THE GREEK OMBUDSMAN
INDEPENDENT AUTHORITY

EQUAL TREATMENT

SPECIAL REPORT 2019

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(article 25 paragraph 8 Law 3896/2010
and article 19 paragraph 6 Law 4443/2016)

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Preface

It is commonly asserted that the effects of the protracted 'memoranda' experience, that of economic stagnation and strict financial adjustment, cannot be entirely reversed in the space of one or two years. Systematic effort over time will be needed to bring about tangible results on measures and policies aimed at broadening management of social benefits, of supporting the social, welfare state and of strengthening the state's oversight functions and mechanisms.

What cannot be overlooked is the impact that this 'memoranda' experience has had on the protection of fundamental rights, on equal access to and enjoyment of those rights from society as a whole. Be that as it may, this experience does not qualify as the sole reason for the uneven playing field as regards the implementation of the principle of equal treatment that the National Body has ascertained for another year. Much of the responsibility can be attributed to deeply rooted prejudices and stereotypical attitudes at an individual as well as a collective level. Looking for elements that differentiate 'us' from 'them', targeting diversity as a matter of course operates as a pretext to justify discrimination. Gender, origin, age, social or family status, health, beliefs, sexual orientation and gender identity all continue to spawn in our individual and collective consciousness the divide between 'us' and 'them' in employment, education, health, social insurance, tax, welfare; in social integration and acceptance in general. No matter how many positive measures are taken, how many policies and strategies are planned, how many institutional interventions are carried out, their effectiveness will continue to remain relative as long as we ignore the fact that the 'others' are none other than 'ourselves' in some manifestation and expression of our personal or social life and action.

The 2019 Special Report attempts to give a brief overview of the level of respect shown towards the principle of equal treatment in Greece, as well as of the harmonisation of the domestic legislative framework with the principles' imperatives. Once again, it highlights persistent areas of discrimination in the workplace, in education, in family and in every area of social activity. It thus exposes us to attitudes and practices that are rather a cause for embarrassment to us all.

For the three years that the Greek Ombudsman has been operating as the National Body for upholding and promoting the principle of equal treatment in Greece, we have intensified our efforts at mediation and intervention, reinforced our oversight competences, enriched our legislative proposals and institutional recommendations, our dissemination and training initiatives. In addition, we have extended our oversight and monitoring capabilities, making good use of our role both as the national framework for monitoring respect for the rights of persons with disability, drafting and publishing a separate special report which appraises the degree of Greece's compliance with the requirements of the UN International Convention on the Rights of Persons with Disabilities, as well as our special competence as National Mechanism for investigating cases of arbitrary behaviour of enforcement agencies and employees in detention centres, intervening effectively and decisively in the disciplinary review of cases of arbitrariness with a racist motive. We make use of all the capabilities, tools and competences at our disposal. Alas, we are not complacent.

We seek new monitoring tools and new intervention capabilities, such as those emerging from best practices in the operation of equal treatment bodies of other European countries, which are being reflected in the standards and principles established by the Council of Europe and the European Union; so that, as a body for the promotion and protection of the principle of equal treatment, we may enter into a new, the next, more advanced and even more substantive phase of operation. With confidence in our abilities, belief in our institutional role and dedication towards the objective of a society where the rights of all are respected. A society with equal opportunities for everyone to develop their personality, cultivate and make use of their talents and skills, participate in societal affairs, have access to available services, enjoy the goods, and improve each and everyone's quality of life.

Andreas I. Pottakis
The Greek Ombudsman
March 2020

Introduction

2019 attested the need for unwavering focus on issues of fighting discrimination and promoting equal treatment in Greece. Despite some individual positive developments, there are still serious deficits, which are out of step with the progress anticipated from the time following the adoption of common European legislation (Directives 2000/43/EC, 200/78/EC, 2006/54/EC). Even when taking into consideration the consequences of the financial crisis and their impacts on the ability to eliminate or restrict inequalities, progress has been slight even for measures unrelated to financial costs.

Complaints submitted to the Ombudsman in 2019 represent a 30% increase over the previous year, the largest rise since 2016 when the Department of Equal Treatment was activated. The largest increase was observed in cases of discrimination between men and women and those related to disability and chronic disease.

With regard to discrimination between men and women, a significant deficit in the protection of pregnant women and young parents can still be observed, with serious divergences in the duration of protection provided between the private and public sectors. The view that a pregnant employee is a 'burden' for private companies remains widespread, leading to attempts at 'relieving' them of the 'burden' through quasi-legal means. For a number of employers, the pregnant employee signifies an obligatory absence, but mainly the employee's shifting of priorities away from her career towards her family. Irrespective of the fact that the gender-based distribution of social roles continues to mostly place disproportionate burden on the working woman for the care of family members, the need for an equal share of looking after the family and to ensure equal participation of the sexes in professional life is imperative if the goal of achieving a work-life balance is to be realised. With regard to this area, the transposition of Directive 2006/54/EC into Greek law by 2022 allows us to re-examine and re-plan all those measures which will permit fundamental changes[1] and

1. The Ombudsman has already submitted the relevant proposals to the Secretariat-General for Family Policy and Gender Equality and intends to step up its interventions

improvement in Greece's underwhelming position[2] compared to other European countries on issues of gender equality.

It is exceptionally encouraging that there has been a marked increase in the number of complaints regarding discrimination on grounds of disability or chronic disease. In investigating the cases, the goal is to ensure that working conditions will allow persons with disabilities or chronic disease to work, and that employers will demonstrate that they undertake the obligation to provide reasonable accommodation. In this context, stereotypical attitudes linked to the ability of persons with disabilities or chronic disease to work, hinder equal access or professional treatment and professional development in general of these persons. These stereotypes, together with the employers' unawareness of their obligations for reasonable accommodation, make measures necessary, both in terms of disseminating the relevant information as well as the imposing of sanctions when all else has failed.

As regards discrimination on grounds of racial origin, a central issue has for another year been that of the social tensions created between Roma and non-Roma in the same neighbourhood and the reluctance particularly of local authorities to take measures to calm tensions and improve the living conditions of Roma so that their social integration be made possible, albeit gradually. What this last year has shown is that despite the complexities and opposition, tangible results are within reach. Municipalities in Greece have taken on board the risks inherent in tolerating the present situation and that the absence of interventions has already demonstrated the benefits and tangible results of their efforts and are examples for good practice.

With regard to discrimination on grounds of national-ethnic origin, the most predominant issue is undue discrimination towards asylum seekers, refugees and migrants living legally in Greece and mostly concern obstacles in accessing goods and services. Toleration of racist behaviour and violence is also worrying, a fact which undermines social cohesion, militating against the demand and need for smooth social inclusion. Discrimination on grounds of religious beliefs is often included in discrimination on grounds of national-ethnic origin. There are very few complaints presenting them as

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also in 2020.

2. See Report of the European Institute for Gender Equality (EIGE) at: www.ec.europa.eu/greece/sites/greece/files/gender_equality_index_2019_greece.pdf.

a distinct field of discrimination in the workplace received by the Ombudsman. This renders more necessary greater vigilance and cooperation with social and citizens' bodies, the competent Labour Inspectorates and social partners in order to provide more comprehensive information and more effective protection.

When it comes to discrimination on grounds of age, the subject returns once again on the setting of an age limit on notices for vacancies or job advertisements, without these limits, in many cases, being accompanied by the necessary justification, as required by law. It is often established that they are associated with stereotypical attitudes which automatically link physical suitability and the ability to perform one's duties in each post with one's age. The Ombudsman, in implementing the relevant legislation and case law of the European Court and already having long experience in such issues, reflects in its interventions specific directions on the legality of introducing age limits in occupation and employment on the basis of their appropriateness and necessity.

As regards discrimination towards LGBTQ+, the issue of administrative procedures for registering civil partnership agreements between homosexual couples and the difficulties they face was of particular prominence in 2019. On areas of combating discrimination on grounds of gender identity, a subject for intervention related to administrative procedures or notarial deeds in which corrections in gender registration were not made in compliance with the necessary guarantees of secrecy and confidentiality.

In the first two sections of the Report are to be found statistical data for the year together with brief, indicative cases investigated by the Ombudsman as well as the results of these interventions. The aim is to familiarise the reader with the kinds of issues where the National Body may intervene as well as to how they are handled and how effective they may be. The third section attempts to look in further depth at issues of implementation and interpretation for each type of discrimination based on the cases investigated. The fourth section includes cases which were the springboard for more central institutional interventions aimed at promoting the principle of equal treatment beyond the individual case. Finally, the fifth section includes legislative proposals submitted in by the National Body to the competent ministry in 2019.

This Report summarises the work carried out by the Ombudsman as the Body for promoting and implementing the principle of equal opportuni-

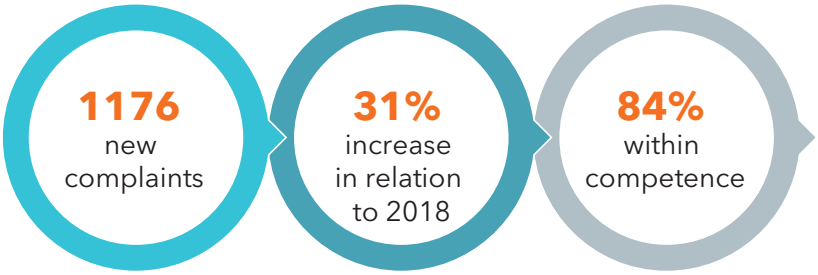
ty. The sections above have sought to highlight the different kind of approaches and interventions on the subjects set out in complaints for each ground of discrimination, the consistent thread being the legal and effective protection of all those impacted persons. All the separate approaches reflect the vision and way in which the competent National Body's Department of Equal Treatment perceives and carries out its work, according to the relevant Directives of the European Union and Greek law into which they have been incorporated.

Kalliopi Lykovardi
Deputy Ombudsman for Equal Treatment
March 2020

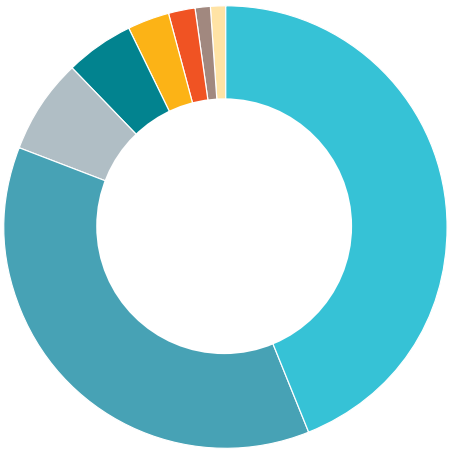
THE YEAR IN NUMBERS

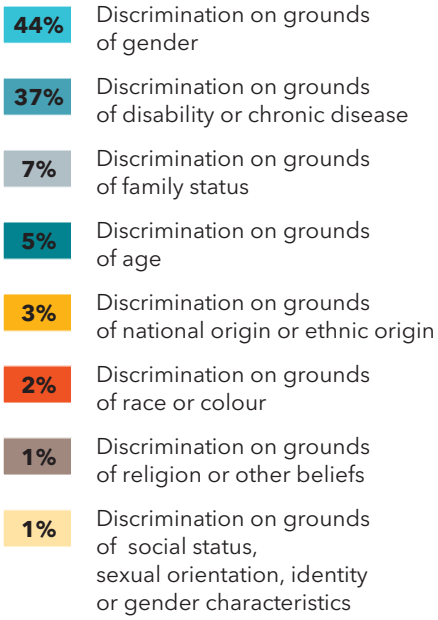
The year in numbers

Statistically speaking, significant work has been accomplished by the national body in 2019 with respect to equal treatment pursuant to the provisions of Law 3896/2010 and Law 4443/2016.



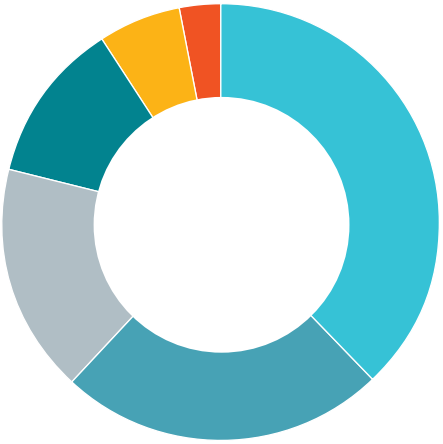
'Distribution of the new complaints'





NEW COMPLAINTS AGAINST PUBLIC BODIES AND SERVICES

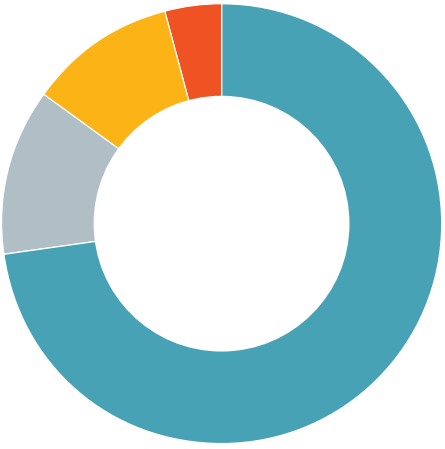
'Distribution of complaints against the Public services per body'



- 38% Social Insurance funds and other organisations supervised by the Ministry of Labour
- 24% Ministry of the Interior
- 17% Local Authorities (mostly municipalities)
- 12% Ministry of Education
- 6% Hospitals and other legal persons supervised by the Ministry of Health
- 3% Other public authorities

NEW COMPLAINTS AGAINST THE PRIVATE SECTOR

'Distribution of complaints against the private sector'



- 73% Discrimination on grounds of gender
- 12% Discrimination on grounds of age
- 11% Discrimination on grounds of disability or chronic disease
- 4% Discrimination on grounds of national or ethnic origin, family status, race or colour

Cases closed within 2019

1. 494 in 2019 and 404 lodged in previous years.
2. Of the well-founded cases.

EQUAL TREATMENT IN PRACTICE

Equal treatment in practice

This section presents in brief the way in which indicative cases are handled, as well as the type and range they cover. In essence it is a summary of the National Equality Body's investigators' everyday work.

REASON FOR DISCRIMINATION	FIELD	BRIEF DESCRIPTION OF THE SUBJECT AND THE OMBUDSMAN'S ACTIONS
GENDER	EMPLOYMENT	Women substitute teachers lodged a complaint with the Ombudsman about inequalities they suffer compared with teachers on permanent contracts with regard to maternity leave, since they are not entitled to maternity leave beyond childbirth and the immediate post-birth period. The Ombudsman submitted a specific proposal to the competent ministry, which was accepted and included in Article 26 of Law. 4599/2019 Thus, this adjustment corrected a long-lasting deficit in equal maternity protection.
	EMPLOYMENT	A pregnant employee was dismissed following a check by the Hellenic Labour Inspectorate (SEPE), which found that she had been working in a company as a beautician. At SEPE, the company claimed that the complainant was a self-employed beautician and had asked her employer to provide her with business premises, as she had none of her own. However, the company's business commencement certificate showed that the company engaged in related activities and thus after investigation of the case it emerged that its argument could not be sustained. The Ombudsman recommended that a fine be imposed (case 258044).

GENDER	EMPLOYMENT	An employer proposed to a protected mother that in order for her to receive the accrued salaries she was owed, she would sign a private agreement stating that she would voluntarily leave her job after the 6-month special maternity protection benefit had elapsed. Given that the employer's proposal contravenes public order provisions on maternity protection, the Ombudsman recommended that penalties be imposed (Case 248375).
	EMPLOYMENT	After a company had dismissed a pregnant employee, a tripartite meeting before the competent Labour Inspectorate and in the presence of the Ombudsman, the termination of the contract was withdrawn. Later however the employee complained of non-compliance of the agreement on the part of her employer, as upon her return to the workplace she was, amongst other things, not given the same scope of work. Following a recommendation by the Ombudsman, SEPE imposed a fine for violation of Law 3896/2010 (case 26238).
	EMPLOYMENT	A public sector employee complained that she was the only person amongst her colleagues, who happened to be all men, who was excluded from vacant positions of responsibility, while being repeatedly moved to various departments with duties unrelated to her specialisation. Citing the report that pointed at serious evidence of gender discrimination towards the employee, the Ombudsman called on her service to occupy her in future on terms that would ensure equal opportunities and equal treatment with employees in her sector (case 249094).
	EMPLOYMENT	An employee with an indefinite-term work contract experienced complications during pregnancy and needed to remain in bed. Her employer failed to sign the necessary documents to receive the relevant leave benefits from her insurance fund, and therefore she appealed to SEPE. After discussion of the labour dispute before SEPE, the employer sent the employee an out-of court complaint-termination of employment contract, citing her voluntary resignation. The Ombudsman deemed that the termination of the employment contract was a reaction of the employer to the employee's appeal to SEPE and recommended that a fine be imposed on the employer (case 265886).

GENDER	EMPLOYMENT	A male public-sector employee requested leave for child adoption. The service refused to permit leave, since based on the Civil Servants' Code, provision for leave is only permitted to women. The Ombudsman pointed out that the said provision of the Civil Servants' Code introduces direct gender discrimination, under Law 3896/2010. The Civil Servant' Code was amended with a legislative regulation (Art. 52 and 53 of Law 3528/2007), giving the right to such leave also to foster fathers (case 240353).
	EMPLOYMENT	An employee in a Legal Entity of Private Law with an indefinite-term private-law contract, who had been seconded for two years to a municipality, complained to the Ombudsman because her application to be included in the programme for special maternity protection benefit had been rejected by OAED (Greek Manpower Employment Organisation). The Ombudsman pointed out to OAED that the employee who has been seconded from a Legal Entity in Private Law to a municipality continued to be governed by the service, salary, insurance and pension scheme she had belonged to prior to being transferred, even if the body paying her her salary has changed. The employee's appeal was accepted and the benefit was awarded to her (case 230212).
	EMPLOYMENT	An employee with a fixed-term contract renewed each month complained that her contract was not renewed after she announced she was pregnant. The Ombudsman ascertained a violation of current legislation and recommended the imposition of administrative penalties on the employer. Following the completion of the investigation, the employer re-hired the employee on an indefinite contract, after which the Ombudsman requested that the Labour Inspectorate cancel the fine on the grounds that the employer had since complied (case 256446).
	EMPLOYMENT	A candidate for the post of Special Guard in the context of a Hellenic Police Force (ELAS) Notice for a competition, appealed to the Ombudsman on the grounds of gender discrimination. Specifically, the invitation provides for a credit-points system based on additional criteria from the completion of the military service of candidates as reservist offices or special forces or in the Presidential Guard or as Five-Year Enlisted Privates or Professional Privates

GENDER	EMPLOYMENT	in the Armed Forces. Since this criterion and the related credit points can only apply to male candidates, the above person argued that this constitutes unequal treatment of female candidates in the specific recruitment process. The Ombudsman contacted the Police Headquarters and requested specific details so as to evaluate any possible gender discrimination (case 267428).
	EMPLOYMENT	Salaried employees in the Information and Entertainment Mass Media, following their obligatory joining of EDOEAP (United Press Organisation of Supplementary Insurance and Medicare), irrespective of the specialisation or duties they perform and without receiving payment with a note for services rendered, do not receive pregnancy or maternity benefits and the special maternity protection benefit, which they were entitled to and had received in the past, when they belonged to the supplementary insurance of IKA (Social Insurance Institution). The Ombudsman sent a document to the Ministry of Labour requesting that the problem be resolved so that salaried employees in this type of business can receive the provisions which equate with the birth and maternal leave of 119 days, as well as with the special maternity protection benefit of Article 142 of Law 3655/2008, either from IKA or from the insurance body they had joined, in this case EDOEAP. The ministry replied to the Ombudsman that it was looking into amending this legislative framework (indicatively, cases 259595, 261930).
	EMPLOYMENT	The Ombudsman received complaints regarding excessive delay in the issuing of the supplementary maternity benefit from OAED Irakleio, Crete. The service cited staff shortages as the reason for the delay in dealing with the applications. However, as a result of the Ombudsman's intervention, the claims were satisfied (cases 257684, 259470, 255414).
	EMPLOYMENT › SEXUAL HARASSMENT	A student intern in an organisation complained of sexual harassment from her supervisor. The Labour Inspectorate did not examine the complaint on the grounds that there was no employment relationship between the complainant and the body. The Ombudsman intervened and requested notification regarding the action sundertaken by the employers to investigate the student's claims.

GENDER	 EMPLOYMENT › SEXUAL HARASSMENT	This intervention prompted the immediate transfer of the intern to another work location. However, the person accused was not summoned for interview and no investigation process was undertaken against him. The Ombudsman sent a stern recommendation regarding inadequate adherence to the employer's welfare obligation (case 259820).
	 EMPLOYMENT › SEXUAL HARASSMENT	An employee in an organisation complained that she had been for 12 months the subject of sexual harassment from a member of the Board of Directors. On the day she submitted her complaint, the Board decided to terminate her employment contract. The Ombudsman requested notification regarding the actions that the employers took vis-a-vis the termination. The employers' investigation was ascertained to have been inadequate, which was not even rectified during the labour dispute action. As a result of these facts, the Ombudsman recommended that a fine be imposed, which was carried out by the Labour Inspectorate (case 259345).
	 EMPLOYMENT › SEXUAL HARASSMENT	A secretary received two emails with sexual content on the company's account she was managing, which came from the employer's personal company account. The employee viewed this incident as the final straw in a series of incidents of sexual harassment she had been subjected to from her employer and she resigned from her position, claiming compensation. At the meeting before the Labour Inspectorate, the employer argued that the emails had been sent in error, but did not produce any evidence that could rebut the employee's claims of sexual harassment. The Ombudsman recommended that administrative penalties be imposed (case 256770).
RACIAL ORIGIN	 GOODS AND SERVICES › TRANSPORT	The Ombudsman received complaints regarding biased security checks in three airports in Greece against passengers due to their racial background. In the first case, the Ombudsman requested more details so as to be able to continue investigating the case, the second case was referred to the counterpart organisation in Israel due to its competency, and in the third case, it is awaiting a response to its relevant intervention from the local police authority (cases 262424, 244759, 263772).

NATIONAL/ETHNIC ORIGIN	SOCIAL PROTECTION	An NGO complained to the Ombudsman of the inability of recognised refugees with large families to be given access to social provisions and benefits. According to legislation, the problem is related to the requirement of furnishing a family status certificate from the country of origin. The Ombudsman addressed the competent services of the Ministries of Labour, Social Security and Social Solidarity and Migration Policy, the Central Asylum Service and ASPE (Supreme Confederation of Multi-child Parents of Greece), pointing out that the relevant requirement cannot be applied objectively for the specific category of beneficiaries and cannot be a reason for indirect exclusion from every related social provision. A reply from all the Ministries' competent services is pending (case 252095).
	GOODS AND SERVICES	A third-country national complained of condescending treatment from a bank employee. Following the Ombudsman's intervention, the bank provided explanations, without however confirming the incident (case 247813).
	GOODS AND SERVICES	Banks refused to open accounts for asylum seekers as they did not possess a passport but an international protection applicant's card or a relevant certificate from the Asylum Service. The Ombudsman addressed the Bank of Greece and pointed out that the international protection applicant's card is an administrative document which permits legal transactions during stay in Greece and within its time of validity. The refusal of banks to carry out transactions with asylum seekers on the aforementioned grounds constitutes discrimination which significantly impacts on asylum seekers' most fundamental rights, such as the right to work in cases when the opening of payroll accounts is denied to them. The Bank of Greece responded positively, sending instructions to banks that the identification of asylum seeking natural persons can be certified on the basis of an original international protection applicant's card (cases 230236, 237214, 247626, 254244).

NATIONAL/ETHNIC ORIGIN	GOODS AND SERVICES	Beach facilities run by a municipal enterprise permitted entrance to foreign persons from countries not in the Schengen area by them showing a passport, while at the same time prohibiting the entrance of a Syrian national who was a holder of an international protection applicant's card. The Ombudsman ascertained that the municipal enterprise was in violation of the principle of equal treatment due to national/ethnic origin during access to goods or services and forwarded the relevant complaint to the competent public prosecutor's office (cases 246084, 246598, 249915).
	EMPLOYMENT	In a Notice of vacancies from a Public organisation for the position of General Director a condition stated that participation for naturalised Greek citizens depended on them having acquired naturalisation at least one year previously. The Ombudsman pointed out to the organisation that this condition introduces discrimination due to ethnic origin, resulting in the body withdrawing this condition immediately from the notice (case 263328).
	SOCIAL COHESION AND PEACE	In March 2019, there was an incident involving an attack on vulnerable asylum seekers/those entitled to asylum also, on the facilities of a hotel where they were staying in the context of the programme of the International Organisation for Migration (IOM) and Ministry of Migration Policy at Vilia, Attiki. The Ombudsman directly addressed the competent/involved bodies (police services, Municipality of Mandra-Eidyllia, Ministry of Migration Policy, IOM) requesting that they carry out the necessary actions, as well as providing the relevant information. The Police Directorate of Western Attiki informed the Ombudsman that the incident was of short duration and de-escalated the same day, while the police presence was stepped up for increased surveillance of the hotel and its immediate vicinity. There are no details for other similar incidents in the area.
RELIGIOUS BELIEFS	EMPLOYMENT	The head of a nursing unit at a public hospital refused to permit a student of the Muslim faith to carry out her internship at the hospital while wearing a veil. The Ombudsman requested that the hospital's administration set out a specific and full justification, in compliance with the relevant provisions of Law 4443/2016 on the grounds for that decision. The hospital cited this was done on the grounds of public health, since the student's practical exercise would be carried out in the internal medicine or the surgery clinic. The case is being investigated (case 264690).

DISABILITY / CHRONIC DISEASE	 GOODS AND SERVICES › POSITIVE MEASURES	The Ombudsman submitted a legislative proposal for establishing a Disability Card with the aim of providing assistance more easily to its holders in their transactions with services in the public sector, the broader public sector and the private sector as well to protect personal data, during the process of issuing provision, facilitation or benefits linked to disabilities (indicatively, case 259807).
	 GOODS AND SERVICES	Following a regulatory decision of the Municipal Council, a municipality in Greece did not issue permits to use common parking slots for disabled person's private vehicles since the interested disabled persons did not have physical disabilities greater than 70%. Following the Ombudsman's intervention, a more recent regulatory decision of the Municipal Council rescinded the limiting term for a disability over 70% and a disabled person's parking space was given to holders of the Disabled Person's vehicle parking card (case 242299).
	 GOODS AND SERVICES	A disabled person requested that they receive priority treatment in a hospital, citing their disability. The competent employee, seeing no outward signs of disability, behaved in a condescending way. The Ombudsman addressed the specific service requesting that it be informed as to how, in accordance with the circular, provision for circumventing priority order is applied as an exception in favour of disabled persons in non-emergency medical departments. The hospital's administration responded positively and affixed notices for the priority treatment of disabled persons as a reminder of its relevant obligation (case 235332).
	 TRANSPORT › POSITIVE MEASURES	Based on current legislation, the disabled person's parking card is linked to a specific vehicle and not with its holder. This practice however restricts disproportionately the disabled person's autonomous movement since if use of the vehicle linked to the card is not possible for any reason, the beneficiary is completely denied the use of said benefit. The Ombudsman proposed the amendment of legislation vis-a-vis linking the card to the beneficiary and not to the vehicle (indicative case 261100).

DISABILITY / CHRONIC DISEASE	 TRANSPORT	The International Convention on the Rights of Persons with Disabilities established the principles of inherent dignity, individual autonomy and independence of persons with disability, as well as their right to access means of transport also in the natural environment. The Ombudsman as the body for promoting the convention, forwarded a complaint it had received to the Consumer Ombudsman, because of its competency, regarding undignified behaviour towards a passenger with disability from TRAINOSE (Railway Company), underlining the principles of the conventions and asking to be kept updated on the investigation into the case (case 266482).
	 TRANSPORT	To acquire a category AM driving licence (mopeds), the test only needs to be carried out on a two-wheeled vehicle, resulting in the candidate with disability in the lower limbs being unable to be examined on a three-wheeled vehicle, despite being deemed medically capable. The Ombudsman pointed out to the Ministry of Transport that this exclusion is incompatible with both EU legislation as well as with CRPD (Convention on the Rights of Persons with Disabilities) and requested that suitable measures be taken. Based on those points, suitable instructions were issued by the ministry so that the interested party can be taught and undergo the necessary practical test in order to acquire a licence (case 248528).
	 EMPLOYMENT	An employee with disability (wheelchair user) was hired on an 8-month work contract in the framework of a Greek Manpower Employment Organisation (OAED) community service programme in a municipality. Although the municipality's administration was aware of the difficulties faced by the employee as regards speech and hand movements, he was assigned, also at his own wishes, work at the call centre, which, because of his disability, he was unable to carry out. This led to frustration amongst his colleagues. For this reason, the administration asked that he be transferred to another work place without him being assigned a specific work task. The Ombudsman ascertained that his employer did not adopt appropriate measures so as to allow the employee to work smoothly, but on the contrary, poor handling on the part of the administration led to disparaging comments and behaviour towards the employee. The employee was eventually placed in another department in which he could meet the work demands (case 246589).

DISABILITY / CHRONIC DISEASE	EMPLOYMENT	A contractor undertook the provision of staff for an EU service. The company also hired an employee under a fixed-term contract, which was renewed. Before the last work contract expired, the employee became ill and took sick leave. Meanwhile, the undertaking of provision of staff was assigned to a third contractor, which made a public call for expression of interest regarding renewal of employees' contracts. The employee submitted an application of interest. While all applications of interest were accepted, the application of the employee who was on sick leave was rejected on the grounds that the position she had occupied had been discontinued. The Ombudsman concluded that the EU service had discontinued the position resulting in the employee, unique amongst all her colleagues in a corresponding employment situation to hers, being unable to renew her work contract, a fact which constitutes discrimination due to a chronic disease (case 253914).
	EMPLOYMENT	A private company refused to hire an HIV positive employee. According to the Ombudsman's report, the termination of the employee's contract was made due to his condition, since the employer did not prove that it was unaware of the health problem and failed to adequately justify the grounds for dismissal. Following the Ombudsman's recommendation the competent Labour Inspectorate imposed a fine on the employer (case 242124).
	EMPLOYMENT	An employee working as a saleswoman in a commercial enterprise complained at the lack of seats meaning that short rests, as provided for under labour legislation, were impossible. The Ombudsman forwarded the complaint to the competent Department of the Health and Safety at Work Inspectorate, which carried out a check and notified the company that there must be seating available. In follow-up checks carried out it ascertained that its recommendation was not complied with and imposed administrative penalties (case 260649).
	EMPLOYMENT	During the selection stage in an invitation for appointments for security personnel in detention centres, candidates must undergo fitness tests without any exemptions for disabled candidates. The Ombudsman judged that the absence of such an exemption is justified due to the special professional requirements and therefore the equal treatment principle is not infringed (case 267553).

DISABILITY / CHRONIC DISEASE	EMPLOYMENT	Teachers suffering from cancer requested priority inclusion into the list of substitute teachers, as provided for under legislative provisions for other categories of disabilities (from homozygous thalassemia, sickle-cell and microdrepanocytic anaemia, and multiple sclerosis). The Ombudsman asked the Ministry of Education for a detailed justification with scientific evidence as to why those suffering from specific conditions are given priority status compared with others. Eventually, it was envisaged in Law 4589/2019 that the selection of candidates given priority status in the lists of substitute teachers is determined by objective criteria, among which are social, such as disability of 50% and above of the candidate, their spouse or their child (cases 230764, 246128).
	EMPLOYMENT	A hotel establishment refused to hire an employee for the hotel reception due to their short stature caused by their disability/chronic condition (achondroplasia/dwarfism). The establishment argued that it did not hire them as upon arriving at work it was ascertained that they did not have work experience, studies or knowledge related to the specific post. The Ombudsman's investigation revealed that the establishment had received a CV from the employee, and being aware of their qualifications, invited them for hire. Also, according to the sworn statement of a third person, the Hotel manager stated that the hiring of this person was refused because of their height. The Ombudsman recommended that administrative penalties be imposed (case 244436).
	EMPLOYMENT › REASONABLE ACCOMMODATION	A nurse in a public hospital employed on a rotating shift in an emergency ward was exempted from working on a rotating shift basis on the authority of the competent health board due to their health problems. A few years later the hospital began once again to place her on afternoon shifts, overlooking the medical opinions she had produced. The Ombudsman asked the hospital to make reasonable accommodation for the nurse. Eventually, the hospital suggested that the employee remain in the ophthalmic clinic with four afternoon shifts per month or alternatively be transferred to the orthopaedic clinic with only morning working hours (case 252092).

DISABILITY / CHRONIC DISEASE	EMPLOYMENT › REASONABLE ACCOMMODATION	A saleswomen employed for three years in a commercial enterprise was absent for one month on sick leave from her work, and subsequently presented a doctor's certificate, proving that she was suffering from demyelinating disease (multiple sclerosis) and required at least 6 months for treatment. Three months later the employee was dismissed, according to her employer for recalcitrance. The Ombudsman ascertained that the employer did not carry out reasonable accommodation as required by law and therefore recommended that administrative penalties be imposed (case 243114).
	EDUCATION	The systematic delay in completing registration procedures into tertiary education for persons with serious illnesses, for the additional 5% of entrants' places, raises issues of equal treatment of these students compared with others entering higher education. The Ombudsman requested the immediate completion of the process for the current academic year, ensuring the timely issuance of results and the registration of successful candidates into their faculties before courses begin (indicatively, cases 266960, 267049, 267065).
AGE	EMPLOYMENT	In a bank's notice for vacancies for the years 2016 and 2017, the age limit set for candidates from various specialisations was 35, pursuant to the relevant ministerial decisions. Subsequent to asking the bank to explain particularly the need to set that specific age limit, the Ombudsman recommended that this be re-examined, since it constituted a breach of the principle of equal treatment (indicatively, cases 233124, 233388, 234322).
	EMPLOYMENT	In two notices in 2018 for vacancies in various fields in a SA company within the Public Sector, the maximum age limit for candidates was set at 45. The Ombudsman requested details from the body, which eventually explained that the need to set a specific age limit was done to ensure a balanced age structure in the workforce. The Ombudsman concluded that the different treatment of age was justified particularly for all specialisations save three (indicatively, cases 243647, 243683, 243783).

AGE	 EMPLOYMENT	In the 2019 notice for vacancies in an SA company within the public sector, the online application form required filling in, among other personal details, the field 'date of birth'. The Ombudsman asked the body to delete the said field from the application, since it would be likely to constitute discrimination on the grounds of age, or explain the particular reason for including it in the application. The body responded immediately and removed the offending field (case 258009).
	 EMPLOYMENT	On the website of a large chain of coffee stores, all the vacant posts place an age limit of 20-35 as a necessary criterion for being hired. The Ombudsman requested that the company change its recruitment policy so as to be in line with the national and European framework for protection from discrimination. The company complied fully with the Ombudsman's recommendations and removed the criterion from all its job announcements (case 259702).
FAMILY STATUS	 GOODS AND SERVICES	A single-parent unmarried mother applied to be exempt from paying the municipal street-cleaning and lighting rates, submitting with the application an attached copy of her family status certificate. As a result of there being no details of the child's father entered on the certificate, she was subjected to indiscreet questioning on this issue. She was then asked to furnish a court decision showing that she had assumed full parental responsibility, arguing that there was no evidence of her single-parent status in the certificate. The Ombudsman intervened, laying out the regulatory framework and stressing that in this case, producing a court decision was not a requirement. The complainant's claim was satisfied without the need to furnish a decision of the court (case 262711).
	 EMPLOYMENT	The Hellenic Navy General Staff (GEN) refused to exempt a petty officer of the Hellenic Navy from carrying out services at sea (night duties) due to his family status (he had been given custody by the court of his two children (minors) from a previous marriage. GEN judged that since the petty officer had re-married, according to the relevant Ministerial Decision, he was not deemed to be divorced and therefore did not meet the service requirements for exemption. The Ombudsman stressed to GEN that the petty officer and his ex-spouse were still considered

FAMILY STATUS	EMPLOYMENT	divorced as far as their obligations towards their children were concerned, and after the new marriage of the interested party, the petty officer was still obliged to exercise, under the law and after the court decision, the custody of his children even when summoned to spend the night outside the home on sea duty. Following an amendment to the Ministerial Decision of June 2019, provision was made for those parents serving in the armed forces with children (minors) who have full parental custody to carry out only those duties which do not require night shifts, following its reporting and the relevant decision of GEN (case 252515).
	EMPLOYMENT	Public sector employees, spouses of military personnel lodged complaints because during their time of secondment abroad co-serving with their spouses, the competent ministries (of the Interior and Defence, respectively) did not, due to some confusion over responsibilities, draft the relevant Joint Ministerial Decision. Following the Ombudsman's intervention, the matter was conveyed to the Legal Council of The State, who deemed that responsibility for drafting the required Joint Ministerial Decision belongs to the service of the employees' organic (permanent) post and the Ministry of the Interior took the necessary actions (cases 229746, 230514).
	EMPLOYMENT	A female employee of a Legal Entity in Public Law of the Ministry of Culture and Sport lodged a complaint to the Ombudsman with regard to the delay in her secondment due to her joint service at Soufli, Evros, where her husband is serving as a military officer. Following the Ombudsman's intervention, the relevant Joint Ministerial Decision was issued and the employee's secondment process was completed (case 253300).
	EMPLOYMENT	A male employee at the Regional government of the Ionian Islands lodged a complaint to the Ombudsman with regard to the delay in his secondment due to his joint service in an office of the Ministry of Agricultural Development and Food. Following the Ombudsman's intervention, the relevant Joint Ministerial Decision was issued for the employee's secondment (case 256737).

SOCIAL STATUS	EMPLOYMENT	For ex-prisoners who participate in work schemes funded by the Greek Manpower Employment Organisation (OAED), there is no legislative provision to turn a fixed-term employment contract concluded with corporations in the broad public sector to an open-ended one, contrary to that which applies to those belonging to the disabled category. The Ombudsman observed however any possible provision of this is prohibited by a higher-ranking rule (Art. 103, para. 8 of the Constitution), deviation from which is justified in relation to disabled persons since special constitutional protection is afforded to these persons (Art. 21, para. 6 of the Constitution) (case 265264).
SOCIAL STATUS	EMPLOYMENT	A transport driver requested that the Ombudsman inform them if a private company was within their legal rights to request that they produce a copy of their criminal record document (general use) prior to recruitment. The Ombudsman informed them that such a request is in principle legitimate, as the employer can check if they meet all legal requirements and that there are no impediments to them exercising the particular profession. The driver was hired, but confronted problems in carrying out their duties since, because they had a previous criminal conviction, they were not issued with a special pass for entry to El. Venizelos Airport, where the employee's company undertook haulage operations. Following discussions between the company and the airport management, the driver was permitted entry without the special pass, subject to prior notification to the airport (case 254051).
SEXUAL ORIENTATION	EMPLOYMENT	A public sector employee lodged a complaint to the Ombudsman about the harassment they were subjected to by certain colleagues due to this person's sexual orientation. In particular, the individual protested that over a number of years, the unethical conduct of certain colleagues towards them impacted on their health (persistent signs of depression). The complainant requested that the possibility of their transfer to another section in the service be explored, so that they would no longer face humiliation at the hands of their colleagues, thus avoiding the adverse consequences in their work and personal life. The Ombudsman communicated with the competent service's management to examine this person's possible transfer as well as to take measures to stop or avoid similar conduct in the future (case 259190).

GENDER IDENTITY	EMPLOYMENT	In 2018, the Ombudsman investigated the exclusion from a competition for the Hellenic Police Force (ELAS) of police academy candidates, men and women, for entry into the Schools for Police Officers and Constables on the grounds of gender identity. The Police Headquarters replied that 'gender identity disorder' had been established as a ground for unsuitability in the Presidential Decree's General List of Diseases, Illnesses and Conditions which regulates the judgement of able-bodiedness of those recruitable for the armed forces and military personnel in general, and given that the list in question is binding upon ELAS based on another Presidential Decree, there is an impediment for listing transgender candidates in police academies. Furthermore, ELAS argued that 'gender identity disorder' continued to appear in the then World Health Organisation's approved list of conditions, and that a review by WHO of the list in question was pending. Also, it argued that in the Diagnostic and Statistical Manual of Mental Disorders, which is also applied in relation to the case in point, the term 'gender dysphoria disorder' is used for transgender persons. The Ombudsman intends to return to the matter (case 245851).
	GOODS AND SERVICES	A prospective driver appealed to the Ombudsman when, following the procedure of having their gender identity legally recognised, the competent Directorate of Transportation and Communication entered the changes on the training examination card in handwriting. The Ombudsman requested the issuance of a new card, since changes in the details or documents pertaining to persons who have their gender identity legally recognised cannot be disclosed or made available to anyone. The competent service issued a new training examination card for the prospective driver (case 257971).
	GOODS AND SERVICES	An individual who began the process for legal gender recognition came up against an impediment concerning the transcription of a parental transfer contract at the competent cadastral office, as the office requested the prior 'transcript' of the court decision through which the legal gender recognition took place. The Ombudsman pointed out that the specific procedure is secret and

GENDER IDENTITY	GOODS AND SERVICES	proposed that the cadastral office take the court decision into account, so that its own service could confirm that it is one and the same person without retaining the copy on file (hard or electronic) and to make a note of this on the cadastral document. Furthermore, the National Body requested that instruction be sent to all cadastral offices in the country so that similar cases are dealt with in the same manner. The Ombudsman's proposals were accepted as a whole (case 260419).
MULTIPLE DISCRIMINATION	EMPLOYMENT	Two notices of vacancies for a bank in 2018 concerning the covering of needs in administration units and its network set an upper age limit for candidates of 35, which is provided for by the bank's Labour Regulation. In the same notices it was also envisaged that the bank could reject the appointment of candidates who suffer from chronic diseases, which would impede them from fully performing their duties. The Ombudsman ascertained that the stipulated age limit breached the principle of equal treatment on grounds of age and forwarded the relevant report to SEPE, recommending that a fine be imposed. In contrast, regarding the second issue, no infringement of the principle of equal treatment on grounds of disability or chronic disease was established. However, it recommended an amendment of the relevant term and proposed that the state of each candidates' health be examined individually and only to the extent that it is deemed absolutely necessary (cases 252741, 253198, 254188, 254239).
	EMPLOYMENT	A public servant lodged a complaint for discriminatory treatment on grounds of gender, family status and relations to a person with special needs. The Ombudsman established that discriminatory treatment could not be substantiated in this case. However, a stern recommendation was conveyed to the service that it take the necessary measures to help the person to offset their increased family obligations as a mother of a special needs child (case 250089).

MULTIPLE DISCRIMINATION	GOODS AND SERVICES	A Roma citizen and conscientious objector requested a certificate of permanent residence from the municipality to use it at the draft board so as to carry out alternative service. The citizen in fact asked that an on-the-spot inspection be carried out, since they did not have the necessary supportive documents (utility bill) to prove their place of abode. The competent services of the municipality claimed that the address declared by the interested party was not his place of abode, without however being able to substantiate their conclusion. Eventually, after the Ombudsman's intervention, a new inspection was carried out and the certificate was issued (case 261038).
	SOCIAL INTEGRATION › POSITIVE MEASURES	The Ombudsman received complaints about causing a nuisance (noise pollution/pollution/delinquency) from members of the Roma community in the areas of Western Samos and Fyli municipalities, which cause serious tensions amongst their citizens. The National Body intervened by calling on the concerned municipal authority, the local police department and the local Regional Government to take measures and actions aimed at developing relations of good neighbourliness amongst all the residents, who are from different social, economic backgrounds or are of different ethnic or racial origin, but also to handle any unlawful actions on an individual basis (cases 266623, 267431).

ISSUES ON IMPLEMENTATION AND INTERPRETATION PER GROUND OF DISCRIMINATION

Issues on implementation and interpretation per ground of discrimination

DISCRIMINATION BETWEEN MEN AND WOMEN

Violation of the provisions on the protection of motherhood

In collaboration with the Labour Inspectorate, the Ombudsman strives consistently to inform citizens (employees and employers) regarding the rights of working pregnant women and mothers. Despite all this, cases of infringement of the special legislation on the protection of motherhood continue to occur systematically.

The prejudiced view of many employers that an employee's pregnancy and motherhood constitute an extra burden for a business remains widespread.

That is to say, there exists the mistaken belief that during the time of pregnancy or motherhood protection, the employee will avoid work, and take leave continuously, which the employer will have to cover financially without being able to terminate the employment contract unless there is a serious reason.

The Ombudsman's representatives, who attend labour dispute meetings before the local Labour Inspectorate, explain each time to the parties involved (employees and employers) that during sick leave due to pregnancy or motherhood, the provisions on non-fault hindrance (Art. 657, 658 of the Civil Code) shall apply, according to which the employer shall pay only the earnings of half or one month for each working year, depending on how long the employee has been in the company.

However in practice it is shown that the employer makes a systematic attempt to offload itself as soon as possible of the 'burden' of a pregnant employee, resorting to quasi-legal means of ending their contracts.

Abusive treatment of the pregnant employee

There are frequent cases in which employees, after having worked harmoniously for years in a company, face an adverse change in the climate towards them once they announce their pregnancy. One example of this is an employee who was enjoying a smooth collaboration with managers and colleagues alike, but once complications emerged as a result of her pregnancy (early contractions) and she was recommended by the competent Health Board to stay in bed, the company employing her failed to sign the necessary documents needed by her insurance body for her to receive the relevant leave. The employee appealed to the competent Labour Inspectorate and on the set date for discussing the matter they requested a postponement so as to explore the possibility of reaching a compromise.

However, in the afternoon of the same day, the company employing her sent an out-of-court statement to the employee pointing out that at the time that the employee was facing complications during pregnancy, she herself through her absence from work left voluntarily (she resigned). The Ombudsman regarded that statement of the employer as tantamount to a termination of contract with the employee, which is null and void for being abusive (vengeful), since it was made after the employee had requested the holding of a labour dispute meeting. The Authority, having exhausted all attempts at mediation, recommended that a fine be imposed on the employer since it had ascertained that the employee's dismissal constituted sex discrimination (case 265886).

Pretentious revocation of dismissal of the pregnant employee

The role of the Ombudsman as an intermediary and investigator is not exhausted with its presence at labour disputes before the competent Labour Inspectorate or through direct communication with the employer and its notifying of the latter during investigation of a complaint which has not been submitted to the Inspectorate. More specifically, when compromise between the parties is achieved through the Ombudsman's mediation,

the Ombudsman continues to monitor developments in the work contract if requested by the employee.

An example of this is the case of a pregnant employee who was dismissed, but following a discussion of the labour dispute at the competent Labour Inspectorate with the Ombudsman as intermediate, the dismissal was revoked. However, a short time later, the employee once more complained to the Inspectorate regarding her employer's non-compliance with the agreement. The National Body sent a document to the employer requesting explanations. Together with the actions of the Ombudsman, the competent Inspectorate for Labour Relations published an investigation bulletin since the employee did not appear on the company's staff list. The employee declared that following the cancellation of her dismissal, she presented herself for work without being given any scope of work. The Ombudsman recommended that the Inspectorate impose a fine on the employer, which the Inspectorate duly followed up on (case 262838).

Abusive agreement in voluntary resignation of pregnant woman

Given that the family, maternity and childhood enjoy the protection of the state (Art. 21 of the Constitution), provisions on maternity protection are mandatory in law, that is to say any adverse amendment or waiving of the protection these provisions afford is prohibited, even when the employed mother consents.

The mandatory nature of these provisions protecting maternity seem to have been ignored by employers and employees alike, who through mutual withdrawals sign compromises which are null and void.

An assistant pharmacist employed under a full-time open-ended dependent contract for a five-day, forty hour working week received maternity leave (for birth and post-natal), annual leave and the six-month special protection of maternity benefit from the Greek Manpower Employment Organisation (OAED). The employer asked the employee, as a condition for paying her the salary and leave benefits it owed, to sign a binding private agreement which would oblige her to voluntarily leave once her 6-month special leave from OAED had finished. The employee lodged a complaint to the competent Labour Inspectorate regarding this incident

and produced the draft private agreement, which she had not signed but bore the signature of the employer's representative. This draft stated, amongst other things, on the one hand that the applicant had no claims against the enterprise and that all her requests had been satisfied in full, while on the other hand the applicant would voluntarily leave her workplace upon termination of the 6-month maternity protection benefit.

In discussions before the competent Labour Inspectorate, the Employer's attorney declared, among other things, that the enterprise had no intention to oblige the employee to leave or resign if she wished to continue working. Despite that, given that the provisions on maternity protection constitute mandatory law and do not permit the employee to waive her right to its protection, and in conjunction with the fact that the employer did not cite or prove that the private agreement draft was drawn up at the behest of the applicant, the Ombudsman recommended that administrative sanctions be imposed (case 24835).

Concealed dependent employment of a pregnant woman

The collaboration between the National Equality Body and the Hellenic Labour Inspectorate (SEPE) has reaped excellent results in combating discrimination, as has been pointed out on many occasions.

In a case investigated by the Ombudsman, labour inspectors carried out an inspection at a commercial store selling beauty products and ascertained that employees found in the store did not appear in the relevant staff lists. One of the employees, working as a beautician-nail technician, who was also pregnant, appealed to the Labour Inspectorate and lodged a complaint that, following the inspectors' visit, her employer dismissed her in a violent manner.

The case was forwarded to the Ombudsman and in the meeting that followed in the offices of the Labour Inspectorate, the employer's side denied that the applicant was employed in the enterprise. It contended that she was a self-employed freelancer and that through the complaint, she was attempting to appear as an employee in order to receive maternity benefits as an employee, benefits which she could also enjoy as a self-employed person. The employer also argued beauty services were not within the scope of her professional activities, and that the applicant, as a self-employed professional was merely using the company facilities.

The Ombudsman ascertained during investigation of the case that the company's scope of activities does not negate the fact that the applicant was found to be working on that company's premises. It also emerged after investigation that on the company's Facebook account there was a vacancy for an experienced manicure-pedicure-artificial nails technician. It was the Authority's view that the company had not proven that the applicant-pregnant employee was self-employed. Therefore, on those grounds, the Ombudsman recommended that an administrative fine be imposed for invalid dismissal of a pregnant employee (case 258044).

Sexual harassment

Protection from sexual harassment principally concerns employment and the workplace, though not exclusively. It covers all forms and stages of employment (Art. 5, Law 3896/2010) including also the pre-contractual stage.

Furthermore, as explicitly provided for in Article 17 of Law 3896/2010, the provisions of this law are implemented, amongst others, also for persons receiving vocational education and training.

The Ombudsman investigated a case of a student who was undertaking her practical internship in an organisation and who lodged a complaint that she was being sexually harassed by her supervisor. The competent Labour Inspectorate declined to investigate the complaint as she had not established a working relationship with the organisation. The Ombudsman took on the case itself and investigated the case by focusing particularly on the actions of the organisation following her complaint. In particular, the National Equality Body requested that it make known the actions of the organisation after the complaint and in harmony with the welfare obligation on the part of the employer. From the evidence provided it emerged that the organisation immediately transferred the employee to another workplace and interviewed witnesses who stated that they had not noticed anything untoward. However, though the student had lodged a complaint about a specific incident, which the witnesses claimed they had not noticed, the person accused was never called upon to answer questions. Despite there being evidence of sexual harassment having tak-

en place, the complaint resulted in the transfer of the applicant, and no consequence or reprimand was suffered by the defendant. In light of the above, the Ombudsman made a strict recommendation to the company for inadequate investigation of the complaint and insufficient use of the evidence against it, as well as the inadequate compliance with the employer's welfare principle (case 259820).

Balancing work and family life

The balance between professional and private life remains a serious challenge for working parents, especially for those who have increased responsibilities of care (minor children, disabled children, aged parents or disabled relatives, etc.).

In practice this responsibility mainly burdens working women, a fact which has a negative impact on the kind of work they do (part-time, fixed-term contracts), their representation in the labour market (under-representation), while this also implies a difficulty in balancing their work and family obligations or in general their unequal treatment in work.

The Ombudsman has received an increasing number of complaints in the last two years from working women in the broader public domain with fixed-term private law contracts who protest at the great inequalities existing between them and their colleagues, both public servants and private employees, with regard to the granting of leave related to maternity. These discrepancies create serious deficiencies in the extent and level of maternity protection for employees in the public sector with fixed-term private law contracts, in comparison with the protection enjoyed by public servants on permanent contracts or employees in the purely private sector.

This problem is further intensified particularly for annually employed women in the broader public domain with a private law work relationship, who though they continuously renew their contracts, are not however entitled even to the nine-month upbringing of children of public sector employees, nor the special maternity protection benefit, since they are not occupied in a company or holdings in the private sector (see, indic-

atively, employees in the Athens Metro S.A., state nurseries of the municipalities, Local Administration Organisations (OTA) or Legal Persons of Public Law (NPDD), in research centres, etc.). The specific category of employees-mothers does not therefore enjoy any support or facilitation for looking after their children.

In 2019 the Ombudsman made a major intervention with specific proposals regarding the above issues, which are expanded upon on pp. 89-91. In particularly on the subject of maternity leave for substitute teachers there had been positive developments, as set out on pp. 91-93 and p. 113.

DISCRIMINATION ON GROUNDS OF RACIAL ORIGIN

The principal issues the Ombudsman examined this year concerned the social tension created between the Roma people and the non-Roma living in the vicinity and the issues which arose during the exercise of Roma rights when proof of permanent residence is required to exercise such rights.

Social exclusion and the breakdown of social cohesion

A subject of enormous importance is the social tension caused by the co-existence of people living in close proximity who belong to different population groups in Greece, and who have markedly different lifestyles and cultural habits. In 2019 the Ombudsman received complaints from individuals living in the vicinity of Roma camps (indicatively, cases 234898, 235969, 249569, 250947, 253769, 266323, 267431), who complained at the lowering of their quality of life. These complaints focused mainly on: a) the problems arising from Roma livelihoods or other activities (e.g. the burning of tyres and cables, dangerous driving, garbage, accumulation of scrap metal) and b) the absence of competent authorities or their inadequate action.

During the investigation of such cases, the Ombudsman makes use of or requests information provided by municipalities concerning the types of Roma facilities, the number of families living there, their habitual way of making a living, etc., thus striving to engage the competent authorities directly and getting them to act on the specific proposals it makes.

The National Body in general ascertains that particularly local authorities should aim principally at mitigating social conflicts and lifting all social exclusion, since these predominately experience the impact of the

breakdown in social cohesion while on the other hand are in a position to better plan and realise suitable measures.

This effort of course requires diligent cooperation amongst all stakeholders, including those in the central administration, but also the Roma themselves.

Given the direct link between the living conditions of the Roma with their social exclusion, it becomes evident that facing up to social confrontations and tensions must be the object of specially focused, multi-level and coordinated actions.

At the local authority level, beyond the potential of developing operational plans and seeking material-technical assistance from the central administration to realise plans for suitable housing, the competent municipal authorities must activate their social services and thus take direct measures. In this context, it will be extremely useful to promote actions involving all residents in the area, irrespective of origin (e.g. actions on cleaning, vaccinating, traditional celebrations, cultural events for youth organised by the municipality, etc.), actions on informing and awareness-raising regarding the obligation to keep common spaces and private areas clean and to avoid noise disturbance etc. Such initiatives permit mutual understanding and promote respect amongst the residents.

At a regional level it is necessary to carry out regular health inspections and for each competent Region to realise operational works of the municipality in order to improve living conditions. Indeed, safeguarding and improving conditions for a decent living standard crucially contributes to the peaceful co-existence of all the residents in the area. Similar actions of mediation and awareness-raising can also be undertaken by the local police authority in collaboration with the municipality so as to underline and implement rules of good neighbourliness.

No matter how arduous the attempt to mitigate social conflicts may appear, the fact that there are municipalities who have already successfully carried out such plans proves that such an operation is achievable.

The steps that have been made over the last six years in the Roma camp at Nomismatokopio, Chalandri municipality regarding issues of arranging

Roma's urban-municipal status, the gradual relocating of Roma families from the camp and their residential housing, together with supporting these families' entry into the job market and full vaccination cover of the children in the camp is clear evidence of this.

Roma residence as a requirement for exercising rights

The issue of the real settlement of Roma is often demonstrated as an underlying problem in complaints received by the Ombudsman.

The particularities of Roma life render imperative the need to clarify the notion of permanent residence, since the issuance of permanent residence certification is required if a series of rights are to be exercised.

For example, this certificate is a necessary supporting document for: a) inclusion into the Social Solidarity Income (KEA) Programme or other social protection programmes, b) applying for transfer of municipality, c) issuing unemployment cards from the Greek Manpower Employment Organisation (OAED), d) applying to the recruiting office for military service in the Armed Forces or for recognition as a conscientious objector.[1]

The Ombudsman has however ascertained that each competent municipal authority often creates a variety of stumbling blocks for the Roma applicants, since their type of residence (e.g. homes built of rudimentary materials, sheds, caravans inside private property) does not usually coincide with the population's common perception of what constitutes residential property.

The reason usually given for refusing to accept or examine their claim is that they have not submitted the supporting documents which are indicatively referred to in the relevant provision (e.g. utilities bill, tax return) or that they have failed to produce any additional supporting documents (e.g. legal property ownership deeds or payroll). Even in cases where there is an explicit legal provision for showing proof of the status of per-

1. See below, 'Discrimination on grounds of religious or other beliefs'.

manent resident by any available means,[2] the Ombudsman has ascertained that often those authorities competent for issuing the certificate do not limit themselves to ascertaining permanent residence in a specific place, as under the relevant provision, but ask for evidence of the legality of the applicant's residence in a specific building or place. Indicative was the response of the municipal police in a certain case. They carried out an on-the-spot inspection of the location shown by the interested persons as their permanent residence, for confirming permanent residence: Despite being ascertained during the inspection that the interested persons were indeed at that location, the certification was eventually not issued on the grounds that they did not have documents of their being legally established there (granting document, pay slip - in the case of renting a container – or solemn declaration of the holder of the container that they reside there).

In such cases, the Ombudsman intervenes by pointing out to the competent municipal authorities that, under law, establishment in a place exists, even when the individual is absent from this place for long periods (e.g. for professional reasons, studies, illness, etc.), and returns on a stable basis once the reasons for their absence no longer pertain.[3] At the same time, the certification of permanent residence verifies the actual establishment of the person in a specific place and not the condition or type of residence. In this sense, those eligible for the certification are not only those who have a fixed abode, but also those who reside in huts or rudimentary shacks.[4]

Therefore, any refusal to issue a certificate of permanent residence to persons who dwell in rudimentary shacks or sheds could constitute indirect adverse discrimination due to racial origin or social status regarding access to goods and services (Art. 3 paragraph 2 subpar. d and Art. 11 paragraph 1 of Law 4443/2016), given that the majority of citizens who live permanently in such homes are Roma.

2. See, e.g. Art. 279, Law 3463/2006.
3. See S. Spyridakis, [General Principles of Civil Law, vol. I] [Law - Rights - Individuals], Athens-Komotini, Ant. N. Sakkoulas, 2007, p. 313.
4. See also the Ombudsman's Special Report on this at https://www.synigoros.gr/resources/docs/201873.pdf

In all of the relevant cases investigated, the Ombudsman requested the satisfaction of all relevant applications by the competent municipal authorities, provided it was ascertained that they had met the legal requirements for issuance of a certification of permanent residence as previously mentioned. The Ombudsman pointed out that any rejection should include a special explanation as to the precise reasons on which the decision to turn down the application was based and that there were no requirements in law regarding their actual establishment in the local municipality. The competent services responded positively to the Ombudsman's interventions on this issue (indicatively, cases 243583, 249823, 249824 and 261038).

DISCRIMINATION ON GROUNDS OF NATIONAL OR ETHNIC ORIGIN

The prohibition of discrimination on grounds referred to in the provisions of Law 4443/2016 concerns primarily the field of employment and occupation. However, in particular regarding the equal treatment of individuals irrespective of race, colour, national/ethnic origin and family background, established protection is extended to sectors beyond work and covers social protection, social benefits and tax facilitation or advantages, education and access to goods and services. In Greek social reality, this fact, apart from the original protection provided to individual cases of victims of discrimination in this broadened field, ensures protection to population groups, such as migrants or refugees or asylum seekers, but also to naturalised Greek citizens in instances where there exists unfair exclusion from exercising their rights and equal access to goods and services, undermining their essential social inclusion.

Discrimination on grounds of national or ethnic origin among Greek citizens

Pursuant to the provisions of Article 3 para. 3 of Law 4443/2016, the permitted divergence from the obligation of equal treatment is discrimination on the grounds of nationality. However, this obviously does not apply in the case where Greek citizens are obstructed from enjoying the same goods relative to their fellow citizens. Such a practice is not only directly contrary to the principle of equal treatment irrespective of national/ethnic origin, but also to the constitutional principle of equality of Greek citizens (Art. 4 of the Constitution), which does not afford the legislator the discretion to differentiate between the treatment of Greek citizens on the basis of how or when they acquired Greek nationality.

The Ombudsman has also in the past faced cases of exclusion of Greek

citizens of non-Greek ethnic origin who have acquired Greek nationality through naturalisation from access to public office. The exclusion of this category of Greek citizens is either directly envisaged in the relevant legislative and regulatory framework, associating the exercise of specific professional duties with Greek origin,[5] or is introduced via additional requirements which are needed after acquiring Greek nationality.[6]

The Ombudsman's unwavering position on this subject is that, although the particularity of specific offices may make it fair to exclude foreigners from filling the positions, it does not however permit differentiations amongst Greek citizens based on their ethnic origin.

Such an additional requirement, which links the appointment of a citizen of non-Greek ethnic origin who is a naturalised Greek with the elapse of a minimum period of time from the acquiring of Greek nationality (one year), was envisaged until recently within the provisions of Article 4, para. 4 of Law 3528/2007 (Public servants' Code). This requirement was repealed as of 23.03.2019 under a new provision of law (Art 47 paragraph 1 of Law 4604/2019). Thus, the discrimination against naturalised Greeks was lifted.

The Ombudsman supports the total abolition of any similar time restrictions existing in legislation which lift or defer the possibility of naturalised Greek citizens from being appointed or progressing as employees.

In light of the above, when the Authority received a complaint on the subject of examining a term of the notice of invitation by the Greek Organisation Against Drugs (OKANA) for the vacancy of General Director which stated that candidate participation was dependent on them having acquired Greek nationality through naturalisation at least one year prior to applying, the Ombudsman contacted the body immediately. It was pointed out that the specific condition introduced discrimination on the basis of the ethnic origin of the candidates, since it places the naturalised Greek citizens at a disadvantage compared with those who acquired Greek nationality from

5. See *Equal Treatment, Special Report 2018*, the Ombudsman, pp 73-74.
6. Indicatively, on the subject, see. *Equal Treatment, Special Report, 2017*, the Ombudsman, p. 51 and Equal Treatment, Special Report 2018, the Ombudsman, p. 72.

birth. Indeed, since the invitation for the post was also open to candidates who were citizens of other member-states of the EU, the Ombudsman stressed that this stipulation constituted additional adverse treatment of recently naturalised Greek citizens compared with those of citizens from other member-states of the EU for whom there is no time bar set on acquiring any European nationality.

As the deadline for submission of applications regarding this invitation had yet to elapse, the Ombudsman requested that the contested condition be reconsidered. Responding immediately, OKANA withdrew said condition from the invitation and extended the submission deadline for applications, especially for those candidates whose participation in the procedure would have been hindered had the condition remained (case 263328).

Discrimination on the grounds of national or ethnic origin regarding access to goods and services

In earlier Special Reports, the Ombudsman had touched on the problems faced by migrants, refugees and asylum seekers in their daily transactions with services in the Public and Private domain.[7] In fact it has activated the possibility of its ex-officio intervention in cases where it has become aware of indirect exclusion from transactions with refugees and foreigners. In such cases, the Ombudsman has pointed out that the obligation of the administration when dealing with third-country citizens is exhausted once the ownership, on the part of the person dealt with, of the legal title of residence in the country is established.[8]

Many of the above hindrances presented to specific population groups are faced in bank transactions.

The Ombudsman received numerous complaints regarding the refusal of banks to open accounts to asylum seekers because they did not possess a passport but rather an international protection applicant's card. In certain cases, the refusal was the result of the bank questioning the validity of the asylum service's certificate.

7. See *Equal Treatment, Special Report 2017*, the Ombudsman, pp. 46-49.
8. See *Equal Treatment, Special Report 2018*, the Ombudsman, pp 70-71.

A particularly adverse consequence of the refusal in question was the transactor's inability to receive payment from their employers.

The banks addressed by the Authority maintained that the necessity of producing an ID card or passport is governed by provisions that regulate banking transactions and there is no question of discriminatory treatment towards asylum seekers. The Ombudsman therefore requested from the Bank of Greece to provide instructions to those banks it oversees, underlining that the international protection applicant's card constitutes an administrative document which permits legal transactions on the part of applicants during their residence in Greece and within the time it is valid. Consequently, in the absence of an ID card or passport, the card in question suffices as a means of confirming the transactors' identity particulars. Finally, it stressed that any refusal of banks to conduct a transaction with asylum seekers on the above grounds constitutes discrimination as it excludes them from any transaction and denies them from exercising their basic rights, while at the same time the refusal to open a payroll account for asylum seekers infringes Directive 2014/99/EU (Law 4465/2017).

The Bank of Greece responded positively and, working together with the Ombudsman and the former Ministry of Migration Policy, sent instructions to banks, stressing that confirming the identities of asylum seekers can be done through an original copy of their international protection applicant card (cases 230236, 237214, 247626, 254244).

It is also worth pointing out that the Ombudsman has received complaints of cases of discriminatory treatment against Greek citizens who have acquired Greek nationality through naturalisation. A bank branch refused to close a bank account of a Greek citizen of non-Greek ethnic origin who possessed a Greek Police I.D. Card, requesting that the individual first produce their naturalisation decision as a precondition (case 270465). Investigation into this case is still ongoing.

DISCRIMINATION ON GROUNDS OF RELIGIOUS OR OTHER BELIEFS

The provisions of Law 4443/2016 restrict the prohibition of discrimination due to religious or other beliefs in the employment and occupation sector. As a rule, however, complaints submitted to the Ombudsman concerning respect towards people's religious or ethical conscience tend to focus more on fields outside work.

Indeed, they are often associated with or concern other grounds for discrimination (e.g. race or national/ethnic origin). Such cases, even though multiple discrimination is ascertained but is not seen by law as an aggravating circumstance with corresponding sanctions, are keenly followed by the Ombudsman as the body that monitors and promotes the implementation of the principle of equal treatment so as to accommodate, accordingly, its actions towards lifting discriminatory treatment suffered by an individual for more than one reason.

Discrimination towards Roma, conscientious objector

An example of this is a Roma citizen, a conscientious objector, who requested a certification of permanent residence from the relevant municipality to use in the Recruiting Office so as to perform an alternative service. The citizen, who cited a school-leaving certificate from the area, but did not possess the necessary supporting documents (utilities bill, tax return) as proof of their residence, requested that the Municipality's offices carry out an on-the-spot inspection. Following the inspection, the services maintained that the declared address of the applicant was not their place of residence.

Despite the basic problem being that the interested party faced difficulties in producing proof of permanent residence because they were living

in a Roma camp, **the Ombudsman, addressing the municipality, focused on the fact that this problem impinged upon the applicant's exercise of free religious conscience**, since they would use this for recognition as a conscientious objector and thus for this reason perform an alternative service. Consequently, the refusal to issue this certificate placed stumbling blocks in their exercise of the right to free religious conscience, a right enshrined both in the Constitution (Art. 13) and in the European Convention on Human Rights (Art. 9).[9]

Furthermore, the Ombudsman pointed out that the aim of the provision of Article 279 of Law 3463/2006, which governs the process on issuing permanent residence certificates, is to ascertain the actual situation through every expedient means and that any refusal should be accompanied by a specific reasoning. Specifically, it underlined that given the on-the-spot check carried out ascertains that the interested party is not a resident at the address they indicated, it is necessary to report what precisely were the findings of the visit, especially when the certificate applied for is to be used to exercise a legal right.

In particular, the National Body referred to the unique characteristics of the residence of a significant number of our Roma fellow citizens and to the importance the inspection of their real establishment takes on by way of ascertaining permanent residence. In the Ombudsman's intervention addressed to the municipality it presented alternative means of verifying someone's actual residence, as well as the obligation of the administration to also take into consideration in its administrative treatment thereof the unique characteristics of the Roma's way of life.

In response to the Authority's intervention, the municipality finally accepted the claim of the interested party and they were issued with the relevant certification so they could exercise their right to come under the status of alternative service (case 261038).

9. It should be pointed out that Greece has been condemned for breaching Article 9 of the ECHR and separately in a case concerning access to conscientious objector status (*Papavasilakis v Greece*) and to another in combination with Article 14 (*Thlimmenos Ruling v Greece*).

DISCRIMINATION ON GROUNDS OF DISABILITY OR CHRONIC DISEASE

Law 4443/2016, which transposed Directive 2000/78/EC into Greek law, prohibits every kind of discrimination due to, among others, a person's disability or chronic disease. According to Article 2, subpara. 3 of the United Nations Convention, the term 'discrimination on the grounds of disability' suggests any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others. What however is the precise meaning of disability? It is a fact that there is no precise definition of disability or chronic disease, and neither are there specific diseases which are explicitly protected against discrimination. In Directive 2000/78/EC, rather than 'disability', the term 'special need' is used which is defined as a disadvantage due particularly to a chronic physical, mental or psychological condition, which together with various impediments can obstruct the person's full and effective participation in employment on equal terms with other employees.

Given the fact that disability and chronic disease are concepts covering a broad spectrum, the Ombudsman investigates every case where a health problem impedes the person from enjoying equally the good of work. **The Authority takes care to ensure - within the ambit of its competencies - the suitable conditions, so that all citizens who are in a position and wish to work can exercise the profession of their choice.** In investigating cases of disability or chronic disease, certain factors have to be weighed up, such as the possibility or capability of the employee to be occupied, the reasonable adjustments that the employer makes or is obliged to make, as well as any disproportionate burden placed on the company arising from the measures taken or the reasonable adjustments they are called on to adopt.

Stereotypes as a hindrance to access to employment

The Ombudsman is responsible for monitoring and promoting the principle of equal treatment, not playing just the role of a mediator or inspector within the framework of examining individual complaints.

The mandate of promoting the principle of equal treatment, includes also making employers and employees aware of their rights and obligations with the aim of effectively combating discrimination. This approach thereby strives to eradicate stereotypical notions, which frequently prompt unlawful discriminatory practices or halting the employee themselves from pursuing the profession they wish.

In the case we present below it may seem at first glance reasonable for a hotel operation to wish to hire a well-presented employee at reception, but is this an actual requirement for the person to carry out their duties or is it the product of a stereotypical mindset? Does this requirement relate to the employee's essential proficiency at carrying out the duties of this post, that is to say having the abilities and professional virtues required, which are independent of any physical features, provided that they are not a real impediment to performing the job? Or perhaps will it no longer be a shock to us to see a person with disabilities or chronic disease at the reception of a hotel, if this is a capable employee who has been given the opportunity to practise their desired profession?

The case which was forwarded to the Ombudsman from the Hellenic Labour Inspectorate (SEPE) demonstrates the above discussion as well as the position of the Authority. In their complaint to the Labour Inspectorate, the person cited argued that a hotel establishment refused to hire them for the hotel reception due to their short stature caused by their disability or chronic condition (achondroplasia). The Ombudsman requested that the establishment provide a written explanation for this case. In its reply the establishment denied that it had discriminated against that person, arguing that it did not hire them as upon arriving at the workplace it was ascertained that they did not have work experience, studies or knowledge related to the specific post.

The Ombudsman's investigation revealed that the establishment had received a CV from the employee, and being aware of their qualifications,

invited them for hire. Also, according to the sworn statement of a third person, the Hotel manager stated that the hiring of this person was refused because of their height.

On the basis of this evidence, the Ombudsman ascertained that the establishment had infringed Law 4443/2016 which prohibits any form of discrimination on the basis of disability or chronic disease in the sector of employment and occupation pursuant to Directive 2000/78/EC and recommended that the responsible Labour Inspectorate's office impose the envisaged administrative sanctions. SEPE imposed a fine on the company for infringing Law 4443/2016, and filed a complaint to the relevant public prosecution service (case 244336).

The employer's obligation for reasonable accommodation

In most cases examined by the National Body, the measures or the reasonable accommodation that should have been taken by the companies to ensure suitable working conditions for all employees were straightforward and fairly obvious. Despite that, numerous companies appeared unwilling to adopt even such simple measures which would undoubtedly help employees and clearly make for a more positive climate of collaboration between employees and company.

An example of such issues is the case of an employee who complained to the Ombudsman because the large commercial store where she was working as a saleswoman did not provide any seating for short rest periods, when this situation permitted seating under labour legislation.

The Ombudsman, acting in its position as National Body for combating discrimination on grounds of disability or chronic disease, but also as a body to promote, protect and monitor the implementation of the United Nations Charter for the rights of the disabled, investigated the case in a broader way, given that standing for long periods has an impact on health.

In this context, it forwarded the complaint to the responsible Section of the Inspectorate for Health and Safety at Work so that it could take the necessary actions and be suitably informed. It also pointed out that it is particularly important to carry out checks in general in other stores beyond

the specific one on employees and standing. The Inspectorate carried out an inspection and informed the enterprise that it must make seating available. In follow-up checks carried out it ascertained that there were still no seats available and imposed administrative sanctions (case 260649).

The Ombudsman intends to monitor the case in cooperation with SEPE in the framework of the checks it performs in order to ensure that this facility is available to all employees.

Sanctions as a means of preventing discrimination

As a result of investigating cases relating to disability and chronic disease, the extent of every business's awareness of the health problems faced by employees becomes apparent and the same applies, furthermore, to the degree of commitment the company has to help them carry out their duties. At the same time, the employer is called upon to maintain an equilibrium and conduct themselves in the same way towards all employees without favour or discrimination because of someone's particular characteristics.

The National Body often weighs up the willingness displayed by the employer, the means it uses as well as the specific efforts it makes to assist the chronically ill employee so as to meet its professional obligations. In many cases it finds that the employer has a reluctance to meeting its obligations to an employee facing health problems as well as a lack of sensitivity. When it finally ends up recommending the imposing of administrative sanctions, it has exhausted every other means of conciliation.

An example of this is the case of a saleswoman employed on a part-time three-year contract at a large commercial enterprise receiving a monthly salary of 309 euros. The employee took a one-month sick leave and produced a doctor's certificate showing that she suffered from demyelinating disease (multiple sclerosis), which required at least 6 months for treatment. Three months later, and though the complainant was working normally, she was dismissed for unprofessional behaviour. The Ombudsman investigated the case, focusing on the crucial issue as to whether the company had made any reasonable accommodation, as the law requires, before resorting to the final measure of terminating the contract.

The National Body pointed out that the general obligation to provide reasonable accommodation for people suffering from chronic conditions or disability is fashioned and adjusted to the particularities of each case separately.

In this case, the enterprise, which also had an occupational doctor, did not make reasonable accommodation, despite the pointers given by the Ombudsman and the Labour Inspectorate as well as the adequate time given to it to become informed of its legal obligations. In investigating the case, the Ombudsman interviewed as witnesses the manager and deputy manager of the branch where the complainant worked. Both remarked that they did not know how to handle the matter and that their employer did not provide them with any guidelines on this. Following protracted efforts at mediation which failed to reach any compromise solution, the Ombudsman recommended that administrative sanctions be imposed (case 243114).

Sanctions as a means of achieving compromise

The ombudsman does not perceive the imposing of sanctions as a goal in itself. When there is a sincere willingness on both sides to compromise, albeit after a fine has been recommended, the Ombudsman can, under certain conditions, reconsider its recommendation.

Such a case is that of the employee who filed a complaint to SEPE that she had been dismissed one month after her return to work, having undergone a total mastectomy. The complainant had entered into a full-time, open-ended employment contract with a company which hires and maintains a workforce which contracts them out to the various enterprises it collaborates with. After working approximately one year at the company, she signed an amendment to her employment contract and received an increase in her salary. The complainant provided her services to carry out a project undertaken by her employer and subcontracted to a third-party company. The complainant was in a position of responsibility as head of a team in the subcontractors.

When the employee was diagnosed with cancer and informed that she must immediately undergo surgery, she informed both companies of her health situation. According to the complaint, as of that moment she found herself facing an unprofessional and distrustful attitude and being sidelined. Finally, after about three years in the company and around one month after returning to work following the operation, it was announced that she was being dismissed.

In a meeting at SEPE's offices, attended by representatives of both companies, the employer stated that the complainant's employment contract was terminated because both companies had an assignment contract and once the marketing department of the third-party company where the complainant worked was closed down, there was no longer any scope of work for her. As a part of its investigations, the Ombudsman asked the two companies a number of questions about the case, among which were: why did they not explore the possibility of finding an alternative post for the employee? Also, how did the companies meet the obligation of finding reasonable accommodation? (Art. 5 of Law 4443/2016).

The employer argued that it had called upon the employee after her dismissal to list her skills and forward her cv to other collaborating companies, 'contributing thus practically in finding a new position for her'.

In the Ombudsman's opinion, based on the principle of prohibiting discrimination and as the employer has an obligation of care, the employer had to see to the employment circumstances of the complainant in the partner company and requested that it make known the measures taken by the company prior to the dismissal.

The details produced by the employer (given also the provision on reversed burden of proof, which is applied in such cases) did not prove that at the time of the complainant's contract termination there was no other position for the employee, albeit with a related scope, in any other partner company collaborating which collaborated with the employer. In other words, the employer did not prove that it had exhausted all alternative solutions so that she might continue the employee's employment relationship at the time it was arranging her dismissal.

In light of these facts, the Ombudsman concluded that the complainant's employment contract was terminated in breach of Article 2 of Law 4443/2016 and recommended that administrative sanctions be imposed.

Finally, however the parties reached a conciliation and the fine was not imposed (case 262683).

Justified different treatment on grounds of disability or chronic disease

When the adoption of reasonable accommodation or measures for disabled or chronically ill persons to continue working or have access to employment are not possible because of the special demands of the post, different treatment may be justified.

When, that is to say, the nature of the work demands that the employee possesses certain minimum physical abilities, which certain people do not possess, then it is legal to exclude such people from the specific vocation, without that constituting prohibited discrimination.

An example of this is the case of a person with 67% disability taking part in a notice of competition for the Supreme Council for Civil Personnel Selection (ASEP) for vacancies in the external guarding and security personnel sectors. This person was invited to take part in athletic tests with all the candidates. The person involved complained to the Ombudsman regarding the lack of different performance limits for disabled persons in these tests.

The Ombudsman investigated the case and ascertained that, though the establishing of a list of special category positions, 10% of which are allocated to disabled persons, participation in athletic tests is a requirement for placement onto the final lists, an obligation in which disabled persons are included. However, in the National Body's view, this provision does not constitute discrimination towards disabled persons since it pertains to specific posts and not to all posts in the notice. The selection in question constitutes a justified different treatment due to the special professional requirements, in accordance with the letter and spirit of articles 4 of Directive 2000/43/EC and 4 of Directive 2000/78/EC, as transposed into Article 4(1) of Law 4443/2016 (case 267553).

Similarly, the Ombudsman was called upon to determine in examining the case as to whether or not the following terms of notices of 2018 systemic

bank (also in its Labour Regulations) is in alignment with the prohibition of discrimination on the basis of disability or chronic disease: *'The Bank shall reject candidates who do not meet the requirements of the Labour Regulation hereof, as well as all those who, after the relevant report from the Health Board, are certified as suffering from chronic disease which would impede them to fully carry out their duties'*.

The Ombudsman suggested that each candidate's health should be separately examined and this examination to be limited to gauging the extent to which the candidate is able to perform the duties of that particular post. This procedure should also assess the bank's obligation to apply reasonable accommodation. The bank replied that it was already following this principle, and that on the other hand, the Ombudsman had received no case suggesting the contrary.

Consequently, the Ombudsman did not ascertain any infringement of the principle of equal treatment, but pointed out that the terms of the Labour Regulations – as long as they are not specified in accordance with the Ombudsman's recommendations - and their being repeated in competition notices may discourage candidates with some disability or chronic disease from taking part in the selection procedure. For that reason, the Ombudsman made a strict recommendation to delete such terms from any future notices (cases 253101 and 253318).

DISCRIMINATION ON GROUNDS OF AGE

The general principle of the prohibition of age discrimination

Age discrimination in employment and occupation is prohibited under the provisions of Law 4443/2016 However, age may be a fair reason for different treatment between groups of people in a large range of cases, provided that specific conditions are met.

The majority of complaints the Ombudsman receives about age discrimination concerns the setting of age limits for access to employment and occupation in general.

Pursuant to the provisions of Article 4 para. 1 of Law 4443/2016, in order to justify any different treatment of age, three requirements have to be met: a) to specify the reasons why the established age limit constitutes an essential skill to carry out the duties of the job to be assigned, b) to specify the purpose served by the specific age limit and c) to specify its suitability, while respecting the principle of proportionality.

Most cases the Ombudsman has investigated related to the setting of age limits for access to jobs have shown that age is linked, often as a stereotype, with natural characteristics and special physical abilities seen as belonging only to younger persons, without that meaning that such abilities are necessary for carrying out the duties of certain jobs. While taking into consideration related case law of the CJEU, the particular physical abilities and natural stamina of candidates have, in principal, been regarded as necessary abilities for performing specialised duties in security organisations, particularly when the stated purpose is to ensure the operational readiness of said services as well as the maintaining of a fixed sufficient

number of employees to carry out these duties for a satisfactory length of time.[10]

The CJEU consistently seeks, firstly, justifying grounds for the different treatment of age in the provisions of article 4, para. 1 of Directive 2000/78 /EC and, where considered especially substantiated on the basis of the provisions in question, it underlines in its decisions that examination of the issue is unnecessary in light of Article 6 of the Directive. Conversely, if any regulation conflicts with these provisions, the CJEU shall examine the setting of the age limit in light of Article 6 of the Directive (Art. 6 of Law 4443/2016), which provides for a reasonably justified difference of treatment on the grounds of age to serve aims of employment policy and the labour market.

The requirement for a specific justification

The Ombudsman makes an effort to implement the CJEU's above approach when investigating a series of related cases where age limits are set out in notices of competition. In particular, in two notices of the Bank of Greece (2K/2016 and 11K/2017) the age limit of 35 was set as a condition of participation for the selection process to cover a number of positions of various specialisation in technological (TE) and secondary (DE) education categories.[11] This age limit is based on three ministerial decisions.[12] In all decisions, for all specialisations, the justifying reason for the specific age limit is cited as the unique nature and the particularities of the duties.

10. See cases C-229/2008 *Wolf*, C-258/2015 *Sorondo* and C-416/2013 *Vital Perez*.
11. Regarding the following specialisations: SE Counters, SE Electrical technicians (6th Specialisation), SE Refrigerator technicians, TE Electronic Engineers, TE Electrical Engineers, SE plumbers, SE Machinery technicians, SE Heating and Gas Technicians, SE Lithograph printers or SE Lithographers, TE Civil Engineers, TE Mechanical Engineers, TE Printing works technologists, TE Graphic designers,TE Artwork Restorers, TE Central Computer Systems Operators, TE Computer and Networks Technicians (HELP DESK).
12. Regarding ministerial decisions: ΔΙΠΠ/Φ.ΗΛ/25184 (GOV.GAZ Β' 12/13.01.2005), ΔΙΠΠ/Φ.ΗΛ/48/οικ.3670 (GOV. GAZ. Β' 425/17.03.2011) and ΔΙΠΑΑΔ/Φ.ΗΛ/49/οικ. 33721 (GOV. GAZ. Β' 2340/30.10.2015).

The Ombudsman underlined that the vague citing of the unique nature and particularities of these positions' duties, without specifying the particular requirements for each of the announced professional activities, does not constitute a specific justification under Law 4443/2016.

Having examined the information and the documents brought to its attention by the Bank of Greece and having also assessed the pertinent EU and national case law, the Ombudsman concluded that none of the specialisations listed in the notice came under the cumulative requirements of Article 4, para. 1 of Law 4443/2016, thus justifying in a fair way the setting of a specific age limit. It was also pointed out that the common justification of all the specialisations in the notice, which differed greatly as regards to the basic features of these posts' job descriptions, seems to be inadequate, since the scope and the precise employment conditions fail to be clearly set out for each specialisation.

As regards the Bank's arguments in justifying the different age treatment under Article 6, para. 1 of Law 4443/2016, the Ombudsman cited CJEU case-law, focusing particularly on the following: a) the need that said limitation serves a specific legitimate aim in a cohesive and systematic manner,[13] b) the documentation of strong evidence of the suitability and necessity of the measure,[14] c) the documentation supporting the attempt to have a balanced age structure, supplying evidence of the related programming (departure, promotion, retirement).[15] Based on the above, the Ombudsman ascertained that the maximum age limit for all the specialisations in the Notice was set in breach of the provisions of Law 4443/2016 and recommended that the Bank removes the infringement thereof (cases 220248, 220773, 221141, 223300, 223452, 223731, 233124, 233388, 234322, 238641, 241032, 241099, 243973).

The maximum age limit of 35 for the appointment of staff had been set out in two notices of a systemic bank (01.11.2018 and 14.11.2018) pursuant to the relative provisions of the body's Labour Regulation. Adopting a similar approach to the aforementioned, the Ombudsman established

13. Indicatively, see para. 55, C-250/2009 and C-268/2009, *Georgiev*.
14. See para. 67, C-388/2007 *Age Concern England* and paras. 76, 78 and 83, C-159/10 and C-160/10 *Fuchs & Köhler*.
15. See para. 60, C-159/2010 and C-160/2010 *Fuchs & Köhler*, para. 54, C-250/2009 and C-268/2009 *Georgiev*, para. 48, C-45/2009 *Rosenbladt* and 51/2017 PD.

that setting an age limit of 35 did not meet the condition of necessity under the provisions of Law 4443/2016 and forwarded its Report to SEPE, recommending that a fine be imposed (cases 252741, 253101, 253198, 253318, 254188, 254239).[16]

Justified different treatment

The Ombudsman investigated three notices of societés anonymes of the Public sector where age limits were set (35, 40 and 45) for access to a large number of personnel positions of different specialisations. This concerns notices no. 1K/2018 and 4K/2018 for the Water Supply and Sewerage Company (EYDAP)[17] (cases 241283, 242516, 243125, 243647, 243683, 243783, 244591, 265888 and 265941) and no. 7K/2018 notice of the Hellenic Electricity Distribution Network Operator (HEDNO)[18] (cases 239421, 247490). The setting of specific age limits was envisaged by ministerial decisions.

Having received the specific information and documents it had requested, the Ombudsman established that for the vast majority of cases of specialisations in the notice, the maximum age limit was not justified under Article 4, para. 1 of Law 4443/2016 Thus, the subject was investigated in light of Article 6, Law 4443/2016. In the provision in question, the reasoned different treatment does not constitute discrimination on the grounds of age when the law envisages that it serves purposes of employment, labour market and vocational training policy, and provided that the means of achieving these purposes are convenient and necessary. In substantiating the established maximum age limit, EYDAP and HEDNO both cited

16. Please note that in the body's notices special health criteria were also included, which were also investigated by the Ombudsman for discrimination due to disability/chronic disease. Despite the fact that the National Body did not establish that a breach of the principle of equal treatment had taken place in this field, it did make a strict recommendation to the Bank for amending the above conditions on health in notices and Labour Regulation.

17. With a maximum age limit of 45 in a large number of specialisations in University Education, (UE), Technological Education (TE), Secondary Education (DE) and Mandatory Education (ME).

18. With a maximum age limit of 40 for the specialisations of UE Electronics Engineer graduates, UE graduate Programmer Analyst Engineers, TE graduate Electronics Engineers and 35 for the specialisation of SE Web technicians.

in particular the over-concentration of personnel of greater ages in these specialisations announced, with the mean age of 51 and 50 respectively.

The Ombudsman used on this issue the related case-law of the CJEU, in relation with Article 6 of the Directive, and specifically that: a) the desired aim may not be clarified in the contested regulation, but arises from other parts of this measure,[19] b) facilitating the inclusion of certain categories of employees in active life is a legitimate aim,[20]c) having a balanced age structure is a legitimate objective, which recommends the simultaneous presence in the profession in question of young employees at the start of their careers and older employees who are at an advanced stage in their careers,[21] and d) the effort of a body to secure a satisfactory number of employees to perform any physically demanding tasks is legitimate - when such tasks are essential for carrying out a specific professional activity - and indeed for a sufficiently long time, in order to ensure the enterprise's smooth operation.[22]

In light of the above, the Ombudsman examined the information provided to it and on the basis of the age distribution of the personnel already employed at EYDAP and HEDNO, it was established that in the vast majority of those specialisations in the notice there was an over-concentration of those in the older age bracket (45 and over in EYDAP and over 35 and 40, depending on case, in HEDNO), a situation reasonably expected to become more pronounced in the future. It was also ascertained that in most specialisations there was a very small number of employees belonging to younger age groups.

Consequently, the Ombudsman concluded that the need to hire younger employees is legitimate, based on the evidence produced and is in agreement with the spirit of the provisions of Article 6 of Law 4443/2016.[23]

19. *See para. 39, C-159/2010 and C-160/2010 Fuchs & Köhler, para. 40, C-341/2008 Petersen, para. 58, C-45/2009 Rosenbladt, para. 40, C-250/2009 and C-268/2009 Georgiev.*
20. Indicatively, see. para. 65, C-341/2008 *Petersen*, para. 45,C-250/09 and C-268/09 *Georgiev*.
21. Indicatively, see para. 60, C-159/2010 and C-160/2010 Fuchs & Köhler.
22. Indicatively, see para. 42, 43 and 46, C-258/2015, *Sorondo*.
22. With the exception of 3 specialities in EYDAP's Notice (UE Environmental Engineers,
23. TE Electronic Engineers and TE Topographic Engineers), regarding which the Ombudsman concluded that setting an age limit of 45 was not justified and recommended that the body re-evaluate the need for this measure in relation to these positions.

It stressed however that the age distribution of a body must be subject to systematic review and continuous re-scheduling through weighing up the various factors (e.g. of those departing due to retirement, the years that the employee is expected to work in the service following their hiring, etc.).

Should this not be done, there is a risk that certain professional activities will become a field of unjustified age discrimination, even if they end up under-representing older age groups, whose skills and increased qualifications (e.g. experience in the subject) should not be ignored.

Finally, the Ombudsman pointed out that the above reasoning (over-concentration of greater age groups in the work force) should be incorporated in the original reasoning which is included in the ministerial decisions on the grounds of transparency, completeness and ease in checking its legality.

DISCRIMINATION ON GROUNDS OF FAMILY STATUS

Family status comprises a special field of protection in combating discrimination in employment and occupation. What this specific provision aims to do is to protect the types of unions and family ties which differ from the traditional family inside marriage. Thus, irrespective of the type of union partners or spouses have chosen (civil partnership, marriage, free union) and irrespective as to whether that union remains strong or not (divorce, separation, death), the aim is for their equal protection in employment and occupation so as to protect the rights of both the children and the partners/spouses.

Apart from the complaints it continues to receive and investigate on the problems of registering foreign civil partnership agreements for gay couples,[24] the Ombudsman chose in this particular section to focus on single-parents, the breadth of whose protection, particularly in the area of reconciling work and family life, remains extremely restricted, despite their being burdened with increased responsibilities which are particularly related to looking after and bringing up children.

Difficulties single parents face in gaining access to employment

As pointed out in the *Ombudsman's Special Report 2017 on Equal Treatment* (pp 87-89), the single-parent family is a population group which frequently faces distinct and acute social problems. Therefore, it has been deemed that it requires special protection and assistance in many areas.

24. See below, 'Discrimination on grounds of sexual orientation'.

The leaders of single-parent families have been recognised as a "special population group", which finds itself in a disadvantaged position as far as entering the labour market is concerned due to financial, social and cultural reasons, based on the provisions of Article 2, paragraph 8 of Law 4430/2016.

At the same time, and at a European level, the European Parliament has repeatedly passed resolutions specifically regarding the category of unmarried mothers and single-parent families, especially when they are in special conditions of poverty or other needs and in view of ensuring the principle of equal treatment of men and women. Indicatively the European Parliament Resolution of 10 March 2015 calls the Commission and the member-states '[...] *to allow for changes in the family unit when drawing up their taxation and compensation policies, in particular by providing support to one-parent families and older people in the form of tax credits or health care assistance*'. Also, the European Parliament Resolution of 8 March 2011 states that: '[...]*it is essential to facilitate single parents' entry into and return to the labour market, as well as welfare arrangements for single-parent families in the light of the problems faced by them, while also ensuring concrete support for large families*' [...] *calls on the Commission and the Member States to put specific emphasis on the most vulnerable groups (single-parent households, families with three or more children, disabled people* [...]'.

In the light of this, the Ombudsman investigated a complaint of a single mother, regarding the absence of a points system for single parents in a notice for a vacancy for a lawyer with a remunerated mandate in the legal service of a regional government. Specifically, in the notice in question, the unmarried person with a child receives the same number of points as a married person without a child and half the points than a married person with a child without any consideration of the extra responsibility of taking care of the child that the single parent has, compared with that shared with the spouse within marriage.

The Ombudsman pointed out to the competent body that equating the single parent with married candidates without children does not appear to be in step with the protection reserved for single parents at national and European level. Furthermore, the higher points of a married candidate with a child compared to the single person with a child places the latter

at a disadvantage without there being any necessary justification. For this reason, the specific points system was deemed to introduce a direct discrimination on the grounds of family status according to the provisions of Law 4443/2016 and of Law 3896/2010 (case 261256).

Also, in light of the recent Law 4589/2019 on the system for appointing and hiring teachers in primary and secondary education, the Ombudsman, among the observations and suggestions submitted to the Ministry of Education, also referred to the provisions setting out the objective criteria for hiring teachers (Art. 57 et seq.). In particular, it noted that among the social criteria there is no provision for the category of single parents. Based on all the above, it stressed that the increased family commitments of single-parent teachers would justify a special points system when being included in the relevant lists and proposed that extra points be provided for children of single-parent families compared with that of the other cases of children (3 points) (case 260708).

The need to facilitate working single parents

Greek law does not have an all-encompassing legal definition for recognising single-parent status. Separate legislative provisions include a definition for the single parent, depending on the content and the purpose of the relevant provisions. More specifically, the criterion for recognition of single-parent status is either the exclusive exercise of parental care or the custody of the child.

That given, it would appear that in the majority of provisions that benefit working parents who do not cohabit (divorced, single), provision for assistance is reserved for the parent who has custody of the child. This is in complete agreement with the provisions of the Civil Code, on the basis of which: '*Parental care includes custody of the individual, administration of property and representation of the child in every case or legal act or trial concerning its person or property*' (Art. 1510). While '*The custody of the child itself includes in particular its upbringing, supervision, education and teaching, as well as determining its place of residence*' (Art. 1518). Consequently, the person who has exclusive custody of the child, irrespective of whether they exercise parental care with the other parent, bears addition-

al family burdens, since they alone bear the responsibility for the child's everyday looking after. As such, they are properly selected as the recipient of the special measures established which are intended to prevent or counterbalance disadvantages related to their family obligations, which are particularly increased in relation to working families who jointly share the custody of their child.

Finally, of particular interest is the recent Opinion of the State Legal Service (No. 205/2019), according to which: *'An employee working in the Public Sector who is a divorced parent exercising sole custody of the minor who they live with, as well as a public servant, who is the parent of a child born out of wedlock and who exercises sole custody of the minor who they live with are included within the meaning of single parent, as provided for in the provisions of Article 53(8) of Law 3528/2007, irrespective of the fact that they exercise joint parental care of the minor with the other parent'* (point 9 A of the Opinion).[25]

A typical case concerns a military officer who requested the intervention of the Ombudsman in order to cancel his transfer on the grounds that he was a single parent. The said unmarried father of a minor and with sole custody subsequent to a court decision was deemed not to fall within those provisions permitting exemption from transfer because parental care was shared with the mother.

The Ombudsman, while not questioning the fact that transfers are made after assessment of current service needs, did however stress that according to legislation currently in force, military personnel who belong to certain vulnerable groups, including single parents, are expressly exempt from the above principle and are transferred only if they themselves wish so. Furthermore, the interested party has the status of single parent, since the court had awarded him sole custody of his child who lives with him and for whom he has assumed daily care. In the light of the above, the Ombudsman requested that the interested party be exempt from being transferred and to return to the place he was serving (case 262577).

25. The pertinent opinion was issued following a question from the Ministry of the Interior (then Administrative Reconstruction) in relation to the meaning of single parent in the provision of Article 53(8) of Law 3528/2007, as amended and in force, according to which single-parent employees are entitled to 8 days' paid leave for child sickness.

DISCRIMINATION ON GROUNDS OF SOCIAL STATUS

Social status as a ground for discrimination is defined in the explanatory memorandum of Law 4443/2016, as being linked primarily with a person's social stigma due to their distinction as a member of a particular social subset. Ex-drug users or ex-prisoners in particular shall fall within this status.

The Ombudsman examined cases in 2019 of individuals facing problems in occupation and employment due to previous criminal conviction and/or serving of a sentence.

Criminal conviction as a ground for exclusion from the labour market

In the *Special Report 2018 on Equal Treatment* (pp. 59-61), the Ombudsman referred to prior criminal conviction as an impediment to appointment to the Public Sector. It has also examined complaints on the difficulties convicted persons and/or former prisoners face in gaining access into the labour markets.

In cases it has investigated, the Ombudsman in principle has accepted that it is legitimate for the employee to produce their criminal record so that the employer can check that all legal requirements are met and that they can engage in the specific occupation without impediment.

The problem however is that though there may be no impediment in engaging in a specific occupation or concluding an employment contract, a previous criminal conviction is likely to negatively influence the employer in their decision to hire or not.

A typical example investigated by the Ombudsman was of an employer in the private sector who requested that a copy of a general-use criminal record certificate be furnished for the position of transport driver. Current legislation (PD 346/2001) explicitly sets out the requirements for and impediments to exercising the profession of driver. Regarding the requirements for exercising the vocation of transport driver, Article 3 of Presidential Decree 346/2001 sets out that in cases of a res judicata conviction for specific criminal offences, the requirement of reliability to practise this profession is not met. Nevertheless, the same article also envisages that in certain cases, this impediment can be removed. Examples of such instances are: if the sentence imposed is suspended, if the convicted person is released on parole, if ten years have elapsed since the sentence was served, if pardon is granted or any kind of legal consequences of the sentence imposed and served have been lifted.

Despite the explicit provision of the legislator and the absence of any impediment for this profession under the above conditions set out in law, it is shown that in practice a prior conviction can contribute to a candidate being excluded from being hired. In the case in question, the driver was eventually hired, but continued to face problems in performing their duties as they were not issued with special passes at the airport, where the employer carried out transportation work. Finally, following agreement between the employer and the airport's administration, entrance permission to the area was granted on condition that the airport was notified each time beforehand of the transportation. Also, the airport's administration informed the driver that it was prepared to re-examine the application request for the special airport pass (case 254051).

Criminal prosecution as an impediment to occupation and employment

The Ombudsman has also looked into cases where the interested persons have faced problems in gaining access to work not only further to a criminal prosecution but also prior to it.

A typical case involves the refusal of a police department to issue a licence for a waiter, since a check on the person's criminal records revealed that prosecution regarding a drugs charge for said person was pending. Un-

der Article 12(2) of Law 1481/1984, as in force, for employment of any description in entertainment centre establishments, bars, cafeterias, halls exclusively for gaming, etc., a licence from the police is required. The terms, conditions, issuing and recalling process of a police licence is determined by Presidential Decree. Under the provisions of Article 4 of PD 180/1979, as in force, the granting of the above licence is prohibited to anyone under the age of 18 and those convicted by a final court judgment for crimes against life or limb, for offences relating in general to morality, for illegal use and possession of weapons and drugs offences. The issue was finally resolved when the interested person received an acquittal from the court (case 251549).

The Ombudsman had pointed out that the provision in question establishes a horizontal exclusion from any job in said premises. Furthermore, the legislator, even in the case of a sentence already served out or statute-barred, introduces another five years before the interested party be entitled to exercise the profession. The establishing of further waiting time for all candidates does, by itself, reinforce the perception of criminal conviction as an irrefutable proof of dishonesty. Finally, some of these posts (till worker, cleaner, delivery person etc.) traditionally make up the average livelihood category for citizens to whom access to employment is in any case restricted, since they lack high or higher educational qualifications, previous work experience and vocational specialisation in general.

Given the serious limitations placed by the current legal framework, the Ombudsman is prepared to make specific proposals to the competent services, including the Hellenic Police, regarding the restrictions which appear to exist in practice when it comes to issuing employment permits for certain occupations, such as the one of a waiter, even at the stage of conducting a criminal prosecution, in breach of the assumption of innocence.

In any case, the Ombudsman is examining the likelihood of submitting specific proposals before the competent bodies make improvements to the existing legal framework and administrative practice.

DISCRIMINATION ON GROUNDS OF SEXUAL ORIENTATION

In contrast to what applies to other grounds of discrimination, such as gender, age, disability or chronic disease, where those affected submit complaints requesting that the discriminatory treatment against them be removed, discrimination based on sexual orientation would appear to still carry a strong lasting social stigma and prejudice which increases a reluctance on the part of the victims to denounce discrimination or harassment towards them.

Judging by the Ombudsman's experience as well as the limited number of complaints it receives that fall within this field, it seems that sexual orientation continues to belong among the 'invisible' or 'hidden' forms of discrimination, that is to say the grounds for discrimination which someone would choose to reveal only with great difficulty.

Even in those cases where a complaint for unequal treatment on the grounds of sexual orientation has been lodged in the sector of occupation and employment, it is not unusual for the complaint to be later withdrawn for fear of exacerbating the situation.

For the above reasons, the Ombudsman seeks cooperation with bodies from civil society and organisations active in the field of defending LGBTQ+ rights to ensure continuous updates and contact on these issues.

Refusal to register foreign civil partnership agreements between gay couples

In recent years, the Ombudsman has taken on cases concerning the refusal to register civil partnership agreements involving Greek citizens and their partners outside Greece by the Athens Special Registry Office.

Despite the basic established obligation of the competent services to undertake the necessary actions for the registration of the civil partnership agreements in question (Art. 13 of Law 4356/2015), the Athens Special Registry Office refuses to register them, deeming that they are not valid under the Greek legal system.

In 2019 the Ombudsman received relevant complaints on civil partnership ceremonies performed between Greek citizens and citizens from the EU, Brazil and Germany. The National Body contacted the Ministry of the Interior and requested clarifications regarding the said Registry Office's refusal to register them. The Ministry cited as the main grounds for refusal the diversity of foreign partnership agreements and the need to primarily safeguard the legal certainty for the parties that have concluded these agreements. It argued that in this case discrimination on grounds of sexual orientation did not apply since the civil partnership in question which had been concluded around the world were considered to be valid under Greek law, irrespective of the gender of the contracting parties.

The Ombudsman stresses that under the provisions of Law 4356/2015 (Art. 13) there is an explicit provision also for civil partnerships drafted outside Greece. Under this regulation, on the one hand, in light of the aforementioned reasons, the requirements for the conclusion of a foreign civil partnership, the relations amongst the partners and the requirements and consequences of dissolving a foreign civil partnership are governed by the legal system of the place where it was drawn up, however as to the remainder, the agreements in question do not have under Greek law any more effects other than those provided for in law. As the National Body pointed out, it emerges from the relevant provisions that a civil partnership agreement drawn up by a foreign authority abroad has the same legal effects in Greece, as provided for under current law, with civil partnership agreements drawn up before a Greek authority. In contrast, according to the Ministry's interpretation, the agreements in question exceed Greek legislation and as such have no legal force.

Apart from the above, the Ombudsman noted that in both instances examined the two parties had already concluded a partnership agreement which has legal effects and which had already been established in the partners' countries. Thus, they could not conclude a new agreement in Greece

or at a Greek consulate authority (Art. 13 paragraph 1 of Law 4356/2015), since their partners would not be able to furnish a certificate that there was no impediment for concluding a civil partnership agreement, given that there already existed a valid agreement, under the legislation of the country where the ceremony took place, the provisions of private international law, as well as current national law.

It is further noted that, under Law 4443/2016, prohibition of discrimination based on family status aims in particular to protect, as regards the occupation and employment sector, the strong vital bonds developed in family life, regardless of the couple's form of union. According to the explanatory memorandum in the law: '[...] *In this way the types of marriage provided for in the Civil Code and the civil partnership agreement of Law 4356/2105 are wholly in line with one another* [...]' Thus, on this contested issue, the refusal of the Special Registry Office to register civil partnership agreements drawn up abroad by foreign authorities, which is in conflict with what is valid, e.g., for those marriages conducted abroad before foreign authorities, constitutes discrimination on grounds of family status.

At the same time, the refusal to register civil partnership agreements in cases of gay and lesbian partners can be substantiated as indirect discrimination based on sexual orientation, given that current legislation makes no provision for conducting gay marriages. The Ombudsman repeated the obligation of Greece to comply with the decision of the ECHR[26], which deemed that the provisions of the previously in force Law 2719/2008 introduced discrimination based on sexual orientation, since it excluded gay and lesbian partners from being able to conclude civil partnership agreements.

Indeed, in the explanatory memorandum in the law on civil partnership agreements special mention is made of the recognition and protection of rights of gay and lesbian couples, as also formulated in the related case-law of the ECHR. Mention is also made in the explanatory memorandum of the ECHR's significant broadening of the concept of 'family life', deeming that this constitutes a real issue, which depends on the existence of substantive close personal ties.[27] Through this interpretation, ECHR expresses

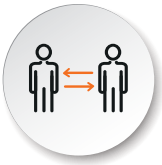
26. Case Vallianatos and other v. Greece (07.11.2013), which confirmed a violation of Article 8 (protection of private and family life) in conjunction with Article 14 (prohibition of discrimination on grounds of sexual orientation) of the ECHR.
27. ECHR, The Grand Chamber, K and T. v. Finland, 12.07.2001, para. 150.

the diversity of contemporary family relations and the evolution in social perceptions over recent decades. Thus, apart from the family founded on marriage, bonds developed within de facto family relationships are also protected.[28] In particular as regards gay and lesbian couples, the ECHR has demonstrated that a gay or lesbian couple in a stable relationship enjoys a family life.[29]

In light of the above, the Ombudsman concluded that the refusal of the Ministry to register a foreign civil partnership agreement in the Special Registry Office constitutes direct discrimination on grounds of family status and leads at the same time in practice to indirect discrimination on grounds of sexual orientation. Due to the seriousness of the issue and the interpretation of the competent service of the Ministry of the Interior which conflicts with the law, the National Body forwarded the document to the Secretariat General of the Ministry of the Interior and to the Secretariat General of Transparency and Human Rights, in order that the necessary actions be made for the sound implementation of the law. The matter is pending, meaning that the interested parties are still facing problems in having their relationship as well as the rights of their partners recognised within the framework of the civil partnership agreement (cases 243091, 246193).

28. ECHR, Kearns v. France, 10.01.2008, para. 72, Johnston v. Ireland, 18.12.1986, para. 56.

29. ECHR, Schalk and Kopf v. Austria, 24.06.2010, para. 94.



DISCRIMINATION ON GROUNDS OF GENDER IDENTITY

Transgender people continue to face serious violations of their individual rights, despite legislative initiatives taken up to protect them at an international, European and, recently, national level.

The establishing of Law 4491/2017 is a positive step towards visibility and safeguarding the rights of this population group, though in practice there remains a wide spectrum of discrimination, a fact which hinders their everyday transactions and makes them subject of frequent insults to their personality and dignity.

Guarantees of secrecy as protection from violations

Under the provisions of Law 4491/2017, the procedure and requirements for correcting and establishing gender were established. The relevant court ruling issued is entered initially at the competent registry office that had drawn up the person's birth certificate. Thereafter all those services responsible for issuing other documents where the person's identity details appear or from which the person exercises rights are obliged to issue new documents or make new entries with the established gender corrected and the first name and surname of the person. The above procedures are performed in such a way as to safeguard all the changes in total secrecy.

This secrecy is necessary on the one hand for the obligation of confidentiality of all employees in any way involved in correcting the aforementioned details, and, on the other hand, so that access may be gained to information (court ruling, original birth certificate and all the information or documents in which the change in gender was recorded) solely and

exclusively by the person who had their gender corrected and to those specifically authorised by that person in writing.

Safeguarding the secrecy of the above procedure constitutes the manifestation of the obligation of respect and protection of human dignity (Art. 2 paragraph 1 and Art. 5 of the Constitution) but the procedure itself constitutes an object of special protection as sensitive personal data.

However, the Ombudsman has examined cases in which services which must make the corrections to the registered gender providing the assurances of secrecy required, either breach the obligation of confidentiality or undervalue its importance.

Thus, the competent Directorate of Transportation and Communications, in which a candidate driver submitted their application for the issuing of a new training examination card after having their gender identity legally recognised, did not satisfy the request, but simply recorded the correction of their information by hand, writing on top of the existing card. The Ombudsman pointed out to the service that the correction of the information or documents relating to persons who have gained legal recognition of their gender identity is not allowed to be known or to become available to anyone for reasons already mentioned, and requested that a new card be issued for the interested person. The competent service responded immediately and issued a new card (case 257971).

A similar case is that of the refusal of a cadastral office to transcribe a notarial deed for granting usufruct. The office appeared to set out as a requirement the previous transcription of a court decision with which one of the two contractual parties had proceeded to having their gender identity legally recognised. Taking into consideration the relevant provisions of the Civil Code of Law 2664/1998 on cadastral documents and the provision of Law 4491/2017, the Ombudsman addressed the Greek National Land Registry. It pointed out in particular that the procedure for legally recognising gender identity is framed in total secrecy and any requirement for the transcription of a court decision concerning the correction of identity details would directly undermine the protection provided.

In order to safeguard on the one hand the validity of the notarial deed transcription for granting usufruct and on the other the secrecy in correcting the established gender, the National Body recommended that the re-

sponsible cadastral office take into account the contested court decision so that the office itself could certify that they are one and the same person, but not to retain a copy of this on file (hard or electronic) and to make a relevant note on the cadastral sheet. Also, the Ombudsman pointed out that it is crucial that instructions are given to all cadastral offices in Greece by the national Land Registry so that there is a common way of dealing with similar issues which may emerge in the future.

Further to the above, the instruction was given to submit to the responsible cadastral offices a validated excerpt of the court decision on the recognition of gender identity, without however that being retained in the records of the national Land Registry, pursuant to Article 6, Law 4491/2017. Indeed, this instruction was forwarded to all cadastral offices in Greece so that the specific issue could be dealt in the same way, as recommended by the Ombudsman (case 260419).

TARGETED INTERVENTIONS FOR PROMOTING THE PRINCIPLE OF EQUAL TREATMENT

Targeted interventions for promoting the principle of equal treatment

Balancing work and family life

Balancing work and family life is a crucially important requirement for gender equality in the area of employment, as it aims to counter fixed role-distribution stereotypes in family and professional life.

Proposal for a single child-raising leave for employees on private law contracts

Article 142 of Law 3655/2008 established the six-month special maternity protection benefit. This is a six-month maternity leave received by mothers on dependent employment contracts with companies or holdings in the private sector. While on leave, these employees receive their benefit from the Greek Manpower Employment Organisation (OAED). Establishing this special six-month benefit is an important measure for working mothers in the private sector since it allows them - without the need for the employer's consent - to extend by six months their time with their infant child before returning to work, receiving all this time the legal minimum income. And while in the public sector men and women parents-employees (alternately) are entitled to nine-month parental child-raising leave, in the private sector only working mothers receive the six-month special maternity-protection benefit, which is not considered as parental leave, but is rather more connected with restoring the health of working mothers and breast feeding.

However, within the scope of Law 3655/2008, certain categories of working women are not included, in particular those employed in the public sector or the broad public sector under fixed-time contracts (e.g. employees in public corporations, research centres, municipal nurseries, etc.), as they are not occupied in businesses or holdings in the private sector, as

required under law. To those excluded from receiving the six-month leave can be added working women with open-ended private law contracts in private companies of the broad public sector, which however, according to legislation binding upon OAED, are described as public sector corporations (e.g. Attiko Metro SA). Finally, one more category of employees, which as of 2017 does not receive the six-month special maternity protection benefit, is those with dependent employment in companies or holdings in Information and Entertainment Mass Media, who belong obligatorily under Article 20 of Law 4498/2017 to EDOEAP (United Press Organisation of Supplementary Insurance and Medicare). Those are excluded from the special maternity protection benefit, since they do not belong to the IKA-EFKA insurance fund.

The Ombudsman, taking into consideration the above protection deficit, the need to promote regulations for equal employment treatment of genders as well as the need to balance work and family life in accordance with recent Directive2019/1158 of the European Parliament and of the Council, **formulated proposals to transpose the above Directive into Greek law and in particular a proposal to establish six-month parental leave for child raising across the whole private sector.** More specifically, in a document to the Secretariat-General of Family Policy and Gender Equality it proposes:

- The establishing of a six-month parental leave for child raising for employees with contracts in private law, who are not entitled to the nine-month parental leave for child raising enjoyed under the Civil Servants' Code. While on leave, these employees receive their benefit from OAED or the EFKA/IKA (Single Social Security Entity/Social Insurance Institution). The benefit in question will be granted upon application by the employee and until the child has reached 2 years of age. Leave for breast feeding and child raising will also be granted as provided for employees in the private sector from the corresponding National General Collective Agreement (EGSSE). The six-month parental leave for child raising for the employed with contracts in private law will be seen as a similar facility to that of the nine-month child-raising leave and the reduced working hours of the Public Servants' Code.
- The aforementioned six-month leave can be received by the mother or father or – subsequent to the parents' agreement – by both parents proportionately.

- Each parent shall receive mandatory a period of two months, either from the above six-month leave or from the nine-month leave - provided they are a public sector employee - with that right not permitted to be transferred to the other parent.
- A period of two months is granted from the six-month parental leave for child raising for occupied persons with a contract in private law to the employed parent even if the spouse is not working.
- Step-parents are also entitled to the six-month parental leave for child raising under the same conditions as above until their child has reached the age of eight.
- The parent who wishes to receive the six-month parental leave for child raising should notify the employer in writing one month in advance of the start of their said leave.

Restoration of the protection deficit for substitute teachers

The Ombudsman has received in recent years a large number of complaints from substitute teachers who have lodged complaints about the glaring inequalities that exist in their sector with regard to maternity leave or child raising between permanent and substitute teachers. Given the fact that many teachers have the status of a substitute for long periods, the absence of any provision and granting of the above leave was deemed to be discriminatory towards substitute teachers compared with their permanent colleagues.

Substitute teachers are recruited, in principle, *to cover emergency needs in education*. However, in practice, substitute teachers systematically cover a part of the fixed and continuing teaching requirements. Taking into consideration that the last appointment of permanent teachers was in 2009 and since then many teachers have departed due to retirement, it is clear that substitute teachers cover a significant part of teaching needs.

According to OECD's report on education,[1] for the 2016-2017 school year, approximately 22,000 substitute teachers were recruited. The percentage of substitutes as the percentage of the total of teachers increased from 8%

1. OECD, *Education for a Bright Future in Greece*, 19.04.2018 (http://www.oecd.org/greece/education-for-a-bright-future-in-greece-9789264298750-en.htm).

for the 2011-2012 school year to 14.1% by 2015-2016, while in the period from 2008 until 2015 there was a 28% drop in the number of permanent teachers. In the same report, it is also acknowledged that substitute teachers do not meet temporary needs, but that they "*are now the vital element in Greek education, comprising almost 15% of teaching staff (2016-2017) and their work in schools is crucial for the continued operation of the sector*"[2] and it is proposed to the Ministry of Education that there should be *parity in all privileges and obligations for all Greek teachers*'[3].

In practice however, substitute teachers work in state education under a fixed-term employment contract in private law and do not receive any type of maternity leave after being granted post-natal leave. In particular, a) substitute teachers **do not receive** nine-month parental leave for child raising which is provided by the Public Servants' Code (Art. 53, para. 2 Law 3528/2008 Gov. Gaz. I 20), as amended and in force, since they work under fixed-term contracts, and at the same time b) **they are not entitled** even to the special maternity-protection leave of Article 142, Law 3655/2008 (Gov. Gaz. 68/v. I), since they do not meet the legally stipulated requirement for employment benefit in a *company or holding*.

In order to even out the large inequalities existing between permanent and substitute teachers, the Ombudsman proposes that maternity leave with an instalment of three and a half months, granted exclusively following the end of post-natal leave be introduced for those substitute teachers working in state education under fixed-term employment contracts in private law. It was proposed that if the period when the substitute teacher is entitled to the leave coincides with summer leave then this leave would not be transferred/extended.

It was proposed that this period be counted as teaching service and insured time for the main pension and sickness fund, as well as for supplementary insurance bodies. This is also to be counted as teaching service time for calculating leave, teaching experience, determining pay and compensation in cases of dismissal and also every right arising from the provisions of labour legislation.

2. *See ibid*, p.68.
3. *See ibid*, p.92.

The Ministry of Education accepted the positions of the Ombudsman as a whole and through Article 26 of Law 4599/2019 introduced the right to three-and-a-half-month parental leave for child raising directly after maternity (post-natal) leave for the natural, step or foster mother (substitute teacher).

Promoting the principle of equal treatment irrespective of disability or chronic disease

From its earliest years of operation, the Ombudsman has been receiving complaints on the subject of the rights of the disabled within the ambit of its general competence for mediating in cases concerning the infringement of rights protected by the Constitution and Law 3094/2003. Of particular interest for the National Body is disability as an area of discrimination which is protected by legislation on the prohibition of discrimination in employment and occupation (Directive 2000/78/EC and Law 4443/2016). In this respect, the National Body, as a body for implementing and promoting the principle of equal treatment in employment and occupation, is active on two levels: a) **carrying out ad hoc interventions** for protection against discrimination on grounds of disability at work or for the provision of necessary reasonable accommodation making for a level playing field with the other employees when it comes to the provision of work for the disabled, and b) **informing, coordinating and encouraging vigilance** of the bodies related to employment either as employers (in the public and private sectors) or as supervisory agencies (SEPE - Hellenic Labour Inspectorate), aiming to familiarise them with the legislation on combating discrimination in the area.

However, it is clear that discrimination on grounds of disability is not found only in employment and occupation, but comes in many different forms in the daily life of the disabled and in their social life, preventing them from enjoying their rights. As explicitly underlined in the UN Convention on the Rights of Persons with Disabilities, these people enjoy all the rights and freedoms enshrined in the Universal Declaration of Human Rights and international agreements on human rights, and as such all discrimination against them constitutes a violation of their inherent dignity.[4] To that pur-

4. Preamble on the UN Convention on the Rights of Persons with Disabilities.

pose, the Convention specifically determines that states that adopt it must commit themselves. Amongst other things, it sets out:

- To adopt all appropriate legislative, administrative and other measures for the implementation of those rights recognised in the Convention.
- To take all appropriate measures, including legislation, to modify or abolish current laws, regulations, customs and practices which constitute discrimination against persons with disabilities.
- To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes.
- To refrain from engaging in any act or practice that is inconsistent with the Convention and to ensure that public authorities and institutions act in conformity with the Convention.
- To take all appropriate measures to eliminate discrimination on grounds of disability by any person, organisation or private enterprise.[5]

Greece has ratified the Convention and the additional protocol thereof under Law 4067/2010, while Law 4488/2017 sets out the general framework of regulations for implementing the provisions of the Convention. Under Article 72 of this law, in the context of promoting the purposes of the Convention, the Ombudsman is assigned the task of monitoring, promoting and protecting its implementation. This responsibility allows the National Body to monitor discrimination on grounds of disability even in those areas not covered by legislation for equal treatment, such as in the case of the rendering of services and goods in the private sector. Thus, in this way and due to its dual role as a body for promoting the principle of equal treatment as well as in the framework for promoting the purposes of the UN Convention on the Rights of Persons with Disability, **the National Equality Body views discrimination on grounds of disability as a single object for protection and formulates its strategy by combining its institutional tools it avails itself**, either by making direct interventions, or by setting out proposals to deal with broader matters or by activating other inspection mechanisms. Indicatively, below are some of the issues on disability addressed by the National Equality Body in 2019.

5. See Article 4 of the Convention, 'General Obligations', points a-e.

Proposal for a Disability Card

The Ombudsman ascertained the need to review the procedure for proof of disability on the part of persons with disabilities, in the context of awarding provisions, facilities or other benefits. Protection of the personal data would effectively ensure through using a neutral means, which would bear only the absolutely necessary details to be used for those eligible to receive assistance or benefits. Such a means could be a Disability Card, which had been introduced under Law 2430/1996 (Art. 4, para. 2 and 34) but had not been widely applied.

Thereafter, a detailed document was sent together with the views and suggestions of the Body to the Ministry of State, as responsible for the Coordination Mechanism for Disability.

The Ombudsman submitted a legislative proposal for establishing a Disability Card with the aim of providing assistance more easily to its holders in their transactions with services in the public sector, the broader public sector and the private sector as well as of protecting personal data, during the process of issuing provision, facilitation or benefits linked to disabilities.

Safeguarding accessibility to bank branches

The Ombudsman took note of the lack of access of disabled persons to a bank branch in the town of Serres, which is the only one now operating in the town. This is a listed building which, though rebuilt, does not have the suitable specifications to cater for persons with mobility disability, who as a result are impeded from carrying out everyday transactions in the bank.

Directive 2000/78/EC and the concomitant Law 4443/2016 (Art. 3) implementing equal treatment irrespective of disability do not include in their regulatory field access to sale and provision of goods and services, but apply only to the area of employment and occupation. As such, the National Body is not competent to intervene into the private sector when the subject of discriminatory treatment in employment is not raised.

However, deriving from its established role to promote the principle of equal treatment and to champion the rights of persons with disabilities in the framework of the UN Convention, the Ombudsman addressed the bank and pointed out the problem, which arose after the second branch closed, both for customers with mobility problems as well as for current employees with mobility problems, who are entitled to the necessary reasonable accommodation.

In its intervention, the Ombudsman referred to the provisions of the Convention and Greek legislation regarding accessibility in the physical and built environment and requested notification on accessibility conditions in the specific building, but also generally the overall picture for accommodation in the bank's branches according to accessibility specifications set out in the law. The pertinent information is still pending in order that the Body decides on its course of action (case 261935).

Airline's refusal to transport a patient with chronic disease

The relatives of a patient suffering from a chronic disease lodged a complaint with the Ombudsman over an airline company's refusal to allow on board the particular patient, who was undergoing a treatment and would have during the flight a small pump providing a constant flow medicine. The citizen had notified the airline and the airport services in advance, following the procedure indicated by the company (submission of consent application, medical notes), but finally she was not allowed to travel without the reason for the refusal being made clear. The subject of her complaint was both the attitude of the company as being an affront to her dignity as well as the financial loss she suffered from having to purchase a new ticket at a higher price.

The Ombudsman explained to the citizen that it was not competent to intervene with regards to the private provider of airline services, however, at the same time, it drafted a letter in which it explained that, according to the Convention's legal framework, the definition of disability encompasses also chronic illness, since the notion of disability, under the Convention, can be due to many years of illness, curable or not, to the degree that it is accompanied by obstacles which hinder the full and equal participation of persons in society. Furthermore, it cited Regulation (EC) No 1107/2006

of the European Parliament and of the Council concerning the rights of disabled persons and persons with reduced mobility when travelling by air under conditions comparable to those applied to persons with no such limitations. This letter was sent to the Consumer Ombudsman, within the framework of its competences as the body protecting consumer's rights, as well as to the Civil Aviation Authority, which is the national body responsible for implementing the Regulation. In its intervention, the Ombudsman requested that the authorities investigate the matter in view of the related provisions and to notify it of the outcome of their investigation (case 266391).

Abusive parking in disabled parking spaces

The infringement of the Highway Code (KOK) with regard to parking spaces reserved for the disabled, which are taken up by ineligible persons[6], and the police authorities' failure to impose the envisaged penalties have been the subject of a large number of complaints (indicatively, cases 236300, 261360). In some cases, decisions of KEPA (Disability Certification Centre) are displayed, instead of the special parking card, so that fines are either not imposed or the amount imposed is cancelled, while at parking slots in shopping centres, the traffic police often fail to intervene, arguing that these are private areas.

Through its written interventions to each competent authority, the Ombudsman underlined the importance of understanding and taking on board their competences and responsibilities vis-a-vis respecting the rights of disabled persons.

With this in mind, it pointed out the regulatory framework in force regarding parking spaces for disabled persons and requested that there be issued a circular of clear instructions regarding the force of the provisions which constitute measures in favour of the mobility of disabled persons, with the provisions of KOK and the obligation to strictly comply on the part of the competent agencies. The Traffic Department of the Hellenic Police

6. In other words, either third parties who unlawfully occupy the spaces or disabled persons who do not carry the required special parking card.

Force (ELAS) replied immediately to the intervention of the National Body and issued instructions to all competent police services.

Intervention into combating xenophobic behaviour

The tolerance towards xenophobic and racist attacks which is shown particularly in the context of the transferring of asylum seekers to dedicated facilities threatens social cohesion and contributes to spreading the impression that it may be acceptable.

The Racist Violence Recording Network has in the past but also more recently expressed deep concern, having confirmed a spate of such phenomena and has called upon the state and the local authority as well as representatives of the Mass Media to implement the anti-racist legislation, refrain from using xenophobic rhetoric, take special care to inform and support local communities as well as to immediately deal with the problems that have arisen.[7]

As had been reported[8] on the 15 March 2019 at the Vilia community in Attiki, a violent attack took place on foreign asylum seekers/those entitled to asylum, as well as on the facilities where they were staying as a part of the Filoxenia programme of the International Organisation for Migration (IOM) and Ministry of Migration Policy at Vilia, Attiki.

Reports in the media also showed that a few hours later, following the arrival of around twenty families of vulnerable asylum seekers/those entitled to asylum at the 'VERORI' hotel, where they were to be accommodated as a part of the aforementioned programme, local residents, amongst whom it appeared were members of the municipal authority of Mandra-Eidyllia, were gathered in front of the hotel protesting at the hosting of the foreign persons. A number of those gathered behaved aggressively towards the refugees, forcing their way into the hotel, causing material damage while

7. See. https://www.unhcr.org/gr/13230-anisixia_gia_xenofovikes_antidraseis.html

8. See, indicatively: https://www.in.gr/2019/03/18/greece/ratsistiki-epithesi-se-prosfyges-sta-vilia-xtypisan-mikra-paidia/· https://www.cnn.gr/news/ellada/story/169555/epithesi-kata-prosfygon-sta-vilia-xtypisan-mexri-kai-paidia· https://www.efsyn.gr/ellada/dikaiomata/187373_xenofobiki-ypodohi-se-eyalotoys-prosfyges-sta-bilia.

at the same time attacking an asylum seeker/person eligible for asylum and their two young children. From the information gained, no arrests or actions were taken against the agitators.

The Ombudsman addressed in writing the competent police authority, the Municipality of Mandra-Edyllia, IOM and the Ministry of Migration Policy, requesting their immediate action in investigating the incidents and any racist motives and also that they take steps to avoid similar attacks in the future.

The Ombudsman's view on the lifting of social exclusion of the Roma and the curbing of social conflicts

It is generally accepted that after around three decades of efforts and a large amount of expenditure by the State to achieve the social integration of the Roma, the results are rather disappointing when put up against the efforts and expense. In earlier interventions, the Ombudsman had, amongst other things, stressed the problem of lack of coordination of policies, their fragmented implementation, their limited duration and the absence of a controlled monitoring mechanism with the suitable know-how.

As regards the issue of social integration, the Ombudsman has ascertained that groups of Roma display different social-economic features, different types of movement and entirely different levels of integration. As such, a diversity of specialised policies need to be adopted, not horizontal ones. International experience shows that even well-planned policies bring results only after a number of years have passed.

An indicative recent case of good practice is that of the actions in the Municipality of Chalandri, which for at least six years now has been actively involved in the issue of the relocation, employment and urban-municipal settlement of a small group of Roma who live in unofficial dwellings on the fringes of the municipality. Five years of intensive efforts were needed to eventually relocate around one quarter of the population[9] into housing

9. Another 14 families are scheduled to be included in the relocation programme in the immediate future.

and to integrate some Roma families into the formal employment market (indicatively, cases 193004, 228363).

The relocation of existing communities which do not meet the requirements of decent living is a crucially important issue, since it is directly linked with a series of other rights (education, employment, health, etc.) and mitigates social exclusion. The Ombudsman consistently points out that: '*The departure from the area where they live* [the Roma] *requires actions on the part of the competent authorities, so that a specific place may be indicated for their relocation and legal residence, which will meet at least the basic standards of dignity and security*'. The marked reluctance of municipalities to offer up specific areas or to create a framework for minimal services in such a facility has made over many years a situation where: a) frequent new land occupations take place with the establishment of camps in areas owned by private individuals or by the State, b) there is either a small or no police presence, either at a level of preventive action or for restraining action and c) the local authorities refuse to confront or manage issues that arise in the rudimentary settlements.

The 'zero intervention' policy observed in many cases, apart from issues of discrimination that it often gives rise to, creates social tension whose management has multiple 'costs'.

This policy results in a gradual increase in delinquency, difficulties in co-existence with those in the vicinity, the reinforcement of stereotypical attitudes towards Roma and ever-growing costs through the post hoc management of the issue. Examples of the above abound, and since its beginnings in 1998, the Ombudsman has been systematically recording them in each *Annual Report*.

A typical case which demonstrates how one intervention can be of benefit both to the Roma group itself as well as for its smooth co-existence with non-Roma population, is the vaccination of the children. Many municipalities, citing a whole spectrum of causes (e.g. shortage of vaccines, reluctance in cooperation amongst services, staff shortage), carry out vaccinations inadequately or not at all on Roma children in the camps, resulting in, on the one hand, the children and their families suffering from illness and, on the other, social tensions, particularly when the children enrol at school. And in this case, the practice of the Municipality of Chalandri and

the full vaccination cover of the children in the camp at Nomismatokopeio after many years' effort demonstrates the possibility of effective intervention in the interests of the public. It is worth pointing out that such tangible results give the lie to the argument of 'wasting money on unachievable results', that is to say, 'racism in the bud'.

Thus, what is needed is direct intervention particularly into the Roma's informal facilities. Complaints by those living in the vicinity particularly focus on: a) problems around livelihood activities (burning of cables, etc.), as well as delinquent behaviour not related to these (noise pollution, under-age driving and dangerous driving), b) the absence or minimal presence of the competent authorities (including the police) both in term of general interventions as well as in everyday actions (e.g., garbage collection from the camps).[10]

Confronting such problems however is not a question in principle of suppression, but of intensively promoting the integration of members of the Roma group. Police intervention may be legitimate, but in quite different terms from what normally takes place. Prevention, notification, 'caution' or 'a gentleman's agreement' and other such police tactics used internationally in similar situations before resorting to restraint have not been adopted systematically or as formal procedures in the Greek instance. And when they do occur, they are local or personal initiatives of an empirical nature.

In this case, the role of the competent local authorities and Regional Administration is crucial. Apart from the long-term interventions with the carrying out of action plans and strategies, there is a need to bring about short-term targeted actions whose costs are not prohibitive. An example of such interventions, as shown in the Ombudsman's reports, is the placement of more garbage bins, the construction of pavements, the tarmacking of a small street, help in getting a driving licence and other such low-key interventions, which can be carried out without any particular funding, structures or programmes.

10. See 'Discrimination on grounds of racial origin/Social exclusion and the breakdown of social cohesion'.

The perpetuation of policies of exclusion only achieves a vicious cycle of discrimination and social conflict. The special features of Roma life cannot be examined without considering general policies and in particular their access to goods and services.[11]

An ever-present issue of crucial importance is that of the urban-municipal settlement of the Roma. The Ombudsman has been submitting proposals on this subject for the last decade. The perpetuation of these problems concerns thousands of our Roma citizens, damaging not only the Roma but also the administration in general as well as Greece's standing in the world. No doubt the special provisions on nationality for Roma who have lived in the country for generations included in Law 4604/2019 is a positive development but is not a long-term solution to this issue. The National Body's experience has shown that new issues will arise.

A comprehensive effort to resolve this presupposes: a) special attention and notification of the competent employees in the Registry offices and Civil Register offices to assist Roma b) institutional interventions, changes in administrative practices and regulations so as to minimise the likelihood of future problems which lead to the de facto denial of nationality. Because of its long experience, the Ombudsman is in a position to contribute effectively to the necessary mediation. Any further delay and postponement will expose Greece as perhaps the only state in Europe which is unable to resolve this long-standing problem.

Administrative detention of LGBTQ+ seeking international protection

The question of the administrative detention of LGBTQ+ who seek international protection and the dangers they face due to their vulnerability is a subject of special intervention on the part of the Ombudsman towards the Central Asylum Service and the Hellenic Police Headquarters. The complaints received by the National Body concerned: a) the absence of any individualised assessment for locating the vulnerable persons in question by the police authorities which are responsible for their detention, b) the

11. See 'Discrimination on grounds of racial origin / Roma residence as a pre-requisite for exercising rights'.

lack of appropriately trained personnel and appropriate procedures for their effective protection and c) the absence of attention to preventive medical examinations and the provision of adequate medical treatment.

In its intervention, the Ombudsman pointed out the serious shortages which it had ascertained also in the past as regards the locating and protection of persons who are prosecuted because of their sexual orientation or gender identity despite the explicit obligation to protect them. It reminded them of their obligation to look into the refugee status of LGBTQ+ asylum-seekers' cases and stressed the need for carrying out interviews under conditions that safeguard secrecy and confidentiality.

Finally, the Ombudsman requested that the special circumstances in the detention of transgender persons should be taken into account, since the primary obligation of the State is ensuring the protection of the dignity and physical integrity of detainees.

Finally, the Ombudsman repeated observations and proposals which it had formulated in the *Special Report* for 2017 (*Migration flows and Refugees Protection - Administrative challenges and Human Rights*)[12] in relation to the problems and shortages in the procedure for locating vulnerable groups, as well as to issues around their safety. Further to this intervention, the Central Asylum Service notified the National Body in relation to the implementation of the current legal framework for international protection applications and the provision of internal instructions for dealing with LGBTQ+, on the basis of that set out in the documents of international organisations, in agreement also with the Body's points.

12. See The Ombudsman's Special Report, *Migration flows and Refugees Protection - Administrative challenges and Human Rights*, April 2017, p. 17-18, 65,85-86.

INFORMATION AND AWARENESSS - RAISING ACTIONS - EUROPEAN NETWORK

The Ombudsman strives constantly to come together with community and citizen organisations and other stakeholders and services to exchange know-how and experience in fighting discrimination. Though it does not have a specific budget for promoting the principle of equal treatment to systematically schedule and monitor the outcomes of these actions itself, the Ombudsman takes an active part in educational programmes, conferences, seminars and other events aimed at informing about and raising awareness on subjects related to implementing and promoting the principle of equal treatment. Thus, in this context, the Ombudsman's training/educational activities continued in 2019 at the National School for Public Administration and the Hellenic Police Academy. The Ombudsman also continued its close cooperation with the competent Labour Inspectorates around the country.

The Ombudsman was also represented at meetings and seminars at the Greek Parliament on issues related to the social inclusion of migrants (15 March 2019), domestic violence (3 December 2019), as well as the protection of persons with disabilities, stressing at all times the need for particular focus on ensuring in real terms that vulnerable groups get equal access to rights and services.

Finally, the Ombudsman maintains a great interest in developments unfolding at a European level which relate to the implementation and promotion of the principle of equal treatment. The Deputy Ombudsman for Equal Treatment, Kalliopi Lykovardi completed her mandate in October 2019, having been on the Board of the European Network for Equal Treatment (Equinet) for around eight years. In the elections for the new Board, Konstantinos Bartzeliotis, senior investigator of the Department of Equal Treatment, was elected. This National Body's consistent presence over the last decade or so as well as the active participation of almost all of the scientific personnel of the Department of Equal Treatment in working groups and at European scientific conferences over this time, underlines the Ombudsman's interest in practice not just in attending but in its making an active contribution in

developments taking place in Europe, both in terms of applying practices as well as promoting measures rendering European legislation more effective.

LEGISLATIVE AND ORGANISATIONAL PROPOSALS 2019

Legislative and organisational proposals 2019

This chapter sets out the organisational and legislative proposals which were submitted in 2019 by the Ombudsman, as the national body for promoting equal treatment, as well as previously-submitted proposals that were accepted in 2019.

MINISTRY OF NATIONAL DEFENCE	
With respect to the creation of areas for breast feeding in the units/services of the Armed Forces, pursuant to Article 3(1) of Law 4316/2014	The Ombudsman proposed: a) the creation of breast-feeding areas for working mothers and b) the adoption of a legislative proposal of the Panhellenic Federation of Armed Forces Unions in relation to avoiding duty at night and – if possible – the non-participation in exercises of breast-feeding mothers-military personnel with a child up to one year old, with all its concomitant increased demands for caring the child during this period.
MINISTRY OF EDUCATION AND RELIGIOUS AFFAIRS	
With respect to the period of absence of teachers due to pregnancy at risk	The Ombudsman proposed:that the period of absence of teachers due to pregnancy at risk be recognised as a time of teaching service. The competent department of the Ministry of Education (Section D Primary and Secondary Education Personnel) commits itself to recommend to the Ministry of Education leadership the adoption of this proposal.
With respect to the social criteria of Law 4589/2019 on the appointment of teachers	The Ombudsman submitted a series of proposals, in light of Law 4589/2019 (on the system of appointments and recruitment of teachers in primary and secondary education and the inclusion of teachers into the relevant lists), among which: a) the provision of extra credit points for children of single-parent families in relation with other cases of children and b) the supplementation to the provisions of Article 57 of Law 4589/2019 so that, apart from the disability of the candidate or of their spouse or their child, there should also be included the case of the disability of the assisted person with full judicial support for whom the candidate has also custody.

With respect to the reduction in salary of female teachers seconded abroad who are on child-raising leave	The Ombudsman brought up again the issue in which it had intervened in 2017 (see *Equal Treatment, Special Report 2017*, p. 32), pointing out that the interruption of payment of a special allowance for service abroad, during leave for child raising, constitutes unfair indirect discrimination on grounds of gender, which is linked to exercising one's right to parental leave for child raising. Once again it requested that the specific practice be removed and that it also takes into account, when re-examining the issue, the increased expense parents and children sustain abroad.
MINISTRY OF LABOUR AND SOCIAL AFFAIRS	
With respect to granting the maternity protection benefit to employees under the EDOEAP insurance scheme	The Ombudsman proposed: that measures be taken so that those who entered into the EDOEAP (United Press Organisation of Supplementary Insurance and Medicare) and lost the right to receive a six-month special maternity protection benefit (Article 142 Law 3655/2008, should continue to receive it either from IKA or from the insurance body they had joined, in this case EDOEAP. The ministry replied to the Ombudsman that it is looking into amending the legislative framework which governs the granting of the special maternity protection benefit.
With respect to work-life balance	The Ombudsman proposed the introduction of a new six-month leave for child raising, which would replace the special maternity protection benefit under Article 142 of Law 3655/2008. The leave would be in force in the private sector as a whole and will be granted either to the working mother or father or proportionately to both parents. Thus, a long-standing gap in the area of work-life balance would be covered (for further details see pp. 89-91).
MINISTRY OF HEALTH	
With respect to supplementing legislation for placement of resident doctors	The Ombudsman proposed that grounds related to the family status of resident doctors be taken into account so that they may be posted as additional personnel into hospitals to practise so as to acquire their specialisation, without that meaning any extra risk in the quality of their training already provided.

MINISTRY OF INFRASTRUCTURE AND TRANSPORT	
With respect to bringing up to date the legislation regulating parking cards for persons with disabilities	Based on current legislation (P.D. 241/ 2005), the disabled person's parking card is linked to a specific vehicle and not to its holder. This practice however restricts disproportionately the disabled person's autonomous movement since if use of the vehicle linked to the card is not possible for any reason, the beneficiary is completely denied the use of said benefit. The Ombudsman proposed the amendment of legislation vis-a-vis linking the card to the beneficiary and not to the vehicle.
MINISTRY OF INFRASTRUCTURE AND TRANSPORT, MINISTRY OF ADMINISTRATIVE RECONSTRUCTION (NOW INTERIOR)	
With respect to age limits in Notices for personnel vacancies in EYDAP and HEDNO	With reference to the Ministerial Decisions (YA) of the Ministry of Administrative Reconstruction, 2017, under which a maximum age limit of 45, 40 and 35 was introduced for Notices of EYDAP (Athens Water Supply and Sewerage Company) and HEDNO (Hellenic Electricity Distribution and Network Operator) respectively, regarding vacancies in regular personnel and personnel with open-ended private law contracts in various specialisations, the Ombudsman recommended: If grounds for introducing an age limit are proven to be linked with the over-concentration of groups of an older age in a corporation's work force, these grounds must be specifically cited in the reasoning contained in the relevant Ministerial Decisions and that a check for any deviations from the general principle of the prohibition of discrimination can be made under the provisions of Article 4(1) and Article 6(1) of Law 4443/2016. In particular to the Ministerial Decisions concerning HEDNO it was proposed that they amend them so that reference be made to specific specialisations of the personnel and not to branches/categories of specialisations.

MINISTRY OF AGRICULTURAL DEVELOPMENT AND FOOD (ELGA)	
With respect to three-month paid leave due to the birth of a third child regarding employees of the ELGA (Hellenic Agricultural Insurance Organisation)	The Ombudsman proposed that ELGA amend the Staff Regulations of the organisation so that three-month paid leave due to the birth of a third child can be granted to employers under open-ended private law contracts, a benefit that is already enjoyed by employees covered under the Civil Service Code (Article 53, para. 1 of the Civil Service Code, as replaced by Art. 26, para. 2 Law 4503/2014) as well as those employed under open-ended private law status in other public bodies.
MINISTRY OF STATE	
With respect to establishing a Disability Card	The Ombudsman proposed the establishing of a Disability Card with the aim of providing assistance more easily to its holders in their transactions with services in the public sector, the broader public sector and the private sector as well to protect personal data, during the process of issuing provisions, facilitation or benefits linked to disabilities.

ACCEPTANCE OF PROPOSALS MADE IN PREVIOUS YEARS

MINISTRY OF NATIONAL DEFENCE	
With respect to taking favourable measures in support of specific military personnel categories	The Ombudsman had requested the amendment of Ministerial Decision no. F.400/32/82424/S.343 (Official Government Gazette B 1139/03.06.2011) with respect to extending special, administrative and other beneficial measures provided therein to officers of the Armed Forces that have undertaken the guardianship of disabled persons, other than spouse or child (see *Equal Treatment, Special Report, 2018*, p. 54 and 85). The Ombudsman's proposal was accepted under Ministry of Defence decision F.400/15/214623/Σ.3587/19 (Official Government Gazette 2335 B/18.06.2019).
MINISTRY OF EDUCATION AND RELIGIOUS AFFAIRS	
With respect to maternity protection of substitute teachers	The Ombudsman proposed that maternity leave with an instalment of three and a half months, granted exclusively following the end of post-natal leave be introduced, given that it ascertained glaring inequalities between substitute teachers and permanent teachers as far as concerns the status of granting leave related to motherhood, despite the fact that they systematically cover a part of fixed and continuous needs in education. The Ombudsman's proposal was accepted by the ministry and was incorporated into Article 26 of Law 4599/2019. Indeed, reference is also made to a relevant reasoned report to the written intervention of the Ombudsman.
MINISTRY OF ADMINISTRATIVE RECONSTRUCTION (NOW INTERIOR)	
With respect to the granting of child adoption leave	The Ombudsman had proposed the extended implementation of the provision of Article 52 para. 4 of Law 3528/2007 so that child adoption leave is not a right that concerns only the working mother, but also the father (see *Equal Treatment, Special Report, 2018*, p. 41-42 and 87).

	By Article 34 para. 1 of Law 4590/2019, para. 9 was introduced to Article 53 of Law 3528/2007, under which the provision of granting adoption leave to employees adopting children is rendered gender neutral.
With respect to paid three-month leave for the birth of a third child and onwards	The Ombudsman pointed out that according to the spirit and letter of Article 53 of Law 3528/2007 the paid three-month leave for a third child and onwards is granted independently for each child separately. The ministry accepted the positions of the Ombudsman and recalled its previous circular, clarifying that in the case of a third child and more, the paid three-month leave is granted independently for each child separately.
With respect to granting reduced working hours to parents of a child with a disability	The Ombudsman had requested the recall of a ministerial directive-circular (DIADP/F.B.3/14395/02.06.2009) because it introduced additional restrictions that are not provided for in the relevant legislative decree (see *Equal Treatment, Special Report, 2018*, p. 87) Under circular no. DIDAD/F.69/100/10431/03.04.2019 of the ministry, the above circular was recalled with regard to the section where the above restrictions are introduced.

ABBREVIATIONS

Art.	Article
ASEP	Supreme Council for Civil Personnel Selection
ASPE	Supreme Confederation for Multi-child Parents
CJEU	Court of Justice of the European Union
CRPD	Convention on the Rights of Persons with Disabilities
DE	Secondary Education
EC	Council Regulation
ECHR	European Convention on Human Rights
ECHR	European Court of Human Rights
EDOEAP	United Press Organisation of Supplementary Insurance and Medicare
EFKA	Single Social Security Entity
EGSSE	National General Collective Agreement
ELAS	Hellenic Police Force
ELGA	Hellenic Agricultural Insurance Organization
EU	European Union
EYDAP	Athens Water Supply and Sewerage Company
GEN	Hellenic Navy General Staff
Gov. Gaz.	Government Gazette
HEDNO	Hellenic Electricity Distribution and Network Operator
IKA	Social Insurance Institution
IOM	International Organisation for Migration
KEA	Solidarity Social Income
KEPA	Disability Certification Centre
KOK	Highway Code
LGBTQ+	Lesbians, Gays, Bisexual, Transgender, Queers and other communities
NGO	Non-Governmental Organisation
NPDD	Legal person governed by public law
OAED	Greek Manpower Employment Organisation
OECD	Organisation for Economic Co-operation and Development
OKANA	[Greek] Organisation Against Drugs

OTA	Local Authorities
PD	Presidential Decree
SEPE	Hellenic Labour Inspectorate
TE	Technical Education
TRAINOSE	Railway Company
UN	United Nations
YA	Ministerial Decision

NATIONAL PRINTING HOUSE