftees about their rights, the Ombudsman drew up a brochure whose publication will be realized in the course of 2002.

Having in mind a small number of cases by means of which is sought the protection of the rights of military officers and draftees, the Ombudsman plans in the future to regularly visit the institutions in which military service is done and the institutions in which draftees from the reserve forces are sent to do their military service throughout the Republic, in all the cities where such institutions exist; furthermore, he plans to organize CONFERENCE and conduct polls among the recruits, soldiers, and draftees with the aim to locate the most urgent problems they are facing, so that the priority list for the acting of the Ombudsman can be drawn up.

2.5. Protection in the field of social rights, labor, and housing relations

2.5.1. Social rights

The economic and social rights, according to the Constitution of the Republic of Macedonia, belong to the basic rights and freedoms of man and citizen. From them is derived the right to live in society without fear from deprivation and poverty. In compliance with the International Pact for Economic, Social, and Cultural Rights and the Constitution of the Republic of Macedonia, the citizens have the right to social security and social insurance. The state makes provisions for these rights in keeping with the principle of social justice, and it also guarantees the right to benefit to the disabled and incapable for work. However, in the last couple of years, in the Republic of Macedonia basic human rights and freedoms, including here the social and economic rights as well, have never been more endangered.

From practical handling it becomes obvious that both in the previous and in the reporting year the complaints from the social field mainly referred to the realization of the right to allowance (relief), permanent relief, single relief, right to care, unemployment benefit, and severance pay.

The figure of over 80.000 households that were the beneficiaries of the relief last year clearly indicates that poverty and deprivation of the citizens is in the rise in the Republic of Macedonia, which, naturally, implies the decrease of their living standard. Generally speaking, the reasons for the increase in the number of the beneficiaries is owed primarily to the following: a high unemployment rate, severance or irregular pay of the unemployment benefit, irregular pay-checks, closing down of companies on various grounds, reforms, privatization, closing down of markets in the warring regions, etc.

In the process of the handling of the complaints, in addition to the usual grievances citizens cope with, it was ascertained that the Centers for Social Work do not establish the factual situation completely and properly, on the grounds of what they later

on turn down the claims of the citizens, forcing them to initiate long lasting administrative proceedings before a competent ministry and before the Supreme Court of the Republic of Macedonia, thus hindering them to exercise their rights efficiently. Therefore, the competent centers were reminded repeatedly to review every individual claim meticulously.

Also, registered was a certain number of complaints by means of which the citizens object to the fixed amount of social relief with the explanation that they cannot cover the minimal costs of living. Although he was well aware of their plight, in the light of the overall situation in the country, the Ombudsman could not demand from the Ministry of Labour and Social Policy to change the fixed amounts.

2.5.1.1. Refugees and displaced persons

In the aftermath of the military operations in the north-western part of the Republic of Macedonia, around 140.000 people left their homes. About 70.000 people, of Macedonian ethnic background, driven out of their homes temporarily were displaced and placed into several housing shelters and individual homes throughout the Republic, while the remaining 70.000 people, mostly of Albanian ethnic background, left for Yugoslavia (Kosova, Southern Serbia) or other countries. On the other hand, since the Kosovo Crisis, in the Republic have still been living around 3.000 refugees, mostly Romanians and Serbs, for whom the conditions to return home still haven't been made.

These people were only offered bare living conditions, thus degrading their basic human rights, such as social and health protection, education, living in a family, etc. The Ombudsman emphasized the need for the competent organs to take measures for an adequate accommodation and realization of basic rights and creation of conditions for their safe return home. During this period the citizens frequently protested demanding their rights to be fulfilled.

With the aim to deal efficiently with the military crisis, the Government of the Republic of Macedonia set up a special body for the dealing with the crises; its main task was to take care of the placement of internally displaced persons and creating of conditions for their complete and fast return homes. With the signing of the Framework Agreement, one part of the refugees and displaced persons returned to their homes. However, the endeavors of the competent authorities to return the remaining refugees caused a revolt because of the unsecured basic, primarily security, conditions for their return (houses unfit for living, destroyed or damaged infra-structure, lack of education facilities, medical protection, and presence of armed groups of extremists, in brief, the territories still not under the control of the security forces of the Republic of Macedonia).

Hence, with a great concern it can be stated that the return of the displaced persons to their homes is going slowly; it is due, mostly, to the not provided material conditions and the restoring of the control of the security forces in the seized territories, which is a priority task for the competent organs, since it is the main prerequisite for the reintegration of this category of citizens.

During the military crisis several cases of abducted persons were registered; they were predominantly of Macedonian ethnic background, and a few of Albanian ethnic

background. Many of them were traced back and found with the help of international organizations and newly formed bodies for the search of missing or abducted persons. They were found, freed, and returned to their homes. Unfortunately, at the moment 13 people of Macedonian ethnic background and 6 people of Albanian ethnic background are still registered as missing (kidnapped), and the competent organs are still not able to offer any facts about their whereabouts, despite the efforts of some international organizations that are also involved into this action. To demonstrate their revolt publicly, their families protested for a long time on the premises of the Assembly of the Republic of Macedonia. The Ombudsman cannot accomplish anything else beyond what they themselves are doing, and that is to exert pressure on the competent domestic and international organs to find their missing relatives.

On the other hand, the relatives of the missing persons of Albanian ethnic background think that the disappearances occurred after those people were arrested by the security forces and taken to the police precincts at the Ministry of the Interior. Notwithstanding such claims, our investigation at the police precincts did not confirm those speculations, that is, such cases were not registered in the police precincts. Thus it remains to be reiterated that the competent domestic, as well as foreign authorities, take all the available measures for their retrieving.

2.5.2. Rights pertaining to labor relations

According to the International Pact for Economic, Social, and Cultural Right and the Constitution of the Republic of Macedonia, the right to labor also belongs to the basic rights of man and citizen, Everyone is entitled to work, protection at work, and financial security during temporary unemployment. The Constitution, also, sets forth that everyone, under equal conditions, has access to every position and every employed person has a right to adequate pay. Every employed person has the right to a paid daily, weekly, and annual vacation. These are the rights the employed persons cannot renounce.

But, alack! What does a right to work represent in the conditions when in the state the unemployed outnumber the employed? The statistical date indicate that in the course of the reporting year, in the Republic of Macedonia there were 311.000 employed and over 360 unemployed with a rising tendency in favor of the unemployed in the forthcoming period. Hence the Ombudsman's conclusion that the right to work has gradually changed into the privilege to work. Under such grave circumstances, the role of the institutions that deal with the protection of human rights is not only difficult but becomes impossible because of a lack of a serious state strategy for the resolving of this huge economic and social problem of the citizens. In the course of last year, many changes occurred in the legal position of the employees. One third of them does not receive regularly pay-checks, 60% of them have an average salary of 100 Euro, the number of the employees with unregulated status increases daily. In this period a large number of them was laid off or fired on the grounds of bankruptcy procedures. One part of employees lost work because during the crisis they were prevented from going to work regularly. Especially typical was the modification of laws that regulate the legal labor position of the employees. Although the Ombudsman tried to fully protect the rights

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of the employees and citizens that lost work in the previous year on various grounds, his endeavors remained futile because the Government of the Republic of Macedonia, that is, the organs and organizations the complaints referred to, did not comply with his interventions.

The largest number of the complaints that referred to the termination of labor relations on the grounds of a given notice of dismissal because of new needs in the department brought about a great discrimination among the workers, employees in the industry, and public administration, in connection with which the Ombudsman ascertained many flaws and irregularities. With regard to these complaints, the Ombudsman, within his remit, submitted his opinions to the Government of the Republic of Macedonia, the Ministry of Labor and Social Policy, and the Ministry of Justice, in which he points out to the violations of the provisions from the Constitution, laws, and the Collective Agreement; however, they were not adopted.

On the other hand, the constitutionality of the Law on Labor Relations in the part that refers to the severance of a labor relation through dismissal on the grounds of the new needs of a department was evaluated before the Constitutional Court of the Republic of Macedonia, that revoked said laws, that is, annulled the Law on the Changing and Amending the Law on Labor Relations.

The Ombudsman advised the complainants to initiate proceedings before competent courts, and according to the available data, the courts have already upheld the claims of the workers whose labor relation was severed on the grounds of the new needs of the department. From this it can be inferred that the Ombudsman's opinion forwarded to the Government of the Republic of Macedonia was justified and with a legal basis.

A significant number of the complaints referred to the violations of the rights of the employees in the public sector in the process of their re-assignment to a new work post or their discharge from one function and re-assignment to another work post, eschewing of the institution job advertisement, taking on of incompetent personnel for the work posts that require a adequate job qualifications, experience, etc. This and similar situations obviously had a negative bearing on the efficient exercising of the rights of citizens that connected this occurrences with political affiliation and nepotism. On this occasion, we would like to single out the discharge of several principals of elementary and high schools by the Ministry of Education and Science without any plausible reasons thereof, or, if any, they were not stated in the notice of dismissal. Unfortunately, the recommendations and suggestions issued by the Ombudsman and sent to the Minister were not accepted, and such a practice continues.

In the reporting period to the Ombudsman turned for help citizens from the war-ringing regions whose labor relation was terminated because during the crisis, for security reasons, they were prevented to regularly report to work. Among them there were 5 citizens from Aracinovo employed at the Public Enterprize "Water-Economy-Vardar" whose labor relation, by the decision of the general manager, was terminated in compliance with the Law on Labor Relations on the grounds of unjustified absence longer than three consecutive days in the course of one year. The complainants submitted to the Om-

budsman a valid documentation proving that during the crisis they had the status of refugees. The same case was with one citizen from Radusa, employed at the Public Enterprise "Macedonian Railways" whose labor relation was severed in the same way. Handling these complaints, the Ombudsman pointed out to the employers to the need for a revision of the procedure, thus enabling these people to start adequate proceedings for the protection of their rights both in the organization and before competent courts. The Government of the Republic of Macedonia made conclusions charging the organs and organizations to take these people back to work.

Regarding individual complaints pertaining to the violations of rights from labor relations of the employees in the private sector, in the light of the fact that the Ombudsman has no authorities to directly contact the employers, if a need arose, he intervened through the Labor Inspection, and that only when he assessed there was a reasonable doubt the employees' rights were violated.

2.5.3. Right pertaining to housing relations

The right to one's own place of living is also one of the basic rights of citizens. The state that professes to be a social state, has the obligation to procure for its citizens a suitable place and conditions for living. Therefore, the citizens, assuming that the state is obligated to solve their housing problem, frequently turned to and asked the Ombudsman to find them a place of living, and when the Government ran an ad for the allocation of apartments, the Ombudsman was asked to intervene for the sake of the legitimacy of the procedure.

In addition to the usual complaints from this field, the Ombudsman handled complaints that referred to the allocation of apartments, in keeping with the Decision on the Manner and Procedure for the Allocation of Apartments built according to the "Project for the Construction of Apartments That Are to Be Let to the Low-Income Population." The procedure was under the Ministry of Transport and Connections, and the allocation itself was managed by a special commission consisting of five members, out of which three were from the Ministry of Transport and Connections and two from the Ministry of Labor and Social Policy. While handling the lodged complaints, the Ombudsman ascertained certain irregularities and inconsistencies in the application of the criteria set by the Decision and in the application of legal provisions. Namely, after the ad for the allocation of apartments intended for young married couples and people with unsolved housing problem and low income was run, according to the statements in the complaints, a great number of people from said strata expressed their dissatisfaction by the manner in which the apartments had been allocated in spite of the fact that these complainants fully met all the requirements. Also, the citizens were informed about the final decision by the Commission of the Ministry of Transport and Connections by means of a notification without legal remedy. On the other hand, the Appellate Commission of the Government of the Republic of Macedonia for the Solving of Administrative Affairs from the Field of Urbanism and Construction Building proclaimed itself not competent for the appeals of the complainants and forwarded the same for handling to the Ministry of Transport and Connections – Department for Housing Affairs and Infra-structure.

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Ascertaining violations of the rights of the complainants, in terms of the existence of irregularities in the procedure for the allocation of the apartments, the Ombudsman sent a Recommendation and an Opinion to the Ministry, as well as a written information to the Minister. With these documents, the Ombudsman suggested to the competent ministry to repeat the procedure for the allocation of the apartments, by means of which the irregularities will be removed and the constitutional and legal provisions complied with. Also, he stressed the importance of not entering any contracts for the use of the apartments with those to whom the apartments had been allocated if up to the moment of the allocation that had not been done. At the same time, from the Ministry of Transport and Connections was requested to review and decide on the demurs (objections), and if it was still of the opinion that it was not competent, in compliance with the provisions of the Law on general Administrative Procedure, to file a proposal for the resolving of the conflict of competences. Further, it was requested to make a decision in the form act-decision in the repeated procedure, after which it would be determined which organ would be competent with regard to the complaints of the dissatisfied citizens, and if said citizens filed a separate claim, the documents that they enclosed to the claim lodged for the allocation of an apartment were to be returned.

Since the issued suggestions were not adopted, in the subsequent course of the procedure the Ombudsman turned to the Government of the Republic of Macedonia with the information in which he requested the removal of the stated irregularities emerged during the allocation of the apartments. In the Information the Ombudsman suggested that the Government reconsider the Decision on the Manner and Procedure for the Allocation of Apartments, so that if the apartments were treated as social, with the decision of the allocation of apartments the Law on Social Protection should be applied consistently, both with respect to the requirements and the allocation procedure. Unfortunately, the Government neither responded nor accepted the interventions of the Ombudsman.

A special problem in the Republic represents a lack of care of the competent organs for the solving of the problems of homeless people, for whose resolving ought to be undertaken necessary and urgent measures.

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From the above stated can be inferred that this year, again, numerous constitutional and legal rights from the so-called second generation of human rights, such as the right to work/employment, social protection and social security, and the right to a place of living, in all their modalities do not have a real basis to be realized. In the conditions of a severe financial and economic situation the Republic of Macedonia is in in this transitional period, although the claims of the citizens were justified, the Ombudsman was in not in the situation to assist them in the exercising of their right to employment, to ensure social justice and security, and to solve housing problems. Furthermore, a lack of funds committed for the social protection had a negative impact on the right to social protection, so that in a situation like this, there hardly can be any implementation of international standards for social justice. Nevertheless, competent organs and organizations should and have to create conditions for the employment of the citizens and the

conditions for the basically guaranteed level of social justice and security in order to be able to speak about a satisfactory level of the respect for the civil rights and the authority and legitimacy of the one guaranteeing them.

On the grounds of the above stated, and for the purpose of the improvement of the situation in these fields, the Ombudsman recommends to the Government of the Republic of Macedonia and the competent organs to undertake the following measures and activities:

- create healthy economic foundations and financial basis for a realistic realization of the social rights of the citizens;
- promptly act (handle) upon and respect the requests and interventions of the Ombudsman and the claims of the citizens.

2.6. Protection of the rights form the field of health, pension, and disability insurance

2.6.1. Health insurance

In compliance with the Constitution of the Republic of Macedonia, every citizen has a guaranteed right to medical protection, which, in accordance with the legislation, is realized on the basis of the principles of reciprocity and solidarity. What featured the reporting period is that almost in half of the complaints lodged there were ascertained violations of the rights of the complainants, which indicates that despite the application of the principles of reciprocity, solidarity, humanity, social justice, and the respect for the constitutional responsibility prescribing that every person should take care of his own health, still we cannot conclude that these principles are observed, first and foremost by the responsible persons charged with the care for other people's health; then the legislation is not complied with; moreover, very often it is the very obstruction impeding the exercising of the rights from this field.

This year, again, a large number of the complaints referred to the problem of delayed payment of health benefits or delayed distribution of medical slips to the insured persons, which undoubtedly leads to a use of medical services that is fraught with complications. However, it should be noted that after the Ombudsman intervened in some instances, that problem was overcome.

A special grievance that should be mentioned pertaining to the payment of health contributions and the use of medical services was the payment of a 70% discount in conformity with the Law on Financial Operations, when the Fund held the view that the benefit due to sick leave on any ground should be proportional to the payment of contributions, in other words, the insured parties would be only paid 30% of the foreseen pay compensation. In such cases, the Ombudsman pointed out that the aim of the benefit for the payment of contribution with a 70% discount was exactly to ensure the realization of the rights of the insured persons and not to deprive them of that right. This view of the Ombudsman was further enhanced by the decision made by the Supreme Court of the Republic of Macedonia. After a long-lasting prompting and perseverance on the part of the Ombudsman, after delivered packages of information to the competent minister and

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the Government, the Fund for Health Insurance complied with the Ombudsman's suggestions and paid the full sick benefit. With regard to the exercising of the rights from the medical field, depending whether the contributions were paid or not, a typical stance of the Fund should be noted here; namely, they did not issue medical slips to the persons for whom contributions were regularly paid only because said persons, several years before, as sole proprietors paid a contribution with a smaller rate than prescribed. The Ombudsman pointed out to the Fund that it is in contravention to the Law not to issue medical slips to the person that had medical insurance on the grounds of a labor relation and for whom contributions were regularly paid only because as a sole proprietor in the preceding period he paid contribution at a lower rate. After repeated interventions and suggestions of the Ombudsman's, this view was adopted.

Another problem that emerged in the field of medical protection was unlawful procedure while fixing the expenses for treatments abroad. Namely, the citizens that turned to the Ombudsman had a proper documentation for approved treatments abroad, and in keeping with the Law and sub-statutory acts, in such cases the insured person has 80% of the expenses incurred during the treatment abroad recognized. However, the Fund, in contravention to the Law, forced the citizens to enter contracts and agree that the Fund only pays them 20% of the expenses, and if they did not give their express consent, the Fund did not issue them the resolution for the treatment abroad.

Setting out from the stated facts, the Ombudsman sent a recommendation with a request to act in keeping with the Law and annul such contracts, but the Fund did not take actions to that end; on the contrary, it carried on with such a malpractice. Therefore, the Ombudsman sent written information to the Fund containing a proposal with corresponding measures and activities for their acting in compliance with the Law. The information and the recommendation of the Ombudsman were not adopted by the Fund, and the Ombudsman notified the Ministry of Health, that accepted his remarks, thus bringing to an end the unlawful practice of entering contracts for medical treatments abroad, and said right continued to be exercised in compliance with law.

Before the Ombudsman were also presented the problems of the citizens with regard to the accepting of medical views of the doctors' consultation, as well as the problems with non-compliance with the verdict of the Supreme Court of the Republic of Macedonia relating to the treatments abroad for the purpose of artificial insemination. The Ombudsman referred a suggestion with a proposal to comply with Law and the Verdict of the Supreme Court; however, up to day, they still haven't complied with said interventions.

In the Republic this year live issues were the sub-statutory acts of the Fund pertaining to the fixing of the participation in the price of the medical services for the insured persons. At his own initiative, the Ombudsman took measures for the revoking of the same because they were not in keeping with the Law, that is, the Minister of Health did not approve them, which is his legal obligation. For these reasons, a part of the risk groups of the population, such as children and older people could only use medical services with great difficulties. Therefore, the Ombudsman suggested to the Fund to review said acts and make acts that would enable the use of medical services for the entire population, especially children and people under 65. By virtue of this initiative, the con-

tentious acts were annulled and replaced with new ones, thus improving the conditions for the use of health protection for these categories of citizens.

The Ombudsman, also, suggested to the Fund to reconsider the possibility to exempt from participation severely ill persons and terminally ill persons since the costs of the treatments are high and the treatment is long, and most of the insured persons cannot afford them due to their straitened circumstances.

The existing legal and sub-statutory legislation, as well as the status of the Army Hospital, caused problems in the work of this health institution with regard to the procurement of funds, that is, covering of the part of the expenses for treatments abroad through the Fund for Health Insurance, for the purpose of which the Ombudsman intervened. The view of the Fund that with the expiry of a previously made contract with the Army Hospital, the obligation to transfer funds earmarked for the treatment abroad that fall on the burden of the Fund to the account of the Fund terminated, especially because this hospital is within the Ministry of Defense. All this entailed an obstruction of the work of the Hospital, resulting in non-referring of patients from other hospitals to specialist and other medical check ups. These problems, that thus thwart the exercising of the rights to medical protection are still living issues and not solved.

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For a more thorough exercising of the right to medical protection, the Ombudsman is making a recommendation to the Government of the Republic of Macedonia, the Ministry of Health, and the Fund for the Health Insurance to take measures and activities, as follows:

- consistently respect and properly apply the legal and sub-statutory acts that regulate the exercising of the right to medical protection;
- change and amend the legislation with respect to the creation of conditions that will provide that no child or elder and weak person will be left without adequate medical protection due to no grounds whatsoever;
- create the conditions to exempt from participation for any medical service severely or terminally ill persons;
- comply with and timely respond to the requests, recommendations, and opinions issued by the Ombudsman;
- fully respect and comply with court decisions.

2.6.2. Pension and disability insurance

By virtue of the Law on Pension and Disability Insurance, the rights from the field of pension and disability insurance at the first level are exercised before the Fund for Pension and Disability Insurance, and at the second level before the Government of the Republic of Macedonia, whereas the protection by means of courts of law is exercised before the Supreme Court of the Republic of Macedonia. Retirement, family, farmer's, or

pension acquired abroad are the rights for whose realization the citizens mostly turn to the Ombudsman.

Retirement pension can be realized under the conditions set forth by law, that is, when the citizen reaches a certain age and a certain number of years of seniority. The right to the retirement pension includes the number of years spent at work, but only if the contributions are regularly paid and entered into the master register file of the insured person at the Fund for Pension and Disability Insurance. In practice, although there is legal obligation for it, very often the employers do not pay the contributions or the evidence thereof does not reach the Fund, because of which the citizens forfeit the right to acquire retirement pension although they meet the legal prerequisites. In cases with private employers, over which the Ombudsman does not handle with authority, the citizens were referred to the court protection, and if it was a case of employers over which the Ombudsman handles with authority, actions were taken to induce the employer to pay the fallen back contributions. In such a manner, the organs complied with one part of the Ombudsman's interventions.

Regarding the realization of the right to retirement pension, citizens often complained about the fixed amounts of their pension checks claiming that they should be higher. In such cases the Ombudsman intervened only when while fixing the sum into consideration were not taken all the years of service or paid checks, in keeping with the legal regulations for the determining of the basis for pension.

With respect to the exercising of the right to **disability pension**, the citizens most frequently complained about the delayed procedure not only before the commissions at the first level, but also before the appellate organs that decide on the appeals. With regard to the delayed procedures, the Ombudsman often intervened, although, unfortunately, despite the improved cooperation with the competent commissions measures were taken to speed up the procedure, it still is long, which necessitates other measures for improving its greater expediency.

Relating to the exercising of this right, from the Ombudsman was often sought to intervene before competent commissions in order to determine the degree of disability so that the complainants could exercise their right to disability pension. The citizens expressed their distrust in the commissions for the determining of the degree of disability because although on the grounds of enclosed medical evidence they were not capable to work, the committees would decide contrary. With regard to these complaints, the Ombudsman could offer very little assistance because he was not competent to assess whether a citizen meets the requirements for disability pension in terms of his health. However, in certain cases, when it was obvious that the party suffered from an incurable disease that completely incapacitates him for work, he suggested to the commissions to reconsider their statement.

In the exercising of the rights from this field, this year again was raised the issue of the realization of the right to the adjustment of the pension checks for 8% of a certain category of pensioners to whom a part of their pension check was retained in keeping with the Law on the Payment of Salaries and Pensions. This Law was annulled by the Constitutional Court of the Republic of Macedonia, and the deductions have not yet

been returned for all the years back. The excuse of the Fund is that the Government hasn't procured funds for that purpose. Another adjustment that was an important issue in the reporting year was the adjustment of the pension checks of the persons-retirees of the Ministry of the Interior in keeping with the Law on the Internal Affairs. The Supreme Court made a decisions pertaining thereof and charged the Fund to make the adjustments of the pension checks of these persons for 48,53%. However, once again, due to a lack of means, this was not done.

Contentious cases handled by the Ombudsman were lodged by the pensioners who realized their pension in one of the penitentiaries that is now under the jurisdiction of the Agency for the Execution of Criminal Sanctions at the Ministry of Justice, and for which no adjustment was foreseen, as it was the case with the former employees at the Ministry of the Interior, although they carried out the same duties and tasks. Handling these complaints, the Ombudsman pointed out that it is necessary to make resolutions at the request of the citizens in order to enable them to initiate further administrative proceedings. Notwithstanding the Ombudsman's interventions, the Fund did not make any formal resolutions.

The exercising of the right to pension awarded abroad is also fraught with difficulties because of the delayed delivery of data from foreign funds, as well as delayed proceedings before the Fund for Pension and Disability Insurance in the Republic of Macedonia. Due to the stated situation, the Ombudsman intervened several time, bringing about a positive outcome.

A special problem the Ombudsman handled in the reporting year was pooling of funds from the pensioners; these funds were then used as relief in case of a death of a pensioner, the so-called solidarity fund.

Last year the pensioners sought Ombudsman's intervention because the Fund for Pension and Disability Insurance made a decision on the manner of collecting and distribution of funds the pensioners voluntarily deducted from their pension checks. The Ombudsman pointed out that the Fund has no legal authority to regulate the issue of the pooled funds and that that right solely belongs to the pensioners and their associations that can wield the only authority to dispose with the funds from the solidarity fund. Despite his interventions, in 2001 the Fund made a decision with which it regulated the issue on the pooled funds from the solidarity fund, while setting forth that they would be retained on a special account of the Fund and that the distribution would be carried out by its regional units. The Ombudsman reiterated that this decision conflicts with the Constitution and law and proposed to the Fund to revoke it, in the meantime advising the complainants to submit an initiative to the Constitutional Court of the Republic of Macedonia for the initiating of proceedings for the evaluation of the constitutionality and legality. After the initiative was lodged, the Constitutional Court stayed the execution of the made decision and initiated proceedings for the evaluation of its constitutionality and legality.

This year again a hot issue was the exercising of the right to unemployment benefit while waiting for another job for people who are disabled workers in case of bankruptcy of their company, that is, its liquidation. On the occasion of the complaints,

after Ombudsman's repeated interventions and undertaken measures, the Fund complied with his suggestions and the rights of the complainants were successfully exercised. One of the most prominent problems obstructing the exercising of this right was deleting of the liquidated company from the court register, so that the Ombudsman pointed out that although the company was liquidated, it was not entered into the court register, because of which the parties could not exercise their right to unemployment benefit. The Ombudsman intervened at the court as well asking to enter those facts into the register, which was done, and the parties exercised their right.

Living issues were also the complaints of citizens that sought the realization of the right to benefit for the remaining work capacity. Namely, the persons that the Disability Committee treats as people with a changed work capacity or persons for whom there is a danger of becoming disabled, a category not foreseen by law, cannot exercise their right to benefit. The resolution to this problem is awaited with the authentic interpretation of the Law on Legislature Commission at the Assembly of the Republic of Macedonia.

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The situation pertaining to the exercising and respect for the rights in this field indicate that although a certain headway was made in that respect, the rights of the citizens are still being too slowly exercised, while deliberate and random legal omissions and disrespect for the rights of citizens were made. Therefore, in order to improve the situation with regard to the rights in this field, to the Government of the Republic of Macedonia, competent ministry, the Fund, and competent committees the Ombudsman recommended to undertake the measures and activities as follows:

- comply with and promptly handle the claims of citizens, as well as act upon the requests, recommendations, and reports of the Ombudsman;
- speed up the proceedings for the exercising of the rights from the pension and disability insurance;
- revise and adjust the legislation for the purpose of a more efficient exercising of rights, while informing the Ombudsman about these projects at the same time;
- procure funds needed for the payment of the obligations that stem from the decisions of the Constitutional Court and the decisions of the Supreme Court in order to adjust the pensions for 8%, as well as funds for the adjustment of the pension checks of the retired employees of the Ministry of the Interior;
- consistently comply with and execute court decisions.

2.7. Protection of the rights from the field of education, science, culture, and sport

A large number of complaints from this field, referring to the protection of the rights from the field of education, referred to the higher education and the obligation of certain faculties at "Ss. Cyril and Methodius" University in Skopje to participate in the financing; a part of them referred to obtaining of scholarships for studying abroad, some of them to the verification of diplomas, and other issues.

What featured the complaints referring to the issue of participation was that the faculties often inappropriately charged the students to pay participation, that is, they did not exempt them from that obligation although they met the requirements. With regard to the participation, there were complaints that referred to the amount of participation fixed by the faculty while the Ombudsman did not have the opportunity to intervene in this issue because within the fixed amount of participation set forth with the application of new students, every faculty independently determines the amount the students have to pay while registering for that academic year. On the basis of certain knowledge gained from daily newspapers and other media that published or aired the reactions of the students of the faculties at "Ss. Cyril and Methodius" University in Skopje and focused on the variations in the participation sum, the Ombudsman, at his own initiative, initiated a procedure for the protection of their rights and submitted it to the Administration Building of the University. The Ombudsman got the response that a large number of faculties where conditions allowed it levelled the requirements for the payment of the participation. Those colleges whose financial situation did not make it feasible for them to reduce already fixed participation sum did not change the requirements, that is, they will carry on applying the previously determined amounts.

The Ombudsman acted at his own initiative, also, with regard to the accommodation conditions of the students in dormitories, so that to that end he thrashed the issue with the competent organs at dormitories and the competent ministry, both of whom, on their part, committed to undertake measures for the improvement of the standard of living of students.

It should be noted that this year differed from the previous in the freshmen application ads for the faculty at "Ss. Cyril and Methodius" University in Skopje and the same faculties at "St. Kliment Ohridski" in Bitola. Namely, the freshmen students at the former, among other requirements for entering the University, had a compulsory entrance exam while at the latter, that was not foreseen. Of course, the emanating result was self-evident in the amount of funds for co-financing, which inevitably leads to the inequality among students and necessitates undertaking of corresponding measures for the adjustment of the conditions for enrolling at college.

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For the reasons of the above stated, although the recommendations and opinions of the Ombudsman issued with respect to the rights from the field of education were in most cases adopted by the competent organs, still the Ombudsman holds the view that for the overcoming of the problems from said field and for the commanding of a more thorough respect for the rights of the citizens, the competent organs should undertake the measurers and activities as follows:

- create equal conditions for studying, especially with respect to co-financing (participation) of the students;
- create conditions for the improvement of the students' standard of living;
- respect and comply with the proposals, recommendations, and opinions of the Ombudsman and consistently implement regulations;

2.8. Protection of the rights of children

For the past two years, within the institution Ombudsman has been functioning a Department for the Protection of Children that handles the complaints from this sphere and reviews the grievances that refer to the rights of children and the possibilities for their exercising. In that manner, the protection of the rights of children got a prominent place in the functioning of the institution Ombudsman. While securing the protection of the rights of children, the Ombudsman is governed first of all by the principles from the Convention on the Rights of Child and the basic principles that are preferential in the protection of the rights of children, them being: their best interest, non-discrimination, and their right to partake in all the decisions and activities that pertain to them.

What featured the reporting year was that in the majority of lodged complaints were ascertained violations of the rights of children. It is worth-wile mentioning that mostly Ombudsman's suggestion were adopted and complied with.

The main characteristic of the handling of the complaints from this field was that this year the complainants were mostly parents, that is, it is still a rare occurrence that the Ombudsman's assistance is sought by children themselves, which, of course, does not mean that their rights are not violated. It might be due to the fact that children have not been informed enough about their rights and possible ways of protection, as well as about the assistance the Ombudsman can extend. Nevertheless, the number of children turning to the Ombudsman for help is increasing, which is evidently the reflection of his visits and lectures held in schools and distribution of educational brochures on the rights of children.

In terms of the contents of the complaints, in the reporting period the complaints mostly referred to family rights, that is, rights to the realization of personal contacts of parents with children in cases of divorced or separated parents when the child, by way of a court decision was given for care and custody to one parent. The common denominator of these complaints is that in most cases one of the parents claims his/her visitation rights were violated. In the course of the ascertaining of the factual situation, the Ombudsman was primarily governed by the rights of children and what was in their best interest; and often discovered that due to some unsettled issues between the parents, the former spouses take actions by means of which they themselves violate the rights of their children, that is, do not enable, or prevent maintaining of personal contacts with the other parent. The handling of these complaints always included contacting of professional persons-experts from the centers for social work. It was done to aid the finding of the best solution for the child to exercise his/her right, to maintain contacts with the parent he/she is not living with. Unfortunately, sometimes the efforts of both the Ombudsman and the centers for social work did not yield any positive outcome because the parents were not responsive and did not express readiness to cooperate with the centers for social work. Furthermore, there were case of the abuse of the visitation right, that is after a visitation, the parent would not return the child back to the parent the child was entrusted to for care and custody, and in practice the competent organs had a hard time dealing with that problem.

In the light of the fact that the largest number of the complaints referred to the violations of the visitation right, the police assistance in these procedures is usually used as the last resort, sometimes even not at all, because it can have long-lasting traumatic consequences on the mental health of the child. In his suggestions directed to the centres, the Ombudsman usually singled out as the most suitable the consultations method, that is, a conversation with both parents. Since the handling of these complaints is frequently inefficient due to exhausted means, that is, unresponsiveness of the parents and their not coming at the invitation of the centres, the latest practice of the Ombudsman is to invite for a consultation the parent that obstructs the visitation of the other parent and points out to him/her the rights of his/her child, guaranteed by the Convention, and the legal consequences of such an acting, that is, his/her impeding the contacts of the other parent with the child. It turned out to be fruitful and brought about renewed contacts between children and parents that do not live with them. With regard to this very same issue, it can be emphasized that the centers for social work often suspend their activities in more complicated cases because they could not secure the cooperation with parents due to their utterly broken down relationship. In such cases, not seeing any other possibilities that would effectuate the exercising and the protection of the rights and interests of children, that often during the interviews at the centers demonstrated that they were traumatized because of the behavior of their parents, the Ombudsman asked from those organs to take more energetic measures, even initiate procedures for taking away of parental rights. However, much to everyone's dismay, because of absence of adequate mechanisms in the system, that is, their malfunctioning, some children unlawfully seized by one parent remain out of touch with the other parent. Such parents often change the place of living so as not be traced by the centre of police, which aggravates the execution of the decision on visitation rights by the other parent.

With regard to the cases treated as **social rights of children** or other rights of children before the competent organs, it can be noted that there is responsiveness and that the centres for social work have an ear for them and are consecutively more flexible while handling the acknowledgment of these rights.

What featured this period was that after the enactment of the Law on the Protection of Children the number of the complaints referring to the exercising of the right to child allowance or the right to a special allowance for children with special needs decreased. Naturally, this is a reflection of the regulation brought about by said Law, for which the Ombudsman gave a great contribution as well. Namely, his proposals and suggestions in keeping with the Convention were adopted and introduced into the new Law. However, there are still inadequate conditions for a consistent implementation of certain provisions from the Convention and the Law on the Protection of Children, making certain provisions of this Law inapplicable in practice, which prompted the Ombudsman to intervene at the competent ministry to enact them.

Bearing in mind the security situation in the country, in the reporting period frequent were cases of abuse of minors since they were involved in the armed conflicts. Therefore, there were complaints in which was sought the protection of minors that were found guilty of terrorism by courts and arrested on the grounds of a reasonable doubt they committed that felony.

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Since the Ombudsman has no legal authority to affect the course and outcome of court proceedings, he only undertook measures geared towards the protection of the rights of minors in penitentiaries by means of visits to minors placed in these institutions and investigation of violations of their rights because of ill-treatment, if any. In the light of the fact that the convicted minors were in the meantime freed under general amnesty, the Ombudsman had no further ground to resume the handling of the complaints.

In the field of **education**, this year was lodged a large number of complaints that referred to an improper treatment of teachers and professors, that is, the complaints addressed the issue of psychological harassment and improper grading of students. In those cases the Ombudsman could not ascertain the justification of the claims of the parents save in one case, when the Ombudsman's investigation confirmed the allegations presented in the complaint, and, on the grounds of that, at the Public Prosecution were brought criminal charges and the court proceeding is pending.

As regards the complaints that referred to the alleged improper grading of students, the Ombudsman could not take adequate actions except to advise parents and their children about the legal means for the disputing of the grades they were dissatisfied with.

This year, as well as last year, the Ombudsman dedicated special attention and care to the children with special needs insisting before competent organs to more consistently respect the rights of children from this category. Also, he put forth efforts to find more suitable ways and methods for the creation of conditions for the meeting of their needs and rights, without discrimination and in conformity with their best interest.

Since last year a rationalization (reduction) of personnel was carried out not only within the state organs but in public institutions as well, there emerged a grave threat that at the institutions that care for children and minors with developmental problems there would be a shortage of personnel for the care of these children. For those reasons, at his own initiative, the Ombudsman started a procedure and pointed out to the competent ministry the need for exercising a much greater consideration in taking measures with regard to the rationalization (reduction) of the personnel in these institutions, bearing in mind the category of children it affects. The Ombudsman's suggestions were adopted and complied with, so that the competent ministry took measures for the procurement of personnel needed at these institutions.

Within the measures undertaken, with the aim to aid the realization and protection of the rights of children with special needs, a special intervention of the Ombudsman should be pointed out; namely, the complainants were the parents of the children that suffer from cerebral palsy, and with that in mind, the Ombudsman submitted information to the Ministry of Labor and Social Policy and the Ministry of Health proposing to set up day care centers for these children in which they will be provided with all the special care, the highest degree of medical protection without any participation, education suited to the psycho-physiological development and aptitude of every child that suffers from this disease, and create conditions so that children can be retained within their own families because of the improved financial conditions and training of parents, so that

they themselves would be able to care for their own children. In addition, the Ombudsman repeated the need for the improvement of urban-developmental solutions for a much better mobility and access of these children in the urban environment.

In this period, beside handling the complaints, the Ombudsman took activities intended for the raising of awareness of children regarding their rights; it was carried out by way of a brochure "Learn About Your Rights". Furthermore, the Ombudsman paid visits to elementary and high schools, as well as institutions that care for children for the purpose of introducing them to their rights guaranteed by the Convention on the Rights of Children, the Constitution of the Republic of Macedonia, and laws, as well as by instructing them about the competencies and possibilities for the protection of their rights before the Ombudsman. The brochures on the rights of children were distributed in all the elementary and high school in the Republic. In order to ensure respect for the rights of children from other ethnic communities, the Brochure will be printed in the languages of the other ethnic communities and distributed to elementary and high schools. To that end, in the procedure is the printing of the Brochure in Braille alphabet intended for children with damaged eyesight.

In addition to other activities geared towards the protection of other children's rights, the Ombudsman undertook corresponding measures for the protection of children-victims of people trafficking; beside his proposals for the reducing and fighting of this problem addressed to the competent organs, another brochure was drafted. Its aim was to educate children about their rights and possibilities of their protection, that is, in case they become victims of this trade with people, where to search for help in order to come back to normal life, to their family or state, if they are foreigners.

The Ombudsman's proposal for a legal defining of the trade with people as a special criminal offense was adopted through the changes and amendments of the Criminal Code.

In the field of the implementation of the provisions of the Convention on the Rights of Child, the Ombudsman submitted to all the ministries and the Government of the Republic of Macedonia proposals for the changing and amending of the legislation that pertains to the rights of children. Occasioned by said proposals, the National Committee for the Rights of Children organized a round table discussion with the participation of the representatives from all the ministries and other relevant organs and organizations, as well as a specially vigorous partake of a large number of non-government organizations. The proposals of the Ombudsman, the ministries, and the non-government organizations were compiled by the National Committee and submitted to the President of the Republic, President of the Assembly of the Republic of Macedonia, and the Prime-Minister, after which a concrete implementation of the given proposals in specific laws is to be expected. In the meantime, in keeping with the Ombudsman's proposals, with the Law on the Local Self-Government, street kids were foreseen as a special category of children with a special care and protection under the units of the local self-government, which will entail that every municipality that has problems like that will take corresponding measures for the fighting of this occurrence that leaves a very grim impression and signifies a lack of care of the entire community for this category of children.

As a result of the security situation in the Republic of Macedonia, basic rights of children were threatened, that is, lives of many children from the warring regions were endangered, as well as their health and normal survival and development. Therefore, from the outset, the Ombudsman turned to the competent state institutions demanding that they take measures within their competence, especially to take into consideration the integrity, rights, and interests of children, to take measures for their protection from involvement into military actions, to provide the displaced children with basic rights and a right to education in the places of their temporary stay. To that end, in cooperation with the Red Cross of the Republic of Macedonia, the Ombudsman followed the situation with the displaced people and conditions for their corresponding accommodation.

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The stated situation with respect to the rights of children indicates that there has been noted a certain progress in the legislative regulation of the conditions for the realization of these rights, mainly by means of the enactment of the Law on the Protection of Children and the changing and amending of other legal acts. However, due to the grave economic situation in the Republic of Macedonia, first of all of the entire population, in other words, due to the inadequate standard of living, the rights of children are realized with great difficulties. This calls for a creation of not only legislative, but also material conditions that will enable everyone, and in particular children, to exercise their rights.

A successful cooperation of the Ombudsman with non-government organizations that deal with the protection of the rights of children continued this year as well. For certain issues and problems with regard to the exercising of the rights of children, the Ombudsman and the organizations acted jointly before the competent organs, or, on the grounds of information gained from non-government organizations, the Ombudsman started initiatives before the competent organs.

While handling the complaints for the protection of the rights of children, the Ombudsman noticed that the competent organs are responsive and mostly comply with his proposals and recommendations; however, for the overcoming of the problems emerging in the exercising of the rights of children and for a more consistent exercising of all the rights guaranteed by the Convention on the Rights of Child, the Ombudsman recommends to the competent organs to take measures and activities as follows:

- devise efficient methods and ways for the execution of the acts that refer to the maintenance of personal contacts of children with the parent who does not live with them drafted by the centers for social work; also, to find methods and ways to take away the child from the parent who forcefully abducted the child from the parent to whom it was awarded for care and custody by virtue of a court decision or an act made by the center;
- while making decisions that affect children, the competent organs should be governed by the best interest of the child and not only the interests and desires of the parents;

- the state should procure funds for the securing of an adequate living standard of children, which represents a prerequisite for the exercising of the rights of children and while allotting the funds, children should have a preferential right;
- create conditions for the exercising of the rights and involvement of children with special needs into social life;
- create conditions for a normal survival, growth, and development of displaced children from warring regions;
- adopt the proposals of the Ombudsman for the purpose of a thorough implementation of the Convention on the Rights of Child while changing the legislation.

2.9. Protection of the rights from the field of urbanism, construction building, and living environment

2.9.1. Urbanism and construction building

By their nature, urbanism and construction building is one of the spheres of social life of special significance, and therefore of particular interest to the citizens of the Republic of Macedonia. In order to facilitate the realization of these interests not only for the needs of citizens as individuals, but for society at large, a more precise legislation and its consistent implementation is requisite.

The fundamental legal regulations by means of which the citizens of the Republic of Macedonia exercise their rights and interests from this field are: the Law on Development, the Law on the Construction of Investment Buildings, and the implementation itself is executed in an administrative procedure before regional units of the Ministry of Transport and Connections.

The oversight in the implementation of these regulations is within the competence of the Inspectorate for Urbanism and Construction Building that, also, is an organizational unit within the same ministry, stipulated by the provisions of the Law on the Civil Engineering Inspection.

In his capacity as a constitutional category and on the basis of his competences that are derived from the Law on Ombudsman, the Ombudsman represents a controlling mechanism that through his handling of cases draws up recommendations, suggestions, or opinions that are sent to this Ministry and its regional units. Thus he is making continuous efforts aimed at a more consistent implementation of regulations and through it a more efficient exercising of the rights of citizens, always bearing in mind the principle of equity, and, first and foremost, the principle of rule of law and functioning of a lawful state.

Governed by these very principles, in the past period, including the reporting period as well, in this field were noticed many negative phenomena for whose overcoming were put forth and still are being put forth huge endeavors. The registered negative occurrences can be located in an unjustified delay of administrative procedures with regard to the claims for the allocation of development land for use, for the construction of in-

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vestment buildings, or for the enforcement, that is, execution of valid court decisions made by the Ministry.

A special problem the Ombudsman emphasized in the past reports sent to the Assembly of the Republic of Macedonia presents the unresponsiveness on the part of the Ministry to cooperate with the Ombudsman's Office, as well as the non-compliance with his recommendations pertaining to the execution of valid court decisions for tearing down of unlawfully built constructions. For this reason, on several occasions the Ombudsman sent relevant information not only to this Ministry, but also to the Government and the Assembly of the Republic of Macedonia.

These interventions notwithstanding, there are no visible signs of any kind of improvement neither with respect to the situation itself nor with respect to the cooperation or complying with the Ombudsman's opinions. On the contrary, in the communication with him, which, by the way, only formally is being carried out, the Ombudsman is denied the right to closely inspect the Program for the Implementation of Executive Acts for Tearing Down of Unlawfully Built Constructions with an excuse that the act is of confidential nature. This stance of the Ministry of Transport and Connections contravenes with Article 20 of the Law on Ombudsman pursuant which *"organs and organizations have the obligation to cooperate with the Ombudsman and at his request provide all data and information, irrespective of the degree of confidentiality, and enable the implementation of the procedure."*

The problems accumulated from the past in the field of urbanism and construction building was triggered off by the migration village-city, as well as the unpreparedness of the legal system itself to regulate this issue in the most adequate way. Thus it generated chaos in this sphere and many unlawfully built constructions sprang up, and, ultimately this created obstructions standing in the way of normal living. Nevertheless, it cannot serve as an alibi and a further tolerant attitude toward the contractors of these unlawfully built constructions not to undertake measures for a gradual resolving of the situation and tendencies. The more so are baffling the replies of the regional units of the Ministry of Transport and Connections of the type, "it is an older construction," searching for a reason no to execute specific resolutions for the tearing down although they are valid and enforceable, and although it is beyond any dispute that these constructions cannot be incorporated into the development plan. Also, their replies of the type, "the documents have been lost or because a long time passed destroyed," thus justifying the non-execution.

It should be also noted that the executions by the urban police are not fully enforced, pursuant Article 39 of the Law on the Building of Investment Constructions; rather, the executive department is satisfied with only a decapacitation of said construction by way of undermining of its constructional parts. Such an incomplete carrying out of the acts enables the contractors of unlawfully built constructions to continue their unlawful building activities, that is, carry out a recovery of the construction and then resume with the unlawful building of the construction.

Another problem that is also not given sufficient notice is not taking of all necessary administrative actions in the course of the procedure before the organizational units

of the Ministry for Transport and Connections. This primarily refers to the omission in the course of the procedure to involve the interested parties whose rights or interests can be affected by the building of certain investment constructions. Such omissions do not only reflect on the speed of building, which the contractor is interested in, but also on the rights of the interested persons that must be protected in long-lasting proceedings that most often end up before the Supreme Court of the Republic of Macedonia.

Beside these omissions relating to the course of the procedure, various views publicly expressed are present as well. They refer to the issue whether certain activities of the contractors represent building activities (cases with repair work or remodelling of balconies and their screening up), on the accounts of what the concerned parties are referred to protect their rights in a procedure for disturbed possession before trial courts. Such views of certain regional units of the Ministry for Transport and Connections contravenes with the provisions of the Law on Housing, that is Chapter IV regulates the procedure for repairing, remodelling, adaptation of apartments and recreational rooms and parts of an apartment building, and in compliance with which, the oversight of the lawfulness in the implementation of the same is under the Ministry of Transport and Connections and the Inspectorate for Urbanism and Construction Building within it. The interventions of the Ombudsman in the form of issued recommendations or opinions were not adopted by the organs that run the procedure, which further substantiates the claim about the unresponsiveness and lack of readiness to self-improvement, that being a main prerequisite for a consistent and lawful enforcement of the legislation that regulates the affairs in the field of urbanism and construction building.

The Ombudsman holds the view that the extant problems can be overcome only through permanent cooperation among all the subjects involved in certain activities. Therefore in the forthcoming period as well, through his handling of complaints and other activities, the Ombudsman will insist and work towards a better exercising of the rights of citizens in this field of social life with a call for a consistent implementation of the legislation without anyone being favoured.

In the light of the undisputable fact that in the reporting period in the Ombudsman's Office were acknowledged complaints in which, after ascertaining the factual situation, no violations of the complainants' rights by the Ministry of Transport and Connections could be detected, the Ombudsman pointed out the need to inform citizens about a part of substantive regulations that regulate development planning, establish the building criteria, that is, building of investment constructions, as well as allocate development land for use. For these reasons, the Legal Department of the Ombudsman drafted a brochure that is about to be printed, intended to inform the citizens about their rights in this field and the manner and procedure for its implementation.

An increase in the number of complaints lodged to the Ombudsman's Office from this field emphasizes the need that the Ministry of Transport and Connections put forth more efforts in the forthcoming period for the purpose of a permanent education that would effectuate a greater lawfulness while enacting administrative acts, overcoming of subjective flaws, and exercising a greater consistency while implementing the same.

2.9.2. Living environment

The industrial development in the last two centuries, along with a fast growth of the earth's population, still the only home to man, brought about an increasing pollution of the living environment, first of all of the waters, land, and air, which threatens man's survival, and therefore raises a greater awareness of the protection of the living environment.

However, these resources are not the only factors that enable the survival of man and his staying alive. Life and health of people have been threatened by many other harmful influences such as: radioactive and ionising radiation, noise pollution, man-caused or natural brush fires, etc.

Because of this constant danger looming over the health and life of people and for the ensuring that man survives, at an international level have been enacted many legal documents such as: the Brussels Convention, Cytis Convention, Viennese Convention, and others.

A larger part of these legal standards have been incorporated into the valid legal regulations in the Republic of Macedonia: the Law on the Protection of Improvement of the Living Environment, the Law on the Protection of Bio Diversity, the Law on the Prevention from Noise Pollution, the Law on the Protection of Air and its Pollution, the Law on Waters, the Law on the Protection of Ionising Radiation and Nuclear Safety, as well as a whole set of many other regulations that refer to the protection of the living environment in general.

Such a legislation, both at domestic and international level, if consistently complied with does not necessarily mean that it provides for and guarantees a healthy living environment since man remains to be the only conscious factor that with its uncontrolled behavior pollutes its own habitat and, in fact, puts into a grave risk his own existence and survival.

The Criminal Code of the Republic of Macedonia also dedicates a whole chapter to the penal provisions pertaining to the living environment, and misdemeanor sanctions to that end are foreseen in other valid regulations. In spite of that, we are witnesses of permanent disruptions of the living environment, in particular with regard to the air pollution, land pollution, water pollution, and the pollution of other living resources.

A negative example manifest in the Republic of Macedonia is the air and water pollution brought on by the Lead and Zinc Smelter "Zletovo" in Titov Veles on the account of what the Ombudsman intervened many times. We should also emphasize the permanent pollution of rivers because of the release of harmful substances and dumping of construction rubble or other kinds of waste materials into the water; in addition to that, there is a noise pollution cause by various catering facilities. A relatively small number of complaints referring to the living environment pollution registered at the Ombudsman's Office does not realistically reflect the real situation in this field, and the reasons thereof should be sought in an underdeveloped awareness of Macedonian citizens, their lackadaisical attitude, or insufficiently developed ecological education.

In the course of the reporting period, the Ombudsman's activities in this field were not only reduced to concrete handling of complaints lodged by citizens. On the contrary, a brochure was drafted and is awaiting printing; it should inform the citizens of the Republic of Macedonia about their rights with respect to the protection of the living environment. Also, the Ombudsman participated on seminars organized by the Ministry of Ecology and Planning, whose aim was to lend support to the development of strategies for the implementation of the Arhutsk Convention, and the representative of the Office was nominated to the inter-ministerial workshop group. The Arhutsk Convention was ratified by the Assembly of the Republic of Macedonia in 1990, thus becoming a part of the domestic legislation. It follows then that through a free access to information and participation in the enactment of official decisions, the citizens of the Republic of Macedonia gained an excellent opportunity to bear their own responsibility for the achieving of a joint goal-right to live in a healthy living environment.

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Therefore, the Ombudsman holds the view that the above ascertained situation in this field urgently calls for the need for the following measures:

- administering of the educational process in the field of instruction with the introduction of mandatory classes from the field of the protection of the living environment at all the levels of education, starting as early as the pre-school age;
- more intensified and more organized activity of non-government organizations and associations and their mutual cooperation for the purpose of the detection and reporting to the authorities the identity of the spoilers of the living environment and the education of citizens;
- more active engagement of the printed and electronic media;
- enhanced activity of the inspection services of the Ministry of the Protection of the Living Environment and Planning at the plan of prevention and taking of more rigorous measures against the committers of these deeds against the living environment.

2.10 Protection of the rights from the field of finances and customs procedures

2.10. Finances

Every organized society-state, collects from its citizens taxes, and thus accumulated funds are spent according to prior determined purposes foreseen by a state act, that is, the state budget. In its nature, the budget presents a projection of all the public revenues and expenditures, that is, a project that also includes the meeting of public (state) needs.

The state must provide the highest possible degree of equity while distributing the tax burden, taking into account the possibilities for the payment. If a higher rate of tax raising is applied, that poses a heavy burden for the citizens and entities; further, it jeop-

ardizes the standard of living, and ultimately, raises the issue of the possibility of one's further existence. Likewise, small tax obligations on one side, and their uneven distribution on the other, cause negative effects. Namely, in such cases, one group of citizens and legal entities rapidly get rich, thereby causing the revolt of the remaining citizens and legal entities and encouraging them not to meet their tax obligations. It leads to the conclusion that this is a very sensitive treading ground and we have to very wary in applying the principle of equity while determining tax obligations to the maximum.

The pivotal issue here is that the whole legislation regulating the levying of taxes should be as stable as possible and long enduring. Frequent changes of these regulations and the levying rate on various grounds creates insecurity for the taxpayers and discourages them with regard to their plans for further investments or other plans. Unstable conditions prompt the taxpayers to return their investment very fast, and it can only be accomplished through not meeting the tax obligations, that is, through tax evasion or tax embezzlement. For these reasons, the state should create the most suitable tax paying system, adjusted to the possibilities of the taxpayers, with as high as possible representation of the principle of equity while fixing the tax obligations.

What attracts the attention of the taxpayers and other legal entities in the field of finances is, of course, public revenues. It encompasses the entire activity revolving around the deposit, registering, and payment, which most often is the reason the citizens express their dissatisfaction, that is, they think their basic constitutional and legal rights have been violated and seek a redress from the Ombudsman. In another words, public revenues, basically, are realized through taxes. The realization method, that is, raising of public revenue pertaining to taxes is regulated by several laws, such as: the Law on the Sales and Services Tax, the Law on Excise Tax, the Law on the Personal Revenue Tax, the Law on Property Tax, the Law on Profit Tax, and the Law on the Tax Added Value.

Last year was featured by the enactment of a large number of laws for the purpose of the changing and amending of the existing legislation regulating the obligations of the citizens and other legal entities (taxpayers) for the payment of taxes and other public fees.

Namely, with the enactment of the Law on the Repealing of the Law on Financial Operations ("Official Gazette of the Republic of Macedonia" No. 50/2001) was abrogated the Law that up to that moment regulated financial transactions of physical persons and legal entities on the territory of the Republic of Macedonia. At the same time, with the enactment of the Law on Financial Transactions ("Official Gazette of the Republic of Macedonia" No. 32/2001) in the reporting period a change in the financial transactions in the state was made, and the financial institutions were charged with its functioning.

It is an obvious conclusion that the regulations in this field undergo frequent changes, which can lead to unwanted consequences, at least in the beginning, especially bearing in mind the current gruelling situation and extremely aggravating conditions in the economy, that is, the economic-financial situation of the taxpayers. The question begs then, whether it is possible to inform the citizens about the legislation, or their rights and obligations.

For the citizens of the Republic of Macedonia, as physical persons, of the paramount importance, naturally, were the provisions from the Law on Property Taxes and the Law on Sales and Services Tax. This for reasons that they comprise the property tax, inheritance and gift tax, and the tax on the transaction with real estate and rights.

From the scope of past handling and made analyses and conclusions, the Ombudsman reached the conclusion that in the reporting year the citizens mostly addressed him for a redress of grievances that came about before the Public Revenue Office and was related to the fixing of the tax amount. Within that sphere, the complainants complained about the fixing of the tax amount on property and tax amount on real estate and rights, pointing out to the inconsistent application of the provisions for tax exemption. Also, a part of the cases the Ombudsman handled referred to the claims of citizens for administrative tax exemption, especially in the procedures for the acquiring of Macedonian citizenship.

In view of the character and significance of this field, especially in the circumstances of a radical social stratification in the past period, as well as the situation that emerged in the reporting period, the Ombudsman set about to introduce the citizens to their rights and obligations. To that end a brochure was drafted, and it encompasses all the segments from public finances, which are of vital interest for the citizens. Its publishing was scheduled for the first half of the current year, which will depend on the financial means this institution has at its disposal.

At the same time, there has been devised a program for this particular field that encompasses all the forthcoming activities aimed at the strengthening of the role and place this institution has with regard to the protection of the rights of citizens from the field of finances and financial transactions. A special emphasis is awarded to the organizing of conferences in the cities that would elaborate upon the educational role of the Ombudsman through the informing of citizens about the existing legal solutions.

2.10.2. Customs procedures

As a special field of interest for the Ombudsman appears the customs, although very few complaints refer to the grievances related to that particular field. Customs procedures, rights and obligations of the participants therein, its scope of work, method of work, and the organization of the organ competent for the affairs in the field of customs were regulated by the Law on Customs. The subject matter of the customs procedure are, as follows: release into free transactions, storing, temporary export and import, transit, fixing of duty debt, payment, return, and duty freeing. The participants in these procedures acquire certain rights and are subject to certain obligations. Under the provisions of the quoted Law, the participants in the procedure before the Customs Agency are both physical persons and legal entities. With respect to the competence of the Ombudsman, set forth by the Law on Ombudsman, he can handle only when in a procedure before an administrative organ competent for the affairs from the field of customs as a participant appears a citizen, that is, a physical person. In the course of the reporting year, with a complaint to the Ombudsman turned only one legal entity, with the claim to

intervene before an appellate organ for purpose of the exercising of the complainant's rights. Since the Ombudsman's competence does not extend that far, the complaint was rejected.

Estimating that for the citizens crucial issues are the issues that refer to the duty freeing, delayed payment of duty debt, return or duty debt freeing, and the right to representation before customs organs, in the reporting period a brochure, draft-version was drawn up. The aim of the Brochure is, briefly outlined, in an easily understandable and intelligible way, to inform the citizens about their basic rights in the procedures before the organ competent for the affairs from the field of customs. The Brochure is planned to be published in the course of the year, which, naturally, depends on the financial means of the Institution.

In view of the fact that in the reporting period no complaints pertaining to this field were lodged, the Ombudsman is not in the position to take a stance in the procedures before the customs organs and the speed of the deciding. However, judging from the information gleaned from the mass media, it is more than certain that in this field as well the citizens encounter numerous problems, especially with regard to the duration of the procedures.

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On the account of the delicate nature of this field and the problems the citizens are experiencing with regard to it, and which are becoming more conspicuous in the conditions of a decline of the standard of living and purchasing power, in order to aid the citizens in the exercising of their rights, the Ombudsman recommends to the Ministry of Finances and Public Revenue Office the following:

- consistently apply and comply with the legislation, especially the provisions that refer to tax exemption;
- establish a continuous cooperation with the Ombudsman;
- comply with and timely handle upon his requests, suggestions, recommendations, and pertinent information;
- speed up the procedures for the exercising of the rights, both before trial and appellate organs;
- respect valid court decisions.

2.11. Respect for consumer rights

The legal protection of the citizens as consumers is crucial in developed European countries, which undoubtedly springs forth from the number of the conventions that protect the consumers in the European Union. For countries such as ours – the Republic of Macedonia, countries that have been in transition for a long time, the protection of the rights of consumers is becoming current for several reasons.

Firstly, because in the conditions of transition, that is, in the conditions of bare minimum of living and economic insecurity, the rights of the consumers very often and

easily get violated. Secondly, in the conditions of the globalisation of the world trade, the protection of the consumers becomes a priority issue of the present moment because if the rights of the consumers get violated, it is not be expected that Macedonia will quickly get incorporated into the world trading tendencies. Thirdly, the Republic of Macedonia must, if it wants to join the countries in the European Union, to bring into conformity its laws with the laws in the European Union, and in that process, one of the more vital fields takes up the adjustment of the consumer rights.

For the reasons stated above, the situation respecting the protection of the rights of the consumers in the Republic of Macedonia is a living issue. In our legal system there is a Law on the Protection of Consumers. However, a legal system is defined by the existence of numerous norms incorporated into more separate laws, not only referring exclusively to the protection of the consumers, but by way of the regulation of the other relations, the consumers will indirectly get protected.

As legal sources from which the consumers rights in the Republic of Macedonia derive their protection can be cited the Constitution, the Law on the Protection of Consumers, and many other laws, such as the Law on Obligational Relations, the Law on the Standardization, the Law on Industrial Property, the Law on Health Protection, the Law on Unfair Competition, etc.

The inspection oversight of the application of laws is carried out by the State Market Inspectorate, State Sanitary and Health Inspectorate, as well as the State Inspectorate for Living Environment. The Ombudsman finds his place exactly there, as an important agent facilitating the exercising of the rights of consumers. Namely, the Ombudsman has no authorities to intervene when a consumer, that is, a citizen turns to him for the protection of his rights if/when they get violated by the manufacturer or salesman, irrespective whether it is physical person or legal entity. The Ombudsman is entitled to act only when the violation was done by an organ of the state administration or organization with public authorities. Hence, the Ombudsman can only handle in cases when a competent state inspectorate, the citizens previously turned to, did not take any activities or improperly intervened.

As consumers, the citizens are the beneficiaries of services rendered by public enterprises and other entities – providing services of public interest. A regular delivery, that is, unimpeded use of these services is of vital interest to the citizens. As an illustration can be brought up the role of telephone as a necessary communication means and its placement among indispensable public goods. Also, a continuous use of electricity and water in the conditions of contemporary urban living are public goods without which everyday life would be significantly compounded and rendered impossible.

From handling complaints lodged by citizens, as well as through direct contacts and interviews carried out with citizens, it can be stated that the largest number of grievances refers exactly to the service of public companies, especially to the quality of services, payment method, and the fixed amount, as well as the measures the provider of services takes towards citizens, that is, consumers, in cases when the latter did not timely meet their obligations regarding payment, or they did so belatedly.

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In conclusion, it can be said that in the complaints that they lodged personally or indirectly through the Organization of the Consumers of Macedonia, the complainants mostly pointed to the violations of their constitutional and legal rights by the providers of public services that, in view of their position in society, present natural monopolies. The consumers, while using water, electricity, or telephone are in an inferior position on the market, simply because there are no alternatives on the market. Thus the distributors (providers) have the monopoly over the services they offer. The consumer cannot be supplied with water by any other distributor if he finds that the delivered water is of poor quality or irregularly delivered; in other words, if he is dissatisfied with the offered service. In view of the monopoly position of the distributors of public goods, the consumers have no adequate influence over the fixing of tariffs; on the contrary, they are left with no choice, but have to accept them and pay regularly. For these reasons, the consumers often turned to the Ombudsman and justifiably expected the Government of the Republic of Macedonia, through adequate legislation and other regulations, to ensure control over the possible abuses on the market done by the monopolies.

Telecommunications, in keeping with the Law on Telecommunications, are within the competence of the Public Telecommunications Operator (JTO). In addition to this agency, there are companies that offer public telephone service. What can be stated here is that on account of a fast technological development, as well as because of the demands of the beneficiaries on the market, the Macedonian Telecommunication System is built according to international standards and enables the Republic of Macedonia to successfully join European and world integration processes.

A part of the complaints lodged to the Ombudsman referred to the work of this legal entity, in its capacity of carrying out an activity that is of public interest; in particular, the complaints referred to too high telephone bills, in spite of the claims of the complainants that they did not use such services. This claim especially concerned the bills delivered to the complainants for calls made from their phone lines with a telephone grouping 0500. Within his remit, the Ombudsman indicated that it is necessary to first check the delivered phone bills and handle the complaints relating to the complaints of the citizens, suggesting at the same time not to disconnect the phone lines of these people until the final decision is made.

From the complaints handling, the Ombudsman reached the conclusion that this legal entity, carrying out an activity of public interest, allows the citizens to appeal. Namely, the general principle for appeal submitting to the operator is respected. The appeals of the citizens are submitted to a special department without any special procedure pertaining thereto.

Water supply of the population of the Republic of Macedonia is provided through public water companies. In compliance with the legislation, the unit of the local self-government organizes the carrying out of the operation by foundation of public enterprises or issuing permits to legal entities of physical persons registered for that purpose. In this case, it is a local operation, that is, an infra-structural system that covers the area of one municipality or the City of Skopje and encompasses the local water supply company, as well as the cleansing stations for waste atmospheric or fecal waters.

What was characteristic from the aspect of the Ombudsman's handling of concrete complaints that referred to the public enterprises that carry out the operation from the field of water supply and sewer is a permanent cutting off of the citizens from the water supply system because of unpaid bills. In the course of handling, the Ombudsman ascertained that there are cases when the public enterprises cut off water supply to some citizens although the unpaid bills are old, in other words, it has become a time-barred debit. The operation executors can, in compliance with a decision that only refers to the City of Skopje, cut off the water supply, that is, water delivery only when two water bills have not been paid. In the other municipalities, the disconnecting is regulated with the Decision on Community Care Services; nevertheless, the disconnecting is executed on the grounds of unpaid two to three consecutive bills.

In all these case it is typical that there is no appeal procedure foreseen, which contravenes with the basic principle of two-levelness of the procedure, that is, the right to appeal.

Investigating the problems from this field of public interest, it being an exceptionally important field of every day life of citizens, the Ombudsman ascertained that in many countries the citizens are protected from water supply cutting off in such a way that the distributors have to obtain a court decision first. Bearing in mind the importance of water in the lives of people, the Ombudsman thinks that the policy of cutting off of water supply should stop, unless by virtue of a decision made by a competent court, which would entail protection of public health at large. From complaints handling, it became obvious that the citizens mostly need the Ombudsman's intervention before these very communities care companies.

The Ombudsman acquired the information that many legal entities, with considerably higher unpaid water bills than individual citizens continue not paying the bills and are not cut off from the water supply, which bring the citizens into a discriminating position, despite their obvious economic plight. Hence the conclusion that community care companies compensate for the bills of the latter (legal entities) through the payment of the former (citizens). In order to redress these issues, in the future it will be necessary to take measures to ensure that all the users, irrespective whether they are family households, business, or industrial facilities, regularly pay the bills. Of course, it will give rise to the quality of the services, reduction of the losses, and finally the diminishing of the constant pressures for the rising of the price of the service, which, ultimately, is in the interest of the citizens.

“Electro-economy of Macedonia” AD_Skopje is the only bearer of the production, transmission, and distribution of electricity in the Republic of Macedonia.

A part of the complaints lodged to the Ombudsman in the reporting period refers to the “Electro-Economy of Macedonia” AD, with respect to the disconnecting of the citizens due to delivered but not paid electricity bills. In the course of complaints handling, the Ombudsman pointed out to the citizens that the conditions for electricity supply, connecting to, and manner of disconnecting are regulated by the General Conditions for Electricity Supply and the supplier is obliged to provide the consumer permanently and continuously with electricity. On the other hand, the supplier can suspend the supplying

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of electricity to the consumer, among other things, if he does not pay the bill for used electricity for at least a month, about which he has the obligation to notify the consumer.

The Ombudsman deems that the “Electro-economy of Macedonia” should take into consideration the objective conditions respecting the economic power of the citizens and approach the issue of electricity disconnecting very selectively.

Beside the above cited general provisions for the electricity supply, a possibility is foreseen that if the citizens are dissatisfied by taken activities by the supplier, they can complain to the directions, and if they are dissatisfied by the response, they can turn to the Board of Directors. However, the Ombudsman thinks that at the moment there is no specific appeal procedure that will enable the citizens to have their rights protected. The foreseen procedures are unilateral and do not allow the access of the citizens to rectify things and file complaints/appeals in cases when their appeals are not accepted.

In his handling of the complaints in the sphere of the protection of consumer rights, this year, as well as before, the Ombudsman realized a close cooperation with non-government organizations that also work in the direction of the protection of the rights of citizens. Through their scope of work, the non-government organizations follow the situation in society in one segment only, or in general, thereby discovering, that is, locating the problems in a certain field. In such a way the non-government associations, more specifically the Organization of the Consumers gets a possibility to build up a data base that illustrates the manner of work of public enterprizes as providers of services with respect to the quality of rendered services to the citizens as consumers.

The ascertained situation and potential, if any, ascertained cases of violations of the rights of certain categories of consumers, this non-government organization presented to the Ombudsman, who, on his part, in compliance with his legal authorities, requested from the competent inspection services to conduct inspection oversight with the aim to ascertain concrete violations of the rights of the citizens, that is, consumers.

This cooperation method between the non-government organizations and the Ombudsman’s Office means the securing of the democratic principle of transparency in the work of the public services and public enterprizes on one, and their treatment of the citizens on the other hand, which represents the main prerequisite for the functioning of democratic society in which citizens occupy the central place.

The experience and knowledge gained by the Ombudsman through cases handling pose certain preferential and action goals that specify the activities that should be undertaken for their accomplishment.

The fact that the category ‘consumers’ is the most numerous group in the overall population in one country, in the Republic of Macedonia it inevitably dictates that their rights should be vouchsafed by a precisely formulated legislative framework. The socio-economic conditions currently prevalent in the Republic of Macedonia make the Law on the Protection of Consumers of crucial importance. It defines the basic guarantees and mechanisms for the protection of citizens and makes their rights more accessible and applicable.

The enacted Law on the Protection of Consumers, in the Ombudsman's evaluation, generally speaking is good because firstly, it adds up to the enrichment of the legislation, since up to now this matter was not standardized in a separate law, thus contributing to the principle of legal safety of citizens; secondly, with the Law were implemented the solutions contains in the European legislation, bringing the Republic of Macedonia closer to Europe.

Notwithstanding the above said, the fact remains that in transitional countries, such as the Republic of Macedonia, practical life still teems with examples of violations of the rights of citizens.

In the current stage of market economy, in the Republic of Macedonia more and more prominent becomes the need for transparency, that is, meeting the interest of the consumers in order to obtain requisite information about the products in sale. This refers, first of all, to the basic information about the product and whether the prescribed conditions have been met for releasing them into sale, issues that are often initiated by the consumers before the competent inspectorial services.

With the listing of one part of the fields in which there were ascertained violations of the rights of consumers, it can be inferred that despite a headway made with the enactment of the Law on the Protection of Consumers, the rights of the citizens are still being violated and are exercised with great difficulties.

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For the reasons stated above, and for the ensuring of the protection in this field, the Ombudsman is making a recommendation to the Government of the Republic of Macedonia and other relevant factors as follows:

- to define the consumer policy of the Government of the Republic of Macedonia for the purpose of enacting a corresponding legislation more than necessary for the exercising of legal safety;
- to take measures for the building up and advancement of the legal system of the Republic of Macedonia in terms of the exercising of the rights of citizens as consumers before public enterprizes and other providers of economic operations of public interest. Making the monopoly position and behavior of these legal entities relative and activating the safeguards for the protection of the rights and interests of the citizens ought to be achieved primarily by means of certain interventions in the legislation;
- to take measures for the establishment of professional and ethical norms for the acting of the entities on whose behavior depends the exercising of the rights of citizens as consumers;
- the state market inspectorate to consistently apply the legal instruments set forth in the Law on the Protection of Consumers, as well as continuously oversee the export of agricultural and food products for the protection of the same;

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- in the exercising of this function, to establish a close cooperation with the Ombudsman that will particularly be reflected in the complying with this requests and suggestions, as well as timely acting upon the same;
- to establish a close cooperation with the Commission for the Rights of Consumers formed by the Council of the City of Skopje;
- to pay close attention and keep an account of the fixing of prices of services of these suppliers;
- in view of the objective economic situation and economic-financial power of the citizens, it is necessary to introduce additional social measures in order to assist those people in most straitened circumstances, that is, those cannot pay the services of the public enterprises;
- to speed up the process of adjustment of the legislature of the Republic of Macedonia with the legislature of the European Union, at the same time carrying out a thorough implementation of European rules with regard to the standardization and the application of the regulations that set forth the technical requirements for the products and their conformity with the prescribed conditions;
- to allow a corresponding complaint lodging procedure, in other words, respect for the principle of two-levelness of the procedure.

2.12. Protection of property rights

The basic rights and freedoms of man and citizens recognized by international laws and set forth by the Constitution of the Republic of Macedonia, the legal protection of property and respect for the generally accepted standards of international laws are fundamental values of the constitutional order in the Republic of Macedonia. On these premises, as one of the fundamental rights of man and citizens, which righteously takes up the forefront position in the sphere of economic rights is the right to property. As a right pertaining to individuals, the right to property presupposes individual property.

The contents of the property right and its guarantees are clearly defined under Article 30 of the Constitution of the Republic of Macedonia. Under the provisions of the cited Article, as well the Constitution as a whole, it can be unambiguously derived that the existing legal order and a society that is built upon those foundations, rests and is built upon the bases of private property. The more so because the constitutional provisions are precise in the securing of property right since no one can have his property either taken away or limited, as well as the rights pertaining thereto, save in cases of higher public interest prescribed by law. Because of this very status, with the exception of the public interest being at stake, only by virtue of law, can it happen that someone's property rights get abridged; in such a case, the Constitution guarantees an equitable remuneration that can not be lower than its market value.

The initiated process of some kind of conversion of the state property into the other forms of property leads to the affirmation of private property, that is a basic requirement for the restoration of individualism and citizenship.

This vital importance of ownership and many property relations among the citizens, established on the basis of the same, were one of the reasons for the enactment

and virtual implementation of the Law on Property and Other Property Related Rights in the reporting year. For the first time in the legal-political system in the Republic of Macedonia, this Law regulates the property rights and other real rights in compliance with the Constitution. By entering into force, this Law automatically made the other legal solutions derived from the previous federal Law on Basic Property Relations null and void; these laws were obsolete and as such could not conform with the current mode of living and constitutionally proclaimed principles of free market and entrepreneurship as a basis for the expansion of the space intended for ownership pluralism. Within the context of the same, the contents of the Law on Development Land should be emphasized since it offers entirely different solutions with regard to the property right and right to build on development land, especially because with the enactment of the Law, in the legal-political system of the Republic of Macedonia, the owners of development land, beside the state, become physical persons and legal entities with an unlimited disposal right. However, in practice, its complete implementation is expected in the course of the forthcoming period because the enactment of sub-statutory acts is delayed.

From the contents of the lodged complaints in the course of the reporting year, the Ombudsman could ascertain that the citizens pointed to committed violations of their rights in this field and sought protection and intervention in four basic segments in the procedures for: denationalization, expropriation, registering of real estate rights before the State Institution for Geodesic Affairs, and taking away, that is, allocation of development land.

2.12.1 Denationalization

One of the original forms of the public capital transformation is surely the process of restitution of taken away property, that is remuneration for the taken away property for the benefit of the state only after August 2, 1944, in other words, the process of denationalization. The legal-legislative requirement for the taking hold and thriving of denationalization as a process of the re-privatization of property, finally undoes the consequences of injustice, as well as the remuneration of former owners to whom the property was forcefully seized by virtue of the Law on Denationalization. In view of the fact that the draft-law in its original version contained numerous restrictive and discriminatory provisions, by means of additional changes and amendments to certain provisions, a legal text was enacted; it fully corresponds to the constitution-wise proclaimed principle of protection and provision of the rights of citizens with respect to private property. Namely, with the amending of the draft-law, among other things, was foreseen that not only physical persons can claim former property, but also religious communities; at the same time, the basis upon which denationalization would be claimed was expanded, so that the denationalization is also made with regard to the property seized without any legal grounds and on the basis of a writ exhorting under threat that cannot be proven in court proceedings, but they are solely a legal speculation.

In terms of the conducting of the procedure for the return of the seized property, if there is no possibility for its return, or said property ceased to exist as such, there is foreseen the alternative - paying an equitable remuneration. To that end, the Law is based on the concept according to which the remuneration for seized property and for its reduced value, as well as for the payment of the difference in value for the property

that is to be returned, and whose value increased after the act of seizure, a meritorious parameter is not the market value of the property at the moment of denationalization; rather, it is carried out in keeping with a special methodology whose main characteristic is a certain mean value of the property.

In the previous years were create all the legislative-legal preconditions and possibilities for the conducting of the procedure for denationalization. Notwithstanding that, in the reporting period its practical implementation was virtually triggered off.

The largest number of lodged complaints pertaining to this field referred to the exercising and protection of the rights of the citizens in the denationalisation procedures; it can be freely stated that the citizens confronted various forms of bureaucratic arbitrariness and subjective assessment of the property subject to denationalization. The requests of the complainant demanding Ombudsman's interventions mostly referred to the an unjustified delay of the procedure upon submitted claims for denationalization, although the legal provisions that regulate it are very specific with regard to the urgency of the procedure as well as the legal obligation of the competent organs to handle within 6 months. The corrective for such a behavior is the case of a precedent, under which should be subsumed all such cases when upon the referral of the denationalization organ legal heirs should be pronounced (Article 47, section 2), and when for the purpose of determining a right a law suit (legal proceedings) should be initiated (Article 56).

Despite legally precisely specified timetable, analyzing the factual situation, a very straightforward conclusion can be reached: quite a significant number of the cases in which the denationalization procedure is prolonged without specifically stating the real causes for thus emerged situation.

Namely, in the course of the initial procedure upon concrete cases, confusion is created in terms of who the competent organs for a meritorious deciding upon the claims of citizens are. The reason for this assertion is the fact that for the claims submitted, according to the draft-resolution, commissions are set up, then forwarded for verification to the Council for Denationalization, that, on the other hand, due to certain comments pertaining to the conducted procedure and ascertained facts and circumstances, often sends them back for a revision and reconsideration. Therefore, having in mind the legal obligation to handle promptly, the competent organs should demonstrate efficient and competent behavior - on the other hand, delaying of the started proceedings begs the question of the degree of professional competence and responsiveness – and the personnel resources for the expert services at the Ministry of Finances should be procured.

On the other hand, in certain cases, the situation is additionally aggravated because on the property, subject to denationalization, is at the same time started or already finished procedure for the issuing of building-technical documentation for the erecting of separate constructions or annexes building, that is, for other building interventions, which only further complicates the administering of the denationalization procedure.

This situation, of course, results from an insufficient communication between the Ministry of Finances and the Ministry of Transport and Communications, which should be deepened in the future.

This method for the administering of the denationalization procedure has its repercussions on the exercising of the rights of citizens because the Ombudsman, within his legal authorities, addressed on several occasions the commissions for the denationalization and the competent minister for finances pointing out that they have a legal obligation to handle the submitted claims speedily and rationally, reviewing all the legally relevant evidence, and fully ascertaining the objective factual situation of the property subject to denationalization, which would yield a fair and corresponding decision and, by means of, ultimately, equitable remuneration of the citizens.

In spite of these suggestions, the competent organs did not comply with any of them.

2.12.2. Expropriation

As a legal institute, expropriation is regulated with the Law on Expropriation, that adopted within its framework contents the basic constitutional principles for the vouchsafing of the property rights, stating that no one can have its ownership or rights derived from it taken away or limited, save when public interest specified by law is at stake. In cases of expropriation of ownership or in cases of limitation, equitable remuneration that cannot be lower than the market value is guaranteed.

Namely, expropriation is an administrative measure (coercive) by means of which in a procedure prescribed by law is taken away or limited ownership of property, property rights, and interests for the sake of building of constructions of public interest and with an equitable remuneration.

In the reporting period, a part of the complaints lodged to the Ombudsman referred to the expropriation procedures. The largest number of complaints claiming Ombudsman's intervention referred to the delay of the procedure for the fixing of equitable remuneration, or said procedures were not administered at all. Also, in the lodged complaints it was ascertained that although a long time elapsed since the expropriation procedure was ended, the complainants were still not paid the remuneration, or it was done only partially.

2.12.3. Protection of the rights before the Cadastre for Real Estate

Pursuant Article 30 of the Constitution of the Republic of Macedonia, ownership right and inheritance right are guaranteed; also, that no one can have its ownership or the rights related to it taken away or limited, save in cases when some public interest stipulated by law is at stake. In compliance with the Law on Land Surveying, Cadastre, and Registering of Real Estate Rights, all the rights pertaining to the owners of real estate (land, constructions, separate parts of buildings, and other constructions built on land) are registered in a special cadastre unit. The registering of the rights in the real estate cadastre is made on the grounds of corrections drawn up in a legally prescribed

form, valid court decisions and law, or decisions of a state organ. In keeping with the provision of Article 71 from said Law, in case a person thinks that he/she has a stronger claim on a registered property than a person registered for it, he/she can raise charges in a trial court demanding the registration to be erased and he/she be registered as the holder of the title deed.

In the course of the reporting year, as well as in the preceding years, a large number of the cases referred to the work of the State Geodesic Institution. The citizens deemed that the procedures before this organ are long lasting and very often the carried out registrations of the holders of the rights to real estate are made in contravention of the provisions from Article 58 from the same Law. Also, in one part of the complaints it was claimed that although a certain right of a citizen had already been determined by virtue of a valid court decision, his claim for registration was initially denied and he was instructed to repeat the court procedure for the same claim. There were also cases when the citizens, although in possession of proper documentation with regard to their ownership, such as a valid court decision, previously issued title deed from which it is evident that the concerned citizen was registered as the holder of the right, that kind of documentation is foreseen as the basis for the registering of the right to ownership, his claim was rejected and he was referred to a competent court.

In all these cases the Ombudsman held the view that this attitude of the organ was faulty and that said organ should decide on the grounds of the presented material evidence, that undisputedly complies with the regulations, that is, enter the registration of the data into the real estate cadastre. Here it must be stressed that the competent organ, clearly demonstrating that mutual cooperation is hardly realized at all, did not uphold these suggestions. Furthermore, there are still are noticed cases when the claims of the citizens are turned down with the explanation that said citizens did not file a demur after the procedure of land surveying, cadastre, and registering of real estate rights was completed. Another explanation offered was that the State Geodesic Institution does not have at its disposal the needed documentation from which it could be with surety ascertained the existence of a certain right of the entity entered into the cadastre register. In such cases the Ombudsman deemed litigation would expose the citizens to unnecessary costs pertaining to long court proceedings. For these reasons, in proceedings before this organ, it was pointed out that it is necessary to handle with speed and properly register the holders of the rights to real estate.

In conclusion, it can be stated that the exercising of the rights of citizens before this organ is realized with difficulties, in long-lasting proceedings both at the first and second level. This claim is further endorsed by the fact that Ombudsman's suggestions are not complied with, and very often, after repeated additional interventions and induced promises from authorized officers that a response would be obtained, it was not carried out. Also, a general impression is that the communication between the Ombudsman and the State Geodesic Institution should be improved, all in the best interest of the citizens.

2.12.4. Development land

With the Law on Nationalization of Rented Constructions, the development land in cities and urban settlements is nationalized and becomes public property - development land. Development land constitutes all the land upon which is built and empty land that is located in the central building districts in cities and urban settlements. The right to use, beside the right to dispose, presents the contents of the right to public ownership. Citizens, in conformity with this Law, could acquire the right to use the development land. With the Law on Development Land and its changes in 1991, it was specified that the land in cities and urban settlements and other areas foreseen for housing and other building, for which Urban Plans were devised, belongs to the Republic. In this manner, the public property was transformed into state (public) property.

In the course of the reporting year, as mentioned previously, the Assembly of the Republic of Macedonia enacted the Law on Development Land. It regulates rights and obligations with regard to development land and arranging of that land. This Law foresees completely different solutions for the right to ownership and building upon development land, so that by virtue of it the owners of the development land become physical persons and legal entities, and they have the right to make transactions with it.

The new Law on Development Land also regulates the issue of the transformation of the ownership right when the right to use is acquired on the grounds of a bought housing or other building construction. The Ombudsman is of the opinion that this issue will be of utmost importance for the citizens and expects that in the current year there will be many complaints relating to the transformation procedures. In the course of the reporting year were not registered any complaints that referred to the procedures for the transformation of ownership due to the delayed enactment of the sub-statutory acts because of which its thorough implementation is expected only in the forthcoming period.

In the course of the reporting period the complaints referred mostly to the unpaid remuneration for taken away development land, violations of the rights in the procedures for the recognition of the preferential right to building on vacant development land, as well as to the allocation of development land. In these procedures the Ombudsman pointed out again to the need for a consistent application of the legal provisions and efficacy in handling, especially while fixing the remuneration amount and its payment, of course, if said compensation is to be paid in cash.

The new Law on Ownership and Other Ownership Relations for the first time in the Republic of Macedonia regulates the ownership right and other ownership relations in compliance with the Constitution. Its coming into effect meant a changing of several legal solutions that stemmed from the previous federal Law on the Basic Ownership-Legal Rights.

One of the issues of particular interest for the citizens, therefore deserving Ombudsman's special attention, is undoubtedly the transformation of the right to use development land; namely, since the day of coming of the Law on Development Land into effect, the holders of the right to use development land can acquire the ownership right to said development land on the grounds of previous ownership of the same, by way of a claim filing, upon which, the Ministry of Transport and Connections makes a resolution for the transformation of this right.

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In the past practical handling of the complaints lodged with regard to the denationalization right, the overall impression is that the competent organ for denationalization does not adhere to and does not at all comply with the set timetables, which brings about unpredictable harmful consequences that consist of an ultimate loss of trust of citizens-former owners or their legal heirs that the state will rectify the injustice inflicted upon them.

Bearing all that in mind, the Ombudsman reached the conclusion that in this field, as well, the citizens run into many hardships as they are trying to exercise their rights. The problems they encounter are both of objective, but more often of subjective nature.

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For the reasons stated above, and with the aim to overcome the presented problems and thus make provisions for a much faster and more efficient exercising of the rights of citizens before competent organs, the Ombudsman is making a recommendation to the competent organs (the Government of the Republic of Macedonia, Ministry of Finances, Ministry of Transport and Connections, and the State Geodesic Institution) as follows:

- consistently comply with and apply corresponding legislation;
- timely and efficiently handle the claims submitted by the citizens;
- comply with valid court decisions, documents drawn up according to the legally prescribed forms, and decisions of state organs;
- observe timetables set by law;
- comply with the requests, recommendations, and other suggestions of the Ombudsman, timely act upon the same, and establish a better cooperation with the Ombudsman;
- undertake measures geared towards the realization of realized agreements for the payment of remuneration for expropriated property or seized development land.

2.13. Protection of other rights

Here belong those complaints that in terms of their content cannot be classified into any of the above listed fields and refer to associations of citizens, organizations and other legal entities whose decisions and actions are not within the competence of the Ombudsman.

Namely, in compliance with the provisions of Article 2 of the Law on Ombudsman, the Ombudsman is an organ of the Republic of Macedonia that protects the constitutional and legal rights of citizens when they are violated by the organs of the state administration and other organs and organizations with public authorities. Hence it is clear that the Ombudsman does not have legal authorities to undertake any measures in cases when trade companies, associations, and other legal entities that are not constituent parts of the organs of the state administration, or that do not perform an operation of public interest violate the rights of citizens. In the course of the reporting year, many people were laid off (made redundant) by their employers, or received a dismissal

notice on some other accounts, or they were deprived of their rights to register or dispose with shares because of which they turned to the Ombudsman for assistance. Handling the complaints, the Ombudsman tried to indirectly aid the complainants to exercise their rights by means of his suggestions and advices as to how most expediently and efficiently realize the violated or withheld rights. In certain case, when an employer blatantly violated a certain right of his/her employee(s), the Ombudsman addressed the employer in a written form, elaborating upon and directing the attention to the problem, which was fruitful in majority of cases, yielding positive responses and results.

3 OTHER ACTIVITIES

3.1. Initiative for the changing and amending of the Law on Ombudsman

The Law on Ombudsman has been in practical use for more than five years. Practice showed that some legal solutions have not been fully specified, some are not functional, and some do not correspond to the conditions and situation the legal system in the Republic is functioning in.

On the other hand, incompleteness, vagueness, and not fully specified and regulated solutions were often the subject of a faulty assessment of the scope of work of the Ombudsman and the role and significance this Institution has in the legal-political system in the country. This prompted the Ombudsman to undertake measures for the popularisation and elaboration of the function and competence of this Institution since there are still prevalent opinions that the Ombudsman can change the decisions of the state organs and organizations, even valid court decisions. Also, the citizens expect the Ombudsman to represent them in court and other proceedings, to intermeditate in family, neighbourly, or labor disputes, to solve their social or housing problems, or secure them employment. Very often, although aware that the Ombudsman was not competent to handle their cases, the complainants requested such things from him and sought his advice. On the other hand, the representatives of the organs of the state administration in their responses to the complaints claimed that the Ombudsman was not competent for the issue that was the subject of his claim.

The Ombudsman was often asked to intervene with regard to the general conditions presented in mass media for which there is a reasonable doubt that violations of human rights were inherent in them, which is outside of the Ombudsman's legal competences. He was asked to lodge appeals for the initiating of administrative proceedings although, in keeping with the Law, he can only file a claim for the initiating of administrative proceedings when he deems that legal conditions are met. Also, from the Ombudsman was asked to take up the role of the prosecuting organ, to exercise control over shareholding companies and other legal entities, as well as to take to task general managers and other responsible officers, which, again, is outside of his competence.

To that end, to secure a legislative basis for the overcoming of the existing hardships in the practical implementation of the Law, as well as to enable and build a firmer guarantee for an autonomous, independent, and efficient realization of the function, to the Polling Commission for the Protection of the Freedoms and Rights of Citizens by the Assembly of the Republic of Macedonia was submitted an initiative for the changing and amending of the Law.

Unfortunately, with no results. We take it that this process was inhibited because of the armed conflict in the Republic. However, with the signing of the Framework Agreement, as a compromise solution to the armed crisis, in the Annex of the Agreement were set forth the constitutional amendments that, among other things, foresee the changes with respect to the conditions for the election of the Ombudsman and his competences.

Amendment XI foresees that the Assembly shall elect the Ombudsman by a majority vote of the total number of representatives, within which there must be a majority of votes of representatives claiming to belong to the communities not in the majority in the population of Macedonia, and under the same Article it is stipulated that the Ombudsman shall give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in other areas of public life.

Annex B of the Framework Agreement foresees that the Assembly of the Republic of Macedonia shall adopt by the end of 2002 the Law on the Changing and Amending of the Law on Ombudsman that will ensure:

- That the Ombudsman undertakes activities for the safeguarding of the principles of non-discrimination and equitable representation of communities in public bodies at all level and in other areas of public life and that there are adequate resources and personnel within his office to enable him to carry out his function;
- That the Ombudsman establishes decentralized offices;
- That the budget of the Ombudsman is voted separately by the Assembly;
- That the Ombudsman shall present an annual report to the Assembly and, where appropriate, may upon request present reports to the councils of municipalities in which decentralized offices are established;
- That the powers of the Ombudsman are enlarged to grant him access to and opportunity to examine all official documents, it being understood that the Ombudsman and his staff will not disclose confidential information;
- To enable the Ombudsman to suspend, pending a decision of the competent court, the execution of an administrative act, if he determines that the act may result in an irreparable prejudice to the rights of the interested person; and
- To give the Ombudsman the right to contest the conformity of laws with the Constitution before the Constitutional Court.

The Ombudsman deems that all the novelties in the election and competences of the Ombudsman, as well as forthcoming changes in the Law on the Ombudsman are one of the many gains in the process of democratisation in the country geared toward the strengthening and securing of autonomous, independent, and efficient exercising of the function Ombudsman.

The Ombudsman is of the hope that said changes and amendments of the Law on Ombudsman will have in-built proposals and suggestions presented in the Initiative already submitted to the Assembly of the Republic of Macedonia.

3.2. Introducing of computerized sub-system

Setting out from the assumption that modernization of operations, that is, following of the development of technology, is the main prerequisite for the achievement of improved results and a greater efficacy in work, in the last trimester of the reporting year at the Ombudsman's Office it was set about to the realization of the vision of a modern, professional, efficient, material-technical and personnel equipped office that will fully function and will get closer to the standards of the European Union. The attainment of

that goal would not have been accomplished without the financial help from the Canadian International Agency for Development, and under the auspices of the Canadian Embassy in the Republic of Macedonia. Namely, after a contract with said Agency was signed, financial means in the amount of 43.670 Canadian Dollars were transferred to the Project contractor that with the obtained funds bought computer equipment and program software with all the required specifications fit for the work at the Ombudsman's Office. We would like to use this opportunity to thank the Canadian Embassy and, of course, the Canadian International Agency for Development for the extended help and shown understanding.

The system for automatic processing of complaints, at the moment of drawing up of the Report is being installed and designated employees trained, will enable a better quality informing and communication within the Office, based on the use of modern computer technology, modern organization of work that will guarantee an efficient communication of all the performed activities and quality handling of complaints; also, it will ensure identical quality in the work of the employees that will process the complaints, and, finally signify introducing of a computer technology system that will be data based.

3.3. Web page

In the reporting period in use was put the web page designed in three languages: Macedonian, English, and Albanian with the tendency to include the languages of other communities as well. The web page will contribute to a more efficient and objective manner of informing on the work of the Ombudsman's Office, that is, its transparency as a legal obligation and affirmation among the citizens of the Republic of Macedonia; also, between the organs of the state administration and officers and organizations with public authorities, as well.

The access to the web page can be realized on the following address:
www.ombudsman.gov.mk

3.4. Education of citizens

Legal standards, instruments, and mechanisms both at European and domestic levels are created for the safeguarding of human rights and freedoms and would have a negligible effect if citizens were not informed about their existence and significance.

Unfortunately, as before, this year again, we ascertained a low level of information and education of citizens about their rights. This calls for more comprehensive engagement of all the subjects, especially of the Government of the Republic of Macedonia and its officers and organizations, including non-government organizations, for the purpose of the raising of the level of consciousness and informing of the citizens about their rights by means of drafted documents and informative packages, with visual aids and additional resource material, introducing of special elective courses, primarily in elementary schools, organization of symposium, seminars, training, and exchange of opinions, as well as through leading campaign and other initiatives for the accentuation of certain aspects of human rights.

To that end, though not legally bound, the Ombudsman undertook certain measures and activities. Thus, last year it was set about to the devising of a brochure that would serve as a guide about the manner and forms how to protect the rights of citizens and introduce the citizens to the institution Ombudsman. The Brochure was published in 15.000 copies in Macedonian, 5.000 copies in Albanian, and 500 copies in English, and it will be published in the languages of other communities as well. For that purpose was secured a financial aid from the British Embassy, for which, on his occasion, the Ombudsman expresses his indebtedness.

In the course of the reporting year, the Ombudsman's personnel actively participated in numerous educational seminars on the protection of the rights of citizens. Thus, the Ombudsman held several lectures (presentations) on the role and importance of the institution Ombudsman in many high schools and the Law School in Skopje.

For the same purpose, to inform the citizens about their rights, in the reporting period were drawn up brochures, draft-versions, whose publication should be realized in the forthcoming period. The brochures address various topical issues, that is, they encompass all the fields the Ombudsman handles in, written in an easily understandable and intelligible style and intended for all the citizens. The aim of the Brochures is to inform the citizens about their rights and corresponding legal provisions that could be used in the future for the realization of the same, in cases of violations, if any.

At the same time, at the Ombudsman's Office was drafted a program for every field, that includes the mission statement and goals and tasks to be realized in the future.

3.5. Design of the Ombudsman's emblem

The past functioning of the Institution Ombudsman and the experiences acquired from the cooperation with similar European institutions necessitated the design of its recognizable symbol-logo. The reflections on this topic generated the contents of the main characteristics contained in the institution, something that will immediately entail its easy recognition. In order to make provisions for the realization of this idea, in the course of the reporting year were undertaken activities and, finally, with the help of professional and qualified people, a fitting and acceptable graphic solution was found.

Namely, the idea was that the symbol contains the main recipient of the protection proffered by the Ombudsman, and that is - citizen. Therefore, the inner circle, as it can be seen on the logo representation below, symbolizes a head of a man, and the empty space between the circle and the semi-circular forms symbolizes the body of the man with his arms raised in the form of a semi-circle, symbolizing ascension, but also seeking of legal protection, and the stretching out is the symbol of movement, or another possible interpretation could be the development of the protection of rights. The right side of the semi-circular form contains the Macedonian flag, which symbolizes that the main guarantee for the protection of the rights and freedoms of the citizens is the Ombudsman as an officer of the state. Next to him, on the rights side there is the text "Republic of Macedonia-Ombudsman," and below it the generally accepted English version of the name, "Ombudsman-Republic of Macedonia."

By means of this, we think that the institution Ombudsman has gained an authentic, easily recognizable symbol that will in most dignified manner present and affirm it in and out of the country.

3.6. Cooperation and contacts with international organizations, societies, associations, and their representatives in the Republic of Macedonia

In the reporting period the Ombudsman realized numerous meetings with more representatives of international organizations, associations, and societies that came to visit the Ombudsman's Office. During the meetings was demonstrated a lot of interest in this Institution and its scope of work; in addition to that, were exchanged opinions and experiences about its functioning, and started were initiatives for reviewing certain issues and their resolution. All the meetings were featured by an undivided evaluation with regard to the function, nature, and significance the Institution Ombudsman has in the world. During the meetings, the representatives of the international organizations, associations, and societies expressed their full readiness for cooperate and extend adequate assistance with the aim to enable this Institution to successfully carry out its constitutional and legal authorities. The representatives of the European Union, the Council of Europe, and OSCE showed great interest in the conditions for autonomous and independent exercising of the function, as well as in rendering assistance for the purpose of the implementation of the Framework Agreement, that also includes the Ombudsman.

In the reporting period the following meetings were realized:

- **Mr. Donald McGregor**, Director of the Public Administration International in London;
- **Mr. Jolyon Naegele**, analyst, correspondent of Radio "Free Europe";
- Representatives of the Swedish National Television;
- **Mr. Terrance Lorne Mooney**, Head of the Mission, Canadian Embassy in Skopje; **Mr. Rivar**, Head of the Finances, and **Mrs. Izabela Sami**, political adviser at the Canadian Embassy Office;
- **Mr. Carsten Weber** and **Mrs. Colette Rausch**, representatives of the OSCE Mission in Kosowa, that is, the Department for the Support of the Ombudsman at the Department for Human Right and Rule of Law;
- **Mr. Mark K. Dietrich**, senior adviser for "Management System International" (CEELI);
- Visit and presentation of the Institution in OSCE and a conversation with **Ambassador Carlo Ungaro**, OSCE Spillover Monitor Mission;
- Visit and presentation of the Institution at the Embassy of the Russian Federation in Skopje and a conversation with **His Excellency, Mr. Vladimir Ivanovski**;
- Visit and presentation of the Institution at the Royal Norwegian Embassy in Skopje and a conversation with **His Excellency the Ambassador, Ms. Vibeke Lilloe**;
- Visit and presentation of the Institution at the Embassy of France in Skopje and a conversation with **His Excellency, Mr. Jean-François Terral**;

- Visit and presentation of the Institution at the Office of the Delegation of the European Commission at the European Union in the Republic of Macedonia and a conversation with **His Excellency, Mr. José Manuel Pinto Teixeira**;
- **Mrs. Petra Krdman** and **Mr. Jan Janssen**, representatives of "Amnesty International";
- **Mr. Badinteur**, realized meeting at the French Embassy;
- **Mrs. Sylvia Casale** and **Mrs. Bojana Urumova**, representatives of the European Committee for the Prevention of Torture and Inhuman or degrading Treatment or Punishment at the Council of Europe;
- **Mr. Ron Rimmer**, Head of the Commercial and Development Sections, Political, Press, and Public Affairs Officer at the British Embassy in Skopje;
- **Mrs. Tanja Lubbers**, representative of "Pax Christi," a Netherland's non-government organization;
- **Mr. Dagfinn Aadnanes**, Head of the Monitoring Mission of the European Union in Skopje;
- Meeting with a representative of the Ministry for International Development of Great Britain;
- **Mr. Henrick Amneus**, Ambassador and **Mr. Predrag Zivkovic**, Human Rights Commissioner of the United Nations, UNHCR from Geneva;
- **Mrs. Susan Wood**, Political Officer at the State Department of the USA;
- **Mr. Thomas Markert**, representative of the Council Of Europe;
- **Mr. Andrew Palmer**, representative of OSCE and **Mrs. Marie Benedict Erni**;
- **Mr. Vassilis Maragos** and **Mr. Giovanni Caprio**, representatives of the European Union;
- **Mrs. Denise De Hauwere**, Counsellor at the Embassy of Belgium;
- **Mr. Marc Segal**, Counsellor at the European Commission, European Union, for the Project "Development of the Judicial System";
- **Mrs. Joana M. Crandall**, representative of OSCE;
- **Mrs. Charlotte Heath**, Social Development Adviser and **Mr. Alan Philips**, Adviser for National Issues at the British Embassy in Skopje;
- **Mr. John Penny**, First Consultant at the Office of the Commissioner of the European Union;
- **Mr. Uwe Missner**, Consultant from Romania, Office of IBD;
- **Mr. Joakim Robertsson**, Adviser in OSCE, Mission on Kosowo;
- **Mr. Marcel Shol**, representative of the Committee of the International red Cross;
- **Mr. Sirpa Rautio**, Head of the Monitoring Unit of OSCE.

3.7. Study trips, professional-educational symposium and meetings

This year again, the Ombudsman realized many work meeting, study trips, and participated in several educational symposiums. At the meetings were exchanged opinions with regard to the experiences pertaining to the protection of the freedoms and rights of citizens, useful opinions pertinent to the functioning of these institutions, materials and expert literature, useful for practical handling; finally, started were initiatives for the reviewing of some practical issues and their resolution. The Ombudsman partook in several symposiums and meetings of importance for the functioning of this Institution. On this occasion we would like single out the following realized meetings, symposiums, and study trips:

Public Attorney (Ombudsman)

- Zagreb, Republic of Croatia, participation in the Round Table entitled "Counseling on the Role and Power of Ombudsman, Especially in the Countries in Transition," organized by the Council of Europe and Directorate for Human Rights;
- Athens, Republic of Greece, participation in the workshop entitled "Independent Officers in Greece," organized by the Center for European Constitutional Law;
- Strasbourg, Republic of France, within the Pact for Stability, "Overview-Meeting of Independent and Ombudsmen Institutions for the Protection of Human Rights," in the organization of the Council of Europe and the Mediator of the Republic of France;
- Warsaw, Republic of Poland, Annual Meeting of ombudsmen-Institutions and the Commissariat for Human Rights entitled "the Position of Romanies and their Migrations," organized by the Council of Europe;
- Kishnyev, Republic of Moldavia, seminar entitled "Ombudsman and His Relationship with the Media," organized by the European Ombudsman Institute;
- Belgrade, Federal Republic of Yugoslavia, workshop "Model of the Ombudsman Institution for the Federal Republic of Yugoslavia, organized by OSCE in the Federal Republic of Yugoslavia and the Greek Ombudsman;
- Dubrovnik, Republic of Croatia, workshop entitled "Human Rights and Democratization," organized by OON-Geneva;
- Pris, republic of France, annual meeting of ombudsmen for children, organized by ENOC and UNICEF;
- Ljubljana, Republic of Slovenia, international conference entitled "Ombudsman and His Relations with Judicial organs," organized by the Ombudsman of the Republic of Slovenia and the Council of Europe;
- Strasbourg, Republic of France, meeting of the ombudsmen from Central and Eastern Europe in relation with the situation of Romanies and the European Convention on Human Rights and Basic Freedoms, organized by the Council of Europe;
- Zurich, Switzerland, Seventh Round table on European Ombudsmen, organized by the Council of Europe;
- Belgrade, Federal Republic of Yugoslavia, Round Table on the Draft-Law on Ombudsman in Serbia, organized by the Council of Europe.

3.8. Symposium and meetings held in the Republic

In the course of the reporting year, the Ombudsman and his deputies took part in work meetings and symposiums held in the republic as well, such as:

- Skopje, seminar entitled "Fighting Against People Trafficking," organized by MIO-International Migrations Organization and UNICEF;
- Skopje, Forum for Young Journalists, organized by MANU;
- Skopje, Expert Forum on the Rights of Patients, organized by the Organization of Consumers and the Pensioners' Union;
- Skopje, project "Program for Building Peace 2001" entitled "Right of the Citizen in Pre-criminal and Criminal Proceedings," organized by Nansen Dialogue Center;
- Skopje, Round Table entitled "Romanies in Conflict/Crisis Situations," held at the Institute for Sociology, Political, and Legal Research under the auspices of the

- Center of Romany Communities DROM-Kumanovo and the mayor of the Municipality Suto Orizari-Skopje;
- Skopje, Round Table on Administrative Disputes, organized by the Ministry of Justice;
 - Skopje, participation in the presentation of the project-global migration of children "Say yes to Children," organized by UNICEF;
 - Strumica, seminar entitled "Practical Implementation of the European Convention for Human Rights," organized by the Informational Center for Civic Society;
 - Ohrid, annual meeting of lawyers from economy entitled "Rule of Law and Lawful State," with the Ombudsman's presentation;
 - Skopje, presence at the Fair of Non-Government organizations;
 - Skopje, presence at the ceremonies at the Faculty of Law and the Commissariat for Refugees on the occasion of the United Nations Day;
 - Skopje, participation and presentation on the seminar entitled "Local Participation, Local Democracy, " organized by Gemeinen Gemeinschen Schweiz-GGS, a non-government organization and the Embassy of Switzerland;
 - Skopje, participation in the conference "State Administration," organized by the law school students;
 - Bitola, seminar entitled "Training of Street Kids," organized by "Felix" from Bitola and the Institute for the Support of children from Portugal;
 - Skopje, round table on domestic violence and abuse of children, organized by UNICEF, the Institute for Sustainable Communities and the Council for Preventive Adolescent Delinquency from Kavadarci;
 - Skopje, round table, organized by the "Department for the Protection of Children";
 - Struga, seminar on "Sanctions Code for Minors";
 - Dojran, seminar for professional training in the field of adolescent delinquency;
 - Skopje, seminar "Sexual and Reproductive Health of Youth," organized by HERA;
 - Skopje, conference "The Rights of Citizens in Pre-Criminal and Criminal Proceedings";
 - Skopje, seminar "Protection of Women as a Part of Democratic Society," organized by the Union of the Women of the Republic of Macedonia and Konrad Adenauer Stiftung from Nurnberg, Germany;
 - Skopje, workshop entitled "Agenda for the Acting of the Federation of the Units of the Local Self-Government," organized by UNICEF and ZELS;
 - Skopje, seminar on "The Rights of Consumers in Executive Procedures and Inspection Services," organized by the Organization Of Consumers in Macedonia;
 - Skopje, seminar on the advancement of expertise of police inspectors for adolescent delinquency, organized by UNICEF and the Ministry of the Interior.

3.9. Cooperation with non-government organizations

Acting more widely in the field of the protection of the rights of citizens, the Ombudsman established a close cooperation with non-government organizations, associations, and societies that work towards the protection of the freedoms and rights of citizens. In the light of the fact that law does not limit the non-government organizations in their activities, so that they can more comprehensively deal with certain problems in society the citizens encounter. Thus these organizations can follow up, that is, monitor the

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situation prevalent in society at any given moment and from every possible aspect, and render their opinions and proposals for the improvement of the same.

The established cooperation with the organizations that act on the territory of the Republic of Macedonia has already yielded good results, and they have started informing the Ombudsman about violations of human rights on the accounts of which the Ombudsman undertakes activities through competent organs with the aim to ascertain whether there are really violations and, if any, within his remit undertakes corresponding measures.

This kind of cooperation between the non-government organizations and the Ombudsman's Office means the provision of the democratic principle of transparency in the work of public companies on the one hand, and their treatment of citizens on the other, which represents the main prerequisite for a proper functioning of a democratic society in which man is in the focus.

This cooperation between the Ombudsman and non-government organizations ought to be further deepened since they have a joint objective – protection and assistance in the exercising of human freedoms and rights.

This year the Ombudsman established a close cooperation with numerous non-government organizations, in particular with the following: the Office of UNICEF in the Republic of Macedonia; Helsinki Committee for Human Rights in the Republic of Macedonia; Union of the Organization of Women in the Republic of Macedonia; Nansen Dialogue Center; "Caritas" branch office in Skopje; Council for the Prevention of Adolescent Delinquency in Kvardarci; Union for the Care and Education of Children; "Feliks"-Bitola; Union of Women Romanies in the Republic of Macedonia "Esma"; Association for the Protection of the Rights of Children from Skopje; Office "Amnesty International: in the Republic of Macedonia; Humanitarian and Charitable Association of Romanies "Mesecina (Moon)" from Gostivar, and others.

4 GENERAL EVALUATION OF THE SITUATION PERTAINING TO THE RESPECT FOR THE CONSTITUTIONAL AND LEGAL FREEDOMS AND RIGHTS OF CITIZENS

4.1. General evaluation

The admitted complaints lodged by over 5.000 citizens, conducted interviews with over 3.000 citizens in the Ombudsman's Office and out of it while visiting larger centres in the units of the local self-government throughout the Republic, telephone calls made with over 4.000 citizens, and 300 visits and inspections into individual cases handling, ascertained violations of the rights of citizens, as well as the insights gained from the overall work of many officers and organizations, all of it within the Ombudsman's remit, lead to the conclusion that in the securing, exercising, respecting, and safeguarding of the freedoms and rights of citizens by the officers of the state administration and other organs and organizations with public authorities the Ombudsman handles with authority, in comparison with previous years, this year were not made positive any significant changes; on the contrary, the competent officers in the Republic did not succeed in the full protection of the fundamental human rights, such as the right to life, freedoms, and movement, ownership, and alike. Hence, the process of the exercising of rights in the Republic of Macedonia is as it was before, slow and difficulty ridden, through long-lasting and court proceedings in which is still used obsolete, incoherent, and inconsistent legislation, not fully adjusted to the Constitution of the Republic of Macedonia and international acts, on which, in addition to the objective situation a certain impact had still to a large degree present bureaucratic, unprofessional, and low-clerk mentality of the officers both in the communication with citizens and deciding and handling upon claims for the exercising of civil rights.

However, this unfavourable situation with regard to the securing, respecting and protection of the freedoms and rights of the citizens in the Republic was largely brought about by the overall social-political, economic, social, and security living conditions. Namely, military actions reflected on all the spheres of life and produced a new categories of citizens – refugees, displaced people, human casualties, kidnapped, missing, wounded, maimed and sick people, broken down families, people whose property and homes were destroyed, and demolished historical, cultural, and religious monuments.

4.2. Relationship and cooperation between the Ombudsman and the citizens and organs and organizations over which he competently handles

Data confirm that citizens accepted the Ombudsman, and thanks to the perseverance and professional attitude of the employees at this institution, the citizens have already started realizing their interests, which is a sound proof that they acquired trust in the Ombudsman and fully support him. However, unsettling is the evaluation that the same cannot be said of the acceptance of and cooperation with the Ombudsman and officers and organizations he competently handles over. Thus, despite undertaken measures and activities for the establishment of the requisite cooperation, this year no significant changes for better were made. Namely, in spite of irregularities pointed out and interventions made, some of the officers and organizations partly or completely did

not act upon said interventions; some only declaratively expressed their readiness to cooperate whereas in practice their attitude remained unchanged.

This kind of acting of the officers and officials was the reason for an unjustified delay of the proceedings before the Ombudsman, thus righteously causing the anger of citizens that it was the Ombudsman who did not timely respond or inform them. Therefore, such an attitude is impermissible and improper, and in the future there should be established a closer cooperation with the officers and organizations, especially because there is a legal obligation for it.

This a cause for concern on the Ombudsman's part that this ignoring response and intentional disrespect and obstructing of his work can lead to a, on a much wider level, to the thwarting of democratic processes, breach of trust of the citizens in this Institution and other institutions of the system, and, in general, the entire functioning of a lawful state.

4.3. Situation pertaining to legislation

In order to make provisions for a prompt and efficient exercising of the rights, of substantial significance is to adjust the legislation to the Constitution and international legal acts and documents so that it would thus correspond to the situation and conditions in the Republic and be consistently implemented in practice. Although a part of the legal projects were enacted and adjusted to the Constitution and international standards, a great number has not been altered, which has a negative bearing on the prompt and efficient exercising of the rights of citizens.

To that end, uppermost should be concern for the final legislative regulation of the legal framework that vouchsafes the legal protection of the rights of citizens in many fields. Of utmost priority is the enactment of the new Law On General Administrative Procedure and the Law on Administrative Disputes that will enhance efficacious exercising of the rights of citizens. By means of these Laws should be set down the legal framework for the acting of administration in the exercising of the rights of citizens, that, in essence, will follow the principles of equality of citizens and their protection from the arbitrariness of the state organs before which rights are exercised. To that end, they will have to particularly take into consideration the need for the complying with the deadlines in handling, cutting down of unnecessary administrating in cases and modernization of the work method of state organs for the sake of the increase in efficacy in the protection of the rights of citizens, which would be further endorsed by introducing new modern computer technology and the obligation of the organs to ex officio gather all or part of the requisite fact and documents. Of great importance is also the ensuring of the two-levelness of procedure in administrative disputes, which would be in compliance with the Constitution of the Republic of Macedonia, as it was pointed out last year as well.

However, the Ombudsman can ascertain with concern that the exercising of human rights in the Republic of Macedonia is still featured by a blatant contradiction between constitutionally and legally set down rights and their use, that is, the problem inherent in the exercising of rights does not only refer to inappropriate, obsolete and not conformed legislation, but rather to a grave and frequently disquieting incongruity be-

tween the legal norms and reality. Therefore, it should be borne in mind that a democratic country cannot be considered the one that only sets legal standards for human freedoms and rights at the highest world, European, and civilized standards while the system, especially the authorities, irrespective of the degree, type, and level does not make provisions for their exercising in reality and every day life.

Hence the reminder of the Ombudsman and his message to the competent state organs and organizations that the Republic of Macedonia, as a member of the United Nations and a country that aspires to join the European Union, with the signing of the Agreement for the Stabilization and Association with the European Union undertook the obligation not only to adjust the domestic legislature to those in the countries- members in the European Union, but consistently realize it in real life.

4.4. Attitude of the state administration-officers toward the citizens

This year's evaluation is again that the clerks and officers in the public administration, while handling and deciding upon complaints of citizens, unjustifiably delayed the proceedings. Hence the statement that only rarely did it happen that the proceedings were completed within set timetables as prescribed in the Law on General Administrative Procedure. By way of illustration, present are delays of the administrative procedure from a year to more than two years, which by no means can be considered a reasonable time framework for an administrative procedure; moreover, registered administrative disputes before the Supreme Court of the Republic of Macedonia, as a general rule, are taken into procedure and last a year, two, or even more.

Beside delayed procedures for the exercising of rights, present are other intentional or random violations of the Law on General Administrative Procedure and other violations of laws and inappropriate behavior of the part of the employees in the public administration, most often evident as:

- not including the interested parties into the procedure;
- rejection of claims on the grounds of not enclosed evidence the organ could have procured himself *ex officio* or by personally conducting inquiry in the public books and documents;
- not acting upon the suggestions of the appellate or court organs;
- non enforcement of valid and final administrative acts or selective approach in the enforcement;
- no respect for the request to resolve the claim differently in spite of obvious evidence and suggestions in favor of that proposal issued by the parties and Ombudsman;
- unresponsiveness, lack of cooperation, incoordination and unorganization of the internal services/departments in the organ and among organs;
- refusal to accept claims;
- untimely delivery of documents pertaining to cases to the appellate organs and courts;
- arrogant, uncaring, improper, and offensive communication with the parties;
- intention to leave an impression on the parties that a service is being done to them although the undertaken activities are within the scope of official duties, etc.

Message

Starting out from the fact that the securing, exercising, protection, and development of human freedoms and rights is the corner stone of the future growth of democracy, rule of law, and functioning of a lawful state, the Ombudsman is making the following recommendation to the Government of the Republic of Macedonia, the organs of the state administration and organs and organizations with public authorities: to undertake all available measures and activities by means of which will be removed all irregularities and unlawfulness presented in this Report and in the future secure the conditions for the following:

- conscientious, responsible, prompt, and timely handling of the claims of citizens for the exercising of their rights, as well as of the requests and interventions of the Ombudsman;
- permanent following of the situation with respect to human rights, their advancement, securing, respect, and timely standardization and adjustment to international acts and standards;
- transparency in work and timely informing of the public about the undertaken activities in the field of human rights and their active involvement;
- more systematic informing, training, and education about the freedoms and rights of citizens of all age groups, with the engagement of non-government organizations active in the field of protection of and respect for human rights as necessary prerequisites for the development of democracy, rule of law, and functioning of a lawful state.

5 ORGANIZATION, PERSONNEL, AND FUNDS

5.1. Organization of work

The concept Ombudsman set down by the Constitution and laws acts as a single, autonomous, and independent organ (officer) on the whole territory of the Republic of Macedonia. The established practice of sustained visits and interviews with citizens in the units of the local self-government proved to be very successful, economical, and practical.

The internal organization of the institution is divided into three organizational units: the Study-Analytical Unit, the Record-Keeping, Documentation, and Informatics Unit, and the Unit for Financial and Administrative-Technical Affairs with a special Department for the Protection of Children. Such a work organization, as a general rule, enables handling of complaints and other activities undertaken by the Ombudsman to be carried out speedily and efficaciously.

Realizing the need for the specialization of expert personnel according to fields, thereby using the comparative experiences of more institutions of the same type in the world, at the end of the reporting year was conducted a rearrangement of the executors of the Administrative Office according to fields. Namely, there were formed five groups headed by either the Ombudsman or one of his four deputies. Beside the Ombudsman or one of the deputies, to every group were assigned three other advisers. Thus, the following groups emerged: protection of the rights of the members of communities not in majority, protection of the rights in police proceedings, and protection of the army officers and draftees – headed by the Ombudsman, Branko Naumoski; protection of the rights of children, protection of the rights from the field of education, protection of the rights from pension and disability insurance, and protection of the rights from the field of health protection – headed by Deputy Ombudsman, Nevenka Krusharovska; protection of the rights from the field of urbanism and construction building, protection of the rights from the field of environment, and protection of the rights from the field of judiciary – headed by Deputy Ombudsman, Tripun Tanusheski; protection of the rights from the field of finances and financial operations, protection of the rights from the field of property rights, protection of the rights from the field of customs, protection of the consumer rights, protection of the rights from community care, and other public services, and payment, and protection of the rights from other fields – headed by Deputy Ombudsman, Ljupcho Ivanovski; protection of the rights from the field of labor relations, protection of the rights from social rights, protection of the rights from the field of science, culture, and sport, and protection of the rights from the field of housing relations – headed by Ombudsman Deputy, Suzana Saliu.

5.2. Personnel

The situation respecting personnel is the same as last year: the Ombudsman still exercises his function aided by 32 executors, out whom 17 work in the Study-Analytical, 3 in the Record-Keeping, Documentation, and Informatics Unit, and 12 executors in the

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(Ombudsman)**

Unit for Financial and Administrative-Technical Affairs. In terms of the qualifications of the personnel, the situation is as follows: 21 have college degrees, 10 high school diplomas, and one elementary school certificate. The structure of the personnel sex-wise is as follows: 19 women and 13 men and according to their nationality, 2 are Albanians, 2 Serbs, and 27 Macedonians.

The Ombudsman deems that the total number of the employed personnel, despite temporary absences from work, sick leaves, and a one-year maternity leave of one of the employees, through their additional engagement, professionalism, and qualifications fully and successfully deal with the influx and scope of work with complaints, thereby achieving satisfactory results. Based on the experience acquired in the past three years, it is to be expected that in the forthcoming period this institution will achieve even better results.

5.3. Funds

In compliance with Article 26 of the Law on Ombudsman, the operating funds earmarked for the work of the Ombudsman are procured from the Budget of the Republic of Macedonia.

This year for that purpose were committed funds in the amount of 17.566,000,00 denars. Although the funds were insufficient, with a rational and restrictive use and financial and technical aid, especially given by the Council of Europe, UNICEF, the Liaison Office of the Canadian Embassy and the British Council, the Ombudsman succeeded in exercising his legal functions and competences.

The Budget for 2001 contains additional restrictions of the funds earmarked for the Ombudsman. Also, the Budget does not foresee sufficient funds for education, seminars, and other organized meetings in and out of the Republic, as well the financial means for the education and advancement of expertise of younger personnel at the Ombudsman's Office.

It is our hope that in 2002 and in the upcoming period sufficient financial means will be provided, so that the Institution can correspondingly respond to its increased competences and obligations, that are foreseen by the Framework Agreement and the implementation of Amendment XI pronounced and adopted by the Assembly of the Republic of Macedonia on November 16, 2001.

6 FORTHCOMING ACTIVITIES

In the year 2002 the Ombudsman will face many activities that continuously and in keeping with the Work Program in the Current Year need to be realized. Namely, this year will be carried on with the already established practice of sustained visits to citizens in the units of the local self-government in the Republic. This work method the citizens assessed as very efficient and economical; thus, it has contributed to the affirmation of the Institution and deepening of the trust of the citizens into the institution.

Within the framework of the upcoming activities for the purpose of the enhancement of the educational role of the Ombudsman, it is planned to intensify the cooperation with all the organs of the state administration and the organs and organizations with public authorities; as well as with the competent inspection organs and non-government organizations, so that a greater efficacy in the exercising of the protection of the rights of citizens can be attained.

To that end, improvement of the knowledge of the citizens about their rights and how to exercise them, the Ombudsman's Office is planning to organize conferences in cities on which the Ombudsman would demonstrate his educational role not only by way of the informing of citizens about legal solutions in certain legislations, but also raise their law awareness and culture.

The Ombudsman will carry on putting forth efforts, as he did in the past years, to contribute with his participation to the drafting of legislation, that is, aid/induce the process of harmonization of the legislature in the Republic of Macedonia with the legislature in the European Union and its implementation. As a member of the Commission of the Ministry of Justice, he will actively participate in the drafting of the text of the Law on the Changing and Amending of the Law on Ombudsman, that will enable the Ombudsman to undertake activities pertaining to the application of the principle of non-discrimination and equitable representation of the communities not in the majority in public bodies at all levels and other areas of public life.

7 EXAMPLES FROM COMPLAINTS HANDLING

2.2. -1 NP 48/01

On his initiative and occasioned by the action of the police for the detection of the perpetrators of the attack on the police station in the village of Tearce-Tetovo and a potential violation of the constitutional and legal rights of a large number of people, about which mass media reported, a case was formed. In the course of the procedure an immediate investigation was conducted on site and interviews held with many citizens and officers in Tetovo and the villages of Sipkovica and Semsevo at the time they were seized by armed conflicts.

In the course of the investigation it was established that in the aftermath of the police action to the Medical Center in Tetovo were admitted for a medical treatment five citizens, which further confirmed the allegations/charges that physical force was used. The Ombudsman asked from the Ministry of the Interior to take certain measures for the detection of the officers who overstepped their official authorities and then take disciplinary measures, and initiate misdemeanour or criminal proceedings against said persons, to compensate for the material damage caused by the police action to the citizens, and, finally, to continuously educate the members of the police forces about the practical application of the regulations and rules of official conduct in cases handling such as massive actions for the detection and prevention of penalty deeds/offences, so that in any future actions there will not happen again that police officers overstep their authorities. The Ministry of the Interior did not accept the suggestion issued by the Ombudsman.

2.2.-2 NP 77/01

After a telephone call from a citizen N.LJ. from the village of Radusa and with regard to the arrest of the person S.M. from the village of Radusa by official persons on the grounds of a reasonable doubt that he was involved in the attack on the Police Station in the village of Tearce, after that information was released in daily print, the Ombudsman started a procedure in the course of which he ascertained that the police officers overstepped their authorities and gratuitous force was used on said citizen, as a result of which he suffered severe bodily injuries. A thorough explanation about this case was required from the minister that governs the Ministry of the Interior. At the same time was issued a statement to the mass media. After the case was publicly released and the Minister of the Interior ordered a thorough investigation by the Sector for the Internal Control at the Ministry, three senior officers from the Direction for National Security were found responsible also, three executors overstepped their official authorities. The Ombudsman has not been updated about any further course of action.

2.2.-3 NP 53/01

On the ground of the articles published in the mass media, at his own initiative, the Ombudsman initiated proceedings related to the use of force by officers at the Ministry of the Interior on the citizen Lj.K. from Kumanovo, a security at the factory “Kiro Fetak” – Kumanovo. In the course of the proceedings it was ascertained that in case concerned official authorities were overstepped and excessive and gratuitous force used, so that severe bodily injures were inflicted on said citizen. Therefore, the Ombudsman forwarded a proposal to the Ministry of the Interior of the Republic of Macedonia that contained a suggestion for the determining of disciplinary responsibility against police officers and on accounts of a reasonable doubt that they committed an offense – Torture from Article 142 of the Criminal Code. The Ombudsman has still not been notified about the undertaken activities with regard to the forwarded acts.

2.2.-4 NP 844/01

J.A. from Skopje lodged a complaint in which he stated that his brother A.A. had been missing, that is, arrested by police officers, after the special units of the police forces carried an action for the arrest and elimination of the members of the groups of armed persons on “Vergino”St. in Skopje. The Ombudsman started the proceedings in the course of which he ascertained that said person was diagnosed dead by the Institute for Forensic Medicine and Criminology, due to what he immediately turned to and requested from the Public Prosecution-Skopje to undertake measures and activities for the detection of the committer of this offense, and for which the procedure is pending.

2.2.-5 NP 872/01

S.J. from the village of Ljuboten lodged a complaint in which he stated that his brother R.J. from the same village died in the course of the action of the members of the police forces on August 12, 2001, and sought the Ombudsman’s intervention for a faster establishing/determining of the causes of death. The Ombudsman started a procedure in the course of which the Bureau/Agency for Public Safety at the Ministry of the Interior submitted information to the Ombudsman to the effect that the Ministry had undertaken measures for the detection and arrest of the members of the so called “ONA”, arresting 73 people from the village of Ljuboten, of which against 27 the Public Prosecution in Skopje brought criminal charges on the grounds of a reasonable doubt that they committed an offense- Terrorism and preparation for terrorist acts. After the information was received that in the village were found five bodies, investigation team was formed, consisting of an investigating judge from the Trial Court Skopje II – Skopje, a Public Prosecutor Deputy, and experts from the Ministry of the Interior, but because of the unstable situation, the investigation was not carried out, and the deceased persons were buried on the village cemetery without the permission of the competent organs. Due to the above reasons, the lodger of the complaint was advised to initiate court proceedings for the determining of the reasons of his brother, or wait for the exhumation of the bodies, after which a court under whose jurisdiction this case will be, shall make a corresponding decision on the same.

2.2.-6 NP 28/01

I.H. from Skopje lodged a complaint in which he stated that the Ministry of the Interior, the Sector for the Administrative and Oversight Affairs at the Department for Citizenship and Civil Affairs violated his legal rights due to the delay of the procedure for acquiring Macedonian citizenship. In the course of the procedure it was ascertained that the lodger of the complaint was born in Skopje, served in the Army in Skopje and his claim was being considered on the grounds of a special interest (Article 11 of the Law on Citizenship), but because of the incongruity and incompleteness of the justification criteria for the acquiring of Macedonian citizenship, first are sought the opinions from the Ministries of Defense and Justice.

For those reasons, the Ombudsman submitted corresponding suggestions to the organ before which the proceeding is pending for the speeding up of the same and taking into consideration the specific circumstances pertaining to this case. The case is still pending.

2.3.-1 NP 498/01

N.D. from Ohrid lodged a complaint in which he stated that the Appellate Court in Skopje and the Trial Court Skopje I – Skopje violated his constitutional and legal rights because they unjustifiably delayed the procedure for deciding upon his appeal lodged against the Resolution No. 741/96 from October 15, 1997 made by the latter, which permitted the execution. In the course of the procedure the Ombudsman ascertained that the Appellate Court in 1998 administratively returned the case documents to the Trial Court with a request to eliminate the omissions in the procedure, upon which the Trial Court acted only in 2001 when the citizen was asked to submit a copy of the Resolution by virtue of what said Court permitted the execution. Establishing that in the case were not made provisions for a lawful, prompt, and efficient exercising of the function, as well as unimpeded, within reasonable timetables and economic exercising of the rights of the citizen, the Ombudsman referred a suggestion to the Republic Judicial Council and the Ministry of Justice by means of which he asked them to undertake activities for the establishing of the reasons for the delay of the judicial proceedings and to create the conditions for making decisions within the least possible time framework, and, on the other hand, to take on the responsibility for incompetent and unprofessional exercising of the function. The suggestions were accepted and the Republic Judicial Council undertook measures within its competences.

2.3.-2 NP 484/01

A citizen S.S. from Kicevo lodged a complaint in which he stated that the Supreme Court of the Republic of Macedonia violated his constitutional and legal rights because they unjustifiably delayed the procedure with regard to his charges raised in October 1999 for initiating of administrative procedure. In conformity with the authorities that spring forth from the Law on Ombudsman, in the course of the procedure and through the Ministry of Justice, the Ombudsman pointed out the long duration of the procedure and asked for an urgent handling of the same, after which the case was taken into handling and a corresponding decision made.

2.3.-4 NP 241/01

T.T. from Bitola, at the time serving his sentence in the Prison KPU "Idrizovo"-Skopje lodged a complaint in which he stated that his legal rights were violated because occasioned by his claim for a temporary (30 day) suspension of the prison sentence, the Administration for the Execution of Sanctions did not make a decision.

In the course of the investigation, the Ombudsman had an interview both with the complainant and the officers while ascertaining that the conditions for meeting the claim were fulfilled, and issued a suggestion to the Agency for the Execution of Sanctions at the Ministry of Justice to enable the lodger of the complaint to make use of a temporary interruption in the serving of his sentence.

2.2.-1.1. NP 119/01

E.P. from Skopje lodged a complaint in which she stated that in spite of a severe material-financial situation she was in, the Center for Social Work did not approve her a single relief and that because she did not have blue slips (medical slips) and financial means a very urgent surgery could not be performed on her adolescent son. After ascertaining the factual situation, the Ombudsman recommended to the Center for Social Work to allocate a single relief to the lodger of the complaint, which was done, and at his intervention, the Fund for Health Insurance issued a Statement on the grounds of what to the lodger were issued blue medical slips, thus meeting the conditions for the surgery to be performed free of charge.

2.5.-1.2. NP 507/01

K.Z. fro Valandovo lodged a complaint in which he stated that although he met the conditions in compliance with the Law on Social Protection and the Decision on the Conditions, Criteria, Amount, Manner, and Procedure for the determining and realizing of social relief, his claim was rejected. After the intervention of the Ombudsman the claim of the lodger was met, that is, he exercised his right to social relief.

2.5.-1.3. NP 1012/01

H.J. from Stip lodged a complaint in which he stated that the competent center for social affairs did not act upon the decision of the Supreme Court of the republic of Macedonia, which obstructs the exercising of his right to social relief. After the Ombudsman ascertained the factual situation and undertook activities, the lodger's claim was met.

2.5.-2.1. NP 285/01

D.J. from Sveti Nikole lodged a complaint in which he stated that the Employment Agency-Bureau for Employment in Sveti Nikole violated his rights by calling upon the Decision of the Government of the Republic of Macedonia for a temporary stay of execution of employment at the users of the funds from the Budget that are both legal entities and individual users, refused to make a registration of the Contract for Work made between the Council of the Municipality Sveti Nikole. After he ascertained the factual situation, the Ombudsman pointed out to the Employment Agency in Sveti Nikole to make a registration of the contract for work because the Council of the Municipality of

Sveti Nikole has a right to make a selection and appoint a general manager and his deputies, which was fully accepted and said contract was entered into the register.

2.5.-2.2. NP

K.S.P. from Skopje lodged a complaint in which he stated that with the resolution made on the termination of his labor relation by way of dismissal notice and on the grounds of the new needs of the service, his rights stemming from labor relations were violated; the resolution came into effect on the day of its making thereby depriving him of the right to repayment notice and vacation. The Ombudsman started a procedure in the course of which he ascertained misconduct of the proceedings and misapplying of the substantive law in the part of the provisions stipulating the rights to vacation, repayment notice, and coming into effect of the resolution. On the account of the stated violations he submitted an Opinion to the Government of the Republic of Macedonia, the Ministry of Labor and Social Policy, and the Ministry of Justice by means of which he emphasized the need that the employers ought to secure the above mentioned legal obligations to their employees even after their labor relation was terminated. The issued opinions were not accepted; however, evaluating the constitutionality and legality of the Law on the Changing and Amending of the Law on Labor relations, the Constitutional Court of the Republic of Macedonia abrogated the provisions that referred to the termination of the labor relation by virtue of dismissal notice and on the grounds of the needs of the service. Afterwards, the competent courts with their corresponding judicial proceedings, about which the Ombudsman was informed, made decisions annulling the conflicting resolutions. This kind of attitude is the best proof of the Ombudsman's opinion.

2.5.-2.3. NP 974/01

R.J., E.R., A. J., A.M., and S.B. from the village of Arachinovo, Skopje, lodged a complaint in which they stated that their rights stemming from labor relations were violated by their employer when he made a resolution for the termination of labor relation on the grounds of the breach of work discipline, that is, their not coming to work. Furthermore, the resolutions were not delivered to them, thus they forfeited the right to seek protection from the employer, trade union, inspection organs, courts of jurisdiction, and other organs in conformity with law. After investigating the charges of the complaint, and bearing in mind the situation in the village of Arachinovo and military actions performed in that region, the Ombudsman submitted a suggestion by means of which he pointed out to the employer that he ought to repeat the procedure in the part of the omitted delivery of made resolutions so that the employees could use to right to demur (objection), that is dispute the regularity and lawfulness of the resolutions. In addition to that, to the minister governing the Ministry of Labor and Social Policy the Ombudsman forwarded a request for the taking of measures by means of which would be implemented the Information of the Government of the Republic of Macedonia setting down that the workers from the warring regions should not be dismissed due to absence from work or irregular coming to work while the crisis is on. The procedure is still pending.

2.5.-3.1. NP 710/01

L.P. and other citizens from Stip lodged a complaint in which they pointed out that the Commission of the Ministry of Transport and Connections violated their constitu-

tional and legal rights in the procedure for the allocation of apartments in compliance with the Decision on the Way and Procedure for the Allocation of Apartments built according to the "Project for the Building of Apartments that Will Be Rented to the Low-Income Persons."

The Ombudsman initiated a procedure in the course of which he ascertained certain irregularities and unlawfulness in the procedure, because of which he turned to the Sector for Housing-Community Care Affairs and Infrastructure at the Ministry for Transport and Connections and to the Government of the Republic of Macedonia stating that it is necessary to revise the above mentioned Decision and repeat the procedure for the allocation of the apartments so that irregularities could be removed and constitutional and legal provisions adequately applied. In short, to make a decision for the allocation of apartments and devise a form and resolution by virtue of which will be decided with merit on the work concerned; also, to designate an organ that will have the power to decide at the appellate level where dissatisfied citizens could lodge their appeals, and finally to define the status of the contentious apartments and to carry out the allocation with a more consistent application of the Law on Social Protection. At the same time, the Ombudsman urged that if the interested citizens turn with a special claim, not to expose them to additional expenses, to return them their documents enclosed as evidence.

In view of the fact that even after a long period of time has elapsed and the competent organs still have not accepted the issued suggestions, the cases are still pending before the Ombudsman.

2.5.-3.2. NP 910/01

A citizen V.K. from Skopje lodged a complaint in which he stated that although the School Board of the High School "Josip Broz Tito" made a decision to allocate him an apartment, fully in compliance with a valid court decision made at the Trial Court Skopje I – Skopje, no further activities were undertaken to enforce the made decision, that is, to make a contract for the use-rent of said apartment.

In the course of the procedure the Ombudsman ascertained a violation of the lodger's constitutional and legal rights and therefore turned to the State High School "Josip Broz Tito" issuing a suggestion that under the terms of the provisions of the Law on Housing measures should be undertaken for the purpose of entering a contract for the use-rent of said apartment with the lodger and enable him to freely use it if there are conditions for it under the terms of the provisions of the Law on Sale of Apartments in Community Ownership to grant him the right to buy said apartment by way of entering a sale contract. The suggestion was completely accepted and the lodger was issued an adequate resolution for a re-allocation of the apartment and in terms of the provisions of the Law on Housing he entered the contract for the use of the apartment with the Public Enterprise for Economizing with Housing and Business Space of the Republic of Macedonia.

2.6.-1.1. NP 195/01

M.A. from Ohrid stated in his complaint that in the procedure for the approval of hospital treatment abroad for his child, the Fund for health Insurance forced him to sign a contract that stipulated that the lodger would accept/take on the maximal expenses in the amount of 20.000 DM, of which 80% would be covered by the Fund, which

is not in compliance with the legal provisions since they do not determine/fix the highest amount for medical services, but the percentage should be paid by the insured person.

In the course of the procedure the Ombudsman ascertained violations of the rights of the lodger, on the account of what he sent to the Fund for referral a recommendation and information to the Minister of Health in which he pointed to the irregularities in work. The recommendation was fully accepted, thereby meeting the claim of the lodger.

2.6.-1.2. NP 923/01

N.S. from Skopje lodged a complaint in which he stated that the Clinic for Blood Transfusion-Skopje violated his rights from the sphere of health insurance by charging him a much higher rate for rendered medical service, that is, provided health service and although he had enclosed referral slip, valid health insurance card, and medical slips, he was charged as an uninsured person. After the Ombudsman's intervention, the charged amount was returned to the lodger.

2.6.-1.3. NP 995/01

B.J. from Skopje lodged a complaint in which he stated that as an insured person that suffers from an incurable disease, *progressive system sclerosis*, of course, together with other people suffering from the same disease, he is in unenviable position brought on by legal solutions unfavourable for this category of insured persons for whom are not foreseen any benefits pertaining to treatment, such as procurement of corresponding therapy, that right now is reduced to vitamins, the need for spa-climactic treatment, etc.

In the course of the procedure the Ombudsman ascertained and pointed out to the omission made with respect to the legal regulations and the special programs of the Government of the Republic of Macedonia that do not exempt these insured persons from participation and in order to overcome this situation, he proposed to undertake necessary measures to the effect of changing and amending of the legislation. These proposals were forwarded to the competent departments of the Fund and the Ministry of Health so that they can be taken into consideration in the drafting of the Program for 2002.

2.6.-2.1. NP 1035/01

J.S. from Pehcevo lodged a complaint in which he stated that the Fund for Pension and Disability Insurance violated his rights because they did not recognize his rights to unemployment benefit on the grounds of remaining work capacity as a disabled worker since there was no evidence for the termination of the legal entity, that is, it was deleted from the court register. In the course of the procedure the Ombudsman sent a recommendation in which he emphasized the obligation of the Fund to recognize these rights without meeting said requirement prescribed by the By-Law of the Fund because on the grounds of the opening of the bankruptcy and liquidation procedure, the employees' labor relation was automatically severed by force of law and they were registered at the Employment Agency as unemployed persons. This stance of the Ombudsman was accepted and the citizens' claim met.

2.6.-2.2. NP 499/01

N.J. from Gevgelija lodged a complaint in which he stated that the Fund for Pension and Disability Insurance impeded his legal right to buy an apartment in instalment payment in 40 years. The apartment was given to him for use by his father. Upon his claim were not undertaken any activities, neither was he notified about the reasons on the grounds of which he could not buy said apartment.

The Ombudsman started a procedure in the course of which he ascertained that by virtue of a valid Resolution R. No. 148/97 from December 12, 1998 the Trial Court in Gevegellija recognized the lodger's right to tenancy, thus pointing it out tot he Fund that it was necessary to enter a sales contract with the lodger of the complaint due to non-existence of any legal obstacles, which was done.

2.6.-2.3. NP 815/01

B.L. from Delcevo lodged a complaint in which he stated that the Fund for Pension and Disability Insurance violated his right in the procedure for the recognizing of his right to retirement pension because the procedure was delayed. The Ombudsman initiated a procedure in the course of which the ascertained factual situation undisputedly proved that the citizen met the requirements on the grounds of his age and years of insurance benefit, thus pointing it out to he Fund that it ought to urgently handle, especially since at stake was a basic social and existential right. This suggestion was fully complied with and the complainant's claim met.

2.6.-2.4. NP 1023/01

H.S. from Skopje lodged a complaint in which he stated that he received his pension check from a Fund in the Republic of Bulgaria, and lately he and a group of other pensioners received very scanty amounts.

Having in mind the fact that this had been a long standing issue, the Ombudsman asked from the Ministry of Labor and Social Policy an information about the possibilities of the resolution of this problem through a contract made with the Republic of Bulgaria. The suggestion was complied with so that a Ministry of jurisdiction started negotiations for the entering of contract for social insurance, and it is still in negotiations.

2.8.-1. NP 155/01

The parents of the student R.B. lodged a complaint in which they stated that a teacher at the Public High School harassed a minor, their son. After analyzing the allegations of the complaint, enclosed evidence and gathered material evidence in the course of the investigation, the Ombudsman brought criminal charges against the teacher on the grounds of a reasonable doubt that he committed an offense Harassment in the Execution of Service from Article 143 of the Criminal Code. The case is pending before a court of jurisdiction in Skopje.

2.8.-2. NP 359/01

N.I. from Skopje lodged a complaint in which she stated that her rights were violated because a court decision on divorce by virtue of which a child was given to her for care, education, and partial support was not enforced.

The Ombudsman initiated a procedure in the course of which he ascertained that the lodger was entirely prevented to have any contacts with her child since the divorce ended, and all the activities of the Center for Social Care undertook to that end did not yield any positive results primarily due to the uncooperative behavior of the other parent.

For the purpose of the overcoming of this impasse, the Ombudsman turned to the Ministry of Justice emphasizing the problem with the enforcement of the court decision, at the same time asking from the Center for Social Work to undertake more rigorous measures against the parent that completely obstructs the contacts between the other parent and the child, which affects the child's normal development first and foremost.

Based on the information the Ombudsman possesses at the moment, the child still has not started realizing the contacts with the mother in spite of the engagement of the Center for Social Work, that is, the conducted talks with the father. In addition, no measures are undertaken to enforce the execution of the court decision because the father's appeal against the executive resolution is still pending.

2.8.-3 NP 771/01

S.S. from Skopje lodged a complaint in which he stated that his parental and the rights of his child were violated. Namely, he was denied access to his child by the other parent to whom the child was given for custody and care, and although the Center for Social Work put forth effort to facilitate, no positive results ensued. Ascertaining the factual situation, extremely hostile relationship between former spouses on the one side, and the best interest of the child on the other, the Ombudsman contacted both parents, and conducted talks with them, which resulted in the process of continuous visits between the child and the other parent.

2.8.-4. NP 987/01

The Association of the Parents of Children Suffering from Cerebral Palsy lodged a complaint in which they pointed out to numerous problems they encountered, especially due to a lack of special centers for this category of children, centers that would educate and advance their health; also, no medications in the country and non procurement of the same, as well as non-procurement of orthopaedic aids out of the country without any compensation from the Fund for Health Insurance; the obligation to pay participation for medical services; withheld spa treatment and absence of possibility for a parent to stay in hospital during his child's treatment, when a child is older than three years. Comprehending the severity of their plight, the Ombudsman devised and submitted information to the Ministry of Labor and Social Policy and the Ministry of Health by means of which he stressed the need to urgently undertake measures for the overcoming of the above stated grievances. This was accepted and in the process are endeavors for the opening up of day care centers that would accomodate this category of children.

2.9.-1.1. NP 999/00

Z.J. from Skopje lodged a complaint in which he stated that the Ministry of Transport and Connections-District Unit Kisela Voda violated his rights in the process for the issuing of a resolution on the conditions for the building and verification of an urban project, that is, for the obtaining of a building permit that would include adding of structures on an apartment building. He was rejected because under the provisions of Article 48 of the Law on Housing, he was obliged to enclose a written consent of the other tenants in the apartment building. In the course of the procedure, the Ombudsman ascertained that the lodger's rights were violated because in compliance with Article 6 of the Law on Changing and Amending of the Law on Housing, said article was modified, so that now the consent was needed from the majority, not all the tenants. The competent organ submitted a recommendation to that end, and it was fully acted upon.

2.9.-1.2. NP 303/01

Z.A. from Kumanovo lodged a complaint in which he stated that the Ministry of Transport and Connections, Urban Police Department, did not take any actions to enforce the administrative execution of a final administrative act for the tearing down of a construction built without appropriate building-technical documentation. After the conducted inquiry, the Ombudsman made a recommendation to the competent organ to schedule and approach the realization of the administrative acts. In the course of the procedure it was ascertained that the enforcement was scheduled and only partially implemented, thereby enabling the contractor to reconstruct the demolished part. In a situation like that, the Ombudsman suggested to the Urban-Building Inspection to conduct an inspection after which it could make new administrative acts or previously made deliver again to the Urban Police for a thorough execution, which was accepted. The procedure for the execution of the administrative acts before the Urban Police Department, Kumanovo, are still pending, although the Ombudsman forwarded a new recommendation.

2.9.-2.1. NP 154/01

At his own initiative, the Ombudsman initiated a procedure occasioned by the information gained from daily press and other electronic media publishing the responses of the citizens from Veles with regard to the work of the zinc and lead smelter MHK "Zletovo"-Veles. In the course of the procedure, the Ombudsman turned to the competent organs – the State Environmental Inspectorate and the State Sanitary and Health Inspector prompting them to undertake measures within their legal authorities to resolve the problem with the air pollution in Veles; in particular, he emphasized the need to conduct investigation on site, to ascertain the factual situation, that, among other things, would include direct measuring of the pollution within objective possibilities, but also the procurement of other adequate gauging instruments, and on the grounds of what, if the data indicate any serious irregularity in the work of the legal entity, MHK "Zletovo"-Veles, to undertake all available legal measures and activities in compliance with Law.

The issued suggestions were accepted and after inspection was conducted on site, a Resolution on the Ban of Work was made and against the responsible persons in this legal entity, MHK "Zletovo"-Veles were lodged claims for initiating misdemeanor proceedings, as well as bringing criminal charges.

2.10.-1.1. NP 103/01

J.K. from Kavadarci lodged a complaint in which he stated that the Ministry for Finances violated his rights by not paying him back the erroneously paid funds on the account of processing expenses on the transfer account of the Trial Court in Kavadarci instead to the commissioner. Handling the complaint, the Ombudsman ascertained that the Ministry for Finances in this particular case misapplied Article 36, section 3 of the Law on Judicial Fees, claiming that the return of the taxes could not be made because more than a year had elapsed since the day of payment. The Ombudsman, on the other hand, made a recommendation in which he pointed out that said financial means were not paid as judicial taxes but as processing expenses, therefore the provisions of said Law can not applied. This interpretation was accepted, after which the competent organ made a Resolution by virtue of which the citizen was permitted to have his funds returned.

2.11.-1 NP 965/01

M.N. from Bitola lodged a complaint to the Ombudsman in which she stated that AD "Macedonian Telecommunications" charged her to pay groundlessly high bills on several telephone bills for alleged phone calls made with the serial number 0500, and on her refusal to do so disconnected her line. In the course of complaint handling, the Ombudsman ascertained that an abuse of the lodger's phone line was made by some other persons, and on the grounds of this discovery turned to the Department of the AD "Macedonian Telecommunications"- "City Phone" with the recommendation to correct contentious bills, upon what the Administrative Office of the "Macedonian Telecommunications" made a resolution by virtue of which was accepted the Ombudsman's intervention and written off the impulses incurred by someone else.

2.11.-2. NP 362/01

M.S. from Delcevo lodged a complaint in which he stated that JKPD "Bregalnica" from Delcevo fixes the compensation for the service provided for the collecting and transport of garbage according to the number of households and not on the basis of the price fixed per square meter of area under housing constructions and yard.

The Ombudsman concluded that this kind of payment constitutes a violation of the rights not only of the lodger of the complaint but also all the other citizens-users of the services of this Public Enterprize, and consequently issued a recommendation by means of which he requested that the payment of community care services is made in accordance with the provisions of Article 29 of the Law on Community Care Activities, that is, the price for the compensation to be fixed per square meter of area under housing constructions and yard. In spite of the undertaken activities, the competent organ has not yet acted upon the same.

2.11.-3. NP 534/00

Citizen LJ.B. from Ohrid lodged a complaint in which he stated that although he had paid long ago the tax for the planning of a building plot, as well as all the other fees

for the building of his housing construction, the access road to his house was not and built.

Ascertaining that the access road was included in the Detailed Urban Plan, the Ombudsman turned to the Fund for Communal Development –Ohrid with the request to incorporate said road into the upcoming Program for Planning, Building, and Maintenance of Local Roads for 2002.

The Ombudsman's request was accepted on the part of the Fund for Communal Development with the suggestion that it would be proposed to the Council of the Municipality Ohrid to plan the realization of the access road in its Program.

2.11.-4. NP 578/01

T.J. from Skopje lodged a complaint in which he stated that the Public Enterprize "Watersupply and Sewer" groundlessly charged him to pay high water bills.

In the course of the procedure the Ombudsman contacted the Public Enterprize "Water-supply and Sewer" with the request to check the functioning of the water meter, as well as to make corrections of the contentious bill, that, in the light of the exorbitant sum, undisputedly showed that there had been made a wrong calculation.

Acting in compliance with this suggestion, the Public Enterprize checked the functioning of the water meter and the situation with regard to the used quantity of water, ascertaining a disparity between the situation registered on the water meter and the one shown on the bill. Thus established mistake was corrected and the lodger of the complaint was charged to pay only for the really used quantity of water.

2.11.-5. NP 752/01

Z.N. from Vizbegovo, Skopje lodged a complaint in which he claims that he had been groundlessly razed from the record of the users of the services of the Public Enterprize "Water-supply and Sewer."

In the course of the procedure the Ombudsman contacted the Public Enterprize with the request to enter the lodger of the complaint into the record of the users, and the Public Enterprize acted upon the issued recommendation.

2.11.-6. NP 1059/00

R.I. from Stip lodged a complaint by means of which he sought Ombudsman's intervention with regard to a resolution of the problem with the atmospheric sewer since the competent services, that is, the Council of the Municipality did not undertake any measures to that extent. In the course of the handling, the Ombudsman turned to the Council of the Municipality in Stip and the competent Public Enterprize for Urbanism and Planning of Development Land with the request to, within their competences, make provisions for a normal functioning of the atmospheric sewer. Upon this, the competent services initiated a procedure for the devising of a project for the recovery of the problem with respect to said atmospheric sewer.

2.12.-1 NP 586/01

**Public Attorney
(Ombudsman)**

Citizen K.K. from the village of Pestani-Ohrid lodged a complaint in which he stated that the organ for the denationalization violated his rights in the procedure with regard to his claim for denationalization - restitution of real estate. Handling the complaint, the Ombudsman ascertained that the claim was grounded because the lodger of the complaint submitted to the Denationalization Commission with the head office in the Municipality Ohrid the claim on September 13, 2000. In other words, the procedure was unjustifiably delayed, which is in contravention to the provisions of the Law on Denationalization.

Starting from this legal and factual situation, the Ombudsman set about to prevent any further harmful effects. To that end, and bearing in mind the objective and the contents of the Law on Denationalization, the Ombudsman submitted a recommendation to the organ for denationalization. It focused on the need for enacting an administrative act that would adequately meet the claim of the lodger of the complaint. Although the Ombudsman additionally informed the Minister of Finances about the grievances stated in the complaint, the Ombudsman has not yet received any notification with regard to the undertaken activities or made decisions, if any.

2.12.-2. NP 429/01

M.T. from Makedonski Brod lodged a complaint stating that the Department for Land Surveying and Cadastre- Makedonski Brod at the State Institution for Geodesic Affairs violated his right in the procedure for presenting publicly the documents from the land surveying of the real estate. In the process of the determining of rights to real estate in the List No. 38 KO Belica his rights were violated because the organ did not accept all the evidence-documents, title deeds that present the basis for the registration into the real estate cadastre.

In order to make the provisions for a more efficient realization of the rights of the lodger of the complaint, the Ombudsman made a recommendation to the Department for Land Surveying and Cadastre to repeat the procedure that would take into consideration said document-agreement on the physical division of real estate verified/notarized before a competent court; also, to register the changes made on the grounds of said agreement and those in probate resolution, and, finally, to take into consideration the situation ascertained on site in the course of land surveying, to determine the right of said real estate. This suggestion was accepted and adequate procedure administered.

2.12.-3. NP 1053/01

M and A.G. from Skopje lodged a complaint from whose allegations it PROIZACI that their constitutional and legal rights were violated since even though a long time had elapsed the Public Enterprise "Electro-Economy of Macedonia"-Branch Office HEC "Kozjak"-Skopje did not undertake any activities to remunerate them in the remaining part for expropriated real estate-land whose former owners they are.

In view of the presented charges, as well as enclosed material evidence, the Ombudsman ascertained that in this particular case said right was established by virtue of an Agreement reached before an administrative organ for property rights, that in this particular instance being the Ministry of Finances-Bureau for Property Affairs- Branch Office in Makedonski Brod. For these reasons, the Ombudsman recommended, within shortest possible deadline, to undertake corresponding measures in order to act in com-

pliance with said Agreement thereby paying the lodgers of the complaint the remaining part of the fixed remuneration. However, although he submitted another request, the Ombudsman has not received any information regarding undertaken activities and made decisions to the effect of the issued recommendation. Thus the lodgers of the complaint still have not been fully remunerated for said land.