2003 Annual Report

Abridged English Language Version

The Greek Ombudsman

This is a summarised presentation
of the *2003 Annual Report*
of the Greek Ombudsman.

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The complete electronic version of the *2003 Annual Report*
is available in Greek on the Greek Ombudsman's website: www.synigoros.gr,
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5 Hadjiyanni Mexi, 11528 Athens.

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NATIONAL PRINTING HOUSE

Acronyms

Most acronyms used in the present edition are transcripts of the Greek acronyms

AMEA	Atoma Me Eidikes Anages (Persons with Special Needs)
ASEP	Anotato Symvoulio Epilogis Prosopikou (Supreme Council for Selecting Civil Servants)
DEYA	Dimotikes Epiheiriseis Ydrefsis kai Apohetefsis (Municipal Water Supply and Drainage Enterprises)
DIKATSA	Diapanepistimiako Kentro Anagnorisis Titlon Spoudon Allodapis (Inter-University Centre for the Recognition of Foreign Academic Titles)
EDE	Enorki Diikitiki Eksetasi (Administrative Investigation under Oath)
CRC	Convention on the Rights of the Child
IKA	Idryma Koinonikon Asfaliseon (Social Security Organization)
KDAY	Kendra Diagnosis, Aksiologisis kai Ypostiriksis (Diagnostic, Assessment and Support Centres)
OAED	Organismos Apasholisis Ergatikou Dynamikou (Manpower Employment Organization)
OGA	Organismos Georgikon Asfaliseon (Agricultural Insurance Fund)

Contents

1

Introduction

Indroduction

On the 15th January, the European Parliament elected as the European Ombudsman Greece's first Ombudsman, Professor Nikiforos Diamandouros. Two and a half months later, on the 3rd April, the Conference of the Presidents of the Greek Parliament unanimously elected the undersigned to the post of Greek Ombudsman. The Office of the Ombudsman was thus doubly honoured. On the one hand, the election of Nikiforos Diamandouros is a tangible recognition, at European level, of the work of the Office of the Ombudsman, while the election of his successor, from among the serving Deputy Ombudsmen, is confirmation of the active contribution of the Office to the fight against maladministration in our country. Moreover, the fact that this choice was ratified unanimously by the National Assembly, including the independents, is to a certain extent a triumphant endorsement of the independence of the Office itself, concrete examples of which were apparent from the very first days of its operation.

The great challenge facing the second term of the Office is a reorganisation of its aims, without diluting its fundamental orientation. The Ombudsman is above all the Ombudsman of the specific, the individual, citizen; an independent authority whose principal mission is to act as a counterbalance in the relationship between citizen and public administration, which is by definition unequal. In its more critical manifestations, which are not uncommon, this inequality translates into an intolerable injustice against those citizens confronted with the cold face of public bureaucracy.

However, for the very reason that these phenomena are so common in our country, the Office of the Ombudsman cannot limit itself to an ex post monitoring of maladministration, but must also function preventatively. Thus, the Office of the Ombudsman is called on to fulfil a further, equally difficult and in any case more complex, role. After five years of operation, the Office of the Ombudsman must summarise the experience it has gained, in order to function as a think tank in support of a radical reform of the administration, which is still pending.

The variety of cases handled daily by the Office of the Ombudsman is endless, as its jurisdiction covers nearly the whole range of activity of public administration: the civil status of citizens; health, welfare and social security; the environment; urban planning and public works; public corporations; education at all levels; the residence status of aliens, etc. If one then considers that central and regional administrations are involved in all these cases, sometimes severally, sometimes jointly, simultaneously with local government authorities, the Office of the Ombudsman is ideally placed to supervise and monitor maladministration, both horizontally (by subject) and vertically (by level of administration). Not even Parliament has this breadth of supervision, since local government authorities do

not fall under direct parliamentary control. Therefore, the Office of the Ombudsman is not simply an institution which finds extra-judicial solutions to disputes between individual citizens and public administration. It has effectively become an *Observatory of Maladministration*, since it is in a position to perform a holistic diagnosis of the symptoms of public administration.

The aim of this annual report is not simply to provide a catalogue of these problems. For the assiduous reader, prominence is given to a number of common denominators to be found at all levels of Greek public administration. Apart from the general public, this report is destined for all those concerned with public administration matters, whether they are researchers specialised in domestic issues, or functionaries of the administration itself. In any case, it is primarily destined for Members of Parliament and for the political leadership generally; in other words, for all those who bear the responsibility for the administrative reform which is still outstanding in our country.

YORGOS KAMINIS
March 2004

2

Legal Framework and Operation of the Institution

2 Legal Framework and Operation of the Institution

THE GREEK OMBUDSMAN is a constitutionally established independent authority. It was founded in 1st October 1998 and provides its services to all citizens free of charge.

Its organisation, staffing and operation are defined in Law 3094/2003, and by the Operating Regulations (Presidential Decree 273/1999), in the context laid out by the provisions of the Constitution, following its revision in 2001. The complete texts of these laws can be found on the Greek Ombudsman's website: **www.synigoros.gr**.

The mission of the Greek Ombudsman is to mediate between the public sector and private individuals, in order to protect the latter's rights, to ensure the former's compliance with the rule of law, and to combat maladministration. Additionally, the Ombudsman is concerned with the protection and promotion of the rights of children. As mediator, the Office of the Ombudsman addresses recommendations and proposals to the public administration, but it does not impose sanctions on, or annul the illegal actions of, the public administration.

Any Greek or foreign citizen living in Greece or abroad, and having dealings with the Greek public sector, has recourse to the Greek Ombudsman. Specifically regarding infringements of the rights of children, the child directly concerned, a parent or relative, as well as third parties who are directly aware of an infringement of children's rights, may have recourse to the Ombudsman. This also holds for legal entities or associations.

The Greek Ombudsman intervenes in problems faced by citizens in their transactions with the public sector, such as, for example, insufficient provision of, or refusal to provide, information; excessive delay in the processing of requests; the infringement of laws or the use of illegal procedures; unfair discrimination against citizens.

The Greek Ombudsman is responsible for citizens' differences with the services of:

- The public administration;
- Primary and secondary level Local Government Authorities (communities – municipalities, prefectures);
- Other public law legal entities;
- Private law corporate entities; the enterprises and organisations which are controlled by the state or by public law legal entities.

Exceptionally, in cases of infringement of children's rights, the Ombudsman also has jurisdiction over the acts of individuals, and of natural and legal entities.

The Greek Ombudsman:

- Cannot intervene if more than six months have elapsed from the time the complainant initially learned of the public administration's illegal action or failure to act.
- Does not provide general information or legal advice.
- Does not have jurisdiction over disputes between private individuals.

Nor does the Greek Ombudsman have jurisdiction over:

- Cases related to the service status of civil servants, to national defence, to foreign policy and international relations, to state security;
- Cases pending before the courts;
- Actions taken by the courts, the Legal Counsels of the State, independent authorities, or public religious institutions;
- Actions taken by ministers and deputy ministers regarding the administration of political life.

Submission of Complaints and the Process of Investigation

The Office of the Ombudsman undertakes any matter which falls within its jurisdiction, following the submission of a written complaint by any individual, legal entity or association, directly concerned by the matter. Complaints may be submitted in person, by mail or by fax. They must contain: full and accurate details of the complainant; a brief description of the problem; the complainant's demand; the public service involved or, in the case of a children's rights' infringement, the individual involved; the steps which have already been taken and their result; any supporting documentation or information which might help in the investigation of the matter.

Complaints are assigned to one of five sectoral Departments: Human Rights; Social Welfare; Quality of Life; State – Citizen Relations; Children's Rights. The investigation of each case is allocated to a case-handler specialised in the relevant area.

The complainant is kept informed in writing or by telephone at each stage of the process. The investigation is completed with the drafting of a document, which the Office of the Ombudsman addresses to the relevant authority. If, however, the nature of the case calls for it, the Ombudsman can instigate the institutional competences foreseen under Law 3094/2003, and proceed to an on-the-spot investigation or refer the case to a prosecutorial/disciplinary examination. Finally, where necessary, the investigation is completed with the drafting of a finding, which is also copied to the competent minister.

The individual is also informed in writing when his complaint cannot be investigated by the Office, either because the Ombudsman does not have jurisdiction over the matter, or because the complaint is too general, without foundation or exercised in an abusive fashion.

The Ombudsman can:

- Request from the civil service any information, document or other element concerning the case; examine persons; carry out an on-the-spot investigation, and call for expert opinion.
- Set a time limit for the services, within which they must inform the Office of the Ombudsman either of the steps they have taken to comply with its recommendations, or of the reasons for which these cannot be applied.

The refusal of an official or employee or member of the administration to cooperate with the Ombudsman in the course of an investigation constitutes a breach of duty and a disciplinary offence for which, in the case of members of the administration, they may be replaced. If, from reports of the Office of the Ombudsman, it transpires that an official or employee of a service has obstructed work on a case more than twice in a three year period,

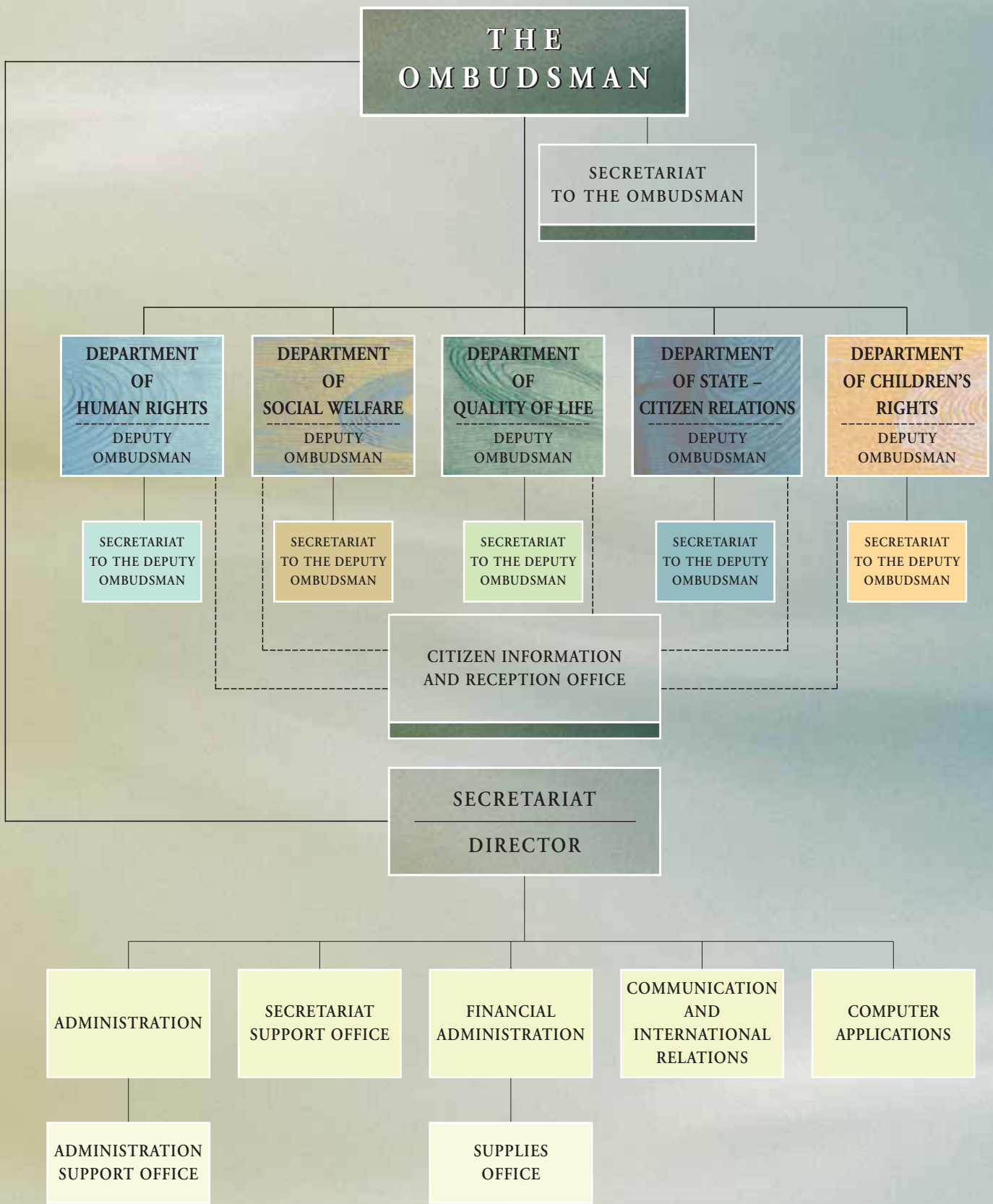
or refused without reasonable cause to contribute to the resolution of a problem, he or she may be punished with permanent dismissal. Finally, if there are sufficient indications of criminal acts by an official, employee or member of the administration, the Office of the Ombudsman transmits its report to the appropriate prosecutor.

Organisation and Staffing

As of the 31st December 2003, a total of 182 persons, of which 58 men and 124 women, were employed by the Office of the Greek Ombudsman, including the Ombudsman and the five Deputy Ombudsmen.

The specialist and administrative personnel covers a wide range of areas of expertise. These areas of expertise are distributed among those who hold a degree or postgraduate qualification, as follows:

DISCIPLINE	STAFF NUMBERS	%
Law	71	46.35
Political sciences	16	10.5
Literature	11	7.2
Sociology	10	6.6
Economics	8	5.2
Archaeology	6	3.9
Chemistry	4	2.6
Geology	4	2.6
Psychology	4	2.6
Urbanism/architecture	3	2
Oceanography	3	2
Journalism	2	1.3
Civil engineering	2	1.3
Education	2	1.3
Information technology	2	1.3
Mechanical engineering	1	0.65
Statistics and risk	1	0.65
Medicine	1	0.65
Surveying	1	0.65
Administrative scientist	1	0.65


THE OMBUDSMAN
SECRETARIAT TO THE OMBUDSMAN
DEPARTMENT OF HUMAN RIGHTS
DEPUTY OMBUDSMAN
DEPARTMENT OF SOCIAL WELFARE
DEPUTY OMBUDSMAN
DEPARTMENT OF QUALITY OF LIFE
DEPUTY OMBUDSMAN
DEPARTMENT OF STATE – CITIZEN RELATIONS
DEPUTY OMBUDSMAN
DEPARTMENT OF CHILDREN'S RIGHTS
DEPUTY OMBUDSMAN
SECRETARIAT TO THE DEPUTY OMBUDSMAN
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SECRETARIAT TO THE DEPUTY OMBUDSMAN
SECRETARIAT TO THE DEPUTY OMBUDSMAN
SECRETARIAT TO THE DEPUTY OMBUDSMAN
CITIZEN INFORMATION AND RECEPTION OFFICE
SECRETARIAT
DIRECTOR
ADMINISTRATION
SECRETARIAT SUPPORT OFFICE
FINANCIAL ADMINISTRATION
COMMUNICATION AND INTERNATIONAL RELATIONS
COMPUTER APPLICATIONS
ADMINISTRATION SUPPORT OFFICE
SUPPLIES OFFICE

3

Overall Assessment for the Year 2003

3 Overall Assessment for the Year 2003

FROM ITS INCEPTION (1st October 1998) and up to 31st December 2003, the Office of the Ombudsman has received 52,715 complaints.

In 2003, the Ombudsman received 10,850 new complaints, but handled 16,009 cases, which included a number of complaints submitted in previous years, and which for a variety of reasons had not been resolved.

For the first time, 2003 marked a year-on-year reduction in the number of complaints received: 7.5% fewer than in 2002. Nonetheless, the overall number of new complaints remains high at 10,850, reflecting a levelling-off of the volume of complaints; a trend which was visible from the previous year. This small reduction was evenly distributed between the Office's various Departments.

Of the 16,009 cases handled by the Ombudsman, 11,904 (74.36% of the total, as compared with 70.97% in 2002) were investigated and brought to a conclusion, while 4,600 (28.73%, as against 29.03% in 2002) remained outstanding on 31st December 2003.

There was a reduction in the number of complaints which were filed because they did not fall within the mandate of the Office of the Ombudsman, from 27.1% of complaints received in 2002, to 25.64% in 2003; with a corresponding increase in the proportion of cases investigated (74.36%, against 72.9% in 2002).

Taking into account the fact that the Office of the Ombudsman examined 57.07% of the cases corroborated (compared to 55.2% in the previous year), the administration did not accept the Ombudsman's proposals – recommendations in 571 cases (13.7% of the total of corroborated cases). These figures are very nearly the same as those of 2002, and reflect the steady and valuable course of action followed by the Office in its role of mediator with the administration.

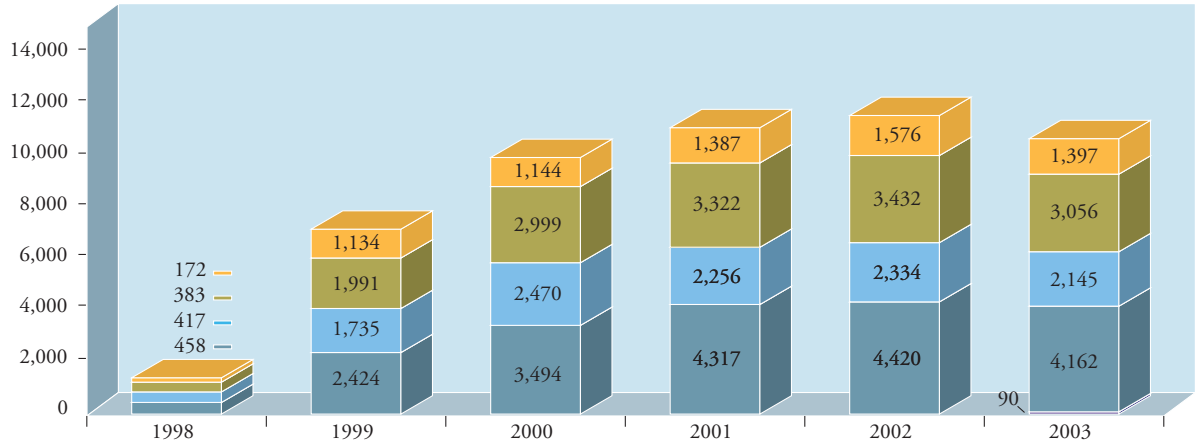
Conclusions

- **The central administration adopts the legislative proposals of the Office of the Ombudsman** – Increase in the percentage of legislative proposals accepted and adopted. After 5 years of drafting legislative proposals, 44.1% of these have been accepted. The administration showed itself more willing to accept the Ombudsman's proposals in human rights matters (mainly questions regarding the provisions concerning immigration and the legalisation of aliens' residence) and in the field of state – citizen relations (mainly questions regarding the provision of services to citizens, and taxation).
- **Citizens more aware of their rights and of the institutional role of the Ombudsman** – Increase in the number of cases corroborated, with a corresponding decrease in the number of unfounded complaints.
- **Prefectures and municipalities have difficulty accepting and adopting the proposals of the Office of the Ombudsman** – Increase in the non-resolution of

maladministration cases involving Local Government Authorities; increase in the proportion of non-acceptance of Ombudsman proposals.

- **More complaints from the regions** – A steady increase in the number of complaints (40% of the total) submitted by citizens who live in the regions, and outside the country's major urban centres.
- **Immigrants trust the Office of the Ombudsman and petition it** – The number of foreign citizens having resort to the Office of the Ombudsman remains high. Nonetheless, the complaints submitted by non-Greek citizens amount to 4.7% of the total, which is appreciably lower than the corresponding ratio of this group to the total population. Their overrepresentation in the Department of Human Rights' cases (32.8%) reflects, on the one hand, their limited dealings with public services in general, and on the other, the gravity of the problems linked to the acquisition of legal residence status.
- **Delays, the most common form of maladministration** – Principally in the issuing of decisions, the performance of actions, the procedure of replying to a request or convening an administrative committee, and in the infringement, or mistaken application of the law. Insufficient or nonexistent substantiation of administrative acts, abuse of power and refusal to cooperate with the Office of the Ombudsman, with accompanying problems in the information and awareness of citizens, also frequently constitute maladministration problems.
- **Insurance funds, municipalities and prefectures are involved in 6 out of every 10 maladministration cases** – Insurance funds, municipalities and prefectures show an increase in their participation in corroborated complaints handled by the Office of the Ombudsman. The increase in the percentage of cases in which municipalities were involved (from 13.4% in 2001, to 20.4% in 2003) and prefectures (from 8.2%, to 12.9%, correspondingly) is characteristic of this trend. They are followed by private law public entities falling under the supervision of the state (mainly public utilities), which however show a decrease in relation to the previous year (6.2%), the services and subordinate organisations of the Ministry of Education (9.8%), of the Ministry of Economy and Finance (8.7%), of the Ministry of the Interior, Public Administration and Decentralisation (6.5%), and of other ministries.

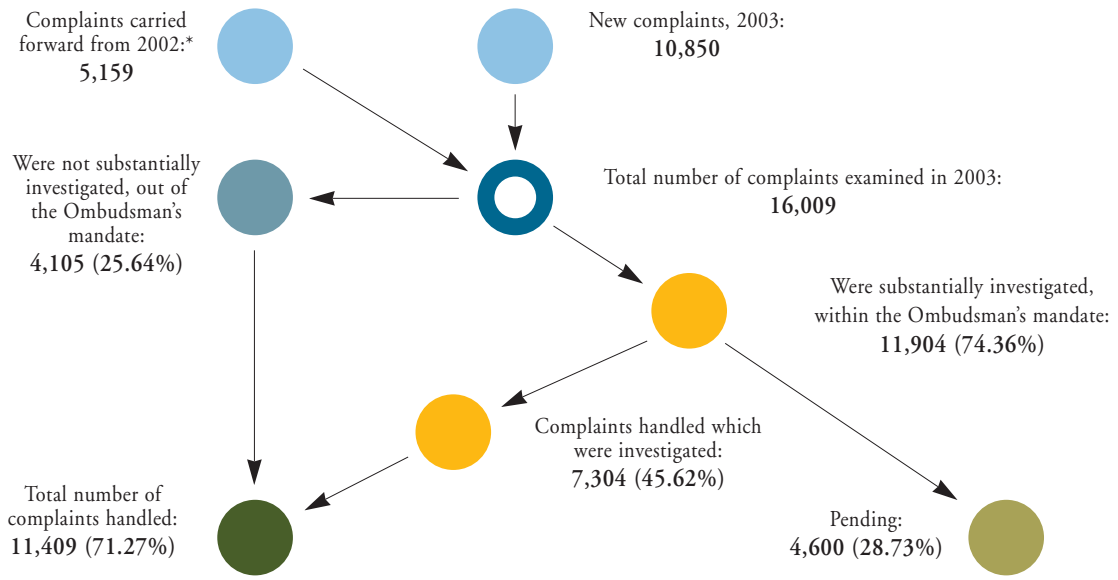
GRAPH 1 **NEW COMPLAINTS RECEIVED, 1998 – 2003**



DEPARTMENT OF HUMAN RIGHTS
DEPARTMENT OF SOCIAL WELFARE
DEPARTMENT OF QUALITY OF LIFE
DEPARTMENT OF STATE – CITIZEN RELATIONS
DEPARTMENT OF CHILDREN'S RIGHTS

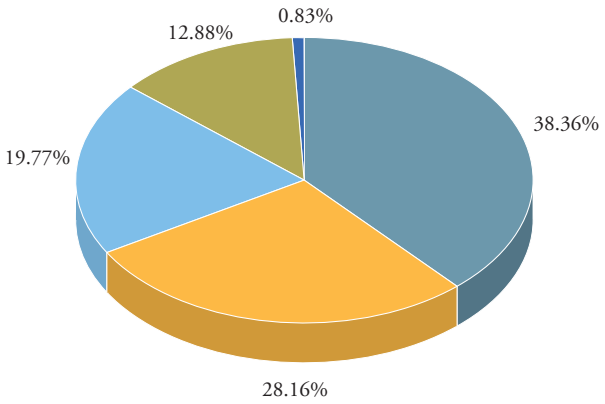
YEAR	NEW COMPLAINTS
1998	1,430
1999	7,284
2000	10,107
2001	11,282
2002	11,762
2003	10,850
TOTAL	52,715

DIAGRAM 1 **PROCESSING OF COMPLAINTS IN 2003**



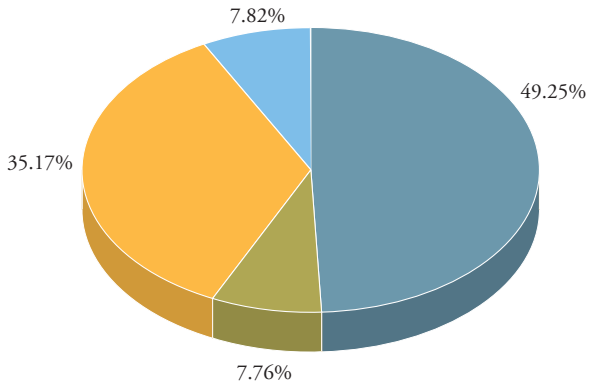
* This includes complaints which were shown as handled in the *2002 Annual Report*, but which were re-classified as pending, following the submission by the complainants of new data.

GRAPH 2 **DISTRIBUTION OF NEW COMPLAINTS BY DEPARTMENT**



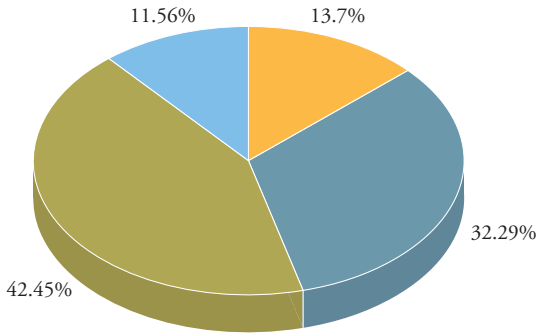
- DEPARTMENT OF HUMAN RIGHTS [**38.36%**]
- DEPARTMENT OF SOCIAL WELFARE [**28.16%**]
- DEPARTMENT OF QUALITY OF LIFE [**19.77%**]
- DEPARTMENT OF STATE – CITIZEN RELATIONS [**12.88%**]
- DEPARTMENT OF CHILDREN'S RIGHTS [**0.83%**]

GRAPH 3 **OUTCOME OF THE CASES INVESTIGATED**



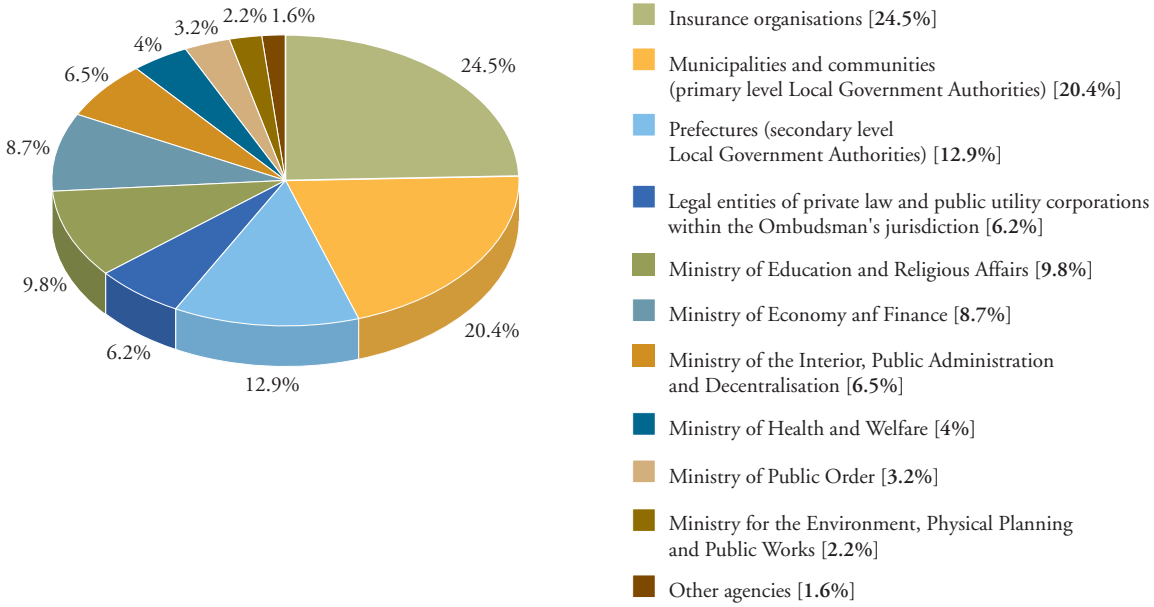
- FOUNDED COMPLAINTS [**49.25%**]
  Positive outcome – satisfaction of the complainant's request
- FOUNDED COMPLAINTS [**7.82%**]
  Non-acceptance of the Ombudsman's proposals – non-satisfaction of the complainant's request
- UNFOUNDED COMPLAINTS [**35.17%**]
- INVESTIGATION DISCONTINUED [**7.76%**]

GRAPH 4 **OUTCOME OF FOUNDED COMPLAINTS**

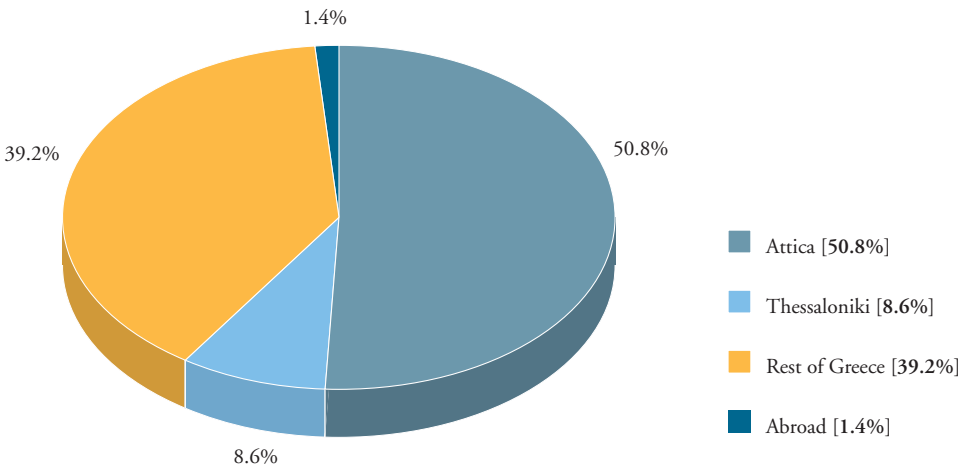


- Resolution without the intervention of the Ombudsman [**11.56%**]
- Resolution following simple mediation [**42.45%**]
- Acceptance of the Ombudsman's suggestions/proposals by the administration [**32.29%**]
- Non-acceptance of the Ombudsman's proposals by the administration [**13.7%**]

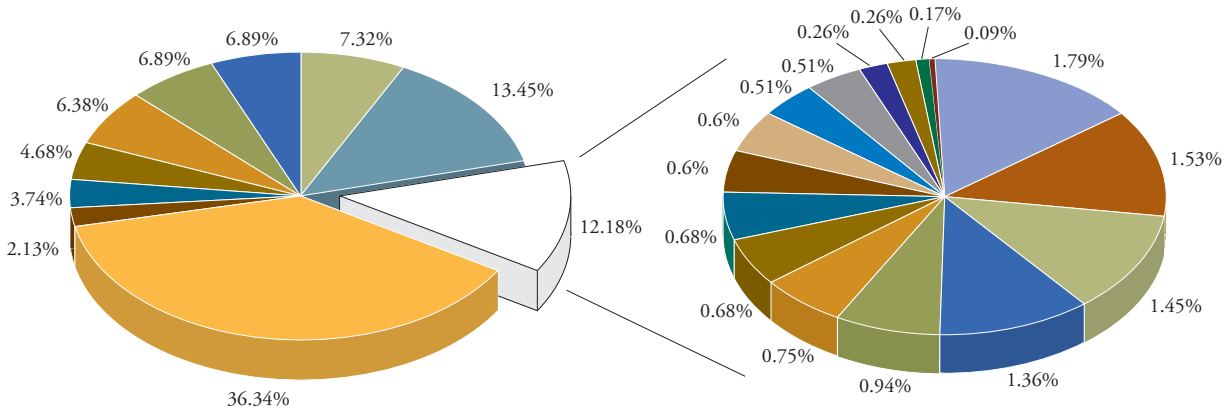
GRAPH 5 **DISTRIBUTION OF MALADMINISTRATION CASES BY AGENCY INVOLVED**



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

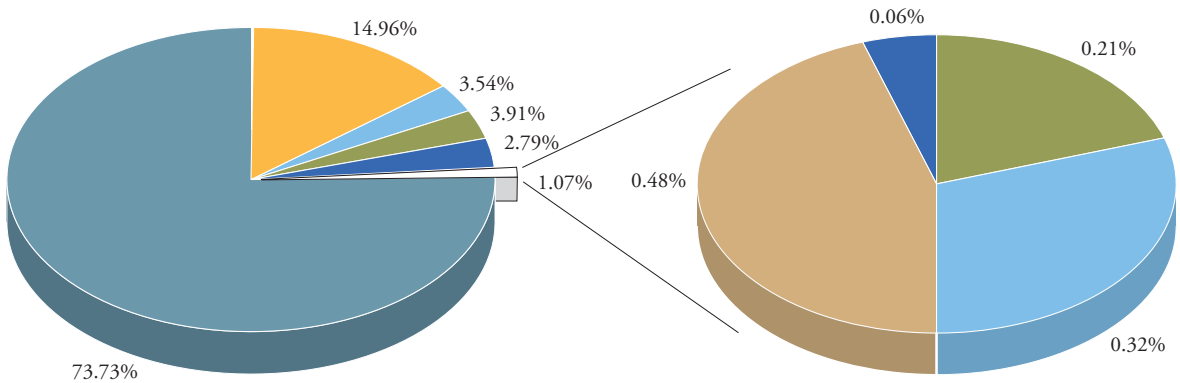


GRAPH 7 **DEPARTMENT OF HUMAN RIGHTS: DISTRIBUTION OF COMPLAINTS BY SUBJECT**



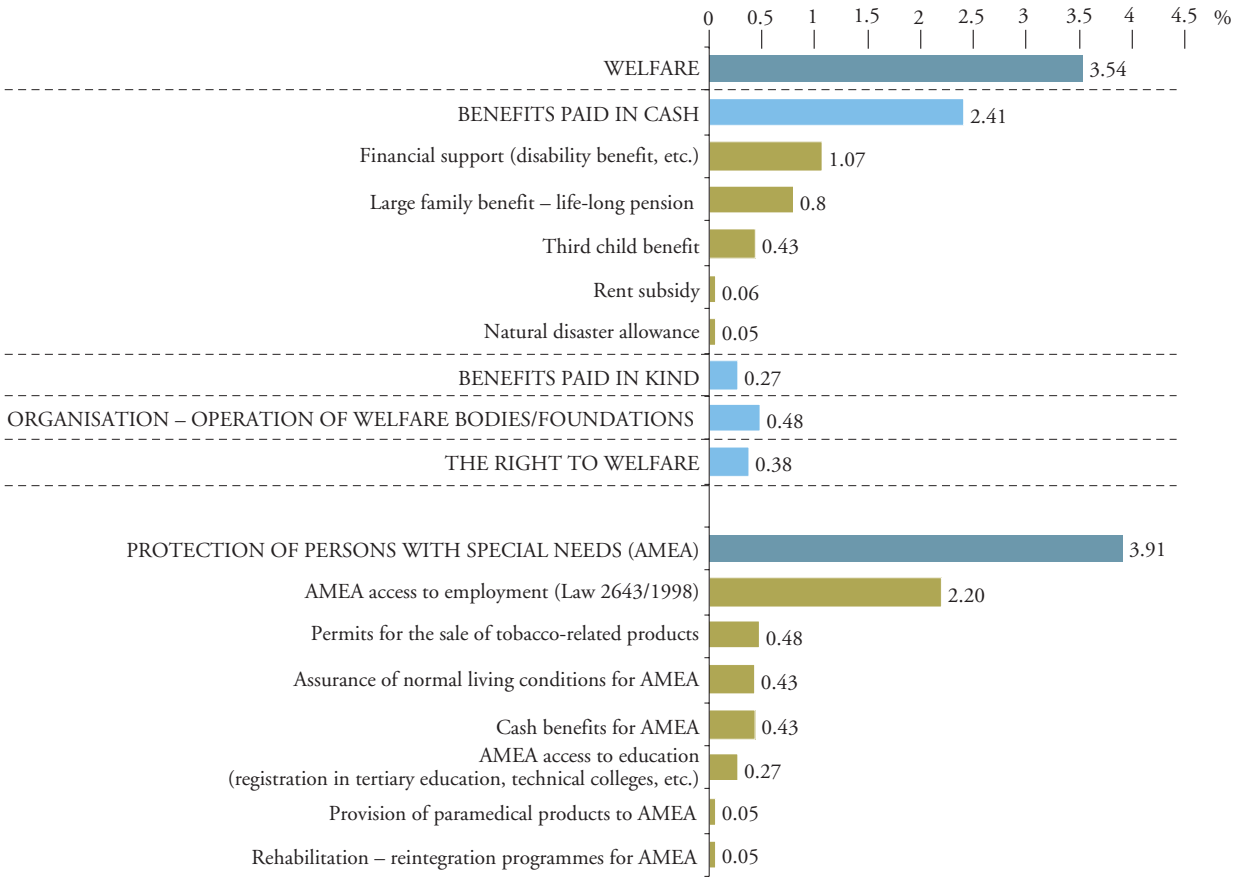
- Legal status of the entry and residence of aliens [**36.34%**]
- Secondary and tertiary education [**13.45%**]
- Citizenship [**7.32%**]
- Civil status [**9%**]
- The right to plea, hearing and other rights in the context of administrative procedures [**6.89%**]
- The right to work [**6.38%**]
- Personal freedom [**4.68%**]
- Judicial protection [**3.74%**]
- Military service [**2.13%**]
- Protection of personality [**1.79%**]
- Freedom of religion, opinion and convictions [**1.53%**]
- Protection of ownership [**1.45%**]
- Invasion of privacy [**1.36%**]
- Economic freedom [**0.94%**]
- Infringements of gender equality [**0.75%**]
- Special rights of EU member state citizens [**0.68%**]
- Freedom of the press [**0.68%**]
- Unions – associations [**0.6%**]
- The rights of minority groups [**0.6%**]
- Discrimination against aliens [**0.51%**]
- Freedom of art and scientific research [**0.51%**]
- The right to vote [**0.26%**]
- Protection of marriage and the family [**0.26%**]
- Protection of citizen's rights against infringement by private individuals [**0.17%**]
- Freedom of assembly [**0.17%**]

GRAPH 8 **DEPARTMENT OF SOCIAL WELFARE: DISTRIBUTION OF COMPLAINTS BY SYBJECT**

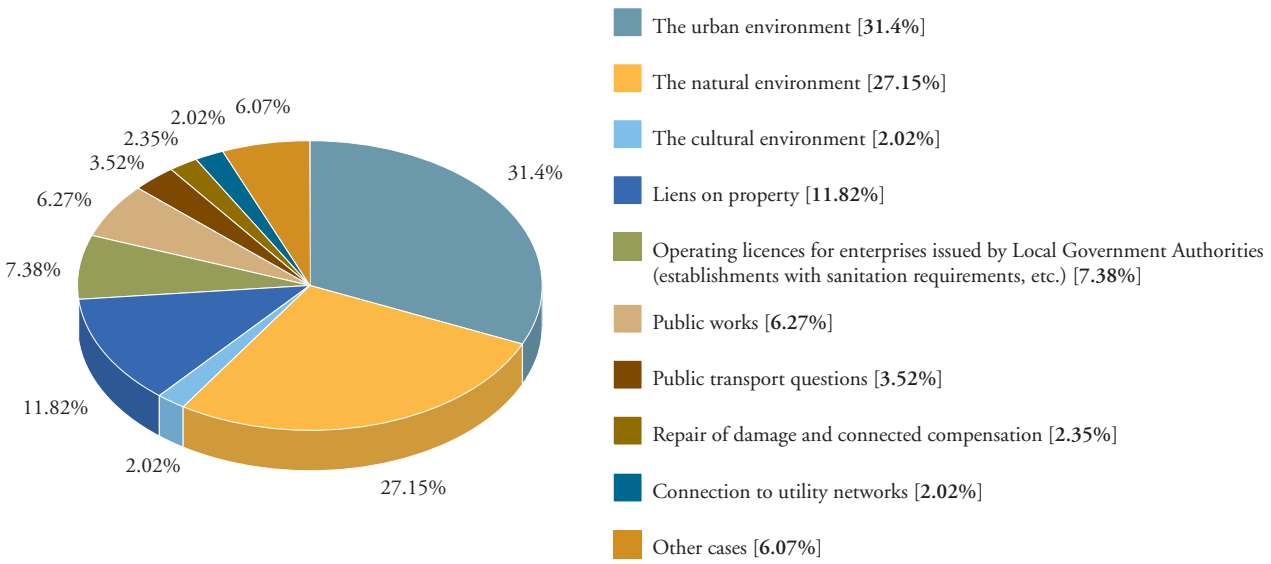


- Social security [**73.73%**]
- Health [**14.96%**]
- Welfare [**3.54%**]
- Protection of persons with special needs [**3.91%**]
- Protection of the unemployed [**2.79%**]
- Protection of children [**0.21%**]
- Protection of the socially excluded [**0.32%**]
- Protection of motherhood [**0.48%**]
- Protection of the elderly [**0.06%**]

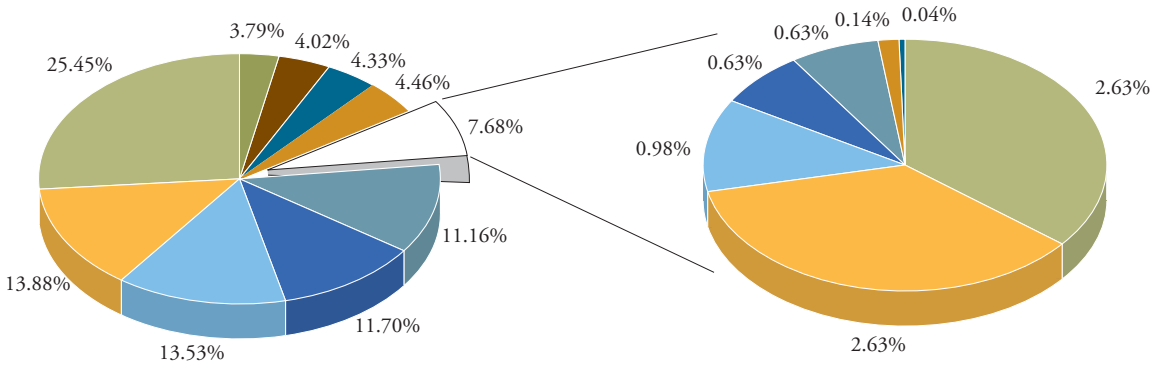
GRAPH 9 **WELFARE AND PROTECTION OF PERSONS WITH SPECIAL NEEDS**



GRAPH 10 **DEPARTMENT OF QUALITY OF LIFE: DISTRIBUTION OF COMPLAINTS BY SUBJECT**

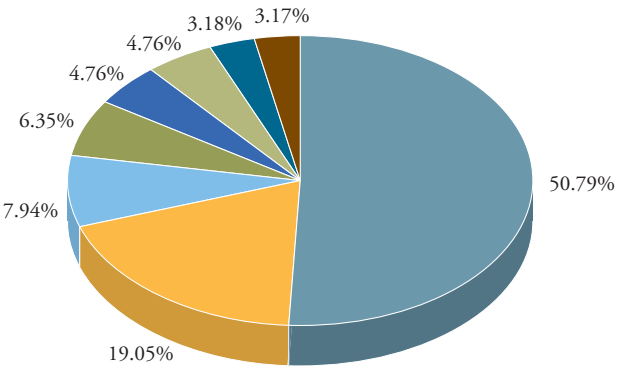


GRAPH 11 **DEPARTMENT OF STATE – CITIZEN RELATIONS: DISTRIBUTION OF COMPLAINTS BY SUBJECT**



- Provision of services and public administration responsibility [**25.45%**]
- Taxation [**13.88%**]
- Public utility corporations – Municipal Water Supply and Drainage Enterprises [**13.53%**]
- Education (teaching – formation – training) [**11.70%**]
- Maladministration in Local Government Authorities [**11.16%**]
- Recruitment (falling outside the ASEP procedures and sub-contracting agreements) [**4.46%**]
- Imposition of fines for traffic offences [**4.33%**]
- Transport and communications [**4.02%**]
- Labour – employment [**3.79%**]
- Agriculture – agricultural policy [**2.63%**]
- Loans – workers' tenements [**2.63%**]
- State procurement (tenders – awards) [**0.98%**]
- Customs [**0.63%**]
- Imposition of fines by administrative authorities [**0.63%**]
- Public works' machinery licensing dues [**0.14%**]
- Organisation of Public Materials Management [**0.04%**]

GRAPH 12 **DEPARTMENT OF CHILDREN'S RIGHTS: DISTRIBUTION OF COMPLAINTS BY SUBJECT**



- Education and the rights of children [**50.79%**]
- Health, welfare, safety, social security of minors [**19.05%**]
- Family – foster care [**7.94%**]
- Reception of aliens and refugees [**6.35%**]
- Social inclusion, recreation [**4.76%**]
- Abuse – exploitation [**4.76%**]
- Identity [**3.18%**]
- Publicity – the child as consumer [**3.17%**]

4

Activities by Department

DEPARTMENT OF HUMAN RIGHTS

DEPARTMENT OF SOCIAL WELFARE

DEPARTMENT OF QUALITY OF LIFE

DEPARTMENT OF STATE – CITIZEN RELATIONS

DEPARTMENT OF CHILDREN'S RIGHTS

Department of Human Rights

THE DEPARTMENT OF HUMAN RIGHTS deals with questions of infringement of individual, political and social rights, which are protected by the Constitution or by international treaties which have been incorporated in national law.

In 2003, the Department received complaints concerning, among others, questions of civil liberties (particularly the physical integrity and personal security of Greek citizens and aliens), the access of special groups to the labour market (particularly the unwillingness of professional associations to admit new members, the problems of the system for the recognition of foreign academic diplomas, and the certification of corresponding professional rights), the non-application of court decisions, evasion of legality assessment, the legal status of the residence and employment of aliens, and the reception procedure for asylum seekers.

1. Civil Liberties

Complaints in which individuals protest at infringements of their personal security and freedom, or of their dignity and personality by police officers, in the context either of routine controls or of their detention, continued unabated in 2003. This led the Office of the Ombudsman to take more comprehensive steps with the appropriate ministry.

The Office of the Ombudsman collected, in the form of a report (June 2003), its findings in a series of complaints concerning the legality of remand and of police enquiries. This report attempted to demonstrate the involvement of the central services of the Greek Police and of the Ministry of Public Order, since the written responses of the police directorates in question displayed entrenched interpretative stances, which rendered impossible the implementation of any disciplinary investigation, or even the continued mediation of the Ombudsman. These fixed positions rely particularly on the individualised argument of 'serious grounds for suspicion' as the precondition which validates the arrest and remand for verification of identity (article 74 of Presidential Decree 141/1991), restraint with handcuffs (article 119 of Presidential Decree 141/1991), fingerprinting (articles 27 and 29 of Presidential Decree 342/1977), bodily search and search of means of transport (article 96 of Presidential Decree 141/1991).

The Ombudsman considers that it is clearly within the police's mandate to make informed judgements regarding the existence of 'serious grounds for suspicion' as justification for their acts. However, this judgement is subject to control, for the very reason that it is a function of the policeman's jurisdiction, and not his right; therefore, it must be based on verifiable reasoning, which will make possible, after the event, an assessment of legality.

The Ombudsman's proposals regarding the specific question of the length of time for which people may be remanded in a police station, met with a favourable response from the Central Command of the Greek Police, which instructed the criminal investigation departments 'to take all necessary steps to speed up the procedure of converting their files

to electronic format, so as to allow for on-line verifications'. Beyond this, however, the Ministry of Public Order has not responded to the Ombudsman's proposals. Quite to the contrary, subsequent complaints confirm the persistence of these problems. Remands continue to take place with a very broad interpretation of the provisions of Presidential Decree 141/1991, and on the basis of criteria which smack of a 'collectivisation' of responsibility, and the non-individualised treatment of those who are subjected to police coercion. Both a tendency of legal texts to lend themselves to broad or restrictive interpretations, and the ineffectiveness of internal investigations of the Greek Police into abuses of power by police officers, appear to prolong this problem.

2. Protection of Privacy

Apart from a lack of any apparent improvement in their performance regarding the reduction of cases of invasion of privacy and safety of citizens, a number of public services performed badly with regard to the protection of privacy. In this respect one should note the ease with which police authorities sometimes make public the names of individuals involved in – sometimes admittedly repulsive – crimes (e.g. child pornography). Despite the broad social and moral contempt in which this type of criminal activity is held, it should be self-evident that under no circumstances is it permissible to bypass, or interpret in *malam partem*, provisions concerning the protection of privacy, such as those of Law 2472/1997, or recognised principles of criminal procedural law, such as that of the presumption of innocence. Besides, it is the capacity of the state authorities, to whom the difficult task of containing such antisocial behaviour has been assigned, to ensure that those accused benefit fully from their constitutional rights that constitutes the clearest validation of our system of government as a true rule of law. It should be further noted that the ease with which names are made public is in reverse proportion to the willingness of the public authorities to satisfy requests for access to documents, in contravention of both article 10 of the Constitution, and of the provisions of the Code of Administrative Procedure (Law 2690/1999).

PUBLICATION OF NAMES OF INDIVIDUALS ACCUSED OF SEXUAL CRIMES

AUTHORITIES: *Department of Security of the Police Directorate of Attica – Central Command of the Greek Police*

In two press releases issued by the Department of Security of the Police Directorate of Attica, 21 persons were named who had been arrested for 'trafficking in child pornography material over the internet' and 'licentious acts between two men in the presence of third parties'. Two days after the publication of the second press release, one of those named committed suicide while in detention.

Following a complaint by a non-governmental organisation, which was accepted because of the particularly serious nature of the matter, the Office of the Ombudsman pointed out to the authority in question, and to the competent ministry that, according to articles 2 and 7 of Law 2472/1997, the publication of the names of persons remanded in custody is permitted only if, on the basis of specific reasoning, it is necessary for a more complete investigation of crimes. But even then, allusion to the persons remanded as 'guilty' infringes the presumption of innocence (Decision of the European Court of Human Rights of 10.2.95, Allenet de Ribemont versus France).

In response, the Department of Security of the Police Directorate of Attica defended the correctness of the publication of the names, citing the needs of 'criminological and correctional policy which among other aims is concerned, principally, with general prevention'; also that, despite the fact that sexual activities clearly fall within the sense of delicate personal information, these (sexual activities) were publicised by the very nature of the behaviour of the detainees. This behaviour 'constituted a criminal act, committed in public, which was an assault on the legal right to a personal sense of decency, at least on that of the two police officers who became aware of it, and therefore the publication of this behaviour was permissible without the consent of the parties concerned'.

The Office of the Ombudsman pointed out to the Central Command of the Greek Police that, in this way, general prevention is misinterpreted as extending the 'legal mistreatment' to which detainees may be subjected, through the addition of a further – non-legal – sanction (publication). Furthermore, the acknowledgement of the existence of 'consent' to the publication, firstly misinterprets the sense of article 7, paragraph 2, passage γ of Law 2472/1997, by assuming that this consent can even be given involuntarily, and secondly it abrogates the presumption of innocence, by assuming that the detainees are guilty.

Responding to the Ombudsman's suggestion, the Central Command of the Greek Police took to task the actions of the Department of Security of the Police Directorate of Attica and issued a circular by which all the country's police departments are instructed to refrain from any action which could lead to detainees' names being publicised.

3. Free Development of Personality

The liberal core of the Greek democratic political system is without any doubt to be found in the constitutional protection of everyone's right to develop his personality freely and to participate in social life (article 5 of the Constitution). In the Ombudsman's experience this constitutional clause is a directly applicable law provision in circumstances where various aspects of the citizen's ability to plan and implement freely his life plans (e.g. to choose to exercise a particular profession; to choose a particular form for his public persona and more generally to develop a certain public image, with which he will participate in social life; to enjoy the public honour and accolades foreseen by law, etc.) is endangered by the invocation, under the same clause, of *bons mœurs* or some form of public interest as limits to the exercise of this right.

CERTIFICATE OF CELIBACY

AUTHORITY: *Ministry of the Interior, Public Administration and Decentralisation*

The Office of the Ombudsman was called on to handle a particularly delicate case in the application of article 5, paragraph 1 of the Constitution, regarding the compatibility with this article of a certificate of celibacy, for the purpose of exercising the profession of prostitute.

A married woman submitted a complaint, protesting the imposition of particularly burdensome limitations on the exercise of the profession of prostitute: Article 1 of Law 2734/1999 foresees the obligation to provide a certificate of celibacy, widowhood or divorce, in order for a certificate for the practice of prostitution to be issued.

As long as it constitutes a conscious choice on the part of an adult, the practice of prostitution is in principle an expression of the personal freedom of this individual, which is, on the one hand, subject to limitations and state supervision, but, on the other hand, within the spirit of article 5 of the Constitution. All those forms of expression and activity with which the primarily unimpeded autonomy of the individual manifests itself, fall under the protective umbrella of this provision; thereby also, the free sexual disposition of one's body.

Thus, prostitution, despite any moral censure which might attach to the commercialisation of the sexual act, benefits from the protection afforded under article 5 of the Constitution, provided that for the rest, it doesn't infringe on the Constitution, the rights of others, and good morals. At the same time, and since it would appear that the law itself recognises this activity as a profession, prostitution, as an expression of the individual's freedom of participation in social and economic life, falls under article 5 of the Constitution more generally, and not only under the section concerned with the right to economic freedom.

The Office of the Ombudsman concluded, in its finding, that the retention of the limitation in question does not appear to comply with the constitutionally protected right to the free development of personality. The Ministry of the Interior took a legislative initiative and tabled a corresponding amendment in Parliament to Law 2734/1999, in accordance with the above observations; however, this was finally withdrawn. The Ombudsman is nonetheless, in this connection, obliged to point out both the uncertainty of the legislator regarding the question of prostitution, which manifests itself in a law of dubious applicability and in the amendment mentioned previously, and the need for a more thorough and realistic, and less moralistically charged, institutional discussion of this question.

4. Free Access to Public Posts

This freedom is reflected in the obligation of the state, in order to meet its human resources requirements, to engage the necessary personnel on the basis of objective criteria, which enable a choice based on merit and preclude unfair distinctions between candidates, and, on the other hand, with procedures which ensure that criteria are given due publicity and the evaluations carried out with impartiality.

DISCRIMINATION AGAINST WOMEN CANDIDATES FOR ENTRY TO SECURITY FORCES SCHOOLS

AUTHORITIES: *Border Patrol Service – Firemen's School – Officers and Constable Schools of the Greek Police*

In order to abolish existing inequalities, and to establish real equality between men and women, the revised article 116 of the Constitution, in conjunction with the abrogation of the possibility to establish divergences from the provisions of article 4 of the Constitution, on the basis of 'sufficient grounds', renders it imperative that the state take positive measures. However, the legislature often ignores the need for objective value-based criteria of differentiation. Indeed, some attempts to establish equality, perhaps because of their imprecise nature, lead to measures of dubious constitutionality, which conceal elements of indirect discrimination.

The Office of the Ombudsman received complaints from students interested in entering the Officers and Constable Schools of the Greek Police, protesting the sudden change of the legal basis for entry, with the issuance of Law 3103/2003 and the relevant Presidential Decree 90/2003; and this during the period set out for the submission of applications. With these legislative acts, while the limited quota of women to be admitted is abolished, the minimum height requirements and the athletic performance indices required for admittance to the schools are unified with those already in force for men.

The Ombudsman pointed out that this sudden unification of requirements demands a substantiation on the basis of sound and objective value-based criteria, which should be grounded, if possible, on statistical data; otherwise, this unification would risk being interpreted as concealing an indirect discrimination against women, which is forbidden both by the Constitution (article 116) and by community law (article 119 of the Treaty of the European Community, EEC Directive 76/207).

The Ombudsman further pointed out that the sudden nature of the new measures, particularly the fact that they came into force while the tender procedure was in train, constitutes a serious affront to the constitutionally established principle of fair administration, principally with regard to the protection of the citizen's legitimate expectations. For this reason, special consideration should be given to the candidates in the current competition.

The Police Personnel Department of the Ministry of Public Order not only declined to provide substantiation for the imposition of the specific height and athletic requirements, but also to take into consideration the candidates, whose legitimate expectations were suddenly overturned. The Office of the Ombudsman was therefore obliged to draft a special report regarding the administration's non-compliance with its proposals.

5. The Status of Aliens and Refugees

The proportion of complaints handled by the Department of Human Rights, which were submitted by non-Greek citizens, remained at very high levels in 2003. The largest percentage of these complaints comes from economic immigrants, whose residence and employment in the country are subject to an exceptionally problematical regime, despite the fact that Law 2910/2001 're: immigration' has already been in force for three years. A smaller, but nonetheless significant, percentage of complaints concerns questions of refugees and asylum seekers; principally those of access to the procedures for recognition of the status of refugee.

The aggravation of the immigration problem in Greece, as in the rest of Europe, results in a risk of the erosion of the distinction between the two categories of illegal immigrants, and their treatment by state authorities as a single group. However, the institution of political asylum is central to the political culture of democracy and is expressed, both at international and national levels, in a legislative framework which establishes the obligation of states to provide special protection to this category of foreign citizens. The fate of economic immigrants, by contrast, depends on the immigration policy of the host country. Greece, in any case, continues to experience, without having set out any clear immigration policy, an increase in the number of aliens in the country, and this is reflected both in legislation and in the practice of the administration.

ENTRY AND RESIDENCE OF ECONOMIC IMMIGRANTS

The Greek state is attempting, for the third consecutive year, to complete the second operation for the legalisation of aliens illegally residing the country, and to adapt to the conditions of the new legislative framework for immigration. Because of its inherent shortcomings, Law 2910/2001 is incapable of responding effectively to the needs of a constantly evolving reality, with the result that the application of certain of its provisions constitutes a source of malfunction and injustice. These problems are compounded by the operational inadequacy of the administration (in planning, personnel, know-how and infrastructure). The perennial malfunctions of certain provisions (e.g. that of two separate permits; one for residence, one for work), in conjunction with the unexpected dimensions taken on by the consequences of the failure or bad judgement of the administration (overloading of the border crossings during holiday periods, excessive delays in both the issuing of permits and in the adoption of the necessary measures, together with the timely extension of deadlines, etc.), have unfortunately rendered the status of aliens in our country intolerable and, in numerous cases, placed at risk the exercise of fundamental rights guaranteed by the Constitution.

A positive ex-post corrective intervention by those services of the Ministry of the Interior, Public Administration and Decentralisation responsible for the supervision of the application of the law, has been carried out through eight (up to 31.12.2003) successive amendments to the law. Nevertheless, it should be noted that most of the improvements implemented had already formed the object of legislative proposals submitted previously by the Ombudsman. Unfortunately, however, this corrective intervention, as with any attempt to interpret, complete or clarify the provisions of the law, took place with such a delay that it was rendered ineffective for a great many of those whose problem it hoped to resolve. In this way a vicious circle comes into being, which leads the administration to adopt practices of a dubious legality; to acts and omissions which provoke insecurity before the law, and which, in the final analysis, foster a mentality of carelessness and irrationality. These problems, which were the object of interventions on the part of the Office of the Ombudsman, have become critical in the general application of Law 2910/2001. However, there are also more specific problems which are engendered by a) deficiencies in the law, b) cases of mistaken interpretation, c) examples of abuse of power on the part of administrative authorities and, finally, d) obstacles in the exercise of the aliens' rights, created by the services with which they deal.

POLITICAL ASYLUM

Despite the increased legal force given to the Geneva Refugee Convention (1951) by the provision of article 28, paragraph 1 of the Constitution, and the advanced spirit of the provisions of Presidential Decree 61/1999 're: the procedure for the recognition of the status of refugee', the application and establishment of these legislative texts in the Greek context continued, in 2003, to be extremely problematical. The tide of illegal immigration has, in the first instance quite understandably, pushed the administration into a defensive stance vis-à-vis the aliens illegally entering the country. This stance, however, often results in the impairment, beyond all reasonable bounds, of the obligation to provide protection to potential refugees. The Ministry of Public Order and the country's police authorities often

adopt practices of a dubious legality, which lead to an abridgement of the guarantees of protection of asylum seekers and refugees, established in international and national legislation, thereby rendering access to the asylum procedure excessively difficult, and infringing the rights of those whose application for asylum has been rejected, but whose residence in the country has been approved, on sufferance, for humanitarian reasons.

A circular issued by the Central Command of the Greek Police took a positive step towards affording more complete protection of the rights of asylum seekers held in administrative detention. In this circular, the position taken by the Office of the Ombudsman regarding access of lawyers to the detention areas of immigrants having illegally entered the country was fully adopted. The guarantee of the unimpeded right to provision of legal counsel is of great importance for asylum seekers.

However, the Central Command of the Greek Police must be particularly vigilant in the application of the orders contained in the circular as, again in 2003, the Office of the Ombudsman noted the existence of obstacles to the asylum procedure. In the course of on-sight inspections carried out in Rodos and Mytilini, it was ascertained that, on numerous occasions, effective access to the asylum procedure necessitated the intervention either of a lawyer or of a representative of an organisation outside the police authorities; this should not be the case.

6. Right to Refer to the Authorities – Administrative Procedures

The right to refer to the authorities and the citizen's other procedural powers are not simply procedural formalities, but define the status of the citizen within the administrative procedure. This is the procedural aspect of the citizen's status as beneficiary of fundamental rights. These are the legal means with which the citizen exercises these rights, to the extent that their enjoyment requires, if not the cooperation of the administration, any dealings or contact with it.

ACCESS TO ADMINISTRATIVE INVESTIGATION UNDER OATH DOCUMENTS

AUTHORITIES: *Ministry of Public Order – Police Personnel Department*

A Nigerian citizen submitted a complaint, through a representative, to the Office of the Ombudsman, denouncing his torture by electroshock by officers of the Aliens' Department of Northeast Attica, during his detention prior to execution of an expulsion order. At the time the Office of the Ombudsman became involved, the Central Command of the Greek Police had already ordered that an administrative investigation under oath (EDE) be carried out. The findings of the EDE were copied by the Office of the Ombudsman to the legal representative of the complainant, since the competent directorate of the Ministry of Public Order refused to grant him access to the file of the investigation. In support of this refusal, the administration cited confidentiality (article 27 of Presidential Decree 22/1996) and the preservation of sensitive personal data within the file of the investigation (Law 2472/1997).

In the view of the Office of the Ombudsman, the principle of confidentiality of interrogation, in the case of this EDE, cannot be applied without further justification, in order to classify its complete documentation (including the findings) as secret from the injured party whose complaint formed the basis on which the disciplinary action was

instigated; this would completely negate his right, under article 5 of Law 2690/1999, to access to administrative documents from which he can ascertain the final outcome of his action. The unimpeded exercise of the constitutionally guaranteed right to complaint creates for the administration, in every case, the obligation to provide the complainant with information regarding the progress of his complaint, and to circulate him with the contents of the findings of the EDE. 'Secret' is meant only for specific elements of the file, which are governed by specific legislation (e.g. for elements which constitute sensitive personal information of third parties involved).

As for citing the existence of personal information, this cannot be of a general nature, but must be specifically monitored, for each element of the file. The balance between the right to protection of personal information, and that of judicial protection, as fundamental to the legal right to access to the EDE documents, can be achieved by applying the criteria set out in the provisions of the Code of Administrative Procedure. According to these, access to public documents is guaranteed to all interested parties, while access to private documents is granted only to those having a specific legal interest. This right is yielded in either cases, if the elements applied for concern the family or private life of a third party (article 5, paragraphs 1, 2 and 3 of Law 2690/1999).

The Office of the Ombudsman, having developed the argument set out above, and copied it to the Department of Police Personnel, proceeded to copy the findings of the EDE to the legal representative of the complainant, which the aforementioned department had refused to do. In this way, the Office of the Ombudsman fulfilled its role as mediator, regarding that part of the case which concerned access to the EDE documents. The Office of the Ombudsman, however, has yet to issue its opinion regarding any shortcomings of the EDE itself; this will be included in a special report being drafted on the disciplinary investigation of the responsibilities of police officers.

The Department is supervised and coordinated by Deputy Ombudsman Dr. Andreas Takis, lawyer, formerly a researcher with the Department of Human Rights, special research assistant of the Department of History, Philosophy and Sociology of Law, at the Law School of the University of Athens. To 23rd April 2003, the Department was headed by the actual Ombudsman Yorgos Kaminis, assistant professor at the Law School of the University of Athens.

Department of Social Welfare

THE DEPARTMENT OF SOCIAL WELFARE examines cases related to the protection of the social rights of citizens. Beneficiaries of these social rights are Greek citizens and aliens, persons of Greek descent, repatriated Greeks and immigrants. The Department acts as monitor and mediator in combating maladministration and upholding the rule of law, on behalf of particularly sensitive social categories and groups, such as the aged, persons with special needs, the physically and mentally disabled, the Roma, refugees, aliens, etc.

The majority of complaints handled by the Department of Social Welfare in 2003 were related to social security issues, and more particularly to payments, such as pensions and benefits. Complaints about health care matters show a continuing steady increase; most of these cases concerned health insurance. Regarding welfare matters, most cases were connected to the payment of welfare benefits. These cases highlighted the existence of problems both in the eligibility criteria for beneficiaries and in access by socially vulnerable groups.

1. Explanatory Circulars

Explanatory circulars play an important role in the application of social security legislation, because this has not been consolidated. In certain cases, however, these constitute an alteration of the legislative provisions.

PROCEDURE FOR THE REPLACEMENT OF ARTIFICIAL LIMBS BY THE SOCIAL SECURITY ORGANISATION

A citizen registered with the Social Security Organisation (IKA) submitted a complaint, protesting against the IKA practice of accepting costs for the replacement of artificial limbs only if five years have passed since the limbs were initially approved. A circular issued by the management of the IKA imposed this time restriction.

The Sickness Regulations of the IKA (article 26) do not make any mention of the frequency with which the insured is entitled to make use of the organisation's benefits. However, by decision of the governor, an extraordinary specialist committee was formed, which drew up a list of the artificial orthopaedic and corrective items issued by the IKA, together with instructions for the procedures and conditions governing their provision. Subsequently, a corresponding circular was circulated to the IKA offices, which stated expressly that 'replacement of artificial lower limbs is possible after five years have passed'.

In this specific case, the circular sets restrictive conditions regarding the provision of health care to which the insured is entitled. The competent services do not even consider the insured person's request for replacement of the artificial limb, if the specified time has not elapsed.

2. Social Security

TETRAPLEGIA – PARAPLEGIA BENEFIT

The tetraplegia – paraplegia benefit is provided by the insurance organisations according to article 42 of Law 1140/1981. In the article in question, it is set out that 'The insured with social security organisations, within the competence of the Ministry of Health, Welfare and Social Security, who have been certified by a special committee as suffering from tetraplegia – paraplegia with a 67% and over degree of medical disability, are entitled to a monthly extra-institutional benefit.' Beneficiaries are insured persons and pensioners of the social security organisations, together with the members of their families. This financial benefit is intended at meeting increased expenses, since tetraplegia – paraplegia and other conditions with the same effects on mobility render patients unable to look after themselves. More specifically, according to established jurisprudence, are entitled to this benefit not only people afflicted with tetraplegia – paraplegia, who are mentioned expressly in article 42, paragraph 1 of Law 1140/1981, but also, for reasons of common sense, those suffering from illnesses which entail the same degree of disability.

For the sixth consecutive year, the Office of the Ombudsman has received a steady number of similar complaints, which points to the existence of a serious social problem. The problem identified by the Office of the Ombudsman in the procedure for the approval of this benefit lies in the fact that applications are rejected without substantiation, or with insufficient substantiation.

The insurance organisations as a rule refuse to confer this benefit to patients suffering from illnesses with the same effect as tetraplegia – paraplegia, and the public health committees will not issue opinions for a specific purpose, which is an essential element needed to qualify for the benefit. This practice goes against jurisprudence established by the Council of State, as was noted in a finding-proposal by the Office of the Ombudsman.

MATERNAL BENEFITS

The integration of women in the labour market, but also the increase in the birth-rate, are basic aims of social policy – among others, of employment policy.

In its role as mediator, the Office of the Ombudsman investigated complaints which raised problems related to the insurance coverage of the working pregnant woman. The principal question concerns the extent to which current provisions (minimum contributions) for the payment of maternity benefits meet certain new conditions which have brought about changes in the labour market, the family structure and the role of women. More specifically, citizens insured by the IKA complained to the Office of the Ombudsman that their insurance organisation refused to pay them pregnancy and childbirth benefits, on the grounds that they had not completed the minimum contributions foreseen by law. That is to say that they did not fulfil the requirement for at least two hundred working days insured by the organisation, during the two years preceding the probable date of childbirth.

In two other cases, persons who had completed more than 200 days of insurance, did not meet more specific requirements which foresee that the time insured must, in any case, have been with the organisation paying the benefit .

In both cases, the administration acted in accordance with the law. In the first case,

legislation does not allow for the mobility of the worker between the public sector and the IKA, which is a common phenomenon in today's labour market. In the second case, the total insured time of women, together with the peculiarities that this may display, is not taken into account, which results in a restriction of the woman's right to decide when she will have a child. Although the eventualities in which there is a gap in the coverage of the insurance risk of motherhood are not limited to these two cases, they demonstrate that the strictly applied condition of 200 working days in the preceding two years and, what is more, with the same organisation which will issue the benefit, effectively limits the application of the constitutional imperative regarding the protection of motherhood.

The Office of the Ombudsman considers that these cases demonstrate the necessity for a re-examination of the protected status of the pregnant working woman and, more particularly, of the conditions for the payment of the relevant benefits; in order that the primary aim of motherhood benefits, which is to compensate working women for the loss of income due to pregnancy and childbirth, should not be invalidated in practice. In the light of the crisis experienced by the concept of full and permanent employment, this necessity becomes even more apparent when one considers that the working life of women, and indeed of all working people, is no longer something stable and one-dimensional. Changes in employer or in the type of employment, periods taken off work for family, educational or other reasons (termination of employment, discontinuous employment, part time employment) – in other words, mobility in the labour market – create new conditions and new needs. It is therefore essential that the more specific regulations of the social security organisations respond to these conditions of mobility.

UNEMPLOYMENT BENEFIT

AUTHORITY: *Manpower Employment Organisation, Thesprotia branch*
SUBJECT: *Commencement of unemployment coverage*

An unemployed woman submitted a complaint to the Office of the Ombudsman regarding the rejection of her application for unemployment benefit, because of the overdue submission of the application. More specifically, the woman returned to Greece from Germany, where she had worked and paid insurance dues from September 1991 to August 2001. From this date, until the end of March 2002, when her employment contract in Germany was revoked, she was on maternity leave. Upon her return to Greece, she submitted an application for unemployment benefit which was rejected, on the grounds that the 60-day period from the cancellation of her contract, foreseen for submission of applications, had expired. In a mistaken application of the law, the Thesprotia branch of the Manpower Employment Organisation (OAED) considered the starting date of this period as being the date on which her maternity leave began, and not the date on which her employment contract was cancelled.

The Office of the Ombudsman pointed out that the regulation foresees that the 60-day period starts from the point at which the employment contract is dissolved. The employment contract is not dissolved upon commencement of maternity leave, but is simply suspended as long as this leave continues. In the event of puerperium, the employee retains her position, and she may not be dismissed during the period of suspension. The Office of the Ombudsman asked the service to re-examine the question of the

commencement of the 60-day period, and to approve the benefit, providing the complainant met the insurance conditions laid out in article 4 of Law 1545/1986. Following the Office of the Ombudsman's intervention, the OAED approved the unemployment benefit.

FINANCING OF THE SOCIAL SECURITY SYSTEM

AUTHORITY: *Social Security Organisation*
SUBJECT: *Non-payment of contributions – Ensuring the confidentiality of charges against employers regarding non-payment of contributions*
The Office of the Ombudsman received a complaint in which the complainant claimed that her anonymity had not been respected, as she had herself requested, in the matter of charges she had filed with the Social Security Organisation (IKA) against her employer for non-affixation of social security stamps. More specifically, both in the order for the imposition of contributions, and in the decision of the local administrative committee which was issued following a protest lodged by the employer, it is mentioned that the imposition of contributions took place following charges filed by the complainant. This resulted in an aggravation of the relations of the complainant with her (former) employer, and the non-renewal of a fixed term employment contract she had signed with the company.

A reading of the regulations governing the examination of complaints submitted by the insured shows that there is no specific clause obliging IKA officials not to reveal to the employer the identity of the complainant. IKA officials are bound to confidentiality on matters they have learnt about, or which have simply come to their attention, and concern insurance requirements, and the certification and receipt of contributions, according to the general provisions of article 26 of the Employees' Code. However, in paragraph 2 of the same article, it is stipulated that 'the obligation to confidentiality is subordinated in those cases where the citizen's right to be informed of administrative documents is foreseen'.

The Office of the Ombudsman expressed to the management of the IKA the view that the protection of the insured employee during the investigation of charges regarding failure to insure or incomplete insurance, constitutes a justifiably protected interest, taking precedence over the interest of the employer in gaining access to the written charges. In order to deal with this problem, the Office of the Ombudsman proposed that a provision corresponding to that in force for employees of the Labour Inspectorate (article 8 of Legislative Decree 2954/1954), be adopted, whereby it would be forbidden to reveal the names of employees filing charges or complaints, and to provide copies of the written charges.

3. HEALTH

THE PROVISION OF COPIES AND INFORMATION FROM MEDICAL FILES

The Department of Social Welfare examined a considerable number of complaints in which the complainants noted the refusal of the services to provide copies or information from their medical file, authentications or verifications of a medical nature or, more generally, a refusal to issue copies of administrative documents linked to the operation of the services, such as hospital regulations.

The fact that the health sector and its services is a crossroads area where medical, administrative and legal science meet, constitutes an added difficulty in the effective provision of services. The public health units appear to underestimate administrative procedures as a criterion of evaluation of the quality of the care provided.

The administrative services of the hospitals often hinder citizens' access to administrative documents, because of ignorance or poor application of the Code of Administrative Procedure and legislation regarding the protection of personal data. In addition, they often cite protection of medical confidentiality as grounds for preventing access to information in the medical file. However, this attitude goes against the principle of transparency of administrative acts, and fosters illegal avoidance of public control.

The practice of not providing patients with copies or information from their medical file, which cannot be reproduced within the hospital (e.g. x-rays), or even a verification of hospitalisation, demonstrates an insufficient knowledge of administrative procedure and, by extension, imperfect protection of the patient's rights.

Similar problems arise in more complicated situations; when, for instance, the medical background or the treatment history are requested by relatives of someone recently deceased, by third parties with a legitimate interest, or by a person legally empowered by the patient. Medical confidentiality is without any doubt a fundamental right of the patient, which can only be circumvented in cases of overriding public interest. On the other hand, though, the legal protection of confidentiality constitutes a concurrent restriction of the liberty of expression and of the right to information. This restriction is however necessary in order to protect the privacy of the patient. In order for confidentiality to be waived, a balance must be reached, on the principle of proportionality, between invasion of privacy and the legal aim which this invasion serves.

From previous experience, the Office of the Ombudsman has noted that in these cases, the hospital administrations often avoid providing information, without assessing the interests which are put at risk and, furthermore, do not provide full and detailed reasoning for their refusal, when this is called for.

HEALTH PROTECTION

AUTHORITY: *'Ayia Sofia' Regional General Children's Hospital*
SUBJECT: *Transfer of the responsibility for payment of expenses to an insured of the Agricultural Insurance Fund, despite the provision for free treatment under the National Health System*

The Office of the Ombudsman received a complaint from an insured of the Agricultural Insurance Fund (OGA) in which she complained that, while her daughter was being treated at the 'Ayia Sofia' Regional General Children's Hospital, she was obliged to pay the amount of 216 euros for tests carried out by a private laboratory. She had asked the hospital to cover the expense, and then seek reimbursement from the insurance organisation, the OGA. In this way, her right to the free treatment of her indirectly insured under-age daughter would not be infringed.

Relevant legislation does indeed foresee the coverage of itemised costs by the insurance organisation, thus fulfilling the right to free treatment, or in other words, to protection from the insurance risk of illness. However, because the OGA is often very slow in paying,

or does not cover, obligations, the hospital decided to reverse the procedure and transfer the obligation arising from the public health services to the patient. As a result, the mother paid for the tests and, after her daughter had been treated, submitted the corresponding documentation to the OGA. The fund did not reimburse her, but forwarded the application for reimbursement to the hospital. At the same time, the OGA informed the hospital that it should include the expense on the special form with which hospitals request payment from the OGA of the expenses incurred by its insured. In this way, the hospital would have paid the amount owed to the insured and would have received the corresponding amount from the OGA.

This practice, apart from the fact that it is a source of worry for the insured, had, in this particular case, the effect that the insured had difficulty in obtaining reimbursement for an amount which, under normal circumstances, she should not have had to pay. This practice goes against the constitutionally established obligation of the state towards the health of its citizens and their social insurance coverage, which calls for the free treatment of those insured by the social insurance organisations in the hospitals of the National Health System.

The Office of the Ombudsman wrote to the administration of the hospital, expressing this opinion, and asked the hospital to pay the amount that the complainant had incurred, during her daughter's treatment, for the special tests. The hospital acceded to the Ombudsman's request.

In order to resolve this problem, an informative circular must be addressed to all the hospitals of the country, to ensure free tests – which are itemised and take place outside the hospital – at private laboratories, for all those insured by the OGA, during their treatment.

4. Welfare

AUTHORITIES: *Ministry of Health and Welfare – Agricultural Insurance Fund*
SUBJECT: *Extension of the provision of large family benefits to alien mothers of large families, whose children have Greek citizenship*

Alien mothers of large families, whose children have Greek citizenship, resorted to the Office of the Ombudsman, in order to secure payment of the large family benefit. More specifically, they protested the fact that national legislation does not foresee the provision of large family benefits to non-Greek, or non-EU member state, citizens. The same legislation stipulates that the beneficiary of the large family benefit is the mother. Exceptionally, the father may be the beneficiary when he is a widower, if he or his wife are disabled, or when he has gained large family status with children from different marriages.

Having investigated the question, the Office of the Ombudsman reached the conclusion that the legislative framework governing large family matters must be revised. Changes to the composition of Greek society, which are the result of the large numbers of immigrants moving to Greece in recent years, mainly from non-EU countries, in conjunction with low birth rates and worrying statistical data indicating an ageing population, call for a strengthening of the measures supporting the family, marriage, motherhood and children. Particular protection must be afforded to mixed marriages between Greek and non-EU citizens, to which children are born who have Greek nationality.

Moreover, according to jurisprudence and the report introducing Law 1892/1990, which

establishes the payment of a benefit to mothers of large families, this benefit constitutes an incentive to combat low birth rates and the demographic problem faced by Greece. Consequently, the large family should be supported, regardless of whether one of the parents is an alien, providing the other one is Greek, and the children are also Greek.

It is useful at this point to emphasise the parameters which create complications on this issue. Foreign spouses of Greeks seek Greek citizenship, but the naturalisation of aliens living permanently and legally in Greece is a time-consuming process.

The Office of the Ombudsman addressed its findings to the Ministry of Health and Welfare, and to the Ministry of Finance, outlining the opinions above, and further stressing that the state will have to take all the necessary steps to avoid discrimination on the basis of gender, race or nationality.

The Department is supervised and coordinated by Deputy Ombudsman Patrina Paparrigopoulou, a lawyer specialised in questions of administration, social insurance and labour law; lecturer at Paris I, Panthéon – Sorbonne, specialist researcher at the Law School of the University of Athens, in Social Insurance Law. To 3rd July 2003, the Department was headed by Maria Mitrosyli, a lawyer specialised in health and welfare questions, lecturer in Law at Paris X, Nanterre.

Department of Quality of Life

THE DEPARTMENT OF QUALITY OF LIFE deals with cases concerning environmental, urban planning, spatial planning, public works and cultural matters. Again in 2003, urban planning issues, particularly complaints about urban planning infringements and the implementation of urban planning master plans, constituted the bulk of cases handled by the Department. At the same time, however, an increase was noted in the percentage of cases related to compulsory expropriation and urban planning charges, the execution of public works, the operating licences of enterprises, and transport issues (parking, traffic). Following the publication of the Office of the Ombudsman's special report on the subject, there was also a marked increase in the number of complaints about mobile phone base stations.

Special mention should be made of the cases which call for the simultaneous application of national and community environmental law, such as those related to the management of solid waste, the approval of environmental permits for the execution of public works and private activities, and, finally, the realisation of works and programmes in protected nature and landscape areas included in the Natura 2000 Network.

1. Urban Planning Infringements

USE OF AN ILLEGAL JETTY AND ADMINISTRATIVE EXPULSION FROM THE SEASHORE

AUTHORITIES: *East Attica Public Real Estate Service – Oropos Harbour Masters' Office*

The owner of a taverna in the Markopoulo – Oropos area submitted a complaint in which he reported the arbitrary cession of the restricted use of the seashore and of a concrete jetty, to a particular businessman in the same area. In the course of investigation it was established that for the remaining businessmen running restaurants in the area, in the vicinity of the seashore, administrative expulsion orders had already been issued in 1964.

The Office of the Ombudsman carried out an on-site inspection, and verified that the businessman in question made use of the jetty, on which he had placed tables and chairs. Subsequently, the Office of the Ombudsman contacted the Oropos Harbour Masters' Office (subordinate to the Halkida Port Authority), the East Attica Public Real Estate Service and the Directorate of Public Property of the Ministry of Economy and Finance, asking to be informed of the justification for the decision, according to which a cession was granted, exceptionally, for restricted use of the seashore and the construction of a jetty, and requested the application of the law concerning the administrative expulsion from the seashore.

The competent public real estate service issued an expulsion order and a demolition order for the jetty, considering that there were grounds for application of the law regarding illegal construction. However, the Minister of Finance issued a decision

suspending the validity of these orders, following a recommendation of the Ministry's Directorate of Public Property.

The case was filed because of pending litigation, as the heirs and assigns of the, now deceased, businessman had resorted to the competent administrative courts.

2. Natural Environment

MUNICIPAL WATER SUPPLY WORKS FROM A NATURA 2000 NETWORK AREA

AUTHORITIES: *Ministry for the Environment, Physical Planning and Public Works, General Directorate for the Environment, Special Environmental Service – Ministry of Development, Directorate of Water and Natural Resources – Region of Western Greece*

The Office of the Ombudsman received a complaint from a resident of the Municipality of Stymfalia regarding the illegal works carried out by the Municipal Water Supply and Drainage Enterprises (DEYA) of the municipalities of Korinthos and Sikyones, aimed at supplying water from Lake Stymfalia to these municipalities. The investigation of this case revealed that the works were being carried out without prior decision of approval of an environmental permit, as required by Law 1650/1986 and Joint Ministerial Decision 69269/5387/1990.

A team of Department specialists visited the area, where they discovered that the works carried out by the Municipality of Korinthos were already very close to the lake, whose surrounding area has been included in the Natura 2000 Network of protected wildlife sites, and represents one of the country's major bird habitats, according to national and community law (Joint Ministerial Decision 33318/3028/1998, EEC Directives 92/43 and 79/409).

The Office of the Ombudsman, having stressed the illegality of this project to the administration, and the risk of non-reversible damage to the habitat, requested the cessation of all related work. The Office also stressed the obligation of the administration to find an overall solution to the problem, by including the drafting of a comprehensive hydrological survey of the prefecture before the execution of works, as dictated by Law 1739/1987.

In addition, the Office of the Ombudsman addressed itself to the Ministry of Development requesting that the regional committee for the Northern Peloponnese water resource management area be convened.

The disputed works did not continue. At the end of 2001, a joint ministerial decision was issued, regarding water supply works for Korinthos by the DEYA of Korinthos. Further examination of this decision showed that changes had been made to the environmental impact assessment study originally submitted, and that recommendations made by the Office of the Ombudsman regarding incomplete and faulty data about boring as a means of water supply, had been taken into account. However, the joint ministerial decision was issued before the elaboration of a water resource development programme for the prefecture or the district.

The Ministry for the Environment, Physical Planning and Public Works returned to the Municipality of Sikyones the files containing the preliminary environmental impact assessment study, in order for the project to be redesigned on the basis of a co-management of the area's water resources, as recommended by the Office of the Ombudsman and proposed by the Ministry of Development. The Office of the Ombudsman had also

suggested that a special environmental study of the area be drawn up, to ensure its protection on the basis of a presidential decree, according to article 21 of Law 1650/1986; this suggestion was not adopted by the Ministry for the Environment, Physical Planning and Public Works.

Finally, the Municipality of Stymfalia resorted to the Council of State with a request for cancellation of the joint ministerial decision, which was approved by decision of the Council of State's 5th Section. The findings behind this decision are similar to the Office of the Ombudsman's comments, in that the DEYA are not entitled to proceed to the execution of works for the development and use of water resources, unless a water resource development programme for the relevant area has been approved, in accordance with Law 1739/1987.

SITING OF SOLID WASTE MANAGEMENT WORKS

AUTHORITIES: *Imathia Prefectural Government – Directorate for the Environment and Physical Planning of the Region of Central Macedonia*

The Office of the Ombudsman received a complaint requesting an appraisal of the legality of a decision taken by the Prefect of Imathia, by which an area south of the Aliakmonas River, within the administrative boundaries of the Municipality of Makedonida, was approved as suitable as a site for the waste management works of the Prefecture of Imathia. At the time the complaint was submitted, the procedure for the approval of the environmental permit of the project, by the Directorate for the Environment and Physical Planning of the Region of Central Macedonia, was in progress.

After extensive investigation, the Office of the Ombudsman reached the conclusion that the choice of the disputed site by prefectural decision was questionable from both a legal and a fundamental point of view. More specifically, the competent authorities were informed that:

a. The proposed site was within an area which had been declared, by decision of the Minister of Macedonia and Thrace, 'of outstanding natural beauty'; at a distance of 300 metres from the Aliakmonas River, which was destined to supply Thessaloniki with water, and the surrounding area with irrigation; and in an area of significant archaeological interest.

b. The environmental assessment and evaluation file, which had been submitted to the competent directorate of the Region of Central Macedonia, was incomplete in that neither did it contain an assessment of alternative sites, nor did it take into account the opinions of the competent services, the majority of which were negative in content.

c. The approval of only one site, as suitable for the installation of the project, constitutes a prohibited, from a legal viewpoint, substitution of management planning in the procedure for the location of works. This procedure is governed by other regulations, and is issued according to another procedure, which is different and occurs later in time, and of which an essential element is the assessment of alternative solutions in order to arrive at the choice of the most advantageous location for the implementation of the project.

The Office of the Ombudsman was obliged to discontinue its investigation, as the case was subsequently filed with the Council of State.

3. Compulsory Expropriations – Urban Planning Charges

NON-COMPLIANCE WITH A COURT ORDER FOR THE RELEASE OF PROPERTY

AUTHORITY: *Directorate for the Application of Urban Planning and Environment of the Prefecture of Athens*

The Office of the Ombudsman received a complaint that the Directorate for the Application of Urban Planning and Environment of the Prefecture of Athens omitted to comply with a decision of the Administrative Court of Appeal, which overruled the tacit refusal of the administration to proceed with the modification of a street-plan, and the demarcation of planning lines for the property of the complainant, in the Mortero area of the Municipality of Nea Erythraia, Attica.

The property in question had been designated, by a 1985 presidential decree, as an area for the construction of a kindergarten/crèche. For a period of more than 16 years, however, the administration had not proceeded to the announcement of the expropriation of the attached property. The Administrative Court of Appeal, deeming that this period exceeded any reasonable time limit within which the attachment of the complainant's property would be constitutionally justifiable, overruled the administration's tacit refusal to satisfy the complainant's request for the release of his property, and reassigned the case to the administration, in order for it to take the necessary steps.

Following Office of the Ombudsman's contacts with the services involved, a decision was finally issued by the Prefect of Athens, by which the street-plan was modified, in compliance with the court order. The Office of the Ombudsman stressed the importance of a rapid response on the part of the Prefect of Athens, as part of a self-evident obligation, in the context of a democratic legal order, to comply with court orders.

NON-COMPLIANCE WITH A COURT DECISION OVERTURNING A COMPULSORY EXPROPRIATION

AUTHORITIES: *Directorate of Urban Planning of the Prefectural Government of Aitoloakarnania – Municipality of Arakynthos*

By its decision 632/2000 the Administrative Court of Appeal of Athens overturned the expropriation of properties located in the municipal department of Mataraga, Municipality of Arakynthos, which belonged to citizens who appealed to the Office of the Ombudsman, requesting the release of their properties.

Complying with the court decision mentioned above, the Municipal Council of Arakynthos issued a decision confirming the repeal of the – already overturned – compulsory expropriation. However, the Directorate for the Environment and Physical Planning of the Region of Western Greece resubmitted the matter to the municipality, for the question of the re-imposition of the overturned expropriation to be re-examined. The municipality refused to re-impose the expropriation, on the grounds that it was unable to pay the legal compensation, and that there were no pressing urban planning needs.

Following the mediation of the Office of the Ombudsman, the Directorate of Urban Planning of the Prefectural Government of Aitoloakarnania differentiated its position, and finally proposed to the Physical Planning and Environmental Board of the prefecture that the town plan should be modified; a relevant decision was subsequently issued by the prefect, resulting in the release of the properties.

4. Company Operating Licences

OPERATION OF GARAGES IN AN EXCLUSIVELY RESIDENTIAL AREA

AUTHORITIES: *Prefectural Government of Larisa, Directorate of Transport and Communications – Municipality of Larisa, Directorate of Urban Planning – Region of Thessaly*

A resident of Larisa submitted a complaint protesting the illegal operation of two garages in an area which, according to the town plan in effect, has been designated as exclusively residential.

An investigation of the case revealed that the competent Directorate of Urban Planning had, as early as 1998, noted the illegal change of use of the buildings, and had rejected applications for amendment of the building permits. However, the municipal council had approved the 'exceptional' operation of the garages through a series of decisions which, nevertheless, did not have binding effect. The Office of the Ombudsman requested of the competent Directorate of Transport, and subsequently of the Prefect of Larisa, that the operating licenses of these garages be rescinded as, according to Presidential Decrees 38/1996 and 81/1980, the garages can only operate 'in areas in which the planning regulations in force allow for the establishment and relocation of garages'. The administration responded to the Office of the Ombudsman that the licences were issued on the basis of the engineers' solemn statements, foreseen by law, that the use of the premises was legal. This argument does not hold, according to the Office of the Ombudsman, since, in any case, the licence must be rescinded when it is ascertained that 'the conditions under which it was issued have ceased to exist' (Presidential Decree 38/1996).

The competent directorate did not adopt the Office of the Ombudsman's proposal, awaiting a relevant recommendation from the legal counsels of the prefecture, while the prefect did not respond to the repeated letters sent by the Office. As it was apparent that this constituted a serious case of maladministration, the Office of the Ombudsman issued a finding in which it proposed that the licences should be revoked and the garages closed; at the same time, the case was referred to the competent prosecutor, since there were indications of commission of a punishable act. The Office of the Ombudsman also requested the intervention of the Region of Thessaly, which had already ruled in favour of the maintenance of the existing land-use. Following the Office of the Ombudsman's actions, the licences were revoked, and the competent Directorate of Urban Planning took the decision to close the garages. This decision was appealed in the administrative courts by the interested parties.

The Department is supervised and coordinated by Deputy Ombudsman Georgia Giannakourou, lawyer, Lecturer in Urban Planning at Paris XII, Val de Marne, formerly assistant professor of the Department of Town Planning and Regional Development of the University of Thessaly. To 3rd July 2003, the Department was headed by Yannis Michail, architect – urbanist, lecturer at the Aachen Polytechnic.

Department of State – Citizen Relations

THE DEPARTMENT OF STATE – CITIZEN RELATIONS handles cases concerned with communication and the provision of information; the quality of services provided and maladministration in Local Government Authorities; public utility corporations and the authorities responsible for transport; communications; labour; industry; energy; taxation and fiscal matters; as well as the customs; trade and state procurement; agriculture; rural policy and education.

The most important problems in this category of cases are related to excessive invoices, damage incurred through network failures, or non-compliance with the Charter of Obligations towards the Consumer. The common denominator in these cases is the abuse by public utilities of their monopoly status in the provision of particular services, resulting in the citizen being charged with costs which he doesn't owe, or which are even owed by other services; such as the deferral of the cost of engineering or technical works to the consumer, without any discernible liability on the part of the latter for the necessity of these works. The problem is aggravated by the lack of information provided to the citizen, and the Office of the Ombudsman is often called on to effectively fill this vacuum, informing citizens of the possibilities at their disposal in the context of the legal framework in force.

1. Local Government Authorities

The peculiarity of primary and secondary level Local Government Authorities lies in the fact that they are administered by elected officials who are, thereby, directly, and democratically, empowered. Municipal leaders often cite their elected status in order to avoid being limited in their actions, while these limitations are in fact integral to their role as administration officials with binding competence. They often confuse their discretionary power to take decisions on certain matters as elected representatives, with the obligations which accrue from the fact that they have been assigned certain competences, which are part of the duties of the state.

COMPLIANCE WITH A COURT RULING

AUTHORITY: *Municipality of Elefsina*

The Office of the Ombudsman examined a complaint which claimed that the Municipality of Elefsina did not comply with court rulings which overturned municipality decisions to impose pollution charges on a private company. The municipality maintained that the rulings had not become final, as appeals had been lodged. However, when asked to prove this, first by the complainants, and subsequently by the Office of the Ombudsman, it became clear that an appeal had been lodged against only one of the two rulings. The municipality finally returned the amount charged, after a letter had been addressed by the Office of the Ombudsman to the Secretary General of the Region, in which it asked for disciplinary measures to be taken against the responsible employees.

AMOUNTS OWED BECAUSE OF FAILURE TO MEET CONTRACTUAL OBLIGATIONS, OR FAILURE TO TAKE THE REQUIRED ACTION

AUTHORITIES: *Municipality of Nea Filadelfeia – Municipality of Skopelos – Municipality of Kifisia*

A citizen had recourse to the Office of the Ombudsman because the Municipality of Nea Filadelfeia delayed payment of a fee agreed on for the organisation and management of concerts. The municipality claimed that it was unable to pay the amount owed – 34,650 euros – because of insurmountable cash problems, which it laid at the door of the previous municipal administration. The Office of the Ombudsman proposed that the debt be settled in instalments, and while the municipality initially accepted this proposal, it subsequently reneged on its obligation.

Another citizen resorted to the Office of the Ombudsman because the Municipality of Skopelos, having offered to purchase from her a snack-bar, together with all its movable equipment, and having issued the purchase invoices, then refused to pay her the amount owed. In the course of the investigation, it transpired that the municipality was using the locale to house a Citizens Advice Bureau. While the municipality accepted that the complainant had a legal claim against it, it took no steps, with the result that the Office of the Ombudsman addressed itself to the competent Directorate of the Region, and reported the total lack of cooperation on the part of the municipality.

In another case, the Office of the Ombudsman received a complaint from a resident of Kifisia who protested that his house was not connected to the drainage system, despite the fact that he had paid the relevant charges for this work in October 2001. The Office of the Ombudsman intervened, stressing the responsibility of the municipality for drainage works, according to the regulations of the Municipal and Community Code (Presidential Decree 410/1995), and pointing out that failure to connect the complainant's house to the system, although the charges had been paid, constituted a failure to take the required action, with detrimental effects on the everyday sanitary conditions of the complainant. The municipality took all necessary steps to resolve the problem.

SUBSTANTIATION OF ADMINISTRATIVE ACTS – REPLY TO A CITIZEN'S APPLICATION

AUTHORITIES: *Municipality of Loutraki – Municipality of Aigaleo – Municipality of Tropaia, Arkadia – Community of Polydendri*

In this section are highlighted two of the most widespread forms of maladministration, namely the incomplete, or total lack of, substantiation of administrative acts, and the failure to reply to citizens' applications.

The administration's refusal to substantiate its decisions, quite apart from the fact that it contravenes the provisions of article 17 of the Code of Administrative Procedure (Law 2690/1999), renders citizens impotent to monitor administrative actions, with adverse effects on their rights and on the satisfaction of their requests.

A complaint was received by the Office of the Ombudsman concerning the refusal, without substantiation, by the Municipality of Loutraki to issue a verification of permanent residence, which the complainant needed as part of a job application. The municipality's response stated that 'from the elements provided by the interested party, it does not appear that she is a permanent resident of the municipality'. The complainant resorted to the Region of the Peloponnese, which sent a written request to the municipality

that it re-examine the application, and laying particular emphasis on the question of substantiation.

The municipality's initial response did not provide substantiation for its refusal to provide the verification. Following the Office of the Ombudsman's intervention, in which the municipality was called on to comply with the region's decision and the Code of Administrative Procedure, the municipality sent a reasoned reply, with full substantiation of its refusal.

The Office of the Ombudsman also received a complaint in which the complainant protested the fact that she had received a personal notification from the finance department of the Municipality of Aigaleo regarding the payment of a fine. The fine was for a parking contravention, but the accompanying report did not mention the exact place where the car was parked. The Office of the Ombudsman pointed out to the service that the issuance of a personal administrative act must be substantiated, and that the relevant joint ministerial decision, which governs these matters, stipulates that for a parking fine to be valid, it must specify the exact place where the contravention took place. The municipality accepted the comments and struck off the fine.

Also in a number of cases, the Office of the Ombudsman is called on to investigate complaints protesting failure to reply or delayed reply. A citizen addressed himself to the Municipality of Tropaia in Arkadia, requesting the relocation of part of the water network, which was in front of his hotel and obstructed his clients' access. He received no response to his request. The Office of the Ombudsman reminded the municipality that, according to the Code of Administrative Procedure, citizens' requests must be processed within 60 days, and asked that the defective work be repaired. The problem was resolved immediately.

2. Taxation

In the handling of complaints submitted in 2003 regarding taxation, it was the Department's aim not only to resolve the complainants' specific problems, but also to highlight questions of concern to citizens in their dealings with services of the fiscal administration.

In the previous annual report of the Office of the Ombudsman, the question of gender equality, as this reflects on the taxation of the spouse, was discussed extensively. Similar concerns were raised in complaints examined in 2003, in which the central question again was the interpretation and application of fiscal legal provisions, in conjunction with provisions of other branches of the law.

However, there were also important cases which revealed functional weaknesses in public services and, in a number of cases, lack of coordination, which were a source of unjustifiable annoyance for the citizens.

Further malfunctions were also noted in the area of informing citizens about their rights and obligations. In other cases questions were raised regarding the clarity and substantiation of the acts issued.

TAXATION OF AREAS DESIGNATED FOR COMPULSORY REAFFORESTATION

AUTHORITY: *Ministry of Economy and Finance*
(In collaboration with the Department of Quality of Life)

In the course of investigating complaints, the Office of the Ombudsman was called on to

resolve a problem caused by contradictory demands emanating from the services of different ministries.

According to a decision of the Minister of Finance, when there are legal reasons for the tax exemption of the value of agricultural, grazing or forest land, a verification must be obtained from the competent Directorate of Agriculture or from the Forestry Service, that the area in question is agricultural, grazing, or forest land. With this verification, the owners of forest land are entitled to a 40% discount on the tax imposed. The establishment of the forested nature of an area must, according to the provisions of Law 998/1979 and Law 2664/1998, accrue from the forestry maps of each prefecture.

However, since there is no overall forestry register, and in many regions of the country no forestry map has been drawn up or ratified, Law 998/1979 recognised the existence of disputes, and institutionalised a procedure of provisional resolution of forestry disputes regarding the forested nature of certain areas, according to articles 10 and 14 of this law. The critical procedure is completed when either the verification is issued by the competent forestry official, or when the decision of the Committee for the Resolution of Forestry Disputes is issued in the first instance or, if the forestry official's verification is challenged, in the second instance.

However, according to the same Law 998/1979 (articles 37, 38 and 41) and the provision of article 117, paragraph 3 of the Constitution, when certain areas are designated for reafforestation, the state establishes and confirms, with the act of designation, the forested nature of these areas, which it is obliged to protect, because of the preceding disastrous incident. According to jurisprudence established by the Council of State (1151/1997), the designation of an area for reafforestation is not subject to the discretionary power of the administration: it is obligatory and is imposed without exception, if only on the grounds that it falls within the provisions of article 117, paragraph 3 of the Constitution. This process is distinct from the potential designation for reafforestation of areas which had not hitherto been classified as forest or woodland, according to article 37, paragraph 3 of Law 998/1979.

The problem lies in cases of compulsory reafforestation since, for the tax rebate of 40% to be granted, the tax offices require that the owner of the area designated for reafforestation provide a verification of its forested nature from the competent forestry office. In other words, it doesn't follow from the fact that an area which has been designated for compulsory reafforestation is of a forested nature. This is because an integral part of the act of designation consists in the demarcation of the position and boundaries of the area, which elements are a necessary precondition of the completeness of the substantiation of the act regarding the characterisation of the area as forested or not.

The act of designation of an area for compulsory reafforestation signifies, as has been accepted by the Council of State, that there is no room for challenging its forested nature (Council of State 838/2002). For this reason, the competent forestry official has an obligation to refrain from characterising as forest land or not, an area which has been designated for reafforestation. This view was adopted by the Ministry of Agriculture, which issued a circular on the question.

The insistence of the competent tax offices on requiring the relevant verification for areas which have been designated for compulsory reafforestation creates the following problems:

- Disruption of the unified nature of the administration, since one service requires that a document be issued by another service, which is unable to do so according to the Council of State's precedent, and the circular issued by the service competent for issuing the document, which complies with the decision of the Council of State, as it is obliged to do.
- If one accepts the opposing point of view, the possibility arises where the forested nature of areas which have already been designated as forested may be challenged, resulting in the weakening of the protection afforded to forest land areas by article 117, paragraph 3 of the Constitution.

On the basis of the above, the Office of the Ombudsman addressed a document to the Directorate of Capital Taxation of the Ministry of Economy and Finance, pointing out the contradictions between the administrative practices of the Ministry of Finance and the Ministry of Agriculture. It was also noted that this contradictory attitude of the competent services increases the probability of illegal pressure being brought to bear on the services in question. In its reply, the Ministry of Economy and Finance limits itself to noting that it is not permitted to grant tax exemptions on the basis of presumed assets.

The insistence on the continuation of this administrative practice, disregards the issues which have been raised. These were the reason behind the findings drafted by the Office of the Ombudsman, requesting the Ministry of Economy and Finance to harmonise with the new developments arising from the precedent created by the Council of State, which has been adopted by the Ministry of Agriculture. This change is considered necessary in order to preserve the unified nature of the administration, but also for the protection of forests, which is ordained by the provisions of article 117, paragraph 3 of the Constitution.

TAX DISPENSATION FOR THE GUARDIAN OF A MINOR

AUTHORITIES: *Ministry of Economy and Finance, General Directorate of Taxation – Petroupoli Tax Office*

The Athens Court of First Instance appointed citizens as guardians of their underage granddaughter. On the grounds that they were not the natural parents of the child, the competent tax office refused to recognise the child as a protected member of their family, and, consequently, to apply the relevant tax rebate.

The Office of the Ombudsman addressed a letter to the General Directorate of Taxation of the Ministry of Economy and Finance, pointing out that, among others, the care of a minor is the most important parental function. According to the provisions of national family law, care of a minor can be taken away by court order, when 'neither parent has, or is capable of providing, parental care' (article 1589 of the Civil Code), and that in this case, 'foster parents become legal guardians' (article 1660 of the Civil Code). In the same letter, the Office of the Ombudsman asked for the tax law to be interpreted in such a way that it does not come into conflict with the legislation in force, and, more particularly, that it makes no distinction, in terms of taxation, between guardians and natural parents, in cases where the former have been substituted in all obligations towards the children. The ministry concurred with the Office of the Ombudsman's point of view, and agreed to the guardians' request.

EQUALITY OF TAXATION

AUTHORITIES: *Ministry of Economy and Finance, Directorate of Income Tax – 14th Tax Office of Athens*

A mother of three children, two from a previous and one from her current marriage, protested that she was not able to include all three children on her tax return as dependants, with the result that the tax rebate on her family income was less than that to which a three child family is entitled. In the view of the competent tax office and of the Directorate of Income Tax of the Ministry of Economy and Finance, the tax rebate for the children from her previous marriage are deducted from her income, while for the children of her current marriage they are deducted from her husband's income, according to the relevant provisions of Law 2238/1994 (articles 7, 8 and 9).

In a letter to the General Directorate of Taxation, the Office of the Ombudsman stressed that this arrangement conflicts with the spirit of tax legislation regarding the protection of the family, which is applied by doubling the tax-free limit for families with three children or more, together with reductions in the tax rate. Moreover, it was pointed out that this practice contravenes the principle of equality in taxation, and the equality of the sexes since, had the children, living with the family, been from a previous marriage of the husband's, they would have been considered as protected members of his family, together with the child of the current marriage, and the family would have benefited from the tax rebates. For these reasons, the Office of the Ombudsman requested that the total number of children be taken into account in the taxation of the family. The ministry replied that the matter would be considered in the framework of a potential tax reform.

3. EDUCATION

A significant number of complaints handled by the Department of State – Citizen Relations related to matters falling within the competence of the Ministry of Education and Religious Affairs. The acute and continuing problems in the operation of the Inter-University Centre for the Recognition of Foreign Academic Titles, and in the procedure for staffing primary and secondary education with teaching personnel – a consequence of the constant changes to the pertinent legislative framework, and of the serious operational problems of the services of the ministry – repeat themselves in a way which harms the integrity of the administration.

INTER-UNIVERSITY CENTRE FOR THE RECOGNITION OF FOREIGN ACADEMIC TITLES

From complaints received by the Department related to the Inter-University Centre for the Recognition of Foreign Academic Titles (DIKATSA), the same problems can be noted, and the same conclusions drawn, as were set out in the special report drawn up by the Office of the Ombudsman in June 2002.

The problems revolve around:

a. The considerable delays at all the stages of recognition of diplomas obtained abroad.

b. The lack of information about the progress of applicants' cases, and regarding the submission of additional supporting documentation, which is deemed necessary for the examination of the diplomas.

c. The very essence of the work of the DIKATSA, which concerns the recognition of

diplomas and the procedure of re-examination of the certificates. By way of example, one could mention that four to six months are needed to draft the fair copy of the minutes of the board of directors of the centre; four to seven months are needed to issue a certificate of equivalence; the typing of documents or acts require two to four months. The registration of any incoming document requires 20 days, while it takes four months for envelopes to travel from the centre's offices to the competent post office.

From the investigation of complaints, it appears that the DIKATSA is plagued with entrenched operational and organisational problems, whose causes lie mainly in the understaffing of the centre. It should be emphasised that the delays in the development of the new Organisation of the DIKATSA by the co-responsible ministries of Education and Interior is holding up the timely and adequate staffing of the centre. The staffing problem is particularly apparent in the case of recognition of diplomas obtained in European Union institutions: although, by decision of the board of directors of the DIKATSA (in compliance with article 5, paragraph 4 of Law 3027/2002) a detailed method has been defined for the recognition of diplomas by discipline, the purely formal side of the procedure cannot be carried out.

4. Establishment of a Professional Activity

During the course of the year, the Office of the Ombudsman also investigated complaints which reveal a variety of views of state intervention in the exercise of professional activities. In some cases, the administration failed to act in its binding regulatory or supervisory competence, causing serious problems for the professional activities of a number of citizens who submitted complaints to the Office of the Ombudsman.

In other cases, malfunctions were noted in the planned provision of support to new entrepreneurs, and in the implementation of programmes aimed at reducing unemployment. A number of legislative vacuums or contradictions were also noted, which effectively constitute a hindrance to the right to develop legal commercial activity.

WHARF-HAND WORK PERMITS

AUTHORITY: *Port Authority of Kos*

Four prior wharf-hands from Kos port (one of whom is father of a large family) submitted a complaint to the Office of the Ombudsman that, following the publication of the new Port Regulations in 2002, their jobs were given to stevedores. More particularly, the Port Authority of Kos refused to allow them as wharf-hands, on the grounds that they did not fulfil the basic condition foreseen under the new regulations, i.e. to wit, they did not have wharf-hand permits issued prior to the application of the new regulations. The complainants maintained that responsibility for the absence of the required permits lay with the port authority itself, since they had submitted applications for wharf-hand permits years before. However, the port authority had not issued these permits, but had confined itself to providing oral confirmation that they were not necessary for them to continue to work.

An on-site inspection by the Office of the Ombudsman substantiated the wharf-hands' claims. In a letter to the Port Authority of Kos, the Office of the Ombudsman stressed the authority's responsibility for the continuation, over a period of years, of an illegal state of affairs, which had given the, altogether justified, impression to the wharf-hands that they

were legally employed. The Office of the Ombudsman suggested that the wharf-hands should be hired, in application of the principles of fair administration and the safeguarding of citizens' trust. The Ministry of Mercantile Marine also adopted the Office of the Ombudsman's position, and issued a written instruction to the port authority to issue the relevant permits to the complainants.

IMPLEMENTATION OF A SPECIAL INTEGRATED INTERVENTION PROGRAMME BY THE MANPOWER EMPLOYMENT ORGANISATION

AUTHORITY: *Manpower Employment Organisation, Larisa branch*

A total of 115 complainants resorted to the Office of the Ombudsman, protesting the non-implementation of a Special Integrated Intervention Programme for unemployed from 18 to 64 years old, in the Prefecture of Larisa in 2000, which was supposed to confer grants to 1,000 unemployed people, who had, or would open, their own business.

More specifically, according to the relevant decision of the Minister of Labour and Social Security, a condition for eligibility in the programme was the presentation of a verification issued by a Manpower Employment Organisation (OAED) service stating that the applicant was registered with the OAED. The service in question, which consisted of a representative of the Labour Centre of Larisa, a representative of the employers' confederation and an OAED employee, had never been convened, and, as such, it was not possible for it to issue verifications of registration. The OAED, faced with this obstacle of its own making, did not go ahead with the programme, despite the publication of the ministerial decision regarding its implementation.

The complainants, however, in order to meet the other eligibility criteria of the programme, had already proceeded with the start-up of their companies, with the result that most of them now faced serious financial difficulties. Furthermore, the following year's Special Integrated Intervention Programme was so radically altered as to render the complainants' participation impossible, since the participation criteria now called for the presentation of an unemployment card at the time of the submission of the application.

Following the intervention of the Office of the Ombudsman, the board of directors of the OAED decided to approve the inclusion of the complainants in the programme, on the basis of the criteria in force at the time of the publication of the initial ministerial decision, and to confer the grant foreseen to each of the beneficiaries.

The Department is supervised and coordinated by Deputy Ombudsman Kalliopi Spanou, lecturer in political sciences at the University of Picardy in France, assistant professor of the Department of Political Sciences and Public Administration of the University of Athens. To 3rd July 2003, the Department was headed by Aliki Koutsoumari, lawyer, former Director General at the Ministry of the Interior, Public Administration and Decentralisation.

Department of Children's Rights

THE MISSION OF THE DEPARTMENT OF CHILDREN'S RIGHTS is the protection and promotion of children's rights. It was established and started operations in July 2003, in accordance with Law 3094/2003 which redefines the competences and modus operandi of the Office of the Ombudsman. The Department is run along the lines of the internationally recognised institution of the Children's Ombudsman.

The subject matter of the Department is laid out in the Convention on the Rights of the Child (CRC), which was ratified by Greece by Law 2101/1992, and which, according to the Constitution, also takes precedence over other national legislation concerning children. Children are all those who have not reached their eighteenth birthday.

The Department of Children's Rights handles cases related to the violation of the rights of children by public organisations and private individuals, following complaints and/or on its own initiative. The Department also instigates actions for the safeguarding and promotion of these rights, informs and instructs the public about children's rights, and tables institutional and legislative proposals.

During its first months of operation, from July to December 2003, apart from the handling of complaints about violations of children's rights, the Department was occupied with organisational matters, such as the definition of the subject of its activities and the procedures for handling and following up on cases within its competence; the planning and deployment of intervention tools (reception area, complaint forms, children's helpline, website, organised visits to places where children are taught, live, and meet, etc.); and the listing and notification of public and non-governmental organisations active in the field.

The handling of complaints was only a part of the activities of the Department, whose existence in 2003 was not widely known to children. In all, the Department examined 90 complaints concerning the violation of children' rights; of these only a very small number was submitted by minors.

Despite the fact that the CRC has been transposed, since 1992, into Greek legislation and, what is more, with prevalence over similar or opposite provisions, in many cases disparate laws and regulations, and administrative regulatory acts, do not fully take into account the dictates of the Convention. Specific constructive interventions or new regulatory acts are often necessary in order to secure the best possible protection of the rights of the child. Thus, the Department's work is concerned with the protection of children's rights, through the immediate application of legislation, or through its systematic interpretation, and through the formulation of proposals to the administration for the implementation of necessary measures. Therefore, one of the roles of the Department of Children's Rights in the context of its mission, is mediation and collaboration with the administration, on the one hand to restore legality where necessary, and on the other hand to improve the legislative framework in force, and to develop a policy for the child, based only on the interests of the child.

In this summary of the annual report for 2003, a variety of cases are presented from the

various thematic areas handled by the Department: The right to identity and education; the rights of special groups, such as aliens (a request by underage aliens for asylum and family reunification), minority groups (education for Roma children), children with special learning needs, and children housed in social welfare institutions (Iosifogleio Foundation). We also present a case of violation of a child's rights in the context of the family home, and the Department's method of intervention, in the framework of the Office of the Ombudsman's new competences in the field of private cases.

1. The Right to Education

INTEGRATION OF ROMA CHILDREN IN COMPULSORY SCHOOLING

Complaints were submitted to the Office of the Ombudsman regarding the need for children from the Roma community of Selinounda (Korkova) near Aigio to be included in the public education system. According to these complaints, none of the children from the encampment, aged 6–12, attended school.

The Office of the Ombudsman pointed out to the competent authorities (Municipality of Aigio, Directorate of Primary Education of the Prefecture of Ahaia, Department of Social Welfare of the Ahaia Prefectural Government, Police Department of Aigio) that, according to article 28 of the CRC (Law 2101/1992), the provision of public schooling for children is an obligation of the state.

The prefectural government's Department of Social Welfare response was immediate regarding the identification and registration of the school-age children in the community. However, because the Selinounda primary school had only two classes, which were already full, the existing school buildings needed to be extended to accommodate additional teachers and pupils.

An application for funding for new classrooms was submitted to the Department of Development Programmes of the Ministry of the Interior, Public Administration and Decentralisation, which expressed misgivings about its correctness, since the application referred to the operation of 'classes for gypsy children'. This was obviously in opposition to the invariable policy of the Ministry of Education that children belonging to minority groups should not be the subject of discrimination at school.

In order to prevent the rejection of the application, whose approval by a committee of the Ministry of the Interior, Public Administration and Decentralisation is an essential prerequisite for the final decision by the Ministry for the Environment, Physical Planning and Public Works, the Office of the Ombudsman intervened to make it clear to the committee that the operation of these classes constituted a fair discrimination in favour of the Roma community children, who needed to attend introductory and special support classes until such time as they could be fully integrated into the school system.

The Office of the Ombudsman also informed the competent specialist at the Ministry Education, responsible for the 'Integration of gypsy children in schools' programme, of the danger of the termination of the procedure, and suggested specific steps to be taken. This specialist had assumed a fundamental role supporting the public services, throughout the endeavour to realise these children's right to education.

The coordinated actions of the Office of the Ombudsman were instrumental in persuading the administration that the application was correct and should be accepted.

Following the committee's positive ruling, two prefabricated classrooms were sent to the primary school of Selinounda by the Earthquake Support Service of the Ministry for the Environment, Physical Planning and Public Works.

ASSESSMENT PROCEDURE FOR A MINOR WITH LEARNING DIFFICULTIES

The mother of a child with special learning needs submitted a complaint concerning the difference in assessment of her child between the Therapeutic and Counselling Public Service and the Diagnostic, Assessment and Support Centre of Thessaloniki (KDAY). More specifically, it was the recommendation of the Therapeutic and Counselling Public Service, after four years of systematic monitoring of the child and the family by the service's therapy team, that the child should be enrolled in a kindergarten, with simultaneous attendance of an assimilation class; the view being that this would make a positive contribution to the child's development.

The mother applied to the Thessaloniki KDAY for a medical opinion, which was necessary for the child to be enrolled in the assimilation class of the local kindergarten. Following a brief diagnostic assessment in which, according to the mother, the child could not participate satisfactorily because of the conditions under which it was held, the KDAY recommended that the child should be enrolled in a special school, instead of an assimilation class. This not only went counter to the recommendations of the other service, but also, according to the previous assessment, would act as a check on the child's development.

The handling of the case by the KDAY gave the mother the impression that the progress marked in the course of the collaboration of the child and the family with the Therapeutic and Counselling Public Service was 'cancelled', and that the relations of trust which had been built up as a result of this collaboration were being undermined. This brought her into conflict with the staff of the KDAY, she refused to enrol her child in the special school, and the child remained temporarily outside any educational framework.

The investigation carried out by the Office of the Ombudsman revealed that the assessment of children with special learning needs falls within the competence of the KDAY, which then recommends the enrolment of the child in an assimilation class or in other institutions (Law 2817/2000, Government Gazette A 78, Ministerial Decision Γ6/4494/2001, Government Gazette B 1503, Ministerial Decision 102357/2002, Government Gazette B 1319). According to the law, the KDAY of each district has the ability to cooperate with other mental health services, but the precise framework of this cooperation is not clearly defined.

While the KDAY is the competent body for the final assessment of the learning needs of a child, another, also public, service had in this case a much more complete picture of this particular child, based on long-term and systematic therapeutic monitoring. However, the legislation in force, by assigning this competence exclusively to the KDAY, overlooks the scientific validity and role of other public services which might have a more informed opinion of the condition of the child, and be in a position to offer a more comprehensive treatment. This fact should be weighed in conjunction with the more general problems currently affecting the operation of the KDAY, mainly concerning:

a. The conditions under which diagnostic assessments are carried out (lack of suitable premises, shortage of time, unfamiliarity of the child with the staff). These conditions can influence the level of cooperation of a child with special learning needs with a professional, and, by extension, the latter's diagnostic assessment.

b. The KDAY's limited ability to provide systematic support to children and their families, because of operational problems and a chronic workload.

This particular case highlighted the difficulties which arose in the communication and collaboration between the two services and their apparent contradiction. Two public bodies, with different competences under the law, but in connected fields, and with a common aim (the optimum response to the problems and needs of the children and families which approach them), were unable to coordinate their activities and function with a degree of complementarity.

The Office intervened as mediator in order to facilitate communications between the two services and restore the collaboration of the KDAY with the child's family. In the first place, it was made clear to the mother that under the law the KDAY is the competent body for the assessment of the special learning needs of the child, and that, consequently, it was necessary for her to collaborate with the KDAY in order to resolve the problem; and for her child not to continue to remain outside any educational framework.

Subsequently, the Office of the Ombudsman communicated with the competent Special Treatment Council and with the heads of the two services, laying out the problem, as this was expressed in the mother's complaint, particularly the rupture between the KDAY staff and the child's family. The Office encouraged direct communication between the heads of the two services, and a meeting between the specialists who had been involved in the assessment of the child, with a view to arriving at a common stance regarding the special learning needs of the child. The services responded immediately, and the KDAY finally accepted the recommendation of the Therapeutic and Counselling Public Service for enrolment of the child in a kindergarten and an assimilation class; at least for a trial period, to allow for assessment, in the school context, of the child's ability to stay there and integrate.

2. Protection of Underage Refugees – The Right to Family Reunification

HOSTING OF UNACCOMPANIED MINORS AND FAMILY REUNIFICATION

(Handled in collaboration with the Department of Human Rights)

A non-governmental organisation resorted to the Office of the Ombudsman, in order to:

a. Report the conditions under which two unaccompanied underage Somali brothers were being hosted and looked after in Rodos.

b. Request the mediation of the Office of the Ombudsman with the competent authorities, in order to accelerate the process of their reunification with their mother, a permanent resident of Sweden.

According to the report, the two minors were being hosted under detention in the reception area of the former 'Voice of America' facilities in Rodos, together with adults. The children had entered Greece illegally on a ship, on which they had met their elder half-brother. Their mother, a permanent resident of Sweden with refugee status, was also taking steps through the Red Cross to be reunited with her children.

The non-governmental organisation also reported that the competent authorities did not immediately take the necessary steps to facilitate family reunification, while the care and housing of the children, taking into account their minority and the increased need for protection demanded by childhood, did not meet legal standards.

The Office of the Ombudsman telephoned and sent an urgent message to the Aliens' Department of the Police Headquarters of the Dodecanese, and also to the Political Asylum Department of the Aliens' Directorate of the Central Command of the Greek Police, in order to arrange as far as possible for the specialised care and housing of the two minors, and their speedy reunification with their mother.

On the 29th September, the Office of the Ombudsman received a letter from the Aliens Directorate of the Ministry of Public Order, in which the situation was explained:

- Following the procedure laid out by law, the competent service in Rodos received the request for asylum from the two minors, recognising the half-brother as temporary guardian. The three Somali refugees were hosted in a special separate area at the former 'Voice of America' facilities.
- On the 24th August the two minors were released. Through the intervention of the Ministry of Health and Welfare, together with the Greek Council for Refugees, they were hosted at the Refugee Hosting Centre in Pikermi. On the 7th September, the mother, who had arrived from Sweden, took delivery of the children, following collaboration between the Ministry of Public Order, the Swedish Embassy, and the Immigration Service of Sweden, in accordance with the Dublin Convention (Law 1996/1991 're: the determination of the country which is responsible for the examination of application for asylum, which is submitted in one of the EU member states').

The Office of the Ombudsman recommended measures for the best possible protection and promotion of the two children's rights, as these are established in the relevant articles of the CRC (see, more specifically, the right to untroubled physical, mental, spiritual, moral and social development; to family reunification; to the respect of the opinions and the private life of the child; to the care of child refugees through the provision of alternative methods of supervision, Law 2101/1992, articles 1, 3, 4, 10, 12, 16 and 22).

Taking the opportunity presented by this case, the Office emphasised to the competent authorities the need for the creation of child-oriented reception facilities, especially at the entry points for refugees and asylum seekers (specialised integrated hosting area, separate from that for adults, or sponsored care for unaccompanied minors, etc.). These facilities would serve in the best possible fashion the aims of the CRC, and afford effective protection for these children's right to life, development, protection and participation.

The Office of the Ombudsman also pointed out the need to limit the time of detention to the minimum possible (while in practice, the maximum period of three months is often reached), to apply the measure nominating the competent prosecutor as temporary guardian of unaccompanied minors (Presidential Decree 61/1999); and that the care of minors should be assigned to competent social services by the prosecutor, independently of the submission of application for asylum, and the time needed for its examination.

3. Protection of a Minor from Economic Exploitation – The Right to Alternative Care

ESCAPE OF 'STREET CHILDREN' FROM A SOCIAL PROTECTION FOUNDATION

The Office of the Ombudsman received a complaint requesting the investigation of reports of the escape, over a three-year period of 487 children (for the most part of Albanian

descent), who had been gathered up by the police. The children were hosted temporarily in a child protection foundation belonging to the National Welfare Organisation called the 'Ayia Varvara Special Professional School', and housed in the buildings of the former Iosifogleio Foundation, in the framework of the 'Protection and Social Care for the Children of the Street' programme. This programme commenced in 1998, on the initiative of the Ministry of Health and Welfare, and was administered by the National Welfare Organisation.

Following an investigation, the Office of the Ombudsman reached the conclusion that behind the children's escape from this foundation lay serious divergences from the original planning, in the course of the programme's implementation.
More particularly were noted:

a. Insufficient staffing of the programme, since the existing staff could not meet the increased needs of the children;

b. Insufficient measures taken for the promotion of the rights of the children (intercultural education, entertainment, moral and social support);

c. Inadequate guarding of the foundation by the police;

d. Non-compliance with the age limit of twelve years for children being hosted;

e. Inability of the foundation to provide foster care for the children;

f. Inadequate collaboration with the Albanian authorities for the location of the families in Albania and the repatriation of the children.

Given that the 'Protection and Social Care for the Children of the Street' programme was no longer in operation at the time of the investigation, the Office of the Ombudsman has postponed submission of its recommendations to the competent Ministry of Health and Welfare regarding the future execution of similar programmes in 2004, until completion of a study of the data relating to the application of a policy for the protection of children who fall prey to economic exploitation and trafficking on Greek territory.
The Department of Children's Rights also undertook to communicate with:

a. The bodies which sit on the permanent committee which convenes following Presidential Decree 233/2003 (Government Gazette A 204) for the 'Protection and Support for Victims of the Crimes as defined in articles 323A, 349, 351 and 351A of the Penal Code, according to article 12 of Law 3064/2002 (Government Gazette A 248)', and

b. With the Albanian authorities, since the majority of children who are victims of trafficking are of Albanian origin,

with a view to contributing to the drafting of specifications and long-term measures for the protection of these children.

4. The Right to a Name

A minor's right to know his parents

The grandmother of a three-year-old boy, who had informally taken on his care, resorted to the Office of the Ombudsman in order to register him with the Register Office. In the course of the investigation it transpired that no declaration of the child's identity, a prerequisite for registration, had been made at the maternity hospital, in order for the

presumption of paternity not to fall on the husband of the mother who, according to the grandmother, was not the boy's natural father. The Register Office was therefore unable to register the boy, through no fault of its own.

Further investigation revealed that a suit had been filed attacking the paternity of the child, but that the hearing had been cancelled because of the non-appearance of the suitors (natural father and mother), who were systematic users of addictive substances. Finally, the legal counsel had withdrawn from the case, on the grounds that the time limits set out in law had been exceeded.

Given that the only solution to the problem of registering the child with his father's name lay in legal proceedings, the Office of the Ombudsman, while reserving judgement on the legal information she had received, informed the grandmother of the alternative possibilities for the legal resolution of the problem. The grandmother was also advised to take steps regarding her formal recognition as guardian, since this would better serve the interests of the child.

However, the most significant assistance provided by the Office of the Ombudsman was on another question: the need arose for a specialist to advise on the best way of informing the child regarding his family status and the identity of his, effectively absent from his upbringing, natural parents.

Article 7 of the CRC enshrines the right of the child to an identity, in the broadest sense. In other words, this does not only include the right to registration and a name; it also includes the right to knowledge of his or her parents. As part of its mission to protect and promote the rights of the child, the Office of the Ombudsman brought the grandmother into contact with the Directorate of Social Welfare of the local prefectural government, which is proficient in the provision of this specialised service, having previously briefed the service on the real and legal dimensions of the case.

The case was eventually filed, but only after the Office of the Ombudsman had confirmed that the legal process was once again in train, and that contact had been made with the social service. The grandmother was satisfied with the support she received, and with answers she was given regarding the child's upbringing, the explanation to him of his family status, and the possibility of assuming legal responsibility for her three-year-old grandson.

5. The Right to Protection from Violence in the Home

MALTREATMENT OF A MINOR

A mother and her eldest adolescent daughter submitted a complaint in common to the Office of the Ombudsman. According to the complaint, the adolescent was physically mistreated by her father, in a generalised context of chronic violence in the home, which was the result of the father's serious problem with alcohol abuse.

The family was from an island, their source of livelihood being the father's wages as farm labourer. The chronic intra-familial violence, according to the complaint, included elements of argumentativeness, high-handedness, threats and insulting behaviour on the part of the father – principally under the influence of alcohol – towards the children, also the use of physical violence against two of the children, particularly the elder adolescent daughter.

In February 2003, according to the complaint, while the mother was absent from home,

the father, drunk, used foul language and then proceeded to assault his elder daughter. The other children notified the mother, who called the police, whose officers took the mother and victim to the local Health Centre, where she was given first aid. In the meanwhile, the father had vanished in order to avoid arrest and detention, finally finding refuge with relatives on the mainland.

The medical examination of the daughter revealed a fracture of the cervix, bruises and ruptured blood vessels in the eye. Moreover, she was obliged to remain in bed for a week and miss school.

The geographical situation (far removed from the rest of society), the social mores of the place, the attitudes and perceptions of a small local community regarding the inviolable status of the family, the dependence on the income and work of the husband and father, together with a fundamental lack of social support and intervention services in such cases of intra-familial crises, rendered difficult the necessary interventions for an effective handling of the case.

The request of the mother and the underage daughter was for 'an end to the family impasse and a check on violent behaviour', which exposed the children to daily risk with, however, a degree of social sensitivity, in order to avoid the stigmatisation of the family. Furthermore, they did not wish the father to be prosecuted.

Giving priority to the protection of the children, and recognising the special circumstances (alcoholism) which pushed the father to this violent behaviour, the Office of the Ombudsman immediately notified and mobilised the competent authorities and welfare services of the region, making numbers of telephone calls to liaise between them, and addressing letters in order to ascertain what means of action were available.

More specifically, the Office of the Ombudsman communicated with the local police station which had handled the matter: it transpired that, because mother and daughter had stated their express opposition to the criminal prosecution of the father, following a subsequent expression of regret on his part and a verbal undertaking to behave better in the future, criminal prosecution was not pursued; although the father's promise was short-lived. The police station sent a document to the Office of the Ombudsman according to which the mother had declared she was moving, together with the children, out of the family home, because of the very probable risk of the violence being repeated.

The Office of the Ombudsman communicated with the competent prosecutor to whom the police station had reported the case. The prosecutor declared his willingness to afford a stay of prosecution in order for a compromise solution to be found, respecting the stated wishes of the mother and daughter.

Finally, the Office of the Ombudsman communicated with the competent regional Directorate of Health and Welfare, in order to ascertain the possibility of mobilising intervention, support and advisory specialists from a local network of services. In the event, the Office of the Ombudsman noted an understaffing of the local social services, and that a number of positions for professional social workers had not been filled. The Directorate of Health and Welfare of the local prefectural government, in a written response, informed the Office of the Ombudsman that, in a recently held tender, 7 positions of social worker had been filled. While this was a positive first step, it did not fully cover the needs of the region, either numerically or in terms of the disciplines required. Furthermore, in view of the family's need for immediate support, a written order was sent by the prefect to a social

worker serving on a neighbouring island, instructing him to carry out a on-site inquiry and assessment of the situation, and to provide financial and social support for the family (provision of unprotected children's benefit, implementation of protection programmes for mother and children, etc.)

In an effort to liaise with all related social services which could provide assistance, especially in view of the urgency of the situation, the Office of the Ombudsman also communicated with the principal of the 'Help in the Home' programme, who was aware of the case and who undertook to informally provide family support in practical everyday matters, despite the fact that this programme is directed at different categories of problems.

The Office of the Ombudsman also succeeded in bringing the mother into direct contact with the legal services of the Centre for Research into Matters of Equality. This resulted in the centre's paying for the legal fees of a lawyer who took provisory measures for the temporary establishment of the children's care and maintenance.

The local police authorities were also notified of the need to be constantly on the alert, in view of the events that had taken place, but with the necessary social sensitivity called for in cases of child abuse in the family context.

Written notifications were also sent to the competent authorities regarding the urgent need for the provision of support, in the form of advisory and specialised therapeutic intervention, to the father, aimed at mitigating the causes of his violent behaviour and the accompanying promotion of the absolute interests of his children.

Finally, the Office of the Ombudsman, having confirmed that the mother had moved house with her children and that she had found work, that the family was receiving social support from members of the community, and regarding the efforts to restore family functions and equilibrium, informed the competent authorities of the full range of actions taken and of the network of services being provided.

The Office of the Ombudsman has not yet filed the complaint, as it does not believe that it has exhausted the full range of actions towards the competent authorities regarding this case.

The Department is supervised and coordinated by Deputy Ombudsman Georgios Moshos, legal specialist, former member of the first Specialist Committee of the National Observatory for Children's Rights.

The five Deputy Ombudsmen, who supervise the corresponding Departments of the Office of the Ombudsman, took office on the 3rd July 2003.

5

Proposals for Legislative Amendments and Administrative Reforms

5 Proposals for Legislative Amendments and Administrative Reforms

THE OFFICE OF THE OMBUDSMAN submits legislative, functional and organisational proposals for the improvement of the operational framework of public administration. These proposals are put forward because the Ombudsman considers that the treatment of certain issues investigated calls for an amendment to the existing legal framework, or the restructuring of the organisation and operation of the administrative services concerned.

MINISTRY OF JUSTICE – MINISTRY OF PUBLIC ORDER

SUBJECT: *Establishment of ex-officio electronic entry of reversal of sentencing or cases pending*

In order to facilitate the location of persons pending trial or persons sentenced *in absentia*, judicial authorities enter each relevant decision or act they take, ex-officio, in the local electronic file of the Ministry of Public Order. However, they do not take the same steps regarding decisions or acts which remove the corresponding state of abeyance (such as, cessation of prosecution, acquittal, etc). Thus, the obligation devolves to the citizens (unbeknownst to them) to circulate the relevant decision or act to the Ministry of Public Order, which often results in the arrest and detention of persons without due cause. This situation goes against the principle of the rule of law, according to which the burden of proof for the collection of elements, which justify the limitation of individual rights, falls on the administration (and not the citizen).

THE OMBUDSMAN PROPOSES

The establishment, by ministerial decision, of a procedure of ex-officio entry in the local electronic file of the Ministry of Public Order of the court decisions or acts by which sentence or pending sentence is reversed.

MINISTRY OF JUSTICE – MINISTRY OF EDUCATION AND RELIGIOUS AFFAIRS

SUBJECT: *Penal condemnation of proselytism*

Conscientious objectors, during their fulfilment of alternative service with a variety of authorities, exercise their freedom to propagate their religious beliefs in ways that may cause embarrassment in the populations of the provincial towns where they serve, as these populations are not generally acquainted with religious polyphony. Because of this, the persons responsible for the services, where conscientious objectors are employed, issue instructions considering that the promulgation of religious beliefs constitutes cause for disciplinary action.

Given that, in most cases, the disciplinary law applied (article 21, paragraph 5, case γ, Law 2510/1997) refers to the penal code in force, the problem lies finally in the inherent vagueness of the provision, which renders proselytism an offence (article 4 of Law 1363/1938, as amended by article 1 of Law 1672/1939).

THE OMBUDSMAN PROPOSES

The re-examination of the extent to which the penal provision regarding proselytism meets constitutional requirements.

MINISTRY OF EDUCATION AND RELIGIOUS AFFAIRS

SUBJECT 1: *Procedure for the examination of dyslexic pupils during tertiary education entrance examinations*

In contrast with what is generally valid, the provision of clause α of paragraph 1 of article 27 of Presidential Decree 86/2001, as replaced by paragraph 19 of article 1 of Presidential Decree 26/2002, makes obligatory the oral examination of those pupils whose 'performance cannot be judged with written examinations due to a special speech disorder (dyslexia)'.

In practice, problems arose with the application of this provision regarding the conditions and the procedure for holding the oral examinations.

To date the Ministry of Education and Religious Affairs has dealt with this problem on a piecemeal basis, and with documents which are binding only at an internal level, such as circular directives.

THE OMBUDSMAN PROPOSES

a. The specific definition of the procedure for the examination of dyslexic pupils during tertiary education entrance examinations, with provisions of a regulatory content.

b. Provision should be made for the participation in the examining committees of teachers specialised in dyslexia, or some relevant qualification.

c. Clear definition of the duration of the examination, and

d. The delimitation of the discretionary powers of the examining teachers regarding the methods for examination and evaluation of the dyslexic pupils, with the adoption of unambiguous criteria, guaranteeing an equitable treatment of the candidates.

SUBJECT 2: *Nationality as a prerequisite for the conferral of performance scholarships*

From article 3, paragraph 1, case 6 of Law 2158/1993, according to which the Foundation for State Scholarships awards scholarships to aliens only in the framework of special international programmes of cooperation, it can be inferred that the customary scholarships only concern Greek citizens. However, the role of the 'performance scholarships' is to reward the pupil or student for his performance in promotional or entrance examinations.

Therefore, the introduction of nationality as criterion for their award does not conform with the principle of equal treatment, which, from the moment their enrolment at any level of education became possible, the Greek State has itself extended to include foreign pupils and students; and this, because it ignores not only the pedagogical value of the relevant reward, but also the contribution of the reward to the personal dignity of the pupil or student, regardless of nationality.

THE OMBUDSMAN PROPOSES

The abrogation of the prerequisite of nationality, in cases of performance scholarships, at least in the case of aliens who are completely integrated in the Greek educational system and in Greek society (for instance on condition that he or she has already completed a certain number of years in the Greek educational system).

MINISTRY OF LABOUR AND SOCIAL SECURITY

SUBJECT: *Ensuring the anonymity of charges against employers for non-affixation of insurance contribution stamps*

There is no specific provision which binds the personnel of the IKA to not reveal to the employer the name of the person bringing the charge, in cases of non-affixation of insurance contribution stamps. The Office of the Ombudsman has noted the detrimental consequences for the insured if his identity is not kept secret from the employer.

THE OMBUDSMAN PROPOSES

The adoption of a provision equivalent to that in force for employees of the Labour Inspectorate (article 8 of Legislative Decree 2954/1954), which forbids that the names of the insured filing charges or complaints be revealed, and that copies of the written charges be provided.

MINISTRY OF THE INTERIOR, PUBLIC ADMINISTRATION AND DECENTRALISATION

SUBJECT 1: *Issuance of a permit to exercise a profession to the foreign parents of Greek children*

In many of the legislative provisions which govern the exercise of particular professions, it is foreseen that the relevant permits be issued only to Greek citizens and to citizens of EU member states, or to aliens on condition of reciprocity (the existence of bilateral agreements). However, in the special case of aliens who are the parents of Greek minors, the precondition of reciprocity overrides in principle the aim of the national provision, since the aliens in question have obviously been integrated in Greek society, so that they cannot be used as a means of exerting pressure on their country of origin.

On the other hand, this is contradictory with the general framework which governs the legality of their residence, since they are issued with a long-term residence permit 'which is valid as a work permit' (article 37, paragraph 5 of Law 2910/2001, as amended by article 20, paragraph 2 of Law 3013/2002), and their expulsion is an impossibility (article 45, paragraph 1, clause β of Law 2910/2001). In any case, the precondition of reciprocity is a direct violation of the rights of Greek citizens, that is to say their underage children, who are forced to make a choice between insolvency and expatriation.

THE OMBUDSMAN PROPOSES

The revision of article 37, paragraph 5 of Law 2910/2001, so that the special treatment of the alien parents of underage Greeks also includes the abrogation of the precondition of reciprocity which may be foreseen by earlier provisions, without, of course, altering the remaining prerequisites for the issuance of a permit for the exercise of a profession (recognised diploma, etc). Alternatively, the same end can be served through the identification and corresponding amendment of the specific provisions which govern the exercise of particular professions (for instance, in the case of doctors, article 3 of Law 1565/1939), on the initiative of the competent ministries.

SUBJECT 2: *Issuance of a verification of submission of application for a residence permit which will be valid as a work permit*

Recently, the legislator ruled that an alien who has submitted an application, within the

time limits prescribed, for a work permit or a residence permit, may reside legally in the country until the administration takes a relevant decision. The pertinent provisions failed to foresee the issuance to the alien of temporary residence papers. Thus, those aliens who are awaiting a decision regarding their applications are, on the one hand, considered to be legally residing in the country, on the other hand, unable to carry out a number of important activities necessary for their normal day to day life in the country, such as their return to Greece after a trip abroad, the issuance of a marriage permit, the declaration of commencement of activity with the tax office, etc.

THE OMBUDSMAN PROPOSES

That the applicant be issued with a verification of six-month validity, which will be renewed for an equal period until the relevant decision is issued, and will be expressly in lieu of (but, of course on a temporary basis) a residence permit.

SUBJECT 3: *Issuance of residence permits which have already expired, and other delays on the part of the administration resulting in the overdue status of the alien applicant*

Because of the considerable delays in the examination of applications for residence permits, there have been cases where the administration has issued residence permits that have already expired, or to demand for further documents to be provided by the applicants, while the latter are already overdue and are unable to meet the conditions for the provision of the required documents.

THE OMBUDSMAN PROPOSES

The provision of the applicant, in such cases, with a six-month validity verification, whose period of validity will start on the date it is issued, and which will be valid as a temporary residence permit, and will allow the applicant to put in order overdue affairs.

SUBJECT 4: *Family reunification*

a. Reuniting the alien members of the family of a Greek or EU citizen

The field of application of Law 2910/2001 (article 33), regarding the term 'family members … of an EU citizen', is not fully approximated with community directives and, consequently, conflicts with the provisions of Presidential Decrees 525/1983, 499/1987 and 278/1992, as these have been added to and amended by Presidential Decrees 351/1998 and 403/2001, which, before entry into effect of Law 2910/2001, approximated national and community legislation, and undoubtedly continue in force. More specifically, the provision of Law 2910/2001 does not include in the members of the community citizen's family, alien ascendant dependants, neither his nor his wife's alien children over 21 years of age.

THE OMBUDSMAN PROPOSES

The approximation of article 33 of Law 2910/2001 with community directives, so that the term 'member of the family of an EU citizen' includes: a) the husband/spouse, b) the couple's under 21 year old children, and c) the parents and over 21 year old children of the couple, who are dependent on the couple.

b. Independent residence permit on account of divorce

Law 2910/2001 (articles 32 and 33) foresees the ability to issue an independent residence permit to a spouse who has been accepted for reasons of family reunification, if they cease cohabitation, provided a divorce decree has been issued. However, during the period between the submission of the application for divorce and the final decision, a strict interpretation of the legislation in force deprives the alien spouse of further legalisation of his/her residence, as it does not allow for renewal of residence either for family reunification or for independent residence.

THE OMBUDSMAN PROPOSES

Since the inability to renew residence during the period before the divorce proceedings are finalised effectively annuls the right, recognised in law, to independent residence, it is proposed that instead of the final decision of divorce, the application for divorce be required as a condition of application for an independent residence permit by a spouse who has been accepted for reasons of family reunification. This, on condition that the final divorce decision will be submitted as soon as it is issued. In case of interruption of divorce proceedings, residence status will revert to that in force for reunification of the family.

c. Verification of family status

Among the supporting documents requested for the examination of an application for a residence permit for reason of reunification of a family is 'a recent verification of family status in which the family ties are apparent', officially endorsed. However, the repeated submission of a recently endorsed verification, each time a residence permit is renewed, is a significant financial burden on the applicants, while it does not provide crucial information which might lead to the rejection of the application; since the law foresees, for persons who have been accepted for reunification of family, the possibility to remain in Greece, even in cases where they have lost their status as family members.

THE OMBUDSMAN PROPOSES

During renewal of residence permits for family reunification, applicants should submit, instead of the verification, a statement from their consulate verifying that their family status, as this appears on the verification originally submitted, remains unchanged.

SUBJECT 5: *Issuance of residence permits 'for other reasons' to aliens who receive a pension from a Greek principal insurance organisation*

Many foreigners, who have worked legally in the country and finally obtained pension rights from a Greek principal insurance organization, wish to remain in Greece. In principle, for reasons of fair administration, the Greek state grants this category of aliens the right to residence without, however, having defined a clear procedure for this purpose. This raises the question for these aliens of which regulations are applicable for the issuance of a residence permit.

THE OMBUDSMAN PROPOSES

Given that article 37, paragraph 1 of Law 2910/2001 provides for the residence in Greece of alien persons who dispose of sufficient means, it is necessary that this provision be extended to include this category of aliens. For this reason, it is recommended that it be expressly stated that among those entitled to residence 'for other reasons', be included the beneficiaries of pensions paid by Greek principal insurance organisations.

MINISTRY OF THE INTERIOR, PUBLIC ADMINISTRATION AND DECENTRALISATION – MINISTRY OF PUBLIC ORDER

SUBJECT: *Obstacles to expulsion*

When the immediate administrative expulsion of an alien from the country is not possible, the Secretary General of the Region, following a proposal from the competent police authority, may consent to the temporary residence of the alien, under certain conditions. However, the definition of the simple ability, and not obligation, of the administration to grant a temporary right to residence, in conjunction with the lack of provision for the renewal of such residence, if expulsion remains impossible, often results in the alien's repeated arrest and detention during the period pending his expulsion. In this way, not only does the total time of the successive detentions often exceed the maximum time foreseen for administrative detention prior to expulsion (three months), but the holding areas are also overcrowded, and the ensuing problems are magnified, while at the same time work is added to that of the police, for no good reason, as the expulsion cannot be carried out.

THE OMBUDSMAN PROPOSES

- Establishment of the obligation of the competent police authorities to recommend to the Secretary General of the Region that a conditional temporary residence permit be issued to aliens, whose immediate administrative expulsion is not feasible.
- Extension of the conditional temporary residence permit, if expulsion continues not to be feasible.

MINISTRY OF ECONOMY AND FINANCE

SUBJECT 1: *Taxation of separated parents*

According to the provisions of paragraphs 1 and 2 of article 7 of the Income Tax Code, 'children are not considered as the financial obligation of the separated parent with whom they do not reside'. Thus, the separated parent with whom his/her child does not live, is not allowed to include as tax-deductible items, expenditure which he/she continues to incur on behalf of the child (hospital and medical treatment, various tuition fees, etc.). While reserving judgement on the constitutionality of this status quo, the Office of the Ombudsman drafted a pertinent finding, which includes two proposals – modifications.

THE OMBUDSMAN PROPOSES

a. Expenses, which are allowable as tax-deductible items for parents, according to the relevant regulations of the Income Tax Code, to be included in the amount paid as maintenance by the separated parent; this in turn is deducted from income. For application of this proposal, no modification to existing legislation is necessary.

b. Removal of the term 'cohabitation with the child', as exclusive prerequisite for tax exemption of the related expenditure of the separated parent. This proposal calls for legislative modification of the regulations of the Income Tax Code.

MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING AND PUBLIC WORKS – MINISTRY OF DEVELOPMENT

SUBJECT: *Protection of water resources, and their exploitation by Municipal Water Supply and Drainage Enterprises*

The Municipal Water Supply and Drainage Enterprises (DEYA) plan and carry out works to exploit water resources, without prior planning for the protection and development of water resources at district level, as is required by Law 1739/1987, and by article 24 of the Constitution for the protection of the natural environment. In certain cases, these works encroach on protected wetlands (which are part of the Natura 2000 Network, including habitats of European and national importance), without having submitted so much as an environmental impact assessment study, or having gained a decision of approval of the environmental permit. It should be noted, furthermore, that surface water constitutes, in the main, part of protected areas according to environmental legislation.

The Office of the Ombudsman mediates in each case, pointing out the need for the administration to adopt a comprehensive approach to the problem, by drawing up water resource studies for each prefecture, as part of the elaboration of a water resource development programme, according to the regulations of article 4 of Law 1739/1987. The Office of the Ombudsman also suggests that the regional committee responsible for each water district be activated.

In a recent decision (2129/2003), the Council of State deems that the execution of water supply works by the DEYA 'is permissible only if this complies with the water resource development programmes in force', consequently, 'if, according to article 4 of Law 1739/1987, such a programme has not been approved, the use of water resources by the DEYA is not legally possible, if this use entails the execution of exploitation works' (Council of State 2316/2002).

THE OMBUDSMAN PROPOSES

The application of the relevant case-law of the Council of State, in order to comprehensively promote the development of systems and tools for the management of water resources in all the water districts, together with the exercise of the pertinent responsibilities by the local regional committees. More specifically, a special legislative provision, or at the very least an explanatory circular, is proposed, governing works carried out by the DEYA, according to the rulings of the Council of State, in order to avoid the execution of these works without prior elaboration of a comprehensive water resource management and protection programme.

MINISTRY OF HEALTH AND WELFARE

SUBJECT 1: *Extension of the provision of large family benefits to include alien mothers of large families with children of Greek nationality*

According to legislation in force, the beneficiary of large family benefits is the mother of Greek nationality, while no allowances are made for non-Greek citizens or aliens who are not nationals of EU member states. In exceptional cases, the beneficiary is the father, when he is a widower, if he or his wife is disabled, or if he has achieved large family status through the children of different marriages.

THE OMBUDSMAN PROPOSES

An amendment to allow for alien mothers of large families, permanently residing in Greece, with children of Greek nationality, to receive the large family benefits of article 63 of Law 1892/1990.

Follow-up on the Proposals for Legislative Amendments and Administrative Reforms Presented in Previous Annual Reports

MINISTRY OF PUBLIC ORDER

The unequal treatment of women implied in the regulatory acts which govern the hiring of staff by the Fire Department was noted in the *2001 Annual Report*. According to these acts, women only account for a limited percentage of the total positions announced, in contravention both of Law 2713/1999, and of the principle of equality of access to positions in the public sector, as this is expressed in article 4, paragraph 1 and 2 of the Constitution, and Directive 76/207 EEC. It has also been pointed out that the absolute limitation of article 12 of Law 2713/1999, which exclusively reserves the duties of forest fire-fighter to men, even when the positions are sought by women with relevant experience or voluntary work, must be reviewed; on the one hand, taking into account the constitutional requirement of article 116, paragraph 2Σ regarding the removal of all inequalities against women; on the other hand, in order to invalidate the contradiction between this absolute limitation and the practice of training women for voluntary forest fire-fighting duties.

In view of the above, the removal of distinctions in announcements for positions of administrative and other duties has been proposed, together with a review of article 12 of Law 2713/1999.

The relevant regulatory provisions, regarding the more specific category of seasonal personnel, were amended by Presidential Decree 124/2003, in application of the provision of article 6 of Law 3103/2003, which partially adopted some of the proposals mentioned above. The percentage of 10% is retained for the hiring of women, while absolute exclusion of women is foreseen for the category of worker in airborne infantry battalions (where previous service in the Special Military Forces, such as in the marines, is specified).

However, the taking into account of the duration of candidates' prior service (either as seasonal or as volunteer worker), regardless of gender, is in line with the proposals of the Office of the Ombudsman.

In conclusion, equal opportunity of access now applies to administrative positions and to the drivers of fire engines. The complete adoption of the Office of the Ombudsman's proposals would have required the removal of the 10% quota of women for positions of fire-fighter – rescue worker. This is now a requirement both for the corresponding progressive abolition of quotas for women in the Police Academies and the border patrol services.

The need for the abolition of discrimination against women entering the border patrol services was pointed out in the *2002 Annual Report*. With article 1, paragraph 3 of Law 3181/2003, the provision of a 10% quota of women recruits was abolished, and an age limit of 28 was established for both sexes. The same provisions foresee equal qualifications and common examinations for both sexes.

MINISTRY OF LABOUR – MINISTRY OF THE INTERIOR, PUBLIC ADMINISTRATION AND DECENTRALISATION

Noting significant problems in the application of Law 2910/2001, the Office of the Ombudsman addressed a series of letters to the ministries of Labour and the Interior,

proposing legislative measures aimed at improving the institutional framework governing the entry and residence of aliens in the country, together with the normalisation of the procedure for the issuance of residence and work permits. Four statutes, which amended and were added to Law 2910/2001 during 2003, adopted, in part or in whole, the following proposals of the Office of the Ombudsman:

- Ipso jure extension of the validity of all residence permits, in order to allow the competent services enough time to examine outstanding applications for residence permits.
- Abolition of the medical certificate as a prerequisite for the renewal of residence permits.
- Establishment of a certain number of insurance contribution stamps as the criterion for the satisfaction of insurance requirements for renewal of residence permits. This number must be at least equivalent to half the number of working days which correspond to the period from the issuance of the residence permit, to the date of submission of an application for its renewal.
- Issuance of residence papers to those who for reasons of force majeure do not dispose of a passport.
- Renewal of a residence permit for a purpose different from that of the previous permit, without the requirement for a new special entry stamp, provided the other conditions of the law are met.
- Decisions for the issuance of residence permits, which are taken under the status of binding competence, to be decentralised and assigned to the Secretaries General of the Regions.
- Increase in the validity of residence and work permits as follows: a) after one year's residence, two year validity, and b) after five year residence, five year validity.
- Renewal of residence permits for humanitarian reasons.
- Unlimited duration residence permits which were issued to persons falling under the provisions of article 13 of Law 2713/1999 (residence permit for exceptional – humanitarian reasons), with more than ten years of legal residence in the country, to be valid also as work permits.
- Issuance of temporary residence papers to aliens who have submitted their application for residence permits, within the time limits, until the administration takes its decision, so as to allow the applicants to exercise without hindrance all the rights which accrue from their legal residence.
- If the alien is outside the time limits because of delays on the part of the administration, he/she will be provided with a relevant verification, with six-month duration starting on the date of its issue, which will constitute a temporary residence permit, to allow the alien to take care of outstanding issues.

6

Use of Statutory Powers

6 Use of statutory powers

Special Report on Mobile Phone Base Stations

According to article 3, paragraph 5 of Law 3094/2003, the Office of the Ombudsman drew up a special report on mobile phone base stations, which was submitted to the Prime Minister and the Speaker of Parliament, and copied to the competent ministries: Interior, Public Administration and Decentralisation; Environment, Physical Planning and Public Works; Transport and Communications; Health and Welfare; Culture; and Agriculture.

The stimulus for this report was provided by complaints received by the Office of the Ombudsman between 1999 and 2003. In these complaints, worries were expressed regarding the possible detrimental effects on health and the environment caused by the operation of mobile phone base stations.

According to the report, the principal problems related to the positioning and operation of mobile phone antennas concern:

- The submission of mobile phone antennas to a prior impact assessment on the human and natural environment, and to the obligation for approval of an environmental permit before the installation permit is issued.
- Compliance with urban planning specifications for the installation of the antennas.
- The lack of coordination and collaboration between the competent services of the administration, the complicated nature of the national legislative framework, together with the existence of contradictory and conflicting provisions.
- The procedures for monitoring the maximum permitted radiation levels by the authorities charged with this task.
- The provision of information to the general public regarding the effects of electromagnetic radiation on human health and the environment.

The report includes recommendations of a legislative, procedural and organisational nature, which are aimed at improving current legislation and administrative procedures, at improving the essential monitoring criteria for the installation of mobile phone antennas, and at a more comprehensive protection of public health and the environment.

The Office of the Ombudsman's recommendations are based on the 'principle of conservation', which is a recognised principle of international and community law, and which prescribes measures to be taken for the protection of health and the environment, even in cases such as this, where exposure to electromagnetic radiation appears to pose a postulated, or not proven, risk.

Based on the principle of conservation, the Office of the Ombudsman recommends, among others:

- Systematic submission of all mobile phone base stations to environmental impact assessment and to approval of environmental permits prior to granting the aerial installation permit.

- The adoption of minimum distances from inhabited areas and special buildings, such as schools, hospitals, maternity clinics, etc.
- The revocation of the permits of mobile phone antennas which do not meet legal urban planning specifications for installation.
- The re-examination of the allowable level of human exposure to electromagnetic radiation, on the basis of up-to-date scientific data.
- The creation of a data base of all installed antennas, and
- The establishment of yearly inspections of a statistically representative sample of installed aerials, and the publication of the results of these inspections.

As announced by the Ministry of Transport and Communications, a relevant draft law concerning electronic communications which was signed by the minister and sent to the co-responsible ministers, includes provisions which govern, among others, the monitoring of electromagnetic radiation emitted by mobile phone antennas, while they forbid the installation of antennas at a distance of less than 300 metres from schools, institutes of higher education, technical colleges and hospitals. Moreover, existing antennas operating at less than this distance from these categories of building must be removed within a year.

The report of the Office of the Ombudsman was completed at the same time as the Ministry of Transport announced its intention to amend the legislation relating to mobile phone antennas. The report contributed, therefore, to the public debate initiated by the ministry, on a subject which is critical for the quality of life of the general public.

On-site Inspections

In the course of examining complaints, the Office of the Ombudsman may conduct on-site inspections in order to form a first-hand opinion of the true facts or circumstances. The experience of the Office of the Ombudsman in a number of cases has confirmed the need for these on-site inspections, and their effectiveness, particularly in complaints concerning urban planning and other related subjects of the competence of the Department of Quality of Life; also in Department of Human Rights' cases, related to the detention of alien asylum seekers, because of the nature of the cases. The cases in which the Office of the Ombudsman conducted on-site inspections in 2003 are the following:

DIRECTORATE OF POLICE OF THE DODECANESE – SECURITY DEPARTMENT OF RODOS

An on-site inspection was carried out which mainly concerned the obstacles to access to the asylum procedure faced by aliens in detention, also regarding progress in the asylum procedure on the part of the central and regional police authorities.

ALIENS' DEPARTMENT OF ATHENS

During the on-site inspection at the Asylum Department of the Aliens' Department of Athens, following complaints from five non-governmental organisations, the procedure for reception and registration of asylum requests was examined.

SECURITY DEPARTMENT OF MYTILINI – DIRECTORATE OF POLICE OF LESVOS – PREFECTURE OF LESVOS – REGION OF THE NORTHERN AEGEAN

The subject of this on-site inspection was: a) the detention conditions of aliens entering Greece illegally, in the two holding centres in operation (Lagada and Pagani areas), together with the monitoring of the distribution of competences between the authorities involved in the reception of the aliens, and b) the exercise of the rights of alien asylum seekers.

'MITERA' INFANTS' CENTRE

An on-site inspection into the practices followed by the 'Mitera' Infants' Centre regarding adoption in general, and the question of substitution of consent of the natural parents in particular; also regarding the conditions in which the infants are housed.

KINDERGARTENS OF THE ATHENS KINDERGARTENS' FOUNDATION

Following a complaint raising the question of the infant/teacher ratio in the infants' section of the kindergartens of the Athens Kindergartens' Foundation, an on-site inspection was carried out. More specifically, the foundation's kindergartens in Zografou (A and B), Halandri and Kypseli were visited.

PREFECTURE OF THE CYCLADES, DIRECTORATE OF TECHNICAL SERVICES, DEPARTMENT FOR THE ENVIRONMENT – DIRECTORATE OF URBAN PLANNING AND ENVIRONMENT OF THE CYCLADES PREFECTURAL GOVERNMENT – CYCLADES PORT AUTHORITY FUND

The services above were visited as part of an on-site inspection into questions related to the construction of a jetty by the Cyclades Port Authority Fund, the opening of roads and covering over of torrents, without the necessary permits. It was noted that the Directorate of Technical Services carried out only partial controls.

16TH EPHORATE OF PREHISTORIC AND CLASSICAL ANTIQUITIES – DIRECTORATE OF PREHISTORIC AND CLASSICAL ANTIQUITIES OF THE MINISTRY OF CULTURE

An on-site inspection was carried out of a plot of land attached for archaeological purposes, in Thessaloniki.

PREFECTURAL GOVERNMENT OF CHIOS – MUNICIPALITY OF CHIOS – MUNICIPALITY OF AYIOS MINAS – REGION OF THE NORTHERN AEGEAN, DIRECTORATE OF LOCAL GOVERNMENT AND ADMINISTRATION OF THE PREFECTURE OF CHIOS, DIRECTORATE OF PLANNING AND DEVELOPMENT

A team from the Office of the Ombudsman travelled to Chios to carry out an on-site inspection and to hold a meeting with the authorities involved, regarding the dangerous quality of drinking water in the municipalities of Chios and Ayios Minas.

PREFECTURE OF EVOIA – MUNICIPALITY OF STYRAIA

Following discussions with the Prefect of Evoia regarding a complaint about the quality of drinking water, samples were taken in the Municipality of Styraia for analysis. It was noted that the quality of the water did not meet the standards set out by Joint Ministerial Decision A5/288/1986.

PREFECTURE OF THESSALONIKI – MUNICIPALITY OF KOUFALIES-POLICHNI – THESSALONIKI WATER SUPPLY AND DRAINAGE ENTERPRISE

An on-site inspection was carried out at the Prefecture of Thessaloniki to learn about the situation regarding illegal garbage dumps.

PREFECTURAL GOVERNMENT OF WESTERN ATTICA, DIRECTORATE OF URBAN PLANNING – PUBLIC POWER CORPORATION OF ELEFSINA –FORESTRY OFFICE OF AIGALEO

An Office of the Ombudsman team visited the Ayios Georgios Mandra area, where an illegal construction is being built, and illegal excavation and fencing is being carried out within a wooded area designated for reafforestation, and within the designated archaeological site of Ereneia.

URBAN PLANNING OFFICE OF THE MUNICIPALITY OF HANIA

An on-site inspection was carried out in the city of Hania regarding a complaint about improper implementation of the urban planning town plan, during the drafting of the implementation act.

FORESTRY OFFICE OF KORINTHOS – PUBLIC REAL ESTATE SERVICE OF KORINTHOS

An on-site inspection was carried out in Loutraki, near Korinthos, into illegal incursions on the seashore and the general seaside area, parts of which have been designated as forested areas.

PREFECTURAL GOVERNMENT OF ARKADIA, DIRECTORATE OF ENVIRONMENTAL PLANNING – SPECIAL ENVIRONMENTAL SERVICE OF THE MINISTRY FOR THE ENVIRONMENT, PHYSICAL PLANNING AND PUBLIC WORKS

A case involving the extension of works on a windward facing harbour in Plaka, Leonidio, was the reason for an on-site inspection in Leonidio in the Prefecture of Arkadia.

PREFECTURAL GOVERNMENT OF FTHIOTIDA

An on-site inspection was carried out in the Svala area of the Municipality of Pelasgia of the Prefecture of Fthiotida, in a case regarding the on-land installations of a fish farm, which are located on a designated wetland and have been leased from the Public Real Estate Service.

MUNICIPALITY OF SERIFOS

Following complaints regarding the ownership status of sections of a road on which the public high-school is located, an on-site inspection was carried out.

COMMUNITY OF KALAMOS, ATTICA

An on-site inspection was carried out in Kalamos where delays were confirmed in the infrastructure works for a communal road, giving access to the property of the complainant who had resorted to the Office of the Ombudsman.

MUNICIPALITY OF SERIFOS – PREFECTURAL GOVERNMENT OF THE CYCLADES, PUBLIC HEALTH DEPARTMENT

An on-site inspection was carried out in the Ganema area of Serifos, regarding the demarcation of a torrent.

VOLOS PORT ORGANISATION – PREFECTURAL GOVERNMENT OF MAGNISIA

An on-site inspection was carried out in Volos, into a case involving the location of a fish market in an area of the port, which is both a wetland and the mouth of a river.

MUNICIPALITY OF KSYLOKASTRO – FORESTRY OFFICE OF KSYLOKASTRO

An on-site inspection was carried out in Ksylokastro, at the Pefkias forest area, where it was ascertained that the persons responsible for the operation of refreshment bars in the area did indeed broadcast music illegally, as had been reported to the Office of the Ombudsman.

URBAN PLANNING OFFICE OF THE MUNICIPALITY OF KASTORIA – PREFECTURAL GOVERNMENT OF KASTORIA, DIRECTORATE OF URBAN PLANNING – MINISTRY OF MACEDONIA AND THRACE

In the course of an on-site inspection in Kastoria, the existence of illegal buildings on land within the traditional neighbourhood of the city was confirmed; these had not been registered by the competent urban planning office in its investigation reports.

PREFECTURE OF FOKIDA, DIRECTORATE OF URBAN PLANNING – PREFECTURAL GOVERNMENT OF FOKIDA, DIRECTORATE OF INDUSTRY AND MINERAL RESOURCES

On-site inspections were carried out in connection with the following cases:

- Non-application of the provisions regarding illegal construction on a building site in Monastiraki, Fokida, concerning which the question of the common use area had not been controlled.
- Illegal construction of a metal staircase on a building site in Mavrolithari, in the Municipality of Kalies.

- Demolition of an illegal construction on a building site in Prosilio.
- Operation without an approved environmental impact assessment study of ready-mix concrete, asphalt mixture and sand, and gravel installations in an area of outstanding natural beauty (a Natura 2000 Network site), in the Municipality of Efpalio.
- Earthworks and diversion of the riverbed in the Community of Ayios Spyridonas, resulting in a serious problem of flooding.
- Delays in the adjudication of protests, lodged with the Urban Planning Office of the Prefectural Government of Fokida, against investigation reports concerning the encroachment on common land in Galaxidi.
- Operation of a quarry of the Silver and Barytes Company.

KOS PORT AUTHORITY

An on-site inspection to the Port Authority of Kos was carried out in order to verify the claims of complainants (four former wharf-hands of the port of Kos) concerning their submission, years before, of applications for work permits.

DISCIPLINARY INVESTIGATION

In cases where the Office of the Ombudsman, during the investigation of a complaint, observes illegality on the part of an administration official, a report is compiled and passed on to the body charged with that official's disciplinary investigation. The following is a list of cases submitted by the Office of the Ombudsman in 2003, calling for disciplinary measures to be taken against administrative bodies.

- The Office of the Ombudsman requested that the Athens Police Directorate investigate allegations made by a citizen against a member of the Police Department of Vyronas for improper conduct, verbal abuse, threats and drunkenness. An informal inquiry by the Police Directorate established the infraction on the part of the police officer concerned, and imposed a 40 euros fine.
- Following the Office of the Ombudsman's intervention, the Army General Staff conceded that it had wrongly filed a complaint relating to the injury of a soldier during exercises, and an administrative investigation under oath was conducted. This concluded that the soldier had been injured while acting under orders, and as a result of this. No disciplinary infractions on the part of officers were demonstrated, despite the allegations made by the soldier. The Office's report did however enable the injured party to seek compensation.
- The Municipality of Volos refused, in writing, requests made by the Office of the Ombudsman for further information regarding a complaint about a refusal to grant use of municipal land to a religious community. The Ombudsman called upon the Minister of the Interior to set in motion the procedure foreseen by article 4, paragraph 10 of Law 3094/2003 (the disciplinary charge of refusal to co-operate). The minister ordered the Region of Thessaly to take the necessary actions.
- The Secretary General of the Ionian Islands Region was asked to initiate disciplinary proceedings against the Urban Planning Directorate of the Zakynthos Prefectural Government and the Prefecture of Zakynthos, following eight cases of refusal

to co-operate with the Office of the Ombudsman. The cases which brought about the request for disciplinary procedures concerned: the unreasonable delay on the part of the competent authorities to issue a building permit in the municipal district of Pantokratoras (Municipality of Laganas, Zakynthos); a refusal to comply with a decision of the Council of State regarding the invalidation of a commencement order for the Laganas settlement town plan; a refusal to issue a copy of a building permit; the failure to inform the Office on matters relating to illegal constructions.

- The Secretary General of the Region of Attica was asked to initiate disciplinary proceedings against the Municipality of Nea Smyrni over its refusal to co-operate with the Office of the Ombudsman. This followed two cases concerning the illegal occupation of pavements and public spaces, and the delay by the municipality in issuing a decision regarding the final settlement of penalties.
- The Secretary General of the Region of Western Macedonia was asked to initiate disciplinary proceedings against employees of the Urban Planning Office of the Municipality of Mourikios for refusal to co-operate with the Office of the Ombudsman on a case concerning the demolition of dangerously unstable buildings affected by the 1995 earthquake.
- The Prefect of Voiotia was asked to initiate disciplinary proceedings against employees of the Directorate of Public Health of the Voiotia Prefectural Government over their refusal to co-operate with the Office of the Ombudsman on the inspection of a building in the Petralona settlement, said to illegally house animals, and of a ceramics manufacture in the area of Lakka, Skourta of Voiotia.
- The General Secretariat for Public Works was asked to initiate disciplinary proceedings against the competent employees of the Grevena Fund for Earthquake Victims, due to the excessive delay in the delivery of an earthquake damage report. The consequence of this delay was the loss by the person affected of his right to a free home. The General Secretariat for Public Works of the Ministry for the Environment and Public Works informed the Office of the Ombudsman that orders had been given to commence disciplinary proceedings.
- The Ombudsman asked the Minister of the Interior, Public Administration and Decentralisation, as well as the Secretary General of the Region of Attica, to commence disciplinary proceedings against the Mayor of Glyka Nera over a refusal to cooperate with the Office of the Ombudsman. The case concerned the refusal by the municipality to return property illegally occupied to its owner.
- The Secretary General of the Region of the Peloponnese was asked to commence disciplinary proceedings against the competent employees at the Municipality of Lefktra and the Messinia Prefectural Government over their failure to inform the Office of the Ombudsman about a case of encroachment on property subject to compulsory purchase for the construction of the Prosilio – Tseria road in the municipality.

Referral to Prosecuting Authority

The Office of the Ombudsman has the ability to refer relevant reports to the competent prosecutor if, in the course of investigation of complaints, sufficient indications arise of the commission of criminal acts by functionaries, employees or members of the administration.

During 2003, the Office of the Ombudsman deemed that this provision should be applied in the following cases:

- The Office of the Ombudsman circulated to the Prosecutor of the Ioannina Court of First Instance a finding concerning the non-satisfaction of a complainant's request for copies of documents of the Directorate of Technical Services of the University of Ioannina, which the complainant wished to use in his defence before the competent judicial authorities.
- Criminal charges have been brought against the former Mayor of Spata and the municipal council, because of an illegal alteration of use, and lease to a private individual, of common land in Christoupoli, Spata. There were found illegal constructions, the operation of a business and its installations, without the requisite permits and without an environmental impact assessment study. More specifically, a swimming pool was built, with an illegal building which serves as refreshment bar and entertainment area.
- Criminal charges were brought against the Municipal Council of Orestiada, in the Prefecture of Kastoria, and the Prefect of Kastoria, following the refusal of the mayor and the prefect to proceed to the closure of poultry installations which were operating without licence, in the vicinity of an inhabited area, with the resultant risk to public health and the environment.
- Refusal of the Mayor of Assos–Lechaio to comply with a decision of the Council of State, by which the municipality's decision to surface and widen the Lechaio–Korinthia road was deemed illegal. Despite the existence of this previous ruling, the municipality went ahead with the surfacing and widening works.
- Failure, by the Prefect of the Cyclades, to remove a jetty and restore to its previous state the seafront on the bay Marmara in Paros, resulting in its continued erosion. It should be noted that the jetty in question was built without regard to the procedure foreseen, and, most importantly, without either the elaboration of an environmental impact assessment study, or prior approval of site.
- Failure by the Greek Railways Organisation to comply with a decision of the Larisa Court of Appeal, which had recognised an individual's ownership of an area, and ordered it be restored by the organisation.
- Criminal charges have been brought against the Mayor of Voula, following the municipal authority's refusal to comply with a decision of the Council of State regarding the cancellation of the operating licence of commercial premises (car showroom) in an exclusively residential area. More specifically, the municipal authority refused to proceed to the closure of the showroom.
- Illegal construction of a large concrete jetty by the Municipality of Makednon on the Lake of Kastoria, in the area of Dispilio, within the boundaries of the wetland and on the coastline of the lake. The wetland is protected by national and community law (Natura 2000 Network habitat, Significant Bird Site, an area of particular natural beauty, Wildlife Reserve). The construction was carried out without any permit from the competent authorities, but also without even the decision of the municipality and the municipal enterprise which operates a quarry in the area. Following the intervention of the Office of the Ombudsman, the Prefect of Kastoria and the Public Real Estate Service imposed fines totalling 14,000 euros, administrative expulsion

orders were issued, and the Forestry Office filed a suit. An illegal construction report had already been filed. Nonetheless, the municipality ignored these sanctions, fenced off the area and posted a sign declaring it a 'ship building and repair zone'. The Office of the Ombudsman referred the case to the competent prosecutor in January 2003, because of serious indications of commission of criminal acts by the former Mayor of Makednon.

7

Outreach and International Activities

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Outreach Activities

The conferences, meetings and seminars, either organized or attended by the Office of the Ombudsman, and the visits that the Office made outside Attica during 2003 and previous years, aim at informing citizens on the mission, work and competences of the Office of the Ombudsman, as well as promoting a more systematic collaboration with the civil services which fall within its terms of reference.

To this latter category, of particular importance in the Office of the Ombudsman's outreach activities, belongs the two-day visit of a delegation of the Office of the Ombudsman to Thessaloniki. This delegation comprised: the Greek Ombudsman, Yorgos Kaminis, two Deputy Ombudsmen and fifteen members of the specialist staff. In the offices of the Lawyers' Association of Thessaloniki, they met with representatives of the Ministry of Macedonia and Thrace, of Local Government Authorities and other civil services, as well as with local social organisations. Cases of maladministration were examined during these working meetings, but a considerable proportion of the visit was dedicated to contacts with citizens; either for the submission of new complaints, or in order to provide them with information about the operation of the Office of the Ombudsman, and other subjects of importance to them.

International Activities

During 2003, the Office of the Ombudsman continued its activities outside Greece through the EUNOMIA programme. The EUNOMIA programme, having already established itself as an international point of reference, aims at the creation and medium-term support, through exchanges of experience and know-how, of Ombudsman institutions in South East Europe. The programme operates under the aegis of the Council of Europe; it is funded by the Greek government, while the responsible authority is the Office of the Greek Ombudsman.

Following an invitation from the General Directorate of Human Rights of the Council of Europe, and within the framework of the EUNOMIA programme, the Office of the Ombudsman elaborated a considered opinion on the second draft law for the establishment of the institution of Ombudsman in Montenegro. It should be noted that the comments in this opinion subsequently formed part of a special report containing the considered opinions of international agencies, such as the Organisation for Security and Cooperation in Europe and the UN High Commission for Human Rights. The report was delivered to the authorities of Montenegro.

Also in the context of the EUNOMIA activities, a two-day working meeting was organised by the Office of the Ombudsman, entitled 'The Role of the Ombudsman in South East Europe – Strengthening the Rule of Law as a Step towards European

Unification'. This meeting was attended by representatives of the Ombudsmen of Albania, the state entities of Bosnia Herzegovina, Croatia, FYROM and of Kosovo, together with the representatives of committees charged with drafting Ombudsman laws for Montenegro and Bulgaria. The European Ombudsman, Professor Nikiforos Diamandouros, was also present.

Working meetings were also held with the South Korean and Spanish counterpart delegations, at the premises of the Office of the Ombudsman. These meetings concerned the modernisation of public administration, and the improvement of the quality of democratic rule, through the exchange of views and experiences from the application of the institution of Ombudsman in these countries.

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