

*Dear all,*

*The human history notifies great benefits for the civilization in the area of human rights; however, life nowadays implies to the fact that by the development of the society, there are constantly new shapes of human rights and freedoms violations.*

*That reality goes parallel with the development of the Ombudsman institutions all around the world. It means that since the initiation of the ombudsman concept in the world until present, there has been a permanent development of its functions and widening of its competences, which represents an answer to the reality and certainly an answer to citizens' needs – the reason for its existence.*



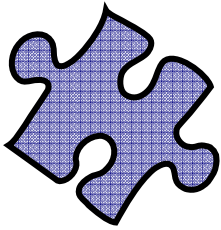
*The Ombudsman institution in the Republic of Macedonia, noting the Constitution and the Laws, has been well positioned in the society since the very beginning. Certainly, its development has not been spared from certain difficulties mainly based on handling mentality and culture of the public administration, meaning accepting its function as a corrective instrument over the work of the public administration bodies.*

*If that was the first period of dealing with “children diseases” in the society, the institution today, after functioning for ten years, will have to and should start the second period of its development, which is widening its competences and position for the sake of handling the newly occurred and more strongly expressed forms of violation of human rights and freedoms which, like everywhere else, occur as a result of the development of the society and awareness of the citizens.*

*If the Ombudsman is considered as a segment in the society which has the duty to protect citizens' rights without utilizing any kind of sanctions, then it is clear that its handling mentality of public administration permanently requires new methods and manners of work which will at no times be contrary to its role in the society the attributes of which being independence, objectivity and professionalism. These attributes would not be genuine nor unique if the other dimension of this function did not exist, that one being the humane and sophisticated aspect of our activities, liberated from any kind of formality and rigidity, which to a great extent helps the citizens feel that they have come to the only place they can be heard and helped.*

*Hence, I always say that the citizens are the ones who should permanently give us the direction we should follow on the way of our development.*

**Ixhet Memeti**



## In 2008 there were cases like these ones:

### The Ombudsman assisted 605 citizens to realize their rights

After conducted inquiries, ascertained violations and interventions implied, the Ombudsman assisted 605 citizens in fulfilling their freedoms and rights.



### A citizen realized the right to financial compensation for help and care - posthumous

A female citizen from Skopje requested realization of the right to a financial compensation for help and care by another person, but as a result of inconsistent and illegal activities of the Social Work Center and after several interventions by the Ombudsman, her rights were realized five years after her death.

### For being inclined to the “ALFI”-unit – two doctors in front of investigation judge!

Contrary to the Hippocrates oath and after providing medical help to the detained person at the Police Station Gazi Baba, out of solidarity with the “ALFI” unit members and aiming to cover their illegal activities, two doctors indicated false medical diagnosis in the medical evidence regarding the detained person’s injuries.

After clarification of the case, the Ombudsman requested from the Public Prosecutor to initiate a procedure for establishing criminal responsibility.

The Ombudsman’s request was accepted

### For a physical assault on a cameraman, they received the deserved punishment

After the case of the brutally physically assaulted cameraman with “Al-Sat M” television station was reported, and the case was immediately clarified and documented, the Ombudsman requested from the Internal Control and Professional Standards Unit to take energetic and strictest possible measures for sanctioning the involved police officers.

The final epilogue of the procedure was initiated before the Basic Court in Tetovo. The punishment for criminal charges – molesting while performing duty was 1.5 years of imprisonment for the Police Station Chief B.N. and 1 year of imprisonment for the police officer R.I.

### The new manner of calculating the price for heating violated the consumers' rights

Mistakes, omissions and unequal treatment of consumers of heating energy is the summary of the new manner of calculating the price of heating energy. Following the Ombudsman's interventions for a part of the citizens the mistakes were corrected; however, the Ombudsman requested reconsidering of the acts on the manner of calculating the price and compensation fee for heating energy used by the citizens and installing separate measuring devices for every single user.

### Participation fee for enrolling high schools abolished for all students

Ascertaining that by the Law on High Education only students enrolling in the first year were released from paying the participation fee, and the others were still charged with a certain fee, the Ombudsman, based on a self-initiative and its own stand started a procedure regarding these discriminatory provisions and elaborated them at the Ministry of Education, after which the fee was abolished for every high school student.



### In the Republic of Macedonia there are no records on the number of children not being registered in the general birth registration records

These are the results obtained from the inquiry conducted by the Ombudsman on the conditions with the registration of children's birth in the country.

After ascertaining that not a single state body possesses data on the real number of children not registered in the general birth registration records, the Ombudsman submitted a special report on this issue to the Government of the Republic of Macedonia.

### Following the Law amendments, free elementary education at last

The Ombudsman's suggestions about establishing a legal responsibility for providing free textbooks for children attending elementary education were accepted after several years and a law imposed an obligation for providing every child with free textbooks.

### "EVN" continuously illegally disconnects the citizens in order to charge the bills

Despite the public reactions of the Ombudsman for this kind of charging the bills, "EVN" continued violating the rights of customers who regularly pay their electricity bills and did not respect the Ombudsman's recommendations, as a result of which the Ombudsman submitted information to the Government of the Republic of Macedonia.

### **Stop for the energetic drinks for persons younger than 18 years of age!**

The knowledge about the hazardous influence of energetic drinks on children's health was an occasion for the Ombudsman to self-initiate a procedure and require from the Government and the corresponding Ministries to establish a legal prohibition for selling and purchasing energetic drinks to persons younger than 18 years of age.

The proposal was accepted and the amendments to the legislation regulating the prohibition for energetic drinks for children are in the Parliament procedure.

### **In order to appeal the results after taking the graduation exam – 2000 denars need to be paid**

By an internal act and contrary to the legislation, the Ministry of Education introduced a fee for appeal, which restricted and made this right for the students conditional.

The Ombudsman self-initiated a procedure; however the recommendations and the information were not accepted by the Ministry, so the Government of the Republic of Macedonia was informed.

### **Citizens deprived from the right to appeal in front of second instance Government commissions**

As a result of not-establishing second instance government commissions (for presiding over cases in the field of pension and disability insurance, labor relationship and other rights under competence of second instance commissions established by the Government) and not appointing a signing authority for the second instance decisions, the citizens were restricted in realization of their rights to appeal and a reply after filing an appeal in the legally determined time limits.

The President of the Government was informed on this problem; however, the problem remained unsolved until the end of 2008.

### **Inappropriate conditions for accommodating detained persons**

The accommodation capacities for the detained persons do not meet the basic penological conditions and standards.



### **Inhumane conditions for accommodation juveniles at the Correctional-Educational Institution in Tetovo**

The conditions at the Correctional-Educational institution Tetovo do not provide resocialization for the juveniles, there is no possibility for education and practicing any craftwork, nor there are any conditions for their recreation.

### **A legal right challenged three times out of ignorance**

The municipality of Centar – Skopje, considering to be materially competent, three times denied a request by a citizen from Skopje for recognition of a status of legal building of a residential object built before 15.02.1968, besides the clear legal provisions and implications by the Ombudsman and the Minister of Transport and Communications, that the legalization procedure should be conveyed according to the provisions of the Law on Common Administrative Procedure, analog to the procedure for issuing a building license, taking into consideration that the case was of administrative nature falling in the competence of local self government competences when it is about buildings of third, fourth and fifth category.

The recommendation has not been accepted yet.



### **A case of a person born three times in the state!**

After confirming the findings that the person has three identification numbers in the birth registry, following the Ombudsman's intervention, the Ministry of Interior, the Police Station – Prilep issued a decision for annulling the previously set identification number and awarded a new one, according to the law.

### **Following the Ombudsman's initiative, a new provision in the Law on Labor Relations was adopted**

Ascertaining that by abolishing a provision from the Law on Working Relations, a legal gap was created for proclaiming a termination of a working relation on the basis of fulfilling the prerequisites for retirement pension, the Ombudsman submitted an initiative for amendment of the Law, which was accepted.

### **“Tigri” unit under protection of the Public Prosecutor, consequently he is controlled by the Higher Prosecutor**

In a police action for detainment, although not opposing them, the “Tigri” unit members broke the lower jaw of a 22-year-old citizen from Struga.

Instead of performing the role of an investigative body and requesting an investigation in front of the competent court, the Public Prosecutor from the Basic Public Prosecution in Struga rewarded himself the role of a doctor and a judge and personally decided that there was no evidence for the accomplished deed, without giving the victim the right to recognize the doer.

As a result of this, the Ombudsman requested a revision of the decision by the higher Public Prosecutor.

### The Denationalization Commission in Strumica was submitting a case to the Government of the Republic of Macedonia over a period of three years for passing a decision upon an appeal

A citizen from Strumica appealed against a decision of the Denationalization Commission in Strumica by which the denationalization procedure initiated by the citizen was terminated. The appeal was addressed to the second instance administrative body – the Commission for solving administrative issues of second instance in the area of denationalization at the Government of the Republic of Macedonia.

After not receiving a reply over a longer period of time, the citizen addressed the Ombudsman who, reacting upon the complaint, ascertained that the appeal to the second instance commission at the Government was not delivered at all, only the first instance decision was, and the Ombudsman also found that the appealing party was the Public Attorney of the Republic of Macedonia – Strumica.

Following the Ombudsman's intervention, the Commission at the Government of the Republic of Macedonia, in an administrative manner returned the case to the Commission for deciding upon denationalization requests with headquarters in the municipality of Strumica, requesting to deliver the appeal, after which the omission was corrected.

Besides this, as an exceptional example of "legality in performing duties" the fact that it took several months for the present and former President of the Commission for deciding upon denationalization requests in Strumica regarding the issue of who should sign the accompanying letter, meaning who was responsible for this "unintentional omission", should be highlighted.

The Minister of Finance has not sanctioned the responsibility for this manner of working, in this case not working, yet.

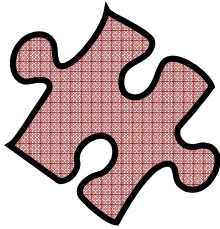


### The optional Protocol to the Convention on Torture ratified

The Ombudsman was appointed to be the national mechanism for prevention from torture and other inhuman and humiliating behavior and treatment.

### After two decades, the right to family pension realized

After almost two decades after the death of the son, who as a participant at the Military Academy was killed during military actions in Vukovar – Croatia, his mother realized the right to family pension after the Ombudsman's reaction.



## Public relations and international collaboration

In case the citizens and their complaints to the Ombudsman are considered to be the point of reference for their trust in the institution, as well as for the scope of violation of their rights, it can be freely concluded that this year, like the previous one, was characterized by an expressed trust of the citizens to the Ombudsman, as well as numerous violations of their rights on the other hand.

It is an undisputable truth that the numbers are cruel, but in the work of the Ombudsman they represent a very important segment which, to a great extent,

is the direction-setter of its activities.

Reaching the citizens and feeling the pulse of their needs is the sophisticated segment within the work of the Ombudsman which differentiates it from the other state bodies – a segment which through its work the Ombudsman is attempting to impose exactly to them – the bodies which decide upon citizens' rights on everyday basis.

Particularly touching the pulse or in other words the analysis performed about the citizens' opinion on the Ombudsman institution, shaped the need for a new campaign which was at the same time the



most noticeable and the biggest one in scope of all activities apart from dealing with cases in this report year.

Namely, the analysis performed implied that the citizens really are aware of the existence of this institution, but their knowledge on how and when the Ombudsman can help them is insufficient. The analysis at the same time showed that the citizens in the smaller rural areas have less knowledge and address the Ombudsman significantly less in comparison with the citizens in the major urban areas.

These findings were the main incentive for initiating the campaign which was a part of the Project for Strengthening the Ombudsman Capacities financed by the Swedish International Development Agency (SIDA) and the OSCE Mission.

The slogan of the campaign was “You have rights, protect them”, it took place in 15 settlements, the citizens of which were found to need further introducing to the Ombudsman institution. The materials distributed for this purpose were prepared in a way to reveal the Ombudsman’s competences to the citizens. Direct meetings of the Ombudsman, his deputies and collaborators with the citizens were organized in every municipality visited.

This approach proved to be efficient to a great extent, having in mind that during these meetings not only were the citizens introduced to the role of the Ombudsman, but at the same time the Ombudsman had an opportunity to become closely acquainted with the difficulties the citizens face every day while dealing with the

subjects deciding upon their rights – the public administration.

The element which must not be omitted is certainly the media which by informing on the campaign activities made it available for all the citizens.

When it comes to the public administration, it has to be mentioned that during the report year there was no lack of activities intended for training the public servants on the Ombudsman’s competences, which is logical taking into consideration the experience so far that the communication with them has brought us to a conclusion that they were not fully acquainted with the Ombudsman’s



competences. This fact was on many occasions emphasized by the Ombudsman for being one of the reasons because of which essential and quality cooperation lacks in certain cases, which would further on lead to completely ascertained conditions and efficient protection of citizens’ rights.

Training or informing the public servants was organized in the way of round tables where public servants of all levels participated, coming from public administration bodies the Ombudsman most frequently communicates with regarding citizens’ complaints.



The project activity proved to be necessary not only for the sake of more concrete informing of the public servants on the Ombudsman's competences, but also for establishing a proper level of communication which is necessary for a swift and efficient solving of the citizens' rights.

However, the project activities in this report year were not exclusively directed towards training and acquainting the citizens and public servants. On the contrary, a great part of the activities were directed towards specializing and training the Ombudsman personnel especially in two areas which in the following period will be in the focus of this Institution and will represent two new roles of its functioning in the society.

Namely, by ratifying the Optional Protocol to the Convention against Torture, the state expressed its willingness to appoint exactly the Ombudsman to be the national preventive mechanism for prevention of torture, which is an obligation for all countries which have signed this document.

By this a new, very important segment in the role of the Ombudsman in the society is opened, which requires a bigger activity and certainly specialization of the personnel on the methods and manners of investigating and dealing with the phenomenon of torture which represents a



serious threat to the human rights in the society, taking into consideration that it means dealing with the bodies which have appointed special authorizations to by the state, meaning employing force in the process of enforcing the law.

In this direction, supported by the OSCE Mission, training for the personnel at the head office and the regional offices of the Ombudsman was conducted, which encompassed visits to the major police stations in Skopje, Kumanovo and Tetovo so



that the employees could directly see the manner of investigating the conditions in these institutions with restricted freedom of movement and where, in the greatest part torture is practiced during police procedures.

The other segment, which was mainly contained in the project activities, was discrimination regarding the fact that this phenomenon requires, to a great extent, abilities for investigating and ascertaining, especially because passing a Law on Protection from Discrimination is expected, which will finally open a possibility for investigating, dealing and prevention of the victims of this phenomenon, which is most frequently seen behind another violation of human rights.

These two areas of protection of citizens' rights were the topic of a seminar where the representative of the European

Union Mr. Erwand Fuere, the Ambassador of France Mr. Bernard Valero, the Ambassador of Sweden, representatives of public administration bodies participated as well as representatives from the NGOs in the country and representatives from the Ombudsman institutions in Poland and Vojvodina.

On the day of fight against torture, the representative of the European Union Mr. Fuere organized a panel discussion on managing this serious violation of human rights, where besides the Macedonian Ombudsman, the French Ombudsman Mr. Delvoir participated as well, who was visiting the Macedonian Ombudsman at that period.

During this report year, the bilateral visits with the Ombudsmen from the countries the Macedonian Ombudsman has special collaboration with did not lack: Albania, France, Spain and other countries in this region. Thus, the Ombudsman, besides the study visit of Catalonia and the Ombudsman of Aragon, received a return visit by the Ombudsman of Aragon, on the occasion of which they both participated in a

debate titled: "Family violence" at the Parliament of the Republic of Macedonia.

The membership at the Francophone Ombudsmen Association also provided several activities on international level and strengthened the position of the Ombudsman, having in mind that in this report year the institution became a member of a new association – the Association of the Mediterranean Ombudsmen.

The Ombudsman ended the year by celebrating the 60th anniversary of adopting the Human Rights Declaration and the 10th anniversary of the functioning of the Ombudsman institution.

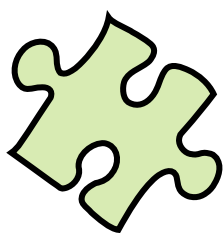
The fact that on that day the most important document on human rights was adopted – the Universal Declaration on Human Rights, was an additional reason for the Ombudsman to celebrate the 10th anniversary of its functioning on that particular day. For this occasion, the Parliament of the Republic of Macedonia organized an honorary session, where the Ombudsman held a speech.



On the same day a great number of events was organized, one of the most important ones being the panel discussion organized by the representative of the European Union Mr. Fuere during which the Ombudsman held a speech on discrimination.



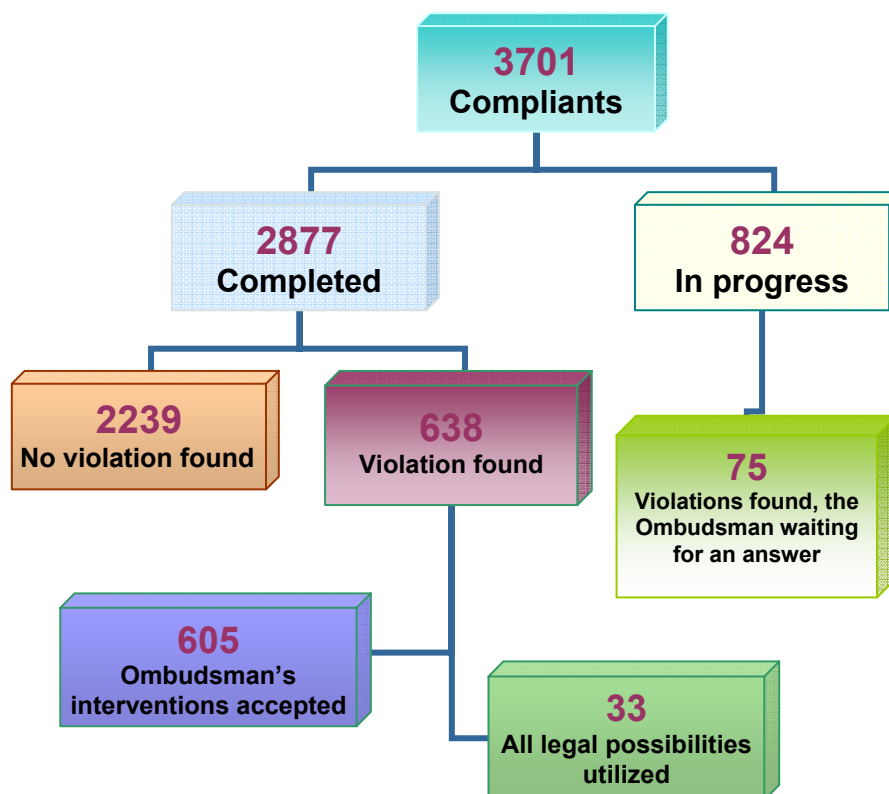
The year ended by celebrations and by directing the views towards dealing with the new challenges in the year to come.



## 2008 through numbers

Observing the year 2008 through numbers, it can be said that the conditions in the Republic of Macedonia remained unchanged. Absence of the legal state, as one of the basic elements of a modern and democratic society, results in inefficient public administration, as well as violation of human freedoms and rights by the public administration bodies and other bodies and organizations with public mandates.

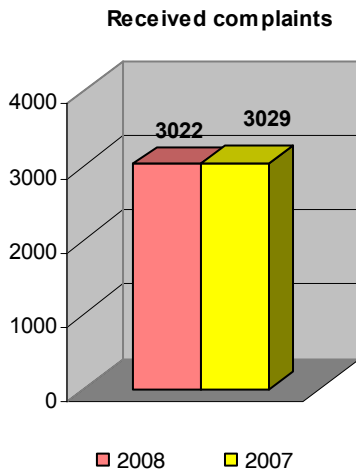
The successful functioning of the Ombudsman depends on the existence of a certain level of quality in the work of the public administration and the judicial system in a way by which the citizens' freedoms and rights are respected in reality.





## General data

Chart No .1

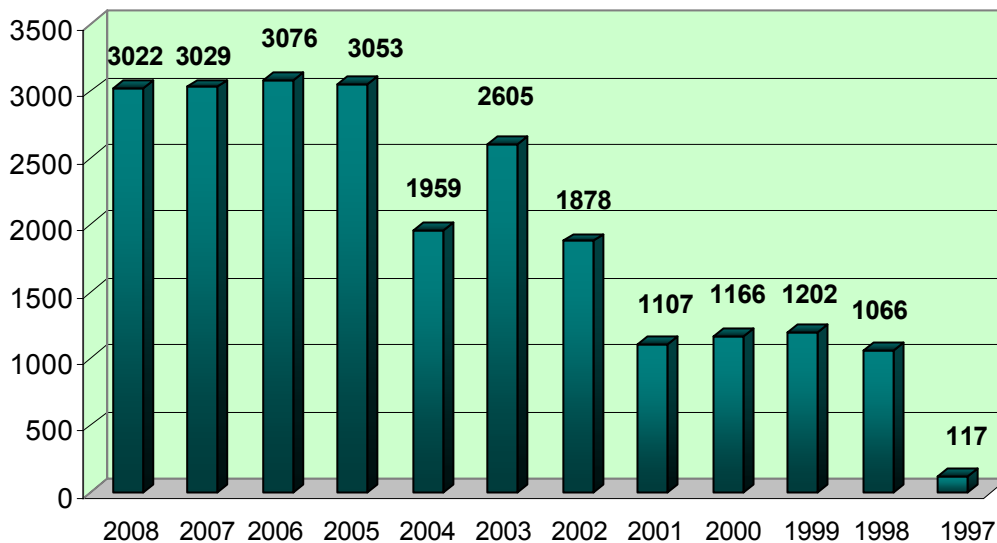


In the year 2008, the Ombudsman reacted upon a total of 3701 complaints, out of which 3022 were submitted in the report period by 3309 citizens. From the total number of complaints, 2521 complaints were submitted personally, 369 by post, 18 by fax, 17 by phone, 68 by e-mail and in 29 cases the Ombudsman initiated a procedure on its own. More than 5200 citizens were received for a discussion both in the Skopje and the regional offices and more than 7000 phone calls were answered.

During this report year the number of received complaints was approximately the same as the number of complaints received in the previous few years.

Chart No. 2

## Received complaints per years



**3701**  
Complaints the  
Ombudsman acted  
upon

### Data in areas

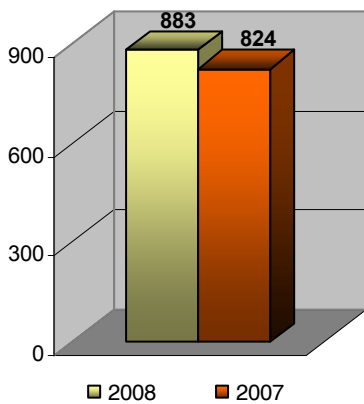
The greatest number of complaints were submitted in the area of: judiciary 883 or 29.20%; property-legal area 317 or 10.49%; working relations 253 or 8.37%; protection of rights during special police procedures 236 or 7.81%; in the area of pension and disability insurance 180 or 5.96%; urban planning and construction 162 or 5.36%; consumer rights (communal and other fees) 147 or 4.86%; protection of children’s rights 145 or 4.80%; in the area of civil status and other internal issues 132 or 4.37%; social rights 115 or 3.81%; health protection 69 or 2.28%; in the area of finances and financial working 48 or 1.59%; education, science, culture and sport 39 or 1.29%; accommodation relations 34 or 1.13%; the area of non discrimination and adequate and equitable representation 21 or 0.69%; environment 15 or 0.50%; as well as 226 or 7.48% of complaints is other areas. (Review no. 1, page 16 and Graph no. 3)

The review of complaints submitted in areas indicates insignificant decrease or increase compared with the previous year, except in the area of children’s rights and consumers’ rights, since their number is doubled.

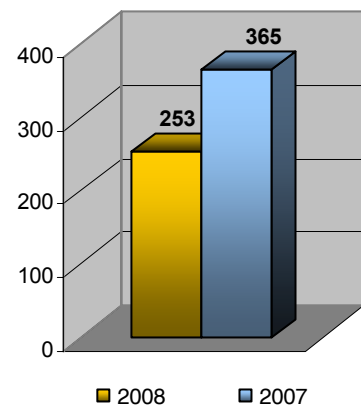
The majority of complaints refers to inefficiency of courts, meaning delay of judicial procedures, a part of them refers to acts and activities taken and passed by the second instance commissions at the Government of the Republic of Macedonia, the Ministry of Finance, the Ministry of Interior, the Ministry of Transport and Communications, the Ministry of Labor and Social Policy and other bodies, as well as acts brought by bodies and organizations with public mandates.

**Chart No.3**

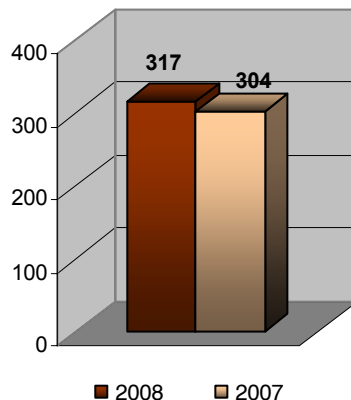
**Rights in the field of judiciary**



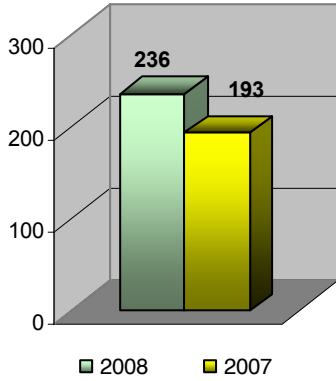
**Rights in the field of labour relations**



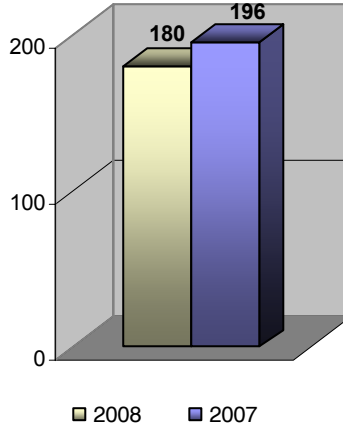
**Rights in the filed of ownership and property relations**



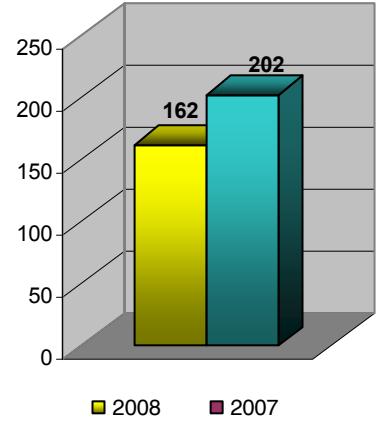
Rights in the field of special police authorizations



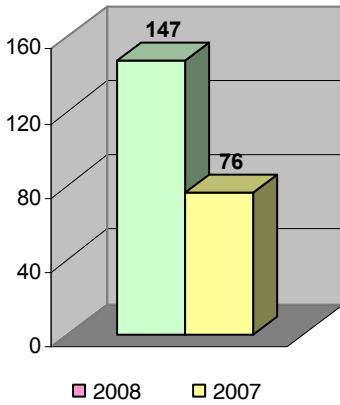
Rights in the filed of pension and disability insurance



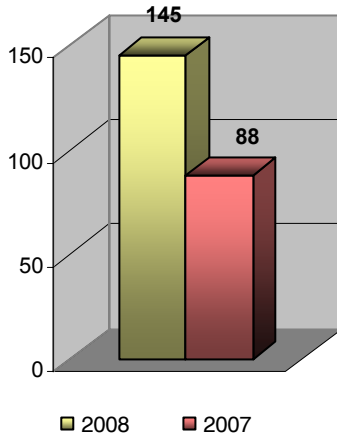
Rights in the field of building planning



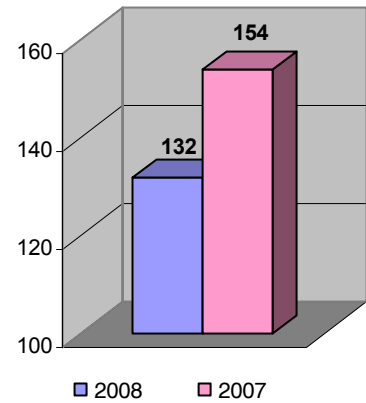
Consumers' rights



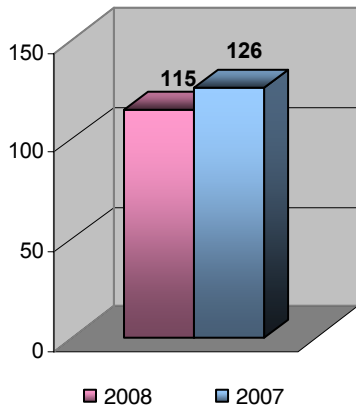
Children's rights



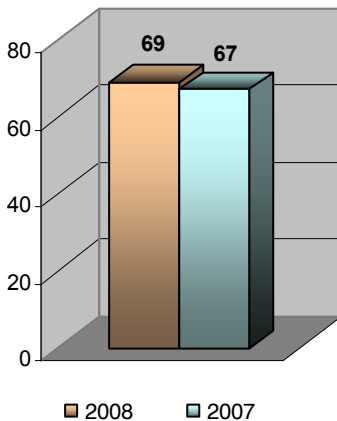
Rights in the filed of civil status and other interior issues



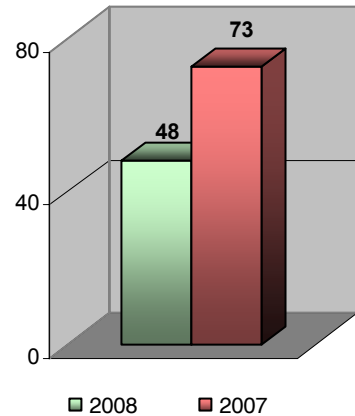
Rights in the filed of social protection



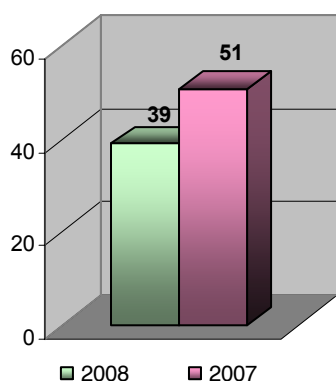
Rights in the field of health protection



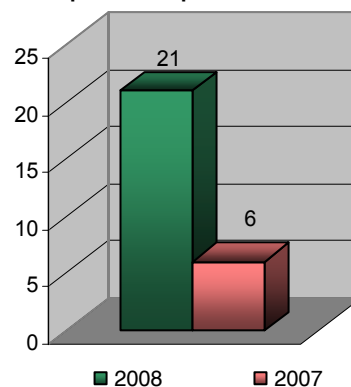
Rights in the filed of finances and financial issues



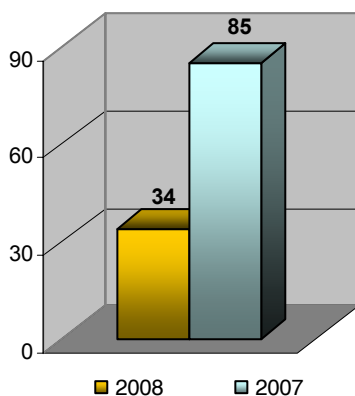
Rights in the field of education, science, culture and sport



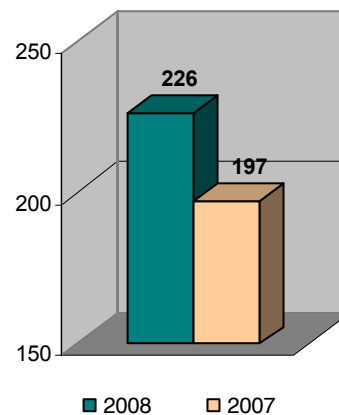
Rights in the field of nondiscrimination and adequate and equitable representation



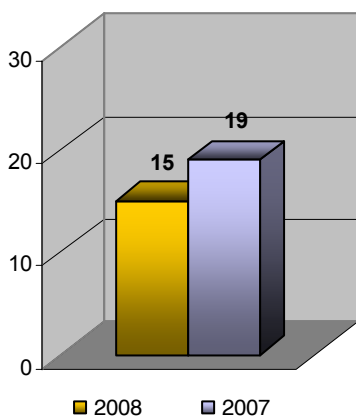
Rights in the filed of accommodation issues



Rights in other fields



Rights in the filed of environment



Rights of military persons and conscripts

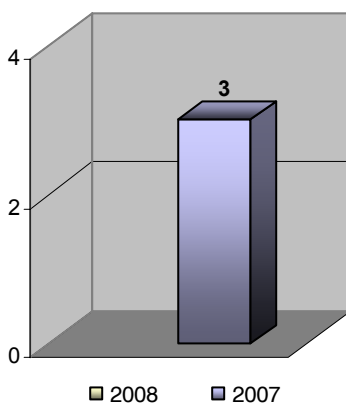


Table no. 1

REVIEW OF RECEIVED, CLOSED AND COMPLAINTS IN PROGRESS PER YEAR																
	Transferred from the previous year	Complaints received during current year	Number of complainants	TOTAL in process	Anonymous complaints received	Manner of closing						Information to the Ministers	Information to the Government of RM	Information to other bodies and organizations with public mandates	Total number of closed cases	Pending
						Decided to discontinue or not to initiate a procedure	Closed in other manner	violations ascertained								
								Opinions, suggestions and recommendations given	Acted upon Ombudsman's intervention.	Cases where the Ombudsman undertook all legal actions	Opinions, suggestions and recommendations given					
<b>2008</b>	679	3022	3309	<b>3701</b>	11	2143	89	713	605	33	75	32	23	19	<b>2877</b>	824
<b>2007</b>	1039	3029	3271	<b>4068</b>	11	2387	78	965	848	65	77	43	176	8	<b>3389</b>	679



Table no.2

REVIEW OD RECEIVED, CLOSED AND PENDING PROCEDURES FROM 01.01. TO 31.12.2008 PER FILEDS																
Fields	Received in 2008	Number of complainants	Transferred from the previous year	TOTAL in process	Anonymous	Manner of closing						Information to ministers	Information to the Government	Information to other bodies and institutions with public mandates	Total closed procedures Decided to discontinue or not to initiate a procedure	Pending
						Decided to discontinue or not to initiate a procedure	Closed in other manner	Violations ascertained								
								Opinions, suggestions, recommendations given	Acted upon Ombudsman's interventions	All legal competences taken by Ombudsman	Not acted upon Ombudsman's interventions					
Nondiscrimination and adequate and equitable representation	21	21	5	26		16	3	1	1	1			6	18	8	
Special Police activities	236	349	47	283		166	10	24	23	1		1		199	84	
Civil conditions and other Interior affairs	132	134	95	227		116	1	62	50	1	11	1		168	59	
Judiciary	883	927	96	979	4	717	16	78	71	6	1	2		814	165	
Military persons and military conscripts			3	3		3								3	0	
Social security and protection	115	116	41	156		61	9	59	56		3	2	1	126	30	
Labour relations	253	287	62	315	2	193	4	45	36	2	7	4	5	237	78	
Accommodation issues	34	38	15	49		29	3	15	11	2	2	4	6	45	4	
Health protection	69	69	9	78		39	3	14	11		3	5	1	53	25	
Pension and disability insurance	180	181	27	207		104	2	49	42		7		2	148	59	
Education, science, culture and sport	39	39	8	47		24	6	12	10		2	1	1	40	7	
Children's rights	145	148	19	164		88	12	56	50		6	10	1	150	14	
Urban and civil engineering rights	162	182	45	207	1	123	5	27	24		3			153	54	
Environment	15	20	4	19		13	1	3	3					17	2	
Finances	48	49	3	51		26		11	10	1				37	14	
Property and ownership relations	317	332	144	461		174	9	178	142	12	24		1	337	124	
Consumers' rights	147	149	15	162		85	3	38	37		1		3	125	37	
Other	226	268	41	267		166	5	39	28	8	3	3	1	207	60	
<b>TOTAL:</b>	<b>3022</b>	<b>3309</b>	<b>679</b>	<b>3701</b>	<b>11</b>	<b>2143</b>	<b>89</b>	<b>713</b>	<b>605</b>	<b>33</b>	<b>75</b>	<b>32</b>	<b>23</b>	<b>19</b>	<b>2877</b>	<b>824</b>

The biggest number of complainants who declared their ethnicity are Macedonians, i.e 823 or 25.17%; 393 or 12.02% are members of the Albanian ethnic community; the smallest number of complaints, meaning 12 or 0.37% are submitted by Vlachs, while 1840 or 56.29 % of the complainants did not declare their ethnicity. It can be concluded that the number of complainants who do not declare their ethnicity is still very high.

Table no. 3

A REVIEW OF COMPLAINANTS REGARDING THEIR ETHNICITY PER FIELDS															
	FIELDS	Complaints submitted in 2008	Anonymous	Number of established cases on personal initiative	Number of complainants	ETHNICITY								others	
						Macedonians	Albanians	Serbs	Roma	Macedonian-Muslims	Bosnians	Vlah	Turks		Not declared ethnicity
1	Nondiscrimination and adequate and equitable representation	21		1	20	1			1				1	17	
2	Special Police activities	236		3	346	58	48	2	2	2	3	1		230	
3	Civil conditions and other Interior affairs	132			134	9	67	1	3		4		5	43	2
4	Judiciary	883	4	6	917	208	96	3	13	11	3	3	12	566	2
5	Military persons and military conscripts														
6	Social security and protection	115		1	115	25	24	2	9	1	3			51	
7	Labour relations	253	2		285	103	29	3	2	2		1	1	141	3
8	Accommodation issues	34			38	8		1	3					26	
9	Health protection	69		1	68	19	5	1	2				1	40	
10	Pension and disability insurance	180			181	75	27	3	9				1	64	2
11	Education, science, culture and sport	39		2	37	12	5							20	
12	Children's rights	145		12	136	22	12	2	5	2		1	1	91	
13	Urban and civil engineering rights	162	1		181	61	9	1		1	2		1	106	
14	Environment	15			20	5	2							13	
15	Finances	48			49	9	8				1	1		30	
17	Property and ownership relations	317			332	103	28	5	1	3		3	4	184	1
18	Consumers' rights	147		2	147	43	16		5	2		2	1	44	1
19	Other	226	4	1	263	62	17		3	3			3	174	1
20	<b>TOTAL:</b>	<b>3022</b>	<b>11</b>	<b>29</b>	<b>3269</b>	<b>823</b>	<b>393</b>	<b>24</b>	<b>58</b>	<b>27</b>	<b>16</b>	<b>12</b>	<b>31</b>	<b>1840</b>	<b>12</b>

According to the place of residence of the complainants, the majority of complaints are from Skopje, meaning 1076, followed by complaints from: Bitola, Tetovo, Kicevo, Kumanovo, Strumica and other major urban areas. It can be seen that the majority of complaints come from the places where the Ombudsman has regional offices.

**Table no. 4**

<b>REVIEW OF SUBMITTED COMPLAINTS PER CITIES AND COUNTRIES OF FOREIGN SUBMITTERS</b>					
	<b>2007 year.</b>	<b>2008 year.</b>		<b>2007 year</b>	<b>2008 year</b>
Berovo	11	8	Probistip	6	16
Bitola	297	235	Radovis	48	31
Bogdanci	2	2	Resen	7	11
Valandovo	9	4	Skopje	1076	1236
Veles	60	50	Struga	53	64
Vinica	7	9	Strumica	109	101
Debar	14	23	Sveti Nikole	13	10
Delcevo	21	11	Tetovo	175	219
Demir Hisar	17	14	Stip	115	95
Demir Kapija	2	8	Albania		1
Dojran		9	England		2
Gevgelija	43	29	Belgium		1
Gostivar	97	76	Bosnia and Herzegovina		1
Kavadarci	53	67	Bulgaria	1	1
Kicevo	219	167	Germany	3	3
Kocani	23	33	Greece		2
Kratovo	16	26	Kosovo	8	7
Kr.Palanka	24	19	R. Srpska		1
Krusevo	8	8	Russia		1
Kumanovo	235	165	USA	1	
M.Kamenica		1	Serbia	2	4
Mak.Brod	19	40	Turkey		
Mavrovo	3	2	Croatia		1
Negotino	22	18	Montenegro	1	1
Ohrid	116	82	Sweden	1	
Pehcevo		6	Scotland		1
Prilep	92	99			
<b>TOTAL</b>				<b>3076</b>	<b>3022</b>

**80,98 %**

Investigations  
conducted by the  
Ombudsman

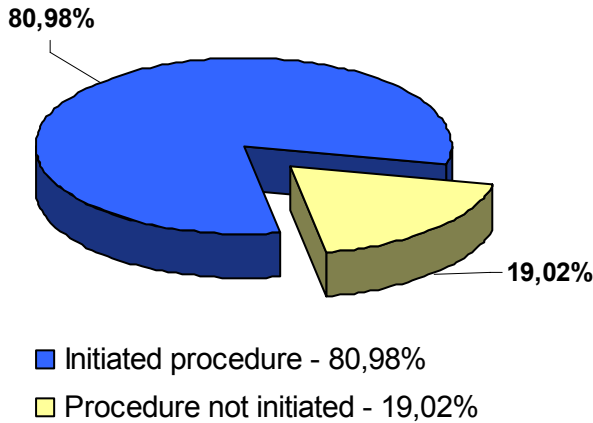
## Acting upon complaints

During the course of acting upon complaints where no additional investigation was needed, the Ombudsman reacted immediately, and in case additional explanations were necessary, requests were addressed to the competent bodies or to the complainants. In

certain cases insights were conducted, officials and other persons were asked for a discussion.

From the total number of 3701 complaints, the procedure is finished for 2877 of them or 77.74% of the cases, while for the 824 or 22.26% of the cases the procedure is still in progress. **(Picture no.2)**

**Graph No.1-2008**



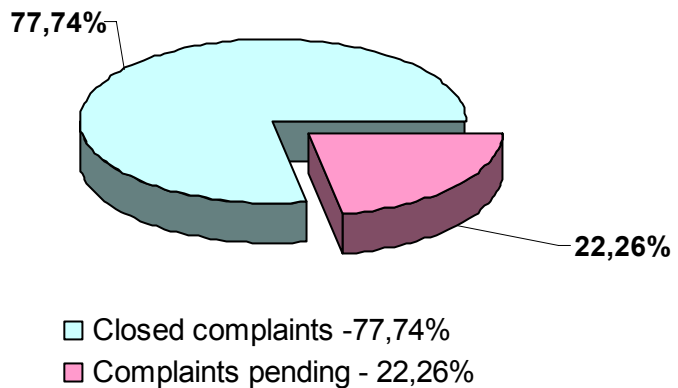
they were submitted by anonymous complainants **(Picture no.3)**

From the 713 complaints in which the Ombudsman ascertained violation of constitutional and legal rights and freedoms, in 605 or 84.85% of cases, actions were taken following the Ombudsman's intervention, in 75 or 10.52% no actions have been still taken following the Ombudsman's interventions, and in 33 complaints or 4.63%, the Ombudsman took all legal activities.

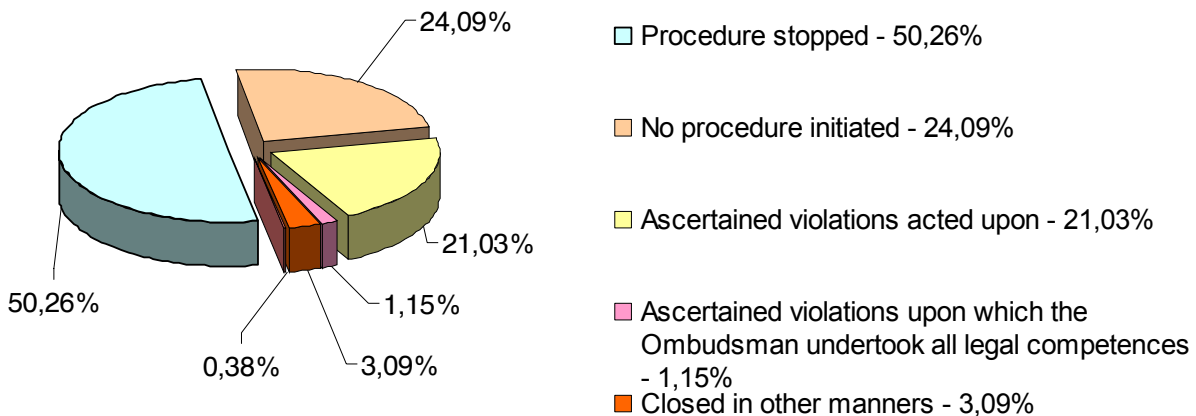
In the year 2008, the Ombudsman from the total number of 3701 complaints acted upon 2.997 or 80,98%, of them and in 704 or 19,02% of the

From the total number of completed cases upon 2.877 complaints, the procedure was terminated for 1.446 complaints or 50,26%, for 693 complaints or 24,09% no procedure was initiated; for 605 or 21,03% of complaints there were actions taken after the Ombudsman ascertained violations of constitutional and legal rights of the citizens. In 33 or 1,15% of complaints the Ombudsman undertook all legal activities, 89 or 3,09% of complaints were solved in other manners, and 11 or 0,38% of cases were completed without taking any actions because

**Graph No.2-2008**



**Graph No.3 - 2008**



complaints no procedure was initiated. Because of this number of complaints for which no procedure was initiated, the Ombudsman believes that there are still citizens who are not sufficiently introduced to the legal possibilities of the Institution (**Picture no. 1**). From the total of 2.997 complaints the Ombudsman initiated a procedure for, 2.173 or 72,51% are completed, and for 824 or 27.39% of the complaints, the procedure is still in progress.

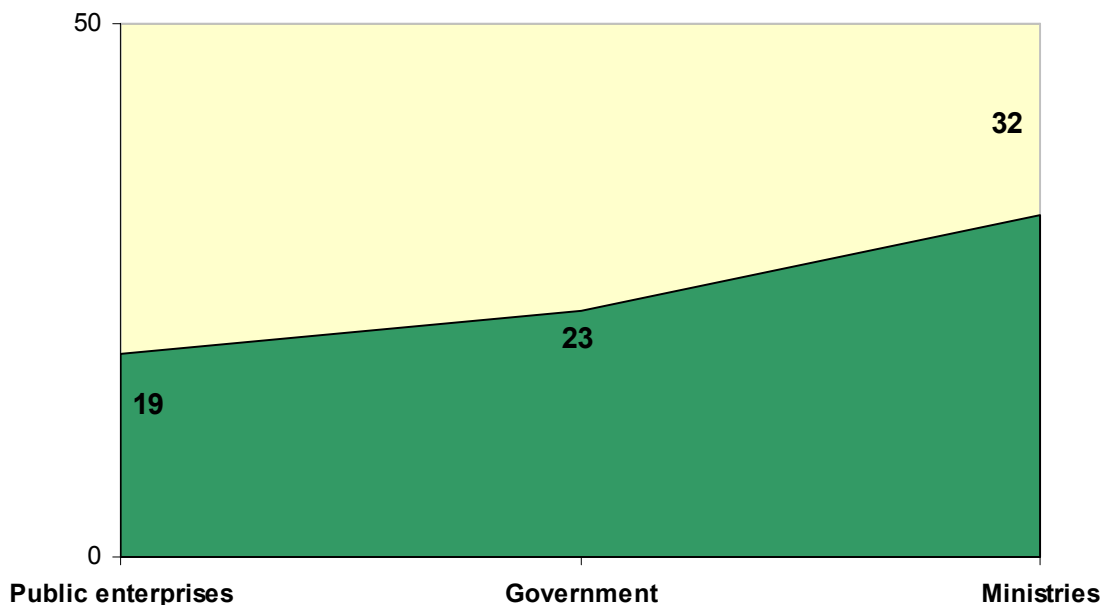
The cases which are still in progress, meaning in the investigation phases, are delayed due to the need of obtaining additional information or evidence from several bodies and organizations, but at the same time it is a result of untimely or formal replying to the Ombudsman's requests.

The Law on the Ombudsman stipulates the mandatory time limits within which the the competent bodies are obligated to reply to the Ombudsman's requests; unfortunately those time limits are not respected. It should also be pointed out that the long duration of a procedure in front of the Ombudsman was due to the formal procedure by certain bodies of the public administration upon requests submitted by the Ombudsman.

From the practice it can be confirmed that the cooperation of the Ombudsman with the bodies it is competent to act towards remains on an unsatisfactory level, which to a certain extent hinders its work. The public administration is insufficiently functional because of which 19 pieces of information to bodies and organizations with public mandates were submitted, 4 of which were accepted, 32 pieces of information were submitted to the competent ministries, 7 of which were accepted, and the Government of the Republic of Macedonia received 23 pieces of information and acted upon 6 of them.

**Graph No.5**

**Information responded to the Ombudsman**



In the course of the year 2008 the practice of supplying information to the Secretariate General of the Government of the Republic of Macedonia continued, concerning the number and type of submitted requests by the Ombudsman to the bodies of the Government of the Republic of Macedonia and the bodies within the frames of the Ministries. This contributed to acceleration of certain procedures at the Ombudsman, but the level of cooperation still needs improvement.

**24,78 %**  
Violations  
ascertained

## Violations ascertained and measures taken

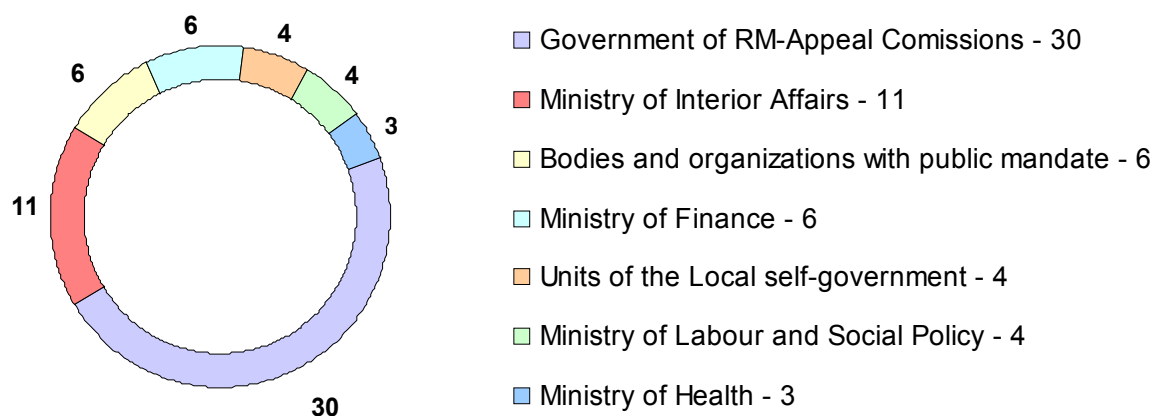
After investigating the complaints, in case the Ombudsman finds violations of constitutional and legal rights of the citizens, it submits: recommendations, suggestions, implications, proposals, requests and other similar interventions to the competent bodies in order for the irregularities and illegalities to be corrected, by which the citizens could realize their rights in a more economic and efficient manner.

From the total number of cases the Ombudsman acted upon in the year 2008, in 713 of the cases violation of constitutional and legal rights of the citizens was found. In 605 of the cases (84.85%) the public administration bodies, other bodies and organizations with public mandates reacted upon the Ombudsman's interventions, for 75 cases (10.52%) the procedure is still in progress, and in 33 cases (4.63%) the Ombudsman took all legal actions.

The majority of violations ascertained in the year 2008 were in the area of legal relations 178 or 24.96%. In 142 or 79.78% of them the bodies and organizations with public mandates reacted upon the Ombudsman's interventions. These are followed by complaints in the area of police procedures and the majority of them referred to the procedure for obtaining citizenship, where violations were ascertained in 62 cases or 8.70% and in 50 of them or 80.65% the Ombudsman's interventions were accepted. In the area of social rights violations were found in 5 or 0.68% of the complaints and in 56 of them or 94.92% the interventions were accepted, in the area of pension and disability insurance violations were found in 49 or 6.87% of the cases and in 42 or 85.71% of them the Ombudsman's interventions were accepted e.t.c.

From the total number of violations ascertained, the majority of cases in which no actions were taken following the Ombudsman's suggestions, recommendations and other interventions were by the following bodies: second instance commissions at the Government of the Republic of Macedonia, the Ministry of Interior, the Ministry of Education, the Ministry of Labour and Social Policy, the Ministry of Health, bodies and organizations with public

**Picture No.5 - Bodies which, in the largest number of cases have not acted upon the Ombudsman's interventions yet**

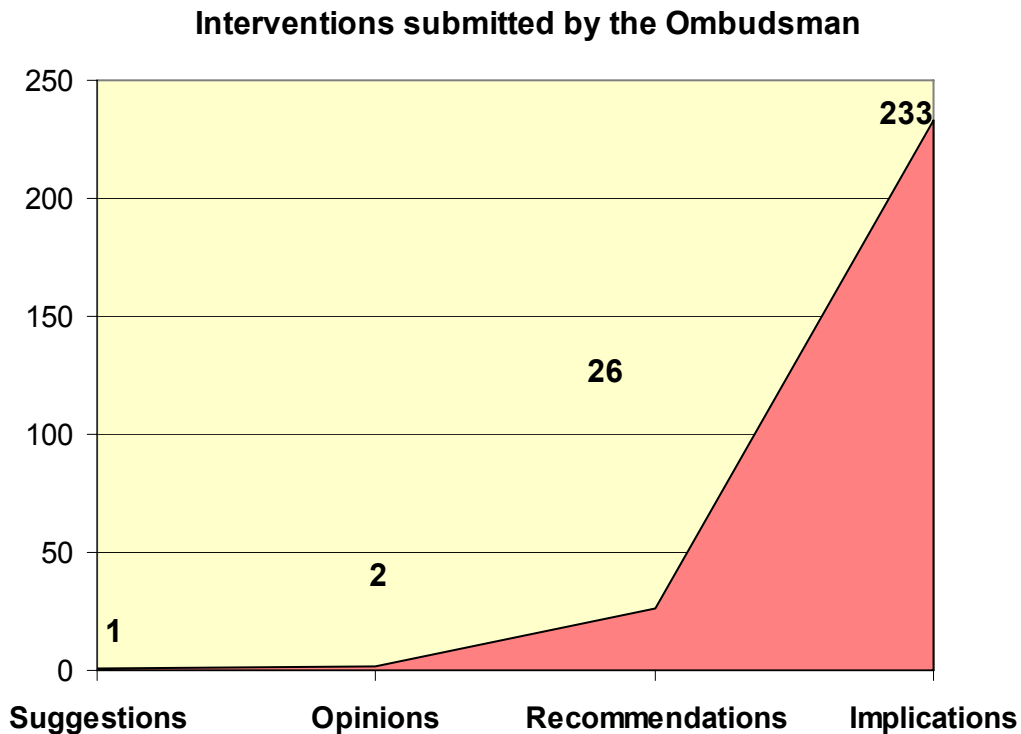


mandates and local self government units.

When talking about the kind of violations ascertained, like in the previous years, it can be seen that the biggest number refers to violations of procedural provisions of the laws, meaning delay of procedures through which the citizens practice their rights. From the total number of violations ascertained, almost 85% refer to delay of administrative and judicial procedures. In other words, in more than 85% of the cases, the competent bodies did not respect the time limit for deciding upon citizens' request, and in a significant number of cases they abused the institut "silence of the administration".

In order to overcome the violations found, the Ombudsman submitted 266 interventions to the competent bodies among which: 26 recommendations, 23 implications, two opinions and one suggestion. Besides, the Ombudsman submitted two requests to the Public Prosecution for initiating a procedure for criminal responsibility and two suggestions for initiating disciplinary procedure against responsible or official persons within the bodies and organizations.

**Graph No.6**



More than  
**5200** citizens  
accepted for a  
discussion

## The citizens at the Ombudsman

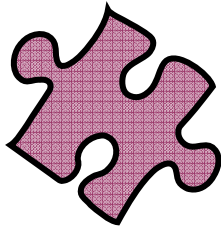
Every week day the Ombudsman at the office in Skopje, as well as at the regional offices in Bitola, Kicevo, Strumica, Tetovo and Stip, shcheduled open hours for the citizens during which he, his deputies and employees at the expert unit received more than 5200

citizens for a discussion, and after conducting the discussion, in case there was a suspicion for committed violations of rights, official notes were compiled which serve as a basis for a further action. In cases where the Ombudsman had no competences to intervene in order to solve the citizens' problems, the citizens were advised where and in what manner they could realize their rights. The Ombudsman, in 2008, had direct contacts with a great number of citizens in the place of residence during the campaign Open Days of the Ombudsman, which was supported by the OSCE Mission in Macedonia and the Swedish International Development Agency – SIDA.

The Ombudsman office in Skopje in 2008 received the majority of complaints, 2027. In the office in Bitola 270 complaints were received, in Tetovo 189, in Kicevo 183, in Kumanovo 157, 105 in Stip and 91 complaints were received in the regional office in Strumica.

REVIEW OF SUBMITTED CASES IN THE OMBUDSMAN OFFICES								
<i>Complaints submitted to the Ombudsman Offices</i>								
FIELDS	Skopje	Bitola	Kicevo	Strumica	Tetovo	Stip	Kumanovo	TOTAL
Non-discrimination and adequate and equitable representation	18	1	1	1				21
Special Police activities	142	31	20	7	20	6	10	236
Civil conditions and other Interior affairs	79	6	3		15	1	28	132
	573	79	76	31	60	32	32	883
Judiciary								
Military persons and military conscripts								
Social protection	78	5	4	3	12	4	9	115
Labour relations	194	26	4	4	10	7	8	253
Accommodation issues	24	6		1	1	2		34
Health protection	48	9	2		5		5	69
Pension and disability insurance	103	18	17	10	9	10	13	180
Education, science, culture and sport	32	2	2		1	2		39
Children's rights	124	6	2		3	3	7	145
Building Planning and Civil Engineering	91	14	13	6	15	14	9	162
Environment	10	1	2	1	1			15
Finances	30	5	2	1	5	2	3	48
Property and ownership relations	215	29	21	14	16	9	13	317
Consumers' rights	119	5	4		5	5	9	147
Other	147	27	10	12	11	8	11	226
<b>TOTAL:</b>	<b>2027</b>	<b>270</b>	<b>183</b>	<b>91</b>	<b>189</b>	<b>105</b>	<b>157</b>	<b>3022</b>





## Indications from activities in fields

### Non discrimination and adequate and equitable representation



**0,69%**  
of the total number of  
received complaints

The Ombudsman, among other issues, is competent to monitor the implementation of constitutionally stated principles of non-discrimination and adequate and equitable representation in the public authority bodies, local self government units and public institutions and services.

In order to monitor the conditions in this area, the Ombudsman requested data from the bodies towards which it has the competence to act towards, on the implementation of the constitutional principle of

adequate and equitable representation of all ethnic communities in the Republic of Macedonia, as well as the gender representation and equality during this report year.

For the sake of a complete view over the conditions and gathering the abovementioned data for analysis, the Ombudsman addressed the following: the Cabinet of the President of the Republic of Macedonia, the Parliament of the Republic of Macedonia, the Constitutional Court of the Republic of Macedonia, the Judicial Council of the Republic of Macedonia, the Public Attorney of the Republic of Macedonia, the Government of the Republic of Macedonia, ministries, independent public bodies, funds, the Supreme Court of

the Republic of Macedonia, the Administrative Court of the Republic of Macedonia, appellate and basic courts, Public Prosecution of the Republic of Macedonia, Higher Public Prosecution, Basic Public Prosecution, penitentiary-correctional and correctional-educational centers, public enterprises, social work centers and local self government units.

Data submitted to the Ombudsman by the institutions towards which it is competent to act are summarized and represented in the following table.

In order for the Ombudsman to be able to further on implement the constitutional principle of adequate and equitable representation of all ethnic communities in the Republic of Macedonia, during the report year the Ombudsman submitted a request to the Government of the Republic of Macedonia – Secretariate for Implementation of the Framework Agreement. The Secretariate informed the Ombudsman that in the course of 2008 procedures were conducted for employing 603 employees, according to the principle of adequate and equitable representation of the community members in the public administration. At the same time, the Secretariate informed that for the current year 2009, employment of 800 public servants has been planned, the funds for which were provided by the Program K5 within the budget of the Republic of Macedonia.

Body	Employed - total	Gender representation		ADEQUATE AND EQUITABLE REPRESENTATION							
		Male	Female	Macedonians	Albanians	Turks	Roma	Serbs	Vlah	Bosnians	other
Cabinet of the President of RM – Expert department	26	8	18	24	1			1			
Parliament of RM-Expert Department	195	70	125	149	34	3	1	5		2	1
Constitutional Court of RM	49	33	16	40	9						
Ombudsman of RM	68	27	41	34	26	1	2	2	2	1	
Judicial Council of RM	21	5	16	20	1	0	0	0	0	0	0
Public Prosecution Council	11	10	1	8	2			1			
Administrative Court of RM	49	16	33	40	9	0	0	0	0	0	0
Supreme Court of RM	70	19	51	59	2	2	0	4	2	0	1
Public Prosecution of RM	176	94	82	159	12	2	0	1	2	0	0
Public Attorney of RM	93	24	69	85	4	2	0	2	0	0	0
Government of RM-Secretariat General	282	148	134	117	140	15	3	2	1	4	
Government of RM- Secretariat for General Services	317	177	140	276	23	5	2	6	2	2	1
Government of RM- Legislation Secretariat	25	7	18	18	5				1		1
Government of RM – European Integration Secretariat	55	16	39	40	7	2	1		4		1
Ministry of Finance	589	228	361	505	70	1	1	6	4	2	
Ministry of Foreign Affairs	409	243	166	317	80	4	3	1	2	1	1
Ministry of Justice	603	239	223	462	110	14	2	6	6	2	1

Ministry of Health	<b>254</b>	104	150	149	94	3	1	4	1		2
Ministry of Defense	<b>8490</b>	7814	676	6296	1566	168	81	182	72	48	77
Ministry of Transport and Communications	<b>210</b>	115	95	159	45	2		4			
Ministry of Labour and Social Policy	<b>318</b>	133	185	245	48	1	3	8	9	3	1
Ministry of Economy	<b>423</b>	228	195	321	82	4		9	4	1	2
Ministry of Environment and Spatial Planning	<b>154</b>	75	79	99	45	1		5	2		2
Ministry of Local Self-government	<b>36</b>	19	17	19	15		1				1
Ministry of Education and Science	<b>234</b>	90	144	130	84	5	1	8	2	3	1
Ministry of Interior Affairs	<b>12190</b>	10389	1801	9785	1873	69	75	216			172
Ministry of Agriculture, Forestry and Water Economy	<b>628</b>	484	144	502	91	7	1	18	5		4
Ministry of Culture	<b>128</b>	63	65	51	70	2	3	1		1	
Ministry of Information Society	<b>12</b>	7	5	11				1			
Independent State Bodies <sup>1</sup>	<b>7263</b>	3930	3332	6227	715	55	30	123	611	19	33
Funds	<b>1403</b>	499	906	1186	159	5	6	22	17	2	6
Appellate Courts	<b>257</b>	108	194	203	33	2	3	1	9	2	4
Basic Courts	<b>2315</b>	962	1354	1981	202	29	28	20	36	6	13
Public Prosecution employees	<b>346</b>	138	208	310	25	5		2	4		
Penitentiary-Correctional and Correctional-Educational Centres	<b>632</b>	519	113	527	91	0	2	4	7	0	1
Public Enterprises <sup>2</sup>	<b>6746</b>	5662	1127	5760	579	103	41	152	44	33	77
Social Work Centres	<b>639</b>	191	446	504	85	10	10	10	9	2	9
Local Self-government Units <sup>3</sup>	<b>3568</b>	2234	1327	2880	479	70	32	48	24	13	22
Public Health <sup>4</sup>	<b>13712</b>	3887	9705	11535	1285	151	133	305	98	67	138

NOTE: the Secretariate for Implementation of the Framework Agreement informed that all employees planned for the Secretariate are registered under the General Secretariate at the Government of the Republic of Macedonia

In order for the Ombudsman to be able to further on implement the constitutional principle of adequate and equitable representation of all ethnic communities in the Republic of Macedonia, during the report year the Ombudsman submitted a request to the Government of the Republic of Macedonia – Secretariate for Implementation of the Framework Agreement. The Secretariate informed the Ombudsman that in the course of 2008 procedures were conducted for employing 603 employees, according to the principle of adequate and equitable representation of the community members in the public administration. At the same time, the Secretariate informed that for the current year 2009,

<sup>1</sup> Requested data was not submitted by the Foreign Investments Agency of the Republic of Macedonia, Directorate for Free Economy Zones and the State Bureaux for Health Protection

<sup>2</sup> Requested data was not submitted by the Public Enterprise for Management стопанисување with residential and business objects of the Republic of Macedonia

<sup>3</sup> Requested data was not submitted by the following municipalities: Kavadarci, Negotino, Vranestica, Gradsko, Zajaz, Zrnovci, Rosoman and Studenicani.

<sup>4</sup> Requested data was not submitted by the Republic Transfusiology Department, Endocrinology, Diabetes and Metabolism Diseases Clinic, Clinic Pharmacy, Special Paediatric Hospital – Ohrid, Medical Institute – Ohrid and Medical Institute – Veles.

employment of 800 public servants has been planned, the funds for which were provided by the Program K5 within the budget of the Republic of Macedonia.

Taking into consideration the data regarding the adequate and equitable representation of all communities' members in the Republic of Macedonia, as well as gender representation and equality in the report year, the Ombudsman found that public administration bodies realize the abovementioned principles in a more intense manner, unlike the funds and public enterprises, which do not demonstrate preparedness to respect the principle of adequate and equitable representation, which leads to a discrepancy between the percentage of communities' members representation and the constitutionally guaranteed right for a period of several years now.

In this direction, the Ombudsman finds it necessary to inform the Parliament and at the same time to imply to the Government that there is elementary ignorance about the regulations, meaning the competences of the Ombudsman by the Public Enterprise for Managing Housing and Business Premises of the Republic of Macedonia, which, if you can imagine, believes not to have the obligation to submit data to the Ombudsman regarding the monitoring of the conditions with adequate and equitable representation of all ethnic communities, as well as gender structure of the employees at this public enterprise, besides the additionally submitted requests. This public enterprise, by not taking actions hindered the functioning of the Ombudsman institution. The situation with the judiciary is not much different, where the process of applying the principle of representation of communities' members is conducted in a slow manner.

During the report year, the Ombudsman received an insignificant number of complaints where the citizens complained about a discriminatory attitude mainly in the area of working relations, as a result of which during the procedure of protection of their rights it was implied towards consistency in the application of the positive discrimination standards.

The insignificant number of complaints referring to the discriminatory cases in the report year, by no means should lead to a conclusion that such discriminatory actions or discriminatory behaviour did not take place in the Republic of Macedonia, since the attempts for ascertaining the existence of discrimination remain unsuccessful because in the Republic of Macedonia there is no separate law on discrimination prohibition, meaning discrimination prohibition is regulated by several separate laws, which are not precise enough and do not represent a consistent unity, and there is no efficient protection system at all.

Passing a law on discrimination prohibition will create legal rules which will prohibit discrimination by any person, group of people, authorities, public, local, national and private institutions and organizations in the: civil, political, economic, social and cultural area, as well as in the areas of: employment, education, housing and access to goods and services. In this way a legal system for equal application of the laws towards every citizen will be created, a need which the Ombudsman has been pointing out for years now in the annual reports submitted to the Parliament of the Republic of Macedonia.

Considering it necessary, the Ombudsman requested an information on the accomplished regarding the on-going projects and activities concerning the Roma Strategy in



the Republic of Macedonia and the national action plans from the Decade of Including Roma 2005-2015, the Ministry of Labour and Social Policy replied accordingly.

Namely, it is specific for the report year that activities for realization of the Action Plan of this strategy were taken. For instance, the Ministry of Labour and Social Policy established a Department for Implementation of the Roma Decade and Strategy which represents a special structure which will coordinate the activities among all competent public bodies involved in the realization of the Strategy.

For a better informing of the Roma community and realization of the priorities set in the Action Plans, the Ministry of Labour and Social Policy in cooperation with Roma non-governmental organizations opened Roma informative centers in the cities where the Roma community is represented in a big percentage.

On the other hand, within the frames set by the Action Plan, the Ministry of Education and Science during 2008 completed the administrative-technical procedure for construction of a high school in the municipality of Suto Orizari, and the Government of the Republic of Macedonia issued a decision for co-financing the construction of the school together with the Austrian Development Agency. At the same time, regarding the educational component of the Strategy, during the report year, cooperation was established with the public schools for enrolment of one Roma student even without fulfilling the minimum criteria, as well as cooperation with higher education institutions in the Republic for facilitated enrolment of Roma candidates/students at state universities.

Within the frames of its activities according to the Action Plan, the Ministry of Health



through public medical institutions for conducting the program "Health for Everyone" organized mobile medical centers for checkups of patients in residential areas, mainly inhabited by Roma community members. On the other hand, the Ministry of Transport and Communications in 2008 initiated construction of water supply and sewage systems for the residential areas with mainly Roma citizens in the municipalities of Suto Orizari, Prilep and Sveti Nikole.

In the course of implementation of the Action Plan regarding employment, the Ombudsman was informed that the Employment Agency of the Republic of Macedonia initiated several new measures for employment including the Preparation for Employment Program where 60% of included persons were members of the Roma community, as well as the Self-employment Project by crediting, in which 95 Roma members participated.

Within the frames of the abovementioned Action Plan for realization of the Strategy, the Ministry of Justice in 2008 established a working group for preparation of the National Action and Operational Plan for two areas from the Strategy (human rights and discrimination), while the Ministry of Labour and Social Policy formed a working group which is about to prepare a national action and operational plan for the priority area of social help and protection, as well as for the area of human rights. During the report year the Government of the Republic of Macedonia adopted a conclusion by which the Ministry of Culture was obligated to prepare a national action plan for the culture of the Roma

community until the end of the year, an activity which has not been realized yet due to lack of financial means.

## Special Police authorizations

Professionalism, professional approach and above all legality in conducting the activities by the Ministry of Interior employees, consequently police officials at the Police, represents a basic prerequisite for a successful realization of the function of this exceptionally important body of the executive authority, but it is also a guaranty for securing undisturbed and complete realization of the basic human freedoms and rights of the citizens.

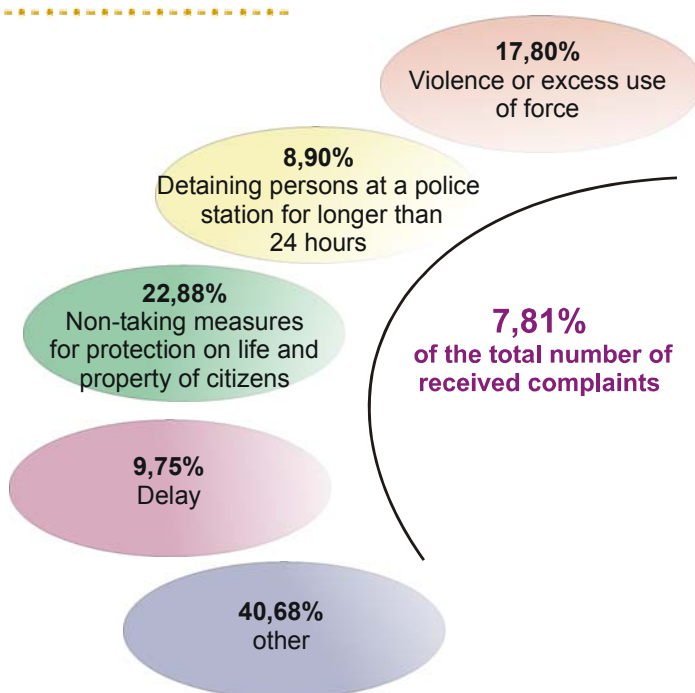
Taking in consideration that the Police is the only state body with a legitimate right to apply special authorizations – enforcement and enforcement means – the need for a high level of training on human rights and a high level of professionalism in conducting police activities is imminent, as well as control over the legality of police authorizations taken by the independent state bodies.

The Ombudsman is one of the key independent controlling mechanisms which performs monitoring and control over the application of police authorizations, and its legal competence to be able to ask for an opinion by a professional institution allows it to take measures and activities in front of competent state bodies for initiating a procedure for ascertaining criminal responsibility in case the interior controlling mechanism of the Ministry of Interior – Interior Control and Professional Standards Department finds that a certain police authorization was grounded, justified and within the frames of the legal competences.

Right in this view, during the report year and besides the formal improvement of the cooperation in communication with the Ministry of Interior in comparison with the previous period, there is still a lack of crucial and quality cooperation especially in the part referring to requests for conducting complete and objective investigations in the cases of torture.

Data reveals that during the year of 2008 the Ombudsman office received a relatively big number of complaints in the area of special police authorizations in comparison with the total number of complaints received.

From the total number of initiated procedures where the Ombudsman found existence of suspicion for abuse or exceeded police authorizations, the number of cases in which after conducted investigation the Interior Control and Professional Standards Department found that it was really a case of excess police authorizations and took actions for ascertaining criminal or other kind of responsibility against police officials is very small. This justifies the



impression the Ombudsman has that the conditions in the area of improving the professional capacities of the Interior Control and Professional Standards Department has not been significantly improved compared with the previous period and that still the investigations are performed incompletely and with a dose of bias for the benefit of the police officers, which does not contribute to increasing the level of their professional behaviour.

Most frequently, upon the Ombudsman's request, the final attitude and decision by the Interior Control and Professional Standards Department were based on the involved police officers' statements, without conducting a complete investigation by gathering and evaluating relevant material evidence, statements given by the witnesses and victims of the police actions.

This manner of acting, lack of necessary evidence (medical documents) which can exclusively be submitted by the complainant are a part of the reasons why the Ombudsman found a relatively small number of violations of rights by illegalities in the police actions and consequently, a small number of submitted requests against police officials for establishing criminal or other kind of responsibility.



However, utilizing the legal competences, knowledge and skills to a maximum extent, as well as by persistent actions, the Ombudsman in certain cases found violation of the basic human freedoms and rights caused by unprofessional actions by police officers.

A characteristic feature for the judicial procedures against police officers for criminal acts performed during conducting duty is their long duration. One of the reasons for the long duration of these procedures is avoiding by the accused police officials to appear in front of a court, as well as the insufficient engagement on behalf

of the judges for conducting a swift and efficient procedure when it comes to torture.

At the same time, according to the complainants' statement, one of the reasons which leads to insufficiently efficient judicial protection of the victims is their refusal to prosecute police officials further on because of pressure and fear.

When it comes to the right of the police officials to use physical strength and enforcement measures, the Ombudsman has an impression that very often they are disproportional, meaning proportional to the objective which needs to be achieved.

From the analysis for the report period it can be seen that a big number of complaints derives exactly from exceeded use of force, while the rest of the complains referred to groundless or exceeded restriction of freedom of movement, followed by not taking measures and activities for protection of life or property, unconscientious temporary deprivation of objects, groundless invitations for an official discussion or invitations against legislation.

In this report year there were again cases of violations in the area of presumption of innocence principle, which was also indicated in our previous report.



One part of the Ombudsman's work in the area of special police authorizations in the course of 2008 was realization of its preventive function.

In that direction, in accordance with the Working Programme for the report year, visits and insights of all 38 police stations of general competence were conducted, after that information was prepared on the weaknesses found regarding the material conditions in the rooms for detaining persons whose freedom of movement is restricted and on the

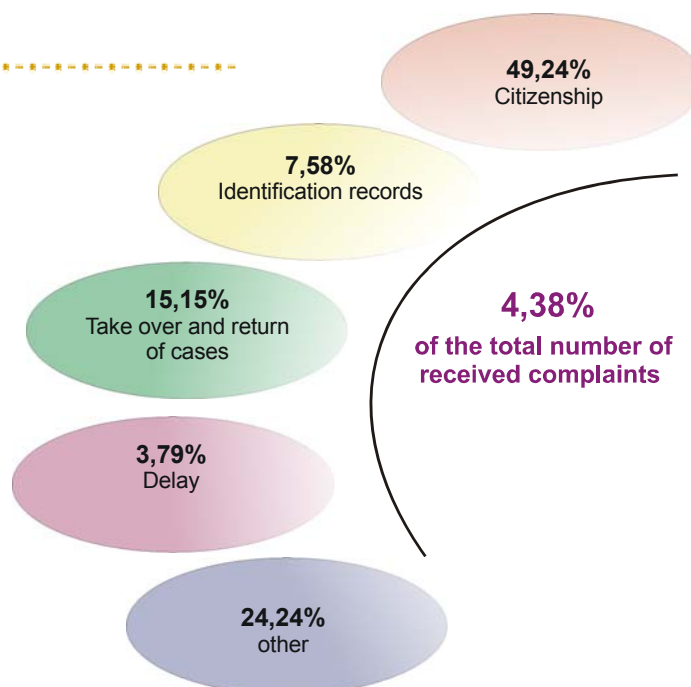
irregularities in keeping police records, the information was submitted to the Government and the Ministry of Interior, along with recommendations for overcoming of the weakness found.

## Civil Status and other Interior Issues

In the area of civil status and other interior issues, the Ombudsman received complaints by citizens referring to delay of procedures for realization of rights connected with citizenship status, place of stay and residence, general evidence, deprivation and return of objects upon previously submitted requests to the Ministry of Interior or to other bodies with public mandates.

Having in mind that citizenship is the so called right to other rights, the number of complaints should be pointed out in the report year as well as the result achieved by the Ombudsman office over a longer period of time acting upon cases which refer to obtaining Macedonian citizenship.

Because of the fact that in the Republic of Macedonia there is still a big number of persons born in the Republic of Macedonia, however they have another citizenship on the basis of their parents' origin, and still have not obtained Macedonian citizenship, the Ombudsman believes that there is a need for amendments to the Law on Citizenship and





facilitation of prerequisites for acceptance of former SFRY citizens who, after its succession, remained in the Republic of Macedonia with permanent (factual and legal) relations. This commitment is based on the already accepted term for “solid and effective connection” with the state (article 6 of the Law on ammendments and changes of the Law on Citizenship) as a beneficiary basis for naturalization of these persons because the existing article 7 forseees ten prerequisites (with many documents needed) for this basis of obtaining citizenship.

Regarding the work of the Special Commission at the Government of the Republic of Macedonia for setting the legal prerequisite for naturalization of a person to have knowledge of the Macedonian language to a level of easy communication, the Ombudsman finds that



the fulfillment of this prerequisite for a certain category of applicants is a real obstacle for obtaining the citizenship.

Regarding the procedure itself in front of the Ministry of Interior, the Ombudsman realizes everyday contacts upon single cases with the Citizenship Department at the Administrative-Supervision Issues Sector and finds that this cooperation is on a satisfactory level.

For certain cases the Ombudsman addressed implications to the citizenship body about the applicants who fulfill the prerequisites from another article from the Law on Citizenship, and not the ones they applied on, the body should ex-officio estimate their citizenship status because domestic and international legal instruments imply taking measures for lowering the number of persons applying for citizenship. Although the procedure for gaining/discharge of citizenship is a special administrative procedure, the Ombudsman addressed implications to the competent body for application of principles of: efficiency, service orientation and assisting an ignorant party.

As a result of its activities, the Ombudsman finds that the procedure for obtaining citizenship is with an increased number of positive decisions, but the duration of the procedures and the number of persons applying for dismissal\* of citizenship or double citizenship is still worrying.

Apart from the cooperation with the citizenship body, the Ombudsman did not receive appropriate level of cooperation with the foreigners body, i.e. Border Issues and Migration Sector on the basis of several cases where violation of right to regulate the residence status of foreigners who stay in the country on the basis of marriage or family reunion, for which the Ombudsman submitted to the Minister of Interior a special report and request for data from the records refering to the status of foreigners in the Republic of Macedonia. Although



starting from the beginning of 2008 the provisions of the new Law on Foreigners has been

applied, the Ombudsman finds that the officials at the foreigners body apply these provisions selectively for the so called foreigners who happen to be here from the republics of the former SFRY without appropriate service orientation and assistance for this category of citizens.

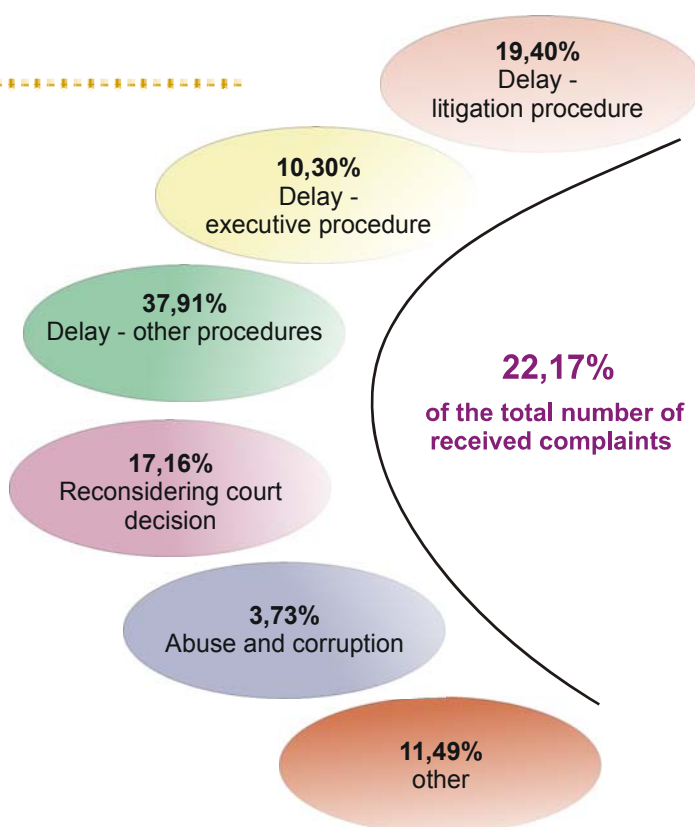
The Ombudsman also ascertained that by introducing the concept of the so called biometric documents (passports, ID cards, driving licences) the procedure for their issuing is delayed, the negative effects of which are borne by the citizens, although the corresponding provisions for issuing of these documents indicate a time limit for their issuing by the internal issues body.

It should be noted that near the end of 2008, the record keeping in the books for the rights of the citizens for issuing official documents was transferred from these books at the Ministry of Interior to the Record Keeping Administration, being a body within the scope of the Ministry of Justice. The Ombudsman calls for the obligations stipulated in the amendments of the Law on Evidence to be conducted in the time limit foreseen by the legal changes for the sake of intact realization of citizens' rights from the record keeping in the Republic of Macedonia.

## Judiciary

In this report year as well, the majority of complaints received at the Ombudsman office referred to judiciary.

The analysis on functioning of judiciary, seen through the case work of the Ombudsman, remains to indicate weaknesses in the system, which refers most of all to the slow pace of the procedures which leads to long duration of judicial procedures, difficult and long realization of final decisions and great cases burden of judicial bodies. The listed weaknesses are of such a scope which implies that the existing problems can be overcome slowly and that the aim for an efficient and quality judicial system has not been achieved yet, besides the new organizational structure which resulted from the measures and activities from the Judicial System Reform Strategy. It is important to mention in this direction, that the Supreme Court was awarded competence to decide upon citizens' requests for protection of the right for judging in a reasonable time. It is about an especially important benefit and a bigger guaranty for respecting and realization of the right guaranteed by article 6 of the European Convention for Protection of Human Rights and Fundamental Freedoms; however,



the time passed is still short for us to see to what extent it will influence the acceleration and the improvement of procedures and realization of the right to judging in a reasonable time.

Important news, as a result of the Judicial System Reform Strategy, were the passing of the Law on Courts and the Law on Administrative Disputes, aiming to relieve the Supreme Court from cases from the administrative – legal area by their transfer to the specialized Administrative Court.



However, the conditions regarding the duration of procedures in administrative disputes at the newly formed Administrative Court, as seen in the case activities of the Ombudsman, indicates that the conditions with the efficient protection of the right to judging in reasonable time and in the area of administrative disputes, as well as in front of the regular courts, is not on the satisfactory level at this moment. Because of this, the number of cases where the citizens inform the Ombudsman on their dissatisfaction with the long duration of the procedure in the process of protection of rights in front of a court is not a small one, and the citizens' request from the Ombudsman to take legal activities in its competence.

From the case activities at the Ombudsman office, it can also be seen that the course and duration of judicial procedures, besides the listed anomalies resulting from objective conditions the judicial system is undisputedly facing and represent the most common excuse by the judicial officials, subjective weaknesses have their impact as well.

In order to gain a complete picture of the conditions with the judiciary in the Republic of Macedonia, it should be mentioned that during the report year the citizens of the Republic of Macedonia submitted several complaints to the Ombudsman against solicitors/barristers\* and executors because of their activities in the process of defense or representation of their interests or execution of court decisions.

Regarding the fact that the first activities are taken on the basis of received, and the second ones on the legal competences, for the majority of accusations in the cases the Ombudsman addressed the Bar Association of the Republic of Macedonia, the Executors

Chamber and the Ministry of Justice, requesting to investigate and on the basis of the results gained, to take appropriate measures through their disciplinary bodies of these associations.

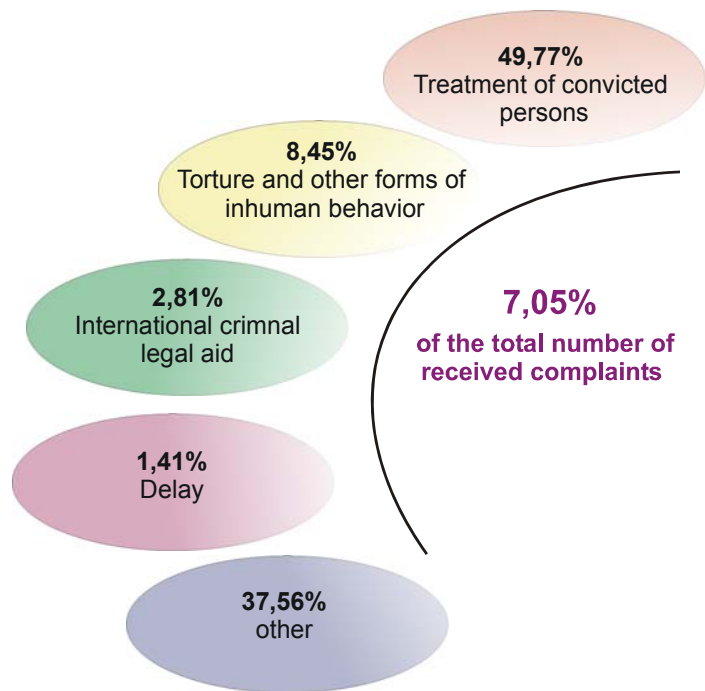
In times when the ascertained weaknesses in the functioning of the judiciary system, as seen from the point of view of the Ombudsman's competences, have a negative influence on the realization of the principle for judging in reasonable time, and the practice shows that the European Court for Human Rights in Strasbourg does not accept the objective conditions as a justified reason for the long duration of the procedures, it remains for the state to continue taking measures in order to transform the third authority into a pillar whose efficient and independent functioning will guarantee and secure complete respect and realization of citizens' constitutional and legal rights.



### Penitentiary-correctional and Correctional-educational centers

The conditions regarding respect and protection of constitutional and legal rights of convicted and detained persons serving an imprisonment sentence or correctional sentence represented a challenge for the Ombudsman in this report year as well, taking into consideration the fact that for this category of citizens the freedom of movement is restricted.

From the total number of complaints directly submitted to the Ombudsman or indirectly taken from the mail boxes for complaints which the Ombudsman placed in the penitentiary-correctional centers, it is evident that the majority of them refer to the treatment and health protection of the convicted persons, however, the number of complaints addressed to courts or the Sanctions Execution Management was not a small one, and the Ombudsman redirected them to competent bodies. It should also be stated that in this report year the majority of complaints did not refer to realization of rights of convicted persons, but using privileges for which the Ombudsman, through direct conversation, provided them with legal assistance and gave them legal advice.



Taking into consideration the listed findings in the complaints and the conditions found during frequent visits of these institutions regarding the accommodating capacities, the personnel and the special conditions, the Ombudsman found that there is not a positive improvement in terms of functioning of the penitentiary system in the Republic of Macedonia, which still generally does not function in accordance with the standards stipulated by the Law on Execution of Sanctions and the international standards. The similar implies to the realization of the legal situation with the convicted population because the competent services and institutions do not apply accordingly the principles of humanity, fairness and respect of the human personality and dignity, principles which are the basis for execution of sanctions.



A specific example is the self-initiated case about the strike of the convicted persons at the Idrizovo penitentiary-correctional center.

Namely, immediately after receiving information, the Ombudsman initiated a procedure and visited the prisoners. Not entering into the basis of the prisoners' request which was not under the Ombudsman's competence, this institution submitted a recommendation to the Ministry of Justice – Sanctions Execution Management in order to take measures and activities for providing realization of prisoners' rights and continuous monitoring

of their health conditions by taking necessary measures for providing medical help in case it was needed, as well as preventing the possible worsening of their health since they continued refusing to take any food.

From working on cases and the insights conducted, it can also be concluded that the accommodating conditions for the convicted persons in the penitentiary-correctional centers is worrying, especially in terms of overcrowdness in certain centers, insufficient heating and inappropriate lighting of the rooms, or put in simple words – the prisoners serve their sentence in inhuman conditions, which is against the guaranteed penological standards.

In the area of communication of the prisoners with the outside world (telephone calls, receiving and sending letters etc) it can be said to be on a satisfactory level. It should be highlighted that a positive contribution to this situation is installation of mail boxes for complaints done by the Ombudsman in every center in Macedonia.

It is an undisputable fact that there is no progress in terms of providing recreational activities for the prisoners since the sports and entertainment



activities are brought to the minimum because of insufficient number of sports equipment and technical devices, as well as because of the passive attitude of the officials in terms of organizing appropriate activities.

The number of complaints referring to slow pace of procedures for transferring convicted persons from prisons abroad into the Republic of Macedonia and vice versa is another characteristic feature of this report year. In cases like these the Ombudsman intervened to the Ministry of Justice for accelerating the process, and at the same time, by letters of asking requested from the national Ombudsmen abroad to accelerate the procedure in front of their competent bodies. In this regard, a characteristic example is the cooperation of the Macedonian Ombudsman with the Albanian Ombudsman.

Namely, acting upon a letter of asking by the Ombudsman of the Republic of Albania regarding the transfer procedures for convicted persons – Albanian citizens from the penitentiary-correctional center Idrizovo to the penal institutions in the Republic of Albania, the Ombudsman through the Ministry of Justice – International Legal Assistance Department provided the required information after what it was ascertained that this Ministry had taken all necessary measures and actions for a rapid solving of transfer procedures for the Albanian citizens from the Republic of Macedonia to the Republic of



Albania. At the same time, the Ombudsman requested updating of the procedures before the competent bodies in the Republic of Albania for transfer to the Republic of Macedonia of Macedonian citizens. The Ombudsman of the Republic of Albania informed that all request by Macedonian citizens were in progress, and precisely for two persons who submitted complaints to the Ombudsman and cases were initiated upon them, the procedure was before the Public Prosecution which was supposed to deliver the complete documents to the Ministry of Justice of the Republic of Albania, in accordance with the provisions of the European Transfer Convention.

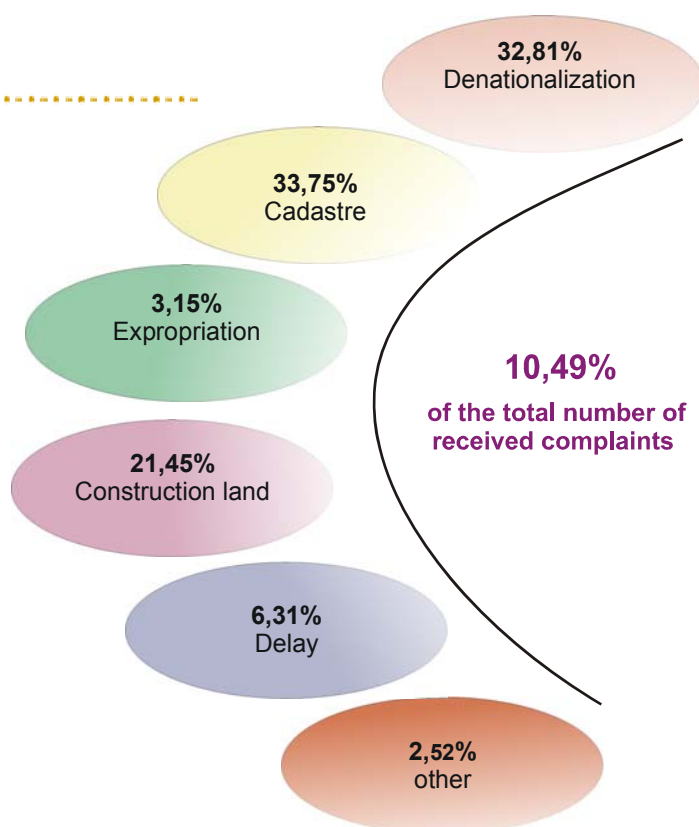
During last year the Ombudsman, within the frames of its competences, along with the regular activities, visited the penitentiary centers in the Republic and the Correctional Center in Tetovo in order to confirm the conditions regarding respecting the rights of the persons detained in custody, as well as juveniles being sentenced with stay in a correctional center. Hence, based on the conditions found during the visits, the Ombudsman prepared special information on the conditions in which the measure custody and the correction measure - stay in a correctional center for juveniles - are executed. This information on the conditions found along with concrete recommendations was submitted to the Ministry of Justice – Sanctions Execution Management.

## Property legal relations

In the area of realization of rights in the property-legal relations the Ombudsman, in the majority of cases, intervened in practicing citizens' rights during denationalization procedures.

The basic goal of the Ombudsman, in this report period as well, was for the activities and measures taken before the public administration bodies and other bodies and organizations with public mandate to be in an efficient, rational, functional and timely manner of execution of the procedures for the sake of their intact acting and deciding and creating suppositions for intact realization of citizens' rights.

The basic conclusion is that the bodies competent for these procedures – the Ministry of Finance, through corresponding denationalization commissions and the Commission for deciding in administrative procedure in second instance upon cases regarding denationalization at the Government of the Republic of Macedonia, as a second instance administrative body, besides not demonstrating improvement of the efficiency and quality of their work, cooperation and availability for the citizens' needs, very rarely or never did they act upon the Ombudsman's requests and interventions.



This condition is certainly an obstacle for the work of the Ombudsman and it disables the realization of citizens' rights, and as a special case for a complete non-cooperation which must be emphasized here as well, are the Denationalization Commissions with headquarters in the municipality of Gazi Baba and Kisela Voda.

Following the analysis on the cases, first of all there is the conclusion that the weaknesses in the part of exceeding the legally set time limits for acting and deciding at these instances during the procedure remain. Hence, by this manner of work, it is not clear when or whether ever the denationalization process in the Republic of Macedonia will be successfully completed in a way that the citizens will realize their requests, meaning whether they will solve the problems they have had for years. Besides this, and regarding the quality of work, it can be freely said that there is a tendency for persistency in irregular application of material laws – the provisions of the Law on Denationalization and the Law on Common Administrative Procedure, which has a direct influence on securing efficient and timely protection of constitutional and legal rights of the citizens.



In that direction, one of the segments which implies to the tendency of disrespect of citizens' rights, derives from the permanent insisting on irregular application of the provision article 8 from the Law on Denationalization.

Namely, although the Ombudsman permanently emphasizes that for the regular application of this provision it is necessary the compensation to be given,

meaning paid, the denationalization body still rejects the citizens' requests only by a formal explanation that the compensation was determined, although those decisions have never been practically executed. This even in the situation of already established judicial practice by the Supreme Court and now the Administrative Court which in their decisions as well imply that in order to deny the denationalization request, the compensation needs to be not only declared but also given, meaning paid.

Further on, in not a small number of cases the presentation of evidence, meaning activities for determining the type and character of the land and its purpose, according to the existing urban plans, as well as the insight on the location are performed under the influence of political and business structures involved in the attempts for illegal privatization of land which is the subject of denationalization.

Consequently, there is either no or very disputable solution to the problems by blocking the cases which need identification of cadastre parcels in municipalities where the surveying cadastre was founded in the 50's, 60's or the 70's of the last century.

Namely, it is insisted for the citizens to pay, although the Denationalization Commission should ex officio bring such evidence, meaning identification should be performed by engaging private geodesy engineers, and the Ministry of Finance should provide the finance needed.

At the same time, it can not be considered as anything else but a tendentiousness and a bureaucratic manner of acting when the requests which are incomplete (a request



submitted on a provided form without accompanying act for nationalization, a proof for property etc) the bodies reject immediately, without respecting the legal provisions stipulated in the Law on Common Administrative procedure, which imperatively imply an obligation for the parties to be called within the legally set time limit of 15 days to complete the requests, and if not completed, the Commissions have an undisputed right to reject the request for being groundless.

At this point the work of the Public Attorney of the Republic of Macedonia must be pointed out, which among other things appeals and passes lawsuits for initiating an administrative dispute before the Administrative Court in the cases when the land or other properties were taken by decisions brought by bodies of former counties or municipalities, meaning for the needs of the municipalities and public enterprises. One thing that is omitted here is the undisputed fact that in these cases it is about the same enforcing provisions according to which the taking away was done by the state, and the difference can be seen because here on behalf of the state we see the lower administrative shapes of the former society.

Regarding the work of the Commission for deciding in administrative procedure in second instance upon cases in the area of denationalization at the Government of the Republic of Macedonia, it is a clear fact that the same commission in 2008 did not cooperate and did not reply to the Ombudsman's requests at all, although there is a general improvement of situation with its work because as a result of the increased number of Commission members, a significant number of pending cases upon appeal were closed; however, there is still a big number of unsolved cases.

On the other hand, it must be accented that this manner of work reflects on the quality of decisions made because persons who have no connection with the administrative issues and denationalization process were appointed Commission members, and the damage is done only to the citizens – a party in the procedure, who have to make additional expenses for filing appeals for initiating an administrative dispute.



Another problem which was also noticed in the work of this Commission, and generally refers to all Commissions at the Government of the Republic of Macedonia which decide in second instance, is the violation of the principle of devolutivity\*\* taking into consideration that the same persons decide in both first and second instance (if not directly then indirectly). As well, the functioning of a part of the commissions with a president or lately a deputy president (because without any reason no president is appointed) who has the function of a deputy minister indicates inconsistency as well because of the fact that it is against the principle of hierarchy at the public bodies. The best example which illustrates this condition is when upon the first instance decision brought by the official-minister who manages the second instance body, decides the deputy –minister who is now in the role of the president of the corresponding commission.

The basic characteristic of the work of the Commission for solving administrative procedures at second instance upon cases in the area of property-legal issues and awarding construction land at the Government of the Republic of Macedonia is that for not a single case the Ombudsman reacted upon a reply was received and this did not happen only in 2008, but also in many years back, which is certainly one of the examples for the most cruel disrespect of the institution.

The general conclusion for this Commission is that it is completely disorganized which is mainly reflected on the disability to meet at first place during longer period of time, on the inappropriate professional quality of its president and members, as well as absence of any kind of transparency, openness and responsibility towards the real needs of the citizens. This creates a situation of a great number of pending and unsolved cases and disability for managing the continuous inflow of new cases upon appeal.

Here it has to be emphasized that the existence of only willingness by the state to complete the privatization of construction land as soon as possible does not always lead to positive results in practice. Actually, the passing of the Law on Privatization and Lease of Land in Public Property without previous elaboration of all aspects of the problem and an estimation of the overall property-legal relations in the Republic of Macedonia could not cause anything else but a chaos in its application, because of which the citizens, not without personal quilt, were placed in a dead-end situation.

Namely, in order to meet the time limit set in the provisions of this Law, the citizens and legal entities submitted their requests although upon them the competent body – Property-Legal Issues Management through its organizational units was not in the situation to respond within the time limits. This is because a great part of the norms of this law were inapplicable because of the non-existence of appropriate by-law or because by applying different decisions for the same or similar manners of obtaining the right to use a construction land the citizens were placed in an unequal position. Therefore, the amendment of this Law should be respected which seems to bring at least partial improvement of the negative situation which was created for the citizens by the implementation of this Law.

Regarding the part of property-legal issues referring to recording the rights to property in the cadastre books, it is a fact that during 2008 generally the reforms of the Cadastre office continued and they should result in its becoming an institution which will represent a real service for the citizens.

Actually, during 2008 a new Law on Cadastre for was adopted, which is already in force and according to the provisions of that law for conducting the works for establishing and maintaining the property cadastre, the Property Cadastre Agency was founded. The most significant news which is foreseen by the provisions of this law is the abandonment of the rules of the administrative procedure in the work of the Agency and its internal organizational units because for the conducted single recording of the rights to the property, as well as for rejecting the application for recording the rights to property only a certificate is issued for recording or a certificate for rejecting.

Still, the greatest problem for the citizens, legal entities and institutions is the functioning of the Cadastre and Property Center Skopje, where there is still a great number of pending, unsolved cases.

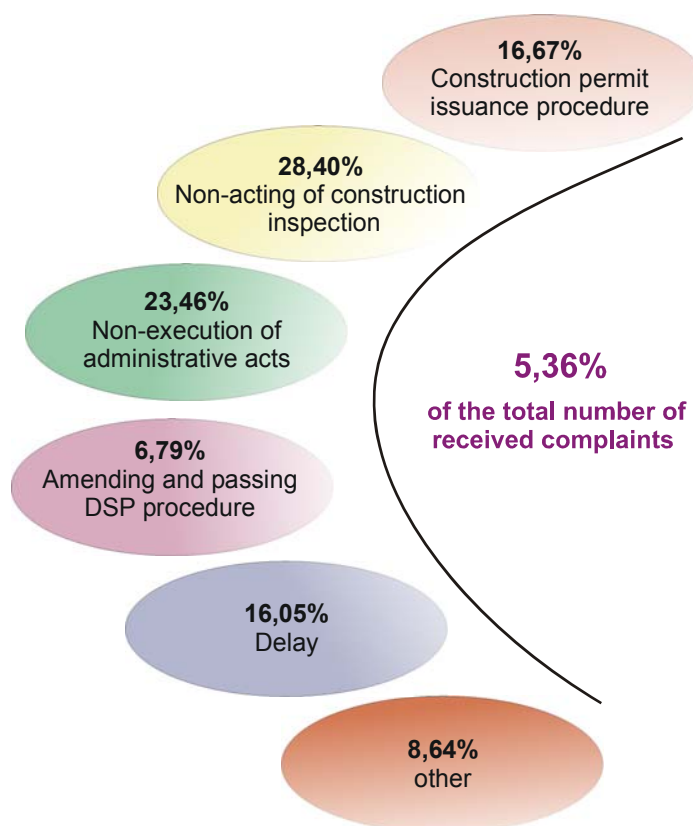
On the other hand, as a result of adoption of this Law, the Commission for deciding in administrative procedure in second instance upon cases in the areas of surveying, cadastre and registration of rights to property at the Government of the Republic of Macedonia will have no competence to decide upon appeal cases.

## Urban planning and construction

One of the fundamental values of the constitutional order is through a regulated and consistent legal system by decoration and harmonization of the space in order to provide the citizens basics for realization of the essential human right to a personal home, as a prerequisite for raising a healthy family for urban living and regulated property relations.

This can be provided exclusively on the basis of consistent legal norms which regulate the rights and obligations of the citizens and other subjects, and in the area of urban planning and construction in the Republic of Macedonia on the basis of the Law on Spatial and Urban Planning, the Law on Construction, the Law on Property and other material rights and by-laws regulating this area.

During 2008, the Ombudsman office, as usual, received a big number of complaints by citizens implying to violation of their rights in the area of urban planning and construction. The majority of complaints refers to not taking actions by the construction inspection, followed by complaints by which the citizens required an intervention for conducting a procedure for execution of administrative acts for deconstruction of illegal buildings, complaints referring to certain irregularities the citizens faced during procedures for obtaining building permissions and complaints with expressed dissatisfaction from the unjustified delay of administrative procedures and procedures for adopting detailed urban plans.



These indicators illustrate at best the conditions the citizens face while trying to realize a certain right or interest in order to improve the conditions they live in.

The inefficiency and inaccuracy of the public administration were also present to a great extent, as well as suspicion that it was a result of a corruptive behavior and abuse of the position both on a local and on a central level. All of this

contributes for the procedures before administrative bodies, which decide upon issues in the area of urban planning and construction, to continue to last much longer than the legally set time limits.

It should be pointed out that after the initial difficulties in conducting a procedure for decentralization of the authority the local self government faced during transferring of competences in the area of urban planning and construction as well, the situation in 2008 still had a tendency for a certain improvement especially in the organizational aspect, although there is not enough personnel within the inspection units especially in the smaller municipalities where units for enforced realization of final administrative acts have not been founded neither.

In this report year, once again, we saw the inaccurate, unconscious and inert behavior on behalf of the authorized urban and construction inspectors while performing inspection surveys and not taking appropriate legal measures when illegal buildings were ascertained. The practice of not conducting, actually selective conducting of procedures for enforced administrative execution of administrative acts for deconstruction of illegally built objects continued, besides the frequent announcements by the competent bodies for their more accurate conducting.

The findings reveal that the citizens, while realizing the legal rights, face complex and long procedures for obtaining building permissions, procedures for adoption of the detailed urban plans and their non-realization especially in the part of



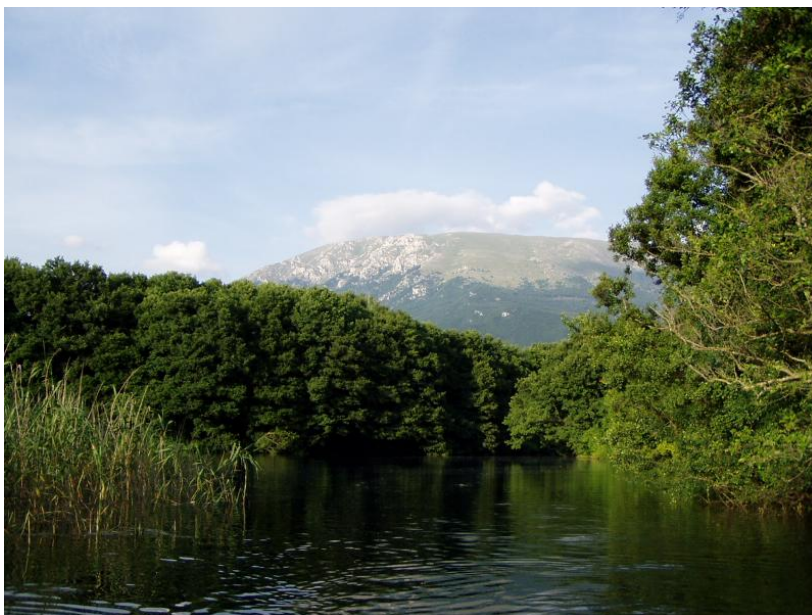
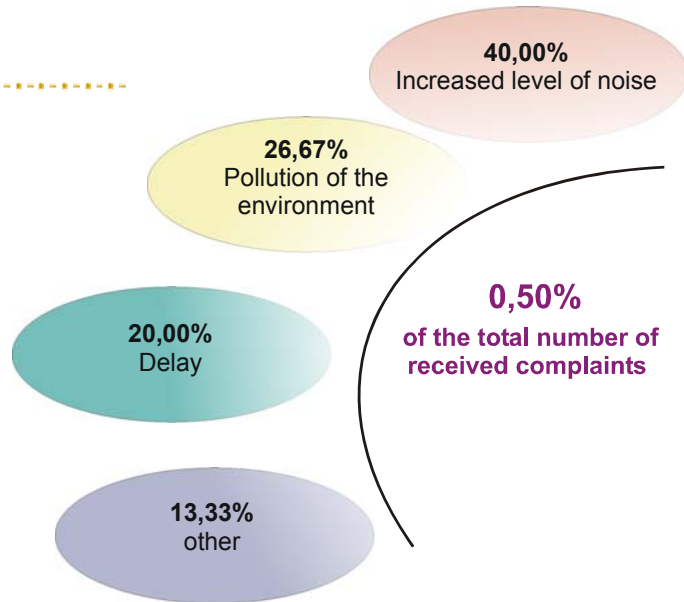
construction of infrastructure objects etc. Not adopting the detailed urban plans on time is a serious obstacle for satisfying the accommodation needs of the citizens; therefore, the occurrence of illegal accommodation buildings which lead to urban chaos should not be surprising.

The citizens in the complaints often indicate irregularities in the procedures, as well as the tolerant attitude by the competent bodies initiated by personal interests and influences.

All of these problems and the frequent violations of citizens' rights were a reason for the Ombudsman to take actions within the frames of its competences this report year in order to protect citizen's rights by sending a great number of requests, recommendations, implications and information to the municipalities mayors, since they are competent to regulate and solve urban issues of local character and to the Ministry of Transport and Communications, for being the body competent to monitor the work of the local self government bodies in the area of urban planning and construction.

## Environment

Apart from the alarming conditions with the environment in the state, conditions which represent a continuous pollution of the air, water and soil, the exceptionally low level of communal hygiene, non-selecting and disposal of solid and medical waste on illegal landfills, illegal cutting of woods, forest fires which destroy the already small quantity of forests, still, the Ombudsman's office in this report year as well as many years backwards, registered a small number of complaints in the area of protection of



the right to healthy environment.

The Ombudsman finds that the citizens complain about the environment only in cases they are directly influenced by a particular problem and, as a rule, most frequently it is about increased level of noise caused by restaurants, pollution of the air and soil in their immediate vicinity, but not about problems of wider

range and importance.

The Ombudsman finds that this condition is a result of the exceptionally low level of awareness of the citizens for one of the most important segments of human existence – healthy and clean environment, although it is certain that the problems with the protection and improvement of the environment should be dealt with their active participation. Because of this, the role of the state is of great importance, which by various measures and activities should enable and encourage the citizens to take a more active part in the process of protection and improvement of the environment providing them with bigger access to information as well.

The Ombudsman, like many years before, implies and requests in its reports taking measures for overcoming the problems caused by pollution of the environment by the great polluters such as: the “Okta” Refinery, the cement factory “Usje”, “Feni” in Kavadarci and the smeltery “Zletovo” in Veles. The Ombudsman expresses its disappointment regarding the fact that the competent public bodies have not taken serious measures so far in order to solve the problems.

Global problems with the environment and the problems of the obvious global warming of the atmosphere reprimand more and more and seriously question the survival on the planet Earth, thus there is a need for the Republic of Macedonia to finally start



taking measures for protection and improvement of the environment not only because of the fact that the right to healthy and clean environment is one of the basic human rights, but also because it is an obligation and in the best interest of the generations to come.

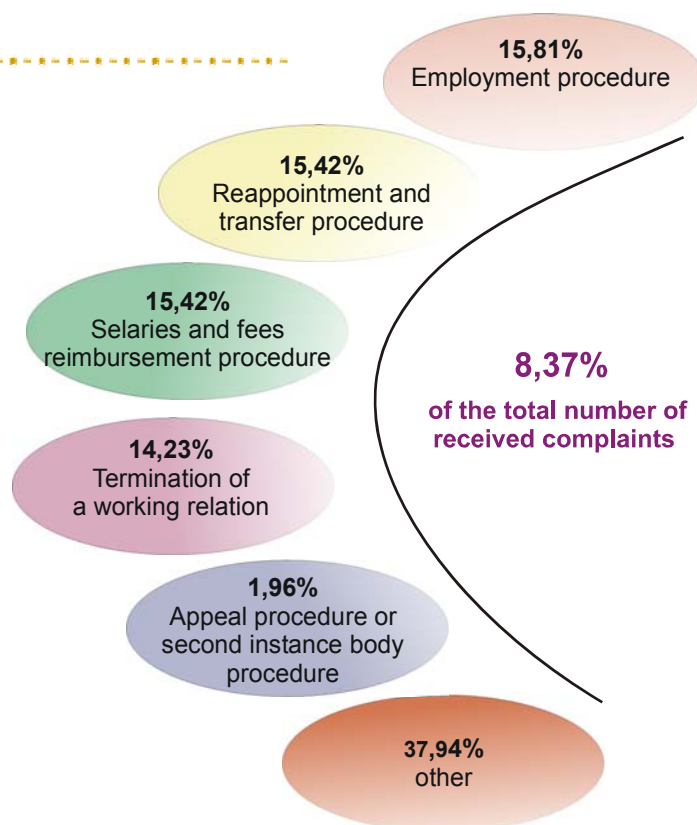
## Working relations

This report year, in the area of working relations, the Ombudsman faced problems which reoccurred, like in the previous years. Still, in certain segments of this area there were exceptions compared to the earlier actions taken, in terms of realization of the legal rights of the citizens, while in certain segments they were the same and without any improvement.

In the area of working relations the Ombudsman in the report year submitted information to the Government of the Republic of Macedonia and the Ministry of Labor and Social Policy on the ascertained legal gap in the provisions of the Law on Working Relations, initiating legal changes. By this information the Ombudsman informed the mentioned bodies that by annulling article 104, paragraph 1 from the Law on Working Relations, which was annulled by a decision by the Constitutional Court, actually a legal gap was created which caused many dilemma about the legal basis for termination of working relation of an employee who has fulfilled the prerequisite for age pension.

In that direction, aiming to prevent the consequences the citizens suffered during termination of working relation, and at the same time referring to respect of fundamental values of the constitutional order and rule of law, as well as the constitutional provision that the citizens are equal in front of the Constitution and the laws and that every post is equally available for any person and that the working relation is terminated under the same conditions, the Ombudsman submitted an initiative for adopting a law on amendments and changes of the Law on Working Relations, which will stipulate the conditions for termination of working relations for an employee who fulfills the requisites for age pension.

The Ministry of Labor and Social Policy informed the Ombudsman that the submitted initiative was taken into consideration and that the Ministry was in a process of preparation of changes and amendments of the Law on Working Relations, among which the article 104 of the Law on Working Relations would be included, which was actually done and can be seen from the adopted changes and amendments to the Law on Working Relations.



During this report year the Ombudsman submitted information to the Government of the Republic of Macedonia initiating legal changes regarding the ascertained situation with unequal treatment of public servants in a provision of the Law on Public Servants.

Namely, the Ombudsman found that the increase of salary on the basis of years of service is differently stipulated for the category of public servants without the status of public servant which, according to the Ombudsman, is discriminatory because the public administration employees were placed in an unequal position compared to the employees in the economy or non-economy sector and are deprived from the right to salary increase on the basis of completed labor, where only the professional preparation is taken into account, and not the basic component of the basic salary, salary bonus for a title and salary bonus for the career, apart from persons who do not have the status of public servants for which as a basis for salary increase, for completed labor, the basic salary and all salary bonuses are taken into consideration.

The Ministry of Justice and the competent commissions at the Government of the Republic of Macedonia informed the Ombudsman that the mentioned initiative was taken into consideration and that the Ministry of Justice was preparing changes and amendments to the Law on Public Servants, including article 35, paragraph 3.

Regarding the problems the citizens declared in their complaints, the majority of them still referred to the conducted procedures for employment both in the public administration bodies and in bodies and organizations employing persons who do not meet the criteria in accordance with the Law or there was no selection of candidates at all. There were numerous complaints about conducted procedures for appointing during which the employers did not take into consideration the conditions for conducting appointment at the public administration body or any other body or organization at all.

In the part of conducting employment procedures in the public administration bodies, there were still citizens expressing their dissatisfaction with non-selection of a candidate on the short list, meaning non-conducting a selection by the employer conducting the employment procedure. Based on such cases, the Ombudsman as previously, implied that the conducted employment procedure according to the legal provisions and the existence of a candidate on the short list who meets the criteria for the post he/she applied for, the



employer has to make the selection. However, like in the previous years, the Ombudsman has not received a letter for acceptance of the implication even once, and the situation was the same with the competent committee at the Public Servants Agency, which did not accept the complaints as grounded by candidates who had been informed on non-selecting a



candidate after advertising of a position.

However, the number of complaints referring to a conducted employment procedure for a candidate who does not meet the advertised criteria was lowered. It might be due to the actions taken by the Public Servants Agency which immediately after receiving an application by a candidate, determines whether the same candidate can or can not apply for the advertised position.

During the procedure for appointing public servants, the occasions of conducted procedures for appointing when the appointing process itself was against the provisions of the Law on Public Servants were typical, which was found not only by the Ombudsman but also by the competent committee at the Public Servants Agency, which decided to accept the appeals by public servants and gave directions for appropriate actions by the body. However, the first instance bodies did not conduct a new procedure based on these findings – issuing a decision and taking actions in accordance with the directions given by the Committee at the Public Servants Agency, believing that the body had reached a decision once and there is no need for issuing another one, or the same decisions were reached not taking care of the directions given by the Committee or the legal conditions and possibilities for appointing a public servant.

Following these complaints, the Ombudsman submitted numerous implications to the first instance bodies, meaning to: the Minister of Defense, the Manager of the Public Revenues Office and the Manager of the Property-Legal Issues Management at the Ministry of Finance, as well as information to the Government of the Republic of Macedonia, but without any particular results, because not a single one of the bodies listed above sent a letter of accepting or denying the Ombudsman's requests. Here, it should be emphasized that the complainants accepted the illegal actions, and a part of them made additional expenses in order to realize their rights before the courts.

When it comes to the employment and appointing procedure regulated by the Law on Working Relations, we can not avoid mentioning the great number of complaints about violation of citizens' rights. The Ombudsman submitted requests and implications based on these complaints as well, the bodies mostly gave explanations for their actions and a part of them acted in accordance with the Ombudsman's requests. It leads to a conclusion that these bodies have understood the Ombudsman's role in a better way for being a protector of citizens' rights. Here it should be mentioned that a great number of employees, in order to realize their working relations rights before the competent commission at the Government of the Republic of Macedonia, suffered hazardous consequences because they could not receive a decision by this commission since it did not function at all from June until the beginning of December, meaning it did not issue any decisions as a result of not having appointed a President.

Since the Ombudsman was constantly informed that there was no President appointed regarding the letters submitted, as a result of which no action was taken regarding the cases, meaning the Commission could not act, and in order to apply the principle of double instance of the procedure and to respect the legal provisions, which foresee a time limit for deciding upon appeal, the Ombudsman addressed the Cabinet of the Prime Minister requesting to take measures towards appointing a president of the Commission for deciding in second instance in the area of working relations at the Government of the Republic of Macedonia so that the Commission could, in an undisturbed manner, perform its duties and of course, prevent the citizens from suffering damages for submitting an appeal for realization and protection of their rights to working relations. After the interventions, the Government of the Republic of Macedonia appointed a president and the Commission began functioning.

During the course of procedures for appointing, in which the process was conducted according to the Law on Working Relations, the problems mainly referred to appointing an employee to a position which was not in accordance with his/her professional background. The Ombudsman submitted implications regarding these complaints that the employee should be appointed to a position which is in accordance with his/her professional background, however, the implications were not accepted.

Regarding the problems which, like every year, were present this year as well the teaching personnel have, it is inevitable to mention that continued with the same intensity. So, the majority of complaints submitted referred to violation of rights during a procedure of termination of working relation for the teaching personnel who performed their duties over a limited period of time and when, according to the provisions from the Law on Working Relations the prerequisite for transformation of the contract from limited to unlimited period was fulfilled, the employees were suddenly not needed at the schools and other



persons were employed, new ones without prior working experience. The employment of new personnel was done for a period of three months because of urgent duties for a limited period of time without taking care of fulfillment of the prerequisites according to the Law on Elementary Education or the Law on High Education, meaning whether those persons had passed the expert exam for example, which is a prerequisite in the high education. During those three months, in case the candidate does not fulfill the requirements, he/she is given an opportunity to fulfill them, after what, according to the education inspector, the requirements are met without taking into account the fact that before that the candidate performed the duties without meeting the criteria or, that candidate's contract is prolonged for a limited period of time again not taking into consideration the fact that the candidate does not fulfill the requirements and the education inspector admits this and does not take any measures to prevent such employment, besides having the opportunity to do so according to the Laws on Education Inspection.

In procedures like these the Ombudsman indicates that the candidate being employed for urgent duties or for a limited time, should meet the established criteria according to the Law because during those three months or one year the candidate is a part of the teaching process and conducts the educational activities at schools.

There were complaints by teachers who are on the pay roll in the education system, and do not perform any duties. They expressed their dissatisfaction because the Ministry of Education and Science did not take any measures for their appointing besides the existence of available positions. The Ombudsman, upon definite cases, submitted information to the Minister of Education, requesting a solution for the status of these persons, but without any success because again, new persons were employed at those free positions.

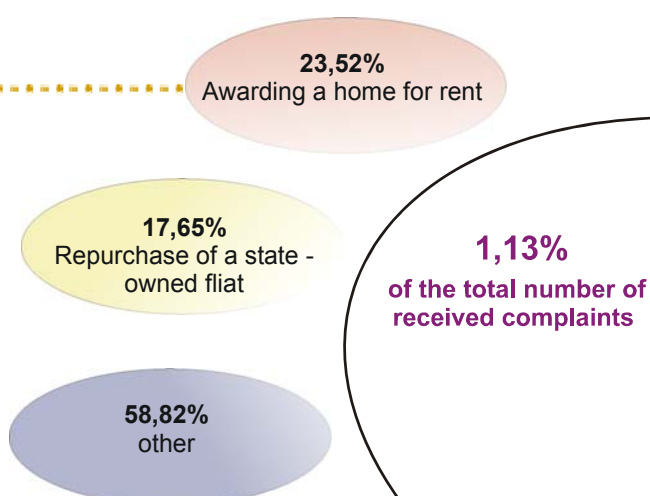
Several complaints contained dissatisfaction about the procedure of appointing and dismissal of elementary or high schools principals by the local self government mayors, who conducted the procedure without prior opinion received by from the school boards, and this kind of procedure is against the Law on Elementary Education or the Law on High Education.

From the above mentioned, there is a conclusion that in the area of labor relations the situation with realization of rights of the public administration employees or the ones employed at other bodies and organizations is without improvement and that the long lasting practice can not be easily abolished and that is a practice when the employers' actions are always correct without the existence of awareness that the employees have their rights as well and they should not be neglected, on the contrary, they should be realized in accordance with the legal provisions.

## Accommodation relations

The consistent realization of the housing right, which in the majority of international documents is treated as one of the fundamental human rights and the development of housing, according to the stipulated standards for quality life, represent an existential need of the citizens.

Being a country which has signed several international conventions which deal with the housing rights, the Republic of Macedonia is bound to take measures and activities in order to provide better living conditions for all its citizens, and those who are not able to solve the housing issue with personal financial means, meaning according to the market rules, should be provided with a solution under subvention conditions.



The Government of the Republic of Macedonia adopted a Housing Strategy for the period of 2007 to 2012, within the frames of which the state policy for improvement of housing, measures and activities which need to be taken for that purpose as well as the subjects involved in its creation and implementation were presented.

Among other measures for improvement of the housing issues, adopting a new law on housing was planned, in order to overcome certain problems in this area. However, more than a year has passed and the long-announced law, the Ombudsman gave suggestions and opinion about to the Ministry of Transport and

Communications, has not been adopted yet.

It is obvious that developing the projects for construction of apartments for people with low income did not solve the problem with lack of accommodation units for citizens who have not solved this issue, and especially for the users of social aid, who are the most endangered category of citizens and they still remain without a place to live in, which should be provided by the state.

In 2008 the number of complaints in the housing area submitted to the Ombudsman decreased, but it is not a result of the improvement of the situation in this area, it is more a result of the fact that the citizens are more and more convinced that the state, besides declarative statements, allocates little financial means for solving the problems with housing, and especially for the social aid users.

Like in the previous years, the complaints received last year by the citizens referring to the housing area, were about the slow, unprofessional and inefficient work of the Accommodation Issues Commission at the Government of the Republic of Macedonia, the Accommodation-Communal and Infrastructure Issues Department at the Ministry of Transport and Communications and the Public Enterprise for Managing Housing and Business Premises of the Republic of Macedonia.



The majority of complaints refer to the work of the Public Enterprise for Managing Housing and Business Premises of the Republic of Macedonia and its regional offices. The citizens most frequently asked for assistance in terms of corrections of the apartments' prices, liberation from paying interest for their debt on the basis of not paid rent and taking appropriate measures for dislocating the illegally moved persons from the public flats. Regarding the grounded complaints, the Ombudsman addressed corresponding requests, suggestions and implications to the

Public Enterprise, and it acted upon the majority of them, so the greatest number of cases was positively closed.

In the report year the Ombudsman received complaints by citizens asking for protection before the Accommodation Issues Commission at the Government of the Republic of Macedonia as a result of not taking actions upon requests for awarding a flat to rent for the flats the complainants had been using for years, and the legal basis for using has not been regulated for various reasons.

After submitting implications by the Ombudsman that the citizens have the legal right to be provided with a reply to their requests, regardless whether they are grounded or not, the Commission, without exception acted with delay and provided inappropriate replies that it would decide upon a certain request the following session. Not satisfied with this kind of cooperation, the Ombudsman informed the Government of the Republic of Macedonia on the problem and required taking measures for improvement of the Commission's work.

## Social security and Protection

The Republic of Macedonia, being a social state, is compelled to take care of the social protection and social security of its citizens, according to the principle of social righteousness.

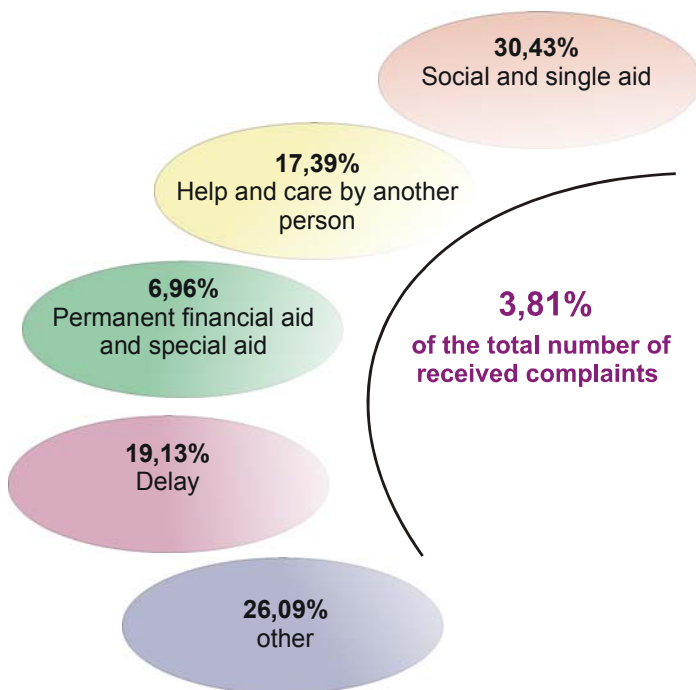
The social situation has an important role for the development of democracy and the society in general, as well as for the well being of every individual, and the level of realization of human rights depends on the social circumstances. This is because citizens who do not have the basic existential means do not have the conditions for realization of the fundamental human rights, neither.



Because of this, the Ombudsman pays special attention to the social protection of the citizens, and although the number of complaints in this report period did not increase, still it can not be said that the level of social protection provides appropriate social security and social righteousness for every citizen in a social risk.

Namely, because of the low amount of the social aid paid to the socially endangered citizens, minimal prerequisites for their existence can not be provided and the situation of these persons is worsening because of frequent disconnection from the electrical, heating or water supply networks due to unpaid bills, which contributes to endangering of their health conditions and disabling them to realize other rights.

As well as in the previous years, this report year the citizens' requests and complaints were rarely decided upon within the legally set time limits, meaning the unjustified long duration of the procedure continued, especially before the Social Work Centers, by which the socially endangered persons were brought in a even more difficult position. Besides the Ombudsman's implications, the situation with gathering the necessary documents ex officio did not improve, nor were the citizens advised on the conditions and possibilities to realize their rights, so often at the counters the citizens' requests were not accepted due to incomplete documents.



An especially worrying fact is that the procedure for realization of the right to permanent financial aid and the compensation for assistance and care by a third person were often delayed, although in the majority of cases it is about persons in a difficult health and social situation, and the social aid is the only income. In order to provide timely realization of their rights, the Ombudsman intervened before the competent commissions for evaluation of their working ability, after what the procedure was accelerated.



In order to hasten the procedures upon appeals, the Ombudsman continued its already established practice to conduct immediate insights, and at the same time it implied to the need of consistent application of the provisions from the Law on Common Administrative Procedure, which provide the second instance bodies a possibility to decide upon an appeal on their own, in case acting upon appeal against a decision which was once annulled and returned to a repeated consideration, and where a possibility occurred, the Ombudsman's indications were accepted.

The cooperation with the competent bodies and the Ombudsman in this area is on a satisfactory level, especially if taken into consideration that the majority of the Ombudsman's implications and recommendations were accepted and the citizens could realize their rights in the area of social security and protection.

## Pension and Disability Insurance

In order to realize the constitutional right to social security for the citizens, the realization of the right to pension and disability insurance has an important role, as a part of the social rights.

However, besides the fact that these rights are of existencial importance for the citizens and they should be realized in practice as soon and as efficient as possible, the citizens still face numerous problems. Like in the previous years, the citizens this report year mainly complained about violation of rights for not respecting the legal time



limits for realization of the rights to pension and disability insurance, and especially about the delay of the procedure following an appeal.

In the course of the report period, due to not functioning of the second instance Commission at the Government of the Republic of Macedonia for deciding upon cases in the area of pension and disability insurance, no actions were taken within several months, which disabled fast and efficient realization of rights.

The Ombudsman, on several occasions, indicated that by this the realization of the right to appeal was disabled, however, besides being informing by the competent commission on the elaborated draft-solutions waiting to be signed, until the end of the report year the problem remained open and unsolved. Because of that, the Ombudsman submitted special information to the Prime Minister of the Republic of Macedonia on the need for an urgent establishment of the commission.

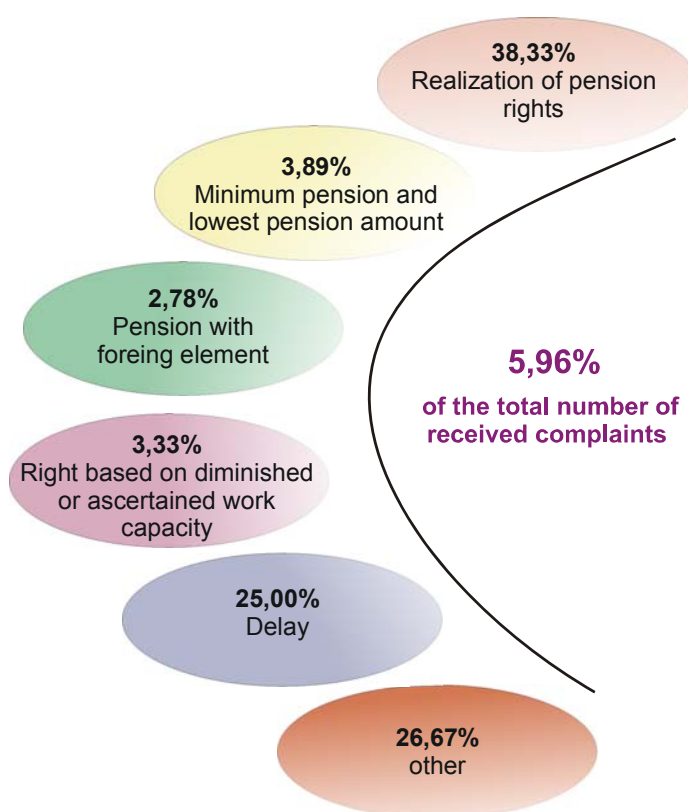
Besides delay of procedures, the citizens faced many other problems especially in the course of realization of age and disability pension.

The realization of age pension was most frequently disabled because of not registered or wrongly registered data in the record books, because of not paid contribution amounts on time or because of not supplying the Pension and Disability Insurance Fund with the necessary data by the employers.

Regarding the problem about paying the contribution fees, the Ombudsman insisted for the Pension and Disability Insurance Fund to take the legal measures in order to charge them so that realization of the insured persons' rights would be enabled, after which the Fund took the possible measures and the citizens realized their rights.

However, it can be confirmed that the number of complaints referring to violation of rights due to not paid contribution fees is decreasing, and by introducing the concept of gross salary, the Ombudsman expects this problem to be completely overcome.

Like in the previous years, this report year there were complaints about not registering the pension years of work in the records books at the Fund, although the contribution fees were paid additionally on the basis of a court decision. Having in mind the legislation and the already created attitude of the Fund on this issue, the Ombudsman considered this problem to be closed. However, in certain cases the Fund, besides the contribution fee being paid, did not register the pension years of work because of not paid interest amount, although the court decisions did not indicate it as an obligation. After the Ombudsman's interventions, the Fund registered the pension years of work and the citizens could realize their rights.



A significant number of complaints referred to realization of the right to disability pension, in which like in the previous years, the citizens expressed their disappointment from the decisions brought by the competent committees for evaluation of the working ability, and they also complained about delay of procedure for realization of this rights. In terms of the problems citizens have in the process of evaluation of their working ability and the frequent subjectivity of the competent committees, the Ombudsman, based on received complaints, informed the Fund and requested taking actions. Unfortunately, citizens are still facing problems in the course of realization of disability pension. Still, from the complaints received and the discussions with the citizens, the Ombudsman finds that the citizens request realization of a right to disability pension due to absence of other means for living, and not meeting the criteria for age pension.

Citizens expressed their disappointment regarding the legal obligation for controlling checkups after the realized right to disability pension, stating that it creates legal insecurity; however, taking into consideration the fact that this possibility is provided by the law, there was no grounds for the Ombudsman to intervene. The legislation precisely lists the diseases which are not a subject to controlling checkups and the decisions issued for the realized right to disability pension can not be changed, which was the Ombudsman's commitment as well in order to avoid placing citizens with a life-long loss of their working ability in an unfavorable situation.

By the changes of the Law on Pension and Disability Insurance, certain categories of rights were abolished, and previously they were realized based on a certain level of disability or remained working ability, but there is an opportunity, under circumstances stipulated by the Law for these insured persons to realize the right to disability pension. In practice, a part of these citizens realized this right with difficulties, most often due to not possessing the appropriate documents. However, following the Ombudsman's interventions, these problems were overcome and the citizens could realize their right to disability pension.

During this report year the number of citizens complaining about difficulties in





realization of the right to pension based on international and bilateral agreements decreased compared to the previous years; however, certain citizens still faced difficulties, especially during realization of the proportional part of the pension or during retirement procedures.

In order to overcome the problems and accelerate the procedures before the foreign competent bodies, the Ombudsman requested from the Fund to continuously address these bodies, and very often, within the frames of its possibilities the Ombudsman directly contacted the officials at the foreign bodies and contributed to acceleration of the procedure and realization of the citizen's right.

Typical for this report year is that the number of complaints referring to realization of the right to family pension is very small. The Ombudsman especially intervened for realization of this right for persons who were married for less than five years and their spouse passed away, following the



Decision by the Constitutional Court of the Republic of Macedonia which abolishes the legal provision stipulating restriction of this right and following the Ombudsman's interventions, the citizens realized their right to pension.

At the same time, the Ombudsman received complaints by retired persons or associations of retired persons who complained about problems with collecting and allocation of finance means for the Solidarity Fund, and a part of them complained about the legal solutions regulating this issue. However, during the period these provisions were in force, the Ombudsman had no basis to intervene, except in cases of inappropriate application of these provisions. During 2008, the provisions of the Law on Pension and Disability Insurance regulating the abovementioned issue were annulled by the Constitutional Court of the Republic of Macedonia, and by the latest changes of the Law on Pension and Disability Insurance, this issue is regulated in a different manner in a direction of the retired persons' and their associations' requests and proposals.

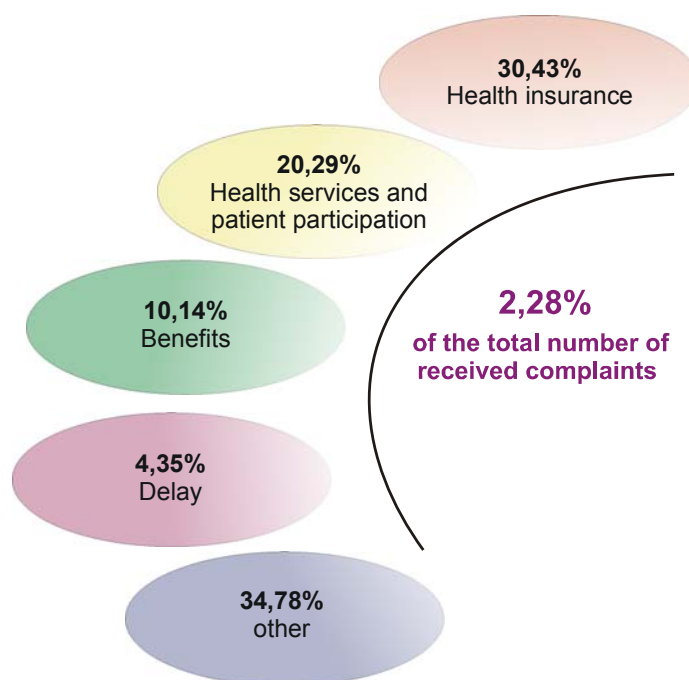
## Health Insurance and Protection

Every citizen of the Republic of Macedonia has the constitutional right to health protection, as well as a constitutional obligation to take care of his/her health and the health of the others. However, often due to the unfavorable socio-economic position, the citizens are not able to realize the right to health protection in an undisturbed manner, and very often the realization of this right is hindered due to inappropriate legislation or due to inappropriate application of the law, and quite often there are cases of disability to realize this right on time

as a result of unjustified delay of procedures by the competent bodies or because of delay of health interventions and placing the patients on the so called waiting list.

Thus, in the report year the citizens submitted complaints about delay of procedure before the Health Insurance Fund and the Ministry of Health, which does not only miss to decide on time and within the legally set time limits, but it also often acts against the legislation and restrains the citizens' rights.

A part of the complaints refer to the non-recognition of the contribution of means for a performed health service at health institutions the Fund does not have a contract with, with an explanation that there is no legal basis for the Fund to refund means for a health service in a private health institution it does not have a contract with. Regarding this right, the Ombudsman finds that for a part of these cases the application of the legal provisions which were not in force any more continued, because they were annulled by a Decision by the Constitutional Court of the Republic of Macedonia. After the Ombudsman's interventions, the majority of the citizens realized their right, but a part of them were forced to initiate a court procedure.



Citizens faced difficulties in the realization of rights to reimbursement of means in cases when they were forced to pay for the service completely or to spend private means in order to obtain a certain medicament which is on the so called positive list, although according to the legislation, it should be borne by the Fund. There were cases of citizens being forced to pay for hospital treatment or purchase the medicaments and medical materials on their own due to lack in the medical institutions, and after that they were to realize the right to reimbursement in long procedures.



During realization of the right to reimbursement, the citizens faced problems in terms of a difference between the price they pay and the reference price declared by the Health Insurance Fund. There were cases when the price of certain medicaments was significantly higher than the reference price, so the citizens, also without an obligation to pay a participation fee, still had to participate in purchasing the medicament with not a small amount of money. A

very unfavorable situation was created for persons who, due to the nature of their disease, every day had to take certain medicaments, but because of the need for additional payments for purchasing of those medicaments, very often they were forced to abandon the use of that medicament, although their life depended on that particular medicament. The Ombudsman found that this problem needs to be considered and within the frames of the laws and by-laws appropriate measures to be taken in order to secure the lowest possible financial participation of the patients for purchasing medicaments, especially when it is about medicaments certain categories of patients have to take regularly, and which are listed to be available without participation fee because of the seriousness of the disease. Regarding this issue, the Ombudsman submitted special information to the Ministry of Health and the Health Insurance Fund, and expects them to take appropriate measures.



During the report period complaints were received for protection of rights of persons affected by hemophilia, especially because of the need for creation of conditions for timely and appropriate treatment of every person affected by this disease. The Ombudsman indicated to the competent bodies that they should take all possible measures for intact health protection of this category of patients, and at the same time informed the Government of the Republic of Macedonia requesting to consider the problems of this category of patients and find adequate manners for

providing necessary funds for all the citizens affected by hemophilia, meaning to consider the request for all the affected citizens in the Republic of Macedonia, regardless of the fact whether they are insured or not, to be separated as a special group of patients and their treatment to be financed from the Budget of the Republic, so that no single affected person, due to not having financial means or lack of medicaments in the medical institutions, would be omitted or left untreated.

Apart from the previous report years, this year a small number of complaints were submitted referring to the realization of the right to treatment abroad. However, there is a case which should be mentioned at this point and that is the treatment of a child abroad, who even after the decision by the Administrative Court and the response by the Pediatric Surgery Clinic that it does not have a possibility to treat the child and after the repeated procedure besides the numerous interventions by the Ombudsman, no measures have been taken for appropriate medical intervention for the sick child, neither in the country nor abroad.

Typical cases the Ombudsman reacted upon were the ones referring to the protection of rights of the citizens infected by the Hepatitis C virus, because they complained that they did not have a possibility for timely diagnosing and treatment of the infected ones and that their condition often became worse because of the waiting list for treatment of all infected persons.

After the Ombudsman's reactions, appropriate measures were taken in order to overcome the



situation and to create conditions for diagnosis and treatment of people infected by the Hepatitis C virus.

The Ombudsman paid special attention to protection of rights of persons with mental disease from the point of view of the application of the legal provisions for hospital treatment and detaining persons with deteriorated mental health.

Namely, the Ombudsman initiated changes and amendments of article 59, paragraph 2 of the Law on Extrajudicial Procedure, because it found that by the listed article of the Law, the constitutional right to health protection and the constitutional obligation to take care of the personal health for the persons with mental disease are restricted, and they have legal



capacity and have the right to express their wish for stay, treatment and rehabilitation at an adequate medical institution independently.

According to the Ombudsman, the legally determined conditions for confirming the consent place the persons who seek treatment in medical institutions for mental health in an

unfavorable position, which is against the constitutional provisions for prohibition of discrimination, they are not equal before the law and it is against the Universal Declaration on Human Rights. On the other hand, considering the fact that according to the Constitution every citizen is guaranteed respect and protection of privacy of his/her personal and family life, dignity and reputation, by conditioning the citizen's consent for treatment to be confirmed by two witnesses who must not be his/her close relatives, the Ombudsman reacted that there is violation of the constitutional right to privacy and there is a restriction of the right for the person to be accepted for treatment at a psychiatric hospital, besides his/her freely expressed will.

Acting upon the recommendations and indications, the Government of the Republic of Macedonia informed the Ombudsman to have accepted the need and necessity for changes of the abovementioned legal provisions and that according to the Ministry of Justice and the Legislation Secretariat at the Government, while changing the Law on Extrajudicial Procedure, the Ombudsman's reactions would be considered.

In this report year, a typical case are several complaints by international organizations because of violation of rights for a major group of persons providing or using sexual activities detained in a police action, especially the right to privacy, because the information on their health conditions were revealed by the Police in the media.



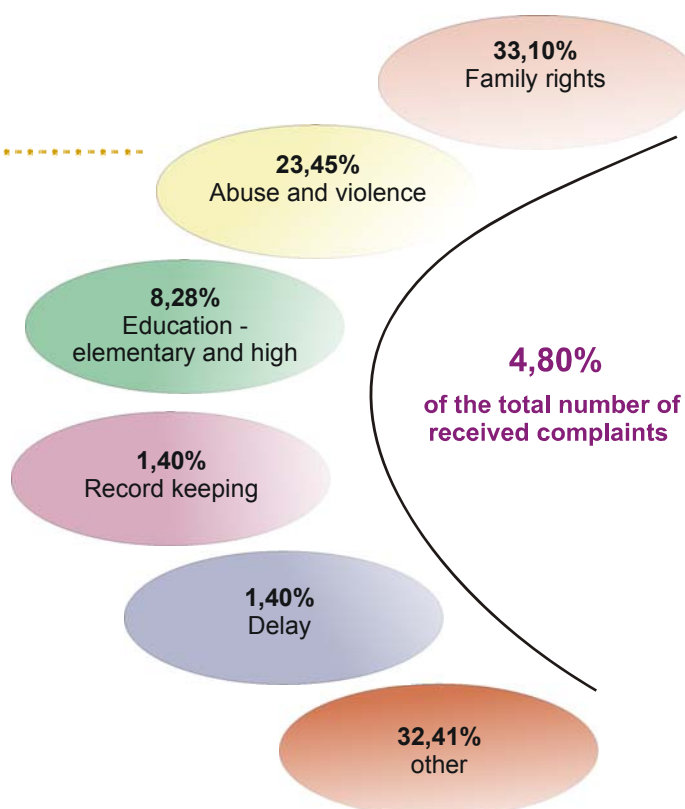
The Ombudsman found that by publishing the mentioned information, the right to privacy and keeping a medical secret on the health condition was violated, as well as the right to protection of personal information. In order to protect the rights of these persons, the Ombudsman submitted an implication to the competent bodies, but the procedure is still in progress, because no reply has been received upon the request, besides the interventions.

During the report year the competent bodies very rarely replied on time not only upon citizens' requests, but upon the Ombudsman's ones as well. Most often the replies were provided after the time limit and following several written interventions and direct insights, and the Ombudsman informed the Minister or the Fund on these issues, after what the procedure was accelerated.

## Children's rights

Realization and respect of the fundamental rights of the children and their values and dignity as human persons, contribute to the social progress of the state, which having signed the Convention on Protection of Children's Rights and other international acts referring to human freedoms and rights, is bound to take all possible measures for securing special care and protection of children by consistent respect of non-discrimination, the best interest of the children and their right to participation.

As a result of raising the awareness of all the subjects about the rights and the responsibilities of the children, as well as about the need for special care and protection, including appropriate legal protection, in the course of 2008 the number of complaints addressed the Ombudsman regarding the protection of children's rights significantly decreased.



However, there is still the worrying fact that the number of children who independently asked for assistance from the Ombudsman is small, as well as the fact that the children still have insufficient knowledge of their rights, and they are even less capable of recognizing violations of their rights and asking for protection by the competent institution which was revealed by the conducted survey by the Ombudsman, as well as by the visits and lectures at elementary and high schools during 2008. Referring to the

situation ascertained, along with proposals for overcoming the problems, the Ombudsman submitted special information to the Minister of Education and Science, and at the same time included further education activities for the children at schools about their rights and the possibilities for the protection of rights before this and other institutions in our further activities plan.

Like in the previous years, this report year the majority of complaints referred to realization of children's rights to maintain personal and immediate contact with the parent they do not live with, the complaints of this kind are mainly submitted by the parents. In terms of realization of this children's right in the course of taking activities by the social work centers, there are no significant changes; however, in certain cases instead of overcoming them, the problems became deeper and the children had bigger difficulties in the realization of this right.

In order to provide realization of the right of the child to maintain contact with the parent he/she does not live with, a frequent problem is the non-execution of decisions by the centers for the realization of that contact, and besides the Ombudsman's interventions and the information sent to the Minister of Labor and Social Policy, in certain cases it is still difficult to overcome this problem, which most of all has a negative influence on the regular psycho-physical development of children.



Regarding the realization of this right, the Ombudsman emphasizes that the centers, before issuing a decision on children and their parents, conduct monitoring and survey of performing parental duties and obligations very rarely, so they make decisions which are hard to be fulfilled in practice. At the same time, due to lack of efficient and practical mechanisms for executing decisions by the centers for maintaining personal contact of the child with the parent he/she does not live with, very often this right was hindered by one of the parents, and the centers restrained from taking more rigorous measures, explaining that their aim is to protect the children from further trauma.

Another important issue in terms of realization and respect of children's rights and interests, and especially in realization of their best interest is their participation in the decision making process about issues concerning them and their rights.

Often in practice there are cases when the child refuses to keep contact with the parent he/she does not live with, so the centers respecting the child's statements "give up" from the case and do not take other measures for realization of this right. We would like to emphasize that the child's opinion and attitude towards this issue is of great importance and the centers should always consider the child's opinion. However, rarely does the center investigate what are the reasons for the child's refusal to contact with the other parent – is it because of the bad and improper relationship of the parents to the child or is it a result of being instructed to say so and threatened by the parent the child lives with. Because of this, the professional teams at the centers should evaluate every statement given by the child and through performing monitoring over the parental right to estimate whether the child gave a particular statement because of abuse and pressure by one of the parents.

Following the Ombudsman's interventions and implications, the problems about realization of the child's rights to maintain regular personal contacts with the parent he/she does not live with were mainly overcome; however, often due to untimely or inappropriate reaction by the competent bodies, the problems which disable the realization of children's rights are difficult to overcome or they remain unsolved over a long period of time, which has a negative impact on the further psycho-physical development of the child.

Typical for the report year is the significant number of complaints about protection of children from violence, abuse or neglecting, whether it is about family abuse, abuse at school or outside the school. Because of existence of violence or neglecting of the children, the Ombudsman self-initiated a procedure in several cases.



In terms of family violence, during 2008 there were certain amendments of the legislation; however, the previously addressed proposals and recommendations by the Ombudsman were not implemented in these changes.

Because of that, special measures and special procedures for protection of children – victims of family violence have not been taken into consideration, as a result of which it can not be said that the situation with providing timely and efficient protection of the children from family abuse is improved. An especially worrying fact is the one that besides the legal responsibility of the centers for social work, they do not always, when they have information that a certain person suffered from family abuse, take

measures to protect the victim, but in practice they most often request for a formal application by the victim or formal evidence which the victims are not always capable of providing.

At the same time, children victims of family abuse are still separated from the family instead of eliminating the person who omitted violence and working with him/her in order to change his/her behavior, this due to the fact that there are still no special counseling centers for persons who commit family violence, although it is foreseen by the Law.

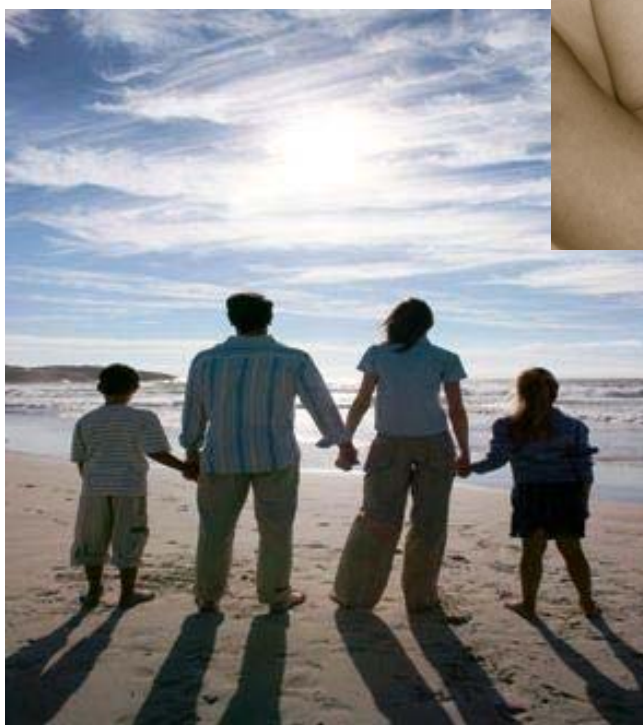
Several complaints were received this report year about protection of children from violence at schools and in certain cases, following the Ombudsman recommendation, disciplinary measures were taken towards the person who committed the violence. In certain cases, besides the Ombudsman's and the Public Educational Inspectorate's investigations, it was not possible to confirm the alleged violence and molestation of students, because of which the procedure was stopped, but what followed were recommendations to the schools' principles that it is necessary to respect the children's rights and to take care of the children's best interest.

During the report period, upon previous interventions by the Ombudsman, certain measures were taken in order to overcome the problems about including all children in the elementary education, meaning for the elementary education to become really free. The children – users of social aid were given free textbooks, and a legal provision was introduced

for securing free textbooks for all children, which is expected to lead to solving of this problem and no child should stay out of the educational system due to the family's difficult financial situation.

One of the problems a part of children face in the Republic of Macedonia is their not being registered in the birth record keeping books. From the analysis conducted, the Ombudsman found that there are still children who are not registered in the birth record keeping books and that no body or institution in the Republic of Macedonia has the records nor a survey has been conducted about how many and which children are not registered. Most frequently children who are not registered after their birth are the children members of the Roma community, and their non-registering or not applying for personal documents, according to the citizens, is because of the administrative procedures and the high expenses for them for obtaining citizenship or a personal document, as well as because of ignorance of their parents.

In order to overcome this problem, the Ombudsman submitted special information to the Government of the Republic of Macedonia in which, among other issues, recommended conducting a survey and analysis on the situation and establishing which and how many children are not registered, establishing the reasons why the children are not registered and taking



appropriate measures, and in case an obstacle for registration of children are the administrative procedures and the financial expenses, the procedure should be simplified and there should be a possibility for liberating the persons in difficult financial situation from all possible expenses. At the same time, the Ombudsman recommended finding adequate manners for a more frequent and continuous informing of the citizens about their responsibility to register a child's birth, and especially about the consequences, meaning the limited possibilities for realization of the

fundamental children's rights in case the child is not registered in the birth record keeping books, and more frequently taking the legal criminal measures against subjects who do not register the birth, although they have a legal obligation to do so.

A special problem in the protection of children is the growing problem of consuming alcohol and smoking, as well as drug abuse and use of energetic drinks.



In order to provide a more efficient protection of children from alcohol and cigarettes, following the Ombudsman's intervention, certain changes of the legislation were made and by their appropriate application, lowering of the level of consuming alcohol by children is expected. At the same time, regarding the tendency of increase of the number of drug addicts, and taking into consideration that their age level is lowering, meaning that more often drug addicts are children, the Ombudsman recommended introducing educational programs at schools for preventing and decreasing the level of drug addiction and addiction to other psychoactive substances and to introduce children, from the very early age, to the hazardous influence and the consequences of the addiction. It was also recommended to conduct a continuous education of the population and the medical workers about the contemporary trends in the medicine in the area of prevention from addictions and including the society for a more frequent and timely systematic checkups, in order to detect the addictions at an early stage.

However, besides these indications, children more often appear to be drug and other psychotropic substances addicts, because of which it is necessary to adopt a special strategy and to take special measures for treatment of children which will be different from the treatment of adults, and in the process of overcoming of this problems, all bodies and institutions which are authorized and obligated to take care of the children's rights from a health, social, educational and other aspects should be involved.

Based on the information that consuming energetic drinks is dangerous for the children's health and security, the Ombudsman, on a self initiative, instigated the issue of legal prohibition for selling and buying energetic drinks by children, and that initiative was accepted in the Parliament and it changed the legislation in direction of prohibiting sale and purchase of these drinks by persons younger than 18 years of age.

During 2008 the Ombudsman paid special attention to the rights of the children in the public kindergartens and conducted a survey to find out whether and to what extent physical and psychological molestation of children is present and what is the food like in the kindergartens. The survey was conducted by an anonymous questionnaire filled in by parents whose children go to kindergartens and 1865 parents were included. From the information gained, it was seen that in the kindergartens there is a small number of physical and mental molestation of children, however there is a



need for its complete extinction. Parents usually do not talk about the molestation to anybody, which leads to a conclusion that parents do not have sufficient knowledge of children's rights or they do not have the courage to ask for protection in case of violence of children's rights. We can express satisfaction with the fact that children in kindergartens do not complain about sexual abuse and molestation, although it can not be confirmed that it does not exist or it is because children do not have the courage and awareness to report it. Another positive fact is the answer that children are not under stress, which means that they feel their kindergarten to be a pleasant place to stay. At the same time, there is satisfying information that in case a child is under stress, the employees at the kindergarten work with the child in order to overcome the stress and adjust to the surrounding.

Regarding the food for the children at the kindergartens, the data received reveals that the majority of parents are satisfied with the food provided for the children not only regarding the quantity but also in terms of its quality. Still, parents are not regularly informed on the menu for the children in the kindergartens, although it is important for them to know this for the sake of protecting a child in case of a disease, preventive protection of their health, religious or other reasons when the child can or can not consume a certain type of food. However, the percentage of answers according to which the kindergartens respect and accept parents' requests for a different type of food for certain children is satisfying, although the number of cases when these requests are not respected is not small. Parents are mainly satisfied with the price they pay for the child's stay at the kindergarten, only a small number of parents declared that the price is not corresponding, meaning it is not into correlation with the offered quality or quantity of the food.

Special information on the ascertained conditions and the recommendations by the Ombudsman for further development of the work in the kindergartens was addressed to the Ministry of Labor and Social Policy.



## Education

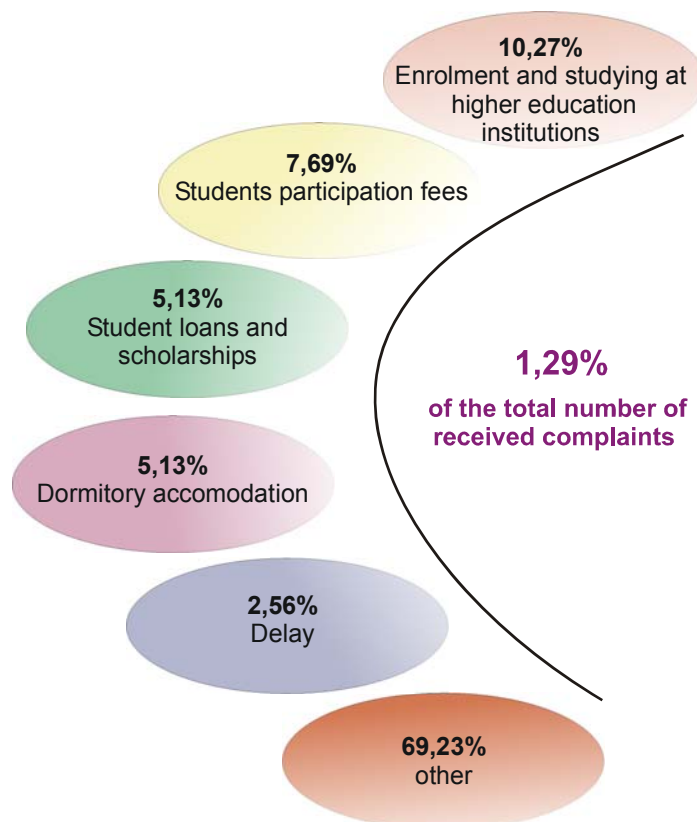
Education is important not only for the citizens as individuals, but also for the development of the society in general. Because of that, the right to education is constitutionally guaranteed and should be available for everybody under equal conditions.

The Ombudsman, providing protection of rights in the area of education, especially intervened for creation of conditions for including more citizens in the educational process and focusing of the education on the individual, his/her development and the development of his/her cultural identity within the frames of the multi-cultural society, as a part of the global development.

Although during 2008 the number of complaints in this area significantly decreased, still the cases the Ombudsman intervened about, imply to the need of taking measures for consistent and undisturbed realization of citizens' rights in the area of education.

By the reforms in the area of education, high education in the academic 2008/2009 became compulsory and free; still this right was not completely respected in certain cases. Thus, students at high schools were forced to pay participation fees at enrolment, because of which the Ombudsman, on its own initiative, intervened for the abolishment of participation fee for all the high school students. The intervention was accepted and all students were freed from the obligation to pay enrolment participation fee.

A part of the students could not enroll in the desired high school and attend classes in their mother tongue because of lack of space or personnel. Students from the Albanian community



faced this kind of a problem, and in certain municipalities the members of the Turkish community. Starting from the compulsory character of the high education and the right to attend classes in the mother tongue for the members of communities who live in the Republic of Macedonia, the Ombudsman intervened for every child to be enabled to enroll a high school he/she has the interest and talent for, as well as to be given an opportunity to attend classes in his/her mother tongue, under conditions stipulated in the Constitution and the legislation. Following the Ombudsman's interventions, this problem was solved by opening additional classes in certain high schools.



A number of complaints were from the students at higher classes at high schools complaining about the right to be freed from the paying transport fees; however, since according to the Law this right refers only to students enrolled at the academic 2008/2009, the Ombudsman did not have the possibility to react.

Some of the complaints still referred to the problems with the rights at higher education institutions because of not issuing certificates or diplomas for completed graduate studies on the basis of not paid obligations by the students towards the higher education institutions. After the Ombudsman's interventions, the students who completed their studies according to the studies program were awarded the certificates or the diplomas, and regarding the payment requirements it was acted in accordance with the contracts concluded or a court procedure was initiated.

Like in the previous years, there were complaints about liberation from paying participation fee for studying at higher education institutions according the to Law on Special Rights of Security Forces Members of the Republic of Macedonia and for the members of

their families, and when the legal requirements were met, following the Ombudsman's interventions, the students were liberated from paying the participation fee. However, regarding the requests for liberation of paying participation fee by the students at post graduate studies, according to the mentioned Law, although the Ombudsman submitted



a request to the Parliament of the Republic of Macedonia for an authentic interpretation of the provisions from the Law referring to the right to liberation of paying participation fee at enrolment at higher education institutions, no actions have been taken.

In the realization of the rights before the higher education institutions problems occurred for the students who graduated at Tetovo University and finished their post graduate studies and gained the right to the MA title. The problems occurred when the State University did not verify the diplomas and did not recognize the titles. After several interventions by the Ombudsman, the titles or the magistrate papers of the complainants were accepted and the problems were solved.

In 2008, there were once again problems in the realization of the right to pupils or students scholarships or credit lines. The Ombudsman intervened when found that the pupils', i.e. students' requests were rejected besides the fact that the requirements were met, and in the majority of cases where it was found that the requests were rejected without justification, the competent committee recognized the right to scholarship or a credit line.

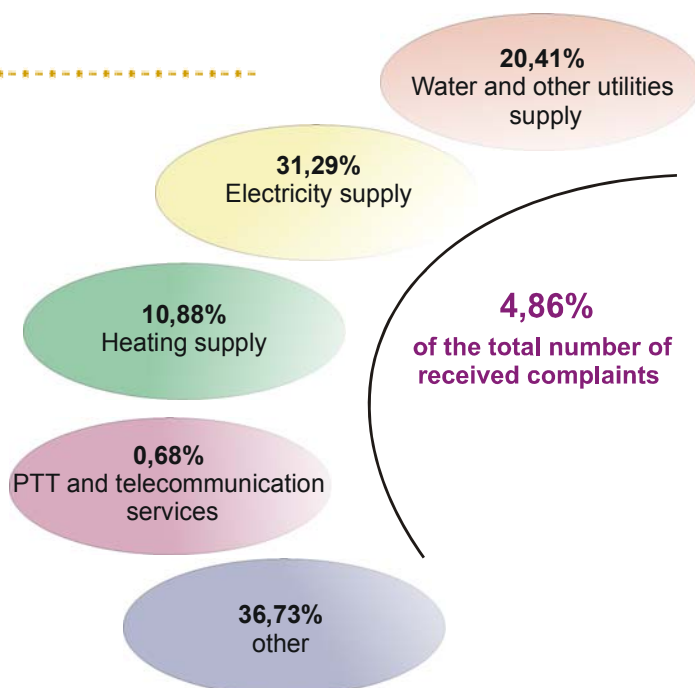
Although during securing protection of rights in the area of education the competent bodies generally acted upon the Ombudsman's interventions, still it was achieved after long and persistent interventions and requests by the Ombudsman. The cooperation between the Ombudsman and the Ministry of Education and Science continued to be especially problematic and the Ombudsman's actions were hindered. Several information were submitted to the Minister and the Government of the Republic of Macedonia on this issue and besides that, no actions have been taken yet for a part of requests and requirements by the Ombudsman.

## Consumers' rights

The consumers' rights of the citizens had a special place in the Ombudsman's functioning and reacting this report year, and not only did the number of complaints increase, but the Ombudsman self-initiated several procedures for protection of these rights.

Actually, the Ombudsman on the occasion of complaints received and on its own initiative, instigated several procedures for protection of rights for the service users of AD "EVN – Makedonija" because of the collective disconnection from electricity network for a big number of users, among which there were users who regularly pay their bills.

In that direction, the Ombudsman intervened as well because in certain cases the disconnections from the electricity network led to not functioning of the water supply system because of which the citizens, including the ones who regularly pay their electricity and water



bills, were left without electricity and water supply, which did not only violate their rights as consumers who regularly pay their bills, and they do not receive the appropriate service or good for that, but also because by disconnecting the electricity and water supply created material damage and people's health, especially children's health was endangered.

The Ombudsman submitted several recommendations to "EVN", stating that by the collective disconnections of the electricity the consumers' rights of the people who regularly pay their bills are violated, emphasizing that there is not an intention by the Ombudsman to protect the persons who do not pay their bills regularly. Besides the Ombudsman's interventions, EVN in accordance with the Network



Rules for Distribution of Electricity, continued disconnecting big groups of consumers from certain areas and regions, with an explanation that disconnecting a single connection was not possible because of endangered physical security of the life and property of the persons authorized by EVN, when the body competent for protection of public peace and order, based on a previous written request, did not provide security for the life and property of the authorized persons.

Taking into consideration that the Ombudsman's implications and recommendations were not accepted by AD "EVN" which continued with the collective disconnections of all regions and villages, including schools which violated the right of the children to regular and safe education, the Ombudsman informed the Government of the Republic of Macedonia, requesting to seriously consider the problem and take appropriate measures for protection of citizens' rights.



In order to provide realization and protection of rights of a bigger group of consumers, the Ombudsman intervened regarding charging of bills towards public enterprises through specially authorized trade companies. The Ombudsman found that in order to charge the debt towards public enterprises, even in case of a court procedure, certain trade companies, authorized by the public enterprises by mutually signed contracts, sent written requests and warnings to the citizens, and along with the main debt plus the interest, some of them requested paying of administrative expenses which meant introducing additional expenses for the citizens and performing enforced payment of the debt. At the same time, the mentioned trade companies in their written

requests to the citizens informed them that in case the debt was not paid, they could be visited in their homes or they would intervene over the home phone about the debt.

The Ombudsman found that this manner of acting violates the constitutional right to security and secrecy of personal data of the citizens and the constitutional right for respect and protection of the citizens' privacy and their personal and family life, dignity and reputation, as well as inviolability of domicile, apart from cases determined by the Constitution.

In that direction the Ombudsman indicated that the legal subjects, who in accordance with the activity they perform, gather and have at their disposal personal data of the citizens, do not have any legal right to provide the data to other subjects without prior informing and consent obtained from the subject the personal data refer to and that in this particular case, it was acted against the constitutional guarantee for security and secrecy of personal data.



This kind of attitude was expressed by the Consumers' Council and the Ministry of Economy; however, because of incompetence, no measures were taken towards the mentioned trade companies, because of which the Ombudsman informed the Government of the Republic of Macedonia and requested a wider consideration of this issue and taking appropriate measures for providing conditions for respect and protection of citizens' rights and preventing possibilities for violation of their rights by any subjects in the state, however, this practice continued.

The Ombudsman received a big number of complaints regarding the higher prices and the methodology for calculation of the price for heating because of the enormous, according to the citizens, unjustified increase of the price, unequal increase for all of the consumers, unrealistic calculation for the price of the heating energy consumed, because of the obligation for all residents of a building to pay more for the heating because of illegal



installation of additional heating devices by a part of the residents, as well as because of the irregular interpreting of the heating energy consumed from the mutual measuring devices in the buildings without presence of a representative of the building board. Regarding the increase of the price and the new methodology of calculation of the price for the heating, the Ombudsman indicated that it was not clear on the basis of which criteria and parameters the price for every consumer was determined, taking into consideration that no measuring devices for a separate consumption of heating energy were installed, that by the different increase of the price inequality for the consumers is created as well as that it was necessary to consider whether the increase of the price was realistic, having in mind the decrease of the oil price on the world market. Regarding the Ombudsman's comment that a situation of inequality was created for the consumers, because the increased price was not to the same extent for all of the

consumers, an explanation was received saying that the calculation of the price for every user was done based on installed measuring devices in every heating station and that the advanced bills were a result of the energy consumed at every measuring point, and the differences occurred from the different consumption of heating energy at every measuring point. Because of that, in the objects which required higher consumption of heating energy the residents paid higher bills and the increase of the price was higher, and in the objects which required lower consumption, the increase of the price was smaller than even 60%, and at certain objects there was no increase at all.

Considering the great number of problems the citizens faced during calculation of the price for consumed heating energy, the Ombudsman informed the Government and requested, within the frames of its competences, to take measures for protection of the citizens' rights as consumers, and to pay special attention to eliminating the unequal position of the citizens. However, in the following period, especially during calculation of price at the end of the year, the problems became even worse, unreal and wrong bills appeared and different price for the same surface heated appeared even in the same buildings with only one measuring device, and certain citizens received very high bills although the determined temperature was not provided in the objects. Because of that the Ombudsman again intervened to the competent bodies, requesting for all the mistakes and omissions to be eliminated and protection of citizens' legal rights to be provided, and it also requested from the Regulatory Committee for Energy to consider the possibility for revising the acts regulating the manner of creating the price and calculation of the price for heating energy consumed.

Like in the previous years, this year the citizens complained about violation and disrespect of rights by the public communal enterprises because of high and unrealistic bills for consumed water or for not regular reading of the measuring devices and charging the citizens with a flat rate. At the same time the request for enforced payment of obsolete bills continued, without initiating appropriate procedures for enforced payment, but through disconnecting the citizens from the system only because for some old bill which became obsolete no procedure was initiated on time, although the other bills were regularly paid. In all the cases of unrealistic charging of citizens or unconscious disconnection from the water system, the Ombudsman's interventions were respected and the problems were solved.

Regarding the complaints about phone bills, like in the previous years the citizens complained most often about high bills or they expressed their disappointment from the work of certain operators, especially mobile operators. In the majority of cases the Ombudsman requested from the Electronic Communications Agency to reconsider the citizens' complaints, after what some of the citizens could realize their right. Regarding the verification of the accuracy of the bills, the problem with not using appropriate and real verification with technical and other properties for establishing a possible abuse of the phone





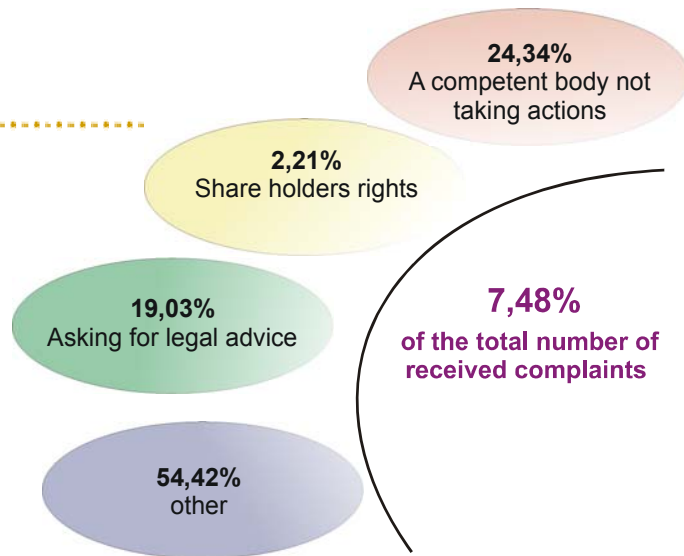
numbers of the consumers by third parties remained, so the objections of the citizens in this segment were most frequently rejected.

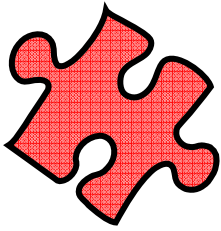
Taking into consideration all of the facts mentioned, it can be concluded that the citizens more and more face problems in the realization of their consumers' rights, although realization, respect and protection of these rights is an important segment in the social and democratic development of every country and is of crucial importance for the realization of fundamental human rights. Hence, special attention needs to be paid to these rights, especially because of the fact that in a situation of a low standard of living and monopolistic behavior by service and products providers, the consumers' rights are very frequently violated.

### Other rights

The complaints submitted by the citizens regarding other rights in this report year as well were outside the scope of work of the Ombudsman institution.

Regarding these complaints, the Ombudsman in the majority of cases advised the citizens on the manner they could seek protection and the body they could address.





## What we found and our further activities

### What the Ombudsman found

In this report year as well, the number of complaints remained on the level from the previous year which implies to the fact that the citizens continuously face difficulties in the realization of their rights; however it indicates that they have confidence in the Ombudsman institution.

The Ombudsman's activities revealed that:

- The cooperation is not on the satisfactory level yet. It can be confirmed by the occurrence of a formal rather than crucial cooperation which, to a certain extent, hinders the work of the Ombudsman.
- The public administration remains unreformed, insufficiently functional and unavailable for the citizens.
- The Law on Discrimination Protection has not been adopted yet and the process of adequate and equitable representation of communities' members remains to be conducted with a slow pace, especially in the public enterprises.
- During deprivation of citizens from freedom and especially during special police forces members' activities violation of rights occurs.
- Cooperation with the Border Issues and Migration Department at the Ministry of Interior lacks, and the procedures for obtaining biometric documents (passports, ID cards and driving licenses), citizenship dismissal or double citizenship take long.
- Citizens still face difficulties in the realization of their rights through long lasting judicial procedures before every court instances.
- Prisons and correctional centers are continuously overcrowded and offer inappropriate accommodation conditions, and the treatment of the convicted persons does not correspond to the principles of human, professional and consistent respect of the human dignity.
- There is a lack of organized training for the institutions' employees, especially for the newly employed ones, which creates an atmosphere of uncertainty in the course of performing duties and the successful conduct of the treatment is hindered, although it is one of the fundamental aspects of the resocialization process for the convicted persons.
- Regarding the realization of rights in the area of legal-property issues, the cadastre records, privatization of construction land, expropriation and denationalization, citizens face long procedures, which violates their rights.
- Still there is not sufficient personnel at the execution services at the Urban Planning Departments at the self government units.

- The insufficient environmental awareness of the citizens is still present, as well as of the employees in charge of applying the laws in the area of environment.
- During realization of rights to working relation, citizens face unconscious and irresponsible behavior by the employers, as well as absence of application of legal provisions regulating these issues.
- The funds allocated for financing the solution of the accommodation issues for the citizens are minimal, as well as for overcoming the problems referring to housing, especially for the socially underprivileged persons.
- Due to untimely and illegal decisions by the competent bodies, there is still no complete realization of the constitutional principle of social security and equality for every citizen who has been at a social risk.
- The realization of rights to health protection is hindered due to untimely acting on behalf of the competent bodies, as well as due to the difficult socio-economic situation of the citizens.
- By several months of not functioning of the second instance Commission for deciding upon appeals in the area of pension and disability insurance, the principle of fast and efficient deciding is violated and the functioning of the legal state is prevented.
- Students, especially members of the Roma community, still face problems with the realization of the right to compulsory and free high education and the right to education in the mother tongue, especially due to lack of space and personnel.
- The consumers' rights are violated and the realization of a part of the fundamental human rights is disabled by the more frequent collective disconnections of consumers from the electricity or water networks, regardless whether the bills are paid regularly or not.
- Violation of children's right persists besides taking normative and practical measures for protection of children's rights.

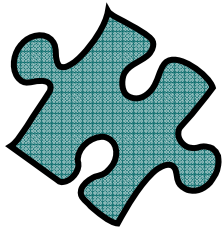
## Further activities

The Ombudsman's recommendations are the following:

- Efficient, crucial and quality cooperation with the bodies the Ombudsman competently acts towards and consistent respect of the requests and interventions addressed.
- A serious approach towards the reform of the public administration.
- A realistic approach and respect of the non-discrimination and adequate and equitable representation principles, intensifying the activities regarding adequate and equitable representation of communities' members and adopting a law on discrimination protection.
- Creation of realistic conditions for conducting the regulations and the Strategy for a consistent realizations of the rights of Roma population.
- Continuation of the process for ongoing education of the police officials for providing quality, knowledge and skills for respecting human rights and freedoms.
- Restraining from activities opposite to the principle of presumption of innocence.
- Adequate and legal keeping of police books and improvement of the material conditions in the rooms for detaining persons at police stations.

- The Internal Control and Professional Standards Department should investigate the allegations for abuse of or exceeded police authorizations completely, objectively and should initiate procedures in accordance with the level of responsibility of the police officers.
- Taking continuous measures for improving the servicing everyday needs of the citizens regarding their civil status and the rights deriving from it (timely issuing of personal documents, certificates and letters of confirmation from the official records).
- Judicial and prosecution officials should respect the principle of fair and judgment in a reasonable time limit in the course of their work and they should be immune to influences.
- Following and practical application of the practice of the European Court of Human Rights in Strasbourg
- Appropriate application of the legal provision and international standards when acting towards convicted and detained persons (including juveniles), improvement of the stay conditions and accommodation capacities at prisons, their further personnel equipping with a compulsory professional training and undisturbed realization of guaranteed rights of the convicted and detained persons.
- Solving the spatial problem of the correctional center in Tetovo, providing educational function during serving the sentence and creation of conditions for resocialization of juvenile punitive offense perpetrators.
- Securing equal treatment of the citizens in property-legal matters, meaning increasing the efficiency, avoiding subjectivity during conducting administrative procedure and respecting the principle of dealing with cases according to the order of their receiving.
- When preparing and adopting urban plans, the local self government units should take into consideration the citizens' needs, and according to them they should provide rational use of the space and conditions for human life and work for the citizens.
- Increase of the preventive activity of the inspection departments in order to decrease the illegal construction activities.
- Competent bodies should adequately respect and implement the legislation both in terms of time limits and in terms of legality.
- Continuous monitoring and measuring of the emissions of hazardous material in the air in the major industrial capacities and taking measures against the polluters.
- Competent bodies at local level should take special care during control of communal and medical waste management.
- Persistent realization of rights to working relation and application of legal provisions in employment procedures and appointing, and the employers should not abuse the institute termination of working relation without concrete reasons.
- Adopting a new law on housing for objectifying the prerequisites and criteria for awarding flats owned by the state for rent to socially underprivileged persons, without settled accommodation issue.
- Conducting efficient procedures and persistent application of the legislation for realization of the constitutional principle for social security and fairness.
- Creation of normative and practical conditions for undisturbed and timely realization of the constitutional right to health protection and the constitutional obligation of the citizens to take care of their own health.

- Securing conditions and possibilities for undisturbed realization of the right to free elementary and high education for every child and realization of the right to education in the mother tongue.
- Taking measures for protection of consumers' rights who regularly settle their obligation towards enterprises providing services and goods and not abusing the monopolistic position of the public enterprises for imposing a situation which violates fundamental citizens' rights.
- A greater activity and self-imitativeness on behalf of all competent bodies for protection of children's rights for their normal psycho-physical development.



## In 2009

The Ombudsman institution will continue monitoring and investigating separate cases and general conditions regarding realization and protection of human rights and freedoms. At the same time, it will monitor the realization of the principles of non discrimination and adequate and equitable representation of the communities' members.

The Work Program of the Ombudsman for 2009, besides working upon cases, determines a number of projects in terms of ascertaining the conditions in various areas in order to prepare special information and reports on the situation found and measures recommended.

Particular aspects which the Ombudsman will focus on are: penitentiary-correctional centers, police activities, judiciary, urban planning, construction and the environment. Further on, social security and protection, pension and disability insurance, health insurance and protection, education, consumers' rights and especially children's rights and the rights of other vulnerable groups.

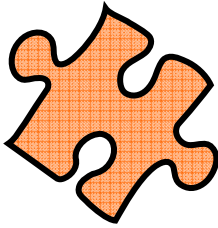
Taking into consideration that the Ombudsman, by ratifying the Optional protocol towards the Convention against Torture was appointed to be a national mechanism for prevention and protection from torture and other kinds of cruel, inhuman and humiliating actions or punishing, will propose changes and amendments of the Law on the Ombudsman in order for the new competences to be implemented and will submit them to the competent proposing party – the Government of the Republic of Macedonia.

Additional changes and amendments will be proposed as well, in order to strengthen the independence and competence of this institution.

In direction of the Ombudsman's new role in the process of prevention and protection from torture, activities will be taken for informing the citizens and the public administration on the new competences of the Ombudsman, supported by the OSCE Mission and the Swedish International Development Agency – SIDA.

Various meeting on local level will be organized as well in 2009, for strengthening the dialogue between the local authorities and the Ombudsman, the topic of which will be the level of mutual cooperation and the possibilities for its improvement.

Trainings for building capacities of the institution will continue in 2009. The international cooperation with the Ombudsmen institutions in the countries in the region will not be neglected, as well as with the European countries and wider, while the exchange of experience will be realized through study visits to other Ombudsman institutions.



## From the practice

### NP No. 645/08

A citizen from Tetovo submitted a complaint in which she stated that in 2005 she submitted an application for admission in the citizenship of Republic of Macedonia. The procedure was postponed with a rationale that she did not master the skills of the Macedonian language, although she had completed the final exam in the high school in Tetovo where she was born.

Upon the Ombudsman's intervention, the Language Commission at the Government of Republic of Macedonia determined that the complainant fulfilled the condition for Macedonian language knowledge, after which the body for citizenships enacted a decision for her admission in the citizenship of the Republic of Macedonia.

### NP No. 1462/08

Upon a written act by the Regional Office in Kumanovo to the Internal Affairs Sector for issuance of an ID card within 15 days, in accordance with the Law on ID card, a citizen from the village of Sopot was issued an ID card with residence in this village for the first time.

### NP No.4/08

A citizen from Stip requested intervention from the Ombudsman in front of the Public Enterprise for Managing Housing and Business Premises of RM - Regional Office in Stip - for wrongly accounted interest on due payments for tenancy in the past several years. In the procedure for buying of an apartment, in 2007 the PE charged the complainant with funds payable on interest for due payments, on which the complainant pleaded on statutory limitations

and requested preparation of a new interest list for payment.

Having in mind that the complainant has not received an answer, the Ombudsman based on the insight in the documentation of the case, ascertained that the statutory limitations on the claims for due payments were correct and requested a new interest list to be prepared in due time.

The Public Enterprise informed the Ombudsman that as a result of the intervention, and in accordance with the provisions of the Law on Obligations, a new interest list was prepared, so the complainant received an opportunity to continue with the procedure for buying of the apartment.

### NP No. 1549/08

A citizen from Veles requested an intervention before the Public Enterprise for Managing Housing and Business Premises - Regional Office Veles for unjustified delay in the procedure of handover of the assigned apartment for rent.

Namely, the complainant requested execution of provisions from the concluded contract for rent of an apartment, i.e. handover in actual possession of the apartment assigned by the Commission for Residential Issues at the Government of RM, and in which unlawfully another person had moved in.

The Public Enterprise for Managing Housing and Business Premises - Regional Office Veles started, with a charge, a procedure for forceful eviction of the unlawful resident on the apartment, upon which the basic Court Veles reached a valid decision and prescribed forceful eviction.

Having in mind that the procedure for eviction was not executed in a longer period of time, the Ombudsman addressed the Basic

Court in Veles which informed that the eviction was scheduled on several occasions by the court but postponed, upon requests from the Public Enterprise.

Upon request of the Ombudsman for the Public Enterprise to undertake all necessary measures for quicker execution of the procedure for forceful eviction without unjustified delays, the Public Enterprise informed that the apartment in question was evicted of the unlawful resident, after which the apartment was handed over to the complainant.

#### NP No.2995/07

A citizen from Veles requested intervention for not taking any action by the Basic Court in Skopje upon the request for return of dispossessed passport by the Sector of Internal Affairs Veles.

Noting that the passport was temporarily dispossessed due to presence of requirements in the course of a criminal proceeding that had been duly completed, the Ombudsman suggested the Basic Court Skopje 1- Skopje to undertake actions to return the passport due to non existence of reasons for further dispossession.

Upon the suggestion from the Ombudsman, the complainant received the dispossessed passport back.

#### NP No.967/08

M.R. from Bitola requested intervention due to unnecessary delay of an inheritance procedure before the Basic Court in Bitola.

Since in the course of the procedure it was ascertained that the complainant, using regular and irregular legal means, succeeded to effect repeated deliberations of the Basic Court, and the deciding judge did not undertake actions for more than a year, upon the request of the Ombudsman the Judicial Council of RM took actions within its jurisdiction, as a results of which the first instance court continued the procedure.

#### NP No. 1569/08

A complainant requested protection of legal rights violated by police officers at the Police Station Aerodrom by exceeding official authorities.

Since violation of rights by unnecessary use of force was ascertained, under the suspicion of torture, the Ombudsman submitted a request to the Basic Public Prosecutor's Office for initiation of a procedure for determination of criminal responsibility.

The Public Prosecutor informed the Ombudsman that the request was accepted and that the police officers were criminally charged in front of the competent court.

#### NP No. 175/08

The Minister of Finance, through the commission for denationalization with residence in the municipality of Gostivar brought a decision that in the legally determined limit the parties to the procedure appealed to the second instance administrative body – the Commission for decision in administrative procedure in second instance at the Government of RM.

Acting upon the complaint, the Ombudsman found that the constitutional and legal rights of the citizen were violated, for which it indicated to the commission in question to decide upon the case with priority as the time limit for deciding upon appeal was not respected, that in sense of article 247 of the Law on Administrative Procedure is 2 months from the day of the appeal submission; as well as the principle of urgency of the procedure according to the provision of the Law on Denationalization.

After the additional interventions made, the implication was accepted.

#### NP No. 323/08

The citizen L.T. from Skopje requested actions before the Sector for Surveying and Cadastre at the State Bureau for Geodesy for violation of the constitutionally guaranteed right to property having in mind the fact that for a longer period of time no actions were taken upon his request for execution of the contract for reciprocal exchange of land.

The Ombudsman determined that the mode of execution, i.e. non execution is in contradiction with the provisions of the Law on Administrative Procedure and the relevant provisions regulating the area of surveying, cadastre and enlistment of rights of property.

Namely, the inobservance of the proscribed time limit for deciding, in accordance with the provisions of the Law on Administrative Procedure, set at two months counting from the day of the duly submitted request, cannot be



disputed having in mind the period of seven months from the day of the submission of the request in question.

On the other hand, it was undisputed that the right of property on the property in question derives from the content of the respective act – Contract for reciprocal exchange of property that in accordance with the material provisions from the area of surveying, cadastre and enlistment of the rights of property is a legal base for changes in the cadastre of property.

The Ombudsman intervened to the respective body with a recommendation to act and reach a decision that would respect the request of the complainant, but the body in question did not act in accordance with the recommendation as the case was solved and the request denied for having no grounds.

#### **NP No. 1542/08**

A convicted person from the Penitentiary-correctional Center Idrizovo submitted a complaint noting that due to health problems the prison doctor gave an opinion for further examinations at the Skopje Clinic; however even after a longer period of time it did not taken place.

After determination of the situation, the Ombudsman recommended for the convicted person to be referred to the Institute for Patho-Physiology.

The recommendation was accepted and the convicted person was allowed the necessary diagnostic examinations.

#### **NP No. 1688/08**

A complaint was submitted by a convicted person from the Penitentiary-correctional Center Idrizovo that the nourishment received is not according to his health conditions as he was suffering form diabetes.

After the conversation with the health workers in the Center, as well as the insight of the medical documentation of the convicted persons, the Ombudsman recommended consequent application of the provisions of the Law on Execution of Sanctions in relation to the nourishment and health protection of the convicted persons.

The recommendation was accepted and the convicted person started receiving nourishment according to his condition.

#### **NP No.379/08**

Citizen requested protection of rights in the procedure obtaining decision for location conditions in the Municipality of Kisela Voda.

Since from the submitted documentation it was determined that the rights of the complainant are harmed, the Ombudsman has sent a recommendation to the Ministry of Transport and Communications supporting the appealing allegations.

The Minister for Transport and Communications accepted the appeal and the recommendation of the Ombudsman and annulled the first instance decision; while after the submitted recommendation to the Mayor of Municipality of Kisela Voda, the request of the complainant has been accepted and a decision for location conditions has been obtained.

#### **NP No.937/08**

V.K. from Stip requested from the Ombudsman to intervene before the competent construction inspector in the Municipality of Stip upon an application against unlawful construction of an object in the neighborhood.

Acting upon the complaint, the Ombudsman turned to the mayor and to the competent construction inspector with a request to perform an inspection, and depending on the determined situation to take appropriate legal actions.

From the received information, the Ombudsman determined that the inspection body acted upon the request and reached a decision and a conclusion for execution by which the unlawful constructor shall be instructed to remove the construction and passed the acts to the execution services.

#### **NP No. 2465/08**

A single mother from Skopje submitted a complaint for determination of the right for financial compensation of salary for shortened working hours due to care of a child with special needs. The inter-municipal center for social affairs, despite the fact the second instance body had accepted the appeal, annulled the first instance decision and repeatedly brought a decision by which it did not recognize the right to the complainant despite the realized legal prerequisites. The center did not recognize the right because the child was taken care of by a Day-Care center for persons with special needs.

Noting the fact the right of the complainant was being violated, the Ombudsman turned to the Ministry for Labor and Social Affairs and implied for a determination of the factual conditions and application of article 21 of the Law on changes and amendments of the Law on Administrative Procedure, by which the second instance body can decide in merits, if it decides upon an appeal against a decision that has already been annulled and returned for repeated consideration.

The Ministry accepted the implications of the Ombudsman and brought a decision by which it recognized the right to the complainant to financial compensation of salary due to shortened working hours for care of a disabled child.

#### NP No.719/08

A Citizen from Prilep submitted a complaint for violation of rights by not grounded refusal of the submitted application for determination of the right to a financial compensation due to diminished working capabilities, for which he was forced to file an administrative proceeding before the administrative court of RM.

The Ombudsman implied to the competent body to undertake appropriate steps in order to reach a lawful decision, i.e. not to wait for the outcome of the administrative proceeding having in mind that the citizen had a diagnosis from the respective commission that he had diminished working capabilities.

After several interventions of the Ombudsman, the complainant realized the right to a financial compensation due to diminished working capabilities, i.e. realized the right to a disability pension having in mind that in the interim the regulatory framework has changed.

#### NP No.1222/08

D.N. from Skopje submitted a complaint because the Fond for Pension and Disability Insurance refused the request for determination of the right of a family pension on the basis of a deceased spouse with whom she was married for less than 5 years since the day of his death.

In the procedure, the complainant was refused her appeal as not grounded and lost the administrative case having in mind that at that time, the valid regulatory framework had conditioned the right to a family pension with at least five years matrimony before the death of

the insurer. By a decision of the Constitutional Court, these legal provisions were cancelled; however the complainant was been able to realize its right.

Due to the above mentioned, the Ombudsman implied to the competent bodies, after which the competent bodies reached a decision by which the right to a family pension was realized.

#### NP No. 531/08

The complainant, serving a prison sentence in the Penitentiary-correctional Center Idrizovo submitted a complaint to the Ombudsman for realization of personal contacts with the child put in and taken care of by a public institution. For determination of the rights to personal relations and direct contacts between the child and the mother, the Ombudsman took several actions, noting above all the best interest of the child and the guaranteed rights with the Convention on Children's Rights and the Law on Family and in continuity followed the situation of realization of the rights of personal contacts between the mother and the child.

The implications and the interventions of the Ombudsman were accepted, and the professionals from the competent bodies assessed that the meetings of the mother with the child had positive effects, so the contacts between the child and the mother were held whenever possible and when in the interest of the child.

Besides the creation of conditions for realization of rights for the child to maintain personal contacts with each other, upon the intervention of the Ombudsman, measures were taken to overcome the health problems the child had, as well as problems with the relation towards other children.

#### NP No. 1102/08

Acting upon a reported case of sexual abuse of a pupil by a teacher in an elementary school, the Ombudsman determined that the case was not about sexual abuse but a case of inappropriate behavior by the teacher towards the pupil but towards other children in the school as well.

Because of this, although the pupil's parents deemed unnecessary to start a proceeding against the teacher, the Ombudsman assessed that any inappropriate behavior of teachers should be prevented, hence requested

measures for responsibility towards the teacher to be taken in order to prevent future unprofessional relation towards children.

Acting upon the implications of the Ombudsman, the teacher was given appropriate disciplinary measure.

#### NP No.2422/08

A citizen from Skopje submitted a complaint due to the fact that despite the completed studies and the defended graduation paper, he was not issued with a certificate and a diploma for completed studies, only because due to inappropriate records and archive keeping, his personal file lacked several applications for passed exams and record sheets for grades.

The Ombudsman implied to the Faculty, emphasizing that in accordance with the Law on High Education, the studies being finished by passing of all the exams, graduation paper or a final exam according to the study program and the students completing all duties according to the study program, based on the records kept, should be issued a certificate and a diploma. It was also implied that the complainant was unduly obliged with submission of applications for examinations for which he had already passed and received a grade, because it was not the student's fault the Faculty did not maintain proper archive and that there were no legal grounds for the issuance of the certificate and the diploma to be conditioned due to mistakes in the departments of the Faculty.

The Faculty accepted the implication of the Ombudsman and undertook measures to overcome the problem followed by issuance of the certificate to the student.

#### NP No. 862/08

Through the Helsinki Committee for Human Rights, the Association of Health Education, Prevention and Better Treatment "HEPTA" submitted a complaint with a request for intervention for protection of rights of persons infected with the virus Hepatitis C, for not having conditions for timely diagnosis and treatment of the infected and due to the waiting list of the infected persons.

Having in mind that the disease Hepatitis C, according to the Law on Protection of the population from infectious diseases, falls under the group of infectious diseases, it is imminent to diagnose it on time and in due time administer appropriate therapy with a view to

prevent further spread of the infection and not to deteriorate the health condition of the infected persons.

After the interventions of the Ombudsman, the competent bodies undertook appropriate measures, i.e. modern and fully automated equipment for geno-classification was procured as well as regular procurement of the needed number of tests is planned.

This way, according to the Ministry of Health, the problems with shortage of tests for diagnosis were overcome, and with the mentioned equipment and gene classification, precise planning of the regime of medications of patients with Hepatitis C was allowed.

Moreover, a programmatic activity Screening of Chronic Hepatitis C, in which measures and activities for continual follow up of the epidemiological conditions in the country was introduced by organization of activities for early determination of the infection. These activities are predicted in the program for preventive health protection in 2009, for which appropriate funds are predicted in the Budget of the Ministry of Health.

#### NP No. 473/08

A citizen from Tetovo requested intervention from the Ombudsman for non realization of right to a compensation of funds for received health service in a health institution with which the Funds for Health Insurance has not signed a contract.

The Ombudsman determined that the Fund for Health Protection reached a decision by which it refused the request of the complainant based on and with application of provision of article 9 paragraph 2 and 3 of the Law on Health Protection, cancelled by the Constitutional Court and as such do not produce legal consequences.

After the implications of the Ombudsman, the Ministry of Health accepted the appeal and annulled the decision of the Fund, and to the complainant recognized the right to compensation of funds for the received service.

#### NP No. 2311/08

A citizen from Strumica complained on a violation of legal rights from Public Enterprise "Komunalna Higiena Skopje", Public Enterprise "Vodovod and Kanalizacija-Skopje" and "EVN-Macedonia" AD Skopje for not taking actions upon the submitted request for change of user and conclusion of new contracts for use of

services so he can regularly pay the services provided by the above mentioned entities.

The Ombudsman found that the complainant, based on a court decision, realized the right to property of an apartment; however the former owner had not paid the bills for consumed electrical energy and water that he had consumed, so the public enterprises, providers of the above mentioned services were indebting the new owner for the debts made by the previous owner.

Estimating that it is a violation of the rights of the complainant, the Ombudsman sent an implication to the public enterprises that acted upon the implication and changed the ownership and the complainant was released of the debts for consumed water, communal services and electrical energy made by the previous owner of the apartment.

#### NP No. 1440/08

The Ombudsman, based on received information, self-initiated a procedure on the protection of rights and interests of users of the services of "EVN – Makedonija AD" Skopje due to collective disconnections from the electrical network in the village of Studenicani, including the users who regularly pay their bills, bringing to question the functioning of the water supply system in the village.

The Ombudsman sent a recommendation in which he pointed that the collective disconnection from the electrical network is against the respective regulatory framework and that with no grounds the company was also disconnecting the consumers who are duly paying their bills for electricity and water.

Due to the above mentioned, it was requested to stop with the unlawful collective disconnection from the electrical network in the above mentioned village and to restore the consumers who are regularly paying their obligations. The recommendation from the Ombudsman was duly noted and the electrical energy network was restored in the village.

#### NP No. 191/08

A citizen from Kumanovo requested intervention in the protection of her rights arising from employment before the Ministry for Education and Science-State Educational Inspectorate due to not received answer of the

submitted requests and not received invitation for taking the Principal's exam.

Acting upon the complaint, the Ombudsman requested the State Educational Inspectorate and the Ministry for Education and Science – Commission for taking exams for a principal of elementary schools to act according to the regulations from the area of education.

Upon the submitted implication, the Ombudsman was informed that the complainant successfully passed the exam for a principal of elementary school, by which she realized her right.

#### NP No. 226/08

A citizen from the vicinity of Bitola, submitted a complaint in which he requested intervention before the Ministry of Interior due to not returned documentation that he had submitted to the Ministry, based on a vacancy advertisement.

The Ombudsman requested information from the Ministry for Interior, from where, based on the intervention and appropriate actions, the complainant received the documents submitted for the vacancy advertisement.

#### NP No. 608/08

A citizen from Gostivar submitted a complaint in which an intervention was requested due to non execution of a decision for payment of severance pay due to realization of the right to retirement pension on behalf of the managing body of the Public Enterprise "Makedonska Radio Televizija".

The Ombudsman turned to the Managing Board and to the executive manager of "Makedonska Radio Televizija" with a request to be notified of the reasons why the decision was not executed and implied that it was necessary to undertake actions for execution of the decision as the employee had the right to severance pay upon realization of retirement pension in accordance with article 113 from the Law on Labor Relations.

Acting upon the intervention of the Ombudsman, the Public Enterprise "Makedonska Radio Televizija" paid the complainant the funds for severance pay due to realization of the right to retirement pension.

**NP No. 1360/08**

A citizen from Skopje requested protection of her rights arising from employment violated by the Principal of the elementary school "Sv. Kliment Ohridski" from Skopje.

The Ombudsman turned to the Principal of the school and requested notification of the allegations and pointed to the need of consequent respect for the provisions from the Law on Elementary Education and the Law on Labor Relations that are referring to the ban on discrimination in relation to job advancement, education, training as well as all rights arising from employment and in connection to the employment, including equality in salary payments and level.

Acting upon the implication, the Principal of the Elementary School "Sv. Kliment Ohridski" from Skopje notified the Ombudsman that the condition was overcome, i.e. the complainant received a number of classes and, accordingly, a salary in accordance with the level of her education.

**NP No. 1364/08**

A citizen from Skopje requested intervention for protection of the rights arising from employment connected to discriminatory behavior and acts of the Manager of the Penitentiary-Correctional Center Skopje.

The Ombudsman implied to the Manager of the Center Skopje and several days later, during a visit to the Center, contacted the Manager with an aim to be properly informed on the actions taken in relation to the implications.

The Manager stated that he had reached a decision based on the implications by the Ombudsman, by which the condition in question was overcome.

**NP No. 535/08**

A citizen requested intervention due to not taking actions by the Minister of Justice upon submitted request for appointment of juridical translator, despite the submitted set of needed documents.

The Ombudsman turned to the Ministry of Justice with a request to be informed on the reasons for which the request of the complainant was not acted upon.

The Minister of Justice informed that he decided upon the request and reached a decision based on which the complainant was

appointed for a juridical translator in the Basic Court Skopje 1 in Skopje.

**NP No. 933/08**

L.V. from Skopje submitted a complaint stating that her employment was terminated due to having 62 years of age and that upon the submitted appeal to the managing body, a decision was reached to accept the appeal and prolong the employment contract until the age of 64.

Having in mind that the Public Children Kindergarten "Srnicka" in Skopje did not execute the decision of the higher body, the Ombudsman implied to reach a decision for extension of the employment contract with the complainant as she had the right to work until 64 years of age.

Later the Ombudsman was informed that his implication was acted upon and the complainant contract has been extended until 64 years of age.

**NP No. 1433/08**

S.S. and K.V., both from Skopje asked for intervention for protection of their rights arising from employment in the procedure of employment and deployment to positions for which they were selected.

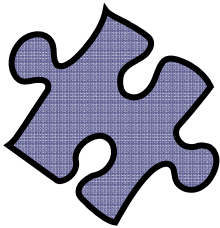
Despite the fact there were no violations in the material law, nor irregularities in the conducted employment procedure, the Ministry of Transport and Communications did not enact decisions for employment, the Ombudsman implied appropriate measures for.

The Ministry of Transport and Communications acted upon the implication and passed appropriate decisions for the complainants.

**NP No. 1236/08**

L.T.T. from Skopje requested intervention in order to account for her status as a teacher of Macedonian language, i.e. to be assigned with the working hours at the library of the school so she could have a full fund of working hours and not to be proclaimed redundant. The Ombudsman submitted a request to the Principal of the ES "Dimitar Miladinov" – Skopje for assignment of the vacant working hours from the library to the complainant, after which the request was

approved and the complainant was assigned with library working hours.



## About the institutions

### Organization and manner of work

The organization of the Ombudsman's work is stipulated under the Law on the Ombudsman and other by-laws on the Ombudsman.

In order to achieve a more systematic feature in the course of its work and in order to realize the programmed tasks, the Ombudsman in 2008 authorized the deputies in the regional offices: Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip to a wider competence and responsibility towards protection of citizens' rights.

### Personnel

During 2008 the Ombudsman employed one person at the head office in Skopje.

According to the professional background of the employees, 50 of them have university degree, 18 have finished high school. 41 of them are female and 27 are male.

The Ombudsman employs: 34 Macedonians, 26 Albanians, 2 Serbs, 2 Roma and 2 Vlachs, one member of the Turkish community and one Bosnian.

The procedure for employment of new public servants and other employees is in progress.

### Funds

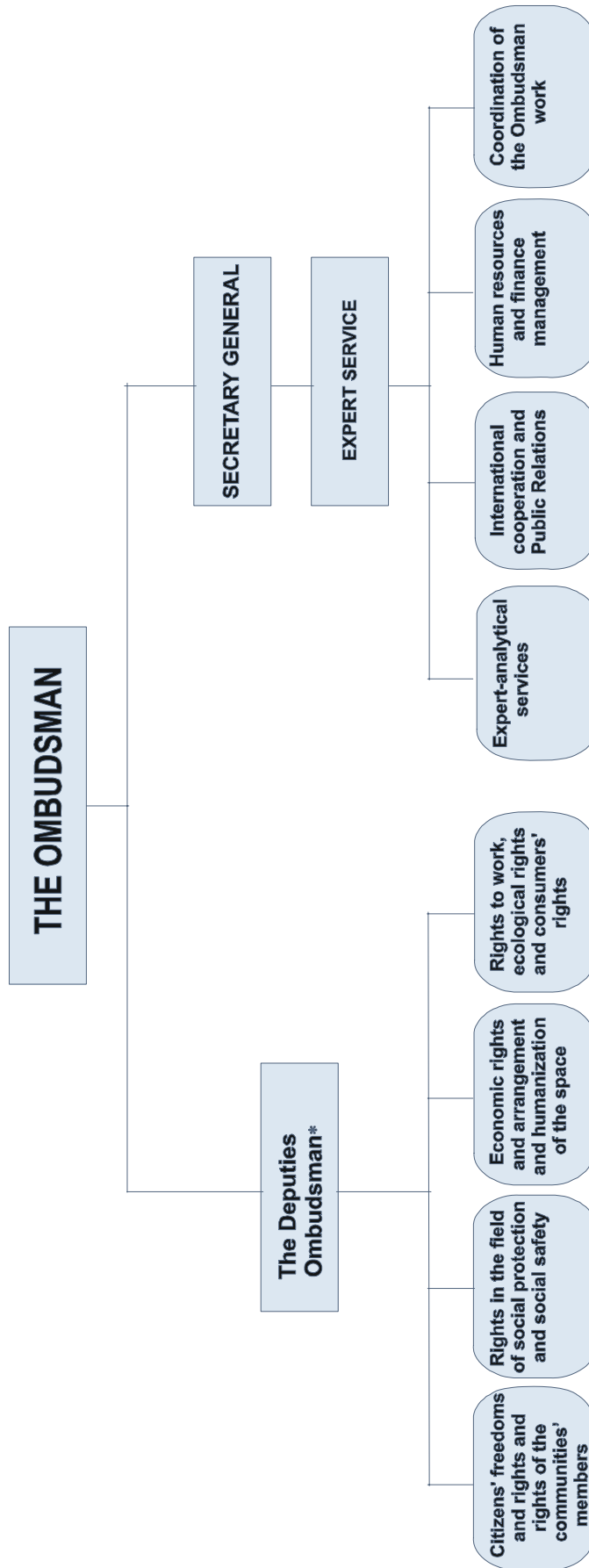
The funds for the functioning of the Ombudsman are provided from the Budget of the Republic of Macedonia. In 2008, the scheduled activities of the Ombudsman, according to the existing regulations, were realized with 57.064949.50,00 denars, or 91.30% of the planned funds, meaning additional funds in comparison with last year which considerably facilitated the work of the Institution.

Lack of funds for realization of other activities, in the sense of promotion of the Institution, were provided by the financial support of the Swedish International Development Agency (SIDA) and the OSCE Mission to Skopje.

Like in the previous years, it should be pointed out once again that this kind of financing the Ombudsman in the constitutional-legal system of the Republic of Macedonia is not adequate, since the dependence in terms of funds from the executive authorities significantly decreases the autonomy and independence and represents an obstacle in the process of realization of its function. Because of that, it is necessary to reconsider this issue by establishing a new, modern, transparent and independent system of funding of the Ombudsman.







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