

# Summary of the Annual Report of the Work of the Ombudsman

2019

---

*“I promise that the Ombudsman will be where the citizens’ problems are  
and I will not spare an effort to defend the principle that all human  
beings are born free and equal in dignity and rights!”*

Assoc.Prof. Diana Kovacheva,  
Ombudsman of the Republic of Bulgaria

---

March 2020

## Table of Contents

Introduction.....	3
Actions and results.....	6
Key events and initiatives in 2019 .....	8
2019 in numbers.....	15
Chapter One. The Ombudsman Protecting the Citizens' Rights .....	21
1. Reception desk of the Ombudsman .....	22
2. Consumer rights.....	24
3. Social rights.....	30
4. Rights of persons with disabilities.....	35
5. Rights of the child.....	40
6. Right to healthcare.....	44
7. Right to education.....	47
8. Right to good governance and good administration.....	51
9. Right to property and economic freedom.....	54
10. Right to a healthy and adequate environment.....	59
11. Right to protection in enforcement proceedings.....	62
12. Right to protection against discrimination and hate speech .....	63
13. National Preventive Mechanism.....	64
Chapter Two. Impact on the Regulatory Framework.....	68
Chapter Three. Monitoring of the Implementation of International Acts in the Area of Human Rights .....	73
1. European Convention on the Protection of Human Rights and Fundamental Freedoms .....	74
2. UN Convention on the Rights of Persons with Disabilities.....	79
3. UN Convention on the Rights of the Child.....	81
4. UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment .....	87
5. UN Convention on the Elimination of All Forms of Discrimination against Women .....	88
Chapter Four. International Activities.....	91
Chapter Five. Resources in 2019 .....	98
Expense report.....	99
Team .....	100
2020 priorities .....	101
APPENDICES.....	102
A brief overview of 2019 .....	103

## Introduction

*“We continue together”...*



*13 April 2020 marks the 15th year of the setting up of the Ombudsman institution. Fifteen years during which the Public Advocate has managed to build a strong connection with the citizens and to win their trust. The Ombudsman has shown clearly to the institutions that whenever there is a breach of fundamental rights, the Ombudsman will step in decisively to protect them. Fifteen years during which the Ombudsman has stayed close to the people and their problems and has spared no effort to defend the principle that all human beings are born free and equal in dignity and rights.*

*In 2019, the Ombudsman institution continued to side firmly with the citizens and to lead one of the most important battles – the one with monopolies, with private enforcement agents, with the super powers of the banks.*

*A part of this fair battle of the Ombudsman and the citizens is the legislative proposals made by the institution in 2019 related to the problems of debtors, the impossibility for the citizens to declare insolvency or the fair citizens' demands for the price of water to correspond to its quality. In the end of December of last year, the amendments to the Civil Procedure Code initiated by the National Public Advocate entered into force; pursuant to them, the citizens are granted further protection of their rights through the introduction of the requirement for the court to monitor ex officio for unlawful clauses in contracts, the introduction of the requirement for applicants in enforcement proceedings, including banks, to provide contracts and the general terms and conditions to them as well as through the additional possibilities to suspend forced execution, including during a case. This is the place for me to say that the battle is not over yet, that there is still more to be done but we are headed in the right direction and the first steps have already been taken. We continue together ...*

*What is of special importance in the relationship of the Ombudsman with the citizens is not just the expertise – in 2019, 50,000 people from the country and abroad reached out and received support, help, consultation, advice from the institution; it is also the kindness, the good attitude and respect for everyone's personality. They are the leading elements in the work with the most vulnerable social groups – the elderly people, the people with disabilities, children – in institutions, of divorced parents, those at risk and the children in conflict with the law, the people accommodated at social homes with dementia, mental disorders and disabilities...*

*I will not list the dozens of areas the institution works in, the ones which make it a breathing entity whose heart beats with the problems of the people who set the agenda of the Ombudsman. Campaigns, forums, public discussions, proposals for legislative amendments, opinions, recommendations to authorities, all of them to protect the citizens' rights. We continue together ...*

*Without being immodest, let me note some of the highlights under the auspices of the Ombudsman, for example the social kitchen of the National Public Advocate in the yard of the church St. Cyril and St. Methodius in Sofia. During the coldest months, from December 2018 till April 2019, completely free of charge, the Ombudsman provided bread, hot soup, a cup of yoghurt or a piece of fruit for 700-800 people on average – mainly elderly and lonely people but also mothers with children, unemployed, people finding themselves in temporary difficulties. For most of them, this was the only food for the day. And this went on for five months, every day! The kind words here also go to the experts of the Ombudsman, to the colleagues with great hearts who put on aprons during their lunch breaks and poured soup and gave out lunch to those in need.*

*In 2019, the Ombudsman managed to focus enormous public attention on one of the most vulnerable social groups – people with dementia. An inspection of the experts at the institution in such a home – the one in Gorsko Kosovo, the referral to the Prosecutor General and the shocking video from another home of this kind – in Plovdiv, brought terrible facts to light. Degrading and inhuman treatment of the staff, long neglected and underestimated problems in the system of care for the sick, those suffering from Alzheimer's disease, disrespect for fundamental human rights... The institutions took steps, took on commitments for urgent measures and reforms. We now need to see if they will come to life. The Ombudsman will surely follow the situation and insist on this.*

*The Ombudsman organised and held the Silence Kills campaign in defence of women who are victims of domestic violence. The topic is specially troubling because in 2019 only the number of women in Bulgaria who lost their lives as a result of the aggression of their partner stood at 30! As a follow-up of this campaign, I sent recommendations for legislative amendments to the UN Committee on the Elimination of Discrimination against Women, I insisted and proposed measures to limit domestic violence as much as possible and to ensure that the aggressor gets fair retribution.*

*There is no doubt that one of the greatest achievements of the institution is the fact that, in 2019, the Ombudsman of the Republic of Bulgaria obtained the highest status – "A" STATUS of the UN in accordance with the Paris Principles as a national human rights institution. This status allows the Ombudsman to protect the rights of the Bulgarian citizens from the highest stand – that of the UN. In 2019 and the beginning of 2020, the Ombudsman repeatedly took the opportunity to make the voice of the Bulgarian citizens heard by the human rights protection committees of the most influential international organisation – the UN – and to address the Petitions Committee of the European Parliament in relation to problems of Bulgarian citizens.*

*I have not listed all of the above to emphasise the undoubted role of the Ombudsman, it is a fact evidenced by the 50,000 people who reached out to us in the past year for support in resolving their problems. I have listed all of the above to remind everyone that the trust in an institution depends on the efforts it makes to be close to the people and to look for solutions to their problems – unwaveringly, diligently, insistently. We deeply believe that no rights are more important or less important, that no breaches of rights are greater or smaller*

*– every person is important and we will look for a solution to every problem. Human rights are uniform and inseparable and this is what makes them strong.*

*I would like to extend my gratitude for the great trust in the Ombudsman institution; this is a recognition but also a great responsibility.*

*I assure you that as the Ombudsman I will continue and build on all good practices so far in the name of the citizens' rights and freedoms. And so, we continue together...*



*Assoc.Prof. Diana Kovacheva, Ph.D.  
Ombudsman of the Republic of Bulgaria*

## Actions and results

### The Ombudsman protecting the citizens' rights

In 2019, 49,961 citizens and representatives of organisations received assistance from the Ombudsman; of them:

- ✓ 998 met with the Ombudsman, the Deputy Ombudsman and the Secretary General;
- ✓ 13,161 people used the services of the Reception Desk;
- ✓ 22,040 citizens sought the assistance of the Ombudsman and their request prompted by different issues were joined in actions;
- ✓ 13,762 complaints and signals were finalised.

2017	2018	2019	
12,539	12,258	13,762	<b>1. Inspections completed upon complaints and signals from citizens</b>
			<i>Of them, finalized with:</i>
1,819	1,425	1,823	<i>Recommendation</i>
6,134	7,379	8,518	<i>Opinion</i>
1,502	1,385	1,904	<i>Advice</i>
614	449	417	<i>Intermediacy</i>
2,470	1,620	1,100	<i>Outside the powers of the Ombudsman</i>
12,635	12,890	12,916	<b>2. Complaints and signals submitted to the Ombudsman</b>
			<i>Of them, the biggest share for 2019:</i>
3,060	3,009	3,519	<i>Complaints and signals from users of public services</i>
575	825	1,118	<i>Complaints and signals related to the right to good administration</i>
1,790	1,989	1,088	<i>Complaints and signals related to violations of social rights</i>

In 2019, the Ombudsman institution introduced three new forms of interacting with the citizens in its work:

- 1 • Out-of-office reception desks for Bulgarian citizens abroad
- 2 • Topical reception desk based on citizens' problems
- 3 • Specialised hotline for people with disabilities

### Impact on the regulatory framework

In 2019, a significant part of the proposals made by the Ombudsman institution were related to hot problems of the citizens – problems of debtors, impossibility for the citizens to declare insolvency and others.

The amendments to the Civil Procedure Code (CPC) proposed by the Ombudsman which entered into force on 23 December 2019 **give the citizens additional protection for their rights** through: requirement for the court to monitor ex officio for unlawful clauses in contracts, requirement for applicants in enforcement proceedings, including banks, to provide contracts and the general terms and conditions to them as well as through the additional possibilities to suspend forced execution, including during a case.

2017	2018	2019	
2	5	5	Referrals to the Constitutional Court
2	2	4	Requests for interpretative rulings
10	11	13	Legislative initiatives and opinions

### Monitoring of the implementation of international acts in the field of human rights

In 2019, the Ombudsman institution was accorded the highest “A” STATUS of the UN in accordance with the Paris Principles as a national human rights institution. This status allows the Ombudsman of the Republic of Bulgaria to step in and defend the citizens’ rights against breaches not only of public institutions but also companies from the private sector which also need to respect human rights.

### Support for citizens’ causes

2017	2018	2019	
20	30	32	Round tables and public discussions
11	13	17	National and European campaigns



**KEY EVENTS AND  
INITIATIVES IN 2019**



In 2019, the Ombudsman institution of the Republic of Bulgaria was granted the highest “A” STATUS of the UN in accordance with the Paris Principles as a national human rights institution.

The granting of “A” status reflects both a new degree of compliance of the national legislation with the UN standards set out in the Paris Principles and a recognition of the active work of the institution within the international and European human rights organisations.

Having been granted “A” status, Bulgaria is now among the states with a national human rights institution which meets the highest UN standards and this is a success not only for the Ombudsman but for the State as a whole. 78 States in the world have an “A” status, including all EU Member States except for Romania.

*“I will not hide that we are proud of this achievement and we take it as an excellent assessment of the work of our institution because this assessment comes from the most important international organisation, i.e. the UN.”*

Maya Manolova



*“Over the past three years, we have made serious efforts to intensify the work of the Ombudsman internationally – we have taken part in the sessions of UN committees and expressed our opinion in the Committee on the Rights of Persons with Disabilities and the Committee on Economic, Social and Cultural Rights, we have submitted a petition to the European Parliament and we have been heard, we are sending opinions and reports to international organisations, we have initiated the setting up of a network of the Balkan Ombudspersons to improve the cooperation in resolving similar problems and cross-border complaints.”*

Assoc.Prof. Diana Kovacheva, Ph.D.

## Protection of the citizens' rights against banks, private enforcement agents and banks

In the beginning of 2019, the Ombudsman institution initiated amendments to the Civil Procedure Code guaranteeing a higher level of protection of the citizens' rights in enforcement proceedings. The texts initiated by the Public Advocate and adopted by the Parliament in December 2019 include an amendment to Article 411 CPC. Pursuant to the proposal, when reviewing an application for a writ of enforcement, the court may refuse to issue it if there may be inequitable clauses.

The other proposals of the Ombudsman accepted by the legislator include the requirement for the court to monitor ex officio for inequitable clauses and for the application for a writ of enforcement to be appended with the contract giving rise to the obligation.

To assist a debtor until the confirmation of the obligation by the court, the Ombudsman supported a proposal for an amendment to the regulatory framework envisaging that, until the completion of the judicial proceedings at the first instance at least, the sole residence may not be sold by an enforcement agent even when it is mortgaged. This additional support for the debtor would have guaranteed that there would be no situations where a residence is sold but the court finds that the person does not have an obligation. Unfortunately, although the Legal Affairs Committee accepted the proposal which was supported by attending judges and experts, it was rejected at the second reading of the bill.

Upon the proposal of the Public Advocate, an amendment to the CPC was accepted restricting the possibility for debtors to be sentenced solely on the basis of an excerpt from the accounting books of banks. The Ombudsman also defended the proposal initiated by the institution for a double increase in the deadlines for objections and complaints from citizens.



## Protecting the rights of pensioners



On 11 December 2019, at an out-of-office reception event in Varna, the Ombudsman received a collection of signatures from 1,800 pensioners for the recalculation of their pensions.

The Public Advocate sent a letter to the Minister of Labour and Social Policy and the Governor of the National Social Security Institute with a recommendation to find a legal mechanism to allow for the update of the lowest pension for length of service and age so that it would not be below the poverty line which, as of 1 July 2020, is BGN 363.

### Silence Kills campaign to protect women and children who are victims of violence



On 25 November 2019, the UN International Day for the Elimination of Violence against Women and Girls, the Ombudsman organised a topical reception desk for women who are victims of violence. In addition to the experts from the institution, the initiative involved psychologists and lawyers from the P.U.L.S.E. Foundation who listen to and help victims of physical, psychological and verbal harassment.

The Ombudsman sent a recommendation to the Regional Governors throughout the country who have the right to set up crisis centres because there are only thirteen such centres in the country; in Sofia there is just one for eight people.

The proposals for amendments to the legislation were also presented by the Ombudsman to the UN Committee for the Elimination of All Forms of Discrimination against Women.

### Forums to protect the right to clean air

In 2019, five working meetings were held at the National Ombudsman on the topic of air quality focusing on the problems of air pollution on the territory of Sofia Municipality.



The communication mechanism set is in line with the requirements for the participation of the public in the decision making process and access to justice in relation to environmental issues as per the Aarhus Convention also taken into account in Directive 2008/50/EU of 1 May 2008 on ambient air quality and cleaner air for Europe. It involves representatives of: Ministry of Environment and Water, Ministry of the Interior, Ministry of Health, Ministry of Transport, IT and Communications, Ministry of Agriculture, Food and Forests, Sofia Municipality, University of Chemical Technology and Metallurgy, Department of Weather Forecast, medical personnel working on issues of public health as well as citizens and organisations in the field of environmental protection.

### Out-of-office reception desks for Bulgarian citizens abroad

In 2019, the Ombudsman took the work of the institution across borders. Three reception events were organised – two in Serbia and one in Greece – during which close to 200 Bulgarians shared their problems. The Ombudsman committed to taking action on cases related to pension policy, recognition of driving licences, soil and water pollution in the area of Bosilegrad, the long period to acquire Bulgarian citizenship and others.



*A reception in Bosilegrad, 1 October 2019. A reception in Athens, 20 February 2019.*

### Social Kitchen

The Social Kitchen project was implemented in the coldest winter months from 17 December 2018 till 25 April 2019 (before Easter) with the blessing of His Holiness the Bulgarian Patriarch and Sofia Metropolitan Bishop Neophyte, upon the initiative of the Ombudsman and with the support of the Bulgarian Red Cross and the Ministry of Agriculture, Food and Forests.

In a special space with heating erected in the yard of the Sofia temple St. Cyril and St. Methodius, people at a social disadvantage, in need or temporary difficulties received a warm lunch completely free of charge. An average of 700 to 800 people visited it daily and 1,000 portions of food were given out.



**500 people were examined by doctors from Sofia hospitals at the Social Kitchen**

Leading cardiologists, general practitioners, specializing doctors and students of medicine examined more than 500 people free of charge on 14 February 2019 at the Social Kitchen of the Ombudsman. The initiative on Valentine's Day provided free prophylaxis for people with no access to healthcare and elementary medical care.



## Easter for Everyone – Make a Gift for Grandma and Grandpa National Campaign

On Good Thursday, Ombudsman Maya Manolova together with more than 250 children from 10 Sofia schools and 5 kindergartens painted 1,000 eggs on St. Nedelya Square which were given out to elderly people.



The event was part of the Easter for Everyone – Make a Gift for Grandma and Grandpa National Campaign which the Public Advocate organised for the fourth year in a row in support of Bulgarian pensioners. Over this period, the initiative gathered close to BGN 1,650,000 in support of tens of thousands elderly people.

## We Can Too Initiative in support of the right to labour of young people with intellectual disabilities



On 3 December 2019, on the occasion of the International Day of Persons with Disabilities, the Ombudsman organised a forum for the protection of young people with intellectual disabilities “We Can Too!” The event was held in partnership with the Civil Formation Parents in Action together with representatives of the Monitoring Council – a monitoring authority under the Convention for the Rights of Persons with Disabilities, Lumos Bulgaria Foundation and Maria’s World Foundation. The Ombudsman issued a special recommendation to the largest employer organisations to support the rights to labour of people with disabilities.

## 2019 in numbers

**Table:** Complaints and signals submitted in the period 2009-2019, number

<b>Year</b>	<b>Number</b>
2019	12,916
2018	12,890
2017	12,635
2016	10,640
2015	6,202
2014	5,010
2013	7,320
2012	5,331
2011	5,530
2010	3,687
2009	2,686

**Table: Complaints and signals in the period 2017-2019 by category of violation, number and percentage**

Category of violation	2019	%	2018	%	2017	%
Consumer rights	3,519	27.25	3,009	23.34	3,060	24.22
Social rights	1,908	14.77	1,989	15.43	1,790	14.17
Healthcare	666	5.16	607	4.71	494	3.91
Education	514	3.98	439	3.41	300	2.37
Right to good administration	1,118	8.66	825	6.40	575	4.55
Right to property	1,088	8.42	1,296	10.05	1,228	9.72
National Preventive Mechanism and fundamental human rights and freedoms (221+495)	716	5.54	1,344	10.43	1,031	8.16
Requests for legislative amendments	679	5.26	306	2.37	297	2.35
Protection of citizens in enforcement proceedings	503	3.89	832	6.45	1,401	11.09
Rights of the child	492	3.81	362	2.81	426	3.37
Rights of people with disabilities	441	3.41	395	3.06	314	2.49
Right to clean environment	412	3.19	330	2.56	213	1.69
Lack of a specific violation	85	0.65	127	1.00	208	1.65
Requests for referral to the Constitutional Court	46	0.36	119	0.92	43	0.34
Discrimination	15	0.11	25	0.19	35	0.28
Requests for interpretative rulings	9	0.07	13	0.10	12	0.09
Other violations	705	5.46	872	6.76	1,208	9.55
<b>Total:</b>	<b>12,916</b>	<b>100</b>	<b>12,890</b>	<b>100</b>	<b>12,635</b>	<b>100</b>



**Table: Complaints and signals in 2019 by rights breached in 2019, number and percentage**

Type of rights breached for 2019	Number	%
Water and Sewerage	1,410	10.92
Pensions	1,129	8.75
Requests for legislative amendments	679	5.27
Right to healthcare ( <i>no sub rights</i> )	666	5.17
Spatial planning	635	4.92
Energy supply	542	4.20
Right to education ( <i>no sub rights</i> )	514	3.98
Violations in enforcement proceedings	503	3.89
Rights of the child ( <i>no sub rights</i> )	492	3.81
Rights of people with disabilities ( <i>no sub rights</i> )	441	3.41
Loans and financial institutions	424	3.28
Right to clean environment ( <i>no sub rights</i> )	412	3.18
Labour right	368	2.85
Heat supply	327	2.53
Adequate and healthy environment in population centres	327	2.53
Transport infrastructure	282	2.18
Telephones	269	2.08
Requirement for legality	239	1.85
Assistance for housing, support for housing and others	226	1.74
National Preventive Mechanism	221	1.71
Fair judicial proceedings	186	1.44
Quality of administrative services	182	1.40
Transport services	167	1.29
Social assistance and social services	134	1.03
Receivables collection agencies	102	0.79
Consumer disputes	86	0.67
Lack of a specific violation	85	0.66
Restoration of agricultural land as well as land and forests from the forest estate	78	0.60
Requests for referral to the Constitutional Court	46	0.36
Problems of condominium ownership	42	0.33
Discrimination	15	0.12
Requests for interpretative rulings	9	0.07
Other property rights	333	2.58
Other fundamental rights and freedoms	309	2.39
Other consumer rights	192	1.49
Other rights to good administration	88	0.68
Other social rights	51	0.39
Other types of violations	705	5.46

**Table: Complaints and signals finalized by results in the period 2017-2019, number**

2017	2018	2019	Result of the inspection
10,069	10,638	12,662	<b>1. Admissible</b>
1,819	1,425	1,823	<i>Of them, completed with: Recommendation</i>
6,134	7,379	8,518	<i>Opinion</i>
1,502	1,385	1,904	<i>Advice</i>
614	449	417	<i>Intermediacy</i>
2,470	1,620	1,100	<b>2. Outside the powers of the Ombudsman</b>
12,539	12,258	13,762	<b>Total</b>

**Table: Complaints and signals finalized by perpetrator in the period 2017-2019, number and percentage**

Perpetrator	2019	%	2018	%	2017	%
Public authorities and their administration	5,295	38.48	4,105	33.49	3,938	31.41
Municipal authorities and their administration	2,422	17.60	2,311	18.85	1,712	13.65
Persons assigned to provide public services	4,173	30.32	3,729	30.42	4,750	37.88
Other	1,872	13.60	2,113	17.24	2,139	17.06
<b>Total:</b>	<b>13,762</b>	<b>100</b>	<b>12,258</b>	<b>100</b>	<b>12,539</b>	<b>100</b>

**Table: Complaints and signals finalized by regions in the period 2017-2019, number and percentage**

Region	2019		2018		2017	
	Number	%	Number	%	Number	%
Blagoevgrad	228	1.77	290	2.25	311	2.46
Burgas	319	2.47	463	3.59	438	3.47
Varna	384	2.97	575	4.46	665	5.26
Veliko Tarnovo	375	2.90	312	2.42	323	2.56
Vidin	127	0.98	167	1.30	111	0.88
Vratsa	190	1.47	299	2.32	350	2.77
Gabrovo	84	0.65	130	1.01	166	1.31
Dobrich	118	0.91	160	1.24	177	1.40
Kardzhali	46	0.36	62	0.48	83	0.66
Kyustendil	143	1.11	218	1.69	260	2.06
Lovech	137	1.06	207	1.61	227	1.80
Montana	119	0.92	176	1.37	209	1.65
Pazardzhik	162	1.25	237	1.84	235	1.86
Pernik	173	1.34	261	2.02	290	2.30
Pleven	230	1.78	316	2.45	406	3.21
Plovdiv	458	3.55	570	4.42	797	6.31
Razgrad	48	0.37	73	0.57	96	0.76
Ruse	164	1.27	182	1.41	273	2.16
Silistra	65	0.50	113	0.88	67	0.53
Sliven	85	0.66	201	1.56	171	1.35
Smolyan	57	0.44	112	0.87	129	1.02
Sofia – Region	205	1.59	237	1.84	282	2.23
Sofia – City	2,434	18.84	3,109	24.12	3,718	29.43
Stara Zagora	264	2.04	322	2.50	414	3.28
Targovishte	56	0.43	112	0.87	121	0.96
Haskovo	135	1.05	253	1.96	217	1.72
Shumen	101	0.78	267	2.07	161	1.27
Yambol	73	0.57	118	0.91	172	1.36
Unidentified	5,936	45.97	3,348	25.97	1,766	13.97
<b>Total:</b>	<b>12,916</b>	<b>100</b>	<b>12,890</b>	<b>100</b>	<b>12,635</b>	<b>100</b>

In 2019, the greatest number of complaints to the Ombudsman from those where the place is indicated again, just as in in previous years, came from citizens from Sofia – City – 2,434. Next are: Plovdiv Region – 458, Varna – 384, Veliko Tarnovo – 375, Burgas – 319, Stara Zagora – 264, Pleven – 230, Blagoevgrad – 228, Sofia – Region – 205, and Pernik – 173.

## Out-of-office reception desks and visits 2017-2019:

### 2019

#### ➤ Out-of-office, topical and mobile reception days

Stara Zagora, Kardzhali, Vratsa, Blagoevgrad, Sandanski, Petrich, Strumyana, Belitsa, Razlog, Kresna, Simitli, Yakoruda, Sliven and Varna, two topical ones – Kardzhali, on fair remuneration and working conditions for medical specialists, Stara Zagora, on issues related to the work of private enforcement agents.

#### ➤ Mobile reception desks

Dozens of citizens were heard and advised while travelling by train from Sofia to Vratsa.

#### ➤ Visits

**Places visited in 2019** – Shumen, Tutrakantski, Provadia Municipality, Kyustendil, Zlogosh Mine, Dobrich, Obrochishte Mine, Kazanlak, Pleven, Glozhene, Teteven Municipality, Vratsa (twice), Plovdiv, Veliko Tarnovo, Burgas (twice), Stara Zagora (four times), Krivodol, Vidin, Kardzhali, Blagoevgrad (twice), and Parvomay.

### 2018

#### ➤ Out-of-office reception days

Gorna Oryahovitsa, Kyustendil, Varna, Vratsa, Borovan, Byala Slatina, Kozloduy, Krivodol, Mezdra, Mizia, Oryahovo, Roman, Hayredin, Alfatar, Glavinitsa, Dulovo, Kainardzha, Silistra, Sitovo, Tutrakan, Veliki Preslav, Venets, Varbitsa, Kaolinovo, Kaspichan, Nikola Kozlevo, Novi Pazar, Smyadovo, Hitrino, Shumen, Dimitrovgrad, Ivaylovgrad, Lyubimets, Madzharovo, Mineralni Bani, Svilengrad, Simeonovgrad, Stambolovo, Topolovgrad, Harmanli, Haskovo, Belogradchik, Boynitsa, Bregovo, Vidin, Gramada, Dimovo, Kula, Makresh, Novo Selo, Ruzhintsi, and Chuprene.

#### ➤ Mobile reception desks

Trips organised and held as follows: train Sofia – Varna (twice: Sofia – Varna and Sofia – Gorna Oryahovitsa), train Sofia – Svilengrad and train Sofia – Vidin.

#### ➤ Visits

Pernik, Kovachevtsi, Dupnitsa, Plovdiv, Stara Zagora, Shipka, Pleven, Shumen, Rakovski Industrial Zone, Dimitrovgrad, Satovcha, Plevan, Yablanitsa, the area between Sopot and Karlovo, Strelcha, Sharkovo, Pazardzhik, Varna, Vratsa, Silistra, Varnentsi, Hitrino, road around Svoge, Vidin, Veliko Tarnovo, and Novi Han.

### 2017

#### ➤ Out-of-office reception days

Hitrino, Kardzhali, Yambol Ruse, Lovech, Isperih, Bratya Daskalovi, Gurkovo, Galabovo, Kazanlak, Maglizh, Nikolaevo, Opan, Pavel Banya, Radnevo, Stara Zagora, and Chirpan.

#### ➤ Visits

Pernik, Troyan, Kapitan Andreevo Border Check Point, Dupnitsa, Plovdiv, Vetren, Obrochishte, Targovishte, Vratsa, Busmantsi, the church at the Zhenski Pazar Market, Kameno, Burgas, Kyustendil – charity and meeting with miners, Uglen, Todorovo, Varna, Nevestino, Asenovgrad, Haskovo, Pravets, Bobov Dol (twice), General Toshevo, Hitrino, and Cherni Vrah.

## **CHAPTER ONE. The Ombudsman Protecting the Citizens' Rights**

**Chapter One** contains information about the complaints and signals reviewed by the Ombudsman institution in 2019:

1. Reception desk of the Ombudsman
2. Consumer rights
3. Social rights
4. Rights of persons with disabilities
5. Rights of the child
6. Right to healthcare
7. Right to education
8. Right to good governance and good administration
9. Right to property and economic freedom
10. Right to a healthy and adequate environment
11. Right to protection in enforcement proceedings
12. Right to protection against discrimination and hate speech
13. National Preventive Mechanism

## 1. Reception desk of the Ombudsman

Every year thousands of citizens and representatives of organisations turn to the National Ombudsman for assistance to resolve their problems. The reception desk is the place where experts from the institution respond to questions and queries in real time.

During the past year, the reception desk was visited by 3,731 citizens and representatives of organisations while 9,430 reached out for information and/or consultation.

The consultation provided is diverse in nature. The highest number of cases concern situations in which citizens and representatives of organisations are not sure which institution or authority they need to submit an initial complaint or signal to in order to get an adequate reaction in a certain matter. There is also a significant number of cases of consultations where all options for an effective resolution of the issues are clarified. This approach enjoys a positive reception because they are directed, with no time wasted and no burdening administrative procedures, to the competent institutions.

To facilitate the interaction and ensure greater access to the institution, there are different communication channels and ways of holding meetings in person and submitting complaints and signals:



The number of complaints and signals in 2019 stood at 12,916 which is an increase by 1% from 2018 – 12,890.

There is also an increase in the number of complaints and signals submitted by initiative committees and large groups of citizens whose requests with regard to different problems are joined in petitions and collections of signatures.

**Table:** *Citizens and representatives of organisations heard at reception desks in 2019, number*

Type	Citizens	Number reception desks
1. Permanent reception desk	13,161	-
2. Reception days at the institution	531	72
3. Out-of-office reception desk; of them:	467	18
✓ Reception days for citizens from population centres	299	13
✓ Topical reception days	27	2
✓ Mobile reception days	11	1
✓ Reception events outside the country	130	3
<b>Total:</b>	<b>14,159</b>	<b>90</b>

Along with the permanent reception desk in the building of the Public Advocate, the Ombudsman institution is constantly expanding the forms of organised reception desks for citizens. In 2019, the practice of out-of-office reception desks was expanded with three new forms of a direct contact of the Ombudsman with the citizens – joint out-of-office reception events outside the country, topical reception days and out-of-office topical reception days.

## 2. Consumer rights

In 2019, 3,519 complaints from consumers were received which is an increase by 17% in comparison to 2018.

**Table:** *Complaints from consumers by sectors in the period 2017-2019, number*

Sector	2017	2018	2019
Water and Sewerage	484	753	1,410
Electricity supply	491	431	542
Financial services	351	296	424
Electronic communication services	754	456	331
Heat supply	491	418	327
Transport services	135	374	167
Receivables collection agencies	164	97	102
Insurance services	34	96	54
Waste collection	98	56	34
Postal services	30	21	25
Gas supply	11	16	17
Other consumer disputes	77	92	86



## Water and Sewerage services

More than 1/3 of the complaints from consumers (1,410) are related to the activities of the water and sewerage operators.

The complaints cover mainly the poor quality of the water and sewerage services provided – frequent incidents along the water supply network, lack of water supply in population centres and water unfit for domestic and drinking use.

The Ombudsman’s opinion is that the price of water should be tied to the quality of the services and the investments in the water and sewerage sector.

The Constitutional Court allowed the review on the merits of a request submitted by the Ombudsman to declare the anti-constitutionality of the provision of Article 41, para 2 of the Water Supply and Sewerage Services Regulation Act (WSSSRA) concerning the principle of a unified price of the water and sewerage service in the respective zone.

The Ombudsman recommended to the Ministry of Regional Development and Public Works to amend the WSSSRA: to repeal the principle of a unified price in a respective territory; to lay down clear criteria to determine the social acceptability of the price of the water and sewerage services and a procedure to revisit the plans of the water and sewerage operators, and to set out a procedure to apply a lower price of the water when it does not meet the regulatory requirements.

The Ombudsman also turned to the Minister of Labour and Social Policy in relation to the need for support for people with low income for the payment of water and sewerage services, and to the Energy and Water Regulatory Commission – about a change in the methodology used to determine the prices of the water and sewerage services so that the price of the service would correspond to the quality in the respective regions.

In relation to the accrual of quantities of water as “common consumption” to the individual lots of consumers in condominiums, the Ombudsman believes that the regulatory framework does not protect sufficiently the rights of condominium consumers who regularly pay their bills. The problem was raised before the Minister of Regional Development and Public Works to be provided for.

### Main recommendations:

- The delivery and continuity of the water supply service needs to be the main priority in the water sector
- Take urgent and adequate action to renovate the obsolete water and sewerage infrastructure
- Guarantee the consumers’ right to pay, at economically feasible prices, for a quality and actually used water and sewerage service through amendments to the legislation
- Prepare a clear procedure to apply a lower price of water when it does not meet the regulatory requirements for quality
- Develop measures to provide grants for water supply to people at a social disadvantage

## Electricity supply

In 2019, the complaints were 26% more by 2018, mainly against the provision of services of poor quality.

The Ombudsman raised to the Energy and Water Regulatory Commission the question about the electricity distribution companies meeting the quality indicators and expressed a firm position against the requested price raise in the Electricity Sector for the regulatory period 1 July 2019 – 30 June 2020.

As regards the adjustment of the bills for electricity in the event of unmeasured or inaccurately measured electricity supplied, in relation to the public discussion of the draft of the new Rules for the Measurement of Electricity, the Ombudsman expressly requested that they include a rule that the statements of findings drawn up after 6 February 2017 would not serve as grounds to recalculate the quantity of electricity for a previous period.

Also unresolved was the issue with the joint liability of property owners and lessees in the event of re-registration of a lot provided for in the General Terms of the companies. The Ombudsman's opinion is that these clauses are unlawful.

The improper practice also continued where electricity distribution companies did not inform the consumers about upcoming inspections of the commercial measurement devices taking the opportunity to use witnesses when statements of findings are drawn up.

### Main recommendations:

- Plan and implement timely the necessary measures to provide quality and uninterrupted electricity supply service
- The decisions about the prices of electricity on the regulated market are to be taken in line with the requirements for transparency and publicity of the work of the Energy and Water Regulatory Commission and in observance of the principle for the prices to reimburse economically feasible expenses
- Discontinue the practice of unilateral adjustments of the obligations for electricity for previous periods until the general terms of the electricity distribution companies are aligned to the norm of Article 98, para 2, item 6 of the Energy Act through including in them an explicit procedure to notify the client in the event of grounds for adjustment
- The electricity distribution companies need to notify clients in advance about checks of commercial measurement devices

## Financial services

In 2019, the number of complaints grew by 43% in comparison to 2018.

The complaints against banks are related mainly to: impossibility to pay an obligation due to illness or financial difficulties; refusal of a bank to postpone or defer an obligation; high fees to provide bank services.

On 25 June 2019, the Ombudsman presented a Bill on the Insolvency of Individuals.

The complaints against non-banking financial institutions concern: existence of inequitable clauses in contracts; excessive interest, default, fees; failure to provide

sufficient, accurate and timely pre-contract information; giving contract forms to be signed although they have not been completed; lack of in-depth check about the client's solvency; lack of information in the event of transfer of receivables under a loan agreement; accrual of undue interest or excessive compensation in the event of pre-term repayment of a loan; failure to provide reference information about amounts due in debts; use of undue methods to collect debts.

The Public Advocate recommended to the Speaker of the National Assembly and the Prime Minister to reduce the lawful interest the citizens pay in the event of delayed payment of cash obligations.

As regards the inequitable clauses in contracts of fast loan firms, the Ombudsman organised a round table. Excessive interest and fees, unilateral changes in the interest due, a requirement for a bank guarantee or a guarantor who needs to meet excessive requirements, fees to fast-track loans, failure to renew the insurance are some of the problems found.

#### **Main recommendations:**

- Adopt a Personal Insolvency Act
- Reduce the lawful interest the citizens pay in the event of delayed payment of a cash obligation
- Exercise effective control for inequitable clauses in the contracts of fast loan firms
- Adopt amendments to the CPC to restrict the privileges of banks

#### **Electronic communication services**

In 2019, 331 complaints were submitted in relation to the provision of telephone services, internet and television.

The complaints are mainly against excessive bills, insufficient information upon the conclusion of contracts and restrictions in the event of termination of fixed-term contracts.

The Ombudsman's opinion is that the mobile operators apply unconscientious practices to preserve subscribers and attract new ones and, hence, referred the matter of the Chairperson of the Commission for the Protection of Consumers.

The Commission for the Protection of Consumers stated that an analysis would be performed about the existence of inequitable clauses in the contracts and general terms offered by the mobile operators which would also take into account the information provided by the Ombudsman.

#### **Main recommendations:**

- Mobile operators are to provide accurate pre-contract information
- Mobile operators should not set extra-contractual obstacles to the consumers when they wish to exercise their right to choose in the event of termination of contracts upon the expiry of the term

## Heat supply

In 2019, 324 complaints were submitted by consumers of heat energy in relation to excessive and unclear bills, the impossibility for individual rejection of the service, poor quality of the service, lack of information.

The citizens insist on a clear and understandable methodology to set the obligations, observance of Article 155, para 2 of the Energy Act – billing of the heat energy consumed on the basis of actual consumption at least once a year.

The Ombudsman organised a round table in relation to the public discussion of amendments to Ordinance No. 16-334 of 6 April 2007 on Heat Supply (Ordinance 16-334).

The opinion of the Public Advocate is that the amendments proposed would not actually result in guaranteeing the citizens' right to payment for the heat energy actually consumed.

### Main recommendations:

- Legislative amendments concerning the relations between heating companies, distribution and measurement companies and heat consumers as well as the share distribution of heat energy in condominiums
- Develop a sample notice appended to an invoice/adjustment bill with clear elements, including additional information about the duration of incidents and the default due
- Effective control over heating companies with respect to the performance of repairs and investment programs

## Transport

In 2019, 167 complaints were submitted.

The citizens' complaints about the inter-city bus transport are related mainly to: cancelled bus lines due to unfeasibility; failure to observe the schedule; failure to observe the provisions upon the sale of transport documents; rude attitude to the passengers.

As regards railways, the complaints are about failure to observe the train schedule and failure to take into account the passengers' needs for transportation.

Railway carrier BDZ informed the Ombudsman about existing problems with ensuring the necessary technically fit rolling stock and that the company was in the process of preparing for the supply of new and modern locomotives, carriages and motor carriages.

As regards public city transportation, the complaints are mainly about: failure to observe the schedule; obsolete vehicles, lack of air conditioning, vehicles which do not meet the hygienic requirements; failure of drivers and ticket collectors to observe their duties.

### **Main recommendations:**

- Ensure access to public transport for people living in small population centres
- The competent authorities need to exercise effective control in order to improve the quality of the transport service, including travel time, regularity, comfort and safety

### **Transfer of receivables**

In 2019, 102 complaints were submitted against receivables collection agencies; the citizens complain about: psychological harassment; lack of information about the transfer of a receivable; transfer of receivables where the statute of limitation has expired.

The Ombudsman's opinion is that the problems with collection agencies are due to the lack of regulations for their work.

### **Main recommendations:**

- Legislative provisions for the work of receivables collection agencies
- Collection agencies should record telephone conversations with the consent of the other party in order to improve the service and control
- Restrict the possibility for providers of public and financial services to transfer their receivables to external companies

### **Insurance services**

In 2019, 54 complaints were submitted about insurance compensation not paid within the term or refusal to pay insurance compensation.

In relation to the Draft Ordinance on the Bonus Malus System for the mandatory insurance of vehicles, the Ombudsman sent an opinion to the Financial Supervision Commission that no conditions were created for a fair determination of the individual insurance premium under the mandatory Third-Party Liability insurance for drivers. A more in-depth discussion was suggested.

As a result, the Financial Supervision Commission postponed the adoption of the Ordinance as of 1 January 2020.

### **Main recommendations:**

- Find mechanisms for a fair distribution of the insurance premiums among the persons concluding a Third-Party Liability insurance so that drivers with no offences would be stimulated and, vice versa, offenders would bear a greater liability;
- Effective control over the work of insurance companies

## Setting the household waste collection fee and waste collection

In 2019, 34 complaints were submitted concerning mainly: setting the fee for household waste in an amount which does not take into account the quality of the services provided and the actual expenses of the municipalities; additional terms for partial waiving of the household waste fee for properties which are not used during the year.

The Ombudsman has found that there are still municipalities which impose undue requirements for the partial waiving of the household waste fee when a property is not in use – there is a requirement for documents to evidence that electricity and water are not used in the property.

### Main recommendations:

- The household waste fee should be set in view of the quality and the actual expenses association with the services provided
- The respective provisions in municipal ordinances for additional terms for the partial waiving of the fee when a property is not in use during the year should be repealed
- Municipal authorities need to exercise effective control over the quality of the services for household waste collection and transport as well as cleaning on territories for public use

## 3. Social rights

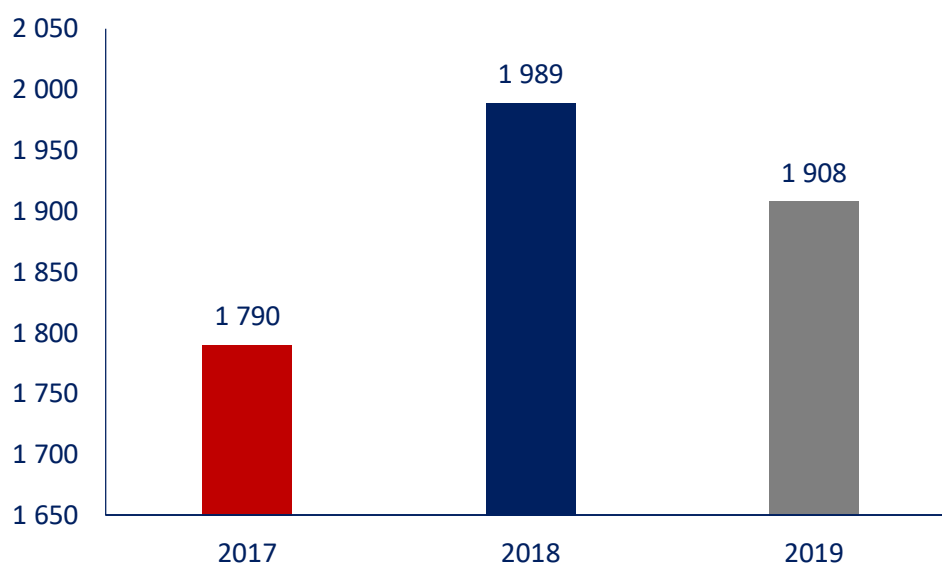
2019 again saw the trend for a great number of complaints and signals about social rights submitted to the Ombudsman institution. They reached 1,908 during the year. The largest share includes the complaints about pension and social security rights – 1,129 complaints, and labour rights – 368 complaints, social assistance and social services – 134 complaints, followed by those about support and help for housing, and others – 226 complaints, about unemployment – 30, about temporary unfitness for work (sick leave) – 11, and maternity – 10 complaints.

**Chart:** *Complaints and signals by type of violation for 2019, number*



For the sake of comparison: the complaints and signals related to the protection of social rights in the period 2017-2019 are 2017 – 1,790, in 2018 – 1,989, in 2019 – 1,908.

**Chart:** Complaints and signals related to the protection of social rights in the period 2017-2019, number



Over the year, the Ombudsman made 367 recommendations for the protection of the citizens' social rights; of them 363 were taken into account and 4 were partially implemented.

Most frequently, the complaints are against:

- Employers;
- National Social Security Institute;
- General Labour Inspectorate Executive Agency;
- Employment Agency;
- Social Assistance Agency.

### Right to pension

Most frequently, the problems the citizens note are related to:

- Low pensions, need for their update and lack of a policy on recalculation of all pensions on the basis of the average social security income for 2016 or 2018 which the citizens expect;
- Determination of the individual ratio based on which the amount is calculated for pensions provided after 1 January 2019;
- Possible breach of the rights of the first insured persons who will receive a pension for length of service and age from the second pension pillar;
- Delay in the receipt of documents and payment of pension from the Republic of Greece.

#### **Main recommendations:**

- Find a legal mechanism to determine the minimum amount of pensions for social security length of service and age which will approximate and equalize annually the amount of these pensions to the poverty line
- Recalculate periodically the amount of all pensions on the basis of the average social security income for the country for the previous year
- Find such a solution for the payment of compensation for temporary fitness for work which will guarantee the right of employees to receive timely and fully the compensation due to them for the entire period of use of this leave
- Not to allow a breach of the rights of the first insured persons who will receive a pension for social security length of service and age from the second pension pillar
- Take urgent action to protect the interests of the Bulgarian citizens who have acquired pension and social security rights in EU Member States, in particular the Republic of Greece

#### **Right and procedure to receive compensation for temporary unfitness for work**

Ideas about the compensation of leave for temporary unfitness for work presented in the public space created tension in the end of 2019.

#### **Main recommendations:**

- Find such a solution about the payment of compensation for temporary fitness for work which will guarantee the right of employees to receive timely and fully the compensation due to them for the entire period of use of this leave

#### **Labour rights**

In 2019, the citizens reached out to the Ombudsman for assistance with violations in relation to:

- Performing work without conclusion of a labour contract in writing;
- Performing extra work in the conditions of totalling the working hours and the associated reporting for fewer hours of extra work performed and paid;



- Failure of the employer to provide safe and healthy working conditions at the work places in the enterprise;
- Difficulties in receiving guaranteed receivables from the Guaranteed Receivables of Workers and Employees Fund.

### **Main recommendations:**

- Carry out effective inspections within a reasonable time upon complaints and signals from the citizens to the competent authorities – General Labour Inspectorate Executive Agency, National Revenue Agency, National Social Security Institute
- Take timely measures to eliminate violations found
- Following the continuing good cooperation of the Ombudsman institution with the General Labour Inspectorate Executive Agency, in 2019 approximately 30 companies submitted claims under Article 625 of the Commercial Act for the opening of insolvency proceedings which were granted by the court
  - In 2019, the Guaranteed Receivables of Workers and Employees Fund paid BGN 4,880,155.86 to more than 3,000 workers/employees

### **Right to access to employment**

The citizens turn to the Ombudsman for assistance in relation to:

- Difficulties they have in finding employment;
- Refusal of employers to hire people with an expert certificate from a Territorial Expert Medical Commission and people in pre-pension age or people with no experience;
- Citizens living in small population centres share that in small municipalities the only chance of work is in the municipal administration or local units of government structures.

### **Main recommendations:**

- Improve the communication of staff of Employment Office Directorates with job seekers
- Labour intermediaries need to take action to motivate employers to announce each vacancy at the Employment Office Directorates

### **Right to cash compensation for unemployment**

The problems are related mainly to:

- Citizens who have worked abroad and have come back to the country wait for a long time to receive the cash compensation due to them;
- Delay in the payment or suspension of the proceedings to approve and pay cash compensation due to the lack of a structured electronic document;
- Suspension or delay in the payment of cash compensation for temporary unfitness for work.

### **Main recommendations:**

- The inspections of insuring entities performed by the National Social Security Institute for legality of the compensation claimed need to be carried out in short terms
- Speed up the procedure for payment of cash compensation for unemployment of people who have worked abroad through the use of electronic data exchange (the so called EE881 system) between the competent institutions of the EU Member States

### **Right to social support and social services**

In 2019, the complaints about social assistance and social services are related mainly to:

- Refusal to provide grants for heating, mainly to elderly people;
- Quality of the social services provided;
- Refusal to provide monthly grants for children due to exceeding the income criteria indicated.

### **Main recommendations:**

- Review and amend the regulatory framework for the provision of monthly grants for children in a way which will not put parents, including agricultural producers and single parents, at a disadvantage but support and stimulate them in raising their children
- Set a specific date for the payment of monthly family benefits for the raising of a child until the completion of secondary education but not more than 20 years of age in the course of the month in which they are provided
- Eliminate the income criterion for the provision of monthly benefits for the raising of a child until the completion of secondary education but not more than 20 years of age and/or look for another mechanism to provide support for all children

### **Help/support for housing**

In 2019, the complaints related to registering, accommodating, moving or purchasing a municipal residence, forced taking of a municipal residence used under a lease continued. The problems related to this are:

- The residential fund of municipalities is insufficient to meet the needs of all citizens;
- A part of the residential fund is in a poor condition and is unfit for use;
- The administrative burden for the citizens who apply for housing which are private municipal property is excessive and makes it difficult for the citizens to submit requests.

### **Main recommendations:**

- Find appropriate mechanisms through which the municipalities will be assisted in increasing the available residential fund

- Look for possibilities to provide targeted funds to municipalities for renovation and aligning the municipal housing to the conditions for living
- Local authorities need to review the municipal ordinances as regards the registration and accommodation of citizens in need at residences which are private municipal property in order to reduce gradually the administrative burden for the citizens when they need to provide documents and information to which the respective administrations have ex officio access.

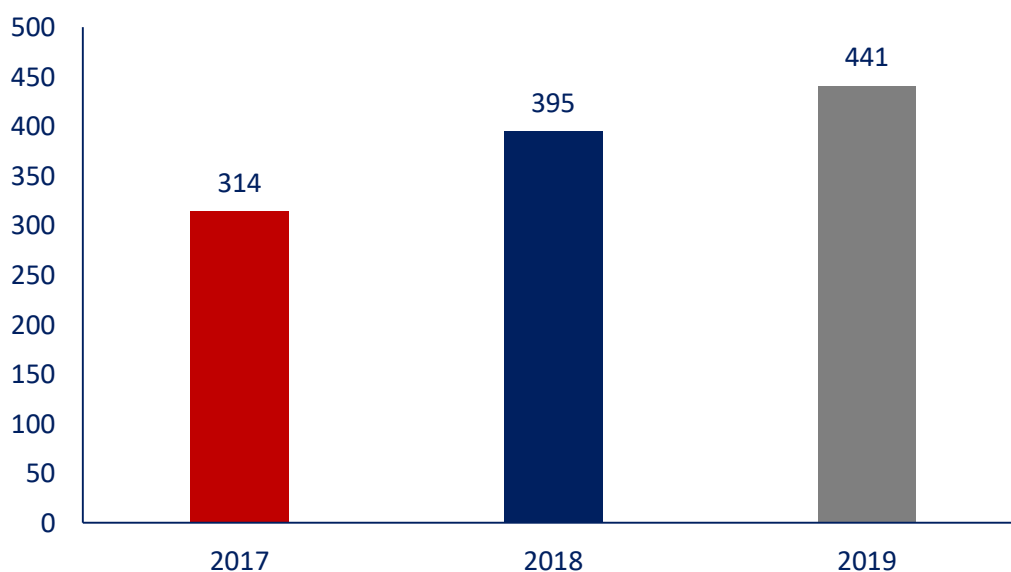
## 4. Rights of persons with disabilities

The new Persons with Disabilities Act (PDA) entered into force on 1 January 2019. The implementation of the PDA determines to a large extent the changes in the policies for persons with disabilities which are important to the citizens.

In implementation of the PDA provisions and pursuant to the requirements of Article 33, para 2 of the UN Convention on the Rights of Persons with Disabilities (CRPD), a Monitoring Council was set up in 2019.

Although a certain progress can be noted as a result of the reforms undertaken with respect to the rights of persons with disabilities, the complaints submitted to the Ombudsman institution in 2019 show that there are still issues which need to be resolved.

**Chart:** *Complaints and signals submitted in relation to the rights of persons with disabilities in the period 2017-2019, number*





**Table:** Complaints and signals registered by type of violation in relation to the rights of persons with disabilities in 2019, number

Type of violation	Number
Rights of persons with disabilities, of them:	441
✓ <i>Social and economic protection</i>	190
✓ <i>Social services and personal mobility</i>	89
✓ <i>Civil and political rights</i>	59
✓ <i>Accessibility</i>	14
✓ <i>Healthcare and rehabilitation</i>	53
✓ <i>Employment and entrepreneurship</i>	13
✓ <i>Participation in public life</i>	3
✓ <i>Support for housing</i>	10
✓ <i>Other</i>	10

In 2019, the Ombudsman worked to resolve problems in the following areas:

### **Social and economic protection**

In 2019, the citizens had serious difficulties in applying the PDA texts regarding the transfer of monthly benefits for social integration and the benefit for social invalidity pension to the monthly financial support provided under the law. The amount of the monthly financial support and the distribution of the entitled persons in Article 70, item 3-5 PDA also give rise to a sense of unfairness for some groups of citizens with disabilities.

### **Social services and personal mobility**

In 2019, there was a lack of opportunities to provide the help of an assistance under the existing programs and projects. The entry into force and the implementation of the Personal Assistance Act overcame significant deficiencies in the system for providing the help of an assistance until then. Still, the complaints outline serious difficulties for those in need with the requirement for the persons with disabilities to waive the benefit for additional help paid out with the pensions by the National Social Security Institute if they wish to use the mechanism of personal assistance. There are still problems for single citizens in small places

to find a personal assistant to provide care for them as well as with the procedure to determine the number of hours for personal assistance.

### **Auxiliary appliances and medical products**

No change was found in the problems with the current procedure for funding and providing auxiliary appliances, devices, gear and medical products: the procedure to provide the auxiliary appliances, devices, gear and medical products; their quality; their term of use; the amount of the grants provided by the State to buy/manufacture the medical products for children and adults.

There are significant expectations for amendments to the texts of Article 73 PDA introducing the requirement for provision of medical products meeting certain quality standards.

### **Accessible environment**

In opinions and recommendations, the Ombudsman has repeatedly reminded the heads of the responsible authorities that the prevailing part of the decisions to overcome the architectural obstacles for people with disabilities do not require significant resources but only the introduction of reasonable facilities and reorganization of the access for citizens and the admission of their documents. There are still serious problems with the accessibility of the environment which need to be overcome.

### **Healthcare and rehabilitation**

A significant number of citizens complain against the amendments to the Ordinance on Medical Expert Examinations in force as of 3 August 2018 which change the starting points and the evaluation methodology, indicating fixed percentages for each illness/condition and restrictions in determining the overall percentage in the event of more than disability.

Another problem is the implementation of the provision of Article 112, para 9, proposition 1 of the Health Act by the social assistance authorities.

### **Employment**

Bulgaria has introduced the so called “quota principle” for the first time (through Article 38 PDA). However, despite the obligatory nature of the provision, employers are still reluctant to hire persons with disabilities and some of them are even more likely to pay compensation contributions than to support a person with a disability.

#### **Main recommendations:**

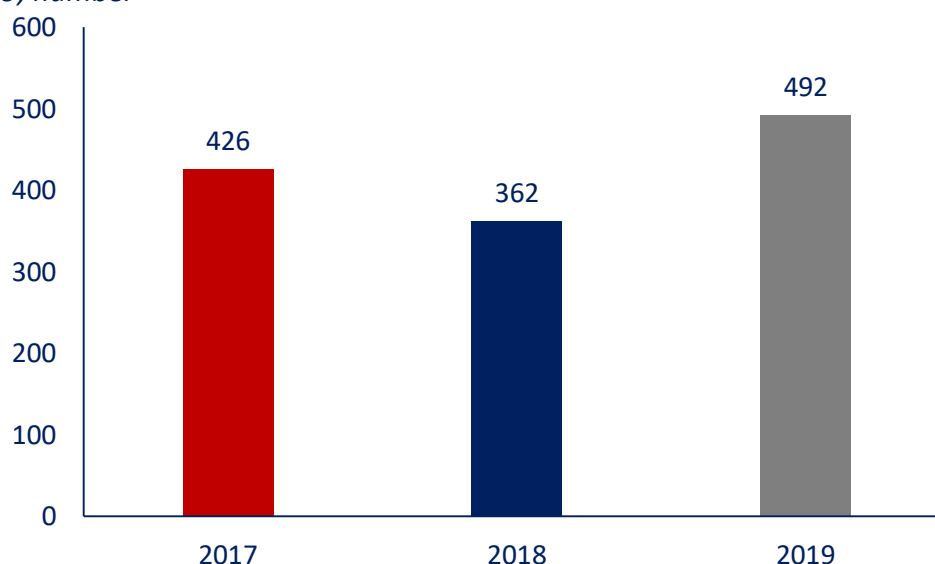
- The reform started in the area of policies for persons with disabilities in Bulgaria needs to continue and to be implemented in partnership with the persons with disabilities themselves and their organisations
- There should be no more delay in transferring the provision of auxiliary appliances and medical products laid down in the PDA from the Ministry of Labour and Social Policy to the Ministry of Health and the National Health Insurance Fund
- Apply an individual approach in providing monthly and targeted funds and in providing social services
- Create conditions for employment of persons with disabilities by financing, promoting and developing the national program for employment of persons with disabilities laid down in the PDA which entered into force in 2019

- Create appropriate social services in the family environment and in the community to support independent lives
- Guarantee the quality and accessible healthcare for persons with disabilities, including appropriate rehabilitation
- Reduce the administrative burden when social services are used and social benefits provided
- Introduce, at government institutions, integrated electronic services for persons with disabilities and create an effective register integrated between the responsible institutions which will contain the up-to-date information necessary to observe the rights of persons with disabilities, as provided for in the PDA
- Pursue an adequate reform of medical expert examinations and the expert examinations of the fitness for work with the active participation of persons with disabilities and their representatives
- Provide for mechanisms for actual performance of the commitment of the Ministry of Labour and Social Policy for an accurate implementation of Article 112, para 9, proposition 1 of the Health Act by the structures of the social assistance system
- Guarantee the receipt of support in the form of social services for the period of appeal against the expert decisions of the a Territorial/National Expert Medical Commission

## 5. Rights of the child

The independent national institution of the Ombudsman is an important mechanism to encourage protection of the rights of the child. By focusing the attention of the institutions on the problems children and citizens face in implementing the rights of the child in healthcare and education, their access to social services and support for families, to increase the wellbeing of children, the Ombudsman strives to boost the institutional and public sensitivity to the rights of the child.

**Chart:** Complaints and signals registered in relation to the rights of the child in the period 2017-2019, number



**Table:** Complaints and signals registered by type of violation in relation to the rights of the child in 2019, number

Type of violation	Number
Civil rights and freedoms	222
Social and economic protection	14
Children with disabilities, including children with special educational needs	35
Family environment	150
Special protection measures	38
Children and the judiciary	11
Others, including healthcare	22



## Types of violations

An overview of the political and legislative framework in the area of the rights of the child shows a slow-down in long-awaited reforms which is of special sensitivity in the case of justice for children. The Bill on Non-Application of Criminal Proceedings and Imposing Correctional Measures on Minors and Underage Children has not been put forward for discussion before the National Assembly yet and the reason is the lack of institutional consent on important topics in it. This delay impacts mostly on the children in conflict with the law because some of them are still accommodated at correctional schools – boarding houses in exceptionally poor conditions and given the lack of motivated staff to work with them, moreover on the basis of judicial acts imposing correctional measures whose justification is debatable from the point of view of the standards for protection of the rights of the child.

Despite the good regulatory framework laid down in the Pre-School and School Education Act and the Ordinance on Inclusive Education, the experience still shows different results – the children with special educational needs are not fully integrated in the system of inclusive education and an indicator of this is the complaints submitted in this regard. Schools are having serious difficulties in the process of integrating children with special educational needs and Roma children. The examples are numerous – children against whom parents organise collections of signatures, formal training, curricula and textbooks which have not been adapted, harassment and violence at school, segregation and public stigma.

There is still a significant number of complaints concerning the rights of the child in the event of parental conflicts. Despite the efforts of the Ombudsman to find a working institutional approach to resolve the cases, the results are not commensurate with the scale of this social problem. The arguing parents and their families resort to different institutional and judicial proceedings against each other but, unfortunately, most of them do not observe the recommendations and acts of the institutions or the judicial decisions. Thus, many children grow up in an environment of long years of conflicts and their childhood turns into the hostage of arguing parents and inefficiency of the actions of the institutions.

In the complaints to the Ombudsman, the citizens outline a wide range of problems and matters some of which remain unresolved for years, others express civil and parental discontent following amendments to the legislation or statements of reforms. An example of great numbers of complaints in a certain area of the rights of the child include the collections of signatures against the Draft National Strategy for the Child 2019-2030, against the sexuality education of children and the application of international standards in Bulgaria. The citizens who have signed the petitions disagree with the standards of sexuality education of the World Health Organisation and UNESCO. They challenge international plans and strategies in the area of protection of the rights of the child against violence (against the introduction of the UN Strategy to End Violence against Children and the Global Partnership to End Violence against Children).

## Areas of problems and impact

Based on the complaints and the social processes the Ombudsman monitors, in this report the institution highlights several main topics, outlines the problems and notes the challenges:

- Quality of care in deinstitutionalized social services for children – residential and in the community;
- Inclusive education and the rights of children with special educational needs – public stigma and lack of sufficient resources;
- Policies aimed at the family and support for children in the family;
- Rights of children involved in parental conflicts;
- Rights of children with disabilities;
- Child protection system – state and challenges.

In addition to these main groups of problems in which there are many complaints and signals, the Ombudsman also notes a number of others where action needs to be taken:

- Healthcare for children – quality of the urgent help for children; a child with an insulin-dependent diabetes who is not a Bulgarian citizen but lives in Bulgaria permanently; medical practices in hospitals which are not children-friendly;
- Violence against children in different forms of raising or educating the child; violence in the family, in such cases most often it is the parent with whom the child does not live who submits the signal;
- Detention in custody of minors and underage persons at facilities for 24-hour detention at the Ministry of the Interior and maltreatment;
- Public and media environment for children – again problems with unsafe playgrounds and places for play; and the lack of such; traffic organisation, crossings which are not appropriate for children; media coverage of violence against children disclosing personal data about the child;
- Unlawful punishment, physical and social isolation; hostile atmosphere and aggression are just some of the problems raised by relatives of children accommodated at correctional schools – boarding houses or social and pedagogical boarding houses;
- Rights of the child in sports – this is a topic which has repeatedly been brought to the attention of the Ombudsman over the years and the claims are mostly about unlawful punishments and maltreatment on the part of coaches or peers.

### **Findings:**

- The change in public attitudes to the rights of the child is a serious challenge which needs to be in the focus of attention of all responsible institutions and the structures of civil society. An in-depth analysis should be carried out of the effect of the main pieces of legislation in the areas of the child and the family: Child Protection Act and the Family Code, focusing on the results for children and families.
- Poverty and lack of funds for support or raising a child, lack of “parental capacity”, lack of parenting skills and knowledge and undeveloped feeling of responsibility to raise a child: these are still among the main reasons for the separation of children from families which makes it an urgent need to analyse the most frequent reasons and to review the existing resources. There is no targeted policy to support children in families.
- The delay in the reform of juvenile justice has continued for many years; in this way, our country not only breaches international standards it has adopted but, most of all,

it dooms whole generations of children to marginalization and punishment instead of social work and support.

- Overburdened and unmotivated child protection system. The state of the protection system is a factor which has a significant impact on the citizens' trust, and creates more discontent than results. Excessive administrative burden which demotivates the social system and those working in it at the expense of social field work.

- The lack of integration among the different sectors of the rights and of application of a systemic approach in the work frequently fails to result in change.

### **Main recommendations:**

- Take action to build a prevention system with respect to the risks for children and families by defining clearly an overall primary prevention and specific responsibilities by sectors

- Set common competency frameworks for work with children and parents valid for different professionals and sectors

- Develop the care for children in residential services focusing on the quality of the care, on the basis of an approach based on the rights of the child and striving to ensure return of the child to the family

- Special measures in the area of juvenile justice taking into account a child's age, focusing on rehabilitation, reintegration and taking on a constructive role in society instead of repression and treating children as adults

- Discuss and adopt amendments to the Family Code providing for adoption, rights and obligation of parents, and recognition

- Reform in the protection system: develop a new methodology to evaluate the workload of social workers and a special strategy for requalification and motivation of the staff (including review, remuneration, working conditions, etc.)

- Achieve political consent for a gradual increase in the budget funds for key child protection sectors

- Introduce integration of the data related to children

- Introduce a complex approach for working with children who are victims of violence, ensuring rehabilitation services and programs to work with the perpetrators

- Strict compliance with the ethical and professional norms in journalism when topics and problems related to children are covered

- Adopt a package of measures to support families as the most appropriate environment for a child's raising and development

- Improve the care and environment for children with disabilities which will allow for long-term integration applying a social model rather than a medical one

- Each change or reform needs to be accompanied by broad public discussions, information campaigns involving both children and families as well as representatives of local authorities

## 6. Right to healthcare

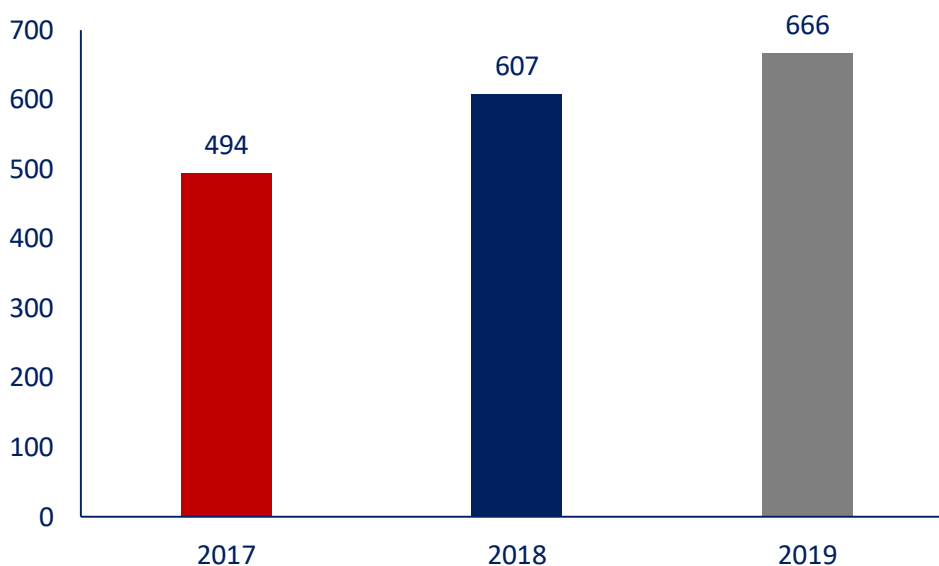
There are still problems in the system of healthcare which need to be resolved as a pre-condition to guarantee the rights of citizens as patients and persons with health insurance as set out in the Constitution, the law of the country and international treaties.

The Ombudsman is of the opinion that the changes need to continue; to overcome the problems in the system there needs to be not only understanding and consent for reforms but also a positive public attitude, stable legislation, optimization of the allocation of the funds and heightened control involving patients as well.

A positive step is the action taken to stabilize the financial situation of regional and municipal hospitals.

The agreement reached in the development and signing of a National Framework Agreement for 2020-2022 is an important condition to guarantee the rights of patients and medical staff.

**Chart:** *Complaints and signals registered in relation to rights in healthcare in the period 2017-2019, number*



The increase in numbers is indicative of the citizens' trust in the institution and the possibilities it has to protect their rights; at the same time, there is still a high percentage of citizens who believe that their rights have been breached. The share of complaints related to rights in healthcare compared to the total number of complaints submitted to the institution has been growing steadily over the past three years: 2017 – 3.90%, 2018 – 4.71%, 2019 – 5.16%.

**Table:** *Complaints and signals registered by type of rights in healthcare in 2019, number*

Type of rights in healthcare	Number
Medical expert examination	211
Access to medical services	87
Quality of medical services	83
Health insurance rights	79
Access to medicinal products and medical aids	51
Violation of hygienic norms and requirements, poor living conditions	34
Labour and professional rights of the staff	33
Immunisation and prophylaxis	15
Access to health information	4
Proposals for legislative amendments	35
No specific request	26
Inadmissible	8

### **Problems with medical expert examinations**

- Reduce the percentage of permanently reduced fitness for work/type and degree of disabilities for some citizens;
- Delay in the expert examinations of the National Expert Medical Commission;
- Delay in certification and re-certification by Territorial Expert Medical Commissions in some regions;
- Problems in the organisation and procedure for medical expert examinations.

### **Main recommendations:**

- Discuss and take action to amend the legislation by providing for a fair assessment of the permanently reduced fitness for work/type and degree of disability
- Assess the effect of the measures introduced to speed up the medical expert examinations by the National and Territorial Expert Medical Commissions, conduct the expert examination in a reasonably short term
- Discuss the possibility to expand the cases where a life-time term is set and recognized in expert decisions

### **Problems related to the quality of medical services**

- Quality of dialysis treatment;
- Problems with ensuring the quality of medical help in regional and municipal hospitals;
- Breach in trust in the doctor-patient relations;
- Quality of control of medical work.

### **Main recommendations:**

- Strengthen the control over the work of medical institutions by providing for a mechanism to take into account the satisfaction and opinions of patients
- Discuss measures to ensure the long-term financial stability of government and municipal hospitals as well as to ensure staff availability
- Create an accessible possibility for specialization of doctors, working conditions and remuneration for the work of doctors and medical specialists

### **Right to access to medical services**

- Problems with ensuring urgent and out-of-hospital assistance;
- Difficulties in ensuring timely access to examinations;
- Highly limited access of patients to palliative care, extended treatment and rehabilitation;
- Donors and transplantations.

### **Main recommendations:**

- Discuss a strategy and measures to ensure the citizens' access to medical assistance in small and remote places
- Ensure funding from the State and municipalities for sufficient in volume and duration palliative care for citizens with terminal conditions
- Increase the level of payment with public funds for extended treatment and medical rehabilitation of patients with chronic illnesses
- Elaborate a strategy to guarantee the access of children to medical help
- Intensify the performance of the activities laid down in the National Program to Encourage Donorship and Assist Transplantations in the Republic of Bulgaria

## Right to access to medicinal products and medical aids

- Insufficient level of payment with public funds for medicinal products and medical aids;
- Lack of shortage of medicinal products, delay in providing them;
- Problems with the use of medication which is not distributed in Bulgaria or outside the therapeutic recommendations laid down in their description.

### Main recommendations:

- Increase the level of public funding for medicinal products
- Increase the level of payment for medicinal products, payment for new medicinal products and dietetic foods for medical purposes specifically
- Provide for an accessible possibility to ensure home treatment of Bulgarian citizens with medicinal products which are not distributed in the country

## Health insurance and compensation

- Problems with exercising rights arising from Bulgaria's EU membership;
- Discontinued rights due to the employer;
- Delay in the payment of compensation and reimbursement of sums for treatment.

### Main recommendations:

- Reduce the terms for reimbursement by the National Health Insurance Fund of expenses incurred by citizens for treatment in EU Member States
- In view of the delayed receipt from some countries of the E104/S41 form requested ex officio which is necessary to add social security periods and restore health insurance rights of citizens who have come back to the country, take measures to ensure their access to medical help until the form arrives
- Discuss measures to improve the citizens' awareness of their health insurance rights

## 7. Right to education

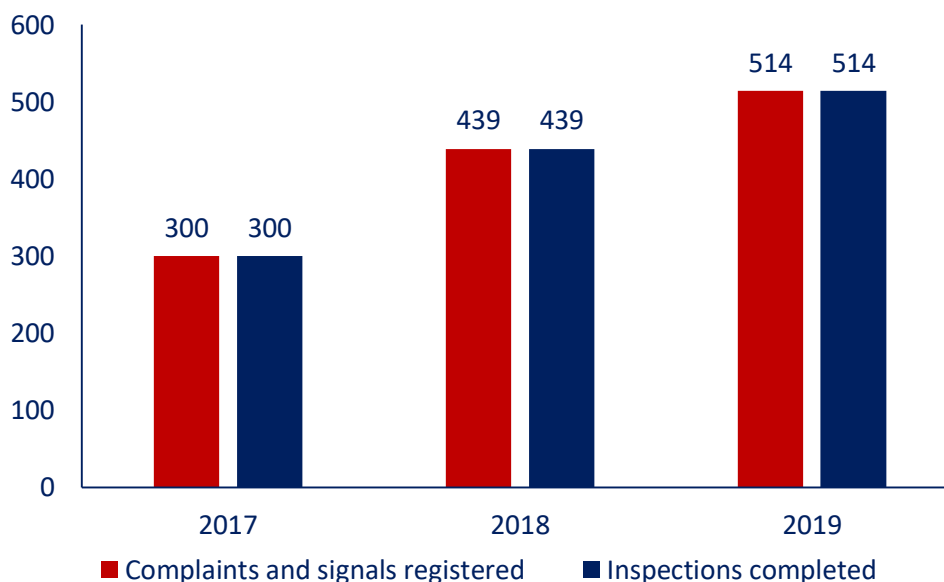
A priority in the work of the National Ombudsman is the creation of conditions for accessible and quality education in the country.

For yet another year the educational environment in Bulgaria faced the challenge to overcome a number of problems related to its reforms as seen from the complaints submitted to the institution of the Public Advocate. The citizens turn to the Ombudsman bringing important matters to the Ombudsman's attention, expressing opinions, sharing viewpoints or looking for advice. The analysis of the citizens' complaints reveals different problems related to pre-school, school and higher education.

In 2019, a main focus in the work of the Ombudsman was the policies related to the integration of children from vulnerable groups in the educational system and return of

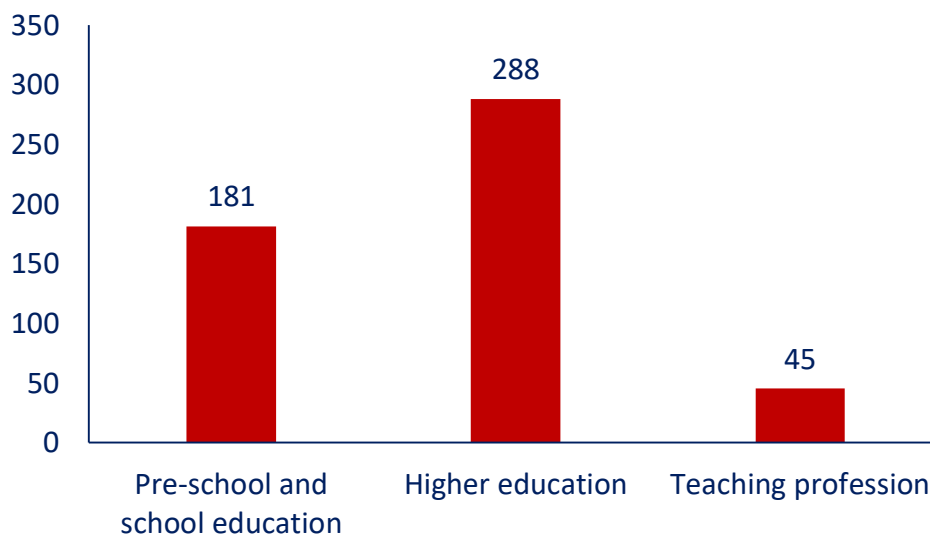
dropouts to school. In this sense, the institution continued to insist before the competent national and municipal authorities to rethink their attitude to the fees for pre-school education noting that the elimination of the fees for kindergartens is an important prerequisite to include the children living in poverty and the children from risk groups.

**Chart:** *Complaints and signals registered and inspections completed in the area of education in the period of 2017-2019, number*



The complaints and signals submitted in the field of education in 2019 reached 514.

**Chart:** *Complaints and signals registered in the area of education by fields in 2019, number*





## Main problems in the area of education:

- Insufficient places in daycare centres and kindergartens in Sofia and large cities as well as high monthly fees for these institutions;
- Need to modernize pre-school institutions, schools and universities;
- Lack of sufficient investments in increasing the number of kindergartens in order to improve the scope in pre-school education;
- The intention to cover 4-year old children in obligatory pre-school education is not accepted unambiguously by the parent community;
- Increase the monthly fees for kindergartens and attendance of pre-school groups at full-day children centres;
- Irregular school attendance by children from minority groups and lack of striving to learn Bulgarian;
- Lack of standards for the educational function of the school;
- Insufficiently developed interaction between students, teachers and parents.
- The interaction with the parents in the process of the children’s adaption in kindergartens is not always good;
- Ensuring a possibility to validate and certify knowledge gained outside the system of the Ministry of Education and Science would help to include in the educational system children who have received complete or partial pre-school education in an alternative form of raising and training;
- Need for measures to unburden the educational content and update the curricula;
- In relation to the need to apply a single-shift regime, some municipalities are reorganising the school network without public discussions or achieving agreement which results in the dissatisfaction of the parents;
- Upcoming crisis for teachers caused by the teachers’ ageing;
- Insufficient control over the work of headmasters;
- High administrative burden on teachers;
- The expansion of the network of higher educational institutions is not aligned to the labour market;
- The educational and scientific results are not of sufficient quality;
- The management model for higher education institutions needs to be improved;
- The training of students is not always aimed at gaining more skills during the time of training;
- Lack of a connection between higher education institutions and businesses;
- The control over the competition procedures for academic positions is not sufficient;
- Some higher education institutions continue the practice of setting prices for administrative services which exceed several times their costs;
- There are frequent cases of poor administrative services in higher education institutions.

### **Main recommendations:**

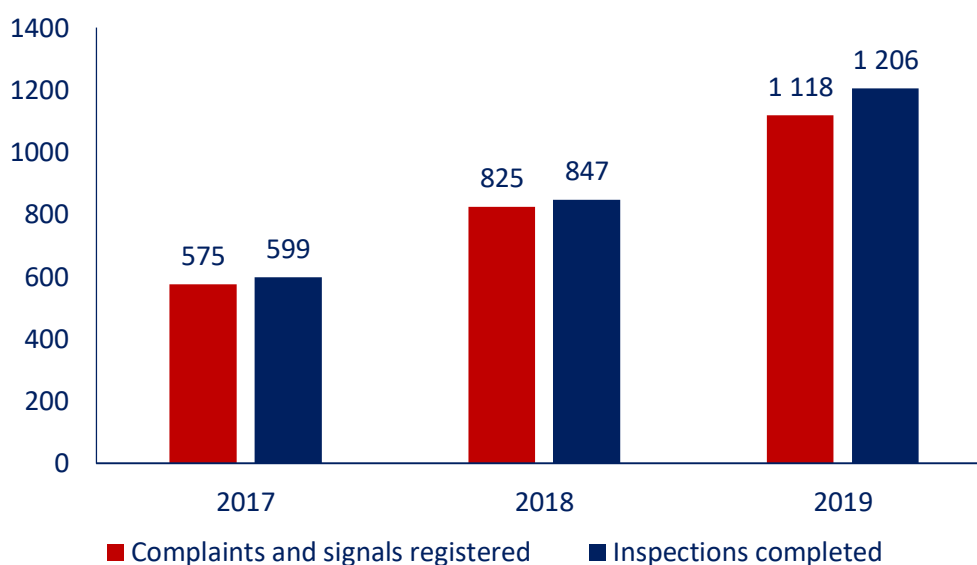
- Introduce obligatory pre-school education for 4-year old children and ensure possibilities for alternative forms of raising and education looking for ways to achieve public consensus on this measure
- Financing of care in the early years by the authorities and elimination of all types of fees in kindergartens
- Gradual removal of pre-school groups from schools and ensuring places for 5- and 6-year old children at kindergartens
- Introduce educational mediators to work with families from vulnerable groups to overcome their negative attitudes to the education of their children
- Introduce special programs to study Bulgarian in pre-school groups by children whose mother language is not Bulgarian
- Introduce an adequate educational model in the contemporary society through debates on the topic to achieve broad public support
- Measures are needed to overcome the upcoming crisis for teachers caused by ageing
- Increase the expenses for scientific research and ensure state support for participation in projects
- Take measures to overcome the imbalances related to the rising average age of academic staff

## 8. Right to good governance and good administration

A number of documents and acts of the Council of Europe, the European Union, the United Nations and international financial institutions set out the main criteria for good governance and good administration. Their observance by the administration is an indication that it protects the public interest and works to the citizens' benefit.

In 2019, the Ombudsman institution registered 1,118 complaints – an increase by 35.5% in comparison to 2018 – and completed the inspections in 1,206 complaints.

**Chart:** *Complaints and signals registered and inspections completed in relation to the right to good governance and good administration in the period 2017-2019, number*



In 319 cases, the Ombudsman gave recommendations and proposals to administrative authorities and the majority of them were taken into account. In 238 cases, a solution was found through mediation between citizens and the administration.

Violations of the right to good governance and good administration which impact a great number of citizens:

### **Omissions in the regulatory framework and violations of legislative requirements by the administration (268 complaints)**

In 2019, there was an increase in the number of complaints and signals against provisions in the regulatory framework impacting on the citizens' rights and against administrative authorities for violations of legislative requirements, namely:

- Leaking of the personal data of millions of Bulgarians from the data base of the National Revenue Agency;
- Inequitable treatment of owners with regard to the taxes they owe on real estate as a result of amendments to Article 22 of the Local Taxes and Fees Act in force as of 1 January 2019 increasing the tax for residential properties located on the territory of a

population centre or formation included on the List of Resorts in the Republic of Bulgaria and Determining Their Boundaries adopted by virtue of Decision No. 153 of the Council of Ministers of 24 February 2012 which, for the respective year, are not the primary residence of a tax liable person, are not leased and are not registered as accommodation places within the meaning of the Tourism Act;

- Citizens are unable to use the preferential terms laid down in the Local Taxes and Fees Act when the tax on vehicles is set (in force as of 1 January 2019) when the environmental category of the vehicle is not recorded in the registration document;

- Problems with the implementation of the electronic toll system as of 1 January 2019 and refusal for corrections or reimbursement of amounts paid for e-vignettes if incorrect data are input about the licence plate number of a vehicle;

- As a result of the existing regime for address registration provided for in the Civil Registration Act:

- Citizens are unable to register as per permanent/current address due to a number of reasons such as: they do not have an up-to-date registration as per permanent and/or current address or do not have a connection any more with the address where their latest registration is at; they do not have a residence of their own; they live or work abroad and do not meet the requirements for registration as per permanent address in Bulgaria; their addresses are noted in a way which is different from the one provided for in Article 89, para 3 of the Civil Registration Act, etc.;

- Citizens cannot terminate the address registration of third parties at the address of their own residences.

### **Problems related to the state of the transport infrastructure and the environment in population centres (634 complaints)**

The citizens turn to the Ombudsman for assistance and insist on: renovation of streets, roads and bridges; building and renovation of pavements; providing parking space; building and/or maintenance of street lighting; building and maintenance of playgrounds; renovation of sport facilities; preventing the systemic flooding of properties; trimming and/or cutting down dangerous trees; improving traffic organisation; safeguarding and maintenance of cemeteries, etc.

They voice demands for quality renovation activities which meet the approved standards and norms, for shortening the terms for their execution and for effective control by the assignor.

A special focus in the complaints is also the matter of the optimal use of public funds in relation to executing construction and/or renovation works.

### **Failure to observe the standards for the quality of administrative services (269 complaints)**

The citizens most often complain about: need to expand the possibilities to request administrative services, to receive documents and to pay the fees due; poor work organisation in certain administrations; poor conditions and lack of the necessary information in premises where services are provided to citizens; difficulties to reach administrations via the phones indicated; delay in the provision of administrative services or a response.

Emphasising the criteria for good governance and the main principles to be observed when administrative services are provided, the Ombudsman notes that 2020 is a very important year because it is the end of the implementation of the Strategy for the Development of the Government Administration 2014-2020. This makes it necessary to carry out an in-depth analysis of the experience and expertise gained, the achievements and the unresolved problems together with the reasons for this; the analysis should become the foundation for setting the new goals and tasks.

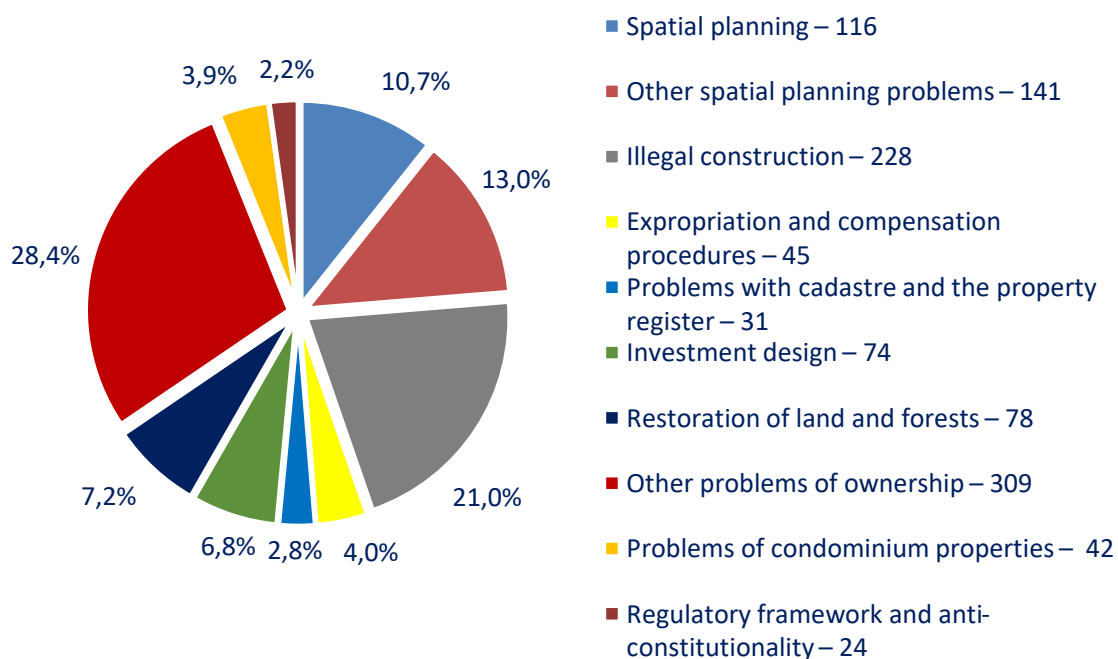
### **Main recommendations:**

- Strict compliance with the criteria for good governance and good administration in order to ensure:
  - Taking of adequate management decisions;
  - Taking timely measures to fulfil obligations and resolve emerging problems;
  - Protection of the public interest and the citizens' rights.
- Improvement of the quality of administrative service through:
  - Optimising the work organisation in individual administrations and the interaction among them;
  - Application of the requirement for a single gathering of data and their use from then on for all administrative services;
  - Decentralised provision of administrative services by increasing the number of administrations applying such a practice;
  - Greater use of quality management systems in the government administration;
  - Efficient application of systems to study and measure the consumer satisfaction;
  - Expanding the scope of electronic administrative services.

## 9. Right to property and economic freedom

A total of 1,088 complaints and signals were submitted about breaches in the right to property some of which are collections of signatures from thousands of citizens and their associations.

**Chart:** Complaints and signals registered (by problem) in relation to the right to property in 2019, %



### Rights of the citizens in the area of spatial planning, cadastre and illegal construction

The complaints are in relation to insufficient information and failure to take into account the objections and proposals of the interested members of the public in the course of arranging for spatial plans; in relation to the failure of municipalities to take action to assign ex officio detailed spatial plans in accordance with the newly adopted general spatial plans; dissatisfaction is also expressed by the owners of properties whose spatial status has been blocked as a result of assigning them as sites of the State and municipalities which are not used. Thousands of citizens have signed against the design and implementation of draft detailed spatial plans envisaging new construction on the terrains between residential blocks and green areas.

The Ombudsman has found that spatial conflicts arise between different groups of residents and owners, deviations are established in the procedures to develop, approve and announce detailed spatial plans.

The Ombudsman's recommendations are about legislative amendments to guarantee the participation of the citizens affected in the process of territorial planning and investment design, from the stage of approval of assignments for spatial plans and setting their purposes

to allowing construction in intra-estate spaces in the residential estates; as well as for protection of the construction-free areas currently in existence in residential estates and designating them as green areas.

### **Other problems related to spatial planning**

**Rights affected in relation to technical infrastructure networks and facilities which are not maintained or built and failure to provide access or providing limited access of properties to them. Failure to implement effective detailed spatial plans.**

A significant share of the complaints to the Ombudsman for yet another year comes from citizens from different municipalities in relation to breaches of the right of normal access to their homes; lack of basic living conditions due to the absence of water and sewerage networks; failure to observe the street plans, failure to build and damage inflicted on municipal roads; failure of municipal authorities to implement events to improve the environment and maintain green areas and intra-estate spaces.

The Ombudsman recommends to municipalities to take effective measures in the investment programs for public works, building, use and maintenance of the technical infrastructure with the respective financial resources for them.

**Rights breached in procedures to create and maintain cadastre maps and cadastre registers (CMCR) of real estate.**

In relation to complaints from citizens about the administrative services provided by the Geodesy, Cartography and Cadastre Agency and eliminating gaps and errors in the cadastre map and registers, the Ombudsman has found that the cadastre information still fails to meet the standard of quality ensuring access and predictability of the administrative services, without additional fees, the adjustment costs being such.

The Ombudsman insistently recommends the implementation of the necessary rules for administrative services in relation to the lawful expenditure to eliminate gaps and errors from the cadastre map and cadastre registers.

### **Rights breached due to illegal construction**

In relation to rights breached due to illegal construction, the citizens complain mainly about the lack of timely intervention, formal checks and a selective approach of the construction control authorities in the event of signals for illegal construction as well as rights breached in enforcement proceedings for removal from one's sole residence. The Ombudsman has found that construction control authorities fail to exercise the due preventive and ongoing control in order not to allow illegal construction. The existing regulatory provisions do not create a sufficiently effective system of construction control regardless of the legislative amendments adopted and the legislative initiatives in 2019.

The Ombudsman recommends that the specialised control authorities target their efforts at exercising systemic preventive and ongoing control in order to deal with illegal construction as a national problem. The Bill to Amend the Spatial Planning Act, the State Property Act and the Municipal Property Act developed in 2019 by an inter-institutional group involving experts of the National Ombudsman introduced a special requirement for an assessment of the proportionality of administrative intervention in the cases of a sole residence when illegal constructions are removed and orders are issued under Article 80 of the State Property Act and Article 65 of the Municipal Property Act and it should be published for public discussions as laid down in the Statutory Instruments Act.

## Land relations

In the area of land relations, citizens and their associations complain mainly about:

- Inequality of small and medium land owners and agricultural producers;
- Breaches of the right to property due to incomplete restitution procedures.

### **Inequality of small and medium land owners and agricultural producers in the use of agricultural land**

The instances of inequality due to the monopoly of a small number of large owners and users in land relations found by the Ombudsman can be seen in the widespread practice for large users to impose contractual terms, their failure to pay the compensating due for use of land as per contracts without penalty while, at the same time, they keep all their rights to receive subsidies paid under the schemes and measures of the Common Agricultural Policy precisely on the basis of the contracts concluded with the owners which, however, are not performed. Due to the discrepancy in the equality of the parties laid down in the contractual right and the actual structure of hyper concentration of land use in Bulgaria where a mere 2.4% of the farms manage 91% of the agricultural land while 80% of the farms manage a mere 7%, the current lease model does not offer incentives for the economically strong party to practice contractual discipline. These are the practices against which criticism is levelled, mainly: commitment to long-term contractual obligations which do not take into account the benefits of the certainty created, including against the rights of co-owners; systemic failure of lessees to pay the lease; obstacles posed for owners to reject the disadvantageous contractual relation in a way other than a judicial procedure.

The conclusion from the analysis of the complaints is that small owners are deprived of the access to the benefits of agricultural land which, in the end, forces them to dispose of their property.

The Ombudsman recommends that the legislative process should continue in order to restore the balance in the land relations and ensure basic fairness in the distribution of the profits of agricultural land.

The Ombudsman confirms the position of the institution also expressed in previous reports to the National Assembly about the urgent need for economic, legal and organisational measures to restore the balance disturbed from the monopolies in land relations through: 1) introducing adequate taxation of large land ownership; 2) restrictions on owning and using agricultural land; 3) facilitated access to land for citizens with no land or little land; 4) introducing minimum amount of lease payments; 5) tying the provision of subsidies based on area to the payment of lease to the land owners as per the contracts for the use of the land; 6) introducing out-of-court procedures to resolve disputes related to the payment for the use of agricultural land.

A part of the proposals includes measures against concentration, in line with the recommendations from the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security of the Food and Agriculture Organisation, of the Resolution of the European Parliament of 27 April 2017 on the state of play of farmland concentration in the EU (2016/2141(INI)) and in the Commission Interpretative Communication on the Acquisition of Farmland and European Union Law (2017/C 350/05) of 18 October 2017, concerning the expansion of the regulatory and control functions of the State to limit the monopoly of large owners and users of agricultural land in



order to protect the “weak party” in land relations. In Bulgaria this means the millions of small owners of agricultural land as well as small and medium farmers.

### **Incomplete land restitution**

The Ombudsman has found that the incomplete land restitution continues to be a persistent problem with respect to the ownership of agricultural land. It has been identified by the European Court of Human Rights as a systemic violation of Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights for which the liability of the State continues to be sought.

By virtue of a judgment under Article 46 of the Convention for the Protection of Human Rights, the general measures issued for Bulgaria include the implementation in the domestic law of: 1) deadlines for the execution of administrative decisions and judgments of competent national authorities whereby the right to ownership over agricultural land was restored, and 2) remedy allowing the interested parties to receive compensation in the event of failure to observe those deadlines.

The Ombudsman has found regulatory inconsistencies with respect to the execution of the restitution of agricultural land: the status of lands from the residual land fund (land under Article 19 of the Ownership and Use of Agricultural Land Act); determining the land from the municipal land fund for compensation; excessive burden imposed on owners in the event of restoration as per old boundaries; factors hampering restitution in the territories under §4 (through plans for newly set property).

The Ombudsman recommends that the process to adopt legislation for institutional support to complete the land restitution should be re-opened; ex officio establishment of the boundaries and ex officio possession for title holders at the expense of the State in line with the purpose of the law to complete this type of restitution procedures; implementation of the instructions of the European Court of Human Rights for the national legislation to set out deadlines for the completion of the restitution procedures and a remedy when the deadline is not observed; take priority measures aimed at the land restitution in line with the law and guarantee the citizens’ right to property.

### **Other problems of property – expropriation and compensation procedures**

The citizens’ dissatisfaction is aimed mainly at the amount of compensation, especially in cases when the expropriation affects residential property. They insist on a fair balance between the public interest and the interests of owners by setting a cash compensation commensurate with the market prices for the expropriated properties, in performance of the constitutional requirement for equality of the compensation in the event of forced expropriation.

In 2019, the amendments to the State Property Act (State Gazette, issue 44/2019, some of them were challenged before the Constitutional Court) confirmed the trend of an ever greater restriction and decrease in intensity of the protection of the rights of owners in expropriation proceedings in the name of the swiftness of the proceedings which is presented as equal to the public interest related to the building of infrastructure projects, observance of deadlines to use funds under European Union programs, encouragement investment in industry, etc.

There seems to be a difficult access to legally relevant information in relation to determining the amount of the compensation due to owners for expropriated properties.

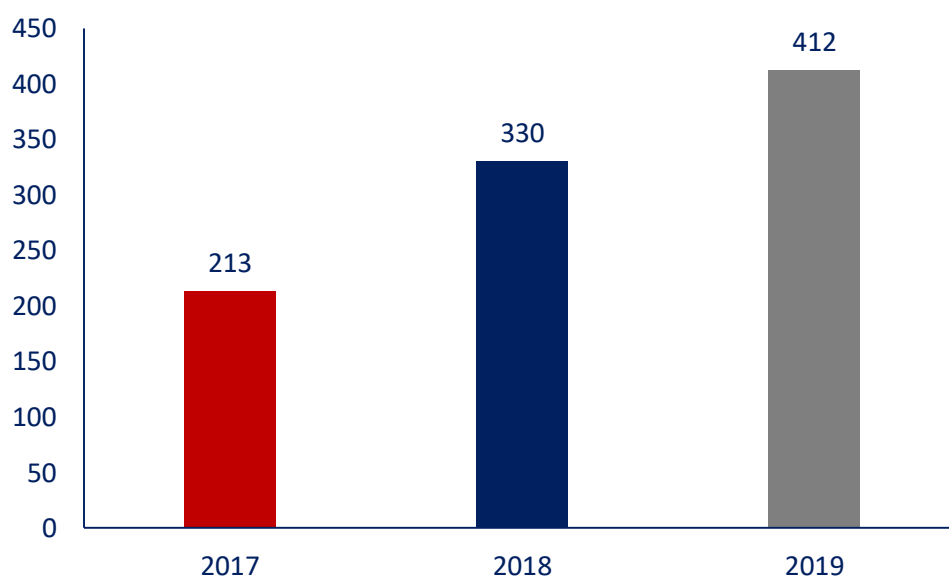
The Ombudsman recommends that the legislation for the valuation methods in the event of forced expropriation of private properties for state and municipal funds should be improved and the valuation for the cash compensation should take into account not only market factors but also other factors so that a complex approach would ensure that the owners of expropriated properties will preserve their quality of life and the risk to deprive them of their sole residence would be avoided. There should be legislative provisions for the procedures for payment of the compensation set to owners of expropriated properties and the administrative practice should be streamlined in order to put an end to the unlawful delay of payments and the transfer of the administrative and financial burden to procure documents to the owners whose property is expropriated.

## 10. Right to a healthy and adequate environment

The trend for an increase in complaints related to the right to a healthy and adequate environment continued in 2019.

The Ombudsman was sought by initiative committees representing the affected groups of citizens, most often citizens of population centres and regions at an environmental risk. The citizens complain mainly about: ineffective control to impose the norms and standards for protection of the environment and the conditions of living; failure to take into account and underestimating the threats to health caused by industrial pollution of the air, sources of water and soil; allowing for industrial burning and other activities with waste without a permit or under unclear rules; insufficient measures to prevent environmental and health risk through the procedures of environmental impact assessment of investment proposals; providing rights to use natural resources – subsoil, regardless of the rules for sustainable development and land use; failure to observe the citizens' procedural rights to information, participation in the decision making process on matters of the environment and challenging them, harmful impact on the environment with cross-border consequences.

**Chart:** *Complaints and signals submitted in the area of the right to a healthy and adequate environment in the period 2017-2019, number*



### **The Ombudsman un support of the citizens for an adequate control of the industrial pollution of air, water and soil**

The citizens voice their dissatisfaction due to the growing pressure of the impact of harmful emissions from industrial sources and, more specifically, the burning and processing of waste, generation of electricity from biomass, careers for extraction and initial processing of building materials. Precedents stand out in relation to industrial burning, for example Republica Thermal Power Station, Pernik, and Brikel EAD, Galabovo, as well as other activities with waste, including import in line with ambiguous rules. There is also a significant share of collective complaints against allowing mass extraction and initial processing (crushing and sieving installations) of widespread ores and minerals – building materials,

with repeated complaints about the pollution in nearby population centres, agricultural land, sources of water, with consequences for the overall degradation of the conditions of living. Through their organisations or via individual complaints, the citizens of Ruse insist that the Ombudsman should assist in imposing a more effective control and other correctional measures to lead to an actual restriction of the systemic gas pollution in the city which has continued for years.

A summarised opinion and recommendations of the Ombudsman about the protection of living conditions against industrial pollution were also sent to the Speaker of the National Assembly. It is pointed out that, as a result of the amendments to the Spatial Planning Act (State Gazette, issue 82 of 2012, in force from 26 November 2012) and the elimination of the regime of hygienic and protected zones, it is envisaged that the protection measures for residential areas will be laid down on the basis of a motivated opinion assessing the health risk issued by the authorities of state health control in the course of the procedure to determine the need for an environmental impact assessment. A consequence of the legislative change is the problems arising in the respective period to issue health risk assessments for which there are no legislative, factual or scientific grounds. There are also cases where the Regional Environment and Water Inspectorate only refers to statements of the assignor that there is no immediate proximity to residential estates or the distance to the residential areas is not discussed. The prerequisites created for non-compliance with the requirements for the issuance of opinions of the Regional Health Inspectorates are of such a nature as to impact on the validity of the decisions of the Regional Environment and Water Inspectorate “not to perform an environmental impact assessment” as an administrative act which is meant to determine the conditions for an adequate hygiene protection of the population.

The alleviation of the administrative burden noted as the main reason for the said legislative amendments cannot be applied universally.

### **Proposals of the Ombudsman for legislative amendments in relation to the protection of the environment and conditions of living**

Based on monitoring of the regulatory framework for the protection of the environment and public health, the Ombudsman has consistently expressed the opinion about the need for measures, including legislative amendments, aimed at:

- Legislative solutions not to allow infringement of the citizens’ fundamental right to a healthy and adequate environment in relation to the issuance of decisions of preventive control and control during the operation of industrial enterprises which cause harmful emissions;
- Establishing clear criteria for the assessment of health risk in the course of the procedure for impact assessment of an investment proposal under the Environmental Protection Act;
- Publishing the opinion issued by the Ministry of Health or the Regional Health Inspectorate under Ordinance No. 36 of 2009 on the Terms and Conditions to Exercise State Health Control in relation to the performance of an environmental impact assessment;
- The regulations should tie the financial incentives for the generation of energy from biomass as a service in the interest of the public should to the observance of the environmental requirements and structural protection of the environment in population centres;

- Introducing restrictions on the territorial scope of extraction in order to avoid the accompanying risk of impacting the sources of drinking water for the population due to damage to the underground water system during the extraction of building materials, regardless of whether there was a formal sanitary and protection zone of the source of water;
- Apply the measures laid down in the Subsurface Resources Act to regulate the use of the territory to extract inert materials in different parts of the country, including the regions of Plovdiv, Kyustendil, Varna.

### **Other problems related to the right to a healthy and adequate environment**

The citizens also complain about: noise exceeding the norms in the living environment – noise from bars and noise and vibrations from the external units of the air conditioning installations in residential and public buildings; negative impact and lack of control of the competent authorities of base stations; problems with stray animals and pet dogs as well as with instances of inhumane treatment of animals; breaches of the sanitary and hygienic conditions for raising animals in farms in population centres; increased populations of insects along the Danube; problems related to preserving trees.

The Ombudsman recommends improvements in the coordination between the local authorities and state authorities – Regional Environment and Water Inspectorate, state health control, Bulgarian Food Safety Agency for monitoring and control of the factors of the living environment in population centres.

### **The Ombudsman in support of beekeepers**

Cases of mass poisoning of bees as a result of the use of pesticides of a new generation in agriculture have been registered in the areas of: Dobrich, Silistra, Veliko Tarnovo (Samovodene, Resen, Polikraishte, Paskalets and Momin Sbor). The citizens point out that the regime of controlled use of neonicotinoid products in line with orders of the Minister of Agriculture, Food and Forests is insufficient to safeguard the bees and bee families. Assigning the burden of proof about the plants treated with pesticides and the dead bees to the victims is an obstacle to the access to justice in the cases of *apis totale*.

The Ombudsman joins the public at large and supports the creation of a National Advisory Council on Beekeeping as a form of social dialogue on preserving bees and ensuring critical environmental services.

Following a recommendation sent, the Ministry of Agriculture, Food and Forests stated that the victims were provided support under the *de minimis* scheme. The Union of Bulgarian Beekeepers and the United Bulgarian Beekeepers' Union were invited and are participating in the consultations to the Report on the Environmental Assessment of the project to update the National Action Plan for a Sustainable Use of Pesticides in the Republic of Bulgaria.

### **Need for changes in the cooperative/company management model of forest zones**

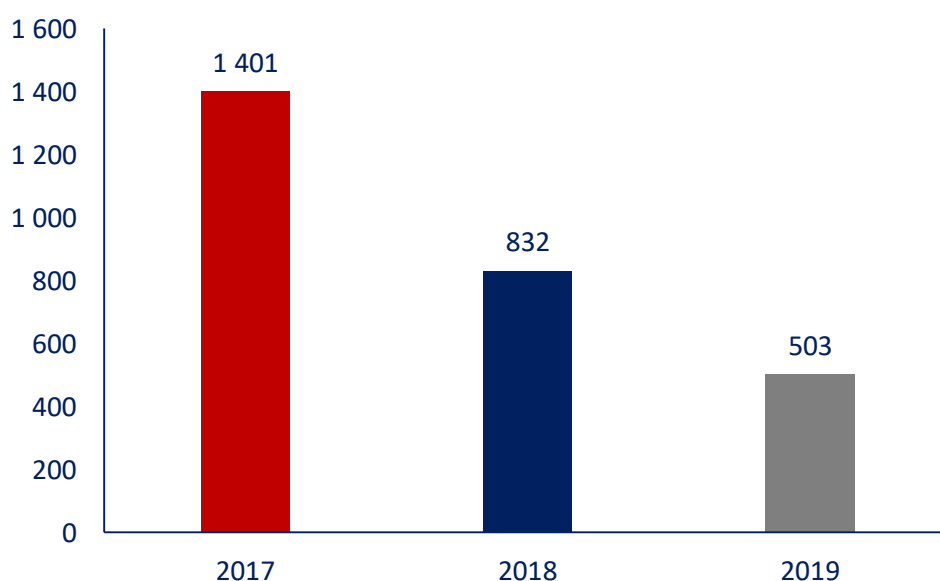
The citizens insist on legislative amendments to the procedure for the management of forests co-owned inseparably within the boundaries of the zones which are typical of the Eastern Rhodopes. The model of forest-owning cooperatives and civil companies for joint management and stewardship established after the restitution in 2000 has led to deforestation and forest degradation and it cannot be amended given the current legislation.

The Ombudsman has found that the principles of multi-functional and sustainable management of forest ecosystems has been adopted with the purposes of the Forestry Act of 2011; however, the legal and organisational form of stewardship of this type of valuable territories has remained unchanged. The Ombudsman recommends that measures should be taken to ensure better management of the forest zones, including through legislative amendments concerning the organisation of stewardship.

## 11. Right to protection in enforcement proceedings

The trend for a decrease in the number of complaints against enforcement agents continued in 2019.

**Chart:** *Complaints and signals submitted against enforcement agents in the period 2017-2019, number*



The citizens insist in interference in enforcement proceeding which exert an impact on different problems:

- Public sale of a sole residence;
- Distress on bank accounts, labour remuneration and pensions focusing on such imposed by public enforcement agents where there is not unseizable amount equal to the minimum work salary.

To protect the citizens' rights in enforcement proceedings, the Ombudsman is taking both actions of intermediacy in their relations with enforcement agents and initiatives for legislative amendments but the Ombudsman does not have control powers and competence to impose disciplinary sanctions.

## 12. Right to protection against discrimination and hate speech

Discrimination is a harmful phenomenon whose manifestations result in violations of the citizens' rights and impact on their interests; the latest trends at the national, European and global levels are upward.

The complaints submitted to the Ombudsman institution in 2019 show that discrimination could be multifaceted and encompass different spheres of the citizens' lives.

As in previous years, in 2019 the Ombudsman continued to take the actions admissible under the Ombudsman Act to protect the right of every citizen to equal treatment.

The citizens' complaints are in the following areas:

- Accessibility of the environment, especially to public service buildings. The Ombudsman has found that there are still problems with the access to buildings which are essential to the rights of the citizens with reduced mobility such as the buildings where social services are provided. The lack of accessibility makes it impossible for the social service to perform its functions effectively and provide support to those in need.

- Discrimination against persons with disabilities when searching for jobs and in the work environment. The findings from the complaints received at the institution during the previous year again concern the fact that citizens with disabilities continue to face serious difficulties in finding appropriate jobs. The analysis shows that despite the legislation which provides for quotas and an obligation to hire persons with disabilities, the number of labour contracts concluded with persons with disabilities is small; employers even prefer to pay compensation fees rather than support citizens at a disadvantage.

- Criteria to receive financial support from the State or local authorities. Citizens with disabilities and their families are impacted by the way in which the amount of the monthly financial support is set and the distribution of title holders in separate groups is made as laid down in Article 70, items 3-5 of the Persons Disabilities Act. The heirs of deceased persons with disabilities are also treated differently when the last monthly financial support is paid by banks and postal services.

The complaints received in 2019 and the affected rights of citizens they highlighted made it necessary to prioritise the problems of persons with disabilities in the work of the Ombudsman for the protection against discrimination in 2019.

Regardless of this, the Ombudsman is also concerned about other critical areas where legal protection is necessary such as hate speech and hate crime. The Ombudsman has found again that hate speech continues to be used frequently and urgent and adequate measures are needed to recognise it and combat it.

### **Main recommendations:**

- Take measures to ensure an accessible environment for persons with reduced mobility
- The competent institutions should take on the necessary responsibility and timely and adequate measures should be taken to implement the recommendations of the Ombudsman and the acts of the Commission for Protection against Discrimination

about legislative amendments which would put an end to the violations and guarantee equal treatment

- Take action to support persons with disabilities in finding appropriate jobs and take measures to prevent discrimination against persons with disabilities at the work place
- Take action to resolve the issue with the lack of sufficient recognition and combating the use of hate speech
- Introduce registration and monitoring of hate crime
- The competent authorities should commit to measures and actions to increase the public sensitivity to instances of discrimination and hate speech

### 13. National Preventive Mechanism

In the capacity of the National Preventive Mechanism (NPM), the Ombudsman performs annual monitoring of the places where people deprived of liberty are accommodated or where people detained in custody following an act or with the consent of a state authority are accommodated, places they cannot leave of their accord, in order to ensure protection of such persons against torture and other forms of cruel, inhuman or degrading treatment or punishment.

There were 55 inspections in the course of the calendar years 2019, divided into areas of competence as follows:

**Table:** *Inspections carried out at places where people deprived of liberty are accommodated in 2019, number*

Place of inspection	Number –
Prisons and prison hostels	55
	18
Detention facilities	10
Psychiatric hospital and mental health centres	5
District police departments	9
Centres for refugees and migrants	4
Residential social services for children and adults	9

#### Residential social services for adults and children

The most vulnerable groups in the Bulgarian society are children and persons with disabilities accommodated at institutions. The opinion expressed repeatedly by the NPM is



that the accommodation of children and adults taken from the family environment into an institution should be a protection measure of final resort and a temporary one. The NPM recommends that there should be an expert assessment of the process of deinstitutionalisation and the need to build more social services in the community – day care centres for children and persons with disabilities, social support centres and others, as well as of the need to ensure a sufficient number of personal assistants. There should be a sustainable procedure of regular effective control of the competent institutions over the work of social services for children and adults.

The main factors which will contribute to the improvement of the care include education, qualification and dignified remuneration for the specialised staff at residential social services.

### **Medical institutions for hospital psychiatric help**

The National Mental Health Strategy 2020-2030 and the Action Plan for it have not been adopted yet. This utterly hampers the reform of the system of psychiatric care because the National Strategy envisages improvement of the facilities, training for specialists, information campaigns, psycho-social rehabilitation, social assistance, etc.

The health care in the medical institutions for in-patient psychiatric help where inspections were carried out is insufficient and the safety of the patients is not guaranteed.

Another problem is the staff resources, social rehabilitation and psychological care, the long hospital stay and repeated hospitalisations of persons with a grave social status. There are patients at the state psychiatric hospitals who live there permanently due to the lack of residential social services for people with mental disorders.

### **Centres for temporary accommodation of refugees and migrants**

The monitoring over the right of unaccompanied children seeking or having received protection is a priority in the work of the NPM. In 2019, the NPM notes that the care for unaccompanied children provided by the state institutions was increased. The main recommendation of the Ombudsman as the NPM to build a separate centre of the State Agency for Refugees at the Council of Ministers to accommodate unaccompanied minors and underage children has been executed partially through the setting up of “safe zones” at the departments of the Sofia Registration and Admission Centre.

Despite the positive action taken, there is still a problem with assigning a legal representative to unaccompanied refugee children. In this regard, the NPM reiterates the recommendation given in the 2016 thematic report to set up a working mechanism of representation of unaccompanied children, to define criteria for the representative in advance and to provide additional training to this person.

The recommendations of the Ombudsman to guarantee minimum living area for every person, to lay down the time for stay outdoors and to allow meetings with a lawyer outside the time set in advance in urgent cases have been implemented.

In performance of the recommendations issued in 2018, the NPM reports that the administration of the Special Home for Temporary Accommodation of Foreigners – Sofia has taken a number of actions to renovate and improve the facilities.

The NPM has not found improvement in the medical services provided to foreigners accommodated due to the language barrier and the shortage of translators and interpreters.

## Places for deprivation of liberty at the Ministry of Justice

The NPM has found that certain places for deprivation of liberty have not resolved the problem with overcrowdedness; the issue is critical at Sofia Prison and the detention facilities in the structure of Execution of Punishments Regional Service – Sofia (the detention facilities on G.M.Dimitrov Boulevard and Major Vekilski Street).

As regards the places for deprivation of liberty in the system of execution of punishments, there are no clearly defined regulatory criteria for the necessary quantity of fresh air and daylight or artificial light.

The inspections in 2019 have shown that the health systems in prisons remain unreformed and the quality of healthcare for persons deprived of liberty is not improving. The NPM is of the opinion that there need to be structural reforms in the health services in the penitentiary system aimed at external health services in line with the European Prison Rules. Directorate General Execution of Punishments (DGEP) annually reports a shortage of specialists at medical centres and specialised prison hospitals which is a poor indicator of the quality of healthcare.

The NPM believes that the success of the reform in health services at prisons is integrally related to the improvement of the living conditions and the social engagement of the persons deprived of liberty. The recommendation that persons deprived of liberty should not be used as medical attendants and that medicines should not be provided by supervisory and security staff but by medical personnel only have not been implemented to date.

Unfortunately, over the years the statutory requirement of Article 46 of the Execution of Punishments and Detention in Custody Act has not been observed – the Minister of Justice should present to the Council of Ministers the recommendations of the Ombudsman to close places for deprivation of liberty which fail to meet the requirements (Kremikovtsi Prison Hostel, Sofia Prison, Keramichna Fabrika Prison Hostel in Vratsa).

The visits with inmates are still with no contact, although renovation works have been carried out in many places. The requirement has even been set in the legislation which is contrary to the recommendation of the Committee for the Prevention of Torture which is quite the opposite. An exception is the Sliven Prison where there have never been partitions for visits.

The inappropriate use of aids (handcuffs) when external positions are opened in medical institutions continues throughout the entire system of execution of punishments. The immobilisation with handcuffs continues for days without taking into account the risk and health situation of the person deprived of liberty.

Another systemic deficiency the NPM has found over the years is the lack of budget funds for adequate actions in the activities of social workers. The newly renovated detention facilities do not have space for social activities; in the places where there is such space (for example, the detention facilities in Plovdiv and Shumen), there are no social workers to implement the social activities.

Conditions are in place to breach the privacy of correspondence. Article 86, para 3 of the Execution of Punishments and Detention in Custody Act provides that: “The correspondence of the persons deprived of liberty shall not be subject to control of the written content unless this is required to reveal and prevent grave crime.” As a result, the administration at the places for deprivation of liberty has been given powers to control the correspondence of persons deprived of liberty without the sanction of a judicial authority.

The NPM is of the opinion that it is necessary to introduce clear and accurate legislative criteria as to when it is admissible to breach the privacy of correspondence taking into account Article 34 of the Constitution of the Republic of Bulgaria.

### **Detention facilities**

The NPM has found significant differences in the material and living conditions at the detention facilities which are subordinate to the management of a certain prison (for example, the detention facilities in Pleven and Lovech) and those subordinate to the Regional Services Execution of Punishments. In the case of the former, renovation works have been carried out everywhere unlike the case of the latter (for example, the detention facilities on G.M.Dimitrov Boulevard and the detention facilities in Svilengrad). The NPM has recommended to the Director General of DGEP to prepare a program for the development of the detention facilities and to re-table it to the Minister of Justice to be put forward to the Council of Ministers in order to ensure budget estimation in the drafting of the state budget for the following years.

## **CHAPTER TWO.** **Impact on the Regulatory Framework**

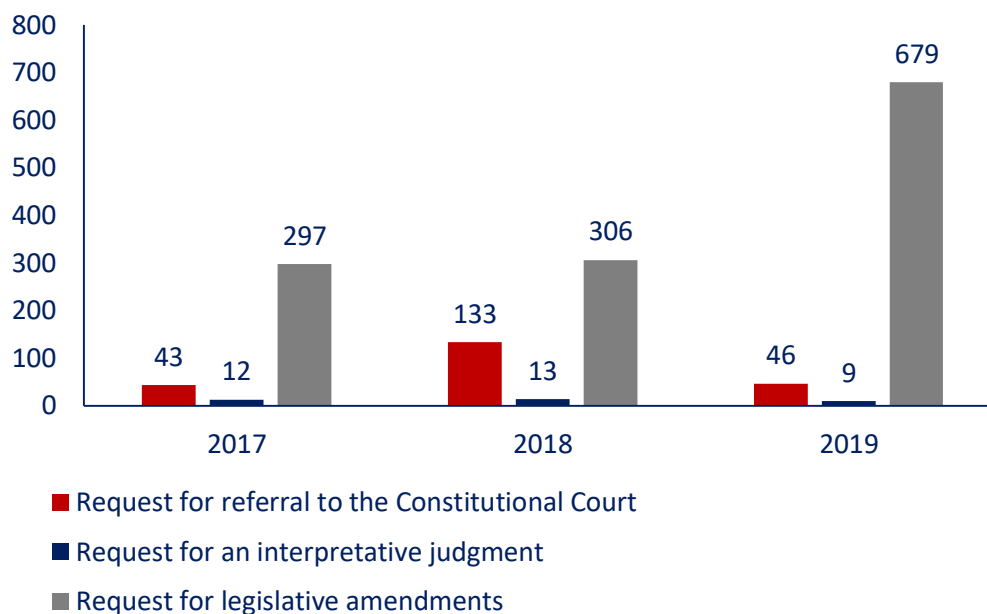
**Chapter Two** presents the actions of the Ombudsman to protect the citizens' rights through impact on the regulatory framework. It includes:

- Referrals to the Constitutional Court
- Interpretative judgments
- Opinions and legislative proposals

## Impact on the legislation

The number of complaints and signals submitted to the Ombudsman in 2019 with requests for amendments to the legislation has doubled while the number of requests for referrals to the Constitutional Court has gone down to the 2017 level; the requests for interpretative judgments is still the instrument the citizens recognise the least as an instrument to protect their interests.

**Chart:** *Complaints and signals with requests for legislative amendments in the period 2017-2019, number*



## Referrals to the Constitutional Court of the Republic of Bulgaria in 2019 to establish the anti-constitutionality of a law

In 2019, following discussions and consultation with the members of the Consultative Constitutional Council at the institution, the Ombudsman made five referrals to the Constitutional Court asking that laws be declared anti-constitutional.

**Request of the Ombudsman of the Republic of Bulgaria to establish the anti-constitutionality of the provisions of Article 8, paras 1-6, Articles 9-15, Article 17, para 1, item 4, Article 22, para 2, item 12, Article 30 and § 1, item 8 of the Additional Provisions to the Administrative Regulation of the Economic Activities Related to Oil and Petroleum Products Act (promulgated, State Gazette, issue 62 of 27 July 2018, in force as of 28 January 2019),** introducing restrictive regulatory requirements for whole-sale traders and retailers in oil and petroleum products as well administrative requirements for the activities related to trading in petroleum products. This restricts the scope of economic subjects which practice these activities.

According to the request, the provisions challenged are contrary to Article 19, para 1 and para 2 of the Constitution of the Republic of Bulgaria (guaranteeing consumer protection by ensuring equal legal terms for all to carry out economic activities and preventing abuse of monopoly and distorted competition) and Article 44 of the Constitution of the Republic of Bulgaria (guaranteeing the citizen's right to association).

Constitutional case No. 1/2019 was initiated upon the request. By virtue of a ruling of 21 February 2019, the Constitutional Court turned aside the Ombudsman's request.

**Request of the Ombudsman of the Republic of Bulgaria to establish the anti-constitutionality of § 14 and § 15 of the Transitional and Final Provisions of the 2019 State Budget of the Republic of Bulgaria Act creating and amending provisions of the Public Servants Act (promulgated, State Gazette, issue 103 of 13 December 2018, in force as of 1 January 2019).** The texts challenged deprive persons who have exercised their right to pension of the possibility to assume a public servant position and to receive remuneration for it. Public servants appointed before the entry into force of the act need to notify the appointment authority if grounds of inadmissibility are in place.

According to the motivation of the Ombudsman's request, the provisions challenged are contrary to:

- The principle of the rights of the person and the dignity of the person as well as the principle of rule of law enshrined in paragraphs 3 and 5 of the Preamble and in Article 4 of the Constitution of the Republic of Bulgaria;
- Article 48, para 1 and 5 and Article 51, para 1 of the Constitution guaranteeing the citizens' rights in relation to their access to public servant positions and their constitutional right to labour, remuneration and social security;
- Article 116, para 2 of the Constitution pursuant to which the terms under which public servants are released from position are laid down in a law.

Constitutional case No. 2/2019 was initiated upon the request which was joined to constitutional case No. 16/2018 for joint hearing and resolution. On 7 March 2019, the Constitutional Court issued judgment No. 3/2019 whereby it declared the provisions of Article 7, para 2, item 8 of the Public Servants Act and § 15 of the Transitional and Final Provisions of the 2019 State Budget of the Republic of Bulgaria Act anti-constitutional.

**Request of the Ombudsman to establish the anti-constitutionality of Article 14, para 2 of the Regulation for Water Supply and Sewerage Services Act (promulgated, State Gazette, issue 18 of 25 February 2005, amended State Gazette, issue 77 of 18 September 2018, in force as of 1 January 2019),** pursuant to which water and sewerage operators are obligated to apply the principle of a unified price for the water and sewerage service on a certain territory for the service "water supply for users and/or other water and sewerage operators" and for the service "discharge of wastewater".

According to the motivation of the Ombudsman's request, the provisions challenged are contrary to Article 4, para 1 of the Constitution (rule of law principle) and Article 19, para 2 of the Constitution (guaranteeing consumer protection by ensuring equal legal terms for all to carry out economic activities and preventing abuse of monopoly and distorted competition).

Constitutional case No. 3/2019 was initiated upon the request. By virtue of a ruling of 9 May 2019, the Constitutional Court allowed a hearing on the merits of the Ombudsman's request. At the time of finalizing this Report, the Constitutional Court has not issued a judgment yet in constitutional case No. 3/2019.

**Request of the Ombudsman to establish the anti-constitutionality of Article 53, para 5, Article 58, para 1, Article 70, para 5, Article 73, para 1, Article 85, para 5, Article 88, para 1 and Article 201, para 1 of the Election Code.** The texts challenged:

- Limit the acts of the Central Elections Commission which are subject to appeal before the Supreme Administrative Court;
- Allow the Central, District and Municipal Election Commissions to issue decisions with a majority of more than half of their members in the event of a repeal of a

rejection decision after the necessary majority of two-thirds of the Commissions members has not been achieved;

– Introduce a change in relation to jurisdiction of the cases challenging acts of election commissions – instead of the Supreme Administrative Court, the decisions of District and Municipal Election Commissions will first be challenged before the Central Election Commission and, should they be affirmed by the Central Election Commission – before a three-member panel of the administrative court as per the location of the respective election commission.

According to the Ombudsman, the provisions of the Election Code challenged are contrary to the principles of a democratic state and rule of law – Article 1, Article 2, Article 4, para 1, political pluralism – Article 11, para 1 and Article 120 of the Constitution. Constitutional case No. 6/2019 was initiated upon the request. By virtue of judgment No. 6 of the Constitutional Court of 6 July 2019, the Ombudsman’s request was rejected.

**Request of the Ombudsman of the Republic of Bulgaria to establish the anti-constitutionality of the provisions of Article 10a, Article 17a and Article 24c of the Black Sea Coast Planning Act (BSCPA),** introducing restrictive regulatory provisions for “free camping” – possibility to pitch tents and camper vans outside camping grounds set out in line with the Tourism Act.

According to the motivation to the Ombudsman’s request, the said BSCPA provisions are contrary to the principles enshrined in Article 1, para 2 (democratic state), Article 4, para 1 (rule of law), Article 15 (obligation of the State to ensure safekeeping and reproduction of the environment and reasonable use of natural resources), Article 22, para 3 (obligation to lay down the land regime in a law) and Article 55 (right to a health and adequate environment) of the Constitution.

Constitutional case No. 10/2019 was initiated upon the request. By virtue of a ruling of 8 October 2019, the Constitutional Court allowed a hearing on the merits of the Ombudsman’s request. At the time of finalizing this Report, the Constitutional Court has not issued a judgment yet in constitutional case No. 10/2019 r.

### **Interpretative judgments**

Two referrals were made to the Supreme Court of Cassation for interpretative judgments and the Supreme Administrative Court initiated two interpretative cases upon the Ombudsman’s requests.

In 2019, the Ombudsman made two referrals to the Supreme Court of Cassation with requests to issue interpretative judgments:

– A request to the Civil College of the Supreme Court of Cassation to streamline the diverse case-law on the following: “Which is the final time at which a co-owner taking part in a public sale as a bidder may exercise their right to buy the property at the highest price offered under Article 505, para 2 CPC read in conjunction with Article 354 CPC?”

– A request to the Civil and Commercial Colleges of the Supreme Court of Cassation to streamline the diverse case-law on the following: “Does the failure to pay the fees which judicial enforcement agents collect as per the Fees and Expenses Tariff under the Private Enforcement Agents Act to administer a complaint submitted constitute grounds of irregularity of the claim submitted against the actions of a private enforcement Agent within the meaning of Article 262 CPC?”

In 2019, the Supreme Administrative Court initiated two interpretative cases upon the Ombudsman's requests for issuance of interpretative judgments:

– Interpretative case No. 1/2019 to issue an interpretative judgment about the application of Article 44, para 6 and para 9 of the Foreigners in the Republic of Bulgaria Act with respect to unaccompanied minors and the application of § 1, item 4 of the Asylum and Refugees Act.

– Interpretative case No. 8/2019 before the Supreme Administrative Court with a request to issue an interpretative judgment on the following questions: 1. "Does the initiation of an enforcement case under Article 220, para 1 of the Tax and Social Security Procedure Code suspend the limitation of duty?"; 2. "Does the notice under Article 221, para 1 of the Tax and Social Security Procedure Code suspend the limitation of duty and as of when – its sending or its return?"

### **Opinions and legislative proposals**

In 2019, the institution received 46 requests for referrals to the Constitutional Court; 679 requests for legislative amendments and 9 requests for interpretative judgments.

The impact on the legislation is an important power of the Ombudsman to ensure effective protection of the citizens' rights. A large part of the proposals for legislative amendments made in 2019 is based on hot public problems. They include:

**Bill on the Insolvency of Natural Persons** – One of the main priorities of the institution which gives the citizens finding themselves overindebted a "second chance".

**Civil Procedure Code** – A bill to restrict the super privileges of banks, monopolies and ensure protection against inequitable clauses.

**Election Code** – Protection of election rights which have already been gained and exercised.

**Commercial Register and Register of Non-Profit Legal Entities Act** – In relation to appealing unlawful refusals of registration officials at the Registry Agency and reimbursement of costs incurred/damages sustained.

### **Bill on the professional organisations of medical specialists**

The Ombudsman sent opinions and recommendations about: Bill to Amend the Civil Registration Act; Condominium Property Management Act; need for legislative amendments to ensure timely introduction of elements of obligatory mediation; amount of the lawful interest for delay due in the event of delay in the payment of an obligation, etc.

An opinion was also sent about the bill on social services in view of every person's right to access to quality social services and the Ombudsman's role as a Public Advocate for the citizens' rights and freedoms.



## **CHAPTER THREE.**

### **Monitoring of the Implementation of International Acts in the Area of Human Rights**

**Chapter Three** contains:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms
2. UN Convention on the Rights of Persons with Disabilities
3. UN Convention on the Rights of the Child
4. UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
5. UN Convention on the Elimination of All Forms of Discrimination against Women

# 1. European Convention on the Protection of Human Rights and Fundamental Freedoms

The monitoring of the implementation of the international acts in the area of human rights is carried out by the Ombudsman of the Republic of Bulgaria on the basis of the UN Paris Principles and the Ombudsman Act. Pursuant to Article 19, para 1, item 10 of the Ombudsman Act, the Ombudsman has express powers to monitor and encourage the effective applications of the human rights protection conventions to which the Republic of Bulgaria is a party.

2019 marked several important anniversaries of the entry into force of important international legal acts.

**10th anniversary of the Charter of Fundamental Rights of the European Union becoming a legally binding act.**

**50th anniversary of the issuance of a landmark judgment of the Court of Justice of the European Union in the Stauder case – the first judgment in a case related to the protection of fundamental rights in the EU.**

**70th anniversary of the adoption of the Geneva Conventions** which provide for the legal protection of persons during times of conflict and set the foundation for international humanitarian law.

**30th anniversary of the adoption of the UN Convention on the Rights of the Child.** The anniversary proved an occasion for an assessment as to whether the Convention is understood, accepted and applied in the Bulgaria in the spirit of its texts.

## **General findings regarding the execution of final judgments of the European Court of Human Rights in 2019 within the meaning of Article 46 of the European Convention on Human Rights**

The greater part of the recommendations of the Ombudsman from previous years remains unchanged in the 2019 report.

As regards Bulgaria's progress to execute the judgments being monitored by the Committee of Ministers in 2019, the following main conclusions can be drawn:

First, the **total number of judgments** subject to execution being monitored by the Committee of Ministers declined significantly. The statistics show that, as of 31 December 2019, the total number of ECHR judgments at the stage of execution stood at 169 which is a decrease by 20% in comparison to the data as of 31 December 2018 and 31 December 2017 when the ECHR judgments which had not been executed were respectively 208 and 207.

In 2019, another 17 sentencing judgments were placed under monitoring by the Committee of Ministers; their number has halved in comparison to 2018 and 2017 when the number of new sentencing judgments placed under monitoring by the Committee of Ministers was respectively 36 and 33.

In 2019, there was also a positive trend with respect to the total number of cases completed with a final judgment – 56 compared to 36 completed cases in 2018. However, it is worth noting that the number of cases completed in 2019 was significantly lower than the cases completed in 2017 (116).

The data show a return to the 2017 positive trend of a significant decrease in the judgments remaining to be executed which should be strengthened in 2020.

Second, a positive trend was registered with respect to the **compensation** paid by Bulgaria. In 2019, their total amount (EUR 414,990) is almost twice smaller than the compensation paid in 2018 (EUR 794,968). Still, **Bulgaria's progress remains quite insufficient** in comparison to the progress of other States in the region – for example, the amount of compensation paid by Croatia in 2019 was EUR 74,188 which is a sharp decrease in comparison to the compensation paid in 2018 totalling EUR 453,537.<sup>1</sup>

Third, as of 31 December 2019, the total number of **judgments in a supervision procedure** by the Committee of Ministers was 41, of which 18 new cases and 23 repetitive cases. For the sake of comparison, as of 31 December 2018, a total of 72 judgments were included in the heightened supervision procedure by the Committee of Ministers, of which 21 new cases and 51 repetitive cases.

The analysis of the Ombudsman shows that, in 2019, the **cases under heightened supervision** decreased almost by half which is due mainly to the closing of a significant number of repetitive cases as a result of the execution of the individual measures and the closing of three new cases. The overall trend continues to close the monitoring over sentencing judgments in the two monitoring procedures (standard and enhanced supervision).

Despite the said positive trends, **Bulgaria continues to be on the list of the top ten states with the greatest number of judgments in an enhanced supervision procedure** by the Committee of Ministers.

**Chart:** *Judgments in an enhanced supervision procedure by the Committee of Ministers as of 31 December 2019 – total number and by categories of new cases and repetitive cases*

State	Total number of cases	New cases	Repetitive cases
1. Russia	974	58	916
2. Ukraine	414	52	362
3. Turkey	225	35	190
4. Romania	181	25	156
5. Azerbaijan	96	15	81
6. Italy	82	21	61
7. Hungary	77	10	67
8. Greece	72	9	63
9. Bulgaria	41	18	23
10. Poland	39	9	30

Source: <https://hudoc.exec.coe.int/>

Along with this, still valid is the finding that, in a regional aspect, the number of judgments which were not executed by Bulgaria and are monitored by the Committee of Ministers continues to be very high, especially on the background of countries such as: Serbia (24), Croatia (11), North Macedonia (5), Lithuania (3), Slovenia (1), Czech Republic (1), as well as countries such as Latvia, Estonia, Germany, Finland and Denmark which had no judgments in an enhanced supervision procedure in 2019.

<sup>1</sup> The data are up to date as of 31 December 2019, source: Country Factsheet, <https://rm.coe.int/1680709742>

**In this sense, the conclusions from previous years remain valid in 2019, namely:**

- A significant number of judgments which are under enhanced supervision for more than a decade – 7 of the 18 judgments under supervision;
- A trend for the sentencing judgments which are still under enhanced supervision to cover a large number of texts of the European Convention on Human Rights which makes it necessary to take a large number of complex measures;
- The number of leading judgments in which the general recommendations of the European Court of Human Rights have been implemented is still incomparably smaller than the those where no satisfactory progress has been achieved;
- Bulgaria continues to pay exceptionally high amounts in compensation for rights breached.

Although actions were taken to execute almost all sentencing judgments in the years after their issuance, they are still insufficient to close the supervision despite the efforts of different institutions and working groups.

Due to this circumstance, the recommendations of the Committee of Ministers regarding the execution of such judgments stay almost the same.

In 2019, Bulgaria continued to be sentenced in similar cases and, hence, will continue to pay high amounts in compensation in the future while, at the same time, there is still ineffective protection of the citizens' rights.

This situation is unacceptable and decisive actions should be taken to resolve it.

As in previous years, the Ombudsman is committed to assisting and supporting the Minister of Justice by making recommendations to the responsible institutions to take specific actions with respect to the sentencing judgments against Bulgaria.

### **Main recommendations:**

In 2019, the recommendations given in the 2018 report remained valid, namely:

Strengthen the coordination mechanisms among the institutions responsible for the execution of the sentencing judgments of the European Court of Human Rights against Bulgaria. The lack of progress in 2019 in this respect shows yet again that overall measures of prevention are needed and the State should take such measures.

The monitoring carried out by the Ombudsman in 2019 showed again that measures need to be taken to strengthen the role of the Ministry of Justice and the Procedural Representation of the Republic of Bulgaria before the European Court of Human Rights Directorate in the process of aligning the national legislation and institutional practice to the judgments of the European Court of Human Rights.

It is logical for the coordination in the execution process to continue to be carried out by the Procedural Representation of the Republic of Bulgaria before the European Court of Human Rights Directorate but a new form should also be considered for its realisation to ensure that it is more effective and actual progress would be achieved. This holds true especially of the cases where it is necessary for executive authorities to take action and where measures are needed which can be implemented only through changes in the judicial or administrative practices or through legislative amendments.

This is why the **Ombudsman suggests that an interinstitutional coordination council should be set up**, including representatives (experts) of all national institutions which should be directly engaged in the process of coordinating and monitoring the

implementation of the measures to execute the sentencing judgments of the European Court of Human Rights.

Such a mechanism could ensure the effective execution of the judgments of the European Court of Human Rights and productive cooperation among the competent authorities and institutions in this area.

Along with this, such an authority could significantly boost the awareness of the case-law of the European Court of Human Rights and the standards of respect for the fundamental human rights. In practice, this will result in a decrease in the sentencing judgments which have been in an enhanced supervision procedure by the Committee of Ministers for many years.

Align the national legislation and case-law to the European Convention on Human Rights and the case-law of the European Court of Human Rights in order to ensure and guarantee more effectively the observance of the Bulgarian citizens' fundamental rights and freedoms.

It would be appropriate for such an interinstitutional coordination council to involve mainly representatives of the executive.

However, the mechanism would be effective only if representatives of the judiciary and the legislature attend its meetings.

It would be appropriate for the council to get together for periodic meetings (at least four meetings in a year) so that its members could discuss the measures to be taken, to commit to their implementation, to ensure coordination of the implementation in their own institution and to provide information about the progress.

A part of this coordination process should be the National Ombudsman in the role of a Public Advocate encouraging the implementation of the conventions for the protection of fundamental human rights and freedoms as well as independent experts and representatives of non-governmental organisations.

### **Other recommendations:**

The Ombudsman reminds for yet another year that, after the entry into force of the provision of Article 28, para 3 of the Statutory Instruments Act in the end of 2016, the national mechanism for a compliance review of statutory instruments with the European Convention on Human Rights must be applied both by the executive and the legislature<sup>2</sup>.

A practice where the bills put forward by Members of Parliament are not reviewed for compliance with the European Convention on Human Rights and the case-law of the European Court of Human Rights may result in a violation of the international standards of respect for human rights and new sentences against Bulgaria in Strasbourg.

In this sense, it would be appropriate to consider legislative amendments setting out a preliminary compliance review of legislative proposals made by Members of Parliament with the European Convention on Human Rights when they concern citizens' fundamental rights and freedoms.

---

<sup>2</sup>The obligation to review the draft statutory instruments for compliance with the European Convention on Human Rights is laid down in (9)(c)(ii) of the Brighton Declaration of 2012 and reconfirmed in the Declaration adopted by the High Level Conference of Member States of the Council of Europe in Brussels in 2015 ((B)(1)9d) of the Action Plan to the Declaration).

Next, a general finding should be noted that Bulgaria is lagging behind in the process of acceding to international treaties which allow the citizens to file complaints with supranational (conventional) authorities in the event of violation of their rights. In 2019, Bulgaria again failed to take steps to accede to the Optional Protocol to the Convention on Persons with Disabilities and the Third Optional Protocol to the Convention on the Rights of the Child.

Furthermore, Bulgaria has not yet ratified Protocol No. 16 to the European Convention on Human Rights which ensures the possibility for a cooperation mechanism between the national court and the European Court of Human Rights in a similar way to preliminary requests to the Court of Justice of the European Union. This mechanism will significantly facilitate the streamlining of the case-law of the Bulgarian court with that of the European Court of Human Rights and will contribute to a smaller number of sentencing judgments.

- **Key judgment of the European Court of Human Rights in 2019**

In 2019, there was no key judgment issued against Bulgaria according to the official report of the European Court of Human Rights.<sup>3</sup>

The total number of judgments issued in cases against Bulgaria in 2019 was 12.<sup>4</sup> Of them, 8 find violations of individual texts of the European Convention on Human rights (Article 2 right to life, expulsion, Article 3 prohibition of torture, extradition, Article 6-1 criminal charges, independent court, Article 8-1 inviolability of family life) and 4 find no violence in place.

- **Judgments of the European Court of Human Rights whose enhanced supervision by the Committee of Ministers ended in 2019**

In 2019, the Committee of Ministers ended the enhanced supervision of the execution of the judgments of the European Court of Human Rights in **three leading cases**.<sup>5</sup>

The review of the supervision ended over the 3 leading cases shows that despite the progress registered in some measures of general nature, the problems the European Court of Human Rights found in its sentencing judgments are systemic in nature and that a significant part of the reasons for the violations has not been eliminated yet. On the other hand, this circumstance means that Bulgaria will continue to be sentenced by the European Court of Human Rights in the future for the same violations.

In this sense, the above finding shows unambiguously that the lack of coordinated efforts among the institutions to execute the general recommendations in sentencing judgments of the European Court of Human Rights leads to the lack of effective results and, hence, to the lack of a significant progress.

The more than two-fold increase in the number of complaints to the Ombudsman in the period 2016-2019 shows an increase in the violations of fundamental rights related to a number of key provisions of the European Convention on Human Rights.

<sup>3</sup> [https://www.echr.coe.int/Documents/Cases\\_list\\_2019\\_ENG.pdf](https://www.echr.coe.int/Documents/Cases_list_2019_ENG.pdf)

<sup>4</sup> <https://hudoc.echr.coe.int/>

<sup>5</sup> IOR DAN PETROV v. Bulgaria, HRISTOVI v. Bulgaria, NATIONAL TURKISH UNION AND KUNGYUN v. Bulgaria

In many cases, the citizens turn to the Ombudsman during pending judicial proceedings or after their completion. Although such complaints are inadmissible for review by the Ombudsman, they are indicative of numerous and repeated violations and concerns from citizens. Along with this, they speak of violations which are often referred to the European Court of Human Rights after the domestic remedies have been exhausted.

### **Judgments of the European Court of Human Rights where measures have been taken to deal with the problem but they are still in a supervision procedure by the Committee of Ministers**

The 2019 Annual Report of the Ombudsman lists recommendation with respect to:

- Weaknesses of investigations carried out in the event of death or inhuman treatment. Violations of the right to life and the prohibition of torture, inhuman and degrading treatment (Article 2 and Article 3 of the Convention);
- Prohibition of torture (Article 3). Overcrowdedness and poor conditions at the places for deprivation of liberty and remedies for them (Article 3);
- Placement of minor and underage individuals at homes (Article 5);
- Violations of the right to a fair trial (Article 6);
- Right to respect for private and family life (Article 8);
- Freedom of thought, conscience and religion (Article 9);
- Restitution and other matters of possession (Article 1 of Protocol No. 1);
- Problems related to the citizens' election rights;
- Bulgaria to sign and ratify Protocol No. 16 to the European Convention on Human Rights.

## **2. UN Convention on the Rights of Persons with Disabilities**

In 2019, two new laws providing for the rights of persons with disabilities entered into force – Persons with Disabilities Act and Personal Assistance Act. One of the main driving forces in the development and adoption of the two laws was the alignment of the Bulgarian legislation to the principles enshrined in the UN Convention on the Rights of Persons with Disabilities (CRPD).

The entry into force of the two laws in 2019 made it necessary to develop and adopt the secondary legislation ensuring the application of the laws in practice.

The Ombudsman took an active part in this process in order to guarantee the principle of consulting and effective inclusion of persons with disabilities and their representatives in the development of policies concerning their rights.

An important step was taken in 2019 with respect to building the institutional framework for the application of the CRPD – a Monitoring Council was created. The Monitoring Council, set up in line with the requirements of Article 33, para 2 and 3 CRPD, is an authority monitoring the application of the Convention. The structure, powers, main activities and procedure for election of the Council members are laid down in the PDA and its Implementing Regulations while the rules for its work are adopted by the Council itself. A

procedure to elect members – representatives of organisations of persons with disabilities was carried out in 2019 and the first Council meeting was held in 8 July 2019 presided over by the Ombudsman who is its first rotational chairperson.

At its first meeting, the Monitoring Council took the following decisions:

- By its next regular meeting to prepare the texts for regulations for the organisation and work and an annual program for the activities of the monitoring council.
- To prepare opinions and send them to the responsible institutions in relation to the application of the Personal Assistance Act and the programs for assistant support, amendments to Article 70 PDA and the procedure to obtain financial support, removal of the term for re-certification set out under § 3 of Council of Ministers Decree No. 139 of 6 June 2019.

The Ombudsman is executing the decisions and sending letters with recommendations to the Minister of Labour and Social Policy and to the Speaker of the National Assembly.

The recommendation to extend the term of assistance services for elderly people who are unable to care for themselves and persons with disabilities who fall outside the scope of the Personal Assistance Act was implemented; Decree No. 180 was issued on 18 July 2019 and the services were provided until 31 December 2019.

The recommendation for more targeted information campaign about personal assistance was also implemented; the process involved all responsible institutions, including municipalities as suppliers of personal assistance and other social services.

The second meeting of the Monitoring Council was held on 21 October 2019; Regulations for the Activities and Work Organisation of the Monitoring Council and an Annual Program for the Work of the Monitoring Council in the period October 2019 – December 2020 were adopted. The Council also decided to hold a meeting with representatives of the EU Agency for Fundamental Rights (FRA) to discuss the existing best practices with respect to monitoring under the CRPD and the possibilities for exchange of useful experience and information with independent monitoring authorities.

### **Main recommendations:**

- Ensure adequate resources to implement the functions of the Monitoring Council and the Annual Program
- The transformation of the Agency for Persons with Disabilities into a State Agency for Persons with Disabilities should take place within the term set out in the PDA following discussions and consultations with organisations of and for persons with disabilities
- Carry out the transfer of the provision of aids and medicinal products set out in the PDA from the Ministry of Labour and Social Policy to the Ministry of Health and the National Health Insurance Fund
- Introduce sign language as quickly as possible
- Comply with the term to ratify the Optional Protocol to the CRPD



### 3. UN Convention on the Rights of the Child

For the third consecutive year, the Ombudsman institution has prepared a monitoring report with respect to the UN Convention on the Rights of the Child (“the Convention”) tracking the progress of the government institutions in their commitment to guarantee the rights of the child provided for in the international act.

The Convention is based on three categories of rights – participation, protection and ensuring, and is guided by four principles: non-discrimination, best interest of the child, right to life, survival and development, respect for the child’s opinion. The application of the Convention and the Optional Protocols is monitored by the Committee on the Rights of the Child (CRC); every five years, Bulgaria reports to the CRC its progress in the realisation of the rights of the child. The CRC then issues recommendations how to improve the protection of the rights of the child and frequently emphasises where the Government has done well or where it has failed to implement the rights of the child. These recommendations are an effective mechanism for the Ombudsman institution in performing monitoring, in acting as advocate and in campaigns to enhance the public attitudes to the rights of the child.

In 2019, the Ombudsman was given an “A” status as a national human rights institution in line with the UN Paris Principles. One of the main requirements of this high status is for the Ombudsman to monitor the implementation of the international human rights acts to which our country is a party and, more specifically, to guarantee that the national legislation reflects them adequately. This is why this report examines the strengths and weaknesses in the policies regarding children, the regulatory framework for them, the challenges and resource and it discusses the measures recommended by the Ombudsman in the context of the Convention.

During the past year, the world marked an important anniversary – 30 years from the adoption of the Convention; each country made a review of the promise it has given to children with its adoption – to do everything to protect and strengthen the rights of the child – to live and grow up in a family environment, in an atmosphere of love, happiness and understanding, to study, to have their voice heard and to reach their full potential. Bulgaria took an active part in the anniversary initiatives but in terms of characteristics, the year was different from others. There were dozens of protests of citizens who expressed their dissatisfaction with strategic documents, statutory documents and/or social practices which had been adopted or being discussed. This is why the Ombudsman notes that these protests show that the idea of the independent rights of the child enshrined in the Convention are not deeply rooted in the Bulgarian society and more efforts and resources are needed to change these attitudes. They also show that Bulgarian parents are not comfortable with and informed about parenthood, do not trust the institutions and do not know the mechanisms and measures for child protection.

#### 2018 recommendations of the Ombudsman – a review of achievements

In its 2018 monitoring report, the Ombudsman made a number of recommendations to the competent authorities in the area of child policies. The review of their implementation can lead to the conclusion that the majority were not implemented and/or no sufficiently convincing actions were taken to implement them in order to yield positive results for children and their families. The sectors in which the Ombudsman targeted the recommendations reflect in their majority the 2016 comments of the CRC to Bulgaria.

#### Benchmarks for monitoring the Convention

To achieve sustainability of the monitoring of the Ombudsman and to ensure more effective measurement of the implementation of the Convention, qualitative and quantitative benchmarks are proposed in 2019. The measurement of the progress of the State on the basis of these benchmarks will be introduced gradually; in 2019, information from the competent authorities was gathered in some of them only. The data for the different benchmarks will be gathered both via annual questionnaires and the official sources of information in Bulgaria. The benchmarks will be complemented systemically in order to cover all rights provided for in the Convention.

### **General measures to implement the Convention**

In this part of the report, the Ombudsman reviews the implementation of the general measures for the application of the Convention and the CRC recommendations, examining actions taken in the areas of:

- Legislation;
- Raising the capacity of judicial authorities in the area of the rights of the child;
- Policies and strategies;
- Coordination.

With respect to the actions of the institutions taken in response to the general measures under the Convention, **the Ombudsman recommends:**

- Speed up the process of public discussion and adoption of the legislation for juvenile justice – Bill on Correctional Measures with respect to persons who committed an administrative violation as minors and the Bill to Amend the Family Code.
- Ensure ongoing capacity building in the area of international human rights law for judges, prosecutors and lawyers.
- Analyse the process of withdrawal of strategic documents in the area of the rights of the child and plan specific measures to overcome the situation.
- Prepare a Communication Strategy to involve all social groups in the discussion of strategic documents, ensure transparency of the processes, develop a procedure to clarify key and problem topics and concepts via different channels, not just media, including social, but also the websites of the institutions, at events, using different means: text, visual materials, discussions, etc. In brief – the institutions and civil society need to change their communication policy.
- As regards the coordination of child policies, the powers of the State Child Protection Agency for coordination at the “intersectoral, national regional and local levels” should be strengthened and the presidency of the National Council for Child Protection should be assigned to a Deputy Prime Minister responsible for policies for children and families.
- Provide resources for the implementation of the powers and obligations of municipalities with respect to the matters of prevention of child abandonment and juvenile offenders, participation in education, protection system, etc.

### **Family environment and alternative care (Articles 5, 9-11, 18 (1) and (2), 20, 21, 25 and 27 (4) of the Convention)**

The CRC recommendations cover the areas of:

- Exercise of parental rights and obligations;

- Measures to support families in raising children;
- Protection measure of “accommodation outside the family”;
- Alternative care and de-institutionalisation;
- Adoption.

**The Ombudsman recommends:**

***Amendments to the Family Code:***

- Set out specific provisions for the joint exercise of parental rights and obligations after the separation of the parents unless this is not in the child’s interest;
- Introduce a legislative requirement and include it as a part of the marriage termination proceedings or in the event of separation that parents will present a plan for the exercise of parental rights and obligations in the new situation;
- The court should consider the systemic failure to observe the guidance of child protection authorities and judgments to be grounds to amend the exercise of parental rights and to restrict parental rights;
- Mediation should be provided for as a type of social service which will allow the social workers to refer parents for resolution of their disputes;
- Amend the CPC provisions for the handover of a child by laying down fines and the consequences of the failure to take into account the recommendations of the enforcement agent.

***Organisational and management changes:***

- Adopt measures of coordination and cooperation between state and private enforcement agents with the support of the Minister of Justice to ensure effective forced enforcement of judgments concerning personal relations.
- Special support and training for child protection authorities on working on cases of parental alienation and conflicts, especially if a parent refuses to cooperate, always taking into account the principle of protection of the best interest of the child;
- Invest more resources in provision practical help to children whose parents are in conflict, for example by ensuring neutral places for meetings or monitoring the access (Article 59, para 8 of the Family Code).
- Introduce the requirement for specialisation of lawyers and judges (family court) taking part in judicial disputes concerning interest.

***Alternative care and de-institutionalisation:***

- Strengthen the support for children and young people leaving public care, including those with disabilities, helping them to be reintegrated in the society by ensuring access to an appropriate home, legal, health and social services as well as possibilities for theoretical and practical education.
- Boost the public awareness in order to combat stigmatisation and discrimination against children raised in alternative care.
- Plan the funding of the protection system and social services, including integrated ones, in the conditions of diminishing funding from the European Social Fund.
- Introduce a work standard based on the number of cases and a competence standard for social workers and specialists at the Child Protection Department.
- Selection of the specialists appointed at services providing child care and systemic and periodic improvement of their qualification and the qualification of the specialists at the Child Protection Department.

- Update the Methodology to manage child protection cases, including tying social assistance to social work.
- Special efforts to increase the capacity of Social Assistance Directorates and municipalise, the Ministry of Health, the Ministry of Education and Science and the Ministry of Labour and Social Policy for coordinated actions to prevent abandonment and reintegrate children in families.
- The legislation should set clear guidance for the development of parenting skills and pursuing a family-oriented approach and policies targeted at the age when this is most appropriate and necessary – early childhood.
- The measures for social assistance and child protection should be individualised and tied to the child’s age.

### **Adoption**

- Guarantee non-discrimination against children with disabilities and Roma children in the event of adoption and introduce programs to reduce the wrong perceptions related to the adoption of children with lasting disabilities and Roma children.
- Amend the Family Code in a way that will guarantee that children under the age of 14 are consulted on all decisions related to their life, including adoption.
- Ensure improved cooperation among the competent agencies and sufficient staff training to guarantee an appropriate long-term support for an adopted child and the adopting parents.
- Introduce legislation which will guarantee the right of children to know about their origin in line with Recommendation 80.79 of the Universal Periodic Review 2011 (A/HRC/16/9).
- Ensure information resources for the adoption policies – an analysis of the reasons for a decline in adoptions, a comparison of the national and international adoptions in terms of number and peculiarities of the children, an analysis of the trends in adoption.

### **Health and healthcare**

According to information from the Ministry of Health, the costs under the budget program “Medical and social care for children at a disadvantage, mother and child healthcare” in 2019 stood at BGN 51,772,731 and these funds do not include expenses incurred by the National Health Insurance Fund.

The Ministry of Health reports an increase in the share of immunizations in 2019 in comparison to 2018 and the immunization scope achieved is completely comparable to that in EU Member States.

To support Roma communities and their access to healthcare, the following measures were taken in 2019, including through health mediator: to support the pursuit of policies in the area of health prophylaxis among vulnerable groups, municipalities are supported by health mediators and their number increases by 20 annually.

There is still a serious issue with the provisions for medical offices at kindergartens and schools; the Ministry of Health claims that there is a Bill to Amend the Health Act which envisages changes in the provision for medical offices.

#### **The Ombudsman recommends:**

- Speed up the adoption of an ordinance on the requirements for the work of health mediators to increase the possibility for a more effective prevention among vulnerable population groups, especially children.

– Take urgent measures to update the Information System for births which contains information in real time about the scope of pregnant women and children with prophylactic examinations and information about premature births. The system has not been functional since the beginning of 2019 and no adequate actions have been taken yet to eliminate the problem.

– Take adequate measures to update the obsolete regulatory framework for the work of medical offices at kindergartens and schools.

– Urgently develop and adopt a standard of obstetrics and gynaecology; one has not been adopted since 2017.

## **Education**

The Ministry of Education and Science (MES) reports as a significant achievement in 2019 the successful implementation of the Mechanism for joint work of the institutions on encompassing and including children and students at the obligatory pre-school and school age in the educational system (“Mechanism”) set up by virtue of Decision No. 373 of the Council of Ministers.

The Ombudsman notes the efforts of the MES aimed at ensuring the rights of children with special educational needs (SEN) but finds that it is necessary to review the resources to ensure access to the children and students to more classes with model teachers in order to work towards developing the basic skills of students with SEN. These recommendations are based as priorities on the UN CRC report to Bulgaria expressing concern for the effective inclusion of children with mental and psycho-social disabilities in the educational environment which remains insufficient due to the lack of trained specialists.

### **The Ombudsman recommends:**

– Build a shared national vision for the goals of inclusive education which will lead to a uniform understanding of its philosophy and application. Such a vision needs to be accompanied by a “road map” with deadlines, resources and responsible institutions which is developed in a transparent process of communication with all stakeholders, thus allowing them to find their place in the principles of inclusive education and implement them in their work.

– In view of the conditions of limited financial resources and educational reform which introduces support as a new component in the educational institutions, it is of key importance to the success of this new practice to ensure that the funding for the general and additional support will be as clearly and transparently provided for as possible. Such provisions are necessary not only for the children with SEN but also for children at risk, children with chronic illnesses and gifted children. The activities under the general support should ensure the availability of specialists, including speech therapists and psychologists.

– The MES should provide schools with the set of tools, methodologies and aids they need for general support as regards prevention of educational difficulties.

– Create guidance which defines clearly the role, place, work and responsibilities of the following specialists – psychologist and pedagogical counsellor.

– Plan and implement campaigns targeted at the public and parents for the purposes and role of inclusive education.

– Eliminate gradually the fees for kindergartens, especially for children at the mandatory pre-school age, which will reduce sharply the number of children remaining outside pre-school education.

## **Children – foreigners and migrants**

The Convention and the European Convention on Human Rights guarantee the rights of all children who are within the jurisdiction of the State, regardless of whether they are its citizens. The different treatment of children on the basis of citizenship may be deemed to be discrimination (for example, when they are accommodated at care centres of the State Agency for Refugees and not under the terms of the Child Protection Act, access of refugee children to education and others).

The social work with unaccompanied children needs to cover all areas related to their well-being and interests – ensuring representation; access to healthcare, education, legal aid and translation in a language the child understands; inclusion in educational and cultural activities in view of their age and cultural characteristics.

**The Ombudsman recommends:**

- Conduct regular public educational campaigns to eliminate the negative social attitude to refugee children and children seeking asylum.
- Ensure access of unaccompanied refugee children to possibilities for accommodation at care provided to children who are Bulgarian nationals (specialised foster care and residential services).

**Hearing and taking into account the child's views**

Pursuant to Article 12 of the Convention on the Rights of the Child, a prerequisite for hearing the child is the child's ability for form own views and they are to be accorded importance in line with the child's age and maturity. The interpretation is that every child may be heard following an assessment of their abilities.

**Important aspects of this right:**

- Participation of children in the decision taken about them in the family. It is recommended that public campaigns and training for parents on positive practices be used to impact on the traditional attitude to children.
- Guarantee the possibility of children, as provided for in law, to turn independently or through a representative to a court or other authorities for the protection of rights breached. Pursuant to the Persons and Families Act and the Family Code, a minor child may exercise this right through a representative (parent or guardian) and an underage child – via guardian assistance – with the consent of a parent or guardian. The Child Protection Act and the Family Code also provide for a child to be able to turn to the court independently in certain cases (disagreement with parents, via the Child Protection Department, when challenging and establishing origin).

**Promoting the Convention and impact of children on public policies**

**The Ombudsman recommends:**

- Discuss the ratification of the Third Optional Protocol to the Convention on the Rights of the Child as regards the communication procedure
- Develop a methodology and protocols for hearing children in administrative proceedings for accommodation outside the family, at school, in certain disputes related to the exercise of parental rights, and others

- The specialists who work with children should attend systemic and period training on hearing children and taking their views into account
- Develop and announce publicly a procedure for complaints to be filed by children; it needs to be accessible, clear and understandable to them at every institution (especially Social Assistance Directorates – Child Protection Departments, school, Ministry of the Interior and others)
- The State Agency for Child Protection together with the MES should develop standards of practical implementation of the rights of the child to participation at school provided for in Article 171 of the Pre-School and School Education Act
- Hold public campaigns on the right of the child to participation and stimulate parents to listen to and take into account the views of the child
- Develop successful platforms for political participation of children (National Council for Children) and encourage such at the municipal level

#### **4. UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the UN General Assembly on 10 December 1984 and has been in force in Bulgaria as of 1987.

International law provides for restrictions of almost all fundamental human rights in certain statutory conditions and the interference in such fundamental rights is carried out in the discretion of the State. Only the prohibition of torture is absolute in nature – it may not be derogated or restricted in any way.

Within the VI Periodic Report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee for the Prevention of Torture issued the following main recommendations to the Republic of Bulgaria in relation to:

- Need to adopt a legal definition of torture in the Criminal Code which will contain all elements envisaged in Article 1 of the Convention and to qualify torture as a separate crime in the Criminal Code. So far, despite the commitment of the State, this recommendation of the Committee has not been implemented;
- Use of force and auxiliary means in prisons and police departments. In the capacity of NPM, the Ombudsman has repeatedly found that the irregular use of auxiliary means (handcuffs) continues throughout the entire system of execution of punishments when external positions are opened at medical institutions. Recommendations have been made to the Minister of Justice for urgent and effective administrative measures to eliminate torture, cruel, inhuman or degrading treatment or punishment in the event of conveying and movement of persons deprived of liberty from sleeping premises to outdoor stay and when visiting internal and external medical institutions;
- Access to a lawyer in the beginning of the 24-hour detention at police departments and ensuring in practice all legal guarantees for detainees against torture, not just the statutory ones;
- Need for reforms at places for deprivation of liberty – prisons and police departments – to improve the material and living conditions, eliminate overcrowdedness, encourage the training of staff at such places, and investigate all cases of death at detention facilities. As the NPM, in the Annual Reports the Ombudsman has reviewed these issues in

detail and has sent specific recommendations to the Minister of Justice and the Minister of the Interior to that effect;

- Position of persons accommodated at social institutions;
- Recommendations have been made to the State regarding the need to ensure sufficient legal guarantees for these persons, to improve the material conditions at such places and the need for independent monitoring to establish the extent as to which their rights are observed;

- A repeated finding of the Ombudsman is that the system for institutional social care has not been reformed yet and the quality of the social service has not been improved yet. As the NPM, over the years the Ombudsman has repeatedly recommended that the process of de-institutionalisation should be speeded up because the extended stay of persons with disabilities at institutions violated fundamental human rights. The accommodation of a person from a family environment into an institution should be applied solely as a protection measure of last resort;

- Situation of refugees and migrants on the territory of the Republic of Bulgaria;
- It should be noted that there is a significant change in the refugee landscape in comparison to 2015 and 2016. There is a significant decline in the number of applicants for international protection. The monitoring over the rights of unaccompanied children seeking or having received protection shows that the care for unaccompanied children from the state institutions in 2019 was heightened. The main recommendation of the Ombudsman to build a separate centre of the State Agency for Refugees where unaccompanied minors and underage children will be accommodated has been implemented partially through the setting up of “safe zones” at the departments of the Registration and Admission Centre – Sofia (at Voenna Rampa Residential Estate and Ovcha Kupel Residential Estate).

A main problem in relation to unaccompanied refugee children is the assignment of a legal representative for them. The Ombudsman has found the continuing practice for one legal representative to be responsible for many children while, at the same time, this person performs another role at the respective municipality. In this regard, the Ombudsman reiterates the recommendation to create a working model of representation of unaccompanied children, to determine advance criteria to be met by the official assigned as a representative and to provide this person with additional training.

## **5. UN Convention on the Elimination of All Forms of Discrimination against Women**

The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the UN in 1979 and has been in force in Bulgaria since 1982. With the adoption of the Convention, the States which are signatories to it are obligated to include the principle of equality of men and women in their national constitutions or other respective legislation, to adopt respective legislative and other measures prohibiting any forms of discrimination against women; to establish legal protection for the rights of women on an equal footing with men; and to ensure the support of the competent national courts and other government institutions for the effective protection of women against any act of discriminations, etc.

In the course of Bulgaria’s reporting under the Convention, the CEDAW requires of the state information about the measures taken and progress achieved in the following areas: violence against women, participation of women in the political and public life, employment, education, role of Roma women and others.



According to the Ombudsman, all institutions and participants in the process of prevention and protection against domestic violence need to consider applying a holistic approach of work which will address this enormous issue in our society in general.

In 2018, the Constitutional Court ruled on the incompatibility of the Istanbul Convention with the Bulgarian Constitution which hampers its ratification. This has prompted amendments to the national legislation aimed at overcoming the problems in the protection of women against domestic violence. The changes made in the Criminal Code and the Protection against Domestic Violence Act related to combating domestic violence are an important step but the efforts most certainly need to continue.

**The Ombudsman highlights the need to adopt additional legislative amendments such as:**

- Removal from the Criminal Code of the requirement to consider a crime to have been committed in the conditions of domestic violence only if it systemic;
- Incriminating all forms of domestic violence, including sexual and economic violence;
- Incriminating all forms of psychological violence and refining the existing definition of harassment;
- Incriminating rape in marriage;
- Amending Article 10, para 1 of the Protection against Domestic Violence Act pursuant to which a protection application to the court is submitted within one month as of the act of domestic violence and extending this term;
- Ensuring better guarantees for access to justice and legal aid of women who are victims of domestic violence;
- Taking effective measures to obligate perpetrators of domestic violence to comply with the judicial ruling to take part in rehabilitation programs such anger management training and others.

**Other measures are also necessary such as:**

- Ensuring integrated gathering of data and official statistics about the cases of domestic violence;
- Creating an effective coordination mechanism to ensure better cooperation among the institutions in cases of domestic violence;
- Targeted training of professionals working with victims of domestic violence – police, prosecutors, judges, social workers, healthcare specialists;
- Campaigns for zero tolerance to domestic violence to increase the public awareness in order to overcome the social stereotypes and empower women not to be silent victims.

In November 2019, the Ombudsman issued a recommendation to all regional governors in the country to increase the number of crisis centres for women who are victims of domestic violence.

Another important topic which the CEDAW brings to the attention of the State is related to the observance of the rights of Roma women and their participation in the social and economic life. The Ombudsman notes several problem areas in relation to the protection of the rights of Roma women: low level of education and early school leaving, early marriage, poverty and unemployment, as well as a high level of domestic violence due to a significant number of stereotypes and prejudice.

According to the Ombudsman, an integrated and decentralised approach is needed to resolve these problems successfully, especially with respect to Roma girls and women, which will have a sustainable impact on their lives and will contribute to their social inclusion, equal opportunities and access to universal rights.

## **CHAPTER FOUR.**

### **International Activities**

**Chapter Four** presents the activities of the Ombudsman in an international aspect, relations with international organisations, meetings and initiatives as well as results achieved through them.

The work of the Ombudsman in relation to international activities in 2019 was active, productive and content-rich; it intensified the cooperation with European and international institutions, organisations and partners.

The prestige of the Ombudsman institution on the international stage was upheld firmly with the highest “A” status of the UN for a human rights institution which allows the Bulgarian Ombudsman to address the meetings of all UN human rights committees and the Human Rights Council.

#### **“A” Status – History and significance of the accreditation**

Since its creation in 2005 and the assessment of the compliance with the Paris Principles of the UN Sub-Committee on Accreditation, the **Ombudsman institution was accredited with a “B” status.**

In a report to the UN Sub-Committee on Accreditation of 25-28 October 2011, the Committee gave specific recommendations. A number of amendments were made to the

Ombudsman Act in 2016 which expressly provide that the Ombudsman is a national human rights institution in Bulgaria. In 2018, the National Assembly adopted the amendments to the Ombudsman Act (amended – State Gazette, issue 7 of 19 January 2018, State Gazette, issue 20 of 6 March 2018) and the Regulations for the Work of the Ombudsman Institution (amended, State Gazette, issue 53/26 June 2018). Following the legislative amendments, the Ombudsman has been provided with powers to protect the citizen’s rights and freedoms against private legal subjects as well.

All recommendations of the UN Sub-Committee on Accreditation were implemented and, in October 2018, the National Ombudsman applied for accreditation – “A” status. The UN Sub-Committee on Accreditation met in March 2019 and the Bulgarian Ombudsman received an accreditation with the highest possible status of a UN human right institution.

The new status not only contributes to a greater reputation of the institution but also gives it a possibility to protect the rights of the Bulgarian citizens better.

Now, the Ombudsman is able to raise questions related to the rights of the Bulgarian citizens to the highest international legal forums, to take full part in the work the UN human rights committees and to propose items on the agenda of these forums such as problems related to the rights of the citizens in Bulgaria.

The “A” status allows the Ombudsman to participate and express opinions at meetings of all UN human rights committees and the Human Rights Council. This means that the Ombudsman institution, as a national human rights institution, meets the highest international standards of independence, impartiality, pluralism, as wide a mandate as possible transparency.

**Only 12 EU Member State have a national human rights institution accredited with an “A” status.**



### **Cooperation of the Ombudsman to protect the rights and interests of the Bulgarian citizens before international institutions**

An important focus in the work of the Ombudsman is the protection of the rights and interests of the Bulgarian citizens before international institutions. In 2019, the Public Advocate took a series of actions to look for cooperation with European colleagues – Ombudspersons, the President of the European Commission Jean-Claude Juncker and he President of the European Parliament Antonio Tajani and all Bulgarian Members of the European Parliament on diverse important causes in the interest of the Bulgarian citizens.

– **On 11 January 2019, the Ombudsman sent a letter request cooperation to the European Ombudsman Emily O’Reilly in relation to the disputed legislative**

**amendments to the Mobility 1 Package**, also known as the Macron Plan, which breach the interests of Bulgarian transporters.

The Public Advocate also addressed letters to the President of the European Commission Jean-Claude Juncker and the President of the European Parliament Antonio Tajani insisting that the amendments should not be put to the vote at the European Parliament given its elapsing term of office.

– On 22 January 2019, the Ombudsman defended a petition against the double standard in food before the Petitions Committee of the European Parliament which was submitted together with Bulgarian citizens. In it, the Ombudsman insists on terminating the manufacture and distribution of foods of the same brand but with different ingredients and quality in the EU Member States through amendments to the EU legislation and the Unfair Commercial Practices Directive.



On 15 April 2019, the Ombudsman sent letters to the Ombudspersons in the EU inviting them to call on the Members of the European Parliament from their States to vote against the double standard of food.

On 17 April 2019, the European Parliament put an end to the double standard of food in the EU as, at its last plenary session, it adopted a new commercial mechanism for consumer which declares the offering of food from the same brand but with different ingredients and quality to be an unfair commercial practice.

### **Reception events organised by the Ombudsman across borders**

On 20 February 2019, during a visit to Greece to take part in the international conference “State and Society: Challenges to Rights and Freedoms” organised on the occasion of the 20th anniversary of the Ombudsman institution in our Southern neighbour, the Ombudsman held a reception event for more than 100 Bulgarians. The problems are summarised in three main groups – pensions, driver’s licenses and – a particularly hot topic – Bulgarians are taken to court in Greece because their names are still on the documents of vehicles they no longer own but which are used to commit a crime – trafficking in migrants. The Greek side refuses to accept the evidentiary value of Bulgarian official documents such as sale agreements, evidencing the transfer of ownership of the vehicles before the crime was committed.

On 19 March 2019 and 1 October 2019, the Ombudsman organised two joint reception events with the Serbian Ombudsman Zoran Pasalic for Bulgarians in Tsaribrod and Bosilegrad.

The Bulgarian minority in Tsaribrod raised the issue about 30% Bulgarian content in the curricula in geography, history, music and art. The Ombudsman promised to assist for a meeting in Sofia with the team of the Serbian Ministry of Education in order to put the matter up for discussion and find a solution with the Bulgarian Ministry of Education and Science.

The issues Bulgarians face in Serbia include the problem with the broadcasting of BNT and the main national television stations as well as the possibility for Bulgarian women to be registered in the civil registers with their Bulgarian family names. The problems the Bulgarian citizens in Bosilegrad face are similar – lack of pre-school education in Bulgarian, lack of aids for the textbooks in geography and history, people leaving the city due to unemployment.

The main problem raised before the two Ombudspersons both by Bulgarian and Serbian citizens is the pollution of soils and water in the region, the abrupt increase in the number of malignant illnesses and deaths, the long term to acquire Bulgarian citizenship.



*Reception event of the Ombudsman in Bosilegrad*

**On 7 October 2019**, the Ombudsman sent a recommendation to the Foreign Minister, the Minister of Environment and Waters and the Minister of Health insisting on measures and timely information for the public in relation to the environmental problems in Bosilegrad, Serbia, and the Western Outlands which threaten the health and lives of people. The recommendation was prompted by complaints from Bulgarians and Serbian citizens from Bosilegrad who raised an alarm about the pollution to the soil and water from the mines in border areas.

### **International cooperation, participation of the Ombudsman in forums, meetings and initiatives related to the protection of the citizens' rights**

#### **Campaign of the Ombudsman in support of women and children who are victims of violence**

On the **UN International Day for the Elimination of Violence against Women**, the Ombudsman organised a thematic reception desk for women who are victims of violence and launched the Silence Kills! Campaign. The building of the institution was lit up in orange – the colour of the UN campaign against harassment against women.





On 14 October 2019, Ombudsman Diana Kovacheva discussed violence against women with the UN Special Rapporteur Dubravka Simonovic who was on a visit to Bulgaria in order to get acquainted with the Bulgarian system of preventing and combating violence against women and children.

27 November 2019: Ombudsman Diana Kovacheva and Council of Europe Commissioner for Human Rights Dunja Mijatovic discussed the fight against violence and discrimination in Bulgaria.



### International cooperation

On 21 February 2019, Deputy Ombudsman Diana Kovacheva took part in the **hearing before the UN Committee on Economic, Social and Cultural Rights** on very hot topics – poverty and the risk of social exclusion, hate speech, the importance of education to integration, early school leaving and measures to deal with the problem, as well as the rights of the child, the rights of persons with disabilities, protection of the rights of persons with mental disabilities, eviction in the case of illegal construction.



On 8-9 April 2019, the Ombudsman and Deputy Ombudsman took part in the **Annual Conference of the European Network of Ombudsmen in Brussels**. The forum at the European Parliament makes an assessment as to the effectiveness of the democratic instruments through which the citizens of Europe can take part in the formation of policies and decisions which have a direct impact on them.

On 27 May 2019, the Deputy Ombudsman hosted a working meeting at the institution of the Public Advocate with the participation of Greek delegates representing the association Alliance for Protection against Gender-Based Violence, the National Secretariat for Equality at the Ministry of the Interior of our Southern neighbour, the National Centre for the Study of Equality and Diotima Association – Republic of Greece.



### **International activities and cooperation of the Ombudsman as the National Preventive Mechanism (NPM)**

In 2019, the NPM intensified its cooperation with a number of national and international partners such as government institutions, non-governmental organisations, international authorities and organisations.



The NPM participates as a member in the **Network of National Preventive Mechanisms in Southeastern Europe:**

- NPM Policies Regarding Coercive Measures (June 2019)
- Special Needs of Children at Detention Facilities (October 2019).
- A meeting of the Network of Children’s Ombudsmen in Southeastern Europe on the topic of “Migration and Children” – October 2019
- In November 2019, an NPM expert attended the training for European monitoring persons in forced return which is carried out under the FReM III project and is organised by the International Centre for Migration Policy Development.

The **second regional meeting of the European Network of Ombudsmen** was held in December 2019; at the meeting, the following topics were discussed with representatives of Ombudsman institutions from Malta, Cyprus, Spain and Portugal:



- Role of national ombudsmen and their powers in relation to using and paying EU structural and investment funds.
- Asylum and migration. Monitoring of the implementation of coercive administrative measures by the Ombudsman.
- Right to free movement and equal treatment.

## **CHAPTER FIVE.** **Resources in 2019**

**Chapter Five** contains:

1. Expense report
2. Team
3. 2020 priorities and events

## Expense report

In the performance of its activities as a supreme constitutional authority of advocacy for the citizens' rights and freedoms, the Ombudsman institution of the Republic of Bulgaria uses funds from the state budget in keeping with the principles of economy and effectiveness. Pursuant to the 2019 State Budget Act, the expenses of the Ombudsman of the Republic of Bulgaria are BGN 3,159,000.

- Amount of income reported for 2019 under the respective line items – BGN 3,172
- Amount of expenses reported for 2019 under the respective line items – BGN 2,922.

The team of highly qualified professionals is the main resource of the Ombudsman institution of the Republic of Bulgaria. The remuneration and social security for the team are an essential part of the expense budget of the institution.

The maintenance expenses are related to ensuring resources for the work of the institution with stationery, office equipment and consumables, water, fuel, electricity and heat, telephone and internet services, hardware maintenance and specialised software, translation, pre-print and print processing, ongoing renovation works, security, business trips, etc. To a large extent, these expenses are related to contractual commitments and obligations with respective regular payments. The largest relative share (49.77%) of Support is the share of lease for the building where the institution is housed (for the past four years, the lease was re-negotiated and gradually reduced).

The Ombudsman of the Republic of Bulgaria is a member of different international organisations which entail membership fee expenses – European Network of EU Ombudsmen, International Ombudsman Institute, Association of Ombudsmen and Mediators of La Francophonie, European Network of National Human Rights Institutions, European Network of Ombudspersons for Children.

The due state and municipal taxes and fees were paid.

The capital expenses of the institution amount to BGN 15,445. Computers and hardware were acquired.

The Ombudsman institution is implementing the project “Electronic work management system for the administration of the Ombudsman” under Priority Axis No. 2 Effective and Professional Management in Partnership with the Civil Society and Businesses” under Operational Programme Good Governance, No. 03-01/18.02.2019 pursuant to Contract No. BG05SFOP001-2.001-0011-C01 for a financial grant, and the implementation of the activities has started. The deadline of the contract is 31 December 2019 and the Managing Authority extended the term until 31 December 2020. The total project value stands at BGN 549,936.80.

In performance of the contract, expenses of BGN 96,546 were reported. One advance payment of BGN 27,497 was received. By the time of preparation of this report, one expense verification of BGN 42,950 was carried out.

## Team

### Structure of the institution of the National Ombudsman

**Ombudsman of the Republic of  
Bulgaria**

**Deputy Ombudsman**

Head of Staff of the Ombudsman  
Secretary General  
Ombudsman Office  
Public Relations and Protocol Directorate

#### **General Administration**

Chief Legal Council  
Finance, Accounting and Economic  
Department

#### **Specialised Administration**

Rights of the Child Directorate  
Reception Desk and Registry  
Department  
International Standards and Regulatory  
Framework Department  
Rights of Persons with Disabilities and  
Discrimination Department  
Social Rights, Education, Healthcare  
and Environment Department  
Property Right Department  
Rights of Users of Administrative and  
Public Services Department  
National Preventive Mechanism  
Directorate

## 2020 priorities

Based on the 2019 trends outlined and the conclusions proposed in this report, the Ombudsman institution determines its 2020 priorities to be:

1. Protection of the citizens' social and economic rights;
2. Protection of the citizens against monopolies, in enforcement proceedings and in the event of overindebtedness;
3. Protection of the rights of women and children.

A specific priority in 2020 will be the protection of the citizens' rights in emergency situations focusing on the persons from vulnerable groups.

## **APPENDICES**

A brief overview of 2019

## A brief overview of 2019



**10 January** – A discussion in Shumen together with the public mediator Ivan Kapralov on the topic of “Right to pay for a quality water and sewerage service”.

*“The citizens’ dissatisfaction with the so called reform in the water and sewerage sector is growing. In practice, only prices are rising. Nothing changes for the better – neither the quality of water, nor the quality of service, nor are there fewer emergencies, nor are the investments becoming more effective. The reforms, the way they are pursued now, cover and are exhausted with the price raises only. On its part, this results in a violation of access and in a breach of a fundamental human right – the right to water – which is closely related to the right to life.*

*Being the Ombudsman, I cannot be indifferent to this process,”* the National Public Advocate stated at the forum.



**21 January** – The Ombudsman launched a telephone hotline for persons with disabilities to ask questions in relation to the reforms in the social sphere in force as of the beginning of 2019.

**24 January** – At a meeting with the Ombudsman, citizens from Kyustendil asked for support against the work of the Zlogosh mine and for preservation of nature in the area. The citizens were concerned about the numerous projects for exploration and extraction of minerals and ores on the territory they lived in as well as in the region of Bosilegrad, Republic of Serbia.

They insisted on responsible and timely actions of the Bulgarian institutions because there was a risk of serious pollution of the water and soil and of harming the people’s health which would cause an environmental catastrophe in the region of Kyustendil. They also raised a demand for a cross-border environmental impact assessment.

## FEBRUARY

**25 February** – The Ombudsman organised a public discussion on the topic of “Protection against inequitable clauses and super privileges of banks.” At the forum, the Public Advocate presented a bill to restrict the super powers of banks and ensure protection against inequitable clauses through amendments to the Civil Procedure Code.

## MARCH



**8 March** – The Ombudsman supported the initiative “A flower for her” organised to commemorate women who are victims of violence.



**12 March** – A briefing at which the Ombudsman announced the responses received under the Access to Public Information Act from Toplofikatsiya Sofia AD on 11 March 2019 after almost a three-year judicial saga. On 25 February, the company was sentenced finally on 10 counts, including: how much legal advisor remuneration was gathered in 2015 through cases launched against 21,000 Sofia citizens and what it was spent for.





**16 April** – The Ombudsman visited Veliko Tarnovo on the occasion of the 140th anniversary of the Constitutive Assembly and the adoption of the Tarnovo Constitution.



**25 April** – On Good Thursday, Ombudsman Maya Manolova together with more than 250 children from 10 Sofia schools and 5 kindergartens painted 1,000 eggs on St. Nedelya Square. The event was part of the Easter for Everyone – Make a Gift for Grandma and Grandpa National Campaign which the Public Advocate organised for the fourth year in a row in support of Bulgarian pensioners.

The students took the painted eggs to the social kitchen in the yard of the church St. Cyril and St. Methodius and the eggs were given away to people at a social disadvantage.



**7 May** – The Deputy Ombudsman delivered a public lecture on the topic of “International legal standards of combating corruption” to students at the University of National and World Economy under the brand of the Anti-Corruption Academy.



**20 May** – The Ombudsman organised a meeting at the institution upon the request of lawyers; the event focused on the functioning of the Commercial Register.



**29 May** – The Ombudsman organised an event in relation to the public discussion of amendments to Ordinance No. 16-334 of heat supply proposed by the Ministry of Energy.

**JUNE**



**4 June** – The Ombudsman visited the meeting of the Energy and Water Regulatory Commission to approve the prices of electricity and heating, protesting against the increase in prices.

**6 June** – The Ombudsman requested information from the Energy and Water Regulatory Commission under the Access to Public Information Act in relation to the increase in prices of electricity as of 1 July 2019.



**10 June** – *“As the Ombudsman, I am expected to protect the citizens because some of them find the payment of excessive interest, costs, compensation and default impossible. Many people find themselves in a financial quagmire, they are at a risk of financial exclusion due to the snowballing rise of their debts. Thus, from a quick solution in times of financial difficulties, the fast loan companies become a quick ruin for the citizens.”* This is what Ombudsman Maya Manolova shared at the round table she initiated at the institution in relation to the problems of the citizens with fast loan companies.



**13 June** – The Deputy Ombudsman took part in the closing conference under the A Bridge to Business program at the National Palace of Culture; the event reported the implementation of a project aimed at improving the access of youth of Roma origin to employment in the private sector.



**25 June** – “800 million levs annually are the bad, delayed, unserviced loans. These are estimates because some banks and non-banking financial institutions sell their receivables at a preliminary stage in order to unburden their loan portfolios.” The numbers were revealed by the Ombudsman at a forum at the institution to present the Bill for Insolvency of Natural Persons.

## JULY



**8 юли** – “The texts of the Persons with Disabilities Act which place the persons with the highest degree of disability and right to assistance in a different position with respect to the financial support in view of the type of their pension need to be revisited and amended.” This is what Ombudsman Maya Manolova stated during the constituent meeting of the Monitoring Council for persons with disabilities.



**10 July** – The Ombudsman defended machine voting at the session of the Legal Affairs Committee of the National Assembly where amendments to the Elections Code were discussed – concerning machine voting at local and parliamentary elections.



**15 July** – The Ombudsman took part in a round table at the National Palace of Culture where Health Minister Kiril Ananiev proposed the creation of a new health insurance model based on demonopolising the health fund; the purpose is for health insured citizens to be able to choose where to insure themselves – a private fund or the National Health Insurance Fund.

## AUGUST



**13 August** – The Ombudsman recommended to the responsible institutions to adopt legislative amendments and measures against excessive building and to ensure the completion of land restitution.



**27 August** – The Ombudsman organised a meeting at the institution upon complaints of concerned citizens who turned to the Public Advocate in relation to the sale of three lucrative properties on the Black Sea Coast.

## SEPTEMBER



**2 September** – The Ombudsman and medical specialists put forward to the National Assembly a Bill on Professional Organisations which offers a possibility to set up professional organisations of regulated medical professions in healthcare which will protect the rights and interests of their members to the fullest extent possible.

**26 September** – The Ombudsman institution joined the European Day without a Road Death whose 2019 edition was under the motto “I love my family! Let’s keep them safe on the road!”





**27 September** – The Ombudsman of the Republic of Bulgaria Diana Kovacheva and her colleague from Uzbekistan Ulugbeck Muhammadiev signed a Memorandum of Cooperation.



**28 September** – XVIIth ceremony of the annual awards for contribution in the area of freedom of information handed out on the International Right to Know Day – 28 September.

## OCTOBER



**9 October** – The Ombudsman and a team of experts from the institution heard about problems of the citizens from Sliven and the region at an out-of-office reception day. On the same day, Assoc.Prof. Kovacheva carried out an inspection at the prison for women.



**12 October** – Ombudsman Diana Kovacheva attended the annual Autumn National Conference of the Bulgarian Bar organised by the Supreme Bar Council and the Sofia Bar Council. The topic of the forum was “Modern challenges in the practice of the attorney profession.”



**18 October** – Ombudsman Diana Kovacheva handed out the two special awards at the 2019 Doctor of the Year Ceremony which the Bulgarian Medical Association organises traditionally on the eve of 19 October on the occasion of the Day of Bulgarian Doctors. Assoc.Prof. Kovacheva presented the plaques to Dr. Iliya Trayanov from the Pazardzhik MHAC and his team who selflessly brought to life a young mother in a coma and Dr. Elias Haddad from Gorna Oryahovitsa who in extreme circumstances, during a storm, performed an operation under a lantern.

**21 October** – Assoc.Prof. Diana Kovacheva convened the first regular meeting of the Monitoring Council under the Persons with Disabilities Act.







**6 November** – Participation in the international conference “De-Institutionalisation of Care for Children: How Are We Investing in Change?”



**11 November** – *“Corruption breaches the fundamental human rights – both large and petty corruption violate all rights – economic, social, cultural, civil and political; they demolish them leaving nothing.”* This is what Ombudsman Assoc.Prof. Diana Kovacheva stated during the Research and Practice Conference “Systemic and Structural Approaches to Combat Corruption” organised by the Law and History Department of Neofit Rilski Southwestern University.



**22 November** – The Ombudsman placed a heart-shaped bottle of “living” water in the Millennium Capsule at the National Assembly. The initiative is of the State Child Protection Agency upon the 30th anniversary of the UN Convention on the Rights of the Child; the idea was for representatives of different institutions to place their messages inside and the messages will be read by children in 2030.



**22 November** – *“The EU Charter is a protection treaty of a new generation – the first one to be created in the XXIst century. It places the protection of human rights at the heart of the EU – where it has always been – and renders meaning to that part of Article 2 of the EU Treaty which lists rule of law and respect for human rights among the purposes of the Union.”* This is what Ombudsman Diana Kovacheva said at a forum organised by the constitutional judge Prof. Atanas Semov in relation to the application of the Charter of Fundamental Rights of the European Union in the Member States and its 10th anniversary.



**25 November** – Ombudsman Assoc.Prof. Diana Kovacheva and New Bulgarian University Rector Prof. Plamen Bochkov signed a Memorandum of Cooperation with a view to organising student internships at the institution of the Public Advocate.

**27 November** – Ombudsman Diana Kovacheva defended citizens against the super powers of banks before Members of Parliament – during the review of the amendments to the Civil Procedure Code at the second reading in the Legal Affairs Committee of the National Assembly.

**DECEMBER**



**3 December** – On the International Day of Persons with Disabilities, the Ombudsman organised a forum targeted at the protection of young people with mental disabilities “We Can Too!” The event was held in partnership with the Civil Formation Parents in Action and representatives of the Monitoring Council under the Convention on the Rights of Persons with Disabilities, Lumos Bulgaria Foundation and Maria’s World Foundation.



**4 December** – Ombudsman Diana Kovacheva took part in the meeting of local public mediators from throughout the country which was held in Kardzhali upon the invitation of Rasim Musa, Kardzhali Mayor. The document called Kardzhali Declaration was discussed and adopted unanimously. It insists on expanding the network of defenders in Bulgaria and changing their status in order to elevate the status of the public mediator institution.



**10 December** – On the occasion of the International Human Rights Day, the Ombudsman “opened” the doors to the institution for students of law. The event was attended by National Assembly Speaker Tsveta Karayancheva while H.E. US Ambassador Herro Mustafa welcome the young lawyers in a video message.



**11 December** – The Public Advocate and the Rector of Varna University of Economics Prof. Evgeni Stanimirov signed a Memorandum of Cooperation whereby the two institutions committed to holding joint training and internships at the Ombudsman institution. Assoc.Prof. Kovacheva delivered a public lecture to the students at Varna University of Economics on the topic of “Role of the Ombudsman for the protection of human right”.



**12 December** – *“There should be incentives for people who submit signals about irregularities to do it by ensuring clear protection.”* This is what Ombudsman Diana Kovacheva said during the round table “Protection of whistleblowers in Bulgaria” organised by the Transparency International Association.

## How do I get in touch with the National Ombudsman?



**Address: Sofia 1202, 22 George Washington Street**

*Telephone: 02/81-06-955;*

*02/980-95-10;*

*Fax: 02/81-06-963*

*E-mail: [priemna@ombudsman.bg](mailto:priemna@ombudsman.bg)*

*[www.ombudsman.bg](http://www.ombudsman.bg)*