

Introduction

The Ombudsman, in compliance with article 24 of the Law on Ombudsman, has an obligation to submit an annual report on the work within his authority to the Assembly of the Republic of Macedonia. In compliance with the same article the Ombudsman is due to submit the report on his work to mass media as well.

The aim of the report is the Ombudsman to inform the representatives and the public about the problems, grievances and irregularities that citizens of the Republic of Macedonia are facing in the realization of constitutional and legal rights before the bodies of state administration and other bodies and organizations with public authorities, as well as about the measures and activities this institution is undertaking for the purpose of protection of the rights of the citizens and elimination of stated irregularities and mal-administration in the work of these bodies. Also, the Report should serve to the Assembly as an instrument in performing political control and supervising the work of the bodies of state administration and other bodies and organizations in application of the Constitution, laws and other regulations in regard to realization of the rights of the citizens, as well as control and supervising over the holders of public functions that are elected by and are responsible before the Assembly.

Hence submitting the fifth annual report The Ombudsman expects the Assembly of the Republic of Macedonia to have a thorough insight of the report, and within its authorities to undertake appropriate measures and activities for overcoming of the stated irregularities, which will ensure a consistent respect for the constitutional and legal rights of the citizens.

Methodological approach by which the report was drafted and the review of current affairs, problems and grievances that citizens are facing in realization of their rights before the authorized bodies and organizations, as well as numerical data presented in the Report, give a true picture and possibility to realize the situation in the country in regard to the respect and the realization of the constitutional and legal rights of the citizens, the

activities and measures undertaken by the Ombudsman for overcoming of the situation, as well as the measures and activities that should be undertaken by the competent bodies for improving the situation and creating adequate conditions for effective realization of the rights of the citizens.

1 REALIZATION OF THE SCOPE OF WORK

This year we had the fifth anniversary of existing and functioning of the Ombudsman as an independent and autonomous organ with the competence to protect the constitutional and legal freedoms and rights of the citizens when they shall be violated by the bodies of the state administration and other bodies and organizations with public authorities. Unfortunately, this year, as well as previous years, will be noted as a year in which generally in provision, respect and protection of human rights were not made any significant positive changes. Frequent violations of the basic human freedoms and rights did not leave much room for satisfaction and celebration of the five years of existence of this institution. Still, this gave us the opportunity to remind ourselves for everything we have done and undertaken as a newly created institution for protection of the rights of the citizens, what should be done to that end to improve the situation, but also to give a general evaluation of the results of acting and justification of the existence and functioning of this institution in the legal-political system of the state, being aware that five years is relatively short period to give an objective and critically well-founded evaluation.

Claiming that a certain institution has achieved highest results in the prevention or post-protection of the human rights and freedoms is a great responsibility nowadays because we live and act in time of disturbed security, with small guaranties of the great constitutional rights, with acting and permanent corrections in respect of restricting of these rights, instead of developing this process to democratization of the relations and bigger human rights, because we are witnesses of trade with people and human body, various forms of organized crime, labor exploitation, high rate of unemployment and radical falling of the standard of living under the critical point, violence in the families, threatening of the freedom of movement, kidnappings, blackmails, rapes, banditry and other antisocial occurrences that has nothing in common with the situation and conditions in which the Ombudsman should act, not for eradicating these evils, but for protection of violated freedoms and rights, which in comparison with what has been stated and what is happening in the society is minor and irrelevant.

Hence, apart from this situation and conditions the past five years of functioning of the Ombudsman may be evaluated as positive and successful. Data and analyses show that we have achieved satisfying results that lead to an evaluation that the institution Ombudsman enjoys trust and are generally accepted by the citizens, and they already exercise their interests. Hence the conclusion that acting in this direction the Ombudsman in the past period confirmed and justified

the beliefs that as autonomous and independent organ, controlling mechanism, and mediator, in cooperation with other controlling mechanisms in the state has essential influence on protection of human rights, and directly influences and contributes to the efforts of the Government to transform the state administration and organize it into a modern, expert and efficient service of the citizens.

Our evaluation was confirmed by the research of the public opinion carried out in February 2003 by the Forum-center for statistical researches and documentation, and under patronage of Organization for Security and Cooperation – Office in Skopje (OSCE).

Situation and conditions in which the Ombudsman was acting and exercising the constitutional and legal competencies this year, again, were not much different from the preceding years. We may say that they were even more complex and more specific in a decade of existence and functioning of the Republic of Macedonia as a sovereign was, autonomous, democratic and social state. This year will be noted as a post conflict year and a year of stabilization, first of all in the field of security because of the fact that after the armed conflict in 2001 during which interethnic relations and multiethnic coexistence were disturbed, the need arose, first of all, to stabilize the security situation and to enable the displaced persons to return to their homes. All that imposed the need for undertaking adequate measures and activities by the competent bodies in order to find forms, methods and ways for building models of common values and needs that would create grounds for peaceful and tolerant coexistence free of ethnic, political and other prejudices.

Although the Framework Agreement and on its basis made constitutional changes make a good ground for undertaking measures, activities and concrete positive steps, its slow implementation by the competent bodies, even by the competent politicians, who have wasted there efforts unnecessarily in political outwitting in order to score political points for the parliamentary elections held in September, had a negative impact on the entire social political life, especially on respect and protection of human rights.

However, even in this conditions, exercising the constitutional and legal competence and program activities, the Ombudsman undertook numerous measures, activities and interventions to improve the situation pertaining to provision, respect and protection of the constitutional and legal rights, but it must be pointed out that without the responsibility and general support by all relevant subjects, especially bodies over which the Ombudsman handles with authority, hardly we can expect and provide the requisite level of respect and protection of human rights, and that would mean difficulties in realization of the function of the Ombudsman.

1.1. Scope of work

In this reporting year the Ombudsman handled in total 2.238 complaints, lodged by over 3.000 citizens, of whom 1.878 complaints were lodged in the reporting period, and 360 were transferred from the previous year. With respect to

the previous year, when 1.107 complaints were admitted, this year that number is increased for 62.05%. The Ombudsman in 30 cases has brought legal action on his own initiative. Also, this year for interviews were summoned over 3.500 citizens of whom 955 were summoned outside of the Ombudsman's Office in the bigger municipalities throughout the Republic, and telephone conversations were performed with over 4.000 citizens. Nevertheless, it should be always born in mind that the scope and effects of the work should not be evaluated solely on the accounts of admitted complaints and the interviews held with the citizens, but also on the accounts of measures, acts and activities undertaken by the Ombudsman in the overall operating and functioning of the institution.

Significantly increased number of complaints admitted this year, according to the Ombudsman is due first of all to the popularization, affirmation and presence of the Ombudsman amongst the citizens, which has been done systematically and continuously for the past years, and especially this year; it is also due to the persistence and determination of the Ombudsman to help the citizens in realization of their rights and interests, but of course, it is due to the frequent and constant violations of human rights by the bodies of the state administration, especially present in this post conflict and election year in which there was significant presence of violations of the rights from the field of labor relations and housing, expressed by disregard of the administrative procedure and evading the institute public announcement.

1.2. Overview of the lodged complaints according to fields

A largest number of complaints by means of which the citizens sought protection are from the field of urbanism and construction building 317 or 14.17%; it is followed by the field of judiciary 311 or 13.90%; from the field of labor relations 292 or 13.05%; from the housing relations 253 or 11.30%; from the field of property rights 230 or 10.27%; from the protection of the rights in police proceedings 168 or 7.50%; from the field of pension and disability insurance 144 or 6.44%; from the field of consumer rights (communal care and other contributions) 140 or 6.25%; protection of the children's rights 78 or 3.48; social rights 60 or 2.68%; medical protection 45 or 2.01%; education, science, culture and sport 35 or 1.57%; violations of the rights of army officers and draftees 26 or 1.17%; from the field of the environment 24 or 0.71%; finances and financial work 16 or 0.71%; rights of the communities that are not in the majority 5 or 0.23%; from the field of customs 1 or 0.04% and from other fields 93 or 4.15% complaints. (**Table 1, page 6 and Chart 1, page 7**)

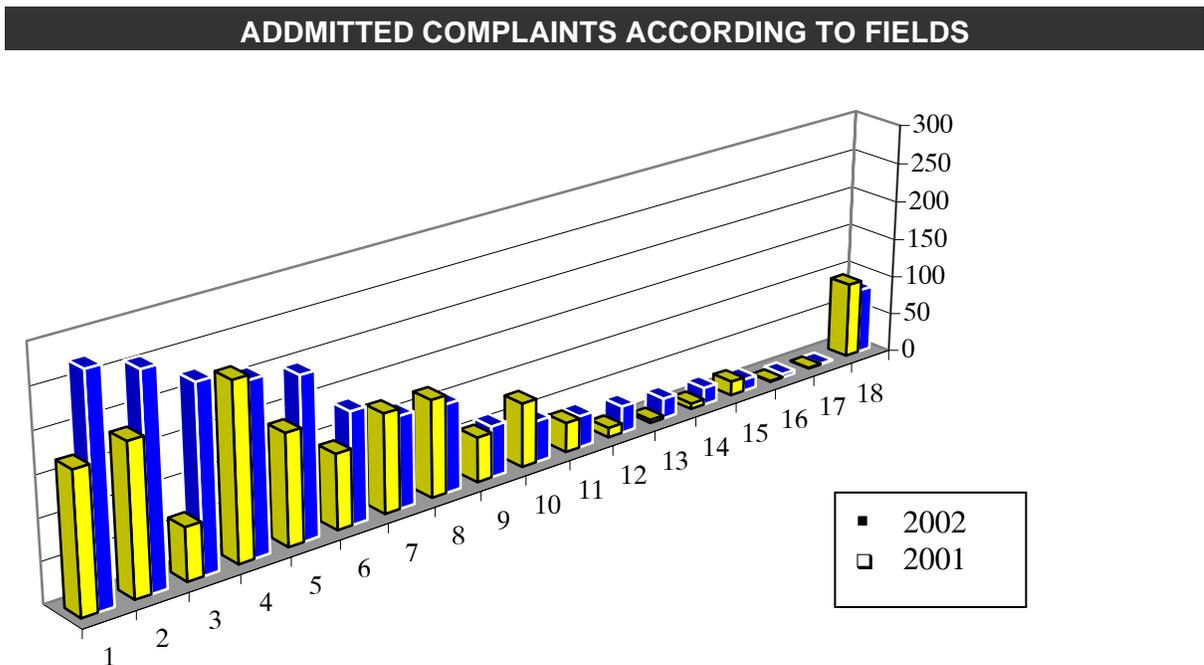
With regard to the last year, the overview of the lodged complaints according to fields shows that that proportion has not significantly changed, that is there is negligible decrease or increase in the number of the complaints with respect to some of the fields. Regarding the bodies and organizations the complaints refer to, it is noteworthy that the largest number of complaints refer to the acts and activities undertaken and brought by the Ministry of Justice, Ministry of Transport and Connections and Ministry of Labor and Social Policy, followed by the

Ministry of Finance and Ministry of the Interior, that is bodies and organizations these and other ministries are governing. (Table 2, page 8)

Table 1-2002

OVERVIEW OF THE FIELDS															
Admitted, resolved and pending cases from 01.01.2002 - 12.31.2002															
	Admitted complaints in 2002	Number of lodgers of complaints	Number of complaints transferred from 2001	Total number of complaints processed	Handling method						Information to the Minister	Information to the Government of the Republic of Macedonia	Total resolved cases	Pending cases	
					Number of acknowledged anonymous complaints	Rejected complaints	Lodgers given up complaints	Resolved differently	Ascertained violations						
									Issued opinions, suggestions, recommendations	Complied with the intervention of the Ombudsman					Not complied with the intervention of the Ombudsman
Protections of the rights of communities not in the majority	5	5		5		1						1	4		
Protection of the rights in police proceedings	138	160	30	168		69		11	25	12	13	6	6	105	63
Protection of the rights from the field of judiciary	277	476	34	311	1	201	1	11	13	10	3			227	84
Protection of the rights of army officers and draftees	26	26		26		18			1		1	1	1	19	7
Protection of the rights from the field of social rights	52	52	8	60		24	2	1	13	8	5	4		40	20
Protection of the rights from labor relations	259	633	33	292	4	109	10	4	60	24	36	3	2	187	105
Protection of the rights from housing relations	227	261	26	253	2	37		4	186	157	29			229	24
Protection of the rights from the field of medical protection	40	40	5	45		18	1	1	17	13	4	1		37	8
Protection of the rights from the field of pension and disability insurance	114	127	30	144	1	81	1	3	26	24	2	1		112	32
Protection of the rights from the field of education, science, culture and sport	34	51	1	35		16	1		9	8	1		1	26	9
Protection of the rights of children	64	97	14	78		17		2	37	28	9	2		56	22
Protection of the rights from the field of urbanism and construction building	211	344	106	317		113	4	14	37	9	28			168	149
Protection of the rights from the field of environment	22	101	2	24	1	13		1	5	2	3			20	4
Protection of the rights from the field of finances	15	93	1	16		8			3	1	2			11	5
Protection of the rights from the field of customs	1	2		1											1
Protection of the rights from the field of property rights	199	273	31	230		83	5	1	84	15	69	1	5	173	57
Protection of consumers' rights	110	165	30	140		44	7	1	28	14	14			80	60
Protection of the rights in other fields	84	171	9	93	2	61		4	8	4	4	1		75	18
TOTAL	1878	3077	360	2238	11	913	32	58	552	329	223	20	15	1566	672

Chart 1–2002



		2002	2001
Judiciary	1	277	171
Labor relations	2	259	184
Housing relations	3	227	184
Urbanism and construction building	4	211	217
Property relations	5	199	137
Police proceedings	6	138	93
Pension and disability insurance	7	114	123
Consumers' rights	8	110	121
Children's rights	9	64	56
Social rights	10	52	80
Medical protection	11	40	37
Education, science, culture and sport	12	34	12
Military officers and draftees	13	26	4
Environment	14	22	7
Finances	15	15	18
Rights of the communities not in the majority	16	5	1
Customs	17	1	1
Other fields	18	84	96

Table 2-2002

OVERVIEW ACCORDING TO BODIES AND ORGANISATIONS																	
Bodies the complaints refer to	Admitted complaints	Number of complaints transferred from 2001	Total number of complaints processed in 2002	Handling method													
				Number of acknowledged anonymous complaints	Rejected complaints	Given up complaints	Resolved differently	Ascertained violations of human rights			Information to the Minister	Information to the Government	No. of total resolved cases	Pending cases	Percentage of ascertained violations in resolved cases (%)		
								Issued opinions, suggestions, recommendations, comments	Bodies and organizations complied with the interventions of the Ombudsman	Bodies and organizations did not comply with the interventions of the Ombudsman							
1	2	3	4	5	6	7	8	14	15	16	17	18	19	20	21		
1 Ministry of Defense	37		37		19			6	2	4	2	1	25	12	24.00%		
2 Ministry of the Interior	157	39	196		76		11	31	18	13	7	6	118	78	26.27%		
3 Ministry of Justice	275	65	340	1	190	1	11	13	10	3			216	124	6.02%		
4 Ministry of Transport and Connections	369	76	445	2	122	4	13	206	160	46	1	1	347	98	59.37%		
5 Ministry of Economy	7		7		5			1		1			6	1	16.67%		
6 Ministry of Finances	163	15	178		69	4		67	6	61		4	140	38	47.86%		
7 Ministry of Labor and Social Policy	196	48	244	1	103	6	4	62	45	17	5		176	68	35.23%		
8 Ministry of Education and Science	98	8	106		43	5	3	30	19	11	2	2	81	25	37.04%		
9 Ministry of Culture	8		8		3			4	1	3			7	1	57.14%		
10 Ministry of Health	52	3	55		11	1	1	21	15	6	1		34	21	61.76%		
11 Ministry of Foreign Affairs	2	1	3		2								2	1	0.00%		
12 Ministry of Agriculture	6	1	7		3	1		1	1				5	2	20.00%		
13 Ministry of Environment and Planning	10	1	11	1	4		1	4	2	2			10	1	40.00%		
14 Government of the Republic of Macedonia	99	16	115		35		9	17	7	10		1	61	54	27.87%		
15 Privatization Agency of the RM	5	6	11		3		1	3	3				7	4	42.86%		
16 State Institution for Geodetic Affairs	48	2	50		28	1		15	9	6			44	6	34.09%		
17 Ministry of Local self-government	60	9	69		33			15	2	13			48	21	31.25%		
18 Public enterprises, institutions, and services	98	56	154		55	6		35	21	14	1		96	58	36.46%		
19 Other bodies and organizations	21	3	24	2	6		1	5	1	4			14	10	35.71%		
20 Other	167	11	178	4	103	3	3	16	7	9	1		129	49	12.04%		
21 TOTAL	1878	360	2238	11	913	32	58	552	329	223	20	15	1566	672	35.25%		

According to the residence of the complainants, the largest number of the complaints are from Skopje–764. One complaint was lodged from Austria, Norway and Spain. This proportion, with negligible deviations is plausible and corresponds to the number of citizens according to their residence (**Table 3**).

Table 3

No.	Cities	No. of complaints per city		No.	Cities	No. of complaints per city	
		2001	2002			2001	2002
1	Berovo	4	10	25	Ohrid	52	71
2	Bitola	65	103	26	Pehcevo	5	4
3	Bogdanci	1	5	27	Prilep	76	110
4	Valandovo	4	4	28	Probistip	23	15
5	Veles	43	63	29	Radovis	47	39
6	Vinica	1	7	30	Resen	15	7
7	Debar	4	6	31	Skopje	386	764
8	Delcevo	10	25	32	Struga	27	35
9	Demir Hisar	5	7	33	Strumica	34	50
10	Demir Kapija	1	-	34	Sveti Nikole	12	14
11	Dojran	1	-	35	Tetovo	22	53
12	Gevgelija	16	25	36	Stip	66	83
13	Gostivar	21	71	37	Australia	-	1
14	Zletovo	-	3	38	Norway	-	1
15	Kavadarci	36	67	39	Rep. of Albania	1	-
16	Kicevo	28	59	40	Rep. of Bulgaria	1	2
17	Kocani	21	44	41	Germany	-	3
18	Kratovo	5	12	42	Rep. of Slovenia	-	-
19	Kr.Palanka	7	15	43	Rep. of Yugoslavia	-	4
20	Krusevo	6	9	44	Rep. of Croatia	1	-
21	Kumanovo	37	60	45	Sweden	1	-
22	M.Kamenica	11	6	46	Spain	-	1
23	Mak.Brod	8	11				
24	Negotino	2	9				
					TOTAL	1107	1878

1.3. Handling method and deciding on the complaints

Although in compliance with the Law the Ombudsman does not have determined period for handling, the complaints are handled urgently. Thus, if it was deemed that the intervention on the complaint could be carried out without additional checking, it was decided upon immediately; if the need arose to supplement and check the complaint it was requested both from the competent organ and from the complainant to provide all the necessary clarifications and supplementing of the allegations; if necessary, investigation into the bodies was launched, and responsible or other officials were summoned for interviews for the purpose of clarification, also some other acts were used in order to clear up the case and to establish the facts.

Hence while handling the complaints, and with purpose of checking the allegations, it was requested for 1.500 written announcements, urgencies and another written, oral and telephone interventions, and the bodies replied to 500 of these requests within the period determined by the Ombudsman. Also 300 inspections of official documents of the bodies were carried out, 25 officials were summoned for interviews, and only 12 of them answered, while the others didn't

explain their absence; five high officials were also summoned and they didn't answer. For the purposes of clarification of the complaints, in compliance with the law, other persons were summoned, usually the complainants, so from 50 other persons summoned for interviews, 47 answered, and only 3 did not answer.

Presented data speak enough of the attitude of the officials regarding the requests of the Ombudsman, for which reason in accordance with the law, and with purpose of speeding up and improving the situation, the Ombudsman drew up 117 reports to the competent immediate higher bodies to undertake appropriate measures and activities. Of this 117, 40 reports are submitted to the competent bodies, 64 reports are submitted to the competent ministries, 13 to the government of the Republic of Macedonia, and for five of these cases he informed the public through mass media. Unfortunately, on these reports it was acted upon only in 11 cases by the immediate higher bodies, the ministries respected 8 reports, and the government of the Republic of Macedonia acted upon 3.

Using all possible means for more efficient acting and intervening, this year of total 2.238 handled complaints, 1556 were finished, and 672 complaints are pending.

Figure No. 1.1-2002

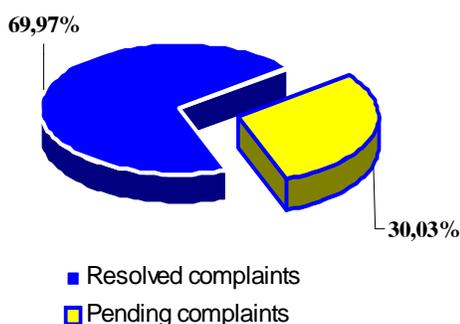
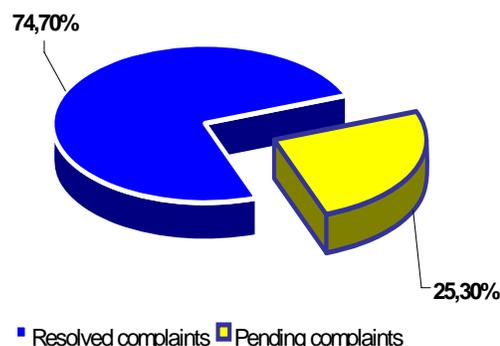


Figure No. 2,1 - 2001



Of the completed 1.566 complaints, 956 or 61.05% were rejected, in 552 or 35.25% complaints were ascertained violations of the constitutional and legal freedoms and rights of the citizens, which is increasing for 5.33% with respect to the last year, and 54 or 3.70% were resolved differently.

Figure No. 1.2. - 2002

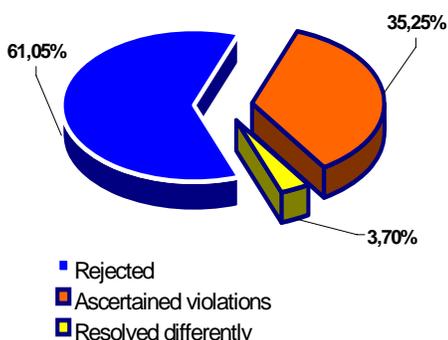
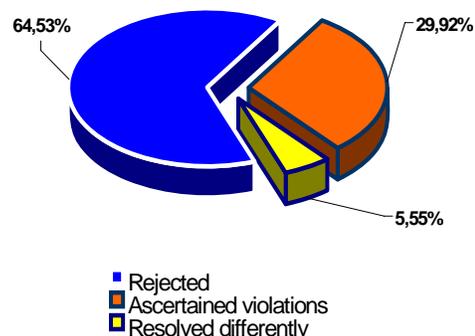


Figure No.2.2. - 2001



The largest number or 642 complaints in accordance with the Law were rejected because it was ascertained that no violations of basics freedoms and rights or any other irregularity existed. Significant number or 134 complaints were rejected because it was ascertained that the cases were pending in the courts of law; and 31 were rejected because within the additionally set time framework the complainants failed to supplement the complaint, and it was ascertained that they revoked the request. Negligible number or 15 complaints were rejected because it was ascertained that from the last activity or act of the organ that decided upon the claim of the citizen more than a year had elapsed. The Law on Ombudsman gives the opportunity the Ombudsman to decide whether the complainant had good reasons not to act within the time limit. In these cases the Ombudsman acted in a flexible manner and rarely the complaint was rejected on these grounds. Therefore when it was deemed that intervention is possible, in principle it was carried out regardless of the time limit. Insignificant number or 12 complaints were rejected since the complainant remained anonymous, and 122 were rejected on other grounds, most of which were attached to other complaints, and some of them are completed because the organ or the organization has corrected the violation before the intervention of the Ombudsman, or the complainants had withdrew the complaint or the Ombudsman was not competent in compliance with Article 2 of the Law on Ombudsman.

The evaluation of the Ombudsman is that the large number of rejected complaints on the grounds of no ascertained violations ensues from the lack of information of the citizens about their rights, as well as from their desire to check through the institution Ombudsman the legitimacy of the act or activity made by the competent organ.

Regarding the pending complaints, the reasons due to which they have not been resolved are the great number, that is 480 acknowledged complaints during the last two months of 2002, their complexity and comprehensiveness, the necessity to gather data and evidence from several bodies and organizations, as well as untimely and irresponsible responses from competent bodies to the initiatives issued by the Ombudsman. In this aspect it should be pointed out that in some cases, for which the citizens complaint that the procedure of the Ombudsman is too long, the reason for the delay is exactly this untimely and irresponsible acting of the competent services and officials in the bodies of state administration upon the interventions by the Ombudsman.

However, generally and with respect to the previous years, it may be ascertained that there is qualitative and quantitative improvement in the efficiency and effectiveness in handling the complaints by the Ombudsman, which should be main feature and objective in acting of this institution. The efficiency and effectiveness in the work of the Ombudsman is due both to the five years of experience in handling complaints and the persistence of the employees in the competent service to help the citizens.

1.4. Ascertained violations of the rights of citizens

In accordance with the Law, if the Ombudsman ascertains violations of the constitutional and legal rights of the citizens forwards recommendations, opinions, suggestions, proposals, requests or other similar interventions to the competent bodies to correct the irregularities and illegal activities in order to make possible for the citizens to realize their violated right. To that end does the Ombudsman, who should contribute, make the interventions to the improvement of the organization and the performance of the competent services in these bodies?

Of total 1.566 completed complaints, in 552 or 35.25% the Ombudsman ascertained violations of the constitutional and legal rights of the citizens, which, with respect to the last year when the percentage of ascertained violations was 29.92, means increasing for 5.33%.

The largest number of the ascertained violations is in the field of housing. In this field of total 227 resolved complaints in 182 or 82% were ascertained violations of the rights of citizens. The large number of the ascertained violations in this field is due to irregularly and illegally handled procedure of the Ministry of Transport and Connections in the allocation of apartments built according to "Project for Construction of Apartments That Are to Be Let to the Low-income Population", about which the public was informed by the mass media. Significant number of violations are ascertained in the field of property rights, that is of 173 resolved complaints in 84 or 48.55% are ascertained violations of rights of citizens, followed by violations in the field of labor relations with 60 complaints or 32.08% ascertained violations, in the field of urbanism and construction building violations are ascertained in 37 complaints or 22.02% etc. (**Table 1 – 2002, page 6**)

Regarding the bodies and organizations that ascertained violations refer to or simply which bodies most frequently violate the constitutional and legal rights of the citizens, the data show that in significant number or of 160 complaints it was incurred by responsible persons or officials in the departments, district units, or bodies and organizations in competence of Ministry of Transport and Connections, as well as officials and other persons in the Ministry. In 42 complaints it was ascertained that the violations were made by officials in the Ministry of Finance, and from 24 complaints it was concluded that rights of the citizens were violated by officers and officials in the services and commissions of the Government of the Republic of Macedonia, in 14 complaints violations were incurred by public enterprises etc. (**Table 2 – 2002, page 8**)

Speaking of ascertained violations of the rights of citizens it must be borne in mind that most of them refer to violations of material law. If in the total number of ascertained violations we include violations referring to prolonging of the administrative and adequate legal proceedings while handling the requests for realization of the rights of the citizens, we will have disturbing fact of over 70% ascertained violations. In other words, in over 70% of the requests of the citizens for realization of their rights, competent bodies did not respect the time limit set for deciding upon the requests, and in significant number they used, that is, abused the institute silence of administration.

With purpose of eliminating the ascertained violations, the Ombudsman forwarded to the competent bodies 552 interventions out of which 324 recommendations, 9 opinions and 48 suggestions. In addition to issued recommendations, opinions and suggestions The Ombudsman submitted two proposals for reconsideration and appropriate action of administrative proceedings, seven requests for the stay of execution of administrative act, three requests to the Public Prosecution for initiating proceedings for determining of criminal responsibility, one proposal for taking disciplinary measures and 158 other interventions and pointing for prolonging of administrative procedures and several proposals to bodies and organizations for improvement of their work and treatment of parties. Of all these cases, 329 were handled, and 223 were not acted upon. In percents, of 552 addressed interventions in 40% of the cases the bodies did not acted, which in comparison with the last year, unfortunately presents an unchanged situation. If of total number of interventions we subtract number 147, and these are complaints pertaining to the case of "Project for apartments for low-income population", in which the Ministry of Transport and Connection complied with the recommendation, we will come to a disturbing number of interventions issued by the Ombudsman for elimination of the violations that the bodies did not respect. Namely, of 405 addressed interventions, the bodies adopted 182, and 182 were not acted upon, which in percents means that 55% of the forwarded interventions (proposals, suggestions and recommendations) were not respected by the bodies. (**Table 2 –2002, page 8**)

If the data are analyzed according to fields, or which bodies did not respect, that is, they acted irresponsibly regarding the interventions by the Ombudsman, it can be clearly seen that most irresponsible acted the Ministry of Transport and Connections, followed by the Ministry of Labor and Social Policy, public enterprises, Ministry of the Interior, Ministry of Local Self-government and Ministry of Education.

In order to improve the situation in that respect, in accordance with the Law, in addition to large number of telephone calls, urgencies addressed to the higher competent bodies and organizations for pointing out to their duty to respect the interventions, 52 reports were issued and submitted. That is 21 reports were submitted to head officials of immediately higher bodies or organizations, 18 to the ministers, 12 to the Government of the Republic of Macedonia and one to the Assembly of the Republic of Macedonia, and for five cases the public was informed by means of the mass media.

But the fact that these reports were partially handled, that is higher bodies handled only 11, competent ministries handled 7, The Government of the Republic of Macedonia adopted 3, and there was not any response on the reports addressed to the Assembly of the Republic of Macedonia, which speaks enough for the attitude of the bodies and organizations towards the interventions and in general the institution Ombudsman. The most unscrupulous and irresponsible attitude towards the forwarded information was shown by the Ministry of Transport

and Connections, Ministry of Finances, services of the Government of the Republic of Macedonia and Ministry of the Interior.

Table 3-2002

OVERVIEW									
OF ASCERTAINED VIOLATIONS OF THE CITIZENS' RIGHTS									
FIELDS	Ascertained violations in 2002				Ascertained violations in the previous years				
	TOTAL	Bodies and organizations complied with the interventions	Bodies and organizations did not comply with the interventions	Handled differently	TOTAL	Bodies and organizations complied with the interventions	Bodies and organizations did not comply with the interventions	Proceeding is groundless (more than 3 years passed)	Handled differently
Protection of the rights of the communities that are not in the majority									
Protection of the rights in police proceedings	25	12	13		6		5	1	
Protection of the rights from the field of judiciary	13	10	3		4	1			3
Protection of the rights of army officers and draftees	1		1						
Protection of social rights	13	8	5		13	7	2		4
Protection of the rights from labor relations	60	24	36		40	5	34	1	
Protection of the rights from housing relations	186	157	29		13	3	10		
Protection of the rights from the field of medical protection	17	13	4		9	4	2	1	2
Protection of the rights from the field of pension and disability insurance	26	24	2		11	4	4		3
Protection of the rights from the field of education, science, culture and sport	9	8	1		5	3	1		1
Protection of the rights of children	37	28	9		8	1	5		2
Protection of the rights from the field of urbanism and construction building	37	9	28		53	4	19	23	7
Protection of the rights from the field of environment	5	2	3						
Protection of the rights from the field of finances	3	1	2		1	1			
Protection of the rights from the field of customs									
Protection of the rights from the field of property rights	84	15	69		24	3	14	5	2
Protection of consumers' rights	28	14	14		9	1	6		2
Protection of the rights from other fields	8	4	4		9	1	6		2
TOTAL	552	329	223		205	38	108	31	28

Speaking of the number of interventions that were not handled by the bodies of state administration and other organizations we should take into consideration 205 interventions that were not handled, and were issued in the previous years, out of which 132 refer to the last year. Of them this year bodies and organizations have complied with 38 interventions, in 59 the Ombudsman ascertained that the interventions were pointless because a considerable period of time has elapsed, the complainants withdrew, initiating new proceedings etc., and in 108 cases the Ombudsman still has not been informed about the reasons for not handling.

Presented situation and data about the undertaken measures and activities by the competent bodies and organizations in order to improve the situation pertaining to the respect for the requests and the interventions of the Ombudsman, speak for themselves about the respect paid not only to the institution Ombudsman, but to all other competent institution as well, which was confirmed with the research of the public opinion.

In this occasion we want to point out to the bodies that they should be aware that this attitude towards the defender of the rights of citizens in fact represents their attitude towards the citizens, and they have shown many times that they know how to sanction that.

1.5. Reception of the citizens in and out of the Ombudsman's office

The Ombudsman's established work method is to have reception for the citizens every work day, during which every citizen has the possibility: to talk to the Ombudsman, his deputy or other officials authorized by the Ombudsman, to lodge a complaint and to consult where, when and in what way one can realize his right. This year 3.500 citizens were received for an interview. If during these interviews it was assessed that there were grounds to initiate a proceeding the parties were advised to lodge a complaint or official notes were made. If it was assessed that the case is not within the competence of the Ombudsman, the party was extended legal assistance as to where and how to exercise said right. Citizens were permanently informed about the undertaken activities, and if the need arose they were summoned for an interview for clarification and supplementing of the complaints.

With the aim to facilitate the access of the citizens, in the realization of his program activities the Ombudsman organized a reception of citizens outside of his Office, in the units of the local self-government. In the course of the months April, May, June, November and December meetings were organized and realized in many towns and cities in the Republic. (**Table 4, page 16**)

Visits of the towns and cities were previously organized and announced in the local media, after which the interested citizens called the Office to arrange time for the interview. The aim of these visits of the towns and cities was the Ombudsman to be directly informed about the problems and opinions of the citizens pertaining the realization of the constitutional and legal rights, to allow citizens directly to be informed about the institution and its competencies an

functions, as well as to help those citizens that for financial, health or other reasons could not come to the Office in Skopje. During these meetings, 995 citizens were received, and after the conducted interviews, 335 cases were formed and proceedings initiated. In those cases where the Ombudsman assessed that he was not competent to handle, citizens were extended adequate professional and legal assistance.

Table 4

No.	Visited cities	Received citizens for interviews		Number of formed cases		No.	Visited cities	Received citizens for interviews		Number of formed cases	
		2001	2002	2001	2002			2001	2002	2001	2002
1	Bitola	71	49	41	19	16	K.Palanka	-	11	-	3
2	Berovo	-	-	-	-	17	Mak. Brod	10	13	8	6
3	Veles	26	70	11	18	18	Mak. Kamenica	25	11	9	1
4	Gevgelija	11	31	7	8	19	Negotino	9	7	-	1
5	Gostivar	-	34	-	9	20	Ohrid	37	71	25	32
6	Delcevo	10	28	5	8	21	Prilep	78	151	48	43
7	Demir Hisar	14	8	5	3	22	Pehcevo	-	13	-	8
8	Debar	-	9	-	3	23	Probistip	20	20	11	4
9	Dojran	3	4	-	-	24	Resen	16	6	11	3
10	Kicevo	16	49	9	26	25	Radovis	22	33	12	11
11	Kavadarci	15	35	6	26	26	Strumica	24	71	13	20
12	Kocani	15	37	6	8	27	Struga	10	12	8	10
13	Kumanovo	26	65	11	11	28	Sveti Nikole	14	18	5	4
14	Krusevo	8	-	4	-	29	Tetovo	7	50	4	23
15	Kratovo	11	24	4	4	30	Stip	20	65	5	23
							TOTAL	518	995	268	335

This work method initiates interest and can be found useful for the citizens, which is confirmed by the number of citizens received during the visits and initiated proceedings, which will practice in the future as a work method. The Ombudsman hopes that with the changes and amendments of the Law on Ombudsman that are in course and refer to founding offices as district units in several big municipalities in the Republic, citizens will have easier access to the institution, and it is expected in this way the institution to act more efficiently and more effectively.

1.6. Ombudsman's cooperation with the bodies and organizations over which he handles with authority

In compliance with the Law on Ombudsman the bodies of state administration and other bodies and organizations that have public authorities have the obligation to cooperate with the Ombudsman and at his request to provide all the data and information regardless of the degree of confidentiality and to give him the possibility to carry out the proceeding.

Generally it may be ascertained that the cooperation between the Ombudsman and the bodies and organizations over which he handles with authority is not at satisfactory level. Namely, after five years of existing and functioning of the Ombudsman, in spite of all efforts put forth for establishing functional and successful cooperation with the purpose of mutual effective acting in the interest of the citizens, the cooperation with most of the bodies is still not at a satisfactory level. There are instances of unresponsive, uncooperative and ignorant

attitude of some officials, heads of departments, even high officials of the highest bodies of the state administration. This was especially a case when the Ombudsman attempted to establish a contact and conduct the investigation of the documents pertaining to the lodged complaints. Very often competent officials hid their or their colleague's presence, proffered misinformation or incomplete information, challenged the competence of the Ombudsman although there was no ground for such act, cited the discretion rights of the official, cited the secrecy of the official documents etc. However, a cause for major concern remains to be the fact that the requests addressed competent senior officials to undertake corresponding measures for overcoming of the situation usually proved to be futile, so that instead of penalizing those that practice such types of defective behavior, they were often covered up.

In order to overcome this situation and to establish the necessary successful cooperation, in the course of month April the Ombudsman held meeting with representatives of the bodies of state administration, during which this problems were presented and stressed and corresponding conclusions were brought. However, although the highest officials or managerial officials had been supposed to attend this meeting, this obligation was left over at the lowest level, and although the Government of the Republic of Macedonia was informed about the conclusions, the Ombudsman did not receive any information about acting or handling, so that situation in this aspect was not significantly changed.

In respect to the presented situation, and in the interest of the citizens it is about time the Government of the Republic of Macedonia, as a highest executive organ, to have serious approach to the cooperation with the Ombudsman and to recommend the competent bodies to pay respect to legal competence and authority of the Ombudsman. The bodies and organizations must realize that the Ombudsman has the possibility without any notice to conduct an investigation of the documents in any of these bodies and organizations, especially police stations, and penitentiaries and that the should respond to the requests of the Ombudsman and consistently respect his interventions and time limits set for response. They also must be aware that not only the officials and senior officials, but ministers as well must answer to the Ombudsman's summons or requests.

For improvement of the situation in this aspect, the Ombudsman realized a meeting with the President and some ministers from this Government, which came to power after the elections held in the second half of September 2002. Willingness for cooperation was expressed at the meeting, so that the Ombudsman hopes that declared willingness finally will be put into practice and in this respect the Ombudsman expects to be supported by the delegates as well.

In this context, the Ombudsman considers that there should be more intensive cooperation with the officials within the services of the bodies of state administration in the aspect of education in order to clarify the meaning and the role of the Institution Ombudsman. All the more so because the research of the public opinion confirmed that the citizens are more informed and have confidence in the institution Ombudsman, while most of the officials, even high officials from

the most of the bodies and organizations over which the Ombudsman handles with authority are not sufficiently informed about the role and the meaning of this institution, to which the Ombudsman has pointed out in all his reports submitted to the Assembly of the Republic of Macedonia.

1.7. Transparency in the work of the Ombudsman

This year, again, the Ombudsman paid special attention to the public being transparent in his work and permanently informing the mass media by announcements, reports and information about undertaken activities pertaining to the protection of the freedoms and rights of the citizens, for which he is bound by law.

The Ombudsman's Office was open both for the citizens and the media. The Annual report, special information, announcements, public appeals etc. were constantly offered to the mass media, and citizens had access as well. Many press conferences were held, as well as participation in electronic media programs and informative programs where citizens were instructed on their rights.

However, as we pointed out last year, this year again the problem with remuneration for publishing information provided by the Ombudsman still exists. That is, some part of the mass media are not always ready to inform the public about the information or announcement by the Ombudsman without remuneration, and in the budget of the Ombudsman there are not any additional funds for that purpose, which poses a problem that needs to be adequately solved. All the more so because in accordance with the Law, the Ombudsman has the possibility to use the media as an instrument fit for exerting additional pressure on the bodies of the state administration in order to effectuate respect for the rights of the citizens and for the addressed interventions for protection of the rights of the citizens.

From the experience in the practice so far, it may be ascertained with arguments that in the preceding period of work and acting the Ombudsman was sufficiently transparent and accessible for the public and that respective contribution made the mass media. This means that in the preceding period the Ombudsman received the necessary support by the media, which he would like to have it in the future too, because without general and permanent support by the media, as an important guarantee for acting of the Ombudsman, the Ombudsman will not be able to exercise its function successfully.

2 OVERVIEW OF THE SITUATION WITH RESPECT TO THE PROVISION, RESPECT, AND PROTECTION OF HUMAN RIGHTS ACCORDING TO FIELDS

2.1. Protection of rights of citizens that belongs to the communities not in the majority in the Republic of Macedonia

In keeping with the provisions of the Republic of Macedonia set down in the Constitution and signed and ratified international legal documents, all the citizens of the Republic of Macedonia, which includes the citizens that belong to the communities that are not in majority, are guaranteed full equality in enjoying their rights, and in that respect the right to demand protection of their freedoms and rights before regular courts, the Constitutional Court of the Republic of Macedonia and before the Ombudsman.

With Amendment XI, change and amendment of Article 77 of the Constitution was made in respect to election and competencies of the Ombudsman. Namely, the Assembly of the Republic of Macedonia shall elect the Ombudsman by a majority vote of the total number of representatives, within which there must be a majority of votes of representatives that belong to the communities not in the majority in the Republic of Macedonia. With the same Amendment the competence of the Ombudsman was enlarged, that is, that apart from the existing obligation, the Ombudsman is obliged to pay particular attention to safeguarding the principles of non-discrimination, adequate and equitable representation of communities in the bodies of the state administration, bodies of the units of the self-government and in public bodies and services.

Also, in accordance with the Amendment XII (Article 78 of the Constitution of the Republic of Macedonia) the Ombudsman has obligation, after consulting the relevant factors of the communities that do not have their representatives in the Assembly, to propose external members of the Committee for Relations between the Communities founded by the Assembly of the Republic of Macedonia.

These constitutional solutions should be incorporated into the legislation which modification is under way, but we should always bear in mind that the essence of exercising of the rights of the citizens that are not in majority basically depends on creation of assumptions and conditions for its practical realization, and not solely on legislation.

In the past handling practice, the Ombudsman did not keep any record of the ethnic background of the complainants, for the reason that on one hand this information is irrelevant to the handling of the complaints, and on the other hand, the treatment towards all the citizens-complainants is equal in this institution. This can also be supported by the fact that in the past years, efforts were put in promoting the institution for all the citizens of the Republic of Macedonia by publishing brochures in Albanian, as well as through public appearances in the media that broadcast their program in Albanian. This tendency will continue to be practiced in the forthcoming period. Apart from the other activities, it is planned to publish brochures in the languages of other communities, which depends on procurement of the necessary funds.

In the reporting period, in the Ombudsman's Office five complaints referring to the violation of the rights of the communities were recorded. Namely, in two complaints citizens requested intervention by the Ombudsman in the process of establishing employment, that is election for practicing corresponding function in accordance with the competence of this institution on the basis of Amendment XI of the Constitution. In the first case, the complainant who was member of the Albanian community, stated that since the graduation at the faculty of Law in 1986 she has not been employed, and that according to the list of unemployed persons that belong to the communities that are not in the majority in the Republic of Macedonia she carried out all the necessary examinations in order to be employed in the Ministry of the Interior, but she has not been informed about the results yet. In the second case, expert associate for many years in the Public Prosecution in Bitola, applied for the position of deputy of the Public Prosecutor and for the position of judge in the Trial Court in Bitola and as a member of the Turkish community considered that he met all the conditions to be proposed and elected for one of these positions. The Ombudsman initiated a proceeding in the course of which he forwarded a recommendation to point out to the necessity of persistent respect for the cited amendment and its implementation in practice. The recommendation was respected completely, so that the public Prosecutor of the Republic of Macedonia gave positive opinion and the complainant in a legally implemented procedure was elected for the deputy of the Public Prosecutor in the Public Prosecution in Bitola. In the first case the complaint is pending.

In addition to this, in the reporting year the Ombudsman handled a complaint lodged by a citizen who pointed out that because of his ethnic background, he had been degraded by the officials in the Public Enterprise "Inter-communities center for social work"-Kocani and that his requests for receiving financial aid had always been rejected. This complaint is pending. Also pending is the case formed in the Office of the Ombudsman in line of duty, concerning the article published in the newspaper "Fakti". Namely, according to allegations in this daily newspaper, the director of the Orphanage in Bitola, was released of her position solely for her ethnic background, that is, the fact that she is Albanian. According to the newspaper, releasing of the director represents a discriminatory act. For the reason of seriousness of the article, the Ombudsman, in compliance with the provisions of the Amendment XI initiated a procedure and requested from the Minister for Labor and Social Policy to be informed about the reasons for which

the director was released. At the meeting with the Minister it was stated that there is no word of discrimination, but she was released because she did not meet the necessary conditions for exercising that position, so the complainant was allocated to a position adequate to her professional qualifications. The complaint is still pending.

The Ombudsman in the reporting period handled a complaint in which the citizen stated that he was ethnically discriminated in a proceeding before the Ministry of Transport and Connections–District Unit Center, in which his object-house was torn down by the Department of Urban Police, and his request for reconstruction and rebuilding of the object concerned was not approved. What features this case is that while handling the complaint the Ombudsman ascertained that the right of the complainant was violated, but not as result of a discrimination, but because of certain omissions and delayed registering of the sentence in effect in the Cadastre Department. This complaint is still pending, and the Ombudsman by all means will propose adequate compensation for the citizen, in a way most favorable to him.

2.2. Protection of the rights in police proceedings

Regarding the fact that the protection of basic human freedoms and rights, especially the right of life, the freedom of movement, freedom of expressing opinion and protection of the privacy of personal and family life, are within the functions and competencies of the Ministry of the Interior, the actions undertaken by the officers and officials, especially in everyday communication with the citizens, have always been a subject of a special monitoring by the Ombudsman.

With respect to the last year, this year it is noted that there is an increase for 20% of the number of lodged complaints concerning the acts and activities undertaken and brought by the competent official and officers in the Ministry of the Interior. The largest number of the complaints this year, again, referred to the overstepping of the official authorities of the members of the Ministry of the Interior, especially in bringing to interrogation and keeping the citizens into the police offices. This is followed by complaints lodged by the citizens living in the Republic of Macedonia with not regulated status of citizens of the Republic of Macedonia, and in smaller number are the complaints regarding the violations of the acts of the Ministry while taking away objects for which it is supposed to be subjects of criminal act or offence, violations of the procedure for issuing documents for personal identification, not acting upon criminal charges brought by the citizens, acts during the registration of vehicles, as well as complaints that refer to paying the damages of the homes and houses caused by members of the security forces during the armed conflict and violations while undertaking actions for detection of the doers of criminal acts.

While handling the complaints, most often or whenever it was possible, the Ombudsman carried out direct investigation in the documents of the departments in the Ministry of the Interior, especially when the complaint referred to the work of the Department for Administrative Affairs. The officials expressed readiness to

cooperate, but what really concern is the attitude and the cooperation of the competent officials in the cases of complaints referring to the services for public security. Namely, while handling the complaints the Ombudsman faced different forms of resistance: hiding the identity of the person denounced that overstepped the official authorities, obstructing the inspection of the documents and registers of the departments and challenging the right to inspect the documents, citing that they have not been authorized by the higher head officers to allow inspection or that it is a secret, and even they challenged the competence of the Ombudsman to protect the persons who are not citizens of the Republic of Macedonia.

Within this framework especially difficult was the communication with the Department for Foreigners. However, the fact of greatest concern is the lack of readiness of the highest officials, the minister as well, to overcome this situation, because most of the addressed written and oral invitations to resolve these problems remained unrealized.

Regarding the overstepping of the authorities of the police, both from the complaints and the interviewed citizens it could be heard that officials in the police still use illegal means and methods (hitting, kicking, swears, tying up to the radiator, hitting with objects on the head etc.) for extorting of evidence from the persons brought in, and sometimes they do it for no reason or on no occasion. This kind of behavior of the Police is witnessed by most of the cases released in the media, and for two such cases the Ombudsman submitted a request for bringing charges against two officials for the criminal act "Torture", Article 142 of the Criminal Code of the Republic of Macedonia. Hence, it may be ascertained that the treatment of the citizens by the members of the departments of the Ministry of the Interior, especially in the police proceedings, this year as well, in a great deal it was unlawful and inadequate, which resulted in frequent violations of the rights of the citizens. There is also presence of unresponsive and hostile behavior in the cooperation of the police with the citizens and with employees of the other departments of the Ministry, for which the Ombudsman had personal experience.

Maybe the above stated occurrences and cases would be minor if expressed in numbers with regard to the scope of work of the police and the police's contacts with the citizens, but with respect to the competence, position, reputation and trust that police forces should enjoy, only one case of unlawful behavior would have negative impact on the entire work and reputation of the police, which in the end is there to serve the citizens.

Of the complaints regarding the work of the Department for Administrative Affairs, as well as in the last year, most of the complaints referred to delaying of the procedure for acquiring citizenship status of the Republic of Macedonia. Another problem about which we were permanently pointing out in information and reports is the length of the procedure, which can last two, three and more years, for acquiring opinion that according to the Law should be provided from the Intelligence Service. Our attempts for speeding up the procedure, this year, again, yielded no results. In this context certain obstruction in the procedure are particular provisions and decisions consisted in the existing Law on Citizenship. However, we

are of the hope that the initiated procedure for changing this Law which has been going on for several years, will finally be realized, for which we consider, will resolve the problems of the citizens, who are mostly with Albanian ethnic background, and have still not acquired the citizenship status of the Republic of Macedonia. This year, as well as last year, in the exercising of the rights of the citizens, unsolved remained the case of application of the legal acts issued by UNMIK-UN in Kosovo, for which reason the citizens were not able to regulate most of their status rights, and especially marital status. The Ombudsman is of the opinion that the Government of the Republic of Macedonia should undertake measures and activities in order to overcome this problem.

Also, the problem of the twelve kidnapped citizens of Macedonian and six of Albanian ethnic background is still an unsolved mystery, for which the Ministry has not responded so far, although in the Assembly of the Republic of Macedonia as well, it was frequently discussed subject, about which in many instances, in the presence of legally relevant factors in the Republic and out of it, it was discussed in the competent commissions in the Assembly as well.

The Ombudsman paid special attention to the complaints requesting his intervention for the Ministry of the Interior to pay for the damage of their properties made by the security forces in the course of armed conflicts and directly during actions for successful detecting of doers of criminal acts. In the interviews with the competent officials in the Ministry of the Interior the Ombudsman was informed that the Ministry founded a Commission for estimation and compensation of the damaged citizens. However, there are still no results of the work of the Commission, although the Ombudsman in many instances insisted on reaching an agreement, what has been pointed out in many informative reports. The last information received from the complainants and from the competent officials from the Ministry unfortunately speaks of not so prompt and efficient resolving of this problem. Namely, directing the citizens to exercise their rights before the competent courts represents harassing and mistreating because the material damage that was made eventually will be compensated by the state.

Regarding the security of the living conditions, as a basic human right frequently cited by the citizens, and especially temporarily displaced persons who should return to their homes, the general evaluation is that this year as well, the Ministry of the Interior did not succeed in accomplishing the tasks that are in its competence according to the Constitution and the laws. Hence, there are still places where the police have not created safe living conditions. Also, a significant number of doers of serious crimes and other forms of crime have still not been detected or the public has not been informed.

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From the data and situation stated above it may argumentatively ascertained that the recommendations, opinions, suggestions, measures and the activities addressed to the Ministry of the Interior were not completely realized in the course of this reporting year as well. Hence, in this report we will remind you of

the measures and activities that should be unavoidably undertaken by the Ministry of the Interior, and which should be focused on:

- permanent education of the employees at the Ministry, especially the officials that are in direct contact and communication with the citizens;
- improvement of the efficiency in handling the requests of the citizens in administrative cases with the purpose of acting within time framework set by Law in the process of deciding;
- Much better communication with the Ombudsman's Office. Namely, the employees starting from the highest managerial officials all the way to the executors in this ministry, must realize that the Ombudsman as a controlling mechanism, observer and mediator between them and the citizens, could at any time without previous notice conduct a control in every room, every police station and with that to carry out an investigation of the register and the documents of these departments. They also must know that there is no such thing as a secret for the Ombudsman. These are, in fact, competencies that sprang from the Law on the Ombudsman, and which were frequently challenged by the police;
- Improvement of the work of the Service for Internal Control and undertaking disciplinary measures against the employees that acted in the contravention with their official authorities and create mistrust among the citizens;
- Speeding up of the procedure for bringing the Law on Citizenship.

2.3. Protection of the rights from the field of judiciary

In the preceding annual reports it was already stated that the Ombudsman in spite of not having legal authority to handle cases pending in courts, he has been called to that by the large number of complaints addressed to his office by the citizens. At the same time with no pretensions of disturbing the independence and autonomy of the judicial function, on the accounts of his authorities followed the situation in this field, an on the grounds of the acquired information carried out adequate intervention. The fact that the largest number or 311 registered complaints in the Ombudsman's Office referred to this field and the fact that in 95 of them the citizens complain on delaying of the court proceeding created grounds for the Ombudsman to pay special attention to this kind of complaints respecting the motto for independence and autonomy of the courts; the more so that the mistrust of the citizens in the institutions of the system is most obvious in the field of judiciary.

Although in the handling practice so far, acting in the field of judiciary was challenged, the Ombudsman poses the following question: How could be realized in practice the motto for a trial in a reasonable time limit when none of the state subjects, not even the Ombudsman is able and can, solely for the independence of the function, to point out to the judge the fact that the proceeding without valid reasons is too long, if it is obvious that the omissions are purely subjective. Hence, the Ombudsman is of the opinion that his interventions pertaining to the delay of the proceedings in the courts should be taken as well-intentioned, and should not meet the unnecessary resistance, which unfortunately was supported by the Supreme Court of the Republic of Macedonia.

However, even in this situation, and with purpose to help the complainants who for the reason of the enormous delay of the proceedings desperately ask for help from the Ombudsman, checking of the allegations was carried out indirectly through the Ministry of Justice. Although the courts accepted this kind of handling, a question arouses: Why is it something that can function directly to be carried out in an indirect manner. With this kind of acting upon the proceeding, it is additionally delayed before the Ombudsman as well, so that the citizens are disappointed one more time, they lose their trust in this institution from which they required help for resolving this problem.

In the last days of the reporting year the Ombudsman faced one more redundant problem. Namely, some judges of both Trial Courts in Skopje rejected the request of the Ombudsman to visit and have interview with detained persons for whom allegations were stated in the media about violations of their civil and human rights in the course of pre-court proceeding and while being into custody. What is more absurd is that the same request was approved to a journalist member of the Journalists' Association of Macedonia, which is all right, but we pose the question: Why was the Ombudsman deprived of that right, when he, in compliance with the Law, is a general legal representative of the citizens in cases of violation of the basic human freedoms and rights? Is it possible that the judges, who turned down the request of the Ombudsman, are suspicious or afraid that by visiting and interviewing the detained person on topics regarding violations of the civil and human rights, the Ombudsman would obstruct the investigation or something else is the matter? The Ombudsman is of the opinion that the rejection of the request without any arguments overpasses the framework of autonomy and independence of judicial function and becomes its abuse. Citing the Article 11 of the Law on Ombudsman according to which the Ombudsman is not handling cases pending in courts, the lower courts, and even the Supreme Court did not take into account the essence of the proceeding of the Ombudsman, that the subject of his proceeding are basic human freedoms and rights of the detained person violated by the members of the Ministry of the Interior in the course of pre-criminal proceeding, and not the crime he is accused of or the course of the proceeding. With this we want to point out that the subject of the criminal proceeding are not the basic freedoms and rights of the detained person, but the criminal act for which the proceeding was initiated. Such obstruction of the basic function of the Ombudsman, in fact, deprived the detained person of the right to have protection by the Ombudsman, and the omission of measures against those who violate the basic human freedoms and rights is nothing else but giving them support.

2.3.1. Public Prosecution of the Republic of Macedonia

In the past period of one year several complaints were registered in which the lodgers complained that the Public Prosecution did not undertake any legal actions on the basis of their criminal charges. However, from the checking carried out to that end, at the same time respecting the autonomy and independence of this body in deciding in the proceedings for persecution of the doers of criminal acts, allegations in the complaints were not confirmed, for the reason of which the

complaints were rejected. However, it must be pointed out the public's remark that the Public Prosecution less and less applies the institute initiating a procedure on its own initiative. The reasons for this kind of public opinion could and should be searched in the large number of affairs presented in the media in the course of 2001 and 2002, for which the public remained not informed about the undertaken official activities. In order to satisfy the public, which otherwise will be in bewilderment whether a certain affair really happened or it was only a fabrication launched for the purpose of achieving a certain goal, it is necessary for the Public Prosecution to be more transparent in its work. The reason for this is that the absence of response sometimes leaves space for doubt in cases when something is not really disputable at all.

2.3.2. Public Attorney of the Republic of Macedonia

The Public Attorney of the Republic of Macedonia, as a public service for protection of the property interests of the Republic, was mentioned in several complaints in which the citizens complained on not undertaking legal measures on the part of this body in cases of usurpation of land for which the Republic of Macedonia holds the right of possession. In one case of handling a complaint lodged by a group of shareholders of "Mladost" LTD from Kocani, considering the fact that the Agency of the Republic of Macedonia for Privatization confirmed the allegations for unlawfulness in the procedure of transformation of the public property, the Ombudsman requested from the Public Attorney to lodge a complaint for annulling of the procedure for privatization, but the recommendation, for unclear reasons and without any arguments was not accepted. Namely, in the conducted control the Agency ascertained that the sale of the state capital in the enterprise was carried out in contradiction with Article 95 of the Law on Transformation of Enterprises with Public Capital, which is reason enough to revoke the sales contract, and the Public Attorney in spite of this indisputable fact requests from the Agency to conduct legal, financial and bookkeeping inspection of the privatization of the enterprise.

2.3.3. Penitentiaries

This year, again, the Ombudsman with a special interest followed the situation pertaining to the respect of the rights of detained and imprisoned persons in the penitentiaries (homes, institutions and prisons). A special attention was paid to the living conditions, keeping personal hygiene, hygiene in the living quarters, food, provision of clothes and shoes, allowance, correspondence, receiving packages and visits, conditions for sport activities, working engagement, medical protection, education and re-education, usage of the benefits, the behavior of the officials etc.

In the past five years the Ombudsman on two occasions conducted a detailed inspection in these institutions and ascertained that in some of the penitentiaries in the Republic (there are 8) there are conditions for successful re-socialization of the convicts, and in some of them as it is the Penitentiary "Idrizovo", where more than a half of the convicts in the Republic are staying, beside the bad

living conditions we ascertained that there is no well organized system that would be in function of successful re-socialization in spite of the fact that in the normative plan it is arranged and adjusted to the European standards. We also ascertained that in addition to insufficient personnel, material-technical, and financial conditions for successful exercising of the function of these institutions, some subjective omissions were noted as well.

The Ombudsman this year, again, followed the situation in these institutions with a special interest through occasional visits on the grounds of complaints lodged by convicts and on his own initiative. At the end of the year a visit was realized to the Penitentiary "Idrizovo" in order the Ombudsman to be assured whether, after the previously ascertained negative situation, it was acted upon issued recommendations and if the situation has been improved at all. What could be noticed was that at the beginning of the year financial resources were provided and renovation of the objects was immediately started. It was noticed that some of the objects are in the stage of technical acceptance, in some of them necessary repairs were completed, and some of them were in the process of building-renovation. It was also noted that the object of women's department was completely renewed.

Regarding the other conditions for accommodation and re-socialization of the convicts, it was ascertained that no significant changes have been made. Thus, although there were not any remarks with respect to the food, in the interviews with the convicts and in most of the lodged complaints, the convicts complained on the bias of the employees in using the benefits, on the incorrect attitude of some of the employees in the security services, the way of re-educating, the attitude of the doctor in the institution etc. Although in the past period of five years on several occasions we pointed out that the living quarters are inadequate and rather look like solitary confinement cells (especially in the prisons in Skopje and Ohrid) nothing was done to improve the situation.

This year in the Penitentiary "Idrizovo" a significant improvement has been made in respect to improving the living conditions of the convicts. However there is still lack of organized and well-planned system that would be in function of successful re-socialization of the convicts. On this plan, in addition to insufficient provision of personnel, material-technical and financial conditions there are also present subjective omissions, especially in the communication of the employees in the competent services with the convicts. Speaking of the attitude of the employees towards the convicts, it is especially important for these institutions to have reliable, experienced and capable personnel in order not to happen what already happened in the Prison in Tetovo, where a member of the security service was shot by his colleague.

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Hence, it is of great necessity for the officials in the Penitentiaries, Agency for Execution of Criminal Sanctions and the Ministry of Justice to undertake adequate measures and activities with the purpose of creating necessary living

conditions for the convicts, and in treating the convicts to be aware of humanity, dignity and their physical integrity.

2.4. Protection of the rights of army officers and draftees

This year the largest number of the complaints in this field referred to the right to civil service in the army. The Ombudsman within his authorities requested from the Ministry of Defense to undertake measures for application of the new statutory provisions and to bring the sub-statutory acts, which would create conditions for exercising of these rights. Our interventions were finally respected and at the end of the year, the sub-statutory provisions were enacted, which determine the way of serving in the army and the organizations and institutions in which this service will take place, and it was also founded a Commission for deciding upon the recruit's requests within the Department for Civil Defense and Crisis Management, by which necessary conditions were created for realization of the institute civil service in the Army of the Republic of Macedonia.

A great deal of the complaints referred to exercising rights in accordance with the Law on Special Rights of the Members of Security Forces of the Republic of Macedonia and Their Family Members. In regard to these complaints the Ombudsman requested from the Government of the Republic of Macedonia to undertake measures for provision of additional funds in the Budget with the purpose of exercising of the special rights of the members of security forces within the competence of the Ministry of Defense and rights of the families of the soldiers killed in the former wars in SFRY and according to the latest information from the lodgers of the complaint, confirmed by the Ministry, at the end of 2002 a payment of remuneration in the amount of 40 salaries to the families of the killed soldiers started.

What should be especially distinguished from the handling of the complaints is the readiness for cooperation on the part of the Department for Personal and Legal Affairs at the Ministry Of Defense of the Republic of Macedonia, which gave the possibility to the Ombudsman for unobtrusive handling of the complaints in direction of establishing the facts and finally realization of the rights of the complainants.

However, with the purpose of better and more complete understanding of the situation in this sphere and in order to improve the work in respect to realization and protection of the constitutional and legal rights in the forthcoming period the Ombudsman plans to undertake activities for visiting and inspecting the institutions in which the military service is practiced and the institutions in which the draftees from the reserve forces are sent to do their military service; he plans to organize meetings with head officials in the Ministry in respect to necessary and efficient cooperation in the sphere of handling the complaints, as well as to organize conferences and conduct polls among the recruits, soldiers and army officers with the aim to locate the most urgent problems they are facing, so that the priority list for acting of the Ombudsman can be drawn up.

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

2.5.1. Social rights

The economic and social rights, according to the Constitution, law and international legal acts, are included into the basic rights of man and citizen. The State makes provisions for these rights in keeping with the principle of social justice, and it guarantees the right to benefit to the disabled and incapable of work. However, the overall social situation is the indicator that not only the state is far from respecting these standards, but the economic and social rights of the citizens, a year by year, are endangered more and more, which was given as an evaluation of the Ombudsman in the last report. This year, as well as the past years, the largest number of complaints from the social field mainly referred to the realization of the right to allowance, permanent relief, single relief, right to care, unemployment benefit and severance pay.

During 2002, 82.100 families were the beneficiaries of the relief, 19.700 people used the right to care, 7.500 people-single relief, 600 people-permanent relief, and 49.000 employees used the right of relief, because of the deprivation on various grounds. This indicates that larger number of citizens of the Republic of Macedonia live on the allowance with low standard of living, i.e. in big poverty and misery that is owed primarily to the high unemployment rate. These data indicate that although the state handles social care for the most endangered citizens, did not undertake yet any serious actions for relieving the reasons that lead to the increasing of the number of the beneficiaries, primarily in the direction of their employment.

In the process of the handling of the citizens' complaints in this field, the Ombudsman coped with many problems. Thus, it was ascertained that some Centers for social work, i.e. some officers and counter clerks do not accept the requests of the citizens with the explanation that they do not fulfill the conditions for the concrete requests. By this way of working and voluntary behavior toward the citizens, the employees in these centers do not act only against the Law, but also against the principles and the code of manner in the work of the state administrative bodies. Legal obligation of the competent body for the acceptance of the complaint is to accept the complaint, to confirm the acceptance and after deciding, at complainant's request to deliver to him an appropriate answer, i.e. concrete act.

The exercising of the right to care is especially difficult before these centers and most often that help is given only to the completely immovable people. Certain difficulties in exercising the rights of the citizens in this field appeared when the Ministry of Labor and Social Policy in some cases appeared as an appellate body in surveying the citizens' objections, so most often the appellate body did not only establish the factual situation, but unnecessarily delayed deciding upon the same, thus the proceeding lasts more than three months. Untimely proceeding in objections overcame the reasonable timetable in deciding considering the fact it

refers to the rights directly connected to the everyday life of the citizens. Despite the issued recommendations for undertaking concrete measures and activities for improving the conditions, the same remained not realized.

The Ombudsman undertook activities and in connection with the Decision of the Government of the Republic of Macedonia that changed the Decision of the conditions, criteria, height, manner and procedure for establishing and exercising the right of allowance (relief) made in December this year, i.e. in connection with the additional criteria the citizens to deliver bills of electricity, addressed to the holder of the right, or to a member of his household, in order to prove that they live in a separate household as a condition to acquire the relief. At this point, the Ombudsman delivered a recommendation to the Government of the Republic of Macedonia in which he asked for reconsideration of the Decision, indicating that the additional criterion is not only restrictive, but also means an additional expense for the citizens and in such a manner it can bring a wrong condition for the status of the citizen who should use this right. At this point, the Ombudsman indicated to the Ministry of Labor and Social Policy that when application of this criterion is in question, i.e. when the said Ministry will have doubts in the credibility of the admitted evidence, it should also enact additional checking and research for each case separately, establishing the factual situation on a ground, and then to bring an appropriate decision. Responding toward the additional criterion, some citizens-beneficiaries expressed indignation before the Ministry of Labor and Social Policy and some centers of social work. Also, a lot of citizens, while waiting to comply the documents with the new criteria, moved the electric meters in his name or in a name of family member, but the officers at the centers of social work consider this as a deceiving on purpose and on account of this, they do not only refuse the requests of the citizens, but also put 12 months prohibition for exercising the right to relief. By this attitude toward the citizens, the officers from the Ministry take the liberty of playing court and illegally to pass judgment and to punish the citizens. In order to overcome these problems, there was a meeting realized with the Minister, where was expressed readiness for all disputable cases the Ministry, no matter of the legal regulation, to carry out additional research and to take individual attitude for each case individually.

2.5.2. Internally displaced persons

In the aftermath of the military operations that occurred in the Republic of Macedonia during 2001, in the collective centers and private households through the Republic, remained around 8.400 internally displaced persons or near 1.900 households. The largest number of internally displaced persons-around 6.300 was and still is placed in private households. From the overall number of displaced persons near 5.000 are Albanians (placed privately), 2.700 Macedonians, 450 Serbian and 200 Gypsies.

The Ombudsman, during June 2002, visited all the collective centers in which internally persons still stay. In Skopje were visited the student's dormitory "Stiv Naumov", student's dormitory "Pelagonija", centers "Olimpisko selo", "Cicino selo" and in Kumanovo were visited hotels "Cuba" and "Kristal", adapted as

centers, boarding-house "Dolno Konjare", as well as the Center "Star Dojran". During these visits, it was ascertained that the Government of the Republic of Macedonia, i.e. the Ministry of Labor and Social Policy, in which competence collective centers are included, in cooperation with the Red Cross of the Republic of Macedonia, as well as the competent international organizations, mainly take an appropriate human care for this category of citizens. But, during the visit, certain mistakes were noticed for what was made a report with measures for undertaking concrete activities that was delivered to the Government of the Republic of Macedonia and the competent bodies.

Namely, notes and measures referred to the improvement of the conditions at the centers where they are inappropriate i.e. improving the hygienic conditions and health protection, food, supplying of warm water, clothes, shoes, etc. To enable and to provide regular and high-quality food both, for the persons placed in the centers and for those in private placement. For all children equally, no matter of where they stay, if it is possible to provide summer vacation and in next school year to provide conditions for including all children in the educational process, i.e. to provide regular curriculum according to the article 44 from the Constitution of the Republic of Macedonia. To undertake all necessary activities in order to make general strategy program for faster returning at home, and because of the fact the internally displaced persons have no enough information for the measures and activities that the Government undertakes for their return and for the improvement of the living conditions, transparency and continual informing these persons and their active including in undertaking measures by the Government and competent institutions is necessary. For realizing practical, efficient and effective cooperation and coordination in solving the problems of temporarily displaced persons, among the Government of the Republic of Macedonia, Ministries, Red Cross of the Republic of Macedonia, competent bodies and other competent institutions, it is necessary the Government of the Republic of Macedonia, Ministries and other competent bodies and institutions actively to include both the local bodies and institutions, because they know the citizens' problems of their region the best.

Though all the competent institutions, where was delivered the Ombudsman's report, expressed readiness for removing the pointed defects, while revisiting these centers at the end of the year, it was noticeable that only a part of defects was removed. Considering the fact that at the moment of the first Ombudsman's visit at the collective centers throughout the Republic and in the private households, there were around 13.500 displaced persons, and during the second visit- around 8.000 displaced persons, it can be ascertained that the Government of the Republic of Macedonia in coordination with the other competent institutions works in a direction of returning these persons to their homes. In the Government of the Republic of Macedonia still functions the Coordinative Body for Dealing with Crisis that solely is engaged with the problems of the displaced persons. The Ombudsman realized meetings with the competent bodies, where readiness for cooperation was expressed, and we hope that the Government of the Republic of Macedonia and the competent bodies will undertake all measures and activities in providing conditions for normal life and returning the displaced persons to their homes.

2.5.3. Rights pertaining to labor relations

The most serious and the biggest problem for the citizens of the Republic of Macedonia remains the unemployment. The problem of unemployment directly influences on the decrease of standard of living of citizens, and also on increasing the poverty and misery among the citizens. During the reporting year in the Republic of Macedonia, 374.114 unemployed persons were registered, and in comparison with the same period in 2001, the number of unemployed was increased for 13.804 people' i.e. for 3.8 %. Number of unemployed in Macedonia remains bigger than the number of employed. The more serious is the problem of unemployment, the more serious and worrying is the problem of absence of serious strategy program of the Government of the Republic of Macedonia for relieving and solving this crucial existential issue. Every state that proclaims itself as a social must provide employment to its own citizens. If not, the citizens' perspective life and mistrust toward the state will deepen, especially among the young population. Unfortunately, the right for the employment instead of basic human right again is considered as a sole right and privilege. In this condition, the role of the Ombudsman with respect to the right every workable citizen to realize that right is not only difficult, but also impossible.

The complaints that requested protection of rights pertaining to labor relations, this year are among those with the largest number and mainly, referred to the procedures of: employment, cease of employment, the way of allocation, elections and release of directors, severance pay, payment and other remuneration, payment of remuneration on the grounds of unemployment, procedures of privatization, not executing of court decisions, suspending of employees, fixing annual vacation, and absence from work, inspection board and other bodies, procedure for establishing the status of the employed, interpreting acts for systematization at job positions, discontent from working and accomplishing the work tasks overtime. The largest number of these complaints referred primarily to the work of the Ministry of Education, i.e. primary and secondary schools, Ministry of Finance, Ministry of Defense, Second Instance Commission at the Government of the Republic of Macedonia, public enterprises and other bodies and organizations.

The Ombudsman's cooperation with the bodies and organizations that the complaints of labor relations referred to, during the reporting year was not only dissatisfying, but it was beyond the legal obligation of these bodies and organizations to cooperate with these institution. The best cooperation, pointed as an example, was realized with the State Labor Inspectorate- labor inspections. Almost in all cases when it was requested from these bodies to conduct an inspection, there was a positive response. Low level of cooperation, despite the insisting of the Ombudsman, was registered with the Ministry of Education. The Ombudsman could not realize any cooperation with the Commission for Labor Relations on second instance at the Government of the Republic of Macedonia. This commission did not respond to any request of the Ombudsman, so that an impression was made as if this Commission did not function at all. The director of

the Agency for what he issued his recommendations, whereas he acts as if this institution did not exist registered the most flagrant negative example for lack of cooperation with the Agency for Development and Investment in the Republic of Macedonia, where the Ombudsman ascertained violations.

Though the largest violations were registered in establishing of the employment, the Ombudsman could not have an impact on the choice because according to the Law on Labor Relations, it is solely right of the employer. But the Ombudsman took intervention in all those cases where the institute advertisement-job announcement was not respected or was deceived on purpose, demanding public announcement of the need for new employees with defining the general and separate conditions. The Ombudsman indicated that the aim of public announcement is providing maximum accessibility at job positions under equal conditions to all the citizens.

Considering the fact that the reporting year was a year of Parliamentary elections, change of authorities, changes in leading positions in different bodies and institutions reflected with the new allocation of some employees. Regarding the fact that the right for the allocation of the employee is also an exclusive right of the employer, the Ombudsman recommended to the bodies and organizations the complaints referred to, to conduct an appropriate allocation of employees. In connection with the allegations of some citizens whose labor relations as alleged stopped because of their party and political belief, and who worked with a contract for supply of a service, the Ombudsman could not do anything else, but to indicate that such a manner of establishing labor relations is not a right to labor relations, but the right to agreement that comes from the Law on Obligatory Relations.

It should be pointed out that in most cases the Ombudsman's interventions about the ascertained violations in the procedure for establishing, allocation and cease of labor relations were out of respect. Because of that, when citizens after the Ombudsman's interventions could not realize their own rights to labor relations, they were directed to realize the right before the competent courts. But, concerning is the fact that although the rights to labor relations are existential problem for the citizens, labor disputes in the courts usually last two, three and more years, that means unreasonable timetable in proceeding at this type of disputes. At this point, particular problem in realizing the rights of the employees is not executing of court decisions in effect from various justified and unjustified reasons as: blocked giro account, working with new giro accounts that the employee hardly can reveal, opening more giro accounts, open bankruptcy proceeding, not giving information by the banks about giro accounts of the employers etc., so that the tricks on purpose are often made with the aim not to execute the sentence.

In realizing the rights to labor relations, particular problem appeared with more employees whose labor relation stopped on the grounds of technological surplus, as the employees of AD Holding Enterprise "Frinco"-Bitola, AD "Gazela" and others who were not able to realize the rights that come from the Decision of the Government of the Republic of Macedonia for the single compensation for severance pay because the Ministry of Finance does not put into effect the

Decision although it was brought in 2000. Also, the rights of the above mentioned decision could not be realized by some employees from HEC "Jugohrom"-Jegunovce, only because they are foreign citizens. Several times, the Ombudsman asked for carrying out this decision on the address of the competent bodies.

During the reporting period, the Ombudsman faced the problem of citizens from the crisis regions, whose labor relations stopped because they were not coming at work and did not justify their absence timely during the crisis period while, because of security reasons, were not able to go to work regularly. Although the Ombudsman, the preceding year indicated that bodies and organizations i.e. firms and enterprises that because of these reasons made such decisions according to the Conclusions of the Government of the Republic of Macedonia are obliged to return the employees at their job positions, i.e. to act upon conclusions, many bodies and organizations, i.e. many employers did not undertake any activities for returning these employees. The largest number of citizens, who are not returned yet to work, is mainly from the village of Aracinovo, but also from other crisis regions, village of Radusha, Bitola etc.

2.5.4. Right pertaining to housing relations

This year, as well as the past years, the complaints from housing field referred to the requests for solving of housing problem of the socially endangered persons-housing unguarded, that due to various reasons could not apply for the declared announcement for the Allocation of Apartments, requests for defining the right to occupy an apartment because of realizing the right for ransom and generally the complaints united by realizing the right for ransom of the apartments in compliance with the Law for selling apartments in social property, complaints that referred to the requests for registry of apartments in state property, most often apartments in official need because of realizing the right for ransom, complaints referring to the proceeding of allocation official apartments and other complaints, referring to the other rights, connected with the housing field. The complaints that referred to the requests for allocation of an apartment upon the article 70 from the Law on Denationalization were evident. In all these complaints, the Ombudsman ascertained violations so that in a sense of this provision indicated to the Commission for housing and migrating problems of the Government of the Republic of Macedonia that the state is obliged to allocate another apartment to these citizens, who acquired the right to occupy an apartment, i.e. the right of using the apartment upon the Law. In connection with this indication in most cases there was a positive response by the Commission.

Special interest this year caused the Allocation of the apartments in many towns in the Republic of Macedonia, built according to the "Project for building apartments that are to be let to the low-income population"-popular as "social apartments".

Namely, during September 2002, the Ministry of Transport and Connections gave more announcements for allocation of apartments - property of the Republic of Macedonia, intended for solving the housing problem of housing unguarded

citizens, mainly the low-income population. Near 1.200 citizens from the Republic applied for this announcement. After the allocation of the apartments by the Commission in the Ministry of Transport and Connections, 150 citizens' complaints came on the address of the Ombudsman, where was given an indication of certain irregularities in the proceeding for the allocation of these apartments. In order to confirm the allegations in the complaints and to ascertain the factual situation, the Ombudsman had an interview with the competent persons in the Ministry of Transport and Connections so that were received more detailed information, for the Manner, Procedure and Criteria that were taken into consideration in the selection of the candidates the apartments were allocated to. But, the Ombudsman's request to make an inspection in the documents that the citizens lodged with the complaints they took part with, in the announcement, that by the way, is in accordance with the provisions from the Article 19, paragraph 1, line 1 of the Law on the Ombudsman by the Ministry was not realized. In that way, on the grounds of documents the Ombudsman possessed and the interview with the representative of the Ministry of Transport and Connections, the Ombudsman ascertained that the citizens' list, that the apartments were allocated to, was not on the notice board in the Ministry of Transport and Connections, so that the other citizens were deprived of the right for insight in the documents, as well as the right for objection. The citizens, whose requests did not get an acceptance, received a report after the Ombudsman intervened, but they had no instruction for the right to objection, and the two-instance proceeding was not possible. Also, the citizens who received the apartments signed a contract before going into effect of the Decision for Allocation, and the allocation itself is conducted without establishing closer criteria, on the grounds of which, the appraisal would be conducted, and such an appraisal list is not made. Hence, the criteria from the conducted allocation were known only by the Commission, which however admitted that the allocation was conducted on the grounds of toss for the candidates, considering them to be in the same material, family or social position. Though the proceeding of the objections was not over, i.e. the Decision for the Allocation of the apartments was not final and in effect, citizens that the apartments were allocated to, signed contracts.

Bearing in mind ascertained illegality and irregularities for the allocation of the objective apartments, as well as the fact that by the officials in the Ministry of Transport and Connections in many ways the confirmation of proceedings for the allocation of the apartments was disabled, that was a reason more for doubts in the legality of the proceeding, the Ombudsman recommended to the Commission in the Ministry of Transport and Connections to make a new allocation, i.e. to reconsider the conducted allocation, bearing in mind the indications of the Ombudsman. On this occasion, it was pointed out that while allocating of the apartments, built according to the same project in Stip and Prilep, allocated last year, the Ombudsman ascertained same irregularities and illegality so he intervened in the same way, but unfortunately in these cases, the requests and the interventions of the Ombudsman were not respected. After the given recommendation, the Ombudsman was informed that in the Ministry of Transport and Connections a Commission for the case was founded, i.e. that deals with the case, i.e. reconsiders the whole proceeding in connection with the ad for the

allocation of objective apartments and that for the final attitude he will be informed additionally.

On the grounds of established situations in the proceeding after the ad, the Ministry of Transport and Connections delivered an information to the Government of the Republic of Macedonia with a proposal the Government of the Republic of Macedonia to revoke the ads with an explanation that according to the Decision on the Manner and Procedure for the Allocation of apartments, built according to the "Project for the Construction of Apartments that are to be let to the low-income population", only built apartments can be an issue of allocation, and not the apartments in a process of building or those who are to be built in future. By the time of allocation till the building and delivery in factual property can be expected that certain changes in the family, material situation of the citizen could occur in a sense of his employment, acquiring property on some other grounds-inheritance, present etc.

Further, the Ministry made an evaluation that the premature allocation of the apartments is against the Law on Housing because, according to the provisions of this Law, rental agreement occurs in written form and is verified at notary public. After signing the rental agreement, the leaseholder is obliged to relinquish the apartment to the renter. Hence, indisputably the result is that at the moment of signing the rental agreement, the apartment that is a subject of the contract should be built, i.e. the renter to deliver in factual power.

On the grounds of the information the Government of the Republic of Macedonia made a decision so that revoked the announcements. The Ombudsman deems that by repeating the proceeding, all irregularities and illegality in the allocation of the apartments will be removed and there will be created real conditions for equal participation in the procedure for all the citizens that realize the conditions, and the most endangered will get the apartments.

The general impression is that many problems of citizens that referred to the protection in the field of social rights, labor, and housing relation, for many years not only they were not reduced, but have a tendency of deterioration. These rights, although guaranteed by different international conventions and domestic provisions as the Constitution and the laws in the Republic of Macedonia, further remain only declaratively acknowledged rights that the citizens do not take any advantage of. This means that the state, i.e. the Government of the Republic of Macedonia still has a lack of an appropriate approach for enabling and carrying out these rights, rights of vital and existential character for the citizens.

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All this leads to the conclusion that it is of great necessity the Government of the Republic of Macedonia and competent bodies to undertake the following measures and activities:

- bringing a serious, strategy action program for employment and decreasing of unemployment;

- maximum respect on the part of the employers for the institute public announcement;
- in allocation of the employees, the employers consistently to respect the legal regulative;
- in court proceedings to take into account the principle of emergency in working disputes;
- Timely comply with and respect the requirements and interventions of the Ombudsman.

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

2.6.1. Health insurance

One of the rights guaranteed by the Constitution of the Republic of Macedonia is the right of medical protection, which in accordance with the Law on Medical Protection and the Law on Health Insurance is realized on the basis of the principles of reciprocity and solidarity. But, although the competent bodies, while deciding upon the rights of the citizens, should follow this principles, as well as the principles of humanity and social justice proclaimed as basic values of the constitutional order of the Republic of Macedonia, in practice not always do they respect this principles, so that the citizens are facing a large number of obstructions in exercising their rights in this field. The Ombudsman in the process of handling the lodged complaints that referred to the exercising of the right to medical protection, ascertained that the officials in the competent bodies of the state administration, who are charged to take care of the exercising of the right to medical protection, do not always respect the legal regulation, and even less do they promptly and efficiently decide upon the requests of the citizens.

Although this year the situation regarding the cooperation of the competent bodies with the Ombudsman and the respect for his proposals and opinions has been improved, the problem remains with untimely acting of the bodies not only upon the requests issued by the Ombudsman, but also upon the requests of the citizens. While handling the complaints in this field, in most of them violations of the rights of the citizens were ascertained, and they referred to: payment of participation for medical services or supplement of medicines, rights to direction and admission of the expenses for treatment abroad; recognizing the capacity of an insured person, special rights of certain categories of citizens (children, severely ill persons and like); choice of main doctor; benefits for leave for pregnancy, giving birth, illness and other rights.

With regard to the complaints pertaining to the participation, the Ombudsman ascertained that the citizens are charged with higher participation than the one foreseen by the Law, and the procedures for refund are usually slow and inefficient. A special problem with regard to refunding the expenses for medicines procurement from the so called "Positive list" is the price of the procurement of the medicine which citizens are charged and the tender price fixed

by the Fund for Medical Insurance. The Ombudsman requested from the competent bodies to undertake measures in order to overcome this problem, for protection of the citizens, who are forced to pay much higher prices for the medicines than the prices admitted by the Fund, which makes it more difficult and impossible to exercise the right to medical protection. In respect of the procurement of certain medicines, the Ombudsman has also evaluated that citizens' rights were violated, that is, the exercising of this right was aggravated because of the usual unjustified practice of certain medicines to be bought only in specified pharmacies. After the intervention of the Ombudsman, adequate measures were taken to overcome this problem. Speaking of medicines, the situation is disturbing, thus it is necessary the competent bodies to undertake urgent measures to overcome the problems pertaining to the procurement of medicines.

Another problem that the Ombudsman faced in the past period was the exercising of the right to treatment abroad and admitting the expenses for the treatment on the part of the Fund for Health Insurance. Namely, in respect of this right, in spite of the Ombudsman's intervention, in the past period, again, the Fund did not comply with the statutory and sub-statutory legislation and requested from the citizens sent to treatment abroad to enter a contract, by which they agree that the Fund will recognize only part of the expenses incurred during the treatment, and not 80% as foreseen by the Law. At the same time the citizens were blackmailed to enter the contracts so that the Fund would issue them a resolution for treatment abroad. After the Ombudsman's interventions, illegality in the procedure was eliminated and the Law was respected, but the Fund reacted only in these cases. Regarding the exercising of the right to treatment abroad, citizens' rights were also violated by not issuing resolutions although from the doctors' opinion it stemmed that a treatment abroad is indispensable. In this case, the citizens were forced to lead long administrative procedures before the administrative bodies and before the Supreme Court, and at every delay of the procedure the health condition of the citizens that needed treatment abroad got worse and it decreased the chances for a successful intervention.

Characteristic cases of violations of citizens' rights in this period were those concerning not recognizing the capacity of insured persons because on some previous grounds that no longer exist, the contributions to the Fund were not paid. In these cases, not only the Fund did not reregister these persons as insured persons on the grounds that no longer exists, but it also did not register them as insured persons on the grounds on which the persons should be insured and pay their contributions.

The Ombudsman pointed out to the statutory provisions regarding the Fund's obligation to register or reregister the insurance on certain grounds, which is not restricted by payment of previous contributions. He also pointed out to the provisions regarding the way of payment of outstanding contributions and requested registration or reregistration of the citizens and acquisition of the capacity of insured person, so that they will not be deprived of their constitutional right to medical protection, which was accepted by the Fund.

In this period, the Ombudsman ascertained a violation of the right to free choice of main doctor. Namely, an employer, in contravention with the Law, gave an order that all the employees should choose as their main doctor the person stated in the order and if not, the issued sick leaves will not be recognized and a compensation will not be paid. After the Ombudsman's intervention of which the media was notified, the employer withdrew his order.

As a problem for which the Ombudsman intervened this year occurred the realization of the rights of the persons suffering from severe illnesses, who are facing large expenses because of the everyday therapy, and because of their straitened circumstances can not use all the necessary means and treatment methods. For that reason, the Ombudsman proposed foreseeing of certain benefits and exemptions from the expenses for this category of citizens, and especially for the children suffering from cerebral palsy. But, unfortunately, this year, again, there have not been undertaken any concrete activities to improve the conditions for unobstructed use of the medical care for this category of citizens, which unavoidably imposes the need for changing and amending of the legislation.

Protecting the rights in this field, the Ombudsman also contributed to the reforms in the field of health, especially in the aspect of the protection of the children's rights and with regard to the proposals for abolition of the pediatricians as specialized main doctors through which the primary medical protection of the children should be exercised. The Ombudsman directed an opinion to the competent bodies and among the other things stressed the negative impact of certain solutions in respect of the rights of the citizens. He evaluated that comprehensive analysis of the effects of the implementation of certain reforms, primarily in respect of the citizens' possibilities to exercise their constitutional right to medical protection. For these dilemmas and reflections presented also by other bodies, associations, and individuals, the Ombudsman was of the opinion that larger discussion is needed before making such important reforms in this field.

However, despite the certain improvement, the respect of the rights from the field of the medical protection is still not at the necessary level. This in particular refers to the delays of the proceedings, bureaucratic behavior of the officials in their communication with the citizens, intentional disrespect of the legal normative and etc.

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These statements unavoidably impose the need the competent body to undertake the following measures and activities:

- consistent exercising of the citizens' rights to medical protection and applying of the legal and sub-statutory acts on the basis of which these rights are exercised;
- continuing and deepening of the established cooperation of the competent bodies with the Ombudsman and consistent respecting and complying with the requests and proposals of the Ombudsman;

- changing of the legislation by foreseeing the possibility to exempt from participation the children under 18 and persons over the age of 65, with the aim of achieving the highest level of medical protection of the children, which was foreseen by the Convention for the Rights of the Children and providing an adequate medical protection for the older persons, as well as exempting from participation for some regular medical services of the persons suffering from serious incurable diseases (children with cerebral palsy and children with more serious problems in the development, persons suffering from cancer and other serious incurable diseases that are exposed to large everyday expenses for using medical services or medicines);
- Overcoming of the problems pertaining to the supply of the medicines that are on the so called "Positive list" in the pharmacies and especially in the clinics, as well as overcoming of the problems with the differences between tender and factual prices of the medicines.

2.6.2. Pension and disability insurance

Within the citizens' social rights that are realized on the basis of the Law, are included the rights from the field of pension and disability insurance. While exercising their rights from the field of pension and disability insurance, the citizens most often turned for help and protection of the rights for the reason of untimely acting upon their requests on the part of the competent bodies, incorrectly fixed amount of the pension check or incorrectly determined accrued time as a base for realization of the right to pension, the basis for fixing the pension base, inability to realize their right to disability pension and other rights.

For more efficient and timely deciding upon the requests of the citizens, as well as for resolving certain disputable questions pertaining to the lodged complaints, in the reporting period the Ombudsman more and more practiced to conduct close inspections, which not only improved the efficiency in the deciding of the competent bodies, but also enabled correct ascertaining of the factual situation and consistent application of the legal regulation. Because of this handling method and the Ombudsman's persistence for deciding upon the requests of the citizens within the set timeframe, in contrast to the previous years, with regard to the timely deciding, there is a certain improvement, that is faster and more efficient deciding on the part of the first instance bodies, and especially is improved the efficiency of the second instance commission. However, despite the noticeable improvement, there are still cases of delaying and not deciding within the legal time frame.

From the lodged complaints in the field of pension and disability insurance, beside the delay of the procedure, citizens also face other problems: acquiring retirement, disability and family pension; unregistered or incorrectly registered data in the master register file; not having at disposal certain data because they were not delivered in time by the employers, and other problems. For this reporting period it may be ascertained that there is a smaller number of complaints pertaining to the impossibility to realize the rights in the field of pension and disability insurance because of unpaid contributions, which indicates improvement of the situation regarding the pay of contributions on the part of the employers.

Like in the previous reporting periods, in this one as well there is a significant number of complaints that refer to the realization of the right to disability pension, in which the citizens expressed their dissatisfaction with the decisions made by the competent commissions with regard to the evaluation of their work ability as a base for acquiring disability pension; in these cases it was stated by the citizens that in spite of the grave health condition that had caused permanent loss of the work ability and after many addresses, the evaluations of the commissions were the same, i.e. that their work ability was not decreased or lost; for these reasons they are neither able to work, nor can they acquire disability pension. On these complaints, in most cases the Ombudsman can not help the citizens because he is neither competent, nor qualified to re-evaluate the findings and the opinions of the competent commissions with regard to the health condition that represents a basis on which a certain person is proclaimed as incapable of work or with reduced work ability. For this reason the Ombudsman in a small number of cases had successful interventions before the competent bodies for acquiring disability pension. However, despite his incompetence to check the finding and the opinion of the competent body regarding the work ability, when he ascertained obvious omissions in the procedure or ascertained that the findings and the opinions of the competent commissions are in contradiction to each other or they are different on the basis of unchanged factual situation, the Ombudsman requested and insisted on their reconsideration, that is, realization of the right if the already presented findings indisputably pointed to the existence of disability. However, it may be ascertained that the problems with which the citizens met before the competent bodies further on stay open, not only in regard to the delay of the procedure, but also in regard to objective and unbiased findings, evaluation and opinion on the work ability, on which depends the exercising of the right to disability pension or other rights on the grounds of disability, for which purpose it is necessary that all the bodies should strive towards objective acting upon the citizens' requests. In this context citizens' opinion should be stated, i.e. that they exercise this right most often by bribing members of the commissions, which, of course, should not be ignored, because the competent bodies should take measures for investigating the cases and preventing the corruption.

Regarding the exercising of the right to disability pension it is noticeable that part of the citizens that are in straitened circumstances, who are unemployed or do not receive their month pay, submit requests for acquiring disability pension in order to provide the existential needs. While handling these complaints the Ombudsman pointed out that the rights from the field of pension and disability insurance are realized only if certain legally foreseen conditions are met and not on the basis of the financial situation and the needs of the citizens.

With regard to the other rights that are exercised on the basis of disability, that is remained work capacity, specific are the complaints that referred to the right to benefit for cease of labor relation of a disabled worker because of liquidation of the legal entity. Regarding the fact that procedures for bankruptcy and liquidation are run before the courts and are long lasting, and the Fund insists on formal

deleting of the legal entity from the court register, citizens exercise this right slowly and with difficulties.

Also, a significant number of the complaints referred to requests for correction of the amount of the awarded pension check. On the occasion of these complaints the Ombudsman requests recalculation of the amount of the pension check only if he ascertains that while calculating were not taken into consideration certain accrued time that may influence the amount of the pension check or some other elements that are important for fixing the amount of the pension check. In relation to recognizing of the accrued time several complaints were lodged, in which the Ombudsman ascertained that it is due to incomplete data in the master register of the Fund or to not recognizing in the accrued time certain years spent at work, for which the citizens did not have enough evidence. For correct ascertaining of the data in the master register the Ombudsman addressed to the employers, if it was case of bodies over which he handles with authority, to deliver all necessary data or he proposed the Fund to take into consideration all the relevant evidence that clearly indicate that the accrued time concerned should be taken into account while fixing the amount of the pension check.

This year was also resolved the problem with the pensioners that should be awarded pension by the competent bodies of the Republic of Yugoslavia because the Agreement for Co-operation and Resolving of the Problems pertaining to Social and Pension Insurance between the Republic of Macedonia and the Federal Republic of Yugoslavia was signed. Unfortunately, the problems with the army pensioners, who were not included in this agreement, were not resolved. One part of the complaints referred to acquiring pensions abroad, the Ombudsman could not undertake measures for speeding up of the procedure before the officials because in many cases the foreign bodies did not deliver the requested data in time. However, the Ombudsman intervened in the competent services of the Fund for Pension and Disability Insurance in the Republic of Macedonia for promptness in calculating the length of service abroad and requested from them to be more persistent in their requests for timely delivery of necessary data by the foreign bodies.

In this reporting period, as well as in previous ones, part of the problems regarding the pension insurance referred to adjustment of the pension checks for the retained 8% in keeping with the Law on the Payment of Salaries and Pensions in the Republic of Macedonia and adjustment of the pension check for 48,53% of the pension-retirees of the Ministry of the Interior. The said problems still exist and are not resolved, considering the fact that there are still not procured funds for complete adjustment of the pensions on the stated grounds.

This year, again, the question pertaining to collecting funds from the pensioners into the Solidarity Fund, but after the Fund's decision on collecting such funds was reversed by the Supreme Court this issue has still not been resolved. One part of the pensioners' associations lodged complaints regarding the abuse of the associations by the competent bodies in respect of using the funds of the association, but the Ombudsman considering his competencies did not have legal

basis to handle the stated complaints and directed the complainants to raise this issue before the competent bodies.

Although the situation pertaining to the co-operation of the competent bodies with the Ombudsman and the respect for his proposals and opinions has been improved, the problem of the untimely acting of the competent bodies not only upon the Ombudsman's requests, but also upon the requests of the citizens still remains.

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With regard to the above stated situation there is an urgent need for the competent bodies to take the following measures and activities:

- Timely acting upon the requests of the parties and complying with the Ombudsman's requests and recommendations within the legal time frame, with regard to the fact that the pension is one of the basic existential rights of the citizens;
- Because of the frequent changing and amending of the Law on Pension and Disability Insurance, revised text is necessary for the purpose of easier application.

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

In accordance with the Constitution of the Republic of Macedonia the citizens are guaranteed the right to education and it should be accessible to everyone under equal conditions, and primary education is compulsory and free.

The complaints that refer to the protection of the rights from the field of education, this year, again, mostly referred to the rights of the students in respect of co-financing in the studies, the changes in the enrolment policy of the higher education institutions in respect of the conditions for co-financing on the part of the students and the conditions for enrollment, students' standard of living in the dormitories and obtaining allowances and scholarships for studying and other students' rights.

While handling the complaints in this field, with the aim of clearing up the factual or the legal situation, the Ombudsman met with non-cooperatives of the competent bodies with regard to acting upon his requests and sending information, as well as enabling him to conduct an unobstructed inspection of the documents. Rarely was it responded within the time frame, and in particular cases, despite the interventions of the Ombudsman, there was not any response. About all these problems and obstructions in the work, the Ombudsman informed the higher bodies, but even that did not always yielded positive results. Also, the bodies that decide upon the rights from the field of the education, and first of all the Ministry of Education and Science, did not always respect the Ombudsman's recommendations and proposals.

Although in the largest number of the complaints that referred to the protection of the rights from the field of the education the Ombudsman did not

ascertain violation of the rights, still in handling certain complaints he ascertained violation of the rights pertaining to a larger number or group of citizens, as it was the case of reception and accommodation of the students in the dormitories, granting the students scholarships and credits, fixing the participation of the higher education institutions and determining the entrance requirements of these institutions, as well as the rights that refer to a larger number of citizens. In this respect the Ombudsman ascertained several omissions and unlawful activities in the procedure for the accommodation of the students in the dormitories. Namely, in order not to allow the students to have insight in the procedure for accommodation in the dormitories, the Ministry changed the rule-book and excluded the students from the commission that decides for the allocation, and during the inspection conducted by the Ombudsman, several omissions were ascertained especially while determining the necessary points in accordance with the foreseen criteria for acquiring the right to accommodation in the dormitories. For the ascertained violations the Ombudsman sent special information to the Minister of education and science with the aim of undertaking measures for persistent respecting of the rights of the students and having equal treatment for all of them.

The Ombudsman ascertained violations of the rights of a large number of citizens on the part of the Ministry of Education in the process of granting the students credits and scholarships. In this case it was ascertained that in the process of submitting the requests for credits and scholarships, the officials in charge of receiving the documents, in fact, decided whether some student has the right to a credit or scholarship or not by refusing to accept the submitted documents. The Ombudsman is of the opinion the Ministry is authorized by law to decide upon every request of the citizens and if it estimates that prescribed conditions are not met, it should reject the request by an administrative act and give the citizen the possibility to exercise the right to complaint guaranteed by the Constitution of the Republic of Macedonia. The Ombudsman evaluated this act of the Ministry as unlawful and addressed a recommendation for elimination of these omissions, and he is of the hope that in the forthcoming period his recommendations will be respected.

With regard to co-financing of the students for practicing higher education activity, the Ombudsman on his own initiative started a procedure in order to make the amount of the participation equal for all the students regardless of the fact when they entered the university and to put all the students in equal legal position. Most of the faculties accepted the Ombudsman's proposals and leveled the participation sum. In respect of the co-financing of the students the Ombudsman has also initiated a procedure for refunding the expenses for studying for the students that on the basis of the Government's decision were additionally registered in the state quota, for which the Government was supposed to procure funds. The funds were not procured, so the students that were additionally registered, although in the state quota, were obliged to bear the expenses for studying. After several addresses of the Ombudsman to the previous and to the present Government, the problem has still not been solved.

A particular problem in the realization of the higher education activities is not establishing the Fund for higher education activity and its establishing is indispensable for the realization of the autonomy of the Universities, as well as for overcoming of the problems with financing of the faculties and with the way of using the funds. It results with imposing various compensations on the account of the students, i.e. of their parents, for the services within the framework of the regular functioning of the faculties.

The Ombudsman also handled the case of the application of the provisions of the Competition for enrollment of the students that are members of minority communities that live in the Republic of Macedonia. Namely, although according to the competition it is foreseen that the faculties are obliged under special more favorable conditions to enroll members of the communities that live in the Republic and these obligation is foreseen in the Constitution of the Republic, certain members that participate with a small percentage in the total population (Bosnians) can not use the benefits; and with this they are brought into unequal position in regard to the other communities that live in the Republic.

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Presented situation, evaluations and statements unavoidably impose the need for the competent body to undertake the following measures and activities:

- In respect of the issues in the field of education the Ombudsman first of all requests establishing of the necessary cooperation with the competent bodies because in the past period it was not at the satisfactory level. This obstructed the Ombudsman's handling of the lodged complaints and prevented prompt undertaking of the measures for protecting the citizens' rights, by which the Ministry of Education and Science tolerated illegal and inadequate acts of the competent bodies to the detriment of the citizens;
- Consistent respect of the statutory and sub-statutory acts especially in the case of realization of the rights of a larger number of citizens, for example, accommodation in the dormitories, students' scholarships and credits, fixing the amount of the participation and co-financing of the students etc.
- While deciding for imposing of various obligations for the students, their standard should also be taken into consideration, and not only the needs of the educational institutions;
- With regard to the fact that violence amongst young people is in progress, and especially disturbing are the tragic results of the incidents amongst juveniles, it is essential in the educational process to introduce activities by the means of which the young people will develop into positive persons and will prepare themselves for a responsible life in the free society in the spirit of understanding, tolerance and friendship regardless of the ethnic, national or religious background. Children and young people should be taught of love among people, and not hatred, love towards the books and the cultural values, and not towards weapons and the attitude that only by violence the aim will be reached.

2.8. Protection of the rights of children

Regarding the children's' need for special care and help, the Ombudsman paid special attention to the protection of the rights of children, both in handling individual cases and generally by following the situation with exercising of the rights of children and giving his proposals for improving the conditions and the possibilities for realizing and respecting of their rights.

In this reporting period, again, it can be noted that the majority of the complaints in the field of children's right referred to the realization of personal contacts between the children and the parent with whom they do not live, and the subject of these complaints is mostly parents' dissatisfaction with the centers for social work. What features these cases is that in most of them parents point out primarily to the violation of their right to maintain personal contacts with the child who lives with the other parent, not taking into consideration the rights of the child, in which case mostly due to some unsettled issues between them, the parents take actions by means of which they themselves violate the rights of their children. There are more and more cases when the children, who on the part of one of the parents are prevented to realize contacts with the parent they are not living with, also show resistance towards the visits and it is so because of the instructions given by the parent with whom they live. Some centers for social work in such cases do not undertake corresponding measures to overcome this situation, primarily, to protect the rights of the children, but quite often because of the lack of adequate mechanisms, the centers give up on dealing with these cases, and the children develop into personalities with wrong attitudes towards one of the parents. For that reason, the Ombudsman insists that centers should find out appropriate ways for exercising of the rights of the child and the parents.

A particular problem in exercising of the right of the child to maintain personal contacts with the parent he/she does not live with, is the execution of the decisions of the centers for social work, which do not have efficient legal instruments for the execution, during which the police assistance is used as the last resort, and sometimes it is not used at all because this method can cause traumatic consequences on the child's mental health. For that reason the Ombudsman in his suggestions and addresses to the centers mostly calls for application of the advisory method, that is, conversation with both of the parents and work with the child performed by qualified persons. But when one the parents has extreme behavior which results in braking off the contacts between the child and the parent with whom he/she does not live, it is recommended to the centers for social work to take more rigorous measures against the parent that impedes the contacts.

The economic situation in the country, in the reporting period as well, had great impact on provision of the best interest of the children in the Republic of Macedonia and this is supported by the fact that in most of the complaints, among other things, it is pointed out to the existential problem of many households and their incapability to provide appropriate standard of living for their children.

Namely, the families that are in social need receive minimal public welfare, even more minimal children's allowance or other allowance; the allowances are often not paid in time, by which the situation is made even more difficult in these families, and children are the ones that feel that at most. After the enactment of the Law on the Protection of Children, although the situation in respect of the rights of children was expected to be improved, above all in the view of providing an appropriate standard of living, it did not happen because, in spite of the fact that the law was enacted a long time ago, there still have not been enacted sub-statutory acts for regulation of the procedure for realization of the rights foreseen by this Law, although the Ombudsman intervened on several occasions before the Government of the Republic of Macedonia and the Ministry of Labor and Social Policy. For these reasons the previous regulations are still used and they did not provide equal conditions for all the children to exercise their rights.

In this reporting period, as well as in the previous reports, there were complaints that referred to the procedure for registration of the children in the Register of births, in which case the Ombudsman ascertained that in spite of the indisputable facts that the child was born on the territory of the Republic of Macedonia, the competent services did not register the child in the Register of births; thus the Ombudsman, mostly in direct contacts with the officials, resolved this issues and it was complied with all the requests of the citizens, that is the children were registered.

Because of the increasing number of incidents that have taken place recently, and were manifested by mutual violence between juveniles from Albanian and Macedonian ethnic background, the Ombudsman pointed to the necessity of undertaking measures on the part of all competent bodies in order to protect the children, not to abuse them, to provide them with secure life and realization of the right to education and at the same time to give them the right in an adequate way to express their opinion on the problems of their concern. By appealing through the media, the Ombudsman called all the subjects to respect the children's rights and not to abuse the children in the name of their rights, and above all he appealed for the educational system to positively develop personality of the children who should be prepared for a responsible life in a free society, in the spirit of understanding, tolerance and friendship among all peoples, and ethnic, national and religious groups.

A question to which a special attention was paid in this reporting period as well, and several measures were taken to that end, was the determining of the status of the centers for children's creativity and primary schools of music and ballet in the Republic, and the financing of this institutions from the Budget of the Republic was terminated on the basis of the Government's resolution and decisions of the Ministry of Education and Science, as a result of the Government's activities for reducing the number of budget beneficiaries. The Ombudsman took the stand that these institutions in the Law are foreseen as institutions in which other forms of education are practiced and if the Government's stance is that their financing should stop, the legal regulation should also be changed. The Ombudsman has specially stressed the role of these institutions in developing

children's talent, and creative and cultural abilities. After the Government stopped financing these institutions, some of them are used with other purposes, some are used depending on the directors' needs and some do not work at all. The employees in these institutions have no determined status, in some of the centers salaries have not been paid for several months, but the most damaged are the children, who need to pay for every service, and this lowers the possibilities for development of their talent and abilities.

Evaluating it as an inadequate solution, the proposal of the Ministry of Education and Science that the objects used by these institutions should be given for use to the employees for the period of 30 years and they should procure funds by themselves without any participation of the Government, the Ombudsman requested from the Government of the Republic of Macedonia and the Ministry of Education and Science to reconsider their resolutions having in mind the best interest of the children, their rights and needs; because if there is not foreseen any possibility to support these institutions by the Government, it would mean that the children should procure funds by themselves, that is, to be financed, and there will be a large number of talented and gifted children that due to the lack of financial support will not be able to pay and to develop their abilities. Thus the Ombudsman pointed out that the Government has the obligation to undertake all possible measures to realize the children's rights including the right through different kinds of educational forms to develop the children's personality, gift and mental and physical abilities, which is in accordance with the Convention for the Rights of Children.

Evaluating that by the events in the primary school "Ss. Cyril and Methodius" in Negotino the rights of the children are violated and children are used for the aims of the adults, the Ombudsman requested that the Minister of education should take urgent measures to resolve this situation in the school and to ascertain the responsibility of the persons that caused this event, and for that purpose he turned to the Public Prosecution. The Ombudsman for this case appealed through the media to all the subjects not to abuse the children, but to undertake measures for their protection and respect for their rights. After these interventions, the director of the school was changed and charges were brought against several persons involved in this case. Unfortunately, there are still no results from the procedure. Protecting the rights of children, the Ombudsman on his own initiative acted each time he realized that children's rights were violated. In that aspect a procedure was initiated for protection of the right of an under age child that suffered rough physical violence from his parent, which disturbed the public, and the Inter-municipalities center for social work took care for the child.

The Ombudsman paid special attention to the rights of the children suffering from cerebral palsy, who due to their poor state of health need special care and better conditions to use the medical services, for which there were submitted recommendations and suggestions to meet the requests of the parents of these children, and that would mean relief for their existence. Unfortunately, the competent bodies have not taken any measures so far to improve this situation.

Paying special attention to the rights of the children and the influence of the media, and supporting the complaint of the students from primary school "Ljuben Lape", by turning to the Council for Radio Broadcasting and informing the public, the Ombudsman pointed to the need for undertaking actions in respect of protecting the children from information and contents damaging for their psycho-physical development and well-being. The requests of the children and of the Ombudsman were adopted by the Council for Radio Broadcasting, which started an initiative for adopting a Code for advertising as a result of a series of negative occurrences in the advertising, the regulation of which overpasses the frames of the Law and asks for synchronized action of all the subjects, first of all the media which by their broadcast, even by the commercials should contribute to the proper development and well-being of the children.

For enabling protection of the rights of children, by all means, the Ombudsman's cooperation with the competent bodies and organizations, as well as with the non-government sector is essential. In the course of the reporting period it may be ascertained that the cooperation of the Ombudsman with the bodies of the state administration was at a satisfactory level, that is, the opinions and the recommendations pertaining to the exercising of the rights of children were adopted and implemented in the proceeding of the competent state bodies. However, we are of the opinion that the competent bodies still do not take sufficient continuous measures for creating conditions for exercising of the rights of children and are not always governed by the best interest of the children. The Republic should create material and other conditions for normal growth and development, secure life, the highest level of medical protection and all other rights guaranteed by the Convention for the rights of children, because the Republic was obliged to this by accepting and signing this Convention.

While handling the complaints that refer to the protection of the rights of children, and often starting a procedure on his own initiative, the Ombudsman may ascertain that in most of the cases children's rights were violated, but satisfaction may be expressed with the fact that after his interventions, the omissions and unlawful acts were eliminated and measures by the competent bodies were undertaken for realization of the rights of the children.

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With regard to the presented situation with respect to the rights of children, the Ombudsman ascertains that:

- Although in the previous report the enactment of the Law on Protection of Children was evaluated as a positive feature, and hope was expressed that its implementation will improve the state of the children in the Republic of Macedonia, with regrets we may evaluate that for the reason of not enacting the sub-statutory acts, the Law was not implemented at all. According to the new changes and amendments of the said law by which children are put into the position in which they were before the enactment of the law, instead of improving the living standards and eliminating the discrimination among children, even more worsened the standard of living and conditions for

- realization of the basic rights of a large number of the children in the Republic;
- Because of the difficulties in implementing and executing of the centers' decisions that refer to the right of the children to maintain personal contacts with the parent who does not live with them, the Ombudsman proposed undertaking of measures for overcoming of this problem. Unfortunately, such measures were not undertaken, thus it is essential to devise mechanisms, ways and methods that will enable the children to maintain personal contacts with the parent, unless it is in contradiction with the children's interest.
 - While creating the policy and procuring funds for meeting the citizens' needs the State must be governed by the best interest of the children, to put the children above all other needs, rather than to restrict the necessary funds for normal growth and development of the children each time the Budget is restricted.
 - By reason of everyday incidents and fights among the young people and violence over children continuous measures must be taken with respect to: more frequent application of the legal right of the centers for social work for conducting supervision over the parental right; greater mobility of the police and its presence in the streets, that is, putting police officers in charge of certain streets; regulation of the work of the catering objects and restriction of the working hours, as well as restricting the possibility for visiting this places in the late hours on the part of the juveniles; more severe sentences for the persons that serve alcohol to the juveniles and other necessary measures for the protection of the young people and the children;
 - For improving the situation pertaining to the rights of children it is necessary for the State to devise ways for improving of the children's standard of living, which most often is the reason for violence in the family and out of it, by means of employing the parents or if that is not possible, by adequate financial aid that will enable the children to have normal growth and development in a family, and for this the Republic is bound by the Convention for the Rights of Children;
 - measures should be taken for help and care of the children in the streets that beg and do other things instructed by their parents, by which they are being abused and exploited;
 - A special attention should be paid to the children with special needs and they should be enabled to exercise all their rights without any restrictions.

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

2.9.1. Urbanism and construction building

In the period from 1.1 to 12.31.2002 in the Ombudsman's Office 214 complaints in total were lodged by citizens who believed that by actions or acts of the state bodies their legal rights had been violated in the field of urbanism and construction building.

In the reporting period complaints mostly referred to acts on the ground of which unlawfully built constructions or parts of the constructions not included in the issued building permission should be torn down. Lodgers of these complaints are the owners of the constructions or interested persons who believe that by the deviations made in the construction of particular buildings their legal rights were violated. One part of the lodgers complained about the slowness of the procedure for issuing building permissions although the competent Ministry announced that the said procedure would be simplified and made more efficient. In one part of the complaints the lodgers complained on the lack of transparency in the procedure for establishing the urban development plans or on the offered resolutions in the drafts of the urban development plans. In these cases the citizens emphasized that while changing and amending the detailed urban development plans very often a care was taken to satisfy the commercial appetites of formerly known investors. At the same time it was not taken into consideration that the new urban development solutions would lead to degradation of the environment, to overcrowding of the corresponding building site with apartment and business constructions to the detriment of the space necessary for horticultural arrangement; this eventually influences humane way of life of the citizens because of the lack of necessary parking space for vehicles, lack of entertainment corner for the youngest or space for horticultural arrangement. At the Ombudsman's Office were also registered complaints by which the citizens requested realization of the current urban development plans through construction of streets or access paths, and that is an obligation of the self-government units.

In the process of handling the complaints it was noted that there is no significant improvement with regard to the duration of the second instance procedure before the Commission of the Government of the Republic of Macedonia that decides on second instance on the cases from the field of transport and connections and environment. This kind of occurrence was especially expressed in the period before or after the parliamentary or local elections when political structures that are in power or come to power forget about everyday needs and problems of the citizens and devoted their energies to the election campaign or to consolidating of the Government itself. For these reasons all the second instance commissions, this one as well, do not function at all even for several months, which is in contravention with the principle of efficiency and economy of the administrative procedure. Hence, because of the unresponsiveness of the administration the citizens are directed to initiate an administrative procedure before the Supreme Court of the Republic of Macedonia, where due to the large scope of work, the procedure is also enormously long. The delay of the proceeding on the appeal is also influenced by the untimely delivering of the appeals and the cases on the part of the first instance administrative bodies.

The number of 113 rejected complaints out of 168 in total, which were resolved in the last year, shows that a large number of the citizens were not right when they requested protection of their rights in this field. This number includes the complaints against decisions for tearing down illegal buildings for which the Ombudsman, after the conducted proceeding, estimated that had been made in

compliance with the Law on Urban Development Planning, Law on Building Investment Constructions and on the basis of complete building documentation.

Speaking of execution of effective executive acts, the Ombudsman can not be satisfied with the responses of the urban police of the type: “the administrative act will be acted upon as soon as possible”, “in the forthcoming period”, “by the end of the year” and like. Such approximate promises were denied in practice several times, and that is one of the reasons for constant increasing of the number of unresolved cases in this field, citizens’ revolt, legal insecurity and lost of trust in the institutions. For this very reasons, in the forthcoming period the Ombudsman will insist on persistent implementation of the administrative acts, and if in that case he ascertains elements of dishonesty in carrying out the work duties, abuse of the position or elements of corruptness, he will request from the competent institutions to undertake corresponding legal measures, which is one of the means at his disposal with regard to respect and realization of the rights and the interests of the citizens.

The expressed readiness on the part of the State Inspectorate for Urbanism and Construction Building at the meeting held at the end of December 2002 for improving of the cooperation with the Ombudsman has solely declarative nature, because in practice, on the part of this body, still are not sufficiently respected the recommendations of the Ombudsman for undertaking urgent and concrete actions in relation to execution of the final administrative acts for tearing down of the illegal buildings. The insufficient technical or personnel equipment of the Inspectorate is stated as a reason for this situation. The Ombudsman understands the problems of objective nature, as it is the insufficient equipment within the Inspectorate, as well as insufficient technical and financial resources for better promptness and efficiency in operating. However these questions and problems should be resolved in the competent ministry within which the Inspectorate for Urbanism and Construction Building functions, while the citizens with good reason insist on realization of their legal rights, for which they will still find support in the Ombudsman’s Office.

The Ombudsman is of the opinion that with better personnel and technical equipment, as well as with better organization within the Inspectorate for Urbanism and Construction Building can and should be worked more in the aspect of preventive—timely preventing the unlawful constructions, by which on one hand the investors will avoid the material damage caused by the tearing down the buildings, and on the other hand violations of the rights of the interested persons will be prevented.

What should be especially stressed in this report, and which unfortunately represents novelty and an example for negative behavior, is that after several years of functioning of the institution this very organ deprived the Ombudsman of the right to initiate a procedure in the cases in which since the last action or the last decision of the body more than a year has passed. In the cases when since the last decision more than a year passed, and it is the matter of not executed administrative acts for tearing down of unlawfully built constructions, it is true that

the Ombudsman at the request of the interested citizens initiates a proceeding and requests from the Inspectorate their execution. However, the competent officials in the Inspectorate forget that exactly the not implementing of the executive decisions is the essence of the violation of the rights of the interested persons because enactment of the administrative act for tearing down is groundless if the act is not executed. It is obvious that there was misunderstanding and misinterpreting of the provision of the Article 17 of the Law on Ombudsman all the more so that the Ombudsman is the one that can cite it when deciding whether he will initiate a procedure for investigating the violations of the citizens' rights, and not the bodies and organizations which acts and activities are the subject of the complaint. The reason more is that the very non-execution of the acts is a lasting condition, and it is a result of improper functioning of the body and exactly that is the content of the violated right of the citizen. For that reason it can not be challenged the Ombudsman's right and obligation to stand for the protection of the rights and interests of the citizens, all the more so that he appears as a legal representative of the citizens in the procedure for realization of their rights, citing the legal rights they have as parties in the administrative procedure.

Hence it follows that an obstacle for the realization of the citizens' rights from the field of urbanism and construction building is not the legal regulation, but its erroneous or inconsistent implementation in the organization units of the Ministry of Transport and Connections.

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For this reason, and in order to improve the above stated situation it is necessary:

- While drafting the detailed urban development plans unavoidably, to take account of rational arranging and using of the space and creating conditions for humane living and work of the citizens.
- In the state Inspectorate for Urbanism and Construction Building, to draft a written program for the plan and the realization of the executive decisions, and the Urban police to act upon them according to earlier determined calendar;
- Increase the preventive activity of the inspection bodies with the aim of timely preventing of illegal building activities;
- Undertake actions for better personnel and technical equipping of the inspection services;
- Timely include the interested persons in the administrative procedure, which should be practiced from the very beginning of the procedure and ex officio by the body that runs it;
- work on raising the consciousness of the civil servants especially those who directly decide about the rights of the citizens, by which the administrative bodies would turn into real service for the citizens;
- Appeals against the administrative acts with all the documents pertaining to them to be delivered immediately and urgently to the second instance commission for the further acting in order to speed up the procedure on the appeal.

- Work on speeding up the administrative procedure before the first and especially before second instance commission for the affairs in the field of urbanism and construction building, by which the decisions on the citizens' requests and on the submitted legal remedies would be made within the timeframe established in the Law on General Administrative Procedure.

2.9.2. Environment

The modern way of life along with the development of the science and technology, as well as the changes in the social and economic system in the last decades of the past and in the beginning of this century, reactivation of some larger industrial capacities and the construction of some smaller production sections along with the insufficient ecological culture and awareness of the citizens are the potential factors that more or less have influence on the environment, the soil, the water, the air. The Ministry of Environment and Planning is a body that is directly called to follow the situation in this sphere of the social life. Beside this, in the Republic of Macedonia there are numerous non-government organizations and associations interested in keeping and protection of the environment.

In accordance with his legal competencies, the Ombudsman, in this field handled complaints lodged by citizens, and in several cases he started a procedure on his own initiative. Although it may be ascertained that the problems pertaining to the pollution of the environment are much more serious, still in the period included in this report to the Ombudsman were addressed 22 complaints in total, which is one more proof for the relatively low level of ecological consciousness of the citizens, as well as for the insufficient or indolent attitude towards the environment. Although the Ombudsman expected more complaints that refer to the pollution of the air, the soil, or the waters, which most directly influences the people's life and health, yet the largest number of complaints in this field regarded the problems relating to increased level of noise caused by the working of various catering facilities. The procedure on the cases that referred to the air pollution was, in fact, started on the Ombudsman's own initiative, and on the basis of facts acquired through the media. In order to devise the most adequate solutions, while handling the complaints the Ombudsman's Office contacted the State Inspectorate for Environment, for which it can be stated that the established relations with this administrative body are at the satisfactory level.

Within the activities not relating the cases, in the past year the Ombudsman's Office participated in several seminars and debates on: "International conventions in the field of protection of the environment and their implementation", as well as the need for developing the ecological awareness of the citizens and the obligation of the state bodies to inform the public in order to introduce them to their rights, everything that is important for their environment, as it is enabling them to participate in the decisions making by the state bodies concerning the environment.

Although he did not started a procedure because it had been done in the preceding period, the Ombudsman with a special interest follows the situation that

refers to the environment pollution in Veles and the surrounding brought on by the Lead and Zink Smelter “Zletovo” for many years in the past, at the same time bearing in mind the activities for ascertaining the real situation and measures for its elimination taken by the Ministry of Environment and Planning and by the Government of the Republic of Macedonia. Still, the Ombudsman supports the efforts put forth by the non-government organizations, especially the efforts made by the mayor of the Municipality of Veles, in their categorical insisting on maximal speeding up of the drafting of valid and up to standard reports on the real situation pertaining to the pollution in this town. Undertaking urgent measures for eliminating this situation, and if necessary closing of this industrial capacity, are unavoidable with respect to the alarming situation regarding the state of health of the citizens of Veles, the degree of mortality, as well as anomalies of newborn children, if there is a real willingness to save the most important thing, and that is primarily the life and health of the citizens of Veles.

In the forthcoming period besides the further handling of complaints the Ombudsman plans to continue the cooperation with the non-government sector and to print and distribute to the citizens already drafted brochure, by which he would inform them about their rights in this field and would give directions for their realization.

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For improving the situation in this sphere it is necessary that measures should be undertaken in the future in respect of:

- permanent following of the situation regarding the pollution of the media of the environment on the entire territory of the Republic of Macedonia with a special stress to the pollution brought on by bigger industrial capacities; Lead and Zink Smelter “Zletovo”, REK Bitola and Oslomej, HEK “Jugohrom”, “Ohis” and other industrial capacities in Skopje; following of the situation pertaining to permanent pollution of the waters, and especially the river Vardar;
- strict respect for the legal regulation in the procedure for giving consents for building industrial constructions and in the procedure for establishing the urban development plans;
- coordination of the legal regulation pertaining to the protection of the environment and citizens’ rights with the European legislative and international conventions;
- Different forms of education of the citizens – educational system, media etc. in order to improve the ecological awareness.

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

2.10.1. Finances

For the citizens of the Republic of Macedonia, as physical persons, in this reporting period, again, of great importance were the provisions of the Law on Property Tax and Law on the Sales and Services Tax. The reason for this is that

they comprise the property tax, inheritance and gift tax, and the tax on transaction with real estate and rights. In the last year, the Ombudsman handled in total 16 complaints, of which one was transferred from the preceding years.

The lodged complaints in the field of finances mostly referred to the procedures for fixing of the tax amount or the basis for determining and levying of the taxes. The citizens believed that in these procedures were not applied or are incorrectly applied the provisions for tax exemption. From the experience of past handling, the Ombudsman ascertains, again, that in certain cases the citizens are obliged to pay sales tax although there has not been any sales according to the provisions of the Law on Property Taxes or that the obliged person is not a taxpayer. As an example for the Ombudsman's handling of such complaints, we would present the case in which the Ombudsman, in keeping with his legal authorities, after the ascertained factual situation, submitted a proposal for temporary stay of the execution of a decision for compulsory payment of the Public Revenue Office, Regional Office Stip, and also to the Ministry of Finance, as a body that decides on the occasion of the appeal, sent a suggestion in which he pointed out to the need for the appeal to be accepted. These addresses of the Ombudsman were adopted, and the proceeding before the first instance body is under way. As well as in the preceding years, in the reporting period the citizens turned to the Ombudsman for problems pertaining to administrative tax exemption, especially for acquiring Macedonian citizenship, as well as requests for court costs exemption. The citizens that turned to the Ombudsman's Office pointed out to the circumstance that the Public Revenue Office does not issue to them certificate for paid, i.e. unpaid taxes, by which they can not exercise certain rights before the centers for social work.

Namely, from the initiated procedures it can be ascertained that the competent office issues certificates only if the requesters—citizens fulfilled their obligations, and the Ombudsman took the stand that the Public Revenue Office is due in any case, at the request of the citizen to issue a certificate for the data officially registered, without any prior conditioning, in accordance with the data from the official register, so that they can exercise their rights before the other bodies of the state administration. The procedure on these cases is still under way.

Because of the delicacy of this field and the problems the citizens face with, and which are more conspicuous in the conditions of a decline of the standard of living and purchasing power, the Ombudsman reckons that there is need for persistent application of the provisions pertaining to tax and fee exemption. Also, because of the reduced purchasing power and endangered social security, the Government should take care of reducing the taxes for the citizens.

2.10.2. Customs procedures

As a special field of interest of the Ombudsman for exercising of the citizens' rights, although it has hardly ever been subject matter in the previous practice, appears the customs. Customs procedures, rights and obligations of the participants therein, its scope of work, method of work and the organization of the

administrative body competent for the affairs in the field of customs are regulated by the Law on Customs. As a subject matter of the customs procedure is release into free transactions, storing, temporary export and import, transit, fixing of duty debt, payment, return, and duty freeing. The participants in these procedures acquire certain rights and are subject to certain obligations pertaining to the goods. Participants in the procedures before the Customs Office, according to the quoted Law, are physical persons and legal entities.

With respect to the competence of the Ombudsman, set forth by the Law on Ombudsman, he can proceed only when in a procedure before an administrative body competent for the affairs in the field of customs, as a participant appears a citizen, that is, a physical person. In the course of the reporting year, only one citizen turned to the Ombudsman with a complaint, with request for exercising rights before a second instance body, which has not made a decision at all with respect to the verdict by the Supreme Court of the Republic of Macedonia, by which his appeal was accepted and the attacked decision was revoked. In this case, considering the fact that since the Supreme Court brought in the verdict a long time passed, and the second instance body did not acted upon it, the Ombudsman ascertained that complainant's rights were violated and by his request pointed to the violations in the procedure and requested corresponding information, which has not been received yet.

In view of the fact that in the reporting period no other complaint was lodged pertaining to this field, the Ombudsman objectively is not in a position to take a stance for the manner of proceeding before the customs bodies and the speed of the deciding.

2.11. Protection of consumers' rights

Acting in the area of protection of consumers' rights the Ombudsman does not have authorization to intervene in case when a consumer, i.e. citizen requests protection of his rights in case of their violation by act or activity of the producer or the salesman, regardless whether it is a physical person or a legal entity. This is because the Ombudsman undertakes activities only in case when a body of a state administration or organization with public authorizations commits the violation. According to this the Ombudsman acts only in cases when the authorized State Inspectorate, previously communicated by the citizen, did not undertake any activity or adequate intervention.

In the data analysis related to the total number of complaints received in the previous or in the reporting period, it has been decided that the biggest number of requests are related to unreal high amounts of the telephone bills, violation of the rights at the establishment of subscriber relationship in the telephone network, i.e. the procedure for introduction of a telephone connection, as well as the quality of the services and the amounts of fees required by the public utility companies. Due to these reasons most of the complaints are addressed to "Makedonski Telekomunikacii" AD, as well as the utility companies. It can be simply said that in the complaints, submitted directly by the citizens or through the Consumers'

Organization of Macedonia in the reporting period, were in relation to violations of their constitutional and legal rights by the providers of public services, which according to their establishment represent natural monopolies. The consumers find themselves in an underrated position when they use water, electricity or telephone services because they cannot select a provider for these services, i.e. there is no other choice on the market. In these cases the providers have monopoly over the services they provide.

The consumer cannot be provided with water from other provider if he decides that the provided water has bad quality or the same is irregularly provided, i.e. if the consumer is not satisfied with the offered service. Regarding the monopoly position of the providers of public services, the consumers do not have adequate affect on the determination of the tariffs that are obligated to pay. Because of these reasons consumers have often addressed the Ombudsman and required from the Government of the Republic of Macedonia control over possible violation on the market by monopolies, through adequate legal and other regulations.

During the work on the subject it was decided that the competent administrations have acted inadequately in conducting of most of the requests of the citizens, insufficient attention during resolving of their cases and avoiding legal obligations, especially in the part of the determined legal terms. On the other hand, depending on the status or certain other determined criteria of the citizen, a selective attention of the competent bodies has been observed.

Because of the minimal life standard, the citizens react more to treatment, i.e. the work of certain public companies that practically have dominant position related to provision of some services, which according to them entitles them with the right to improvisational behavior and outside the legal frames related to the quality of services, significantly high price, that are obligated to pay for the services and disconnection from use of services in cases when the citizens did not pay their bills, without previous warning note. There are often cases of disconnection of subscribers that have not paid their bills in due time, but also subscribers that have paid their bills regularly. In these cases, there is violation of their rights, and resolving of this issue would expose citizens to further unnecessary expenditures and long procedures.

There are often cases of imposed payment of old bills with expired validity and not connecting them to the system of providing water, even if they have paid their obligations.

According to this, the issues for which the citizens have required help from the Ombudsman, related to the services of the providers of these public companies, especially the quality of the service, manner of payment and the amount of the determined price, shall be treated in the following text, especially these three areas of public interest.

2.11.1. Distribution of Power and Heat energy

Parts of the complaints submitted to the Ombudsman in the reporting period were related to the practice of “Elektrostopanstvo na Makedonija” AD Skopje, related to the conducted disconnection of citizens due to outstanding bills for consumed power.

In the treatment of these complaints, the Ombudsman pointed out to the citizens that according to the General terms of providing power, the provider is obligated to provide permanent and continual power supply to the consumer, but on the other hand, the provider can terminate the power supply if the consumer has not paid the bill for consumed power for at least one month, for which he is obligated to previously inform the consumer. On the other hand the Ombudsman pointed out in certain cases, during the procedure, to “Elektrostopanstvo na Makedonija” to have in mind the objective conditions in relation to the financial possibilities of citizens and according to that to act restrictively towards disconnection of the power supply.

During the reporting period, the Ombudsman acted upon the complaints from citizen, which represented that they have been paying their electricity bills, although they are new subscribers or owners of an apartment or a business facility, they were not provided with the service, i.e. the facilities were disconnected from the system of power supply with the explanation that their predecessors had outstanding debts. According to the provisions of the Law on Obligation Relations that determine the rights of the creditor and obligations of the debtor, as well as the obligations of the solidary debtor towards the creditor, the Ombudsman founded that the new subscribers, on the basis of a lease agreement of purchase and sale agreement, cannot undertake the obligations without previous consent from both sides. Due to these reasons, the Ombudsman founded that the citizens are not obligated to pay the debts of their predecessors and required connecting them to the power supply system. This is even more suitable for the creditor, in this case “Elektrostopanstvo na Makedonija” AD Skopje, because legal protection is available for them in front of the competent courts.

Within the frames of the procedure of the Ombudsman during the reporting period, it has been founded that the number of citizens that require intervention in relation to the work of AD “Toplifikacija” is very small.

In the complaints, the lodgers in most cases required help from the Ombudsman in relation to old bills, outstanding bills and providing a possibility of payment in installments per month, as well as according to the temperature of the provided heat energy.

When the new system for payment of the provided heat energy through a collective calorimeter was introduced, the Ombudsman received many complaints from citizens that considered this decision damage to them due to many reasons. The citizens, users of this service complained that they do not have the possibility to control the instance of expenditures for use of the heat energy through their own heat consumption, also introducing inequality in the price of the heat energy for

consumers of different type of buildings or buildings built in a different time period. The most significant is that “Toplifikacija” introduces a new way of payment, without the consent of the citizens-users of this service.

The Ombudsman can conclude with pleasure that in relation to his addresses to “Toplifikacija”, all cases were resolved in favor of the citizens, i.e. they were given the possibility to pay their old debt in installments per month, while in relation to the requirement relating to inspection and correction of the temperature of the delivered heat energy, the same is provided regularly in the bill of “Toplifikacija”, which is also in the interest of the citizens.

In general, from the contacts with “Toplifikacija” so far, it can be concluded that a satisfactory instance of co-operation and communication is obtained, which reflects positive results in the realization of the rights of citizens and function of the institution “Ombudsman”.

2.11.2. Telecommunications

Part of the complaints submitted to the Ombudsman related to the delivery of bills with high amounts for alleged provided services from “Makedonski Telekomunikacii” in the position of a public interest enterprise. This was particularly related to bills delivered to citizens for phone-calls from their own subscriber numbers from the group of numbers 0500, although they claim that they have not performed these phone-calls.

The Ombudsman pointed out to the need for inspection of the delivered phone bills and acting upon the complaints of the citizens, and also proposed not to disconnect the subscribers until final decision is made.

Furthermore, there were complaints from citizens relating to payment of certain amount of 50 EUR, when concluding a subscriber agreement. This citizen’ obligation resulted from the Decision of this legal entity, which imposed a public tax to the citizens. The Decision was inspected by the Constitutional Court of the Republic of Macedonia and this court decided to abolish this decision. As a result of this decision and the legal effect of the abolition of the act, some citizens submitted complaints and required refund of the illegal payment. The Ombudsman, with this act forwarded to “Makedonski Telekomunikacii”, pointed out to the need for refund of the financial means to the citizens, according to the Constitution and the Laws, but still neither has been acted upon this act nor is the Ombudsman informed on the opinion of this legal entity.

2.11.3. Water supply and utility services

During the previous period, The Ombudsman was actively working on certain complaints relating to permanent disconnection of the citizens from the water supply system due to outstanding bills from the public enterprises in the field of water-network sewage system. During the procedure, the Ombudsman founded that there are cases of public enterprises disconnecting the delivery of water of

some citizens, regardless the fact that the outstanding bills are expired, i.e. superannuated claim.

Apart from this, the providers of the service, according to the decision that is only valid for the City of Skopje, can terminate the provision, i.e. the water delivery in case of two outstanding bills. In other municipalities, disconnection of the consumers is regulated with the Decision on Utility Order; however, even in this case disconnection is conducted on the basis of two to three outstanding bills, successively.

During the reporting period, the citizens that were dissatisfied with the manner of payment of the bill for collection and waste disposal, together with the bills for consumed water, lodged their complaints to the office of the Ombudsman, because most of them require separate payment for these services. The reason for this request, according to the citizens, was the irregular collection of the waste in certain parts of Skopje, and this resulted in dissatisfaction of the citizens. Acting upon the submitted complaints, the Ombudsman pointed out to the citizens that in the case of the techniques of payment, approved by the Council of the City of Skopje, they can pay only for the service of PE "Vodostopanstvo i kanalizacija" – Skopje, with special postal money order.

Analyzing the problem mater in this field of public interest, as very significant to everyday life of citizens, the Ombudsman founded that the citizens in many countries are protected from disconnection from the water supply system in the manner that the providers of the service are obligated to receive a court verdict before conducting the disconnection. Having into consideration the significance of water in everyday life of citizens, the Ombudsman considers that it is important to terminate the practice of disconnection of the citizens without a decision of the competent court, in the interest of maintaining the health of the citizens. From the work on this subject, it can be stated that the greatest need of the citizens is intervention of the Ombudsman in relation to these public enterprises.

In addition to this, the Ombudsman has information that many legal entities with far higher amounts of outstanding water supply bills from the amount of the citizens, continue without paying their bills and they are not disconnected from the water supply system, which puts the citizens in an underrated position, as individuals, regardless the fact that they are financially weaker. This shows that the utility enterprises compensate the first group by conducting payment from the citizens. In this direction, it would be necessary to undertake activities for regular payment of bills, in future, in order to provide all consumers, regardless whether they are family households, business or industrial facilities. This shall provide improvement of the quality of the service, decrease of the losses, and with that, decrease of the permanent pressure for raising the price of the service, which is in the interest of the citizens.

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Having into consideration the above mentioned the primary conditions for adequate implementation of the consumers' rights as an integrated part of the legal

system and at the same time necessary part for its function in the following period, the relevant state factors have to undertake the following activities:

- Creation of a complete Legal Regulation that will include all situations and conditions faced by the citizens in the position of consumers, and this activity would be conducted in the context of adjustment of our legislation with the legislation of the European Union;
- Activation of adequate acts that relate directly to the public enterprises and other subjects- performers of economic activities of public interest, especially on the position and function of the providers in the system, which would influence their dominant position, above all in relation to creation of prices of the services, but also in the treatment of consumers;
- Serious inspection of the possibility of introduction of additional measures is of crucial importance as a need, from social aspect, for the citizens that are financially incapable, and because of their objective social and economic circumstances, they are not capable of fulfilling their obligations to the providers of the above mentioned services;
- Correct supervision and application of the adequate regulation by the commercial inspection;
- Intense co-operation with all competent institutions in the field of consumers' rights with the office of the Ombudsman, as well as acting according to his interventions and instructions.

2.12. Protections of the rights from the field of proprietary relations

Due to the significance of property on the relations in the society, its legal protection is treated as one of the basic values of the legislation of the Republic of Macedonia. Its protection should be at the same instance as the protection of the freedom and rights of the citizens. The Constitution of the Republic of Macedonia guarantees the right to property with article 30, and it is with equal social – economic content and importance.

From the content of the provisions of the Constitution states the property as interest of the citizen, but also as a public interest. It is because of this status that only in case of a public interest determined by law, the right to property can be limited, and in this case the Constitution guarantees rightful compensation that cannot be lower than the market value.

This meaning of property and numerous proprietary relations that are established among citizens, i.e. the fact that every day citizens face unrealized rights on the basis of the Law on Denationalization and failing the obligations of the state towards them, in relation to material claims on different instances, represent the basic reasons for the request of providing protection of the rights from the field of proprietary relations.

In this segment, the Ombudsman, in the context of the determined competence, undertakes activities for protection of the rights of citizens in the following procedures:

- Denationalization – returning the nationalized - confiscated property;
- Entering the rights to real estate in the registry of real estates;
- Expropriation, i.e. realization and providing the right to a rightful fee and its fulfillment, as well as
- Providing rights to construction lot.

The bodies that follow the procedure in the context of these types of claims of citizens, i.e. in front of the Ombudsman are the following: Counsel for Denationalization, the Commissions for Denationalization and the Bureau for Proprietary Relations, as bodies included in the Ministry of Finances, the State Authority for Geodetic works with the departments for measurement and registry and the Ministry of Transport and Communications with its bodies together with the adequate commissions for deciding upon administrative issues, on a second instance of the Government of the Republic of Macedonia.

General characteristic of this reporting period, related to the bigger part of the submitted complaints, is realization and protection of the rights of the citizens in the process of denationalization where it can be said freely that the citizens face various bureaucratic improvisations and subjective evaluations in relation to the status of the property, subject to denationalization. The same is with the procedure of expropriation, i.e. the procedure for determination of a legal fee and its payment, procedure upon the claims for entering the change in the registry of real estates, as well as providing rights to construction lot.

This kind of condition imposes the conclusion that the bodies of the State Administration and the organizations with public authorizations, with minor exceptions, do not provide legal, professional, efficient and economical performance of works and tasks, i.e. they are not organized in a manner suitable to their competence and adjusted to the needs of the citizens. This condition results in unjust exception from the norms and principles for conducting the authority of legality, responsibility, efficiency, economy, transparency, equality and rightfulness in the enforcement of the legal provisions.

Namely, it is indisputable that the content and the normative goal of the Law on Denationalization is to conduct the denationalization and finally to remove the consequences of the injustice over the former owners of property. In order to accomplish this, the Law provides norms in its provisions, which are of imperative character, according to which, this procedure is treated as urgent procedure, i.e. a deadline of six months is determined, from the day of submission of the request for adopting a decision for denationalization with the necessary legal corrective—the case of existence of a previous question-declaring heirs even when there is a need for court proceedings, but the inspection in the relevant work objects that.

The work of the Ombudsman in the context of the submitted complaints, whose content is realization of the right to denationalization, confirms that the body of denationalization does not comply with the determined deadline, which results in bad consequences as loss of the confidence of the citizens—former owners, or their heirs that the State shall finally remove the historical injustice over them. Same as this, there are a lot of cases when a Legal Executive Administrative Act has been

adopted, with which the submitted request of the citizens for denationalization has been adopted, with different excuses, to avoid the obligation for undertaking activities for conducting and forwarding the same to the possession of the returned property to the former owners, i.e. their legal heirs or unjustly prolonging the procedure for issuing denationalization bonds as compensation to the nationalized real estate.

In the procedure of adopting decisions that shall decide upon these type of requests, violations of the regulations of the procedure are made, because the facts are incompletely determined, resulting in an incorrect enforcement of the material law. Thus, in smaller number of cases, the administrative bodies, in relation to the content of the provision—article 49, paragraph 3 of the Law on Denationalization, reject the submitted requests for denationalization as unfounded only because the lodgers of the complaints did not submit an evidence of ownership, or expropriation act. Due to this condition of the things, they do not consider a unique proof the lists of decisions from the agricultural reform and similar proof, as well as the issued certificates from the authorized body that conducts the works related to measurement, registry and recording the rights to real estates- the State Authority for Geodetic works.

It is indisputable, according to the content of the provisions of the Law on General Administrative Procedure that the certificates and other documents, for the facts included in the records, issued according to the data of the official records, signify that they prove the information they confirm or determine. However, the Ombudsman appreciates the fact that the certificate, i.e. other document issued in a legal manner, does not obligate the body, which it was submitted to as a proof, and for which he shall have to decide, but in that case the body can and should in an adequate procedure re-determine the facts stated in the certificate, i.e. other document.

The issue is insufficient determination of the factual condition and incorrect enforcement of the material law, which is also presented by the situation that in the first instance procedure there are no additional activities according to the content of the provision- article 50 of the Law on Denationalization, according to which if the act on expropriation of property and the evidence for ownership cannot be submitted by the lodger, and they are in the possession of the current user or other body, i.e. organization, the body for denationalization shall provide from them as official obligation.

Furthermore, there are a lot of cases of rejection of the denationalization claims, with explanation that according to the content of the provision—article 8, paragraph 1 of the Law on Denationalization a property that is paid or compensated has not been taken. During the procedure the administrative bodies only conclude that for the expropriated property—subject to denationalization, a fee has been determined for the former owner, but they do not get involved in additional determination of the fact whether the fee has been paid in the mean time, i.e. given, and finally the claims of the citizens are almost never adopted, which are submitted in the context of paragraph 2 of the relevant article, and that is

the expropriated property, for which a fee is determined to be returned to them and the lodger should return the received compensation, under the condition that the property exists.

In order to enforce the stated provision, the Ombudsman considers that it is not enough to determine the fee, but also to pay it to the former owner, and the lists of the processed cases and rationales of the decisions do not present that the administrative bodies correctly determined that the fee has been given, i.e. paid for expropriated property, as well as whether there is consent to return the received fee to the State.

We should especially point out the violation of the rights of the category of citizens entitled to house according to Law, i.e. right to use, which according to the content of the provisions of the Law on Denationalization, this right is terminated because in the adopted decisions for denationalization, the body does not state its opinion in the context of providing their right to another flat to use, i.e. to sell according to the conditions given in the Law on Sale of National flats, guaranteed by article 70 from the stated Law.

In relation to the work of the State Authority for Geodetic works, i.e. the department for measurement and registry-Skopje, as well as the other departments for measurement and registry around the country and during this reporting period, the Ombudsman maintains the previously stated conclusion that the procedures in the first, and also the second instance are prolonged unfounded, and the instructions of the Ombudsman for removal of the stated irregularities in the work are not taken into consideration. It should be pointed out that during every realized meeting with the managers of the Authority there is relatively expressed will to overcome this condition, but it is only the determination for now.

Resulting from the determined cases, which are used by the Ombudsman, the citizens hardly ever realize their right to fair compensation for the expropriated property or other limitation of their right to property due to establishment of usufruct, lease, temporal overtaking of area for conducting preparatory works of the ground (incomplete expropriation), even if they have adequate documents (agreement of court decision for a determined compensation) on one hand, and on the other hand the procedure that determines the manner is not complied with, the procedure and the body that need to decide upon this issue, so the citizens are additionally exposed to unnecessary expanses for recording court procedures. As representation for this, we can state the fact that even after expiring of a longer period of time the issue for compensation of land owners overtaken by the construction of refugees' camps from 1999, has not been resolved yet, and also the fact that for that purpose foreign credit was assigned. This category also includes the citizens that have limited right to property; i.e. expropriation has been conducted for the needs of the construction of HPP "Kozjak". Namely, part of these citizens succeeded in receiving the compensation in an executive procedure in front of the competent court, which creates additional, unnecessary expanses.

We should point out that in the procedure of processing of these types of cases the users of the expropriated property accept the given recommendations,

but almost always the explanation is that because of the bad economic condition they do not have enough financial means and the problem is indefinitely prolonged.

One of the issues that deserves special attention in relation to the fact that it is the content of one of the claims of the submitted complaints, is the transformation of the right to use of construction lot considering the fact that the carriers of that right can obtain the right to property of the construction land, from the day of enforcement of the Law for construction land, on the basis of former ownership of the same, by submitting a request, and upon this request the Ministry of Transport and Communications adopts a decision for transformation of this right. However, part of the provisions were under inspection of the Constitutional Court, which evaluated that with the legal concept of transformation the legal safety of the citizens is at risk, as an element of the constitutional principle of government of the Law, as well as the constitutional principle of equality of the citizens in front of the Constitution and the laws, and together with part of the provisions of the sub-legal act, which amended the procedure, were abolished, which in greater part, for a certain period of time limits the enforcement of its decisions.

In relation to this kind of condition of things, in order to resolve the above mentioned issues adequately, as well as due to securing correct enforcement of the prescribed procedure in the context of securing efficient realization and protection of the rights of citizens in the process of denationalization, several times special information were submitted to the Minister that is the head of the Ministry of Finances, as well as to the president of the Counsel for Denationalization. In that direction special information were also submitted to the secretary of the second instance administrative body—the Commission for resolving within administrative procedure in a second instance upon the cases from the field of denationalization, but nothing was undertaken in relation to these, i.e. the Ombudsman did not receive response. More information have been submitted to the secretary of the Commission, from these same reasons, for resolving within the legal procedure in a second instance upon the cases from the area of measurement, registry and recording of the rights to real estate, where small number of cases have received response, mostly incomplete. In greater number of cases the manager of the State Authority for Geodetic works was informed, with special attention to the work of the sector for measurement and registry in Skopje, because the greatest number of complaints relate to its work, and also an inspection and conversation was conducted several times with the managers of the same, but there was no sign of co-operation. Furthermore, we would like to emphasize that the manager of the State Authority for Geodetic works is informed about the work of the departments for measurement and registry in Gevgelija and Resen, where from no information and data are received.

At the same time, due to securing the right to fair compensation and its payment to the citizens from which the property has been expropriated for the needs of the construction of HPP “Kozjak”, i.e. building of the refugees’ camps, familiar to the manager of the outpost of HPP “Kozjak”-Skopje of the public enterprise “Elektrostopanstvo na Makedonija” and the manager of the Bureau for

Proprietary issues of the Ministry of finances, thus a request was submitted for undertaking activities in order to secure the rights of the citizens.

In the end, the Ombudsman in his effort to give greater contribution, as far as possible, to the simplification of realization and protection of the rights of the citizens, continually tried to establish regular contacts and close co-operation with the competent bodies and the government of the Republic of Macedonia, in the function of resolving the issues of the citizens from the field of proprietary relations. In relation to the fact that even after exposure of the problems to the Government of the Republic of Macedonia, direct contacts were not established, the Ombudsman directs to part of the issues, which are not only difficult to resolve but also tend to be more complicated. They are the following:

- Slow movement, bureaucracy and high level of subjectivity during the administrative procedure;
- Lack of professionalism, and in certain cases lack of knowledge of the regulations from the field of proprietary relations of greater part of the administrative workers;
- Non-co-operative and non-professional behavior towards the subjects involved in the procedure, resulting in harmful consequences for the citizens—clients in the procedure;
- Unequal enforcement of the regulations;

The reasons for this kind of conditions are in the inadequacy of the Law on measurement, registry and recording of the rights of the real estates, which is enforced together with the Law on measurement and registry and the Law on Expropriation, the Law on construction ground and the Law on denationalization. Thus, although part of the regulations that determine the referred field represent a solid normative and legal decision for the issue related to them; however there is a need for their improvement, i.e. completion of certain decisions, in order to secure correct enforcement of the prescribed procedures.

For overall fulfillment of this goal it is necessary to improve the administrative capacity of the adequate institutions for effective enforcement and protection of the rights that result from property. With adequate resolving of the above mentioned situations, a great contribution shall be given to overcoming of the harmful consequences as long duration and high price of the procedures, impossibility for fast and efficient realization of the rights, as well as overcoming the disruption of the constitutional declared principle of equality of the citizens etc.

In order to enable more efficient and economical realization of the rights, as well as due to improvement of the manner of operation in the context of protection of the rights of the citizens in general, and especially in the area of proprietary relations, as priority, the issue of resolving these fundamental issues is imposed in the country, by undertaking all normative measures and introduction of all possible practices for protection of the institution “property” and the resulting rights. Due to accomplishing of the goal it is necessary to create suppositions to disable the repressive device of the state towards the property and proprietary rights of the citizens and legal entities, but in accordance with the law, it should be directed towards those that usurp and endanger the proprietary rights.

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In that direction the following should be provided:

- The State Authority should conduct its competencies only in accordance with the principle of legality, as well as on the basis of the principle of non-discrimination and the principle of equal treatment;
- Correct compliance with the principle of fair procedure that is related to reasonable term and inadequate enforcement of the law;
- Improve the administrative capacity of the adequate institutions for effective protection of the rights resulting from property.

Considering the fact that every issue can be resolved only through co-operation between all subjects involved in certain activities, the Ombudsman again expresses complete ability for involvement for resolving of the issues and for greater co-operation due to improvement of the rights from this field, and through this, creation of propositions for future democratization of the overall relations in the legal-political system of the Republic of Macedonia.

2.13. Protection of the rights from other fields

This field includes the propositions, which according to their content could not be distributed into one of the determined fields, or they were related to bodies and organizations that are not under the jurisdiction of the Ombudsman.

Namely, the Ombudsman does not have legal authority to undertake any activity in case of violation of the rights of citizens in the trade companies, associations and other legal entities that are not included in the bodies of the Administration or do not perform activities of public interest. Same as in the previous years, many citizens, which were declared redundant or received suspension notes for termination of their work by their employers, or were deprived of the right to record and use their shares in certain Joint Stock Companies, addressed the Ombudsman and requested his intervention in order to protect their rights. Having into consideration the legal barrier for establishing, according to the propositions with this type of content, the Ombudsman tried to help the lodgers directly, by giving them advice about the manner that they can use to request protection of their rights and the body where they should address, and always after this type of propositions, procedure was not conducted. In part of the propositions grouped in this field, the citizens expressed dissatisfaction from the conducted procedure of transformation of the national capital, i.e. from privatization, and they requested intervention of the Ombudsman. Due to these propositions, the Ombudsman advised the citizens, if they consider that there are violations of the legal provisions in the procedure of transformation of the national capital, which result in damage to the national capital, they should address the Ombudsman, the Public Prosecutor and the Agency that can request for financial, accountant and legal control of the legality and correctness of conducting of the procedure, which is in the scope of the provisions from article 52 of the Law on Transformation of Enterprises with national capital.

3 OTHER ACTIVITIES

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

The practical use of the Law on Ombudsman for five years showed that some legal solutions of the Law have not been fully specified, some are not functional, and some do not correspond to the conditions and situation the legal system in the Republic is functioning in. This situation was often the subject of a faulty assessment of the scope of work of the Ombudsman and the role and significance from many bodies and organizations, individuals and institutions.

For the overcoming of this situation and in order to enable and build a firm guarantee for an autonomous, independent and efficient realization of the function of the Ombudsman to the Polling Commission for the Protection of the Freedoms and Rights of Citizens by the Assembly of the Republic of Macedonia, was submitted an initiative for the changing and amending of the Law. This initiative was not realized, so we assume that it was because of the armed conflict in the Republic.

However, the competent social-political structures in the state, realizing the importance that modern legal systems in all democratic legal societies attach to the working and functioning of Ombudsman and enlarging of his competence with the Framework Agreement, as a compromise solution for the armed crisis, foresaw the changes, enlargement and amending of the competence of the Ombudsman, which would be regulated by the changing and amending of the Constitution of the Republic of Macedonia and of the Law on Ombudsman. But, only part of the Framework Agreement is realized so far. Namely, only the amendments of the Constitution were brought in, so that the Amendment XI foresees that the Assembly shall elect the Ombudsman by a majority vote of the total number of representatives, within which there must be a majority of votes of representatives claiming to belong to the communities not in the majority in the population of the Republic of Macedonia, and under the same article as a special competence, it is stipulated that the Ombudsman shall give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in other areas of public life.

As for the changing and amending of the Law on Ombudsman, despite the obligation of the Framework Agreement for changing and amending of the Law to be adopted by the end of this year, because of the slow implementation of the Framework Agreement, the Law is not yet brought in.

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

In order to incorporate more efficient and well-founded solutions in the changes and amendments and in a function of more successful realization of the competencies, several international institutions are interested, and they have already offered material-technical and expert help. Within the framework of expert help and on the initiative, organization and financial support of the American Advocate Chamber (ABA-SILI), during the period March/April, at the Ombudsman's office stayed Mr. Alec Travick, an advocate from Canada and former Ombudsman of the province Quebec-Canada, who after the stay prepared a huge and an exhaustive report with his expert opinion for better and more efficient organization and action of the Ombudsman of the Republic of Macedonia. The Commission surveyed this report for the Preparation of the new Law on Ombudsman. Most of the proposals and suggestions that the Commission considered being exhaustive are already incorporated in the draft-law. Also, under patronage of the Organization for Security and Cooperation in Europe - Office in Skopje (OSCE), with the purpose of the Ombudsman's introducing to the function of special offices of the Ombudsman of the Federal Bosnia and Herzegovina, a delegation of the Ombudsman visited this institution in December. With regard to all the novelties in the election and competencies of the Ombudsman, established with the Constitution, as well as forthcoming changes in the Law on the Ombudsman, the Ombudsman deems that the above mentioned are one of the many gains in the process of democratization in the country geared toward the strengthening and securing of autonomous, independent, and efficient exercising of the function Ombudsman, and because of that it is necessary to accelerate the procedure for its bringing in.

3.2. Education for citizens' rights

Though not legally bound, this year, again, the Ombudsman undertook certain measures and activities in the education of citizens for their rights. This

year, again, during the visits in the communities and at the Ombudsman's office, an available brochure was distributed to the citizens that would serve as a guide of manner and forms how to protect the rights of citizens and to introduce the citizens to the Institution Ombudsman. The brochure was published in Macedonian, Albanian and English, and if financial means are provided, it will be published in the languages of other communities as well.

To that end, the Ombudsman participated in several educational seminars for safeguarding the rights of citizens actively participated with his presentations. Hence, in the course of the reporting year, in many high schools and at the Faculty of Law in Skopje, the Ombudsman held several lectures on the role and importance of the Institution Ombudsman. Such lectures, on Non-government organizations request, were realized several times with group of students from many schools.

With the same purpose, to inform the citizens about their rights, in the reporting period were drawn up brochures, draft-versions, whose publication should be realized if the financial means are provided. The brochures address various topical issues; that is, they encompass all the fields the Ombudsman handles in, written in an easily understandable and intelligible style and intended for all the citizens. The aim of the brochures is to inform the citizens about their rights and corresponding legal provisions that could be used in the future for the realization of the same, in cases of violations, if any. At the same time, at the Ombudsman's office was drafted a program for every field, which includes the basic goals of acting and tasks to be realized in the future.

Hence, thanks to these activities and those from most of the competent institutions and institutes and especially to many non-government organizations that work on a problem of education of citizens about their rights, activities of competent state bodies, as well as the mass media, it is noticeable that consciousness of the citizens about their rights and mechanisms for their protection with regards to the past is raised on a higher level, but unfortunately, it is not yet on a needed level i.e. the citizens have a low level of information and education for their rights.

From the content of the complaints, contacts and discussions that the Ombudsman realized with the citizens, a mistrust in the institutions of the system is noticeable (that is a concerning fact), to those who secure and realize their rights, primarily, bodies of the state administration, as well as to the mechanisms of protection with the particular mistrust in the court bodies.

Hence, it is not a new item, saying that among the citizens rules an atmosphere and cognition, even belief that today any right could not be realized without bribe, pulling the strings, party interests, nepotism and other illegal instruments out of the frames of legally law mechanisms.

This calls for more comprehensive engagement of all the subjects, especially of the Ombudsman of the Republic of Macedonia and its officers and organizations, including non-government organizations, for the purpose of the

raising of the level of consciousness and informing of the citizens about their rights by means of drafted documents and information, with visual aids and additional resource material, introducing of special elective courses, primarily in elementary schools, organization of symposium, seminars, training and exchange of opinions, as well as through leading campaign and other initiatives for the accentuation of certain aspects of human rights.

3.3. Parliamentary elections 2002

In September 2002, the 4th parliamentary elections were organized and held. Realizing the established practice to provide help of the citizens in realizing their right to election, on the election day, the Ombudsman organized tour of duty so that the citizens by the mass media were informed timely.

During the tour of duty, at the Ombudsman's office, around 60 citizens asked for an explanation about the way of voting, some were not registered in the election list etc. To all these citizens in the frames of competence, an appropriate aid was given.

General conclusion of the Ombudsman is that despite certain irregularities, mistakes and violations of the election process, at some voting places, which were particularly expressed as a violation of the silence, attempts for obstruction of the voting, not securing secrecy in voting, collective voting, not securing an access to the voting place for the people with handicap, not speeding up of the voting list etc., the elections were well organized and the atmosphere was fair and democratic. Such a conclusion was confirmed also by all relevant social-political factors in and out of the Republic, who participated or observed the elections. The thing that should be emphasized as an important fact about the Parliamentary elections 2002 is the readiness for cooperation of the State Election Commission with the Ombudsman's office, which should be pointed as an example of effective and successful cooperation. In this context, referring to these elections, the officers in the Ministry of Interior and the Ministry of Justice expressed the readiness.

After the realized elections, the Ombudsman carried out information, which was delivered to the State Election Commission, where he indicated the irregularities in carrying out these elections, particularly about not speeding up the election lists with the aim of removing them for the next elections.

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

In parallel with the departmentalized activity and cooperation of the Ombudsman with the competent Institution in the Republic, this year, again, the Ombudsman realized numerous meetings with several representatives of international organizations associations and societies that came to visit the Ombudsman's office. Such meetings, with some of them several times were realize with representatives of UNHCR; NATO; WORLD HEALTH ORGANIZATION; European Union; The Council of Europe; Directorate for human rights in the

Council of Europe; Organization for security and cooperation- office in Skopje (OSCE); the group GRECO; American advocate association- ABA/SILI; European Ombudsman institute; Committee of the International Red Cross; European Agency for Reconstruction; European committee for the prevention of torture; American Embassy; Canadian Embassy; British Embassy; Swedish Embassy; Norwegian Embassy; Swedish agency for development; Swedish advocate chamber; DFID - Project for support of the public administration ,Canadian Agency for International development etc.

During the meetings was demonstrated great interest in this institution and its scope of work; in addition to that, were exchanged opinions and experiences about its functioning and started were initiatives for reviewing certain practical issues and their resolution. All the meetings were featured by an undivided evaluation with regard to the function, nature and significance the institution Ombudsman has in the World. The representatives of the EU, The Council of Europe and OSCE showed great interest in the conditions and possibilities for autonomous and independent exercising of the function, as well as in rendering assistance for the purpose of the implementation of the Framework Agreement, which also includes the Ombudsman.

This year again, the Ombudsman realized many work meetings; study trips and participated in several educational symposiums. At the meetings were exchanged opinions with regard to the experiences pertaining to the protection of the Rights and Freedoms of citizens, useful opinions pertinent to the functioning of these institutions, materials and expert literature, useful for practical handling, and started were initiatives for the reviewing of some practical issues and their resolution. The Ombudsman participated in several symposiums and meetings of importance for the functioning of this Institution.

Within these activities, the following study trips were realized:

- the offices of the Parliamentary Ombudsman of Norway and the children's Ombudsman of Norway;
- Federal Ombudsman of Bosnia and Herzegovina
- Institute for children's rights - Zion, Switzerland;

Also, here is the participation at several international conferences, tribunes, and seminars:

- Conference of the European Ombudsman in Vilnius – Lithuania
- Conference for the standards of the Ombudsman institutions in Southeastern Europe in Sofia - Republic of Bulgaria
- Presentation and tribune in Stara Zagora - Republic of Bulgaria
- Annual meeting of the Ombudsman in Dublin - Republic of Ireland and in Belfast - Northern Ireland
- Annual meeting of the members of the International Ombudsman Institute for Europe in Ljubljana - Republic of Slovenia
- First global meeting of the independent institution for protection of human rights at the Special Session for children in New York

- Meeting with the Children's Ombudsman from Eastern and Central Europe organized by the Children's Ombudsman of Poland
 - Annual meeting of the European Net Of Children's Ombudsman in Brussels and study trip of the Public Administration (PAI) in London - Great Britain.
- Also, the Ombudsman and his deputies took part in over 30 business meetings, symposiums, workshops and tribunes, organized by domestic and foreign government and non-government bodies, organizations and associations.

3.5. The cooperation of the Ombudsman with non-government organizations

The cooperation of the Ombudsman with non-government organizations in the Republic, as well as those out of the Republic is of an essential significance for the realization and protection of human rights. This especially is owed to the fact that non-government organizations, while acting more widely and facing the problems of the citizens from different nature, could be a constant source of starting a procedure for protection of rights of the citizens before the Ombudsman. On the other hand, the Ombudsman, as a competent and expert body, such cases can investigate in a legal procedure and ask for removing of the established violations. By means of that, these organizations, using the results of the investigation of the Ombudsman, will be able in the future to direct their actions and activities to the more successful realization of their statute and program activities of interest for citizens.

This year, the Ombudsman established a close cooperation with many non-government organizations and he is of the opinion that this cooperation should be strengthened and deepened as well as to provide conditions and to find out new manners, forms and methods, for their continuous development and operating. The non-government organizations, especially those who firmly and argumentatively will stand up for the citizens' rights and democratic processes in the state in general, will get the support of the Ombudsman and such a support he expects from the non-government organizations, of course.

3.6. Project for automatic processing of complaints

Beside the web page, the Ombudsman with the program activities, on March 21st 2002 promoted and put in the project for the automatization of the system for processing of data. The project was supported financially by the Canadian Embassy and Canadian International Agency for Development, whose support helped in making software with all the required specifications fit for the work at the office and a large number of the computer technique is provided. The new automatic system enables quality informing and communication based on the usage of the modern computer technology and modern organization of work that will enable effective coordination of all the activities and high-quality resolution of the objects.

4 EVALUATION, CONCLUSIONS, MEASURES AND RECOMMENDATIONS

1. In the Republic of Macedonia, this year, again, were not made positive any significant changes in general plan of securing, respecting and safeguarding of the Constitutional and legal rights by the officers of the state administration and other bodies and organizations with public authorities. Therefore, it could be said that the rights of citizens in more fields in essence are respected. But this basis statement is far from being satisfactory, both on the aspect of the Ombudsman's function and the aspect of high valuable measures established with the Constitution of the Republic of Macedonia and with the international standards.

2. General evaluation is that, in spite of existing and functioning of great number of mechanisms for the protection of human freedoms and rights in the Republic, freedoms and rights of citizens are violated unavoidably, which demands necessity of constant essential transformation in the work and raising the results from the functioning of protective mechanisms on a needed level that is requested by the exercising of human rights in modern conditions of life.

In this context, though the raising of awareness of citizens for their rights is noticeable, it is not yet on a needed level, i.e. the citizens are still not educated enough. The contribution in the education is given by non-government organizations, but on this plan, systematic approach of the competent bodies and the Government of the Republic of Macedonia are in absence completely.

3. The increased number of complaints for 60 % with regard to the last year, as well as the number of 3.500 citizens in the Ombudsman's Office and out of it who needed help, lead to the conclusion that the Ombudsman is generally accepted Institution and has the confidence and support from the citizens and they exercise their own interests before the Ombudsman.

4. The cooperation of the Ombudsman with the bodies of the state administration and other bodies and organizations he handles in competence, this year again, has no any significant improvements, i.e. they are not on a needed level. Past experience indicates that although in accordance with the Law on Ombudsman, bodies and organizations are obliged to cooperate with the Ombudsman, and on his request to provide him all data and information, no matter of confidentiality, to enable carrying out the proceeding and to inform him timely about the undertaken activities for given proposals, recommendations, opinions and other interventions of the Ombudsman, most of them only declaratively express readiness for cooperation, some do not cooperate at all and behave

ignorant, and some of them exercise only partial and periodical cooperation, which of course, is negatively reflected on the realization of the rights of citizens, as well as on the efficient carrying out of the function of the Ombudsman.

Such an attitude of bodies and organizations unavoidably demand a need of undertaking more energetic measures and activities primarily from the Assembly of the Republic of Macedonia, which should not only indicate to the bodies of state administration and bodies and organizations with public authorities for their legal obligation for cooperation and respect of the interventions of the Ombudsman, but to appeal to responsibility the holders of public functions, who are responsible before the Assembly of the Republic of Macedonia, and without conscientiousness, responsibility and legality behave in securing and exercising the rights of citizens.

5. The results from the functioning of the Ombudsman appeared to be evident year by year, which does not mean it should be stopped at that level, but further more with the built method of work and acquired experience from the past work, it should act in protection of freedoms, rights and interests of citizens more decisively, energetically and, of course, legally.

6. It is ascertained that the relation of the officials and officers in the bodies of public administration toward citizens, is not yet at a needed and satisfactory level, thus this year beside the present bureaucratic, unprofessional and low clerk mentality of the officers, present are other random, as well as intentional violations of the Law in the proceeding of the request for exercising the rights of citizens and in the communication with them. Here are they: Intentional delaying of the state procedure at one, two or more years; unjustified long lasting of procedures on the administrative disputes before the Supreme Court of the Republic of Macedonia, as a general rule are taken into procedure and last a year, two, or even more; not including the interested parties into the procedure; ejection of claims on the grounds of not enclosed evidence the body could have procured himself ex officio or by personally conducting inspection in the public books and documents; not acting upon the suggestions of the second instance administrative or court bodies; non enforcement of valid and final administrative acts or selective approach in the enforcement; no respect for the request to resolve the claim differently in spite of obvious evidence and suggestions in favor of that proposal issued by the parties and the Ombudsman; lack of cooperation, coordination, and organization of the internal services in the bodies and among bodies; refusal to accept claims; untimely delivery of documents pertaining to cases to the second instance bodies and courts; arrogant, uncaring, improper and offensive communication with the parties; intention to leave an impression on the parties that a favor is being done to them although the undertaken activities are within the scope of official duties, etc.

All this leads to the conclusion that it is necessary to accelerate already started reforms for the transformation of the public administration in order to provide small, competent, expert and efficacious administration that will serve to the needs of citizens.

7. Though five years back, since the institution Ombudsman exists and functions, we show that for more efficacious administration and for a prompt and

efficient exercising of the rights of citizens, of substantial significance is to coordinate the legislative regulation with the Constitution of the Republic of Macedonia and to adjust the same to the European and international acts, on this plan were not made any significant changes, although by bringing the Law on state administration, a progress was made, but its inconsistent use addresses to the above-mentioned declarative readiness of the bodies and organizations to establish and respect the principle of rule of the law.

To that end, of utmost priority is the enactment of the new Law on General Administrative Procedure and the Law on Administrative Disputes that will enhance efficacious exercising of the rights of citizens. By means of these laws should be set down the legal framework for acting of administration in the exercising of the rights of citizens, which, in essence, will follow the principles of equality of citizens and their protection from the arbitrariness of the state bodies before which rights are exercised.

To that end, the Ombudsman deems that the slow implementation of the Framework Agreement, which should be realized urgently through an appropriate legislative regulation, is a serious obstruction for the efficacious exercising of the rights of citizens.

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

General and individual evaluations, statements and measures for the situations in respecting the Constitutional and legal freedoms and rights of citizens by the bodies of public administration and other bodies and organizations that have public authorities lead to the conclusion that there is an urgent and necessary need the Government of the Republic of Macedonia and the bodies over which the Ombudsman handles with authority to undertake all available measures and activities by means of which will be removed all irregularities and unlawfulness presented in this report.

To that end, the Ombudsman is expecting that the Assembly of the Republic of Macedonia after the thorough inspection of the report will support the activities and actions that the Ombudsman undertook for the protection of the Constitutional and legal rights of citizens and will make a recommendation to the Government of the Republic of Macedonia, competent state bodies and other bodies and organizations consistently to respect the recommendations and interventions of the Ombudsman and in the future to secure:

- conscientious, responsible, prompt and timely handling of the claims of citizens for the exercising of their rights;
- transparency in work and timely informing of the public about the undertaken activities in the field of human rights and their active involvement;

- permanent following of the situation with respect to human rights, their advancement, securing, respect and timely standardization and adjustment to international acts and standards;
- More systematic informing, training and education about the freedoms and rights of citizens of all age groups as significant conditions for the growth of democracy, rule of law and functioning of a lawful state.

5 ORGANIZATION, PERSONNEL, AND FUNDS

Considering the concept Ombudsman set down by the Constitution and laws, the organization and manner of work are arranged with the Rules of Procedure and Regulations (Statutes) for organization of work and tasks of expert personnel of the Ombudsman, using the comparative experiences of more institutions of the same type in the world, this year, the allocation of the departmentalized work in competence of the Ombudsman was made in several fields.

Such way of allocation enables handling of complaints and activities undertaken by the Ombudsman to be carried out more professionally and effectively, as well as the normative and comparative following of the situations in continuity in the fields.

This year, again, the Ombudsman exercised his function aided by 32 executors, out whom 17 work on complaints. In terms of the qualifications of the personnel structure 21 have college degree, 10 high school diplomas, and one elementary school certificate.

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

In compliance with the Law on Ombudsman, the operating funds earmarked for the work of the Ombudsman are procured from the Budget of the Republic of Macedonia. This year, for that purpose were committed funds in the amount of 19.626.000,00 denars. This year, again, the funds were insufficient, but with a rational and restrictive use, the Ombudsman succeeded in exercising his legal functions and competencies.

For providing funds that will enable successful carrying out of the function, the Framework Agreement foresees changing of the Law on Ombudsman that will provide active participation of the Ombudsman in creating of the Budget for the needs of the office, and in that part separate statement of the delegates for the Budget's part intended for the Ombudsman.

By these changes, it is expected the Ombudsman to receive the necessary operating funds that will be in a function of independent, autonomous and more successful exercising of the activities and tasks in his competence.

6 FORTHCOMING ACTIVITIES

As well as the previous year, in the forthcoming 2003, the Ombudsman will direct his activities primarily in realizing of the basic functions that are result of the constitutional and legal competencies. Besides the customary handling in complaints, this forthcoming year, there should be realized constitutionally established competence of the Ombudsman to undertake activities and measures pertaining to the protection of the principles of non-discrimination and an appropriate and equitable representation of the communities in public bodies, bodies in the units of local self-government and public institutions and departments.

In compliance with the new Law on Ombudsman that is expected to be brought in the first half of 2003, implementing the decisions from the Framework Agreement, the Ombudsman will ought to undertake measures and activities in organizing the offices and their material-technical and personnel equipment, and there should take care especially for the principles of equitable representation of the community, primarily in the Ombudsman's offices and then in all bodies of the public administration and other bodies and organizations that have public authorities at all levels.

To that end, there should be undertaken activities for affirmation and popularization of the institution Ombudsman and its offices, as well as for the education of the citizens in respect of the Ombudsman's importance and informing them when and how to ask for his help.

Because of more economic approach of the citizens to the institution, the Ombudsman will strive in providing conditions for establishing of (already twice-announced) free phone line.

The existing and functioning of the Ombudsman for five years indicated that the Ombudsman's cooperation with the bodies of public administration and organizations he handles in competence has essential meaning for effective and efficacious exercising of the function. On this plan, despite the undertaken measures and activities in the future there should be found out ways for effective cooperation, and already established cooperation with these bodies to be improved, which is in interest of the citizens, bodies of public administration and the Ombudsman. To that end, several joint regional meetings will be organized with the leading personnel of the bodies, as well as with the officers in these bodies that handle directly the requests of the citizens for realizing their rights.

The Ombudsman will carry on with the cooperation and the establishing closer communication with other government and non-government organizations, associations and societies and together with them will strive for mutual acting (in long-terms, short-terms, program, in continuity) on the plan of securing, safeguarding and especially education for freedoms and rights of citizens.

On normative plan, the Ombudsman will strive with his participation to contribute in completing of the legal regulation in the Republic, i.e. in that part of a practical work where will be indicated that there is a space for normative accordance, amendments, and accordance of the domestic legislature with the international standards and brought international acts and documents, with a purpose of successful realizing of citizens' freedoms and rights.

Also, the Ombudsman will pay special attention to the use of mass media, which in the last period appeared to be very important and efficient instrument the Ombudsman handles with, and primarily because of the strength of the additional pressure they can exert in a direction of realization and protection of the rights of citizens.

Preventive actions in realizing of the Ombudsman's function will follow more widely the conditions in the field of realization and protection of freedoms and rights of the citizens and ex officio will make an inspection and supervision into the bodies and organizations he handles in competence in order to have a complete insight into the realization and protection of the freedoms and rights of citizens.

7 *EXAMPLES FROM COMPLAINTS HANDLING*

2.2-1

The complainant N.N. from Skopje, required help from the Ombudsman for establishing the responsibility of an officer Z.I. – inspector in the body of the interior in the city of Skopje, because he used violence towards her son by abusing his position although it was not an official action but ending of a love affaire of their children.

The Ombudsman ascertained that the officer abused his authority by using elements of a criminal act toward the son of the complainant, for which to the Public Prosecution–Skopje submitted request for initiating a procedure for establishing the officer’s criminal responsibility because he pointed an official gun to the had, started roughly offending and mistreating him, and then punched him on the head causing bodily injure expressed like cerebral concussion and bruising on the head and the body of the damaged person, and among the neighbors of the damaged person they caused the feeling of not being safe, of being endangered and afraid; in this actions are consisted the main characteristics of the criminal act “Violence” of the Article 386 of the Criminal Code of the Republic of Macedonia.

The Ombudsman was notified that after the completing of the procedure for establishing responsibility of the authorized officer Z.I. a Decision was made by which the employment of this person is ceased by a dismiss, which is replaced by a fine in amount of 10% of the salary in the period of six months for the reason of ascertained violation of the working discipline foreseen in Article 133, paragraph 1, item 1, 7 and 24 of the Collective agreement of the Ministry of the Interior. The State Secretary of the Ministry of the Interior–Skopje to the Ombudsman submitted a report in which it was alleged that the Ministry finds the provisions of the Collective Agreement correctly applied in the case concerned and that a correct decision was made by which the dismissing of their employee was replaced by a fine in amount of 10% of the salary for the period of six months, estimating that by this measure the aim of the punishment will be reached.

Considering the response of the Ministry of the Interior that against the authorized official a proceeding was run for determining of his responsibility for violation of the working discipline, and in this procedure corresponding measure was pronounced, foreseen by the general act of the Ministry, as well as the response of the Public Prosecution that against the said officer of the body of the Interior, to the Trial Court in Skopje submitted accusatory act for criminal act Violence (as stated in the request of the Ombudsman), the Ombudsman ascertained that all the measures within his competence were undertaken for

protection of the violated rights of the son of the complainant and for sanctioning of the committer of the violation, and with that he ended the procedure upon undertaken activities.

2.2.-2

To the Ombudsman, the person I.H lodged a complaint in which he stated that he submitted a request to the Ministry of the Interior of the Republic of Macedonia for acquiring citizenship of the Republic of Macedonia on the grounds of Article 11 of the Law on Citizenship, considering the fact that he was born in Skopje and was in military service in the Army of the Republic of Macedonia in 1993/94. Because the Department for Citizenship at the Ministry of the Interior requested evidence that is requested form foreigners for their naturalization in the citizenship of the Republic of Macedonia, the lodger of the complaint was of the opinion that the Ministry without reason delays the procedure at his request and sought protection from the Ombudsman.

On the basis of undertaken activities, the Ombudsman ascertained that the Department for Administrative-supervision Affairs unnecessarily delays the procedure by requesting opinions on the justifiability of the acceptance from several Ministries and from the Intelligence Service although Article 11 of the Law on Citizenship foresees shortened procedure for acceptance in which opinion on the justifiability gives the Government of the Republic of Macedonia. While handling the complaint the Ombudsman submitted recommendation to the Ministry of Justice for urgent deciding upon the request of the Ministry of the Interior, to the Minister of the Interior sent two notifications for ascertained omissions in the Department for Administrative-Supervision affairs, and of the same notified the Government of the Republic of Macedonia.

The Ministry of the Interior informed the Ombudsman that they handed down a Decision by which the citizen was accepted in the citizenship of the Republic of Macedonia in accordance with Article 11 of the Law on Citizenship of the Republic of Macedonia.

2.3.-1

Z.Z. from the village of Strelci–Kicevo lodged a complaint in which he stated that since 1989 before the Trial Court Kicevo is engaged in a work lawsuit and although the procedure in this cases should be urgent, the case was abolished more than 10 times and returned to a repeated procedure, so that until the day when the complaint was lodged, the complainant has still not realized the rights from labor relations. Further in the complaint it is stated that since July 2001, the case is waiting for decision before the Supreme Court of the Republic of Macedonia after stated revision on his part, where the procedure is unjustifiably delayed, with which he was not provided with the constitutional and legal right to court trial in a reasonable time frame.

The Ombudsman ascertained violation of the rights of the complainant on the part of the Supreme Court of the Republic of Macedonia caused by not acting

upon stated revision, that is, violation of the Revision of the Article 7 of the Law on Courts where it is stated the right to legal, unbiased, honest and in reasonable time frame trial. In this ascertained situation within his competencies he undertook the following measures: Directed a suggestion to the President of the Supreme Court of the Republic of Macedonia by which it was requested preferential deciding upon the stated revision and handing down a decision as soon as possible, all the more so that this is a work lawsuit lasting more than 10 years.

On the basis of the submitted suggestion, Supreme Court of the Republic of Macedonia applied a letter from 3. 11. 2002 by which the Ombudsman was notified that the President of the Court decided to give the case priority in deciding and that it will be handled immediately.

On 4.10.2002 the complainant notified the Ombudsman that upon the revision stated on his part, Supreme Court of the Republic of Macedonia rendered judgment and that it was delivered to him.

2.3.-2

The citizen J.A. from Tetovo lodged a complaint in which he stated that in a procedure for acquiring citizenship, decision of rejection was made by the Government of the Republic of Macedonia – Commission for Administrative Affairs on second instance in the field of defense, internal affairs, judiciary and administration. After this, on July 7 1998 he filed an administrative claim before the Supreme Court of the Republic of Macedonia, where the procedure has been unjustifiably delayed for almost three years.

The Ombudsman ascertained that there was violation of the right of the party caused by not proceeding in the procedure upon registered administrative dispute, that is, violation of the right of Article 7 of the Law on Courts, where is stated the right to lawful, unbiased, honest and in reasonable timeframe trial. With the aim of determining the reasons for which the procedure was delayed, a request was submitted to the Ministry of Justice as an administrative body competent for supervision over prompt working in the courts; by this request he pointed out to the need of undertaking measures for determining the reasons for the delay of the procedure and requested that conditions should be created for urgent and preferential deciding upon the case on the part of the Supreme Court of the Republic of Macedonia.

To the Ombudsman a letter was sent from the Ministry of Justice, and also supplement-letter by the Supreme Court of the Republic of Macedonia in which it was stated that the addresses of the Ombudsman and the Ministry of Justice were adopted and the case registered upon the claim of person J.A. was resolved on 11 January 2002, and the sentence was delivered to the lodger of the complaint.

2.4.-1

The lawyer Lj.S., authorized representative of the Association of disabled veterans and soldiers killed in the wars on the territory of the former SFRY from Skopje, requested from the Ombudsman an intervention against the Ministry of

Defense regarding the fulfillment of its legal duties towards the persons foreseen in article 23 of the Law on the special rights of the members of security forces of the Republic of Macedonia and of members of their families, which was adopted in the beginning of 2002.

Proceeding on the pretext of the allegations stated in the complaint, the Ombudsman concluded that the persons that submitted the complaint were not able to exercise their legal rights due to a lack of restricted funds of the Ministry of Defense and, on two occasions, submitted an Information on the problems in the realization of the special rights of the security forces' members and of members of their families to the Government of the Republic of Macedonia, pointing to the facts that the Government has a right and obligation to direct the operation of the Ministry of Defense in the domain of the procedures upon the demands of the members of security forces and members of their families, so as to accelerate them and enable faster realization of their legal rights, as well as elimination of any kind of discrimination regarding the exercise of these rights. In addition, the Ombudsman also pointed out to the fact that the prompt solving of this problem would eliminate the justified revolt of the complainants, as well as the unnecessary court proceedings and expenses borne in such proceedings.

Regarding the action taken, the Ministry of Defense submitted to the Ombudsman a Summary of accepted, processed and realized cases pursuant to article 23 of the Law on the special rights, which points out to the conclusion that funds for the compensation for 31 killed members of the security forces - persons subject to military conscription - had been allocated and its payment had already commenced, which means that the rights of the relevant citizens were thus realized.

2.5.1.-1

The person L.S. from Skopje submitted a complaint to the Ombudsman, expressing discontent with a decision of the Employment Bureau - Employment Office Skopje, which violated her right to unemployment compensation since she had been deleted from the register of the unemployed with the relevant Decision.

Before addressing the Ombudsman, since she was not content with such a decision, the lodger of the complaint filed a complaint to the Ministry of Labor and Social Policy, which accepted the complaint with a decision and annulled the first instance decision.

The Ombudsman judged that the rights of the lodger of the complaint had been violated by the erroneous establishment of the factual situation, and the incorrect application of the material law in the adoption of the disputed decision by the Employment Bureau - Employment Office - Skopje.

The complainant had been regularly employed, and her employment ceased on the basis of technological surplus, and having regard to the fact that she had been one of the founders of the cooperative, the Employment Bureau - Employment Office in Skopje, pursuant to article 54, paragraph 1, line 4; and article 59, paragraph 1, line 3 of the Law on employment and unemployment insurance ("Official Gazette of RM" No. 37/97) deleted her from the registry of the unemployed and did not acknowledge her right to unemployment compensation.

The violation of the rights of the lodger of the complaint has been committed since the Bureau has not taken into the consideration the fact that the cooperatives do not have the status of trade companies because they are founded pursuant to the Law on cooperatives ("Official Gazette of RM" No. 30/90), which is applied as a "lex specials", and that cooperatives do not have an initial capital that would produce profits or delegates rights, thus, the founders of the cooperative are not treated in the same manner as founders of trade companies.

The Ombudsman submitted a recommendation to the Employment Bureau-Employment Office in Skopje, stating that in the repeated proceedings it should act according to article 242, paragraph 2 of the Law on General Administrative Proceedings, and to make a legal decision by consistently applying the points given in the second instance decision of the Ministry of Labor and Social Policy and the legal regulations.

The Employment Bureau-Employment Office in Skopje accepted the Ombudsman's recommendation, and the lodger of the complaint realized her right to unemployment compensation.

2.5.1.-2

The person A.D. from Prilep submitted a complaint to the Ombudsman requesting alleviation of his difficult social position through the realization of his right to public welfare, which he was not able to realize in the Public Institution "Inter-municipal Social Welfare Center" in Prilep.

The lodger of the complaint did not possess any document that had denied his requests and, therefore, was not able to demand protection of his rights from the higher instance bodies. The Ombudsman found that there are legal grounds for initiation of a procedure since the lodger lived alone and had no income whatsoever, and had not been charged for the habitation due to his bad social position.

According to the instructions of the Ombudsman, the PI "Inter-municipal Social Welfare Center" found that all legal requirements for realization of the person's right to social welfare had been met, and having regard to the fact that the failure to acknowledge the right to social welfare is contrary to article 29 of the Law on Social Welfare ("Official Gazette of RM" No. 50/97) and the Decision on the conditions, criteria, amount, manner and procedure for determining and realization of the right to social welfare ("Official Gazette of RM" No. 15/98), the Ombudsman found that the legal prerequisites for the person to realize this right have been met.

On a suggestion of the Ombudsman, the Public Institution "Inter-municipal Social Welfare Center" in Prilep adopted a Decision that acknowledges the right to social welfare of the lodger of the complaint.

2.5.2. - 1

The person O.V. from Skopje submitted a complaint claiming that the Public Enterprise "Makedonski Zeleznici"-Skopje violated her employment rights by adopting a decision for ceasing of her employment by force of law due to the

acquisition of the right to old-age pension. Dissatisfied with the Decision, the lodger of the complaint filed a complaint to the Employment Commission at the PE "Makedonski Zeleznici" within the legally prescribed period of time, but the commission still had not decided upon the complaint.

The Ombudsman found that there has been made a violation of the employment rights of the lodger of the complaint, because the female insured who has completed at least 30 years of service at the day of the enforcement of the Law on changes and amendments to the Law on pension and disability insurance acquire the right to old-age pension pursuant to the conditions set in the Law on pension and disability insurance ("Official Gazette of RM" No. 80/93; 3/94; 14/95; 71/96 and 32/97).

However, the Labor Relations Act stipulates that the employment ceases by force of law if the employee completes 40 years of service, or 65 years of age and at least 15 years of insurance, if the employer, according to the conditions prescribed by law and by the general collective agreement, does not decide otherwise, i.e. that the employee should remain employed. Since the lodger of the complaint had completed a service of 37 years, 4 months and 9 days, i.e. 37 years, 9 months and 12 days of service, The Ombudsman found that she does not meet the legal prerequisite for retirement by force of law because she has not completed 40 years of service, and since the right to old-age pension with completed 30 years of service should be considered only as an option for acquiring of the right to old-age pension, and not as a reason for cessation of the employment by force of law.

The Ombudsman submitted a recommendation in which he pointed to the committed violation of the complainant's right and recommended that the Public Enterprise "Makedonski Zeleznici"-Skopje should, as soon as possible, take action to abrogate the decision for cessation of the complainant's employment, and take measures for her return at the working position, i.e., to appoint her at a position where she would discharge the same duties as before the cessation of the employment.

The Public Enterprise "Makedonski Zeleznici"-Skopje accepted the recommendation and proceeded accordingly by adopting a decision that fully accepted the complaint, while the Decision for cessation of the employment by force of law had been annulled.

2.5.2. - 2

The person B.P. from Stip submitted a complaint to the Ombudsman regarding his dissatisfaction with the procedure for his release from the position of a director of the state secondary school "Slavco Stojmenski" from Stip, and the fact that he has been proclaimed a surplus worker by Decision of the School Board. Dissatisfied with the above-mentioned Decision, the lodger of the complaint lodged a complaint to the School Board within the legally prescribed period.

The Ombudsman found that there is a base for initiating of a procedure since the above-mentioned act-Decision of a School Board, violated the employment rights of the lodger of the complaint.

Proceeding upon the complaint, the Ombudsman found that, by a Decision of the Minister of Education, the complainant has been released from the position

of school director and instead of being reassigned to another position corresponding to his qualifications, as pursuant to the legal regulations, with a Decision of the School Board of SSS "Slavco Stojmenski" he has been proclaimed a surplus. It has also ascertained that the Decision has been adopted by an incompetent body, and in addition, there has been a violation of the rules of the procedure for cessation of employment due to economic, technological, structural or similar changes, i.e., the complainant has been proclaimed a surplus worker outside of the relevant legal procedure. In such procedure the complainant has been proclaimed surplus by default, without carrying out the proper procedure in compliance with the provisions of the Labor Relations Act dealing with the cases when the employment ceases with dismissal due to economic, technological, structural or similar changes, as well as pursuant to the provisions contained in articles 62 to 70 of the Collective Agreement for the secondary education, especially in the light of the fact that the School Board had neither carried out a procedure for establishment of a Commission, nor determined the order of precedence according to the criteria for cessation of employment that are stipulated in the Collective Agreement.

Furthermore, the Ombudsman found that, in this concrete case, the Board has not taken into consideration the article 105 of the Law on Secondary Education (refined text) ("Official Gazette of RM" No.52/02), according to which the director that has not been re-elected according to a public announcement, or is released before the expiration of the term of office for which he has been appointed, he shall retain the employment in the public school at a position that corresponds to his qualifications, if any, even more so since, according to the points made by the lodger of the complaint, there has been a vacancy in the school at the position of a professor of philosophy, with full working hours. The Ombudsman made a Suggestion for annulment of the Decision of the School Board and for carrying out of a repeated procedure pursuant to the provisions of the Labor Relations Act, the Collective Agreement for secondary education and the Law on Secondary Education.

The Decision of the School Board proclaiming the lodger of the complaint a surplus employee was annulled and the complainant was once again employed.

2.5.3.-1

The citizen B.C. from Skopje submitted a complaint to the Ombudsman, requesting an intervention in the Ministry of Defense of the Republic of Macedonia and the Housing and Emigration Commission at the Government of the Republic of Macedonia.

The lodger claimed that his legal rights have been violated with the competent authorities' failure to proceed upon his request for coordination of the previously adopted decision of the Ministry of Defense, by which he has been assigned an official apartment, with the new legal regulations. Namely, the Ministry of Defense assigned an official apartment to use of the lodger until retirement. Dissatisfied with such Decision, the above-mentioned person filed a request for solving of his housing problem by granting him the tenancy rights for the apartment that has been assigned to him for official use, which would enable him to buy out

the apartment according to the Law for purchase of the apartments in state ownership. The lodger received no response despite the numerous appeals sent to the Ministry of Defense.

The Ombudsman requested information on the reasons why the lodger's housing problem have not been solved, despite the numerous appeals and the fact that in the meantime the person retired and lost the right to use the official apartment. The Ombudsman ascertained that the Ministry of Defense has violated the legal rights of the lodger, as well as the rights of a larger number of employees of the Ministry, having regard to the fact that it has not satisfied their basic demands for permanent resolving of their housing problems, i.e., it has not proceeded in the context of article 42 of the "Book of regulations on the resolving of housing problems in the Ministry of Defense", which stipulates that the Ministry of Defense may allot apartments with tenancy rights to the officers who, in the last year before they meet all requirements for old-age pensions, still have not solved their housing problems.

On the other hand, having in mind the fact that in the interim period the competence for the solving of the housing questions of the employees in the Ministry of Defense has been transferred to the competent commission at the Government of the Republic of Macedonia, and judging that he same unjustifiably delays the proceeding upon the complaint of the citizen B.C., as well as upon the complaints of other employees of the Ministry, the Ombudsman, with a Recommendation from 16.09.1999, addressed the Government of the Republic of Macedonia - Housing and Emigration Commission and emphasized the fact that the commission is obligated to adopt a Decision for the manner of proceeding upon the requests of the users of official apartments, and also to determine the status of the category of apartments leased for official purposes, according to the legal solutions stipulated in the Law on Housing ("Official Gazette of RM" No. 21/98).

The Housing and Emigration Commission at the Government of the Republic of Macedonia informed the Ombudsman that, according to the Decision for recording of apartments as apartments in state ownership ("Official Gazette of RM" No. 94/2001), by which the apartments allotted for the official purposes of the Ministry of Defense were also entered in the registry of apartments in state property, it shall proceed upon the requests of the previous occupants of the apartments, and that accordingly, the lodger would have to submit a corresponding request.

On recommendation of the Ombudsman the citizen B.C. submitted a new request, upon which the Housing and Emigration Commission responded positively and adopted a Decision by which it would lease the relevant apartment to the lodger of the complaint for an indefinite period of time, with the possibility of entering into a sales and purchase agreement, pursuant to the Law on purchase of apartments in state ownership. With such Decision, the legal rights of the citizen B.C. had finally been realized.

2.5.3.-2

L.B. from Skopje submitted a complaint to the Ombudsman, requesting an intervention at the Housing and Emigration Commission at the Government of the

Republic of Macedonia due to a violation of her legal rights by failing to proceed upon her request for determining of a sole holder of tenancy rights. The complaint implies that the lodger of the complaint sent to the Housing and Emigration Commission a Request for determining of a sole holder of tenancy rights for the apartment in which she resides according to a correspondent Agreement, which she has been using in a co-tenancy relationship with the citizen G.V., and in whose part of the apartment another person moved in illegally after his death.

Regarding the submitted request, and having in mind the fact that, in the meantime, the relevant apartment has been entered in the registry of the apartments in ownership of the Republic of Macedonia, the Housing and Emigration Commission requested from the Public Prosecutor's Office to initiate proceedings for expelling of the illegal occupant.

The Ombudsman found that the Public Attorney's Office of the Republic of Macedonia unjustifiably delays the proceedings for the expelling of the illegal occupants and sent a memorandum to this authority demanding information whether all necessary measures and activities in its competence had been taken for protection of the state property, i.e. the rest of the apartment in the concrete case.

In its reply the Public Attorney's Office informed the Ombudsman that in the meantime the person had been expelled under duress, so that there are no legal hindrances for satisfying of the Request of the lodger, and the competent commission was also informed about the new circumstances. Having regard to the fact that according to article 33 of the Law on Housing ("Official Gazette of RM"), the Government of the Republic of Macedonia determines the manner, conditions and the procedure for leasing of apartments in ownership of the Republic of Macedonia, the Ombudsman made a suggestion and demanded that the Housing and Emigration Commission at the Government of the Republic of Macedonia, within its legal competence, should adopt an administrative act-decision by which it would lease the full apartment to the lodger of the complaint.

As a result of the above-mentioned activities and measures, undertaken by the Ombudsman, the Housing and Emigration Commission adopted a Decision by which, pursuant to the Law on Housing ("Official Gazette of RM" No. 21/98) and the Decree on the manner, conditions and the procedure for leasing of apartments in ownership of the Republic of Macedonia ("Official Gazette of RM" No. 10/99), granted the person L.B, the right to lease the apartment.

2.6.1. - 1

The citizen V.K. from Prilep submitted a complaint to the Ombudsman, stating that the Health Insurance Fund of Macedonia - Skopje violated his rights in the following manner: after submitting a request for approval of a hospital treatment abroad for his child, and after obtaining the relevant approval, i.e. Consultation opinion of the competent authority and a Decision for approval of hospital treatment in a foreign country, the Fund, instead of proceeding pursuant to the law, offered the lodger to sign an agreement stipulating that he would borne the expenses for the hospital treatment in amount exceeding 20,000 DM, although, according to the Law on Health Insurance and the Book of regulations for the

manner of utilization of healthcare services in a foreign country, the insured participate with 20%, and the Fund with 80% of the incurred expenses.

The Ombudsman found that in the concrete case the Fund acted contrary to the Law and violated the rights of V.K., i.e., the Health Insurance Fund continues with the customary practice of blackmailing the insured to sign agreements that are not legally founded, so that the expenses incurred for the hospital treatment will be borne by the insured instead by the Fund.

Having regard to the fact that similar complaints have also been submitted to the Ombudsman in the previous period, stating that the Fund enters into agreements with the insured so as to avoid its legal obligation to cover 80% of the expenses incurred for the hospital treatment in a foreign country, the Ombudsman has found that, despite the previous instructions and recommendations for remedying of the illegal procedures for many individual cases, the Fund continues to operate in the same manner.

The Ombudsman submitted a Recommendation to the Health Insurance Fund of Macedonia and requested that the Fund should undertake measures and actions to enable the realization of the lodger's rights, i.e., reimburse the citizen 80% of the expenses incurred for the approved hospital treatment in a foreign country for his son, pursuant to article 32 of the Law on Health Insurance and the by-laws that regulate this domain (Book of regulations for the conditions and the manner of issuing referrals for hospital treatment in a foreign country and the Book of regulations for the manner of utilization of healthcare services in a foreign country).

After several interventions the Fund adopted a Decision that enabled the realization of the complainant's right, i.e., by which 80% of the expenses were borne by the Health Insurance Fund - Skopje, as it is stipulated in the laws and in the by-laws.

2.6.1.-2

Citizen S.M.A. from the village of Buzalkovo-Veles submitted a complaint to the Ombudsman stating that his rights had been violated by the Health Insurance Fund of Macedonia-Skopje. The Fund imposed an obligation for the citizen to pay contributions for health insurance as an insured-farmer, despite the fact that in the medical-care booklet issued by the Health Insurance Fund-Regional Department Veles he had been registered as an insured-participant in the War of National Liberation (WW II), on the basis of which he had been receiving also a suitable financial support.

The lodger believed that the Health Insurance Fund had violated his constitutional and legal rights by registering him as an insured - farmer and by demanding that he should pay health insurance contributions on the basis of the performance of agricultural activities so as to grant him and his spouse health insurance on the basis of his participation in the WW II. The complainant stated that he had addressed the Fund on several occasions requesting that it should correct that error, but the Fund always replied, without passing any official judgment, that he could not have been insured on the basis of his participation in

the WW II if he had not paid the contributions on the basis of the farmers' insurance.

After obtaining the necessary information and investigating the case, the Ombudsman found that the complainant have the status of a participant in the WW II and, according to article 2 of the Law for financial support to the participants in WW II ("Official Gazette of RM" No. 21/96 - refined text), he had acquired the right to financial support, on the basis of which, according to article 11 of the same Law, he is entitled to healthcare in the extent, manner and under conditions stipulated by the healthcare regulations. However, the Ombudsman also found that the complainant could not exercise his right to healthcare pursuant to the healthcare regulations because allegedly he had not paid his contributions as a farmer for the period from 1992 to 1997.

Since in the concrete case the lodger of the complaint had no health insurance for a period of 5 years, and no relevant judgment had been passed, the Ombudsman proposed that the case should be re-examined and that the person should be registered, according to the status for which he has a suitable approval, and granted the use of healthcare services and of health insurance pursuant to the current legal regulations. Furthermore, the Ombudsman has pointed out that pursuant to the Law on Health Insurance and the Book of regulations on the rights and obligations arising from the compulsory health insurance the obtaining of a status of insurer on a different basis may not be conditioned, i.e., the Law does not stipulate the possibility for rejection of a submitted application due to possible unsettled contributions because the law stipulates a suitable manner of payment of the outstanding contributions under duress.

Once all of the above-mentioned measures have been taken, the lodger has been registered in the Health Insurance Fund as an insured on the basis of his participation in the WW II and once again granted the right to health insurance that he has not been able to exercise for a period of five years.

2.6.2. - 1

The citizen A.S. from Skopje submitted a complaint stating that his rights to pension and disability insurance were violated by the Pension and Disability Insurance Fund and the Government of the Republic of Macedonia-Second instance Commission for resolving of disputes in the field of pension and disability insurance, which adopted decisions that rejected his requests for realization of the right to disability pension.

Having regard to the fact that the lodger of the complaint has been denied his rights to pension and disability insurance on several occasions by the competent authorities that have passed correspondent administrative acts, and that his health has got worse since, he has submitted a new request to the Pension and Disability Insurance Fund of Macedonia. In the course of the administrative proceedings upon his second request the Fund passed judgment stating that his request is rejected and his right to disability pension has not been acknowledged due to absence of a disability.

The lodger of the complaint, being dissatisfied with the decision of the Pension and Disability Insurance Fund of Macedonia - Operational Services -

Regional Department Skopje, lodged a complaint to the second instance authority (the Government of the Republic of Macedonia - Second instance Commission for resolving of disputes in the field of pension and disability insurance) in due time.

After examining and inspecting the relevant documentation, the Ombudsman has found that with a Decision based on the Findings, estimate and opinion of the First Instance Disability Commission the person has been granted the status of a disabled worker of the first category and the right to disability and nursing supplement. Furthermore, in 2000, the lodger of the complaint filed a request for realization of the right to disability pension to the competent authority for evaluation of the ability to work, but this body decided that he is able to work, i.e., contrary to the previous findings that the person is disabled in the first category.

On the basis of the contradiction between the two findings, the Ombudsman ascertained a violation of the complainer's rights, and requested via a written memorandum that the competent authority should re-examine the lodger so as to overcome the contradictions that arise from the already passed administrative acts, having regard to the health condition of the person in question. In addition, the Ombudsman pointed out to the legal obligation, according to article 247 of the Law on General Administrative Proceedings, for prompt passing of a decision, no later than two months following the date when the complaint had been lodged. Nevertheless, despite this request of Ombudsman, the First Instance authority, on the basis of the Findings and the opinion of the Commission for evaluation of the working ability, answered the lodger's request negatively once again, after which the complainer lodged a complaint. Thus, the Ombudsman addressed again the Government of the Republic of Macedonia - Commission for resolving of disputes in the field of pension and disability insurance, demanding that it should make a decision and overcome the contradictions arising from the previous findings, i.e., that it should pass a judgment on the basis of the factual health condition of the lodger of the complaint, which is clearly indicated by the documentation on disposal of the complainer.

On the basis of the remarks of the Ombudsman, the Second Instance Commission adopted a Decision that accepted the request, and ascertained a disability due to fully and permanently lost working ability of the lodger as a result of an illness. According to the above-mentioned Decision, the Pension and Disability Insurance Fund of Macedonia-Operational Services-Regional Department Skopje adopted a Decision, under which the lodger of the complaint realized his rights after years of engagement in administrative and court proceedings.

2.7.-1

The person P.Z. from Skopje filed a complaint pointing out to the problem of the difference in the amount of the scholarship paid for self-financing studies at the University "Ss. Cyril and Methodius"-Skopje, depending on which open competition they apply, thus creating inequality of the conditions for studying at the university.

The Ombudsman found that by obligating the students of one and the same faculty to pay different participation for the same conditions for studying the

students are discriminated, i.e. they are not treated equally, despite the fact that according to the Constitution the education should be equally available to all students.

After the analysis of the case the Ombudsman found that for the students that participate in the payment of the scholarship there is created a difference in the amount of the scholarship fee that they should pay, i.e., the amount that is paid at one and the same faculty varies depending on the time when the students enrolled at the university. Thus, the students are obligated to pay from 500 to 2,500 DM for one school year at the same studies. Starting from the constitutional principle of rule of law and equality of citizens' rights and freedoms, as well as from constitutionally guaranteed right to equal access to education, the Ombudsman found that the point in question is a violation of the right to equality and of the above-mentioned Constitutional principles and submitted a proposal to the Rector's Office of the University "Ss. Cyril and Methodius" demanding action for equalization of the amount of the participation in the scholarship paid for one school year on the same studies by entering of annexes to the previously concluded agreements for self-financing of studies, referring to the stipulations that regulate the amount of the fee, whereat the students enrolled under the conditions prescribed in the open competitions in the previous years who would pass all exams to the February examination period inclusive would be relieved from the obligation to pay scholarship for the subsequent study year.

Acting upon the proposal the Rector's Office established a Commission for unification of the amounts of the students' co-financing fees, and instructed the faculties to standardize the criteria and the amounts of the co-financing fees for each study year at the relevant faculties. The Ombudsman demanded information whether the faculties that are part of the University had passed administrative acts that regulate the unification of the conditions for enrollment that are set out in the open competitions, and was informed that the greater number of faculties accepted his suggestion for unification and charged all students with fees in the equal amount, thus overcoming the inequality among the students. However, a small number of the faculties did not accept the Ombudsman's suggestion on a pretext that it could not be done due to the operational conditions.

The public was informed about the problem and the recommendation that the Ombudsman had given to the University "Ss. Cyril and Methodius" - Skopje through the public media.

2.7.-2

B.B. citizen from Skopje submitted a complaint to the Ombudsman, which states that the Faculty of Philosophy in Skopje violated her rights because refused to issue certain document, evidence for obtained title, i.e. refused to issue a Diploma (Certificate for graduation), regardless the fact that it is two years after the day of her graduation, allegedly because of outstanding tuition.

From the complaint and the submitted documents it was founded that the lodger entered the Faculty in 1995/96 after undertaking the expanses for the studies, but regarding the fact that the lodger continually fulfilled the determined conditions, she was released from payment of tuition during the following years.

However, after the graduation in the year 2000 she did not receive her Certificate, with the explanation that she had not passed one exam in the exam session in February, although the Index represented records that the exam had been passed in the determined period, and because of this fact there was no reason for payment of the tuition.

Acting upon the complaint the Ombudsman submitted a recommendation to the Faculty of Philosophy, which stated that the legal obligation of the Faculty is to issue the Certificate, due to the fulfilled conditions determined in the Law on University Education. It was also founded that the Faculty has no legal basis to condition the issuing of documents by payment of any outstanding debt of the student, which did not exist at the moment, and even if it existed, the Faculty can prosecute the student in order to conduct payment of the debt, which is stated in the concluded agreements for the mutual rights and obligations for entering the students that pay for their graduate studies.

The Faculty, after several interventions, adopted the recommendation and after completing of the documentation, i.e. submission of the missing exam form in the student's file, the Certificate was prepared, and with that the lodger realized her right.

2.8.-1

The citizen M.M. from Skopje submitted a complaint to the Ombudsman, which stated that a divorce procedure is in process and that an opinion has already been given by the Inter-municipal center for social work Skopje, custody of both children to be given to her, but one of the children, after visiting the father, was kept in his father's home against his will. It was requested from the Ombudsman to intervene due to the allegations that the child has not attended school after it is with his father, but more serious problem was the fact that the father has a diagnosis of a paranoid schizophrenia, which could endanger the health and safety of the child.

Considering the fact that the right of personal contacts with both parents of the child has been violated, according to the provisions from article 76 of the Family Law, the Ombudsman started a procedure and from the conversation with the professionals from Inter-municipal center for social work Skopje, received a confirmation of the allegations, but due to the court procedure for the divorce, there were no legal conditions to request from the center to adopt a decision for temporary placement of the children with their mother, which is according to the Act used by the Ministry of Internal Affairs.

These kind of circumstances represented a difficulty for undertaking activities by the Ministry of Internal Affairs, due to non-existence of an Act according to which they could enter the house of the father by force, arrest him, and take the child, however on the other hand, due to the fact that the Ombudsman does not have authorization to undertake any activities in front of the courts, there were no conditions to shorten the divorce procedure, i.e. adopting a decision for custody of the children.

Upon the request of the Ombudsman, the police conducted continual surveillance of the house of the lodger's husband, in order to call him for a

conversation in the police station, in case he got out of the house, and in that way to take the child out of the house. After his arrest in the police station, the professionals from the Inter-municipal center for social work were called in order to help the child to overcome the survived trauma by the separation with his mother and the two-month imprisonment in the house.

The Ombudsman was informed that the Inter-municipal center for social work undertook all necessary measures for her protection, that she is placed together with her children in another place and that the child is fine, and that her husband shall be detained for treatment in the hospital "Bardovci".

2.9.1-1

LJ.T. from Skopje in his submitted complaint stated that in the procedure of amending and change of the Detailed Urbanization Plan for the locality of Debar maalo2, the contractor of the project prepared a draft-plan according to which a new street was planned, which was undertaken by the contractor of the project and he conducted corrections on the line of the existing street "Naum Naumovski-Borce", and planned broadening of the street on the urbanization lots on the range from St. "Dimitrija Tucovik" to St."Jordan Konstantinov–Dzinot".

For this draft-plan, subject to public questionnaire, the lodger did not submit any objections, however, according to the results of the public questionnaire received after given suggestions from certain citizens and upon adoption by the Professional Commission, the contractor performed an audit of the draft-plan, by which the newly projected street is accepted and also the existing street "Naum Naumovski-Borce", and the Ombudsman finds that not only have the provisions of the Law on Urbanization and spatial planning been violated but also the legal interests of the lodger of the complaint for completion of the determination of an urbanization lot.

The Ombudsman considered that the given decision according to which the old rout has been non-defined space, which should not be a part of the procedure of DUP for Debar-maalo2 and it is opposite to the reason of usage of the space, which presents basic priority goal of the Law on Urbanization Planning.

Having into consideration the expertise and the competence of the contractor of the draft-plan, the Ombudsman, by the given opinion to the Municipality Center – Skopje presented his proposal to use the old rout for broadening of the urbanization lots in the range from St. "Dimitrie Tucovik" to St. "Jordan Konstantinov–Dzinot, which would be better urbanization solution not only for the locality, but also to the city as a whole, it would be in the interest of the general population.

The opinion and the proposal of the Ombudsman were adopted.

2.9.1.-2

The citizen J.S. from Skopje submitted a complaint to the Ombudsman, which directs to postponing the procedure for issuing of an approval for repairs of a roof, in front of the Ministry of Transport and Communications – regional outpost –

Gazi Baba. From the content of the complaint, as well as from the submitted evidence, the Ombudsman finds that the lodger of the complaint submitted a request to the Ministry of Transport and Communications–regional outpost–Gazi Baba for issuing an approval for repairs of a roof, however although he submitted all necessary documents in due time, the competent body did not respond, by which the procedure is unjustly prolonged.

Finding that the rights of the lodger have been violated, considering the fact that the competent body did not respond upon the request in the terms determined by article 218, paragraph 1 of the Law on General Administrative Procedure, the Ombudsman addressed the Ministry of Transport and Communications–regional outpost-Gazi Baba, with the instruction to priority action upon the request and to deliver a copy of the decision to the Ombudsman.

The Ministry of Transport and Communications–regional outpost–Gazi Baba – Skopje informed the Ombudsman that a positive decision has been reached upon the request, and in addition to that the approval for building – broadening of an apartment and placement of a sloped roof, was delivered.

2.9.2-1

In the complaint of a group of citizens from the building “Trendafila” on St.”Marsal Tito” No.45 from Kocani, it was stated that due to the noise resulting from the compressor cooling of the refrigerators of the trade company “Antareks”, located in their building, their peace has been disturbed, also the use of the premises in the interior of the building. Relating to the above mentioned, the lodgers of the complaint submitted a request to the State Inspectorate of Environment, upon which this body did not undertake any activities.

Having into consideration the stated in the complaint, as well as the submitted material evidence, in order to realize efficiently the rights of the lodgers, the Ombudsman, according to the provisions from article 47 of the Law on Protection and Improvement of the Environment, submitted a recommendation to the State Inspectorate of Environment, by which he requested from the Inspectorate to conduct inspection supervision of the relevant building and also measurement of the level of harmful noise, and if it is confirmed that the noise supercedes the maximum allowed level, to undertake adequate actions within its competence.

The State Inspectorate of Environment conducted field inspection of the location and prepared Minutes, and also it was found that the former compressors were replaced with new, without noise, which eliminated the harmful effects resulting from the noise.

2.9.2.-2

The Ombudsman started a procedure, by his own initiative, in relation to an announced article in the daily newspaper under the heading “Cry for Help”, which presented the reactions from a group of citizens from Strumica in relation to the air pollution resulting from the mine “Ograzden” in Strumica.

In this direction, the Ombudsman forwarded a recommendation to the State Inspectorate of Environment, by which he requested from the competent body to conduct inspection supervision of the case and according to the determined factual situation to undertake actions for protection of the air.

The State Inspectorate of Environment informed the Ombudsman that actions have been undertaken for protection of the environment, and that they conduct regular measurements of the dust emission, inside and around the Mine, i.e. a procedure for supervision of the condition, conducted by the authorities of the Mine, is in process.

The recommendation that was submitted by the Ombudsman to the State Inspectorate of Environment – Skopje was published in the daily newspapers.

2.10.1-1

The citizen B.S. from Skopje submitted a complaint to the Ombudsman, which states that according to the order issued by the manager of the Administration for Public Revenues – Regional administration – Skopje, according to article 4, paragraph 1 and 2 of the Advocacy Law (“Official Gazette of the Republic of Macedonia” No.59/02), all citizens that submit tax forms and participate in the procedure for determination of a tax on real estates, the forms should be submitted personally or by a lawyer. In that context, the lodger is deprived of the right to purchase, according to a purchase and sale agreement, to participate in the procedure for determination of a real estate tax.

Acting upon the complaint, the Ombudsman found that the legal and constitutional rights of the citizen B.S. have been violated, due to the fact that the stated provision of the Advocacy Law does not determine that the clients should always submit their requests to the state bodies, courts, public services and legal entities, personally or by a lawyer, because the provision determines the authorizations of the lawyer. In that context a suggestion was submitted to the Administration of Public Revenues–Regional administration–Skopje, for undertaking adequate measures for resolving this situation and creation of conditions for the lodger of the complaint, as well as the citizens, when they are in the position of sellers or purchasers can submit requests, tax forms and other forms to the Administration of Public Revenues–Regional administration–Skopje.

The suggestion was adopted; the citizen realized his right.

2.7.-2

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payment of tuition during the following years. However, after the graduation in the year 2000 she did not receive her Certificate, with the explanation that she had not passed one exam in the exam session in February, although the Index represented records that the exam had been passed in the determined period, and because of this fact there was no reason for payment of the tuition.

Acting upon the complaint the Ombudsman submitted a recommendation to the Faculty of Philosophy, which stated that the legal obligation of the Faculty is to issue the Certificate, due to the fulfilled conditions determined in the Law on University Education. It was also founded that the Faculty has no legal basis to condition the issuing of documents by payment of any outstanding debt of the student, which did not exist at the moment, and even if it existed, the Faculty can prosecute the student in order to conduct payment of the debt, which is stated in the concluded agreements for the mutual rights and obligations for entering the students that pay for their graduate studies.

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Considering the fact that the right of personal contacts with both parents of the child has been violated, according to the provisions from article 76 of the Family Law, the Ombudsman started a procedure and from the conversation with the professionals from Inter-municipal center for social work Skopje, received a confirmation of the allegations, but due to the court procedure for the divorce, there were no legal conditions to request from the center to adopt a decision for temporary placement of the children with their mother, which is according to the Act used by the Ministry of Internal Affairs. These kind of circumstances represented a difficulty for undertaking activities by the Ministry of Internal Affairs, due to non-existence of an Act according to which they could enter the house of the father by force, arrest him, and take the child, however on the other hand, due to the fact that the Ombudsman does not have authorization to undertake any activities in front of the courts, there were no conditions to shorten the divorce procedure, i.e. adopting a decision for custody of the children.

Upon the request of the Ombudsman, the police conducted continual surveillance of the house of the lodger's husband, in order to call him for a conversation in the police station, in case he got out of the house, and in that way

to take the child out of the house. After his arrest in the police station, the professionals from the Inter-municipal center for social work were called in order to help the child to overcome the survived trauma by the separation with his mother and the two-month imprisonment in the house.

The Ombudsman was informed that the Inter-municipal center for social work undertook all necessary measures for her protection, that she is placed together with her children in another place and that the child is fine, and that her husband shall be detained for treatment in the hospital "Bardovci".

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The opinion and the proposal of the Ombudsman were adopted.

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Baba for issuing an approval for repairs of a roof, however although he submitted all necessary documents in due time, the competent body did not respond, by which the procedure is unjustly prolonged.

Finding that the rights of the lodger have been violated, considering the fact that the competent body did not respond upon the request in the terms determined by article 218, paragraph 1 of the Law on General Administrative Procedure, the Ombudsman addressed the Ministry of Transport and Communications–regional outpost-Gazi Baba, with the instruction to priority action upon the request and to deliver a copy of the decision to the Ombudsman.

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Having into consideration the stated in the complaint, as well as the submitted material evidence, in order to realize efficiently the rights of the lodgers, the Ombudsman, according to the provisions from article 47 of the Law on Protection and Improvement of the Environment, submitted a recommendation to the State Inspectorate of Environment, by which he requested from the Inspectorate to conduct inspection supervision of the relevant building and also measurement of the level of harmful noise, and if it is confirmed that the noise supercedes the maximum allowed level, to undertake adequate actions within its competence.

The State Inspectorate of Environment conducted field inspection of the location and prepared Minutes, and also it was found that the former compressors were replaced with new, without noise, which eliminated the harmful effects resulting from the noise.

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The Ombudsman started a procedure, on his own initiative, in relation to an announced article in the daily newspaper under the heading “Cry for Help”, which presented the reactions from a group of citizens from Strumica in relation to the air pollution resulting from the mine “Ograzden” in Strumica.

In this direction, the Ombudsman forwarded a recommendation to the State Inspectorate of Environment, by which he requested from the competent body to

conduct inspection supervision of the case and according to the determined factual situation to undertake actions for protection of the air.

The State Inspectorate of Environment informed the Ombudsman that actions have been undertaken for protection of the environment, and that they conduct regular measurements of the dust emission, inside and around the Mine, i.e. a procedure for supervision of the condition, conducted by the authorities of the Mine, is in process.

The recommendation that was submitted by the Ombudsman to the State Inspectorate of Environment – Skopje was published in the daily newspapers.

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The citizen B.S. from Skopje submitted a complaint to the Ombudsman, which states that according to the order issued by the manager of the Administration for Public Revenues – Regional administration – Skopje, according to article 4, paragraph 1 and 2 of the Advocacy Law (“Official Gazette of the Republic of Macedonia” No.59/02), all citizens that submit tax forms and participate in the procedure for determination of a tax on real estates, the forms should be submitted personally or by a lawyer. In that context, the lodger is deprived of the right to purchase, according to a purchase and sale agreement, to participate in the procedure for determination of a real estate tax.

Acting upon the complaint, the Ombudsman found that the legal and constitutional rights of the citizen B.S. have been violated, due to the fact that the stated provision of the Advocacy Law does not determine that the clients should always submit their requests to the state bodies, courts, public services and legal entities, personally or by a lawyer, because the provision determines the authorizations of the lawyer. In that context a suggestion was submitted to the Administration of Public Revenues–Regional administration–Skopje, for undertaking adequate measures for resolving this situation and creation of conditions for the lodger of the complaint, as well as the citizens, when they are in the position of sellers or purchasers can submit requests, tax forms and other forms to the Administration of Public Revenues–Regional administration–Skopje.

The suggestion was adopted, the citizen realized his right.

2.10.1.-2

A.I. and S.I. from Skopje, submitted a complaint to the Ombudsman, whose content presents violation of their constitutional and legal rights because the Administration for Public Revenues–Regional administration–Skopje refuses to issue a certificate for their material status for realization of the right to child support, i.e. they were conditioned to pay property tax for the apartment for the period of the previous five years.

The Ombudsman concluded that with this type of treatment the rights of the citizens were violated because according to article 171, item 1 and 3 of the Law on General Administrative Procedure (“Official Gazette of the SFRY” No.47/86–taken as state regulation), the state bodies issue certificates for the facts, which are

included in an official records, and the certificates for the facts included in this records have to be issued according to the data of the official records.

Upon the proposed suggestion of the Ombudsman to the Administration for Public Revenues to issue certificates for the facts, for which records are maintained, i.e. certificates for the material status of the citizens without any previous conditioning according to the data from the official records, in order to accomplish continual realization of the rights in front of the other bodies of the state administration, the competent body has not responded, and because of this an information was submitted to the manager of the Administration for Public Revenues – Regional administration – Skopje.

2.11.1.-1

The citizen D.S. from Veles submitted a complaint to the Ombudsman, which stated that with a certain agreement with the Pensioners' Association in Veles, he was given an apartment on lease, which he is not able to use continually because the apartment was disconnected from the power network due to outstanding bills for the last two years, which was the obligation of the previous lessee, who is now deceased. For the disputed issue the lodger addressed the competent service of the outpost "Elektrodistribucija" Veles, which conducted additional control and stated again that he is obligated to pay the disputed bills for the consumed electricity.

Acting upon the complaint, the Ombudsman states that in this particular case the right of the citizen D.S. has been violated, i.e. the citizen is unjustly obligated to pay the disputed bills, resulting in submission of a recommendation to the outpost "Elektrodistribucija" Veles, by which it is required recording the lodger as user of power and at the same time providing him with continual delivery and use of electricity.

The above mentioned, having into consideration the fact that the outpost "Elektrodistribucija" Veles did not act according to the provisions from article 348 of the Law on Obligation Relations and article 137 of the Law on Inheritance, i.e. did not have into consideration the fact that with the death of the previous consumer the relevant obligation is transferred to the heirs if there are any. In case of no heirs the debt is terminated and cannot be paid by other entity.

At the same time, in relation to the outstanding bills from the period of a part of 1997, 1998, 1999, 2000 and part of 2001 and for the same, complaints have been lodged, it is instructed in the provisions from article 367 of the Law on Obligation Relations that the claims for compensation of a performed delivery expire in a period of one year, i.e. service for the needs of households, among which is the delivered electricity.

By additional intervention the Ombudsman was informed that the lodger is recorded as user of electricity and is released from the obligation to pay the disputed bills from the previous period.

2.11.1.-2

The citizen Z.M. from Berovo submitted a complaint to the Ombudsman, which states that because of the insufficient financial condition she cannot regularly pay her electricity bills, and due to this she has been disconnected from the power supply network during September, by the outpost "Elektrodistribucija"- Berovo. In this context, the lodger addressed the authorized service, where agreed to pay the debt in three monthly installments. Considering this kind of condition the lodger requested from the Ombudsman to reconsider the possibility for release from payment of the debt and eventual payment within a longer period of time, i.e. more installments.

Acting upon the complaint, the Ombudsman, upon the response from the outpost "Elektrodistribucija" – Berovo, concluded that the issue is a debt from the period of April 2000 to December 2001, for which there had been only consent from the outpost for paying the debt in 10 monthly installments, and not releasing her from her obligation. Furthermore, the Ombudsman concluded that for the disputed bills there have not been any complaints, due to the fact that most of them are expired, which was also confirmed with the additional excerpt from the adequate consumer card for electricity.

The Ombudsman delivered a recommendation to the outpost "Elektrodistribucija" – Berovo, and requested not to obligate the lodger with claims that date from the year 2000 and 2001, which are expired. The recommendation is in the context of the provisions of the Law on Obligation Relations that regulates the expiring date of the claims, according to household services, in case of failing to undertake any activities for payment, within a period of one year, in front of the competent court.

During the procedure the outpost "Elektrodistribucija"-Berovo informed the Ombudsman that it was acted according to the instruction in the recommendation, i.e. that the lodger shall not be obligated to pay for the electricity bills from the period of the year 2000 to 2001, regarding the fact that the bills are expired.

2.12.-1

F.F. from Struga submitted a complaint to the Ombudsman against the first instance competent court – the Ministry of Finances – Administration for proprietary relations – Department in the Municipality of Struga. This is due to the fact that after expiring of a longer period of time this body did not undertake any activities within the procedure regarding his request for canceling, i.e. announcing that a Decision on Expropriation of Real Estate, his former possession, has been cancelled.

In relation to the fact that the lodger correctly filed the complaint, and has not received any additional response for a longer period of time, with that the procedure is unjustly prolonged, which is against the provisions of the Law on General Administrative Procedure, because in this case the legally determined term for deciding and concluding a decision was not complied with, and on the other hand the content of the received response does not imply that the body found that there are any other reasons that oppose the decision. Furthermore, in the

mean time, i.e. from the day of the conducted expropriation there has been a change in the Urbanization Plan for the relevant area, and the purpose for expropriation of the property was not realized, which fulfills the conditions for cancellation of a valid decision on expropriation. This type of a normative decision is proposed in the content of the provision – article 22 of the Law on Expropriation (“Official Gazette of the Republic of Macedonia” No.33/95, 20/98, and 40/99), where cases and conditions for cancellation of a valid decision on expropriation are determined.

In that context, the Ombudsman, according to the determined scope of activities and manner of operation, gave a suggestion to the competent body for priority acting upon the relevant administrative work and adopting a suitable administrative act – decision, by which the claim shall be adopted on a manner that the valid decision on expropriation shall be canceled.

This suggestion was adopted without undertaking additional activities in the context of the content of the provision – 23, paragraph 2 from the Law on Ombudsman.

2.12.-2

C.S. from Prilep submitted a complaint to the Ombudsman against the Ministry of Finances–Commission for deciding upon the denationalization claims, with seat in Prilep, and requested undertaking activities for providing the constitutional and guaranteed right to denationalization. The complaint was due to the fact that his denationalization claim for real estate was rejected as unfounded. In order to provide additional protection of the rights within the legally determined allowed term, the named citizen disputed the correctness and validity of the concluded decision, by submitting a complaint to the second instance administrative body–Commission for resolving within the administrative procedure on second instance in the field of denationalization in the Government of the Republic of Macedonia, upon which it has not been yet decided.

The Ombudsman acting upon the defined case, has undertaken a procedure and founded that the stated act–decision and the manner of the conducted procedure violated the rights of the named citizen that result from the provisions of the Law on denationalization and the adequate sub legal acts, and that the stated entries of the complaint are founded, and the above mentioned decision is not valid. This is due to the fact that in the procedure of deciding of the first instance decision there were violations of the regulations of the procedure, i.e. because the same includes disadvantages due to the fact that the facts are incompletely and wrongly defined, thus, the material law was inadequately enforced, i.e. the provisions from the Law on denationalization and the Law on General Administrative Procedure.

Namely, the Ombudsman founded that the first instance administrative body was wrong in the context of the content of the provision – article 49, paragraph 3 of the Law on denationalization, the filed claim was rejected as unfounded, regarding the fact that it was determined that the lodger of the complaint in addition to his claim for denationalization, did not submit evidence for property, or any act for expropriation of the nationalized property, and because of this condition he was not

able to take the Decision list from the agricultural reform and the issued certificate from the department for measurement and registry Prilep of the State Authority for Geodetic works, from which material evidence, results that the real estate – subject to denationalization was a property of his legal predecessor. Furthermore, an evidence that it is an issue of insufficiently determined factual condition and incorrect enforcement of the material law, is the circumstance that in the first instance procedure there were no additional activities in the context of the content of the provision – article 50 of the Law on denationalization, according to which if the act of expropriation of property and the evidence of property cannot be submitted by the lodger, and there are in the possession of the current user or other body, i.e. organization, the body for denationalization shall provide them within their scope of obligations.

In order to provide efficient protection of the rights of the citizen and also legality of the acts of the bodies of the Administration, the Ombudsman gave a recommendation to the Commission for deciding in the administrative procedure in second instance in the field of denationalization in the Government of the Republic of Macedonia, in the procedure of inspection and deciding upon the filed complaint from the named citizen, to act according to the content of the provision – article 242, paragraph 2 of the Law on General Administrative Procedure, in a manner that shall provide a decision by which the same shall be adopted, the complained decision shall cancel it and the case shall be returned to the first instance body for repeating the procedure.

At the same time, the Ombudsman requested inspection and deciding upon the relevant case within the procedure, the Commission is obligated to respect the term allowed for the decision upon the complaint, which according to article 247 of the Law on General Administrative Procedure is two months from the day of submission of the complaint.

Apart from the content of the complaint, i.e. the prolongation of the procedure and undertaking measures for consideration of the filed recommendation, the Ombudsman undertook activities according to the content of the provision-article 23, paragraph 2 of the Law on Ombudsman, because the secretary of the competent commission was informed several times, as well as the Government of the Republic of Macedonia, but still an information has not been received for the undertaken activities the adopted decision upon the given recommendation and the current procedure.