

## Legislative Initiatives of the Ombudsman 2020

The Ombudsman uses the powers to influence the regulatory framework in the interest of the citizens when referred to with complaints and alerts, some accompanied by collections of signatures. The Ombudsman also takes steps *ex officio* when, in the course of support for citizen actions, it is established that there is a legislative gap or that the provisions create prerequisites for violations of the citizens' rights.

**In 2020**, the COVID-19 pandemic was largely the starting point for the legislative initiatives of the public advocate aimed at protecting the citizens' rights at risk or breached in the period of the state of emergency due to the coronavirus and, after that, during the emergency epidemic situation.

In an opinion to the Legal Affairs Committee of the 44th National Assembly during the discussion of the Measures and Actions during the State of Emergency Act Declared by Virtue of a Decision of the National Assembly of 13 March 2020 and on Overcoming the Consequences (title amended SG, issue 44 of 2020), **the Ombudsman expressed support for the proposal of attorneys from the Sofia Bar Council for a moratorium on procedural, limitation and preclusion deadlines in relation to the epidemic situation in the country in order not to violate citizens' rights**, including the rights to judicial defence because the citizens could lose the possibility to take action within the terms laid down by law. **The Ombudsman also recommended suspension of the actions of private enforcement officers related to public sales, inventories of property and setting of distraint on work remuneration and bank accounts of debtors** which would alleviate the citizens' situation in this case. Both issues pointed out by the public advocate were included in the adopted text of Act.

In June, the Ombudsman sent detailed information and analysis to the Parliament Speaker, the Chair of the Legal Affairs Committee of the 44th National Assembly and the Minister of Justice in relation to the problems citizens faced due to debt collection companies and fast loan companies. Further to the same topic which is a priority to the institution, the Ombudsman took part in the meeting of a working group at the Ministry of Justice tasked with proposing regulatory framework for the activities of **debt collection companies, lenders functioning outside the Bulgarian National Bank supervision and payday loan companies (so-called fast loan companies)**; a detailed opinion was prepared on the bill discussed. The Ombudsman expressed the opinion that the matter

related to debt collection companies and companies offering to the citizens the **payday loan companies needs to be subjected to comprehensive regulation** in a separate bill concerning the activities of out-of-court debt collection and rules for their transfer as well as heightened control over the debt collection companies while ensuring an in-depth discussion.

In protection of the citizens' rights, the Ombudsman took a stand against proposed amendments to the Code of Civil Procedure concerning the procedure for **voluntary collection of receivables which are not set by the court by enforcement agents**. According to the public advocate, this procedure assigns quasi-judicial and quasi-mediator functions which is unacceptable. The Legal Affairs Committee of the National Assembly took into account the Ombudsman's opinion and rejected the proposed changes.

The Ombudsman also firmly opposed the proposed amendment to the Consumer Credit Act made through the Transitional and Final Provisions of the Bill to Amend the Value Added Tax Act. The amendment envisaged that **the costs a consumer pays in the event of non-fulfilment of obligations under a consumer credit contract with a financial institution** may reach double the amount of the principal and will not be deemed excessive. The proposed amendment did not enter into force.

The cases of **domestic violence** increased during the state of emergency and the emergency epidemic situation. In this regard, the Ombudsman tabled proposals for amendments to the Criminal Code and the Protection against Domestic Violence Act related to more effective protection of the victims of domestic violence. On the occasion of the UN International Day for the Elimination of Violence against Women, a recommendation was sent to the Minister of Justice insisting that the Bill against domestic violence should be proposed for review by the Council of Ministers and then put forward for review, vote and adoption by the National Assembly.

Again in relation to the Act on the Measures and Actions during the State of Emergency which amends the Electronic Communications Act, **the Ombudsman sent a recommendation to the Minister of Interior**. The provisions which prompted the recommendations allow the Ministry authorities to **request information about a citizen placed in mandatory isolation and hospital treatment directly from the mobile operators which, on their part, must provide the information requested "immediately"**. The Ombudsman emphasised that the saving of traffic data and their use in the manner and with the means laid down in the law, albeit pursuing a legitimate aim in the public benefit, could violate the citizens' rights because, in its essence, this constitutes interference in their personal life. In this regard, information was requested about the measures taken to exercise control over the authorised MoI authorities to fulfil their obligations to refer to the district court to exercise control in

every case within 24 hours after the request to the mobile operator to provide traffic data.

The public advocate sent a **recommendation to the Minister of Justice** to adopt legislative amendments in order to **eliminate the flawed practice for hollow companies to be registered at the home addresses of citizens** or at the addresses of other real estate properties **without the owners knowing**.

On the **Bill to Amend the Energy Act**, in an express opinion the Ombudsman stated that the procedures envisaged in the Bill for **reimbursement of the difference in the amounts** to persons down the chain did not take sufficient account of the citizens' interests. While short and clear deadlines are laid down for gas supply and energy enterprises, the provisions of the Bill for reimbursement of differences to end consumers raise justified questions about the correct and accurate deduction.

As regards the Bill to Provide for the Relations Concerning Personal Accounts for Dematerialised Securities Maintained at the Central Securities Depository by Central Depository AD or the so called "**sleeping shares**", **the Ombudsman sent an opinion to the Ministry of Finance**. The public advocate does not support the Bill which impacts on the rights of almost 2.5 million Bulgarian shareholders at risk of losing their securities at a par value of close to 2 billion BGN acquired in the mass privatisation.

An opinion was also provided in relation to the **Bill to Amend the Social Services Act**. The Ombudsman emphasises that one of the most serious concerns the citizens share in their complaints is that there are practices of **taking children out of their families only in view of their social status** and that a material criterion is laid down for taking a child away, **i.e. due to poverty**. It is stressed that the **UN Convention on the Rights of the Child obligates the Member States to guarantee that parents receive appropriate support in exercising their parental obligations**.

The public advocate sent an **opinion to the Parliament Speaker and the Minister of Agriculture, Food and Forests insisting on an extension of the period of the prohibition for disposal of agricultural land from the remaining land estate – municipal property**. The period recommended is at least another five years. The matter concerns land under Article 19 of the Ownership and Use of Agricultural Land Act and the reason is that the effect of the temporary prohibition for disposal of such lands ends on 22 December 2020. The opinion **emphasises the fact that the prohibition was introduced after publicly known cases of flagrant non-compliance with the restitution purpose of the lands** of the remaining land estate as a result of the expiry of the express restrictions for disposal of them in 2010.