



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

ANNUAL REPORT 2003

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TABLE OF CONTENTS

1. REALIZATION OF THE SCOPE OF WORK	3
1.1. Scope of work	4
1.2. Overview of lodged submissions according to fields	4
1.3. Handling method and deciding on the submissions	9
1.4. Ascertained violations of citizens' rights	11
1.5. Reception of the citizens in and out of the Ombudsman's Office	15
1.6. The Ombudsman's measures and activities for protection of the principles of non-discrimination and appropriate and rightful participation of the communities' members in the bodies of state administration and other bodies and organizations with public authority	16
1.7. The Ombudsman's cooperation with the bodies of the state administration	17
1.8. Transparency	19
2. OTHER ACTIVITIES	21
2.1. Participation in preparing of the new Law on Ombudsman and its implementation	21
2.2. Education of the citizens	22
2.3. Campaign in the media	23
2.4. Cooperation, contacts with international organizations, associations, study trips, symposiums and seminars	24
2.5. Participation, cooperation and meetings of the Ombudsman on seminars and meetings held in the Republic of Macedonia	25
2.6. Cooperation with NGOs and citizens' associations	26
3. EVALUATIONS, CONCLUSIONS, STATEMENTS, MEASURES AND RECOMMENDATIONS	27
3.1. General evaluation	27
3.2. The Ombudsman's relation and cooperation with the citizens	27
3.3. The Ombudsman's relation and cooperation with the bodies and organizations over which he acts with authority	28
3.4. Relation and communication of the Public administration with the citizens	28
3.5. Respecting of the principle of Article 24 of the Constitution of the Republic of Macedonia	29
3.6. The Ombudsman's relation and communication with the media	29
3.7. Legal regulative	29
3.8. Court disputes	30
3.9. Public Prosecutor's Office	30
3.10. Penitentiaries	31
3.11. Social and economic rights	31
3.12. Property relations	32
3.13. Local self-government	32
3.14. Urbanism and construction building	32
3.15. Environment	33
3.16. Children's rights	33
3.17. Police proceedings	33
3.17.1. Security measures and internally displaced persons	33
3.17.2. The police's treatment of the citizen	34
3.17.3. Citizenship	34
3.17.4. The problem with the missing citizens	34
3.17.5. Compensation of damage	34
3.17.6. Transformed Unit for fast interventions - "Lavovi"(Lions)	35
3.18. Labour relations	35
3.19. Housing relations	35
3.20. Education	36

3.21. Consumers' rights	36
3.22. Recommendations to the government of the Republic of Macedonia, bodies of the state administration and other bodies and organizations with public authority	37
3.23. Expectations from the Parliament of the Republic of Macedonia	37
4. ORGANIZATION, PERSONNEL AND FUNDS	39
4.1. Organization and working method	39
4.2. Personnel	39
4.3. Funds	40
5. FORTHCOMING ACTIVITIES	41
6. REVIEW OF THE CONDITIONS IN RELATION TO THE PROVISION, OBSERVING AND PROTECTION OF HUMAN RIGHTS IN DIFFERENT FIELDS	43
6.1. Protection of the rights of the representatives of the communities not in majority in the Republic of Macedonia	43
6.2. Protection of rights in Police proceedings	45
6.3. Protection of rights in the field of administration of justice	49
6.3.1. Judiciary	49
6.3.2. Houses of correction and borstal institutions	52
6.4. Protection of the rights of army officers and draftees	55
6.5. Protection in the field of social rights, labor and housing relations	56
6.5.1. Social rights	56
6.5.1.1. Internally displaced persons	59
6.5.2. Rights pertaining to labour relations	61
6.6. Protection of the rights in the field of health, pension and disability insurance	64
6.6.1. Health insurance and medical protection	64
6.6.2. Pension and disability insurance	67
6.7. Protection of Rights in the Field of Education, Science, Culture and Sports	72
6.8. Protection of children's rights	75
6.9. Protection of the rights in the field of urbanism, construction building and the environment	80
6.9.1. Urbanism and construction building	80
6.9.2. The Environment	83
6.10. Protection of Rights in the Field of Finances and Customs Procedure	84
6.10.1. Finances	84
6.10.2. Customs operations	85
6.11. Consumer rights protection	86
6.11.1. Electricity and central heating distribution	87
6.11.2. Telecommunicationsi	88
6.11.3. Water economy and utility activities	90
6.12. Protection of the rights from the field of proprietary relations	92
6.13. Protection of the rights in other fields	99
7. EXAMPLES FROM THE PRACTICE	101

INTRODUCTION

The Ombudsman, as an independent and self-governing body of the Republic of Macedonia, pursuant to Article 36 of the Law on the Ombudsman, Official Gazette of RM No. 60/2003) is obliged to submit an Annual report to the Parliament of the Republic of Macedonia about the degree of providing, respecting, improving and protecting the constitutional and legal rights of the citizens by the bodies of state administration and other bodies and organizations with public authority, as well as about the issue of respecting the principles of non-discrimination and appropriate and rightful participation of the communities' members in the state administration bodies, the bodies of self-government units and public enterprises and services.

In order to fulfil this legal obligation the Ombudsman is submitting the sixth annual report, which, he believes, according to the concept, beside the assessment about the degree of respecting of the constitutional and legal rights of the citizens by the state administration bodies and other bodies and organizations with public authority, gives a realistic image and possibility for better understanding of the situation of respecting and protecting the constitutional and legal rights in the reporting period, but also a possibility for understanding of the overall functioning, as well as the activities and measures taken by the Ombudsman for overcoming of the negative situation and creating conditions for successful and efficient realization of citizens' constitutional and legal freedoms and rights.



I REALIZATION OF THE SCOPE OF WORK

In this year as well as in the previous years the Ombudsman's activities were focused on the realization of the functions resulting from the constitutional and legal competences.

The statement and the condition, in which the Ombudsman acted, although improved and developed in a positive trend, were not much different than the previous year.

The improved, but still not stable security condition, disturbed interethnic relations, difficult financial and economic crises of the state, slow and still not completed reforms in the public administration, judiciary and the local self-government, which is an obligation from the Framework agreement from 2001, ineffective and incompletely implemented procedure for transformation of the state capital and the denationalization, were and still are conditions that impede the realization of the freedoms and rights of the citizens. If we add the fact that the citizens have lost their trust in the institutions of the system and the functioning of the legal state, where citizens believe that no right can be realized without a bribe, corruption, friends, nepotism, membership in a political party or alike, we can realize that the situation is really difficult for any institution to function, and even more difficult for the Ombudsman, who is founded to be a control and protection mechanism and can successfully operate only in democratic conditions where ruling of the law and respecting the rights and freedoms of the citizens are basic principals for functioning of a legal state.

However, although operating in these conditions and situation, with the persistence, endurance and the professional and responsible behaviour of the employees in this institution, satisfactory results have been achieved in this reporting year as well. Because of this behaviour and professional approach, as well as the treatment of the citizens, the institution of the Ombudsman can be easily recognized, it is available and wide open, and supported by the citizens. It is an institution that citizens completely trust and by which, although with difficulties, they realise their rights and interests.

The new Law on the Ombudsman, which was enforced on the 1st of October 2003, strengthened the role and the importance of this institution, increased and enlarged its competences and with obligation to open offices in: Bitola, Kichevo, Kumanovo, Strumica, Tetovo and Shtip, as branch offices, in the forthcoming period more

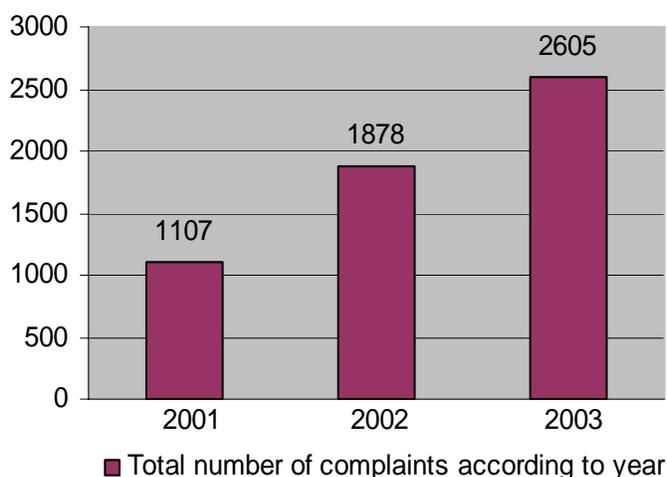


efficiency and effectiveness is expected and therewith raising the level of respect and realization of the constitutional and legal rights of the citizens in the Republic.

1.1 Scope of work

In the course of the reporting year the Ombudsman handled in total 3.277 submissions, lodged by over 3.854 citizens, 2.605 of which were lodged in the reporting period, which represents an increase for 38,71 % in regard to the previous year. In 39 cases the Ombudsman brought legal actions on its own initiative. In addition to this, 3.916 citizens were summoned for interviews, 515 of which were held outside the Ombudsman's office, and more than 5.000 telephone calls were answered. In the course of the previous year the Ombudsman undertook other measures, actions and activities for successful realization of the constitutional and legal rights of the citizens, which is elaborated further in the report.

Graphic 1



Analyzing the number of admitted submissions in regard to the past few years and especially the previous year, it can be noticed that every year there is a significant increase in the number of lodged submissions. The increase is generally a result from promotional, informative and educative activities continuously implemented every year, and especially in 2003, when for the first time a campaign in the media was organized, in which the citizens had chance to be introduced to the competences, the role and the importance of the institution of the Ombudsman in the protection of their constitutional and legal rights. The citizens could also meet the persistence and the endurance of the employees in the institution to help them in the realization of their rights and interests, as well as in the permanent and more frequent violations of their rights and freedoms in the fields of urbanism and construction building, labour relations, judiciary, property rights, social rights and other fields of social life.

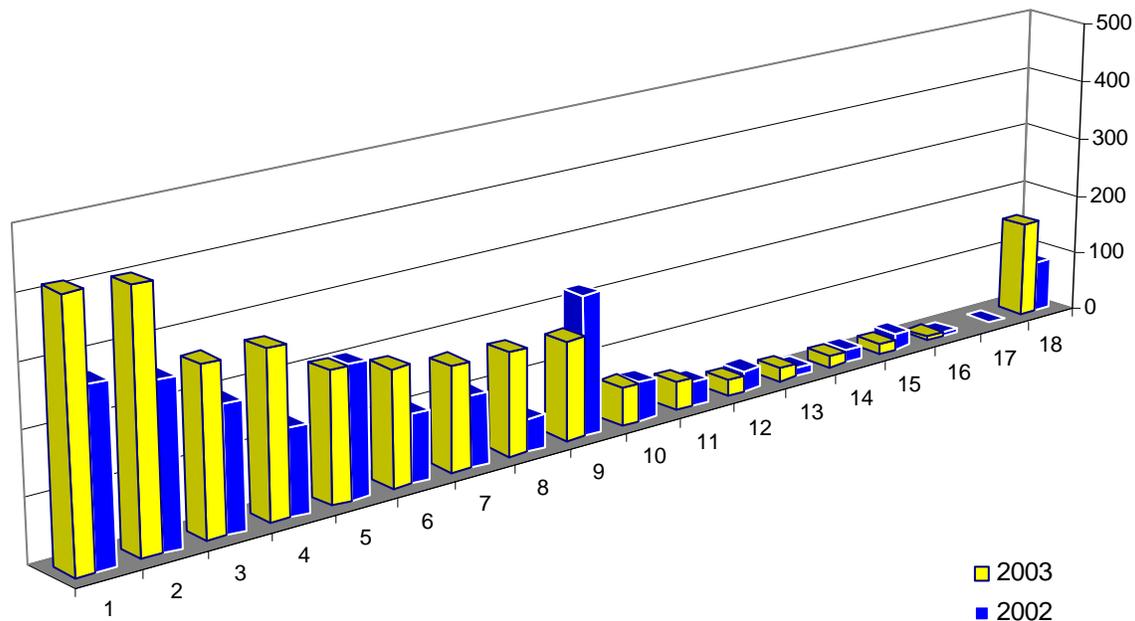
1.2 Overview of lodged submissions according to fields

The largest number of the submissions by which the citizens asked for protection of their rights were from the field of judiciary 415 or 15,93 %; then from the field of labour relations 406 or 15,59 %; in the field of property rights 267 or 10,25 %; protection of the rights in the police proceedings 266 or 10,21%; in the field of urbanism and construction building 209 or 8,02%; in the field of consumers rights (utilities or other bills) 188 or 7,22%; in the field of pension and disability insurance 169 or 6,49; in the field of social

rights 167, i.e. 6,42; housing relations 161 or 6,18%; protection of the children's rights 62 or 2,38%; health care 46 or 1,77%; in the field of finances and financial work 22 or 0,84%; in the field of environment 20 or 0,77%; from the rights of army officers and draftees 17 or 0,65%; from the rights of the communities that are not majority 6 or 0,23%, as well as other fields in which 158 or 6,07% submissions were lodged. **(Chart 1, page 6 and Graphic 2, page 5)**

Graphic 2 - 2003

ADMITTED SUBMISSIONS ACCORDING TO FIELDS



- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Protection of the rights in the field of judiciary 2. Protection of the rights in the field of labour relations 3. Protection of the rights in the field of property rights 4. Protection of the rights in Police proceedings 5. Protection of the rights in the field of urbanism and construction building 6. Protection of consumers' rights 7. Protection of the rights in the field of pension and disability insurance 8. Protection of the social rights 9. Protection of the rights in the field of housing relations 10. Protection of children's rights | <ol style="list-style-type: none"> 11. Protection of the rights in the field of medical protection 12. Protection of the rights in the field of education, science, culture and sport 13. Protection of the rights in the field of finances 14. Protection of the rights in the field of environment 15. Protection of the rights of army officers and draftees 16. Protection of the rights of the communities which are not in majority 17. Protection of the rights in the field of Customs 18. Protection of the rights in other fields |
|---|---|



Chart 1-2003

OVERVIEW OF THE FIELDS															
Admitted, resolved and pending cases from 01.01.2003 - 31.12.															
		Admitted submissions in 2003	Number of submitters	Number of submissions transferred from 2002	Total number of submissions processed	Handling method					Informacija do ministrot	Information to the Government of the RM	Total No. of resolved submissions	Pending submissions	
						Number of admitted and rejected anonymous sub-	Rejected submissions	Rejected on other grounds	Ascertained violations						
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1	Protection of the rights of the communities which are not in jority	6	6	4	10		2		1		1			3	7
2	Protection of the rights in the police proceedings	266	315	63	329		123	5	41	27	14	3	8	169	160
3	Protection of the rights in the field of judiciary	415	682	84	499		290	18	21	18	3			329	170
4	Protection of the rights of army officers and draftees	17	17	7	24		12	1	3	3			1	16	8
5	Protection of the rights from the field of social rights	167	169	20	187		66	3	34	6	28	12		103	84
6	Protection of the rights from labor relations	406	543	105	511	3	164	9	59	23	36	8	11	235	276
7	Protection of the rights from housing relations	161	212	24	185		49	3	88	71	17		24	140	45
8	Protection of the rights from the field of health care	46	46	8	54		21		15	12	3	1		36	18
9	Protection of the rights from the field of pension and disability insurance	169	170	32	201		80	4	34	30	4	1	1	118	83
10	Protection of the rights from the field of education, science, culture and sport	26	104	9	35		10		10	5	5	10		20	15
11	Protection of the children's rights	62	64	22	84		19	1	30	30		3	2	50	34
12	Protection of the rights from the field of urbanism and construction building	209	441	149	358	1	196	22	51	21	30	4	1	270	88
13	Protection of the rights from the field of environment	20	20	4	24		17	1	3	3		1		21	3
14	Protection of the rights from the field of finances	22	39	5	27		5		3	2	1	2		8	19
15	Protection of the rights from the field of customs			1	1										1
16	Protection of the rights from the field of property rights	267	314	57	324	2	128	4	113	73	40	37	54	247	77
17	Protection of consumers' rights	188	196	60	248	2	113	8	39	28	11	13		162	86
18	Protection of the rights in other fields	158	516	18	176	6	96		5	4	1			107	69
19	TOTAL	2605	3854	672	3277	14	1391	79	550	356	194	95	102	2034	1243

The overview of lodged submissions according to fields shows that the ratio is not significantly changed in regard to the last year, that is, there is insignificant increase or decrease of the number of lodged submissions in some of the fields. As for the bodies and organizations the submissions referred to, it can be noted that the largest number

referred to acts and activities undertaken and brought by the court bodies, Ministry of transport and connections and Ministry of labour and social welfare, then ministry of finances and Ministry of Interior, i.e. bodies within these ministries etc. **(Chart 2, page 14)**

According to the ethnic background of the complainants, the largest number are Macedonians 3.006 or 78,55%, and 620 or 16,15% of the complainants are members of Albanian ethnic community. The smallest number, i.e. 4 or 00,1 complainants are from Turkish ethnic community. **(Chart 3, page 8)**. Stated data point to the fact that the Ombudsman is an institution which is accepted and trusted by the members of all ethnic communities in the Republic.

Chart 4

OVERVIEW OF SUBMITTED COMPLAINTS ACCORDING TO CITIES							
No.	Towns and cities	No. of submissions in towns and cities		No.	Towns and cities	No. of submissions in towns and cities	
		2002	2003			2002	2003
1	Berovo	10	12	26	Pehcevo	4	3
2	Bitola	103	117	27	Prilep	110	85
3	Bogdanci	5	2	28	Probistip	15	34
4	Valandovo	4	6	29	Radovis	39	47
5	Veles	63	74	30	Resen	7	5
6	Vinica	7	11	31	Skopje	764	1271
7	Debar	6	13	32	Struga	35	46
8	Decevo	25	20	33	Strumica	50	52
9	Demir Hisar	7	12	34	Sveti Nikole	14	27
10	Demir Kapija	-	-	35	Star Dojran	-	3
11	Dojran	-	1	36	Tetovo	53	106
12	Gevgelija	25	34	37	Stip	83	58
13	Gostivar	71	60	38	Australia	1	1
14	Zletovo	3	3	39	Austria	-	4
15	Kavadarci	67	69	40	Great Britan	-	2
16	Kicevo	59	82	41	Greece	-	1
17	Kocani	44	48	42	Denmark	3	2
18	Kratovo	12	7	43	Japan	-	1
19	Kr.Palanka	15	30	44	Kosovo	3	1
20	Krusevo	9	9	45	Republic of Albania	-	2
21	Kumanovo	60	110	46	Republic of Bulgaria	2	1
22	M.Kamenica	6	15	47	Republic of Serbia and Montenegro	1	1
23	Mak.Brod	11	15	48	Sweden	-	2
24	Negotino	9	21	-	Spain	1	1
25	Ohrid	71	77	-	-	-	-
					TOTAL	1878	2605

According to the place of residence of the complainants, the largest number, i.e. 1 271 are from Skopje, and then from the other larger urban areas, which with insignificant differences, complies with the number of citizens according to place of residence. Citizens from the Republic of Austria, the Republic of Greece, Japan, Protectorate of Kosovo, the Republic of Bulgaria, the Republic of Serbia and Montenegro and the kingdom of Spain. **(Chart 4, page 7)**



Chart 3 - 2003

OVERVIEW OF SUBMITTERS IN 2003 (MEMBERS OF THE COMMUNITIES WHICH ARE NOT IN MAJORITY IN THE REPUBLIC OF MACEDONIA)													
	Admitted submissions in 2003	Number of admitted anonymous submissions	Nc. of formed cases on his own initiative	Number of submitters	MEMBERS OF THE COMMUNITIES WHICH ARE NOT IN MAJORITY								
					Macedonians	Albanians	Serbs	Roma	Macedonians Muslims	Bosnians	Vlachs	Turks	Others
Protections of the rights of communities not in the majority	6		1	5		3			1	1			
Protection of the rights in police proceedings	266		2	313	136	129	6	17	4	11	1	2	7
Protection of the rights from the field of judiciary	415		1	681	431	223	10	11	3	1	1		
Protection of the rights of army officers and draftees	17			17	16		1						
Protection of the rights from the field of social rights	167			169	100	42	8	11	4	3		1	
Protection of the rights from labour relations	406	3		543	483	41	8	3	2	1	2		
Protection of the rights from housing relations	161			212	190	7	9	3		2		1	
Protection of the rights from the field of medical protection	46		1	45	36	5	3	1					
Protection of the rights from the field of pension and disability insurance	169			170	135	23	5	3	2	1	1		
Protection of the rights from the field of education, science, culture and sport	26			104	91	12	1						
Protection of children's rights	62		3	61	41	16	2	1	1				
Protection of the rights from the field of urbanism and construction building	209	1		440	383	44	9	1			3		
Protection of the rights from the field of environment	20		2	18	16	2							
Protection of the rights from the field of finances	22			39	33	1	2	2	1				
Protection of the rights from the field of customs													
Protection of the rights from the field of property rights	267	2		314	287	15	7	1	1		1		
Protection of consumers' rights	188	2	3	193	135	39	12	1	1	1	1		1
Protection of the rights in other fields	158	6		516	488	18	2	1	1				
TOTAL	2605	14	13	3840	3001	620	85	57	21	20	10	4	8

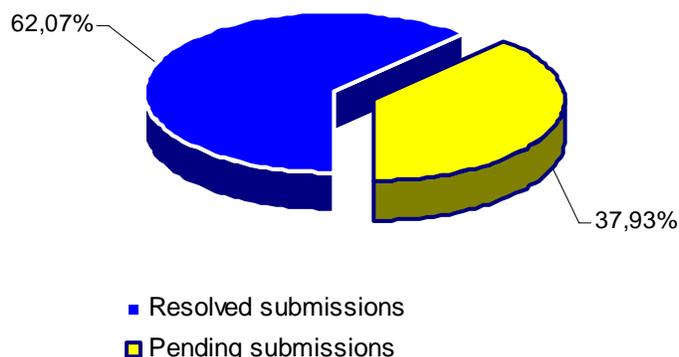
1.3 Handling method and deciding on the submissions

Although the number of submissions in the reporting year was significantly changed, which affected the promptness and the efficiency of handling, yet the submissions were handled within the law. When it was deemed that the intervention on the submission could be carried out without additional checking, it was decided upon immediately, and when there was need for additional checking and research, the competent bodies and the complainants were requested to supplement and clarify the allegations in the submission. When there was a need, the Ombudsman conducted an investigation in the competent bodies and officers in charge, officials and other people who could give clarifications were summoned for interviews, and if necessary some other means were used so the facts could be properly and completely established.

Respecting the legal authorization and with the purpose of checking the allegations in the submissions, from the bodies of the public administration it was requested for 2.132 written announcements and urgencies, but within the time limit set by the Ombudsman, the bodies replied in 500 cases. In addition to this, over 165 investigations of bodies' documentation were conducted, 27 officials were summoned for interviews, eight of which were high-ranking officials, that is, managerial officials, did not answer the summons. For the clarification of the submissions, in accordance with the law, 46 other people were summoned for interviews, 12 of which did not reply to the Ombudsman's invitation.

From the data presented it can be ascertained that the officials' attitude towards the Ombudsman's requests is still unsatisfying. Therefore, in accordance with the law, with the aim of speeding up the procedure and improving the situation, to the organizations with public authority there were sent 8 informative letters, 4 of which were only admitted; to the competent ministries there were sent 95 informative letters, 3 of which were admitted; to the Government of the Republic of Macedonia 101 informative letters, and it was acted upon only 41 of them and five e informative letters were delivered to the Parliament of the Republic of Macedonia and it was not acted upon any of them. The Ombudsman informed the public about most of cases through the mass media. We can conclude that of all 216 addressed informative letters only 81 were admitted, and this is an unsatisfying number which clearly shows the inappropriate attitude towards the institution of the Ombudsman.

Picture 1.1 – 2003



Using all legal possibilities for more efficient operating and intervening, this year it was acted upon 3.217 submissions in total, 2.034 of which were completed and 1.243 are still pending.

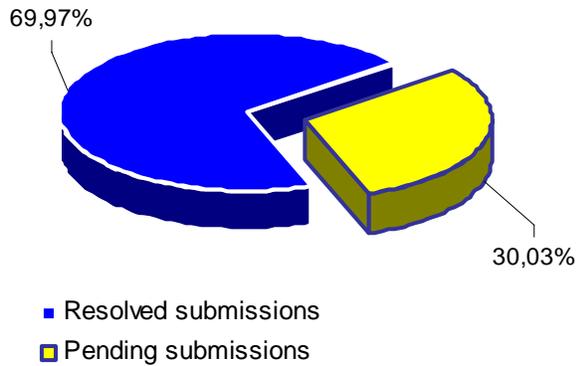
Of the completed 2.034 submissions, 1.405 or 69,08% were rejected, in 550 or 27,04% submissions there were ascertained violations of the constitu-



tional and legal freedoms and rights of the citizens and 79 or 3.88% were rejected on some other grounds.

The largest number of submissions or 1.254 in accordance with the law were rejected because it was ascertained that there is not violation of the basic freedoms and rights or any other irregularity. Then, 51 submissions were rejected after it was ascertained that they were cases pending in the courts, and 60 were rejected because the complainants, after the Ombudsman's advice, did not supplement and clarify the submission, by which after the expiration of the time limit it was ascertained that the complainants had withdrawn the submission. Insignificant number or 26 submissions were rejected since it was ascertained that more than a year had passed from the action or the last decision or act of the body that decided on the citizen's submission. The Law on the Ombudsman gives an opportunity for the Ombudsman to estimate whether the complainant did not meet the time limit for justified reasons. In these cases the Ombudsman had flexible approach and it was rarely decided to reject a submission on these grounds. Therefore when it was deemed that there is a chance to intervene upon the submission, appropriate actions were taken regardless of the expired date. Also insignificant number or 14 submissions were rejected because they were lodged by anonymous complainants, and 79 were rejected because of the incompetence or other reasons. In certain cases the procedure was completed because in the meantime the complainant had realized his right, which made the procedure before the Ombudsman groundless.

Picture 2.1– 2002



Picture 1.2 – 2003



The Ombudsman deems that the main reason for the large number of rejected submissions on the basis of unascertained violations is that citizens are insufficiently informed about their rights, as well as their willingness to check the legality of the act or action brought by the competent organ through the institution of the Ombudsman.

Regarding the submissions that are still in procedure before the Ombudsman, that is in faze of investigation, they are not finished because of their large number, i.e. 848 admitted submissions in the last two months of the 2003. Part of them have not been completed because of the complexity of the problem and the need of acquiring more information or evidence from many bodies and organizations and regrettably a significant number of submissions were rejected because of the late reply on the Ombudsman's requests.

In this context we should mention the cases when the complainants complained on the delayed procedure before the Ombudsman although it was due to late action of the bodies of state administration upon the requests made by the Ombudsman.

Picture 2.2– 2002



Generally and in comparison with the previous years it may be ascertained that there has been improvement in the efficiency and the effectiveness in the acting upon the Ombudsman’s requests, which should represent a main characteristic and aim in the acting and operating of this institution. Such efficient and effective acting of the Ombudsman in the reporting year results from the six year long experience in acting upon the submissions and it is also due to the persistence and consistence of the employees of the competent department to help the citizens.

1.4 Ascertained violations of citizens’ rights

In accordance with the law, if the Ombudsman, after the examination of the submissions, ascertains violations of the constitutional and legal rights of the citizens, with recommendations, opinions, suggestions, proposals, requests and other interventions alike, requests from the competent bodies to eliminate the irregularities and illegalities so that citizens can realize the violated right more economically and more efficiently. This is direction of the Ombudsman’s interventions that should contribute to the improvement of the organization and the work of the competent departments in the bodies of the state administration and other bodies and organizations with public authority.

Of total 2.034 completed procedures in 550 of them or 27,04 % the Ombudsman ascertained violations of the constitutional and legal rights of the citizens, and this is a decrease of 8,21 with respect to the last year.

The largest number of ascertained violations is in the field of housing relations, which means that of 140 completed procedures in 88 or 62,86 violations of the citizens’ rights were ascertained and they mainly referred to the case of buying the apartments of the military officers, which was resolved by the Law on selling apartments in state property that come from the housing funds of the former YNA. A significant number of violations were ascertained in the field of property rights, and that is: in 113 or 45,75% of total 247 completed procedures violations of the citizens’ rights were ascertained. Next by number are submissions in the field of labour relations – ascertained violations in 59 or 25.11% cases, in the field of urbanism and construction building – in 51 or 18,89% etc. (Chart 1, page 6)

Regarding the fact which bodies and organizations have mostly violated constitutional and legal rights of the citizens, the data show that in a significant number or in 79



cases it was done by managerial or officials in the services, branch offices or bodies and organizations within or under competence of the Ministry of labour and social policy, as

Chart 5 - 2003

OVERVIEW OF ASCERTAINED VIOLATIONS OF CITIZENS' RIGHTS									
	FIELDS	Ascertained violations in 2003			Ascertained violations in the previous years				
		TOTAL	Proceeded by bodies and organizations	Not proceeded by bodies and organizations	TOTAL	Proceeded by bodies and organizations	Not proceeded by bodies and organizations	Proceeding is groundless	Resolved differently
	1	2	3	4	5	6	7	8	9
1	Protections of the rights of communities not in the majority	1		1	1				
2	Protection of the rights in police proceedings	41	27	14	20	3	11	5	
3	Protection of the rights from the field of judiciary	21	18	3	3		5	1	1
4	Protection of the rights of army officers and draftees	3	3				1		
5	Protection of the rights from the field of social rights	34	6	28	30	1	15	2	
6	Protection of the rights from labour relations	59	23	36	71	9	57	7	3
7	Protection of the rights from housing relations	88	71	17	27	2	37		3
8	Protection of the rights from the field of medical protection	15	12	3	6	2	10	1	
9	Protection of the rights from the field of pension and disability insurance	34	30	4	8	1	10		2
10	Protection of the rights from the field of education, science, culture and sport	10	5	5	6		5	1	
11	Protection of children's rights	30	30		5		16	1	
12	Protection of the rights from the field of urbanism and construction building	51	21	30	72	7	21	22	31
13	Protection of the rights from the field of environment	3	3				2	1	
14	Protection of the rights from the field of finances	3	2	1	1	1	1	1	
15	Protection of the rights from the field of customs								
16	Protection of the rights from the field of property rights	113	73	40	59	27	56	7	3
17	Protection of consumers' rights	39	28	11	17	5	13	4	1
18	Protection of the rights in other fields	5	4	1	7		11	2	
19	TOTAL	550	356	194	333	58	271	55	44

well as by officials or other managerial staff within the Ministry. In 75 cases it was ascertained that the violations had been done by acts or actions of the managerial staff in the ministry of finances, in 75 cases by the Ministry of defence, in 51 cases violations were made by acts or actions of the public enterprises, in 48 cases it was concluded that citizens' rights were violated by acts or actions of managerial staff and officials in the ministry of the Interior, etc. **(Chart 2, page 14).**

As for the kind of the ascertained violations of the citizens' rights, same as last year, it can be noticed that most of them refer to violations of the formal law, and that is delaying of the procedure in which the citizens realize their rights. Out of the total number of ascertained violations, over 80 % refer to delaying of the administrative procedure. In other words, in over 80% of the cases the competent bodies didn't meet the time limit for proceeding upon the citizen's request, and in significant number of cases they abused the institute silence of the administration.

In order to correct the ascertained violations, the Ombudsman addressed to the competent bodies 402 interventions, among which there were 117 recommendations, 10 opinions and 31 suggestions. In addition to this the ombudsman submitted one proposal for reimplementing of the administrative procedure, three requests for ceasing the execution of administrative acts, three requests to the Public Prosecutor for initiating a procedure for criminal responsibility of five officials, and several proposals to the bodies and organizations to improve their work and treatment of their clients etc.

Out of 550 addressed interventions the bodies proceeded on 356, and did not proceed on 194, which means that 35,27 % of the addressed interventions (proposals, suggestions and recommendations) were not respected by the bodies.

If the data is analyzed according to bodies, and that is which bodies did not respect or acted irresponsibly towards the Ombudsman's interventions, it can be seen that the least responsibility was shown from the Ministry of Finance, then the Ministry of Transport and Connections, the Ministry of Labour and Social Policy, the public enterprises, as well as the Ministry of the Interior, the Ministry of Local Self-Government and the Ministry of Education.

With the purpose of improving the situation and in accordance with the law, in addition to many written, oral and telephone contacts, urgencies and reprimands for the obligation to respect the interventions, to the immediately higher competent bodies and organizations there were submitted 216 informative reports, 15 of which were addressed to chiefs of immediately higher bodies or organizations, 95 to the competent ministers, 101 to the Government of the Republic of Macedonia, 5 to the Parliament of the Republic of Macedonia, and for many of these cases the public was informed through the media.

However, the fact that upon these informative reports it was proceeded only in four cases by the immediately higher bodies, in 36 cases by the competent ministries and in 41 by the Government of the Republic of Macedonia, and the fact that out of 333 interventions from the previous years it was proceeded upon 58, speak about their inappropriate treatment of the Institution of the Ombudsman, which was also confirmed by the research of the public opinion.



Chart 2 – 2003

OVERVIEW ACCORDING TO BODIES AND ORGANIZATIONS															
1	2	3	4	Handling method						17	18	19	20	21	
				5	6	7	Ascertained violations of citizens' rights								
							8	9	10						
Admitted submissions 2003	Number of submissions transferred from 2002	Total number of processed submissions	No. of admitted anonymous submissions	Rejected submissions	Rejected on other grounds	Issued opinions, suggestions, recommendations, notes	Complied with the Ombudsman's interventions	Not complied with the Ombudsman's intervention	Information to the Minister	Information to the Government of RM	Total number of resolved submissions	Pending submissions	Percentage of ascertained violations in resolved submissions (%)		
1	Ministry of Defence	99	12	111		19	1	75	73	2		3	95	16	78.95%
2	Ministry of the Interior	313	78	391		135	5	48	34	14	4	8	188	203	9.84%
3	Ministry of Justice	405	124	529	1	280	13	21	19	2		1	315	214	6.07%
4	Ministry of Transport and Connections	205	98	303	1	187	17	46	18	28	3	2	251	52	18.33%
5	Ministry of Economy	14	1	15		5							5	10	0.00%
6	Ministry of Finances	179	38	217	2	72	2	75	47	28	36	42	151	66	49.67%
7	Ministry of Labour and Social Policy	332	68	400		139	5	79	54	25	18		223	177	35.43%
8	Ministry of Education and Science	92	25	117	2	45		23	10	13	13	1	70	47	32.86%
9	Ministry of Culture	7	1	8	1	1		2		2			4	4	50.00%
10	Ministry of Health	71	21	92		24	1	19	11	8	1	1	44	48	43.18%
11	Ministry of Foreign Affairs	4	1	5		3							3	2	0.00%
12	Ministry of Agriculture	6	2	8		4	1						5	3	0.00%
13	Ministry of Environment and Planning	12	1	13		11	1	1	1				13		7.69%
14	Government of the Republic of Macedonia	171	54	225		69	12	30	12	18	1	35	111	114	27.03%
15	Privatization Agency of the Republic of Macedonia	9	4	13		5							5	8	0.00%
16	State Institution for Geodetic Affairs	74	6	80		41	1	25	17	8		5	67	13	37.31%
17	Ministry of Local Self-Government	73	21	94		65	2	14	11	3	11		81	13	17.28%
18	Public enterprises, institutions, and services	185	58	243	2	95	6	51	24	27	6	3	158	85	32.28%
19	Other bodies and organizations	18	10	28	1	11		3	1	2			15	13	20.00%
20	Other	336	49	385	4	176	12	38	24	14	2	1	230	155	16.52%
21	TOTAL	2605	672	3277	14	1391	79	550	356	194	95	102	2034	1243	27.04%

1.5 Reception of the citizens in and out of the Ombudsman's Office

This year as well, as an established work method, the Ombudsman had reception for the citizens every working day, during which he, his deputies or the employees in the competent service received for an interview over 3.500 citizens. After the interviews, when it was suspected that there may be violations of the citizens' rights, official notes were made and further proceeded upon or the citizens were advised where and how they can realize their rights.

Chart 6 - 2003

OVERVIEW OF CONTACTS WITH CITIYENS IN THE CITIES											
No.	Cities	Citizens received for interviews		No. of formed cases		No.	Cities	Citizens received for interviews		No. of formed cases	
		2002	2003	2002	2003			2002	2003	2002	2003
1	Bitola	49	20	19	5	16	Kriva Palanka	11	22	3	7
2	Berovo		14		1	17	Mak. Brod	13	9	6	3
3	Veles	70	33	18	11	18	Mak. Kamenica	11	22	1	4
4	Gevgelija	31	40	8	12	19	Negotino	7	8	1	4
5	Gostivar	34	9	9	6	20	Ohrid	71	14	32	13
6	Delcevo	28	16	8	6	21	Prilep	151	12	43	12
7	Demir Hisar	8	11	3	2	22	Pehcevo	13		8	
8	Debar	9		3	1	23	Probistip	20	22	4	12
9	Dojran	4		-	1	24	Resen	6		3	
10	Kicevo	49	26	26	12	25	Radovis	33	32	11	20
11	Kavadarci	35	18	26	8	26	Strumica	71	39	20	9
12	Kocani	37	24	8	5	27	Struga	12	10	10	6
13	Kumanovo	65	24	11	16	28	Sveti Nikole	18	27	4	10
14	Krusevo	-		-		29	Tetovo	50	6	23	4
15	Kratovo	24	7	4	3	30	Stip	65	50	23	13
							TOTAL	995	515	335	208

In the realization of his program activities and in order to be as close to the citizens as he can, in April, May and June the Ombudsman organized meetings with the citizens in several towns throughout the country. **(Chart 6 page 15)**

His visits were previously announced through the local media, and during the visits the Ombudsman directly talked to the citizens about the problems regarding the realization of their constitutional and legal rights and at the same time the citizens were introduced to the institution and its legal competences. On these meetings 515 citizens were received and after the conducted interviews 208 cases were formed and proceedings initiated.

We consider that with the offices in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip, as branch offices, citizens will have closer and every day communication with the Ombudsman and more efficient protection of their constitutional and legal rights.



**1.6. The Ombudsman's measures and activities
for protection of the principles of non-discrimination
and appropriate and rightful participation of the
communities' members in the bodies of state
administration and other bodies and organizations
with public authority**

In the new Law on the Ombudsman (Official Gazette of RM No. 60/2003), beside the competence to protect the constitutional and legal rights of the citizens and of all other people when they are violated by acts, actions and omissions of actions by the bodies of state administration and other bodies and organizations with public authority, a new competence is established according to which the Ombudsman takes measures and activities for protection of the principles of non-discrimination and appropriate and rightful participation of the communities' members in the bodies of state administration, bodies of the local self-government units and public institutions and services.

Considering the serious financial problems and restrictions that the state faces as well as the need to rationalize and reduce the job positions in the state administration, it is obvious that the implementation of this principle requires permanent and long-lasting efforts and that it is a process that can not be completed easily, simply and in short term without causing social and other kinds of injustice.

In order to implement this principle, the public authorities, and first of all the government of the Republic of Macedonia should:

- provide rightful balance for the interests of all communities;
- create legal atmosphere, and that is to make great efforts for coordination of the legal and sub legal regulations and to establish concrete operational measures, plans, programmes and strategy to achieve the proportional participation of the communities in the state administration;
- provide continuous training and education for professional behaviour and improvement of the civil servants, as well as promotional campaigns which will raise the interest of the citizens of different ethnic communities in employment in the state administration at all levels;
- establish adequate programme and strategy for recordkeeping, i.e. credible procedure for collecting information, submitting reports, plans and confirmation of the data;
- provide transparency and high level of cooperation with the Ombudsman as an institution competent for protection of this principle;
- provide that the Agency for civil servants regularly informs the public, the Parliament of the Republic of Macedonia and the Ombudsman about the degree up to which this principle is being respected, as well as
- to create working manners that offer visible proof of the determination the managerial staff and existence of awareness about these issues at all levels.

Considering this model and programming the activities, measures and actions for realization of this new established competence, the Ombudsman considers that for protection of this principle he will be able to take actions and measures pursuant to the legal conditions if:

- members of the communities request that from the ombudsman;
- he ascertains that there have been violations of the principles for rightful and proportional participation of the communities members, to proceed on his own initiative and
- while following this situation, on the grounds of his direct inspections, ascertains that legal regulations and the established program models are not respected by the Government of the Republic of Macedonia and all the other state bodies which in accordance with the law have the obligation for rightful and proportional participation of the communities members.

The Ombudsman will be able to perform this obligation and to take adequate legal actions after it is appropriately legally standardized, planned and programmed first of all by the Government of the Republic of Macedonia and other competent bodies and organizations.

What has been realized up to now in this field is Instruction for the contents of the annual plan for appropriate and rightful participation of the communities' members by the Agency for Civil Servants. According to this Instruction, the bodies of state administration to the Agency for Civil Servants have to submit an annual report on the application of the principles of appropriate and rightful participation of the communities' members until September the first of the year in progress.

The Ombudsman has the information that the process for implementing these principles has started in the ministry of the interior and the ministry of defence, but it is an obligation of the other state bodies, institutions and organizations. The Ombudsman himself makes concrete steps for implementation of the principles of non-discrimination and rightful and appropriate participation of the communities' members within the institution of the Ombudsman, thus in the procedure for election of six new deputies it was suggested that two of them are from the Albanian ethnic community and one from the members of the other ethnic communities that are not majority in the country, and the appropriate principle will be applied for the employments in the competent service in the offices of the Ombudsman in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip.

1.7. The Ombudsman's cooperation with the bodies of the state administration

One of the conditions for successful functioning of the Ombudsman and efficient realization of the citizens' rights is establishing functional and useful cooperation with the bodies of state administration and other bodies and organization over which he handles with authority. Such cooperation should be in function of effective exercising of legal competences.

The practise so far has shown that in spite of the made efforts for establishing useful, functional and efficient cooperation, it is not yet at sufficient level because the Ombudsman still faces unfriendly and uncooperative behaviour from certain civil servants, head officials, even high-ranking officials who are in charge of the highest bodies of state administration. In attempts for making contacts and conversations with competent and people in charge, often their presence is hidden, incorrect information is given



and the Ombudsman's competence is challenged, and there were also cases of calling on the right of discretion of the people in charge or the confidentiality of data. These occurrences were present in the replies to the Ombudsman's requests.

With purpose of establishing cooperation with these bodies, in addition to the legal measures the Ombudsman has taken many other measures and activities within which many meetings with high ranking officials has been realized, and interviews have been conducted with many head officials and other officials. On the meetings it was discussed about the problems that citizens face in realization of their rights, about particular and group cases of violation of the rights, about delayed procedures, non-replying at Ombudsman's requests and interventions, as well as about the measures that he can take on this matter.

In addition to the realized meetings, separate information and reports were submitted to the higher bodies, organizations, ministries, the Government of the Republic of Macedonia, even to the Parliament of the Republic of Macedonia, in which it was pointed to the citizens' problems in the realization of their rights as well as to the problems that the Ombudsman faced while exercising his legal competence.

These meetings and contacts with the competent bodies and organizations, unfortunately, have not brought expected results because there are still cases of disobedience and obstructions of the Ombudsman's requests and interventions.

What disturbs is the fact that the conclusions of the Parliament of the Republic of Macedonia made after the discussion on the Annual Report on the work of the Ombudsman for 2002, by which the Government of the Republic of Macedonia and the other bodies and organizations were obliged to obey the requests, decisions and interventions of the Ombudsman, were also of declarative nature and there were a very few bodies that completely respected them.

Among the bodies with which the Ombudsman did not have sufficiently constructive cooperation in the reporting year are: the Ministry of Finance, The Ministry of the Interior, the Ministry of Education and Science and the State Geodetic Agency, while there was an appropriate cooperation with the Ministry of Defence, Ministry of Culture, the Fund for Pension and Disability Insurance, the Fund for Medical Insurance, Public Enterprise Vodovod i kanalizacija and Joint-stock company "Toplifikacija'.

In order to improve the situation in preparing the already passed Law on the Ombudsman, in which the Ombudsman participated as well, a special attention was paid to strengthening the role of the ombudsman through imposing more precise obligations to the bodies of the state administration and other bodies and organizations with public authority, for more consistent respect of the Ombudsman's decisions and interventions and replying to his requests within legally set time limits; the possibility for the Ombudsman, on the expense of the body that does not respect the citizens' rights, to announce the case in the mass media and to criticize in public the official of the body for the violations of the citizens' rights. There was also foreseen an obligation by which at Ombudsman's request he will be received personally and without delay by the President of the Republic of Macedonia, the President of the Parliament of the Republic of Macedonia, the

President of the Government of the Republic of Macedonia and other high-ranking officials that are in charge of the bodies and organisations of the state administration.

After the enforcement of the Law on the Ombudsman on October 1st 2003, although there was a short period since its application, the Ombudsman can be satisfied with the established communication and cooperation, because at his request, and according to newly established obligation, he was personally received by: the president of the Parliament, the President of the Government, the Minister of Education, the Minister of Labour and Social Policy and by other high-ranking officials and officials in charge.

Within the campaign in the media in the first six months of 2004 several tribunes are planned with representatives and officials of the bodies and organizations with public authority, where the new solutions in the Law on ombudsman will be stated and the obligations for reciprocated cooperation and communication will be stressed. This is more important because the media campaign and the research of public opinion have confirmed the fact that the citizens are more informed about the institution of the Ombudsman than the high-ranking officials, head officials and other officials who are supposed to know the competences, and therewith to respect the Ombudsman's decisions and interventions.

In this direction the ombudsman expects that the members of the Parliament will give their contribution and support while going through this report.

1.8. Transparency

Transparency in the work of the holders of public functions is a basic condition for successful execution of the constitutional and legal competences of every state institution, so as the institution of the Ombudsman.

Hence, the question arises: to what extent was the Ombudsman transparent in his work during the reporting year and how much he used the mass media as an instrument for additional pressure on the work of state administration in direction of respecting his interventions and with purpose of realizing the constitutional and legal rights of the citizens in the Republic of Macedonia.

The Ombudsman assesses that in the last year the institution itself and he as a holder of the function were transparent to a sufficient extent, because the Ombudsman's office was open and available not only to the citizens but to the representatives of the media as well.

The press and the electronic media as means for mass and public informing of the citizens were constantly in direct communication with the Ombudsman's office, at their or his request, so through them the citizens of the Republic of Macedonia were regularly informed about the Ombudsman's work through press conferences, statements, interviews, announcements to the public and other kinds of information, as well as with appearance in the electronic media. In this context it should be pointed to the media campaign, which was massively realized in the course of 2003 through the press and the electronic media.



With purpose of complete informing and transparency in the work of the Ombudsman, is the publishing of the Annual Report, which the Ombudsman submits to the Parliament of the republic of Macedonia and certain parts of which are presented through the mass media. Opening the web-site of the Ombudsman (www.ombudsman.org.mk) as well as the cooperation with the Macedonian information Agency (MIA) also represents an opportunity not only for affirmation of the institution of the Ombudsman but for greater transparency in its work.

In the reporting period the Ombudsman used the mass media as an additional instrument for pressure on the state administration with the purpose of respecting the constitutional and legal rights of the citizens. However, the Ombudsman could not use this instrument completely because of the limited budget funds, considering the fact that sometimes the media did not want to publish the Ombudsman's announcements without an appropriate compensation.

In this view in the forthcoming period a step forward should be made with the legal solution in the new Law on the Ombudsman, according to which, if the bodies of the state administration and other bodies and organizations with public authority do not respect the Ombudsman's decisions and interventions, the case can be announced in the media on the expense of the body that has violated the constitutional and legal rights of the citizens, which will partially solve the stated financial problem for publishing the Ombudsman's announcements and it creates possibilities to expect positive results in this direction.

2 OTHER ACTIVITIES

2.1. Participation in preparing of the new Law on Ombudsman and its implementation

The Parliament of the Republic of Macedonia, on the session, held in September 10th 2003 brought a new Law on Ombudsman ("Official Gazette of the Republic of Macedonia" No. 60/2003 - September 23rd 2003).

Bringing of the Law was defined by the need for coordinating the existing Law on Ombudsman ("Official Gazette of the Republic of Macedonia" No. 7/97) with the regulations in the Amendment XI of the Constitution of the Republic of Macedonia, fulfilling the obligation ascertained with the Frame Agreement in Ohrid 2001, as well as the need for concretizing certain regulations in the present Law, which in the past six years period of this Institution's functioning, in practice turned to be not functional, opposite to other regulations and inappropriate to the conditions and situations in realizing and protecting the citizens' rights in the legal system of the Republic of Macedonia on the aspect of its bigger power, role and significance in the process of the progress and protection in realizing the Constitutional and legal freedom and rights of the citizens.

While preparing the new Law, the Ombudsman took an active participation in the first phase of making the initiative and participation of the Commission on its work and in bringing the Law that came into force in October 1st 2003.

The Ombudsman expresses his pleasure for the Law, which was highly appreciated by the experts of the Council of Europe and the Organization of the United Nations, and the Ombudsman hopes that the Law will have fast and complete implementation in the practice, especially in the part of the regulations that foresees an opening of the territorial organizational units.

This Law defines the obligations of the Ombudsman and other subjects that should have been realized by the end of this year and at the beginning of the next, so that an operational programme was made.

Realizing the legal decisions of the Article 5, paragraph 2 of the Law, on a proposal of the Ombudsman, the Parliament of the Republic of Macedonia has already made a decision that increased the number of Deputies. Such conditions were created, so that in the Ombudsman's office in: Bitola, Kicevo, Kumanovo, Tetovo,



Strumica, Stip as territorial organizational units of the Ombudsman, his Deputies direct, so that the conditions for its more efficient accomplishment of his function were created.

On the Ombudsman's proposal in the first half of 2004, six Deputies will be selected, and after , there will be forthcoming activities in employing of the appropriate experts and other staff, as well as the activities in creating the conditions for premises, and providing an office and technical equipment for starting with work in the offices, but on a normative plan, bringing of a new Book of Rules, Statutes for systematization and organization of the working places and assignments of the employed and other sub legal acts.

In order to carry out such activities and the need for a complete implementation of the Law, in the Budget of the Republic of Macedonia for the Ombudsman, funds for premises and salary of the staff are set apart and with the donations of the EU countries, there will be provided an office, computer and other technical equipment, vehicles, programme software, as well as the funds for adopting the premises and other office material for successful beginning with work in territorial offices.

2.2. Education of the citizens

Though not legally bound, this year, again, the Ombudsman undertook and realized a number of activities in the education and informing of the citizens for their Constitutional and legal rights. In the realization of these activities, different manners, methods and forms were used.

As the most appropriate form for its purpose they always used the visits of the citizens and organized meetings while visiting the cities. As for the issues, which were not in the Ombudsman's competence, the citizens were taught how, where and in which way to realize their rights.

To that end, this year, again, on a request of different NGO's, the Ombudsman and his Deputies continued the practice to participate with their reports in many educational seminars, workshops and meetings. Many lectures were held in secondary and primary schools, as well as the lectures in the school for Security, in the Skopje City Council, on a theme "Decentralization and possibilities for participation of the public in the process of making decisions in common interest", at the University of South-eastern Europe in Tetovo, on the National training for human rights education with juniors, held by the NGO "AMOS"- Bitola, with students of the Law Faculty- Skopje, in the Ombudsman's office

This year, again, with the financial support and additionally provided donor funds, brochures were printed, meetings, media performances were organized, so that citizens were given an information and education for the mechanisms of the protecting the human rights and especially the protection that the Ombudsman can afford them.

The intensity of these activities was especially increased during the media campaign that has special elaborate in this report.

From these activities and discussions with the citizens, it was ascertained that in spite of the noticeable progress, conscious, informing and knowledge of the citizens of their rights and the mechanisms for their protection, it isn't on a needed level yet, though in the Republic, on this plan, a great number of local and international NGO's that work on promotion and education of citizens' rights are acting.

Hence, we consider that in spite of the activities that the Government of the Republic of Macedonia undertook with the support and individual activities, on this plan the issue of the education of citizens' rights must have more serious and more systematic approach, perhaps by implementing as a school subject in primary and secondary schools.

2.3. Campaign in the media

For the first time since the establishing of the Institution in the reporting year, there was realized a media promotional campaign under the motto "The Ombudsman on your side". The aim of the project was a wider promotion of this Institution and reinforcing the capacity of the organization for more effective and efficient dealing with the challenges that the Institution faces with every day in its work, especially after the bringing of the new Law and the new competencies, duties and authorities that come out from it. This media campaign, practically in a significant way, helped the Ombudsman for his wider promotion and affirmation, for better communication with the citizens and the public administration, i.e. with the media and informing the public and in the adopting the new interactive technologies, realizing the regional concept of the functioning of the Institution etc.

In the promotional media campaign, at first there was made a survey of the public opinion for the work role, significance and knowing of the Institution Ombudsman, and after that there were organized TV broadcasts on many TV in Macedonian, Albanian, Turkish, Serbian and Vlah language, in which the Ombudsman and his Deputies presented the Institution and gave answers on citizens' questions. Also, platforms were organized in: Bitola, Kicevo, Kumanovo, Tetovo, Strumica and Stip, i.e. in cities where, according to the new Law on Ombudsman, an opening of offices as territorial organizational units of the Ombudsman is foreseen. In the informative part of the campaign, many others marketing and promotional actions were undertaken such as: realization of thirty minutes documentary film, TV commercials, brochures for the public and the public administration, NGOs etc.

Media campaign should continue with platforms and workshops with officials and higher officials in the public administration.

This project was organized by the NGO "OHO" with material support by the Organization for Security and Cooperation in Europe (OSCE) and fully financed by the Spillover Monitor Mission of OSCE in Skopje, the Institute Open Society-Macedonia and Canadian International Development Agency(CIDA), so that on this occasion I express my thankfulness.



I appreciate that the media campaign completely reached the aims, so that today this Institution is more famous, more organized and more approachable for the citizens as well as the public that in fact the final survey showed after the end of the campaign, because as a result of the campaign, the number of submissions was increased, the visits of the citizens in the Ombudsman's office and the interest for starting work in regional offices was increased.

2.4. Cooperation, contacts with international organizations, associations, study trips, symposiums and seminars

This year, again, the Ombudsman, as a relatively newly established institution used all possible manners, forms and methods in establishing of close cooperative relations with the Ombudsman Institutions in Europe and especially with those in the neighbourhood.

Also, on various international meetings, educational seminars, conferences, workshops etc., organized by the European Ombudsman Institute, International Ombudsman Institute, the Council of Europe, the EU and other organizations and associations, many experiences and information were exchanged, there were discussions about similar conditions and problems and all that is of great interest for the development of this Institution.

In this direction, projects and activities for deepening of the cooperation by already established methods and forms are planned and new forms and common projects will be reached for development of this Institution. Also, the office of the Ombudsman of the Republic of Macedonia is planning projects and programmes in that direction.

During 2003, in the Ombudsman's office, there were meetings with the representatives of: the Organization for United Nations, Organization for security and cooperation in Europe(OSCE), NATO, DFID, IFES-International foundation for election system; UNHCR, European monitoring mission, European Union, the Norwegian Council for refugees, UNICEF, USAID-unit for professional standards; Conflict management group from USA; Canadian International Development Agency(CIDA)-Project Macedonia, UNDP, American advocate association(ABBA-CEELI), European regional programme of Amnesty International etc.

From realized study trips, symposiums and meetings out of Macedonia, we can mention the following ones: Sarajevo" First contact meeting of Ombudsman from Eastern Balkan countries and their officials for international and public relations", organized by the Ombudsman for human rights in Bosnia and Herzegovina; Strasbourg " Forum for children and family"- organized by the Council of Europe; Segedin " 5th Segedin conference- institutional reforms in Southeastern European regions", Banja Luka-conference " The significance of the entity regional Ombudsman in protection of human rights" organized by the Ombudsman of the Republic of Srpska and the Council of Europe; Tirana-study trip of the Ombudsman's office in the Republic of Albania by its own organization and with the Ombudsman of Albania; Athens-workshop " The role of the Ombudsman in South-eastern Europe" organized by the Ombudsman of the

Republic of Greece and the Council of Europe; Segedin-training “ Municipalities, regional politics and institutional reforms” organized by Segedin centre for security politics; Innsbruck-meeting of the Ombudsman organized by the European Ombudsman Institute; Zagreb- “ International conference of the Balkan net for human rights” organized by the Helsinki Committee for human rights; Erevan- “ International experiences of the Ombudsman Institution”, organized by NGOs from Armenia and SOROS’ Berlin- “ October conference of the Ombudsman’s net for minority issues”, organized by the European centre for minority issues(ECMI); Oslo-“8th roundtable of the European Ombudsman”, organized by the Ombudsman of Norway and the Council of Europe; Strasbourg-Seminar of ECRI-European Commission against the racism and intolerance, organized by the Council of Europe; Sofia-continuation of the workshop “The role of the Ombudsman in South-Eastern Europe” (Project “Eunomia”), organized by the Ombudsman of the Republic of Greece and the Council of Europe, and Stockholm-Seminar “The role of the Ombudsman in protecting the children from sexual and other kind of molesting and exploiting –Annual meeting of the European Ombudsman’s net for children”.

2.5 Participation, cooperation and meetings of the Ombudsman on seminars and meetings held in the Republic of Macedonia

Within the activities of the Ombudsman’s interest, there was an active participation in many seminars and meetings in the Republic; Regional seminar “Cooperation between the Police and local population”-organized by OSCE and the Ministry of the Interior; conference “Modernizing of the public administration”-organized by DFID; seminar on a theme corruption- organized by “The Coalition-Citizens for citizens”; seminar “Modernization of the judiciary”; International Conference for missing persons, participation in the workshop of the NGO’s Fair; debate: “Good conduct and the Law as a prerequisite for complete Euro-Atlantic Integration of Macedonia”-organized by the Youth Euro-Atlantic Forum; Second conference “ Minorities in Democracy”-organized by the European Centre for minority issues and the South-Eastern Europe University in Tetovo; National training course for education of human rights with juniors- organized by the Centre for human rights “AMOS”-Bitola; Ministry conference for equality between men and women; seminar “Stop the violation on children”-organized by the Centre for support of the NGO’s –Stip; workshop “Affirmation of the priorities of children and persons with special needs”-organized by the Union of associations, NGO’s and Government Institutions; Conference for public “ Together we are stronger”; roundtable “ Children on the street in the Republic of Macedonia”- organized by the Public Institute for Social Actions; subregional meeting of UNHCR for education of human rights in south-eastern Europe; work meetings of the Work group for making a codex for delinquency; seminar “ Is there a life during and after the closing” and the annual meeting of UNICEF



2.6. Cooperation with NGOs and citizens' associations

This year, again, the Ombudsman established a close cooperation with many NGOs and deems that this cooperation should strengthen and deepen in future, as well as to provide conditions and to find new manners, forms and methods for its permanent development and acting. NGOs, especially those which firmly and argumentatively will stand in the defence of the human rights and the democratic processes in the state, in general, will always have the support of the Ombudsman, and of course, such a support the Ombudsman expects from the NGOs.

To that end, this year, a cooperation with many NGOs was established and continued, especially with: the UNICEF office in the Republic of Macedonia; The Organization of Consumers; the Union of the women' organization in the Republic of Macedonia; the Council for prevention against juvenile delinquency in Kavadarci; Union for care and education of the children; " Feniks "-Bitola, "Amos"-Bitola; Union of Roma women in the Republic of Macedonia "Esma"; "The association for protection of childrens' rights in Skopje"; "HOPS" protection of the children from drugs in Skopje"; The office of " Amnesty International" in the Republic of Macedonia; humanitarian and charitable association of Roma people "Moon" from Gostivar; the Children's Parliament of Macedonia; the first children's embassy in the world "Megjasi"; group for human rights of the women "Femina"; Organization of the women organization in Macedonia; European Law Students' Association "ELSA"; "The coalition- citizens for citizens"; the Association "Defender"- Bitola; the Islamic religious community; the Youth Council of Macedonia; the association of combatants "Heroes of Macedonia"; Youth Euro-Atlantic Forum; the Association of the pensioners; the Community of the invalid organizations; the Association of the deaf people; the Association of the blind people; Macedonian Centre for International Cooperation; Ecologic Movement of Macedonia; Ecologic society "Survival"; the Red Cross of Macedonia; the Association for fight against drugs; the Association of Doctors; the Association of Lawyers; the Association of Social workers and many others.

3 **EVALUATIONS, CONCLUSIONS, STATEMENTS, MEASURES AND RECOMMENDATIONS**

3.1. General evaluation

Last year from the work and scope of activities of the Ombudsman was ascertained low level of providing, respecting and protecting of the constitutional and legal rights of the citizens by the officers of the state administration and other bodies and organizations with public authority. This year besides the noticed evidenced trend and development, the level of securing, respecting and protecting of the constitutional and legal rights of the citizens, hasn't reached the satisfactory level.

Therefore, the conclusion is that the citizens are still realizing their Constitutional and legal rights very slowly and with difficulties, also through long lasting procedures where there is presence of abuse and also not respecting of the legal regulative, there is no cooperation, no organization and mutual coordination of the bodies, bureaucratic behavior, official mentality and subjectivism in the relationship and communication with the citizens of the Republic of Macedonia.

3.2. The Ombudsman's relation and cooperation with the citizens

From the enlarged and continuous growth of the submissions from year to year, especially this year, the results from the public opinion i.e. the results from the conducted poll about the functioning of this institution, the large number of the opinions of the citizens and competent institutions as from the responsible approach of the employees to the requests of the citizens we can ascertain that the citizens of the Republic of Macedonia are informed about the existing of this institution. They are well informed that they can always ask for help and opinion from the Ombudsman. This brings us to the conclusion that the relation between the Ombudsman and the citizens is at the sufficient high professional and responsible level.

The Ombudsman's office is always open, easy to recognize and accessible and there the citizens are realizing their rights and interests and they are supporting its activities and have complete confidence.



3.3. The Ombudsman's relation and cooperation with the bodies and organizations over which he acts with authority

Although after the review of the Annual report for 2002 the Parliament of the Republic of Macedonia has recommended to the bodies of the State Administration and other bodies and organizations which have public authority more serious approach, act upon the requests and more efficient cooperation with the Ombudsman, the cooperation of the Ombudsman with the bodies and organizations over which he acts with authority is not on the needed level yet.

Mentioning, there are still bodies of the Public Administration, which are acting inappropriate over the requests and the recommendations of the Ombudsman, and some of them only declaratively express readiness for cooperation. This kind of uncooperative relation is especially noticed and evidenced by the Ministry of Finance, Ministry of the Interior, Ministry of Education and Science, State Institute of Geodesy and others; The Ombudsman is especially expecting improvement of the relations and communications with the state bodies after bringing the new Law on the Ombudsman, the current reforms in the public administration and the measures and activities which should be undertaken by the Government of the Republic of Macedonia for its better functioning, which is prerequisite for the European Integration - the main aim of the Country.

3.4. Relation and communication of the Public administration with the citizens

Even though by the Government of the Republic of Macedonia are undertaken large numbers of activities for education and professionalism for more responsible relation of the officials in acting upon the requests and in the communications with the citizens, there is still presence of appearance and situations of bureaucracy, unprofessional, irresponsible and now and then arrogant, rude and indecent behavior of the officials with the citizens, which is opposite from the positive standards of behavior of the employees in the State bodies. In spite of this kind of relation, unfortunately, during the acting and bringing decisions upon the requests for realization of the rights of the citizens, situations of extension on the administrative acts for one, two or more years are ascertained; Also unjustified long duration of the procedures over the administration disputes in front of the Supreme Court of the Republic of Macedonia, where by rule subjects (documents) are working after one or more years; Not including the interested parties in the procedures; Rejecting the requests because of unenclosed evidences which the same body could procure in line of duty or by personal inspection in the public books or identity papers; not acting under the decrees of the secondary administrative or Court bodies; not performing the legal and final administrative acts or selective approach to their performance; Not respecting the right to solve the request in different way in spite of obvious evidences and appointing of the Ombudsman; uncooperative cooperation, bad coordination and bad organization in the internal administration of the body and between the bodies; rejecting the submitted requests; inaccurate delivering of the documents for the subject to the secondary bodies and the Court; Intention to make impres-

sion in front of the parties that favor has been made for them even though the undertaken obligation are in frame of the work activities etc.

All of this is appointing to a conclusion that it is necessary to accelerate the current reforms for transformation on the State administration to provide small, competent, expert and effective administration which will serve to the needs of the citizens. In this course, even though with bringing the Law for civil servants a big step forward has been made, its inconsistent application is points to the mentioned declarative readiness of the bodies and organizations to establish and respect the prince of rule of the law.

3.5. Respecting of the principle of Article 24 of the Constitution of the Republic of Macedonia

In article 24 of the Constitution of the Republic of Macedonia is foreseen that every citizen has the right to lodge a submission to the State bodies and other public administrations and to get response from them.

From the submissions and contacts with the citizens conclusion was made that the State bodies and Public administration in fact do not respect this principal, in such a way large number of the public officials beside the fact that they do not response on the submissions of the citizens, also to contact them is almost impossible. This conclusion is result from the personal experience of the Ombudsman.

Mentioning, when the public officials were called they did not answer and they did not respond on the Ombudsman's requests for reception in their offices although it is their legal obligation.

3.6. The Ombudsman's relation and communication with the media

As far as now from the practical experience in the work it could be concluded that in the past period of work and acting the Ombudsman was sufficiently transparent and accessible for the public and the means for public information have contribution in this field. This means that in the past period the Ombudsman had the needed support from the media, which also should have in the future because without general and constant support from the media, as very important guarantee in his acting, the Ombudsman couldn't completely and successfully fulfill his legal function in accordance with the Constitution.

3.7. Legal regulative

The legal regulative as bases for efficient realization of the freedoms and rights of the citizens of the Republic of Macedonia, although mostly is coordinated with the Constitution of the Republic of Macedonia and international acts, in some fields still its not coordinated and well arranged. From there as necessary and priority its forced on bringing of the Law on general administrative procedure and the Law on administrative



disputes which will be in function of efficient achievement on the rights of the citizens. With these laws first of all should be determined legal frames for acting of the administration in the achievement on the rights of the citizens, which basely will follow the principals of equality of the citizens and will protect from the obstinacy (self – will) of the state bodies where they should achieved their rights. After this especially should be considered the needs from shortening the deadlines in the procedures, reducing of the administrative way of acting in the subjects and to modernize the methods of working of the state bodies for enlargement of the efficiency in the protection on the rights of the citizens which should be helped also with introducing modern informatics technology. With high importance is also providing secondary methods in the procedures upon the administrative disputes which will be in accordance with the Constitution of the Republic of Macedonia.

Besides, in spite of unregulated and in some areas inappropriate and obsolete legal norms, the Ombudsman considers that the same one is not obstacle for efficient realization on the rights of the citizens, but the reason is in the still present variance of the standardize and practically realized, i.e. in the inconsistent respect of the legal regulative.

3.8. Court disputes

Analyzing the conditions in the judiciary, and up to that taking care about the independence of the judges and limited authority of the Ombudsman to protect the rights of the citizens in the part of prolonging the court disputes and administrative work on the court administration, it comes out that the Court disputes are slow and not efficient, which as situation is present and stated many years backwards. These conditions are result of the objective and subjective weakness. As objective is considered the slow reform of the judiciary, which is especially in regard on the changes, first of all on the process acts which with the present norms are increasing the slowness of the act and bringing decisions, deficit in the technical equipment and personnel and discordant rewarding on the expert and administrative officials. But we cant neglect the subjective relation of separate judges with their incompetent, unconscious and irresponsible relation to the subjects, as the opinion of the citizens for the corruption in the judiciary for which stamping is needed to take over energetic measures.

3.9. Public Prosecutor's Office

The evidenced appeals for the work of the Public Prosecutors Office, especially those that are in regard on committed criminals from unknown perpetrators or in other hand the submitted criminal charges by the citizens sent on additional collect on information's up to the authorized bodies, first of all to the Ministry of the interior is appointing to the conclusion that also in the Public Prosecutor's Office this procedure is with very long duration. Justifying that there is no respond from the authorized body, which received the request for checking, and supplementing is not completely valid, and we consider that in that part is needed bigger accuracy, initiative and appropriate cooperation

between all involved bodies and better communication with the person who has submitted the criminal charge.

3.10. Penitentiaries

From the received applies and the performed inspections in the Penitentiaries i.e. the Prison in Idrizovo and the prison un Skopje were more than a half of the condemned persons from Republic of Macedonia are settled was concluded that from the last year till now there are no significant changes. Besides the bad conditions for settlement and lodging of the condemned, there is not any justified system or program that would be functional for successful socialization in spite of the fact that on the normative plan this is organized and in accordance with the European standards.

The premises in which the pre – trial confinements are performed are still in the same condition i.e. the same one represents premises for sustaining prison sentence or disciplinary measures, and not premises for pre-trial confinement for whom is possible assumption to be acquitted from criminal charges.

My opinion is that this conditions are caused from the insufficient care of the public authorities, first of all the Ministry of justice and the Administration for execution of criminal sanctions , for providing material-technical and financial assets, as inappropriate personnel for successfully performing of the operations in this Institutions. But there is presence of inappropriate behavior of the officials with the convicted and temporary arrested, and especially there is absence of resourceful acting and sense for adequate implementation on the process for a socialization by the managerial staff in this institutions.

3.11. Social and economic rights

Because of the difficult material and economic situation in Republic of Macedonia the constitutional and legal rights from the socio-economic area as for example the rights of work, social care, pension and medical insurance and the other social rights are achieving very difficult and slow, and part of them as for example the right of work don't have real economic base for achievement. The shortage of means for promotion (development) of these rights, especially the right of social care which is necessary for the most of the citizens, mostly because of unemployment, affected negatively on the life standard because large number of the citizens of the Republic of Macedonia don't have basic means for normal existence. The authorized bodies (Authorities) pressed by the economic situation from one side and the measures of the International factors from the other side, instead finding out and creating new conditions and ways for employments or social support of the citizens which should be in accordance with the constitution of the State that is declared as Social state, they are reducing the existing resources for this purpose.



3.12. Property relations

The realization of the rights in the field of Legal-property relations as: denationalization, i.e. returning in personal ownership of the taken-nationalized property, writing the rights of property in the Cadastre, expropriation, i.e. achieving and providing the right for assignment of land, as most requested issues, this year was very difficult and slow with presence of high level of subjectivism through the procedures, incompetence, and in certain cases followed with insufficient knowledge of the regulations in this field and uncooperative and unprofessional behavior with the parties, also unequal application of the regulations.

In this frames, separating the process of denationalization as change in the ownership structure in Republic of Macedonia, the Ombudsman considers that in spite of the fact that the duration of this process is very long and still is not finished, but very often the formally brought decisions for performed returning of the taken properties do not have practical realization, and large number of the began acts are not finished yet although by their nature and in accordance with the Law for denationalization should have been carried out fast and efficiently.

3.13. Local self-government

The realization of the rights of the citizens in the Municipalities which are treated as Units of the Local Self-Government and the city of Skopje, in their bodies and public organizations, in front of all the maintenance, building, connection or exchange of the objects of the Communal infrastructure because of the bad material conditions and low legal authorization of the Units of the Local Self-Government which in practice weren't real attainable.

The current process of decentralization, which is obligation from the Frame Contract, this year, is not realized yet, although with the Constitution from year 1991 and with the Law for local self-Government was given an opportunity for the Republic to determine particular authorities to the Municipalities with Law. For this reasons and limited finances, in practice this rights were very slowly realized or they were not realized at all.

3.14. Urbanism and construction building

The subject work in the report year appointed that the citizens are facing lot of problems in the field of Urbanism and Construction which in front of all are related with inconsistency in the carrying out of the administrative acts brought in relation with the illegal built construction objects or parts of objects which are not in accordance with the building permissions, as the problems that are coming out because of not transparent acting during bringing the detail urbanity plans. Also in this field there is presence of normative irregularity and because of that there is need of urgent measures and influences for changes of the Laws of city planning and urbanism and building of infestation objects with aim to regulate the problems in this field. The citizens are still facing with the no efficient inspection administration which in practice are not carrying out consistent control and supervising in putting in to effect on the Laws. It is necessary to point

out that there is presence of selectivity in carrying out of the administrative acts by the Inspection bodies, which leads us to be suspicious that the state officials in this part of the Public administration are corrupted.

3.15. Environment

Even though we can certainly say that the problems with the pollution of the environment are much more serious, the small number of submitted applies to the ombudsman is prove that among the citizens exists low level of ecology consciousness, as insufficient and indifferent relation with the environment which orders need of more organized, active and program approach first of all from the Authorities as the Ministry of Environment.

3.16. Children's rights

The economic situation and financial weakness of the country this year too appointed that has big influence on providing of the best interests of the children which also appoints the fact that in large number of appeals in spite of the other things appoints on the existential problem that are facing large number of families which doesn't creates conditions and assumptions for achievement of the rights of the children guaranteed with the Convention for the rights of the children and impossibility to provide suitable life standards for the children.

For achievement and protection on the children's rights especially from different abuses and taking advantage for wrong aims, its not only necessarily needed improvement on the life standards and respect on the best interest if the children from each and in each act, it is also necessary cooperation and communication between all subjects who cares and decides for the rights of the children and for that purpose, cooperation between the Non Governmental organizations and Cooperation between the International organizations is necessary.

In this course the Authorized bodies (Authorities) in the Republic should accelerate the current process-project for introducing teaching subject from the field of education for the rights and their protection in the educational system on all levels.

3.17. Police proceedings

3.17.1. Security measures and internally displaced persons

Security situation and the living conditions are prerequisite for achievement on the basic human rights and freedom on which the citizens, and especially the temporarily displaced persons mostly are recalling (revoking). Although is improved, the security situation especially in the crises regions in the North-western part of Macedonia is not on the needed level so it could guarantee complete security over the citizens in this regions what means that the Ministry for internal affairs didn't completely succeed to carry



out the operations which are under its authorization in accordance with the Constitution and the Laws. The reason for this conclusion lies in the fact that even three years after the war conflict large number of displaced persons still are not back in to their homes, and in separate places the Ministry still hasn't created conditions for normal life of the citizens. In spite of this, it's a fact that the Ministry still cannot successfully uncover large number of criminals and it affects on the feeling of insecurity on the citizens.

3.17.2. The police's treatment of the citizens

Although, this year too, in the reforms of the police efforts are made for professional training and multiethnic grouping, the reforms are still not finished, so in the acting of the police even though there is progress further there is presence of unprofessional, indecent and rude behavior, abuse and disregard of the law especially trough the procedures of bringing and keeping the citizens in the premises of the Ministry for internal affairs.

Maybe the evidenced situations and this kind of cases are minor if they are expressed in numbers in relation to the scope of the polices work and the contacts between the police and citizens, but considering the authority, reputation and the confidence of the state security police, one case of illegal acting has bad reflection on the entire work and the reputation of the police, who should present service of the citizens not instrument of forcing.

3.17.3. Citizenship

The acts for acquiring status of citizen of the Republic of Macedonia in the Ministry of the Interior were no efficient and with long duration this year too. This was especially present in the Security Administration which should give its own opinion in this act. With bringing of the Law for changing and supplementing on the Law for citizenship, that went into effect in March 2004, and for its passing the Ombudsman was insisting a few years ago. Its expected most of the citizens finally to achieve this legal right.

3.17.4. The problem with the missing citizens

Unfortunately the problem with the twelve missing citizens of Macedonian nationality and six citizens of Albanian nationality that happened during the war period in 2001 still is inexplicable enigma. And till now the Ministry for internal affairs did not respond, although this issue was often present in the Parliament of the Republic of Macedonia and it was discussed in presence of relevant law factors inside the Republic and out, this was discussed in the Authority Commissions in the Assembly.

3.17.5. Compensation of damage

The compensation of the damages on the properties of the citizens made by the Security forces during the war conflict and directly during the actions for catching crimi-

nals in spite of the formed commissions for compensation of the damages of the citizens this year also are unsolved. Directing the citizens to prove and achieve the damages through Court disputes creates revolt and legal insecurity among the citizens although it is legal obligation of the State.

3.17.6. Transformed Unit for fast interventions - "Lavovi"(Lions)

The Ombudsman considers that for the problem related with the employment of the members of the Unit for fast interventions – Lions from the Ministry of the Interior, established during the war conflict in the year 2001, which is still unsolved its needed to be found proper solution and in the frames of the current legal terms and its needed to provide employments. With solving this problem the Ministry of the Interior will fulfill its agreed obligation

3.18. Labour relations

The problems that are result of the achievement of the rights of the citizens related with the employments this year were significantly present. Abusing the institute – announcement (notice), the way of employment, ending of the employment, election and discharging of the directors, payment of salaries, and other substitutes, acts of privatization, not carrying out the Court decisions, suspending workers, establishing annual vacation and absence from work, inspections and other bodies, act for determination of status of employees, interpretation of the acts of systematization on the job positions, discontent from the work conditions, discontent from overtime work – were problems for which the citizens mostly requested for intervention from the Ombudsman.

The Ombudsman considers that the violation of the rights that are result of the current employments in the State administration is usually appearing directly before the elections when the Government was providing new employments with purpose to obtain more votes not respecting the legal regulative, as in the period after the elections with the exchange of the Government when the new Government mostly without legal procedure is performing different reallocations from one to another job position or discharging on the employees in the Public Administration mostly because of political or party's belonging followed by nepotism etc.

From here, in this conditions the appointed recommendations, suggestions and opinions of the Ombudsman were disrespected, and this situations further will repeat if proper protective measures and responsible, professional and proper relations (behavior) of the officials and the responsible persons from the Government structure is not provided.

3.19. Housing relations

The general conclusion is that many problems of the citizens which are related with the protection of the rights from the housing issue, years ago they can not be



solved and there is tendency for increasing of the problems and becoming worst. These rights even though are guaranteed by different International conventions and internal regulations they are still staying only declarative recognition which is not much useful for the citizens. As result of this we can conclude that the State i.e. the Government of the Republic of Macedonia doesn't have appropriate approach for solving these essential issues that are from vital interest for the citizens of the Republic of Macedonia.

3.20. Education

The most present problems in the achievement on the rights of the citizens in the field of education evidenced across the submissions, this year also were the rights of the students in regard to the co financing of the studies, changes that were made in the admission (enrolment) policy on the Universities regarding to the terms for co financing, the apply for admission to a University, students standard meaning settling in the dormitories and getting students credit and scholarship, as other rights of the students.

This year as the last it can be concluded that the improvement of the students standard, which supplementary was endangered with introducing different payments by the Universities without any realistic and legal bases, evading the regulations for settlement of the students in the dormitories and not providing enough means for increasing the fond for students scholarships and students credits was not taken in to consideration.

3.21. Consumers' rights

In the field of consumers' rights the Ombudsman is authorized to protect the rights of the citizens when they are violated by the Public communal services (telecommunications, distribution on electricity, heating, water supplying and other communal services).

From the submissions and communications with the citizens and the responsible persons from these Public services, few years ago, and also this year too it can be concluded that the citizens as consumers of water, electricity and telephone services are in sub ordered position because they don't have choice, i.e. the Public communal services have monopoly over the services. In this situation the Ombudsman and the citizens could not exert influence on the prices of the services which put them in position of unconditional accepting on the offered prices.

From this reasons the consumer often appealed to the Ombudsman during what they expected that the Government of the Republic of Macedonia trough appropriate legal or other regulative will provide supervision over the possible abuse on the market made by the monopolies, but unfortunately that is not done until now, and the Ombudsman considers that the Monopoly administration which as controlling mechanism in that direction should have provide protection and balance didn't succeed. Hence, instead of reducing the expenses, we are witnesses on insolent monopolistic acting and impoverish of the citizens.

3.22. Recommendations to the government of the Republic of Macedonia, bodies of the state administration and other bodies and organizations with public authority

Above-mentioned statistic data, evaluations, conclusions and statements which resulted from the Ombudsman's subject work are appointing on the necessity for the Government of the Republic of Macedonia and other bodies and organizations with public authorities over which the Ombudsman is authorized to act, it is necessary to undertake intensive measures and activities that will remove all irregularities, illegal acts and injustice as other negative appearances (acting) stated in the report, and in future to provide:

- permanent and synchronize coordination on the legislation with the Constitution of the Republic of Macedonia and International legal acts and documents, as its consistent application(usage);
- consciousness, responsible and accurate acting over the requests of the citizens during the achievement of their constitutional and legal rights;
- accurate application on the constitutional principles for indiscrimination and proper and just participation of the members of the communities in the bodies of the Governmental authority, bodies of the Units of the Local Self Government and Public Administration;
- responsible relationship and accurate respecting on the requests, recommendations and other interventions of the Ombudsman and
- larger transparency, information, training and education of the citizens for their constitutional and legal rights;

3.23. Expectations from the Parliament of the Republic of Macedonia

The Ombudsman expects that the Parliament of the Republic of Macedonia after the reviewing of the Report , and in the frames of its authorities will undertake appropriate measures and activities which will obligates the Government of the Republic of Macedonia and other Authorized bodies completely to act over the requests, recommendations and other interventions of the Ombudsman stated in the Report and in future will provide complete use(application), respect and protection on the human rights and freedom, and obligate them to inform the Parliament of the Republic of Macedonia and the Ombudsman for the undertaken measures and activities.



4 ORGANIZATION, PERSONNEL AND FUNDS

4.1 Organization and working method

The organization and the way of work, in accordance with the Law, are regulated with the bookkeeping (journal) of the Ombudsman and the Regulation on operations for organization and systematization on the job positions.

The Internal organization is regulated to operate in three Organizational Units: studies-analytic, Unit for evidence, documentation and informatics and Unit for administrative-technical and financial issues.

Although in the frames of the Institution almost four years is functioning separate Department for protection on the rights of the children which is paying special attention on the rights of the children.

The officials in the study-analytic Unit who are performing the basic function – acting and bringing decisions over the submissions are separated in five groups who are working on few fields. The Ombudsman and his Deputies are managing with the groups and they are getting help from three counsellors-graduated lawyers. The evaluation for this type of organization and methods of working, enables expertly and efficient fulfilment of the basic functions authorized by the Ombudsman and continuous and more efficient following of the situations in different fields.

With entering into force on the new Law, in the following period and especially with the organization of the six new regional offices, organization and the methods of work should adapt on the new created situation, by bringing new legal acts. In that direction the preparing activities are already undertaken, and they will be realized in accordance with the determined legal terms.

4.2 Personnel

This year again, the Ombudsman was performing the functions over which he is authorized with help of 32 executors, 17 of them were researching the submissions separated by fields, three of them were executing the informatics' operations, evidence operations and documentation and 12 of them were engaged with the administrative-technical operations.



With this kind of personnel structure the Institution is functioning six years. And in spite of the periodical absences (sick leave and maternity leave of two employed) and the increased scope of work, with more difficulties and with additional engagement of the employees, the functions and operations from the basic authority were successfully realized.

But regarding the enormous income of submissions especially present in the second semester of the year, expanded authority, increased authorizations and the new organizational structure in accordance with the new law it is unavoidable the need to enlarge the working premises, additional personnel equip, technical equipment, as in the office in Skopje also in the new regional offices which should start working on April 1st 2004.

On this plan already are programmed and particularly undertaken preliminary operations that will be realized in the determined legal terms in following year. During the establishment of the personnel teams, in accordance with the constitutional and legal determined principals, it will be considered the righteous and appropriate representation of the members of the Units and in this Institution over which the Ombudsman has constitutive and legal authority.

4.3 Funds

In accordance with article 48 from the new Law for the Public Attorney, the assets for work for the Ombudsman will be provided from the budget of the Republic of Macedonia. In the part for the Budget intended for the Ombudsman the Parliament of the Republic of Macedonia votes separately.

Sharing the destiny of all Budgets beneficiaries from the Public Sector, this year for the Ombudsman were determined 21.096.000,00 denars (345.393 EUR) which certainly wasn't enough, but with rational and restrictive spending and Internal (out coming) donations the Ombudsman successfully performed its functions determined by the legal authority.

For the implementation of the new law for the Ombudsman from the Budget for 2004 were provided assets for enlargement of the Office space in Skopje and providing office space for the six new offices, and also assets for employing 37 new workers, computer equipment and eight vehicles – six of them are intended for the new offices and two for the office in Skopje. The assets are already provided from the donations of the Organization for Security and Cooperation (OBSE), Department for development of the Canadian Embassy and the Embassy of the Republic of Italy, and also are expected donations for renovating and adaptation of the Office space, purchase of software programs and material and educational support of the employees, organization of seminars etc.

5 FORTHCOMING ACTIVITIES

The Ombudsman will appoint the future measures and activities in the direction of achieving on the basic functions that are resulting from the constitutional and legal authority.

In this direction especially will be considered the implementation an programming on the new established authorities and authorities in accordance with the new Law on the Ombudsman, i.e. the care for protection and respect of the principals of indis-crimination and appropriate and righteous presence of the members of the Units in the Bodies of the Government, bodies of the Units of the Local self government and Public Administration; toward the programming of the activities and the measures which should be undertaken for following the situations with respect of the constitutional and legal rights of the citizens in authority of the Ombudsman; the activities and the measures for programming on the inspections which should be performed in the bodies of the Government administration, especially in the police stations, institutions for temporary-arrest and penitentiaries, psychiatry hospitals and all the other Institutions where the peoples moving is limited, as other measures and activities which are out coming of the new Law on the Ombudsman.

In this context on organizational plan, for complete implementation on the Law it will be necessary to undertake activities and measures for realization on the already broth program for implementation on the new Law and creating space, technical and personnel conditions for beginning with work on the six new regional organizational units and enlargement on the office space in Skopje.

On normative plan should be prepared and bring new Regulation on operation, Book of roles of systematization and organization on the job positions and tasks of the employees in the Ombudsman's office, Book of rules for the official legitimating and other legal acts.

Also the activities for popularization and affirmation on the Institution and education of the citizens for its role and importance will continue. During this especially should be programmed the activities for popularization and affirmation of the new established offices that in accordance with the Law should start with work from April 04.2004.

In this direction, the realization of the activities programmed with medium campaign, that were not realized in the year 2003 will be continued.



The Ombudsman in the future will also cooperate and will continue trying to find methods and forms for making connection for better communication with the Authorities, Institutes and Institutions and other Governmental and Non-Governmental bodies, organizations, associations and foundations and together with them will perform and act on the plan for protection and respect on the constitutional and legal rights of the citizens.

For the same purpose the Ombudsman will try with his participation to contribute in the construction on the law regulative in the Republic in that part in which the practice work will show that there is enough space for normative coordination, supplementations, as coordination on the domestic(internal) legislative with the international standards determined in international acts and documents.

In the following period especially will be considered using of the mass media which in the past period has showed as very important and efficient instrument which is on disposal the Ombudsman, and the main reason is the force and the additional pressure that can be caused by them in direction of achievement and protection of the rights of the citizens.

On International plan will be continued the established practice of cooperation on bilateral, regional and international level with the Ombudsmen of the other countries and similar institutions whose main aim is protection and promotion on the human rights and freedom, and depending on the finances, participation on educational seminars, conferences, workshops and other meetings useful for the promotion on the work and functions of the institution Ombudsman are planned. In that contest with attention will be reviewed and accepted all offered projects and programs which are considering and are from importance for the promotion on the human rights, during that. this kind of projects are planned by the Ombudsman's office in the Republic of Macedonia .

6 REVIEW OF THE CONDITIONS IN RELATION TO THE PROVISION, OBSERVING AND PROTECTION OF HUMAN RIGHTS IN DIFFERENT FIELDS

6.1. Protection of the rights of the representatives of the communities not in majority in the Republic of Macedonia

Republic of Macedonia is a multiethnic society in which apart from the Macedonian population live number of Albanians, Turks, Vlachs, Serbians, Roma, Bosnians and representatives of other nations characterized with different ethnical, cultural, religious and other features. According to the data of the Census of the population and households in the Republic of Macedonia in 2002 there are 2.022 547 citizens, among which most numerous are the Macedonians with 64,18% of the total population, follows the Albanian ethnical community with 25,17%; Turks with 3,85%; Roma with 2,66%; Bosnians with 1,78%; Vlachs with 1,04%; Serbs 0,48% and other communities with 0,84%.

The Constitution of the Republic of Macedonia, from 1991, guaranties to all the citizens a complete equality in the claimance of the basic freedom and rights, not regarding the sex, race, color of skin, national and social background, political and religious conviction, property and social position. Nevertheless it contains special provisions referring to the special rights of the representatives of the community, which are not a part of the majority of the population.

The protection of the basic freedom and rights of the citizens of the Republic of Macedonia shall be implemented in front of the regular courts, the Constitutional Court of the Republic of Macedonia, the Permanent Survey Commission for protection of the freedom and rights of the citizens within the Parliament of the Republic of Macedonia and in front of the Ombudsman.

In compliance with the Constitution of the Republic of Macedonia and the Law on the Ombudsman, the representatives of the communities, which are not part of the majority of the population claim the same treatment as the majority in the procedure in front of the Ombudsman. An analysis of the number of the submitters according to the ethnical affiliation has been carried out, aiming to receive a real picture of the ethnical affiliation of the submitters, during 2003, for the first time in the Office of the Ombudsman, where the results showed that 16,15% of the total number are



representatives of the Albanian ethnical community; 2,21% Serbian; 1,49% Roma; 0,52% Bosnians; 0,26% Vlach; 0,10% Turk and 0,76% other ethnical communities.

In this context it is important to notice that the new legal solutions of the representatives of the communities, which are not a part of the majority, enabled them to lodge the submissions to the Ombudsman in their language and alphabet, and to receive the reply also in their language and alphabet. This legal solution made the institution Ombudsman more accessible to the representatives of the minority communities and also eased the communication between them and the Office of the Ombudsman.

With the enforcement of the new Law, the Ombudsman proceeded on the basis of the new authorizations, that is, with the cases when the representatives of the communities that are not a part of the majority turned to the Office, considering that the principles for nondiscrimination and relevant and rightful representation in the bodies of the State Authority, the bodies of the Local Self-Government and the public institutions and services, have been violated.

During 2003, totally 6 submissions, referring to violation of these principles, were lodged, although there were several submissions referring to the civic rights of the submitters, in which they call upon, that the violation, in accordance with their estimation is committed due to the ethnical affiliation.

Two of the submissions, which according to the Ombudsman, might have been recognized as violation of the principles for nondiscrimination and relevant and rightful representation of the representatives of the communities, actually referred to the requests for reassigning from one to another working position in the public enterprises A.D. "Makedonski telekomunikacii" and the Public enterprise for airport services "Makedonija", which would comply with the constitutional principle for relevant and rightful representation.

In the first case the submission was rejected as unfounded because it was ascertained during the procedure that in the Sector of AD "Makedonski telekomunikacii" in which the submitter worked, in accordance with the act for systematization was not foreseen a working position pursuant to his vocational training, and in the other case in which the Ombudsman forwarded a recommendation, there is no response, and thus the procedure is pending.

Also, in the procedure, initiated on request of an submitter of the Roma ethnical community, it was ascertained that the submitter, applying to the Ministry of Internal Affairs, on the position of policeman-rookie, was not employed due to unfulfilling of one of the special conditions for employment of a worker in the Ministry of Internal Affairs, and after the ascertainment of the facts this submission was also rejected as unfounded.

The fourth submission referred to the request of the submitter for the Ombudsman, in accordance with the legal authorizations, to propose a representative of the Vlach community on the position of a member of the Committee for relations between the communities within the Parliament of the Republic of Macedonia. The Ombudsman ascertained that in this Committee composed of members of the

Parliament, representatives of all the ethnical communities, the constitutional and legal conditions has been fulfilled, which was ascertained with the Decision for election of the members of the Committee for relations between the communities, adopted by the Parliament of the Republic of Macedonia in which the representative of the Vlach community, member of the Parliament of the Republic of Macedonia, has been stated, thus the Ombudsman had no ground to use the legal authorizations and notified the submitter for that, rejecting the same as unfounded.

The small number of submissions referring to the violation of the principles for nondiscrimination and relevant and rightful representation of the representatives of the communities that are not part of the majority population, according to the Obudsman is due to the fact that this legal authorization of the Ombudsman was established for the first time with the new Law, enforced in the beginning of the fourth quarter of 2003.

6.2. Protection of rights in Police proceedings

In order to call a society democratic, one should take in consideration, above all, whether the citizens are guaranteed the basic freedom and rights and whether the system institutions observe them.

It is indisputable that the Republic of Macedonia is a democratic society with an established legal system, which through the Constitution as a basic legal document, with the legal regulation and the adopted international documents guaranties the basic human freedom and rights to all the citizens, notwithstanding the national and religious affiliation, the sex, race, skin color, political convictions, social or property condition. Nevertheless, in each country, and thus in the Republic of Macedonia, as one of the transition countries and country that faced a war conflict, in certain moment there are possibilities of conflits between the system institutions and the citizens as individuals or the representatives of different groups.

Thus, this section of the Report shall refer to the conflicts occurring between the citizens on one hand and the Ministry of Internal Affairs on the other hand, as an institution, which in compliance with the law is authorized for pursuing the internal affairs, including: protection of life, personal security and the property of the citizens; protection of the human freedom and the rights of the citizens guaranteed with the Constitutions; prevention of the violent destruction of the democratic institutions established with the Constitution; prevention of the criminal acts and detection and apprehending the persons committing criminal acts and their delivery to the authorized bodies; maintainance of the public peace and order; control of the state border transpassing; stay and movement of foreigners; control of the registration and withdrawal of residence and stay of the citizens and other matters established with Law.

Seen through the prism of numbers as a data registered in the Office of the Ombudsman, apart from the incidental cases, explained further on, the citizens do not have major problems in the realization of their Constitutional and legal rights in front of the services of the Ministry of Internal Affairs.



Starting from 1998, when the Ombudsman submitted the first annual report, and 2003 inclusive, it may be noticed that the number of the lodged submissions referring to the Ministry of Internal Affairs participate continually with 10% regarding the total number of submissions received in the Office of the Ombudsman, and that the number of the ascertained violations of the rights ranges to approximately 10% in relation to the total number of the submissions lodged to the same.

Reporting the year 2003, 266 submission were registered in the Office of the Ombudsman, 10 of which were initiated by the Ombudsman, as one of his legal obligations.

In 96 submissions, the submitters complained on the illegitimacy in the procedures for acquiring the citizenship of the Republic of Macedonia, 45 submissions were on exceeding of the official authorizations of the representatives of the Ministry of Internal Affairs, and the other submissions referred to prolongation of the administrative procedures, status conditions and other rights realized in front of the organs within the composition of this Ministry, above all, regarding the record evidence of the citizens.

Following the implemented procedure for confirmation of the stated assertions on the basis of the requests on written information, by immediate control on the spot, immediate inspection in the written documentation and hearing with the submitters and responsible persons of the Ministry, the Ombudsman in 27 cases ascertained a violation of the rights: 14 of which due to prolongation of the procedure, 8 due to incorrect application of a law, in 3 cases ascertained exceeding of the official authorizations with excessive use of means for compulsion and in two due to the fact that the body of the Ministry did not imposed measures, it is obligated to do pursuant to law.

Due to removal of the ascertained violations of the rights of the submitters, the Ombudsman forwarded to the bodies within the Ministry of Internal Affairs: one recommendation, three opinions, 17 decrees, two suggestions, two proposals for repeated procedure, and due to excessive use of compulsion means to the Ombudsman forwarded two requests for initiation of procedure for confirmation of the criminal responsibility.

As a result of the imposed measures by the Ombudsman in 20 cases, the rights of the submitter were realized, and in seven of the cases the Ombudsman was not notified on the undertaken actions.

Due to improving of the communication and the fulfilling of the legal obligations towards the institution Ombudsman, a working meeting has been realized between the Ombudsman and the responsible officials of the Ministry of Internal Affairs, where the methods for the future collaboration have been agreed upon.

This year, we shall also single out the procedure for acquiring status of citizenship of the Republic of Macedonia, out of the submissions referring to the activity of the Crossborder Authority, which in the majority of cases lasts even longer. The reasons for that have been same for years. This is thus, due to the inappropriate attitude of the Crossborder Authority for security and intelligence towards the requests of the citizens, upon which, in compliance with the law, in certain cases it was obligated to give

opinion, and also due to certain decisions in the Law on Citizenship. The largest number of the submissions in this area shall be resolved with the new amendments of the Law on Citizenship.

In the current year, as in the preceding year, having regard to the realization of the rights of the citizens, the issue regarding the application of the legal acts issued by UNMIK-OUN in Kosovo, due to which the citizens were not able to regulate the largest number of their status issues, and particularly the marital status, due to the unrecognition of these acts, remained unresolved. The Ombudsman considers that the Government of the Republic of Macedonia should undertake measures and activities for resolving this issue.

The Ombudsman proceeding in compliance with the legal authorizations, according to which, the procedure may be initiated with self-initiative should pay a special attention, in the reporting year, to the cases arousing special interest in the public. The Ombudsman ex officio initiated a procedure in the so called case "Sopot" where the representatives of the Special Unit of the Ministry of Internal Affairs were suspected that have exceeded the official authorizations in the intervention for detection and catching persons suspected for placement of explosive devices, the explosion of which was the cause for the death of three persons, two of which were representatives of the Polish quota of the NATO forces. Due to the inspection of the assertions stated, above all, in the informing means in Albanian language, the Ombudsman visited the homes of the suspected persons in the village Sopot - Kumanovo, where he had conversation with the members of the families of the suspected persons and after that, had conversation with them in the prison "Skopje" in which they served pre-trial confinement, and a written information was asked from the Ministry of Internal Affairs.

The Ombudsman ascertained, and afterwards it was confirmed by the Commission, established by the Ministry of Internal Affairs, that the action for inspection in certain homes in the village Sopot was legitimate, with permission by the judge of investigation of the Basic Court in Kumanovo, but during its implementation several omissions were made in the sense that the special unit did not include representatives of the Albanian ethnical community, and the investigation of the women was conducted by persons from the opposite sex. Apart from the stated omissions, certain irregularities or exceedings of the official authorizations were committed, manifested with deliberate or unnecessary damage of objects in the homes where the inspection was conducted, and the Ombudsman estimated it as "force demonstration" by the persons pursuing the official actions.

This example is given solely as an instance for unprofessional and illegal act. However, such was the case with the two Roma, where OVR Kumanovo used compulsion so as to extract confession from them and the case with a worker in the refinery OKTA from Skopje, where it was ascertained a deprivation of the right for defender in the police procedure. Fortunately there is a small number of incidental cases regarding the Ministry of Internal Affairs on the whole. Nevertheless, according to the fact that the stated cases occurred in the course of pursuing the activities by the officials and within the premises of OVR Kumanovo, it is ascertained that it presents a rule of conduct of the authorized officials in this body of the Ministry.



The Ministry of Internal Affairs in the second post-conflict year did not manage to resolve the issue with the kidnapped persons and to create real safety conditions for returning of all the displaced persons in their homes which is an obligation and requires additional efforts.

Apart from the fact that during the reporting year, the Ministry conducted 33 procedures for confirmation of disciplinary responsibility and that disciplinary fine has already been imposed on 33 officials for abuse, that is, exceeding of the official authorizations, the Ombudsman is not completely satisfied with the collaboration with the bodies and the heads of the bodies within this Ministry, due to the fact that he is not given complete data and information when required, and there were cases where the requests were ignored or there were efforts for hiding obvious negative facts in order to protect the officials exceeding the official authorizations.

It is interesting that the officials of a higher rank within this Ministry are not completely aware of the competences and legal authorizations of the Ombudsman, particularly of the authority from Article 31 of the Law on Ombudsman.

The ignoring of the institution Ombudsman and the protection or not imposing legal measures on the persons exceeding the official authorizations, may only have a negative reflection on the reputation of the Ministry of Internal Affairs. Thus, the Ombudsman is convinced that this body should make more efforts, to make the citizens to consider it as their service for realization and claiming the basic human freedom and rights, and not to consider it as institution for compulsion and repression. On the contrary, it shall present an obstacle in the future development of the democratic processes, which are supposed to take us closer to the membership in the European Union as a final aim and desire of all the citizens of the Republic of Macedonia.

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According to the Ombudsman, the following should be taken in consideration, in future, due to surpassing the occurrences, and in addition to it, improving of the conditions, which were a subject of elaboration in this section of the Report:

- observing the provisions of the Law on Ombudsman and improving the collaboration of the Ministry of Internal Affairs with this institution;
- improving the legacy in the undertaking the official activities with the persons invited or led due to official hearing within the premises of the Ministry of Internal Affairs or in undertaking official activities outside of the official premises of the same.
- undertaking measures for permanent education of all the state officials in the Ministry, and in particular of the ones, who during the conduction of the official authorities, are in direct contact with the citizens;
- increased engagement of the Service for professional standards, particularly in the area of prevention;
- undertaking measures for improvement of the activities in the departments for internal affairs in the areas overtaken by the conflict from 2001, and in particular OVR Kumanovo;

- undertaking measures for resolving the case with the missing persons in the conflict from 2001, and
- undertaking measures and creation of real conditions for returning of all the displaced persons in their homes.

6.3. Protection of rights in the field of administration of justice

In compliance with the Law, the Ombudsman is obligated to monitor the conditions and protect the rights of the citizens in front of the courts, Public prosecution, borstal institutions or in front of the Notary Public and the practice of law, as public services for provision of expert legal assistance, in the cases when their constitutional and legal rights have been violated.

Having regard to the fact that during the reporting period there were not any registered submissions addressed to the practice of law and Notary Public, and a relatively small number of submissions addressed to the Public prosecution and Public defender referred only to the prolongation of the procedures, this section of the Report shall, therefore, refer to the procedures and the conditions in the courts and solely from the aspect of the legal authorizations of the Ombudsman, as well as the conditions, observing the rights of the convicts and detainees.

6.3.1 Judiciary

Due to the legal restrictions in 2003, the Ombudsman conducted the inspection of the assertions in the submissions referring to the legal procedures through the Ministry of Justice, which in compliance with the Law on Organization of the bodies of the State Authority, has legal authorizations regarding the activities of the Court Authority and the prolongation of the Court procedures.

The legal restrictions, in comparison with the large number of submissions, present an obstacle for the Ombudsman to undertake any actions towards more successful realization of the rights of the citizens in front of the courts, and together with that to have an impact on the improvement of the conditions in the judiciary.

During the indirect inspection of the assertion in the submissions, through the Ministry of Justice, the only thing the Ombudsman was able to do, was registering the number of the submissions referring to the judiciary, the reasons for their lodging, and to comment the conditions based on the facts presented.

The long-term efforts and the intention of the Ombudsman to present his best intention in front of the courts as "amigo curia", fortunately was legalized with the adoption of the new Law on Ombudsman and its enforcement on 01.10.2003.

The legal authorization foreseen in Article 12 of the Law provides legitimacy to the Ombudsman unviolating the principles of independence of the judicial authority, to have the right to undertake activities and measures due to prevention of unconscience



and irresponsible conduction of the activities by the court services, as well as the unjustified prolongation of the court procedures. This authorization is of a great importance, and it may be considered revolutionary, due to the fact that for the first time an independent controlling mechanism, such is the Ombudsman, is enabled to inspect the court case and with the whole respect towards the constitutional and legal position of the judicial function directly and to confirm whether it comes to unjustified prolongation of the court procedure and if it is a case to ask undertaking actions for elimination of the injustice and establishment of justice.

In the period following the adoption of the new law, exercising these authorizations, the Ombudsman conducted inspection of the assertions in one part of the submissions with a direct inspection of the court documents.

Due to the actions that may be undertaken on the basis of the new legal authorizations, the Ombudsman shall be in a position to contribute not only in the realization of the rights of the citizens, but also in the strengthening of the trust in the judiciary, and as a result of that improving the reputation of the judicial function.

According to the analysis of the case operation in the reporting year in the field of the judiciary, it follows that the majority, that is, 256 of totally 415 registered submission, have been rejected, because the Ombudsman, from the aspect of his legal authorizations, has not ascertained violation of the rights, that is, has ascertained neither unjustified prolongation of the procedure, nor unconscience and irresponsible conduction of the activities of the court administration.

Another reason for the large number of rejected submissions is the fact that in great number of cases the submitters ask from the Ombudsman to have an impact on the conduction of the procedures in the courts or to have an impact on the type of the decision, which is certainly opposite not only to the legal authorizations, but also to the constitutional and legal position of the courts. A small number of submissions were rejected due to the fact that despite the prior decree the submitters did not complete the submission, and in one case the submission was rejected due to the fact that it insulted the body.

From the other 156 submissions, for which the procedure is pending, the Ombudsman in five cases ascertained unjustified prolongation of the procedure due to which he forwarded 3 recommendations, 2 suggestions and 25 decrees to the authorized courts, requiring acceleration of the procedure so as to provide the right for initial trial within a reasonable period guaranteed with the Constitution of the Republic of Macedonia, Article 6 of the European Convention for human rights and Article 7 of the Law on Courts.

The State Court Council was notified for a case, in which it was ascertained unjustified prolongation of the court procedure, and following the presentation of the case in the TV programme "Justicija", in collaboration with the Macedonian television, the Ombudsman was additionally notified on the positive epilogue by the submitter.

It must be noticed that in one occasion the Supreme Court of the Republic of Macedonia did not accept one of the recommendations for giving priority in the resolving

of a case for dispute in the field of the social sphere, with assertions that there were no conditions for giving priority in the resolving of the case.

The Ombudsman is completely aware and understands the objective issues the judiciary is encountering, as well as the larger number of cases in comparison with the number of judges and expert collaborators, however, the courts are obligated to accept the fact that the conditions with the technical equipment are being improved, that paralelly with that there is a need of increased engagement of judges and expert collaborators and that with a better professional approach towards the proceeding of the case, better results in working may be acomplished, and in addition to that in passing judgements.

According to the Ombudsman, the subjective weaknesses, such as the insufficient professional approach towards conduction of the function, manifested through insufficient monitoring of the development of the case, apart from the stated objective ones, have influence on the prolongation of the court procedures. In the majority of the cases, the judges do not keep any record, with which they would follow the development of the case from one appearance in court or trial to another, but they encounter the case from one appearance in court to another.

The practice of the judges for prolongation of the appearances for several months, so as to ascertain on the next that some of the parties has not been properly invited is unacceptable. If the judge had been more conscious in the conduction of his/her function and followed the development of the case, he/she would have been able to ascertain the improper delivery of the summons in due time, and to undertake activities for proper summoning of the parties on the follofing appearance in court.

A deviation from the legal time limits in the adoption of court decisions has also been noticed in the proceeding with the submissions, but the Ombudsman intervened only in the cases when these time limits were violated more than it may be accepted as a justified reason caused by objective circumstances.

In the other cases, where a greater deviation from the legal time limits was not ascertained, considering that it is better to pass a quality court decision for the account of the insignificantly violated legal time limit, in stead of acting oppositely, the Ombudsman required and it may be said that came across understanding by the submitters towards the conditions in the judiciary.

The reason for the relatively small number of recommendations, suggestions and decrees, according to the Ombudsman, may be attributed to the stated manner of acting, that is the legal restrictions in the Law on Ombudsman from 1997, in compliance with which the Ombudsman does not have right to undertake any actions in the courts and the court procedures.

Due to this the Ombudsman referred to the fact that the number of the lodged submissions, the ascertained violations of the rights and the forwarded recommendations, suggestions or decrees themselves does not necessarily mean that it is the true presentation, i. e. picture for the conditions in the judiciary. On the contrary,



the real illustration may only be obtained by the total realization of all the entities, who are, in any manner, invited to monitor the conditions in the judiciary.

Therefore, following the conditions, on the basis and within the frames of the competence and the legal authorizations, but also outside of it as a citizen, as well as on the basis of the formal or informal communication with the citizens and the carriers of the other public functions, I share the general belief that the judiciary in the Republic of Macedonia is in severe several-decade crisis, which may only be surpassed with the assistance of everybody, and particularly of the two most powerful legislative and executive authority, and, of course, mostly with own assistance.

The legislative and the executive authority, apart from the already created conditions for financial independence, must accelerate the processes for more thorough reconstruction of all the court procedures, in which a special attention should be paid to the reduction of the possibilities for the parties to abuse their rights and in that manner to have an impact on the prolongation of the procedures.

Upon the issue of corruption in the judiciary, particularly of the carriers of the judicial function, the Ombudsman, in absence of relevant evidence for the case proceeding, would not enter into speculations for the scope of its presence. Nevertheless, the general conditions in the society, as well as the low incomes that have a direct influence on the living standard of the judges, certainly leave a space for trusting the claims that corruption is present in the judiciary, and the scope is the only question that arises.

The Ombudsman, however, deems that the corruption in the judiciary does not have a large scale, and this impression is influenced by the long duration of the court procedures, for which, sometimes, there is contribution from the carriers of the judicial function themselves, with their irresponsible conduct.

The judges, with their greater consciousness, and more professional engagement in the conduction of the function and the continual self-education, may contribute most to the improvement of this impression and for the reobtaining the trust in the judiciary. The others may only assist in the creation of the conditions for achieving this aim.

6.3.2. Houses of correction and borstal institutions

The Law on Ombudsman, as of 1997, did not include special provisions, providing special protection to the detainees and convicted persons, as a specific category. Due to this, in compliance with the general authorizations of Article 2 of the Law, the detainees and convicted persons had the same treatment and claimed the same legal protection from the institution Ombudsman as the other citizens.

Having regard to the fact that it is a special category of citizens with restricted freedom of movement, based on a court decision, the possibility of this category for access to the Ombudsman, were smaller compared to the other citizens.

Apart from such conditions, the communications with the detainees and imprisoned persons although impeded, could have been realized through more frequent visits to the institutions, where they are placed by the Ombudsman, on the basis of the established regular operation practice or on the basis of their written submissions and telephone calls.

The authorizations and the obligations arising from Article 31 of the new Law on Ombudsman, according to which, the Ombudsman follows the situations, observing and protecting the constitutional rights of the detained persons, detainees and persons serving a sentence or educational-corrective measures in the houses of correction and the borstal institutions, are a big step forward towards a more inclusive protection of the rights, but also a possibility for preventive influence on the reduction of the possible violation of the rights of this category of citizens. This is thus due to the possibility of the Ombudsman to realize such obligations and authorities, in any time, without prior announcement and approval, as well as to have conversation with the detainees and convicted persons, without presence of the official and the provided secrecy of the written communication between the persons with restricted freedom of movement and the Ombudsman.

Acting according to the legal authorizations, the Ombudsman during the reporting year, followed the conditions, observing the rights of the detainees and imprisoned persons in the houses of correction and borstal institutions, particularly the ones placed in the House of correction-Prison "Skopje" and the House of correction "Idrizovo", regarding the fact that the majority of the detainees and convicted persons in the Republic of Macedonia are placed in these two institutions.

The conditions under which the detainees and imprisoned persons serve the detention or the sentences, as well as regarding the maintenance of the personal hygiene, the provision of clothes and footwear, the opportunities for recreation, the working engagement of the convicted persons, education, that is, the general conditions for implementation of the process for resocialization of the convicted persons, juveniles, in particular, serving corrective measures in the Borstal institutions in Tetovo, and who due to the military conflict are still placed within a section of the capacities of the House of correction "Skopje" in Skopje, are of a special interest for the Ombudsman.

The Ombudsman also monitored the health conditions of the detainees and imprisoned persons with special interest, and in one of the cases, a prisoner, serving life imprisonment in the House of correction "Idrizovo" had pieces of missiles and shrapnels of firearms removed in the Clinic Center in Skopje, upon his request.

Regarding the placement capacities, the Ombudsman estimates that they comply with the number of the detainees and convicted persons, nevertheless, there is a necessity for immediate undertaking measures for dislocation of the protégés of the Borstal institution in Tetovo placed in the House of correction-Prison "Skopje", having regard to the inappropriate conditions of placement, as well as the impossibility for their isolation from the other convicts in this institution.

It may be ascertained from the conversations with the detainees and convicted persons, that they do not have any special remarks on the quality and quantity of the



food, the hygiene of the premises, the linens and clothes, but the detainees in the Prison “Skopje” made remarks regarding the insufficient time for stay on open from 20-30 minutes, as opposite to the legal right of 2 hours during the day, as well as the improvement of the conditions for maintenance of the personal hygiene.

The thing that encourages and deserves to be marked in this report is the fact that the detainees and imprisoned persons in both monitored institution share the opinion that there is a significant improvement in the relation of the members of the Security Service towards them in the previous year. This ascertainment was confirmed with the conversation with several persons, who due to violation of order and discipline serve disciplinary sentence, are sent to cell for solitary confinement, as well as the fact that neither of the 15 written submissions lodged by the detainees and imprisoned persons, did not refer to a treatment of the submitter in the institution, but to a violation of his/her rights prior to coming in it, to the duration of the sentences or to the rights and privileges, the convicts consider to claim in compliance with the Law on implementation of the sanctions and the institutions’ house order.

However, worries the fact that regarding correction process i. e. almost nothing has been done in the process for resocialization. The confirmation of this ascertainment may be obtained from the conversation with the convicted persons, according to whom, the educators rarely or almost never led conversations with them, as well as the fact that it is not disputable for the directors of the institutions.

In this context, the situation is somehow better in the women department of the House of correction “Idrizovo”, which functions better than the rest of the sections in this institution. Nevertheless, the prisoners placed in this department also consider that they are not sufficiently provided with the privileges they are entitled to in compliance with the Law and the Institution House order, they make remarks on the amount of the salary that usually ranges from 500 to 800 denars and complain on the frequent change of the educators due to the fact it has influence on the contents of the characteristic, in the cases where they ask realization of the privileges.

It may be ascertained from the visit of the Department for foreigners in which there are approximately 60 convicts from: Albania, Bulgaria, Serbia and Monte Negro, Slovenia, Italia, Turkey, Peru and Australia, that there are not any differences regarding the conditions for placement in comparisons with the citizens of the Republic of Macedonia. This category of convicts complained on the opportunities, as well, and required better conditions for maintenance of the personal hygiene.

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On the basis of the inspection and the ascertained conditions, notwithstanding the opinion of the detainees and imprisoned persons on the general hygiene in the prison premises, as well as the condition of the linens, the Ombudsman considers that the Authority for implementation of the criminal sanctions together with the responsible persons in the Borstal institutions should undertake measures for further improvement of the placement conditions completely observing the human dignity of the persons placed

in this institutions and particularly through undertaking of the following measures and actions:

- permanent change of a part of the worn-out linens and clothes of the imprisoned persons;
- provision of conditions for bathing of the prisoners at least once a week;
- whitewashing the common premises and the premises where the convicted and detainees are being placed;
- permanent renewal of the eating utensils;
- better heating of the premises, and particularly the Department for pre-trial confinement within the Prison "Skopje";

Due to accomplishing one of the objectives of the criminal sanction, and that is resocialization of the convicted persons, there is a need for significant improvement of the operation of the Service for reeducation, for which there is an opinion that it does not function.

There is a need for creation of conditions for operational engagement of the largest possible number of convicts and more real awarding of the efforts.

Also there is a need for greater flexibility in the provision of privileges, certainly in compliance with the Law and the Institution House order, regarding the fact that the same may encourage good conduct and the sense of responsibility in the convicts.

There is a need for undertaking measures for returning the juveniles within the premises of the Borstal institutions - Tetovo or their placement in another appropriate premises, due to which they would be physically isolated from the other convicts.

6.4. Protection of the rights of army officers and draftees

Regarding the protection of the rights of the army officers and draftees, it is characteristic for the reporting period that there is a decrease in the number of submissions in this field.

This situation, according to the Ombudsman, is due, above all, to the fact that several legal regulations were adopted during the reporting period, such as: Law on Defense; Law on Service in the Army of the Republic of Macedonia, Law on Amnesty of the citizens of the Republic of Macedonia that have not realized the military obligation, as well as the Law on Apartment Sale from the housing fund of the former YNA, thus regulating the majority of issues and problems, upon which the army officers and draftees asked for assistance from this institution.

However, there were 26 cases from this area in the Office of the Ombudsman, 17 of which received during the reporting year.

The newly registered submissions referred to the rights in the procedures for releasing from the obligatory military service, to the working relations-based rights of the persons in service of the Army of the Republic of Macedonia, as well as to the special rights of the members security forces and their families.



Due to inspection of the assertions, the Ombudsman forwarded eight requests for further information and explanation, to the Ministry of Defense, and in several cases conducted inspection of the assertions presented in the submissions with a direct inspection of the cases of the Sector for personnel and legal affairs.

Upon the implementation of the procedure, ascertaining violation of the rights of the submitter in five cases, the Ombudsman forwarded to the bodies of the Ministry of Defense: one proposal for reimplementation of the procedure, two recommendations and two decrees. The Ombudsman rejected the submissions in 11 cases, due to the fact that after the implementation of the procedure did not ascertain violation of the rights of the submitter or it is a matter of cases pending court procedure.

It is worth remarking that the Ombudsman encountered correct collaboration with the Sector for personnel and legal affairs within the Ministry of Defense, which is rarity and should serve as example for the other bodies in the State Authority.

During the following period, within the frames of the legal authorizations, and in compliance with the Annual Operation Programme, the Ombudsman plans to visit some of the units of the ARM so as to encounter the opportunities for realization of the legal rights of the the army officers and draftees.

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

6.5.1. Social rights

The economic and social rights according to the Constitution, laws and international legal acts, belong to the basic rights of man and citizen. Because of the importance of these rights of an existential character, Republic of Macedonia undertook the obligation to take care for its realization in accordance with the principle for social righteousness. But, the overall social and economic conditions show that the State is not only far from realizing and respecting of these standards, but these rights are decreasing year in year out.

The unemployment in the Republic of Macedonia still remains the most serious and the most difficult problem for citizens and it has serious influence upon the decreasing of the living standard, and the increasing of the misery and poverty among the citizens.

During 2003 over 390 000 unemployed were registered. With this, the Republic of Macedonia belongs to the countries with the highest rate of unemployment. In such conditions, the citizens' rights for labour as a basic right of the man and the citizen, year by year, presents only a declarative right that does not give anything to the citizens. The more serious is the problem of unemployment, the more serious and worrying is the problem with the absence of a serious strategic programme of the officials in the Republic for alleviation and solvability of this crucial existential issue. Without realization of this

right, a social risk will always threaten to the citizens, as well as other deviant actions that eventually has a negative reflection on the society in complete.

During the reporting year, the Ombudsman accepted 167 submissions in the field of social rights that compared to the previous year(52) means increasing for three times. The increased number of submissions is a consequence and it has a direct connection with the increasing of the number of unemployed, with the restrictions in the social sphere and increasing of the poverty, misery and social risk among the citizens of the Republic of Macedonia.

In the reporting year, the submissions from the social sphere, mainly referred to the exercising right of allowance(relief), permanent relief, single relief, right to care, unemployment benefit etc.

Most of the reactions and submissions of the citizens referred to the bringing in the electricity bills, as an additional criterion in exercising the right of relief in the Decision for the conditions, criteria, rate, manner and procedure for establishing and exercising right of relief of the Government of the Republic of Macedonia that was made at the end of 2002, and was implemented during 2003, but with decision of the Constitutional court of the Republic of Macedonia was abolished. It showed that the Ombudsman's interventions for checking of this criterion directed to the Government of the Republic of Macedonia and the Ministry of Labour and Social Policy before making the decision by the Constitutional court were justified.

The decreasing of the users of the relief in the reporting year from 82.000 in 2002 to 64.460 households in December 2003, according to the Ombudsman, is not a result of the improvement of the economic and social situations in the State, i.e. the improvement of the citizens' living standard, but of extremely restrictive relation of the Centres for social work in deciding on the requests of the citizens for relief.

During the reporting year, the criteria for right to care were sharpened, so that this right could have been exercised only by the people with the most difficult handicap. While making the decisions for these requests, the Centres for social work ascertained the factual situation insufficiently and in a bureaucratic manner. This was present especially in deciding on the requests of the citizens, who live in more distant places, because the officials from the Centre for social work rarely made an insight in their homes.

The Ministry of Labor and Social Policy brought in restrictions with regard to the right of single relief, that for some municipalities was limited on the sum of 5.000 denars per month for the total number of citizens in the municipality. That is why, many submissions of the citizens referred to the abolishment and decreasing of the sum of this relief. It happened many times to the citizens for receiving a single relief of 5.000 denars, collecting of the evidence to cost more.

Regarding the fact that social right has the burden of the existential character of the citizens, the Ombudsman after few submissions made an insight at the work of bodies of the Ministry of Labor and Social Policy with a purpose to make researches on the submissions more in details and more efficient, but did not find an appropriate cooperation, so that in 43 cases an insight of the official acts was not possible for the Om-



budsman. For such relationship, the Ombudsman, several times informed the Minister in order to undertake measures for permanent work on the competences of this Institution, but his efforts and insisting did not come to an appropriate answer. With regard to several submissions that the citizens complained about the bad behaviour and incorrect relationship of some managing people in the Ministry of Labour and Social Policy. The Ombudsman gave a request to the Minister to undertake measures and actions for checking their work, but also, in this direction the cooperation with the Minister failed.

In a general view of the subject work, the cooperation of the Institution Ombudsman with the Ministry of Labour and Social Policy and its bodies, managers and other officials, was not only on a needed level, but it was far from the legal obligation as a Body State that should cooperate with the Ombudsman and on his requests to act urgent and timely to deliver all the possible information. Incooperative and irresponsible relationship of the bodies of the Ministry of Labour and Social Policy and the Minister of Labour and Social Policy, resulted in obstructing of the work of the Institution Ombudsman.

In the reporting year, the only positive example of good cooperation with the bodies of the Ministry of Labour and Social Policy is the cooperation with the bodies of the State Inspectorate of Labour, because almost in each cases, where the Ombudsman made a request for these bodies to do a supervision in the work of certain bodies and organizations, especially in private companies, a positive answer on time was given.

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The significantly increased number of submissions, where the citizens asked for protection in social rights, leads to the opinion that the social and economic situations in the Republic of Macedonia are not only improved, but they are on the same level as in the previous 2002. The increased number of unemployed citizens with regard to the employed citizens increases the legal insecurity and their distrust in the Institutions of the system, and also the disrespect and the inappropriate relation of the competent bodies toward the recommendations and interventions of the Ombudsman contributes to that.

In consideration of such difficult conditions in the sphere of social and economic rights of citizens, it is necessary for the Government of the Republic of Macedonia and other competent bodies and organizations to undertake the following measures and activities:

- bringing a serious strategic action programmes for employment and for decreasing of the unemployment
- the Ministry of Labour and Social Policy and its bodies consistently to respect the rules that regulate the social sphere and to make a direct insight of living conditions of the citizens that ask for relief because of correct and fully establishing of the factual situation.
- necessary cooperation of the Ministry of Labour and Social Policy and its bodies with the Institution Ombudsman and respect of the interventions and recommendations of this Institution.

6.5.1.1. Internally displaced persons

During 2003, the Republic of Macedonia faced the problem of internally displaced persons, that came as a consequence of the armed conflict that happened in 2001. The serious efforts of the Government of the Republic of Macedonia and other bodies and organizations, that gave a contribution in returning of the displaced persons to their homes, resulted with a permanent decreasing of the number of these persons. At the moment of writing this Report, in the Republic of Macedonia, their number is around 1.900 with a tendency of permanent decreasing. Half of the displaced persons (989) are still located in private homes and the other half (967) in the collective centres in Skopje and Kumanovo. According to the ethnic structure of internally displaced persons, around 46% are Macedonians, 25% Albanians, around 23% Serbians and other ethnic communities.

With a purpose of meeting the problems of the displaced persons, the Ombudsman visited and made an insight in all collective centres in the Republic, where the displaced persons are situated. An insight was made in the Centres: "Ranka Milanovic", DSU "Zdravko Cvetkovski", "T. Stefanovski-Senic", "Olimpisko selo", "Cicino selo", "Partenie Zografski" in Skopje, as well as the centres-hotels "Kristal" and "Kuba" in Kumanovo. The Ombudsman ascertained that, in general, the Republic of Macedonia, bodies and organizations that are competent for protection of the rights of the displaced persons, basically take a human care for these citizens. After all, the conditions where the displaced persons are located, are far from normal family living. In giving this mark, the Ombudsman was aware that in these situations is difficult to provide the basic principles of humanity for displaced persons, but it is obviously that the period longer than two years in conditions of collective living and in other people's homes with justice started causing a revolt, impatience, distrust and critics toward the State and its competent Institutions.

The Ombudsman ascertained that the premises for these persons did not satisfy the needs of the displaced persons with regard to the fact that, while families are living in one room, though in separate centres, because of the coming back of some families to their homes, some rooms were free, without allowing the families to get in those rooms.

Therefore, the Ombudsman deems that the use of empty premises would be especially important for those families, whose members are different generations, as well as for the families with children, who go to school.

One part of the displaced persons, who were placed into the student's dormitory in Skopje mixed with the pupils and students that has a negative influence on the process of education and socialization of these young people and it is opposite to the legal right for appropriate pupils' and students' accommodation.

Many critics and notes of the displaced persons referred to the food, hygienic conditions and the way of pre-registration and evidence, and many displaced persons, mostly from Kumanovo region, because of security reasons, were afraid to visit their homes.



The Ombudsman ascertained that displaced persons live in the most difficult conditions, placed in the centre “Cicino selo” in the vicinity of Skopje, where members of the Roma ethnic community are located.

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With regard to these conditions of displaced persons and with a purpose of their improvement, the Ombudsman, in October 2003 gave the following recommendations to the Government of the Republic of Macedonia, competent Ministries and other competent bodies and organizations, as well as to the International Organizations, obliged to take care for temporarily displaced persons in the Republic of Macedonia:

- to undertake necessary and urgent activities for improving of living conditions in collective centres for accommodation, mainly in improving of the hygiene and health care, food, providing hot water, clothes, shoes etc.;
- to provide conditions for involving in the educational process to all children no matter of their ethnic appartenance by providing regular instruction;
- to undertake necessary activities in security area for faster returning of the displaced persons to their homes;
- to make a new pre-regisration of displaced persons, which will provide easier travel of displaced persons with public transport and free use of health services;
- to undertake measures and activities in a way of expanding their accommodation;
- to undertake measures for separating the pupils and students from displaced persons, placed in the students' dormitory;
- to provide diapers and other necessary needs for the youngest children, especially for those who are staying in the centre “Cicino selo”.

These recommendations also referred to the displaced persons, accommodated in private households.

In connection with the previous recommendations, the Government of the Republic of Macedonia informed the Ombudsman that measures were undertaken, but so far there are no results.

Also, at the end of July 2003, at the crossing border “Medjitlija”, the Ombudsman visited the Roma refugees from Kosovo, who asked for getting in the Republic of Greece in order to ask for an asylum in some EU countries, where they considered to have better social status of refugees. The Ombudsman intervemed in appropriate way for improving of their status, especially about the accommodation, food, health and hygiene.

For solvability of the problem with internally displaced persons, it should be pointed that, in the reporting period, the Ombudsman had a positive cooperation with the Coordinative body for dealing with crisis of the Government of the Republic of Macedonia, as well as the International Red Cross and International Management Group (IMG), who participated in appropriate way to alleviate the hard conditions of these persons in the most difficult moments.

The problem with displaced persons is not forgotten and it has been solving permanently, and the fact about decreasing of these persons and their returning to their homes shows it. In general, the competent bodies and organizations in protecting of the rights of displaced persons, took and still take human care for these persons. But, the Ombudsman still deems that the conditions of collective living is far from normal and family living. Because of that, it is of great necessity for the Government of the Republic of Macedonia and other bodies and organizations, competent for protection of the rights of displaced persons, to undertake measures for faster returning of all the displaced persons to their homes.

6.5.2. Rights pertaining to labour relations

With regard to the pessimistic and established indications, that in the Republic of Macedonia the number of unemployed is bigger than the number of employed, in these conditions, rights pertaining to labour relations as a basic right of the man and the citizen turned to be a sole right or privilege to certain persons only, and the others are afraid that because of the overall situations in the State, they can lose it.

During 2003, most of the submissions referred to the protection of rights pertaining to labour relations, i.e. 406 submissions, what means a rapid increase in comparison with the previous year (259). This trend of increasing the number of submissions in this field is not only a result of reforms in the public administration, and closing of many companies, but a result of irresponsible and arbitrary behaviour of the employers toward the employees.

The submissions, mainly referred to the violations on the rights while establishing labour relations, cessation of labour relations on various grounds-especially because of economic, structural, technological and other changes, the way of allocation, election and release of directors and other managing persons, severance pay, payment and other compensation, on the grounds of unemployment, procedures of privatization, not carrying out court decisions, fixing annual vacation and absence from work, transformation of labour relations from determined to indetermined time, discontent from work conditions etc.

As the public was informed, in the name of the economic, structural and technological reforms in AD "ESM", during 2003, 1.100 employees in this enterprise lost their jobs. Not considering the mark for the need of that reforms, while handling the submissions of the workers in this public enterprise, who asked for protection of their rights, the Ombudsman in many cases ascertained many violations and irregularities in procedure. First of all, untransparency of the whole process was ascertained by not pointing the lists in order to provide an insight in the points of each worker, mistakes in points, and especially while giving points to the criterion economic-material situation, a parallel employment of new employees was made and other violations and irregularities were in procedure. From data, received by the employment exchange, the Ombudsman assured that while the process of cessation of labour relations was going on, AD "ESM" carried out over 100 new employments. Because of these violations and irregularities, the Ombudsman intervened to the Administrative Board of AD "ESM", handling in general and



in individual submissions for their removal. According to the data of the Ombudsman, only around 100 objections were positively solved by the Administrative Board and the rest of the employees either instituted court proceedings or gave up the further legal protection. The cooperation of AD "ESM" in this case failed, and even the legal competences of the Ombudsman were disputed, though indisputably it is about an organization that does the public authorities.

Similar reforms, though with smaller consequences, were carried out also in the Health insurance fund. In connection with the submissions with the citizens about these reforms, the Ombudsman had very constructive cooperation with the officials of the Fund and the Clinic centre. With around 139 employees an agreement was reached for voluntarily proclaiming of technological surplus with a single compensation, naturally on various grounds, there was a cessation of labour relations for around 50 employees, one part was taken by other organizations with public authorities, and the other was back to work upon the received objections.

The most frequent and the most specific are the submissions that referred to the rights of the workers in education. Considering the fact that the Parliamentary elections, held in September 2002 preceded the reporting year, the authority changes reflected to the employees in primary and secondary schools, where the old principals were released and new principals were nominated. It seems that the function principal on any other place was not more politicized and party-oriented than in public schools. Almost in every submission with this kind of allegations, the Ombudsman ascertained violation of the rights of previous principals, because the decisions for release were without an explanation. On the other hand, while nominating the new principals, in many cases, the opinions of the candidates, given by the school board, by the bureau of education, and later by the education inspection, were not respected. Because of that, the Ombudsman deems that, while nominating the principals at schools as a main criterion was appreciated the political and party-appertainance of the candidates, and not their professionalism and competency. The Ombudsman, for this situation, reacted by letter and by mass media to the Minister of Education and Science, but unfortunately did not reach better cooperation and understanding. Additional problem for the released principals was also their allocation to appropriate job positions. In such cases, the Ombudsman's recommendations for appropriate allocation of principals, according to their profession, were respected.

As for the decision of the Law on labour relations, that the labour relation established on determined time becomes labour relation on indetermined time if the employee continues to work at least five working days after the expiration period of three years, we may say that in practice, it did not function. The employees, who had fulfilled this legal condition in spite of their requests and insistency to appropriate institutions they have worked in, were not able to exercise this right. All the citizens, who asked the Ombudsman for protection, on this ground, were supported, but because of arbitrary and incompetent interpreting of this decision by the Ministry of Labour and Social Policy and Ministry of Education and Science, the carrying out of the decision was prolonged.

Because the institutions, competent for carrying out of this decision did not accept the Ombudsman's indication about the carrying out and respecting the decision, the

Ombudsman directed the employees to court protection. This indication of the Ombudsman, given in the pre-court procedure, was confirmed in many court decisions. The Commission for labour relations in second degree at the Government of the Republic of Macedonia had an influence on negative and hard exercising of the rights pertaining to labour relations in public administration. As in the previous year, the Commission kept functioning inappropriate and inaccurate, so that there was a negative reflection in respecting the terms about request of court protection.

In the reporting year, for the first time, there were registered submissions about the defining of doing job tasks in home conditions. A decision for this kind of organizing the job tasks was made by the public radio diffuse enterprise "Makedonska radio-televizija", whereby some photographers and reporters were given an order, their job tasks to do in their homes. It is indisputable that the legislator anticipated a category doing tasks at home, but in this case, because of the specific action that should be done in home conditions out of the employer's premises, these employees did not have any objective and technical conditions for its successful realization. This is even more impossible, considering the fact that many of these employees live in a collective block of flats, i.e. for doing these tasks they will need an agreement of the home council and other competent bodies that should evaluate the fulfilment of hygienic-technical and other work conditions. At the same time, doing the tasks at home does not guarantee to these employees a protection, which is an obligation of the employer in accordance with the Law on labour relations and the Law on protection at work. With these indications, the Ombudsman intervened to the Labour Inspectorate because of doing supervision, as well as to the director of "Makedonska radio-televizija", but did not reach any crucial cooperation.

Part of the submissions in this field were submitted by the employees in the Ministry of Interior, and mainly referred to the cessation of labour relations, because of rationalization of job positions in various departments of the Ministry, as well as to the problems of the subjects of the Unit for fast interventions "Lions", whose labour relations stopped because of the doubt that they have made false documents upon which they established the labour relation. For one part of the subjects of this unit, the Ministry of Interior made efforts for their work engagement in the so called "border Police", in accordance with the needs of the Ministry of Interior, and in the part where the Ombudsman did not ascertain violation of the rights, the procedure stopped.

One part of the citizens in the submissions asked the Ombudsman for mediating in their employment, i.e. to find a job, but unfortunately this institution has no competencies, except to call and intervene for consistent respect of the institute notice, i.e. job vacancy.

In a general view of the subject work, it comes out that in protection of right pertaining to labour relations, there is not only a lack of progress, but the Ombudsman did not meet up the needed cooperation in the bodies and organizations, which do the public authorities, as well as in the bodies of public administration, while solving these crucial problems.

All these situations lead to a conclusion that it is of great necessity, the Government of the Republic of Macedonia, functionaries, who run the bodies of State admini-



stration, as well as the managers in other competent bodies and organizations with public authorities, to undertake the following measures and activities:

- consistent respect of the laws that regulate the sphere of labour relations;
- depolitization, i.e. departization of the directors' and other managing places, especially in the educational system;
- maximum respect of the institute notice
- appropriate allocation of employees in accordance with their professionalism;
- finishing of the process of defining the status of public officers and
- timely acting and respect of the Ombudsman's requests and interventions.

6.6. Protection of the rights in the field of health, pension and disability insurance

6.6.1. Health insurance and medical protection

One of the rights guaranteed with the Constitution of the Republic of Macedonia, is the right for health protection, which pursuant to the Law on health protection and the Law on health insurance shall be realized based on the principles for mutuality and solidarity. However, in deciding on the rights of the citizens, the authorized bodies should be governed by these, as well as by the principles for humanity and social justice proclaimed as basic values of the Constitutional order of the Republic of Macedonia, in practice, not always do they observe these principles, due to which the citizens come across a large number of obstacles in the realization of these rights. Acting in accordance with the submissions, the Ombudsman ascertained that the responsible persons in the authorized bodies, which above all, are competent for the realizations of the right for health protection, rarely do decide upon the requests of the citizens, efficiently and in due time, which leads to incapacitation of the due health protection. There is a slight increase in the number of the received submissions in this field in the reporting period, as it was the case last year (2001-27 submissions, 2002-40 submissions, and 2003-46 submissions).

The authorized bodies very rarely proceeded not only upon the requests of the citizens, but also upon the requests of the Ombudsman in due time, during this reporting period as well as during the previous ones. Usually the responds were delivered upon the expiring of the established time limit and after several written interventions and interventions in direct inspections. The Ombudsman in the current year conducted direct inspections in the cases more often, where it may be ascertained that there is a good collaboration with the officials, and on the basis of the inspections, the decisions upon the requests of the citizens were adopted faster and more legitimately. It is worth noticing the readiness for collaboration of the officials from the bodies authorized for this area, who regularly responded to the invitations for direct meeting, but also initiated meetings with the Ombudsman themselves, due to assuming mutual attitude towards certain legal issues and correct determination of the actual situation. Protecting the rights of the citizens in this field, it may be ascertained that the greater part of them are unfounded, but also we should not neglect the number of cases where we have violation of the rights,

that is, in 18 submissions the procedure was not initiated, and in 14 there was a violation of the rights. However, with several actions undertaken by the Ombudsman, although not in due time, still it may be ascertained that in the majority of cases where there was violation of the rights, the authorized bodies proceeded according to the proposals and decrees of the Ombudsman and the citizens realized their rights. The rights were realized in 10 of totally 14 cases with violation of the rights, and for the rest of them the procedure is pending, while certain cases require long-lasting process due to the need of amendment of the laws and bylaws, for which the Ombudsman forwarded requests and information to the authorized bodies. Such trend of observation of the Ombudsman's proposals may be ascertained regarding the cases with violation of rights during the preceding period, and in the current year the irregularities and illegitimates were removed and the citizens realized their rights. Out of 10 cases with ascertained violation of rights in the preceding reporting period, 7 citizens realized their rights, and in 3 cases the procedure for realization of rights is pending. The submissions lodged to the Ombudsman during this reporting period, as well as in the preceding reporting periods referred to: payment of the participations means for medical services or purchase of medicines; rights for directing and recognition of the expenditures for medical treatment abroad; recognition of the status of insured person; special rights of certain categories of citizens (children, serious illness, etc.); reimbursements due to absence from work (illness or maternity leave) and other rights in the field of the health protection.

Regarding the participation for using medical services, the Ombudsman ascertained violations in this period, when the citizens were charged a participation higher than the one foreseen with law, and the procedures for returning the means were slow with many administrative obstacles and request for the parties to submit various documents, which prolonged the realization of the rights and made it even more difficult. Regarding the participation of the citizens in the medical services, the Ombudsman, once again actualized the necessity for amendment of the legal regulation in the sense of exemption and facilitation of the use of the medical services to certain risk groups, such as: elder people, children, persons with serious and incurable diseases, although it should be noticed that certain exemptions and facilitations already exist, however, for certain groups that is not sufficient for easier realization of the constitutional right for health protection. In addition, the citizens are rarely aware of the legal provisions referring to the facilitations in the use of the medical services, particularly for the children and elder people, and in practice they are rarely applied due to ignorance and administrative obstacles. In relation to the participation of the citizens in the purchase of medicines that are included in the so called "Positive list", the citizens in the current year faced with problems regarding the difference between the price of the medicine they pay and the tender price of the medicine established by the Health Insurance Fund. The Ombudsman asked the authorized bodies to undertake measures for surpassing this problem, aiming to protect the citizens forced to pay much higher prices for the medicines than the prices recognized by the Fund, hindering and incapacitating the use and the realization of the right for health protection. However, although certain measures for surpassing this problem have been undertaken, the Ombudsman deems that the problem still exists.

Yet another problem the citizens were complaining on was the realization of the right for medical treatment abroad and recognition of the expenditures incurred, by the



Health Insurance Fund. Nevertheless, in comparison with the previous year, in the current year the authorized bodies observed the law and the bylaws, but still the decision upon the realization of this right is not adopted in due time, the procedures last long which leads to endangering of the health and life of the citizens.

As in the preceding reporting period, characteristic violations of the rights of the citizens in the current year were the misrecognition of the status insured person due to the fact that on certain preceding basis for termination, the obligations towards the Fund were not settled or not issuing blue cards, due to overdue debt, although the insured person has regularly started paying the contribution in the amount pursuant to the Law. The Ombudsman referring to the legal provisions for the manner of payment of the outstanding contributions required issuing of blue cards to the insured persons for the period, when they paid the contribution regularly, and initiation of legally foreseen procedures for the outstanding debt, obtaining support by the Health Insurance Fund of Macedonia, and thus these irregularities were terminated

Regarding the payment of the contributions, submissions were lodged to the Ombudsman referring to the application of the legal provisions for the manner of calculation of the contribution. Thereat, the citizens stated that this contribution is the highest compared to the other types of contributions, and the coefficient of complexity was referred as disputable due to the fact that it increases the amount of the contribution. Also the application of the Law regarding the amount of the lowest salary, which has not been determined yet, but calculates 65% of the average salary per employee in each branch, has been contested, where as disputable they state the issue whether the amount announced by the Ministry of Labor and Social Policy, as average salary per branch should be taken as a total amount, as announced, or 65% of that amount, in compliance with Article 93 of the Law on Health Insurance. Due to resolving of this issue, the Ombudsman forwarded information to the Ministry of Health and to the Health Insurance Fund, where there is a response only by the Fund, claiming that the data announced by the Ministry of Labor and Social Policy is actually 65% of the average salary, which was confirmed by the Ministry of Labor and Social Policy, despite the fact that it is not thus précised in the monthly announcements of the "Official Journal of RM". There is no response from the Ministry of Health on this issue and on the re-examination of the legal provisions regulating this issue.

There is no satisfaction for the observation of the citizens' rights in the proceeding with the submissions in this field, not numerous compared to the other areas, particularly from the aspect of due, fast and efficient deciding upon their requests, that is, it may be ascertained that in these areas the procedure in front of the first instance and second instance bodies has been unjustifiably prolonged. In the context of this ascertainment it is necessary to state that this issue is present almost in all received submissions, notwithstanding the reasons the citizens turned to the Ombudsman, due to which the Ombudsman in each turn continuously refers to the obligation of the authorized bodies for observation of the legally determined time limits in the deciding on the citizens' rights.

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From the analysis of the problems and difficulties the citizens face with in the realization of the rights in the field of the health protection it may be ascertained that:

- the laws and bylaws, on the basis of which these rights are being realized, are not always observed;
- there is ignorance of the rights on behalf of the citizens and non-transparency of the institutions, that is the citizens become aware of their obligations through various notifications in the medical institutions, but almost never of their rights;
- certain risk groups, such as children and elder people, are not completely exempted from paying participation, which usually incapacitates the use of the health protection, despite the fact that this right is guaranteed with the Constitution and these persons have the right of special care and protection;
- the proceeding with the requests of the citizens is usually slow and out of the legally established time limits.

Due to this it is necessary:

- to observe the existing legal regulation consistently for all the citizens;
- amend the legal regulation foreseeing the possibility for exempting the children to 18 years of age and persons older than 65 years from paying participation, in order to achieve the highest level of health protection for the children, provided for with the Convention for the rights of the children an provision of appropriate health protection for the elder people, as well as exemption from participation for certain regular medical services to the persons with serious incurable diseases, currently provided in the annual programmes of the Government (the Ombudsman deems that these issues should be regulated with Law due to long-term resolving of the problem and due to provision of legal security for the citizens);
- surpassing the problems with supply of the medicines included in the so called "Positive list" in the pharmacies, as well as surpassing the problems with the differences between the tender and actual prices of the medicines;
- making the citizens aware of their rights and facilitation of the procedure for realization of the same.

6.6.2. Pension and disability insurance

The Constitution guaranties to every citizen of the Republic of Macedonia a right for social security and social insurance, realized according to the principle for social justice and observing the humanism, social justice and solidarity, which are the basic values of the Constitutional order of the Republic.

Within the frame of the social rights of the citizens, fall the rights from the field of the pension and disability insurance realized on the basis of law.

Regarding the protection of the rights for pension and disability insurance, in this reporting period, as well as in the preceding ones, the citizens most often turned to the Ombudsman due to the unduly proceeding by the authorized bodies, irregularly determined pension amount, or irregularly determined length of service as a basis for realiza-



tion of the right for pension or for determination of the pension basis, as well as due to the impossibility to realize the right for disability pension and other rights within this area.

Due to more efficient and timely deciding and resolving certain disputable issues upon the lodged submissions, the Ombudsman continued the already established practice for conducting direct inspections, apart from the written interventions, thus, improving not only the efficiency in deciding, but also enabling correct determination of the actual situation and consistent application of the legal regulation. A certain improvement may be noticed, that is faster, and more efficient deciding by the authorized bodies, due to such manner of proceeding and the insisting of the Ombudsman on observation of the time limits for decision on the citizens' requests, still it must be noticed that not always are the time limits for proceeding observed. In addition, it has been noticed that there is unduly response to the Ombudsman, and that the provision of the new Law on Ombudsman for notification in case when the bodies and organizations due to objective reasons are not capable of observing the established response time limit, so as to be given additional time limit, has not been observed. There are cases where the delivered replies are not complete or are superficial, lacking the appropriate support, which incapacitates the Ombudsman to be efficient and to provide duly protection of the citizens' rights (26 requests out of 87 have not received reply yet).

It is characteristic for the submissions referring to the protection of the rights in the field of the pension and disability insurance regarding the substantive application of this Law, that the larger part of them are unfounded, that is, violation of the rights has been ascertained in only 34 cases, out of 169 submissions received in 2003. It leads to a conclusion that the citizens are insufficiently aware of their legal rights and the conditions under which they may be realized, due to which there is a necessity for a more clear legal regulation, making the citizens aware of their rights and more transparent operation of these institutions.

Regarding the attitude of the authorized bodies towards the ascertained violation of the citizens' rights and the recommendations, proposals or decrees forwarded by the Ombudsman, it may be noticed that there is readiness for collaboration and observation of the proposals, due to which, in a great number of cases, the procedure has been completed for the interest of the citizens, that is, the parties realized their rights upon the undertaking of the actions by the Ombudsman. 21 cases out of 34 in the reporting period were considered upon the receiving of the recommendations and decrees. The majority of the recommendations and decrees, forwarded in the preceding years, were observed and considered in 2003, that is, in 13 cases out of 18, where violation of the citizens' rights was ascertained, the submitters realized their right, and in only 5 cases the procedure is pending.

The lodged submissions in the field of the pension and disability insurance, apart from the prolongation of the procedure, referred to the a number of other problems, the citizens encounter, particularly in the realization of the old-age, disability and survivors pension or other pension and disability insurance-based rights such as: unregistered or incorrectly registered data in the main evidence, lack of certain data due to unduly delivery of the same by the employers or due to unduly paid contributions. The Ombudsman and the Pension and Disability Insurance Fund differed in the attitudes on

the problem with the determination of the minimal pension, in case the citizens have foreign length of service, but have not realized a right for pension in the foreign country yet. The Ombudsman deems that in compliance with the Law on Pension and Disability Insurance the citizen realizing the right for Macedonian pension with amount lower than the minimal has the right for minimal pension until the realization of the right for foreign pension, due to the fact that the pension insurance is one of the social rights based on the principles for social justice and generation solidarity. Due to this, the law guarantees minimal pension. However, the Fund in such cases does not pay minimal pension, and justifies its attitude, emphasizing that with the granting of the foreign pension it may happen the pension to be higher than the minimal, and in such case it would result with unfounded payment, and the Fund shall have difficulties in the returning the means, despite the fact that there are legal mechanisms for returning the overpaid means and the Fund has the right to withhold the part of the pension that has been unfoundedly paid.

As in the preceding years, the number of the submissions referring to the right of realization of the right for disability pension, in which the citizens expressed the dissatisfaction with the decisions of the competent commissions, regarding the estimation of their working ability as a basis for realization the right for disability pension, is significant in the reporting period. The Ombudsman is not usually able to help the citizens for these submissions, due to the fact that he is neither authorized nor competent for re-estimation of the findings and the opinions of the competent commissions regarding the health conditions, but still intervenes due to real and correct determination of the actual condition by the authorized bodies, prior to the adoption of any decision. In case the Ombudsman ascertains obvious omissions in the procedure or determines that the findings and the opinions of the competent commissions are opposite or different on the basis of the unchanged actual condition, insist on their reexamination, that is, realization of the right, provided that the already given findings imply existence of disability. Nevertheless, it may be ascertained that the problems the citizens encounter in front of the authorized bodies and with the change of the commissions still remain open not only in relation to the prolongation of the procedure, but also regarding the objective and impartial finding, estimation and opinion on the working ability. The citizens consider that this right may be realized solely by bribing the commission, due to which we informed the authorized bodies.

Having regard to the other rights realized based on disability, that is the remaining work capacity, in this reporting period, characteristic are the submissions referring to the right for benefit in case of termination of the employment of a disabled worker due to cessation of the existence of the legal entity. Regarding the fact that the insolvency and liquidation procedures are conducted in front of the court bodies and are itself of a long duration, and the Fund insists on formal erasing of the legal entity from the Court register, the citizens slowly and with difficulties realize the rights for benefit, due to the fact that often happens the legal entities to change the name and to continue with work, and not to be formally erased from the court register and due to this the disabled workers with terminated employment, due to insolvency and liquidation, can neither return to work nor realize the right for benefit from the company or the Fund. The legal basis for realization of this right is the initiation of insolvency and liquidation of the legal entity, however, the Statute of the Fund provides for additional condition, that is, formal erasing of the legal entity from the Court register, due to which the disabled workers have diffi-



culties in the realization of their rights. A special problem presents the realization of certain rights of the disabled persons, who have been employed as disabled persons in the protective workshops and worked for a long period, but due to insolvency and liquidation of the legal entity their employment has been terminated. These persons, most often because of the age, as well as because of the aggravated health conditions may neither be employed as disabled persons nor realize the right for disability pension, because the disability has occurred prior to the employment. Thus they neither fulfill the legal condition for realization of the right for disability pension nor may realize the right for benefit as disabled workers due to insolvency and liquidation of the legal entity they were employed in. Aiming to surpass the problems of these persons the Ombudsman forwarded a special information to the Ministry of Labor and Social Policy, requiring reexamination of the existing legal regulation and provision of appropriate conditions for realization of the rights of the disabled persons with disability that occurred prior to the employment, and who as persons with remaining work capacity are employed and have full time jobs, particularly in the part referring to the rights realized after the termination of the employment due to insolvency or liquidation of the legal entity or due to announcement of redundancy. There is no response from the Ministry of Labor and Social Policy upon this information and no measures have been undertaken due to resolving the problems these people encounter.

Also, a significant number of the submissions were related to correction requests of the amount of received pension, and the Ombudsman intervened only in cases when the regulation of the pension amount does not take into account the entire pension length of service and the real payments. The frequent changes of the legislative and the implementation of existing legal regulations regarding the regulation of the basis of setting the amount of pension in various periods, lead to regulation of different amounts of pension although certain persons working in the same working positions receive the same salary, or had equal pension conditions, but do not receive the same amount of pension, so citizens often consider themselves to be in an unequal position regarding other beneficiaries or consider the monthly pension amount miscalculated, and request its reappraisal.

Regarding the recognition of the pension length of service, in the reporting period, the Ombudsman has found that submitted submissions relate to partial data in the register of the Fund or non-recognition of a certain length of service that citizens cannot find evidence for.

In this period the matters regarding pensioners which should receive pensions for the competent agencies of the Republic of Serbia and Montenegro, having in mind that the Agreement between the Republic of Macedonia and Federal Republic of Yugoslavia for social insurance has been signed, but often citizens cannot exercise their rights timely due to belated actions of foreign competent agencies. Because of this, the Ombudsman insisted that Macedonian competent authorities be firmer and intervene more often and force foreign competent authorities act faster on the requests of citizens and delivering necessary data to ascertain a proportionate part of the pension or for pre-pension resulting in a considerable progress in procedures speeding up. However, in this reporting period also, the Ombudsman has faced the problems of war pensioners which are left out of this agreement, as well as because the data of paid salaries and

contributions have not yet been delivered to the competent authorities in the Republic of Macedonia. Meanwhile, according to data received from the Fund of Pension and Disability Insurance these problems will also be surpassed regarding the fact that the Republic of Serbia and Montenegro has already commenced delivering the documentation. In this period the problem of recognizing the pension length of service for the former YNA was overcome, as it was registered in the Fund register and was considered as the basis for exercising the right of pension, but not as grounds for deciding the pension basis due to the previously stated problem with documentation for paid salaries and contributions.

As well as in the previous, in this reporting period, part of the problems in the pension insurance relate to adjusting the pension basis for the cancelled 8% in accordance with the Law of Salary and Pension Payment in the Republic of Macedonia and adjustment of the pension basis for 48.53% of previous workers in the Ministry of Interior, problems that are overcome with the payment of these means in instalments.

Regarding the payment of a difference of 48,53% of previous pensioners from the Ministry of the Interior, as this adjustment is made on the basis of the previous Law of Interior Affairs, disproportionate large differences not only in pension incomes among entities pensioned in accordance with the previous law and the entities that are entitled to pensions as employees in the Ministry of the Interior in accordance with presently valid regulations, and pensions are sometimes much higher than the salaries of actively employed in the Ministry of the Interior in the same working position. Due to this, on behalf of present pensioners from the Ministry of the Interior an initiative has been put forth, for the amendment of the legislation with the aim of making all pensioners from the Ministry of the Interior equal in terms of the conditions for pension regulation. The initiative has been supported by the Ombudsman and has been provided for appraisal to the Government of the Republic of Macedonia and competent ministries.

In the duration of this reporting period, the matter of collecting means for pensioner in the Solidarity Fund was initiated, and the submissions came mostly from associations requesting means from the Solidarity Fund be transferred to their accounts, and the Fund of Pension and Disability Insurance delivers these to the association unions, because it would cause great trouble and a large amount of work if it is delivered to each association with regards to the fact that the number of such associations is increasing daily. Besides these problems and the insisting of the Fund that associations should agree amongst themselves for finding the best solutions, this problem is still present and unsolved.

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On the basis of stated problems and difficulties in exercising the rights of the pension and disability insurance, one can reach the conclusion that frequent changes of legislation lead to an unequal treatment of insured entities, depending on the period in which they exercise the right to pension. Also, the complex and often indistinct system of calculating the pension leads citizens to filing submissions because they are neither informed nor have the ability to understand the system for pension calculation. The lack of information of citizens for the conditions of exercising the right of pension and the



necessary documentation for the exercising of this right leads insured entities to exercising their right after several months or years, without any incomes during this period because the working relation has ceased by force of law due to meeting pension conditions or the right of reimbursement has ceased due to unemployment.

In regards with such problems in the exercising of this essential right, it is necessary to:

- not perform frequent and great amends to the legislation leading to unequal treatment of the ensured entities
- provide a simplified system for regulating the pension, clear both to implementing entities and citizens
- inform citizens of their rights in various possible ways through institutions deciding on these matters
- in terms of timely and lawful actions of competent bodies for pension and disability insurance, as well as cooperation and the relation towards propositions of the Ombudsman, there is a certain improvement, however we still cannot say legal dead-lines for deciding on petitions and requests of citizens are respected, as well as acting in accordance with the demands of the Ombudsman, and due to this work form all agencies and entities is required, with regards to pension being one of the basic essential rights of the citizens.

With the implementation of the Law of Fully Funded pension insurance, it is expected that the condition will improve with the exercise of this right and overcome part of the problems.

6.7. Protection of Rights in the Field of Education, Science, Culture and Sports

Acting in the protection of citizens rights in the field of education, the Ombudsman is primarily governed by the constitutionally guaranteed right of education and availability of this under equal terms for everyone.

As well as in the previous, during 2003 submissions related to protection of rights in the field of education are only submissions relating to high education, and the submissions relating to students below 18 treated as children are encompassed in the protection of the rights of children.

The largest number of submissions for this field and this year is related to the rights of students regarding co-financing of studies, changes of admission policy regarding the conditions of co-financing and conditions of admission, the student's standard by way of accommodation in student dormitories and receiving student credits and scholarships and by way of regulating the prices of services students receive from institutions of higher education, as well as other student rights.

According under the submissions of this field and in this reporting period the Ombudsman has often experienced a lack of cooperation and from competent agencies, especially in terms of not acting in accordance with his demands and not delivering ap-

appropriate information necessary for acting in accordance with the presuppositions. The agreement deadlines were rarely respected, and in certain cases, even after many interventions the agreement was not delivered. The Ombudsman has informed the higher agencies of all these problems and hindrances in the work, but even this did not always give a positive result, due to which the Ombudsman always attempted to receive a positive response from officials managing the agency so as to secure the exercising of rights of petitioners prior to informing the Government or the Parliament. This behaviour of the agencies and associations led to a lack of efficiency and the procedure of the Ombudsman, i.e. its prolongation which is contrary to the Law of the Ombudsman. The submissions from this field mostly relate to a larger number of entities due to which the Ombudsman insisted in principle to overcome the problems entirely, and not only in regards to the entity submitting the presupposition. Acting in accordance with the submissions in this field the Ombudsman finds that even in this year there has been little attention paid to the student standard, and the agencies deciding on the rights from the field of education, above all, the University and the Ministry of Education and Science, did not always respect the recommendations and the suggestions of the Ombudsman. From a total of 26 submissions accepted in 2003 and 12 others from the previous years, eight cases have seen injuries, and in only three cases partial actions have been taken in accordance to recommendations and suggestions of the Ombudsman, while no action has been taken in five cases.

In a number of submissions related to the protection of rights from the field of education, the Ombudsman has not ascertained injury to the rights. Still, acting in separate single submissions an injury to the rights relating to a greater number of students, such as the cases of reception and placement of students in state dormitories, awarding student scholarships and credits, and determining the participation in institutions of higher education. So, the performed inspection of the documentation of admission and placement of students in state dormitories yielded a great number of omissions and illegal matters in the process of deciding on this student right, especially in terms of determining the number of points in accordance with stated criteria. This year the proposition of the Ombudsman for including students in the Admission Committee in State Dormitories was accepted, resulting in an amendment in the Book of Codes. The amends in the Book of Codes has also regulated in a different manner the way of evaluation of certain criteria, such as results in the studies. However, the inspection found that the value of the criteria results in the studies was not applied according to the new valid Book of Codes, rather the formula for the regulations from the previous Book of Codes, which were not valid. The Ombudsman pointed out all the inconsistencies and omissions in the process of awarding a position in the student dormitories, but corrections were only made in the cases of separate students that filed a submission. However these irregularities and omissions in this field appear year after year. Also, regarding the allocation of students in student dormitories, not enough attention was paid to the student standard, because the prices of boarding and nurture in the dormitories were increased, and little was done for improving the living conditions. Due to this, the authorised agencies must pay special attention to this matter, since taking care of the student's life standards is a legal obligation when regulating related separate issues.

Regarding to the co-financing of studies for performing high education activities and the regulation of prices on services provided by institutions of high education to stu-



dents, it has been concluded that not enough care is taken for the student standard and the equal treatment of students of all institutions of high education. The Ombudsman has put in motion a procedure for evaluating the price lists of separate faculties that introduced various taxes without legal grounds and this jeopardised the life standard of the students. Following the intervention of the Ombudsman, a part of the taxes was removed, but a number of them still remain, without logic or justification. The forming of a Council of High Education gives hope to the Ombudsman that the problems with the funding of the institutions of high education will be overcome and a policy guaranteeing equality and legal certainty, guaranteed by all faculties, will be formed. The legal certainty and equality of students in the reporting period was interrupted with the unequal approach of certain faculties to the burdening students with co-financing means.

Namely, certain faculties grant their student the possibility to finish of their exams in the continued March session, instead of the February one, without adding that the continued exam session does not include students admitted with self-financing. Namely, all students that passed the foreseen exams in the continued exam session had a clause inserted in their indices stating they are cleared of participation, but they were additionally asked to pay the participation, this causing the organization of strikes in certain faculties. Intervening in these cases, the Ombudsman insisted on equal treatment of all students and pointed out that faculties must take care of the legal safety of students and avoid creating confusion with these acts. Following these interventions, some faculties decreased the participation to 50%, a part of the faculties gave the students the option to pay it in instalments. A part of the submissions in this field relate to the certifying of foreign diplomas and of the acceptance of school books where the Ombudsman could only participate in the respecting of the legally regulated procedure for the exercising of these rights, and here we can state that the in the exercising of these rights the procedure is unduly lengthy. The Ombudsman has acted on the submissions relating to the exercising of the right of specialisation of health workers in health institutions, due to the different practice regarding the ascertaining of the specialisation expenditures, i.e. some health organisations cover the specialisation expenditures, and others do not. Seeing there is no legal obligation for obligatory reimbursement of these expenditures and health institutions regulate this individually, the Ombudsman did not have any chance to intervene, except in terms of the procedure and respect of conditions under which the specialisation can be enabled, which is generally respected.

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Regarding the exercise of rights in the field of education, from the stated problems and difficulties one can conclude:

- the improper and unsatisfactory cooperation between the Ombudsman and the competent authorities, which create the rules of this field on sent submissions, continues, thus not only disrupting the work of the Ombudsman on submitted presuppositions, but preventing the timely implementation of measures protecting the rights of citizens, and the Ministry of Education and Science tolerating unlawful and improper actions of the competent agencies, to the detriment of citizens

- there is not enough effort to create equal conditions for education for all citizens
- not enough effort is made to enhance the student standard and the inclusion of various obligations not only jeopardize the student standard, but create unequal conditions in all institutions and at the university level
- adhere to legal acts and bylaws especially when it comes to exercising the rights of a greater number of citizens, for example granting places in student dormitories, student scholarships and credits, the amount of student participation in the studies with their means.

Thus, it is necessary to:

- create an efficient and timely cooperation of competent agencies with the Ombudsman and adherence to his demands, suggestions, and recommendations
- creating conditions of availability of education for everybody under equal conditions
- adherence to the legal obligation of competent authorities for enhancement of the student standard and equalling the reimbursements paid by students for the same services of various institutions of higher education
- continued adherence to legal acts and bylaws and their correct and equal implementation with a special attention paid when deciding on the rights of a greater number of citizens
- regarding the increased violence among youth, and especially the worrying incidents involving minors, it is necessary to imbue the educational process with contents and activities that will help the youth develop into positive persons and prepare themselves for a responsible life in a free society with the spirit of understanding, tolerance, and friendship independent from their ethnicity, nationality, and belief. Hence, there is a need to learn the human rights in the education system in all levels of education and dedication of a greater attention to the rearing segment in education.

6.8. Protection of children's rights

Acting on the submissions relating to the protection of children's rights one cannot fail to conclude that the economic condition in the state, the unemployment and the low life standard of citizens disable the correct exercising of children's rights guaranteed with the Convention of children's rights. Also, there is lack of awareness in all entities taking care of children's rights, starting with the parents, teachers and official entities in the state institutions, especially concerning the fact that children are special subjects with their rights and obligations, and that, when making all decisions related to children one should pay attention to the greatest interest of the children, and this lack of awareness leads to injuries of children's rights and lack of care for creating appropriate conditions for the exercise of children's rights.

As in the previous years, one can note that the greatest part of the submissions in this reporting period relate to the realisation of personal relations between children and the separated parent, and the object of these submissions was, most often, the dis-



satisfaction of the parents from the work of the Social Work Centres. These actions, sometimes justifiably, are lengthier, because in order to act in a correct manner, the Centres must use their legal authorisations, in terms of monitoring of the parent's right, application of the advised method, immediate inquiry, frequent meetings with trouble-making parents, and the like. Unfortunately, however, it has been concluded that the activities of the Centres seem to neglect the children, for far too little is done to overcome the trauma caused by the inappropriate relation of the parents, and even less attempts are made by the Centres to hear the opinion of the child on all issues concerning it, of course, within its abilities to understand and comprehend what is best for itself.

What is specific for these cases is that largely the parents point out, above all, the injury of their right to maintain personal contacts with the child living with the other parent, not taking into account the rights and needs of the child. In such conditions, the parents, due to entangled mutual relations, take actions resulting in themselves actually injuring the rights of the child. Also, the Social Work Centres have difficulties overcoming such problems, because parents often do not have the will to cooperate with the Centre and do not respect the Centre's suggestions and notes.

Again this year, a special problem arises in the exercise of the child's rights to maintain personal contact with the separated parent - the execution of the decisions of the Social Work Centres, which lack the efficient legal instruments to execute their decisions, and the assistance of the police was sometimes used as a last resort, although sometimes it is not practised at all for this method might have traumatic consequences on the physical health of the child. Hence, the Ombudsman, in its suggestions and notes, calls for the application of the advised method, i.e. conversation with the two parents and experts working with the child. However, if it is a matter of an extreme behaviour of one of the parents, resulting in a complete break between the child and the separated parent, it is recommended that the Social Work Centres take more rigorous measures against the parent preventing the contacts. Also, the Ombudsman has sent a special information to the Minister of Labour and Social Policy to find the most appropriate solutions to exercise the stated right, and we have received information that there are forthcoming amends to the Family Law that should lessen the problems of the execution of the Centre's decisions of the child maintaining personal contacts with the separated parent.

The adoption of the Law of child protection, even though it was expected to improve the position regarding the children's rights, mainly from the aspect of securing an appropriate life standard, did not produce these expected results, because despite the long time period from its passing no bylaw acts were passed that would regulate the procedure of exercising the rights stated in this law. After several interventions of the Ombudsman, the bylaw acts were passed, creating conditions for applying the law, however, in the meantime the Law of child protection was amended, diminishing certain rights, especially regarding the child allowance, which was limited to a fixed amount that a family could receive regardless of whether it has a greater number of children. Also, a problem still open is that of exercising the right of a child allowance for parents with no income, i.e. not employed, or pensioners or not receiving an unemployment reimbursement. If one of the basic principles for the exercising of the right of child allowance is the material condition then it is illogical for a child whose family is in the most awkward ma-

terial position not to be able to exercise the right of child allowance, thus changes are needed in the legal regulative with the aim of removing discrimination amongst children on any grounds.

Just as the previous ones, this reporting period saw submissions filed relating to the procedure of entering children in the Birth Registry, something that was especially problematic for the citizens of the Albanian and Roma community, and the Ombudsman concluded that the parents do not always timely report the birth of a child, if it was born in domestic conditions, thus having difficulty proving it was born on the territory of the Republic of Macedonia. Also, the citizens complain that despite incontestable evidence of the child being born on the territory of the Republic of Macedonia, they still have problems with entering in the Birth Registry due to the inappropriate attitude of the official persons. To overcome this problem, the amending of the legal regulative is necessary with the provision of more concrete conditions for the entering if the birth of the child with a decision of the competent agency, as well as regulating sanctions or administrative measures for parents that have not reported in the stated period without justifiable reasons.

Due to the increasing number of incidents occurring in this past period, manifested with a mutual violence of minors, the Ombudsman pointed out the need of taking appropriate measures by all competent agencies to protect the children, prevent their abuse, provide a safe life and the exercise of the right of education, and in the same time, provide the right to express their opinion, in an appropriate manner, on the problems they face. Taking his cue from the increased confrontations among youth, the presence of alcohol and smoking among youth - despite the insisting of competent agencies to adhere to the legal regulations prohibiting the provision of alcohol to minors and those against advertising alcohol and cigarettes in positions and manners contrary to the legal regulative - the Ombudsman proposed amendment of the legal regulative prohibiting minors to buy alcohol and cigarettes in the retail network and the limiting of minors visiting night clubs in late night hours, something that was accepted and adjusted to the legal regulative in a broader action and with the inclusion of the public.

A special matter that was paid special attention in this reporting period was the solving of the status of the Child Creativity Centres in the Republic, since the Republic Budget funding was cut on the basis of a resolution of the previous Government and with resolutions of the Ministry of Education and Science, as a result of the Government activities to decrease the spending of the budget users.

To this aim, the Ombudsman asked the Government to provide an appropriate solution, expressing the attitude that these provisions of the law are regulated as institutions where a form of education takes place and that the Government should change the legal regulative if it wishes to cease the funding of such institutions. The Ombudsman especially emphasised the role of such institutions in developing the gifts of children, their creative and cultural abilities. The cessation of the funding to these institutions, besides the unresolved status of the employed, mostly affects children since they must pay for every service, decreasing the ability to develop their giftedness and ability.



In this direction, the Ombudsman again requested from the Government to look into this issue and find appropriated solutions for the employees and the children; unfortunately, this has not been done to this day.

In the course of protecting the children's rights from violence, especially from family violence, the Ombudsman participated with personal suggestions in the amending of the Family Law, emphasising that family violence of children should be treated with a separate regulative from the field of family relations, as well as the punitive legislation. The Ombudsman insisted on an enforced and appropriate legal obligation of the family, as opposed to the ability of Social Work Centres to take measures in the case of continued violence over a child by a family member. The Ombudsman's opinion is that it is more fitting to remove the person performing the violence over the child, than separating the child from the family and situating it in another family or, even worse, in an institution. To this aim, separate centres would be formed, working on such persons to improve their behaviour and cease performing violence, without neglecting the criminal responsibility for the aim of which it is necessary to envision a criminal act of family violence especially of children.

The Ombudsman has paid attention to the rights of children with special needs, especially from the aspect of their health protection, seeking appropriate facilitations in the use of health services, medications, and aids, which was accepted and amends were made to the legal regulative. However, although a great deal of measures were taken, regarding the protection of children with special needs, a much more needs to be done in order to remove them from the margins of society. This would mean taking actions for the improvement of conditions of use of health protection, exercising rights from the field of education with their inclusion in the regular education, regarding the social protection with material and expert support from the state, and even more in terms of their socialisation and reintegration in all areas of living. To this aim, the Ombudsman sent special information to the Government of the Republic of Macedonia and to competent Ministries of Health, Labour and Social Policy and Education.

Dedicating special attention to the children's rights and their skills of self-protection from violations of rights and various abuses, the Ombudsman, besides visiting schools and holding tribunes with pupils on their rights and the exercise of these in practise, also received larger groups of pupils from the elementary and high schools in order to inform them of their rights and, in the case of their violation, provide protection by the Ombudsman. From the insights from the meetings with the pupils we learned that the children lack full knowledge of their rights, and are even less informed of the institutions of the system where they could seek protection of their rights. Because of this, the Ombudsman insists on introducing a class in the area of human rights, and especially for the rights of children in the educational system on all levels, as well as the education of the teaching staff in human rights and children's rights, with the aim of providing the most appropriate knowledge and skills applicable in the real life for the exercising and protection of their rights. To this aim, with the support of the High Commission of Human Rights of the UN, the Ministry of Education and active participation of the Ombudsman, measures are taken to appropriately introduce human rights in the education, but the realisation of this process is slow.

The Ombudsman, in order to enable the protection of children's rights, must cooperate with all competent agencies and organisations, as well as with the non-government sector. During the reporting period one can conclude that although the cooperation of the Ombudsman with the agencies of the state administration is in principle satisfactory, the opinions, recommendations, and requested information are not timely processed. Of a total of 62 received submissions in 2003 and 42 remaining from previous years, in 23 an injury of the rights has been concluded, and the competent agencies have timely responded only in seven cases, and the remaining 16 still await response and actions taken: on 50 demands the given response period has been observed, in 70 the response period has not been observed nor has the Ombudsman been asked to continue the period. Because of this the Ombudsman believes there is still a need to take continued measures for the creation of conditions to exercise the children's rights and a more efficient and lawful action in the exercise and protection of these rights. Also, the state must always be guided by the best interest of the children and put the children above all other interests. The acceptance and the signing of the Convention of the Children's Rights, the Republic will have the obligation to provide children with material and other conditions for a normal growth and development, safe life, the highest level of health protection, and all other rights guaranteed by this Convention.

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- The economic state of the state has shown to have a great influence on the provision of the greatest interest of the children in the realisation of all rights, proven by the fact that a large part of the presupposition, among other matters, point on the existential problems faced by a great number of families that cannot provide their children with an appropriate living standard
- In the previous report the Ombudsman positively marked the passing of the Law of child protection, hoping that its application will improve the position of children in the Republic, however the amendment and additions to the state law, instead of improving the life standard and removing discrimination amongst children, has yet to provide an appropriate living standard and possibilities to exercise the basic rights of a great part of the children in the Republic.
- Due to the difficulties in the application and execution of the solutions of the centres relating to the right of the child to maintain personal contacts with the separated parent, the Ombudsman, in the previous report, has suggested that measures be taken for the overcoming of this problem, however these were not implemented, and so the Ombudsman feels that it is necessary to find a mechanism allowing the child to maintain personal contacts with the parent without any hindrances, except this is not in its interest
- In the creation of the policy and the provision of means to satisfy the needs of the citizens, the state must be guided by the best interest of the children, put children above all other needs, instead of whenever reducing the budget also reducing the means necessary for the normal growth and development of the children
- Because of the protection of children from exploitation and various abuses, firmer and intensified activities are needed, as well as cooperation of all



bodies, especially the Social Work Centres. In this sense, it is of special emergency to take measures of aid and care for the street children, which are abused and exploited by their parents to beg and perform negative activities.

6.9. Protection of the rights in the field of urbanism, construction building and the environment

6.9.1. Urbanism and construction building

Urbanism and construction building is one of the most significant strata of the social life, where citizens exercise one of the basic rights, which is the right of a home as a condition for a normal life and development of the person and the family.

On the road to the realisation of this right the citizens of the Republic of Macedonia have faced various difficulties caused by the inconsistent legal regulative manifested through the frequent amendments of the Law of Spatial and Urbanism and Building Investment Objects as well as with their inconsistent implementation by the administrative agencies, especially the local units of the Ministry of Transport and Communications and the State Inspectorate of Urbanism and Construction and the units of local self-government in the procedure passing and amending the detailed urban plans.

This conclusion is founded on the constant great quantity of submissions registered in the duration of all previous years in the Office of the Ombudsman and the relatively high portion of submissions in this field in the reporting year.

From the analysis and action upon 209 newly registered submissions during the reporting year one can note that half of these relate to failure to execute the legal obligations of the State Inspectorate of Urbanism and Construction, when it comes to unlawfully built building objects, i.e. failure to execute final and executing resolutions of demolishing unlawfully built objects.

The remainder of the submissions is related to the slowness or unjustified delays of procedures of the local units of the Ministry of Transport and Communications deciding on first degree of citizen requests, of the procedures of the Committee of the Government of the Republic of Macedonia deciding on second degree in the field of transport and communications and environment, as well as omissions in the procedures of amending the urban plans by the units of local self-government or failure to meet the obligations from the urban plans regarding the building of access street or passages, which is their legal obligation.

During the procedure to investigate and examine whether it is really a matter of injuring the rights of submissions bearers, in 98 cases no such injury of the rights of the submissions bearer has been concluded, i.e. the legal conditions for engaging in a procedure by the Ombudsman are not met (since it is a matter of cases that are in the process of procedure in judicial bodies, the presupposition has not been amended even after the pointing out, the period for requesting protection from the Ombudsman has passed or the bearer has realised his right in the meantime) and such submissions are rejected.

In order to conclude the factual condition in a certain case, the Ombudsman, using its legal authorisations, requested and received an expert opinion of a project organisation.

After conducting a fitting procedure in 90 cases in the field of urbanism, it was concluded that injuries of the citizens' rights have occurred, from various reasons, and the Ombudsman sent 22 recommendations, 1 opinion, 7 requests for a temporary halt of the execution of administrative acts, and 44 notes for removal of injured rights to the competent agencies, and this resulted in 12 cases where the procedure was finished to the benefit of the submissions bearers, i.e. their right was exercised.

Still, the Ombudsman was not satisfied with the number of accepted recommendations, opinions, or notes and as a result of this it filed a lawsuit against a responsible official and two civil servants from the Ministry of Transport and connections for disobedience of court decision, in 33 cases it informed the immediate higher agency of failure to act upon the requests of the Ombudsman and in 48 cases the competent Minister. Unfortunately, despite stated actions, there is no improvement of the general conditions. On the contrary, in the greater part of the cases the procedures are lengthy and, as if following a rule, longer than the proscribed court dead-lines. The demolition resolutions of unlawfully built objects are still not executed, and there are cases when, following an intervention or an order of superiors in the State Inspectorate, the regional urbanism officer in Kumanovo had to halt the commenced execution of an unlawfully built object. This encourages investors to proceed with unlawful actions i.e. build without the required building documentation, continue building even after passed resolutions that order the cessation of building activities and demolition of unlawfully built objects or their parts, openly defy granted licences while building, or build without previously paid communal taxes.

The State Inspectorate of Urbanism and Construction continues to ignore requests of the Ombudsman for consistency in the processing such resolutions with constant statements that these will be processed in accordance with the programme and dynamics prepared for their execution, which, in fact, hinders the work of the Ombudsman.

Also, this report must note the fact that the State Inspectorate has a selective approach in the execution of the demolition resolutions, and so an advantage in executing is given to the demolition resolutions made in the line of duty or when the procedure is initiated at the request of other state agencies or agencies of the units of local self-government, while the execution resolutions passed on the report of interested citizens are scarcely or not at all executed. Such examples of selectiveness in the execution were present in the cases when actions were taken to demolish temporary object or unlawful buildings in Skopje, Tetovo, Ohrid and other places when only the resolutions passed in procedure resulting from the line of duty or at the request of a state agency or agency of a unit of local self-government. With such demolitions, the Inspectorate demonstrated a supposed determination in executing legal regulations, but such actions always had a short life-span and did not provide appropriate results, improvement of conditions, and triumph over the chaos that reigns in the field of urbanism.



The causes for the awkward conditions in the field of urbanism and construction lay in the absence of preventive and continued activities of the State Inspectorate of Urbanism and Construction, in its tolerant attitude towards investors that have begun building without the necessary building documentation, without paid taxes, or those that deviate from the issued building resolutions during building, and failure to take other legal measures as filing for criminal or offence responsibility against the investors. All this leaves room for doubting as to whether there is a corruptive behaviour of the inspection agencies, as well as the employees in the regional units of the Ministry of Transport and Communications.

Hence, it can be said that the inappropriate legal regulative and its frequent amending are not the only hindrances to the exercise of the citizens rights in the field of urbanism, but also the subjective approach and the illicit matters in the performance of public functions, committed by the employees and the officials managing the Ministry of Transport and Communications and its agencies.

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To overcome the concluded negative conditions, the Ombudsman thinks it necessary to:

- consistently adhere to the regulations of the Laws of Spatial and Urbanism and Building Investment Objects, as well as the Rulebooks for Standards and Normative for Spatial planning and for Object Projecting on the Notification of Building Conditions and the Issuing of Approvals for Building and Obligatory Inclusion in the Procedure of Interested Entities
- Adherence to the legal periods for passing first and second degree administrative acts
- Have the State Inspectorate prepare a programme and dynamics for the realisation of executed resolutions related to illicitly built objects in written and make this available for interested entities, and act on it in a previously set calendar and without a selective approach in the execution
- Increase the preventive activity of the inspection agencies due to timely prevention of illicit building activities
- Greater consistency in sanctioning illicit building activities
- Take greater care for the rational management and use of space and provision of conditions for human living and work of the citizens when passing detailed urban plans
- Work on raising awareness of civil servants in the Ministry of Transport and Communications especially to those that immediately decide on the requests of citizens, thus transforming the administrative agencies in a true citizen service
- Form a Service for Professional standards, following the example of other administrative agencies, in order to achieve greater lawfulness and professionalism in the work of civil servants in this Ministry.

6.9.2. The Environment

In the Republic of Macedonia, especially in the last several years, numerous associations have been registered, the primary aim of which is to protect and take care of promoting the environment and raising the ecological awareness of the citizens, however few of them show true activity in the stated direction.

Still, it is the obligation of the Ministry of the Environment and Spatial Planning through its agencies i.e. The Service for the Environment and the State Inspectorate for the Environment to monitor conditions and take measures for the protection of the environment.

The Ombudsman, as an agency for the protection of the rights of citizens, is authorised to take measures and actions in this field just as well as in any other, acting *ex officio* or on submissions from citizens, so it is a control mechanism and a correction in the work of stated state agencies and cooperating with these and the NGO sector it can affect on the improvement of conditions, and especially in raising the awareness, as it is not sufficiently developed, of the citizens of the Republic of Macedonia.

The insufficiently developed ecological awareness of the citizens is a reason for the permanently low number of submissions that the Office of the Ombudsman receives.

Although the problems with the air, water, and soil pollution are more serious, not one submission has been sent for the pollution of these media, so out of 20 submissions registered in the reporting year 16 are exclusively related to the disturbance of the personal peace of the submission bearers, as a result of the overbearing noise from the working of, in most cases, a restaurant or a club, while two cases, the first being related to the pollution of water, and the other to the pollution of the air, were put in motion on the incentive of the Ombudsman, on the basis of articles in the daily papers.

In order to overcome problems caused by the increased presence of noise from the work of restaurants or clubs, the Office of the Ombudsman communicated with a number of inspection agencies, most often with the State Inspectorate for the Environment, which, more than other, takes care of implementing the regulations from the Law of Protection and Promotion of the Environment and Nature. However, as opposed to the previous one, this reporting year noted the Inspectorate has not taken sufficiently energetic measures against the subjects that do not adhere to legal regulations and injure the citizen's rights of peace calm, and a life in a healthy environment. This, above all, is manifested in the insufficient readiness to fully implement commenced administrative procedures i.e. the execution of administrative acts for prohibiting the operation, as well as filing misdemeanour or criminal reports when the legal provisions are met. Such activity encourages owners of legal entities to ignore the acts of this administrative agency and continuously perform their operations contrary to law, to the detriment of the environment and the rights of others. Characteristic example is the procedure in which the State Inspectorate has been involved for a long time due to the increased level of noise caused from the work of the restaurant "Viva 2000 M" located in the ground floor of the collective apartment building in a part of Skopje called "Avtokomanda." After a presupposition from interested citizens from the same building, the Ombudsman commenced a procedure, but due to obstructions of persons in the Inspectorate, the proce-



procedure is still active, regardless of the real facts and evidence that the proprietor of this object knowingly violates legal regulations and ignores acts and activities of the State Inspectorate for the Environment.

Such inconsistent behaviour in the performance of the official duty is also one of the reasons the procedure before the Ombudsman and in other cases in this area at the end of the reporting year has not yet been finished, and there is a need for re-opening of cases already closed.

Regardless of everything, the Ombudsman will make efforts on his part to improve the cooperation with the Ministry of the Environment and Spatial Planning and its agencies, but a cooperation that is beneficial, one granting the citizens the possibility to enjoy the constitutional and legal right of life in a health environment.

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In order to improve the conditions in the protection and conservation of the environment, the Ombudsman feels that in the future, measures should be taken to lead us in this direction:

- constant monitoring of the conditions and the potential possibilities of environment media pollution throughout the territory of the Republic of Macedonia, especially from the possible pollution from technological processes of the greater industrial capacities
- consistent adherence to the legal regulative in the procedure of granting concord for building or work of industrial and catering objects (restaurants, clubs, etc)
- approximation of the legal regulative treating the protection of the environment with the European legislation, international conventions and standards
- constant training and improvement of the expert workers in the Ministry of the Environment and spatial Planning
- Education of citizens through various forms - educational system, tribunes, the media etc, in order to increase their ecological awareness and consciousness.

6.10. Protection of Rights in the Field of Finances and Customs Procedure

6.10.1. Finances

The citizens of the Republic of Macedonia, in this reporting period, have filled 22 submissions to the Office of the Ombudsman expressing their discontent from the work of the Ministry of Finances, i.e. the Administration of Public Revenue, mostly from the procedures for deciding on amount of taxes in accordance with the regulation of the Law of Property Taxes and the Law of Taxes on the Trade of Goods and Services.

The submissions were mainly related to the actions for deciding on and collecting taxes. The citizens felt that these actions did not incorporate or wrongly incorporated the regulations for releasing from the payment of taxes.

In certain cases the citizens turned to the Office of the Ombudsman and pointed out the issue of the Administration of Public Revenue not issuing them a certificate for paid or not paid tax obligations, thus hindering them from exercising certain rights with the Social Work Centres.

Namely, the initiated procedures have helped us state that the competent administration practises issuing the certificates only if the requesting parties have performed their obligations, and the Ombudsman thinks that the Administration of Public Revenues is obligated, in every case, at the request of the citizen, to issue a certificate for the facts it keeps official registry without any prior conditions, in accordance with the data from the official evidence for the uninterrupted exercise of their rights with other agencies of the state authorities.

In the previous year several submissions were very current, on which the Ombudsman acted, and were related to the obligation of paying taxes on the trading of real estate and rights regarding the made contracts of sale of social apartments, where the seller is an agency of the state authorities, and the buyers is a physical entity, i.e. a citizen. In these cases, in accordance with the regulations of the Law of Property Taxes, formally in the passed administrative acts Resolutions the sellers i.e. agencies of the state administration were burdened with trade taxes, but these were not delivered and so the trade tax was not paid. In such a condition, as they could not exercise their rights in the procedure with the State Office of Geodesic Matters i.e. the Sector of Measure and Cadastre in Skopje, regarding the writing of the rights in public books, the citizens were forced to pay the stated tax. The Ombudsman, acting in these cases, and having in mind the legal regulation, considered that the buyers are not obligated to pay the taxes, i.e. do not have the characteristics of tax payers. The representatives of the Ministry of Finances and of the Administration of Public Revenues, after the sent recommendations and the held meeting, agreed with this item.

Due to the sensitivity of this area and the increasing problems that citizens face , in the conditions of a decrease of the life standard and the economic power, the Ombudsman finds it necessary to consistently apply the regulations relating to the releasing of paying taxes.

6.10.2. Customs operations

As a special field of interest of the Ombudsman, due to the exercise of the citizen rights and seeing as it has not been a part of the actions so far, we have singled out the customs. The Customs procedures, rights, and obligations of the participants, the area of work, manner of work and the organisation of the agency of the administration competent in works of the field of customs are regulated with the Law of Customs.

An object of the customs procedure is the release in retail, the storage, temporary import and export, transit, stating the customs debt, collection, return and release of



paying customs, where the participants in the procedure acquire certain rights and are subjects to certain obligations related to the goods. As entities participants in the procedure with the Customs Authority in the sense of the cited law we regard physical and legal entities.

Having in mind the competency of the Ombudsman, stated in the Law of the Ombudsman, he can act only in a case when the participant in the procedure with the agency of the authority competent on issues from the field of customs is a citizen i.e. physical entity. During the reporting year in the Office of the Ombudsman not one submission from this field was received.

In regards to this, the Ombudsman is objectively not able to create an opinion on the manner of the leading of the procedures with the customs agencies.

6.11. Consumer rights protection

Respecting the competencies when it comes to consumer rights, the Ombudsman in this field is authorised to protect the rights of citizens from the provider of public services (telecommunications, distribution of electric energy and heat, water management, and other utilities.)

From the submissions and the communications with the citizens, as well as the competent persons in these utilities in the previous several years, the citizens as consumers of water, electric energy and telephone services are in a subordinate position because they do not have a choice i.e. the providers have a monopoly of the services. In such a condition the citizens and the Ombudsman could not appropriately influence the service prices (tariff), putting citizens in a position to unconditionally accept and pay the offered i.e. stated price.

Due to the given reasons, the consumers have often addressed the Ombudsman and have rightfully expected from the Government of the Republic of Macedonia to provide, by way of appropriate lawful and other regulative, a control of the possible abuses of the market committed by the monopolies, however this has not yet been done. The Ombudsman feels that the Monopoly Authority, as a control mechanism, should have provided protection and an appropriate balance, but has also failed. Also in many cases the competent inspection agencies: the Telecommunications Authority, the State Market Inspectorate, the State Sanitary and Health Inspectorate, as well as The State Inspectorate of the Environment, after the performed inspection controls, have not been able to change the conditions with the monopoly behaviour of the service providers.

During the report year, in this field a total of 188 submissions have been received, and in 16 the Ombudsman has seen an injury to the citizens rights and for the removal of injuries and the lawful solution and overcoming of the problem has given 13 recommendations, one suggestion, and 2 notes from which the agencies i.e. the organisations with public competency acted in 9 cases, and did not take action in 7. In 70 cases the Ombudsman did not conclude the presence of a injury of the rights, and in 19 cases he stated that for the given problems in the submissions the citizens have already

commenced procedures with the competent courts and hence these submissions were rejected.

In the course of the analysis of date related to the total number of received submissions, it was concluded that the greatest part of the request were related to the work of A.D. "Makedonski Telekomunikacii," as well as the public communal enterprises. Simply, one can say that the citizens in their submissions pointed out the injuries made to their constitutional and legal rights by the public service providers, which, in terms of their position, represent natural monopolies.

In the course of the case work it has been concluded that the competent services, when acting on the requests of citizens, provide, in a large percentage, an inappropriate treatment to the filed requests and do not pay sufficient attention to the solution of their cases, avoid legal dead-lines, which is related to the legally prescribed periods. On the other hand, depending on the status or certain other criteria of the citizen, the presence of a selective over-eagerness of the competent agencies was noted.

In the report year, with the life standard held at a bare minimum, the citizens have increasingly reacted to the actions i.e. the work of certain public enterprises, pointing out that these act on a whim and out of legally prescribed frames regarding the service quality, stating a high price and forcing citizens to pay the services and exclude from use of the services in cases when citizens failed to pay the bills without previous notice. There are frequent cases when in the actions of disconnecting the subscribers that have not settled the obligations some citizens that have fully settled the bills are also disconnected. In such cases there is an injury of their rights, and the removal of the same faces citizens with additional lengthy procedures.

Also, it is frequent occurrence that even after the settling of the obligations, the citizens were forced to also pay those obligations that have long been aged and were not connected to the water system. In regards to this, as well as the problems where citizens have requested the help of the Ombudsman, and are related to the services of the providers of these public activities, especially the service quality, manner of collection, and the amount of the stated price, in the further text we will relate separately these three matters of public interest.

6.11.1 Electricity and central heating distribution

During the report period, the Ombudsman received 29 written submissions regarding the conduct of the electric power industry of Macedonia, when it disconnected customers which had already paid their electricity bills. According to the submissions, the Ombudsman recommended to the citizens that, in view of the general terms for electricity distribution, the supplier is obliged to provide a long-term and continuous supply of electricity, but, on the other hand, the supplier can stop the distribution if, among other things, the electricity bill for at least a month is not paid, after a prior notice to the customer.

Last year, on several occasions, the Ombudsman advised the electric power industry of Macedonia to take the economic power of citizens into consideration and re-



strictively limit electricity distribution. Especially when whole neighbourhoods were disconnected after a certain percent of the population had failed to pay their bills. These recommendations of the Ombudsman were supported by the fact that citizens, as service users, do not pay the money out of solidarity, but there was no response. The fact that citizens who have carried out their obligations to the service provider were disconnected and prevented to use the services violates their constitutional and legal rights, and it is an example of illegal action and self-will of the service provider.

During the report period, like in many years before, the Ombudsman reacted at written submissions of citizens who complained that, even though they paid their electricity bills when they became owners or when they were already owners of a flat or an office, they were not allowed to use the service, i.e. their homes were disconnected from the network because the previous owners had unpaid bills. In such cases, as well, the Ombudsman quoted the provisions of the Debenture Law which regulate rights of the creditors and the debtors, as well as obligations of debenture debtors to the creditors, and was adamant that new users who have a lease or purchase agreement can not take on responsibilities without their express consent. In this context, he stated that citizens do not have an obligation to pay debts of previous owners and demanded that they be connected to the electricity system. Furthermore, the creditor, which in this case is Electric Power Industry of Macedonia, has a right to legal protection at authorized courts.

In the framework of the operation of the Ombudsman during the report period, only a small number of citizens needed assistance in regards to the operation of the central heating sector.

In written submissions, in most of the cases, the Ombudsman was asked to intervene with cases of unpaid bills from previous months, and provide an opportunity for payment in installments, and he also received comments about the heating temperature.

The Ombudsman is pleased to state that, in regards to his addresses to the central heating sectors, the interests of customers are virtually always above all, and they are given the opportunity to pay in instalments, and as to the demands for a check and change of temperature of the delivered central heating, those checks are always carried out by the sector free of charge, which is in the interest of customers.

Generally speaking, in the context of the previous contacts with the central heating sector, we may conclude that a high level of collaboration and communication has been achieved, which, in the long run, positively impacts citizen rights and does not tarnish the Ombudsman as an institution.

6.11.2. Telecommunications

The vast majority or 68 of the written submissions to the Ombudsman, contained submissions of extremely large bills for allegedly used services of the Makedonski Telekomunikacii Plc., which is a company that operates in the interest of the public.

During the report period, according to his authorities, the Ombudsman incessantly monitored the telecoms operator, especially in the segment of delivery and estab-

lishing prices of telephone services, and according to people's reaction, he once more stated that Makedonski Telekomunikacii have the discretionary right to regulate customer relationship according to their own needs, on quite unreal and unacceptable terms, i.e. prices for their subscribers. Logically, we can see that the matter at hand is a ruthless exploitation of the monopoly position at the expense of citizens who, in this way, become subordinate and dependent. The Ombudsman takes into consideration the highly unpleasant social situation of citizens who, generally, can barely make ends meet, and that fact should be also taken into consideration when telephone prices are established.

As to the execution of the rights of citizens – telephone subscribers, the Ombudsman thinks that the fact that virtually all right protection demands were related to the astronomical phone bills is quite indicative. The actions taken upon the written submissions showed that the citizens' access to Makedonski Telekomunikacii authorities is restricted, or even impossible.

It is obvious that there is virtually no realistic opportunity to determine the factual situation, i.e. confirm the claims of citizens for the possible maltreatment or a possible error of the Makedonski Telekomunikacii equipment which would have a detrimental effect upon telephone lines.

The operation of Makedonski Telekomunikacii in the segment of charging bills, and the cancellations of some of the additional services, is also indicative.

Namely, the telecoms operator charges 150 denars for each cancellation of an additional service per month. This attitude and this system of charging was considered illegal by the Ombudsman and the Monopoly Administration, and they reacted appropriately. The Monopoly Administration, with a procedure, enforced a solution which obliged Makedonski Telekomunikacii to charge such services only once. Acting in accordance with this decision, Makedonski Telekomunikacii changed the decision for establishing the system and the amount of the charge for the service for using and cancellation of additional services, and introduced a possibility for charging 1 thousand three hundred denars one time only for each additional service which is cancelled.

The Ombudsman thinks that this is illegal and self-willed, and took legal action against the alternative way of charging additional services, which apart from the current monthly bill which depends on the type of services used includes a one-time 1.330 denars compensation as an option.

Namely, the Ombudsman determined that such an amount for the one-time compensation and the already established prices of telecommunication services are a far cry from the general socio-economic situation and living standard, and Makedonski Telekomunikacii should reconsider the possibility of readjusting the figures.

In this context, we could understand the tendency for harmonizing standards and telephone service pricing systems to that of the European Union, only if Macedonia had a similar economic growth. Otherwise, if European parameters were always used as a yardstick, the material situation of subscribers would be devastated.



Finally, because of Makedonski Telekomunikacii's discretionary right and self-will to use it as they please, which comes solely from their monopoly public operator position, citizens always suffer when whole municipalities are disconnected because of unpaid bills.

Such measures imply severe deficiency of criteria for disconnecting subscribers, as well as a lack of professionalism and quick response and operation of Makedonski Telekomunikacii tech support teams, which have the same attitude towards citizens who do not pay regularly and citizens who happen to be late in paying bills, for only a short time, and without checking whether they paid their bills before they were disconnected.

The Ombudsman considers that it is necessary for AD "Makedonski telekomunikacii", ex officio, in the determined disputable issues, to compensate, with a suitable amount, for the period of disconnection of the telephone line, which is their right guaranteed according to the adequate internal acts of AD "Makedonski telekomunikacii", and the Contract for establishment of subscriber relations.

Due to these reasons in the reporting period, apart from the other activities, the Ombudsman forwarded an information to the Government of the Republic of Macedonia, which presents a request to the Government, according to its legal obligations, to undertake adequate measures and activities directed towards protection and realization of the rights of citizens users of the services of AD "Makedonski telekomunikacii", in the context of limitation of the monopoly position, which basically has a tendency to abuse its position towards citizens.

We have to point out that relating to this information; The Government of the Republic of Macedonia did not inform the Ombudsman.

6.11.3. Water economy and utility activities

The Ombudsman has worked during the previous period on concrete written submissions, which were related to permanent disconnection of citizens from the water supply system due to outstanding bills from the public enterprises from the field of water supply systems and sewage. During the procedure for total number of 42 submissions, the Ombudsman states that there are cases when public enterprises terminate water supply to citizens, although the outstanding bills are overdue, i.e. they are considered as superannuated claims. Furthermore, the conductors of the activity, according to the Decision related only for the City of Skopje, may terminate water supply in case of two outstanding bills. In other Municipalities, disconnection of the consumers is regulated by the Decision on Utility Order; however they also conduct disconnection according to two to three consecutive outstanding bills.

In case of disconnection of citizens from the water supply system, a Submission procedure is not prescribed, which is opposite to the basic principle of the right to submission.

In the reporting period, the office of the Ombudsman received submissions of citizens expressing disappointment from the manner of conduction of payment of the fee

for collection and waste disposal together with the bills for water consumption, due to the fact that most of them want separate bills. This request was explained by the fact that in certain parts of the city of Skopje, the waste is irregularly collected, and because of that they are not satisfied with the services. Acting upon these submissions, the Ombudsman emphasized to the citizens that in this case it is about a technique of payment, which is approved by a Decision of the Council of the City of Skopje, and there is no impediment if they want to pay only for the service of PE “Vodovod i kanalizacija” – Skopje, they may do the same by a separate money order in the post office.

Apart from the current problems as a result of the current operation upon the submissions from this area in the previous year, professional and significantly good cooperation has been established with the responsible entities in PE “Vodovod i kanalizacija” – Skopje, which provides efficient action upon the submissions and removal of the possible injuries of the citizens’ rights. This compliance with the directions of the Ombudsman should be an example for other organizations with public authorizations, as well as the bodies of the State Authority.

Regarding the numerous problems of the citizens in the process of conduction of the activities of mass disconnection of the citizens that did not settled their bills from the water supply system, manifested by cases of disconnection of citizens that regularly and duly pay their bills, as well as disconnections due to superannuated claims, according to the Ombudsman the practice of disconnection should be terminated, without a Decision from a competent court in the interest of maintaining public health. This manner in the current conditions of operation of the courts shall certainly slow down the procedure, and shall expose public utility enterprises to additional costs, however, on the other hand, it shall be certainly provided not to injure the rights of the citizens that regularly fulfill their obligations.

Additionally, the Ombudsman has information that many legal subjects with higher amounts of outstanding bills for water consumption compared to the same of the citizens, fail to fulfill their obligation, however they are no disconnected from the water supply system, which presents unequal position of the citizens as individuals, apart from the fact that they are on a lower economical level. This leads to the fact that utility enterprises compensate for the above mentioned through conduction of payment of the citizens' bills. In this context, it is necessary to take actions for the future, to provide that all consumers, regardless whether they are households, business or industrial facilities, will fulfill their obligation of payment of the bills. This shall provide improvement of the quality of the service, reduction of losses, which shall bring to reduction of the current pressure for increase of the service price, which is in the interest of the citizens.

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Having into consideration the above mentioned, as elementary conditions for adequate implementation of the consumers’ rights as an integral part of the legal system, as well as the crucial element for provision of its function in the following period, the relevant state factors should undertake the following measures and activities:



- Preparation of complete legal regulation that shall take into consideration all situations faced by the citizens from the position as consumers, which activity would be conducted in the context of approximation of the domestic legislation to the standards of the European Union;
- Operation of adequate acts exactly related to public enterprises and other subjects from the field of economic activities of public interest, especially the position and function included in the system of service providers, which would act as a restriction to the monopoly position, in relation to creation of the prices for the services, as well as the attitude towards service users;
- Serious review of the possibility to introduce additional measures of social aspect is necessary, for the citizens that are in negative material condition, and which due to the objective socio-economic circumstances they encounter, cannot fulfill their obligations towards the service providers;
- Duly supervision and application of the adequate regulation by the market inspection, and
- Intensive cooperation of all competent institutions from the field of consumers' rights with the office of the Ombudsman, as well as acting according to the Ombudsman's interventions and directions.

6.12. Protection of the rights from the field of proprietary relations

As the basis for each economic system, principally, it is property, then, having into consideration the fact that the Republic of Macedonia has developed into a country with market economy, the basic type of property is private property. Due to this fact, the primary objective is adequate and legal transformation of the state property into private property. In this context, the fact that the remains of the socialist relationship towards property is still visible should not be neglected.

Otherwise, the condition for establishment of the legal state and market economy is the strict legal protection of property due to confidence building in the economic and legal system of the Republic of Macedonia.

Having into consideration the above mentioned, the Constitution of the Republic of Macedonia, in article 30, guarantees the right to property, with equal social and economic contents and significance.

According to the Constitution, the property is determined, on one hand, as an interest of the citizen, and on the other hand, as a public interest. It is due to that status, only in case of a public interest determined by law; there may be limitation of the right to property. In that case, the Constitution guarantees rightful compensation, which may not be lower than the market value.

The fact that the citizens everyday face non-realized rights according to the Law on Denationalization, and failure to fulfill state obligations towards those citizens, regarding tangible claims of different bases, are part of the basic reasons for initiation of a procedure due to provision of protection of the rights from the field of proprietary relations.

In that segment, the Ombudsman, in the context of the determined authorization, undertakes activities for protection of the citizens' rights in the following procedures:

- denationalization-return of the real estate rights in the Register of Real Estates,
- entering the rights to real estate in the Real Estate Register,
- Expropriation, i.e. realization and provision of the right to rightful compensation and its fulfillment, as well as
- Provision of the rights to construction land.

The Denationalization Council, the Commissions for Denationalization and the Authority for Proprietary issues, as well as bodies of the Ministry of Finance, the State Authority for Geodetic works with the sector in Skopje, and the departments for measurement and Real Estate Registry, and the Ministry of Transport and Relations with its bodies, together with the adequate commissions for settlement of administrative issues at second instance of the Government of the Republic of Macedonia are competent bodies that lead the procedure in the context of these requests of the citizens, i.e. which are within the competencies of the Ombudsman.

During the period of the previous year, due to realization of certain rights in the procedure in front of the above mentioned bodies, the office of the Ombudsman received 267 submissions. In greater part of them, i.e. 122 submissions, the Ombudsman stated existence of injury of the rights of the citizens- submitters, and due to eliminating the injuries, correct and legal settlement of the citizens' requests, 70 recommendations have been filed, two opinions, 10 suggestions, 38 decrees and two proposals, from which, in 41 of the cases, the bodies accepted and positively settled the citizens' requests, and the remaining 80 did not act or the result has not been submitted to the Ombudsman. The fact that in 113 cases, the Ombudsman did not conclude injury in the procedures should be noted, and overruled the same, partly without initiation of a procedure, and partly upon previously conducted procedure. Furthermore, in 17 cases, a procedure had already been violated in front of the competent court, which resulted in rejection of the same.

The bodies of the State Authority and organizations with public authorizations, with small exceptions, do not provide legal, professional, efficient and economic conduction of the operations and tasks, i.e., they are not organized in a manner that would be adequate to their competence and adjusted to the needs of the citizens. This situation results in unjust decline from the standard principles for conduction of the competence, according to the principles of law, responsibility, efficiency, economy, transparency, equality and justice in application of the legal provisions.

In that context, almost without exception in all procedures of first and second instance, the bodies of the State Authority act opposite to the provisions from article 218, and article 247 from the Law on General Administrative Procedure.

Namely, the first instance bodies, in the cases when it is not necessary to conduct special inspection procedure, they are obligated to adopt a decision and file the same to the client as soon as possible, at latest within a period of one month, counting from the day of submission of the request. In all remaining cases, this period is two months. On the other hand, second instance bodies that decide on the stated submis-



sions should adopt decision at latest within a period of two months, counting from the day of delivery of the Submission.

In this context, the delay of the procedures according to the filed requests for denationalization is characteristic. The provision of the Law on Denationalization provide for standards of imperative nature, according to which, this procedure is considered urgent, i.e. they determine a period of six months from the day of submission of the request for adoption a decision on denationalization, with the necessary legal correction – the case of existence of previous issue – announcement of inheritances (article 47, paragraph 2), and in case of initiation of litigation (article 56), however, the inspection in the operation on the case states the opposite.

The practical operation of the Ombudsman, in context of the lodged submissions, with contents of realization of the right to denationalization, confirms that the body for denationalization does not comply the term, which brings harmful consequences manifested as loss of the confidence of the citizens – former owners or their inheritors that the state shall finally eliminate the historical injustice. Furthermore, it is not rare, when, although adopted legally and fulfilled administrative act, by which the submitted request for denationalization has been accepted, the obligation for undertaking activities for fulfillment and placing in possession the returned asset to the former owners, i.e., their legal inheritors or unjust prolongation of the procedure for issuing bonds for denationalization as compensation for the nationalized real estate.

In the procedure of adoption of decisions, which are used in the decision making process upon this type of requests, violations of the rules of the procedure are made, due to the fact that they are wrongly and incompletely determined, as a result of incorrect application of the Substantive Law. Thus, in great number of cases, in context of the contents of the provision – article 49, paragraph 3 from the Law on Denationalization, the lodged files for denationalization shall be rejected as unfounded, only due to the fact that the submitters failed to lodge the evidence for ownership and expropriation act in their submissions for denationalization. Due to this situation the various lists of decisions from the field of agricultural reform and similar evidence shall not be taken in consideration, as well as the issued certificates from the competent body that conducts the operations related to the measurement, Real Estate Registry, and entering of the rights of Real Estate – the State Authority for Geodetic Issues.

It is indisputable that according to the content of the provisions from the Law on General Administrative Procedure, the Certificates and other documents on the facts included in the official records, issued according to the data of the official records, have significance of a public document, which means that they prove their contents. However, the Ombudsman appreciates the fact that the Certificate, i.e. other document issued in a legally prescribed manner, does not connect the body where it was submitted as evidence and which is competent for settlement of that issue, but, in that case it is possible and appropriate to initiate adequate procedure, which shall again determine the facts stated in the Certificate, i.e. other document.

Often, the procedures in front of the first instance bodies do not include additional activities, according to the content of the provision – article 51 from the Law on Denationalization, which prescribes when in case the requesting party cannot file the act

for expropriation and the evidence for ownership, and they are in possession of the current user or other body, i.e. organization, the body for denationalization will supply them *ex officio*.

Acting in this manner, they insufficiently determine the actual situation that results in incorrect application of the Substantive Law in adoption of the adequate administrative acts.

There are many cases where the requests for denationalization are rejected with explanation that according to the contents of article 8, paragraph 1 from the Law on Denationalization, subject to denationalization is not expropriated asset, for which compensation has been paid. Furthermore, during the procedure, the administrative bodies only state that compensation has been determined to the former owner for the expropriated asset – subject to denationalization, however they do not initiate additional determination of the fact whether the determined compensation has been paid, and finally almost never accept the citizens' requests filed in the context of the contents of paragraph 2 of the relevant article, and that is the expropriated asset for which compensation has been paid to be returned to them, and the requesting party should return the received compensation, under condition the nationalized asset to exist.

In relation to the quoted provision, the Ombudsman has pointed out several times that it is not sufficient to determine the compensation, but the same must be paid to the former owner, and the documents of the processed cases and rationales of the Decisions often show that the administrative bodies have not determined with certainty whether the same has been paid for the expropriated asset, as well as whether their is consent for the accepted compensation to be returned to the state.

The violation of the rights of the category of citizens, holders of the right to occupation obtained according to the law, i.e., right to use, which, according to the content of the provisions from the Law on Denationalization, is terminated due to the fact that the body does not state its opinion regarding the adopted decision for denationalization in the context of provision of their right to have another apartment to use, i.e. the possibility to purchase the same under the conditions determined by the Law on Sale of Social Apartments, guaranteed by article 70 from the quoted law.

Regarding the operation of the State Authority for Geodetic Works, i.e. the Department for Measurement and Real Estate Registry – Skopje, as well as the remaining departments for measurement and Real Estate Registry in the country, and during this reporting period, the Ombudsman remains to the previously stated conclusion that the delay of procedures at first and second instance is unfounded, and the decrees of the Ombudsman for elimination of the stated errors in the operation are not complied with. It should be noted that in every realized meeting with the heads of the Authority there is consent for the readiness to overcome the situation, but everything remains only as declaration. The bureaucratic relationship towards the citizens should be emphasized, their failure to be accurate in the actions upon the requests of citizens and the ignorant attitude towards the requests and decrees of the Ombudsman. The Ombudsman is not an institution, which is competent to decide and adopt certain administrative acts, but it can only state how and in what manner it should be decided, which contributes to creation of good and accurate administration in the function of the citizens, and the bodies are obli-



gated to comply with the opinion of the Ombudsman. In practice, the last of the above mentioned is not complied with, by the State Authority for Geodetic Works.

What is most characteristic in the procedures for expropriation, where Municipalities, i.e. units of Local Self-Government are users, and due to opening of accessible roads, is that the same, because of insufficient financial means, cannot be realized, and the problem is delayed infinitely. In this type of cases, the Ombudsman addressed the Councils of the Municipalities with its recommendations, as well as the adequate Funds for Utility development, and local roads, by decrees to settle the cases by priority, however very often there were no answers, and those received presented financial deficiency as the main problem.

One of the questions that deserves special attention, regarding the fact that the same is the content of the requests from the filed submissions, is the transformation of the right to use construction land regarding the fact that holders of the right to use construction land, by enforcement of the Law on Construction Land, may obtain right to property of construction land, according to the previous property of the same, by submission of a request, and upon that request the Ministry of Transport and Relations shall adopt a decision for transformation of this right.

However, it is indisputable that the Constitutional Court of the Republic of Macedonia has adopted a Decision U.No. 172/01, from 10.07.2002, by which, part of the Law, including the stated provisions (except from article 50), as well as article 7, paragraph 1, line 6 from the Provision for the manner and terms of transformation of the right to use construction land, property of the Republic of Macedonia, into a right to property or right to long term lease ("Official Journal of the Republic of Macedonia" No. 70/01) have been annulled, with explanation that with the legal concept for transformation, legal security of the citizens is questionable, as an element of the constitutional principle for exercise of the right, as well as the constitutional principle for equality of citizens in front of the Constitution and the law.

The issue for the manner, procedure and the period necessary for completion of the transformation of the right to use construction land into a right to property or long term lease was popular for great number of citizens in the previous year.

Namely, electronic media and other means for public information, have transferred decrees several times to the competent state bodies – representatives from the Authority for Proprietary Relations of the Ministry of Finance, and for lease of construction land, firstly until 1.09.2003, and then to 31.12.2003, and now prolonged to 31.03.2004, shall lose that right, the same being transformed into right to long term lease or it shall be sold under market terms.

In this context, the fact that the Decree for the manner and procedure for expropriation of construction land property of the Republic of Macedonia ("Official Journal of the Republic of Macedonia" No. 13/03 and 59/03), which normative decisions regulate only one segment of the rights to construction land, and relates to owners of facilities – users of construction built land, which for the right to use the land did not pay fee, from which it cannot be concluded that with expiring of the application date (at the moment to 31.03.2004) citizens shall lose that right.

The Ombudsman considers that it is the obligation of the State through the holder of the legislative authority – the Assembly of the Republic of Macedonia, in due time to remove the current legal void, by creation of the necessary conditions for introduction of property pluralism, in which, according to the new constitutional concept, private property should be dominant, as a basis for transformation of the legitimacy of the market and trade of construction land.

This is due to transformation of the right to use construction land into a right to property, may neither neglect nor violate property rights, to the citizens or the state, and neither determines the same opposite of the interest of the citizen.

Regarding this situation, in order to settle the above issues adequately, as well as due to provision of correct application of the prescribed procedure in the context of provision of efficient realization and protection of the right of citizens in the procedures, in front of the stated bodies, special information have been, on several occasions, submitted to the Minister of the Ministry of Finance, as well as the president of the Council for Denationalization. In this direction, special information have also been submitted to the President of the second instance administrative body – Commission for Settlement in administrative procedure at second instance, upon the cases from the field of denationalization, where in small number of cases, the Ombudsman received an answer, i.e. the second instance body has acted upon the case. Due to the same reasons, much information have been also delivered to the Commission for settlement at second instance administrative procedure upon the cases from the field of measurement, Real Estate Registry, and entry of the rights to real estate, which results in the answer in small number of cases, but mostly is incomplete. In great number of cases the Manager of the State Authority of Geodetic Works has been informed, with special emphasis to the operation of the Department for Measurement and Real Estate Registry - Skopje, due to the fact that most of the submissions apply to its operation, furthermore, a direct inspection and discussion with the Heads of the same has been realized several times, but there is no effect in relation to improvement of the operation. We would like to specially emphasize that the manager of the State Authority for Geodetic Works has been informed of the operation of the Department for Measurement and Real Estate Registry in Gevgelija, which fails to deliver the necessary data and information.

The Ombudsman in the efforts to provide as greater contribution as possible in alleviation of realization and protection of the citizens' rights tried to establish regular contacts and closer cooperation with the competent bodies and the Government of the Republic of Macedonia, in the function of superseding the citizens' problems from the field of proprietary relations. However, apart from these efforts, the Ombudsman considers that there are still great numbers of problems, which not only cannot be settled, but they are further enlarging. The problems are manifested through delay, great bureaucracy and high level of subjectivity during the process of the administrative procedure; incompetence, and in certain cases it may be said that there is lack of knowledge related to the regulations from the field of proprietary relations to the subjects included in the procedure, and causing harmful consequences for the citizens – parties in the procedure and non-equal application of the regulations.



According to the above mentioned, general characteristic of this reporting period is that realization of the rights from the field of proprietary relations, such as: the procedures for denationalization, expropriation and entering the rights in the State Authority for Geodetic Works, i.e. in the Department in Skopje, and the departments in the other cities, as well as the realization and provision of the right to construction land, as most regular requests from the citizens, have realized slowly and difficulty this year too. In the procedures, the citizens encountered various bureaucratic improvisations and subjective assessments, which bring to inaccuracy and delay of the procedures. All this is violation of the law and prevention of the citizens in their efficient realization of the rights, which finally results in loss of confidence in the institutions of the system. There are many cases of unprofessional behavior with the parties, and unequal application of the regulations. Within these frames, emphasizing the process of denationalization as a special structural change in the Republic, this process has not been completed yet, but also for the formally settled procedures from the previous years, there is no practical realization and result, and great number of initiated procedures have not been settled yet, although according to its nature, this process should have been efficiently completed.

These situations cause dissatisfaction of the citizens, and at the same time the Ombudsman is not satisfied of the accomplished results, and apart from the previous years, now it can be stated that there is certain improvement in the manner of operation and efficiency of the bodies in their activities upon the requests of citizens, but that is far from the level of the efforts and expectations of the Ombudsman.

There are certainly objective reasons for these situations, such as the inadequacy of the Law on Measurement, Real Estate Registry and Entry of the Rights to Real Estate, which is applied together with the Law on Measurement and Real Estate Registry of the Land, the Law on Expropriation, the Law on Construction Land, and the Law on Denationalization. Thus, although part of the regulations that regulate the relevant area present good normative and legal decision for the issue to which they apply, still there is a need for their upgrade, i.e., further precision of certain decisions, in order to provide correct application of the prescribed procedures.

In order to complete the given objective, it is necessary to improve the administrative capacity of the adequate institutions for efficient application and protection of the rights that are the result of property. By adequate settlement of the above mentioned issues, it shall be a contribution to superseding of the harmful consequences, such as: duration and expense of the procedures, impossibility for rapid and efficient realization of the rights, as well as superseding of the violation of the constitutional principle of equality of citizens, etc.

Due to provision of efficient and economical realization and protection of the rights, as well as due to improvement of the manner of operation, in the context of protection of the citizens' rights in general, and especially from the field of proprietary relations, the question for superseding of these fundamental problems in the country poses itself as a priority, by undertaking all normative measures and introduction of all possible practices for protection of property and rights that are the result of that property.

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In that direction, the following is necessary:

- The State Authority should perform its activities exclusively according to the principle of lawfulness, as well as according to the principle of non-discrimination and the principle of equal treatment;
- The principle of fair procedure should be respected, which is in relation to reasonable term and unbiased application of the law, and
- Promotion of the administrative capacity of the adequate institutions for efficient application and protection of the rights that arise from property.

In this reporting period, as well as in all previous, the Ombudsman, although competent for realization and protection of the citizens' rights, expresses complete readiness for active participation and cooperation in all other relevant subjects, due to superseding of the problems and creation of conditions and realization of greater cooperation, which shall bring to development of the processes of democratization of the all relations in the legal and political system of the Republic.

6.13. Protection of the rights in other fields

In the reporting period, the office of the Ombudsman received 158 submissions, which according to the contents and the requests were outside the scope of operations of this institution, determined by the Law on Ombudsman. The submitters mostly expressed their dissatisfaction from the Heads, i.e. managers of the trade companies, especially in relation to the adopted decisions for announcement redundancy or termination of employment, under any basis, prescribed in the Law on Employment. Furthermore, citizens as members of certain associations addressed and expressed certain dissatisfaction from the operation of certain individuals from the selected management structures in those associations. The submissions included decrees of the shareholders for errors in determination, entry and management of shares, and always as the managers of the association were pointed out as guilty.

Regarding the legal impediment for acting upon the submissions with this type of contents, the Ombudsman tried to assist submitters directly, by providing advice for the manner of requesting protection of the rights and the body where they can find that assistance, and always, in case of this type of submissions, did not initiate procedure. In part of the submissions grouped in this field, in the previous and also this year, citizens have expressed their dissatisfaction from the initiated procedure for transformation of the public capital, i.e. privatization, and they required intervention of the Ombudsman. In relation to these submissions, the Ombudsman advised the citizens, if they consider that the procedure for transformation of the public capital involves significant violations of the legal provisions, which result in damage to the public capital, they can address the Ombudsman, and the Agency, from which they may require financial, accounting and legal control of the legitimacy and correctness of performance of the procedure, which is in compliance with the provisions from article 52 from the Law on Transformation of the Enterprise with public capital.



7 *EXAMPLES FROM THE PRACTICE*

6.2-1. NP 182/03

M.D. and S.S. from Kumanovo, lodged a submission to the Ombudsman, which states that their constitutional and legal rights have been violated by the authorized entities from the Ministry of Internal Affairs of the Republic of Macedonia, in a police procedure, by physical torture in order to force confession for criminal act they have been accused of.

After examination of the stated facts in the submissions and the submitted material evidence, the Ombudsman estimated that the same is founded and initiated a procedure during which, concluded from the evidence that the activities of the four authorized persons from the Ministry of Internal Affairs Kumanovo included the characteristic of the criminal act "Torture" from article 142, paragraph 2 from the Criminal Law, and request for initiation of a procedure was lodged to the Basic Public Prosecution in Kumanovo due to establishment of criminal responsibility.

Acting upon the filed request, the Basic Public Prosecutor from Kumanovo filed a request to the competent court for conduction of an investigation, for which, the procedure is in process.

6.2-2. NP 193/03

M.L. from Skopje filed a submission, which stated that in the procedure for accession in citizenship of the Republic of Macedonia, the Ministry of Internal Affairs violated the constitutional and legal rights to the above mentioned, by issuing final and valid decision for refusal, apart from the fact that she fulfilled the conditions prescribed by the Law on Citizenship.

After examination of the stated facts in the submission and the submitted material evidence, the Ombudsman stated that the same is founded, and a recommendation was lodged in the procedure upon her additional application in relation to positive settlement of the actual request.

The recommendation issued in this manner was completely taken into consideration, and the body adopted a decision, which approved accession of the submitter in the citizenship of the Republic of Macedonia.



6.3.1-1. NP. 323/01

A.T. and other citizens from Kumanovo filed a submission to the Ombudsman related to initiation of activities for protection of their rights violated by unfounded delay of the procedure for conduction of a valid court decision, during which, they stated that conduction was not only prevented by the competent court, but also by the opposite party, i.e. the school where the submitters were employed, the Ministry of Education and Science, and the Ministry of Finance, which were obligated to undertake activities for conduction upon the valid and executive decision.

After examination of the stated facts in the submission and the presented facts, the Ombudsman stated that there is violation of the rights of the submitters, by the opposite party and by the competent court, and initiated a procedure, during which, filed recommendations to the opposed party, the Ministry of Education and science, the Ministry of Finance and the Government of the Republic of Macedonia, which stated the necessity of duly compliance of the valid and executive court decision, and in the intervention to the competent court emphasized the obligation and need of priority initiation of all activities, according to the provisions from the Law on Executive Procedure, due to realization of the right of the submitters.

After initiation of the activities for realization of the submitters' rights by the Ombudsman, the competent court adopted new executive decision, which was realized in short period of time, i.e. actions were taken upon the court decision, thus contributions and salaries were paid to the submitters, in the amount as determined in the court decision.

6.3.1-2. NP 988/03

V.S. from Kicevo filed a submission to the Ombudsman concerned with dissatisfaction from the initiated activities of the Supreme Court of the Republic of Macedonia, on the occasion of the lodged revision, and considers that the procedure is delayed without any reason. The submitter stated that due to the fact that it is about a working dispute, which has not been completed by a enforceable decision, addressed the President of the Supreme Court and required priority activities upon this issue, but the same was rejected.

The Ombudsman addressed the Ministry of Justice during the procedure, as a competent body for actions upon the submissions related to delay of court procedures and requested initiation of measures for acceleration of the procedure in front of the Supreme Court of the Republic of Macedonia.

Acting upon the request of the Ombudsman, the Ministry of Justice addressed the Supreme Court, due to priority actions upon the stated case, and afterwards the case was processed, and upon the same a decision was adopted.

6.3.1-3. NP 1595/03

S.R. from Tetovo filed a submission in front of the Basic Court in Tetovo, related to a litigation procedure started in 1994, which had its last hearing on 4.04.2003, when the trial was concluded, but apart from the long period, the above mentioned did not re-

ceive court decision in written form, and the submitter considers that his constitutional and legal rights have been violated.

After examination of the stated facts in the submission and the material evidence to the same, the Ombudsman estimated that in this case there is delay of the procedure, due to which, the president of the same court filed a suggestion, which was completely accepted, thus the decision was delivered to the submitter.

6.3.1-4. NP 826/03

G.G. from Strumica filed a submission related to a procedure initiated in 1983 in front of the Basic Court in Strumica, which has not been completed yet with a valid decision, and states that the procedure is delayed without any reason, resulting in violation of his constitutional and legal rights.

The Ombudsman states that the submission is founded, and initiated a procedure by submission of a recommendation to the State Court Council, and the case was popularized in the media, through the program "Justicija" on the Macedonian Television.

After initiation of these activities, the case was processed and the request of the citizen was accepted.

6.4-1. NP 736/03

S.M. from Skopje filed a submission related to violation of the constitutional and legal rights by the Ministry of Defense, by not paying compensation for conduction of flight training.

The Ombudsman states that the submission is founded, and the submitter had the right to adequate remuneration, according to the Law on Service in the Army of the Republic of Macedonia, the Rulebook on Salaries and Remunerations in the Ministry of Defense and the Rulebook amending the Rulebook on salaries and remunerations of salaries in the Ministry of Defense. During the procedure, the Ombudsman stated that due to deficiency of means in the Budget of the Republic of Macedonia, the submitter was deprived of his right, due to which, an Information was delivered to the Government of the republic of Macedonia for the need of provision of additional means dedicated for payment of certain claims of the members of the Ministry of Defense, prescribed by law.

The Government of the Republic of Macedonia acted completely upon the submitted information, and the submitter received the determined amount.

6.4-2. NP 1206/03

M.A. from Skopje stated in the submission that his constitutional and legal rights to regular education have been violated, and although he has filed an evidence that he is regular student of the Faculty of Electro engineering in Skopje, the above mentioned received an invitation for military service.



Acting upon the submission, the Ombudsman concluded that the submission was founded, and by written act to the regional department of the Ministry of Defense stated that in this case, all legal conditions for delay of the military service have been fulfilled.

This decree was completely complied with, and the submitter obtained delay of his military service.

6.5.1-1. NP 1810/03

S.S. from Skopje filed a submission to the Ombudsman related to a procedure in front of PI "Inter-municipal center for social issues of the city of Skopje" for establishment of the right to social financial aid, stating that his constitutional and legal rights have been violated by adoption of a decision, confirmed by the second instance body, which rejects the request for social financial aid.

The Ombudsman, upon examination of the facts from the submission and the lodged evidence stated that the same was founded because the reason for rejection of the request, i.e. the provisions from the Decision on amendment of the Decision on Terms, Criteria, Amount and Procedure for establishment and realization of the right to social financial aid, according to which the request should have been filed together with a bill for power consumption on the name of the requesting party, by Decision of the Constitutional Court of the Republic of Macedonia was annulled, and this obligation was no longer valid for the citizens.

Regarding the fact that the adopted Decision was final and valid, the Ombudsman suggested re-initiation of the procedure, which was accepted, and legal decision that accepted the request of the citizen was adopted in the repeated procedure.

6.5.1-2. NP 525/03

A.L. from Skopje in his submission stated that in the procedure for establishment of the right to social financial aid his constitutional and legal rights have been violated by PI "Inter-Municipal Center for Social Issues of the City of Skopje", by deprivation of his right previously approved, due to the fact that he had not settled his citizenship status, and that his occupation issue had not been settled.

The Ombudsman examined the stated facts from the submission, as well as the submitted material evidence, and decided that the submission is founded, and in the procedure in front of the second instance body, upon the submission of the submitter, recommended that the same should be accepted, and the disputable decision annulled, thus returning the case back to the first instance body for review and deciding.

The recommendation was completely accepted, and in the re-initiated procedure, the first instance body adopted a legally base decision, which accepted the request of the citizen.

6.5.2-1. NP 1403/03

Z.V. from Skopje filed a submission to the Ombudsman related to violation of his constitutional and legal rights by PI "Inter-Municipal Center for Social Issues of the City

of Skopje", due to the fact that he was assigned from a higher job position to a lower job position.

After examination of the stated facts from the submission, and the submitted material evidence, the Ombudsman stated that the same are founded due to the fact that during the decision making process for assignment on a job position, the Substantive Law had been incorrectly applied, i.e. it based on a provision from the Law on Public Servants, which was annulled by the Decision of the Constitutional Court of the Republic of Macedonia.

Due to these reasons, the Ombudsman lodged a recommendation for re-initiation of the procedure, which shall cancel the decision of the case, and this recommendation was completely accepted and the submitter of the submission was assigned to the adequate job position.

6.5.2-2. NP. 1964/03

M.O. and other citizens from Skopje filed a submission to the Ombudsman stating that the adopted Decisions on termination of employment due to economic, structural and similar changes, the Fund for Health Insurance of the Republic of Macedonia violated the rights that arise from employment, because the decision were not valid.

The Ombudsman concluded that the same was founded, initiated a procedure in front of the second instance body, and emphasized the need for review of the adopted decisions on termination of employment, especially in the direction of family- financial condition of the submitters.

This decree of the Ombudsman was completely accepted, the disputed decisions were cancelled and the submitters withheld the status of employed people.

6.5.3-1. NP 356/03

B.Z. from Skopje stated in the submission that the procedure for assignment of an apartment in front of the Commission for Occupational Issues in the Government of the Republic of Macedonia violated her constitutional and legal rights by not considering her request based on the provisions of the Law on Special Rights for the members of the security forces of the Republic of Macedonia, and the members of their families, apart from the fact that the other requesting parties had been positively settled.

The Ombudsman concluded that the request was founded, and submitted a recommendation to the competent commission for urgent and priority positive settlement of the request of the submitter.

This recommendation was completely accepted and a decision was adopted, which approved assignment of an apartment on lease.



6.5.3-2. NP 153/03

O.M. from Skopje, filed a submission to the Ombudsman related to violation of the constitutional and legal rights, due to the fact that as holder of the right to Occupation for the apartment, which was returned in a procedure for denationalization to the former owners, she did not receive another apartment to use, apart from the fact that a period more than one year passed from the moment when the former owners obtained the right on that apartment.

The Ombudsman stated that the rights of the submitter were violated, according to article 70 from the Law on Denationalization, and in order to settle this issue, submitted a suggestion to the competent commission in the Government of the Republic of Macedonia, requesting correct application of the provisions from the Law on Denationalization, which was completely accepted and the submitter received another apartment to use.

6.6.1-1. NP 236/03

C. S. from Prilep stated in the submission that the procedure for recognition of compensation for salary during a period of temporary prevention from work due to pregnancy, giving birth and motherhood in front of the Fund for Health Insurance, violated her constitutional and legal rights, by refusing the request as unfounded by a suitable decision.

After examination of the submitted facts and evidence, the Ombudsman concluded that the submission is founded, and during the re-initiated procedure, which was initiated by the submitter upon suggestion of the Ombudsman, by a written act stated to the competent body that there are not legal impediments for acceptance of the request, i.e. all legal conditions are fulfilled for adoption of a legal decision.

This recommendation was completely accepted by adoption of a legal decision, which granted the right to compensation for the total period, for which previously compensation was not granted.

6.6.1-2. NP 1661/03

B.G. from Prilep addressed the Ombudsman with a submission stating that the Regional unit of the Fund for Health Insurance prevented her from realization of the right to compensation of expenses for procured medicines, on the positive list, due to the fact that she has already filed two requests for realization of this right, but she did not received answer for both requests.

According to the legal provisions, the facts from the submission are founded, the Ombudsman conducted an inspection in the Fund for Health Insurance, stating that the request of the citizen should be accepted, and that by failure to act upon the requests, they violate the legal rights, due to which, the Ombudsman requires urgent adoption of suitable administrative act.

The Fund for Health Insurance, upon the suggestions of the Ombudsman, undertake the necessary activities and adopted a decision on recognition for compensation of

the expenses for the procured medicines, which means that the citizen has realized her legal right from the field of health care.

6.6.2-1. NP 441/03

I.T. from Skopje filed a submission to the Ombudsman related to violation of the constitutional and legal rights in the procedure for recognition of the right to disability pension in front of the Pension and Disability Fund, by determination of a lower pension amount from the one that should be monthly realized.

The Ombudsman, according to the stated facts and evidence concluded that the first instance body has incorrectly applied the Substantive Law, determining that the disability of the submitter is a result of disease, and not a result of injury on the job position. Due to these reasons, the Ombudsman, during the procedure, suggested to the second instance body that the submitter was injured on the job, resulting in disability, and due to these reasons the monthly amount of the pension should be 80% of the pension basis.

During the procedure, the competent body completely complied with the position of the Ombudsman, and correctly applied the legal provisions, resulting in a decision, approving new amount of the disability pension to the submitter.

6.6.2-2. NP 1716/02

T. R. from Ohrid filed a submission related to violation of the constitutional and legal rights by the pension and Disability Fund of the Republic of Macedonia, by canceling the Decision from 1998, ex officio, in the re-initiated procedure, which recognized and determined the right to old age pension, a new decision was adopted to a lower amount to a proportional part of the previously established old-age pension, thus terminating provision of the pension.

After examination of the stated facts and evidence from the submission, the Ombudsman concluded that the new decision of the submitter violated the rights because in the re-initiated procedure, ex officio, the working experience had not been taken into consideration realized by the submitter in the Republic of France, for which the submitter filed evidence from the French holder of the insurance.

In the re-initiated procedure, upon request of the citizen and upon intervention of the Ombudsman, the Fund adopted a new decision based on a Law, with which the request of the submitter was accepted.

6.7-1. NP 1487/03

B.Dz. from Prilep filed a submission stating that in the procedure in front of the State student's center "Skopje", for accession and accommodation into the state students homes in the school year 2003/2004, her constitutional and legal rights were violated by refusal of her request, apart from the fact that she fulfilled all prescribed and determined conditions and criteria.

After examination of the submitted facts and evidence, the Ombudsman concluded that the request was founded and initiated a procedure, during which, conducted



a direct inspection into the documents of all candidates – participants in the competition, and concluded numerous discrepancies.

Due to removal of the discrepancies, the Ombudsman submitted a recommendation to the Ministry of Education and Science, as well as to the State Student's Center "Skopje", which was accepted and in the re-initiated procedure the submitter received positive answer to her request, and the same was accommodated in the State Students Home "Goce Delcev" – Skopje.

6.7.-2. NP 782/03

A.B. from Veles stated in the submission that her constitutional and legal rights as a student of the Faculty of Philology in Skopje have been violated, by the fact that apart from the Decision adopted by the Faculty for extended February exam session in March, without payment of participation, stated in the student's index, one month later, she was obligated to pay the participation.

After examination of the submitted facts and evidence, the Ombudsman concluded that the request was founded and initiated a procedure, during which, concluded that the extended February exam session without payment of participation did not relate to students that pay for their study expenses, however the same was not clear and emphasized in the act of the Faculty, Due to these reasons, as well as due to the fact that in the index of the student was written that the same was released from payment of participation, the Ombudsman stated its position that students must not be confused, and required to pay participation.

This decree of the Ombudsman was accepted by the Faculty Authority, and at the same time the fee for studies in the year 2002/2003 was reduced for 50%, and a possibility to pay the amount in five installments was allowed, which is a relief for the students.

The submitter, furthermore, stated that due to the financial condition, she is not even capable to pay the reduced amount, and by intervention of the Ombudsman, she was allowed to individual reduction of the determined amount for an additional 50%, which completely fulfilled her request.

6.8-1. NP 1790/02

A group of students from the State Secondary School "Ljupco Santov" from Kocani filed a submission to the Ombudsman, stating that their constitutional and legal rights have been violated by their Accounting teacher, by incorrect and unprofessional attitude of the above mentioned teacher, who on many occasions psychologically tortured and insulted the students, and due to the low quality education they were forced to attend private lessons at the same teacher.

The Ombudsman, upon examination of the stated facts and evidence, concluded that the request was founded and filed a decree to the State Educational Inspectorate, as well as to the headmaster of the school, and required each of them, within their authorizations, to initiate adequate measures for settlement of this situation.

This decree was completely accepted, and upon the undertaken activities by the competent inspectorate and the headmaster of the school, the issue was settled, from the aspect of attitude of the teacher during the classes, as well as the attitude of the students during the classes.

6.8-2. NP 110/03

A.T. from Skopje, filed a submission to the Ombudsman related to a procedure in front of the PI "Inter-Municipal Center for Social Issues of the City of Skopje", which violated the constitutional and legal rights, by undertaking activities for superseding the issue caused by his former wife, who prevented his right as a parent to contact his minor child.

The Ombudsman concluded that the facts and evidence in the submission were founded and filed a suggestion to the Center to consult both parents and at the same time to conduct direct dialogue with the mother of the minor child.

As a result of the initiated activities, both parents corrected their behavior, and the visits started to realize without any problem.

6.9.1-1.NP 919/03

Lj. I from Prilep filed a submission to the Ombudsman stating that in the procedure for issuing permit for construction of a superstructure, where the neighbor is the investor, in front of the Regional unit of the Ministry of Transport and Relations in Prilep, her constitutional and legal rights have been violated, by the issued permit was against the adequate legal regulation.

The Ombudsman filed a recommendation to the second instance body competent for the submission, stating that the submission is founded and the same should be accepted.

This recommendation was completely accepted, and in the re-initiated procedure, the request of the investor was denied, which realized the right of the submitter.

6.9.1-2. NP 737/03

D.N. from Kumanovo stated in the submission to the Ombudsman that in the procedure in front of the Regional unit of the Ministry of Transport and Relations in Kumanovo, which was initiated upon request of his neighbor for obtaining a permit for reconstruction, extension and super construction, he was not included in the procedure, and the first instance administrative body failed to re-initiate a procedure, according to the instruction stated in the verdict of the Supreme Court of the Republic of Macedonia.

After examination of the stated facts and evidence, the Ombudsman concluded that the request was founded, and submitted a recommendation to the competent administrative body, stating that it is necessary to terminate the procedure with a conclusion, and after obtaining the court decision for replacement of the consent, to continue the same.



The competent administrative body, upon the given recommendation, adopted a conclusion, which terminated the procedure, and directed the investor to the competent court, to initiate the court procedure.

6.10.1-1. NP 154/03

S.M. from Resen stated in the submission that in the procedure for determination of a tax basis for heritage and gift tax, which was initiated in front of the Ministry of Finance, Authority for Public Revenues - Regional Directorate in Bitola, Tax Department in Resen, her constitutional and legal rights were violated, by obligation to pay a tax on gift, apart from the fact that the submitter, as receiver of the gift, by an adequate decision of a competent body, was completely accepted from the giver of the gift, which is a condition for release from payment of tax on heritage and gift.

After examination of the submitted facts and evidence, the Ombudsman concluded that the request was founded, and filed a recommendation to the Ministry of Finance – Department for second instance administrative procedure, stating that the recipient of the gift in relation to the giver is a legal successor from first inheritance order, and the same should be released from payment of tax on heritage and gift.

This recommendation was completely accepted, and in the re-initiated procedure, a decision was adopted, which released the submitter from payment of the tax on gift.

6.11-1. NP 399/03

T.B. from Skopje stated in the submission to the Ombudsman that he received unfounded bills for power consumption regarding his weekend house with calculated broadcasting tax from AD “Elektrostopanstvo na Makedonija” – Subsidiary “Elektrodistribucija” – Skopje, and apart from the fact that he duly paid all the bills together with the bills for power consumption for his apartment in Skopje.

After examination of the facts and evidence, the Ombudsman concluded that there is violation of the constitutional and legal rights of the citizen, and pointed out to AD “Elektrostopanstvo na Makedonija” – Subsidiary “Elektrodistribucija” – Skopje, that they acted against the provisions of the Law on Obligations and the Manual for the procedure for conduction of changes in the Registry for users of radio and television.

The given recommendation was completely accepted, and the disputed bills were withdrawn, and the citizen released from the obligation to pay the same.

6.11-2. NP 584/03

Acting ex officio, and upon the published headlines in the means for public information regarding the mass disconnections from the Water Supply System in Strumica, started by PUE "Komunalec" Strumica, during which, citizens that duly and timely fulfilled their obligations were also disconnected, the Ombudsman considered that the constitutional and legal rights of a greater group of citizens have been violated, and established a case and initiated a procedure.

In order to protect the rights of the citizens that fulfill their obligations, the Ombudsman submitted a recommendation to the stated public enterprise, stating that in case of application of the provisions from the Decision on Communal order, they must comply with the provisions from the Law on Obligations, and the Law on Executive Procedure, which direct to the fact that the citizens are not solidarity obligors, and that each of them has a special obligor and trustee relationship with the service provider.

This recommendation was completely accepted and the Ombudsman was informed that all facilities of regular customers were connected.

6.12-1. NP No. 18/03

J. Z. from Skopje filed a submission to the Ombudsman stating that he was excluded from the procedure for presentation to public inspection of the data for real estate and determination of the rights to real estate, which was conducted by the sector for measurement and real estate Registry in Skopje of the State Authority for Geodetic Works, and an administrative act-decision was adopted, which enters the right to use the relevant real estate by other entities, and apart from the fact that the submitter was a former owner and present user of the relevant real estate, which violate his constitutional and legal rights

The Ombudsman concluded that in the process of decision making, regarding the disputed decision, the Substantive Law was incorrectly applied, and due to those reasons filed a proposal to the competent administrative body for re-initiation of the procedure, and proposed the case decision together with the consequences resulting from the same to be cancelled and conduct another procedure for undertaking the necessary activities, which shall also include the Ombudsman and the submitters.

This proposal was completely accepted, and the request of the citizen fulfilled.

6.12-2. NP. No. 368/03

M.Z from Skopje filed a submission stating that the Ministry of Finance, Authority for Proprietary issues, Department in Municipality Karpos, violated his constitutional and legal rights in the procedure for clearance and assignment for permanent use of a construction land, because more than 25 years, by adequate administrative acts, the decision adopted in 1977, which determined expropriation of the relevant land, was announced annulled.

After examination of the stated facts and evidence, the Ombudsman concluded that the submission was founded, due to the fact that the adopted administrative act violated the Substantive Law, i.e., the relevant provisions from the Law on General Administrative Procedure have been incorrectly applied, related to the conditions for announcement of annulled decision. Due to these reasons, the Ombudsman recommended to the second instance body, to annul, ex officio, the newly adopted administrative acts, which violate the rights of the submitter. This submission was completely accepted, and the request of the citizen was fulfilled.