2004 Annual Report

Summary

THE GREEK OMBUDSMAN

NATIONAL PRINTING HOUSE

This is a summarised presentation
of the *2004 Annual Report*
of the Greek Ombudsman.

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The complete electronic version of the *2004 Annual Report* is available in Greek on the Greek Ombudsman's website: www.synigoros.gr, and the printed version can be obtained at the offices of the Greek Ombudsman, 5 Hadjiyanni Mexi, 11528 Athens.

INTRODUCTION

In the introduction to the annual report for 2003, I had attempted to give an indication of the principal aim of this "voluminous, heavy and indigestible volume" which the Greek Ombudsman's Office produces each year: "But above all it (the annual report) is directed at members of Parliament and at the political leadership generally; in other words at all those who are responsible for the administrative reform which is still pending in our country." I believe this comment is no less relevant today. As it is above all a working document, the annual report is not ideal reading for someone who is not familiar with the fundamental problems of public administration.

However, as an assessment of the accomplishments of an independent authority charged with the protection of constitutional rights, the annual report should also be accessible to the general public; to everyone in fact who, on a daily basis, pays the price, both mental and financial, of the low level of service provided by the Greek public sector. It is therefore the ambition of this summary to make the fundamental characteristics of the Office of the Greek Ombudsman, and its main areas of activity, more accessible to the general public.

YORGOS KAMINIS
MARCH 2005

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. In accordance with laws voted in 2004, the new institution of the Ombudsman of Health and Social Welfare was incorporated in the Greek Ombudsman. Finally, the Ombudsman's mission now also includes the encouragement of equal treatment by public services. 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 offices of the Greek Ombudsman

The 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 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 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 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 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-site 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 Ombudsman, 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.

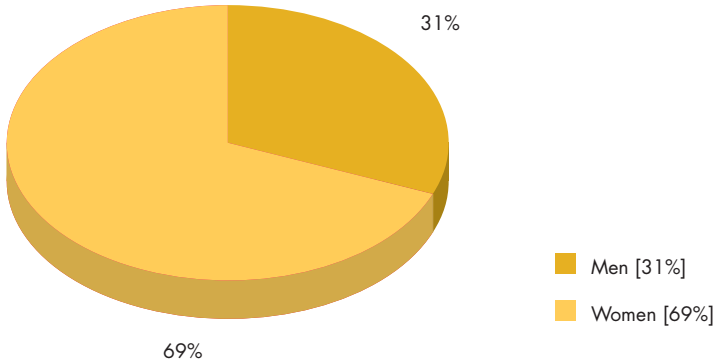
The Ombudsman can:

- Request from the civil service any information, document or other element concerning the case; examine persons; carry out an on-site 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 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.

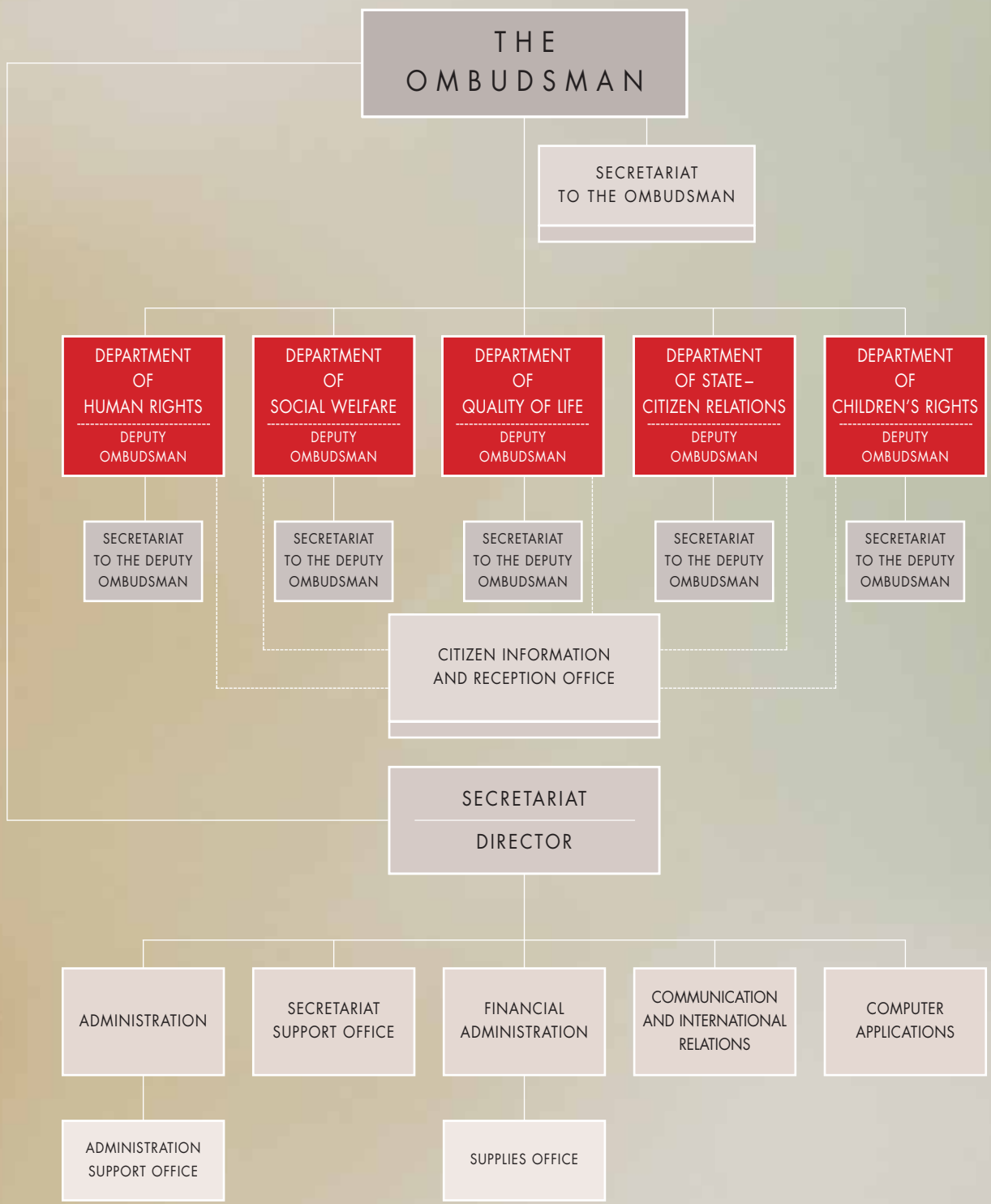
Organisation and Staffing

As of the 31st December 2004, a total of 177 persons, of which 55 men and 122 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	%	Discipline	Staff	%
Law	72	48	Chemistry	3	2
Political sciences	12	8	Journalism	2	1.33
Sociology	10	6.66	Civil engineering	2	1.33
Literature	11	7.33	Teaching	2	1.33
Economics	8	5.33	Information technology	2	1.33
Archaeology	6	4	Mechanical engineering	1	0.67
Geology	4	2.67	Statistics and risk	1	0.67
Urbanism/architecture	4	2.67	Medicine	1	0.67
Psychology	4	2.67	Surveying	1	0.67
Oceanology	3	2	Administrative sciences	1	0.67


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
CITIZEN INFORMATION AND RECEPTION OFFICE
SECRETARIAT
DIRECTOR
ADMINISTRATION
SECRETARIAT SUPPORT OFFICE
FINANCIAL ADMINISTRATION
COMMUNICATION AND INTERNATIONAL RELATIONS
COMPUTER APPLICATIONS
ADMINISTRATION SUPPORT OFFICE
SUPPLIES OFFICE

Overall Assessment for the Year 2004

From its inception (1st October 1998) and up to 31st December 2004, the Office of the Ombudsman has received 63,286 complaints.
In 2004 the Ombudsman received 10,571 new complaints, but handled 14,096 cases, because of cases outstanding from previous years. For the first time, 2004 marked a very slight year-on-year reduction in the number of complaints received: 2.6% fewer than in 2003.
Of the 14,096 cases handled by the Ombudsman, 10,913 (77.42% of the total) were investigated and brought to a conclusion, while 3,183 (22.58%) were carried forward for examination in 2005.

Conclusions

❂ The number of complaints received by the Ombudsman remains stable. After a number of years in which this number marked a steady increase, it stabilised at around 10,000 – 11,000 for the second consecutive year.

❂ Complainants are more aware of their rights and of the institutional role of the Ombudsman. For the second consecutive year, an increase in the proportion of complaints received that fell within the mandate of the Ombudsman, is an indication of this improvement in the awareness of the general public regarding the Ombudsman's areas of institutional competence.

❂ In one of every ten complaints that fell within the mandate of the Ombudsman, the administration did not accept the Ombudsman's proposals. The cases in which the Ombudsman's recommendations were not accepted mainly concerned:
• maladministration on the part of primary or secondary level Local Government Authorities;
• the system governing the entry and residence of aliens;
• the hiring of public sector personnel outside the guidelines laid down by the Supreme Council for the Selection of Civil Servants (ASEP), by Citizens' Advice Bureaus (KEP), and social security.

❂ Nearly one case in ten could not be resolved because of gaps in legislation and administrative malfunctions. The Ombudsman was unable to resolve a number of cases because of gaps in legislation and organisational malfunctions on the part of the administration (8% of maladministration cases), which applied mainly to questions concerning the legality of entry and residence of aliens, employment outside ASEP guidelines (mainly by the KEP), but also to questions of procurement and infrastructure of the health service.

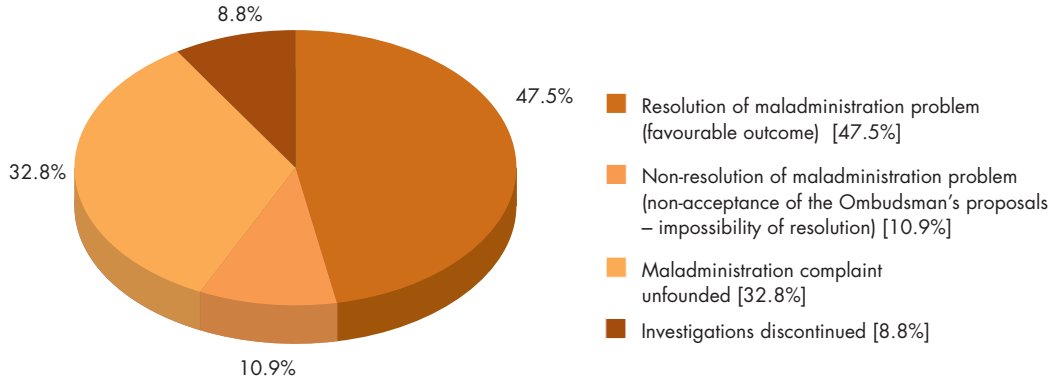
❂ Immigrants have faith in the Greek Ombudsman and petition him. The percentage of immigrants petitioning the Ombudsman increased yet again this year. Of all the complaints received by the Ombudsman in 2004, 7.6% were filed by immigrants. This is nearly equivalent to the ratio of immigrants to the population of the country.

❂ Delays, inadequate information of citizens, administrative inertia, and problems in the structure, organisation and staffing of civil services, were the most frequent forms of maladministration.

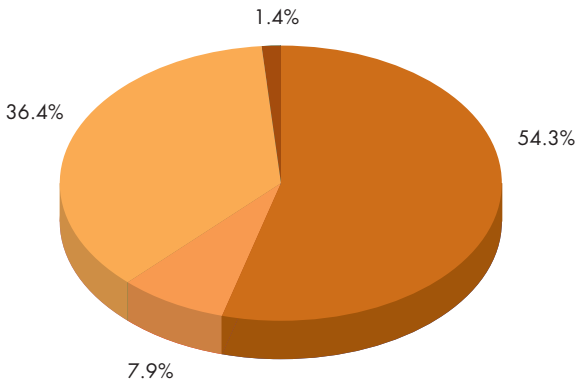
❂ Most cases of maladministration concern municipalities and insurance funds. The services presenting the most maladministration problems were municipalities (20.8%), social security organisations (19.8%), prefectures (11.4%), the Ministry of Education and Religious Affairs (9.2%), and the Ministry of the Interior, Public Administration and Decentralisation (8.5%).

❂ Fewer complaints filed from outside Athens. There was an increase in complaints originating in the Attica area, while complaints from residents of the rest of Greece showed a corresponding decrease. Smaller percentages of complaints, relative to their population, were registered by residents of Central Macedonia, Thessaly and Crete.

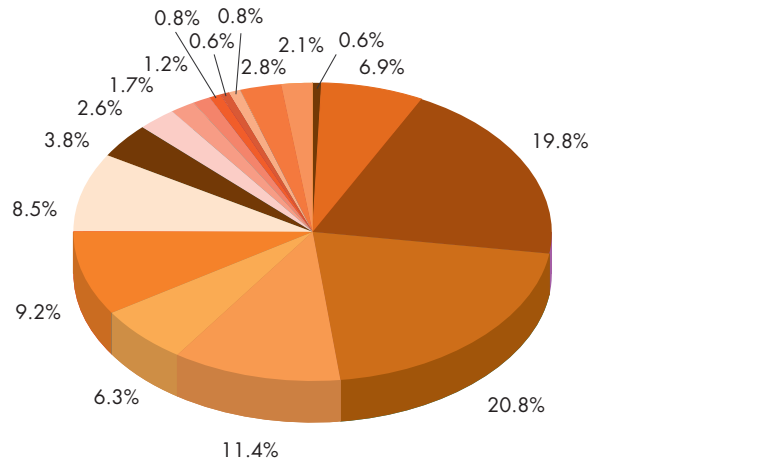
GENERAL CATEGORIES OF OUTCOME OF THE CASES INVESTIGATED IN 2004



PLACE OF RESIDENCE OF COMPLAINANTS



DISTRIBUTION OF MALADMINISTRATION CASES BY ORGANISATION



Social Security Organisation

Department of Human Rights

The cases handled by the Department cover a wide range of subjects touching on the protection of individual rights (the home as sanctuary, privacy of communications and personal data); freedom of religious conscience; freedom of congregation; the right of association; the right to ownership (e.g. the functioning of registrars' offices, the management of national endowments); the right to work and, especially, professional rights.

The cases also cover a variety of subjects relating to higher education, such as the recognition/accreditation of foreign diplomas (Inter-University Centre for the Recognition of Foreign Academic Titles, Technical Training Institute); access to higher education, particularly to technical schools; the structure and operation of post-graduate studies in collaboration with a foreign training institution; the procedures for the election of teaching and research personnel.

TOTAL COMPLAINTS 2004	**2.190**
Complaints within the Ombudsman's mandate	1.860
MALADMINISTRATION PROBLEM CORROBORATED	752
Problem resolved (favourable outcome)	621
Problem not resolved (Ombudsman's recommendations were not accepted – impossibility of resolution)	131
MALADMINISTRATION PROBLEM NOT CORROBORATED	336
INVESTIGATIONS DISCONTINUED	91
CASES PENDING AT 31.12.2004	681

ANDREAS TAKIS
Deputy Ombudsman

As in the past, the Department received a significant number of complaints which raise issues regarding minority rights, such as, for example, the education of minorities and the solemnization of marriages by muftis in the region of Thrace. The procedures involved in the acquisition of Greek citizenship continue to pose particular problems, mainly due to the lack of coordination between the various services involved, and the unreasonably long time taken to process requests. For this reason, a considerable number of complaints have been filed concerning the acquisition of Greek citizenship by naturalisation (e.g. the wives of Greeks with children; Albanian subjects who are recognised by the Greek authorities as being of Greek descent) and the verification of Greek citizenship (Greeks of the Diaspora and ethnic Greeks from the former USSR; Muslims from Thrace who lost their Greek citizenship on the basis of the old article 19 of the Greek Citizenship Code). It should be noted that, despite the perceived delays and inefficiencies of the bureaucracy, cooperation with the Local Goverment Authorities for the issuance of the necessary information and certificates has, in the main, marked a considerable improvement compared with previous years.

The inflow of complaints concerning the residence and work of economic immigrants and refugees continued unabated. In order to correct chronic problems – in areas such as the provision of residence permits, the renewal of work permits, residence for the purpose of practising an independent profession, and the entry and residence for the purpose of reuniting a family – the Ombudsman tabled specific draft legislation. A number of issues, such as the residence status of aliens who come of age and of the members of families of EU subjects, as well as some questions concerning simplification of procedures, were also settled in 2004.

Regarding the asylum issue, the Ombudsman notes that the problems faced by asylum seekers have become entrenched characteristics of the system. Access to asylum, and the detention conditions for immigrants having entered the country illegally, among whom are asylum seekers, continue to be problem areas. However, Greece's obligation to integrate approved directives,

or relevant directives under approval, will lead to the resolution of issues such as the restriction of the freedom of movement of asylum seekers.

According to article 16 of the Constitution, education constitutes "a fundamental mission of the state". In the same article, the constitutional legislator has included a specific clause regarding the resultant need to ensure the completion of the state's educational targets, including those students who "need help or special protection, according to their abilities". In order to meet this requirement of the Constitution, the state must organise an effective system of student care, capable of ensuring decent living conditions for those who experience financial difficulties because they are obliged to move away from home for their studies; special health care for those who need it; special welfare facilitation, etc. Student halls of residence, housing allowances, scholarships, and the possibility of registering in another school, are some of the measures falling under this system. However, both the legal and technical organisation of student care, and the way in which administration officials carry out the relevant provisions, are extremely problematical and have repeatedly formed the subject of complaints lodged with the Ombudsman.

Finally, the Department continues to deal with the systematic refusal of a number of services to comply with final or temporary court rulings.

Civil liberties

The non-respect of civil liberties and personal dignity by police officials was once again in 2004 the subject of numerous complaints to the Ombudsman, while the problem of the conditions of police detention in general, but also during the procedure of involuntary committal of mental patients, remains an issue. The Office of the Ombudsman continued its interventions in matters of conditions in correctional institutions: for the improvement of living conditions, the protection of prisoners' personal rights, and increased transparency in the operation of prisons.

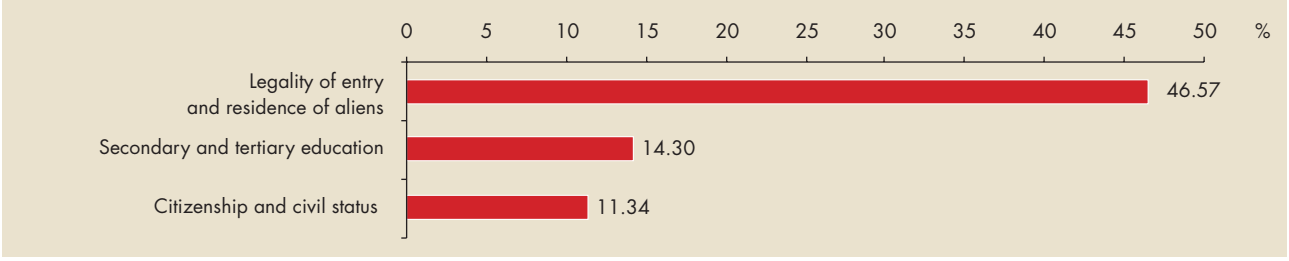
The police authorities

Inappropriate behaviour by police officers when carrying out body searches, remanding suspects, carrying out traffic controls, etc., was again in 2004 the subject of frequent complaints.

Following a finding concerning the problems of applying the due process of detention for verification of identity, the Ombudsman concluded that in practice the problems persist, when individualising "serious suspicion of perpetration of a criminal act", as grounds for detention. It has also been noted that the individuals remanded do not have the ability to exercise fundamental rights, such as access to counsel. A characteristic example of this occurred when lawyers were obstructed from visiting detainees remanded in the course of demonstrations against globalisation during the Summit Meeting in Thessaloniki in 2003. The Ombudsman took this case as an opportunity to put forward detailed proposals for the policing of crowds.

Also, during the 2004 Olympic Games, complaints were submitted regarding the

MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT



legality of various restrictive security measures, such as the prohibition of the photographing of trains by associations of historical researchers, the interdiction of distribution of religious tracts, the violation of personal data by the electronic photography carried out by the dirigible which was over-flying Athens. In general, however, the behaviour of the police during the Olympic Games was very restrained.

Police detention

The conditions prevailing in facilities created ad hoc for the mass detention of aliens destined for deportation, are an offence to human dignity, as the Ombudsman has emphasised since its inception (see *1999 Annual Report,* p. 64) and confirmed in repeated on-site inspections. There is a lack of coordination on the part of the Greek state, which is far from applying the framework in force (Law 2910/2001), which calls for the creation and operation by the country's Regions of special facilities for this purpose. The shortcomings of police detention facilities and their inadequate standards of hygiene, also constitute a persistent problem (see, indicatively, *2000 Annual Report,* pp. 66–67) which continues to concern the Ombudsman, and which was noted on yet again during the visit of staff members to Volos and Ioannina.

Involuntary committal

The involuntary committal to hospitals of individuals by police officers, on the orders of the prosecutor, so that the individuals may be examined by two psychiatrists to determine the need for their compulsory admission as mental patients, constitutes a central issue of civil liberties. The initiative taken by the police in remanding detainees in handcuffs before the prosecutor, appears to be beyond the remit of the regulations governing mental health and cannot be justified in cases where the detainee has not employed violence.

Furthermore, the Ombudsman has noted that the provision calling for the expert opinion of two psychiatrists, leads, when this function cannot be guaranteed in practice by the hospital administrations, when appointing duty staff, to the effective detention by the police of mental patients, with the resultant affront to their dignity. Apart from this, this practice is in contravention of the provisions both of Law 2071/1992, and of the European Convention for the Protection of Human Rights.

Prisons – Conditions of prisoners' detention

In the course of the investigation of complaints submitted by prisoners regarding personal rights matters, conditions of detention, and others, in prisons, the Ombudsman has interceded with the Ministry of Justice and the prison administrations, with proposals for the resolution of problems within their remit. The Ombudsman has also informed prisoners regarding the possibility of submitting their requests to the appropriate administrative services or courts.

The Ombudsman has pointed out in the past that it is necessary that prisoners are provided with an elementary, and individualised, explanation of the refusal, by the Central Council for Prisoners' Transfer of the Ministry of Justice, of their requests for transfer. Again in 2004, the main subject of numerous complaints submitted by prisoners concerned delays in, or absence of, information regarding requests for transfer for family or other reasons; the prisoners finally received this information following the Ombudsman's intervention.

The Ombudsman examined the question of compliance with the principle of proportionality in the application of restraining measures, during prisoners' transfer. The Ombudsman also dealt with subjects concerning:

a) the proportionality of the restriction of prisoners' fundamental rights (solitary confinement, lack of natural light in the cells, and others), and

b) on the basis of a complaint filed about the detention of prisoners sentenced as mem-

bers of a terrorist organisation, the legal grounds for their separation, and for the special terms of serving their sentences.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Regarding the latter case, the Ombudsman considers that the regulatory actions taken by the Prison Council do not justify the separate detention of prisoners, since they effectively establish a new category of prisoner; for this, however, a presidential decree must be issued.

Of particular note is the problem which arose following the Ombudsman's decision to carry out an inspection of a penitentiary, to ascertain the conditions of detention of the prisoners, and the status of their home leaves. The Supreme Court Prosecutor had initially informed the appropriate prosecutors that the Ombudsman's inspection of the prisons takes second place to those specifically foreseen, of the supervising prosecutor and the Directorate for the Inspection of Prisons. The Ombudsman disagreed, maintaining that it is legally entitled to inspect, even if in parallel with other bodies, any civil service which is not specifically excluded from the mandate of the Ombudsman; particularly so, in a field where the individual is exposed to violations of his rights through the curtailment of his personal freedom. Finally, an explanatory opinion was issued by the Supreme Court Prosecutor, according to which the legality of the Ombudsman's inspection of the prisons was upheld, and which simply emphasised the need for cooperation and exchange of information between the inspecting bodies.

Residence status of aliens

From its handling of cases regarding the residence of aliens, the Ombudsman has noticed in the attitude of the Greek state a distinct awkwardness towards foreigners, regardless of whether they are considered to be legally or illegally resident in the country. One can perceive in the state's hesitation to acknowledge aliens' rights to residence, a certain penchant for the provisional which, finally, takes on a form of tolerance; this seems to inform the residence status of aliens, be they economic immigrants, or refugees, or asylum seekers. This trend becomes more noticeable in the case of aliens who, although they have overstayed the legal duration of their visit, cannot be deported or return home for some reason. Thus their continued stay is 'tolerated', with the resultant loss of their most basic social rights. This same rational also appears to govern the residence status of those who have secured their legality, either at their time of entry, or, more often, by some fortuitous conformity with the criteria of one of the measures announced from time to time.

"Illegal" aliens

In the annual report for 2003, the Ombudsman had already identified the problems faced by aliens whose request for asylum has been rejected. These aliens, even though they have a valid yearly residence permit (which in many cases have been renewed a number of times), suddenly find themselves confronted with an unexplained and generalised refusal on the part of the Ministry of Public Order to renew their permits on humanitarian grounds.

Symptomatic of this trend, which hinders access to the legalisation process, is yet another recent practice of the Ministry of Public Order, which consists in refusing to examine requests, submitted to this ministry, for a residence permit to be issued on humanitarian grounds. This practice which on the one hand contradicts that of previous years, and on the other has no basis in law, leads to a violation of the very essence of the constitutionally established right to petition. The Council of State upheld the Ombudsman's position and recognised both the (ministry's) obligation to carry out an *ex officio* investigation, and the (petitioner's) ability to submit an initial request. Following the Ombudsman's proposal and a consult-


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ation in which the Ombudsman took part, the Greek National Commission for Human Rights issued an opinion-decision, by which:

- It confirmed the position of the Ombudsman: that a legal rejection of a request for renewal must be founded on the absence of the (humanitarian) reasons for which the residence permit was initially issued.
- It emphasised the diversity of legislation in the field of "residence on humanitarian grounds", and asked that the use of the vague and general term "humanitarian grounds" be avoided, and that an indicative list be drawn up of the cases of aliens who could benefit from the relevant "exceptional" protection in the framework of Law 2190/2001.

And, finally,

- It proposed that an explicit provision be included in Law 2190/2001 for the submission of a request for protection by persons to whom a residence permit on humanitarian grounds is not issued by the Ministry of Public Order.

The Council of State has found that, in a number of cases, the relevant police authorities, when they realise the impossibility of deporting certain aliens upon their release from the three month administrative detention period, issue them with an official note which gives them a specific time in which they must leave the country. Thus, the alien who is unable to return to his country of origin, and therefore prolongs his stay illegally and without recourse to the most elementary social rights, is repeatedly arrested, held in temporary detention, and a new administrative deportation order is issued against him, which it is again impossible to enforce.

It is obvious that this kind of practice leads both to the violation of the regulations setting out a maximum detention term of three months, and to the abuse by the relevant authorities of the application of the administrative deportation measure. In cases where an administrative deportation measure cannot be implemented, legislation foresees a process whereby a temporary residence permit is issued by the Secretary General of the Region, following a recommendation by the appropriate police authority. Also, for the alien who is unable to leave the country, or who leaves his country of origin for reasons of force majeure, a one year's residence permit may be issued, until the reasons for its issuance have ceased to exist. Unfortunately, both these provisions of Law 2910/2001 remain, in practice, almost completely unused.

Another category of aliens consists of those sentenced to imprisonment in criminal court, who after their conditional release from the correctional facility and because there is no relevant provision in law, remain in the country in a peculiar status of tolerance. This is because one of the conditions of the decision releasing them from the correctional facility, prohibits their leaving the country. Thus, this category of alien is usually refused a residence permit, which is particularly

The Ombudsman considers it essential:

- That the provisions of Law 2910/2001 be applied, and the residence permits foreseen under this law, which according to circumstances will also act as work permits, be issued.
- That the relevant provisions be amended in order to enact the administration's binding competence – rather than leaving to its discretion – to draft proposals and take decisions regarding the provision of a residence and work permit to aliens for as long as the reason preventing their departure from the country exists.

unjust, contradictory, and contrary to the principles of fair administration; since it is the very conditions set by the relevant judicial authority which forbids the alien from leaving the country. Special legislative provision should also be made for this category of alien, comprising the binding competence of the administration along the lines laid out by the Ombudsman for the preceding category.

"Legal" aliens

As a result of investigating complaints, about the invocation and application by the police authorities of the concept of "public order" to cases concerning aliens, there are indications of its abusive application, mainly in the following cases:

- Issuance of administrative deportation orders for reasons of public order and security, either without stating how the presence of the alien in question constitutes a danger to public order and security, or through the invocation of actions for which the alien is being prosecuted and for which a court hearing is pending. This practice renders the relevant deportation orders unfounded or, in any case, insufficiently founded, and therefore exposes them, on the one hand, to litigation, and on the other, to accusations of arbitrary actions based on a subjective view of the activity of aliens in general.

- Re-inscription in the National List of Undesirable Aliens (EKANA) for reasons of public order and security, despite the cancellation of the administrative deportation orders by the Secretary General of the Region, or despite the existence of court rulings or temporary court orders suspending the execution of the deportation. In these cases, the invocation of reasons of public order and security is particularly problematical, if one takes into account the consequences of inscription in the EKANA, which consist in the prohibition of entry and residence in Greece and, in the event of non-compliance, in the deportation of the alien.
- Negative recommendation regarding the issuance or renewal of a residence permit, or a recommendation that it be withdrawn, for reasons of public order and security, on the basis of occurrences which manifestly do not demonstrate the danger to public order and security presented by the alien in question. A case in point is that of an alien husband of a Greek woman, for whom the relevant police authority submitted a negative recommendation in view of the renewal of his residence permit by the Region, although in the past the same police authority had, on the basis of the same information, repeatedly renewed his residence permit.

The common element in the three preceding illustrations of the attitude of the police, is the frequently uncritical invocation of reasons of public order and security, in order to justify actions with particularly detrimental consequences for aliens. This practice is especially worrying when the relevant police authorities are circumspect in their dealings with other administrative bodies which are empowered to monitor the implementation of administrative deportation orders by the police. Finally, it appears that police activity in this specific area often disregards extenuating circumstances which may apply to individual cases. Extended residence in Greece, the creation of a family with a Greek, satisfactory integration of the alien in Greek society, are all considerations which should be weighed, in conjunction with the seriousness of the wrongdoing and of course an eventual acquittal, when deliberating the danger which the alien poses, or not, to public order and security. Otherwise, the invocation of the concept of public order and security is open to accusations of abuse and is thereby weakened, while police activity appears to be uncontrolled.

Taking the above into consideration, and in view of the equivocal nature of the concept of "public order and security", the Ombudsman considers that the joint ministerial decision regarding re-inscription of aliens in the EKANA should be amended.

More specifically, the Ombudsman proposes:

- *That the inscription of the alien in the EKANA should not be carried out concurrently with the issuance of the deportation order by the police authority, but following the completion of the administrative control procedure by the Secretary General of the Region, and*
- *That the inscription of the alien in the EKANA should be countermanded when a judicial or administrative ruling is issued regarding suspension of the deportation order.*

In conclusion, it should be emphasised that it is difficult to speak of the protection or violation of human rights when referring to the country's alien citizens, since the very legality of their presence in Greece often appears to be conditional on subjective and varying criteria. In this sense, the adoption of a new legislative framework governing immigration; the rationalisation and simplification of procedures; the establishment of new services; and the application of any new programme, all presuppose a specific position and substantive coming to terms with the problem, on the part of the Greek state.

Foreign language pamphlets of the Greek Ombudsman institution

Department of Social Welfare

The Department of Social Welfare examines cases related to the social policy sector (protection of persons with special needs, protection of the unemployed, protection of maternity, etc.), health (sanitary protection, health-related professions, medical ethics, public health, etc.), social security (pensions, benefits, social security contributions, eligibility to social security, etc.) and welfare (disability benefits, the operation of welfare institutions, the quality of services provided, etc.).

A statistical assessment of the complaints handled by the Department shows that administrative problems which formed the basis of complaints in previous years, continued in 2004 to be a source of aggravation. The major problem of delays in the issuance of official documents and, principally, of pension decisions, the malfunction of the health system, difficulties in the designation of social welfare beneficiaries, and problems faced by persons with special needs, constitute perennial malfunctions of the social welfare system and the main axes of intervention for the improvement of the services of the social administration.

Patrina Paparrigopoulou
Deputy Ombudsman

In this year's annual report, the Department of Social Welfare has elected to focus on subjects related to the protection of persons with special needs and of large families. The element common to these two categories is that they constitute vulnerable groups for which the legislator has foreseen the obligation of the state to take special measures, so as to ensure their equitable and complete integration into the social and economic life of the country. In fact, after the 2001 revision of the Constitution, and the addition to article 21 of paragraphs 5, concerning the planning of a demographic policy, and 6, concerning persons with special needs, the legal foundation for their protection was considerably strengthened. Over recent years, the European Union has also promoted policies, both for the social integration of persons with special needs and for the resolution of the demographic problem (Directives 2000/43 and 2000/78), and has repeatedly proposed measures aimed at increasing the birth rate.

TOTAL COMPLAINTS 2004	**3.658**
Complaints within the Ombudsman's mandate	2.893
MALADMINISTRATION PROBLEM CORROBORATED	1.037
Problem resolved (favourable outcome)	922
Problem not resolved (Ombudsman's recommendations were not accepted – impossibility of resolution)	115
MALADMINISTRATION PROBLEM NOT CORROBORATED	717
INVESTIGATIONS DISCONTINUED	139
CASES PENDING AT 31.12.2004	1.000

Protection of persons with special needs

The number of complaints submitted by persons with special needs to the Ombudsman in 2004, nearly doubled. The complaints themselves, together with the Ombudsman's six year experience in the field (see, for further detail, *2000 Annual Report*, pp. 111–112, *2001 Annual Report*, p. 93), confirm the extent and complexity of the problems faced by persons with special needs in the fields of employment, social security, transport, etc. It is true that there are shortcomings in the legislative framework of our country, and that in international and EU law, as well in the Constitution, the provisions for employment and vocational training prohibit discriminatory treatment of the disabled, and constitute a strong foundation for the creation of a broad framework of protection.

Problems faced by persons with special needs regarding access to employment

The Department of Social Welfare received a significant number of complaints regarding

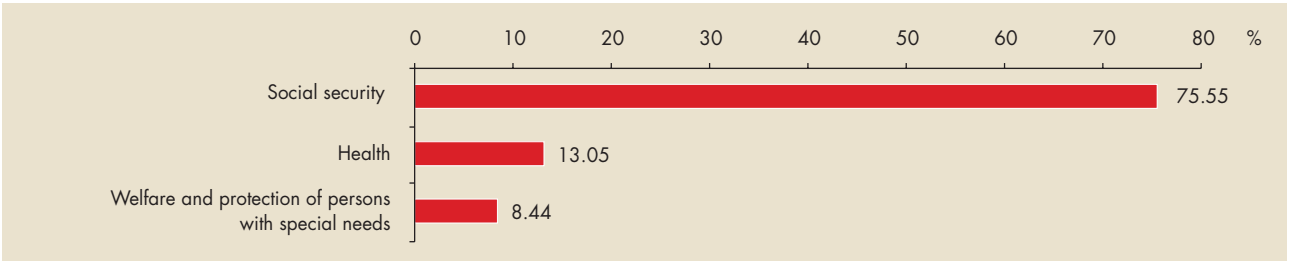
the procedure for the hiring and appointment of special category persons by the Manpower Employment Organisation (OAED), under Law 2643/1998. The specific problem which was submitted, concerned the nullification of job applications on the grounds, supplied by the service, that in a number of cases the supporting documents submitted were incomplete. Among these was a solemn statement by the other dependant members of the family that they have not exercised their right to placement in employment in the past, and that they forego any such claim in the future. The candidates considered that dependant members were their children, but not also their parents. The Ministry of Employment and Social Protection accepted that the non-submission of the solemn statements was due to confusion over the sense of the term "dependant members", and accepted the delayed filing of the solemn statements. The ministry however disbarred those whom it considered were not misled, since with their initial application they had included the solemn statement of their father or mother, but not of both parents.

Another problem which arose during the OAED hiring and appointment procedure for persons with special needs in positions in the private sector, concerned the nullification of the applications of individuals with a child, sibling or spouse with a degree of disability of 67% or over; in other words "indirectly a person with special needs". In these cases, the applications were nullified because the medical opinions of the appropriate sanitary committees of the Social Security Organisation did not specify that the persons from whom accrues the right to inclusion under the provisions of Law 2643/1998, are permanently unfit for work. The result of this was that the supporting documents submitted by the "indirectly persons with special needs" were incomplete. Subsequently the General Secretariat of Employment and the OAED informed the applicants that the sanitary committees would correct the opinions. This, naturally enough, convinced the candidates that the matter would be resolved; but it was not, and their applications were nullified. Finally, the Central Supervisory and Coordinating Committee for the Application of Law examined only those applications for which a protest had been lodged, ignoring the mediation of the Ombudsman, which maintained that the applications for which a protest had not been lodged ought to be examined also.

In both cases, the Ombudsman noted that the actions of the administration were not conform with the principles of fair administration and the safeguarding of citizens' trust.

Ministry of Employment and Social Protection

MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT



The Department of Social Welfare is in the process of completing a special report on the difficulties of access to employment, faced by persons with special needs. This report will stress the need for the existing legislative framework to be brought up to date, in order to ensure the equal participation of persons with special needs in economic and social life.

Exclusion of persons with special needs from welfare cover when their social security contributions are in arrears

A significant number of self-employed citizens with serious disability (67% and over), are excluded from the provision of welfare benefits, because they cannot be struck off the registers of the social security organisations to which they owe contributions. The welfare directorates of the prefectures reject the related applications of persons with a degree of disability of 67% or over, on the grounds that as long as they are registered with social security organisations, their needs are covered by their insurance funds. However, as the Ombudsman has already pointed out (*2000 Annual Report*, p. 111), the argument put forward by the welfare organisations does not tell the whole story, in that the insured person with serious disability is generally not in a position to make his social security contributions, and is therefore not covered by his fund. The Ombudsman has drawn attention to this, in effect, double exclusion – both from welfare benefits and from social security cover – of persons who are particularly in need of help.

The problems of access to public transport faced by persons with special needs

The Ombudsman made significant representations concerning the problems faced by persons with special needs in their use of public transport. On the basis of complaints submitted over the past two years, the Ombudsman tabled organisational proposals to the relevant services, and emphasised the need for compliance with existing legislation.

A case in point is that of a paraplegic, with a wheelchair, who wanted to travel with Olympic Airways from Brussels to Athens. The person in question was informed by Olympic Airways that they could only issue him with a ticket, if he would travel with an escort. An escort is called for only in exceptional cases, and when the person with special needs is unable to look after himself, which was not the case. The Ombudsman addressed a finding to the Minister of Transport, pointing out that this particular case reflects a political position which does not respect the constitutional right of persons with special needs to autonomous and equitable participation in the social and economic life of the country, and more particularly, to access and travel with public transport. The ministry accepted the position of the Ombudsman and requested in writing from Olympic Airlines SA and Olympic Airways, that they assure the transport of persons with special needs without demanding from them a medical opinion and escort.

Similar cases highlighted numerous problems in the embarkation and disembarkation from public transport of persons with special needs, because of faulty equipment and other shortages, and the need for drivers to be trained. The Ombudsman stressed the need for these faults to be listed and repaired; also that alternative means of transport should be foreseen for persons with mobility problems, which should be announced in due time to passengers. The question of the inadequate training of public transport personnel was considered crucial, in that their behaviour often effectively cancels the right of persons with special needs to use public transport.

The Ombudsman also dealt with the issue of access to the metro station in Syntagma Square. The Ombudsman listed a series of design and construction defects and tabled comments and proposals when additional

The Ombudsman has proposed:

- *The regular monitoring of the insurance status of the insured, so as to assess in a timely fashion whether he is excluded from a pension, and*
- *The issuance by the social security organisation, in cases of inability to pay social security contributions owed, that the insured is not entitled to a pension, so that the person may receive the welfare provision of disability benefits.*

work was being carried out in view of the 2004 Olympic Games. The subsequent alterations improved the functionality of the square for persons with special needs.

From the handling of the relevant complaints, it transpired that the most critical problem is the involvement of many different authorities with the obvious lack of coordination and open dialogue about these matters.

Difficulty of access by persons with special needs to Workers' Housing Organisation homes

Disabled individuals had serious problems of access to homes they had acquired from the Workers' Housing Organisation (OEK). An analysis of the problems shows that the aim of making workers' housing available to persons with special needs is effectively cancelled by the lack of special measures to facilitate access to these homes.

As an example one could mention the case of an individual suffering from multiple sclerosis, who took delivery from the OEK of a home which was not equipped with the necessary ramp, thereby rendering access to it impossible. Neither had a special parking space been set aside for his car.

In a similar case, a woman afflicted with total blindness took delivery of a first-floor flat. The stairs leading to it made it all but impossible for her to reach it without the help of another person. However the Board of Directors of the OEK rejected her petition for relocation. The Ombudsman noted yet again a lack of overall planning and infrastructure in the organisation's housing. The specificity of each case renders essential that the specific needs of disabled persons be taken into account, in order to effectively assure their rights.

The procedure for the assignation of serious disability benefits

The civil servants and persons pensioned by the state whose children are afflicted with serious disabilities are entitled to benefits. The relevant application is submitted by the parents to the State General Accounting Office, and it is then forwarded to the Higher Military Sanitary Committee for a ruling on the degree of disability. From the examination of complaints regarding this procedure, the Ombudsman concluded that the law in force obliges children with severe disabilities to travel to Athens from all over Greece, in

order to be examined by the Higher Military Sanitary Committee, because the latter is based there.

Following the Ombudsman's proposals, an appropriate directorate has been formed in the Army General Staff of the Ministry of Defence.

The Ombudsman has proposed:

- *That either each case be examined on the basis of the medical opinions submitted to the State General Accounting Office,*
- *Or, alternatively, that cases be referred to local public hospitals in the regions, in order to save persons with severe disabilities undergoing what are often painful, detrimental and costly journeys.*

Protection of large families

In order to encourage an increase in birth rates, and to facilitate the participation of mothers in the labour market, the monthly benefit for a third child, and the monthly benefit for the mothers of large families, were established. The latter is converted to a lifelong pension when the mother no longer has unmarried children of less than 23 years of age (Law 1892/1990). The relevant complaints received by the Ombudsman demonstrate the lack of a long-term, integrated and clearly defined social policy regarding family benefits. At times, the measures are aimed at increasing birth rates, and are exercised in the context of the demographic policy; at others, these measures are aimed at helping large families meet their increased financial needs. The Ombudsman considers it essential that this disparity of legislation applying to the protection of large families be normalised, including the regulations regarding family benefits.

The permanence of large family status

Applying the law of 1944, the Highest Confederation of Large Families of Greece (ASPE) obliges its members to validate their identity booklets every six months. The identity booklet is used by large family members to obtain reduced price tickets on public transport and in museums, as well as for receiving aid in kind (e.g. food). The validation of the identity booklet requires that a sum of money has been paid to the appropriate large family organisation, and involves an often time-consuming and costly procedure, visiting the registered offices of the large family organisations. On the other hand, failure to validate the identity booklet in due time incurs the loss of large family status, or the payment of charges on payments in arrears.

During the investigation of a complaint submitted by an association of persons protesting against the six-monthly obligation to validate their large family identity booklet, it transpired that the problems arose immediately after the ratification of Law 860/1979, which enacted the permanence of large family status, without specifically abrogating the need for the six-monthly validation. At the time, the opinion was sought of the Legal Counsels of the State, which confirmed that the intention of the legislator was to establish the permanent nature of large family status, and that therefore there was no need for the six-monthly validation. Despite this, the Directorate for the Protection of the Family of the Ministry of Health and Welfare, insists to this day on the process of six-monthly validation of large family booklets.

It is the Ombudsman's opinion that the passing of a law which would deal comprehensively with the questions of large families would prove useful on a number of fronts. Already in its annual report for 1999, the Office of the Ombudsman had examined the question of the conferral of large family status by the ASPE, and had stressed that the conferral of large family status on a person constitutes a social right and consists in the exercise of public authority, the bearer of which must at the very least be monitored and supervised by the Greek public administration. However, the ASPE is neither a public body, nor is it controlled directly by

the public administration. The relevant provisions date from 1944, since when a number of demographic, social, economic, legislative and other changes to Greek society have taken place, which by degrees have shifted the emphasis of social policy and the way in which it is exercised. Questions such as the role of the large family organisations, their relations with the governing ministry, the protection of the rights of those large family members who do not wish to belong to large family organisations, the attestations required for the certification of large family status, the perpetuation of large family status, etc., must form the subject of the relevant regulations.

However, even if comprehensive legislative resolution of these questions is not decided on, the Ombudsman considers that it is possible for parents who meet the conditions set out in article 2 of Law 860/1979, to be relieved of the obligation to validate their booklets on a six-monthly basis, by the issuance of regulatory orders, or the adoption of the relevant rulings of the Legal Counsels of the State.

The final dissolution of marriage as a precondition for the granting of large family benefits

A divorced mother with three children is also considered a large family mother, providing she has the exclusive responsibility for their upbringing (Law 1940/1944). On the basis of two similar complaints, the Department of Social Welfare examined the question of women separated from their spouses, who maintain their three children by themselves. The mothers in question had submitted applications to the ASPE for certification of large family status, but these had been refused for the reason that they had not divorced. When the mothers addressed themselves to the Ministry of Health to protest the ASPE's decision, the ministry did not take a position on the matter.

The Ombudsman stressed that in these cases, while the administration's action followed the letter of the law, a narrow interpretation of the provision on which the ASPE based its decision, and which the ministry adopted, effectively excludes the separated mothers from welfare protection, although they demonstrably have the full and exclusive responsibility for their children's upbringing. The Ombudsman also noted a similar problem faced by divorced mothers who have custody of the children, and whose ex-spouse, responsible for their maintenance, does not pay their subsistence allowance.

Greek citizenship as a precondition for large family benefits

The large family benefits (third child benefit, large family benefit, life-long large family pension, according to Law 1892/1990) are paid regardless of the professional occupation, wealth, and any other benefit, pension or remuneration. The joint ministerial decision (Γ1α/440/1991), which was issued following the legislative regulation and named the Agricultural Insurance Fund (OGA) as the organisation responsible for the distribution of these benefits, introduced Greek citizenship as a precondition for access to these funds. According to the decision above, in order for someone to receive the third child benefit, "all the children must have, or acquire, Greek citizenship". Subsequently, the Greek citizenship of the children became a precondition for the receipt of both the monthly benefit and the life-long pension, by the large family mother (Law 2163/1993).

In 1997, the large family benefit was extended to citizens of EU member states of recognised large family status, with the same conditions foreseen for Greek citizens (Law 2459/1997). Finally, by ministerial decision (Π3δ/οικ. 1078/1997) it was specified that for payment of the large family benefit, the beneficiaries must have Greek citizenship or EU member state citizenship, while for the granting of the life-long pension, the mother must have Greek citizenship, or be

Highest Confederation of Large Families of Greece (ASPE)

Athens Large Families Union

a refugee of Greek descent.

These regulations exclude from benefits those families which are the result of marriages between Greeks and non-EU aliens. The Department of Social Welfare, on the basis of complaints concerning the payment of large family benefits to foreign large family mothers of children with Greek citizenship, had in 2003 already submitted a relevant finding to the Ministry of Health and Welfare.

A similar finding was drafted by the Department, concerning the granting of third child benefits, following the submission of a complaint by a foreign woman, wife of a Greek citizen and mother of four minors, of whom the eldest was not a Greek citizen (having been born abroad to a previous marriage), while the other three children were born in Greece and were Greek citizens. The mother's application for approval of third child benefits was turned down on the basis that, on the one hand, the third child of the second marriage is in fact the fourth child in order of birth, and, on the other hand, that the third child in order of birth does not qualify for the benefit because not all the three first children have Greek citizenship. In its finding, the Ombudsman stresses that the establishment of the third child benefit was aimed at supporting and rewarding Greek families raising three children, regardless of the mother's citizenship or the order in which her children were born.

The administration has yet to take a position, either on the Ombudsman's recommendation that that the payment of large family benefits be extended to the foreign mothers of children with Greek citizenship, or on the finding concerning the approval of third child benefits, regardless of the mother's citizenship or the order in which her children were born.

Non-retroactive application of the abrogation of the income limit

Law 1892/1990 established the third child benefit and the large family benefit without setting conditions regarding the beneficiaries' income level. However, in 1997, Law 2459/1997 defined the upper annual income limits, in excess of which a large family could not receive these benefits. This divergence from the principle of the universal allocation of large family benefits was challenged in the Council of State, and cancelled. The legislator complied with this decision and reinstated the universality of the allocations (Law 2972/

The Ombudsman notes that:

- The large family must be supported, regardless of whether the mother is an alien, as long as the father is Greek and the children are also Greek.
- The different treatment accorded to large families which are the result of mixed marriages violates constitutionally established rights.

2001). However, the abrogation of the income limit only took effect from the date of publication of the law, and not retroactively.

The non-retroactive application of the abrogation of the income limit gave rise to a multitude of problems which continue to this day to plague the beneficiaries, and burden the administration. This is also apparent from complaints received by the Department in 2004. In one of these, the mother of a large family was asking for the retroactive payment of the benefit, from the time of its interruption (1999), without however having resorted to justice. The OGA refused to reallocate the benefit retroactively, on the grounds that "the precedent created by the decision of the Council of State does not extend to her person, because she was not a party to the court case". In another case, a mother of three asked for the Ombudsman's assistance in enforcing a court decision which obliged the OGA to pay to her the retroactive element of her third child benefit. The OGA refused yet again to comply with the decision before it became final. In this way, the OGA deprives for years the beneficiaries of welfare benefits, to which they are entitled and which, finally, they will receive.

The Ombudsman of Health and Social Welfare is incorporated in the Greek Ombudsman (Law 3293/2004)

DEPARTMENT OF QUALITY OF LIFE

The Department of Quality of Life handles cases concerning the public administration's implementation of urban planning, archaeological and general environmental legislation, rules on the operation of industry and polluting installations, as well as the law governing construction projects by public sector companies and businesses.

In this year's annual report, the Department has chosen to highlight two issues: environmental infrastructure projects (solid waste treatment works, sewerage and water supply works), and the procedures governing the siting and operation of private enterprises.

The disposal of solid and liquid waste is one of the most acute environmental, social, economic and, ultimately, cultural problems faced by modern societies. Generalised urbanisation, extensive industrialisation, mass consumption and the mass production of waste have undoubtedly contributed to this. The construction of infrastructure projects (solid waste treatment works, sewerage and water supply works) has consequently become a necessity in order to safeguard human health and the environment.

As far as the licensing of private enterprises is concerned, despite the fact that the appropriate legal framework varies according to the activity under consideration, certain common issues arise both at the planning stage and during their operation. The Department of Quality of Life has attempted to highlight and formulate some initial thoughts and proposals with the aim of contributing to the dialogue surrounding the rationalisation and speeding-up of the relevant administrative procedures.

TOTAL COMPLAINTS 2004	**3.113**
Complaints within the Ombudsman's mandate	1.913
MALADMINISTRATION PROBLEM CORROBORATED	768
Problem resolved (favourable outcome)	593
Problem not resolved (Ombudsman's recommendations were not accepted – impossibility of resolution)	175
MALADMINISTRATION PROBLEM NOT CORROBORATED	361
INVESTIGATIONS DISCONTINUED	165
CASES PENDING AT 31.12.2004	619

GEORGIA GIANNAKOUROU
Deputy Ombudsman

Environmental infrastructure projects

Solid waste treatment works

The problems observed during the handling of complaints related to solid waste management chiefly concerned environmental pollution due to the uncontrolled disposal of waste, and are based on a failure to comply with environmental terms, as well as the choice of site for solid waste treatment works.

Uncontrolled disposal of waste

The most common method of handling solid waste is its uncontrolled disposal, in contravention of both national and EU legislation, off cliffs, on the banks of torrents, rivers and stream beds, on the coast, in the immediate vicinity of springs used for water supply purposes, disused quarries, forested areas, even archaeological sites. In some of these areas, the problem may assume drastic proportions as both water tables and surface water networks are affected.

The following have been repeatedly stressed to the competent authorities by the Ombudsman:

- The illegality of uncontrolled waste disposal in any natural site (Law 1650/1986, Law 3010/2002, Directive 91/156/EEC).
- The obligation of the administration to systematically impose the administrative and penal sanctions foreseen by legislation (Law 1650/1986, Law 3010/2002).
- The need to stop the operation of illegal waste disposal areas immediately, and to establish Environmental Quality Control Units in order to carry out on-site investigations and to define the measures required for site restoration.
- The need to restore illegal waste disposal areas immediately.

- The need to design a system to monitor groundwater and surface water quality.

Unfortunately, the administration's response to the Ombudsman's proposals cannot be deemed satisfactory, as in most cases the operation of illegal waste dump sites (note: homateres) could not be stopped. As well as this, the administration has avoided, in all but a few isolated instances, the imposition of sanctions on the responsible municipalities. In the few cases where the operation of illegal waste dumpsites was discontinued, this was not accompanied by works to restore and rehabilitate areas to their natural state.

Failure to comply with environmental terms

Case investigations have also revealed problems arising out of compliance with the approved environmental terms of legally established landfill sites (note: *HYTA*, in accordance with Directive 1999/31/EC on the landfill of waste). A representative example of maladministration is the failure to comply with the terms of the environmental permit in the Ano Liosia Landfill, the country's largest landfill site. Deviations from the approved terms contained within environmental permits creates distrust in public opinion as to the technological feasibility of creating landfills with minimal environmental impacts, which in turn compounds community resistance when planning the location of new landfill sites.

Choosing sites for solid waste management

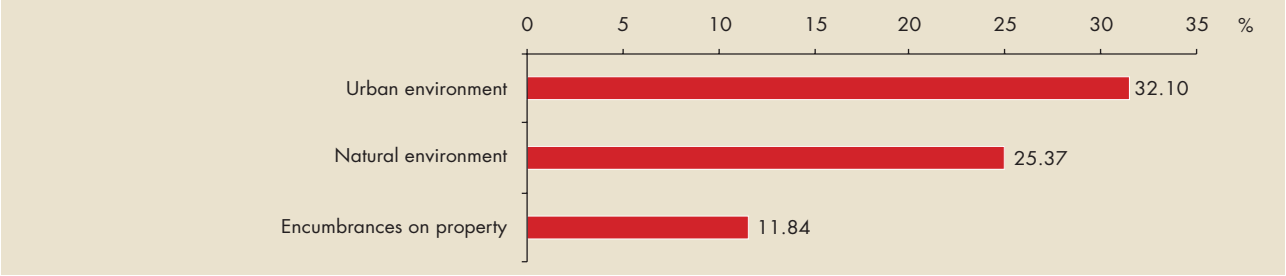
The following problems were observed in the siting of solid waste treatment works:

- The procedures in place are excessively complicated and time consuming.
- The dossiers containing the Preliminary Environmental Evaluation and Assessment, as well as the Environmental Impact Assessment, which form a part of the overall environmental permitting regime, are frequently incomplete.
- The criteria established according to national and EU legislation, concerning the suitability of an area are often insufficiently met, due to the particular importance attributed to ensuring public approval.
- The prefectural decisions issued at the regional planning stage only approved one landfill site as appropriate, despite the legal requirement for more.

In dealing with the problems mentioned above, the Ombudsman made the following points to the competent authorities:

- Applicable regulatory frameworks must be strictly applied when drawing up solid waste management plans.
- Establishing the technical solution most

MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT



advantageous to the environment should be the main criterion when choosing and evaluating the siting of solid waste treatment works.

- The meaning of "public approval" is on the one hand vague and in need of definition, and on the other hand should not, according to the legislation, be a criterion when evaluating different sites.

Sewerage works

The most important problems identified during the investigation of cases concerning the treatment and disposal of household sewage and industrial waste in different parts of the country, were the following:

- The absence in many of the country's municipalities, especially the smaller ones, of sewerage networks and facilities for the biological treatment of sewage. The result of this is the disposal of untreated domestic sewage into surface water or groundwater sites, downgrading water quality and creating hazards to public health.
- The creation of porous-septic tanks resulting in the leaking of sewage, or the illegal connection of septic tanks with existing rain water drainage networks, with adjacent uncovered trenches, or with sewerage networks still under construction.
- The disposal of untreated sewage from hotel complexes into surface water or groundwater receivers.
- Non-compliance with legal procedures when permitting biological treatment works.
- The construction of sewerage networks in contravention of national and EU legislation regarding public works tenders.
- Non-compliance with approved environmental terms and wastewater quality monitoring procedures.
- The negligent operation of industrial waste treatment facilities and the failure to construct the required infrastructure.
- Failures on the part of the competent authorities to carry out necessary chemical and micro-biological controls, even when official complaints have been lodged and where there are serious risks to the quality of surface water and groundwater.
- The fact that significant deviations have been observed in the results of examinations carried out by different civil services, which naturally raise questions about the sampling methodologies employed and the credibility of the test results concerned.

In many cases, following the Ombudsman's intervention, the competent bodies collected and analysed samples in order to determine the existence of pollution. However, even in those cases where pollution and environmental degradation was established, the required sanctions were not applied and environmental protection measures were not taken. Only in a few cases was the Ombudsman informed of the initiation of the environ-

mental permitting and/or public tendering processes for the construction of sewage treatment and disposal works. Even then no specific timelines were established, nor were any measures for the appropriate temporary disposal of sewage until the completion of these works taken.

In dealing with the problems posed by the management of solid and liquid waste, the Ombudsman makes the following proposals:

- *A shift in management systems not only towards waste recovery by recycling, re-use and reclamation of energy, but chiefly towards a reduction in the generation of waste through the development of clean technologies and through the design and placing on the market of products which contribute to the min-imisation of waste production.*
- *Applicable laws should be strictly enforced; the compulsory monitoring of environmental conditions should be established on the one hand, with specific methods of decontamination – restoration on the other.*
- *Enforcement of measures or penalties, scaled towards and proportional to the extent of the damage caused.*
- *An effective and realistic institutional framework.*
- *The promotion of environmentally friendly technologies, even where these are more costly.*
- *The promotion of environmental education and public information and awareness raising. This is crucial, given that the high degree of opposition frequently encountered from local communities to the establishment of solid and liquid waste treatment facilities indicates that correct waste management is, as well as a legal problem, a problem created by the absence of an environmental culture both in the administration and on the part of citizens.*
- *The allocation of funds and the integration of cost – benefit and sustainability analyses in the management system.*

Water supply works

Complaints concerning the degradation of drinking water quality were made by many citizens during 2004. Degradation was either caused by contamination of the water by microbial loads, or by chemical pollution from industrial or agricultural activities, or by incursions of sea water into water tables because of excessive use.

Drinking water quality degradation is mainly due to:

- A lack of systematic and proper maintenance of water supply networks, particularly by smaller municipalities.
- The proximity of water supply pipes to sewerage pipes or porous-septic tanks, without the necessary sealing or water-tightness precautions being taken and without regard for the maintenance of appropriate distances.
- Insufficient monitoring and controls of the quality of drinking water.

In light of these findings, the Ombudsman repeatedly stressed the following to the competent authorities:

- That negligence in the monitoring of drinking water quality constitutes a serious administrative omission, with possible consequences on public health.
- Checks and maintenance on water supply networks are compulsory.
- Co-responsible authorities must ensure that laboratories in which samples are analysed have quality-control systems, which are in turn subject to controls.
- If the required improvements in water quality are not achieved, then the administration must examine possibilities of further water treatment, the identification of alternative sources of water supply or different methods of water provision for the community in question.

A key problem, in the Ombudsman's view, is the selective and fragmented practice which is characteristic of sample taking. Contributing factors to this problem are undoubtedly the absence of properly equipped laboratories in smaller municipalities, as well as the lack of funds and staff for the gathering of samples and the dispatch of samples to equipped laboratories.

In dealing with the problem posed by drinking water quality degradation, the Ombudsman makes the following proposals:

- *The development and maintenance of adequate laboratory infrastructure on the municipal and prefectural levels.*
- *The provision of mobile, rapid-detection units in order to be able to form instant assessments of the degradation caused.*
- *The establishment of an adequate national sampling system, into which smaller laboratories can be integrated, at least as far as routine samples are concerned.*
- *The complete replacement of water supply networks, the identification of alternative water supply sources or methods of water provision in those cases where continuous problems with water quality degradation are observed.*
- *The provision of adequate funding for the replacement of antiquated water supply networks, and the adaptation of the national system to the requirements of Directive 2000/60/EC, transposed into the Greek legal system by Law 3199/2003.*

The provision of the necessary funds with which to realise these proposals require consideration of the following:

- The creation of a Special Water Fund, the resources of which shall be used exclusively to fund water supply needs, under the condition that relevant funds are redistributed between smaller and larger local government bodies.
- The inclusion of the relevant works in various funding programmes, as well as the application of specialised water-pricing policies in order to realise environmental projects.

Procedures governing the siting and operation of private enterprises

Complaints of this nature received by the Ombudsman concern industrial and handicraft enterprises, as well as service sector businesses (tourist and commercial enterprises) and primary production enterprises (poultry and livestock facilities). Complaints are submitted either by the affected business owners on whom maladministration problems have a direct impact, or by third parties, including the owners of adjacent land, non-governmental organisations, who wish to call into question the legality of the procedures followed by the public authorities in the siting of these enterprises and particularly in the granting of operating licences.

The Ombudsman has come to the following conclusions:

- The vagueness of the system in place for determining the siting of private enterprises, in conjunction with the frequently observed delays and unsubstantiated refusals to grant the necessary permits and approvals, are factors that discourage entrepreneurship and healthy competition and undermine legal certainty.
- Frequent illegal permitting and operation of various enterprises reinforces the public's and local societies' mistrust in the particular business ventures.

The precarious siting framework

Amongst the various stages of the permitting process, the most important problem encountered by enterprises is that of siting. This refers to the process by which the terms of an enterprise's establishment are brought in line with environmental, land-use and urban planning requirements in force.

In such cases, the following problems are observed:

- The lack of a register, as well as of established boundaries of the country's protected areas (forests, forested areas, archaeological sites, wetlands, stream-beds, coastal areas, etc.).
- A lack of organised zones for production activities, which would guarantee the trouble-free siting of private enterprises in areas free of land use and environmental obstacles.
- The permitting of enterprises without regard for the cumulative effects these may have on the environment and natural resources, as well as on employment and the job market.
- Frequent changes in the regulatory framework, without transitional provisions to ensure the smooth relocation of incompatible activities to other areas.
- The issuing of permits and approvals based on legislative and regulatory provisions that have been judged unconstitutional by the relevant courts.

The excessive time taken in deciding on the classification of property as forested land or not is a characteristic problem created by the vague nature of the land-use framework in areas situated outside the scope of urban plans.

An indicative example of the legal precariousness of the regulatory framework governing the siting of enterprises is the regulation concerning the establishment of low, medium and high impact enterprises within settlements and within 500m from the boundaries of these settlements (Presidential Decree 2–3/13.3.81). This regulation was made

more flexible, limiting the absolute ban on establishment to medium and high impact enterprises (Presidential Decree 24–4/3.5.85), but was subsequently found unconstitutional by the Council of State; a further decree brought it back into effect in 1989, and yet the Council of State found it unconstitutional once again. A representative example is the operation of a low impact installation within the boundaries of a settlement, in the Anifi area of the Municipality of Midea.

By way of conclusion, representative examples of different types of activity which have been sited in the same area, or even in the same building, include the operation of a pig-farm directly adjacent to a hotel, with no provision for mandatory separation of distances, in the Municipality of Filothei in the Arta Prefecture; and in the Municipality of Malakassio in the Trikala Prefecture, the location within the same building of an establishment subject to health regulations (café–bar–restaurant) and a liquid fuel station, a co-existence which could cause risks to public safety.

Delays and/or unsubstantiated refusals in the granting of permits and authorisations

The Ombudsman has examined cases of neglect, delay or unsubstantiated refusal on the part of the competent authorities in the issuing of the required permits for the establishment and operation of private enterprises.

As a typical example of maladministration, the unsubstantiated refusal of the Prefectural Council of Iraklion, Crete Prefectural Government, to grant an operating licence to a commercial enterprise seeking to establish a retail supermarket in the Municipality of Alikarnassos, Prefecture of Iraklion, can be cited.

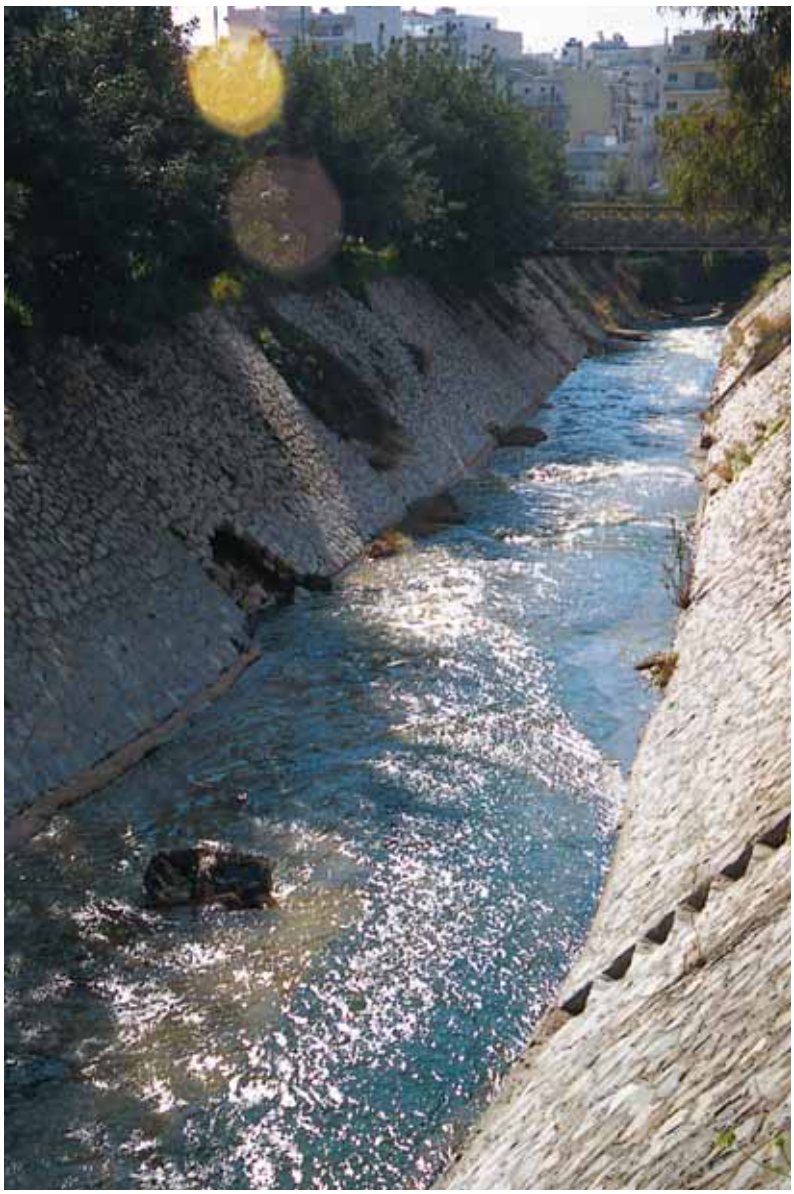
A very frequent example of maladministration can be identified in the practice of including unlawful or abusive terms or exceptions, which can render the operation of an enterprise unfeasible. An indicative example is a relevant decision by the Secretary General of the Ionian Islands Region.

Following the examination of a significant number of complaints submitted by the public, the issuing of a sequence of permits over a period of time, all required for the operation of an installation, has been brought to the fore; this is a particular problem when, before the final stage of the procedure is reached, a particular service refuses to grant a permit. A representative case is that of the Urban Planning Office of Lesvos Prefectural Government refusal to issue a construction permit reclassifying the use of a building and for the construction of a smokestack, despite the fact that a decision of the Prefect of Lesvos had already approved the granting of an establishment and operating licence for a bakery.

Equally important are the difficulties faced by the public when trying to obtain qualification for the eligibility of their enterprises for the receipt of European Union structural funds. A good example is the case of an agro-tourism guest house in Iraklion, Crete, whose operator had secured partial funding under the EU's Leader programme, but who then encountered extensive delays by the Ministry for the Environment's services. Similar delays were also caused by the Xanthi Prefecture when issuing an operating licence for a poultry farm in respect of which its operating company had already received EU funding.

Negligence in monitoring, checking and applying sanctions

A large number of complaints handled by the Ombudsman concerned businesses which did not hold the required permits or authorisations, or which did not comply with the terms set out in these permits. In the vast majority of cases, the non-compliance related to environmental issues. Vehicle repair – paint shops, a tsipouro distillery, multipurpose entertainment park, a unit producing ready mix concrete and a quarry were all found to be operating without approved environ-



mental permits. Power stations were established on the basis of expired environmental permits. A printing shop, a newspaper press and a limekiln operated beyond the terms set out in their environmental permits.

In certain cases, the illegality extended from businesses' environmental permits to their operating licences, while in others further breaches were observed; these concerned either the lack of a solid waste management permit (e.g. lime factory), or a failure to comply with the terms of the approved liquid waste treatment and disposal study (e.g. tsipouro distillery).

The maladministration established is frequently due to negligent controls when renewing or reviewing permits. A characteristic example is the case of a facility manufacturing plastic goods situated within a general residential area: it had received an establishment and operating licence, which was renewed for an indefinite period in 2001 (Law 2516/1997), even though it did not hold the requisite building permit for extensions to its structures.

The illegal operation of businesses which do not hold a building or an establishment permit, along with the competent authorities' neglect in imposing the sanctions foreseen by environmental legislation, has been the subject of numerous cases brought to the Ombudsman's attention. A characteristic example is that of a business which disposed and managed used metals and vehicles, situated on land classified as green space in Peristeri, Attica, and which operated without a licence.

Despite the Ombudsman's repeated actions, this business was still in operation at the end of 2004, while the Municipality of Peristeri had not taken any measures against it at all.

It should be noted that the imposition of sanctions does not come within public administration's discretionary powers, but is a binding obligation. Consequently, a refusal by a competent authority to impose the required sanctions where breaches of the relevant legislation have been established constitutes a failure to take a legally required action (Council of State 2680/ 2003), and is therefore (and of course when all other necessary conditions have been met) a breach of duty.

In dealing with the problem posed by the siting and operation of private enterprises, the Ombudsman makes the following proposals:

- *The systematic registration and delimitation of those parts of the country which are subject to special legal provisions (forests, forested areas, archaeological sites, areas protected by international and EU law, areas of outstanding natural beauty, etc.), and the definition of the activities permitted within these areas, as well as general rules governing the carrying out of such activities. Until this process has been completed, temporary boundaries need to be set for such areas, particularly for coastal, peri-urban and tourist areas.*

- *A substantive codification of the legislative and regulatory requirements governing the permitting of enterprises should be completed, with the aim of a) completing the gaps in existing legislation, b) abolishing contradictory rules, as well as those rules which have been found to be in conflict with the Constitution or with EU law, c) clarifying the chronological and logical sequence of the different permits and authorisations, and d) simplifying the current administrative process and consolidating the various permits and authorisations.*

- *The establishment of absolute deadlines for the issuing of permits and authorisations.*

- *The publication of clear manuals on the permitting of enterprises.*

- *The systematic monitoring, through annual samples taken from a statistically representative share of operating installations, of compliance with approved environmental terms, as well as all other terms contained within permits and authorisations.*

Department of State – Citizen Relations

The Department of State – Citizen Relations mainly handles cases associated with "information and communication, the quality of services provided, and maladministration in local government, utility companies, transport authorities, communications authorities, employment, industry, energy, tax and customs authorities, fiscal matters, trade and public sector purchasing, farming and agricultural policy, and education". Each year the Department deals with cases concerning a large number of different public authorities, but has decided here to highlight two sectoral themes: Local Government Authorities, and the enforcement of tax legislation. The Ombudsman considers that the proper and effective operation of decentralised administrative bodies is an obvious and crucial prerequisite for the safeguarding of citizens' rights. Two specific issues have been identified regarding the operation of Local Government Authorities: The oversight of local government, and the imposition of contributory fees. In the second sectoral theme, the Ombudsman has recorded its observations regarding the application and enforcement of tax laws; such observations are unfortunately displaying a tendency to become a permanent fixture in the Ombudsman's annual reports. The Ombudsman hopes to encounter further positive responses from the financial services, which have systematically engaged in efforts to improve the way problems between tax authorities and the public are handled.

TOTAL COMPLAINTS 2004	**4.860**
Complaints within the Ombudsman's mandate	3.321
MALADMINISTRATION PROBLEM CORROBORATED	1.442
Problem resolved (favourable outcome)	1.112
Problem not resolved (Ombudsman's recommendations were not accepted – impossibility of resolution)	330
MALADMINISTRATION PROBLEM NOT CORROBORATED	846
INVESTIGATIONS DISCONTINUED	213
CASES PENDING AT 31.12.2004	820

Kalliopi Spanou
Deputy Ombudsman

Local Government Authorities oversight

While Article 102 of the Constitution establishes and enshrines the administrative autonomy of local government bodies, it explicitly foresees oversight of such functions. Oversight of Local Government Authorities' actions is confined to a review of their legality, which can lead to their cancellation. Reviews are undertaken both on the initiative of the Secretary General of the Region, and following the submission of a complaint by any interested party. The Secretary General of the Region's[1] review is a posteriori, with the aim of averting the issuing of unlawful acts by local government. The Secretary General has the authority to refer any acts which he deems insufficiently justified to a relevant tripartite commission. Reviews of legality triggered by specific complaints concern the acts of primary level Local Government Authorities, which can be challenged within ten days from the publication of the act (article 178 of the Municipality and Community Code). As for prefectural government acts, they can be challenged within 15 days of publication, or 30 days for acts of the prefect (Law 2218/ 1994).

Reviews following a complaint

Incapacity on the part of the committee of the Region or the Secretary General to review citizens' complaints within the 20 or 60 day absolute deadlines

The cases handled by the Department point to an unwillingness on the part of local government bodies responsible for the issuing of an act, to supply all the documentation necessary for the review of that act in a timely fashion; this appears to be the most important reason for the inability to complete review of citizens' complaints within deadlines. The

[1] Acts issued by the prefect, acting as a single-member body, are exempt from this review.

relevant provisions state that "the committee makes its substantiated decision within the absolute deadline of 20 days from the date upon which it received the referring document accompanied by the legally required supporting documents" (Law 2218/1994), and that the Secretary General of the Region must publish his decision within 60 days, where an act of the prefect is concerned. In spite of this, regional authorities frequently take the day of publication of the act as the inception date of the deadline, rather than the day upon which all the supporting documentation relevant to the act is received. The result of this is that many citizens' complaints are not subjected to a substantive examination, even though responsibility for the delay rests with the authority responsible for the act being challenged, and not with the citizen who has addressed his complaint to the competent committee within the applicable timeframe.

Of course, the provision which refers to challenges of acts of prefects before the Secretary General of the Region does not specify – as does the corresponding provision regarding challenges laid before a committee – that the deadline is to be calculated from the day upon which all the necessary documentation is received. Thus, a narrow interpretation of the provision leads to a practical limitation of the citizen's right to challenge acts. A pertinent example is that of a deadline, within which a committee had to decide, having expired due to the absence of one of the committee's members (and of his replacement); this committee member was both president of the body which had taken the disputed decisions and had himself proposed the very decisions under review.

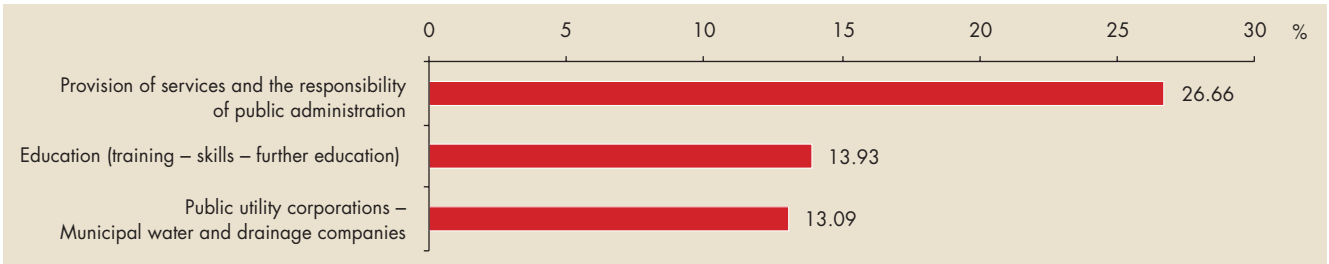
Inability of the Region to enforce decisions taken following a challenge

The law does not make any provision for the monitoring of the implementation of decisions taken by the Region, following a challenge, and consequently no provisions are made regarding the application of sanctions in the event of non-compliance with these decisions. In one case handled by the Department, a regional committee unanimously upheld a challenge to an act concerning the procedures for the counting of blank votes cast by the members of collective bodies, judging that blank votes should be counted as absentee votes. However, the municipal council of the relevant local government body persisted in its previous opinion and continued counting blank votes as negative votes, with obvious consequences for the validity of the decision.

Reluctance by the Region to review legality of all acts

In certain cases, the competent committee avoided reviewing acts which it considered could not be classed as administrative, regulatory or individual actions. Several of these concerned appointments of staff to Citizens Advice Bureaus (KEP). However, according to Law 2218/1994, challenges to all types of local government acts are permitted. As a result of this practice on the part of certain regional authorities, citizens who submitted challenges to similar cases with the committees of different Regions, succeeded in overturning those acts.

MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT



Committee decisions incompatible with relevant provisions

According to an opinion by the Legal Counsels of the State, adopted by the Ministry of the Interior, Public Administration and Decentralisation, any imposition of service rates must demonstrate the link between the services rendered and the proceeds from the rates imposed, so as to fully justify the imposition of the rates. Despite this, the Department handled a case where a committee upheld a municipal council decision to impose service rates, which did not include the reasoning required.

A posteriori reviews

A significant number of cases has highlighted problems in the Regional Secretary Generals' exercise (article 177 of the Municipality and Community Code) of the a posteriori review of acts issued by the collective bodies of primary level Local Government Authorities, as well as by their public law legal entities. According to the relevant provisions, the Regional Secretary General is obliged to refer those acts that he feels are insufficiently justified, to the appropriate regional committees, within 5 and 15 days respectively. Administrative problems encountered by the Ombudsman chiefly concern an incorrect application of the legal framework in force and the inability to enforce committees' decisions.

Incorrect application of the legal framework

In a number of cases, the approval of acts raises questions of legality and the correct application of the legal framework, regarding both the substance of the acts, and the a posteriori review exercised. There have been cases in which acts concerning the amendment of tender conditions, for the lease of a building, were deemed valid, in breach of the legislation in force. In another case, following a citizen's challenge, the regional committee referred the act under consideration back to the local government body, which re-issued it with no changes. The Region did not subsequently resubmit the act to the committee for review, despite the fact that it was in all respects identical with the act that had originally been challenged. The failure to refer the act to the committee, within the exclusive 15 day deadline, resulted in the legality of the act not being reviewed once again. Finally, in one case, decisions by the prefectural government concerning the execution of public works, which were not submitted to a review of legality, were subsequently overruled by the Minister for the Environment, Physical Planning and Public Works, following a challenge by an individual. The prefectural authorities did not comply with the ministerial decision.

Ineffectiveness of a posteriori reviews

A posteriori reviews have often been performed properly, but to no effect, as the local government bodies under review have not complied with the decisions of the committees. A characteristic example is the case of the decision of the Central Macedonia Regional Committee concerning the imposition of a secondary residence charge by the Halkidiki Prefectural Government. This charge was ruled unlawful given that it discriminated between individuals on the basis of ownership of real estate. Nevertheless, the Region's decisions were ignored by the Halkidiki Prefectural Government.

Procedures for the appointment of staff by Local Government Authorities and local government public law legal entities

Procedures for the appointment of staff used by Local Government Authorities and local government public law legal entities were the subject of a number of complaints handled by the Department. In many of these cases it was established that the Region's competent bodies did not examine whether the contracts were for employment or for specific projects. Additionally, in certain cases, committees were unwilling to review

recruitments which had already taken place in breach of the relevant provisions (KEP case), or even recruitments which took place on the basis of criteria subsequently added despite a clear objection from the ASEP.

Insufficient reviews of Local Government Authorities lead to problems related to adherence to legality and the protection of citizens' rights. The independence of local government bodies should be balanced by their submission to the principle of legality which is the precise aim of reviews. The shortcomings in the exercise of such reviews are therefore a crucial issue in the functionality of the institutional framework and risks compromising the democratic nature of decentralisation.

Citizens Advice Bureau (KEP)

Imposition of reciprocal charges by Local Government Authorities

Local Government Authorities have the discretionary right to impose reciprocal charges; an issue already raised in the annual reports for 2001 and 2002. Nonetheless, because of a continuing flow of cases on this subject, it was considered useful to attempt a more comprehensive assessment in this year's report.

The legal framework

In order for Local Government Authorities to meet their constitutional aims, the ability to levy taxation has, among others, been delegated to them by the state. However, this competence is not without restrictions. It is limited by article 78 of the Constitution, which states that the imposition or collection of taxation without formal legislation defining the subject of taxation and the income, the category of ownership, the costs and transactions or their categories, is impermissible. It is therefore clear that the local government's competence to impose charges of a reciprocal nature is conferred exceptionally and the exercise of this competence must not conflict with the provisions of the Constitution and the laws. The imposition of this type of taxation is aimed at meeting the expenses incurred for services or works which contribute to the development of the area, and to the improvement of the citizens' quality of life. The amount of these rates, those who are obliged to pay them, together with all other necessary details, are set down by decision of the municipal council.

According to the above, in order for these charges to be reciprocal and thereby legal, two conditions must be met: on the one hand they must constitute an exchange for a specific good or service rendered exclusively to those who are called on to pay for it; on the other, the amount levied must correspond to the good or service rendered. Apart from this, the special nature of these charges precludes their imposition for works which have

been embodied in the competencies of the Local Government Authorities, and which are funded out of other delegated income. Consequently, any relevant decision by a municipal council must mention explicitly: a) the specific service or work which is provided and contributes to the development of the area and to the better serving of its inhabitants, b) the detailed budget for the construction or maintenance of the works, or for the service provided, and c) the persons who will benefit, and who will pay their share of the charges.

Review of legality

The decisions taken by municipal councils, by which reciprocal charges are levied, are reviewed as to their legality by the Region (article 177 of the Municipality and Community Code). However, the review carried out by the Region is often incomplete, resulting in the enactment of decisions taken by municipal councils, which are legally debatable and in violation of the Constitution (see previous sectoral theme).

The legality of these acts is not judged, as it should be, in a court of law, as citizens tend not to resort to justice concerning the imposition of taxation by Local Government Authorities, because of the disproportionately high cost of litigation, relative to the illegally imposed taxes.

Reciprocal charge for marriages

The Municipality of Papagou instituted a special local reciprocal charge to be paid only by those, non-resident of Papagou, who would hold a marriage or baptism in churches belonging to its administrative area. The reciprocity of this charge was neither obvious nor sufficiently grounded, given that the extra cleaning and lighting services of the churches were covered by the cleaning and lighting charges paid by the town's citizens. Regarding this case a finding was submitted to the Minister of the Interior, Public Administration and Decentralisation, which requested the re-examination of the legality of the marriage charge by the committee of the Region of Attica. Subsequently, the Region found that the decision instituting the specific charge was legal, despite the contrary view of the Ombudsman.

Environmental development charge

Similar comments could be made about the environmental development charge, instituted by the Municipality of Moshato and levied since 1993. For the year 2003, the municipal council imposed on all the area's industrial, light-industry, commercial, warehousing and transport enterprises, a charge per square metre, aimed at raising funds for specific works. However, the selective imposition of natural or legal entities with the construction cost of works which benefit a wider circle of persons, together with the fact that for the works in question legislation already exists which nominates who will fund them, render application of this legislation problematical.

Extension of interment charge

The Municipality of Zografou, applying article 4 of Law 582/1968, voted the Cemetery Regulation, which, *inter alia*, stipulates that in family plots can be buried specific persons (relatives) without limitation in time, while with the written consent of the beneficiaries other persons may also be buried, but only for three years. If this period is to be extended, the beneficiaries of the family plot must pay an extension charge, which varies

between 30 and 44 euros for each month of burial beyond the three year period.

The beneficiaries of family plots addressed themselves to the Ombudsman because the extension charge was levied a number of years after the three year period had lapsed, with the result that they were faced with paying disproportionately large sums. The complainants were not aware of the regulation, neither had they been notified by the municipality, in which case they would have proceeded to disinterment. The Ombudsman notified the municipality of the situation, and pointed out that the reciprocal nature of the charge was not apparent. The Municipality of Zografou did not accept the Ombudsman's proposals.

Water supply charges

Similar problems have arisen with the water supply services of a number of municipalities, which charge various small amounts, which give rise to doubts about their legality or the reason for which they were charged. As an example, the water supply services of the Municipality of Nea Makri, on the detailed water bills for the first four months of 2004, charged an additional 4 euros per bill, without providing any explanation for this charge. The same municipality also includes under fixed charges, an amount corresponding to the minimum consumption charge of 20m^3. In other words, for consumption of less than 20m^3 the inhabitants are still charged the amount corresponding to 20m^3, and this amount is included in fixed charges. However, this method of charging gives rise to doubts about its legality, because it does not allow for monitoring. Normally, the bills should include the charge for actual consumption and the unit rate, while the fixed charges should constitute a separate and independent charge.

Apart from the incomplete review of the legality of the acts of Local Government Authorities, the symptomatic cases referred to above highlight the fragile legal basis for the imposition of reciprocal charges by municipalities. More specifically, the principle of fair administration calls for substantive proof of reciprocity, which differentiates the imposition of reciprocal charges from the imposition of taxation, as well as proportionality of charges and services rendered. Furthermore, elementary respect for those inhabitants who are called on to pay makes it imperative that they be informed in a timely and complete fashion of their obligations.

Enforcement of tax laws

Since the inception of the Ombudsman, the Department handles on a yearly basis a large number of complaints relating to tax issues. These are matters which concern the operation of the fiscal system, and the correct enforcement of the relevant provisions, according to the general principles of law, both by the central services of the Ministry of Economy and Finance, and by the decentralised services (tax offices, Financial Review Boards, customs, etc.). The number of complaints alone demonstrates the gravity of the problem and its social dimension.

From the systematic involvement in these complaints and the submission of proposals, and apart from the resolution of individual cases, it is clear that the Ombudsman is trying to contribute to the normalisation of the fiscal system and to its adaptation to the dictates of modern Greek society. It is important to note that the Ministry of Economy and Finance responds positively to the Office of the Ombudsman's activities and examines its proposals with due diligence. The common aim is the maximisation of the capabilities of the fiscal administration, both for the benefit of the taxpayer, and for its validation in the latter's perception.

Tax forms

Data relating to the Department's activities in fiscal matters

The bulk of the complaints about fiscal matters concerned tax offices, which might lead one to the conclusion that the infirmity of the fiscal administration lies in the services called on to enforce fiscal policy. This conclusion should not ignore, however, the considerable share of responsibility that lies with the central services of the Ministry of Economy and Finance and its political leadership, for the quality of drafting of legislative provisions, for the supervision, coordination and monitoring of their cohesive enforcement, as well as for the application of the measures necessary for the smooth operation of the decentralised services.

Of the complaints handled, cases of maladministration can be categorised as follows: inertia of the fiscal administration, delay in the issuing of administrative acts, flawed administrative review and non-compliance with time limits, make up 30.4% of complaints. These are followed by incomplete or inexistent provision of information to taxpayers (17.4%), operational and organisational problems of the competent services, lack of collaboration and coordination between them (12.3%), delay or non-response to a request (7.2%), and non-compliance with the general principles of administrative law (11.6%). 5.8% of cases related to incorrect interpretation of tax laws and administrative acts, and 4.3% to their direct violation.

A cursory examination of the five foremost types of maladministration shows that, for the most part, the shortcomings of the fiscal administration are not the result of substantive violations of the tax laws. On the contrary, they owe more to the poor quality of the services provided to taxpayers, which is a function of faulty organisation of the administration, civil servants' lack of professional standards, and a limited political will to establish a fiscal administration which not only follows the law, but is fair and friendly towards the taxpayer.

A characteristic example is to be found in the case of a complaint submitted to the Ombudsman protesting the incomplete information provided regarding the possibility of finding an administrative solution to a difference which arose following the imposition of a fine for violation of the provisions of the Code of Ledgers and Entries. In 2003, the Director of the Tripoli Tax Office issued a decision imposing a fine for violation of the Code of Ledgers and Entries. When the individual in question decided to pay the fine, he was informed that the term set by law for the submission of an application for administrative resolution of the difference, or for exercising of his right to seek redress in court had expired. The individual stressed that he had not been informed of the term provided for by law, either orally or as part of the decision which was served on him. Despite this, the tax office did not accept his argument,

and demanded the full amount owed.

The Ombudsman stressed the lack of correct and full provision of information to the taxpayer, and asked for a re-examination of his case. The Ombudsman also stressed that the clear provision of information to taxpayers, regarding the possibilities and conditions for the submission of a request for administrative resolution of their differences, is an imperative of the principle of the protection of the subject of administration; and this both as a general principle which governs the activities of the public administration, and as one aspect of the principle of the rule of law. Finally, the competent services accepted the Ombudsman's proposals and the taxpayer paid 1/3 of the amount owed.

The case of a taxpayer who submitted a complaint to the Ombudsman, protesting the refusal of the Foreign Residents' Tax Office to remove his name as legal representative of a Greek woman, who was also resident abroad, shows the inability of the services of the Ministry of Economy and Finance to appreciate the particularities of each case, and to find a fair and logical solution to the taxpayer's problem. The taxpayer, who maintained that he had been nominated legal representative unbeknownst to himself, received all her, tax-related, correspondence, with all the obligations, and eventually liabilities, that his status could entail. When the taxpayer requested of the Foreign Residents' Tax Office that his name be removed as legal representative of the woman in question, the tax office refused his request.

Having checked on the validity of the taxpayer's claims – that he had been nominated legal representative of a foreign resident unbeknownst to himself – the Ombudsman pointed out to the tax office that they were responsible for the problem which had arisen, since they had not displayed the necessary thoroughness in monitoring the file of the taxpayer. At the same time the Ombudsman suggested a way of dealing with the legislative vacuum, through the corresponding application of similar provisions of the tax laws and/or on the basis of the general regulations governing the appointment and resignation of a legal representative. Nonetheless, despite the fact that it had sole responsibility for non-adherence to the legal procedure for the appointment of the taxpayer in question as legal representative, the Foreign Residents Tax Office did not satisfy his request, and demanded quite arbitrarily and improperly that he should take all the necessary steps for the appointment of a new legal representative.

The Ombudsman drafted a finding which it addressed to the competent minister, suggesting that a explanatory circular should be published. Although there was no response from the minister, the tax office finally contacted the foreign resident and asked her to appoint a new legal representative.

Department of Children's Rights

The mission of the Department of Children's Rights is:

- To protect children from violations of their rights in public and in private;
- To promote and disseminate children's rights, as these are laid out in the Constitution, the International Convention on the Rights of the Child (ICRC), and other national legislation, as well as
- To further changes to the organisation of the administration and in the public consciousness, which are in the interests of children.

Cases which are handled by the Department of Children's Rights are always examined from the perspective of the interests of the child, whose opinion is sought where this is deemed feasible and useful, even if the child has not personally addressed his complaint to the Ombudsman.

TOTAL COMPLAINTS 2004	**217**
concerning the administration	
Complaints within the Ombudsman's mandate	173
MALADMINISTRATION PROBLEM CORROBORATED	90
Problem resolved (favourable outcome)	77
Problem not resolved (Ombudsman's recommendations were not accepted – impossibility of resolution)	13
MALADMINISTRATION PROBLEM NOT CORROBORATED	32
INVESTIGATIONS DISCONTINUED	8
CASES PENDING AT 31.12.2004	43

Georgios Moshos
Deputy Ombudsman

For the work of the Department of Children's Rights to be successful, extensive dissemination of the institution is called for among children and society in general, as is the development of a network of multilateral collaborations with public administration services and with non-governmental organisations working with, or for, children.

Only 4% of the complaints were submitted by minors, which can be attributed on the one hand to the fact that most children are unaware that they can resort to the Ombudsman, and on the other, to the fact that in any case children do not usually seek redress in the form of written complaints, in the same way as adults.

Communication with children

During 2004 the Deputy Ombudsman and the Department's specialists met with groups of children in schools, welfare institutions and occupational centres, in order to hear children's point of view, and inform them of their rights. The children who came into contact with the staff of the Ombudsman included children from cultural and religious minorities, the children of aliens and repatriates, disabled children and children with special needs. Also:

- A special area was created for the reception of children in the offices of the Ombudsman.
- A special freephone line for children was established (800 11 32 000).
- An information booklet for children between 12 and 18 years of age was published, for distribution to schools and welfare institutions.
- Collaboration was inaugurated with the ministries of Education, Health and Welfare, and Justice, in order to inform children under their jurisdiction of the activity of the Ombudsman.
- A special Greek Ombudsman website for children was created: **www.synigoros.gr/0-18/**.

TOTAL COMPLAINTS 2004 concerning private individuals	**58**
CORROBORATION OF VIOLATION OF CHILDREN'S RIGHTS	25
Resolution of problem with acceptance and application of measures recommended	11
Handled through Ombudsman actions (mobilisation of organisations, informative consultation)	14
NON-CORROBORATION OF PROBLEM OF VIOLATION OF CHILDREN'S RIGHTS	5
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Conclusions of the Department

The access of alien minors to the educational system

The process of the legalisation of the residence of immigrants also has an effect on the access of immigrants' children to the educational system and to the health and welfare services, despite the express establishment of these rights by the ICRC and relevant legislation. In a number of cases, it was noted that foreign children are deprived of their rights because their parents are unaware of them, or avoid claiming them for fear of possible consequences for themselves. In other cases, the legislation covering immigration (Law 2910/2001), and its interpretation by the Ministry of the Interior, gave rise to problems in the registration of children in primary and secondary education. However, the invocation of the ICRC provision, with its greater force, whereby the right of all children to education is established, allows for such violations to be redressed.

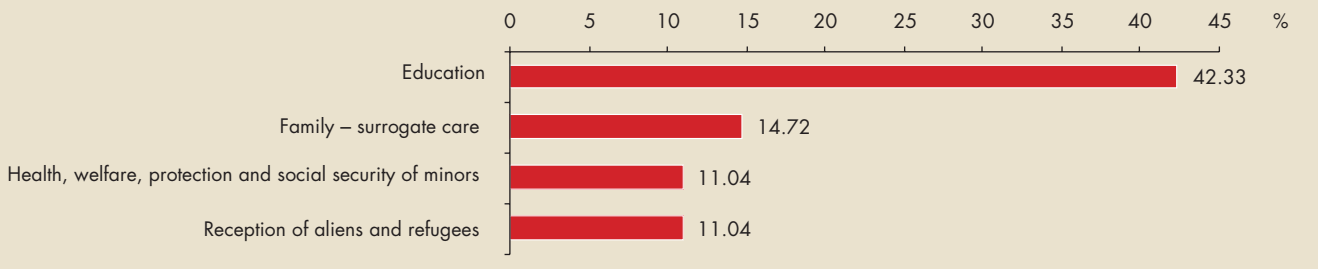
Issuance of residence permits

The Ombudsman also noted shortcomings and delays in the procedure of issuing residence permits to immigrant minors, for reuniting them with their parents. From the perspective of the children's interests, the Ombudsman considers that increased familiarisation of immigrants with the procedures laid down, and the priority examination of relevant applications by the administration, would be advisable.

Unaccompanied alien minors

However, more worrying is the situation of unaccompanied alien minors. On the one hand these children are kept in police stations in conditions which do not meet the particular needs of children and, on the other, the legislation in force allows, in most cases, for their deportation instead of their voluntary

MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT



and safe repatriation. Finally, the welfare system does not provide sufficient guarantees for their care during their stay in the country, or for the social integration of those who are unable to return to their country of origin. The appointment by the judicial authorities of a commissioner, both for minors seeking asylum, for whom the role of provisional commissioner is filled, according to the law, by the prosecutor, and for the remainder of unaccompanied minors in the country, is deemed expedient to ensure the care necessary for them.

Integration of Roma children in education

The integration and settling of the Roma children in schools, despite the special programmes which were implemented over recent years, still presents significant gaps, principally on account of the inability of the educational system to support the integration of children who register at school at a higher age than that stipulated by law. Certainly, the relationship of the Roma children with education is linked to the complex problems faced by the Roma communities, especially those which live in encampments (residential, health, welfare provision, discrimination, and other problems).

Children with special needs

Despite the fact that education and the provision of welfare for children with special needs are improving, they are still far from adequate both at the diagnostic level and, principally, at the level of meeting their specific welfare and educational needs. The concept of co-education – the appointment of supplementary specialised teachers to support the integration of children with special needs in the schoolroom – has been extended, but needs further strengthening, with more specialised teachers. The institutions which have been recently created, such as the Diagnostic Assessment and Support Centres (KDAY), and the therapeutic guesthouses only cover a very small proportion of the real needs.

Welfare services

After the examination of a considerable number of complaints which touch on the organisation and operation of crèches, the Ombudsman has discovered violations of the legislation regarding the registration procedure, the infrastructure requirements, the staffing, the fees, and general operational matters. For this reason, the Office of the Ombudsman has already started drawing up a report which will list its findings.

However, the decentralised children's welfare services, falling under the remit of primary and secondary level Local Government Authorities, also present shortcomings and weaknesses. Their often remarked upon lack of specialisation in child protection matters also makes the job of the Ombudsman more difficult in cases of violation of children's rights by individuals. For instance, in accusations related to the abuse of minors, it is often necessary – and unfortunately not always possible – to obtain the diagnostic intervention of an experienced social service, before the Office of the Ombudsman can decide to transmit its relevant report to the appropriate prosecutor's office.

Similarly, there is a dearth of public administration services and lodging areas to

which one could address himself both for the support and rehabilitation of a child – victim, and for the provision of support to his family. Also, in cases concerning disagreement between parents over custody and the rights of children to communicate with the parent who is not living with them, the lack of specialised services which could undertake the far-reaching conciliatory and support role towards the parents, inhibits the work of the Ombudsman in providing practical assistance in defence of the rights of children.

Public and private play areas

From its handling of complaints concerning playgrounds and children's areas, the Department has noted that the public and private organisations responsible for them should carry out regular monitoring of their quality and safety specifications, along with maintenance activities, in order to minimise the risks entailed in the use of these areas by children.

Mass media

Another subject of concern for the Department have been cases of violation of the rights of children by the mass media (the press, radio-television, Internet). The cases in question concerned the infringement of the private life and personality of children, and the transmission of material damaging for children. In the Ombudsman's view, the specific legislative regulations concerning ethics in the mass media (such as Presidential Decree 100/2000 for radio and television, and the code of ethics for news programmes, Presidential Decree 77/2003) include significant clauses governing the protection of children's rights which, however, are violated in practice.

Supervision and promotion of the application of the rights of children

In the context of the Ombudsman's authority for the defence and furtherment of the rights of children, the Department of Children's Rights focused on the following areas:

Child protection foundations

The Department visited a significant number of public and private child protection foundations, in a number of cities throughout Greece (10 public and 13 private foundations – lodging guesthouses) in its first 18 months of operation. The Department inspected the facilities and discussed with the administration, the staff and the children staying there, as well as with the regional and prefectural services which are responsible for the supervision of these foundations. The visits to these foundations highlighted the two most serious shortcomings of the country's welfare system: the insufficiency of qualified staff and the non-application of a viable system for the certification of, and compliance with, specifications, resulting in arbitrary and the systemic neglect of the children in their care. However, the Department also observed a number of noteworthy attempts to improve the quality of these foundations, initiated both by the public administration and by non-governmental organisations active in the field of child protection.

Foster care

The system of foster care is similar to the foundations for the protection of children. Based on a family-centred model of child care, the concept of foster care is considered to be potentially more effective in meeting the needs of children whose parents are unable to give them a proper upbringing. Up to now, however, the concept has not been widely adopted, owing to the inability of the welfare services to support its development. Neither has the presidential decree, foreseen by the law on foster care, been issued, for the formation of decentralised services to help in the establishment of the system.

Abuse – neglect

The Department has also been intimately involved in questions concerning the protection of children who are the victims of abuse and neglect (7.4% of all complaints). More

specifically, the Department sought information from teachers, and psychiatric and socio-psychological services about the problems they face at the identification, diagnostic and support/therapy stages, in cases of abuse. The Department also communicated with prosecutors and judges in children's courts, to obtain their point of view.

The Deputy Minister of Social Welfare also asked the Ombudsman to submit proposals for the coordination and organisation of the services concerned with the prevention and suppression of abuse and neglect. As a first step the Department identified the serious shortcomings which exist, and promised to draft a more detailed proposal.

In any case, the Department has already noted:

- The absence of up to date epidemiological research on abuse.
- The lack of a specialist coordinating body with country-wide coverage.
- The lack of information and support for teachers, and for the health and welfare professionals who work with children
- The lack of, principally specialist, personnel in the decentralised welfare services of the primary and secondary level Local Government Authorities.
- Problems of collaboration between the judiciary and child psychiatric services.
- Problems in the consolidation of the role of professional case-handlers and of those who emit opinions following the request of the prosecutor.
- Problems relating to the protection of children – victims during the preliminary examination and court hearing.

Initiative for the legislative proscription of corporal punishment

Recognising that corporal punishment in Greece exists as a daily practice which is a serious violation of children's rights, and aligning itself with the appeal made by the European Children's Ombudsmen for the legislative proscription of corporal punishment, the Office of the Greek Ombudsman drafted a proposal for a statutory adjustment amending article 1518 of the Civil Code, so as to make it clear that acts of corporal punishment do not constitute acceptable correctional measures.

Because this adjustment is primarily intended to act "pedagogically" towards the public, it must be accompanied by a series of measures aimed at heightening the awareness of parents, of professionals, and of the children themselves. In order to plan and promote these measures, the Ombudsman formed, in conjunction with other public administration authorities, an informal network of cooperation in the prevention and suppression of corporal punishment.

The penal treatment of children

The legislation governing the penal treatment of children (Law 3189/2003) provides for the introduction of new reformatory measures. Certain of these are being implemented with the participation of public services and private charitable entities. The imposition of these measures by the prosecutor, instead of the instigation of criminal proceedings, is also foreseen in the case of misdemeanour offences by minors. Judging that these measures could have a beneficial effect on adolescent offenders, provided they are applied in a manner guaranteeing their rights, the Ombudsman invited representatives of the Ministry of Justice, the judiciary, children's custodians, and other stakeholders, to a round table discussion. From this discussion it became clear that there are a number of serious shortcomings in the implementation of this law. The prosecuting authorities are effectively unable to impose reformatory measures, since there are no social services in the courts of first instance.

The treatment of unaccompanied minors

The Department of Children's Rights examined extensively the question of the state's treatment of unaccompanied minors, especially those who are the victims of exploitation and human trafficking. In the first place, the

The "Ayia Varvara" welfare foundation

Department responded to an invitation from the High Commissioner for Refugees to collaborate in the drafting of guidelines for the Treatment of Unaccompanied Minors Seeking Asylum in Greece. The text of the guidelines was copied to the co-responsible ministries, and is expected to be disseminated widely in the course of the coming year. As for the unaccompanied minors who are the victims of exploitation and trafficking, the Ombudsman issued a finding concerning the case of the minors who had escaped from the "Ayia Varvara" welfare foundation. The Ombudsman also undertook a series of activities aimed at exchanging views with social organisations in Greece and abroad, and also started an organised collection of data concerning the treatment of street children who are the victims of exploitation.

Presentation of significant cases

The right to education

The mother of an eight year old girl requested the mediation of the Ombudsman in order to enrol it in primary school. In the course of the investigation it transpired that the child's father – who had cut off all communication with his family – had given a different name from the mother's to the registry of the maternity hospital, with the result that the mother could not substantiate her relationship with the child. Consequently, it was impossible to register the child with the Registar's Office, as the child of her natural mother. Because of this problem, and despite the mother's persistent efforts over a number of years, it was impossible either to obtain a health booklet – which is a basic precondition for vaccination – or to enrol her child at school.

The Ombudsman contacted the Director of Primary Education at the Ministry of Education. The outcome of this intervention was successful, and the girl was accepted at school on the basis of an affidavit submitted by the mother, who confirmed her relationship with the child, the child's real age, and assumed the obligation to present the statutory documents. Also, following steps taken by the Ombudsman, the child was vaccinated.

Finally, the Ombudsman informed the mother of the procedure necessary for the legal resolution of the problem of the registration of the child with the registry office, in order to assure the child's right to a name and identity.

Special measures for the support of the disadvantaged

The parents of pupils of a certain primary school class filed a complaint, in which they maintained that one of their children's co-pupils displayed serious behavioural problems, which rendered the learning process particularly difficult for their children. The parents had addressed themselves to the administration of the school, which had turned to the appropriate school councillors; however the problem was not resolved.

The Ombudsman met with the mother of the child in question; she recognised the problem, and informed the Ombudsman that she had already made an appointment with the local Diagnostic, Assessment and Support Centre (KDAY) for an assessment of the child.

She refused, however, to place the child in a special school, as the Special Treatment Councillor had suggested. Taking the child's history into account, the Ombudsman considered that it would be wiser to leave the child in the same school, since there are no special schools in Greece for children with behavioural problems.

According to the diagnosis of the KDAY, this child is very intelligent, which has no problem in terms of academic performance. However, because of its behaviour, a co-education teacher should be present. The Ombudsman informed the mother of the procedure to be followed, in order for the co-education to be approved. Additionally, the Ombudsman contacted the child psychiatrist who had been attending to the child until that time, to the Social Services of the municipality, and to the Child Psychiatry Clinic of the "Ayia Sofia" Children's Hospital, where the child had been treated formerly. These contacts resulted in a social inquiry of the child's house being requested, in order to establish the child's living conditions and to encourage the mother to seek systematic psychological support, both for herself and for the child. Furthermore, the Ombudsman suggested that the co-education should be carried out by a special treatment teacher, and not by a replacement teacher, as had happened in the past and had proved ineffective.

Today a special educator has been placed in the school, the social inquiry in the child's home has taken place, the mother has started participating in a municipal psychological support programme, while the admission of the child to the "Ayia Sofia" Children's Hospital for psychological treatment is pending.

Pamphlet on children's rights

Protection of alien minors

Underage aliens who had been discovered in the country unaccompanied, and admitted to child care foundations for their protection, prior to the ratification of a special legislative framework for the victims of trafficking and exploitation of humans (Law 3064/2002), today face the problem of the outstanding question of their residence status.

A number of these aliens have in the meantime come of age, and continue to live in the country, but without a residence permit. The Greek state was right to extend protection to these children, since their repatriation and reintegration in their country of origin was impossible, or would have been incompatible with the protection of their rights, and presented a risk that they would be victimized anew. For all this, however, their precarious legal position does not guarantee their protection, while the absence of a legislative framework which could provide them with sanctuary has given rise to the following paradox: on the one hand their continuing presence in the country is due to the state's correct application of the international rules and principles for the protection of the rights of children, of unaccompanied minors and victims of human trafficking; on the other, according to the regulations in force, this presence is illegal or at any rate falls in a legal vacuum.

On the basis of a complaint filed by a non-governmental organisation relating to the residence status of alien minors being sheltered in child care foundations, the Ombudsman recommended to the Ministry of the Interior that the, by now adult, unaccompanied aliens who had been admitted to child care foundations, be issued immediately with residence permits on humanitarian grounds, and that these permits be

convertible, regarding the reasons of residence, to include studies and work. In view of the enactment of the possibility of issuing residence permits to those classified as victims of the offences of Law 3064/2002, the services of the Ministry of the Interior showed particular interest in the resolution of the matter, and are presently collaborating with the Ombudsman to this end.

Protection from sexual exploitation and abuse

A fifteen year old schoolgirl visited the Ombudsman with her parents and submitted a complaint against a teacher in her school for improper behaviour towards her. The Ombudsman informed the schoolgirl of the possibilities of legal protection open to her, and encouraged her to seek the intervention both of the school's administration and of the police. Also, in the context of its mediative role, the Ombudsman contacted the relevant Secondary Education Office and the police.

The Ombudsman asked for the preservation of the confidentiality, towards third parties, of all the information concerning the plaintiff, and the non-publication of any information which could be used to identify her. After carrying out an administrative investigation under oath, a finding was issued, according to which, in the specific case, there concurred offence to sexual dignity, according to article 337 of the Penal Code, and improper and disgraceful behaviour on the part of a civil servant, both on and off duty (Law 2683/1999). Consequently, the teacher was guilty of breach of duty, and he was sentenced to five months temporary suspension, without pay, and was transferred to another school. It should be noted that the prosecutor had brought charges against him earlier.

Because, according to the Ombudsman, the disciplinary action served on the teacher did not correspond to the severity of the offence – and in the past, similar behaviour by the same teacher had only entailed his transfer to another school – the Ombudsman examined the possibility of the Ministry of Education appealing against [the leniency of] the sentence initially imposed. The President of the Secondary Education Departmental Disciplinary Committee was informed accordingly, and following steps taken by him, the Minister of Education lodged an appeal with the Secondary Disciplinary Committee of the Ministry of the Interior, Public Administration and Decentralisation, contending that for the acts of the teacher, a harsher sentence should be imposed: his permanent dismissal, as foreseen by law. Finally, an appeal was also lodged with the same committee of the Ministry of the Interior by the Inspector General of Public Administration. The Ombudsman awaits the ruling on these appeals.

The mass media and the protection of children

The specialist staff of a child care foundation filed a complaint with the Ombudsman concerning the infringement of a particular child's rights, and by extension the rights of all the children in the foundation, by a television programme. The Ombudsman, at the time the programme in question was being broadcast, had made recommendations to the producers of the programme, and had at the same time referred the matter to the National Broadcasting Committee, which alone is competent for the imposition of penalties on radio-television stations.

Following an examination of the case, a visit to the foundation and to the social services of the competent Directorate of Social Welfare of the Prefecture of Thessaloniki, and in cooperation with a local hospital and the Health Inspectors and Monitors Body, it was ascertained that the specific programme accused, without foundation, a member of the foundation's staff of indecent assault on a minor. Moreover, at times during the programme, the identity of the alleged victim and of the foundation itself, were made apparent.

The Prosecutor at the Court of Appeals

has relegated to the archives the case of the charges brought by the aforementioned television programme, as obviously unfounded in their substance. The issue raised by this particular case is that of the detrimental effects – both on the children in question who are the alleged victims, and on others who live in foundations – of the broadcasting, and making a spectacle, of similar accusations; especially when the truth of the matter is not re-established with anything like the same level of publicity. The child in question, whose identity was revealed because his name was mentioned, presented signs of emotional disturbance and learning problems. The other children staying in the foundation would learn, through their families, of the charges relating to hypothetical cases of rape in the foundation, with the result that they developed feelings of fear and intense insecurity.

In the framework of cooperation with the independent authority of the National Broadcasting Committee, the Ombudsman gathered all the elements supporting the charge regarding the effects which the programme had on the psyche of the children and transmitted the case file to the National Broadcasting Committee, which undertook the matter. Also, regarding the violation of the rights of the children staying in the foundation, the Ombudsman informed them about the possibilities of setting in motion the legal procedures for civil and criminal sanctions, which are in the competence of the courts.

Civil liability of Local Government Authorities

The case of material damage to motor vehicles from uneven road surfaces or other similar causes

In November 2004, the Ombudsman published a special report concerning the civil liability of Local Government Authorities, and more particularly cases of material damage to motor vehicles from uneven road surfaces or other similar causes. The special report enumerated the problems that arise when individuals claim compensation from local government for damage to their cars caused by poor workmanship or maintenance, such as potholes, etc., on the municipal and prefectural road network. Since 1999, the Ombudsman has registered 207 complaints from individuals who claim immediate compensation, without having to resort to litigation. Similar complaints were filed by individuals relating to accidents caused by poor signposting, damage from falling branches or tree trunks, runaway garbage cans, etc. In the overwhelming majority of cases, the Local Government Authorities involved refused to pay any compensation.

The aim of the Office of the Ombudsman was that its proposals should contribute to the establishment of a practice of out of court settlement of differences concerning compensation for damage suffered by individuals using public spaces, for which local government should guarantee the availability and uninterrupted use; if possible this settlement should take place at the administrative units closest to the plaintiff. In the opinion of the Ombudsman, taking matters such as these, which are mainly very simple, to court, entails a significant cost because it is a further burden on the work load of the courts, and is expensive for both the parties involved. Indeed in many cases the legal expenses are far in excess of the compensation claimed. The Office of the Ombudsman also hopes, with its proposals, to relieve the work load of the administrative courts where, at the end of 2004, there were 224,000 cases pending.

The basic premise for the Ombudsman's proposals is the recognition that primary and secondary level Local Government Authorities have an objective and independent responsibility – which is subject to public law – for the shortcomings of their various agencies. In order to avoid the need for individuals who have suffered damage to resort to the administrative courts, with all the disadvantages that this entails, a procedure of out of court compromise agreements was sought, whereby the damage would be partially covered. In other words, only the material damage would be reinstated, but there would not be restitution of foregone profits, or determination of a sum for the satisfaction of emotional distress.

For the most common cases handled by the Ombudsman, that of damage to cars from poor maintenance of the road surface, the Ombudsman suggested a standardised printed form which could be the basis for the following procedure:

- Within a reasonable time after the occurrence, the individual submits a special form to the municipal or prefectural committee, with which he applies for compensation for the damage he has suffered. This form specifies the exact extent of the material damage, the time and place of the occurrence, as well as the vehicle's direction and speed. It is essential that the form be accompanied by a) description and/or photograph, showing the state of the road surface, b) the vehicle's papers (driver's licence, car registration, insurance contract, MoT test when necessary), c) documents demonstrating the cost of the damage (invoices), and d) a report from the Events Book of the traffic police, or an extract from the Daily Vehicle Log of the Rapid Intervention Force, or an on-the-spot report from the municipal technical services, or any other document issued by a public administration body (such as the First Aid Emergency Ambulance Service), from which the connection between the damage and the particular irregularity on the road is clear. It is necessary that the connection between the negligence of the Local Government Authority and the incidence of the damage can be established from the accompanying documents.

Proposal for a legislative revision

Applications for compensation for material damage to motor vehicles caused by irregularities in the road surface or other causes falling under the responsibility of primary and secondary level Local Government Authorities can be settled by compromise agreement, and out of court, by the responsible municipal committee foreseen in article 111 of Presidential Decree 410/1995 (Municipality and Community Code), and the prefectural committee foreseen in article 60 of Presidential Decree 30/1996 (Prefectural Government Code).
The decisions of these committees, once they are accepted by those suffering the damage, take the form of minutes of a compromise, are issued within 50 days of submission of the application for compensation, and constitute a payment order for the amount attributed to the sufferer of the damages.
By decision of the Minister of the Interior, Public Administration and Decentralisation, can be defined the terms and conditions for the submission of the application for compensation, as well as more specific issues which may arise from the application of this article.

- In the case of a municipal road, the municipal committee will issue the individual with a receipt for the application submitted, and will refer the application to a committee meeting. In the case of a prefectural or national road, the municipal committee must forward the written application to the appropriate prefectural committee or to the Ministry for the Environment, Physical Planning and Public Works, correspondingly, within three days, and inform the applicant accordingly.
- The municipal (or prefectural) committee decides upon the compensation within 50 days from the submission of the application, in accordance with the Code of Administrative Procedure.
- If the amount determined as material damage is approved, the individual is obliged to accept the compromise. Subsequently, a protocol agreement is drawn up and the result of the compromise becomes irrevocable: the party which has suffered the damage waives his right to pursue his claim judicially for compensation for foregone profit or emotional distress. If he does not accept the compromise, he retains his right to pursue the matter in the competent courts.

In the Ombudsman's view, payment of the compensation by the Local Government Authorities should be immediate. In the special report, it is recommended that an upper limit for compromise compensation should be determined; that a decree should be prepared whereby it is expressly foreseen that compensation for damage to vehicles can be paid on the basis of an out of court compromise, and whereby the modalities and procedure of compromise will be laid out, and will render the minutes of the compromise an order for payment.

Disciplinary – administrative investigation of charges against police officers

In July 2004 the Ombudsman published a special report, regarding the disciplinary monitoring of charges against police officers, which was submitted to the Prime Minister and to the Minister of Public Order. The drafting of this special report was prompted by the considerable number of relevant complaints received by the Ombudsman, between 1999 and 2004.

Hellenic Police Headquarters

From the investigation of 176 citizens' complaints about violation of their constitutional rights by police officers, the Ombudsman ascertained that the internal audit bodies of the Hellenic Police, which are responsible for the examination of charges, only attributed responsibility in a very few cases and that the penalties handed down were disproportionately lenient. In the overwhelming majority of cases:

- Either the investigation did not lead to the application of disciplinary action and was closed with the laconic file note: "no responsibility of officers was determined";
- Or, the charges were deemed unfounded, in that they were denied by the policemen involved or by their colleagues. This certainly constitutes asymmetry between the position of the complainant and that of the policeman charged, and harms the credibility of the disciplinary investigations.

In conclusion, the Ombudsman noted:

- Loss of citizens' faith in the objectivity of disciplinary audits;
- Overuse of informal investigations and sparing resort to administrative investigations under oath, even in cases where this called for;
- Negative consequences on the mandatory thoroughness of the investigation because of the involvement of the immediate superiors of the police station implicated;
- Serious misdemeanours in the evidentiary procedure; overly simple, unsubstantiated justification; non-assessment, or selective, or logically contradictory assessment of evidentiary elements; and abusively suppressive interpretation of regulations in favour of the person under investigation, and
- Irresolution in the application of sanctions corresponding to the gravity of the offence ascertained.

The Ombudsman proposed:

- *The express exclusion of informal investigations from cases that have been tried.*
- *The compulsory nature of the administrative investigation under oath in charges of bodily violence and other abusive behaviour which is governed by articles 9–11 of Presidential Decree 22/1996.*
- *The delegation, as a general rule and not only in isolated cases, of all investigations to officers of a different station, since the direction of an investigation by the commanding officer of the implicated police station, might lead to incomplete execution of the disciplinary audit.*
- *The invariable application of the measure of temporary transfer of the officer under investigation, during the course of the audit.*
- *The obligatory summons of the complainant, even in informal investigations of a serious object.*
- *An obligatory and specific reasoned justification, in cases where there is disagreement over the severity of the sanction between the investigated and his superior officer.*
- *The improvement of the system of informing the complainant.*
- *The examination of the possibility of electronic surveillance of the interior of police stations, principally of the reception and detention areas.*
- *The establishment of the concept of moral satisfaction for the victim, over and above his claims for civil restitution, so as to restore his damaged dignity and his faith in the institutional role of the police.*
- *The improvement of disciplinary law to do away with gaps in the protection from disciplinary errors (e.g. the deletion of the "interests of the department" as a reason for abstention from the imposition of sanctions), the publication of guidelines for the reasoned justification of the findings of the investigation, and the interpretation of unclear legislative provisions.*

The complete electronic version of the special reports are available on the Greek Ombudsman's website: www.synigoros.gr, and the printed version can be obtained at the offices of the Greek Ombudsman, 5 Hadjiyanni Mexi, 11528 Athens.

LEGISLATIVE, FUNCTIONAL AND ORGANISATIONAL PROPOSALS OF THE OMBUDSMAN

In 2004 the Ombudsman submitted a number of legislative, functional and organisational proposals for the improvement of the operation of public administration. These proposals are put forward because the Ombudsman considers that the treatment of certain issues investigated call for an amendment to the existing legal framework, or the restructuring of the organisation and operation of the departments concerned.

Inter alia the Ombudsman suggested

- The adaptation of the legislation governing the Social Security Organisation–Employees' Unified Insurance Fund (Law 1846/1951), so as to allow the members of a missing person's family the retroactive right to a pension, from the date of disappearance, as this is determined by a court of law, provided of course that an application has been submitted within a reasonable time after the disappearance was reported.

- The amendment of the provisions of Law 2909/2001, to afford the holders of foreign diplomas, recognised as equivalent to 2nd cycle diplomas from Greek Technical Vocational Training Centres, the opportunity to take part as candidates in the examination procedure, stipulated in the law above, for entry to the Technical Education Institutes.

- The revision of article 3, par. 1, passage b, of the Lawyers' Code (Law 3026/1954), whereby for one to be nominated a lawyer, he must have completed five years from his acquisition of Greek citizenship through naturalisation.

- The participation of the members of the Greek Army Officers' Building Cooperative in the appointment of its administrative officers, through the subjection of the Cooperative to the common regulations governing the administration of Building Cooperatives (Law 1337/1983, Presidential Decree 93/1987) and their state supervision.

- The revision of the procedure for calculation of redeemable military service (Law 1763/1988).

- The differentiation between specialities, and the announcement of places in proportion to the real teaching needs of each speciality, in the context of the ASEP examinations procedure, for the appointment of teachers to the spesific (ΠΕ 04) division.

- The extension of the provision of Presidential Decree 79/1997, to explicitly allow the issuing of a seaman's licence to naturalised Greek citizens, regardless of age limits, provided of course that those concerned have demonstrable nautical abilities, and fulfil the prerequisites of the law.

- The recognition of the right of a separated spouse to offset against taxable income the expenses incurred in the maintenance of a child which does not live with him/her.

- To allow mothers who have children from a previous, as well as from their present, marriage, to include all their children as dependant members in their tax return; thereby to recognise their right to the relevant tax rebates; in contradistinction with the provisions hitherto applying (article 7, par. 1β, 8, par. 3 and 9, par. 2 of Law 2238/1994).

- The modification of article 99 of the Code of Regulations for the Taxation of Inheritance,

Gifts, and Parental Grants (Law 2961/2001), to allow for the correction of a final tax estimate by the tax office, without the taxpayer having to resort to the relevant court of law.

- The dispensation from transfer tax of a separated spouse having a child in his/her care, through the addition of a new regulation to Law 1079/1980, or with the publication of an explanatory circular.

- The filling of the legal vacuum regarding the issuing of simple coastal use permits in areas of particular geomorphological interest.

- The use of a list of names, at the time of delivery by the postman of income tax statements, on which the date of delivery will be noted.

Acceptance of previous years' Ombudsman proposals

Following proposals formulated by the Ombudsman in previous years, a number of issues were settled in 2004, such as the residence status of aliens who have come of age and of the members of families of EU citizens; participation in the cost of long-term psychiatric care by the family of the insured; and the procedures for the issuing of an attestation of permanent residence.

Payment of quadriplegia allowance

Already in the *1999 Annual Report*, the Ombudsman had suggested the extension of the payment of paraplegia – quadriplegia allowances (Law 1140/1981) to include those insured by the social security organisations, suffering from ailments which have same the consequences as paraplegia – quadriplegia.

Recently, the passing of Law 3232/2004 extended the payment of paraplegia – quadriplegia allowances to other categories of patients.

However, the regulation sets out a finite list of specific ailments, instead of making payment conditional on verification by a sanitary committee of impossibility of movement and self-service, as proposed by the Ombudsman.

On-Site Inspections

In the course of investigating complaints, the Ombudsman is entitled to carry out on-site inspections, in order to gain a first-hand view of facts or situations. The Ombudsman carried out 25 on-site inspections in 2004. These included visits to police stations, to municipal services, crèches, primary schools and detention areas for unaccompanied alien minors.

Examples of on-site inspections:

- *To the police stations of Nea Ionia, Volos and Almyros, and meeting with the Commander of Police of Magnesia Prefecture, in order to assess the detention conditions of 24 asylum seekers, and examine the possibility of their access to the asylum procedure. They were from Iraq, Sri Lanka and Bangladesh, 6 of them under age, and they were being held in administrative detention.*
- *To the police station of Ioannina, to the Ioannina Regional University General Hospital, and to the "G. Hadjikosta" General Hospital, to investigate the case of the detention by the police of persons waiting to be examined by two psychiatrists, following a prosecutor's order for involuntary treatment.*
- *To Marathi, Paros, and the 21st Ephorate of Prehistoric and Classical Antiquities, regarding the operation of an illegal garbage dump in the area.*

Referral to Disciplinary and Penal investigation

In cases where, in the course of an investigation, the illegal behaviour of a civil servant is ascertained, the Ombudsman draws up a report which is submitted to the body responsible for the disciplinary examination of the individual in question. In 2004 the Ombudsman submitted 7 applications for the instigation of the disciplinary examination of civil servants.

More specifically, the Ombudsman requested the Secretary General of the Attica Region to instigate the disciplinary examination of the mayors of Nea Smyrni and Nea Makri, the President of the Community of Varnava, and of the responsible employees of the Community of Stamata, because they refused to collaborate with the Ombudsman. The Ombudsman also made similar requests to the Secretaries General of the Thessaly Region and the Central Macedonia Region for the disciplinary examination of the Mayor of Volos and the responsible employees of the Municipality of Anthemountos, correspondingly.

Referral to the Public Prosecutor

The Ombudsman has the authority, if in the course of an investigation there transpires sufficient evidence of the perpetration of a criminal act by a functionary, employee or member of the administration, to refer the relevant reports to the responsible prosecutor. In 2004 the Ombudsman referred 7 cases to the prosecutor.

Inter alia the Ombudsman referred to the responsible prosecutor:

- *The Municipality of Amaliada for non-compliance with a final decision by the local one-member Court of First Instance, which had recognised an individual's ownership of a piece of land.*

- *Three cases where illegal cellular telephone aerials were not dismantled by the responsible urban planning offices.*
- *A case concerning the issuing of an operating licence for an oil press in the Municipal sub-division of Mendenitsa, in the Municipality of Molos, Prefecture of Fthiotida, which was not in conformity with the law, and was not preceded by the necessary environmental approval.*

Illegal construction of a jetty on the Lake of Kastoria

The Ombudsman was informed by the competent prosecutor that by decision of the one-member Magistrate's Court of Kastoria the former mayor of Makednon was sentenced to a jail term of 12 months and a fine of 1,500 euros for damage to the environment, and to a jail term of 12 months and a fine of 6,000 euros for the construction of this unlicenced jetty in a wetlands area, and next to an archaeological site, without a permit from the competent urban planning authorities. It is worth noting that in its decision the court mentions the Ombudsman's referral to the prosecutor as one of the elements on which the charges were based.

Ex Officio Investigation

The Ombudsman has the authority *ex officio* to handle cases falling under its jurisdiction, having assessed the gravity of the matter. In 2004, the Ombudsman decided to conduct an *ex officio* investigation in the Paedopolis children's village, at Neapoli in Lasithi, Crete.

This decision was taken after a visit to the institution in question, where a total lack of specialist staff, serious problems in the infrastructure, the maintenance, and the overall operation of the institution, were noted. The Office of the Ombudsman sent a report with its observations to the competent Deputy Minister of Health and Social Welfare, and to the President of the Regional Health and Welfare System of Crete.

According to the reply of the General Directorate of Welfare of the ministry, the funding for the operational needs of the institution was increased, and a further special amount was approved for the refurbishment of the kitchen and sanitary facilities. On the question of staffing, the ministry will include the positions and specialities needed by the children's village, in the procedure for the next ASEP competition. Also, in the course of a recent meeting with the President of the Regional Health and Welfare System of Crete, Ombudsman staff members noted his interest and his intention to fill the empty positions immediately through secondments and fixed term contracts.

In Greece

We visited:

- Alexandroupoli, and conducted a 2-day workshop in collaboration with the Training School of the Ministry of Economy and Finance, on the subject of "Fiscal administration at the service of citizens – The Ombudsman's role in problem solving".

- Volos, where we met with local organisations whose work centres on children's issues. We invited them to participate in an open discussion – workshop on the subject of "Children don't play", organised by "Arsis" of Volos.

- Thessaloniki, where we carried out on-site inspections of the "Papafio", "Melissa" and the "Children's Village of Northern Greece" foundations. We also took part in a workshop organised by the Office of Health Instruction of the Directorate of Secondary Education of Western Thessaloniki, on the subject of the rights of minors (abuse, exploitation, illegal employment, and the role of the educator).

- Crete, in order to exchange information with welfare institutions, children's shelters, special schools, directorates of education, social services and minors' probation offices, on the application of children's rights and the daily problems faced by these institutions.

- Patra, in order to learn about the activities of the Child Care Centre of Patra and the Skagiopouleio Boys' Care Centre of Patra.

- Tripoli, in order to inform citizens, public administration officers and representatives of primary and secondary level Local Government Authorities of the Region of the Peloponnese and the area's public law legal entities, of the Ombudsman's role and mission.

We held working meetings with:

- The administration of the Social Security Organisation for the Self-employed, in order to look into the problem, faced by the insured, of excessive delays in the processing of their cases.

- The Deputy Minister of Health and Social Welfare, in order to discuss the problems noted in the Programme for the Financial Support of Unprotected Children.

- The administration of the Health Treatment Organisation for Insured Civil Servants, in order to discuss the problems connected to the provision of health benefits by this organisation.

- A delegation of the Central Union of Municipalities and Communities of Greece, and of the Union of Greek Prefectural Governments, in order to discuss the civil liability of Local Government Authorities, and in particular the out of court compensation of material damage due to poor workmanship and maintenance on the road surface.

- Representatives of the administrative leadership of the Ministry of Culture, at general directorate level, in order to discuss cases regarding building activities within protected archaeological sites, and the expropriation of private property for archaeological aims.

- The Mayor, Deputy Mayors and competent employees of the services of the Municipality of Glyfada, in order to discuss outstanding matters regarding the incorrect application of urban and environmental legislation by the urban planning departments of the municipality.

- The Prefect and other administration officials from the Prefecture of Korinthos to discuss cases

concerning the annoyance to residential areas and the harm to the natural environment caused by the operation of intrusive installations.

- The Secretary General of the Federation of Greek Industries and representatives of mobile telephone companies, on the subject of proposals submitted by the Ombudsman to the competent ministers in the special report on the repeater stations of the cellular network.

- The General Inspector for the Environment and the competent inspectors, in order to examine the possibility of promoting collaboration between the Ombudsman and this newly formed service, which reports to the Minister for the Environment, Physical Planning and Public Works.

We organised seminars and workshops:

- Entitled "Issues related to the application of Law 3242/2004 regarding the residence of aliens in Greece", in collaboration with representatives of foreign community newspapers and radio-television stations, in order to facilitate the timely and adequate information of immigrants about recent developments in the institutional framework governing aliens' residence in Greece.

- Entitled "Unaccompanied minors in Europe", in collaboration with the International Social Service and the United Nations High Commissioner for Refugees, with the participation of the Ecumenical Program for Refugees of the Greek Church.

- Entitled "Police – citizen relations during the 2004 Olympic Games", in collaboration with the Ministry of Public Order and the Hellenic Police.

- Entitled "The abolition of the corporal punishment of children in our country", in collaboration with representatives from the Ministry of Health and Social Welfare, the Ministry of Education and Religious Affairs, the Ministry of Justice, the National Council for Social Care, the Ministry of Employment and Social Protection, and the Children's Health Institute.

We were visited by:

- The Minister of the Interior, Public Administration and Decentralisation, Prokopis Pavlopoulos, who was brought up to date on the Ombudsman's activities.

- The Deputy Minister of the Interior, Public Administration and Decentralisation, Apostolos Andreoulakos, who attended the presentation of the new document management information system "Papyrus" which is now fully operational in the Ombudsman's offices.

- The Secretary General for Consumers, Athanasios Skordas, who was informed about the Ombudsman's modus operandi.

We published:

- "The Practical Guide for Police – Citizen Relations", in collaboration with the Ministry of Public Order, on the occasion of the Olympic Games.

- The minutes of the international conference entitled "The free movement of labour, and the harmonization of social security systems", held in Athens on 21–22 June 2003.

- An information booklet entitled "In defence of children's rights".

- The Findings of the Department of Quality of Life of the Greek Ombudsman, 1998–2003. This was drawn up by a team of Department specialists, and includes summaries of representative Department findings. The book, which constitutes a synthesised inventory of the Department's findings, was published by Sakkoulas Editions.

At an international level

We organised:

- A workshop on the subject of "The meaning and practice of the mediation of administrative differences", in collaboration with the Dutch Embassy and the Dutch Ombudsman. The aim of the workshop was to take advantage of the Dutch Ombudsman's long-standing expertise and experience in mediation between citizens and the administration, and the further familiarisation of the Greek Ombudsman's personnel with mediation practices.

We were visited by:

- The European Ombudsman, Nikiforos Diamandouros.
- The Children's Ombudsman of Wales, Peter Clarke, and Anne Crowley, a consultant specialised in children's participation in decision taking.
- Paul Brouwer, the Dutch Ambassador, and Roel Fernhout, the Dutch Ombudsman.
- A delegation from the Union of Young Lawyers of the Republic of Georgia, who came to learn about the competences of the Ombudsman.

We attended:

- A working meeting held at the Ministry of the Interior, Public Administration and Decentralisation, to inform the Minister of Supervision of the People's Republic of China about Greek public administration.
- The International Ombudsman Conference held in Quebec, entitled "Balancing the obligations of citizenship with recognition of individual rights and responsibilities – the role of the Ombudsman".
- An international conference held in Tirana, Albania, entitled "Combating the illegal transport and trafficking of children in Europe".
- A seminar of the Council of Europe, held in Strasbourg, entitled "The situation of separated minors in Europe".
- A round table discussion organised by the Council of Europe in Tirana entitled "Combating the trafficking of Roma children: fostering a Greek – Albanian cooperation".
- The presentation of the results of the European Research Programme "Children in communication about migration", which was made in the offices of the European Commission in Brussels.
- A training seminar, organised by the non-governmental organisation European Centre for Minority Issues, in Ohrid, Former Yugoslav Republic of Macedonia, concerning the handling of cases involving members of minority groups.

The EUNOMIA Project

The EUNOMIA Project started officially in January 2001, funded through an extra-ordinary financial contribution by the Greek government to the General Directorate of Human Rights of the Council or Europe. The aim of the project is to contribute to the creation and medium-term support for newly founded mediation institutions in the countries of South-eastern Europe.

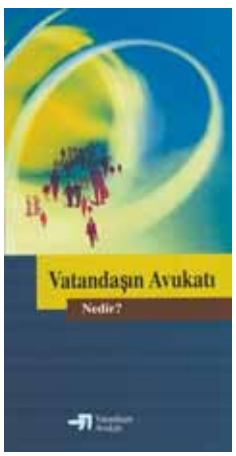
Early in 2004, a new project coordinating committee was formed, on which in addition to the Greek Ombudsman, Yorgos Kaminis, the European Ombudsman, Nikiforos Diamandouros and the Human Rights Commissioner of the Council of Europe, Alvaro Gil Robles, also sit. The second phase of the project will last until the end of 2006.

Conference in Turkey

On the 10th–11th December the Ombudsman, in cooperation with the Turkish Parliament and Bilgi University, organised a conference in Instanbul entitled "Setting up an Ombudsman institution", on the subject of establishing an Ombudsman institution in Turkey. Apart from the Greek Ombudsman, who headed a fifteen member delegation, the conference was attended by the Ombudsmen of Austria, Belgium, France, Estonia, Ireland, Holland, Poland, Sweden, Catalonia, and the European Ombudsman, Nikiforos Diamandouros. The conference was also attended by high ranking Turkish government and administration officials, distinguished academics and representatives of Turkish non-governmental organisations. The conference was opened by the Greek Ombudsman, Yorgos Kaminis, and the Turkish Minister of Justice, Cemil Cicek. In the course of its sessions, draft legislation concerning the protection of rights and the furtherance of the rule of law in Turkey was discussed for the first time in an open public forum.

Also, in the framework of the EUNOMIA Project, we took part in:

- A seminar entitled "The role of the Ombudsman in a state governed by the rule of law", in the town of Nevsehir in Cappadocia. The seminar was aimed at furthering the process of establishment of the institution of Ombudsman in Turkey.
- A joint mission, with our Spanish counterpart institution, to the Republic of Kazakhstan. The subject of the mission was the definition of a collaboration framework for the implementation of an international programme for the institutional strengthening of the Ombudsman in Kazakhstan.
- Working meetings organised by the Ombudsman of the district of Vojvodina, in Novi Sad, and by the Ombudsman of Montenegro in the Office's premises in Podgorica.
- A working meeting organised by the OSCE mission to Serbia, in Belgrade, on the subject of draft legislation for the creation of the institution of Ombudsman in the Republic of Serbia.



We were visited by delegations from the counterpart institutions of:

- The Republic of Montenegro, headed by the Ombudsman, Sefko Crnovrsanin. In the course of our meetings a training seminar was held, concerning the handling of complaints.
- Of Vojvodina, which is an autonomous region of Serbia, to discuss the possibility of collaboration between the two counterpart institutions, and to take part in a training seminar aimed at familiarising the specialists from Vojvodina with the experience of the Greek Ombudsman in matters of common interest.

We published:

- In Turkish, a special information booklet about the activities of the Greek Ombudsman.

Acronyms

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

ASEP	Anotato Symvoulio Epilogis Prosopikou (Supreme Council for the Selection of Civil Servants)
ASPE	Anotati Synomospondia Polyteknon Ellados (Highest Confederation of Large Families of Greece)
EKANA	Ethnikos Katalogos Anepithymiton Allodapon (National List of Undesirable Aliens)
ICRC	Convention on the Rights of the Child
KEP	Kendra Eksypiretisis Politon (Citizens Advice Bureaus)
KDAY	Kendra Diagnosis, Aksiologisis kai Ypostiriksis (Diagnostic Assessment and Support Centres)
OAED	Organismos Apasholisis Ergatikou Dynamikou (Manpower Employment Organisation)
OEK	Organismos Ergatikis Katoikias (Workers' Housing Organisation)
OGA	Organismos Georgikon Asfaliseon (Agricultural Insurance Fund)
OSCE	Organization for Security and Cooperation in Europe
HYTA	Horos Ygeionomikis Tafis Aporrimaton (Municipal Waste Landfill Site)

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