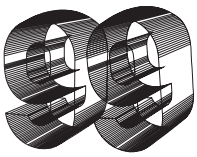

THE GREEK OMBUDSMAN

Annual Report 1999

ABRIDGED ENGLISH LANGUAGE VERSION

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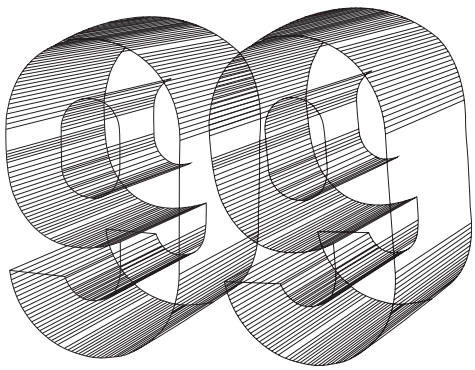

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Acronyms

Most of the acronyms used in this book are transcriptions of the Greek acronyms.

DIKATSA	Diapanepistimiako Kentro Anagnorisis Titlon Spoudon Allodapis (Inter-University Centre for the Recognition of Foreign Academic Titles)
ECRI	European Commission against Racism and Intolerance
EOT	Ellinikos Organismos Tourismou (National Tourism Organization)
EU	European Union
EYDAP	Etaireia Ydrefsis kai Apohetefsis Protevousis (Athens Public Water Supply and Sewage Company)
GLK	Geniko Logistirio tou Kratous (State General Accounting Office)
IKA	Idryma Koinonikon Asfaliseon (Social Security Organization)
IOI	International Ombudsman Institute
OAED	Organismos Apascholisis Ergatikou Dynamikou (Manpower Employment Organization)
OGA	Organismos Georgikon Asfaliseon (Agricultural Insurance Fund)
OTE	Organismos Tilepikoinonion Elladas (Greek Telecommunications Organization)
TAE	Tameio Asfaliseos Emporon (Merchants' Insurance Fund)
TANPY	Tameio Asfalisis Naftiliakon Praktoron kai Ypallilon (Shipping Agents and Employees' Insurance Fund)
TEAYEK	Tameio Epikourikis Asfalisis Ypallilon Emporikon Katastimaton (Supplementary Insurance Fund for Retail Employees)
TEE	Tehniko Epimelitirio Elladas (Technical Chamber of Greece)
TSMEDE	Tameio Syntakseos Mihanikon kai Ergolipton Dimosion Ergon (Engineers and Public Works Contractors' Pension Fund)
VOR	Visual omnirange

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Introduction

INTRODUCTION

THIS REPORT PRESENTS THE ACTIVITIES of the Greek Ombudsman during the year 1999. Since the 1998 report covered only the first three months of the institution's operation (October–December), the present report is the first to contain data covering a period of time that is sufficiently long as to allow us to reach more accurate conclusions and to make comparisons, either with earlier conditions in Greece or with other countries.

For the most part, the institution's targets during 1999 were the same as those in 1998. In my inauguration speech, I stressed that five basic factors were required for the institution to succeed: 1) physical infrastructure, 2) high-quality staff, 3) legitimization in the eyes of both the administration and the public, 4) active support from the country's political leadership, 5) acceptance and support from the media.

Last year's experience has shown that, on the whole, most of these targets were reached. In general, citizens and public services both responded positively to the new institution. The public's positive response is evident in the daily communications between citizens and the staff of the Greek Ombudsman, as well as in the great number of thank-you letters citizens have sent to express their appreciation for how their cases were handled. A similar response from the public administration was the result of an improvement in relations between the Office and all levels of the administration. The media has taken an equally positive attitude towards the Ombudsman. Throughout the year, both print and electronic media gave the institution increasing coverage. The quality of our information technology infrastructure, which enables our Office to be completely computerized, is also high and makes it possible for the Ombudsman to respond to citizens' petitions quickly, fully, and effectively. Finally, the pertinent provision in his founding law has enabled the Ombudsman to continue to attract staff of high academic and professional qualifications. At the end of the year, all of the professional staff held undergraduate degrees, while 62.7% held doctorates or other postgraduate degrees.

The attitude of the country's political leadership towards the institution deserves particular mention. On the one hand, as shown by a series of meetings between the Ombudsman and the country's political leadership, acceptance of the institution has been positive. Recent illustrative examples of this acceptance include, first, the notably broad consensus among political parties in Parliament in the debate concerning the proposed incorporation of the institution into the Constitution, by the Parliament issuing from the elections of the year 2000; second, the broad majority with which the Parliamentary Standing Committee on Institutions and Transparency accepted the 1998 report of the Greek Ombudsman; and, third, the decision by the Prime Minister to send a letter to those of his ministers who oversee departments and services falling within the Ombudsman's mandate, requesting them to take all necessary measures to ensure the adoption of the Ombudsman's proposals for legislative amendments and organizational changes, issuing from complaints submitted to the Ombudsman and designed to contribute to the improvement of public administration in Greece.

This positive picture has to be set within the following context. In essence, 1999 was the first year since the establishment of the authority, and also the first in which ministers received proposals from the Ombudsman concerning legislative amendments and administrative reforms. The absence of such proposals from the previous year and the inevitably long time it takes to consider and act on this type of proposals meant that, particularly for 1999, the Ombudsman did not have sufficient evidence of how the public administration responded to the institution's proposals, on the basis of which to reach valid conclusions concerning the degree of support for the institution in practice. The few examples available at the end of the year suggested a picture in which fast and effective action leading to a satisfactory number of essential improvements in regulations coexisted with a complete lack of response on the part of certain services. The new "generation" of proposals included in the present report will help create a critical mass of cases. This development will make it easier to draw safer conclusions about the Office's ability to ensure the cooperation of the political leadership in solving complex problems, and, in the process, to demonstrate its effectiveness and, ultimately, enhance its credibility and legitimacy. One of the most important developments of 1999 arose from the discovery of opportunities and challenges which entailed, in practice, the gradual activation of the mechanisms of monitoring and mediation provided for in the founding law of the Greek Ombudsman. This enabled the staff of the Ombudsman to make creative and inventive use, always within the framework of legality, of possibilities for intervention that proved to be particularly effective in resolving differences, establishing channels of communication, and building relations of trust with a broad range of departments in the public administration.

In general, the potential for further utilizing these possibilities for intervention and the opportunities generated by the dynamic of the institution's development constitute a great challenge for the Ombudsman. The basic target for the year 2000 is to strengthen and refine the mechanisms, procedures, and practices for control and mediation which were initially introduced during 1999 and have in principle proved effective. In other words, the target for the year 2000 is the qualitative upgrading of the mediatory and monitoring tools at the disposal of the Ombudsman, in order to further improve both the services provided to the public and the Ombudsman's ability to present the administration with increasingly efficacious proposals for solving problems.

An equally important priority for the following year is the formulation of a clear communication policy for the Greek Ombudsman, which should have a dual target: on the one hand, to systematically reach out to the public throughout the country and, on the other hand, to clarify the nature, role, and responsibilities of the institution with respect to its two basic interlocutors, the citizens and the public administration. Reaching this target will enable the Office to maximize its potential to act as a non-judicial mechanism for mediation and dispute resolution and will spare its potential users from misunderstanding its mandate, which usually leads to disappointment and irritation. The first steps in this direction, which were taken during 1999, prepared the ground for adopting and strongly promoting such a policy in 2000. An example of such a step is the planned web page, which will contain information (such as the progress of certain cases) for both the public and the administration about the Office's operation, mandate, and positions on a wide range of issues.

Effective communication with citizens and the public administration is also achieved through periodic visits by the Greek Ombudsman to areas outside Attica. For the time

being, this practice constitutes the Office's only substantial presence beyond the greater Athens area. This situation is likely to change, when the requisite conditions for establishing regional offices will be met. In the meantime, these visits already have borne fruit. Citizens and representatives of the public administration in various regions made good use of these visits and enthusiastically endorsed this initiative. The aim during 2000 is to increase these visits and to make more systematic use of the opportunities raised by direct communication and mediation.

As already stated, the goal of making information concerning the Ombudsman available to as broad a range of recipients as possible includes, in addition to the public and the administration, opinion leaders and the country's political leadership. An important step in this direction will be the anticipated amendment to the Parliament's by-laws, which will make it possible for the Greek Ombudsman's annual report to be discussed in a special plenary session of Parliament, as provided for in the Ombudsman's founding law (article 3, par. 5, passage 2 of Law 2477/1997). Such a development would substantively improve awareness concerning the Ombudsman's mission and operation among the public, the political leadership, the public administration, and the media, and would further strengthen its legitimacy.

The same goal of enhanced legitimacy will also be served by the projected inclusion of the Ombudsman in the Constitution, a step which will enhance the Office's independence and fully safeguard the non-partisan identity, which it ought by definition to possess and which it has sought through all possible means to safeguard since its inception.

Reaching these targets requires careful programming. It also requires constant and critical evaluation of developments and of their handling, in order for cumulative experience to be used in the best possible way. In other words, reaching high targets requires the existence and activation of mechanisms for institutional self-evaluation. These mechanisms can be informal, but they may also assume a more formal dimension. The Ombudsman has already devoted considerable time and thought to this issue. During 1999 a series of self-evaluation meetings, involving the Deputy Ombudsmen and the Greek Ombudsman were held in the four thematic Departments into which the institution is organized. These meetings will be followed up by a self-evaluation seminar in the spring of 2000, to be attended by all the institution's staff. The purpose of this activity will be to evaluate the Greek Ombudsman's work overall, to clarify targets and priorities for the future, and to draw practical, albeit crucial conclusions concerning the type of staff skills and overall training necessary to achieve these ends.

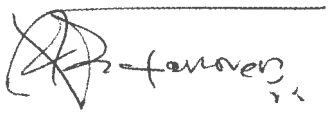
Clarification of the Office's dual role as both a mediator and an independent, non-judicial mechanism of control is central to the Ombudsman's process of self-evaluation. The exact meaning of "control" and "mediation" raises questions concerning latent cultural models that, in the final analysis, underpin and guide everyday practices and long-term strategies, on which the success of control and mediation depend. In a modern society that recognizes how vital it is for the state to serve its people and serve them well, these goals cannot but include the strengthening of civil society, so that, in turn, it may enjoy its rights and derive individual and collective fulfilment from the smooth operation of the rule of law and from an increasing improvement in the quality of its democracy.

In this sense, how control is exercised depends, in the final analysis, upon the cultural model of mediation which, whether overtly or covertly, underpins it. In a modern democratic

society, this model cannot be other than that which adheres to what I would define as the "logic of resolution" — that is the logic that has as its primary goal the need to find natural and definitive solutions, as fast and as effectively as possible, to the increasingly complex problems besetting modern society. Intrinsic to the logic of resolution is the understanding that the most suitable solutions are those abiding by a "positive sum logic" — the principle, that is, that the resolution of differences is easier and more acceptable for society when it succeeds in satisfying, even in part, both sides in a dispute or difference, or, in other words, when both sides "win."

The logic of resolution and the compromises it entails stand sharply at odds with the dominant cultural logic of Greek society. I will call this latter logic the "logic of denunciation," precisely to indicate the total absence from this stance of a predisposition to approach differences and to seek solutions from the perspective of a positive sum or "win-win logic," designed to search for outcomes satisfactory, even partly, for both sides. On the contrary, inherent in the logic of denunciation is a fixation upon a "zero sum logic," of the principle, that is, according to which one or the other of two sides involved in a dispute necessarily must lose. In this sense, denunciation essentially undermines and, in the final analysis, negates the meaning of mediation, whose aim is to search for effective ways to resolve differences and to enhance the legitimacy of dispute resolution mechanisms in as broad a segment of society as possible.

In this sense too, the control function, which a mechanism of mediation such as the Ombudsman is called upon to carry out, must, in order to be effective, become identified with the logic of resolution and not the logic of denunciation. In other words, it must, above all, function as an institution designed to advance solutions promoting consensus and adhering to positive sum logics and not as a punitive institution, driven by the logic of denunciation and of conflict. From its inception, the Ombudsman has been committed to demonstrating the multiple benefits of this alternative cultural model for dealing with differences and to promoting its diffusion throughout the public administration.



PROF. NIKIFOROS DIAMANDOUROS
March 2000

B

Executive Summary

EXECUTIVE SUMMARY

This publication is the annual report of the Ombudsman's work during 1999. In accordance with article 3, par. 5 of Law 2477/1997 (Government Gazette A 59), the report is submitted to the Prime Minister and the Speaker of Parliament, and is further communicated to the Minister of the Interior, Public Administration, and Decentralization. It is addressed to every citizen or public official interested in the problems dealt with by the institution, its mediation efforts to defend the rights of citizens, combat maladministration, and support adherence to law by the public administration.

1. Structure of the Report

The report consists of an introduction, an executive summary, and seven further chapters.

The introduction is divided into two sections. The first contains an overall evaluation of the Ombudsman's work during 1999. The second describes the Ombudsman's targets for the year 2000, discusses the institution's dual nature as a mechanism for mediation and control, and briefly outlines the cultural models underpinning these two functions.

The executive summary constitutes a summary of the report's main conclusions and highlights its central concerns.

The third chapter contains a relatively extensive presentation of the organizational structure and operation of the Ombudsman, in accordance with the recently issued Rules of the Ombudsman's Internal Organization (Presidential Decree 273/1999). These Rules specifically define how complaints submitted by the citizens to the Ombudsman are handled. This chapter also reports on staff changes during 1999.

The fourth chapter aims to present an overall picture of the year 1999. The statistical data it contains on the handling of complaints are accompanied by general observations about the maladministration that was revealed, how maladministration can be dealt with, and the potential for effective cooperation with public services.

The fifth chapter, divided into four sections, constitutes the main body of the report. It contains cases illustrating the most important problems of maladministration identified by the four thematic Departments into which the Ombudsman is divided, that is, the Departments of Human Rights, Social Welfare, Quality of Life, and State-Citizen Relations. The end of each section contains proposals for specific legislative amendments and organizational changes designed to contribute to the improvement of the quality of services provided by the public administration.

The sixth chapter focuses on how the Ombudsman can best use the statutory powers provided by law, in order to increase his effectiveness as a monitoring and mediating institution.

The seventh chapter covers the outreach activities undertaken by the Ombudsman in order to make the citizens, the administration, the academic and professional communities and the media more familiar with the institution's nature, goals, and capabilities. These initiatives include: (a) visits by teams of the Ombudsman to cities lying outside Attica in

order to reach citizens living in the rest of the country; (b) the institution's active participation in the administration's handling of the problems resulting from the September earthquake in Athens; and (c) active participation by the Ombudsman, the Deputy Ombudsmen, and the scientific staff in academic and other events in order to promote the institution.

The eighth chapter reports on the Ombudsman's international activities during 1999.

Finally, the ninth chapter contains, as appendices, the regulatory legal provisions relevant to the Ombudsman (Law 2477/1997) and biographical information about the Ombudsman and the Deputy Ombudsmen, as well as a personnel list.

2. Synopsis of the Report

STRUCTURE, STAFFING AND OPERATION OF THE OMBUDSMAN

During its second year of operation, the Office's organizational structure was improved and expanded. The publication of the Rules of Internal Organization (Presidential Decree 273/1999) marked the completion of the first stage in the operation of the institution. These Rules divide the Office's structure into a secretariat and four Departments. With the publication of the Rules it became possible to begin the process of seconding personnel to fill vacancies in the secretariat. In addition, the Rules establish mechanisms for processing citizens' complaints in accordance with modern social needs and technical capabilities and refine the rules governing the Ombudsman's investigating and mediating procedures.

The process of hiring personnel was completed during 1999, when scientists with various specializations were added to the staff as senior and junior investigators. In accordance with the Ombudsman's founding law, the remaining senior investigator positions will be filled during 2000 by personnel seconded from the wider public sector.

OVERALL ASSESSMENT FOR THE YEAR 1999

During 1999, the Ombudsman received 7,284 written complaints. He handled 8,223 cases, however, as 939 of the complaints submitted during 1998 were dealt with during 1999.

In his fifteen months of operation, from October 1, 1998 until the end of 1999, the Ombudsman received 8,714 complaints. The number of complaints increased significantly during 1999, raising the probability of similar increase in the future.

The 8,223 cases handled during 1999 fell under the Ombudsman's four thematic Departments as follows:

DEPARTMENT OF HUMAN RIGHTS
1,212 complaints or 14.7% of the total

DEPARTMENT OF SOCIAL WELFARE
2,260 complaints or 27.5% of the total

DEPARTMENT OF QUALITY OF LIFE
2,068 complaints or 25.1% of the total

DEPARTMENT OF STATE-CITIZEN RELATIONS
2,683 complaints or 32.6% of the total

During 1999, 5,652 or 68.73% of the total of complaints were examined and processed.

The first full calendar year of the Ombudsman's operation was characterized by a low percentage of complaints (23.87%) being closed as falling outside the Ombudsman's mandate. Conversely, a high percentage, nearly 60%, of complaints was resolved in the complainants' favour. In addition, the investigators responded to thousands of inquiries made by citizens either over the telephone or in person.

The statistical data on the activity of the Ombudsman's four Departments yield useful insights about the Institution's activities and the character it has assumed in the course of its mediating work with the services involved. These data clearly show that there is an ever-increasing flow of complaints. A qualitative analysis, however, of the complaints not handled by the Ombudsman because they concerned matters falling outside the Office's mandate shows that the citizens have not clearly understood the Ombudsman's role. This reveals the importance of disseminating essential and accurate information, not only about the activities and operation of the Ombudsman, but also about the nature and extent of its mandate. In this regard, cooperation with public administration and the mass media is critical in advancing the Ombudsman's work.

USE OF STATUTORY POWERS

In addition to the publication of the annual report, the Ombudsman's founding law provides the institution with a range of means for intervention, which, taken as a whole, significantly enhance the Office's mediating and intervening operations.

Taking advantage of the relevant provisions of his founding law (article 3, par. 5, passage 2), the Ombudsman prepared special reports designed to provide for a more complete investigation of cases that raise issues of broader public concern. The Department of Human Rights presented to the Minister of Defence a special report on alternative civil service for conscientious objectors with specific proposals for legislative and administrative changes to the existing law. The Department of Quality of Life collaborated with the other three Departments in preparing a special report on local government authorities, which, once completed in 2000, will be presented to the Minister of the Interior, Public Administration, and Decentralization. The Department of Social Welfare also prepared a report on the Supplementary Pension and Insurance Fund for Metalworkers, and the Department of State-Citizen Relations another report on the Inter-University Centre for the Recognition of Foreign Academic Titles.

The Ombudsman also used the pertinent provisions of his founding law (article 4, par. 1) to investigate on his own initiative cases of particular public interest. Because he believes that the Office's credibility will be best protected by using this provision sparingly, the Ombudsman investigated only one such case in 1999, which fell under the responsibility of the Department of Social Welfare (see chapter F).

Particular emphasis was given to utilizing the ability of Ombudsman staff to carry out on-the-spot investigations, especially on issues concerning environmental protection. During 1999, Ombudsman investigators conducted 33 investigations and made 18 on-site inspections.

Finally, for those cases in which particular public services did not cooperate with the Ombudsman, the latter recommended to the overseeing authorities that they impose disciplinary sanctions. A small number of cases were referred to the responsible public prosecutor because of tangible evidence that they involved the commitment of criminal acts.

OUTREACH ACTIVITIES

This chapter presents those activities of the Ombudsman that do not fall explicitly within the Ombudsman's mandate as defined by law, but which are directly related to it and derive from the obligation to keep in regular contact with citizens' real, daily problems in order to gain a fuller understanding of how the public administration operates and to better combat maladministration.

This chapter also describes the initiatives taken by the Ombudsman during 1999 to reach out to citizens residing outside the greater Athens area. These initiatives were directly associated with the provision in the founding law (2477/1997, article 5, par. 9) allowing for the establishment of regional offices of the Ombudsman. The realization of this goal will take some time, and will involve, among others, acquiring relevant experience, ensuring the existence of sufficient funds, and establishing material and technical infrastructure comparable to that in the central office. It also requires of the staff to comprehend the particular principles of administrative culture that should permeate a government service whose role is mediating and monitoring, and which is called upon to help shape state-citizen relations in accordance with the ideal rules of "best practice" and to promote the concept of "good public administration."

For the time being, the Ombudsman has decided to meet the goal of reaching citizens residing outside the greater Athens area by means of two- and three-day visits to major cities throughout Greece. In 1999 two such visits were organized, one to Korinthos and one to Thessaloniki. In each of these, full-day meetings were organized with public officials and the citizens in order to provide information about the function, role, and mandate of the Ombudsman. The team of scientific staff accompanying the Ombudsman in these visits spent most of its time on direct personal contact with citizens.

As part of the effort to deal with social problems sensitively and to contribute to the efficient handling of emergency situations, a large team of the Ombudsman staff worked for fifteen days at the Municipality of Acharnes, after the September 7, 1999 earthquake. In cooperation with the Ministry of the Interior, Public Administration, and Decentralization, the Ombudsman staff participated actively in the procedures for providing emergency grants to people who had suffered losses to their property from the earthquake.

The purpose of these outreach activities is to establish in the minds of the public, the administration, the political leadership, and the media the Ombudsman's social dimension and his special sensitivity with issues relating to the defence of citizens' rights and the maintenance of the rule of law. These activities also aim to promote the institution's cooperation with organizations of civil society, to contribute to its capacity for institutional self-evaluation that distinguishes modern organizations, and to underline the Ombudsman's insistence on the principle of good public administration.

3. Activities by Department

The activities of the Ombudsman's four Departments in1999 can be summarized as follows:

DEPARTMENT OF HUMAN RIGHTS

The Department of Human Rights examines cases involving individual, social, or political rights (Presidential Decree 273/1999, article 2, par. 1) provided for in the Constitution, in law, or in international agreements incorporated into domestic legislation.

The cases investigated cover the entire range of public administration but mainly deal with: violations of the freedom of belief or human dignity; violations of individual freedom by police or other administrative authorities; discriminatory judgments made on the basis of nationality or ethnic origin; problems involving the issuance of entry visas and residence permits; infringements of the principle of meritocracy as regards employment by public agencies (if the case does not fall into the responsibility of the Supreme Council for Selecting Civil Servants) or educational institutions; failures in protecting professional rights; and violations of the right to effective judicial protection by the refusal of public authorities to implement irrevocable judicial decisions.

There were more cases in 1999 than in 1998 involving problems encountered by aliens. This development constitutes evidence of a wider spread of information about the Ombudsman among foreigners. There also was a higher number of cases involving issues of freedom to practise a profession and protecting professional rights. This is the result of the explosive accumulation of professional diplomas, which the state issues or recognizes, without, at the same time, granting diploma holders the right to practise their profession. Finally, a new category of cases has arisen, involving issues of alternative civil service (conscientious objectors).

During 1999, 1,134 complaints submitted by citizens to the Ombudsman were directed to the Department of Human Rights. These were in addition to the 78 complaints submitted during 1998 which were still pending on December 31, 1998. Of the complaints dealt with in 1999, 370 lay outside the mandate of the Ombudsman or were manifestly vague (as were 14 carried over from 1998), 163 were unfounded (as were 14 carried over from 1998), 178 were resolved in favour of the complainant (as were 37 carried over from 1998), 19 were closed because the public administration units involved did not accept the Ombudsman's recommendations (the same was true of 13 cases carried over from 1998), 5 became outside the mandate of the Ombudsman because of later developments, and 399 were still under investigation on December 31, 1999.

Investigation of complaints submitted during 1999 shows that infringements of human rights committed by public services are characterized by at least one of four different factors: arbitrariness, indifference, partiality, impunity. The results, of course, are extreme when these factors are applied against weak social groups. Public services were shown to have frequently and arbitrarily invoked the public interest when restricting individual rights or to have illegally omitted to take action when the issue of their constitutional obligation to protect human rights arose. Cases of bias favouring the interests of associations of particular social groups also have been revealed. Such occurrences will not disappear as long as administrative punitive mechanisms do not function adequately.

Investigation of cases submitted during 1999 involving members of the public at large who do not fit the major religious, national, or racial stereotypes leads us to conclude that the public sector, reflecting the most backward aspects of Greek society, often shows its worst face when called upon to deal with members of such groups.

Finally, the extent of cooperation between public services and the Department of Human Rights varies. During 1999 there were instances of excellent cooperation with many public services, but there also were instances in which cooperation proved to be difficult.

DEPARTMENT OF SOCIAL WELFARE

The Department of Social Welfare investigates cases involving the exercise of social rights and

mediates in cases of maladministration or when the public administration acts illegally. This Department handles cases involving issues of social insurance, health, welfare, public hygiene, the rights of ill and disabled persons, and the protection of mothers, children, and the elderly.

Most of the cases handled by the Department of Social Welfare deal with issues of administration. They mainly are concerned with actions taken by the Ministry of Labour and Social Affairs, the Ministry of Health and Welfare, and the organizations these ministries oversee. These last include insurance organizations and funds, hospitals, the Manpower Employment Organization, and any agency handling issues which come under the mandate of the Department. Since the Ministries of National Economy, Defence, Mercantile Marine, and the Interior, Public Administration, and Decentralization oversee primary and supplementary insurance organizations as well as health and welfare organizations, the mandate of the Department of Social Welfare extends also to these ministries.

In comparison with the Ombudsman's first three months of operation (October–December 1998), there was a considerable increase in the number of complaints submitted to the Department in 1999. The total number of complaints submitted to the Department in the past year was 2,260. This figure includes the 1,991 complaints submitted during 1999 and the 269 complaints that were pending on December 31, 1998, investigation for which was completed during 1999. Of all the complaints investigated during 1999, 398 were judged to be outside the mandate of the Ombudsman. Of the remaining 1,862 complaints, 620 (60.7%) were judged to be founded, 402 (39.3%) were judged to be unfounded, and 800 were still under investigation as of December 31, 1999. Investigation into 40 complaints was suspended either because this was requested by the complainant or because subsequent developments placed the matter beyond the mandate of the Ombudsman. The Ombudsman's proposals and findings were accepted for 586 of the cases. Only in 34 instances did the administration decline to satisfy the complainants' basic requests, despite the Ombudsman's recommendations.

Most administrative problems arise out of maladministration (865 cases). Most involve delays in issuing decisions about pension payments, incorrect or inadequate information provided to people entitled to payments, no reply, or delay in replying to requests. In addition, analysis of the complaints showed that a large number of cases involved transgressions of law (201 cases) and violations of the principle of good public administration (120 cases).

In cases of general interest, either because of their particular nature or because there are many such cases, the Department of Social Welfare has submitted proposals for changes in legislation and organization to all the relevant ministries (see chapter E.2, 4).

The basic conclusion reached from the experience of the Department of Social Welfare's first full year of operation is that public administration, particularly social administration, suffers from malfunctions that need to be addressed. To do this, the following is required:

- Legislation concerning social insurance, health, and welfare must be simplified and codified.
- The administration, with the participation not only of the interested groups but also of institutions which have become familiar with the problems through their daily activities, should improve the quality of the regulations proposed.
- To the extent possible, the administration should shed its bureaucratic organization and mode of operation and should seek to provide quality services to the public.

- Civil servants should be provided with incentives designed to encourage them to change their attitude and behaviour towards the staff of the Ombudsman.

DEPARTMENT OF QUALITY OF LIFE

The Department of Quality of Life is responsible for issues of land use, urban planning, public works, culture, and the environment. The Department also investigates issues relating to administrative transparency, flow of information, and communication between public agencies and the citizens.

The Department received 1,735 complaints during 1999 and dealt with an additional 333 complaints carried over from 1998. The total of 2,068 complaints represented 25.15% of the total number of complaints handled by the Ombudsman during the year. Most of the complaints handled by the Department involved the Ministry for the Environment, Physical Planning, and Public Works, either at the administrative level (headquarters, regional offices) or at the supervisory level (municipal and prefectural services).

Of the 2,068 complaints handled by the Department of Quality of Life in 1999, 1,579 (76.35%) were found to fall within the mandate of the Ombudsman, and 489 (23.65%) were sent to the archives as being outside the institution's mandate. Of the 1,579 complaints investigated, 407 (25.78%) were judged to be founded and 240 (15.2%) to be unfounded. Investigation of 81 complaints (5.13%) was suspended. As of December 31, 1999, 851 complaints (53.89%) were pending. The number of cases settled in favour of the complainants was 351, that is 48.21% of the total 728 cases investigated and closed.

A more general conclusion reached by the Department of Quality of Life is that it is difficult to reverse entrenched illegal situations, which continue to be maintained despite the existence of judicial decisions against them.

In general, cooperation between the Department and the public authorities and services with which the Department deals (for example, the Ministry for the Environment, local, municipal and prefectural urban planning offices, forestry offices) was difficult. As described in chapter E.3, this often brought the handling of complaints to a standstill.

DEPARTMENT OF STATE-CITIZEN RELATIONS

The responsibilities of the Department of State-Citizen Relations, as defined in Presidential Decree 273/1999, include matters relating to the flow of information and communication; the quality of public services; and maladministration by local government authorities, public sector companies, and institutions associated with the transportation and communication systems. The Department also handles complaints relating to labour, industry, energy, the tax authorities, customs, financial issues, trade, public procurement, agriculture and agricultural policy, and education. The Department of State-Citizen Relations, then, receives complaints covering the entire range of public services lying within its mandate and concerning all forms of maladministration.

This wide scope accounts for the large number of complaints handled by the Department of State-Citizen Relations during 1999 (2,683 of the total of 8,223 complaints handled by the Ombudsman, or 32%). Of these 1,991 (74.2%) were judged to be founded. In turn, investigations were completed on 73% of that figure.

Investigation of the complaints revealed the various forms of maladministration the Department encounters. The most common is delay in answering citizen enquiries or

refusal to respond to enquiries from the public or to provide information. In addition, blatant transgressions of the rule of law most obviously manifest themselves in the failure to fulfil contractual obligations, to take legally required actions, and to execute judicial decisions. In its role as a mediator, the Department of State-Citizen Relations recommends in all these cases that the administration faithfully adhere to the general principles of administrative law: equity, transparency, and legality.

Evidence thus far accumulated by the Department suggests the concentration of specific forms of maladministration in agencies involved in similar functions and the delivery of similar services to the public. For example, from the total number of complaints concerning maladministration linked to services provided by the Ministry of Finance it becomes evident that daily communication between these services and the public is problematic. In great part, this situation is due to the widely perceived nature of tax authorities as miserly tax collectors, and to the culture of diffidence and outright hostility towards the taxpayer, widely associated with them and their staff. A similar picture emerges in the case of local government authorities, many of which are unable to properly fulfil their obligations, and behave arbitrarily, violating the law.

For the most part, the mediating role of the Department of State-Citizen Relations has taken the form of written and telephone communications. A few cases, involving the simpler forms of maladministration caused mostly by negligence on the part of the services involved, were resolved solely by telephone communication. In these cases there was excellent cooperation between the civil servant involved and the Ombudsman investigator in affirming due process and the rule of law. In many cases, however, the investigator had to visit the service involved in order to help find a solution. Direct personal communication with the service staff involved proved to be an important tool in drawing an accurate picture of how the particular service functions and was of major help in finding solutions for many cases.

In general, two main conclusions can be drawn from the experience acquired by the Department of State-Citizen Relations during 1999. The first is that the flow of complaints to the Department increased sharply, from an average monthly number of 156.22 in 1998 to 223.58 in 1999, an increase of 46.45%. The second conclusion is that the Department's growing familiarity with a multitude of legislative provisions and with the differences in the structure of public services contributes substantially to the speedier resolution of cases. This familiarity especially helps the Department in drawing conclusions that fundamentally enhance its ability to put forward increasingly more practical and effective proposals for legislative amendments or administrative reforms that should be adopted by the public administration, with an eye to improving the quality of services provided to the citizens.

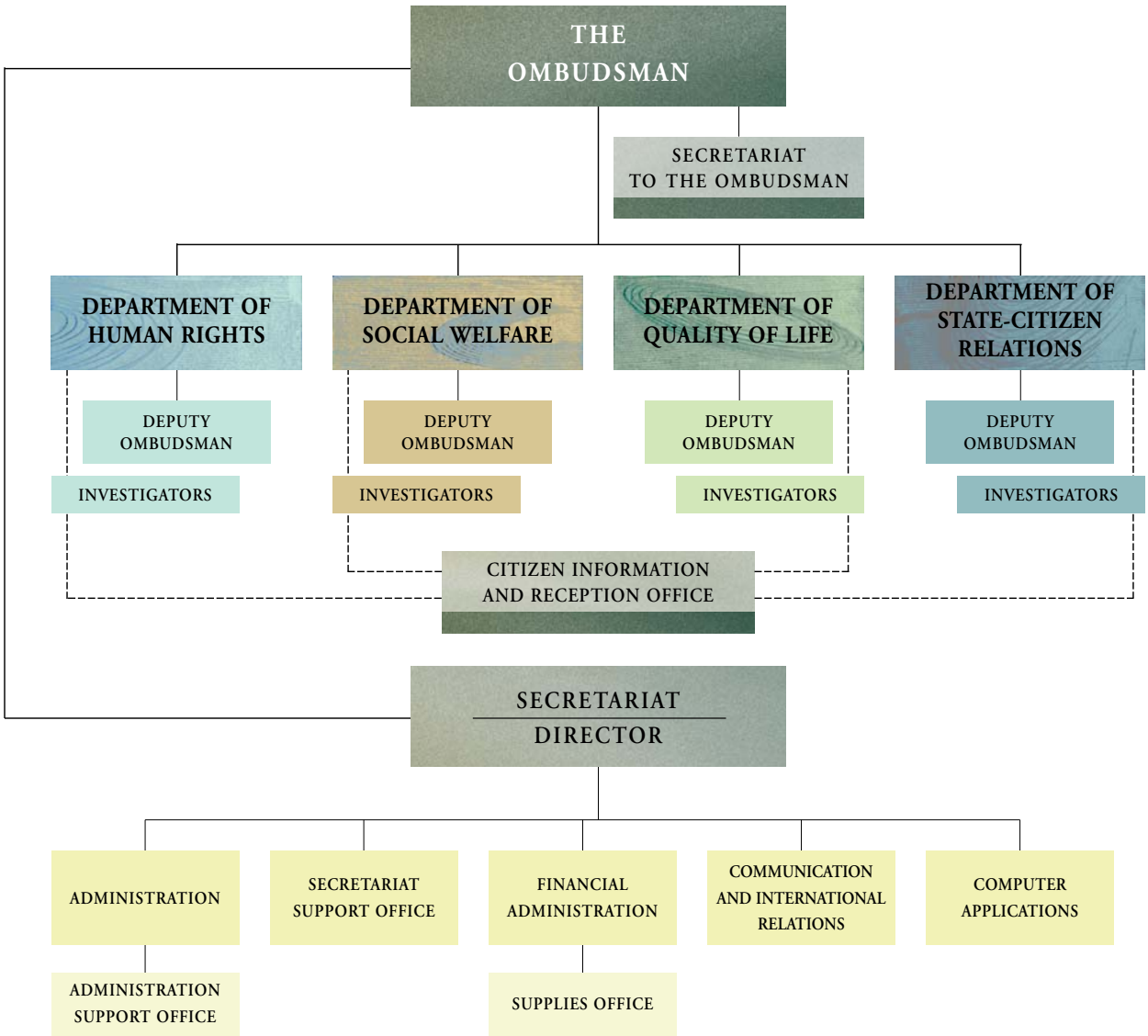
C

Legal Framework and Operation

LEGAL FRAMEWORK AND OPERATION

The Ombudsman was established by Law 2477/1977 as an independent administrative authority. Within the broader context of an overall effort to modernize the country's public administration, his mission is to mediate between citizens and the public administration. Publication of the Ombudsman's Rules of Internal Organization (Presidential Decree 273/1999, Government Gazette A 229) has improved and completed the structural framework governing the institution's basic organization, staffing, and operation. The relevant legal text is included in the current report's appendices, and the organizational structure is presented here below.

GRAPH C.1 STRUCTURE OF THE OMBUDSMAN



Since his establishment, the Ombudsman has been headed by Nikiforos Diamandouros, Professor of Political Science at the University of Athens, and former chairman of the National Centre for Social Research.

The investigative and mediating work of the Ombudsman is divided into four areas of activity, each one supervised by a Deputy Ombudsman. These are:

- **Department of Human Rights**, dealing with issues of individual, political, and social rights provided for in the Greek Constitution or in international agreements. This Department is supervised by Deputy Ombudsman Yorgos Kaminis, assistant professor of Constitutional Law in the Department of Law at the University of Athens.
- **Department of Social Welfare**, dealing with issues of social policy, health, insurance, welfare, and protection of the children, the elderly, and people with special needs. This Department is supervised by Deputy Ombudsman Maria Mitrosyli, lawyer, specialized in welfare issues, holding a doctorate of Law from University Paris X.
- **Department of Quality of Life**, dealing with the environment, urban planning, public works, and cultural issues. This Department is supervised by Deputy Ombudsman Yannis Michail, architect and urban planner, holding a doctorate of Urban Planning from the Aachen Technical University.
- **Department of State-Citizen Relations**, dealing with issues of information and communication, as well as public agencies related to issues such as transport, communications, labour, industry, energy, taxes, finances, customs, commerce, public procurement, agriculture, and education. It also examines issues concerning the quality of services provided by and maladministration within local government authorities and public utility corporations (such as the Public Power Corporation, the Greek Telecommunications Organization, and the Athens Public Water Supply and Sewage Company). This Department is supervised by Deputy Ombudsman Aliki Koutsoumari, lawyer, former Director General of the Ministry of the Interior, Public Administration, and Decentralization.

The above four Departments are staffed by senior and junior investigators. On December 12, 1999 the investigators were 75, while the total number of staff was 96 persons. Of this total, 62 were women and 34 were men. In terms of educational qualifications, 18 staff members held doctoral degrees (19.6% of the total), 31 postgraduate degrees (33.7%), and 34 (33.7%) were university graduates.

The breakdown of the staff by specialization is as follows: 37 lawyers (45.1%), 11 political scientists (13.4%), 7 philologists (8.5%), 6 sociologists (7.3%), 5 economists (6.1%), 3 engineers (3.7%) 2 geologists (2.4%), 2 psychologists (2.4%), 2 archaeologists (2.4%), 3 communications specialists (3.7%), one medical doctor (1.2%), one management specialist (1.2%), one anthropologist (1.2%), and one oceanographer (1.2%).

D

Overall Assessment for the Year 1999

OVERALL ASSESSMENT FOR THE YEAR 1999

1. Statistical Data

During 1999 the Ombudsman received 7,284 new complaints from citizens and handled a total of 8,223 cases. These cases include complaints submitted to the Ombudsman during 1998 and resolved during 1999. The total number of complaints the Office has received as of its inception until December 31, 1999 is 8,714 (1,430 in 1998 and 7,284 in 1999). A breakdown of the combined statistics is given in Table D.1.

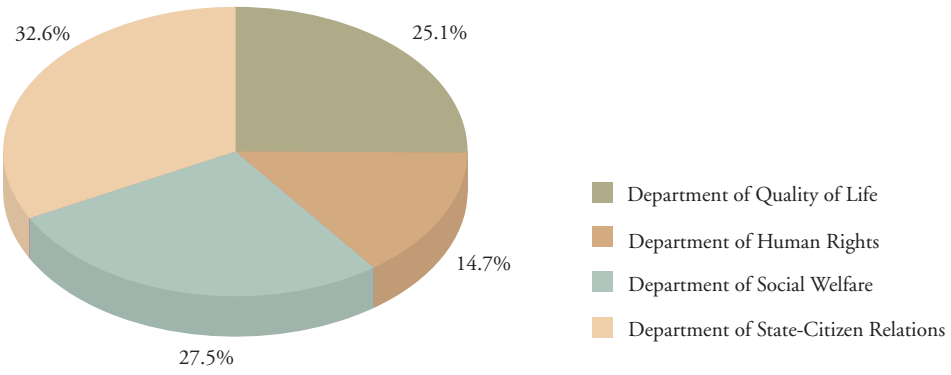
TABLE D.1 **COMBINED STATISTICS FOR THE YEAR 1999**

DEPARTMENT OF	NUMBER OF COMPLAINTS	% OF THE TOTAL	PROCESSED	% OF THE TOTAL BY DEPARTMENT	OUT OF MANDATE	% OF THE TOTAL BY DEPARTMENT	POSITIVE OUTCOME	% OF THE TOTAL BY DEPARTMENT
Human Rights	1,212	14.74	813	67.1	384	31.7	215	50.1
Social Welfare	2,260	27.48	1,460	64.6	398	17.6	586	55.2
Quality of Life	2,068	25.15	1,217	58.8	489	23.6	351	48.2
State-Citizen Relations	2,683	32.63	2,162	80.6	692	25.8	952	64.8
Overall total	**8,223**	**100**	**5,652**	**68.7**	**1,963**	**23.9**	**2,104**	**57.0**

1.1 BREAKDOWN OF COMPLAINTS

The 8,223 complaints handled by the Ombudsman during 1999 were distributed by subject among the four Departments. As shown in Table D.1, the Department receiving most of the complaints was that of State-Citizen Relations, which handled 2,683 complaints (32.63% of the total). The Department of Social Welfare handled 2,260 complaints (27.48% of the total) and the Department of Quality of Life handled 2,068 (25.15% of the total). The Department of Human Rights handled 1,212 complaints (14.74% of the total number of complaints handled by the Ombudsman in 1999).

GRAPH D.1 **DISTRIBUTION OF CASES BY DEPARTMENT**

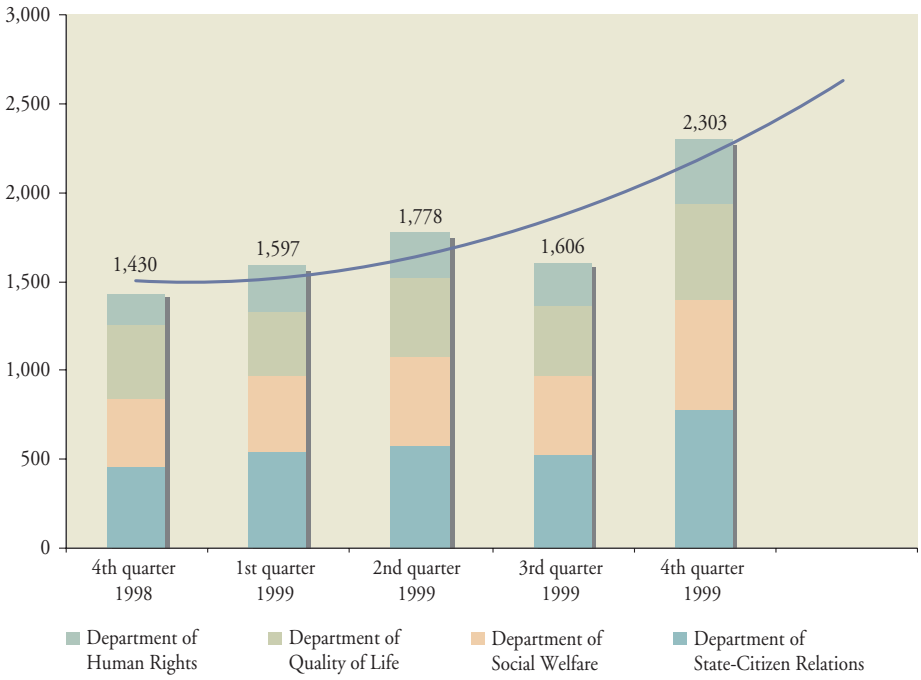


1.2 FLOW OF COMPLAINTS

Despite the fluctuation in the flow of complaints and variations among the Departments, the general trend was clearly ascending. This was already obvious during the first months of the Ombudsman's operation and has been reported in the *1998 Annual Report*.

Graph D.2 shows the number of complaints submitted to the Ombudsman during each quarter as of his inception (October 1998) until the end of 1999. The purple line is a statistical estimation representing the clear ascending tendency of the number of complaints.

GRAPH D.2 **FLOW OF COMPLAINTS TO THE DEPARTMENTS BY QUARTER: 1998 AND 1999**



The number of complaints submitted to the Ombudsman each month during 1999 ranged from 348 (January 1999) to 809 (November 1999). The average number of complaints submitted per month was 607.

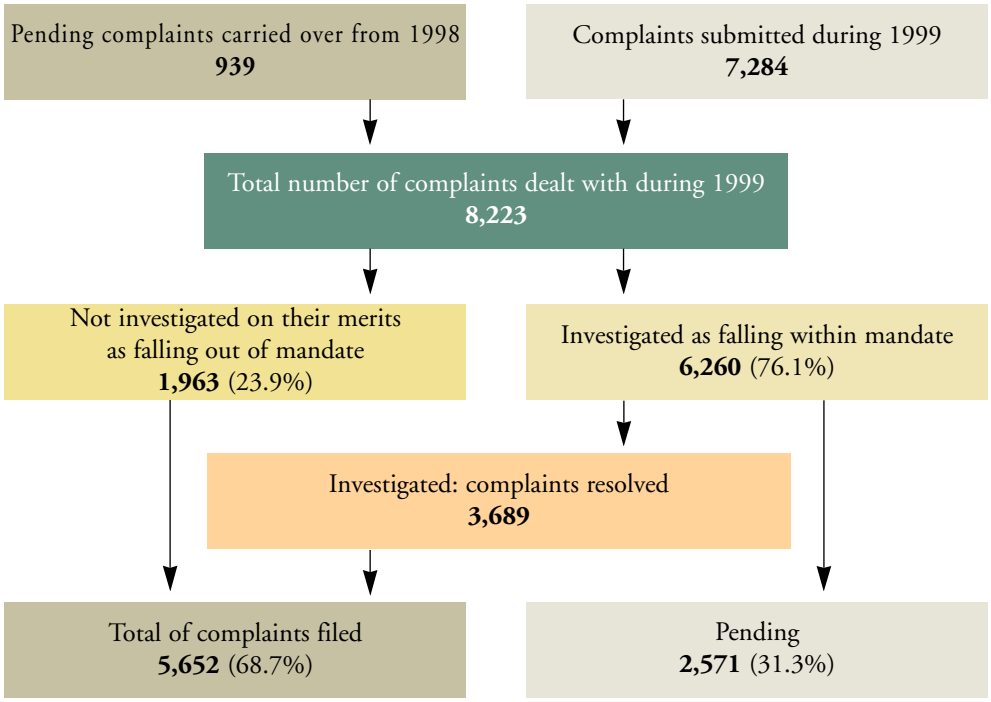
1.3 PROCESSING OF COMPLAINTS

Of the 8,223 complaints handled by the Ombudsman during 1999, 6,260 (76.1% of the total) fell within the institution's mandate. The other 1,963 complaints (23.9% of the total) were deemed to lie beyond the Ombudsman's mandate, were not investigated on their merits and were filed, according to the provisions of the Ombudsman's founding law.

Of all the complaints submitted during 1999, 5,652 (68.7%) were investigated and resolved. This figure includes the complaints filed as lying outside the Ombudsman's mandate. On December 31, 1999 investigation was in progress for 2,571 complaints (31.3% of the total), which were carried over to 2000.

The processing of complaints submitted to the Ombudsman and investigated during 1999 is shown in Graph D.3.

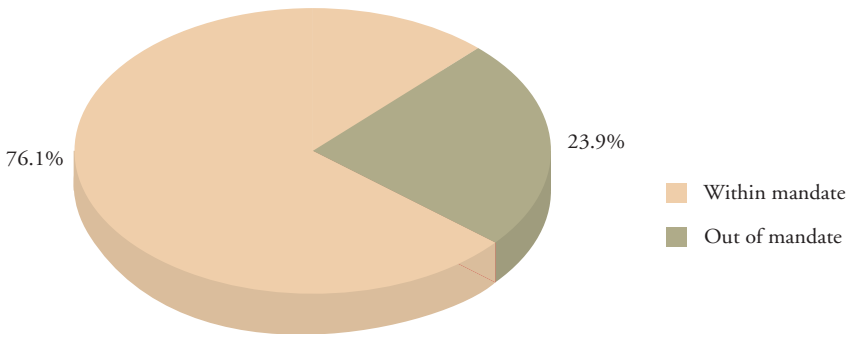
GRAPH D.3 **PROCESSING OF COMPLAINTS**



1.3.1 COMPLAINTS NOT INVESTIGATED

1,963 complaints (23.9% of the total) have been found to be outside the Ombudsman's mandate either by law or for formal reasons and therefore were closed. Graph D.4 shows the percentage breakdown of all the 8,223 complaints handled during 1999, in terms of the Ombudsman's mandate.

GRAPH D.4 **PERCENTAGE BREAKDOWN OF COMPLAINTS HANDLED IN 1999**



The most common reason for which complaints were closed after being deemed as falling beyond the Ombudsman's mandate was vagueness (general proposals, copying complaints sent to other authorities instead of submitting a complaint to the Ombudsman, etc.). 307 complaints fell in this category.

Other frequent reasons were that the complaints concerned authorities lying outside the mandate of the Ombudsman (286 complaints), did not concern a specific administrative action or omission (272 complaints), were concerned with cases pending before judicial authorities (272 complaints), or were concerned with the service status of civil servants (254 complaints).

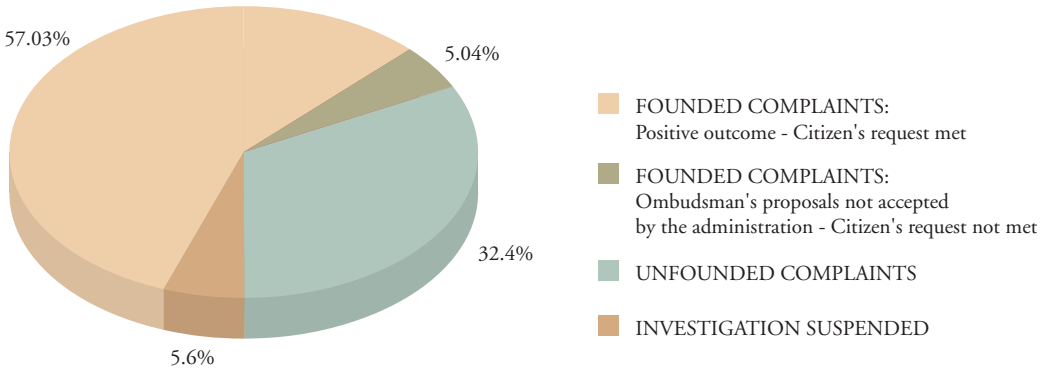
A smaller number of complaints (221) were closed because the time that had elapsed since the complainant's last contact with the administration exceeded the six months envisaged by the Ombudsman's founding law as a limit for accepting complaints, or because they were concerned with private disputes (148 complaints).

1.3.2 COMPLAINTS INVESTIGATED

During 1999, 6,260 complaints (76.1% of the total), were investigated on their merits. Of these, 3,689 were resolved during the year and 2,571 remained pending as of December 31, 1999. Following initial investigation and based on the Ombudsman's determination concerning the admissibility of the complaint, complaints are classified as either unfounded or founded. Ongoing investigation of some complaints was suspended because the complaint was withdrawn or the issue was brought before the courts.

The outcome of the cases investigated and resolved is shown in Graph D.5, which presents the percentage distribution of these complaints, based upon the conclusions reached and the outcome of both the investigation and the Ombudsman's intervention. The percentage distribution of complaints shown in the graph is based on the 3,689 complaints investigated and resolved during 1999.

GRAPH D.5 **OUTCOME OF THE COMPLAINTS HANDLED***



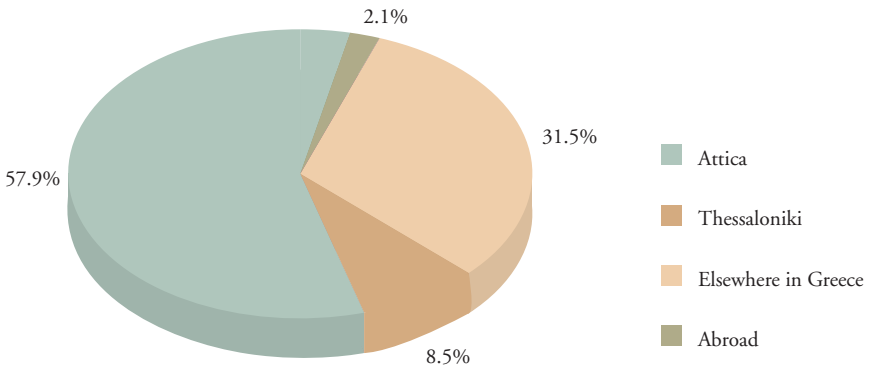
* In this, as in the *1998 Annual Report*, the percentages calculated on the number of complaints classified as "positive outcome" are based on the total of the complaints handled, that is, all the complaints judged to be within the mandate, investigated, and closed. The percentage of cases resolved thanks to the Ombudsman's intervention would be clearly higher (86.2%) if it were calculated only on the 2,290 founded complaints, to which most of the Ombudsman's mediating activities were devoted.

Most of the complaints, 57.03% of those investigated and resolved during 1999, lie in the "positive outcome" category. The administration did not accept the Ombudsman's positions, proposals, suggestions, or conclusions for 5.04% of the complaints, and 32.4% of the complaints were deemed to be unfounded. Finally, investigation was suspended on 5.6% of the complaints because the status of the complaint changed, usually after the complainant appealed to the courts or because the complaint was withdrawn.

1.4 COMPLAINANTS' PLACE OF RESIDENCE

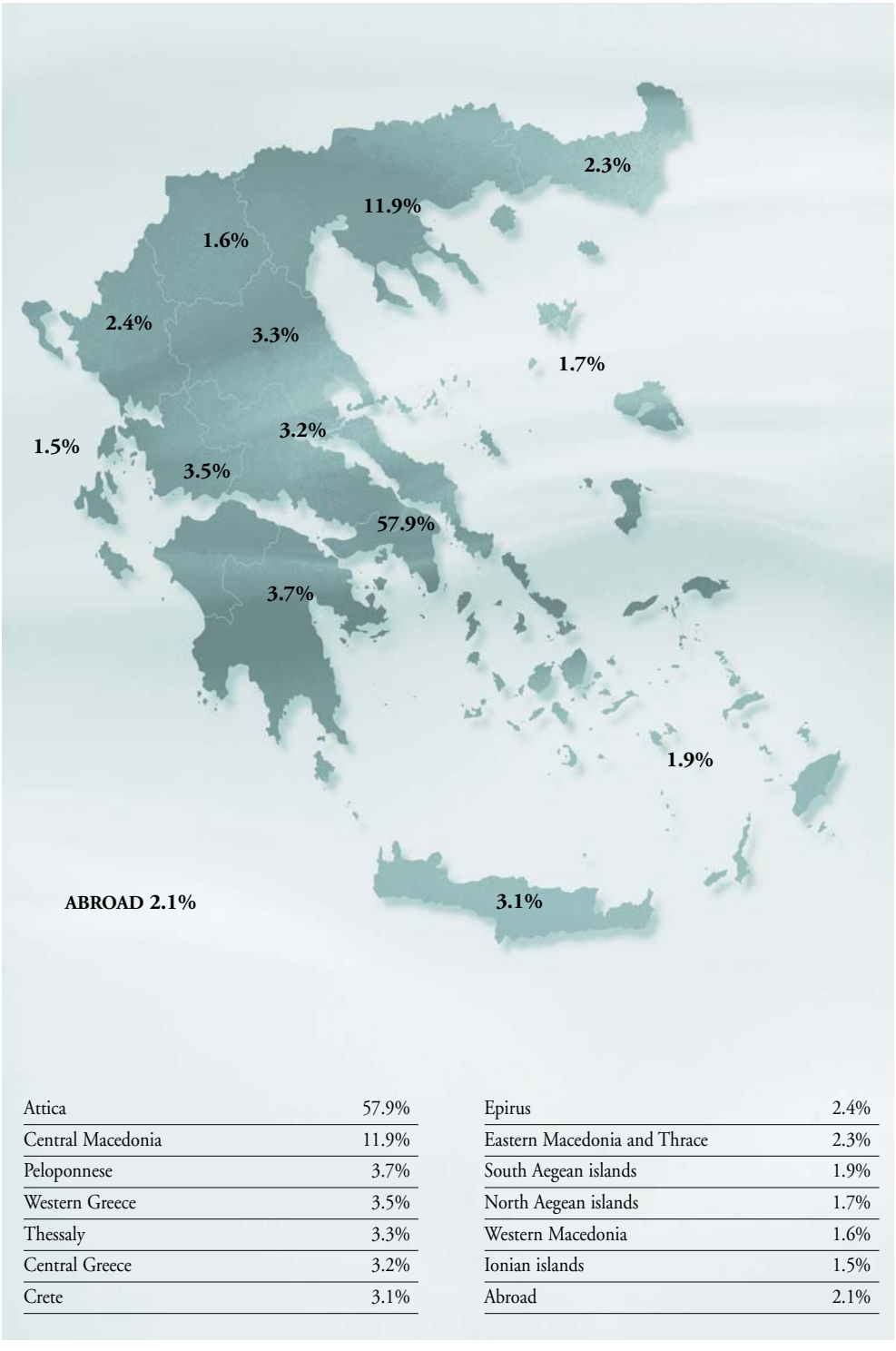
As shown in Graph D.6, most of the citizens submitting complaints to the Ombudsman live in Attica (57.9%), mainly in the greater Athens area. Thessaloniki provided 8.5% of the complaints, 31.5% came from the rest of the country, and 2.1% came from abroad. To a large extent, this distribution reflects the geographical distribution of the country's population and activities, although the population of Attica is somewhat over-represented. The majority of the complaints comes from Athens and, more generally, from Attica, either because citizens there have easier access to the Office of the Ombudsman or because they are better informed. This is the case for all the Departments, despite slight variations.

GRAPH D.6 **DISTRIBUTION OF COMPLAINTS BY COMPLAINANTS' PLACE OF RESIDENCE**



Map D.1 below shows the breakdown of complaints investigated by the Ombudsman during 1999 according to the complainants' place of residence.

MAP D.1 **PERCENTAGE DISTRIBUTION OF CASES BY COMPLAINANTS' AREA OF RESIDENCE**

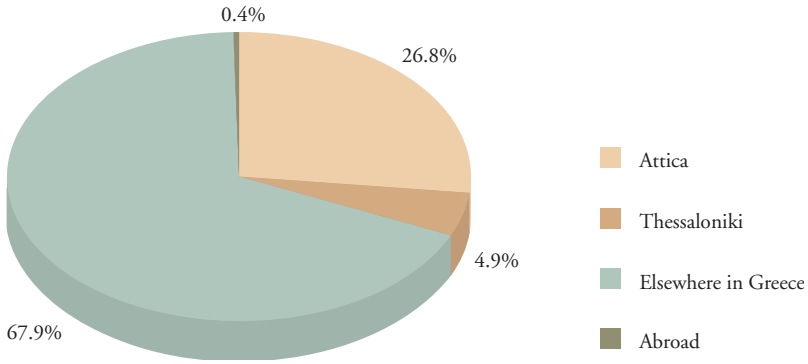


Attica	57.9%	Epirus	2.4%
Central Macedonia	11.9%	Eastern Macedonia and Thrace	2.3%
Peloponnese	3.7%	South Aegean islands	1.9%
Western Greece	3.5%	North Aegean islands	1.7%
Thessaly	3.3%	Western Macedonia	1.6%
Central Greece	3.2%	Ionian islands	1.5%
Crete	3.1%	Abroad	2.1%

1.5 GEOGRAPHICAL LOCATION OF THE AUTHORITIES INVOLVED

As Graph D.7 shows, most of the authorities involved with complaints submitted to the Ombudsman are located in Athens (67.9%) and the greater Athens area. A much smaller number of authorities involved are based in Thessaloniki (4.9%), while 26.8% of the authorities involved are located in the rest of the country. A very small percentage (0.4%) of the authorities involved are based abroad (Greek authorities in other countries).

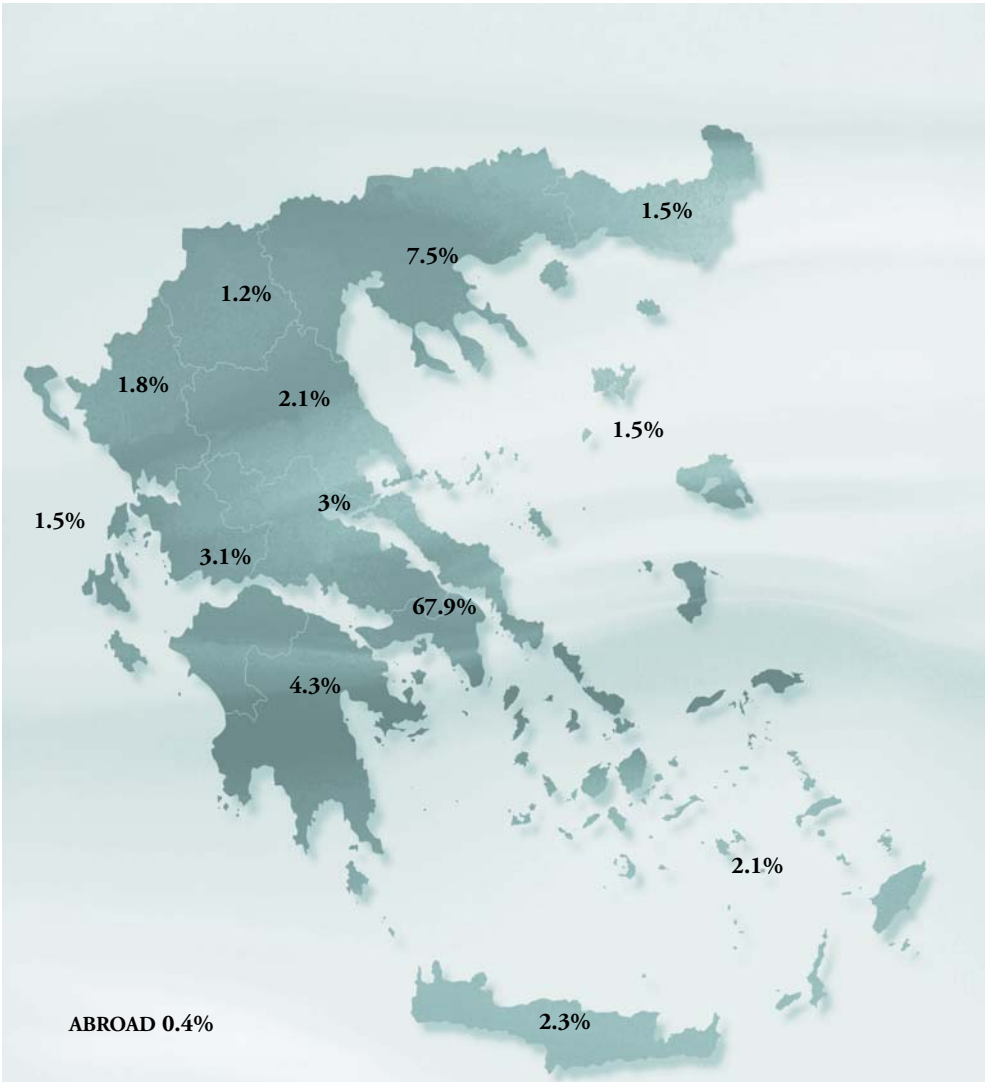
GRAPH D.7 **PERCENTAGE DISTRIBUTION OF COMPLAINTS BY GEOGRAPHICAL LOCATION OF AUTHORITIES INVOLVED**



Except from the Department of Quality of Life, which deals with decentralized authorities located outside Attica, most of the authorities with which citizens' complaints are concerned are located in Attica, reflecting the high degree to which government services are centralized in the capital.

Map D.2 shows the percentage breakdown of complaints by geographical location of authorities involved.

MAP D.2 **GEOGRAPHICAL LOCATION OF AUTHORITIES BY REGION**



Attica	67.9%	South Aegean islands	2.1%
Central Macedonia	7.5%	Epirus	1.8%
Peloponnese	4.3%	Eastern Macedonia and Thrace	1.5%
Western Greece	3.1%	North Aegean islands	1.5%
Central Greece	3%	Ionian islands	1.5%
Crete	2.3%	Western Macedonia	1.2%
Thessaly	2.1%	Abroad	0.4%

2. General Conclusions

Conclusions about the Ombudsman's work during 1999 are based on both the complaints investigated and those closed as lying outside the Ombudsman's mandate. The increasing flow of complaints during 1999 indicates, among other things, the institution's increasing acceptance by the public. The positive attitude of the mass media towards the Ombudsman has been of fundamental assistance in establishing the institution's image in the public mind. For example, the Ombudsman received an award at the annual meeting of the journalists of the Greek National Radio held in March 1999 on the role of non-governmental organizations in the empowerment of civil society.

The number of complaints closed as outside the Ombudsman's mandate demonstrates the need to provide better information to both the public and the public services. Two of the most important conclusions reached from the experience condensed into the present report are:

1. The need to develop a better public-relations strategy to project a clear image of the nature, purposes, and areas of mandate of the Ombudsman to its two crucial interlocutors, citizens and the public administration, and
2. to contribute to the gradual shaping of an alternative administrative culture in Greece, whose main characteristic will be the perception of public services as mechanisms both legally and morally obliged to serve the public in an uncomplicated, clear, prompt, and courteous manner.

In the context of the Ombudsman's efforts to emphasize his role as a mediator, the "logic of resolution" emerges as an alternative way of handling disputes between citizens and the state. It should become a dominant factor in a modern "user-friendly" administrative and, at the same time, political culture oriented towards finding effective solutions for the problems stemming from the eternal conflict of interests in a modern and fast-changing society.

The collective experience of the first fifteen months during which the Ombudsman has been operating in Greece makes it possible to identify categories of maladministration while, at the same time, increases the Office's ability to diagnose the pathogenies of Greek public administration. With the further goal of gradually highlighting a new administrative culture, the Ombudsman prepares special proposals for legislative amendments and administrative reforms, which he forwards to the political leadership overseeing the agencies affected by the proposals.

The promotion and final implementation of these goals requires the agreement and active support of the country's political leadership. To this end, the Ombudsman carried out a series of contacts and meetings during 1999 with the President of the Republic, the Prime Minister, the Speaker of Parliament, leaders of the political parties, members of the European Parliament, and ministers. In March 1999 the Ombudsman submitted his first annual report (referring to the year 1998) to the Prime Minister and the Speaker of Parliament and communicated it to the Minister of the Interior, Public Administration, and Decentralization. The report was discussed by the Standing Parliamentary Committee on Institutions and Transparency in the presence of the Ombudsman and the Deputy Ombudsmen. During this discussion the Ombudsman answered questions and provided clarifications about the work carried out by his Office.

In order to better assimilate the experiences gained during the first fifteen months of

operation and better plan the further implementation of programmatic goals for the Office's future, the Ombudsman began a series of self-evaluation meetings of the four thematic Departments that will issue into a two-day self-evaluation seminar in the first semester of 2000, to be attended by all the institution's staff.

Evaluation of Activities by Department

1. DEPARTMENT OF HUMAN RIGHTS
2. DEPARTMENT OF SOCIAL WELFARE
3. DEPARTMENT OF QUALITY OF LIFE
4. DEPARTMENT OF STATE-CITIZEN RELATIONS

E.1 DEPARTMENT OF HUMAN RIGHTS

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DEPARTMENT OF HUMAN RIGHTS

1. Area of Jurisdiction and Responsibilities of the Department

The Department of Human Rights examines cases involving civil, political, or social rights (Presidential Decree 273/1999, article 2, par. 1) that are protected by the Constitution, ordinary legislation, or by international agreements incorporated into Greek law.

Cases investigated by this Department cover the full spectrum of public administration, but mainly concern: violations of religious freedom or human dignity, violations of personal freedom by the police or other administrative authorities, discrimination based on nationality or ethnic origin, problems in granting entry visas and residence permits to aliens, violations of the principle of meritocracy in selection procedures for posts in the civil service or in educational institutes, failure to establish professional rights, and infringements of the right to effective legal protection caused by the refusal of public authorities to implement irrevocable court rulings.

In 1999 there were many complaints from people belonging to vulnerable social groups (such as minorities, foreigners, refugees, repatriates, conscientious objectors, prisoners). The *1998 Annual Report* had speculated that these groups were still hesitant about applying to the Ombudsman and were awaiting more information about the effectiveness and discretion of the Office's operations.

2. General Assessment of the Department's Activities

2.1 GENERAL REMARKS AND CONCLUSIONS

In the previous annual report, the Ombudsman drew some conclusions about the status of human rights in our country. Those thoughts were expressed with strong reservations, since the *1998 Annual Report* recorded the experiences of a newly formed institution that had been operating for only three months (October–December 1998). The main conclusion from the first report could be summarized as follows: infringements of human rights in our country constitute, above all, problems in implementing constitutional clauses and legislative provisions; they are not caused by legislative shortcomings. Solutions, therefore, must be sought at the administrative, not the legislative level.

The much larger number of complaints in 1999 does not refute this conclusion. Instead, the fragmentary impressions from the last three months of 1998 give place to a more complete picture of the infringements of human rights in Greece, which can be summed up as the result of arbitrariness, indifference, favouritism, and impunity. The extreme consequences of all these are borne by members of social groups that do not conform to dominant national, racial, and religious stereotypes. The instances given below constitute illustrative examples.

- The administration acts arbitrarily when, invoking the public interest, it regularly violates constitutional rights. In the last year's report the Ombudsman wrote about the administration being unwilling to carry out judicial decisions mandating it to make

payments. Unfortunately, the administration is still refusing to make these payments and still argues, for example, that non-payment serves the imperatives of public finance (see 3.7.1 and 5.2). This arbitrariness nullifies the citizen's last defence, which is the constitutionally guaranteed right to protection by an independent judiciary.

- Mere administrative indifference, however, sometimes can also lead to serious violations of human rights. The state of abandonment in which prisoners were being held at a police station, where the Ombudsman made an on-the-spot inspection, is a perfect example of what is meant by article 3 of the European Convention on Human Rights, which prohibits "inhuman or humiliating treatment" (see 3.4.5.1).
- The public administration also violates the law when it acts in a manner prejudicial to the interests of certain social groups. A typical case is the refusal by public authorities to establish the professional rights of individuals when such recognition would not be in the interests of organized lobbies that have access to the public administration and exercise considerable political leverage (see 3.6.1.2 as an example).
- The administration will continue to violate human rights as long as the pertinent legal provisions concerning the imposition of sanctions remain idle. It is widely believed that a climate of impunity tends to prevail within the public administration, which, in some instances, encourages occasional infractions of the law, but, in others, has led to the consolidation of a general state of illegality and corruption. One of the Ombudsman's priorities is the thorough review of the public administration's internal disciplinary procedures (see 3.2.1).

Finally, the civil service often shows its worst face when dealing with members of minority groups. This behaviour reproduces our society's most backward reflexes. Two illustrative examples of the Ombudsman's recent experiences in this regard are the serious organizational problems that materialized in the process of legalizing economic immigrants ("green cards") and the series of obstacles members of a religious minority encountered in their attempt to build a place of worship (see 3.4.3.1 and 3.1.1 respectively).

2.2 GROUPING OF CASES BY SUBJECT

The number and type of complaints submitted to the Department of Human Rights depend upon the degree to which the citizens, particularly members of vulnerable social groups whose constitutional rights often are violated when they deal with the civil service, are informed about their rights, and also upon the degree to which these people trust the Office of the Ombudsman to be both discrete and effective.

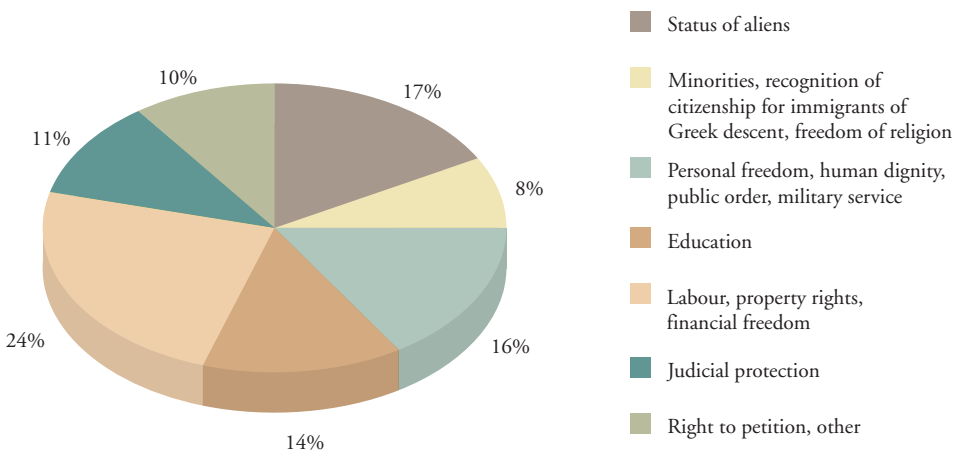
In 1999 the percentage of complaints concerning issues involving the status of aliens was higher than that of 1998. This development indicates that aliens are becoming better informed about and willing to place their trust in the Office of the Ombudsman.

There also was an increase in the number of complaints relating to the freedom to practicse a profession and to the recognition of professional rights. This shows the explosive implications resulting from the accumulation of titles of professional specialization either issued or recognized by the state, but for which the state has not provided the relevant professional safeguards. Finally, a new category of complaints is concerned with issues of military service (despite some existing restrictions on the Ombudsman's competence) and alternative civil service. The complaints can be classified as follows (with reference to the complaints of 1998 as well):

TABLE E.1.1 **GROUPING OF CASES BY SUBJECT**

	1998	1999	TOTAL
Status of aliens, acquisition of citizenship and residence permits, work permits for aliens, refugees, political asylum	12	213	225
Minorities, recognition of citizenship for immigrants of Greek descent, freedom of religion, repatriation of political refugees	19	86	105
Freedom of movement and emigration, prisons	3	33	36
Gender equality, protection of the individual, civil status, diplomatic protection, the right to vote	6	68	74
Education	6	171	177
The right to work, employment, service status	30	168	198
Financial and professional freedom, associations	15	77	92
Properties, copyrights, civil liability of the state	12	16	28
Freedom of the press	1	12	13
Public order	8	32	40
Military service and alternative civil service	0	58	58
The right to petition, access to information	26	63	89
Judicial protection, non-implementation of judicial decisions	18	124	142
Other	16	13	29
Total	**172**	**1,134**	**1,306**

GRAPH E.1.1 **GROUPING OF CASES BY SUBJECT (1998–1999)**



3. Presentation of the Most Important Cases

3.1 FREEDOM OF RELIGION AND BELIEF

The freedom of belief, which includes freedom of religion, is fully protected in Greece both by the Constitution and by international law. Problems arise, however, on a daily basis because of administrative and, in some cases, legislative inflexibility and misconceptions about the religious neutrality of the state. Although the legal fact of a "predominant religion" does not in any way rule out the full protection of religious freedom, Greece has the largest number of convictions for violations of religious freedom by the European Court of Human Rights.

On issues concerning freedom of worship (see 3.1.1), administrative registering of religious beliefs (see 3.1.2), and equal treatment (see 3.1.3), the Ombudsman encountered a distrusting administration that, sometimes replicating Greek society's corresponding tendency towards lack of tolerance, was incapable of accepting the fact that Greek citizens are entitled to hold different religious beliefs from those held by the majority of their fellow citizens. In contrast, the Ombudsman encountered more progressive attitudes on the issue of alternative civil service (see 3.1.4) and was able to formulate legislative proposals. The alternative civil service had already been enacted, bringing Greece in line with other European countries. Current legislation, however, requires certain improvements that will render it more equitable.

3.1.1 FREEDOM OF WORSHIP

The freedom to build houses of worship and churches is a fundamental aspect of the freedom of worship. Nonetheless, it still encounters many legislative obstacles of doubtful constitutionality, the most anachronistic of which is the one requiring the prior opinion of the local bishop, which has already been rendered inactive by decision of the Council of State. The legislative obstacles, however, still include the requirements for a special permit from the Minister of Education and Religious Affairs, and for a minimum number of local members of the religious community involved.

A few years ago, Jehovah's Witnesses were confronted with the government's refusal to acknowledge their religion as a "known religion" entitled to protection by the Constitution — a refusal that had as a consequence the denial of a ministerial permit to build and run a house of worship. The European Court of Human Rights condemned this practice. As is evident in the following case, however, a mentality of extreme intolerance still survives among some groups within the civil service, who, occasionally, arbitrarily invoke legislation concerning urban planning or archaeological sites.

The Association of Jehovah's Witnesses in the Municipality of Kassandreia in Halkidiki (Northern Greece) received a legal building permit to build a house of worship. Repeated demonstrations of intolerance, often violent, were held on the site, however, reaching a climax in the summer of 1999, when construction began. Machinery belonging to the municipality was used to dig a ditch around the site so as to prevent entry to it. The local urban planning office ordered a temporary halt in construction, in order to ascertain whether or not it was legal to have a house of worship operating on the specific site, despite the fact that the same office was under legal obligation to have ascertained that very fact before issuing the building permit. During an on-site inspection, two investigators from the Office of the Ombudsman determined that the reaction by members of the local government and representatives of the religious authorities was so intense that it led the

local authorities to actions or omissions that could subject the country to international embarrassment, particularly if the issue were brought to an international court.

Intervention by the Ombudsman with the Ministry for the Environment, Physical Planning, and Public Works overcame the order for a temporary halt in construction, but later the mayor requested the local urban planning office to revoke the building permit on the grounds that the excavation permit issued by the Ephorate of Byzantine Antiquities was issued not before, but a few months after the building permit. Furthermore, the responsible authorities of the competent regional government questioned the legality of the temporal sequence relating to the issuance of the building permit and the permit issued by the Ministry of Education and Religious Affairs, overlooking the well-known fact that the Ministry of Education and Religious Affairs had only recently begun issuing these permits. Through repeated contacts, the Ombudsman was assured by the Ministry for the Environment that the building permit was not legally flawed and would not be revoked, and that, in addition, any prior requirements concerning temporal sequence in issuing the permits would be met at the time the building permit was reviewed. In the end, the construction of the house of worship was completed without any further difficulties (case 7001/1999).

3.1.2 DECLARATION, CERTIFICATION, AND CHANGE OF RELIGION

Registering people's religious faith on records and documents issued or kept by the public administration is an outmoded practice *per se*, for it makes an individual's innermost beliefs subject to administrative action. Given the established relation between the state and the church, however, and the way this is reflected in the current law (on issues such as the equal status of civil and religious wedding ceremonies), it is understandable that no direct challenge to the legality of registering religion (as on identity cards) has yet been brought before the Ombudsman. Nevertheless, this legislative anachronism is mentioned here because it is the deeper cause for such cases as the one presented below.

The register office of the newly established Municipality of Iraia in Arkadia (Southern Greece) refused an individual's request to have his registered religion changed from "Orthodox Christian" to "no religion." The refusal was made on the grounds that the change requested could be done only by court decision. The Ombudsman pointed out to the register office that, in principle, all that is needed for the information recorded in the register to be changed is a statement submitted by "the person whose request or other act caused the change, and the person whose civil status was changed."

Whether or not a specific registration may be changed only by court decision (as in cases of divorce), only after an administrative act (as in a change in nationality), or simply by statement made by the party concerned is determined in accordance with the laws applying to each particular case. The fact that the law requires an "act" to be taken or a "document" presented in order for the religion to be changed, but without specifying what this document is, raises the possibility of a gap in the law. There would, however, be a gap in the law only if the requirements for changing religion were not to be found in any provision in current law. Since the relevant constitutional provision safeguards freedom of religion, the only requirement needed for accepting the validity of an individual's declaration of a change in religion is his competence, that is, that the person must be an adult, of sound mind and not under psychological pressure. The register office accepted the Ombudsman's recommendation and recorded the change according to the wishes of the complainant (case 10868/1999).

3.1.3 EQUAL TREATMENT

Unequal treatment of persons because of their religious beliefs constitutes an indication either of administrative alignment with surviving mentalities of inequality within local communities or of confusion between religious and secular aspects within the framework of the relevant administrative procedures. A typical example involves burial in cemeteries that belong to municipalities but are widely believed to be administered by the church only.

The Ombudsman investigated the issue of the burial of a Jehovah's Witness in the municipal cemetery of Strymonikos, Serres (Northern Greece). The grave was placed behind a wall, isolated from the other graves in a manner that was humiliating both to the memory of the deceased and to the dignity of his family. It was pointed out to the municipality that, in accordance with Law 582/1968, local government authorities are responsible for operating their cemeteries, and in particular for defining specific sections and zones for the burial of "non-Orthodox [persons] or [those] of other religions," on the obvious condition that these designations are in accord with the constitutional provisions governing the freedom of religious belief and the freedom of religious worship in conjunction with the principle of equality. The provisions allowing special burial zones refer to zones within and not outside the cemetery, and these special sections and zones should be just as proper and decent as the other areas in the cemetery. The purpose of designating sections and zones is to ensure that in these cases the dead buried in special sections and zones may be more easily honoured according to their religion, that is, in a manner different from the requirements of the Greek Orthodox Church. The municipality agreed with this reasoning and fully removed the wall (case 336/1999).

3.1.4 ALTERNATIVE CIVIL SERVICE (CONSCIENTIOUS OBJECTORS)

The right to be exempted from military service because of religious or ideological beliefs is a "positive discrimination," an exception from the general rule of mandatory military civil service. The legal basis of the exception is the freedom of conscience. In Greece, alternative civil service was recognized as a right by Law 2510/1997.

The temporal coincidence of the adoption of this law with the commencement of the Office of the Ombudsman's operation brought forward many complaints concerning lack of clarity and malpractices in the implementation of alternative service.

3.1.4.1 WORKING CONDITIONS

Conscientious objectors doing their alternative service at the Chronic Disease Hospitals in Hania and Lasithi (Crete) pointed out a series of problems: requirement that they work seven days a week, including all Saturdays, Sundays, and holidays; no leave permitted other than regular leave, not even on Christmas; repeated extensions of their daily working hours, up to even eleven hours a day; assignment of multiple or vaguely defined tasks.

The hospitals referred to the law and circulars from the Ministry of Defence in claiming that "alternative service is performed in lieu of military service, so conscientious objectors have no other advantages other than a two-day leave of absence each month. No benefits or allowances provided for regular employees apply in their case. Conscientious objectors carrying out alternative civil service do not have regular working hours." The Ombudsman explained to the management of these hospitals that the restriction of leave of absence to two days per month did not mean that there was no maximum hour limit in working days

or that public holidays were to be regarded as full working days. Extending regular working hours "when really necessary and in association with the jobs assigned to them" means that working hours may occasionally be extended beyond regular working hours, but not that they may be extended to no limit. The hospitals adapted their policies to the Ombudsman's recommendations (cases 334/1999, 4102/1999). In addition, the Ministry of Defence, to whom the Ombudsman had communicated his views, issued a circular on April 13, 1999 about holidays and leaves of absence that adopted the Ombudsman's recommendations verbatim. The handling of these cases contributed to the resolution of a series of similar cases that had not even been submitted to the Ombudsman.

3.1.4.2 SPECIAL REPORT

In addition to handling individual cases of conscientious objectors, in which serious malfunctions in implementing alternative service were found, the Ombudsman issued a special report on existing problems and respective remedies (July 1999).

To begin with, the report points out that, according to the legislative recognition of alternative civil service, the state has the unequivocal obligation, imposed by the Constitution, to respect the ethical and religious principles of its citizens and to protect the integrity of these beliefs, even when it calls upon citizens to fulfil their constitutional duty of national and social solidarity (articles 2, par. 1, 5, par. 1, and 13, par. 1 of the Constitution).

In this sense, the fulfilment of this duty does not constitute a benefit but a right. Many of the problems relating to this issue seem to derive from the incorrect but widely held perception that alternative service is not provided for in the Constitution but is simply a legislative concession. The most typical example of this misconception can be seen in Law 2510/1997, article 21, par. 5. Instead of specific disciplinary actions and sanctions for conscientious objectors not fulfilling their duties properly, the law requires the loss of their status as conscientious objectors, as though alternative service were not a right, but a benefit for which they have not proven themselves worthy. This seems to be also the case with other deficient, severe, or overtly "punitive" regulations, whether they (a) establish the length of service, overlooking factors which should be obvious, and (b) deal with the procedure of entering the alternative civil service or the possibility to choose or change subsequently the location where the alternative service shall be carried out. In the same way, finally, the absence of a public authority able to effectively supervise alternative civil service in the spirit of the Constitution and the law and to organize it further on the basis of equal conditions, in a clear way, readily intelligible, and easily implementable, is an equally serious weakness of Law 2510/1997, which is also associated with the same false perception. One result of the inadequate provisions, their lack of clarity, and the failure to see the alternative civil service as a right for conscientious objectors, is that the Ministry of Defence still plays a significant role in regulating and overseeing alternative service, although it is difficult to see how this is justified by the non-military nature of the service. As a result, the institutions in which conscientious objectors work consider that the conditions in which alternative service is carried out should be similar to those in military service.

The first section of the special report proposes a reform of alternative civil service by means of thorough, new, legislative action. The basic features of the proposals are: First, to create a new supervising authority, the Council for Alternative Civil Service, to oversee the

legal, uniform, and unimpeded implementation of every phase of alternative service. Second, to replace the "forfeiture" provision, which violates the very essence of the right to alternative civil service and presents it as a benefit, with an independent disciplinary system with sanctions adjusted both to the particularities of the alternative service relative to the military service and to the status of civil servant or private employee. Third, to change the way the length of alternative civil service is calculated, by abolishing the standard addition of 18 months to military service and replacing it with the addition of a fraction or percentage of the duration of military service. In that way, the beneficial provisions in military legislation concerning the length of military service for members of large families and other social categories, as well as provisions about service deferment, will be extended to those regulating alternative civil service. Moreover, the first section of the report contains specific suggestions for the more sensible, effective, and flexible handling of issues associated with the status of alternative service, and the selection or transfer of the location where service will be carried out.

The second section of the report contains proposals about issues that can be resolved simply by clarifying already existing rules and principles that are currently ignored or misinterpreted. Such cases, for example, involve the number of working hours per day or per week, and the amount of leave to which the person doing alternative civil service is entitled.

3.2 PROTECTION OF PERSONALITY

The complaints dealing with the respect due to human dignity and to the development of one's personality lead to the general conclusion that such problems are caused less by legislative gaps or traditional prejudices than by the reluctance of public officials to accept human dignity as a guiding principle applicable to a whole series of everyday administrative procedures.

3.2.1 PROTECTING SEXUAL DIGNITY

As expected, because of social sensitivity, not many complaints concerned with sexual dignity have been submitted to the Ombudsman. In the individual case presented below, however, there were issues concerning both the proper physical, mental, and moral development of minors at school and the question of proper and impartial investigation of such complaints by the administration.

The complaint, submitted by a teacher, raised the issue of concealing charges brought against another teacher for sexually harassing students. A preliminary investigation conducted by the head of the Prefectural Division of Secondary Education, a relative of the accused, resulted in the complete dismissal of all charges as imaginary. The Deputy Minister of Education appointed a higher official, member of the local educational community, to carry out an administrative investigation under oath, but this official refused to carry out the task, invoking existing conditions, and particularly the publicity that surrounded the case. The Ombudsman stressed that the issue should be investigated as soon and as thoroughly as possible in order to protect both the psychological development of the children and the dignity of the accused teacher. The Deputy Minister of Education, appreciating the significance of the particular circumstances, assigned a high official of the central services of the ministry, not connected to the area and not related to anyone associated with the case, to carry out the administrative investigation under oath. The

Ombudsman showed his faith in the administration's internal review system by not carrying out a separate investigation and awaiting the results of the administrative investigation under oath. This investigation ruled that no disciplinary or other punishable offence had occurred and, in effect, claimed that the charges probably were the result of exaggerations and imaginings by students who "misinterpreted" the teacher's familiarity, following encouragement by a particular individual who disliked the accused teacher.

The Ombudsman, however, examined the results in detail and found that these conclusions were not fully justified, because some individuals connected to the case had not been interviewed and some events had not been properly or fully investigated. The Ombudsman suggested that the ministry should conduct an additional administrative investigation under oath. The Deputy Minister of Education did order that the case be investigated yet again (case 2043/1999).

3.2.2 THE RIGHT TO BURIAL

A series of complaints concerned with the right to honour the dead appropriately were submitted to the Office of the Ombudsman. Many municipalities were found to place extraordinary obstacles to this either through procedures and transaction charges, or through requiring specific constructions before authorizing burial.

In 1996 the municipal council of Nea Smyrni, Athens, set extremely high fees for burial plots (from 15,000,000 to 45,000,000 drs), in some cases raising the level of fees by as much as thirty times relative to existing rates. This made it impossible for most citizens to purchase burial plots. The Ombudsman questioned the legality of the municipal council's decision, since it restricts the right to honour the dead to a very small number of high-income individuals and families. This forms a violation of the constitutional principle of equality and is based on criteria that, clearly, are neither reasonable nor objective. At the same time, it violates the constitutional requirement to protect human dignity, which includes the ability to honour the dead in any way conforming to, or at least not violating, fundamental social values. Finally, the Ombudsman concluded that under no circumstances can it be accepted for the municipality to use the lack of space in municipal cemeteries as a pretext for raising funds. The municipality replied that it did not wish to sell graves and that the high prices were set as a deterrent. The Ombudsman did not deem this answer satisfactory, arguing that the existence of a deterrent confirms that the regulation operates in favour of a limited number of wealthy citizens (case 5681/1999).

3.3 CITIZENSHIP

Citizenship is the public bond linking an individual with the state formed by the people to whom he belongs. Citizenship is the prerequisite for the individuals to enjoy a whole series of human and political rights; it is also a definitive element of one's personality. Since being a citizen is directly associated with the exercise of fundamental political rights, citizenship is normally granted at the discretion of the competent authorities and is usually considered the act of a sovereign state, which requires no justification and is not subject to control by the courts. Greek legislation concerning citizenship places higher priority on ethnic origin than on place of birth. That is why foreigners certified to be of Greek descent by the Greek consular authorities in their country of residence are given preferential treatment in acquiring Greek citizenship or having their Greek citizenship recognized. The complaints

submitted to the Ombudsman during 1999 mainly are about problems concerning naturalization, the establishment of citizenship, the issuance and verification of relevant documents (see 3.3.1), and the discrimination against aliens (see 3.3.2).

3.3.1 ISSUANCE AND VERIFICATION OF DOCUMENTS ASSOCIATED WITH CITIZENSHIP

Aliens attempting to legalize their residence in Greece often encounter insurmountable bureaucratic obstacles, as they do in most transactions with the public administration. In most cases, these problems have to do with the issuance, term of validity, and authentication of foreign certificates vitally important to the parties concerned.

A characteristic complaint submitted to the Office of the Ombudsman claims that the Division of National Security, in particular the Aliens' Department in Athens, refuses to accept a health certificate from a state health institution in Belarus, on the grounds that it has not been verified by Greek consular authorities in that country, even though it bears the apostille required by the Hague Convention. Investigation of this complaint revealed that, since both Greece and Belarus have ratified the Hague Convention, Greece must accept government documents from Belarus, if they bear the apostille. The Division of National Security maintains that, despite the Hague Convention, government documents from foreign government authorities, especially countries of the former Soviet Union, must have confirmation from Greek consular authorities in accordance with Joint Ministerial Decision 4803/13/8-α/1992. This confirmation is required in order to ensure that the documents are valid, since forged documents have been found among those bearing the apostille (case 3228/1999).

As, however, was discovered during the investigation of a complaint submitted to the Office of the Ombudsman by an association of people of Greek descent originating from the Black Sea area (Pontos) the Ministry of the Interior follows the opposite policy. During the procedures for establishing the citizenship of this group of individuals, the Athens Special Register Office returned to the competent prefecture all public documents (such as birth and marriage certificates) that had been issued in Russia but were not verified by the apostille.

As a result of inadequate information, the documents provided bore only the consular confirmation and, therefore, the Special Register Office was correct in requiring that the documents have the apostille as stated in the Hague Convention. Because of the obstructions that had arisen during the procedures to establish the complainants' citizenship, however, and because confirming the documents once again with the apostille would involve considerable delay, the Ombudsman tried to resolve the problem through cooperation with the services involved.

The Ministry of the Interior responded by issuing a circular for this matter, establishing that documents may be accepted, if they bear only the consular confirmation that the applicants are of Greek descent originating from the Pontos and have received or are about to receive confirmation of repatriation from the Ministry of Foreign Affairs, or have received consular confirmation of repatriation and, as a result, are not able to secure the apostille (case 10420/1999).

3.3.2 DISCRIMINATION AGAINST ALIENS

As a result of the distrust with which the legal system traditionally perceives foreign citizenship, it is difficult for aliens to receive equal treatment with the indigenous population in matters of law and social acceptance. When defining the scope of the principle of equality, article 4, par. 1

of the Constitution explicitly mentions Greek citizens only. It is also accepted that, in principle, social rights are recognized only for Greek citizens, since they are the ones who, according to article 4, par. 5 of the Constitution, "without exception, contribute to public duties." As a result, the duty of social solidarity defined in article 25, par. 4, concerns Greek citizens. However, the right to the free development of personality (article 5, par. 1) is established for everyone within Greek territory and, therefore, it rightly applies to aliens as well. Unjustified bias against foreigners in their dealings with the public administration violates the principle of fair administration and infringes international treaties protecting human rights.

The legal and social treatment of aliens is a sensitive area for any society, seriously testing the need to respect human rights and to adhere to the principle of equality. In Greece, however, aliens are often victims of unjustified discrimination in many aspects of their economic and social activity. Indicative cases of illegal refusal to grant health and family benefits to aliens are given below (see 3.3.2.1 and 3.3.2.2).

3.3.2.1 BENEFITS TO POLITICAL REFUGEES WITH SPECIAL NEEDS

A specific passage in article 23 of the 1951 Geneva Convention provides that recognized political refugees, regardless of their nationality, are entitled to the same social welfare treatment as Greek citizens. According to article 28, par. 1 of the Greek Constitution, the Geneva Convention, after its ratification by Greece (Legislative Decree 3989/1959), prevails over any other opposing legal clause.

Nevertheless, a complaint was submitted to the Office of the Ombudsman by a recognized political refugee of Iraqi nationality who had been diagnosed with a serious mental illness and had been refused the benefit payments for people with special needs by the Division of Social Welfare of the Prefecture of Athens, on the grounds that he was a foreigner. The Ombudsman sent a letter to the competent office of the Ministry of Health and Welfare, where the relevant file had been referred, requesting that the benefits be paid to the complainant without any further delay, and that this right be recognized for all political refugees in the same category, so that Greece can fulfil its international obligations, particularly on issues of humanitarian character (case 7188/1999). The ministry had not replied by the end of 1999. One of the Ombudsman's proposals contained in this chapter is based on this case (see 4.2).

3.3.2.2 CHILD-SUPPORT BENEFITS GRANTED TO A MOTHER, CITIZEN OF A MEMBER STATE OF THE EUROPEAN UNION

A German citizen, married to a Greek citizen and the mother of five children, received child-support benefits from the Agricultural Insurance Fund (OGA) from 1991 to 1998. In September 1998, the head of the fund's Family Benefits Department revoked the old decision of the same office on the grounds that the mother was a German citizen and, therefore, should never have been given the right to collect the child-support benefits.

The Ombudsman established that existing legislation had never considered Greek citizenship as a prerequisite for the mother to receive child-support benefits. The OGA based its revocation on an opinion from the Legal Counsels of State, but the Ombudsman challenged the legal basis of this opinion. The Ombudsman asked the OGA to reverse its decision and to pay the child-support benefits to the complainant retroactively. The OGA complied with the Ombudsman's request as recommended by the competent ministry, and reversed its decision (case 4085/1999).

3.4 PERSONAL FREEDOM

The constitutional guarantee of personal freedom guarantees freedom of movement to every individual without restrictions of any kind, "except when and as defined by law" (article 5, par. 3). The freedom of movement, the freedom to reside anywhere in the country, and the related right to enter and leave the country are essential aspects of personal freedom. Of course, the ease with which a person may enter and reside in the country varies according to whether or not he is a Greek citizen.

Differences in the statutory treatment of Greek nationals and foreigners in terms of the extent of their freedom of movement and residence are reflected in the administrative problems encountered by these two categories of people. Albeit to a lesser extent, Greek nationals continue to encounter the ban on leaving the country because of debts to the state (see 3.4.1). Aliens encounter particular difficulties in obtaining entry visas (see 3.4.2) and legal residence permits (see 3.4.3) and are subject to severe sanctions if they do not have a residence permit (see 3.4.4). It must be stated here that legislative provisions establishing procedures for entrance into, and residence in, the country by aliens are to be found in every state, at least for non-EU nationals. Problems arise when the legal obstacles are disproportionate or constitute an administrative practice without a solid statutory basis. Finally, complaints involving issues of arrest and imprisonment, regardless of the complainant's nationality (see 3.4.5) that have begun, hesitantly, to be submitted to the Ombudsman also fall within the category of "personal freedom."

3.4.1 THE RIGHT TO LEAVE THE COUNTRY

Given the Ministry of Finance's negative stance on abolishing the ban on leaving the country for people faced with debts to the state (see 5.1), the Ombudsman directed his mediating efforts to particular cases for which positive outcomes could be most expected.

A typical case is the complaint from a British citizen of Cypriot descent, who had been prevented from leaving the country by the Nea Smyrni Tax Office, because of debts owed by a company he once had managed. The Ombudsman pointed out to the Ministry of Finance that, while the relative provisions of domestic law make no distinction between Greek citizens and aliens, Council of State decision no. 4674/1998, on which the ministry claims the legality of the ban is based, had considered the measure to be in accordance with EU legislation precisely because the case involved in this decision had to do with a Greek citizen and not with a citizen of another member state. In response to the Ombudsman's intervention, the Ministry of Finance ordered the tax office to revoke the ban (case 12133/1999).

3.4.2 ENTRY VISAS

Problems in issuing entry visas are mainly caused by lack of clarity concerning the essential requirements and the procedures for processing the relevant applications (see 3.4.2.1). Occasionally, vagueness in the law generates extreme phenomena of pathological administrative behaviour (see 3.4.2.2).

3.4.2.1 REQUIREMENTS AND PROCEDURES FOR ENTRY VISAS AND RESIDENCE PERMITS

The Ombudsman has established that the relevant provisions are so dispersed that it is difficult, if not impossible, to inform interested parties. Complaints against the Greek Consulate in Sofia and against Greek police authorities presented a series of problems

encountered by aliens in getting entry visas. For instance: the problems of delay in obtaining entry visas; the excessively short period for which the visa allows an alien to stay in the country; the obligation for foreign members of a Greek citizen's family to pay customs, and the precondition of proof of financial resources in order to be issued an entry visa.

3.4.2.2 GUARANTEES OF TRANSPARENCY AND IMPARTIALITY IN EXERCISING THE RIGHT TO PETITION GREEK CONSULAR AUTHORITIES

The complex legislation, together with the expressed interest of many citizens of Eastern European countries to enter and reside in Greece, has turned the system for granting entry visas into a web of opaque procedures that, in some instances, encourage suspicions of illegality and corruption on the part of some civil servants.

An association of Greek businessmen working in Albania reported that an incomprehensibly large number of applications for Greek entry visas submitted by their employees were being lost at the Greek Consulate in Tirana. The Ombudsman established that the consulate in question had adopted an unusual method for registering applications submitted by aliens. In submitting their applications, especially for consular confirmation for entry and residence permits, Albanian citizens had to drop their applications, along with any attached documentation and fees, into a box placed outside the consulate building and leave without any proof that they had submitted their applications. The box was opened at the end of each week, and the documents were registered only on the day when the applicant was called to appear at the consulate. The consulate maintained that this procedure had been adopted purely for reasons of security.

The Ombudsman pointed out that this procedure posed serious problems, both in terms of legality and in terms of the respect shown to foreigners dealing with the consulate. He also pointed out that failure to register documents in accordance with the Code of Administrative Procedure leaves the consulate open to allegations of lack of transparency, bias, and, in the final analysis, corruption.

The many complaints submitted to the Office of the Ombudsman about the lack of transparency and the biased attitude of employees in that particular consulate were among the reasons the Ministry of Foreign Affairs requested that the Council of State conduct an on-the-spot administrative investigation under oath (case 5544/1999). Furthermore, the Ministry of Foreign Affairs announced a series of corrective measures and acted in collaboration with the Ombudsman in order to eliminate illegal networks involved in the issuance of entry visas that operate in Greek consulates.

3.4.3 RESIDENCE PERMITS

Many of the large number of complaints in this category have to do with malfunctions in the procedures for granting temporary residence permits, otherwise known as "green cards" (see 3.4.3.1).

Of the many complex problems falling within this broad category, only those concerning student visas, the renewal of residence permits, and medical examinations required for residence permits will be mentioned (see 3.4.3.2).

3.4.3.1 GREEN CARD

Presidential Decrees 358/1997 and 359/1997 constitute an attempt by the state to deal

with the problem of illegal economic immigrants, by registering and legalizing aliens who were illegally residing in Greece. Without being solely responsible, however, the Manpower Employment Organization (OAED), which had been charged with carrying out the process of legalization, proved to be unprepared to handle the increased demands upon it. As a result, fundamental rules of administrative procedures were repeatedly violated.

For example, a Polish citizen tried twice, with the help of her employer, to submit the required documents for a green card in time. Employees at the OAED office in Hania refused to accept her documents, on the grounds that she did not produce a copy of her criminal record and that she could not verify that she had applied for its issuance to the competent authorities. The Ombudsman initially established that the applicant could not submit such verification because, without reason, the authorities had refused to grant it, and then intervened so that it could be issued. At the Ombudsman's suggestion, the complainant appealed to the Second-Instance Special Committee established by article 5 of Presidential Decree 359/1997. At the rate at which the committee is currently considering applications, however, her application probably will be considered in the summer of 2000, when she will have been an illegal resident since April 1999 through no fault of her own (case 6200/1999).

The case of the Polish economic immigrant is not an isolated incident. On the contrary, through a series of such complaints, the Ombudsman discovered that it is common practice for local OAED offices to say that they will not accept applications on the faulty grounds that required documents are missing, regardless of whether or not it is the fault of the applicant that these documents are missing. This practice violates article 12 of the Code of Administrative Procedure, depriving applicants of their right to have their applications forwarded to the authorities competent for ruling on their application. In this way they are deprived not only of their right to have their applications considered by relevant committees of first instance, but also of their right to have their applications further considered by the Special Committee established by article 5 of Presidential Decree 359/1997, which can issue green cards in exceptional cases for humanitarian reasons, even when all the legal conditions have not been met.

The Ombudsman suggested that the OAED recognize the right to appeal to the competent committees, when the inability to submit all necessary documents has been confirmed as justified. The Employment Division of the OAED replied that this possibility already exists, if the applicants submit their applications directly to the Second Instance Special Committee established by article 5 of Presidential Decree 359/1997.

The Ombudsman received many complaints, however, involving cases in which the local OAED offices had orally refused to accept applications to the Special Committee, thereby again preventing people's applications from being considered by the competent authorities. In order to deal with the problem, the Ombudsman stressed to the local OAED offices that they are obliged to accept applications and forward them to the Special Committee. In addition, since an appeal to the Special Committee does not by itself legalize the applicant's residence in the country during the many months it takes for the committee to reply, the Ombudsman suggested to the Minister of Public Order that applicants not be considered illegal until their cases have been examined. In reply, the Division of National Security informed the Ombudsman that appeals made by aliens against deportation usually are treated favourably, if the applicants have applied to the Special Committee for a green card before being arrested for illegal residence.

Finally, the Citizenship Department of the Ministry of the Interior repeatedly refused to accept applications for naturalization from aliens holding green cards or green card certificates, despite the fact that these documents constitute certifications of legal residence in the country, and demanded instead that applicants provide the alien's residence permit provided for in Law 1975/1991 and issued by local police authorities. This demand created the mistaken impression that green cards are an inferior kind of residence permit and do not ensure rights for their legal bearers. The Ombudsman convinced the responsible employees to treat green cards in such cases as providing the same rights as old residence permits. The services of the Ministry of the Interior, however, stressed that their refusal to accept applications for naturalization from green card holders is a result of the refusal by the Ministry of Public Order to investigate and report on the "morals" of alien green card holders as required by the procedures for naturalization. Communication with the Ministry of Public Order did not clearly confirm this information. The above services and the OAED must be fully informed of these problems and must coordinate their work in order to wipe out the impression that each public service follows its own policy (case 5629/1999).

3.4.3.2 OTHER RESIDENCE PERMIT PROBLEMS: MEDICAL EXAMINATIONS, STUDENT VISAS, RENEWALS

Complaints from a British citizen teaching in a foreign language centre and a French citizen directing the Greek branch of an international company brought to the Ombudsman's attention the question of whether or not the medical examinations required by the Ministry of Public Order as a prerequisite for granting residence permits to citizens of the European Union are in conformity with current EU legislation and, in particular, with the rights of freedom of movement and residence.

The Founding Treaty of the EU (article 48, par. 3) provides for the freedom of movement "with the reservation of restrictions justified by reasons … of public health." According to Directive 64/221/EEC the illnesses mentioned in Presidential Decrees 525/1983 and 499/1987 are "the only illnesses or disabilities that may justify a refusal to enter the country or to issue the initial residence permit." Greek legislative provisions, therefore, do not violate Community Law. Since, however, 35 years have elapsed since the directive was issued, the purpose in requesting the same medical examination for EU nationals seeking residence permits is questionable. Since citizens of EU member states can now enter Greece freely, medical examinations have become an essentially useless bureaucratic procedure for professionals coming from EU countries, in many of which no medical examination of EU citizens seeking residence permits is required (cases 2708/1999 and 7958/1999). One of the Ombudsman's proposals for legislative amendments contained in this chapter is based on these cases (see 4.3).

Foreigners seeking student visas encounter other problems. The joint decision taken by the Ministers of Foreign Affairs, Education, and Public Order (4803/13/4-ωδ/1998, article 2, par. 1) requires a special student visa in order for a residence permit to be granted to foreign students. There is, however, a gap in the law concerning the terms and requirements under which a consular visa can be considered as a student visa. As a result, this matter is left to the vast discretion of the consular office. Moreover, in the case of students who have been selected for postgraduate studies in Greece, there is no formal procedure for informing the consulates of the students' names. Consequently, there are difficulties for the consular

authorities called upon to confirm that applicants for student visas are really students. An example is the case of a journalist from Moldavia with a scholarship from the Greek Ministry of National Economy for postgraduate studies, who was informed six months after submitting her application that she was not qualified for a student visa because she had only a simple consular Schengen visa and not the required special student visa (case 5303/1999). One of the Ombudsman's proposals for legislative amendments contained in this chapter is based on this case (see 4.3).

Problems also occur in the process of renewing existing entry visas or residence permits. The Ombudsman believes that the measures established to discourage aliens from staying in the country illegally must not apply to those foreigners who have begun the process of legalization and whose requests are still pending. According to article 18, par. 3 of Law 1975/1991, "an alien with a residence permit … must, with no other notification, leave the country by the expiration date of the residence permit unless he submits an application for renewal 15 days before the date of expiration." From this provision it follows that if a request for renewal is pending, then applicants are still legal residents of Greece until a decision is taken. This means that they are not subject to article 31, par. 2 of the same law (1975/1991), which states that "public services … must not accept petitions from aliens on Greek territory if they do not have a residence permit and cannot prove that they are staying in Greece legally."

In the case of the Polish citizen who couldn't renew her health booklet because the IKA demanded a valid residence permit, the organization finally accepted the Ombudsman's recommendation that a temporary health booklet be issued until a decision was reached about the renewal of her residence permit (case 6733/1999).

3.4.4 PENALTIES FOR NOT HOLDING A RESIDENCE PERMIT

Forbidding aliens residing in Greece illegally to carry out transactions with the public services constitutes a measure designed to combat illegal entry and residence, since it deprives illegal residents of important services and makes their lives particularly difficult. The law provides for two direct penalties to be applied to aliens residing in Greece illegally: an administrative penalty (see 3.4.4.1) and deportation (see 3.4.4.2).

3.4.4.1 ADMINISTRATIVE PENALTIES IMPOSED ON PROTECTED FAMILY MEMBERS OF AN ALIEN HOLDING A GREEN CARD CERTIFICATE

The right to travel abroad may be exercised without difficulty by holders of green card certificates (which are held by most of the people who have submitted requests for legalization). This is not the case, however, for the protected members of their families (unemployed spouses, elderly parents, children under the age of 18) who, because the green card certificate is inadequately designed, are mentioned on the document only by number and not by name.

One such case is that of a sixteen-year-old Polish citizen, the son of a green card certificate holder who, in attempting to travel to his country of birth, was detained as an illegal immigrant and the legally prescribed fine was imposed because the police authorities at the border were unable to ascertain from the valid copy of his father's green card certificate that he was a protected member of the family. The Ombudsman requested that the fine be withdrawn and that the minor's free return to the country be ensured. He also suggested to

the OAED that the full name of protected family members be included on cards and certificates and that aliens be better informed of the rights deriving from these documents. The Ministry of Public Order accepted the Ombudsman's suggestions in full, while the OAED had not responded to the proposals by December 31, 1999 (case 6904/1999).

3.4.4.2 DEPORTATION

The great influx of immigrants, especially from Eastern European countries, and the usual conditions associated with the illegal entry and residence of aliens contribute to immigrants' becoming involved, usually as victims, with networks of organized illegal activities.
An anticipated outcome of this situation is the emergence of a climate of mistrust among members of the police force, a commensurately distrusting attitude towards applications submitted by aliens, hasty implementation of administrative deportation, and, in general, the exhaustion of all strictness in applying the law. Temporary detention until the foreigner is deported usually is justified by reference to the public interest, in particular to the threat posed by the alien to public safety or to the country's security.

On the basis of a complaint submitted by a group of night-club employees who were about to be deported, the Ombudsman pointed out to the Athens Division of National Security that holders of a green or white card (which grants the bearer the temporary right to reside and work in the country) have no criminal records and are in good health, proven by medical examinations. The police authorities, then, must be able to justify their claims about threat to public order, safety, or health with specific evidence, particularly in explaining arrest and deportation (case 3631/1999).

Another instance of the misuse of discretionary power by the police in interpreting the vague phrase "public order and security" involved an Albanian citizen of Greek descent who was held for deportation for fifteen days at the Lavrio Aliens' Department, although the day after he was arrested the court had judged him innocent of the charge of holding a counterfeit passport. In the end, the complainant's appeal against deportation was accepted (case 10113/1999).

Problems also occur concerning violations of the rights of people seeking political asylum, when responsibility for handling these cases is given to personnel who are not qualified to address such matters or are inadequately informed. This leads to a situation where the asylum seeker can be threatened with deportation. This was the case with a Sri Lanka citizen, whose appeal for asylum had been rejected and who submitted an appeal in light of new critical evidence. The Ombudsman pointed out to the Secretary General of the Ministry of Public Order that, since an appeal for re-examination had been submitted, the case is considered unresolved until a decision is issued. Therefore, in accordance with Presidential Decree 61/1999, article 1, and Joint Ministerial Decision 4803/13/7α/1992 by the Ministers of Foreign Affairs, Justice, and Public Order, deportation is forbidden. The Secretary General of the Ministry of Public Order accepted the Ombudsman's proposals, and ordered that the complainant's request be re-examined, while the complainant himself was released from detention until his request for political asylum could be decided (case 7727/1999).

3.4.5 DETENTION AND IMPRISONMENT

The measures for arresting, detaining, and imprisoning Greek citizens or aliens are directly tied to the right of personal freedom, since they constitute major restrictions of this

freedom. In each case, the competent authorities — usually the police — must follow legal procedures and ensure that human dignity is respected. Complaints submitted to the Ombudsman involving this issue are particularly difficult to handle: the Ombudsman must determine whether the complainant's or the police's claims are true, while in most of the cases the versions presented by the two conflicting sides are diametrically opposed.

3.4.5.1 CONDITIONS OF DETENTION IN POLICE STATIONS

One of the results of the high number of immigrants entering the country is that many more aliens are arrested for not holding valid residence permits and are deported or otherwise re-directed to their home countries. The work associated with these procedures often greatly increases the police workload while, at the same time, the inadequacy of the — already overstrained — police facilities and infrastructure is revealed on a daily basis. In recent years there has been a leap in the number of foreigners detained in police stations. Because of the unavoidably long delays in deportation procedures, many of these foreigners become permanent residents in police stations. This problem acquires extreme dimensions during occasional large-scale operations against illegal immigrants, often called, offensively in terms of human dignity, "sweeping-up operations." Overcrowding in police stations and long-term detention of aliens awaiting deportation often result in reducing the living conditions for all prisoners, Greek and foreign, to a tragically low level, and seriously offending human dignity. Indeed, for some aliens held for extended periods of time because of delays in handling their cases, their continued detention under these conditions becomes inhuman and humiliating treatment, strictly forbidden by the Constitution and international agreements Greece has signed. Finally, these conditions also constitute a threat to the health of people visiting detainees, the policemen, and to public health in general.

The Ombudsman reached these conclusions after examining complaints submitted by Greek citizens who had visited foreign prisoners held in the Omonoia police station in Athens. The gravity of the complaints caused the Ombudsman to order an unannounced visit and on-the-spot investigation of the area in which prisoners were held. The Ombudsman staff carrying out the investigation determined that the health of both prisoners and police officers, and more generally public health, were in immediate danger, since most prisoners had serious rashes and various kinds of skin diseases, possibly as a result of infectious diseases. The prevailing conditions of overcrowding, high temperature, poor ventilation, and inadequate hygiene meant that medical personnel needed to visit the area immediately. The Ombudsman sent proposals to the Athens Police Department on the same day. The Minister of Health and Welfare responded immediately by ordering that the prisoners be examined by medical personnel, that the overcrowding be reduced, and that the detention area be disinfected; these steps were taken on the following day. Furthermore, on the basis of the investigation carried out by his staff, the Ombudsman produced an extensive report that, on the one hand, assessed the conditions of detention in light of the Code of Prisoner Treatment, the Code of Penal Procedure, legislation governing the actions of the Greek police, the Constitution, and relevant international agreements concerning the protection of human rights and, on the other hand, presented alternative proposals consistent with the above legislation for dealing with the problem immediately. The search for new detention areas, the heightened effort to resolve deportation cases more quickly, and the more frequent use of the discretion provided by the Greek legal system to

conditionally release aliens whose deportation is still pending indicate that the suggestions of the Ombudsman were taken seriously into account (case 7905/1999).

3.5 EDUCATION

The Ombudsman has received many complaints concerning the extent to which the state fulfils the constitutional mandate to provide free access to education and "encourage students who distinguish themselves and those in need of help or special care, in accordance with their abilities" (article 16, par. 4 of the Constitution). The Ombudsman also investigated the financial and material preconditions concerning the capacity to exercise the right of access to education (scholarships, educational infrastructure), the infringement of student rights because of the suspension or reorganization of educational programmes, the right to acquire a degree after successfully attending an educational institution and the academic freedom of university professors.

3.5.1 THE RIGHT OF ACCESS TO EDUCATION

Complaints concerning access to public education submitted to the Office of the Ombudsman often have to do with the implementation of provisions favouring the access to secondary and tertiary education of particular groups of students, such as those who received awards in the Mathematics Olympics.

3.5.1.1 POSITIVE DISCRIMINATION OF STUDENT AWARD WINNERS

The father of a student who had won an award in the 2nd Balkan Mathematics Olympics raised the issue with the Office of the Ombudsman as to whether or not the special regulation in Law 2621/1998 (article 2, par. 11) continued to apply, once the system of admission to the universities had changed. According to this regulation, students who win any of the first six places in Balkan or International Mathematics or Computer Olympics are entitled, without examinations, to enter any university department whose entry requirements by the old admission system included a math examination. The new university admission system requires all candidates to take examinations in all subjects. As a result, it is no longer possible to determine the university departments to which these admission privileges may apply.

The Ombudsman turned to the Ministry of Education, stressing that in this case, the implementation of these regulations would not require the revival of the old examination system, but simply the identification of those university departments, which the "Olympic medallists" could enter unconditionally. He specified, however, that the ministry needed to make clear that this particular regulation would continue to apply. Leaving the issue unresolved would damage both the legitimate expectations of the very few students involved and the credibility of the state, since Law 2621/1998 was used by Greece as an argument in winning the competition to host the 2004 International Mathematics Olympics. The Ministry of Education declared that it was considering ways of clarifying the issue in the spirit of the Ombudsman's observations by means of a ministerial decision. However, the ministerial decision designed to address problems involved in the implementation of the law concerning university admission failed to clarify this particular point (case 2998/1999). The view favouring such positive discrimination, however, is supported by article 16, par. 4 of the Constitution, according to which the state encourages students who distinguish themselves.

3.6 LABOUR

Work is a fundamental aspect of the right to participate in the economic and social life (article 5, par. 1 of the Constitution). It is associated with the free exercise of professional rights and the state's corresponding obligation to refrain from imposing unreasonable restrictions on the economic freedom of its citizens.

3.6.1 RECOGNITION OF PROFESSIONAL RIGHTS WITHIN THE EUROPEAN UNION

The problems caused by the obligation to adapt Greek law to EU legislation are particularly evident in the case of safeguarding professional rights for holders of degrees from member states of the European Union. Engineering degrees and the corresponding licences to work as an engineer, for example, are not recognized because the Greek state has been extremely slow in incorporating Directive 89/48/EEC into Greek law. Architects encounter the problem of an EU directive incorporated into Greek law but not applied by public services, which raise procedural obstacles. Graduates from the engineering departments of technical universities also face problems in having their professional rights recognized. More specifically, the Ministry of Education and Religious Affairs has failed to issue a draft directive to recognize their professional rights because a petition to the Council of State to withdraw Presidential Decree 318/1994 concerning the professional rights of graduates of Technological Education Institutes has been pending since 1995. Finally, one special category of problems concerns the recognition of professional training and the coordination by the Council for Recognizing Titles of Professional Education and Training of the implementation of Directive 92/51/EEC.

3.6.1.1 FAILURE TO INCORPORATE INTO GREEK LAW AN EU DIRECTIVE CONCERNING ENGINEERS

Recognition of degrees and professional qualifications of higher education involving professional training lasting at least three years and earned in an EU member state was regulated by Directive 89/48/EEC, which established a general system for recognizing degrees that had to be adopted by every member state by January 4, 1991. The directive was transferred into Greek domestic law only in part, and applied only to certain professional fields, not including the engineers. For this reason, the Court of Justice of the European Communities condemned Greece on March 23, 1995 (case C-365/93). Since Greece has not yet implemented the decision, the European Commission turned again to the Court of Justice of the European Communities (case C-197/98), demanding that Greece be fined in accordance with article 171 of the EU Treaty (article 228 in the new Treaty).

The Ombudsman pointed out to the Ministry of Education and Religious Affairs the significant financial harm the state's negligence already had caused engineers holding degrees from European countries, the financial harm that would be caused to the national economy, and the damage to Greece's prestige that would be caused if a fine were to be imposed by the European Court. At the same time, he asked to be kept informed of the actions taken towards transferring all provisions of Directive 89/48/EEC into national law. The ministry did not reply to the Ombudsman. Meanwhile, the Advocate General of the European Court of Justice submitted his proposals to the European Court and the decision on imposing a fine upon Greece is awaited (cases 3414/1999, 6914/1999).

3.6.1.2 FAILURE TO IMPLEMENT AN EU DIRECTIVE CONCERNING ARCHITECTS

The Technical Chamber of Greece (TEE) refused to register as a member a holder of a degree in architecture from a German university, and did not respond to the applications she repeatedly had submitted since 1997. This refusal occurred in spite of the fact that the applicant had submitted all the documentation specified by Presidential Decree 107/1993, which adapted Greek legislation concerning the practice of the profession of architecture to EU Directives 85/384, 85/614, 86/17, and 90/658.

The underlying legal uncertainty seems to involve degrees from European schools of architecture which, according to EU law and Presidential Decree 107/1993, are considered equivalent to Greek degrees, regardless of whether or not they have been acquired from educational institutions considered to be providing higher — as distinct from university — education.

The TEE, instead of examining whether the requirements specified by the presidential decree had been met, verbally demanded additional qualifications, such as a certificate of equivalence issued by the Inter-University Centre for the Recognition of Foreign Academic Titles or further examinations. Essentially, the TEE refused to implement the provision of the relevant presidential decree, according to which the TEE itself ascertains the equivalence of degrees in accordance with detailed lists contained in appendices to the decree and, without requiring any additional documents, issues a licence to practise the profession within three months after the documents have been submitted. In this particular case, the Ombudsman stressed that the TEE failed to implement the presidential decree and failed in its obligation to answer both the applicant and the Ombudsman (case 7320/1999).

3.6.1.3 COORDINATING IMPLEMENTATION OF AN EU DIRECTIVE CONCERNING THE RECOGNITION OF PROFESSIONAL TRAINING TITLES

A large number of complaints submitted to the Office of the Ombudsman were concerned with delays caused by the Council for Recognizing Titles of Professional Education and Training, a body established within the Organization for Professional Education and Training by Presidential Decree 231/1998. The council is responsible for coordinating implementation of Directive 92/51/EEC which concerns the recognition of professional training titles and provides for the accreditation of legally regulated professions. According to article 14, par. 1 of this decree, the council's decision commits the responsible ministries to issue professional permits.

The number of complaints submitted to the Ombudsman indicates the serious problem that has been caused by the delay of the competent ministries to issue permits, in light of the country's obligation to recognize all titles of professional education (diplomas or certificates) issued by the competent authorities of other member states. The problem became more intense after the ministries were required to issue reasoned decisions within four months of the filing of a request and the necessary documentation (Presidential Decree 231/1998, article 13, par. 2).

As required by this presidential decree, the council prepared a list of all the documents applicants need to present in order for their files to be examined, first by the competent ministries and then by the council. Requiring the applicants, subsequent to their graduation, to seek documents issued by various authorities of other member states of the European Union raises obvious practical problems. More specifically, the Ombudsman

noted that each applicant is required to submit, among others, confirmation from a competent foreign authority that the professional training title he holds constitutes professional accreditation entitling the holder to practise the profession in question, or alternatively that access to this profession is unrestricted because it is not regulated by law as defined in Directive 92/51/EEC, article 1 and Presidential Decree 231/1998, article 2.

In the first case, that is, if the title can be used as a professional accreditation, the applicant must also provide confirmation from the competent foreign authorities as to the type and extent of professional activity the holder of the permit may exercise in the country where the title was issued. Furthermore, confirmation is required from the competent foreign authorities of the level of education provided by the institution that granted the professional training title.

With reference to the principle of fair administration, the Ombudsman proposed that all the above documents be sought by the competent ministries or by the Council for Recognizing Titles of Professional Education and Training, in collaboration with the competent authorities in other member states, so that each individual applicant will not have to seek these confirmations. On this particular issue, the council could follow the policy already adopted by the Inter-University Centre for the Recognition of Foreign Academic Titles.

The issue, however, of recognizing professional titles is not purely procedural, and cannot be completely resolved through coordination by the council and the competent ministries. Delays in recognizing titles often conceal substantive disagreements concerning the equivalence of title-granting institutions, which is required by EU law, and the extension of professional rights to other categories of graduates, as in the case of opticians (case 2947/1999).

3.7 JUDICIAL PROTECTION

The Ombudsman examined cases in which refusal by the administration to implement court rulings undermines the right to judicial protection (see 3.7.1) and cases in which the administration impeded the exercise of judicial appeal (see 3.7.2).

3.7.1 IMPLEMENTING COURT RULINGS

The administration's refusal to implement court rulings presented the Ombudsman with cases involving the status of civil servants, the payment of salaries and the quashing of administrative decisions by the Athens Administrative Court of First Instance.

Occasionally the implementation of court rulings concerning the status of civil servants requires the revival of committees, which have ceased to be operational, and comes up against the reluctance of the administration to enforce these rulings (e.g. evaluation of doctors of the National Health System, cases 1773/1999, 7061/1999; promotion to the head of a Division in the Ministry of Education, case 327/1999). The Ombudsman pointed out that these decisions must be implemented not only as a matter of principle but because they are critical in resolving cases of pending compensations.

Furthermore, cases concerning the implementation of court rulings about the payment of sums due often reach a dead end, particularly when the large number of people involved makes any solution financially onerous. This fact often is concealed behind the legal or seemingly legal arguments advanced by the administration (compensating workers

dismissed from American bases, cases 1443/1999, 9598/1999; refusal to comply until the temporal limit for effecting payment has expired; and obstructive policies followed by the administration).

The Ombudsman also pointed out that the administration's refusal to carry out court rulings quashing administrative by-laws also may appear in the form of issuing new by-laws, similar to those that were quashed (joint applications for hunting licences and group insurance for members of hunting associations, cases 10101/1999, 10766/1999).

3.7.2 REQUIREMENTS FOR EXERCISING RIGHTS

The public administration often has the power to render the right to judicial protection ineffective by interfering with the requirements for exercising this right. This interference includes abuse of power when the administration is the litigant in an imminent trial or when the trial is concerned with the legality of the administration's actions.

3.7.2.1 OBLIGATION TO PROVIDE INFORMATION ABOUT LEGAL REMEDIES

Elaborating on the principle of fair administration, the recent provision of Law 2690/1999, article 3, unequivocally establishes the citizens' right to be provided with printed information (incorporated in printed application forms) about the legal requirements for fulfilling their requests, the provisions that must be implemented, the documents they must provide, and the time limit within which they will be answered.

When he went to the Municipality of Athens to appeal against a 1,200,000-drs tax imposed upon him by the municipality for cleaning and lighting (for the year 1994) plus a fine two times that amount, a citizen was given a printed form that included both an appeal "to the Athens Administrative Court of First Instance" and "a petition to the municipality to reach a compromise solution" in accordance with article 32, pars 3–8 of Law 1880/1980. The citizen maintains that the employees of the municipality did not inform him of the need, in accordance with article 6, par. 6 of Law 1649/1986, for his appeal to be signed by a lawyer if the amount in question exceeds 50,000 drs. The Athens Administrative Court of First Instance rejected his appeal because of this omission. At the Ombudsman's suggestion, the municipality added a stamp with the phrase "I have been informed about the requirement to attend with a lawyer," with space underneath for the applicant to sign. This will prevent applications for redress from being rejected in the future because of lack of information (case 523/1999).

4. Proposals for Legislative Amendments and Administrative Reforms

Many investigations carried out by the Department of Human Rights have revealed instances in which constitutional rights have been violated or in which other problems in the operation of the administration were detected. These problems need to be dealt with by legislation, by issuing regulatory administrative acts, or by taking measures of an organizational nature. The Department of Human Rights submitted proposals to the competent ministers, about issues such as the following:

4.1 CITIZENSHIP AND CIVIL STATUS OF PERSONS OF GREEK DESCENT

– A modification in legislation was proposed so that the procedures followed in granting Greek citizenship to aliens of Greek descent would be the procedures for establishing

citizenship and not the procedures for naturalizing aliens. This modification will benefit children born from marriages between Greeks and aliens that are not considered valid, under current law, which recognizes only religious wedding ceremonies. As a result, children born of these marriages are currently considered aliens.

– A significant number of Greeks who had migrated to Balkan countries lost their citizenship and were confined in those countries without being allowed to return to Greece. They face insurmountable difficulties in regaining their Greek citizenship, because, in the meantime, they have been deleted from civil status registers. The Ombudsman proposed that a special, brief procedure be established by the municipal authorities themselves, to update civil registers on the basis of the old files.

4.2 WELFARE FOR POLITICAL REFUGEES

– The Ombudsman proposed that the ministerial decision about people entitled to welfare benefits (people with special needs) should include recognized political refugees. He pointed out that this proposal is both in accordance with the humanitarian spirit of the proposed benefit and with the Geneva Convention, which can be directly implemented to treat political refugees in the same way as Greeks on welfare issues.

4.3 RESIDENCE PERMITS FOR ALIENS

– Upon establishing that the legislation concerning the requirements for granting entry visas to aliens was particularly complex and dispersed, the Ombudsman proposed that the disparate provisions be collected in a single piece of legislation to enable the competent authorities to provide accurate information concerning this matter.

The requirements for issuing a special consular student visa remain unclear. This results in the absence of uniform handling of similar cases by local consular offices. The Ombudsman proposed that a formal procedure be established for providing the responsible consulates with the names of aliens selected to pursue postgraduate studies, by publishing special lists compiled either by the Ministry of Education and Religious Affairs or by the competent university bodies.

The failure to implement article 12 of Law 2690/1999 concerning the issuance of reference numbers by consulates made it impossible to establish the potential urgency of a particular petition. To remedy the situation, the Ombudsman proposed that the Ministry of Foreign Affairs implement this provision.

– In violation of the rules contained in the Code of Administrative Procedure (article 10, par. 4), the administration does not accept petitions when renewals for entry visas or residence permits are pending, in effect equating people who have entered Greece legally and have applied to remain, with people who have crossed the country's borders illegally. With an eye to the equal application of the principle of fair administration to aliens as well, the Ombudsman proposed that the legislation concerning aliens entering and remaining in the country illegally (Law 1975/1991, article 31, par. 2) be brought into accord with article 10, par. 4 of Law 2690/1999.

– Requiring medical examinations before granting residence permits to citizens of the European Union diverges from common European practice for no particular reason. The Ombudsman proposed that Greek administrative practice be harmonized with that of the other member states.

4.4 ALTERNATIVE CIVIL SERVICE FOR CONSCIENTIOUS OBJECTORS

– Detailed proposals for legislative adjustments have been submitted to the Ministry of Defence in the form of a special report on alternative civil service for conscientious objectors, as described in section 3.1.4.2 above. The proposals can be summarized as follows: Establishing a new supervising authority, the Council for Alternative Civil Service; replacing the "forfeiture" measure of Law 2510/1997 with a special system of disciplinary and penal sanctions; changing the method of calculating the duration of alternative service by abolishing the standard addition of 18 months to military service and replacing it with the addition of a percentage or a fraction of the duration of military service; establishing more rational and flexible means to deal with specific issues associated with the adherence to the status of alternative service, and the selection or change of the location of service.

– In addition to the proposals made in the special report, the Ombudsman has established that legislative treatment of conscientious objectors, whose petitions to be classified as such have been rejected, has been iniquitous. Their applications were rejected due to their own negligence, without excluding the contributing negligence of the military services failing to provide adequate information. The Ombudsman proposed that a "second chance" be granted to this category of citizens, so that incarceration for refusal to fulfil military service will not be revived.

4.5 IMPLEMENTATION OF EUROPEAN UNION LAW

– The Ombudsman proposed that all the provisions of Directive 89/48/EEC be immediately incorporated into Greek law, pointing out that the failure to incorporate them has seriously damaged the ability of engineers holding degrees from an EU member state to exercise their professional rights and has resulted in Greece being convicted by the Court of Justice of the European Communities.

– It was also established that the practice followed by the Technical Chamber of Greece concerning the recognition of the professional rights of architects holding degrees from EU member states violates Presidential Decree 107/1993 and the relevant EU directives regarding the freedom of architects to practise their profession. The Ombudsman proposed that the Technical Chamber of Greece implement these provisions.

5. Implementation of Legislative and Administrative Proposals Contained in the 1998 Annual Report

The proposals made by the Department of Human Rights in the previous annual report met with varying degrees of acceptance by the administration. The degree of acceptance varied according to subject matter but also reflected the flexibility exhibited by particular units of the public administration, certain of which were not always ready to modify their established practices.

5.1 ABOLISHING THE BAN ON LEAVING THE COUNTRY BECAUSE OF DEBTS TO THE SOCIAL SECURITY ORGANIZATION

In the *1998 Annual Report*, the Ombudsman had suggested that the ban on leaving the country because of outstanding debts to the state and the IKA be abolished, because it violates article 12, pars 2 and 3 of the International Covenant on Civil and Political Rights, which states that "Every person is free to leave any country, including his own … except for

restrictions needed to protect national security, public order, public health, morality, or the freedom of others" (see *1998 Annual Report*, pp. 30, 35). The Ministry of Labour and Social Affairs has already introduced a regulation abolishing the ban on leaving the country because of outstanding debts to the IKA. In contrast, the Ministry of Finance maintained the ban, basing its policy on a relevant decision by the Council of State, and chose not to address the substance of the legal issue raised by this case, which concerns the compatibility of the ban upon leaving the country with the above article of the international covenant. Essentially, the ministry's current position leads it to try and fit debts owed to the state under one of the exceptions listed above (national security, public order, etc.). The fact that the ministry chose not to take a position on the substance of the matter and its observation that "there is no sufficient basis for the abolition of this measure, unless the Council of State takes a new decision that would formulate a different opinion," makes it possible to believe that, were the legal precedent changed, the ministry would be prepared to abolish the measure.

5.2 REFUSAL TO PAY PENSION FUNDS AWARDED TO JUDGES BY COURT RULING

In continuation of the mediating role undertaken by the Ombudsman in connection with the 24 complaints received from retired judges demanding the implementation of irrevocable decisions taken by the Court of Audit, which settled issues of pension payments, recalculating them on the basis of current salaries (see *1998 Annual Report*, pp. 34–35), the Ombudsman prepared a report that included the following findings: both the supra-legislative provisions forming the legal framework of the rule of law, and also in particular article 122 of Presidential Decree 1225/1981 "on executing decisions taken by the Court of Audit," lead to the conclusion that the administration is obliged to immediately comply with the irrevocable decisions of the Court of Audit. At the same time, the repeated practice of regulating legal relations by means of retroactive laws, which are intended to avoid the implementation of irrevocable court rulings issued against the public administration and do not serve some higher public social interest, violates the Constitution, and more specifically the principle of separation of powers and the principle of effective judicial protection for the interested parties, which is infringed in its very essence. For these reasons, the administration's (Ministry of Finance, State General Accounting Office) failure to implement the irrevocable court rulings is considered illegal.

The Deputy Minister of Finance stated that "the report is considered flawed, groundless, mistaken, selective, and biased, and for these reasons is being returned so that it may be re-examined in its entity." In reply the Ombudsman pointed out that "the founding law of the Ombudsman does not provide for the reports this institution occasionally issues to be returned. Therefore, after the lapse of a reasonable period of time since the report was submitted, (we consider) that the administration has silently chosen not to implement it. As a result, the Ombudsman's efforts to mediate on this issue are deemed to have been concluded." In the meantime, the European Court of Human Rights issued a decision on the same subject on December 14, 1999 (case 37098/1997, "Antonakopoulos and others against Greece"), in which it concluded that article 6, par. 1 of the European Convention for the Protection of Human Rights and article 1, protocol 1 of the same convention had been violated, and sentenced Greece to pay the plaintiffs compensation plus legal interest according to the procedure established in article 44, par. 2 of the convention.

5.3 ABOLITION OF REPATRIATION CERTIFICATES FOR ESTABLISHING THE CITIZENSHIP OF PERSONS OF GREEK DESCENT

In the *1998 Annual Report*, the Ombudsman pointed out the dramatic effects upon the lives of many persons of Greek descent caused by the practice of the Citizenship Department of the Ministry of the Interior to require that applicants hold a so-called "repatriation visa" from the Greek consulates in their countries of origin, before their application to have their Greek citizenship verified or to acquire Greek citizenship can be examined. At the time, the Ombudsman pointed out that this practice was not supported by existing legislation, since, in accordance with Joint Decision 106841/5.1.83 taken by the Ministers of the Interior and of Public Order, this requirement applied only to individuals who became political refugees during the period 1946–49. Especially in cases concerning the verification of citizenship (as opposed to those involving naturalization, where the administration is under legal obligation to provide a reason for its decision), the Ministry of the Interior's requirement had the absurd effect of demanding "repatriation visas" even from people residing abroad who had no wish to be repatriated, but only to have their Greek citizenship confirmed.

In the end, the Ombudsman's efforts were effective. Following meetings with the secretaries general of the three competent ministries, the Secretary General of the Ministry of the Interior issued a circular to all regional and prefectural government authorities in the country and to Greek consular authorities stating that "from now on a repatriation visa will not be required for verifying citizenship" for people of Greek descent residing in Eastern European countries, former Greek citizens who had been "trapped" in Albania during the Greek Civil War (1946–49), and former Greek citizens from Armenia. The Deputy Minister of the Interior informed the Ombudsman of this decision in writing.

In turn, the Ombudsman announced this development to the citizens who had asked for his help in removing the obstructions they faced in verifying their citizenship, urging them to demand that their requests be examined by the competent authorities. In most instances these actions, together with the Ombudsman's intervention in specific cases, resulted in the petitions being examined on their merits and the petitioners' Greek citizenship being verified.

5.4 OBSTRUCTIONS TO THE RIGHT OF FOREIGNERS FROM EU MEMBER STATES TO PARTICIPATE IN SPORTS ACTIVITIES IN THEIR COUNTRY OF RESIDENCE

The problem was mentioned in the *1998 Annual Report* (pp. 29, 37) and involved the refusal of the Greek Gymnastics Federation to issue membership cards to the two young children of the complainant, a European Union citizen, on the grounds that they were not Greek citizens. This refusal was in violation of current law. According to a decision by the Deputy Minister for Sports, aliens can join Greek sports associations but do not have the right to participate in countrywide games and national championships.

The Ombudsman pointed out that depriving foreign athletes of the right to compete in the most important events deprives them of the basic rights of membership. Denying foreign athletes of the chance to compete in major athletic events deprives them to a considerable extent of their motivation for participating in sports and improving their performance. Furthermore, such deprivation is a restriction on the free development of personality and on the freedom to participate in the country's social life, a freedom

guaranteed by article 5, par. 1 of the Constitution for Greeks and aliens alike.
In addition, this restriction is not in harmony with the right to freedom of movement and settlement, enjoyed by citizens of the member states of the European Union, because participation in sports and other social events — even amateur events — in one's country of permanent residence is an essential aspect of adhering to the social life of this country.

After suggestions by the Ombudsman, the issue in question was settled by decision 15460/1999 taken by the Deputy Minister for Sports, recognizing the right of EU citizens to participate in such events (case 989/1998).

Later on, however, when the complainant tried to register her two young children, citizens of an EU member state, in the chess and the swimming associations, she was asked to provide registration documents issued by the municipality where she resides. Since municipal registers do not include aliens, the administrative obstacle thereby created has the practical effect of depriving the two young athletes of the right to participate in the above associations. The Ombudsman undertook to mediate with the administration, requesting that this requirement be changed so that aliens will be able to enjoy equal access to sports activities.

E.2 DEPARTMENT OF SOCIAL WELFARE

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DEPARTMENT OF SOCIAL WELFARE

1. Area of Jurisdiction and Responsibilities of the Department

The Department of Social Welfare deals mainly with cases involving the exercise of citizens' social rights. The Department mediates in cases of maladministration or breach of the law by the public services. Carriers of these rights may be Greek citizens, persons of Greek descent, repatriated Greeks, as well as aliens, such as citizens of other European countries, immigrants, members of minority communities, refugees and tourists. The Department's activities focus on particularly sensitive groups, such as children, the elderly, persons with special needs, and persons who are physically or mentally ill.

The Department has competence over issues related to social policy, the welfare state and the rights issuing from it, as defined by law or in European and international agreements (Presidential Decree 273/1999, article 2, par. 1).

The Department's mandate may also include issues related to the rights and obligations arising from social-insurance legislation, such as the provision of old-age or invalidity pensions, recognition of time of insured service, payment and certification of contributions, payment of lump-sum amounts or dividends.

Other subjects handled by the Department of Social Welfare include the citizens' right to health and the corresponding obligation of the state to safeguard health by providing hospital or out-patient care, paying hospital bills or providing special benefits for health problems, and issues concerning health-care professionals, the operation of hospitals, and the National Health System in general.

Welfare issues also constitute an important part of the Department's activities, including benefits in kind or cash benefits provided by the state to economically and socially vulnerable groups. The purpose of these payments is to help recipients cover their needs (social tourism, workers' housing, Pensioners' Social Solidarity Benefit) or protect them against extraordinary circumstances (disability benefits, unemployment benefits, support in cases of natural disasters), as well as issues associated with public health.

2. General Assessment of the Department's Activities

2.1 GENERAL REMARKS AND CONCLUSIONS

There was a quantitative and qualitative leap in the cases handled by the Department during 1999. The number of complaints increased considerably, enabling the Department to deal with a broader range of subjects and to better identify problems linked to these and arising from administrative action. The main outlines of these problems were already evident during the Ombudsman's initial period of operation (October–December 1998).

The considerable increase in the number of complaints can be attributed to the publicity given to the Ombudsman in general and to this Department in particular, especially following the issuance of special reports of interest to broad segments of the population. The Department investigated a total of 2,260 cases during 1999. There was a small increase in cases involving social insurance, which constituted approximately 73% of

the total number of cases examined. Issues associated with health and welfare accounted for approximately 26% of the total number of cases. These percentages primarily reflect the structural and operational problems of insurance funds, particularly the smaller ones. They also reflect, however, the increased publicity given to the work of the Department of Social Welfare by the mass media.

2.1.1 PROCESSING OF IMPORTANT CASES

In addition to the complaints submitted during 1999, the Department also worked on cases that were still being investigated at the end of 1998 but were resolved during 1999. Some of them have already been presented in the *1998 Annual Report*, as they were of great importance. A good example is the delay in issuing pensions by the Supplementary Pension and Insurance Fund for Metalworkers.

The number of complaints submitted by citizens to the Department of Social Welfare regarding excessively long delays in issuing pension decisions by this fund increased considerably in 1999. Taking this situation into account, and bearing in mind that, according to recently adopted legislation (article 25 of Law 2676/1996), the fund had been abolished and merged with the IKA – Supplementary Pension and Insurance Fund for Salaried Personnel, the Ombudsman contacted the Deputy Minister of Labour and Social Affairs and met with the IKA's management in order to ensure a prompt and efficacious handling of the overall problem that had been pending for years.

The result of this meeting and of the ensuing correspondence was a cooperation agreement, on the basis of which the IKA undertook promptly to complete the handling of applications pertaining to claims involving citizens who had secured their pension rights up to 1995. The initial implementation of the cooperation agreement was encouraging. The IKA proceeded to handle a significant number of cases involving complaints submitted to the Ombudsman, and secured their resolution within 1999. The appointment of new and less cooperative management to the IKA branch office handling these cases, however, effectively prevented the cooperation agreement from being further implemented. As a result, a significant number of complaints remained pending as of December 31, 1999.

This development led the Department of Social Welfare to prepare a special report on the subject, to be submitted to the competent minister during 2000. The report describes the fund's structure, organization, and malfunctions, examines this situation's causes, points out the responsible parties, and suggests administrative improvements designed to ensure the speedier and more efficient resolution of pending cases.

Another important case, investigation for which was initiated ex officio by the Ombudsman in 1998, concerns the Roma populations residing under sordid living and hygienic conditions along the banks of the Gallikos River in Thessaloniki. Considering that the situation was a threat both to the health of the citizens living there, but also to public health in general, the Ombudsman intervened, requesting that accelerated procedures be followed for relocating these people to the Gonou army base in Thessaloniki, thereby ensuring minimum living conditions for this group of citizens.

The Ombudsman systematically monitored all the procedures taken, cooperated with the competent authorities, and ensured the positive prospects for resolving this case. According to information contained in a recent report by the Greek Branch of the Helsinki

Watch for the Protection of Human Rights in Greece and confirmed by the Médecins du Monde, the Ombudsman's intervention helped bring about progress of this case.

A further important intervention by the Ombudsman was the ex officio investigation undertaken by the Department about the conditions prevailing in the "Theometor" Social Welfare Institution, located in the Municipality of Ayiasos, on the island of Lesvos. The specific aim of the on-the-spot investigation by the Ombudsman was to obtain concrete information about the institution's operation, the living conditions of its residents, the observance of rules relating to hygiene, and the degree of respect for the rights of inmates. All of these issues had been the subject of criticism from the Greek and international media. On the basis of the on-the-spot inspection of this case and of its further investigation, the Ombudsman has completed a special report that will be submitted to the Minister of Health and Welfare in 2000.

During 1999, the Department also made use of article 4, par. 10 of Law 2477/1997, which allows the Ombudsman to refer his findings to the public prosecutor, when the investigation of a particular case yields sufficient indications that punishable acts have been committed by a public official, civil servant, or member of the administration.

This was the outcome, in 1999, of a case concerning a patient who claimed she had contracted the hepatitis B virus through transfusion of infected blood, when she underwent surgery in the Piraeus General Hospital "Metaxa". After thorough investigation of the administrative and medical data, the Ombudsman referred his findings to the public prosecutor of the Piraeus Court of First Instance, as provided in article 4, par. 10 of Law 2477/1997, on the grounds that his investigation of the case had yielded sufficient indications that punishable acts had been committed. After studying the findings submitted by the Ombudsman, the public prosecutor brought criminal charges against the supervisor of the hospital's blood transfusion department.

The complaint of a citizen who had doubts about the conditions under which her newborn child died in the Regional General Hospital of Athens "Alexandra" was treated similarly. The contradictory and incomplete information yielded by the inquiry resulted in the Ombudsman's findings being referred to the public prosecutor of the Athens Court of First Instance, who has initiated a preliminary investigation into whether or not there is any criminal liability.

2.2 CASE FLOW AND PROCESSING: STATISTICAL DATA

2.2.1 COMPLAINTS IN 1999

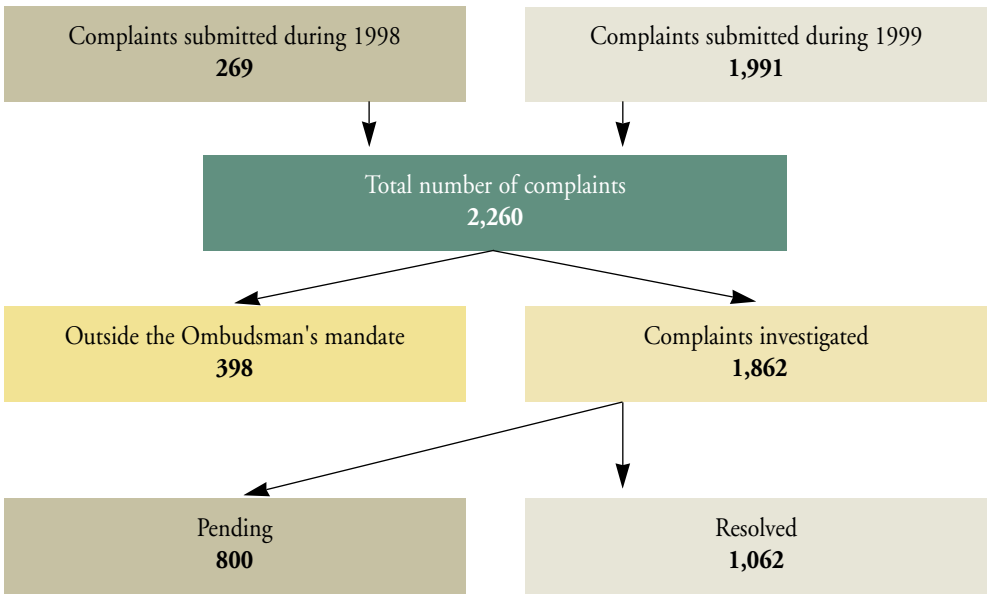
During 1999 the Department of Social Welfare processed a total of 2,260 complaints, 1,991 of which were submitted during the year. This figure constitutes 27.3% of the total of 7,284 complaints received by the Ombudsman. Investigation of 269 complaints, submitted in 1998 but not resolved by December 31, 1998, continued during 1999. 398 of the 2,260 complaints fell outside the Ombudsman's mandate and the remaining 1,862 were investigated in depth. Investigation of 1,062 of these complaints was completed during 1999, whilst 800 complaints were still pending on December 31, 1999 (see Graph E.2.1).

2.2.2 COMPLAINTS OUTSIDE THE OMBUDSMAN'S MANDATE

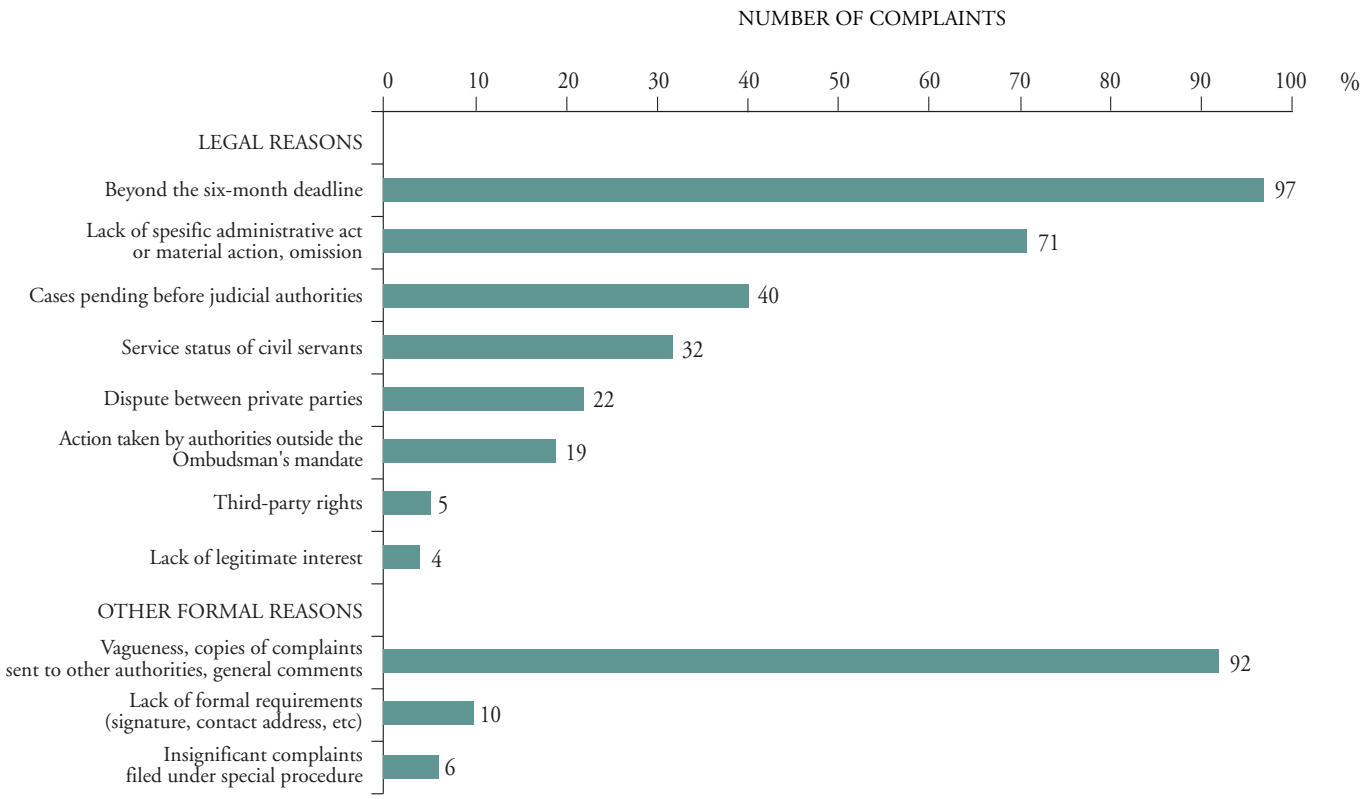
The Ombudsman's mandate is defined in Law 2477/1997 and further clarified in Presidential Decree 273/1999. Given the nature of its mandate, which extends to socially

vulnerable groups, the Department of Social Welfare is particularly sensitive on the issue of jurisdiction. Acting within the spirit of the law, it tries, as do the other Departments, to investigate each complaint on its merits. Despite these efforts, a considerable number of complaints are regularly found to fall outside the Ombudsman's mandate. As shown in Graph E.2.1, 398 complaints, or 17.6% of all complaints investigated during 1999, were found to lie beyond the Ombudsman's mandate and were not investigated on their merits. The most common inadmissibility reason (97 complaints) was the lapse of the six-month deadline since the complainant became aware of the reported act of maladministration, which the law sets as a condition for the administration to process a complaint.
A considerable number of complaints (92) could not be investigated either because the documents involved were not addressed to the Office of the Ombudsman (for example, copies of complaints sent to other authorities) or because they did not contain a demand or complaint but only general or vague observations. Finally, 71 complaints could not be investigated because they did not refer to any specific action taken by the administration, since the citizen appealed to the Ombudsman without first having applied to the competent authority. The graph below presents the reasons for classifying cases as falling outside the Ombudsman's mandate.

GRAPH E.2.1 **CASE FLOW IN 1999**



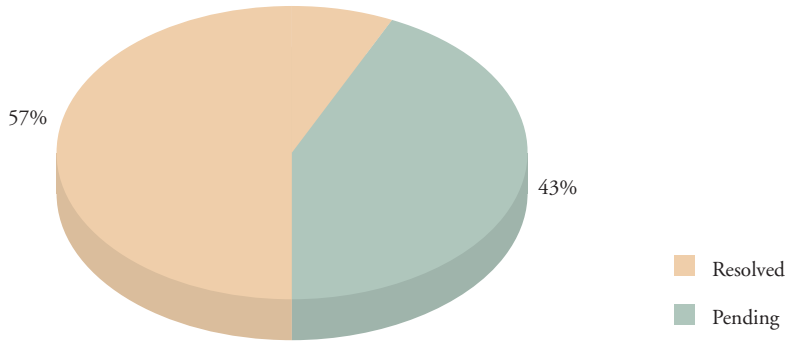
GRAPH E.2.2 **COMPLAINTS OUTSIDE THE OMBUDSMAN'S MANDATE**



2.2.3 COMPLAINTS INVESTIGATED

During 1999, the Department of Social Welfare examined 1,862 complaints. As of December 31, 1999, 1,062 had been resolved and 800 remained pending, as shown in Graph E.2.3.

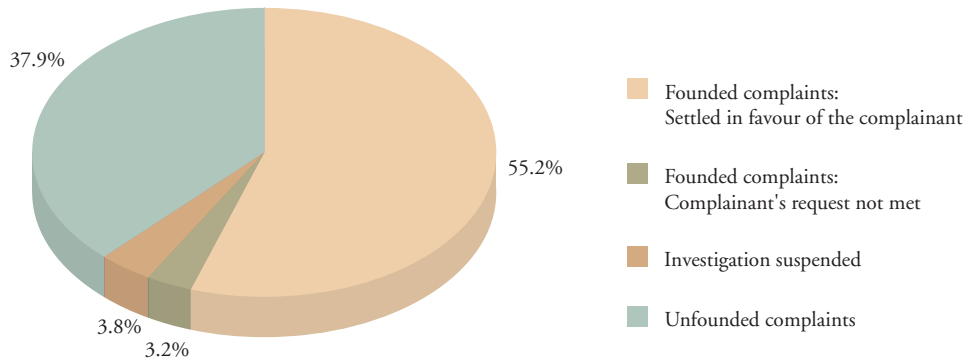
GRAPH E.2.3 **COMPLAINTS INVESTIGATED**



2.2.3.1 COMPLAINTS RESOLVED

This category consists of 1,062 cases that were filed after investigation during 1999. These cases were closed, however, in different ways. In a small number of cases (40), investigation was suspended at an advanced stage, before the Ombudsman had arrived at his conclusions. These suspensions occurred either because the complainant wished so (complaint withdrawn, lack of cooperation: 15 complaints) or because the status of the complaint changed (for example, the complainant appealed to the courts: 25 complaints). For a significant number of complaints for which investigation was suspended, the Ombudsman had already made extensive research that the complainants were able to utilize in court.

GRAPH E.2.4 **OUTCOME OF COMPLAINTS INVESTIGATED***



* The percentage of cases resolved in favour of the complainant would be much higher (94.5%) if it were calculated on the basis of the 620 founded complaints only.

Investigation into 1,062 complaints resulted in a series of conclusions that were reached after communication with both the competent authorities and the complainants, whether over telephone, by mail, or both. Detailed study of the relevant legislation and the details of the case were often required.

In 402 cases (37.9%) the complainants' requests were judged as unfounded, either because the complaints contained false statements (7 complaints) or because the action taken by the administration was deemed lawful (395 complaints). It should be noted, however, that the formal legality of administrative action does not necessarily mean that a complaint is unfounded, since formal legality can conceal "substantial injustice," unacceptable by law.

On the other hand, 620 complaints (58.4%) submitted by the citizens were deemed to be founded (see Graph E.2.4). In 586 founded complaints (55.2%), the Ombudsman's intervention had a positive result. In a small number of founded cases (34, or 3.2%), the proposals made by the Ombudsman were not accepted by the administration, leaving the complainants' requests unfulfilled.

2.2.3.2 COMPLAINTS PENDING

As shown in Graph E.2.1, 800 cases (or 43% of the total) were still pending on December 31, 1999. Investigation of these cases will continue in 2000. For most of these cases the

Ombudsman has completed the investigation and is awaiting the reply of the competent authorities on the implementation of his proposals.

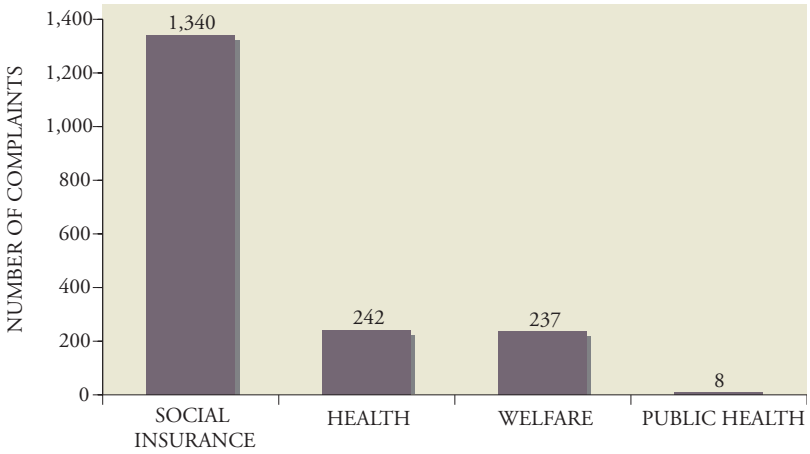
It should be noted that most of the cases investigated by the Department of Social Welfare (for example, issues involving social insurance) are extremely complex. The often large number of public services involved, the large number of related documents, and the complexity of pertinent legislation usually mean that systematic research and investigation are required, making the examination of these cases a very time-consuming process.

2.3 DISTRIBUTION OF COMPLAINTS

2.3.1 GROUPING OF COMPLAINTS BY SUBJECT

Most of the complaints investigated by the Department of Social Welfare concern pensions and social insurance (see Graph E.2.5). Of the total of 1,862 complaints falling within the Department's mandate, 73.3% (1,340 cases) refer to social insurance issues, 13.3% (242 cases) to health issues, 13% (237 cases) to welfare issues, and 0.4% (8 cases) to public health issues. The large number of complaints concerning social insurance is linked to the irrational structure of pension and insurance funds and of the Greek social insurance system in general, as well as to the lack of information provided to insured citizens, and to the fragmentary nature of social insurance legislation.

GRAPH E.2.5 **GROUPING BY SUBJECT**



2.3.2 AGENCIES INVOLVED

Most of the agencies involved in the cases the Department of Social Welfare was called upon to investigate are located in the greater Athens area (1,497 complaints). This is largely due to the centralized nature of insurance funds, such as the Agricultural Insurance Fund, and public services such as the State General Accounting Office, which serve much of the country's population. There were 87 complaints from citizens concerned with the greater Thessaloniki area.

Most of the complaints concern the Social Security Organization (IKA - 586 complaints), and focus mainly on issues of old-age pensions, or requirements for payments and insurance contributions, especially those relating to the construction sector.

The State General Accounting Office was the object of 218 complaints. Most of these were concerned with readjusting old-age pensions or with pensions arising from indirect

rights. There were 176 complaints concerning the Agricultural Insurance Fund (OGA), many of which involved old-age pensions and large-family benefits. A large number of citizens (155) submitted complaints about the Supplementary Pension and Insurance Fund for Metalworkers that was recently merged with the IKA. These complaints were concerned with the excessive delays observed in issuing old-age pensions. The Professionals and Craftsmen's Insurance Fund was the subject of 131 complaints related to problems regarding old-age pensions and the payment or return of contributions. Finally, a considerable number of cases referred to problems encountered at health-care units and especially hospitals (67 complaints), prefectures, where the main problem is the operation of health-care committees (64 complaints), and the Manpower Employment Organization (53 complaints) on issues having to do with the professional training of disabled individuals.

2.3.3 COMPLAINANTS' PLACE OF RESIDENCE

Most of the citizens who appealed to the Ombudsman were from the greater Athens area (951 citizens, or 51.3%). This can easily be explained by the fact that:

– Approximately 40% of the country's population lives in the greater Athens area, and
– easy access to the Office of the Ombudsman constitutes a powerful incentive for submitting complaints in person and obtaining relevant information.

The number of complainants residing in the greater Thessaloniki area was 202 (10.9%). 403 complainants (21.7%) reside in other urban centres with population over 10,000, and 247 (13.3%) live in semi-urban or agricultural areas. Finally, 52 people (2.8%) who submitted complaints to the Ombudsman were residents of countries other than Greece.

2.4 PROBLEMS RELATED TO ADMINISTRATIVE ACTION

To a large extent, the experience gained by the Department of Social Welfare during 1999 is linked to the working methods, organization, and administrative procedures followed by social welfare authorities. In many cases, the complaints submitted and the subsequent investigations highlighted problems of broader interest, such as administrative inflexibility, legislative gaps, administrative omissions, and the entrenched mentality pervading the civil service.

On the whole, they were associated with the administration's routine operations and involved violations of existing legislation or were in conflict with the general principles of administrative law. As a result of these problems, the rights of the citizens concerned were violated, unfair situations were created, identical cases were treated differently, citizens were inconvenienced, insufficient information was provided, civil servants behaved badly, and often the administrative acts issued were contrary to the principles of equity, fair administration and the protection of legitimate expectations.

In order to deal with such problems, the Ombudsman must intervene not only in cases in which the principle of legality should be upheld, but also in cases in which the administration is obliged to apply the general principles of administrative law or the principle of equity.

These problems often entail serious consequences for the citizens affected, since, for example, cases of excessive delays investigated by the Department relate to the award of pensions, benefits, or other subsidies. It follows that delays affecting such categories of people can lead to serious problems, which border upon the deprivation of social rights and of a respectable standard of living.

Maladministration also involves problems associated with inadequate information provided to citizens about their rights and obligations. In particular, lack of knowledge concerning one's obligations towards the social insurance authorities may lead to the loss of rights or to the imposition of heavy penalties and fines for violating applicable legislation.

Through its various interventions, the Department of Social Welfare sought to make clear to the administration that the handling of such cases must respect the rights of citizens and must observe the principles of good faith and of the protection of legitimate expectations towards those affected. These principles are clearly jeopardized when inadequate information or delays in settling cases result in the violation of the social insurance rights of citizens. These cases must be treated on an individual basis, and the outcomes generated by ascertained maladministration should be overturned.

3. Presentation of the Most Important Cases

3.1 SOCIAL INSURANCE

3.1.1 ESTABLISHMENT OF PENSION RIGHTS

Agency: Agricultural Insurance Fund

Subject: Inclusion of time of insured service in an EU member state; coordination of social insurance systems

A disabled person submitted a complaint (10088/1999) to the Ombudsman because for several years the Agricultural Insurance Fund (OGA) had been turning down his applications for an invalidity pension. According to the relevant legislation, in order for an insured party to be awarded an invalidity pension, two conditions must apply:

– That person must be judged unable to work, suffering at least 67% disability, and
– that person must have been insured for a minimum of 5 years before the date he is judged unable to work.

The individual in this case had been insured for years in Germany. According to articles 45 and 48 of EEC Regulation 1408/1971, the time of insured service in a member state of the European Union can be included in the calculation of the required five-year period, as long as the insured party was, at any time, insured for at least one year with the OGA. In this case, the OGA considered that even though the citizen was unable to work, he was not entitled to an invalidity pension because he failed to meet the time requirement. Instead of the required minimum of 60 months, he had completed only 57 months.

Since the applicant claimed that he had been insured in Germany for more than five years, the Ombudsman asked the German insurance fund to provide an E205 form, which shows the length of time the individual had been a member of the insurance agency, in order to establish if the applicant had really completed 57 months of insurance before becoming unable to work. The E205 form did, indeed, show that the time required by law in order to secure the right to an invalidity pension from the OGA had been completed.

The Ombudsman communicated this new information to the OGA and asked that the citizen's application be reconsidered. The OGA accepted the validity of the new information, reconsidered the individual's prior application, and awarded him an invalidity pension.

Agencies: Social Security Organization, Ptolemaida and Kozani branch offices; the Social Security Organization's central administration
Subject: Recognition of time of insured service under the Code of Hazardous and Unsanitary Occupations; violation of the principle of fair administration

A Public Power Corporation employee who had completed time of insured service with the IKA complained to the Ombudsman against the revocation of a previous decision of the Ptolemaida IKA branch office that recognized 216 days of work under the Code of Hazardous and Unsanitary Occupations (case 8495/1999). As a result of that recognition, the complainant proceeded to resign from the Public Power Corporation and began to receive a pension. Later, the Ptolemaida IKA branch office revoked the above decision. This was done in accordance with instructions issued by the Kozani IKA branch office, whose justification for the revocation was that the conditions for recognition had not been observed, since for such recognition to be valid, the IKA must be the competent agency to issue the pension and not just the participating agency.

This development had particularly negative consequences upon the retirement and overall life of the citizen, since according to relevant legislation he no longer fulfilled the conditions entitling him to a pension, and his pension was suspended. The complainant was forced to return to his job in order to complete the required time of insured service (an additional seven-month period).

After verifying the above events, the Ombudsman contacted the IKA branch offices at Ptolemaida and Kozani as well as the IKA's central administration and pointed out the inexcusable inconvenience caused to the citizen because of omissions by the IKA officials. In addition, the Ombudsman referred to the broader problem raised by the revocation of unlawful administrative acts, as these affect the need for the state to protect the justified trust of citizens and to observe the principles of fair administration, which, he stressed, had been violated in this specific instance. He proposed that the revocation decision be rescinded in turn, since the obverse solution would create extremely onerous consequences for the complainant, who bore no responsibility whatsoever for the problem.

Invoking the principle of fair administration, the IKA, with the concurrent agreement of the General Secretariat of Social Security, asked the Ptolemaida IKA branch office to rescind the revocation decision. The branch office in Ptolemaida proceeded to revoke the previous decision and to recognize the complainant's working time under the Code of Hazardous and Unsanitary Occupations.

3.1.2 RECOGNITION OF TIME OF INSURED SERVICE WITH AN INSURANCE FUND

Agency: Shipping Agents and Employees' Insurance Fund
Subject: Rejection of documentary evidence concerning recognition of time of insured service in an EU member state; violation of the principle of free movement of workers

An insured party complained to the Ombudsman about the refusal by the Shipping Agents and Employees' Insurance Fund (TANPY) to recognize his ten years of service in an EU member state (case 1069/1999). The first application, submitted by the complainant on November 3, 1991, had been dismissed by the fund on the grounds that it was filed late. On June 11, 1996 the Piraeus Administrative Court of Appeal mandated the fund to accept the application as having been filed within the time limits. After many visits and

applications of the citizen to the fund, the TANPY issued decision no. 1604/26.1.99, dismissing the application on the grounds that the applicant had not submitted the necessary documentation and, in particular, that his employment contracts did not mention the time period during which he was an employee of a shipping agency in an EU member state.

After examining the documents submitted by the complainant and the fund's by-laws, the Ombudsman determined that, according to article 10, par. 4 of the by-laws, the documents required for the recognition of prior employment with a shipping agency in an EU member state are:

– Certification by the employer of the length of employment, and
– certification by the competent consular authority or, if such a confirmation is impossible to obtain, an affidavit by two witnesses insured with the TANPY that the applicant resided in a foreign country and worked at a shipping agency.

The individual in question, however, could not submit recent certification by his employer because the company had been dissolved and its shareholders had died. The fund invoked this as a reason for refusing to recognize his time of previous service.

Nevertheless, in order to document his employment abroad, the complainant submitted a certificate issued by the insurance fund in England which showed the period during which he had been employed in England, an entry permit stating that he was permitted to enter the country for the exclusive purpose of working as a shipping agent in the specific shipping company, and older certificates issued by his employers. When issuing its decision, the fund did not take these documents into consideration.

After investigating the case, the Ombudsman communicated with the general manager of the TANPY and forwarded his findings directly to the fund. In his report, the Ombudsman pointed out that the documentation issued by the complainant's employer provided indisputable proof that the complainant had worked for ten years as a shipping agent in an EU member state. Furthermore, the findings stressed that the principle of fair administration requires that the application concerned be accepted, since the document required under the fund's by-laws could not be produced because of reasons of *force majeure*. The fund's board of directors then issued decision no. 13616/8.6.99 recognizing the complainant's previous years of service and accepting the documentary evidence submitted.

Agency: Social Security Organization, Alexandras Avenue branch office
Subject: Recognition as time of insured service of the period lasting from the date a company went into receivership to the formal termination of the insured party's employment contract by the receiver; violation of insurance right

An individual insured with the IKA requested in his complaint (873/1998) that the Ombudsman intervene so that the IKA would recognize the period of four months that had elapsed between the bankruptcy of the company for which he worked and the official termination of his employment contract by the receiver appointed to oversee the bankruptcy. In addition, because of the considerable delay in settling his case, the same individual submitted a subsequent complaint requesting that the Ombudsman intervene with the IKA to accelerate the relevant process.

The Ombudsman contacted the competent IKA employees and asked that the handling of the case be accelerated and that the complainant be provided with an answer. In a

communication sent to the competent IKA branch office, the Ombudsman referred to the merits of the case and noted that, in accordance with the law governing bankruptcy (Law on Commerce, 549–581), there is no provision for any automatic termination of employment contracts by the bankrupt party, in this case, the bankrupt company. Therefore, the complainant formally remained an employee of the company until the rescission of his employment contract by the receiver, and the IKA should have recognized the disputed period of insurance. This position of the Ombudsman was reinforced by recognition by the receiver of a sum of compensation corresponding to the months under dispute.

The Ombudsman's proposals were accepted and, approximately two months later, the IKA wrote the Office of the Ombudsman that the claim had been settled in the complainant's favour.

3.1.3 SOCIAL INSURANCE CONTRIBUTIONS

Agency: Social Security Organization, Glyfada branch office
Subject: Insurance Contributions Imposing Act; violation of the principle of fair administration

A citizen requested intervention by the Ombudsman in order to be relieved of the obligation to pay the employer's contribution to the IKA branch office in Glyfada (case 1987/1999).

The complainant had won a contract to repaint a hotel. It was established that to carry out this task he used a special painting machine of the latest technology, known as F400. According to the specifications provided by the importer of these machines into Greece, the machine can paint 1,800 sq.m. per eight-hour shift.

The technical service of the Glyfada IKA branch office, with its decisions nos 33841 and 33842/30.9.98 and 1767/30.9.98 calculated insurance contributions corresponding to 1,366 workdays. In its calculations, the organization's branch office did not take into consideration that a special machine of the latest technology had been used, but rather applied the objective criteria established by Ministerial Decisions 2930/1992 and 478/1997. At the time these decisions were made, however, the painting machine used by the complainant did not exist.

The cost of the project undertaken by the complainant was initially estimated to be 43,315,000 drs. The IKA used the 1,366 working days as a basis for calculating the insurance contributions it imposed in accordance with the objective criteria provided under the relevant legislation. However, the actual cost of the project was much beyond the above amount, so that the complainant not only failed to make any profit for the work he performed, but also incurred losses.

The Ombudsman wrote to the competent service, pointing out the special features of the case and invoking the principle of fair administration. He then asked the Glyfada IKA branch office to take into consideration the special circumstances relating to the case and, in so doing, to apply the general principles of law, such as the principle of good faith stemming from the founded trust of citizens towards the administration and the principle of protecting the citizens' rights, which have particular application in cases where the citizens' interests are harmed by omissions on the part of the administration. In this

particular case, the citizen was wronged by the omission of the administration to modernize and adapt the relevant ministerial decision to technological developments — an omission that has occurred in similar cases involving advances in technology.

The services of the Glyfada IKA branch office accepted the Ombudsman's recommendations and informed him that the issue had been decided in the complainant's favour.

Agency: State General Accounting Office
Subject: Contributions to the state for health-care services; violation of the principle of free choice of insurance agency

In a complaint submitted to the Ombudsman (case 566/1998), the widow of a civil servant who was herself insured with the IKA but, through the death of her husband, was also an indirect pensioner of the state, complained that the State General Accounting Office (GLK) had demanded that she make contributions to her health-care insurance institution. She argued that she was under no obligation to do so, since she had a full medical insurance with the IKA through her employment, and was already making the requisite contributions to the IKA.

Investigation of the case revealed that the citizen in question, though under no obligation to do so, had made insurance contributions to the state from January 1, 1987 when, because of her husband's death, she began to receive a pension from the state, until December 1, 1998 when she accidentally discovered this fact. She then applied to the GLK, asking that she be excluded from membership in the state insurance sector and that the sum of approximately 760,000 drs she had paid between January 1, 1987 and November 30, 1998 be returned to her.

According to article 30, Law 1759/1988, persons insured through their own right (e.g. those directly insured) and persons insured either through their own employment or through the death of another party, who concurrently qualify for membership in two or more insurance funds or health-care sectors, are entitled to select the health-care insurance agency of their preference. According to the relevant legislation (article 5, Law 375/1976), the selection of the insurance agency can be made by means of an application filed by the beneficiary and recording the insurance agency selected. Thereafter, the agency so selected shall provide the insured party's health care.

Investigation of the case established that, when, in order to receive the survivor's pension, the complainant submitted the required documents, including a statement that she was insured with the IKA, she was asked to declare her preference. She declared to the IKA employee that she wished to be insured with the IKA. This statement, however, was not noted by the employee, who also failed to inform her of her obligation to submit a statement clearly stating her choice of health-care agency. Because of this, the GLK imposed health-care contributions upon her.

After submission of her application requesting to be excluded from the state health-care sector, the GLK stopped charging her these payments as of December 1, 1998, but dismissed her request for the return of the payments she had made, on the grounds that when she was pensioned off, she did not submit a statement explicitly indicating the care under which she wished to be insured.

The Ombudsman repeatedly contacted the GLK over telephone and in writing, pointing out the problem arising from the provision of inadequate information to citizens concerning

the required formalities. The Ombudsman sent his findings to the GLK asking that the contributions made by the complainant for health insurance be returned to her because:

– Paying double insurance contributions contradicts the basic principles of insurance and the equality of the insured (article 14, par. 1, Legislative Decree 4277/1962), and
– the complainant should have been informed by the service that the application selecting the insurance agency was a necessary precondition for the state to cease imposing contributions.

Despite its initial reservations, the GLK re-examined the case and accepted the request of the interested party, to whom it returned a large part of the health-insurance contributions she had made without being required to do so (in the meantime, another part of the sum claimed by the complainant had elapsed because of the statute of limitations).

As shown by the considerable number of similar complaints concerning the GLK and other insurance funds (for example the Professionals and Craftsmen's Insurance Fund), this case highlighted a wider problem of considerable dimensions. The Ombudsman, therefore, decided to recommend to the competent government authorities that they draw up a definitive regulation concerning this matter that will relieve insured persons from having to make health-insurance contributions to two agencies (see 4.2.2).

Agency: Supplementary Insurance Fund for Retail Employees
Subject: Obligation on the part of an employee to pay employer contributions that were not charged to the employer within the period of statutory limitations in order to secure recognition of time of insured service; violation of the right to insurance

A pensioner of the IKA applied to the Ombudsman (case 320/1998) when he discovered that, in order to be entitled to a pension from his supplementary insurance fund, he had to pay 2,035,597 drs, the amount corresponding to employer contributions that his employer had not paid.

The individual in question had worked as a salesman with a commercial establishment during the period 1969–77. He was, therefore, under obligation to be insured with the IKA and also (supplementary insurance) with the Supplementary Insurance Fund for Retail Employees (TEAYEK). The records show that the employer made regular payments to the IKA, but there is no evidence that he had made any payments to the TEAYEK during the same period. The employer did, however, duly pay the TEAYEK in subsequent periods. When, 28 years later, the complainant applied for a pension, he discovered that his employer had not made all the contributions to the TEAYEK as the law mandated.

According to the relevant legal provisions (article 27, par. 7, Law 1846/1951; article 44, par. 2, Legislative Decree 2698/1953; article 7, pars 1 and 36 of the by-laws), the right to collect employer contributions lapses "within 10 years from the end of the fiscal year in which such contributions are rendered payable." Also, according to its by-laws, the TEAYEK was obliged to inspect the establishment covered by its insurance but, in this case, no inspection of the establishment was ever undertaken.

On the basis of the above data, the Ombudsman intervened repeatedly, sent his findings to the fund and to the General Secretariat of Social Security, and asked that the matter be re-examined in view of the special conditions that had materialized, namely that the citizen was, fully justified, unaware of his right to bring a complaint against his employer, and in the light of the obligations placed upon the state by the principles of good faith, and of the

protection of legitimate expectations of the citizen for fair treatment. The Ombudsman's findings also noted that in this case the responsibility must not be borne only by the insured party but also by the officials of the fund, who were obliged to undertake periodic inspections of the firms under their jurisdiction. In any case, negligence on the part of the insured party does not exempt the fund from undertaking such inspections, in order to prevent instances of abuse or arbitrary behaviour against employed personnel and to uphold the principle of tripartite financing (state, employer, insured party).

Nevertheless, the Supplementary Insurance Fund for Retail Employees did not accept the proposal submitted, and persisted in the views it had expressed. As of December 31,1999 the General Secretariat of Social Security had not replied to the Ombudsman on this issue.

Agency: Merchants' Insurance Fund
Subject: Right to offset insurance contributions; violation of citizen protection

An individual insured with the Merchants' Insurance Fund (TAE) asked the Ombudsman (case 6700/1999) to intervene so that the fund would return to him contributions he had not owed but had paid. It arose, however, that the individual did owe money to the fund, though less than the payments under consideration. In order to pay the sum it owed, the TAE demanded that the insured party first settle his debt to the fund.

In order to avoid bureaucratic procedures and simplify the administrative process, the Ombudsman, having studied the case, recommended that the TAE offset the two amounts and pay the balance to the individual concerned. The fund refused to accept this proposal, invoking its by-laws and, in particular, article 33, par. 10 of Presidential Decree 668/1981, which stipulates that the amounts that can be offset in the case of payments and additional charges are only those which correspond to future debts of the insured party. This case led the Ombudsman to prepare a proposal for an amendment to the legislation governing this matter (see 4.1.1).

3.1.4 INSURANCE COVERAGE

Agencies: Engineers and Public Works Contractors' Pension Fund; Technical Chamber of Greece; Agricultural Insurance Fund
Subject: Insurance based on professional activity; offence against the dignity of the insured person

An individual insured with the Engineers and Public Works Contractors' Pension Fund (TSMEDE) complained to the Ombudsman (case 4080/1999) that the fund refused to remove him from its register of insured persons, effectively preventing him from seeking insurance under the OGA. The reason for wanting to do so was that his primary and normal occupation was related to agriculture.

Investigation of the relevant legislation and contact with the competent authorities established that the TSMEDE did, indeed, refuse to remove the insured party from its register, invoking the provision of article 6, Law 2326/1940, "re: the Engineers and Public Works Contractors' Pension Fund," according to which "all persons entitled to membership of the Technical Chamber of Greece are obliged to contribute to the fund as of the date they began paying their membership fees to the Technical Chamber of Greece…".

The complainant received yet another negative reply to his request to be removed from the Technical Chamber of Greece's (TEE) register, this time on the grounds that, in accordance with relevant provisions, all engineers are necessarily members of the TEE after they receive a licence to practise their profession. The second refusal from the TEE was expressed in a reply written to the Ombudsman by the chamber's chairman, in which it was merely noted that the right of members of the TEE to resign would be included in a future amendment of the chamber's by-laws.

In view of the above and in accordance with article 4, par. 6 of Law 2477/1997, the Ombudsman drew up his findings, which he addressed respectively to the chairmen of the executive committee of the TEE and the TSMEDE. He also communicated his findings to the Ministry for the Environment, Physical Planning, and Public Works (General Secretariat of Public Works), and the Ministry of Labour and Social Affairs (General Secretariat of Social Security).

In the Ombudsman's reasoned opinion, the attempt to interpret the legislative gap in the TEE's by-laws should be guided by the principles inherent in the constitutional rights regarding the free development of personality (article 5, pars 1 and 3 of the Constitution), the freedom to associate (article 12, par. 1), and the principle of *in dubio pro libertate*. The conflicting interpretation, which was followed in this case, violates the constitutionally provided right of the individual (article 12, par. 1) not to participate in an association or to be free to resign from an association.

In his findings, the Ombudsman also pointed out that there is a need to deal with the issue of insurance for engineers on the basis of the profession actually practised rather than the professional licensing. This would avoid contradictions, such as those in the case under consideration, in which an individual exclusively active in agriculture remains insured with the TSMEDE and is denied all the privileges granted by legislation to farmers insured with the OGA.

Although the findings of the Ombudsman were issued in the end of October 1999, no reply was received by December 31, 1999. In contrast, within the context of its jurisdiction in the matter, the Ministry of Labour and Social Affairs approved of the approach taken by the Ombudsman (see 4.1.2).

3.1.5 HEALTH AND MEDICAL CARE

Agency: Ministry of Health and Welfare
Subject: Provision of health-care services to a husband of a civil servant; violation of the principle of gender equality

An unemployed and uninsured male citizen submitted a complaint (case 680/1999), according to which the Ministry of Health and Welfare, invoking the provisions of Royal Decree 665/1962, refused to include him in the insurance scheme provided by the state, despite his being the husband of a civil servant. Upon investigating the existing legislative framework, the Ombudsman noted that the relevant provisions of Royal Decree 665/1962 "re: health-care service for permanent civil servants, military and political pensioners, the members of their families, etc." create a regime of unequal treatment affecting male spouses of civil servants or pensioners of the state. According to the provisions of the above decree as it applies today, the non-working wife of a civil servant is always entitled to health-care

services, while the male spouse of a female civil servant is entitled to health-care services only if he is "destitute and unable to work for his living because of illness, injury or old age, … such disability being confirmed by the responsible health-care committee…".

After studying the relevant legal precedents, the Ombudsman addressed his findings to the Ministry of Health and Welfare, requesting that this particular case and other similar cases be treated favourably. In particular, he recommended that non-working men who are husbands of civil servants or pensioners of the state be granted health-care services under the same terms and conditions made available to the wives of civil servants or pensioners of the state. The findings requested that Royal Decree 665/1962 be amended to omit the additional requirements of destitution and disability for husbands of civil servants, since these requirements violate the principle of gender equality. These findings were not accepted by the ministry, which persists in applying Royal Decree 665/1962 regarding health care provided to people insured with the state. The provisions define the obligations and rights of the insured parties as regards the state, but also the obligations and rights the state has towards those insured under its scheme. At the same time, however, the ministry signalled its intention to draft a new regulatory framework for providing health-care services to civil servants that will meet medical requirements and will conform to new social insurance conditions.

3.2 HEALTH

3.2.1 PROTECTION OF THE RIGHT TO HEALTH CARE

Agency: Social Security Organization, Regional Athens branch office
Subject: Providing artificial limbs for an Albanian citizen injured in a labour accident in Greece; maladministration

An Albanian citizen residing in Greece appealed to the Ombudsman (case 1395/1999) on behalf of his twenty-year-old nephew, who had been injured in a labour accident while working in Greece. The result of the accident was that the young man was operated upon and lost his left leg and left arm. Because of the delay in setting the date for the injured person's appearance before the IKA's Artificial Limb Committee, the complainant asked that the Ombudsman intervene with the IKA's competent authorities so that artificial limbs could be issued to his nephew immediately.

The Ombudsman treated this case with sensitivity, and on March 5, 1999, faxed a letter to the IKA branch office where the young man was insured, asking the manager of the Regional Athens branch office to ensure personally that the injured person would appear before the Artificial Limb Committee and that artificial limbs would be provided as quickly as possible. Upon investigating the case and following contact with the responsible officers, it became clear that the delay was caused, among other reasons, by the difficulties the authorities encountered in communicating with the young man's family. Intervention by the Ombudsman helped remove the communication obstacles that had arisen from the family's inability to understand the Greek language, and the date for the committee responsible for approving the provision of artificial limbs was set.

The Ombudsman's staff carefully monitored subsequent developments in the case, repeatedly communicating with the competent IKA officials and the IKA hospital in which the young man was being treated. In April 12, 1999 the Ombudsman was informed by the

IKA Ayios Dionysios Clinic that the procedure before the committee had been completed and the artificial limbs had been provided.

Agencies: Social Security Organization; Halkida Prefectural Health Unit
Subject: Examination of a patient by a health-care committee at her residence; violation of the right to health care

In order to receive the support benefit provided for people unable to care for themselves, a pensioner had to be examined by an IKA health-care committee (case 455/1999). The health of the complainant was so bad, however, that she requested to be examined by the responsible health-care committee at her residence, since it was impossible for her to travel to Halkida, where the health-care committee is based, approximately 80 km. away from her home. As an alternative solution, the IKA suggested to the patient's relatives that she be transported by an ambulance provided by the IKA. The relatives, however, considered that, given the state of her health, such a transfer would cause her great hardship.

The Ombudsman initially ascertained that the legislation governing the IKA provided for examination by health-care committees at a patient's home in the case of paraplegics and other seriously disabled persons insured with the IKA. He then contacted the local IKA branch office (Limni, Evoia) and confirmed that the specific patient did, indeed, suffer from serious health problems, was bedridden, and that transporting her was impossible.

On the basis of this information, the Ombudsman concluded that the refusal to grant this particular request violated the constitutional rights of the elderly and the ill. In this case, the IKA did not take the reasonable request of the patient's relatives into consideration and demanded that an elderly and seriously ill person be subjected to the tiring process of transportation. Such an approach gives rise to serious concerns about the flexibility and social sensitivity of social insurance agencies, and brings to mind the kind of mentality associated with rigid bureaucracy.

The Ombudsman contacted the Halkida IKA branch office and the organization's competent management service, asked that the issue be resolved, and suggested that the request for an at-home examination by the health-care committee be approved since the requisite conditions for doing so did, indeed, apply. After the Ombudsman's intervention, the IKA made an on-the-spot inspection and accepted that the patient in question needed to be examined in her home. The health-care committee did so on March 12, 1999.

3.2.2 OPERATION OF HEALTH-CARE UNITS

Agency: "Alexandra" General Regional Hospital of Athens
Subject: Inadequate administrative organization and operation of the hospital; inadequate observation of the procedures provided upon the death of a newborn child

A citizen submitted a complaint (case 1464/1999), asking for the Ombudsman's assistance in connection with an investigation she was conducting concerning the conditions under which her newborn child had died. The Ombudsman was called upon to investigate to what extent the administrative procedures for maintaining public registers by the competent authorities so that interested parties may have access to all the data requested in their applications were observed. The investigation focused on procedural and administrative irregularities in connection with the sequence of hospitalization, death, and burial of the infant.

In the course of the investigation, it was deemed appropriate to conduct an on-the-spot

inspection (article 4, par. 5, Law 2477/1997) at the "Alexandra" Hospital, in order for the Ombudsman to form his own opinion about the particulars of the case. During the inspection that followed, the Ombudsman found that the record book of infant deliveries had been altered, reviews of the infant's hospitalization were incomplete and unsigned, there was no register of infant death confirmations, the book recording infants' deaths had been inadequately updated, the death certificate had been inadequately filled, and three months had elapsed between the infant's death and its burial. These facts gave rise to serious doubts concerning the conditions under which the infant was hospitalized and the procedure followed after its death.

The Ombudsman, taking into consideration the seriousness of this case and having evaluated the material he had collected, recorded these facts in his findings. In addition, since he concluded that there existed sufficient indications that a punishable act had been committed in connection with this case, the Ombudsman invoked the pertinent provision of Law 2477/1997 (article 4, par. 10) and forwarded his findings to the public prosecutor of the Athens Court of First Instance in order for the case to be further investigated.

Agencies: Larisa-Lamia First Aid Centre Ambulance Service; Ministry of Health and Welfare
Subject: Malfunction of the National Health System because of the absence of coordination between health centres; violation of the right of access to hospital care

The Ombudsman received and investigated a complaint (case 2666/1999), according to which there was excessive delay in reaching a patient with respiratory and heart problems in a village (Neo Monastiri) of the Prefecture of Fthiotida. The investigation conducted by the Ombudsman showed that this was caused by:

- The fact that the nearest health centre (at Domokos) did not have an ambulance,
- the large distance between the village and the capital of the prefecture (62 km.), and the inability of ambulances to travel to and from the hospital at Lamia because of weather conditions, and
- the complex procedure involved in sending an ambulance from Larisa.

Neo Monastiri is located on the borders of the Prefecture of Larisa (1 km.), and 20 km. from the health centre at Farsala. However, since it falls under the jurisdiction of the Prefecture of Fthiotida, intercession by the hospital at Larisa is required before a patient can be taken to the health centre at Farsala. This practice is applied also in the case of emergencies.

This complaint brought to light the inability to serve citizens at health centres located in adjoining prefectures, because the health centres that have been assigned to serve a prefecture refuse to send ambulances to other prefectures, even in adjacent areas. When emergencies that occur in one prefecture are referred to the nearest health centre in another prefecture, valuable time is lost in communicating between the health centres and the prefecture capitals involved, posing risks to the health and life of the citizens concerned. The main difficulty underlying this problem concerns the manner of operational coordination between health centres and/or other health-care services. More specifically, it stems from identifying health-care jurisdictions with prefectural jurisdictions.
The Ombudsman brought this problem to the attention of the competent ministry.
On December 31, 1999 the case was still pending (see 4.2.1).

3.2.3 HEALTH-RELATED PROFESSIONS

Agency: Ministry of Health and Welfare

Subject: Refusal to grant to cardiologists permits for the performance of ultrasound scans; violation of the principle of legality

In their complaints addressed to the Ombudsman (cases 918/1999, 4020/1999, and 5686/1999), 16 cardiologists complained that in the preceding two years the Ministry of Health had not granted permits for cardiologists to perform ultrasound heart scans.

These permits had previously been granted in accordance with Ministerial Decision A5/5006/5.11.91, following application by the interested physician and verification from the head of a cardiology clinic that the applicant had been sufficiently trained in this discipline. Following, however, a decision by the Council of State (4646/1997), the granting of such permits was suspended. Later, the legal framework was amended and article 28, par. 4 of Law 2646/1998 stated that "a presidential decree … shall define the medical actions of each specialty and the terms, conditions, procedures, and all relevant details concerning the granting of licences for doctors specialized in other fields to perform procedures, following their training…"

The refusal of the Ministry of Health to issue permits for performing ultrasound scans is based on the grounds that the new permits must be granted only after the presidential decree has been issued and specific conditions have been set in accordance with Law 2646/1998. In the meantime, and until new permits are issued, these scans may be performed only by doctors who have been issued the relevant permit under the previous legal framework.

The Ombudsman investigated the issue and concluded that Ministerial Decision 5006/1991 remains in force, since Law 2646/1998 providing for the issue of a presidential decree also stated that "until the presidential decrees and ministerial decisions provided under this law are issued, the legislation in force at the time this law is published shall apply. As for the issue of the above decrees and ministerial decisions, any provision that is in conflict with the provisions of this law or that regulates the matters contained herein in a different manner shall be abolished" (article 34, par. 3). This provision clearly also applies to the presidential decree provided under article 28, par. 4, Law 2646/1998.

The Ombudsman recorded the results of his investigation in the findings he sent to the Ministry of Health and Welfare. In these he pointed out, among other things, that based on Ministerial Decision 5006/1991, the obligation to examine pending petitions exists. He also pointed out that a refusal to apply this decision directly distorts competitive conditions between the interested parties (cardiologists), and is in conflict with article 5, par. 1 of the Constitution, which safeguards the unrestricted development of one's personality and his participation in the country's social and economic life, as well as with articles 16, par. 1, and 21, par. 3, concerning the protection of science, research, and citizens' health. The findings also suggested that the presidential decree should be issued immediately so that the permits in question are granted on the basis of objective criteria that take full advantage of developments in technology and medical science, ensure proper conditions of competition between the interested parties (physicians), and provide a more efficient and scientifically more reliable diagnostic method for detecting heart diseases.

Despite repeated reminders sent by the Ombudsman and the lapse of considerable

time, the Ministry of Health had not replied to these findings by December 31, 1999. It appears from other related documents that the ministry persists in its view that the issue of a presidential decree, which is being inexcusably delayed, should precede the resolution of this problem.

3.3 WELFARE

3.3.1 PROTECTION OF PERSONS WITH SPECIAL NEEDS

Agencies: Social Security Organization; Agricultural Insurance Fund; Merchants' Insurance Fund

Subject: Refusal to award a non-insurance-fund "paraplegia-tetraplegia" benefit; violation of the right to social welfare

1. A partly paralysed, bedridden individual (paralysed arm and leg) submitted a complaint (case 5893/1999) against the refusal by the OGA to award him a "paraplegia-tetraplegia" benefit. According to Law 1140/1981 (article 42), old-age OGA pensioners are entitled to an additional benefit beyond their basic pension, if they are blind or if they suffer from paraplegia-tetraplegia, with a disability of at least 67%.

The meaning, however, of "suffering from paraplegia-tetraplegia" is restrictive. As a result, persons suffering from diseases that lead to disability similar to that of tetraplegia and having a percentage of disability greater than 67% cannot receive this benefit.

In the course of the Ombudsman's communications with both the OGA authorities and the General Secretariat of Social Security, it emerged that the OGA had already identified the problem and had recommended to the ministry that the benefit be extended to people who, for whatever reason, remain bedridden for life and are, because of this condition, under the supervision, care, and support of another person. This recommendation was not accepted, on the grounds that the restrictive approach to the problem is not confined to the OGA but also applies to other insurance funds. In the view of the ministry, extending the benefit beyond its current categories of recipients would entail an excessive financial burden for the public treasury.

2. The Ombudsman received a complaint (3995/1999) requesting the granting of a non-insurance-fund benefit rejected by the TAE on the grounds that, in accordance with the opinion of the competent first- and second-instance health-care committees, the individual in question is not paraplegic and does not fall under the provisions of Law 1140/1981.

The individual in question, however, does suffer from multiple health problems (vascular strokes) and cannot use his limbs, move, or speak. Nevertheless he is deprived of financial help in the form of the benefit described above, because he is not suffering from paraplegia as defined in the relevant provisions of Law 1140/1981.

Investigation of these complaints was terminated, since the actions of the administration were deemed lawful and the Ombudsman had exhausted the means of intervention at his disposal. The problem, however, regarding this benefit remains, and, without in the least questioning the legality of the administration's actions, it raises serious concerns regarding the extent to which the legislation governing this matter adequately addresses questions of "substantive justice."

On the other hand, the Ministry of Labour and Social Affairs considers that extending this benefit to other population groups will entail a considerable financial burden for the

insurance funds, since it is a non-reciprocal grant of privileged nature, for which the insured parties pay no contributions. For this reason, the issue is still under consideration (see 4.1.4).

3.3.2 PROTECTION OF FAMILIES WITH MANY CHILDREN

Agencies: Ministry of Health and Welfare; Agricultural Insurance Fund
Subject: Family income and benefits for families with many children; violation of the right to social welfare

A large number of citizens with many children (cases 1820/1999, 3179/1999, 4757/1999, 5495/1999, etc.) appealed to the Ombudsman regarding the non-payment or the suspension of payment of large-family benefits or the lifelong pension to mothers of many children, as a result of the application of the income limit provided under Law 2459/1997 (article 39, par. 1). The investigation conducted indicated the following:

Many citizens appealed to the Ombudsman complaining against the way family income is calculated in order to determine whether the family is entitled to the special benefit for large families. In particular, when calculating the family income, the "separately taxable amounts" are also taken into consideration. Separately taxable amounts, however, include sums, such as the benefits provided by the OGA, the lump sum paid to employees when they retire, interest on bank deposits, compensation against termination of employment, etc., which taxpayers are not obligated to include in their income tax statements.

According to Joint Ministerial Decision Π3δ/οικ.1078/1997, "where there is reference to income, the real or imputed taxable income and the exempted or specially taxed income are meant." Further, in the OGA circular no. 2/15.5.97 it is stated that "the annual family income arises from the tax clearance slip with the addition of: (a) the income reported by the husband, (b) the amount reported by the wife or children, if any, and (c) the sum bearing the indication 'separately taxable amounts'."

The result of this situation is that the application of the income limit leads to the unequal treatment of identical cases, since, despite the absence of a legal requirement to do so, some beneficiaries declare the relevant amounts in their income tax statement, which are then taxed "at source," the result being that these taxpayers appear to have an income higher than that of others who, acting legally, do not declare such amounts.

The Ombudsman asked both the Ministry of Health and Welfare and the OGA to re-examine the issue of income restriction and the manner of its calculation, in order to prevent unfair treatment in granting the large-family benefit. The ministry had not replied by December 31, 1999. On the other hand, the view of the OGA was that in order for a different administrative practice to be adopted, the matter should be regulated by legislation.

3.3.3 PROTECTION OF THE UNEMPLOYED

Agency: Manpower Employment Organization
Subject: Unemployment benefit to a single mother and the meaning of the statute of limitations in social welfare; violation of the principle of individual treatment

A single mother, beneficiary of an unemployment benefit (case 6749/1999), appeared before the Manpower Employment Organization (OAED) to receive the benefit eleven days after the pertinent deadline. Her application was dismissed on the grounds that her right had lapsed, and her appeals to the OAED officials were dismissed on the same grounds,

since, according to Legislative Decree 2961/1954 (article 27, par. 10), "claims for unemployment benefits lapse sixty (60) days after they are rendered payable."

In his communications with the OAED, the Ombudsman pointed out that, in accordance with Legislative Decree 2961/1954 (article 27, par. 10 as replaced by article 4, par. 3, Law 2434/1996), what lapses is the claim, but not the right. In practice, this means that the right to submit an objection is not jeopardized. Moreover, in this case the two-month term was exceeded only by eleven days and the overall family situation of the interested party justified a re-examination of the case. Additionally, the nature of the mission of the OAED is to perform meaningful social service, without clinging to formalities. The Ombudsman, therefore, asked that the case be re-examined so that all the factors justifying special treatment be taken into consideration. With decision no. 43/26.10.99, the board of directors of the OAED accepted the Ombudsman's suggestion and approved payment of the benefit.

4. Proposals for Legislative Amendments and Administrative Reforms

4.1 PROPOSALS FOR AMENDMENTS TO LAW PROVISIONS

In some cases investigated by the Ombudsman, the inability to fulfil justified requests was caused either by existing legislation or by legislative omissions leading to unfair treatment. Such problems cannot be remedied by a favourable interpretation of the relevant legislative framework. They need to be resolved by legislation or administrative regulation, so that the issues under consideration are adjusted anew, eliminating the problems and malfunctions already identified.

As expressly stated in article 3, par. 5 of the Ombudsman's founding law (2477/1997), the Ombudsman is entitled in these cases to formulate proposals for legislative amendments, designed to help resolve the issues under consideration. The proposals for legislative action presented below seek to address broader issues that arose during the investigation of specific complaints submitted to the Department of Social Welfare during 1999. They are addressed to the ministries responsible for initiating the pertinent legislation or administrative action.

4.1.1 MINISTRY OF LABOUR AND SOCIAL AFFAIRS

SUBJECT: *Amendment to a provision of the by-laws of the Merchants' Insurance Fund (article 33, par. 10, Presidential Decree 668/1981), designed to make it possible to offset contributions paid in previous years*

This provision adopts only partially the meaning of offsetting as defined in the Civil Code, excluding the fact that one of the two claims, i.e. that of the fund, can become overdue, while article 440 of the Civil Code refers to "mutual, overdue, and similar claims." This prolongs the settlement of pending financial affairs between the insured and the fund, obstructs the performance of administrative duties, and, in the end, contributes to inconveniencing the citizens concerned. The Ombudsman

PROPOSES THAT:

Article 33, par. 10 of Presidential Decree 668/1981 be amended, so that offsetting can also apply to "past" debts of the insured parties.

4.1.2 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS; MINISTRY OF LABOUR AND SOCIAL AFFAIRS

SUBJECT: *Addition of a provision to the by-laws of the Technical Chamber of Greece (Presidential Decree 27 Nov./14 Dec. 1926) concerning the procedure for being removed from the Technical Chamber of Greece's register, so as to enable individuals to opt for an insurance agency, using professional activity as a criterion*

The by-laws of the TEE (Presidential Decree 27 Nov./14 Dec. 1926, as amended by Law 1486/1984 and remaining in force) do not provide for the possibility of removing members from its register or, in general, of voluntary resignations from the chamber.

In addition, article 6, par. 1 of Law 2326/1940, "re: the Engineers and Public Works Contractors' Pension Fund," expressly states that all persons entitled to membership in the TEE must make contributions to the fund. The date they began making contributions to the fund is also taken as the date marking the start of their participation in it. Finally, one's professional licence rather than their professional activity forms the basis for this insurance relationship.

This means that those falling under this category cannot be freed from the legal obligation to remain insured with their main insurance agency, which is the TSMEDE, and cannot join the insurance fund connected to the profession they practise unless they have been removed from the TEE's register. The TEE, however, invokes the legislative gap on this point and refuses to accept related petitions. This practice is observed without exceptions, even in extreme cases in which the interested party is practising another profession (such as priests or farmers), thereby making it impossible for anyone who, at some point in the past, had been an engineer and was, as a result, registered with the TEE, to join an insurance fund other than the TSMEDE. To correct the legislative gap and resolve the above problem, which is connected to the free choice of insurance agency, the Ombudsman

PROPOSES THAT:

- Legislation concerning the TEE (Presidential Decree 27 Nov./14 Dec. 1926, as amended by Law 1486/1984 and still in force) be amended by an additional provision, which (i) will explicitly establish the right of a person to be removed from the register of the TEE, in accordance with provisions of the Constitution and the European Convention for the Protection of Human Rights, and (ii) will set out the conditions under which this right can be exercised (e.g. the exercise of another activity as principal and exclusive profession, the right to join a primary insurance fund), as well as the procedure monitoring whether these conditions apply in each case.
- The legislation governing the TSMEDE (particularly article 6, par. 1 of Law 2326/1940) be amended, so that insurance relationships with the fund are based on the professional activity actually practised rather than the professional licence.

4.1.3 MINISTRY OF HEALTH AND WELFARE

SUBJECT: *Amendment to a provision of Royal Decree 665/1962 regarding the health care provided to civil servants, in application of the principle of gender equality in the health-insurance field*

The provisions of Royal Decree 665/1962 entitle only uninsured women, wives of civil servants, to be insured with the state. The amendment of the relevant provisions so that the same applies to men, husbands of civil servants, has not been implemented to date.

This regulation, which discriminates against men, husbands of civil servants, is easily

explained in the context of the social, economic, and cultural conditions prevailing in the early 1960s, when the royal decree in question was issued. It does not, however, reflect contemporary conditions and is clearly in conflict with the principle of gender equality, as established in article 141 (formerly 119) of the European Union Treaty and in articles 4, par. 2, and 116, par. 2 of the Constitution. The European Union's position concerning equality between men and women is very important, both in terms of legislation and in terms of jurisprudence. In particular, two guidelines have been adopted at the European Union level concerning social insurance: Directive 79/7/EEC, which concerns the social insurance systems created by law, and Directive 86/378/EEC, which concerns vocational social insurance systems. These directives clearly state the principle of gender equality, which is directly applicable in the field of social insurance and health care. The thrust of this principle is dual: on the one hand it prohibits the imposition of different legislative frameworks based on one's gender, and, on the other, it establishes equal benefits and equal opportunities regardless of gender for people under the same conditions.

In addition, the Court of Justice of the European Communities has decided (for example, see case 384/85/24.6.87 Borrie Clarke, and case 80/87/8.3.88 Dik) that, as of the date the directives were put into force, the principle of equal treatment must be applied without exception in all cases, even if the insurance risk that gave rise to the benefit was in force before such a date.

The above has been confirmed by a series of court rulings by the supreme Greek courts that, invoking the principle of gender equality, have eliminated such discrimination, extending to males provisions that had been instituted in order to support women financially and socially. In particular, such provisions have been judged by the Council of State (decisions nos 2435/1997 and 2978/1997) as being in conflict with the Constitution, in so far as they establish disability or destitution as additional prior conditions for the granting of benefits to male beneficiaries. In order to eliminate this inequality,

IT IS PROPOSED THAT:

The disputed provisions of Royal Decree 665/1962 be amended and female civil servants be given the right, after submitting an application to that effect, to include their husbands in the state's health-care service, so that the principle of gender equality is applied in practice in matters concerning people insured with the state.

4.1.4 MINISTRY OF LABOUR AND SOCIAL AFFAIRS

SUBJECT: *Provision of "tetraplegia-paraplegia" benefits irrespective of fund membership*

A series of legislative provisions attempted to define the beneficiaries of "tetraplegia-paraplegia" benefits within an overall legislative framework in which different conditions apply for awarding the same benefit to persons with the same need. According to article 4, par. 1 of the Constitution, however, all Greeks are equal before the law. This provision establishes constitutionally the principle of equality, according to which the legislator must treat people with the same conditions in a uniform manner, and refrain from instituting unwarranted discriminatory practices against specific categories of citizens (proportional equality).

Not awarding the above benefit to individuals insured with funds overseen by the Ministry of Labour and Social Affairs, whose illness is not specifically defined as tetraplegia-paraplegia, constitutes an inexcusable discrimination against them. In order to remedy this

inequality and ensure full protection for those suffering from the same disability, it is

PROPOSED THAT:

The benefit under consideration be extended to the insured parties and pensioners of the insurance funds overseen by the Ministry of Labour and Social Affairs, who suffer from diseases producing symptoms similar to those of tetraplegia-paraplegia. This extension will lead to the creation of a uniform and efficient framework of social care for people unable to care for themselves, regardless of the specific cause of their disease, in accordance with the principle of equality and the state's constitutional obligation to provide social-care services and equal support to all citizens.

4.1.5 MINISTRY OF HEALTH AND WELFARE; MINISTRY OF NATIONAL ECONOMY; MINISTRY OF FINANCE

SUBJECT: *Amendment to Joint Ministerial Decision Π3δ.οικ.1078/1997, concerning the manner of calculating family income when granting benefits to large families*

According to Law 2459/1997 (article 39), in order to receive this benefit, the family income, as reported in the tax clearance slip for the fiscal year immediately preceding the year of application, must not exceed a certain amount. In many cases, however, the real financial position of the interested parties cannot be ascertained in this way, because their circumstances changed between the time the income tax statement was filed and the application for this benefit was submitted.

In addition, according to the above provisions, in order to calculate the family income, "independently taxable sums," such as OGA benefits, the lump sum paid to retiring employees, interest on bank deposits, compensation against termination of employment, which taxpayers are not obliged to include in their income tax statements, are also to be included, as are all kinds of imputed income. Moreover, as accepted by Law on Taxation, in order for income to be estimated, permanent and occasional income must be included.

Furthermore, the constitutionality of a practice that sets income restrictions for granting monthly benefits to large families has been disputed by administrative courts (Athens Administrative Court of First Instance, decision no. 59/1999, Athens Administrative Court of Appeal, decision no. 5565/1999) and a related decision by the Council of State is pending. The Ombudsman, therefore,

PROPOSES THAT:

Joint Ministerial Decision Π3δ.οικ.1078/1997 be amended so that calculation of family income does not include "independently taxable amounts" or imputed income, provided, of course, that these figures are not connected to income for taxation purposes.

4.2 PROPOSALS FOR ADMINISTRATIVE REFORMS

Investigation of complaints submitted in 1999 revealed that, in addition to other considerations, maladministration also results from organizational problems linked to outdated, albeit entrenched, administrative practices that do not correspond to current economic and social conditions, and thus produce more problems than they resolve.

It is the intention of the Department of Social Welfare to apply the experience it has accumulated, in order to contribute to the gradual formulation of a code of fair administrative practice that reflects the needs of society in a modern, welfare state. For the year 1999, the Department's proposals for administrative reforms focus on the following subjects.

4.2.1 MINISTRY OF THE INTERIOR, PUBLIC ADMINISTRATION, AND DECENTRALIZATION; MINISTRY OF HEALTH AND WELFARE

SUBJECT: *Developing operational links among the health units of adjacent health-care regions to provide for faster transportation of patients; improved operation of the National Health System*

In order to address the need for operational links among health services located in adjacent prefectures but falling under different health-administration regions, thus often resulting in an inability to respond to emergencies requiring the dispatch of ambulances from the health centre nearest to the emergency, the Ombudsman

PROPOSES THAT:

A "health map" of the country be drawn up, which, where necessary, does not coincide with the administrative map. The criterion for this map will be the feasibility of immediate access and transportation of patients to health units. On the basis of current legislation (article 5, Law 2519/1997), the establishment of operational links among health units requires a joint ministerial decision by the Minister of the Interior, Public Administration, and Decentralization and the Minister of Health and Welfare.

4.2.2 MINISTRY OF LABOUR AND SOCIAL AFFAIRS

SUBJECT: *Implementation of the provision of article 47 of Law 2676/1999, concerning "confirmation of time of insured service before pensioning"*

Investigation of several complaints submitted to the Ombudsman showed that in many cases the individuals insured do not know the exact length of time during which they have been insured with a fund, and often have not met the requirements for pension rights at the time they submit an application for receiving a pension. In order to deal with this problem and avoid such impasses, the Ombudsman

PROPOSES:

The immediate activation, under the supervision of the competent ministry, of article 47 of Law 2676/1999, concerning the observance by all insurance institutions of the required procedures, so that the length of time of insured service can be confirmed before pensioning.

SUBJECT: *Acceleration of the procedure for paying overdue contributions to the IKA*

A considerable number of citizens complain that, in order to pay their overdue debts to the IKA, they are obliged to travel to the country's three large urban centres (Athens, Thessaloniki, Piraeus). In order to simplify the procedures associated with the settlement of such debts and to render them more "user-friendly," the Ombudsman

PROPOSES THAT:

The procedure making it possible to collect overdue sums owed to the IKA through the interbanking system be put into effect and completed immediately.

4.2.3 ALL MINISTRIES SUPERVISING INSURANCE INSTITUTIONS

SUBJECT: *Detailed application form for submitting requests for pensions; publishing an information bulletin*

A considerable number of complaints refer to the lack of information concerning the requirements for receiving pensions from insurance funds. In order to improve the quality of the services provided to citizens, the procedures concerning this matter should be

simplified, and the time required for settling each case should be minimized. With this goal in mind, the Ombudsman

PROPOSES THAT:

- All insurance funds introduce a detailed application form based on the model of the one used by the IKA and the OGA. This form should list all the particulars that, according to each insurance fund's by-laws, are required for examining pension applications. The application form must include detailed and accurate questions designed to help the applicant, as well as a list of the documents required in each case, so that the applicant is informed of the specific conditions governing the award of the benefit requested, and of the documents he is required to submit in each particular case. The application form must also serve as a solemn declaration, as specified in Law 1599/1986.

  The absence of concrete questions in current application forms allows applicants to determine the extent to which they will refer to certain matters. The particulars the citizen does not record, however, either because he chooses to exercise this option or out of ignorance, may be vital in making a decision concerning his request.
- All insurance funds should publish an information bulletin that will be updated in case of legislative changes, and will be sent to all insured parties on an annual basis. In this manner, all information regarding (i) insurance and pension matters, (ii) the terms and conditions for obtaining old-age, supplementary or invalidity, and early or reduced pensions, (iii) confirmation of time of insured service, (iv) buying-out remaining time, and (v) the procedure for submitting applications will be provided to the interested parties. The same bulletin will notify interested parties of changes in relevant legislation, any intended increase or reduction of the pension, and any other information of which the insured party should be aware of. It should also include a list with the telephone numbers of the departments or services to be contacted for clarifications and additional information concerning these issues.

  The direct outcome of this lack of timely, specific, and well-documented information is that citizens become entangled in time-consuming, bureaucratic procedures that often deprive them of their rights. To avoid such eventualities, public services and insurance funds in particular should make every effort to ensure that those entitled to benefits are as well-informed about their rights as possible.

E.3 DEPARTMENT OF QUALITY OF LIFE

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6. RESPONSE TO PROPOSALS FOR LEGISLATIVE AND ADMINISTRATIVE ADJUSTMENTS CONTAINED IN THE 1998 ANNUAL REPORT

DEPARTMENT OF QUALITY OF LIFE

1. Area of Jurisdiction and Responsibilities of the Department

The Department of Quality of Life is responsible for cases dealing with cultural issues (such as monuments, traditional settlements, and listed buildings), the environment (such as forests and shores), public works, problems related to urban planning misapplications, and the issuance of building permits. The Department investigates cases that involve all levels of public services (ministries, prefectural, municipal, and local services), as well as public utilities (such as the Public Power Corporation, the Athens Public Water Supply and Sewage Company, the Greek Telecommunications Organization, etc.).

2. General Assessment of the Department's Activities

In 1998 the public administration's stance towards the Ombudsman resulted mainly from the following: a) the fact that the new institution was not widely known, nor was its role adequately understood, and b) the understaffing and the lack of technical know-how and information technology in public agencies.

The experience acquired since does not confirm this initial assessment and leads to the conclusion that the problems just outlined provide only partial explanation for the wide range of maladministration practices reaching the Ombudsman. Put otherwise, the degree of responsiveness of the public administration to the Ombudsman and the problems in communication associated with many of its units are, to a large extent, a function of the complex nature of the specific cases brought before the Ombudsman. Examination of the 1999 statistics clearly shows that intervention of the Office of the Ombudsman was more effective in cases involving adherence to established procedures, the general performance of services or the facilitation of cooperation among particular units, while intervention was less effective when it pertained to specific procedures followed by public services, and when it affected the rights or the legal interests of third parties.

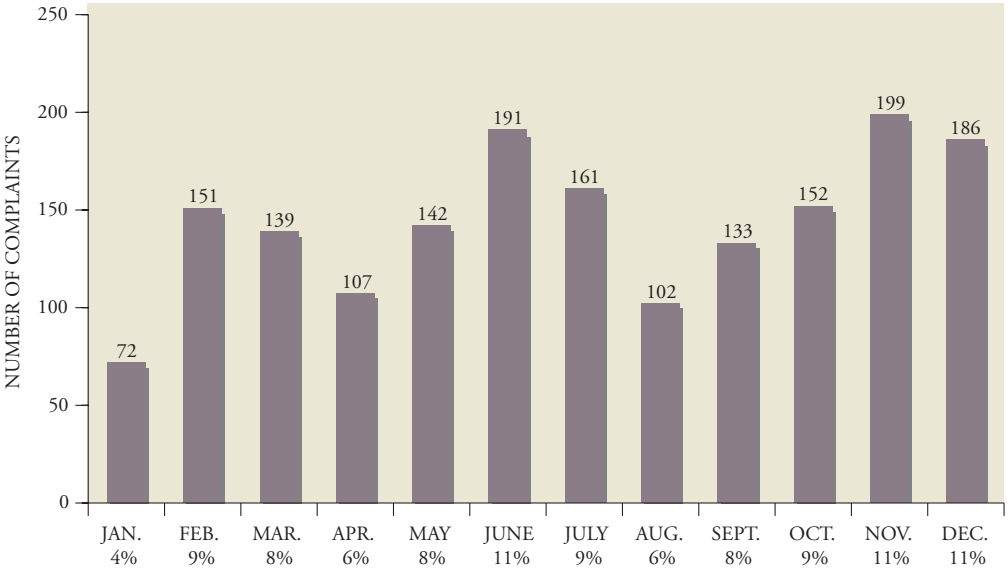
The mediation efforts of the Department of Quality of Life were effective in the area of environmental protection, and less so on issues relating to practices by public services favouring the establishment, the consolidation, and, finally, the legitimation of illegal situations. Finally, the Department, being primarily responsible for land use and issues relating to construction, investigates the legality of situations arising from actions linked to these two broad subject areas.

2.1 PRESENTATION OF THE CASES BY SUBJECT CATEGORY

Between January 1 and December 31, 1999 the Department of Quality of Life received 1,735 new complaints. At the same time, it continued investigating 277 unresolved cases carried over from 1998. In addition, 56 cases, though resolved in 1998, had to be reopened because the agencies involved did not, for various reasons, carry out the solutions agreed upon. This brought the number of complaints handled by the Department of Quality of

Life to a total of 2,068, or 21.15% of all the complaints (8,223) handled by the Office of the Ombudsman during the year.

GRAPH E.3.1 **MONTHLY FLOW OF COMPLAINTS IN 1999**



The 2,068 complaints handled by the Department of Quality of Life during 1999 were complex and covered a broad range of issues. They are divided into the following eighteen categories:

1. Provision of services (maladministration). These cases involved the poor provision of public services caused by illegal acts or omissions by the services involved. There were 223 such cases, 10.8% of the total 2,068 cases handled by the Department of Quality of Life, in this category.
2. Implementation of urban planning: issues involving the inclusion of privately owned land in town plans. There were 235 complaints, 11.4% of the total, in this category.
3. Traditional settlements, listed buildings, monuments. Issues involving the protection of traditional settlements and buildings and monuments officially declared as protected were investigated. There were 42 complaints, 2% of the total, in this category.
4. Expropriations. The Department examines issues arising from the failure to pay compensation to landowners whose rights over their plots have been restricted by planning decisions taken by the Archaeological Service or forestry offices, or urban planning decisions for common and social use (such as squares, green spaces in urban areas, athletic facilities). There were 199 complaints, 9.6% of the total, in this category.
5. Illegal building permits, illegal construction, demolition of buildings. The Department examines issues involving the illegal issuance of building permits, construction in excess of that permitted by building permits, illegal construction, problems arising from the non-demolition of constructions that should be torn down, and the failure to impose and collect the relative fines. There were 409 complaints, 19.8% of the total, in this category. Most of these cases involve illegal construction in areas mainly inside the town plan.

6. Operating licences for businesses. The Department examines problems arising from the existence or poor operation of stores or units operating either without licences or in violation of their licences, or in violation of special provisions (such as approved use of land, health and fire safety regulations, observing the quiet hours imposed by law). There were 133 complaints, 6.4% of the total, in this category.
7. Streambeds, management of water resources. The Department examines problems of defining and controlling streambeds, drilling, and the use of surface and ground water. There were 25 complaints, 1.2% of the total, in this category.
8. Forest protection. The Department examines issues arising from decisions classifying or declassifying forest areas, illegal woodcutting, encroachment on properties, illegal use of land within forest areas. There were 84 complaints, 4.1% of the total, in this category.
9. Land use, environmental impact assessment studies, and other issues having to do with adjustments to Law 1650/1986 "re: protection of the environment." The Department examines cases of illegal land use, activities, or works carried out without the environmental impact assessment studies required by law. It also examines the extent to which works adhere to environmental terms. There were 111 complaints, 5.4% of the total, in this category.
10. Management of liquid and solid waste. The Department examines issues involving the environmental impacts of waste management. There were 36 complaints, 1.7% of the total, in this category.
11. Coastal zones. The Department examines issues of encroachment on properties and illegal activities in coastal zones and on shores. There were 34 complaints, 1.6% of the total, in this category.
12. Disputes of ownership status. This category, dealing with common urban spaces (such as squares and sports facilities), comprised 78 complaints, 3.8% of the total.
13. Restitution for damages, compensation payments. There were 76 complaints, 3.7% of the total, in this category.
14. Public works. The Department examines cases of damage caused by public works, non-payment for constructions or studies that have been completed, and disputes arising from how payments are calculated. There were 73 complaints, 3.5% of the total, in this category.
15. Advertising signs. The Department examines problems arising from the illegal placement of advertising signs. There were 17 complaints, 0.8% of the total, in this category.
16. Traffic control. The Department investigates cases dealing with specific problems of traffic circulation (such as the presence or absence of proper signs). There were 41 complaints, 2% of the total, in this category.
17. Service connections (such as those provided by the Athens Public Water Supply and Sewage Company, the Public Power Corporation, the Greek Telecommunications Organization). The Department examines problems associated with connections to networks (either the connection has not been made or it is illegal). There were 49 complaints, 2.4% of the total, in this category.
18. Other complaints. All cases that do not fall into the above categories. There were 203 complaints, 9.8% of the total, in this category.

TABLE E.3.1 **CLASSIFICATION OF COMPLAINTS BY SUBJECT**

SUBJECT CATEGORY	NUMBER OF COMPLAINTS	PERCENTAGE
Illegal building permits, illegal construction, demolition of buildings	409	19.8%
Implementation of urban planning	235	11.4%
Provision of services (maladministration)	223	10.8%
Expropriations	199	9.6%
Operating licences for businesses	133	6.4%
Land use, environmental impact assessment studies	111	5.4%
Forest protection	84	4.1%
Disputes of ownership status	78	3.8%
Restitution for damages, compensation payments	76	3.7%
Public works	73	3.5%
Service connections	49	2.4%
Traditional settlements, listed buildings, monuments	42	2.0%
Traffic control	41	2.0%
Management of liquid and solid waste	36	1.7%
Coastal zones	34	1.6%
Streambeds, management of water resources	25	1.2%
Advertising signs	17	0.8%
Other cases	203	9.8%

As Table E.3.1 shows, the greatest number of complaints (approximately 20%) fall into the category of "illegal building permits, illegal construction, demolition of buildings," followed by "implementation of urban planning" and "provision of services (maladministration)" with approximately 10% each. Dealing with these situations obviously cannot be restricted simply to repeated representations to services that do not cooperate. Quite the contrary, this shows the need to bring the relative issue to the attention of the political leadership, and more so at the highest level, in order to get to the root of the problems.

2.2 GENERAL REMARKS

Of the complaints received by the Department of Quality of Life during 1999, 489 (23.45% of the total handled by the Department during the year) were found, after investigation, to be outside the mandate of the Office of the Ombudsman as defined in the provisions of the Office's founding law (2477/1997 and Presidential Decree 273/1999) and were filed. This relatively high percentage shows that the public does not understand the Ombudsman's role and scope of responsibility correctly. Often this, in turn, results in exaggerated expectations and misunderstandings. Obviously, the Office of the Ombudsman must adjust its communication policy accordingly.

The problems handled by the Department of Quality of Life are complex (since most complaints are concerned with ownership issues) and finding solutions takes time. The Department has the option of keeping long-term cases open until, by accumulating data, it has established the seriousness of the issue and can promote solutions to specific problems. This tactic already has generated its first positive results.

Development of relevant statistical data arising from the complaints handled during 1999 shows that:

- The overwhelming majority (62%) of people who have appealed to the Department of Quality of Life live in the greater Athens area, while 40% of the country's population lives in this area.
- The low percentage of complaints from the country's other urban areas indicates the need to increase communication activities of the Office of the Ombudsman.
- Inhabitants of the capital's outlying areas encounter problems more frequently in their dealings with the public services.
- The number of services having problems of maladministration is very large, both in the central and the outlying areas, at the prefectural and local government level, throughout almost the entire country. Directly or indirectly, the central services (primarily in ministries) are equally involved, since these agencies set the rules (such as conflicting laws and circulars) for regional and local services without, at the same time, providing the necessary oversight.

MAP E.3.1 **DISTRIBUTION OF COMPLAINTS ACCORDING TO THE COMPLAINANTS' PLACE OF RESIDENCE**

Attica	62%
Central Macedonia	9%
Peloponnese	5%
Western Greece	4%
Central Greece	3%
Crete	3%
Thessaly	2%

Epirus	2%
Eastern Macedonia and Thrace	2%
South Aegean islands	2%
North Aegean islands	2%
Ionian islands	2%
Western Macedonia	1%

3. Presentation of the Most Important Cases

3.1 Partial Ratification of a Property Arrangement Act in the Settlement of Perivolia, Crete

The Office of the Ombudsman investigated six complaints (1129/1998, 126/1999, 3638/1999, 3852/1999, 5543/1999, and 5729/1999) concerned with the drawing up and the partial ratification of a property arrangement act in relation to urban planning in the settlement of Perivolia, near Rethymno in Crete. These complaints focus mainly on the issue of compliance with the existing legislation concerning the process of drawing up and partially ratifying the property arrangement act in relation to urban planning. The Office of the Ombudsman was asked to intervene and resolve a series of problems created by the partial ratification and, in particular, to deal with the accompanying disadvantages for the people affected.

During its mediation and investigations, the Office of the Ombudsman requested information from the services involved (the Prefecture of Rethymno, the Urban Planning Division of the Prefectural Government of Rethymno, the Municipality of Rethymno) about file no. 25 of the partial ratification of the property arrangement act. The replies from the technical services of the Municipality of Rethymno raised questions about both the adherence to legislation concerning partial ratification of property arrangement acts and the quality of controls applied by the Urban Planning Division of Rethymno in identifying instances of illegal construction.

In particular, the reply of the division presented general reasons only and at the same time invoked "the particular nature of the area" (reaction of the inhabitants to the implementation of Law 1337/1983).

The Municipality of Rethymno, although attempting to solve the problem of illegal construction by modifying the town plan, was not clear in its answer on whether or not building permit 395/1997 was legal and whether or not the town plan was being followed.

Finally, it must be pointed out that the pertinent document from the Urban Planning Division of the prefecture stresses that "as there were problems in Perivolia (objections by the inhabitants to the pertinent law being implemented) the division has proceeded since 1994 to the incremental ratification of the property arrangement act."

Notwithstanding the claims by these services, investigation of specific files of the partial ratification of the property arrangement act, of the existing legislation, and of the October 29, 1998 document from the Department of Topographic Implementation of the Ministry for the Environment, Physical Planning, and Public Works showed that the legal procedures for drawing up and partially ratifying the property arrangement act were not followed.

A comparison of the above positions clearly showed that all the services and people involved needed to attend a meeting at which viewpoints could be expressed and conclusions reached about finding a practical solution to the issue and dealing effectively with possible irregularities. Making use of the particular provision of the founding law (2477/1997, article 4, par. 6) empowering the Ombudsman to use "all available means" in resolving citizens' problems, the Ombudsman called for a meeting that was jointly organized by the Office of the Ombudsman and the Prefecture of Rethymno. For this purpose and in order to reach an agreed solution, the Ombudsman requested that all competent services and interested individuals participate in the meeting held to discuss the following:

- Clarifying the legal framework governing the drafting of separate parts of a property arrangement act in order to ascertain if the administration followed legal procedures.
- Beginning legal procedures for resolving problems arising from the approval of separate parts of the property arrangement act so that this will be accepted by the inhabitants and the law will be upheld.

This property arrangement act was not ratified in its entirety by the prefect, but "incremental ratification" was carried out per plot. As a result, Prefectural Decision no. 5849/1995 did not carry out "partial ratification of the property arrangement act" but, instead, carried out "incremental ratification of the property arrangement act," which requires that the wording of the above decision be corrected.

Investigation of this issue by the Ombudsman showed that the practice of "incremental ratification of the property arrangement act" is not provided for in any legislation. Furthermore, adherence to the principle of legality requires that there be a specific solid legislative basis for any practice followed by the administration, a condition that did not occur.

Circular no. 73166/2396/34/9.7.92 issued by the Ministry for the Environment, Physical Planning, and Public Works contains clear instructions about the procedure for drafting separate parts of a property arrangement act, which do not seem to have been followed in the situation under consideration. In particular, examination of the data about which the Ombudsman was informed and the answers given by the services involved show that the following conditions were not met:

- Clear presentation, in petitions submitted by the interested parties, of the reasons why they are requesting separate parts of the property arrangement act to be drafted.
- Estimate by the Urban Planning Division about the extent of the task and the minimum time needed for drafting the separate parts of the property arrangement act.
- Attachment of this estimate to the petition submitted to the prefect for issuing the decision of partial ratification of the property arrangement act.
- Detailed explanation of the need for drafting the separate parts of the property arrangement act accompanying the prefect's decision.
- Provision, by the interested parties, of accurate information about the properties included in the separate parts of the property arrangement act.
- Consent of the stakeholders whose demands will not be satisfied by the partial ratification of the property arrangement act.

After investigating this extremely complicated case, the Ombudsman reached the following conclusions:

After both the legal and considering the substantial aspects of these complaints, it was established that not following the legal procedures for drafting and making public the separate parts of the property arrangement act in the settlement of Perivolia constitutes an "act of maladministration" by which the legal property and interests of specific individuals are harmed.

In the case being considered, the principle of legality requires, first of all, the ratification of a property arrangement act that already has been drafted and made public so that all urban planning needs of the area can be handled while at the same time satisfying both public and private interests.

In addition, as has been pointed out above, precisely because of its unusual nature, partial ratification of a property arrangement act cannot replace the overall ratification of

the act, particularly when it already has been drafted and made public. If all urban planning were to be carried out by partial ratifications of property arrangement acts, then the framework of Law 1337/1983, article 12 would be overturned completely, as would the conception about the overall arrangement of the area's immovable property expressed in the urban plan study on which it is based.

The Ombudsman indicated that the practice of carrying out an important part of the urban plan study by ratifying separate parts of the property arrangement act (for the drafting of which proper procedures were not followed) has helped create irreversible situations that may cause problems if there is an attempt to ratify the property arrangement act in its entirety. In such a case, the administration must consider the effects that cannot be corrected. In any case, however, future drafting of separate parts of property arrangement acts must be carried out by strict adherence to requirements and legal procedures as described above.

For cases in which, because the irregularities that have taken place (such as the failure to give personal notifications) have resulted in unequal treatment by the administration, thus damaging specific rights of ownership, it is suggested that the disputed partial ratification of the property arrangement act should be recalled or adjusted as, in any case, has been suggested by the Department of Appeal of the Ministry for the Environment, Physical Planning, and Public Works in order to re-establish the principle of legality.

Furthermore, it must be investigated whether or not the adjustments contained in the presidential decree concerned with the approval of the urban plan study for the purpose of complete or partial withdrawal of the decision "re: the classification of the Perivolia area" in article 13 of Law 1337/1983 are a "feasible adjustment," as recommended by the Urban Planning Division of the Ministry for the Environment, Physical Planning, and Public Works, if the problems that have arisen in some building lots by the already partially ratified property arrangement act are to be dealt with. If this solution is chosen, the procedure defined by the document of the Urban Planning Division mentioned above must be followed and an investigation must be undertaken to see if the municipal authorities can get the credit needed in order to expropriate the areas planned for public use. Finally, within the context of investigating partial ratification of the property arrangement act, the accuracy of the complaints in regard to accusations that solemn declarations were forged must also be investigated.

As the above shows, the policy of holding meetings between the Office of the Ombudsman and the authorities involved is an appropriate means to promote procedures for finding effective ways of dealing with burning issues of general interest, such as the partial ratification of property arrangement acts and municipal waste-landfill sites.

3.2 TRADITIONAL SETTLEMENTS, LISTED BUILDINGS, MONUMENTS

Inconsistencies between formal expressions of political will and the practices actually followed arise on issues involving the protection of traditional settlements and listed buildings, forests, and areas of particular natural beauty. The Office of the Ombudsman investigated 11 complaints from individuals or environmental and cultural associations concerned with the inadequate protection of:

- Settlements officially classified as traditional, such as Nafpaktos in Aitoloakarnania (case 21/1998), Stemnitsa in Arkadia (case 1121/1998), and Plaka in Athens (case 1595/1998).

- Listed buildings, such as the Old Market in Psychiko (case 2550/1999), buildings in Plaka (case 364/1999), and the town hall of Stemnitsa (case 1121/1998).
- Areas characterized as having "particular natural beauty," such as the Lousios Gorge (case 3651/1999).

For one of these cases (Nafpaktos), the Office of the Ombudsman requested and received assistance from the Public Administration Inspectors Body. The report prepared after investigation by the Office of the Ombudsman led the Ministry for the Environment, Physical Planning, and Public Works to suspend the operation of the local urban planning office for one year because of the need to study ways of solving the problems. In another case (Stemnitsa), intervention by the Office of the Ombudsman resulted in funding being withheld for works not in compliance with the law or failing to meet environmental terms.

The social strains that have arisen in connection with some of the cases mentioned above already have reached considerable intensity, since the hidden economic interests affected are equally great. It is noteworthy that an attempt was made on the life of the individual who appealed to the Ombudsman about the situation in Nafpaktos.

Based on investigations carried out to date on the cases above, the Ombudsman has reached the following conclusions:

The major responsibility for the aforementioned cases is borne by the administration, which, with its inconsistent and contradictory stance, not only does not correct illegal situations, but encourages similar new problems to develop. This unhealthy situation is being generated by the obvious inconsistency between formal expressions of political will and the practices actually followed. Even the so-called "protective legislation" can act to speed the ruin, since the so-called "victims" rush to act illegally in order to avoid the effects of expected legal decisions. On this issue, it should be pointed out that local government authorities and the administration (regional governments, Ministry for the Environment, Physical Planning, and Public Works, Ministry of Culture) tolerate illegality. This tolerance is evident in the issuance of special regulatory provisions that occasionally bypass judicial decisions made by the Council of State. These special provisions often cancel the protective effects of similar general provisions, thereby making it possible for ongoing devastation to appear legal. Irreversible negative effects created in this manner have an international dimension, for the country appears in violation of its obligations arising from international agreements (such as the Granada Convention) and from the inclusion of areas in EU environmental programmes (such as the "Natura 2000 Network"), making it possible that Greece may lose funding from occasional Community support frameworks. Finally, the Ombudsman found that the information provided by some of the services involved and their willingness to cooperate with the Office of the Ombudsman left much to be desired, certainly not reflecting the spirit of Law 2477/1997 and the later Presidential Decree 229/1999 regulating communication between the Office of the Ombudsman and public services and pointing out the Ombudsman's role as a mediator.

The same divergence is seen in cooperation between the Ministry for the Environment, Physical Planning, and Public Works and the Ministry of Culture on issues of their shared responsibility (in which, for example, one ministry declares a given building as protected while, at the same time, the other ministry issues a permit for its demolition). This makes it possible for the interested parties to appeal to the public agencies most suitable for their interests. As is shown by the surge of conflicting drafts for presidential decrees about

Nafpaktos, ineffective approaches are also sanctioned about listed buildings classified as the country's protected cultural heritage.

3.3 REQUISITION OF PROPERTY

An individual requested the Office of the Ombudsman to mediate in redefining the rent for an expropriated building housing the Fund for Earthquake Damage Restoration in Kalamata, Messinia (case 286/1998). After renting the building for nine years, all the public agencies involved refused responsibility and the prefecture maintained that a committee needed to be established in order to set the new rent.

The Office of the Ombudsman got in touch with the prefecture and the Fund for Earthquake Damage Restoration and established that incorrect information had been provided about how the rent could be increased. In the end, the complainant withdrew his complaint in order to appeal to the courts.

3.4 EXPROPRIATION OF LAND

Property owners whose plots are situated on the southern side of the Chios airport runway requested the mediation of the Ombudsman in order to expedite the expropriation process (case 1104/1999).

The complaints were submitted because on the one hand local authority agencies were not showing any signs of completing the long-delayed expropriation procedures over the seized plots, while on the other hand they did not allow owners to exploit their properties. Furthermore, the Civil Aviation Authority imposed stringent restrictions on the height of objects placed in these properties (20 cm.) for safety reasons. Finally, the affected owners complained that the arbitrary placement of lighting-system fixtures on their property posed a danger to them when farming their land.

One complaint submitted by the landowner on the eastern side of the Chios Airport runway claimed that the Civil Aviation Authority has imposed similar restrictions on his ownership through the presence of a VOR radio beacon. He requested the mediation of the Ombudsman in order to resolve this problem.

In investigating this case, the Ombudsman, on the authority of article 4, Law 2477/1997, wrote to the Civil Aviation Authority. Among other subjects, the letter raised the issue of safety for the surrounding houses from exhaust fumes from airplanes taking off.

The answer of the Civil Aviation Authority was satisfactory, explaining that the height limitations were in accordance to safety measures required by the International Civil Aviation Organization for the safety of flights. The authority also stated that several landowners were negatively affected by jet blasts (that reach 250–300 m. beyond the end of the airport runways), and mentioned that many of the country's airports have runways very close to roads, making it necessary to temporarily stop road traffic.

Finally, the Civil Aviation Authority expressed its willingness to speed up the expropriation of the specific plots of land in order to establish a "dead zone." A recent letter from the authority presented a detailed schedule for carrying out the required steps. As for the second case mentioned above, the authority assured the Office of the Ombudsman that it is examining the possibility of expropriating the property in question, also for operational reasons.

The cases were still pending on December 31, 1999.

3.5 COMPENSATION TO INDIVIDUALS FOR THE OBLIGATORY EXPROPRIATION OF THEIR LAND DECLARED AS A SITE OF ARCHAEOLOGICAL INTEREST

The *1998 Annual Report* contained several cases involving long delays of local authorities in compensating privately owned land declared as a site of archaeological interest. The property owners complained that the procedures involved in declaring specific land plots as being of archaeological interest and, therefore, subject to obligatory expropriation require extremely long periods of time, during which they cannot exploit their properties, while they have to suffer all relevant burdens (taxes, etc.). There are close to 80 such cases, many of which involve more than one owner. The courts have determined that the Ministry of Culture must compensate affected landowners, but the ministry experiences difficulties due to lack of funds.

The Ombudsman has dealt with such cases from the very first day of his operation (October 1998). Yet, as of December 31, 1999, the Ministry of Culture had managed to provide only limited funds. The Ombudsman insisted that prolonging the solution of this problem has particularly negative effects not only upon landowners, but also upon the preservation and protection of the country's archaeological wealth (threatened mainly by illegal construction).

Further investigation revealed that considerable expropriation funds had been made available by the Archaeological Receipts Fund (approximately one billion drs), but this figure was far short from the estimated 27 billion drs necessary. In fact, the few payments actually made on a "first come, first served" basis caused great disturbance among payees because they suspected that the criteria used were not entirely transparent. Furthermore, the Archaeological Receipts Fund had used some of the available money for its own operating expenses (such as salaries for seasonal employees).

The Ombudsman's efforts continued through 1999. He submitted to the Ministry of Culture a proposal for a series of measures which could serve as a beginning to solving these serious problems. The issue was raised in person by the Greek Ombudsman with the Minister and the Deputy Minister of National Economy in meetings held in December 1999, as part of his regular meetings with ministers, to encourage developing solutions to outstanding issues with which ministries are involved. This particular issue was well received and a commitment was made to raise the funds required through legislating the receipt of revenues. More specifically, the Ministry of National Economy announced that the necessary funds shall be raised by issuing government bonds, and confirmed that the procedural details will be worked out by February 2000 and the bonds will be issued by March of the same year (the relevant Law 2801, Government Gazette A 46/3.3.00 already has been approved by the Parliament). This development provides tangible proof of the Ombudsman's mediatory role. It justifies the strategy of keeping a large number of cases pending for an extended period of time in order to ensure through continuous pressure that they all be resolved.

For all cases involving expropriation, it is stressed that a set of criteria for the policy followed on issues of archaeological interest has not yet been established. Such criteria could provide the basis both for reconsidering some expropriations and re-examining the procedures involved in declaring land as a site of archaeological interest. Such declarations also remain pending for extended periods of time and, for many people, are a source of intense inconvenience since, in accordance with legislation concerning archaeological issues, their property is already restricted.

3.6 ILLEGAL BUILDING PERMITS, ILLEGAL BUILDINGS, DEMOLITION OF BUILDINGS

The Department of Quality of Life was concerned with a large number of cases involving buildings about which public services have avoided taking effective steps despite the buildings being irrevocably characterized as illegal and subject to being torn down. The methods used in order to avoid this prickly issue include the absence, usually for financial reasons, of a proper demolition crew, or the delay of the demolition according to oral instructions from the competent prefect, based on a circular of questionable legal basis from the Ministry for the Environment, Physical Planning, and Public Works, and appealing to vague "social reasons."

Investigation of the complaints revealed a difference between legal texts and political practice. Although the Minister for the Environment, Physical Planning, and Public Works has declared to the media his effort to undertake the wholesale legalization, under specific conditions, of illegal buildings, the Ombudsman has run into insurmountable obstacles in his effort to encourage order in urban planning: much delay in identifying and confirming that a given building has been illegally constructed; possible bribery of the competent public officials and the police; time-consuming and indecisive judicial intervention (decisions often cancelled by political intervention); the reluctance of prefects to establish demolition crews, and the corresponding zeal to stop any tearing down of buildings that may have begun, contribute decisively to what is, in the end, the triumph of illegal construction, strengthening the public conviction that illegal activity is rewarded and, therefore, required.

Suspension of work begun by even the few demolition crews takes place, as stated above, on a questionable legal basis and with vaguely justified (social reasons or economic difficulties) oral instructions from prefects who, using an extremely broad interpretation, invoke as legal foundation a vaguely worded circular from the Ministry for the Environment, Physical Planning, and Public Works. Responsibility, of course, does not rest only with the prefects, since the secretaries general of the regional governments fully agree with the underlying climate of encouraging expectations that illegal construction will be legalized (but for yet another series of reasons) and systematically avoid applying the required legal control.

The result of this diverging course between laws controlling illegal construction and supplementary regulations cancelling control (such as regulations allowing, as exceptions, the legalization of illegally constructed buildings, and permitting them to be supplied with water and electricity) and the policy of sanctioning illegal construction becomes, overall, the essential inability to control the phenomenon. This development is disappointing both for the Ombudsman and for the general function of the rule of law.

3.7 THE LEGALITY OF ISSUING BUILDING PERMITS AND DEFINING THE BOUNDARIES OF THE SETTLEMENT OF AYIOS STEFANOS

The Ombudsman investigated a complaint submitted by the Environmental Protection Committee of Ayios Stefanos, Attica, questioning the legality of building permits in the area with conditions more favourable for construction as provided for settlements that existed before 1923 (case 982/1999).

The Ombudsman carried out a detailed investigation of all actual and legal facts associated with the complaint. This was done to identify the legal grounds on which

building permits are issued and verify the existence and the precise boundaries of any settlement which may have existed before 1923 in the area for which building permits are now being issued. The following conclusions were reached:

- The urban planning offices based the issuance of building permits on facts arising from regulatory acts the Council of State has judged no longer to be in force.
- There were no buildings before 1923 in the area for which building permit 34/1999 was issued.
- The contested area includes forest land, formally classified as such by the Ministry of Agriculture.
- The above forest land has been incorporated into the Municipality of Ayios Stefanos' general urban plan despite the objections of the Ministry of Agriculture.

According to the findings of its investigation, the Office of the Ombudsman considers that this situation is based on the following acts of maladministration:

- Issuance of building permit 34/1999.
- Refusal by the administration to recall the 1976 prefectural decision, which the Council of State considers no longer in force, concerning the settlement's boundaries.
- Approval of the Ayios Stefanos' general urban plan, which classifies forest land as residential area, without the countersignature of the Minister of Agriculture.

Investigation of the complaint has established that in the area of Ayios Stefanos a settlement with diverse activities has developed, in many instances on forestland, because of inaction and tolerance by the administration. The Ombudsman does not oppose urban development in this particular area but does seek adherence to the principle of legality in order to protect the areas classified as forest land and exclude this land from becoming residential area. In any case, as stated in Council of State preliminary opinion no. 64/1992, "the state is obliged to schedule and control urban growth and not merely react to investments made by interested parties by increasing the amount of construction on land." The criterion for administrative action and the associated exercise of governmental authority in the housing sector should be the basic principle of sustainable development, which connects the expansion of the residential area with the constitutionally guaranteed respect for the protection of the environment.

On the basis of these principles and in accordance with his role as a mediator (article 4, par. 6, and article 3, par. 5 of Law 2477/1997) and his findings as of October 14, 1999, the Ombudsman proposed measures to all public services involved for effectively dealing with the problems that have arisen as a result of certified acts of maladministration. In his findings, the Ombudsman stressed that the administration was obliged, in accepting his proposals, to take into consideration that implementation of the above proposals may involve harming the property rights of third parties. These third parties, as the Ombudsman had pointed out to the Ministry of Agriculture (document no. 98690/3011/9.7.99), in fact had acted in good faith, "in the belief that they were buying housing plots, in reality they were buying land classified as forest area." Possible solutions to overcome maladministration involve adopting "legal measures restricting ownership" since the purpose, as the Council of State repeatedly has judged, is "the general public good, as is especially the protection of the environment, which is explicitly safeguarded by the Constitution and constitutes responsibility of the state" (Council of State 1029/1995).

The measures proposed should not be retroactive so that they will not adversely affect

the third parties who acted in good faith and already have built houses in areas included within the Ministry of Agriculture's cadastral map. More specifically, the Ombudsman maintains that in no case should the existing houses, built with building permits issued by the responsible urban planning offices, be threatened with demolition. Doing so would directly challenge the principle of the protection of legitimate expectations and the principle of administrative consistency.

Finally, these principles require the administration, because of its tolerance and failure to act when dealing with illegal situations, to be concerned about restoring the assets of people who dealt with the administration in good faith and bought land in areas classified as forest areas in order to build. As of December 31, 1999, the public services involved had not responded to the Ombudsman's proposals.

3.8 ENVIRONMENTAL DEGRADATION FROM HOTEL WASTE

The complaint (213/1999) is concerned with the environmental degradation of a property in the Orfanata settlement, in the community of Kalligata in Kefallonia, from cesspools belonging to a hotel complex. Oral and written accusations claim that the system of treating and disposing waste from the hotel has created problems in the surrounding area, particularly in the adjacent property owned by the complainant.

After referring to the technical reports and laboratory analyses, the Office of the Ombudsman first turned to the local office of the Department of Health and Public Hygiene in the prefecture. This declared it was unable to solve the problem, a fact that was also evident from the information in the case file about long-term, ineffective correspondence among the competent services dating back to March 21, 1990. The Ombudsman then wrote (March 1, 1999) to the Environment Health Division in the Ministry of Health and Welfare. The response was prompt, both in providing specific information about resolving the issue and about the division's commitment to have people from the ministry inspect the site on May 6, 1999 in order to deal with the specific problem of hygiene and protect public health.

At this point it should be mentioned that a letter sent on November 11, 1998 from the Prefecture of Kefallonia's Department of Health and Public Hygiene to the Ministry of Health and Welfare requesting technical assistance was still pending. The request had been made because laboratory test results were contradictory, making it impossible to resolve this long-standing problem.

In a written reply (Β2/οικ1186/18.5.99), the Environment Health Division in the Ministry of Health and Welfare informed the Ombudsman of the results of the on-site investigation, according to which "waste from the hotel against which the complaint has been lodged is treated and disposed of in ways that have not been approved…". The letter specifically points out that "with decision no. 3644/89/12.4.90 the Prefect of Kefallonia gave a temporary licence for waste disposal which, since it was not made permanent after the six-month time limit, has ceased to be valid."

The legislation was correct in setting the time limit for the temporary licence at six months, since it considered this to be a trial period before the issuance of a permanent licence. This is in accordance with provision Ε1β/221/65, which requires that "the assumed efficiency of the work be controlled and verified by appropriate sampling and laboratory analyses." According to circular no. Α5/2672/εγκ.79/12.10.84 isssued by the Ministry of Health and Welfare concerning operating licences for hotel complexes, the

health and safety services "…are also obliged to heed the time limit within which the hotel management is to comply [with the licence's requirements] so that, before the temporary licence expires and always working together with the Kefallonia office of the Department of Health and Public Hygiene, the procedures for granting a permanent licence can be completed, without any gap…". In this case, however, the prescribed procedures were not followed.

In addition, the report on the on-site investigation adds that "the treatment and disposal of waste is completely at odds with the study then approved and with the way the hotel representatives describe how the waste is treated today." Furthermore, the on-site inspection found that "there is direct or indirect flow from local cesspools to wells."

With this information in hand, the Ombudsman wrote to the Department of Hygiene and Public Health in the Prefecture of Kefallonia and Ithaki that the only legal way to deal with the problem is to immediately suspend the hotel's operating licence and begin anew the procedures for granting an operating licence. Bearing in mind the financial loss the owner of the hotel in question would sustain, since this was to take place during the high tourist season, and in the spirit of his role as a mediator, he also proposed that there be a search for technical solutions, provided that these solutions guarantee decontamination for the period in which legal operation is restored, so that the immediate threat to public health can be avoided. Since, according to Ministry of Health and Welfare's circular no. A5/2672/εγκ.79/12.10.84 concerning operating licences for hotel complexes, the granting or renewal of hotel operating licences is completed by the National Tourism Organization, the Ombudsman wrote to the Department of Tourism of the Peloponnese and Western Central Greece on August 6, 1999 requesting it to take immediate steps, within its authority, since the hotel complex in question operates without the required licence for the treatment and disposal of waste. The letter also asked the department to present the exact reasons and the legal provisions on which the special operating permit for the hotel in question had been based.

The response (August 28, 1999) from the Department of Tourism of the Peloponnese and Western Central Greece made clear that the department had issued special operating permit no. 596/40884 to the owner of the hotel in question because "all the necessary documentation had been submitted, including the required verification of proper sewage disposal from the Department of Health and Public Hygiene of the Prefectural Government of Kefallonia and Ithaki (protocol no. 2492/11.5.94)."

A letter from the Environment and Urban Planning Division of the prefecture informed the Office of the Ombudsman that charges were being brought against the owner of the hotel complex for violating article 458 of the Penal Code by not submitting the documentation required in order to verify how waste was disposed. Nonetheless, until December 31, 1999 there was no answer to the Ombudsman's letter dated October 19, 1999, about the issuance of a certificate of suitability for a sewage disposal system operating without a waste-disposal permit. The case is still pending.

3.9 ISSUANCE OF BUILDING PERMITS IN COASTAL ZONES

The problems for this category of complaints arise from the absence of administrative definition of the coastal zone and become more intense when the coastal zone borders on a settlement, particularly when this settlement has not developed in accordance with a town

plan. The result is that boundaries must be determined on the basis of ownership titles. Other categories of problems include issues arising from the alteration of land because of erosion (given that such cases are not regulated by law) and construction works undertaken by local government authorities without approval or completed impact studies.

The Xylokastro Urban Planning Office issues building permits for property within the coastal zone belonging to the settlement of Kamari in Korinthia, a settlement which existed before 1923 (case 1215/1999). In issuing permits, the urban planning office refers to the existing settlement boundary without maintaining the required distance from the national road. Investigation into the case has shown that the act defining the coastal zone has been nullified on the ground of technicalities and the Public Real Estate Agency of Korinthia has begun the process of verifying ownership titles. The Prefectural Government of Korinthia has not taken the required steps and has not replied to repeated letters from the Office of the Ombudsman. In addition, the Xylokastro Urban Planning Office has not informed the Ombudsman of the results of the on-site investigation it was requested to undertake and it continues to issue building permits. At the same time, for another case, the Physical Planning, Building and Environment Council of Korinthia permitted construction to continue without taking the relevant legislation into account. The Ombudsman proposed that all construction work and the issuance of new permits be suspended immediately until coastal zone definitions and land ownership titles are clarified. As of December 31, 1999, the case was still pending.

3.10 TRANSPORTATION COMPANIES OPERATING WITHOUT LICENCES

Several complaints (cases 1729/1998, 1143/1999, 1328/1999, and 12647/1999) are concerned with transportation companies operating without licence in Chios. The companies, arguing that they are operating as warehouses, have appealed to the Council of State against the decision by the Prefecture of Chios that they be closed. The Minister of Transportation has directed that the closings be postponed, because a judgment of the Council of State was pending.

This issue is complex and constitutes part of a general problem concerning overlapping authority and the absence of planning. Although it involves land use and the implementation of the general urban plan, the issue falls within the responsibility of the Ministry of Transportation and Communications. From the point of view of urban planning, a change was made that did not comply with the Chios general urban plan. When asked if the general urban plan was still in force, the Ministry for the Environment, Physical Planning, and Public Works gave contradictory replies based on article 4, par. 9 of Law 2508/1997. According to the general urban plan, the area set aside for the location of such companies was never determined because the relative urban plan study was never carried out because the inhabitants, fearing the study would oblige them to contribute land and money, refused to cooperate. The result is that the general urban plan cannot be implemented in many areas and the urban plan study cannot proceed. The Prefecture of Chios believes that the problem will be solved when the commercial harbour is moved to the harbour of Mesta. At the same time, these cases highlight the confusion existing about whether or not a particular area can be used for parking or as a warehouse. The Ombudsman asked the Minister of Transportation, in consideration of the Council of State's legal interpretation and the urban planning legislation, to withdraw his relevant

decisions. In response, the minister withdrew his decision concerning one of the cases. Finally, the Ombudsman has made every possible effort to have a site designated to which these companies can move, but without result.

4. Conclusions

4.1 General conclusions

The most important cases presented above, having a positive or, more often, a negative outcome, have been included in this report because they are related to severe problems of maladministration. The Department of Quality of Life developed proposals for legislative and organizational adjustments to help deal with such problems. These proposals are presented below, in section 5.

The investigation of the complaints received by the Department has established that the highest number of cases and the most important issues the Ombudsman is called upon to solve have to do with illegal construction and the destruction of the environment, and mainly are caused by actions taken by the central administration and local government authorities. Many of these cases remain pending for particularly long periods of time because the public services involved (especially urban planning offices) present seemingly legal reasons for not implementing current legislation. The problems can be summarized as follows:

- Intentional delays of legal procedures.
- Lack of clarity in the legal framework because of contradictory provisions or provisions that end up benefiting arbitrariness.
- An essentially inactive mechanism for controlling and correcting illegal acts along with time-consuming and, in practice, ineffective judicial intervention, the decisions of which are systematically ignored by the administration.
- Occasionally, after the fact and *en masse*, illegal buildings are legalized by the Ministry for the Environment, Physical Planning, and Public Works.

These facts have persuaded the citizens at large that they will not solve their problems by taking any legal action; on the contrary, they have strengthened the belief that illegal transactions bring quick solutions or detour around any inconvenient restrictions imposed by law. The easy conclusion is that illegality is rewarded, and so the volume of irreversible and, therefore, incurable situations increases. The situation described is based upon specific structural weaknesses in central and local administrative mechanisms:

- The lack of a programme and common policy for cases involving more than one public services results in redundant work, waste of money and time.
- The lack of technical specifications raises doubts about the reliability and development of data, as there is no basis for comparison with previous years.
- The organization of services ends up being based solely on the good will of their supervisors, without a standardized way of dealing with issues and a common way for similar services to be organized (such as computerization, internal communication).
- The lack of personnel, in particular specialized personnel, causes delays in handling cases. Organizing and placing personnel sensibly would be of fundamental help in making the services more effective. Finally, low salaries, compared to the volume and the importance of the work, discourage productivity and encourage corruption.

The general conclusions given above may be presented in more specific terms:

- Legislation is not codified, and laws are weakened when circulars contradicting them are issued; moreover, there are delays and omissions in the issuance of relevant presidential decrees.
- Contradictory regulations (such as different presidential decrees concerning the same area) cultivate confusion about which law is valid and allow choices to be made at will.

Often the following are obvious:

- Regional government services are ignorant of the law and inadequately provided with information by the central administration.
- The establishment of contradictory legal regulations.

The following are observed:

- Procedures concerning the same subject are often completed at different times. For example, an area may be classified as being of ecological interest without the boundaries of the area having been defined.
- Areas are included within EU special programme zones for financial reasons, without the associated commitments being met.
- People are not adequately informed of the procedures required for each case.
- The imposition of penalties often is delayed, either because the services actually are ineffective or because of all kinds of political pressure. This is particularly common within local government authorities.
- The services are often reluctant to deal with cases in which the interested parties are unable to present their petitions clearly, or live in an area different from that with which the service is involved.

For these reasons:

- In order to resolve the above problems, the prevailing mentality that permits mayors, prefects, heads of regional governments, and ministers from illegally trying to stop the implementation of administrative or judicial decisions must be radically transformed. This practice is also encouraged by the failure on the part of the responsible authorities to effectively supervise and control the services involved. It already has been pointed out that major groups of issues must be dealt with at the highest level.

4.2 OBSERVATIONS CONCERNING THE POTENTIAL PARTICIPATION OF LOCAL GOVERNMENT AUTHORITIES IN THE FORMULATION OF ENVIRONMENTAL POLICY

One purpose of the Ombudsman's founding law (2477/1997, article 4, par. 2) is to point out that the practices followed by the central administration and, in particular, by local government authorities often contribute to environmental degradation.

Environmental and urban planning issues have only recently been included in the priorities list of the political and administrative leadership in Greece; this is mainly associated with the increasing international sensitivity on the subject. On the one hand, however, it can be seen that environmental planning is proclaimed to be a self-contained object of public action, with environmental factors being incorporated in all aspects of government policy while, on the other hand, priority is, in practice, given to development. Environmental policies are not really implemented and legal provisions protecting the environment are observed only to the smallest possible degree.

Environmental impact assessment studies and the approval needed for any project as adhering to environmental terms are particularly revealing. Instead of simply being a technical method for predicting potential impacts on the environment, such studies often serve as an alibi for environmental policy, substituting a technical approach for complex socio-political evaluation, which is a requirement for intervention on environmental matters. The inability of these studies to fill gaps in environmental policies is confirmed by phenomena such as reports drafted after the fact, unqualified researchers, the failure to realize the dimensions and quality of the impact upon the environment, and the exhaustion of bureaucracy during approval procedures.

The scattered nature of public services responsible for environmental and urban planning, the absence of unified plans and criteria for central planning and, in general, for state intervention in environmental matters, are in addition to the above features of environmental and urban planning policies. The problems are especially severe when it comes to the operation and location of use of disturbing units. The multiplicity of laws and the sectionalizing of administrative acts in this sector lead to unequal, uneven regulations and situations. The legal framework, then, must be revised, in order to establish a uniform type of licence for the location of use of such facilities.

In the field of urban development, central urban planning is often in danger of being cancelled in practice, for it is rarely calculated in consideration of the financial resources available. Instead of beginning with an estimate of the financial cost of implementing the plan, quite frequently the opposite and essentially unreasonable path is followed. That is, first residential expansions are planned and then the necessary funding is sought in all directions or the available sources of funds for implementing the plans are considered.

It is an indisputable fact that, in Greece, the plans for residential development begun in the early 1950s, under the powerful pressure of social demands for developing personal property, especially small landholdings. The demand for expanding residential areas and the calls for them being incorporated into town plans were usually received by local government authorities, which initiated the legal procedures and were responsible for forwarding the proposals to the central administration. Despite the absence of technical services and their inability to bear the financial burdens resulting from residential expansions, local government authorities promoted the citizens' demands, functioning simply as a messenger.

The results of this procedure are well known. The expansion of settlements was adjusted to the existing ownership status and town plans, common and social land use took up a tiny portion of the town plan, the natural form of the land and the contour lines were crudely violated, while the absence of technical, financial, developmental, and environmental studies has left its indelible mark everywhere, particularly evident in the destruction of the environment and agricultural land, deforestation, and the degradation of the shoreline.

The widening and upgrading of the role of local government, through consolidation of its participation in preparing and carrying out planning (Laws 947/1979 and 1337/1983), raised demands and expectations as to the effectiveness of its active participation in the above fields. At least at the level of drafting urban plans, these expectations, however, were seldom accompanied by any essential contribution from local government to treating problems effectively.

However, even with the new policy for the participation of local government in the

realization of urban plans and property arrangement acts (Law 1337/1983), the problems remained unresolved.

The inter-sectoral nature and geographical dispersion of the problems associated with environmental administration require that certain procedures be established, through which citizens can participate and intervene on issues involving environmental and urban planning policy. Especially in the case of Law 1337/1983, the active participation of the citizens directly involved in drafting and implementing urban plans was considered to be the main guarantee for the social acceptance of interventions on environmental issues. According to this perception, housing needs should not be defined by strictly technocratic, impersonal criteria, but in accordance to the genuine needs of the residents, directly supervised, socially and democratically, by the participants themselves. In reality, however, social institutions, such as neighbourhood councils and neighbourhood urban planning supervision committees, were not able to function as instruments of direct social control. In most cases, "participation" by the residents consisted only in submitting objections against the urban plan or property arrangement act.

At this point, support from local government may make a decisive change, by pursuing the establishment of steady relations between local government authorities and environmental organizations that will seek to control and promote common approaches and proposals on issues of environmental administration.

Both as contributors to developing environmental awareness and motivation and as conveyors of expert environmental knowledge, non-governmental organizations can offer constant social support and a firm foundation for legalizing the actions of local government authorities. Such a development would help stimulate activity and, finally, end the inactivity so commonly seen in local government authorities when it comes to environmental issues.

5. Proposals for Legislative Amendments and Administrative Reforms

This chapter contains a series of proposals for administrative and legislative adjustments about the issues within the Department of Quality of Life's area of jurisdiction. These proposals have been arranged into the sections that follow without being divided into two distinct categories (legislative amendments and administrative reforms). This decision was made both because of the nature of the problems raised by the complaints submitted to the Department and because the problems are caused and/or maintained not through a lack of legislation but through violations of existing legislation. Therefore, the amendments proposed must be combined rather than separated for the problems to be resolved.

5.1 Ministry for the Environment, Physical Planning, and Public Works: Partial Ratification of Property Arrangement Acts

In light of the partial ratification of property arrangement acts by the Prefecture of Rethymno (see 3.1), it is considered necessary to (a) clarify the legal framework governing the drafting of separate parts of property arrangement acts in relation to urban planning or, to put it differently, of the "partial ratification" of the property arrangement act, and (b) to begin legal procedures for resolving the problems that have been caused by the drafting of separate parts of the property arrangement act or the "partial ratification." Both also seek to ensure social acceptance by the citizens and adherence to the principle of legality. Therefore, the Ombudsman

PROPOSES TWO ALTERNATIVE SOLUTIONS:

a. Modification of Presidential Decree 26.7.86 (Government Gazette Δ 792/9.9.86) by which the town plan was approved and the area of Perivolia was classified under Law 1337/1983, article 13, as a settlement that has existed since before 1923. In order for this modification to be achieved, the Municipality of Rethymno undertook the commitment to follow the procedure defined by the law and raise the issue before the municipal council to approve or deny. This will be done on condition that it will be preceded by an investigation about the costs the municipality must undertake for creating common and public spaces, if Legislative Decree 17.7.23 is to be applied.

b. If the above solution fails to work out and the municipal council does not come to this decision,

THE FOLLOWING MEASURES ARE PROPOSED:

- The technical and ownership problems that have arisen as a result of the partial ratification of the property arrangement act should be registered and grouped together. The consulting engineering office that drafted the property arrangement act will be assigned this task, and, if it refuses, the task will be assigned to a consulting engineering office selected by the prefectural government, with the approval of the "Cultural Union of Perivolia."
- The already drafted unified property arrangement act, which was submitted in 1993, must be posted again, and the procedures for submitting objections must be followed. The acceptance or rejection of objections will lead to the property arrangement act being corrected and to the eventual modification of the already ratified property arrangement act. In order for the act to be corrected, property titles will be resubmitted, common spaces will be taken into consideration, and the potential existence of pieces of land granted by the state will be considered.
- By commitment of the prefect, no property arrangement acts will be drafted and ratified in the Perivolia area for three months beginning on July 15, 1999. If, within this time limit, the necessary procedures for solving the area's problems have not begun, the suspension in issuing property arrangement acts will continue.

5.2 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS: PROTECTION OF TRADITIONAL SETTLEMENTS, HISTORICAL BUILDINGS, AREAS OF PARTICULAR NATURAL BEAUTY, ETC.

Based on the complaint still being investigated (see 3.2) about protecting the Lousios Gorge, the Ombudsman has already reached some conclusions. More specifically:

For areas of ecological interest, especially when they involve large mountain forests containing historical areas, traditional settlements, and archaeological sites, land-use planning measures (according to Laws 1337/1983 and 1650/1986) protecting the environment must precede large-scale public works or approval of construction of large-scale, permanent establishments not included in the town plan. These measures are of vital importance so as to prevent the destruction of the environment and the establishment of conditions that make intervention by the state more difficult. Therefore, the Ombudsman

PROPOSES THAT:

An independent supervising authority be established to coordinate the legislative and programming work done by the Ministry for the Environment and the Ministry of Culture,

regularly inspecting all responsible services and local urban planning offices about the legality of their actions.

5.3 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS: RESTRICTION AND OBLIGATORY EXPROPRIATION OF PRIVATE PROPERTY

A large number of complaints, concerning either the restriction of private property without the procedure required for obligatory expropriation or the failure to pay the judicially defined compensations, leads the Ombudsman to conclude that state urban planning is not coordinated with financial planning for finding the necessary funds for expropriations and construction. Following this realization,

IT IS PROPOSED THAT:

It has to be investigated whether or not local government can receive low-interest loans in addition to the funds it already receives. These loans would enable local government authorities to deal with the large number of restricted expropriated plots and expropriations they often impose without considering which funds might be available in order to pay compensation to the landowners. Moreover, the role and operational rules of the Special Fund for Implementing Urban Plans must be re-examined, and the smooth distribution and flow of the sums paid to local government must be ensured.

Investigation of the complaints shows that, in many cases,

– urban planning studies do not include all infrastructure studies required for an area to be included in the town plan;
– although local government authorities resort to many excuses, deadlines for paying compensation are violated regularly and procedures are inexcusably delayed, with the result that, in some cases, private property has remained under restriction for 40 or more years;
– the *ipso jure* release of playing fields restricted in accordance with article 11, par. 2 of Legislative Decree 797/1971, which was cancelled by article 36, par. 1 of Law 1337/1983, would be of fundamental help in mitigating the problem. It would settle a large number of administrative actions and would make it possible to avoid lengthy judicial trials in order for the properties involved to be released.

5.4 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS: REDIFINING THE RENT ON REQUISITIONED PROPERTY

In the case of redefining rents for requisitioned buildings (see 3.3),

IT IS PROPOSED THAT:

The provision applying to professional leases be implemented. Rents should be raised on the basis of the current inflation rate.

5.5 MINISTRY OF TRANSPORTATION AND COMMUNICATIONS: RE-EXAMINING ISSUES OF PRIVATELY OWNED LAND NEAR AIRPORTS

On the basis of the certification from the Civil Aviation Authority about the Chios airport (see 3.4),

IT IS PROPOSED THAT:

• The Civil Aviation Authority re-examine the situations of all Greek airports with reference to the adjacent private properties and, in particular, such cases similar to case 10709/1999.

- The measures presented in the detailed letters (Δ3/Δ/24328/1634/4.6.99 and Δ7/Δ/53586/5712/7.12.99) from the Civil Aviation Authority answering the Ombudsman be taken.

5.6 MINISTRY OF CULTURE: EXPROPRIATION OF LAND OF ARCHAEOLOGICAL INTEREST

As a means of temporarily solving the problem of paying compensation for obligatorily expropriated land of archaeological interest (see 3.5),

IT IS PROPOSED THAT:

Payments be made in Greek government bonds so that all landowners entitled to compensation can be gradually paid off. If this is not possible, then, alternatively,

- Ten billion drs should immediately be made available to the Ministry of Culture to begin paying compensations.
- Priority should be given to compensation payments that do not exceed twenty million drs, for reasons of social sensitivity, and for the immediate relief of small landowners.
- Priority should be given to exceptional cases of social need, such as people suffering from incurable diseases and the elderly.
- The Archaeological Receipts Fund must be relieved from paying Ministry of Culture operating expenses, such as salaries for seasonal employees, so that it may carry out its purpose, that is, to pay compensations.

It should be noted that the positive development already scheduled to solve the matter in question (issuing government bonds) will effectively cover the above proposals.

5.7 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS: ILLEGAL CONSTRUCTION

In order to deal with illegal construction, which has gone out of control,

IT IS PROPOSED THAT:

- In the future, the legislation that introduces exceptional encouraging adjustments or completely legalizes the status of illegal construction must be re-examined.
- All procedures (such as connection to the electricity, telephone, water-supply, or sewage networks) that, either directly or indirectly, lead to legalizing illegal buildings, must be suspended.
- Credit must be approved immediately so that demolition crews may be established in the prefectures. Their work will be overseen by local government supervisors (secretaries general of the regional governments).
- Fines must be imposed for failure to carry out the above-mentioned actions.
- Owners of illegal buildings should bear the cost of demolition and pay the related fines.
- The process for defining whether or not a building is illegal must be carried out succinctly and appeals against it must be tried quickly. This will prevent the illegal situation from becoming established and work against expectations that illegality will be tolerated. The speed of these procedures is directly associated with preventing illegal construction work from being completed, a fact that would create an irreversible situation and enormous costs that would have to be borne by the state — possibly even under irregular conditions (for example, in case of earthquake or uncompleted illegal constructions falling down).

5.8 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS: THE LEGALITY OF ISSUING BUILDING PERMITS AND DEFINING THE BOUNDARIES OF THE SETTLEMENT OF AYIOS STEFANOS

All the aspects of the complex issue concerning the legality of issuing building permits and defining the area of the settlement of Ayios Stefanos, Attica (see 3.7), were examined and presented in the Ombudsman's findings dated October 14, 1999. On the basis of these findings,

IT IS PROPOSED THAT:

- Building permit 34/1999 be revoked.
- The decision of the prefect be revoked and new settlement boundaries be established in accordance with the provisions of Presidential Decree 244/3.5.85. At the same time, measures should be taken to avert the alteration of the settlement's character (for example, change in land use).
- The Ayios Stefanos general urban plan should be modified so that either the forest areas described in the relevant cadastral map should be exempted from or some of these areas should be included in the general urban plan. At the same time, the letter and spirit of Law 998/1979 should be kept. This law bears the countersignature of the Minister of Agriculture and ensures the forest character of the area and the integrity of the urban plan.
- The procedures of Law 998/1979, article 14, should be carried out with the properly justified action by the forester responsible, so that, temporarily, the contested areas will be classified as forest until the boundaries of the area's forestland are defined.
- Building permits should be issued for those areas of Ayios Stefanos not included in the valid cadastral map of the Ministry of Agriculture. These permits should be issued after thorough, detailed research by the urban planning office of all possible information (such as maps and air photographs) in order to verify whether or not the playing field under construction is within the area of the 1923 settlement; if so, then it is entitled to be built in accordance with the more favourable terms allowed for the settlements existing before 1923.
- Finally, until the urban plan study for Ayios Stefanos is approved, building permits must be issued only after certification from the forestry office that the building plot is not within the forest area and is not included in the valid cadastral map of the Ministry of Agriculture.

5.9 MINISTRY OF TRANSPORTATION AND COMMUNICATIONS: OPERATING LICENCES FOR TRANSPORTATION COMPANIES

Regarding the issue of transportation companies operating without licences in Chios (see 3.10),

THE OMBUDSMAN PROPOSES THAT:

The Ministry of Transportation should issue a presidential decree including the conditions under which transportation companies operate. These conditions should stipulate that the company's property be large enough for the vehicles working with the company to be loaded, unloaded, and parked. In any case, the Ministry of Transportation and Communications should work together with the Ministry for the Environment, Physical Planning, and Public Works on issues of land use. No matter what area is being considered

for the location of use of a transportation company, the appropriateness of the area in terms of traffic circulation (that is, access roads and road width) must be examined. Finally, par. 9 of article 4 of Law 2508/1997 should be rephrased.

5.10 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS: PROTECTION OF THE ENVIRONMENT

Protection of the environment is inseparable from public health and, therefore, requires the direct involvement of all services. It also has an international dimension, as Greece is a member of the European Union, where a framework for action as well as specific economic encumbrances (fines, loss of funds from support programmes) in cases of non-compliance have been set.

The relevant legislation imposes important responsibilities upon the prefectural government authorities, who are obliged to take action to protect people's health and the environment. The complaints reveal that in most instances the law is not followed, meaning that no measures are taken to protect the environment or even regularly to monitor the quality of the atmosphere, soil, and ground water (as determined by Law 1650/1986, Ministerial Decision 69269/1990 and the relevant joint ministerial decisions, presidential decrees, and EU directives), nor are corrective measures taken where needed. Constant, preventive review is necessary because it makes prompt intervention to reverse possible extensive contamination feasible and helps make corrective measures effective in the cases that extensive pollution of the environment has been established. Another important problem is that the required procedures concerning preliminary site approval, environmental impact assessment studies, and the observance of environmental terms are not followed.

The administration must come to understand that protecting the environment is a constitutional requirement and that failure to implement environmental law and the Council of State's legal precedents generate serious, intractable, and irreversible environmental problems. The primary criterion for administrative action and the associated exercise of authority must be the fundamental principle of sustainable development that meets the constitutional requirement for protecting the environment. The excuses usually advanced by the administration for not implementing the law must be dealt with from this point of view. Examples of such excuses include invoking ignorance of the law, lack of personnel and of trained personnel, the unavailability of necessary funds, and even, for cases in which implementing the law involves imposing fines or requires installations or plants to be improved, the belief that the owners will object to the additional costs.

For the purpose, then, of improving environmental protection overall,

IT IS PROPOSED THAT:

- The Environment Protection Inspectors Special Unit, established by Law 2242/1994 but not yet fully staffed, take action.
- Local government authorities should be staffed with specialized personnel able to review and monitor environmental terms. People for these positions should be hired after the services have submitted a detailed and substantiated explanation as to why these people are needed. Legislative adjustments that will guarantee funds to provide the prefectures with specialized staff are needed as well.
- Environmental impact assessment studies need to be carried out for works planned in

industrial zones, mining and quarrying areas, etc. by adjusting Law 1650/1986 and Joint Ministerial Decision 69269/1990.

- Environmental impact assessment studies need to be carried out for works undertaken for national defence purposes, by adjusting Law 1650/1986 and Joint Ministerial Decision 69269/1990.
- Issuance of joint ministerial decisions supplementing Law 1650/1986, ensuring that environmental terms will be substantively investigated by an in-depth study of the area (sampling and chemical analyses, establishing the existing situation, etc.).
- Issuance of legislative provisions or joint ministerial decisions providing for appropriate steps (such as research stages, acceptable limits of contamination, corrective measures, responsible authorities) for dealing in a uniform, coordinated manner with cases in which pollution in a given area has been established. Which authority is to be responsible for monitoring that the law is implemented and that relative fines are imposed must be established clearly.
- Thorough environmental impact assessment studies must be carried out on the sites selected for the location of use of a construction before the preliminary site approval.
- Ministerial Decision 95209/1994 (making prefectures the responsible authorities for approving environmental terms for certain activities, category A projects, and activities defined by article 3 of Law 1650/1986) should be modified by removing the last paragraph, which cancels Joint Ministerial Decision 69269/1990 by assigning some activities to category B.
- Regional environmental services of the Ministry for the Environment, Physical Planning, and Public Works should be maintained so that environmental legislation can be implemented without hindrance or influence from local factors.
- As for the problem of noise pollution from trucks being loaded and unloaded, the size of trucks regularly used, and defined as permanent mechanical equipment, as well as the frequency with which they are used should be subject to limitations.

5.11 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS: ENVIRONMENTAL DEGRADATION FROM HOTEL WASTE

Regarding the environmental degradation caused by treatment and disposal of waste from hotel complexes (see 3.8),

IT IS PROPOSED THAT:

An appropriate modern infrastructure for quality control be provided within an overall system for reviewing adherence to environmental terms.

5.12 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS: COASTAL ZONES

The degradation of coastal zones is encouraged by the understaffing of public land authorities and records not being systematically and automatically kept. Problems also arise:

– From attempts to implement old plans defining the coastline. These problems are caused mainly by the scale of these plans and the fact that the markings were not defined by coordinates referring to the national, but to another coordination;

– from the absence of necessary steps to verify ownership titles for neighbouring properties when construction is involved;

– from changes in the coastline caused either naturally or by human intervention (some instances are not provided for by law);
– from construction works built to restrict the coastline;
– from the lack of competency among members of some committees for defining the coastline and the lack of consistent ways to deal with similar situations, and, finally,
– from "appropriation" of the shore by hotels and other establishments that rent it.

On this subject, no progress has been made concerning adoption of the Ombudsman's proposals set out in the *1998 Annual Report*. This being the case,

IT IS PROPOSED THAT:

Legislation should be drawn up requiring the coastal zone to be defined before the issuance of building permits, which should require submitting ownership titles and older documentation, and marking the coastline.

Issues concerning the ownership of adjacent properties should be settled at the same time by the drafting of a relative act of proportional ownership. To achieve this goal, there has to be coordinated action between the services so as to avoid the failure of drafting relative acts of proportional ownership both out of the desire to avoid the expenses involved and in order to maintain the vague situation along the shore that benefits personal interests.

The owners of adjacent properties should be notified about defining the coastal zone, for example, as is the case when land is expropriated for urban planning or other reasons.

Specifications have to be established defining the coastal zone and including:
– A uniform way of defining the coastline, providing for the protection of the areas of ecological importance situated next to the coastal zone (such as the river mouths, wetlands, flora and fauna);
– a substantiated report from the committee defining the coastline;
– a description of the coastline with coordinates;
– specifications for cases in which the coastline has retreated;
– a hydro-geological study containing an attempt to predict how the coastline will change, in order to avoid the problems associated with such changes. In addition to measuring the winter-wave zone, this study should include the approval for construction in the coastal zone and on the shore;
– special adjustments for traditional settlements.

In terms of time, the moment the coastal zone is defined will be considered as the moment when the boundaries of the coastal zone, shore, and private properties are defined. In cases in which there are buildings, (a) if they are part of a settlement, the layout of the settlement should be preserved even if the buildings are within the coastal zone, (b) if they are not within a settlement and have been built legally, they should remain in the hands of the owners but the state has the right of expropriation and the owners may not erect a fence or wall around their property. Furthermore, if a wall already exists, there has to be investigated when it was erected as well as whether or not it is associated with traditional buildings. In each case, the investigation must take erosion into consideration, so that a permit can be given for building a surrounding wall if erosion is taking place. Specifications, including aesthetic concerns about building walls, should be established. Finally, determining that erosion is taking place should lead to measures reducing it, particularly for cases in which it may be directly dangerous to the construction of houses. With these in mind, the Ombudsman

MAKES THE FOLLOWING PROPOSALS:

- The public land authorities should be staffed properly and be computerized, and
- data should be kept up to date in collaboration with the National Land Registry and closer collaboration with the Hellenic Navy General Staff's Hydrographic Service.

6. Response to Proposals for Legislative and Administrative Adjustments Contained in the 1998 Annual Report

A review of the legislative and organizational proposals of the Department of Quality of Life contained in the *1998 Annual Report* leads to the conclusion that most of them had no effect either in terms of initiating legislation or, up to December 31, 1999, at the level of innovative adjustments concerned with the organizational formation of the services involved.

One exception to this general picture is the case of paying compensation to landowners for obligatory expropriations of sites of archaeological interest. The *1998 Annual Report* mentioned the intense dissatisfaction of a large number of citizens with the lengthy delays in paying compensations for obligatory expropriations of sites of archaeological interest and also with the process involved in declaring subject to expropriation land which, according to the Archaeological Law, was already under restricted use. Discussion of this issue in the *1998 Annual Report* concluded by stressing that, in accordance with irrevocable court rulings, the citizens involved were entitled to compensation from the Ministry of Culture.

The Ombudsman's effort to mediate on this issue continued throughout 1999. He sent a series of proposals and specific measures to the Ministry of Culture that could begin to deal with this serious issue (see 5.6). He stressed that the gradual downgrading of archaeological sites and their threatened destruction from new buildings have broader effects, both on the natural environment and the quality of life (protecting landscapes, free spaces), as well as the economy (tourism).

The positive outcome of cases concerning the expropriation of archaeological sites leads to a general remark about the activities and the direction taken by the Department of Quality of Life during 1999. The long period of time required to resolve this issue indicates the particular characteristics of the cases the Department handles and, overall, their complex and difficult nature. This "structural" characteristic distinguishing the Department's cases makes it necessary to adopt a longer time frame in which to attempt or hope to reach possible solutions. It also makes it necessary to turn to procedural solutions, such as joint meetings between the authorities involved, that, by their nature, contribute to extending rather than shortening the time period for resolving cases. The natural result of this situation is that the speed with which cases are resolved, even those resolved to the benefit of the citizen, is slower in the Department of Quality of Life than in the other three Departments handling complaints submitted to the Office of the Ombudsman. The Department hopes that the positive outcome of the cases involving paying compensation for obligatorily expropriated archaeological sites will set a precedent for successful resolutions that will be repeated in the future and that the administration will respond, even slowly, to the need to adopt rules and practices consistent with the principles of fair administration and the rule of law.

E.4 DEPARTMENT OF STATE-CITIZEN RELATIONS

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DEPARTMENT OF STATE-CITIZEN RELATIONS

1. Area of Jurisdiction and Responsibilities of the Department

The Department of State-Citizen Relations receives numerous complaints that vary greatly in both the type of maladministration reported and verified, and in the agencies complained against. The presentation of the most significant cases (see section 3) as well as the number of public services to which proposals for legislative amendments and administrative reforms have been submitted (see section 4) clearly demonstrate that the Department of State-Citizen Relations deals with the all public-sector activities (within the Ombudsman's mandate as described in article 1, par. 1 of Law 2477/1997) and with every possible form of maladministration.

This diversity in incoming complaints generates three difficulties. First, in establishing a uniform policy as to how the Department will behave "outwardly", in the sense of handling similar cases in a similar way. Second, in creating an open communication channel with the various public services that would establish a spirit of long-term cooperation and facilitate the handling of cases. Third, this diversity makes demands upon the Department's investigators to become familiar with a variety of legal frameworks and, mainly, with different services having different mentalities.

2. General Assessment of the Department's Activities

In order to assess the activities of the Department of State-Citizen Relations, one must begin with the effectiveness of the Ombudsman's mediation and the characteristics this policy has acquired through investigating cases by operating, for the most part, between two parties, the citizens and the public services.

The increasing number of complaints received by the Ombudsman indicates the trust people place in the Office, much of which is generated by the positive attitude taken by the mass media and the publicity given to the Office's work. In 1999 there was a total of 8,223 complaints submitted to the Ombudsman. Of these, 2,427 were handled by investigators of the Department of State-Citizen Relations.

The relatively high percentage of complaints (25.8%), which the Department did not investigate because they fell outside the Ombudsman's mandate, indicates that many citizens, apparently, ignore or have not clearly understood the role, function, and nature of the Ombudsman. Also, because these citizens are relatively unfamiliar with public-sector procedures, they find it difficult to comprehend the limits within which the Ombudsman operates in his relations with the public administration.

Treating people with respect is a basic aspect of how the Department of State-Citizen Relations works, for people often feel powerless when dealing with the public administration, which is largely unknown to them and closed in upon itself. This is the reason why, in all cases, particularly those in which the citizen's request does not have a sound legal basis, the Department will try to explain the legal framework for the particular case so the complainant

can understand what the correct procedures are and be persuaded that maladministration is not involved. This policy seeks to help dissolve the feeling of mistrust and the negative stance taken by citizens when dealing with the public administration and government departments.

Relations between the Ombudsman's investigators and civil servants, formed through all kinds of contacts with the services involved, play a definitive role in the Office's work. However, a large number of services involved impedes the establishment of personal relations between civil servants and the investigators of the Department. For cases in which a general malfunction in a public service is apparent, the Ombudsman discusses the subject with the supervisor, suggesting organizational changes designed to help solve the problem.

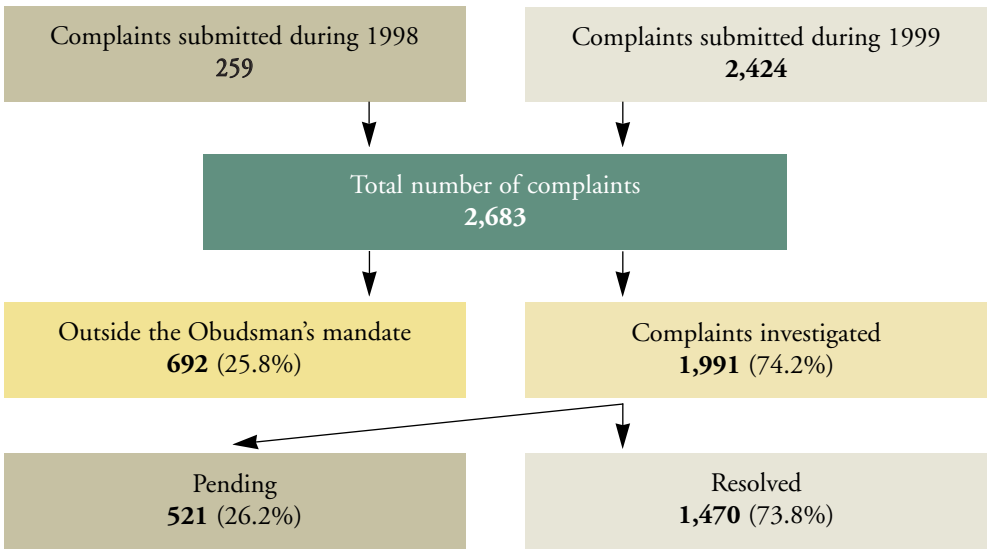
Twenty investigators specializing in various fields participate in departmental meetings, in which various cases and proposals to government services are discussed. At these meetings the Department sets its main guidelines for handling difficult cases, discusses its most significant and complex cases, as well as cases of general interest.

2.1 STATISTICS ON CASE FLOW AND PROCESSING

In 1999, the Department of State-Citizen Relations handled 2,683 citizen complaints (see Graph E.4.1), 32.6% of the total number of complaints (8,223) submitted to the Office of the Ombudsman. Of the complaints handled by the Department in 1999, 2,424 were submitted in 1999 and 259 in 1998.

Of the 2,683 complaints handled by the Department in 1999, 692 or 25.8% were found to be outside the Ombudsman's mandate and 1,991 or 74.2% were found to be within the Ombudsman's mandate. Of the complaints found to be within the Ombudsman's mandate, the Department has completed investigating 1,470 (73.8%). 521 complaints (26.2%) were still being investigated on December 31, 1999.

GRAPH E.4.1 **FLOW OF COMPLAINTS**



2.2 NATURE AND FORMS OF MALADMINISTRATION

The many different subjects raised in the complaints examined by the Department of State-Citizen Relations enable the Department to study maladministration in all its forms and reach conclusions both about the different types of maladministration and about the public services in which they were encountered. Not adhering to the principle of legality is the most significant form of maladministration, the one most frequently encountered throughout the public sector.

Maladministration appears mainly as lack of communication between citizens and the administration, and as violation of the principle of legality in the form of violation of legal principles, not carrying out an act required by law, not fulfilling a contractual obligation, or not answering or postponing answering a citizen's application, all of which do not comply with the concepts of well-founded trust and impartiality.

One example of the administration acting contrary to law is the case involving taxi owners in the prefectures of Lesvos and Samos (1271/1999) who reported that the Local and Rural Passenger Transport Department in the Ministry of Transportation and Communications requested the departments of transport and communications in the prefectural governments not to apply par. 16, article 8 of Law 2366/1995 "in view of legislative amendments." According to this provision, taxis with or without meters based in an administrative unit that had merged with others to create a municipality are now based in the administrative unit that resulted from the merging and, therefore, may park in its centre. Obviously, it is not within the Ombudsman's mandate to judge the ministry's intention to seek a further amendment on this subject. In communicating with ministerial staff, however, the Ombudsman emphasized that, in accordance with the principle of legality, the existing legal provision should be applied until it is replaced by a new one and that no interpretation of the existing situation could lead to abolishing a regulation, as it did in this case.

In other cases a complaint may be settled by applying the principle of fair administration. This principle requires the administration to act in a helpful and responsible manner, providing clear and accurate information about conditions, requirements, and deadlines which, if not met, may lead to the loss of rights, and avoid strict adherence to the letter of the law, especially when the administration itself is largely responsible for delays in providing its services to citizens.

In dealing with citizens' cases, the Department often refers to the principle of the protection of the citizen's legitimate expectations, it being a more specific form of the principle of fair administration in the sense that the administration violates the principle of good faith when it acts contrary to the legitimate expectations of the citizen with whom it is dealing. An instance of legitimate expectations occurs every time a situation is established that the citizen reasonably expects to be maintained.

A case involving this principle is that of some landless people in the Prefecture of Evros. In 1961 the Expropriation Committee of Alexandroupoli decided that they were entitled to agricultural land. In 1970, with the sanction of the Director of Agricultural Affairs, they temporarily settled on plots they occupy and farm to this day. Now, however, they are asked to leave this land and settle on other agricultural land because the value of the land in the area has increased.

The principle of equity is a general principle of law, based constitutionally on both the

principles of the rule of law and equality. It is applied mostly in cases for which the administration's strict adherence to legal rules and stipulated procedures can cause serious "imbalances" in the law, inflicting consequences upon citizens that would not be easy for a law-abiding society to tolerate. The Ombudsman encountered a violation of the principle of equity by the Hania Tax Office in investigating a complaint (1580/1998). When the individual in question decided to transfer ownership of a piece of property, he found out that the surface area mentioned in the ownership title was smaller than the actual surface area of the property, although the transfer tax had been calculated according to the actual surface area and paid in full. The Hania Tax Office accepted that the state had no further claim but, nonetheless, rejected the Ombudsman's proposal for a more just and less dogmatic implementation of the relevant provisions and demanded that the sum be paid again.

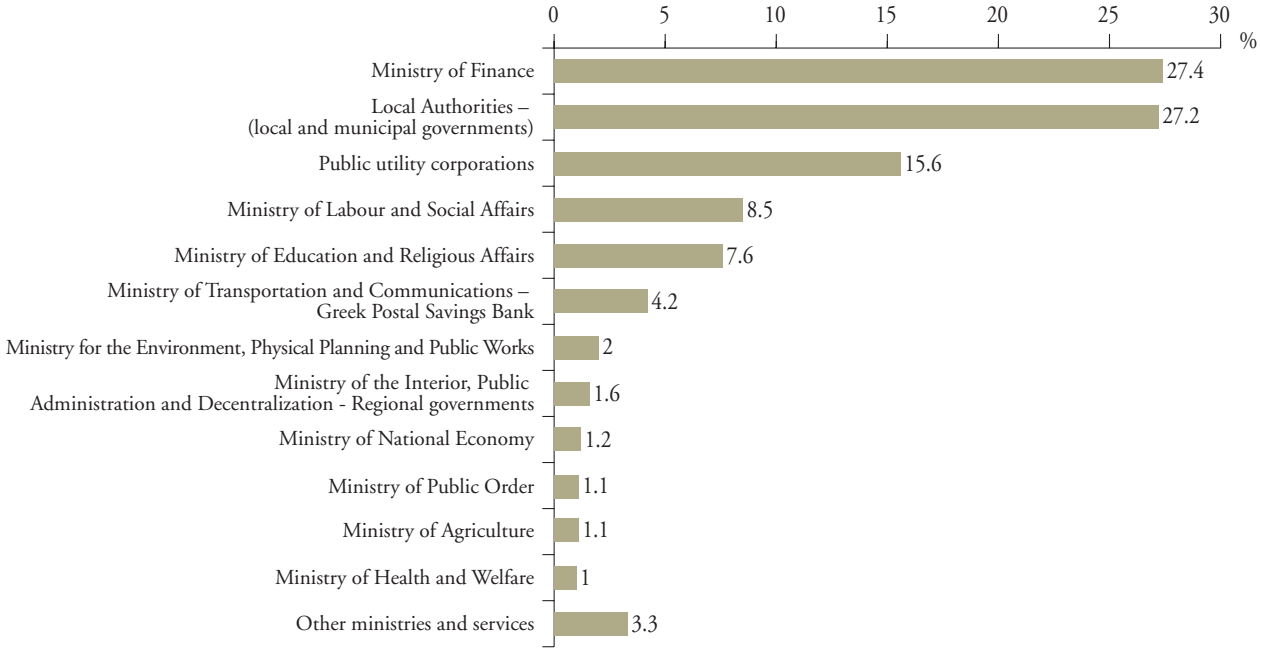
In a number of complaints investigated by the Department of State-Citizen Relations, the administration, contrary to the principle of transparency, arbitrarily refused to provide citizens with administrative or private documents. This principle is embodied in article 16 of Law 1599/1986, which entitles citizens to information about or a copy of any administrative document drawn up by civil servants. Any citizen may request documents and need not have any particular legitimate interest to be protected by disclosure of the documents requested. By administrative document is meant any document drawn up by a civil servant, and not only an administrative document in the strict sense of the word (especially reports, studies, minutes, statistical data, circulars, directives, replies from the administration, opinions, decisions). Citizens may exercise their right to know either by on-site research or by obtaining copies, except in cases where making copies may damage the original document. The more recent Law 2690/1999, article 5 (Code of Administrative Procedure) repeats the provisions in force, but the right to know extends also to the category of private documents, providing thus stronger proof of the tendency to broaden this right, which is beginning to gain ground.

The non-enforcement of court rulings, encountered in a wide range of public services and organizations falling within the Department of State-Citizen Relations' mandate, is an extreme form of maladministration. Such cases reveal not only the absence of effective judicial protection for citizens, but also an administration that does not fully respect the rule of law. In a complaint investigated by the Department, the Municipality of Mournies refused to pay workers their due productivity bonuses, despite an irrevocable court ruling stating that they were to be paid. In justifying its refusal, the municipality referred to a document issued by the State General Accounting Office, according to which the bonuses could not be paid because the municipality had not exhausted all legal appeals against the ruling. Following the Ombudsman's intervention, the municipality decided to pay the bonuses by crediting its 1999 budget.

2.3 FORMS OF MALADMINISTRATION BY SERVICE

The cases investigated by the Department of State-Citizen Relations cover a wide range of public services. A general overview showing the services with the largest number of complaints and the most frequent forms of maladministration found in each service is interesting, for it shows the range of problems people encounter in their dealings with the administration. Graph E.4.2 provides an accurate picture of the services against which most complaints are filed.

GRAPH E.4.2 **SERVICES INVOLVED**



2.3.1 MINISTRY OF FINANCE

Most of the complaints (62.3%) received by the Department involving the Ministry of Finance refer to tax offices. A major issue that became evident through investigation of complaints is the insufficient, contradictory, and often incorrect information provided. This, combined with the complex and time-consuming internal procedures and the varying hours the tax offices are open to the public, causes great inconvenience, tension and creates a climate of mistrust.

A basic form of maladministration evident in the Ministry of Finance's services is the delayed answer or, in many cases, failure to answer a citizen's request. The excuses given by the responsible employees are shortage of personnel and resources, and their heavy workload.

Furthermore, the unquestionably large number of relevant laws leads to very different regulations, making it difficult for people to know what regulation applies in their specific case. It is particularly disconcerting that often not even tax office employees themselves know exactly what provision applies in each case. The rigid, extraordinarily detailed legal framework leaves no room for a more flexible approach and intervention into the substance of citizens' problems. The result is that, in most cases, the only solution left to the taxpayer is a more favourable arrangement for making his payments. The large number of laws leads to contradictory provisions that, together with the difficulties in interpretation and the wide discretion the law provides to the directors of tax offices, result in similar cases being handled in different ways.

Many cases concern the notification procedure for vehicle circulation fees (incorrectly recorded information such as registration number, owner's address, tax record number) and the collection of these fees (the obligation to repay the fee if the special sticker or the receipt is lost).

Another group of cases reflects the lack of coordination and communication between tax offices, especially when the citizen is involved in transactions with more than one tax offices. This problem appears to be particularly serious in the Tax Office for Greeks Living Abroad, which is based in Athens. The law permits Greek citizens residing outside the country to carry out transactions through their attorneys' tax offices. In most cases, however, the Tax Office for Greeks Living Abroad is not informed promptly, so citizens appear not to have paid the taxes they owe. They then are called upon, through their own actions, to prove that this is not the case. The Department raised the subject with the Deputy Minister of Finance, who promised to resolve the problem during 2000.

Another problem of general interest is the delay in informing citizens of debts they may have as well as the lack of a way to ensure that they will receive the notices sent. Delays in sending notification of taxes due lead to the deadlines for paying the money owed being exceeded and, therefore, loss of the right to a discount. Moreover, sending credit statements unaccompanied by the relevant checks, with the excuse that the final statement must be re-inspected, causes delays in citizens receiving the funds to which they are entitled. Also, debt notices commonly are sent to the wrong address, leaving citizens without timely information about their debt and making them exceed the deadlines for exercising their rights to receive a discount, to pay the sum without fines, as well as the right to challenge the debt.

The Ombudsman suggested that the Hellenic Post should send tax clearance slips and other notices of debt to the state by registered mail.[1]

A much smaller number of cases involves customs services. Most of these problems are concerned with such issues as paying customs duties on automobiles imported from EU countries, fines imposed on owners of used cars whose original owners had forged certificates of withdrawal from circulation, and not calculating the discount when clearing a used car through customs.

Complaints about the problems associated with loans received from the Deposits and Loans Fund are particularly interesting. Most of the problems have to do with delays in informing citizens of money owed and the imposition of high-interest rates because the debts were long overdue.

The board of directors of the Deposits and Loans Fund acknowledged the problem, which is caused by the lack of technical means for monitoring the activity of accounts held by large numbers of loan recipients. In its meeting no. 2719 held on October 14, 1999, the board decided that, as regards overdue payments of housing loans, any payments from or funds withheld from debtors will be applied first to the oldest debts. It also set the interest rate for these overdue housing loans at the rate of the loan agreement rather than at the much higher interest rate imposed for overdue payments.

2.3.2 LOCAL AUTHORITIES

After recent changes affecting its operations, local government is now in a state of transition characterized by its first attempts at emancipation, and at adopting a different role and way

1. The Deputy Minister of Finance replied in writing that this still is technically impossible. Nonetheless, especially for taxes due, the General Secretariat for Information Systems will compile a list of names on which postmen will mark the date of delivery. The Ombudsman believes that this development by the Ministry of Finance is an important step in the right direction.

of operation. The rather-to-be-expected phenomenon of the "arrogance of power" or of following the example of central administration at its worse explains the large number of complaints against local government authorities received by the Ombudsman.

A recurring behaviour pattern of the local government authorities, both in interacting with citizens as evidenced by citizens' complaints and in communicating with the Department's investigators, is that the municipal leaders point to their legalization being based on their having been elected by the people. This is their standard argument justifying any acts they may have done or omitted and their refusal to comply with the Ombudsman's proposals. These practices result in prejudice against and mistrust of the public administration as a whole, making the state appear untrustworthy, unable to keep the same principles it demands its citizens to follow.

This problem is evident in the frequent appearance of specific forms of maladministration at the level of local and regional government, such as failing to take required legal action, not adhering to the principle of legality, and violating contractual local authorities' obligations towards citizens. Municipalities that start public works and take in supplies "in expectation of income" before being certain that the necessary credit is available are a particular focus of complaints. In such situations the state, although acting as a private individual by contracting agreements for works or some other service according to the rules of the private sector, takes advantage of its superior position and violates contractual terms without running the risk of being forced to carry out its obligations.

2.3.3 PUBLIC UTILITY CORPORATIONS

Many complaints (15.6%) involve public utility corporations, and from the beginning it was evident that they required special handling because of the twofold nature of these corporations. On the one hand, the public-service aspect of these corporations makes them responsive to the principle of equity. On the other hand, their corporate aspect makes them treat people as clients, as the statement "we do not want unsatisfied clients," made by an official of the Greek Telecommunications Organization (OTE), illustrates. The negative side of this corporate function, which operates as a monopoly, reflects the unequal relationship between citizens and public utility corporations, for citizens sign non-negotiable contracts and are obliged to comply with terms that cannot be challenged.

Most of the complaints against public utility corporations are concerned with inappropriate or unhelpful behaviour by employees towards the public. Other problems are caused by the lack of information and, in general, poor communication with the citizens in their dealings with these services.

Many complaints deal with what the public perceives as excessive billing. In mediating, the Ombudsman established that the services were cautious in applying the principle of equity. For complaints about "unjustifiably high" telephone bills, the Department of State-Citizen Relations first communicates with the responsible employees of the OTE. Complainants are then referred to the OTE office responsible for technical inspections and, if the subject is not solved there, to the Disputes Settlement Committee at the central offices of the OTE. At the same time, the Ombudsman often writes to this committee, which, giving consideration to social aspects, will reduce the amount of the bill.

Complaints about excessively high bills from the Athens Public Water Supply and Sewage Company (EYDAP) were handled similarly. Before taking any steps towards

intervention, the Department's investigators advised people to ask the local office for a technical inspection and then petition for the bill to be reduced. There also are cases in which bills were reduced because of the Ombudsman's direct mediation.

Other complaints involving the EYDAP focussed on the lack of information provided to the citizens-clients, in particular concerning the following:

- The consequences of using new water-consumption meters and the higher costs compared to the old meters;
- technical subjects, such as leaks near the water meter;
- unfounded decisions taken by the Review Committee.

Most of the complaints dealing with the Hellenic Post are concerned with lost letters and requests for compensation. Despite efforts by the Hellenic Post to provide information to the public (such as printing a Customer Protection Charter), the complaints indicate that clients are inadequately informed on all the services offered by the Hellenic Post. The result is that people use only the better-known methods for sending mail, although more efficient methods could be used (such as sending insured instead of registered letters). Other subjects concerning the Hellenic Post mentioned in complaints were about operational procedures and other organizational matters, such as working hours.

2.3.4 MINISTRY OF LABOUR AND SOCIAL AFFAIRS

According to the complaints received by the Department of State-Citizen Relations, the most prevalent form of maladministration in the Ministry of Labour and Social Affairs is the inappropriate, unhelpful behaviour on the part of the competent employees in the services involved. There also are problems involving lack of information and delay or simply not replying to requests from the public. The clear majority of these complaints is concerned with public institutions supervised by the Ministry of Labour and Social Affairs, especially the Workers' Housing Organization and the Manpower Employment Organization (OAED).

The most important problems involving the Workers' Housing Organization derive from people entitled to housing loans being unable to withdraw funds because the necessary credit had not been ensured in time. Counting on the preliminary approval of their loan, people entitled to loans in many cases signed preliminary agreements and eventually were unable to meet their contractual obligations.

Investigation of complaints concerning the OAED revealed problems caused mainly by lack of information about conditions and deadlines for granting unemployment benefits. Taking into account the particular social importance of unemployment benefits, the Department asked the OAED local offices to take special care in providing information to unemployed citizens so that they did not lose their rights.

2.3.5 MINISTRY OF EDUCATION AND RELIGIOUS AFFAIRS

Many complaints received by the Department of State-Citizen Relations concerned educational issues. They included the failure to take into account the standards of recruitment and the absence of justification as regards the criteria for selecting teachers paid by the hour in vocational training schools run by the Organization for Professional Education and Training; cases in which selection of part-time teachers from the competent departments in prefectural government were not based on the seniority list; and a number

of more specific subjects, such as the requirement for a degree from the Technical and Vocational Teacher Training Institute for certain teacher specialities, and the requirement for a certificate of equivalent studies from the Inter-University Centre for the Recognition of Foreign Academic Titles (DIKATSA) in order to register in the seniority list or take the nation-wide teachers' examinations.

The DIKATSA constitutes a very special case, because its many operational and administrative problems lead to a wide range of severe forms of maladministration. Problems such as the pending implementation of the recent law changing its legal form, the absence of modern organization, the small number of organic positions, the reluctance of employees to be assigned there, the large number of applications for the recognition of academic degrees, and internal operational problems have created a difficult situation that will not be easily corrected.

Most instances of maladministration involving the DIKATSA concern the following:

- There are extended delays (6 months to 2½ years) in recognizing foreign academic titles and applicants are not informed about how their petitions are processed or progressing. It should be noted that the DIKATSA has not been exempted from the deadlines set by Law 1943/1991, according to which cases should be settled and citizens should receive an answer within 60 days.
- There is lack of information concerning the procedure citizens holding foreign university degrees are to follow when being referred to Greek university departments for certificates of equivalent degrees.
- Employees treat citizens inappropriately and provide poor services.

2.3.6 MINISTRY OF TRANSPORTATION AND COMMUNICATIONS

A small number of complaints touch on an issue involving 70,000 recipients of loans from the Greek Postal Savings Bank. The bank's board of directors decided to reduce interest rates on housing loans taken after January 1, 1999, but set the date upon which this reduction would be valid at July 1, 1999.

The Greek Postal Savings Bank invoked technical reasons for this discriminating treatment, claiming that this six-month period was needed to adjust instalment payments and inform the liquidators in all collaborating services. The Greek Postal Savings Bank, however, already has applied interest-rate reductions to all loan recipients.

3. Presentation of the Most Important Cases

3.1 MINISTRY OF FINANCE

3.1.1 VIOLATION OF THE PRINCIPLE OF LEGALITY

Agency: Central administration of the Ministry of Finance
Subject: Taxation of residents of islands in the borders of Greece

A permanent resident of Symi since 1990 complained to the Ombudsman (case 1374/1999) that the benefits of Law 2459/1997, article 8 had not been applied to his case. According to this article, "for individuals who are permanent residents of islands with a population of less than three thousand one hundred (3,100), the first income category

described in par. 1, article 9 is increased to 3 million (3,000,000) drs when the amount of income taxes to be paid is calculated."

This article could not be applied in this case because a recent decision of the Deputy Minister of Finance stopped municipalities from providing the required certificates to permanent residents unless they were also registered residents of the municipality. This additional requirement is not included in the law.

The Ombudsman wrote the Deputy Minister of Finance that the decision cannot set additional conditions for applying a legal provision, particularly if these conditions cancel the reason for which the provision was written, as mentioned in the law's explanatory report. This law was passed in order to motivate the development of small Aegean islands by granting privileges to their permanent residents, regardless of whether or not they are registered with the municipalities. The Ombudsman requested that the subject be examined, for it concerns all permanent residents of small Aegean islands not registered with their municipalities. On December 31, 1999 the case was still pending and the minister's position on the subject was awaited.

3.1.2 VIOLATION OF THE PRINCIPLE OF EQUITY

Agencies: Vyronas Tax Office; Volos 2nd Tax Office
Subject: Return of fine imposed for failure to submit comprehensive transaction statements for the year 1993

The complainants (cases 167/1998 and 1087/1998) requested that the Ministry of Finance's circular no. 1093546/546/πολ.300/14.11.97 should be applied in their cases so that the fines they paid for their failure to submit comprehensive transaction statements for 1993 and 1993–96 respectively will be returned to them. According to the above circular, individuals who do not submit such statements and whose recorded transactions are less than 1,000,000 drs for each calendar year are not fined. Instead, they are presented with a recommendation for future compliance.

According to the tax offices mentioned above, the fine, which had been paid before the circular was issued, could not be returned or cancelled. Since this issue is of interest to a large number of taxpayers, the Ombudsman communicated directly with the Deputy Minister of Finance, requesting that the case be re-examined because the circular leaves much about the imposition of fines to the discretion of the responsible officials and, therefore, similar cases are not treated in the same way. This contravenes the principle of treating taxpayers equally, for people who fulfilled their legal obligations on time are in a worse position than the people who ignored them.

The Ministry of Finance replied that the fines imposed for not submitting comprehensive transaction statements before the circular was issued were in accordance with existing provisions. The ministry insisted that when fines for tax offences have been confirmed by or paid to the income department of the competent tax office, they cannot, according to existing law, be returned or cancelled.

3.1.3 INEFFECTIVE OR INADEQUATE ORGANIZATION

Agency: Deposits and Loans Fund
Subject: Calculation of overdue interest on housing loan

The Ombudsman received a complaint that the Deposits and Loans Fund imposed interest payments on a housing loan without prior notice (case 7456/1999). The applicant's husband, who had received the loan from the Deposits and Loans Fund in 1971, had passed away in 1990. The widow promptly notified the Deposits and Loans Fund and had received her husband's pension regularly ever since. In December 1998 she was notified that she owed payments for her late husband's housing loan since 1990, plus overdue interest. The citizen complained that, since no one had informed her of this debt for eight years, she should be allowed to pay off the instalments without additional interest.

The Directorate of Housing Loans replied to her request that, according to the terms of the contract, additional interest is imposed without notification, that is, "interest is imposed at the legal rate for overdue interest in each case from the day payment is overdue" (Law 1083/1980, article 8, par. 6).

In a letter to the Deposits and Loans Fund, the Ombudsman stressed that he understands both the Deposits and Loans Fund's position in adhering to the law and its inability, in practice, to follow the progress of loan payments. On the other hand, the citizens have to pay their loan instalments on time; this, however, does not release services from the obligation to deal with problems and improve the quality of the services they provide.

In its reply, the Deposits and Loans Fund initially insisted upon its position that "the debtor, himself, is directly responsible for making regular instalment payments servicing the loan," and that, therefore, the borrower cannot be exempted from additional interest. In a more recent letter however, in an honest effort to solve the problem, the Deposits and Loans Fund informed the Ombudsman that, in its meeting no. 2719 held on October 14, 1999, the fund's board of directors:

- Examined the actual problems and technical difficulties affecting the regular servicing of housing loans, especially at the start of the loan or when the person paying back the loan changes;
- recognized the need for establishing better procedures for following how loans are serviced in cases such as the above;
- decided that, in cases of overdue payments on housing loans for the above reasons, any payment by (or withheld from) the debtor will first be applied to the oldest payments due (delayed instalments);
- set the overdue interest rate on housing loans at the standard rate in force at the time instead of at the overdue interest rate.

3.2 LOCAL AUTHORITIES

3.2.1 VIOLATION OF THE PRINCIPLE OF LEGALITY

Agency: Municipality of Thessaloniki
Subject: Violation of the municipal authority's obligation to implement decisions taken by the municipal council; failure to reply to the Ombudsman

The Ombudsman received a complaint from a group of citizens requesting him to intervene in implementing decisions on labour matters taken by the municipal council of Thessaloniki (case 6761/1999). More specifically, after a positive ruling by the plenum of the Supreme Council for Selecting Civil Servants, a letter summarizing these decisions

remained only to be sent to the Regional Government of Central Macedonia in order to proceed with the publication of these decisions in the Government Gazette.

The Ombudsman wrote to the Mayor of Thessaloniki on this subject twice and then, in order to further investigate the case, sent representatives to Thessaloniki, who were received by the secretary general of the municipality. Finally, the Ombudsman dealt with the subject for the third and last time by writing the mayor of his intentions on the future handling of the subject. Nonetheless, not only did the Municipality of Thessaloniki refuse to implement the decisions taken by the municipal council, it also refused to reply to any of the Ombudsman's letters. In addition to clearly violating the principle of legality, this behaviour is further aggravated by disrespect and refusal to cooperate with the Office of the Ombudsman. For these reasons, a report was sent to the Regional Government of Central Macedonia and the Minister of the Interior.

3.2.2 VIOLATION OF THE PRINCIPLE OF TRANSPARENCY

Agency: Prefectural Government of Kilkis
Subject: Refusal to show the Mine Registry

A citizen complained to the Ombudsman that the Department of Industry of the Prefectural Government of Kilkis had refused him access to the Mine Registry it kept there, demanding that he justify his legitimate interest in the registry (case 3176/1999).
The Ombudsman wrote to the Prefect of Kilkis, pointing out the following:

- The provisions of article 16 of Law 1599/1986 establish the principle of transparency without there being any condition of legitimate interest on part of the applicant. In addition, the Council of State accepts reasonable interest as adequate reason (decision no. 1397/1993).
- Restriction on the right to acquire knowledge of administrative documents is explicitly stated in Law 1599/1986 (article 16, pars 1, 3 and 4).
- Any document prepared by a civil servant and any document held in public department files is considered to be an administrative document to which article 16 applies.
- The right to information can be exercised either by on-the-spot research or by being presented with a copy, unless reproduction may cause damage to the original document.

As a result of the Ombudsman's intervention, the prefectural government, acting in accordance with instructions from the prefect, invited the applicant to see the Mine Registry, thereby satisfying his request.

3.2.3 INAPPROPRIATE, UNHELPFUL, OR IRRESPONSIBLE BEHAVIOUR

Agency: Directorate of Transport and Communications of the Prefectural Government of Athens and Piraeus
Subject: Loss of a person's file; mistaken replacement of a driving licence

In her complaint to the Ombudsman, an individual protested about the inconvenience caused to her in issuing a new driving licence replacing the one she had lost (case 11969/1999). The new licence issued by the Department of Transport and Communications of the Prefectural Government of Athens-Piraeus included the code

number 002, indicating that she had to wear a hearing aid while driving, whereas her initial licence indicated that she had to wear glasses while driving. Since the new licence had been stored in computer records, she had to appear before a medical committee with the results of a hearing test from a public hospital before this code could be removed from her licence.

During investigation and after an on-site visit to the responsible services by the Department's investigator, it became clear that the data from the original licence could only be verified in the individual's personal file. The computer record kept by the service contained only a copy of data from the replacement, not the original licence. The applicant's claim, then, could not be verified. Furthermore, according to the Ministry of Transportation and Communications, on the old type of driving licences the code number 002 indicated that the driver had to wear glasses, while on the new licence model it indicated that the driver had to wear a hearing aid.

The subject became further complicated when the applicant appeared before the competent medical committee and was told, to her surprise, that the results of the hearing test she presented were, on the one hand, not recent, because they dated since May 1999, and, on the other hand, had not been issued by a university clinic, but simply by a public hospital.

After a new intervention by the Ombudsman, the department finally accepted the Ombudsman's suggestion and replaced the driving licence.

3.2.4 FAILURE TO TAKE REQUIRED LEGAL ACTION

Agency: Municipality of Alonnisos

Subject: Removing a pump from a water tank, thereby cutting off the water supply to a large hotel complex in Alonnisos

The owner of a hotel complex in Alonnisos appealed to the Ombudsman (case 5741/1999) because the municipal council of Alonnisos removed a pump installed in the Ayios Andreas municipal water tank supplying water to the hotel, for no apparent reason. This was done although the pump had been installed in accordance with decision no. 7/1999 made by the same municipal council. The result of this removal was that the water supply to the hotel was cut off and the hotel had to close down.

The Ombudsman communicated with the Mayor of Alonnisos, who assured him that the case would be settled and that the hotel would be supplied with water. Despite the mayor's assurance, however, no steps were taken. Representatives of the Office of the Ombudsman went to Alonnisos to make an on-site inspection and mediate with the municipal council to solve the problem. After the discussions, the mayor promised to prepare a positive proposal for restoring the hotel's water supply. Later, however, in contrast to what had been agreed, the municipal council refused to restore the hotel's water supply and denied that there had been any agreement with the Ombudsman.

The Ombudsman reported the failure to take required legal action to the Secretary General of the Regional Government of Thessalia, who promised to examine the case, to request an on-site inspection by the municipal and the communal technical services, and to resolve the water-supply problem of the hotel. The secretary general also promised that, if necessary, he himself would replace the municipal authorities which, according to article 24

of the Municipal and Communal Code, are responsible for the construction, maintenance, and operation of irrigation, water supply, and sewage systems. In this case, the municipal council's actions, that is, removing the pump and failing to provide water to a citizen, are against the basic principle of fair administration, which should be upheld by the local authorities. These actions also constituted a typical case of abuse of power, which had caused harm to a hotel business, affecting both that particular establishment and the development of tourism on the island. On December 31, 1999 the case was still pending.[2]

3.2.5 REFUSAL TO COMPLY WITH A COURT RULING

Agency: Community Water Supply and Sewage Company of Paralia, Pieria
Subject: Non-payment of money owed for technical work

Representatives of a company complained to the Ombudsman (case 4799/1999) that the Community Water Supply and Sewage Company of Paralia, Pieria refused to pay the amount of 3,412,644 drs owed for technical work carried out in 1988.

The Ombudsman investigated the case and came to the conclusion that the company's request was in every way legal because, in addition to public services being obliged to honour their contractual obligations, the Athens Court of First Instance had issued an irrevocable decision (no. 9818/1992) which had to be implemented immediately.

The Ombudsman wrote to the director of the Community Water Supply and Sewage Company of Paralia requesting that the case should be re-examined and direct action should be taken so that the money ruled by the court be paid. The Ombudsman also pointed out that the public administration is obliged to comply with court rulings. As a result, the Community Water Supply and Sewage Company complied with the court ruling and paid the money owed.

3.3 PUBLIC UTILITY CORPORATIONS

3.3.1 INEFFECTIVE OR INADEQUATE ORGANIZATION

Agency: Athens Public Water Supply and Sewage Company
Subject: Delay in providing water to buildings

Residents of the Municipality of Ymittos appealed to the Ombudsman (cases 2150/1999, 4064/1999, 4182/1999) because the EYDAP long delayed in supplying water to their buildings, although they had submitted their applications and paid the sums requested. Investigation of the cases revealed that the delay in connecting the buildings to the water-supply network was caused by the buildings being on roads that had been resurfaced recently, and it was difficult to get permission to dig on recently paved roads. The problem was associated with the amount of the good performance bond. This bond must be provided by the technical company to which the EYDAP assigns the job in order for the contract to be signed.

The EYDAP does not differentiate between old and recently resurfaced roads. The Municipality of Ymittos, however, in accordance with a circular-directive from the General Secretariat of Public Works, considers permits for digging up recently resurfaced roads

2. With the intervention of the Secretary General of the Regional Government of Thessalia, the case is heading towards its final solution.

separately. For old roads, the letter of guarantee is 3,000 drs per sq.m., for recently resurfaced roads the letter of guarantee is 5,000 drs per sq.m.

The Ombudsman convened a meeting attended by representatives of all the services involved and the Department's investigators. The result of the meeting was that a solution for handling such cases was found and accepted by all parties. The technical company must provide the Municipality of Ymittos with a good performance bond for a specific amount that will be valid for two years from its date of issue. This bond will cover a reasonable number of scheduled works for connecting to the water-supply network buildings situated on roads that have been recently resurfaced.

After all these steps were taken by the services involved, in September 1999 water was provided both to the buildings in question and to other buildings in the Municipality of Ymittos that had similar problems.

3.4 MINISTRY OF LABOUR AND SOCIAL AFFAIRS

3.4.1 FAILURE TO TAKE REQUIRED LEGAL ACTION

Agency: Workers' Housing Organization
Subject: 25-year delay in issuing concession contracts

A citizen requested the intervention of the Ombudsman in the issuance of definitive concession contracts for the joint Workers' Housing Organization and social services housing programme for houses in the areas of Agrokipio and Platytera in Corfu (case 1071/1999). The fact that the problem remained unresolved for 25 years without the responsible services taking any steps to resolve it clearly reveals their weakness to cooperate with each other.

The Ombudsman pointed out to the competent services of the Workers' Housing Organization that a solution should be found for this long-pending situation and cooperated with them to solve the problem. Finally, he was assured that, in spite of such difficulties as determining the value of the land and the houses, this particular subject, which affects other residents of Corfu as well, would be solved when the relevant ministerial decision was issued and the procedure for issuing the final concession contracts was completed. On December 31, 1999, developments were at an advanced stage without, however, the subject being fully settled.

3.5 MINISTRY OF TRANSPORTATION AND COMMUNICATIONS

3.5.1 FAILURE TO ANSWER A REQUEST; DELAY IN ANSWERING A REQUEST

Agency: Greek Postal Savings Bank
Subject: Delay in approving vehicle classification

A foreign company complained to the Ombudsman (case 6976/1999) that the Ministry of Transportation and Communications did not reply to its request for the classification of three armoured vehicles to be approved. The Greek Postal Savings Bank had signed a contract with another subcontracting company that had asked the foreign company to provide three armoured vehicles. In order for the contract to be signed, the foreign company submitted a letter of guarantee on behalf of the subcontracting company, and undertook to armour the vehicles and finance the job. In addition to the letter of guarantee,

it also guaranteed the payment for the three vehicles. The vehicles received numberplates, were armoured, were received by the responsible committee of the Greek Postal Savings Bank and held at the organization's facilities until the transfer of ownership was completed. The transfer was hindered however, because the Ministry of Transportation and Communications did not approve their classification, which should have been approved within two months after the application was submitted.

Meanwhile, in violation of the contract and without the consent of the complainant company, the Greek Postal Savings Bank used the vehicles for training its drivers, in the course of which one of the vehicles was overturned. The high repair costs were paid by the complainant company. Although reasonable time had passed, the Greek Postal Savings Bank did not proceed with the transfer of ownership of the vehicles and did not refund the repair costs, with the excuse that the ministry had not approved the classification of the vehicles. The ministry, in turn, had not replied to the company's application, even though the legal deadline had expired.

Following intervention by the Ombudsman and in cooperation with the Ministry of Transportation and Communications, the minister, as an exception, classified the three vehicles as armoured trucks.

3.6 MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING, AND PUBLIC WORKS

3.6.1 VIOLATION OF THE PRINCIPLE OF LEGALITY

Agency: National Road Construction Fund
Subject: Failure to implement a law provision stating that permanent residents of a municipality may obtain free pass cards for toll stations in their region

The Ombudsman received several complaints from residents of the municipalities of Pelasgia and East Olympos about obtaining free pass cards for the toll stations within the borders of their respective regions.

According to Law 2538/1997, article 21, par. 6, "in the cases of toll stations operating within the borders of a municipality or a community established by the present law, the permanent residents of this municipality or community are entitled to free pass cards. The National Road Construction Fund and the municipalities and communities existing until December 31, 1998 within the interested parties' areas of residency are jointly responsible for that."

In a letter to the Ombudsman, the National Road Construction Fund stated that the provision of article 21 of Law 2538/1997 was established to facilitate residents of municipalities who, in order to meet each other or go to various areas (settlements, communities) within their municipality, should use the national road and pass through toll stations, paying the toll.

In accordance with the above interpretation of the law, the permanent residents of East Olympos were given free pass cards with the note "valid until the side road is completed." This note was illegal; furthermore, the cards were issued in September 1999, nine months after the legal deadline. The result was that for nine months the residents of East Olympos — most of whom drive cars — were, without their knowledge, charged with fines for passing through the toll station without paying. The residents remained unaware that these fines were being imposed upon them as individuals and so were unable to obtain tax return

certificates from the tax office. After the National Road Construction Fund refused to cooperate with the Municipality of Pelasgia on the subject, the municipality unilaterally issued its own similar free pass card, valid as of 20 January 2000.

The Ombudsman intervened with the National Road Construction Fund and, after repeated communication with the municipalities, especially the Municipality of Pelasgia, tried to prevent the eruption of the tension caused by these developments. In letters to the National Road Construction Fund, the Ombudsman pointed out that the provision in question was being implemented in accordance with an interpretation that was in conflict with both the letter and the purpose of the law. If the sole purpose of article 21 of Law 2538/1997 were to facilitate the residents who have to pass through the toll station to reach the municipal capital or meet each other, then the provision would have stated so. Furthermore, from an examination of the parliamentary records, the Ombudsman concluded that the purpose of the provision is not the one described by the National Road Construction Fund.

The National Road Construction Fund insisted on its own interpretation. The Ombudsman sent his findings to the Deputy Minister for the Environment, Physical Planning, and Public Works, the overseeing authority of the National Road Construction Fund, pointing out the need for it to respect the principle of legality. After the Ombudsman's intervention, the fund agreed to issue free pass cards in cooperation with the municipalities.

3.7 MINISTRY OF NATIONAL ECONOMY

3.7.1 FAILURE TO MEET CONTRACTUAL OBLIGATIONS

Agency: Ministry of National Economy, Department of Implementation and Disbursement
Subject: Delay in paying money owed for services and in returning a good performance bond

A company complained to the Ombudsman in connection with the work it had carried out as project manager for the Ministry of National Economy on a Regional Operational Programme from March 1992 until March 1993 (case 1022/1998). The contract between the ministry and the project manager stated that payment would be made in five instalments and a bonus would be added if more than 80% of the budgeted amount had been utilized. Also, the complainant company submitted a good performance bond, which was to be returned after the job was finished and all contractual obligations had been met. The project manager provided his services for eight months longer than had been agreed. Although the Ministry of National Economy accepted the annual report, thereby indirectly accepting the services provided, it refused to pay the fifth instalment, suggested that the bonus should not be paid, and kept the good performance bond, claiming that the project manager had not fulfilled the contractual obligations. Nonetheless, the ministry did not denounce the contract, nor completed, as it should have, procedures for evaluating and accepting the work.

In investigating the case, the Ombudsman found out that the main cause of delay in settling the contractual dispute between the ministry and the company was that the job had not been assessed and the work had not been formally accepted. This was due to the fact that the Regional Operational Programme Monitoring Committee, whose opinion was

needed in order for the ministry's special committee to evaluate and formally accept the work, had stopped working since 1993.

Since the Ministry of National Economy's Department of Implementation and Disbursement was unwilling to cooperate in finding a solution, the Ombudsman turned to the Secretary General of Investment and Development, as well as to the competent minister, requesting that they proceed with the final evaluation and acceptance of the project as set out in the contract or, if this was not possible, that they find another legal procedure to settle the case. The Ombudsman pointed out that failure to reply to the company's requests and complaints addressed to the ministry violated the administration's obligation to reply.

Acting in his role as a mediator, the Office of the Ombudsman requested the assistance of the secretary general in calling a meeting of representatives of the parties to the dispute and the Ombudsman himself, so that the most suitable solution could be found. At this meeting it was decided that the committee responsible for deciding on the return of the good performance bond should be reconvened. The committee was reconvened and approved the return of the bond, but it turned down the other two issues (of paying the fifth instalment and the bonus). Since a final decision was issued, however, albeit negative, the company now can appeal to the courts, something it could not do earlier because it was prevented by an arbitration clause in the contract.

3.8 MINISTRY OF AGRICULTURE

3.8.1 INADEQUATE INFORMATION; POOR COMMUNICATION BETWEEN CITIZENS AND THE PUBLIC ADMINISTRATION

Agency: Ministry of Agriculture, Department of State-Owned Land
Subject: Indefinite status for landless farmers temporarily entitled to use state-owned land

A citizen requested the intervention of the Ombudsman in order to be issued a definitive act of ownership to a field he had been temporarily entitled to use since 1970 (case 1798/1999). The Expropriation Committee of Alexandroupoli ruled that the citizen, being landless, was entitled to a piece of farmland (decision no. 87/1961). The citizen petitioned to be assigned another piece of land because this particular plot was not suitable for farming, but no replacement plot was ever provided because no surveyors' crew was available.

In 1970, however, a decision by the Minister of Agriculture temporarily allotted the farmer the piece of land he occupies to this day so that he would have a source of income. Since then, his attempts to gain ownership of the land temporarily allotted to him have failed, largely because of the increasing value of the land. In 1978, the Prefect of Evros withdrew the right to occupy allotted fields, leaving him with no right to the land at all.

The Ombudsman communicated with the Department of Agricultural Development of the Prefecture of Evros and confirmed that the farmer's complaint was just, because his case, along with another seven similar cases, had been pending since 1970. The Ministry of Agriculture's Department of State-Owned Land, however, informed the Ombudsman that it was considering allotting a neighbouring field to the farmer.

The Ombudsman expressed the opinion that the rule of law cannot demand that a citizen abandon land where he has lived for 19 years. It is a matter of great social interest,

since, on the basis of a just request already acknowledged by the state, citizens were hoping for quick resolution, had invested their personal effort, and were making a living from farming this land.

The Ombudsman asked the Minister of Agriculture to solve the problem, since the state is obviously entirely responsible for this situation, that had reasonably created expectations on the part of the citizens. By December 31, 1999 the ministry had not yet responded to the Ombudsman.

3.9 MINISTRY OF HEALTH AND WELFARE

3.9.1 VIOLATION OF THE PRINCIPLE OF TRANSPARENCY

Agency: Patriotic Foundation of Social Welfare and Assistance
Subject: Refusal to release the findings of an administrative investigation under oath

The Patriotic Foundation of Social Welfare and Assistance refused to give a paediatrician a copy of the findings of an administrative investigation under oath held after a report was filed against her, as well as copies of other data from this file (case 1676/1998). The foundation supported its refusal by claiming that, in this case, the paediatrician had no legitimate interest.

The Ombudsman wrote to the foundation and pointed out that Law 1599/1986, article 16, gives every citizen the right to be informed about or to receive a copy of any administrative document without there being any condition of legitimate interest on the part of the applicant. The above right is held in abeyance only if the document contains information regarding the personal or family life of third parties or information that may obstruct investigations conducted by judicial, police, military, or administrative authorities into crimes or administrative offences. Since the administrative investigation under oath already had been completed, this did not apply in the present case and the applicant was entitled to receive a copy of the findings.

In addition, according to article 226, par. 1 of the Civil Servants Code, an administrative investigation under oath is a preliminary, unofficial hearing for collecting and recording information about an alleged disciplinary offence and the conditions under which it was allegedly committed. There is no legal provision defining this hearing as confidential.

Furthermore, an administrative document is defined, in a broad sense, not only as a document drafted by civil servants, but also as any document (even private ones) contained in the administration's files comprising evidence on which a decision or another administrative act was based. It is, therefore, part of a case file (opinions nos 277/1999 and 446/1989 by the Legal Counsels of State are relevant). The Council of State is also in favour of a wide interpretation of "administrative documents," as can be seen from decision no. 577/1991, which mentions that the data contained in a disciplinary file may be given not only to the interested party, but to third parties as well, once the procedure has ended and there is no possibility that investigations undertaken by administrative authorities may be obstructed in any way.

The Patriotic Foundation of Social Welfare and Assistance, therefore, was obliged to provide the documents requested by the citizen, which it did after the Ombudsman's intervention.

3.10 MINISTRY OF DEVELOPMENT

3.10.1 FAILURE TO MEET CONTRACTUAL OBLIGATIONS

Agency: National Tourism Organization

Subject: Delay in making payment for a study carried out as part of the Operational Programme for Tourism and Culture

The Ombudsman examined the complaint made by a company against the National Tourism Organization (EOT) about delaying payment for a study carried out as part of the Operational Programme for Tourism and Culture (case 912/1998).

The company in question was assigned the study, signed a contract with the Technical Assistance Management Company on April 22, 1997, received 30% of its payment in advance, and proceeded to work on the study, which it submitted on time. On August 3, 1997, it received preliminary notification of the study's acceptance from the EOT along with comments from the committee responsible to accept the study. The company made the changes requested by the committee and resubmitted the study.

Until November 9, 1998, when it submitted its complaint to the Ombudsman, the company had received no reply from the EOT, despite repeated requests as to whether or not the study needed further changes or whether it had been approved, in which case the committee should send its final formal notification of acceptance so that the EOT could pay the company the remainder of its fee.

The Ombudsman asked the EOT to inform him of the reasons for this delay, pointing out that the EOT's actions violate the principles of fair administration and stressing the obligations deriving from a work contract as defined in the Civil Code (articles 681 ff.). According to these articles, the employer is obliged to examine the work and either ask for faults to be corrected or pay the fee agreed in the contract.

After this intervention, the secretary general of the EOT made a commitment to take all actions necessary for solving the case. The president of the company's board of directors informed the Ombudsman of the case's positive outcome in a thank-you letter.

4. Proposals for Legislative Amendments and Administrative Reforms

In addition to mediating with the services involved while handling citizens' complaints, the Department made use of the opportunity to propose legislative and administrative adjustments to the authorities whenever it was deemed necessary.

4.1 LEGISLATIVE AMENDMENTS

4.1.1 MINISTRY OF FINANCE

SUBJECT: *Refund of property transfer tax*

Investigation of complaints showed that the time limit for requesting the refund of property transfer taxes, if the contract is not signed, is extremely short. According to Law 1587/1950, article 16, par. 6, a person entitled to have the property transfer taxes refunded should submit an application to the competent tax office within a year after the tax statement is submitted, after which citizens can no longer claim a refund of property transfer taxes. Therefore, the Ombudsman

PROPOSES THAT:

The provision in question be withdrawn and replaced by the general provision of Law 2362/1995, article 90, par. 2, according to which "demands towards the state for the return of wrongly or illegally paid sums are deemed invalid after three years from the payment."

SUBJECT: *Loss, theft, or total destruction of a circulation tax sticker for a private car*

Citizens having problems with their circulation tax stickers appealed to the Ombudsman. According to Law 2093/1992, article 36, par. 3, as replaced by Law 2362/1995, article 115, "any loss or theft of the special sticker does not acquit the owner of a vehicle from the obligation to purchase a new sticker by paying the set price and any fine if numberplates have been removed because the sticker was not in place." The same paragraph states that "when circulation taxes are paid the special sticker is provided as receipt of payment." According to these passages, if the sticker is lost, stolen, or completely destroyed, the citizen is obliged to pay the sum again.

The Ombudsman communicated with the Ministry of Finance and stated his opinion that the passage alters the purpose of tax commitment, which is to pay the circulation tax for vehicles, and attributes to the sticker an "autonomous" meaning, making the passage inflexible and against the sense of justice. On this basis, a change in the law is needed. More specifically,

IT IS PROPOSED THAT:

In the case of loss, theft, or total destruction of the special sticker before it is placed on the vehicle, the sticker can be replaced if it can be proven that the owner of the car has, indeed, paid the circulation tax. A written, pre-printed receipt from banks or tax offices providing the special stickers could serve as proof of payment. The receipt should have the car's registration number, the owner's name, and the data from the lists kept by the General Secretariat for Information Systems.

SUBJECT: *Revocation of a circular requiring that all legal measures must be employed against first- and second-instance court rulings concerning income differences against defendant public-sector services*

Circular no. 2/22469/0022/29.3.98 of the Ministry of Finance states that "defendant services (public-sector services, public organizations, local government authorities), in all cases of court rulings settling income differences for any reason, are obliged to use all legal means to support their interests, exhausting all legal means within the time limits." The result of implementing this circular is that civil servants and employees of public organizations are deprived of their constitutional right (article 20) to effective judicial protection, since, under current conditions, the Council of State requires an extended period of time (about 10 years) to issue a decision and approve the payment of significant sums of money. This also leads to the violation of article 13 of the European Convention for the Protection of Human Rights, which recognizes the right to *genuine* redress against national authorities.

Clearly, the circular safeguards government income and promotes its increase. This should not be accomplished, however, by violating the principle of legality in a way that breaches Greece's international obligations and radically limits the individuals' right to effective judicial protection. Furthermore, the European Court of Human Rights has shown interest in the matter and has condemned Greece repeatedly.

Obviously, the only just resolution of this subject is to revoke the circular.

4.1.2 MINISTRY OF THE INTERIOR, PUBLIC ADMINISTRATION, AND DECENTRALIZATION

SUBJECT: *Retroactive appointment of successful candidates*

Examination of cases by the Office of the Ombudsman showed that in the procedures for appointing temporary personnel to municipalities, the candidates who were not selected in the initial procedure, but gained the right to be employed by appealing to the Supreme Council for Selecting Civil Servants, are not appointed retroactively for the entire period of time in question (usually a period of eight months, which is the maximum limit according to Law 2190/1994, article 21, par. 2), but only for the period of time remaining after the Supreme Council for Selecting Civil Servants issued its decision.

In order to solve the problem through administrative procedures, avoiding the costly, time-consuming process of resorting to a trial, the Ombudsman

PROPOSES THAT:

Those people vindicated by the Supreme Council for Selecting Civil Servants be appointed for the entire period of time specified in each case (and be paid accordingly). Law 2190/1994 can be amended to ensure that this procedure is followed in all cases.

This adjustment is needed so that individuals will not suffer the consequences of the administration's incorrect interpretation of the criteria established in Law 2190/1994.

4.1.3 MINISTRY OF TRANSPORTATION AND COMMUNICATIONS

SUBJECT: *Revocation of a circular regulating procedures for permanently revoking a driving licence*

A citizen complained to the Ombudsman (case 7228/1999) about the refusal by the Ministry of Transportation and Communications to return him his driving licence, which had been revoked according to Presidential Decree 22/1931, article 85 (as modified by Law 614/1977, article 122, par. 1β). This article states that "a driving licence is revoked permanently … if (the individual) commits criminal acts proving him to be a threat to public order and safety." The above passage, which violated the constitutional right to effective legal protection, the right to a preliminary hearing, and the constitutional right of freedom of movement, was abolished by Presidential Decree 155/1996, article 3, par. 2.

Circular no. 53650/131/13.3.98 of the Ministry of Transportation and Communications requires that all individuals whose licences have been revoked because they were judged to be a threat to public order and safety must be under psychiatric supervision. Compulsory psychiatric supervision, however, particularly based on the above administrative circular, of people whose records of the revocation of their driving licence indicate no mental or psychosomatic disorder, directly violates human dignity, the protection of which, embodied in article 5 of the Constitution, is an interpretation norm and a supreme principle, which governs the entire Greek legal system. Therefore, the Ombudsman

PROPOSES THAT:

Circular no. 53650/131/13.3.98 be abolished, or in any case modified, so that only individuals whose records of the revocation of their driving licences indicate psychological or psychosomatic disorders are referred to psychiatric supervision. In all other cases of revoked licences by order of Presidential Decree 22/29.1.31, article 85, individuals wishing to re-acquire their driving licences should either take a driver's test (including the necessary medical examination) or have the revoked licence returned in accordance with the general principles of administrative law for overturning acts of bad administration.

SUBJECT: *Change of fuel station licence holder*

According to articles 19 and 21 of Presidential Decree 1224/1981, any citizen can obtain a licence for a fuel station simply by submitting a solemn declaration to the responsible Prefectural Department of Transport and Communications stating that he has the legal right to operate the particular station and that no change has been made to its facilities. In this solemn declaration, the applicant is not requested to provide proof that he has been granted the right to operate the fuel station or that no change has been made to its facilities. This procedure can be followed by more than one citizen at the same time, all of them obtaining a licence to operate the fuel station, without the previous licence holder having to leave. The Ombudsman

PROPOSES THAT:

- The phrase "in case of assigning use or operation" should be made more precise. In addition, the required documents should include proof of how the applicant acquired the right to operate the fuel station (termination of the lease, existence of a subletting contract, etc.).
- In his solemn declaration, the applicant should be required to prove that no changes have been made to the facilities of the particular fuel station.
- The operating licence should be revoked from the previous holder, who, in any case, may turn to the courts for settling any dispute.

SUBJECT: *Fine imposed upon a truck driver for exhaust gas emissions*

Having investigated complaints concerning fines for violating provisions about pollution from exhaust gases, the Ombudsman considers that article 4 of Presidential Decree 363/1995 stating that if the fine is not paid it is charged to the driver and not to the owner of the polluting vehicle is unfair and unconstitutional. It holds the driver responsible for acts or omissions committed by third parties (the owners) who, however, are and remain the ones legally responsible for the vehicle's maintenance.

Since the above controversial provision obviously leads to inequitable results, the Ombudsman

PROPOSES THAT:

Article 4 of Presidential Decree 363/1995 should be abolished and replaced by a provision establishing the owner of the vehicle as the only party responsible for paying fines imposed for violating regulations for vehicle maintenance. Moreover, the polluting vehicle — within a reasonable period of time after the fine was imposed — must undergo a technical inspection, which, strangely enough, is not required by existing legislation. Obviously, the driver remains responsible for any fines imposed for traffic violations.

SUBJECT: *Compensation for people injured in car accidents caused by state-owned vehicles*

In investigating complaints concerning car accidents caused by state-owned vehicles, the Ombudsman discovered a gap in existing legislation. Law 976/1979 determines the state's liability for any accident caused by drivers of any kind of state-owned vehicle in the course of their duty. State-owned vehicles are exempted from having to be covered by third-party liability insurance. According to Law 976/1979, article 1, par. 2, in such cases the state is considered responsible, not the driver. An administrative investigation under oath is carried out for all accidents involving state-owned vehicles, after which the file is referred to the

competent prefectural government. The citizen involved submits an application, which is reviewed by a three-member committee. If the committee decides that the driver of the state-owned vehicle was responsible, it rules that compensation up to 500,000 drs should be provided (decision no. 6/553/7/26.1.94 of the Ministry by the Prime Minister's Office).

Current legislation sets no time period within which the citizen's application should be reviewed. This leads to long delays and inexcusable inconvenience for the citizens who have been injured. The Ombudsman

PROPOSES THAT:

Article 6 of Law 976/1979 be amended by inclusion of the following addition: "The process for an out-of-court settlement of the dispute, according to article 5 of the present law, shall be completed within one year from the day the injured citizen submits the application. If this is not done, the government assumes responsibility and accepts the citizen's claims."

4.1.4 MINISTRY OF NATIONAL ECONOMY

SUBJECT: *Subsidy of investment plan*

The Ombudsman investigated a complaint concerning the reduction of the subsidy for productive investment expenses by abolishing par. 5, article 17 of Law 2503/1997 and replacing it with par. 9, article 14 of Law 2601/1998.

The new, less favourable provision has been applied also in cases for which the subsidy was approved on time by the secretary general of the regional government when the more favourable previous passage applied; however, its publication in the Government Gazette was delayed, being published after the new, less favourable passage was issued. This means that the favourable decision never came into effect.

The Ombudsman believes that the state does not have the right to invoke, at the expense of the public, delays caused by the inefficient functioning of its services, especially delays that are detrimental to the interests of citizens in a way that violates the principle of the protection of legitimate expectations and the sense of justice. For this reason,

IT IS PROPOSED THAT:

Legislative arrangements should be made for the above subsidy applications and a transitional passage be applied, making approved applications valid according to the more favourable Law 2503/1997 under which they were originally issued.

4.1.5 MINISTRY OF DEFENCE

AGENCY: *War Veterans Directorate*

SUBJECT: *Proposal for a new joint ministerial decision to settle the issue of the type and size of kiosks owned by disabled people*

The Ombudsman received a complaint from a citizen concerning the expanding of kiosk dimensions. During investigation of the case, it was found that the dimensions of kiosks owned by disabled people are defined by a joint decision issued by the ministers of National Defence, Coordination, and Public Works (Φ. 443.531/300030/17.7/16.9.69). In most cases, however, these dimensions are not respected. The kiosk operators change the use of the kiosk at will, turning them into small stores, and, as a result, occupy much more public space than permitted. The main result is that pedestrians, especially disabled people, have difficulty passing, and there are also issues of aesthetic and uniform appearance of exterior faces.

Under the current inspection system, when the administration verifies that an offence has been committed, it imposes a small annual fine. There are no other consequences for kiosks owned by disabled people, so the situation continues as before, without any change in the kiosk's appearance or use. In other words, the responsible services do not confront the problem in a standard manner, leading to unequal and biased treatment. Most importantly, this leaves the impression that the authorities do not apply the same transparent criteria to everyone.

Because of the subject's importance and the need for an overall settlement, the Ombudsman expressed his particular interest in a letter to the War Veterans Directorate of the Ministry of National Defence.

IT IS PROPOSED THAT:

Actions be coordinated between all services involved (Ministry for the Environment, Physical Planning, and Public Works; Ministry of the Interior, Public Administration, and Decentralization; Ministry of Public Order; municipalities; organizations of people with disabilities) for re-examining the subject in view of the current situation and issuing a new joint ministerial decision to determine the operation of kiosks and the conditions for improving and standardizing their type and dimensions.

The new regulations should take aesthetics and the convenience of pedestrians into consideration.

4.2 ADMINISTRATIVE REFORMS

4.2.1 MINISTRY OF FINANCE

SUBJECT: *Operation of the Advisory Facilitations Committee*

A significant number of complaints were submitted to the Ombudsman requesting exemptions from charges on late payment of debts to tax offices or from the debts themselves. The Ombudsman referred so far these complainants to the Ministry of Finance's Advisory Facilitations Committee, which was established by article 15 of Law 2648/1998.

Clearly, the smooth and effective operation of this committee plays a particularly important role in solving serious problems encountered by many citizens. The smooth and effective operation, however, is undermined by extended delays before cases are examined and decisions made. This is because the committee is convened only once a week.

The heavy workload (500 cases pending and 400 solved so far), the examination of cases from all over the country, and the time needed to resolve certain cases requiring the individual's presence and new evidence prevent the committee from working effectively. For this reason,

IT IS PROPOSED THAT:

A new ministerial decision be issued that will provide better secretarial support for the committee, increase the number of its members so that it can be divided into different working groups, convene meetings more often that once a week, and, perhaps, decentralize its work.

SUBJECT: *Operational problems involving transactions between citizens and tax offices*

The overall study of the complaints submitted to the Ombudsman concerning problems

citizens encounter in their everyday transactions with tax offices led to the following

PROPOSALS:

- The forms of ownership transfer should state the time period during which citizens can be reimbursed for the ownership transfer tax they have paid if the transfer of ownership is cancelled or annulled. Information brochures should be published to provide citizens with clear and accurate information about their rights and obligations as well as about conditions that may lead to a loss of their rights.
- For the convenience of the public and in order to simplify procedures, tax offices should be given clear directions about how to provide citizens with the tax return certificates they request from the tax office. This can be done either through the "TAXIS" system, by providing copies directly from the electronic records, or by the tax offices providing certified photocopies.
- A ministerial decision should be issued stating that the period of time during which income taxes can be paid in one lump sum, thereby getting a discount, begins when the final tax clearance slip is issued by the General Secretariat for Information Systems and ends after a set period of time, for example, one month. This regulation will replace the existing one, according to which the time limit in question is the month of October in the relevant financial year, regardless of the dates on which the final tax clearance slips were sent and received.
- For as long as the current legislation about the special sticker for vehicle circulation fee remains in force, it should be clearly printed on the back of the sticker that if the sticker is lost or destroyed it must be replaced and the full sum for the replacement sticker must again be paid in full.
- If the responsible tax office has not sent the special document for paying vehicle circulation fees to the owner of a private car, the owner must be able to acquire the circulation fee sticker from a bank by providing his tax record number and the car's details. The bank, in turn, will then send a statement to the General Secretariat for Information Systems or the responsible tax office, just as they do for cases in which the car owners have presented the relevant document.
- For cases in which the law puts some obligations upon citizens and requires that certain procedures must be followed and, more specifically, for cases in which an amendment of the legal framework for business activities imposes a fine for infractions, the Ministry of Finance's services should ensure that the businesses concerned are informed clearly, accurately and in time. This should be done by sending a special information brochure to the competent professional unions describing, among other things, all the related procedures, obligations, and deadlines.

4.2.2 MINISTRY OF LABOUR AND SOCIAL AFFAIRS

SUBJECT: *Verification of long-term unemployment by the Manpower Employment Organization*

In many instances, such as when people are hired through the Supreme Council for Selecting Civil Servants, they are asked to provide proof that they have been unemployed for a long time. Certain problems arise when the OAED has to confirm this status, mainly caused by people not being fully informed of the necessary requirements.

IT IS PROPOSED THAT:

A notice stating in detail all requirements for being recognized as unemployed should be posted in all the OAED offices.

4.2.3 MINISTRY OF TRANSPORTATION AND COMMUNICATIONS

Problems involving the Ministry of Transportation and Communications, for which the Ombudsman has submitted proposals for legislative and administrative adjustments, concern public utility corporations. A particular characteristic of these services is their twofold status; they are both public utilities and corporations. They are required to function in an increasingly competitive environment, in which citizens also are clients to whom the quality of services provided will increasingly become a basic factor for selection. The following proposals have been made with this consideration in mind.

AGENCY: *Hellenic Post*

SUBJECT: *Delay in paying telephone cheques*

The Ombudsman received complaints from citizens protesting about delays in paying telephone cheques. When the recipients were credit institutions or tax offices, delayed payments resulted in the imposition of overdue charges. Moreover, since keeping a copy of the notice is not required, it is impossible to prove that the person to whom the cheque is to be paid has been notified.

THE OMBUDSMAN PROPOSES THAT:

Notices should be issued with counterfoil, numbered pads or pads with perforated, numbered pages, so that one part can be used to notify the recipient and the other kept in the pad as proof of the notification in case of doubt.

The list of the Hellenic Post's obligations to consumers should include:

- The obligation to return the difference in postal fees citizens pay for telephone cheques when, despite the cheques being paid, the service in question, that is, the fast payment service, has not been provided and the Hellenic Post is at fault.
- The obligation to compensate citizens when the Hellenic Post is responsible for delays in paying cheques and these delays have resulted in overdue charges being imposed on the sender by credit institutions or tax offices.

AGENCY: *Olympic Airways*

SUBJECT: *Passenger selection when an airplane is changed and passengers are transferred to a smaller airplane*

When flights are overbooked, Olympic Airways gives priority to those passengers who need special help and to those meeting connecting flights. Other passengers are selected at random, without specific and, to the extent that it is possible, objective criteria.

In order to avoid problems arising from the absence of clear criteria applied in these cases, to improve the quality of services provided by Olympic Airways, and to increase passenger trust in this service, the Ombudsman

PROPOSES THAT:

The existing procedure should be replaced and, as much as possible, clear and objective criteria should be adopted. In addition to the existing criteria of choosing passengers who need special help and passengers meeting connecting flights, the date of booking should also be considered.

AGENCY: *Greek Telecommunications Organization*

SUBJECT: *Terms of the contract for listings in the Yellow Pages*

The Ombudsman investigated a complaint from a professional whose telephone had been cut off because he had not paid the money he owed for being listed in the Yellow Pages for more than a year. The problem was caused by a misinterpretation of the contractual terms and by insufficient information.

Investigation of the case showed that the contract between the Yellow Pages and its clients does not state the length of time the directories are in circulation, which bears upon both the listing in the Yellow Pages and the charges asked for these listings.

This failure to specifically mention the period of circulation, which is not fixed but decided upon by the board of directors of the OTE, and the direct relationship between the fee paid by the subscriber and the length of time the directories are in circulation, which is not stated clearly in the contract, are important omissions that can lead to vagueness about the duration of contractual obligations. In view of the above, the Ombudsman

PROPOSES THAT:

The OTE contracts for listings in the Yellow Pages should state their terms, both concerning general matters and, more specifically, the duration of contractual obligations, fully, clearly, and precisely, so that the public at large may understand them fully and no problems are caused by vagueness, obscure wording, or misinterpretation.

4.2.4 MINISTRY OF AGRICULTURE

SUBJECT: *Insufficient information about farm subsidies*

Because of complaints received by the Ombudsman concerning procedural problems, inadequate information, and the lack of clarity about terms and requirements involved with farm subsidies,

IT IS PROPOSED THAT:

In cases for which the Ministry of Agriculture grants subsidies to farmers, since the required procedures are complex and time-consuming, care should be taken that farmers be given full and clear information about:

– The terms and requirements for subsidies to be granted;
– the associated obligations;
– the penalties for not honouring the relevant terms and obligations.

The interested parties should be informed through their farming cooperatives, by meetings and information brochures.

4.2.5 LOCAL AUTHORITIES

SUBJECT: *Inadequate information about fees*

Many complaints submitted to the Department of State-Citizen Relations dealt with the inadequacy of information provided to citizens about fees imposed by their municipalities, especially fees on certain categories of businesses. In order to resolve this problem,

IT IS PROPOSED THAT:

For new fees or changes in existing fees imposed by municipalities, the citizens must be informed either directly or through brochures describing the rights and obligations of citizens and municipalities fully and clearly, the procedures through which these rights and obligations will be carried out, and how citizens can get in touch with the responsible

officials for receiving further information. Especially for municipalities with a large number of residents, the brochures must be distributed either together with bills from public utility corporations or through professional organizations, unions, and other associations with which the citizens are involved.

F

Use of Statutory Powers

USE OF STATUTORY POWERS

The founding law of the Ombudsman (2477/1997) provides for a number of statutory means to secure his effectiveness as an extra-judicial mechanism of control and mediation and to establish his independence. These means range from the mere intervention to resolve a dispute between citizens and the public administration, to the option to publish the outcome of the Ombudsman's investigations.

The founding law of the Ombudsman provides for the drafting of the following reports:

– An annual report of the Ombudsman's work, which is submitted to the Prime Minister and the Speaker of Parliament and is further communicated to the Minister of the Interior, Public Administration, and Decentralization (article 3, par. 5);
– findings for the investigated cases, which are communicated to the competent minister and the relative public services (article 4, par. 6);
– special reports, which are communicated to the competent ministers (article 3, par. 5) and focus on a specific subject or a category of relative subjects.

In 1999, the Department of Human Rights submitted to the Minister of Defence a special report on the conscientious objectors' alternative civil service (see E.1, 3.1.4.2).

The power of investigation at the Ombudsman's own initiative constitutes another institutional guarantee for his efficiency and functional independence. This power of investigation, however, may only enter into force in cases which have aroused a particular public concern (article 4, par. 1). In 1998, the conditions of health and hygiene in a Roma camp were the subject of an ex officio investigation. In 1999 the Ombudsman made use only once of his power to investigate on his own initiative the operation and the actual living conditions of the inmates in the "Theometor" Social Welfare Institution in Ayiassos, Lesvos. The investigation and the on-site inspection were assigned to investigators of the Department of Social Welfare and focused on the conditions of hygiene, food, and health care of the inmates, the respect of their rights, the existence of programmes of social rehabilitation and of entertainment, as well as on any other aspect of organization and operation of the institution and the fulfilment of its social mission. The final report is expected to be completed in the year 2000.

The power of an on-site inspection is provided for in article 4, par. 5 of the Ombudsman's founding law and is not subjected to a prior leave by any other public authority. The on-site inspections made by members of the Office of the Ombudsman during 1999 confirmed the importance of this means of investigation to ascertaining the substantiality of complaints brought before the Ombudsman, especially in environmental protection matters (i.e. trespass on forest areas in the region of Ayios Stefanos, Attica, case 982/1999), health services (i.e. modification of data and deficient registering in the files of births and stillbirths at the "Alexandra" Regional General Hospital, case 1464/1999), conditions of detention (i.e. detention of aliens awaiting deportation at the Omonoia police station, Athens, case 7905/1999).

An additional guarantee of the effectiveness of the Ombudsman's control consists in his

power to request disciplinary proceedings or other internal administrative review of the public officials liable for infringement of the law, refusal to cooperate with the Ombudsman or obstruction of his investigation (article 4, par. 9). If his investigation results in substantial evidence of criminal acts committed by a civil servant, executive or other public official, the Ombudsman informs the public prosecutor of the relative cases, according to article 4, par. 10 of the Ombudsman's founding law, as was the case in the transfusion of contaminated blood at the "Metaxa" Piraeus General Hospital. On the basis of the Ombudsman's findings on this case, the public prosecutor has already proceeded to the prosecution of the persons involved (case 346/1998).

In the course of 1999 the Ombudsman often made use of the request for internal administrative reviews. From his experience, the public bodies' attitude on the matter of disciplinary reviews gives rise to serious concern. The top cases of characteristic reluctance to review disciplinary offences were observed in cases of proceedings against local and prefectural government officials and mostly against elected representatives thereof. Additional problems appeared as to the integrity of the disciplinary reviews.
The Ombudsman had the chance to raise the issue of procedural guarantees of impartiality in the course of internal administrative reviews, especially in cases of police investigation of disciplinary actions (cases 9292/1999, 5881/1999, 12786/1999).

As to this crucial question of adequacy of internal administrative reviews, the Ombudsman reserves the right to issue a substantiated opinion in the future, when a sufficient number of the relevant pending cases shall be completed. At present, however, the first impression is that of public administration appearing to cover the officials' liability and to refrain from investigating difficult cases, rather than seeking to discover the persons responsible for illegality and maladministration. This offers a partial explanation of the obvious instances of corruption and disrespect for the law which tend to become permanent phenomena in some branches of public administration. This crucial issue will be further approached by the Ombudsman in his annual report for the year 2000.

Outreach Activities

OUTREACH ACTIVITIES

This chapter briefly presents the activities of the Ombudsman which are not related to his standard and lawfully defined activities, but are nevertheless directly connected to them and are within his commitment to keep up to date with the real and everyday problems of the citizens, with the aim of formulating a better opinion on how public administration functions and of contributing to the solution of problems.

In 1999 the Ombudsman undertook the first endeavour for decentralization. This endeavour is not connected with the statutory powers provided to the Ombudsman by his founding law (2477/1997) to set up regional offices, the opening of which will require, as it is estimated, an important lapse of time, accumulation of experience and finding of resources, but has to do with the will of the Ombudsman to be up to date with regard to the problems encountered by citizens residing outside Attica.

More specifically, members of the Ombudsman's personnel visited Korinthos and Thessaloniki, where one-day meetings were held with the participation of members of the public administration and citizens. The Ombudsman informed them on the operation, the role and the mandate of the Institution and received complaints lodged by the citizens of the region.

Furthermore, the endeavour undertaken by the Ombudsman to deal with and confront social problems with sensitivity and to contribute, in the best possible way, to coping with urgent situations and needs related to the activity of the public administration, includes also the daily presence of most of the Ombudsman's personnel, for about 10 days, in the Municipality of Acharnes, immediately after the earthquake of September 7, 1999, and their active participation in the procedure for rendering economic assistance to the victims.

Additionally, the Greek Ombudsman, the Deputy Ombudsmen and members of the institution participated in conferences, meetings, and seminars during which issues were raised concerning the task and mission of the Office of the Ombudsman, as well as some thematic units drawn from the complaints which constitute the Ombudsman's everyday activity.

Through the aforementioned alternative means of activity, the Ombudsman attempts an essential intervention in social issues, a cooperation with organizations of the civil society, and the establishment of a socially sensitive institution that will not identify with the model of an "Athens-centred" public administration.

H

International Activities

INTERNATIONAL ACTIVITIES

The Greek Ombudsman ascribes particular importance to developing and deepening contact with other Ombudsman institutions. During 1999, the international activities of the Greek Ombudsman included the following:

Meetings with Ombudsmen

Visits to the offices of the Greek Ombudsman were made by the European Ombudsman, Mr Jacob Söderman, and by the Ombudsmen of Sweden, Mr Claes Eklund, of the Former Yugoslav Republic of Macedonia, Mr Branko Naumovski, and the Commissioner for Administration of the Republic of Cyprus, Ms Iliana Nikolaou.

The Greek Ombudsman visited Hungary and the Czech Republic. In Budapest, he met with the Parliamentary Commissioner for Human Rights, Professor Katalin Gönczöl. In Prague, he met with the Vice-President of the Government and President of the Legislative Committee of Parliament, Mr Pavel Ryhetsky, with the Deputy Minister for Foreign Affairs, Mr Martin Palous, and with the Government Commissioner for Human Rights, Mr Petr Uhl, who were preparing the legislation for the establishment of the Czech Ombudsman and were interested in hearing about the experience of the Office of the Ombudsman in Greece.

Collaboration with the Council of Europe

In December 1999, the Greek Ombudsman collaborated with the Council of Europe and the Hungarian Parliamentary Commissioner for Human Rights in the organization of an international meeting, with the aim of promoting the Ombudsman institution in Southeastern Europe within the context of the Stability Pact for that region. In addition to more than 40 representatives of Ombudsmen institutions and other public authorities from the area of the Balkans, Eastern Europe, Russia and Turkey, among the participants were also representatives of international organizations and non-governmental organizations concerned with human rights and more generally with the promotion of conditions conducive to the consolidation of democracy. At this meeting, Greece was represented by the Greek Ombudsman, by Deputy Ombudsmen Yorgos Kaminis and Aliki Koutsoumari, and by the Ministry of Foreign Affairs.

Working Meeting with the European Commission Against Racism and Intolerance

In October 1999, a team from the European Commission against Racism and Intolerance (ECRI) of the Council of Europe, including the vice-president of ECRI, Mr Michael Head, visited the Office of the Ombudsman in Athens. The ECRI team was on a fact-finding mission to Greece concerning the treatment of individuals who had been deprived of their freedom, whether in prisons, aliens' detention centres, police stations or psychiatric institutions. Previous ECRI fact-finding visits to Greece took place in 1993, 1996, and 1997. The members of the Office of the Ombudsman provided information based on the experience of the institution's first year of operation.

Lectures, Conferences, Seminars

The Greek Ombudsman Professor Nikiforos Diamandouros gave lectures on the development of the Ombudsman institution in Greece and its connection to the performance of democracy, at the University of Alberta (Canada), the University of California at Berkeley, Columbia University, Harvard University, and the National Endowment for Democracy (USA), the University of the Bosporus (Turkey) and the Fulbright Institute (Athens). The Greek Ombudsman and Deputy Ombudsmen Aliki Koutsoumari and Yorgos Kaminis participated in an international conference on the Ombudsman institution organized by the Council of Europe in Budapest. The Greek Ombudsman and Deputy Ombudsmen Aliki Koutsoumari, Maria Mitrosyli and Yorgos Kaminis participated in an international conference in Paris organized by the European Ombudsman in collaboration with the French Ombudsman.

Visit to the International Ombudsman Institute

The Greek Ombudsman is already a full member of the International Ombudsman Institute (IOI). During 1999, the Greek Ombudsman visited the headquarters of the IOI in Alberta, Canada and met with the Ombudsman of the province of Alberta and with Linda C. Rief, Professor at the Law School at Alberta University, who is a specialist in the comparative study of Ombudsmen institutions.

Appendices

1. FOUNDING LAW OF THE GREEK OMBUDSMAN

2. CURRICULA VITAE OF THE GREEK OMBUDSMAN AND THE DEPUTY OMBUDSMEN

3. PERSONNEL LIST

FOUNDING LAW OF THE GREEK OMBUDSMAN (LAW 2477/1997)

HELLENIC REPUBLIC
GOVERNMENT GAZETTE

FIRST ISSUE Number 59

18 April 1997

LAW No. 2477
The Ombudsman and the Public Administration Inspectors Body

THE PRESIDENT OF THE HELLENIC REPUBLIC

The following Act passed by the Parliament is published hereby:

CHAPTER A

THE OMBUDSMAN

Article 1
Establishment – Mission

1. An independent administrative authority is established under the title of "The Ombudsman", with the mission of mediating between citizens and public services, local government authorities, public agencies and public utility corporations, as these are defined in article 3, par. 1 of the present law, with the aim of protecting the rights of the citizens, combating maladministration, and ensuring observance of legality.

2. The Ombudsman is not subject to supervision by any government body or administrative authority.

3. The Ombudsman is assisted by four (4) Deputy Ombudsmen. In the exercise of their duties, they enjoy personal and functional independence.

The Ombudsman and the Deputy Ombudsmen are not held responsible, prosecuted, or subjected to inquiry for any opinion expressed or act committed in the discharge of their duties. Prosecution is permissible only following a private suit for slander, libel, or violation of confidentiality.

The Ombudsman, the Deputy Ombudsmen, the senior investigators, and seconded

civil servants with the qualifications of senior investigators, when prosecuted or sued for an act or omission related to the exercise of their duties, may be defended in court by members of the Legal Counsels of State.

4. The Ombudsman is assisted by thirty (30) senior investigators, forty (40) seconded civil servants with the qualifications of senior investigators, and a Secretariat.

5. The funds required for the operation of the Authority are entered in a special account, and incorporated in the annual budget of the Ministry of the Interior, Public Administration, and Decentralization. The Ombudsman or his alternate is legally responsible for the expenditures.

Article 2
Appointment – Term of office

1. The Ombudsman and Deputy Ombudsmen are selected individuals of acknowledged prestige, who have superior educational qualifications and enjoy broad social acceptance.

The Ombudsman is selected by the Cabinet, following a prior opinion of the Parliamentary Standing Committee on Institutions and Transparency, in line with the provisions of the Regulations of Parliament, and is appointed by presidential decree.

The Deputy Ombudsmen, including the alternate Ombudsman, are appointed by decision of the Minister of the Interior, Public Administration, and Decentralization, upon recommendation of the Ombudsman.

Substitution of the Ombudsman may take place when, for whatever reasons, the Ombudsman is unable to exercise his duties.

3. The term of office of the Ombudsman and the Deputy Ombudsmen shall be for five years. Reappointment of the same individual as Ombudsman is not permitted. The premature termination of the Ombudsman's term of office, for any reason, entails *ipso jure* the termination of office of the Deputy Ombudsmen.

4. The Ombudsman may be relieved of his duties by presidential decree, issued on the recommendation of the Cabinet following a prior opinion of the Parliamentary Standing Committee on Institutions and Transparency, for reasons of incapacity to exercise his duties due to illness or disability, whether physical or mental.

The Deputy Ombudsmen may be relieved of their duties by decision of the Minister of the Interior, Public Administration, and Decentralization, upon the recommendation of the Ombudsman, for reasons of incapacity to exercise their duties, due to illness or disability, physical or mental, or for reasons of inadequacy in exercising their duties.

5. During the term of office of the Ombudsman and the Deputy Ombudsmen, the exercise of any other public function is suspended. The Ombudsman and the Deputy Ombudsmen are not permitted to assume any other duties, whether paid or unpaid, in the public or private sector.

6. A member of Parliament who is appointed as Ombudsman shall resign his seat prior to assuming his duties.

7. The salary of the Ombudsman and the Deputy Ombudsmen is determined by joint decision of the Ministers of the Interior, Public Administration, and Decentralization, and Finance, as an exception to the provisions in force.

Article 3
Jurisdiction

1. The Ombudsman has jurisdiction over issues pertaining to: a) the public sector, b) the Local Authorities (communities, municipalities, prefectures), c) other legal entities of public law, and d) public utility corporations charged with: i) the filtering and distribution of water, the drainage and discharge of impure water and sewage, ii) the distribution of electricity and gas, iii) the transportation of persons and commodities by land, sea and air, and iv) telecommunications and postal services. For the purposes of the present Act, the terms "public-sector service" or "public-sector services" are used as defined in the preceding passage of this paragraph.

The Ombudsman shall not have any jurisdiction over government ministers and deputy ministers for acts pertaining to their political function, religious bodies, judicial authorities, military services with regard to issues of national defence and security, the National Intelligence Service, services of the Ministry of Foreign Affairs for matters related to the conduct of the country's foreign policy or international relations, the Legal Counsels of State and independent administrative authorities with regard to their main function.

The Ombudsman shall not investigate cases that concern state security. Also not included in his responsibilities are issues pertaining to the service status of public-sector personnel.

2. The Ombudsman shall investigate individual administrative acts or omissions or material actions of public bodies, which violate rights or infringe upon the legal interests of persons or legal entities.

In particular, the Ombudsman shall investigate cases in which an organ of the public sector, whether individual or collective:

i) By an act or omission, infringes upon a right or interest protected by the Constitution and the legislation;

ii) refuses to fulfil a specific obligation imposed by a court decision against which there is no right of appeal;

iii) refuses to fulfil a specific obligation imposed by a legal provision or by an individual administrative act;

iv) performs or omits to perform a due legal act, in violation of the principles of fair administration and transparency or in abuse of power.

3. The Ombudsman shall not investigate cases pending before a judicial authority.

4. The Ombudsman coordinates the work of the Deputy Ombudsmen and supervises and guides the senior investigators and the personnel of the Secretariat.

The Ombudsman is the disciplinary supervisor of the senior investigators and the administrative personnel and may impose a penalty in the form of a reprimand or a fine of up to one month's salary.

The Ombudsman may authorize one or more of the Deputy Ombudsmen and the supervisors of the administrative units to sign documents or take other actions.

5. The Ombudsman shall draw up an annual report, explaining the work of the Authority, presenting the most important cases, and formulating recommendations for the improvement of public services and the adoption of the necessary legislative measures.

The report of the Ombudsman is submitted each year in March to the Prime Minister

and the Speaker of Parliament and is communicated to the Minister of the Interior, Public Administration, and Decentralization. The Ombudsman may, during the course of the year, submit reports to the Prime Minister, the Speaker of Parliament, and the competent ministers. The annual report of the Ombudsman is debated in a special plenary session of Parliament, in accordance with the provisions of the Regulations of Parliament, and is published in a special edition by the National Printing House.

Article 4
Investigation procedure

1. The Ombudsman undertakes the investigation of any issue in his jurisdiction, following a signed complaint lodged by any directly concerned person or legal entity or union of persons. He may also proceed *ex officio* to the investigation of cases that have aroused particular public interest.

2. The Ombudsman shall not investigate cases in which the administrative act has generated rights or created a favourable situation for third parties, reversible only by a court decision, unless there is manifest illegality or the main subject of the case is related to the protection of the environment.

3. The complaint shall be lodged within six months from the date on which the applicant is informed of the acts or omissions for which he has the right of recourse to the Ombudsman, and is entered in a special register. The submission of such a complaint does not depend on any parallel application for legal redress or process of higher appeal and shall not interrupt or suspend the time limits defined by law for recourse to legal action or relief. In a case where a special administrative appeal is submitted, the Ombudsman shall not investigate the case until the competent body has taken a decision or a period of three months has elapsed since the submission of the administrative appeal.

The Ombudsman may, on his own authority, close a case which is judged to be manifestly vague, unfounded, or insignificant.

4. The Ombudsman may, during the investigation of cases, request the assistance of the Public Administration Inspectors Body.

5. The Ombudsman may request public-sector services to provide him with any information, document or other evidence relating to the case, and may examine individuals, perform an on-site investigation and order an experts' report. During the examination of documents and other evidence, which are at the disposal of public authorities, their classification as confidential shall not apply, unless they concern issues of national defence, state security and the country's international relations. All public-sector services have an obligation to facilitate the investigation in every possible way. Non-cooperation during an investigation by a public service shall be the object of a special report by the Ombudsman to the competent minister.

6. On completion of the investigation, the Ombudsman shall draw up a report on the findings, to be communicated to the competent minister and authorities, and shall mediate in every expedient way to resolve the citizen's problem. In his recommendations to the public services, the Ombudsman may set a time limit within which the services have an obligation to inform him of the actions taken in implementation of his recommendations or of the reasons for which they cannot accept them. The Ombudsman may make public

the refusal of a service to accept his recommendations, if he considers that this is not sufficiently justified.

7. The Ombudsman shall, in all cases, inform the citizen concerned of the outcome of his case.

8. The Ombudsman, the Deputy Ombudsmen, the senior investigators, the seconded civil servants with the qualifications of senior investigators, and the personnel of the Secretariat have a duty of confidentiality with regard to documents and evidence which come to their knowledge in the context of an investigation and which are classified as confidential according to the provisions in force, or are exempted from the right of access to administrative documents, in accordance with article 16 of Law 1599/1986 and all other relevant provisions.

9. The refusal of a public official, civil servant, or member of the administration to cooperate with the Ombudsman during an investigation constitutes a disciplinary offence of breach of duty, and for members of the administration, a reason for their replacement. If during the course of the investigation it is established that there has been unlawful behaviour on the part of a public official, civil servant, or member of the administration, the Ombudsman shall submit the report to the competent body and may call for disciplinary action against the person responsible or recommend the adoption of other measures, if the person responsible is not subject to disciplinary control. The Ombudsman may define a reasonable time limit, in view of the circumstances, at the expiry of which, if no action has been taken, he may himself order the control. The Ombudsman may also, in serious cases, call, by means of a document addressed to the competent body, for disciplinary action against the responsible public official or civil servant for the above omission in exercising the indicated control. If it emerges from the reports of the Ombudsman that a public official or civil servant, for the second time within a three-year period, has obstructed the work of an investigation or refuses without a serious reason to cooperate in the solution of the problem, the penalty of definitive dismissal may be imposed.

10. If there is sufficient evidence that a public official, civil servant, or member of the administration has committed a criminal act, the Ombudsman shall also communicate the report to the competent public prosecutor.

Article 5
Senior investigators – Secretariat

1. Thirty (30) positions are established for senior investigators, as defined in par. 2 of article 25 of Law 1943/1991, with a work contract under private law for a term of five (5) years, which may be renewed. The positions shall be filled following a public announcement by the Ombudsman for the submission of applications.

The Ombudsman shall shortlist candidates, the selection itself being allocated to a five-member committee, whose composition is determined by the Ombudsman. The committee is composed of the Ombudsman, two Deputy Ombudsmen, a university professor and a senior member of the judiciary. The committee evaluates the formal and actual qualifications of the candidates and their personality by means of a public interview. All necessary details for the process of hiring the personnel are defined in the Rules of Internal Organization of the Authority.

Lawyers may be appointed to the above positions under the same procedures, as an exception to any contrary provisions in force. The appointment of a lawyer entails the suspension of his professional functions.

The senior investigators are appointed by decision of the Minister of the Interior, Public Administration, and Decentralization.

2. Up to forty (40) civil servants, whether permanent officials or employees on private-law work contracts for an indefinite period, employees of the public sector, public institutions, banks controlled by the state or public-sector agencies, who fulfil the requirements of par. 2 of article 25 of Law 1943/1991 or civil servants who are university graduates with at least eight years in service may be seconded to the Office of the Ombudsman. The secondment of civil servants takes place following the procedure defined in the first and second sentences of the preceding paragraph. The secondment is effected by joint decision of the Minister of the Interior, Public Administration, and Decentralization and the competent minister in each case, without the opinion of the service committee, as an exception to the provisions in force. The duration of the secondment is three years and may be renewed once.

3. A Secretariat supervised by a director shall be set up within the Authority.
A permanent civil servant meeting the requirements of article 36 of Law 2190/1994 shall be chosen as director by the Ombudsman.

The director is selected by the Ombudsman, for a three-year term, from the candidates who apply following a public invitation. The director is seconded for a term of three years by decision of the Minister of the Interior, Public Administration, and Decentralization, without the opinion of the service committee, as an exception to the provisions in force.

4. On first implementation of the present Act, the positions in the Secretariat may be filled by transferring or seconding employees from public services, following a public invitation. The seconded employees must have the qualifications for the position to which they are seconded. The transfer or secondment is decided by joint decision of the Minister of the Interior, Public Administration, and Decentralization and the competent minister in each case, as an exception to the general and special provisions in force. The secondment may be revoked at any time, and in any case the resulting vacancy shall be filled.

5. Senior positions in the Secretariat's units may also be filled by seconded employees. The secondment ends *ipso jure* with its revocation.

6. The salary of the thirty (30) senior investigators, employed under par. 1 of article 5 of the present Act, is determined by joint decision of the Ministers of the Interior, Public Administration, and Decentralization and Finance. This salary may not be lower than that foreseen in article 92A of the Code on Attorneys.

The civil servants seconded under par. 2 of the present article receive their salary and any additional standard payments, as well as all regular allowances of the official service position they occupy, which continue to be paid regularly by the service from which they are seconded. Furthermore, they receive a special allowance, which is determined, as an exception to the provisions in force, by joint decision of the Ministers of the Interior, Public Administration, and Decentralization and Finance.

7. The service council of the employees of the Authority is established by decision of the Ombudsman and is composed of one Deputy Ombudsman, as president, with another Deputy Ombudsman as his alternate, two regular members, with their corresponding

alternates, and two elected representatives from the personnel of the Authority. For all other issues, the provisions of the Civil Servants Code apply, as usual.

8. With regard to supplementary social insurance, the personnel of the Authority are insured with the Personnel Assistance Fund of the Ministries of Foreign Affairs, Presidency of the Government, and Culture. Lawyers employed as senior investigators are exempted. In these cases, the special supplementary insurance of their own fund applies.

9. The Rules of Internal Organization of the Authority provide for all issues pertaining to the organization and operation of the Authority, the distribution of the senior investigators, the organization of the Secretariat, the number of personnel and their allocation to the central units and regional offices, the distribution of the personnel by branch and specialization and all other necessary details. These Rules are enacted by presidential decree, issued upon recommendation of the Minister of the Interior, Public Administration, and Decentralization, with the agreement of the Ombudsman.

CHAPTER B

PUBLIC ADMINISTRATION INVESTIGATORS – INSPECTORS

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Article 11

The present Act enters into force on the date of its publication in the Government Gazette.

Athens, 17 April 1997

THE PRESIDENT OF THE REPUBLIC
KONSTANTINOS STEFANOPOULOS

THE MINISTERS OF

THE INTERIOR, PUBLIC ADMINISTRATION AND DECENTRALIZATION
A. PAPADOPOULOS

FINANCE
G. PAPANTONIOU

Authenticated and sealed

Athens, 18 April 1997

THE MINISTER OF JUSTICE
E. GIANNOPOULOS

CURRICULA VITAE OF THE GREEK OMBUDSMAN AND THE DEPUTY OMBUDSMEN

Nikiforos Diamandouros

Greek Ombudsman

Professor of Comparative Politics, Department of Political Science and Public Administration, University of Athens

UNIVERSITY STUDIES

- 1972: Ph.D., Columbia University
- 1969: M.Phil., Columbia University
- 1965: M.A., Columbia University
- 1963: B.A., Indiana University

PROFESSIONAL EXPERIENCE

- 2000: Member of the National Council on Public Administration Reform
- 1999: Member of the National Commission for Human Rights
- 1998: Greek Ombudsman
- 1997: Visiting professor of Political Science, Juan March Centre for Advanced Studies in the Social Sciences, Madrid
- 1995–98: Director and chairman of the Greek National Centre for Social Research
- 1993–present: Professor of Comparative Politics, University of Athens
- 1988–93: Associate professor of Comparative Politics, University of Athens
- 1988–91: Director of the Greek Institute for International and Strategic Studies, Athens
- 1983–88: Programme director for Western Europe and the Near and Middle East, Social Science Research Council, New York
- 1978–83: Director of Development, Athens College, Greece
- 1973–78: Teaching and research appointments at the State University of New York and Columbia University

PUBLICATIONS

Has written extensively on the politics and history of Greece, Southeastern Europe, and Southern Europe and, more generally, on democratization, state- and nation-building, and the relationship between culture and politics. He is joint general editor of the *Series on the New Southern Europe* published by Johns Hopkins University Press.

LANGUAGES

Greek, English, French, Italian, German, Spanish, Portuguese

PROFESSIONAL ASSOCIATIONS AND HONOURS

- 1992–98: President of the Greek Political Science Association
- 1990: Co-chairman of the Subcommittee on Southern Europe, Social Science Research Council, New York
- 1985–88: President of the Modern Greek Studies Association of the United States

Yorgos V. Kaminis
Deputy Ombudsman for the Department of Human Rights
Assistant professor of Constitutional Law, University of Athens

UNIVERSITY STUDIES

- 1989: Doctorat d'État en Droit, thesis titled *La transition constitutionnelle en Grèce et en Espagne*, University Paris I
- 1982: Diplôme d'Etudes Approfondies (DEA) in Public Law, University Paris II
- 1980: LLB, Faculty of Law, University of Athens

PROFESSIONAL EXPERIENCE

- 1998: Deputy Ombudsman for Human Rights
- 1998: Assistant professor, Faculty of Law, University of Athens (on leave from 1998)
- 1991–98: Lecturer, Faculty of Law, University of Athens
- 1989: Research fellow in the Department of Parliamentary Studies and Research, Directorate of Studies, Greek Parliament
- 1982–91: Research and teaching fellow, Faculty of Law, University of Athens

MAIN PUBLICATIONS

- *Παράνομα αποδεικτικά μέσα και συνταγματική κατοχύρωση των ατομικών δικαιωμάτων. Οι αποδεικτικές απαγορεύσεις στην ποινική και την πολιτική δίκη* (Illegally Obtained Evidence and Constitutional Guarantees of Human Rights. The Exclusion of Evidence in Criminal and Civil Proceedings), A. N. Sakkoulas, Athens/Komotini 1998
- *La transition constitutionnelle en Grèce et en Espagne*, Librairie Générale de Droit et de Jurisprudence, Bibliothèque Constitutionnelle et de Science Politique 76, Paris 1993

LANGUAGES

Greek, English, French, German, Spanish

PROFESSIONAL ASSOCIATIONS AND HONOURS

- Member of the Union of Greek Constitutionalists
- Member of the Hellenic Political Science Association
- Member of the editorial board of the journal *Σύγχρονα θέματα* (Contemporary Issues)

Maria Mitrosyli-Asimakopoulou
Deputy Ombudsman for the Department of Social Welfare

UNIVERSITY STUDIES

- 1991: Doctorat d'État en Droit, Ancien Régime, University Paris X, Law School of Nanterre, specialized in health and welfare issues
- 1981: Diplôme d'Études Approfondies (DEA) in Comparative History, Anthropology, and Sociology of Law Systems, University Paris X, Law School of Nanterre
- 1978: LLB, Faculty of Law, University of Athens

PROFESSIONAL EXPERIENCE

- 1998: Deputy Ombudsman for Social Welfare
- 1989–98: European Commission Expert in the health and welfare sector, member of the Legislation Committees of the Ministry of Health and Welfare
- 1983–98: Lawyer, member of the Athens Bar Association
- 1983–98: Has lectured at the Technological Education Institute of Athens (Health and Welfare Education); the National University of Athens, Medical School; the University Institute of Mental Health; the National Centre for Public Administration; the University of Athens, Psychiatric School; the University Paris II, Centre de Recherches Criminologiques et de Sociologie du Droit
- 1982–98: Research: Author of educational material on health and bioethics for the Open University of Athens; research director for the European Commission; senior researcher at the Panteion University of Athens; research fellow of the National Research Centre of France

MAIN PUBLICATIONS

Has published several studies and articles in Greece and abroad.

LANGUAGES

Greek, French, English

PROFESSIONAL ASSOCIATIONS AND HONOURS

- Institute of Sociology of Law for Europe
- Research Committee of Law, Ethics and Psychiatry
- European Committee of Law, Ethics and Psychiatry
- World Association for Psychosocial Rehabilitation
- European Institute of Social Security
- Other Greek and foreign scientific societies and non-governmental organizations

Yannis M. Michail
Deputy Ombudsman for the Department of Quality of Life

UNIVERSITY STUDIES

- 1971: Ph.D. in City Planning, Technical University of Aachen
- 1959: Degree in Architecture, Technical University of Munich

PROFESSIONAL EXPERIENCE

- 1998: Deputy Ombudsman for Quality of Life
- 1979–98: Co-responsible (together with Prof. D. Zivas) for the Plaka-Athens Historical Centre Rehabilitation Study, carried out by the Ministry for the Environment, Physical Planning, and Public Works. In 1983 this study was awarded the "Europa Nostra" prize
- 1977: Director of the working programme "Educational and Cultural Spaces" of the International Union of Architects

- 1972–95: Director of City Planning for the Greek National Mortgage Bank (new towns in Komotini, Xanthi, Sapes (Thrace), Athens, Thebes, Lavrio, Thessaloniki)

LANGUAGES

Greek, English, French, German, Italian

PROFESSIONAL ASSOCIATIONS AND HONOURS

- 1986: Corresponding member of the German Academy of City and Regional Planning
- 1985: Officer of the French Order of "Palmes Academiques"
- 1975–78: Vice president of the International Society of City and Regional Planners (ISOCARP)

ALIKI KOUTSOUMARI
Deputy Ombudsman for the Department of State-Citizen Relations

UNIVERSITY STUDIES

- Postgraduate studies in Administrative Law, Panteion University of Athens
- Postgraduate studies, Institute for Business Management, Athens University of Economics and Business
- Degree in Law, University of Athens

PROFESSIONAL EXPERIENCE

- 1998: Deputy Ombudsman for State-Citizen Relations
- 1994–98: Director General for Organization and Administrative Procedures, Ministry of the Interior, Public Administration, and Decentralization
- 1967–98: Ministry of the Presidency: during her career in the ministry she was involved in projects concerning organizational development, legal issues, information technology, gender equality, quality of public services, open government, and especially improving state-citizen relations. She was also member of the teaching staff of the National Centre for Public Administration; member of the committee to draft the Code of Administrative Procedures in Public Administration; coordinator-manager of the "Quality in the Public Service" project
- 1964–67: Legal adviser to the Ministry of Coordination

LANGUAGES

Greek, English, French

PROFESSIONAL ASSOCIATIONS AND HONOURS

- Greek representative in the Committee of Public Administration, Organization for Economic Cooperation and Development (OECD)
- International Institute of Administrative Sciences (IIAS)
- Association Internationale de la Fonction Publique (AIFP)

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