

# 2005 Annual Report

*Summary*

 THE GREEK OMBUDSMAN

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This is a summarised presentation  
of the *2005 Annual Report*  
of the Greek Ombudsman.

*Selection and editing of texts, coordination of publication*

Zina Assimakopoulou  
Dimitris Veremis

*Statistical data*

Yannis Moshos  
Marios Protopappas

*All the staff of the Greek Ombudsman contributed  
to the preparation of the 2005 Annual Report.  
Specific tasks were undertaken by the following:*

Maria Apostolou  
Aggeliki Bosdogianni  
Dimitris Hormovitis  
Eirini Kamenou  
Ioannis Kostis  
Eleni Koutroumba  
Yorgos Kritikos  
Kalliopi Lykovardi  
Evangelia Markaki  
Eleni Markou  
Metaksia Martsoukou  
Dimitra Mytilinaïou  
Stamatia Papadimitriou  
Christos Papastylianos  
Petroula Petropanagou  
Emmanouil Pizanis  
Stamatina Poulou  
Evaggelia Skyllakou  
Kalliopi Stefanaki  
Roi Tzavara  
Vasilis Tzemos

The complete electronic version  
of the *2005 Annual Report*  
is available in Greek on the  
Greek Ombudsman's website:  
[www.synigoros.gr](http://www.synigoros.gr),  
and the printed version  
can be obtained at the offices  
of the Greek Ombudsman,  
5 Hadjiyanni Mexi, 11528 Athens.



## INTRODUCTION

THIS PUBLICATION IS AN ABRIDGED VERSION of the Ombudsman's *2005 Annual Report*, which was submitted to Parliament in March 2006.

By publishing a summary of the annual report, the Office of the Ombudsman is attempting to reach a wider public, in response to a double need for transparency:



As an independent mechanism for monitoring public administration, the Ombudsman is obliged to submit the administration's problems to public debate. However, because the Ombudsman, despite its independence, is itself part of the public administration, it is also accountable to the public.

The full version of the annual report only partially fulfils this obligation. As its principal recipients are the Parliament, the government, the officials of the administration, but also all those who pore upon the problems of public administration, the annual report is perhaps overly detailed and specialised for the average reader. Besides, it is not always successful in avoiding the legal vernacular which is prevalent in the administration and the corresponding specialist texts, and which is difficult for most readers to understand.

It is the Office of the Ombudsman's aim to rearticulate this intimidating code of expression, by using a language in its daily contact with the citizen which, without losing in accuracy and quality, attempts to be digestible and understandable. This is a requirement which ensues from the mission of the Ombudsman as an institution which is duty bound to be friendly and accessible to the citizen, as a counterbalance to the distant and often overbearing nature (and expression) of public administration. This publication is part of this endeavour.

YORGOS KAMINIS  
MARCH 2006



## LEGAL FRAMEWORK AND OPERATION OF THE INSTITUTION

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The Greek Ombudsman is a constitutionally established independent authority. It started operations on 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](http://www.synigoros.gr).



The mission of the Greek Ombudsman is to mediate between the public administration 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. The Ombudsman also deals with the protection and promotion of the rights of children. In 2004, the new institution of Ombudsman of Health and Social Solidarity was included in the Office of the Ombudsman. Also, as of the enactment of Law 3304/2005 concerning the "application of the principle of equal treatment regardless of ethnic origin, religious or other convictions, disability, age, or sexual orientation", the Ombudsman's role was extended to cover the promotion of equal treatment by public administration services. As mediator, 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, may have 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 Office of the Ombudsman. This also holds for legal entities or associations.

The Office of the Ombudsman intervenes in problems faced by citizens in their transactions with the public administration, 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 has competence in cases where citizens have 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 violation 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 (unless such cases are related to the unequal treatment of civil servants, falling within the terms of Law 3304/2005), 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 religious public law entities;
- ⊗ Actions taken by ministers and deputy ministers regarding the administration of political life.

**Submission of complaints and the process of investigation**

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 Protection; Quality of Life; State – Citizen Relations, Children's Rights. The investigation of each case is allocated to a case-handler specialised in the relevant area.

The complainant is kept informed in writing or by telephone at each stage of the process. The investigation is completed with the drafting of a document, which the Office of the Ombudsman addresses to the relevant authority. If, however, the nature of the case calls for it, the Ombudsman can instigate the institutional competences foreseen under Law 3094/2003, and proceed to an on-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 Office of 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:**

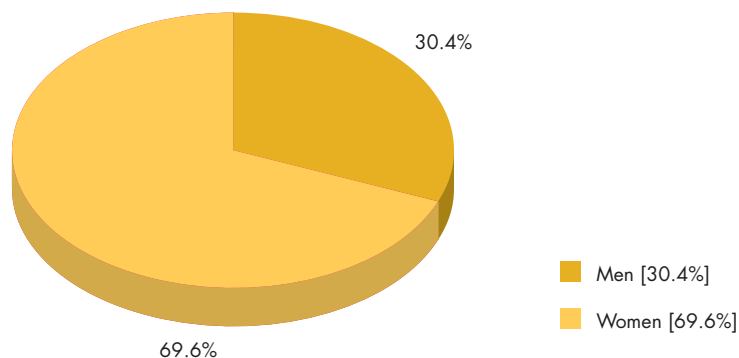
- ⊗ Request from the public services any information, document or other element concerning the case; examine persons; carry out an on-site investigation, and call for expert opinion.
- ⊗ Set a time limit for the services, within which they must inform the Office of the Ombudsman either of the steps they 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 Office of the Ombudsman in the course of an investigation may constitute, according to the case, a breach of duty or a cause for replacement. If, from the Ombudsman’s reports, 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 Ombudsman transmits its report to the appropriate prosecutor.

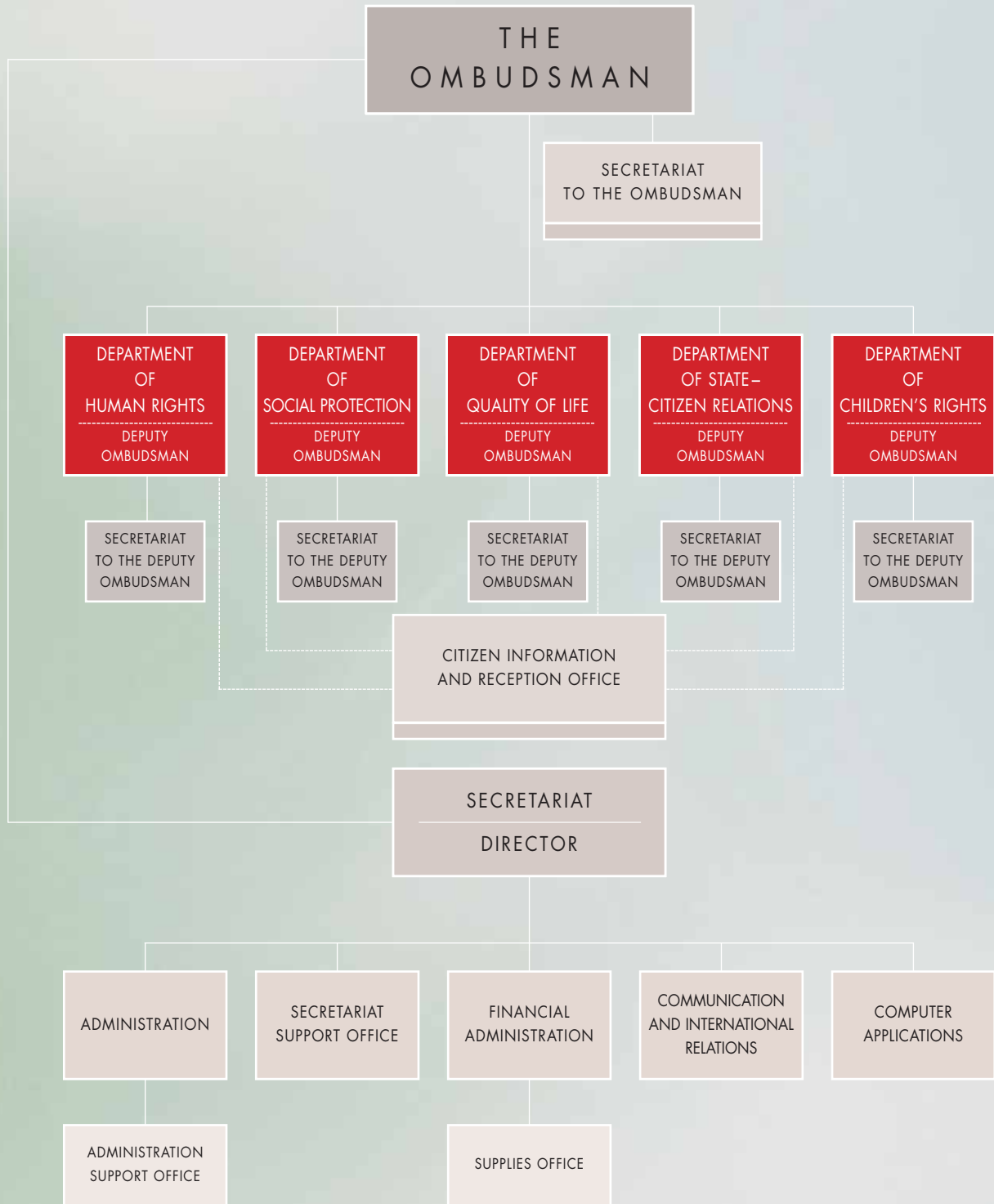
## Organisation and Staffing

On 31.12.2005 the overall staff of the Office of the Ombudsman, including the Greek Ombudsman and the five Deputy Ombudsmen, consisted of 181 persons, 55 men and 126 women.



The scientific and administrative staff covers a wide spectrum of disciplines. Among the holders of a – graduate or post graduate – university degree, there are:

	Staff	Percentage %		Staff	Percentage %
Jurists	77	50.33	Chemists	3	1.96
Political scientists	12	7.84	Journalists	2	1.31
Sociologists	9	5.88	Civil engineers	2	1.31
Language and literature specialists	11	7.19	Teachers / paedologists	2	1.31
Economists	8	5.23	IT specialists	2	1.31
Archaeologists	6	3.22	Mechanical engineer	1	0.65
Urbanists / architects	4	2.62	Actuary	1	0.65
Psychologists	4	2.62	Physician	1	0.65
Geologists	3	1.96	Surveyor	1	0.65
Oceanographers	3	1.96	Administrative specialist	1	0.65



# OVERALL ASSESSMENT FOR THE YEAR 2005

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From its inception and up to 31st December 2005, the Office of the Ombudsman has received 73,373 complaints.

In 2005, the Office received 10,087 new complaints, but handled 13,270 cases, as there were 3,183 cases outstanding from previous years. Of the total of 13,270 cases handled, 9,788 (73.76% of the total) were examined and processed, leaving 3,482 (26.24%) which were carried forward for examination in 2006.

## Conclusions

**A steady number of complaints:** For the third consecutive year, following an initial period of continuous increase, the number of complaints received by the Office of the Ombudsman remained steady at around 10,000.

**Improved response on the part of the administration to the Ombudsman's mediatory work:** There was an increase in the percentage of cases in which the administration accepted the mediation, and by extension the proposals, of the Ombudsman; from 9 out of 10 in the previous year, to 11 out of 12 in 2005.

**Primary and secondary level Local Government Authorities (municipalities, prefectures) are the most likely to refuse to accept the Ombudsman's proposals** for the correction of maladministration in areas of their competence (charges/dues and questions of civil

responsibility). They are followed by the Ministry of Education and the services under its supervision (in cases regarding student loans, registration and transfer of students and pupils, recognition of foreign diplomas), and by public utility corporations and public water supply and sewage companies (mainly regarding damage and malfunctions in their networks).

**There were fewer cases where the problem of maladministration could not be resolved** because of legislative gaps or because of structural malfunctions and weaknesses in the administration; from 1 out of 12 in 2004, to 1 out of 15 in 2005. The corresponding complaints mainly concerned: the legality of entrance and residence of aliens (residence permits, green cards, family reunification); the provision of services and the administration's liability (civil and contractual); tertiary education matters falling under the jurisdiction of the Ministry of Education.

**The most serious forms of maladministration** were the non-compliance, on the part of the administration, with the time limits set by law for the processing of citizens' matters, incomplete information of citizens regarding their legal rights and corresponding obligations, and the infringement of provisions of law or regulatory acts.

**The public services showing the highest incidence of maladministration** were municipalities (18.7%), the Ministry of the Interior, Public Administration and Decentralisation (16.2%), the prefectures (9%), the Social Security Organisation (IKA) (5.7%), the Ministry of Economy and Finance (5%), the Ministry of Education and Religious Affairs (4.4%), the Agricultural Insurance Fund (OGA) (4.2%), the Manpower Employment Organisation (OAED) (3.9%), the Ministry of Public Order (3.4%) and the DOATAP (Cross-disciplinary Organisation for the Recognition of Academic and Information Technology Diplomas) – previously DIKATSA (Inter-University Centre for the Recognition of Foreign Academic Titles) – (2.8%).



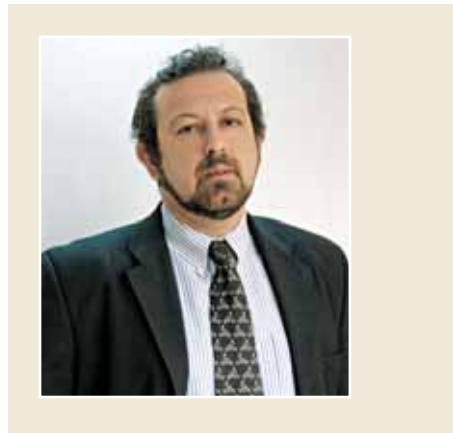




The complaints handled by the Department of Human Rights cover a range of subjects, such as personal freedom (police authorities, correctional procedure); private life (confidentiality of communication); equal treatment and gender equality; education (access to tertiary education, transfers, the Hellenic Open University); civil and municipal status (registration); conscription and judiciary protection; as well as questions touching on minority rights and the right of association. In this year's report emphasis is placed on three sectors which present serious maladministration problems:

- ⊗ Prisoners' leaves of absence, which are central to the legal operation of prisons in our country today;
- ⊗ Access to the labour market;
- ⊗ Citizens' access to public documents.

<b>TOTAL COMPLAINTS 2005</b>	<b>2,935</b>
Complaints within the Ombudsman's mandate	2,506
MALADMINISTRATION PROBLEM CORROBORATED	1,052
Problem resolved (favourable outcome)	913
Problem not resolved (Ombudsman's recommendations were not accepted – impossibility of resolution)	139
MALADMINISTRATION PROBLEM NOT CORROBORATED	373
INVESTIGATIONS DISCONTINUED	98
CASES PENDING AT 31.12.2005	983



ANDREAS TAKIS  
Deputy Ombudsman

ures for the legalisation of aliens residing illegally in the country, the result of which is:

- ⊗ The less favourable treatment of many aliens who have been in the country for a longer time, compared with those who arrived more recently, in terms of the number of insurance stamps requested and the reasons for renewal of the residence permit;
- ⊗ The exclusion of a large number of immigrants, because of the limited number of eligible justificatory documents for qualification to the initial legalisation process;
- ⊗ The particularly high cost, in terms of the purchase of insurance stamps and deposit, to the average economic immigrant.

## Economic immigrants

### *The new immigration law*

The statute which most occupied both public and private human rights organisations this year was the new "immigration" law, which revises the institutional framework governing the entry and residence of aliens in Greece. The new law simplifies the procedure for the issuance of residence permits, and incorporates relevant EU directives. At the same time however, it does resuscitate a number of the malfunctions of the previous legal framework.

The transitional provisions of the new immigration law stipulated two distinct proced-

During the debate of the draft law, the Ombudsman proposed that any administrative document demonstrating that the interested party had dealings with the administration be accepted as proof of residence in the country prior to the 31st of December 2004.



**The problems bequeathed by the previous legal framework:**

- ⊗ Excessive delays in the issuance of residence permits, in the initial provision of residence permits for the purpose of exercising an independent profession, and in the granting of entry visas for family reunification;
- ⊗ Confusion in the insurance prerequisites (number of insurance stamps) for renewal of work permits;
- ⊗ Obstacles to the registration of, or even refusal to register, marriages between Greeks and aliens;
- ⊗ The immediate expulsion of an alien, if the three day period for the examination of his appeal has expired.

**Detention conditions**

The unsuitability of holding areas, the large number of detainees in the same area, and the long periods of detention continue to be the main characteristics of the conditions under which aliens are held by police authorities.

**Refugees**

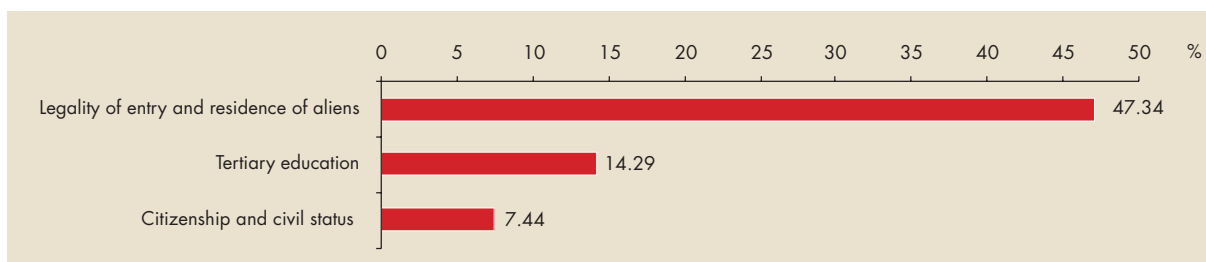
On the question of refugees, the Ombudsman focused its attention on:

- ⊗ The inability of the administration to ensure unhindered access to asylum procedures;
- ⊗ The selective reception and examination of asylum requests by the Athens Aliens' Department, without clear and objective criteria.

**Citizenship – Aliens of Greek ethnic origin**

- ⊗ The procedure involved in obtaining Greek citizenship continues to be exceptionally problematical, because of the of the vast number of claims and the insufficient staffing of the competent services.
- ⊗ The majority of complaints concerning acquisition of Greek citizenship through naturalisation continue to originate with aliens who have strong and long-standing ties with the country, and with Albanian subjects are recognised as ethnic Greeks by the Greek authorities.
- ⊗ The whole procedure for the determination of Greek citizenship continues to be plagued by an unjustifiable degree of intransigence on the part of the services involved, even in the simplest cases.
- ⊗ On the issue of stateless persons, the Office of the Ombudsman continues to note excessive and, in most cases, unjustifiable delays in the processing of applications, either for the re-acquisition of citizenship or for the naturalisation of Muslims from Thrace who had lost their Greek citizenship.

**MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT**





⊗ Ethnic Greeks from Albania face problems regarding the status of their residence in Greece and the rights, particularly professional, which accrue from this status.

## Protection of personality from abusive speech

### Indicative case

The Embassy of Israel submitted a complaint to the Office of the Ombudsman, maintaining that texts circulated by one of the Technical Chamber of Greece's union organisation, and which were published in the chamber's bulletin and on its website, contained bigoted messages against the Jewish nation. The Ombudsman made it clear that political expression must be the subject of special protection in a liberal democracy. However, when organisations of the public sector provide a forum to third parties for the expression of their views, they must expressly state their opposition to messages of a bigoted nature, without in any way exercising censorship.

## Freedom of religious conscience

The protection of freedom of religion occupied the attention of the Office of the Ombudsman, as a result of complaints:

- ⊗ Concerning obstacles to the inception of building works for a place of worship;
- ⊗ Concerning the religious curriculum for the first year of the Lyceum;
- ⊗ Concerning the celebration of the sacrament of confession in public schools.

### The Ombudsman noted that:

- ⊗ Public service organisations are obliged, on the subject of the construction of places of worship, to dissociate themselves from any action which could be interpreted as discriminating against religious minorities.
- ⊗ Teaching in public schools is subject to the limitations posed by the Constitution and the law, and consequently state curricula must be particularly careful about expressing negative criticism of the members of different religious communities.
- ⊗ Minority religious beliefs must be presented with due respect for their right to self-determination.
- ⊗ The invitation of priests to schools for the celebration of the sacrament of confession, inside the school premises, and within school hours, entails the disclosure of beliefs and the risk of unfair discrimination.

## Teaching personnel of university education institutions

Apart from the usual problems encountered in the selection procedure for the Teaching and Research Personnel (delay, insufficient justification, refusal to issue documents), more specific problems arose this year in:

- ⊗ The selection of "extra- Teaching and Research Personnel" teaching staff to university education institutions (e.g. during the examination of the renewal of teaching staff's contracts, on the basis of Presidential Decree 407/1980), or during the hiring of other teaching staff;
- ⊗ The evaluation and renewal of contracts of the members of the Associated Teaching Staff of the Hellenic Open University.

**SPECIAL THEMATIC GROUP I**

**Correction – Reintegration: the unfulfilled goal**

Respect for the human dignity and the fundamental rights of prisoners, and the responsibility for their reintegration after serving their sentence, constitute a primary obligation of the state. However, the problems of the correctional system which are linked to the conditions of detention are both well-known and difficult to resolve. What appears to be particularly crucial to the lives of inmates is the manner in which the institutional and legal framework, provided for by the correctional system for the maintenance of the inmates’ contact with society, is applied; and this, because the creation or the maintenance of familial and broader social ties contribute, on the one hand, to a more ordered existence within the prisons and, on the other, to a an easier social reintegration. This framework provides for communication by means of visits to the prisons, and leaves of absence. The Office of the Ombudsman has focused its attention on the transfer of prisoners, in order to facilitate visits, and on the granting of regular leaves of absence. Finally, the degree of social reintegration after release was also a matter of investigation.

**Transfers**

The need for prisoners to be transferred to a specific prison, in order to facilitate their communications with their family circle, especially with their underage children, is considered to be particularly important. Specifically for alien inmates, transfer to an agricultural (open) prison is rendered more difficult by the fact that this depends on their proper use of one or more regular leaves of absence from the prison where they are already held. However, a prerequisite for the granting of a leave of absence is the existence of stable family ties in Greece, which alien prisoners rarely have, thereby disallowing them from regular leaves of absence and, consequently, from the possibility of transfer.

**Leaves of absence**

From the investigation of complaints concerning the granting of leaves of absence two basic issues arose:

- ✳ Difficulty of access of alien prisoners to the right for leave of absence, because it is very difficult for the prerequisites for approval of applications (e.g. steady place of residence, family ties in Greece etc.) to be met by an alien, and
- ✳ The incomplete justification, by the competent three-member committees, of rejections of applications for leave of absence: these are usually confined to a reference to the applicable provision of law. It should also be noted that legal recourse is allowed only after the second consecutive rejection of application for leave of absence.

This treatment constitutes a serious violation of the prisoners’ rights, and an obstacle to the basic principle of social reintegration, which is served by the convention of leave of absence.

**Social reintegration**

"Post-correctional care", i.e. the preparation of the prisoner for his return to society under the best possible conditions, constitutes an obligation of the state both during the period



of incarceration and afterwards, principally through the provision of assistance for the professional rehabilitation of the prisoner. However, the Civil Servants Code establishes criminal conviction as absolute and lifelong grounds for exclusion from appointment. While this provision corresponds to a desire to ensure the integrity of the administration's personnel, it does nonetheless assume that a criminal conviction is incontrovertible proof of the permanent dishonesty of a candidate for the civil service. The revocation of driving licences creates similar difficulties of social reintegration for rehabilitated drug or alcohol abusers, since according to current legislation they cannot reacquire a driving licence once this has been revoked.

#### The Ombudsman proposed:

The re-examination of the exclusion of persons who have a criminal conviction from entry to the civil service, and the conditional reissue of driving licences to rehabilitated persons.



## SPECIAL THEMATIC GROUP II

### Access to the labour market

The Office of the Ombudsman has noted that the state continues to demonstrate remarkable inertia regarding the problems faced by holders of domestic and foreign diplomas when they try to enter the labour market, which are due to:

- ✿ Problematical legislative regulations;
- ✿ The malfunction of the competent organisations for the academic and professional recognition of foreign diplomas;
- ✿ The introverted and "protectionist" mentality of certain professional bodies.

### Legislative regulations

The state has undertaken to award professional rights to the holders of diplomas issued by domestic Technological Educational Institutes (TEI) and Vocational Training Institutes (IEK). For graduates of the TEI, the recognised professional rights are defined by presidential decrees, while for graduates of the IEK, the state is obliged to issue professional rights by specialisation and level. However, many graduates with a variety of qualifications remain without professional rights, because the state is unwilling to take a decisive stance towards the pressures exerted by special interest groups (effectively, guilds) which consider that any increase in the numbers of their members will lead to a weakening of the economic interests of their existing membership.

In order to have access to a number of professions (agronomist, beautician, teacher, etc.), the holders of foreign diplomas are required by the state to ensure not only the academic equivalence, but also the correspondence of their diploma to a Greek diploma. However, this is not always easy, either because the subject matter of these professions is not yet taught in the Greek educational system or because the diplomas confer a qualification which combines a number of specialisations which are only covered indi-

vidually by Greek educational institutions. This requirement on the part of the state excludes a considerable number of specialised professionals from the Greek market. Despite the Office of the Ombudsman's interventions, it appears to be particularly difficult to find a solution to this problem.

### Bodies for the recognition of foreign diplomas

The state, albeit late, considering the seriousness of the maladministration problems of the DIKATSA, reacted by founding the Cross-disciplinary Organisation for the Recognition of Academic and Information Technology Diplomas (DOATAP), to which the competences of all the academic recognition bodies (the DIKATSA, the departments of Musical Studies and Fine Arts, the Technical Training Institute,) have been devolved. The DOATAP has not as yet managed to effectively resolve the serious problems, because it was called on to handle the 9,000-odd outstanding applications lodged with the DIKATSA; and this with shortages in expert, administrative and support staff, in infrastructure requirements, and with an incomplete regulatory statute. Following the dissolution of the Technical Training Institute, the absence of a body for the recognition

Cross-disciplinary Organisation for the Recognition of Academic and Information Technology Diplomas (DOATAP).



of foreign higher education diplomas also creates problems in the lack of consistency in the academic recognition of foreign diplomas. The Ombudsman has drafted its findings and hopes for a rapid response from the Ministry of Education.

For the professional recognition of foreign diplomas in this country, there are two bodies:

- ✳ The Council for the Recognition of the Professional Equivalence of Tertiary Education Diplomas (SAEI), charged with the recognition of the right to exercise professions established in legislation, following studies of at least three-years duration in an EU member state educational institution.
- ✳ The ministry which is competent to recognise the right to exercise a profession established in legislation, on the basis of a diploma course of less than three years duration, following approval from the Council for the Professional Recognition of Training and Vocational Training Diplomas (SEATEK).

Because of delayed transposition of the relevant EU Directives, Greece has been penalised by the Court of Justice of the European Communities. Moreover, the problematical implementation, in certain cases, of provisions of these Directives by the SAEI confirms the Office of the Ombudsman's opinion that the Greek public administration continues to maintain an introverted and vacillating stance towards the opening of the member states' markets, dictated by EU legislation.

The SEATEK is beset by:

- ✳ Problems of an organisational and functional kind; because of shortages of specialist staff, excessive delays are encountered in the appointment of representatives from the competent ministries, and the employees of these ministries do not meet the proposal drafting requirements of the council, and
- ✳ Fundamental problems, which arise from the SEATEK's uncertainty as to the correct application of the relevant Directive, following the "promotion" of the TEI to university education status.

### Professional associations

For the protection of society as a whole, the state has imposed limits on the exercise of certain professions, such as medicine, nursing, law, agronomy, etc., requiring the pri-

or issue of a permit to exercise a profession. By law the competence for issuing this permit has been assigned to, among others, the professional association organisations of the respective sectors. These associations take the form of public law legal entities. In the Ombudsman's experience, certain associations function along "guild" lines, illegally creating obstacles to the granting of permits to exercise a profession.

#### Indicative cases

- ✿ The Technical Chamber of Greece (TEE) refused permission to the holder of a foreign diploma, which had been recognised by the DIKATSA, to sit examinations, on the grounds that the specialisation of "economist-engineer" is not included in the TEE's list which defines the various professional categories and specialisations. However, in these cases, there is a provision in law whereby the TEE is obliged to register the holder of such a diploma in the closest relative specialisation mentioned in the relevant law.
- ✿ The Agricultural Chamber of Greece refused to grant a permit to an agronomist, holder of an Optional Study Programmes diploma, on the grounds that holders of this diploma are not mentioned among those whose right to exercise the profession is recognised by law. Nonetheless, the complainant is in possession of an attestation confirming that the Optional Study Programmes specialisation for which he qualified is equivalent and identical with the content of highest education studies

## SPECIAL THEMATIC GROUP III

### Access to documents – Transparency

The unjustified denial of access to public documents is most prevalent:

- ✿ In public law legal entities of high social and scientific standing, which are governed by elected officials (universities, lawyers' associations), or enjoy institutional independence (regulatory authorities);
- ✿ In sectors where misplaced notions of "solidarity" is common (disciplinary actions against members or employees)

### Invocation of the "lack of reasonable interest"

The sense of "reasonable interest" evolved, in contradistinction to the much more severe "special legal interest", precisely in order to broaden the right of the administered to information. "Reasonable interest" is linked to the right of every active citizen to be informed of anything which might concern him, even indirectly, or which stimulates his vigilance in some social cause.

The bodies which first cited, to excess, a lack of "reasonable interest", as a means of rejecting applications for access to documents, were the universities. Inflexible limitations were imposed on access to the minutes of election boards; to the findings or financial data of research committees; to elements of the files of teaching-research staff members; to tables listing recognised foreign diplomas; and to other data or information requested, with the result that the applicants (professors, students or third parties) were obliged to seek the assistance of authorities outside the academia.

#### Indicative cases

- ✿ The vice-dean and chairman of the research committee of a university refused to provide a professor, who was also a



member of the research committee, with information regarding the fate of specific research programmes, citing lack of reasonable interest. The Office of the Ombudsman maintained that in this specific case, the applicant, in his capacity as member of the research committee, clearly had reasonable interest in gaining access to documents relative to the committee's workings. The university responded positively to the Ombudsman's intervention and partially satisfied the professor's request.

- ✿ The Capital Market Commission refused to provide a citizen with a copy of the Commission's operating regulations, again on the grounds of lack of reasonable interest. Following the intervention of the Ombudsman, the citizen's request was partially satisfied.

### Invocation of the protection of personal data

The sense of personal data, be it of a sensitive nature or not, has only recently been incorporated into Greek law, and the administration's initial reserve has been succeeded by a sometimes abusive invocation of this concept, in order to lend an appearance of legality to situations lacking in transparency.

The argument that personal data must be protected is often put forward by authorities which are responsible for the disciplinary supervision of their employees or members. Always one-sided – in favour of those employees or members subject to disciplinary proceedings and not in favour of the citizens bringing charges against a policeman, or the client taking action against a freelance professional, and so on – invocation of the protection of personal data has become systematic. The Office of the Ombudsman has noted that the confidentiality of personal data is invoked most often in cases involving the Greek Police, and mainly in cases of the disciplinary investigation of police officers.

However, it should be pointed out that a disciplinary investigation into the precise manner in which police officers perform their duties takes place, by definition, within the public domain and the exercising of public authority, and can only be considered to contain "sensitive data", other than that of the complainant, in exceptional and well founded occasions.

#### Indicative case

A police department refused to provide a complainant with information regarding the investigation of his charge against a police officer, on the grounds that "the relevant preliminary examination contains data which are of a personal nature". However, the communication of information to the complainant is in principle obligatory, and is not limited only to the findings, but includes all the elements of the file, unless some of these elements constitute valid legal grounds for confidentiality, such as the "private or family life of third parties".



The Department of Social Protection examines complaints related to the protection of citizens' social rights and, more specifically, cases linked to the sectors of social policy, health, social security and welfare. This Department also includes the Ombudsman of Health and Social Solidarity, whose position was established by Law 3293/2004, and who provides his services to all citizens/users of public health services. The Department of Social Protection focuses its mediatory and supervisory efforts on the protection of the rights of vulnerable social groups, such as the aged, people with disabilities, the Roma, refugees, aliens, etc.



PATRINA PAPARRIGOPOULOU  
Deputy Ombudsman

## Maladministration problems in social insurance

### Delays

Unconscionable delays in responding to citizens' requests, whether these concern pension payments, or other social protection issues, remain the principal subject of complaints examined by the Ombudsman, from the very first day of its operation. These delays in the administration's response are a source of aggravation to citizens, and place them at risk of losing their rights. Neither is it unheard of for citizens to be called on by the administration to deal with matters which they had long since considered closed.

### Indicative cases

- The OGA took six years to issue a decision to grant a pension to the daughter of a deceased insured member, pleading

TOTAL COMPLAINTS 2005	3,074
Complaints within the Ombudsman's mandate	2,542
MALADMINISTRATION PROBLEM CORROBORATED	809
Problem resolved (favourable outcome)	721
Problem not resolved (the Ombudsman's recommendations were not accepted – impossibility of resolution)	88
MALADMINISTRATION PROBLEM NOT CORROBORATED	619
INVESTIGATIONS DISCONTINUED	128
CASES PENDING AT 31.12.2005	986

that the organisation's information system was badly programmed.

- A branch of the IKA-ETAM (Social Security Organisation-Unified Insurance Fund for Employees) delayed 14 years to pronounce on an appeal against a compulsory payment order which was imposed in 1989. The appeal was finally adjudicated in 2003, and it was necessary for the Office of the Ombudsman to intervene in order for the debt to be struck off the record, because the statute of limitations had lapsed.

### Collaboration problems with the Merchant Marine Retirement Fund

Reticence on the part of the public services and their staff, encountered by the Ombudsman early on in its existence, has to a great extent abated. Nonetheless, significant problems persist with certain organisations, such as the Merchant Marine Retirement Fund (NAT), where:

- Responses to Ombudsman documents are seriously delayed;
- 40 complaints of refusal to implement court orders were submitted;
- A further 13 complaints were submitted concerning instances of delays in providing information to other insurance organisations, in cases involving consecutive insurance coverage.

### Unduly paid benefits

The Office of the Ombudsman has received a number of complaints from citizens protesting the fact that, after an unreasonable period of time, they were requested by social insurance organisations to return benefit payments which were unduly paid to them, and which they had received in good faith.

According to the Office of the Ombudsman, the request for benefit payments, received by the beneficiaries in good faith, to be returned after a considerable period of time has elapsed goes against the principles of good and fair administration. The Office of the Ombudsman requested the social insurance organisations to adapt their behaviour to the relevant legislation and to revise the corresponding decisions; in most cases the Ombudsman's recommendations were adopted.

#### Indicative case

In August 2004, the OGA requested of one of its insured members that she return all the amounts which had been paid to her since 1997 in large family benefits, despite the fact that the insured had duly informed the organisation that she no longer had four, but only three, unmarried children.

#### Inability to provide confirmation of time insured

In many cases employers are unable to confirm that they have withheld insurance contributions, which often results in the employee losing insurance time.

#### The Ombudsman proposes:

- ✳ That related documents, such as attestations



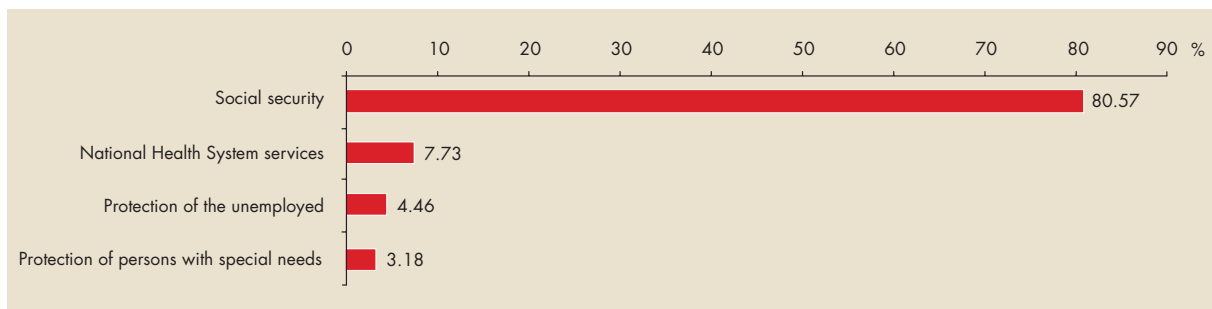
and witnessed statements, be also taken into account, provided that these documents demonstrate with certainty that the insurance contributions were indeed withheld for the period in question.

- ✳ That the necessary steps be taken to ensure that, on the one hand, the insured are informed on a regular basis regarding the contributions that have been made on their behalf, which will allow them the time to have recourse to the appropriate administrative or legal actions; on the other hand, that the insurance organisations file demands for unpaid contributions, as is their obligation, in due time.

#### Welfare benefits

The Ombudsman considers that the non-payment of welfare benefits, such as the thalassaemia benefit, to Albanian citizens of Greek descent who are in possession of the Special Identity Card for Ethnic Greeks, is in contravention of the law. The Ombudsman has adopted the same position on this question in the past, at the time that Albanians of Greek descent were made eligible

### MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT



for financial aid programmes, without success. Following a new intervention by the Office of the Ombudsman, the Ministry of Health and Social Solidarity recognised the "right of Northern Epirotes to be included in these programmes", but pointed, as in the past, to the lack of credits.

A similar issue was raised by a complaint lodged by a recognised political refugee who asked that the legality of a rejection by the OGA of her application for family benefits be examined. In that case, the Office of the Ombudsman argued that political refugees, whose status has been recognised, are entitled to the same benefit payments as Greek citizens. The increased validity of international regulations in domestic law demands the equalisation of political refugees with Greek citizens regarding access to welfare benefits, even if contrary provisions exist in law.

#### ***Adjustment of pension bearing wages***

In 2001, the right of married women to adjust their pension bearing wages was established, taking into account the marriage benefit which was not paid to them during the critical period of their employment. Many of the complaints calling for the mediation of the Office of the Ombudsman referred to rejection decisions issued by the competent insurance bodies of the IKA-ETAM, on the grounds that their wages during the critical period used in the calculation of their insurance category, and which determine the

level of their pension, were from optional insurance contributions.

Since the law does not exclude from the calculation of pension bearing wages those sums paid in the form of optional contributions, the Office of the Ombudsman argued that there was no legal basis for excluding the complainants from the right to recalculation of their pension bearing wages. The General Secretariat of Social Security agreed with the Ombudsman's recommendations and subsequently the IKA-ETAM committed itself to re-examine all the cases in which rejection decisions had been issued.

#### ***Unified Supplementary Insurance Fund for Employees – Amalgamated funds***

The Office of the Ombudsman was called on to investigate the claims of persons insured by the Unified Supplementary Insurance Fund for Employees (ETEAM) as the result of their pension funds having been absorbed by this organisation. The complainants maintained that, while they were entitled to the optional continuation of their insurance contributions until such time as they had secured their pension rights, the pension prerequisites in terms of days worked changed suddenly from 4,050 to 4,500, without any transitional provision having been made for these persons, as had been made for all others insured by this fund, allowing for a gradual increase in the number of days worked required for pension benefits.

#### **The Ombudsman proposed:**

That the procedure foreseen under Law 3232/2004 for the progressive increase in days worked be applied also to those coming from funds which have been amalgamated. Also, that optional contributions made as a result of this provision be returned as unduly paid.

The General Secretariat of Social Security, the IKA-ETAM and the ETEAM accepted the proposals of the Ombudsman.

As of 2005, the Office of the Ombudsman has taken on the duties of the newly constituted Ombudsman of Health and So-



cial Solidarity, whose establishment reflects the importance which both the legislator and the public attribute to the right to health and welfare protection. It has in fact been foreseen that the Minister of Health and Social Solidarity may forward complaints which are submitted to him, for the Office to handle. The cases presented in this first special thematic group, of health, cover a broad range and are in many respects original. For the most part, the cases have not been the subject of legal proceedings and the proposals of the Ombudsman are based principally on EU law and on the general principles of health law.

The second special thematic group concerns the functioning of the health committees. From its inception, the Ombudsman has received a great number of complaints from insured regarding incomplete justification of decisions, mistaken findings, incomplete convening of the committees, and even improper behaviour.



Information leaflet on the Ombudsman of Health and Social Solidarity.

## SPECIAL THEMATIC GROUP I

### General health matters

#### Award of certificates of general medical practitioners

Complaints were submitted to the Office of the Ombudsman that the examinations for the certificate of general medical practitioner, which have been established in law, continue to be held and, consequently, certificates for the specialisation of "general medicine" to be awarded despite contrary EU Directives according to which the title of specialist in general medicine is awarded following a minimum three year training period or following a similar training confirmed with a certificate (Directive 2001/19/EC).

The Office of the Ombudsman investigated the matter and concluded that the procedure in question does not conform with EU law as this has been incorporated in domestic legislation. Furthermore, the principle of the primacy of EU law requires the adjustment of Greek legislation and the abrogation of any contrary provisions.

#### The Ombudsman proposed:

- ✿ The application of a system of three-year full-time training in the specialisation of general practitioner;
- ✿ The immediate issue of a ministerial decision regarding the organisation of six-month or one-year training;
- ✿ The termination of the examinations and the revocation of the certificates awarded in contravention of the law in force.

The Directorate of Health and Welfare Professions of the Ministry of Health committed itself to adhere to the EU Directives.

#### Licensing of health professions

The Office of the Ombudsman was called on to examine the basis on which the administration licenses qualified health care professionals coming from the new EU member states. The prefectural governments re-

requested an additional authentication to the effect that the diploma submitted by the applicants conforms with that required by the relevant Directive, as included in the Treaty of Accession of the 10 new member states, while the ministries of Health and Education expressed opposing views regarding the requirements and procedures to be followed.

**The Ombudsman, having examined the EU Directives, and their incorporation in Greek legislation, proposed:**

- Cases where the medical practitioner’s certificate was issued in one of the 10 new EU member states, for training which commenced after the accession of these coun-

tries (1st May 2004), are governed by the principle of automatic recognition of diplomas, provided that the titles of the diplomas correspond to those of Directive 19/2001/EC (Presidential Decree 84/1986).

- If the diploma titles do not correspond to those of this Directive, an authentication issued by the competent authorities of the country of origin of the diploma is required, certifying that the diplomas were issued following training which meets the requirements of Directive 93/16/EEC.
- This authentication is also required in cases where the medical practitioner’s certificate was issued following training which commenced prior to the 10 states’ accession to the EU. In this case, the correspondence of the diploma titles to those of Directive 19/2001/EC is examined. If the authentication is not submitted, confirmation of a three year professional training is required.

The Legal Counsels of the State reached the same conclusion and shortly afterwards issued a ruling which was accepted by the Ministry of Health and Social Solidarity, instructing all the prefectural governments of the country to issue health care professionals’ licences.

**The remanding of patients for psychiatric examination**

According to a complaint examined by the Office of the Ombudsman in Ioannina, patients who, following a prosecutor’s order, are sent for psychiatric examination for involuntary committal spend the night in the police station. According to the relevant regulations, the imposition of this measure calls for the opinion of two psychiatrists; a prerequisite which is not met, however, because in regional hospitals there is only one duty psychiatrist. The Office, having investigated the case, pointed out that the detention in a police station of patients who are the subject of involuntary committal is an offence to their personality. The Ministry of Health and Social Solidarity, recognising the problems connected with the application of the law concerning involuntary



hospitalization, has taken the initiative to organise a series of meetings between the services and authorities involved, including the Ombudsman, in order to ensure the correct application of the legal framework for involuntary hospitalization.

### **Establishment of a mental health unit**

In the framework of the "Psyhargos" programme, the "Dromokaiteio" Psychiatric Hospital, in order to facilitate the de-institutionalisation of people with mental disorders, purchased a block of flats in Halandri close to a public school, with the intention of operating a boarding house for mental patients. The school's parents' and guardians' association and the area's residents addressed themselves to the Office of the Ombudsman, concerned at the dangers posed by the presence of the boarding house; they also pointed out that neither the municipality, the prefecture or the Ministry of Education had issued an operating licence.

The Ombudsman remarked that the responsibility for the foundation and operation of boarding houses lies exclusively with the ministers of the Interior, Finance, Health and Welfare, and with the specific co-responsible minister, following a proposal by the local Departmental Mental Health Committee. Also, the Ombudsman referred to the crucial and complex nature of de-institutionalisation and the operation of psycho-social rehabilitation units aimed at the social integration of the mentally ill. Finally, the Ombudsman pointed out that the comments about the dangers connected with mentally ill people owe their existence principally to social stereotypes.

The boarding house was finally set up and is functioning normally today.

### **Public health consequences from the use of tear gas**

A complaint was submitted regarding police actions during riots in the main square of Nea Smyrni, Athens, following a football

match in October 2003. The complainant maintained that the use of tear gas by the riot police forces resulted in his suffering intense discomfort over a period of hours, caused by the substances emitted.

The Office of the Ombudsman communicated with all the authorities concerned (Attica Police Headquarters, Technical Directorate, 3rd Department of Armament and Personal Equipment, General Chemical State Laboratory), requesting an argued response regarding both the type and quantity of tear gas used during the disturbances, and their toxicity and possible adverse effects on public health.

#### **The Ombudsman proposed:**

That riot forces be provided with detailed information regarding the health effects of the substances used in suppressive measures. In the view of the Ombudsman, this information is necessary in the correct application of the principle of proportionality when assessing the potential risk, to public order on the one hand, and to public health on the other.

### **Medical confidentiality regarding seropositive patients**

The Office of the Ombudsman handled a case concerning the refusal of doctors to release the personal data of seropositive patients to the Centre for Infectious Diseases Control.

#### **The Ombudsman noted:**

- ✳ That the monitoring of public health is carried out by gathering information through surveys, on the basis of death certificates (population mortality index), through public health programmes, or on the basis of reports of incidence of disease from doctors who are obliged to report patients with certain contagious diseases, such as AIDS.
- ✳ That state provision for public health may, in some cases, conflict with medical confidentiality, whose breach constitutes a criminal offence.

However, protection of medical confiden-

tiality gives way in the face of considerations of a broader significance. Thus, for the doctor it is obligatory to report cases of AIDS to the competent sanitary services, in order to protect the greater public interest, even though this is a breach of confidentiality. It should be emphasised of course that the archives of the Centre for Infectious Diseases Control are kept according to the strict provisions of law regarding "the protection of the individual from the processing/dissemination of personal data".

**SPECIAL THEMATIC GROUP II**

**Health committees**

The Office of the Ombudsman has dealt exhaustively with matters regarding the health committees. In documents addressed to the competent authorities, and in the annual reports, the Ombudsman has repeatedly referred to the organisation and operation of the health committees, as well as to their obligation to fully justify their decisions. An incomplete legislative framework and the parallel operation of numerous such committees are a source of worry for citizens and cause delays in the provision of social benefits.



**Areas of competence, organisation and operation**

According to legislation, numerous health committees operate in parallel, in the context of different administrative structures or bodies. The existence of health committees is foreseen in a variety of insurance organisations, according either to the illness under examination or the type of benefits sought by the citizen. Some insurance organisations have their own committees (e.g. the IKA-ETAM, the TEVE), while certain organisations refer their subscribers to the health committees of other organisations (e.g. assessment of the OGA subscribers by the IKA-ETAM committees).

The Office of the Ombudsman was called on to confront a number of problems, such as:

- ⊗ Excessive delays, especially in the issuance of disability pensions according to the provisions for the consecutive insurance by more than one insurance organisation, because in these cases examination by several health committees is required;
- ⊗ Written opinions on which the constitution of the committee is not always clear;
- ⊗ Doubts regarding the quorum of committee members during committee meetings;
- ⊗ Complaints regarding rude behaviour on the part of the committee members, or misinformation of citizens.

**Justification of opinions**

From the written opinions which have been submitted to the Office of the Ombudsman it appears that these are often drawn up in an extremely shoddy or abridged form, to the point of being difficult to read and ascertain the illnesses or health problems diagnosed.

Specific problems have been noted:

- ⊗ In the justification of health committee opinions, which is often incomplete and unclear;
- ⊗ In the binding nature of the provisions governing degrees of disability according to the illness, and in the monitoring of their



application because the relevant listings are not standardised for all health committees.

First of all, regarding the justification of health committee opinions, it should be noted that medical opinions, as scientific assessments, fall outside the competence of the Ombudsman. However, the Office of the Ombudsman has noted that the freedom of scientific assessment of the health committees does not absolve them, as administrative bodies, from the obligation to operate and justify their opinions according to the rules which govern the other collective bodies of the administration. In cases of incomplete justification, the re-examination of the insured can be requested or, as is more usually the case with disability pensions, an increase of the degree of disability may be approved by the competent insurance organisation on the basis of a parallel evaluation of the state of health of the insured, as this was determined by the health committee, in conjunction with the insured's age and ability to continue his professional activity, expressed as an imputed percentage of that amount which would be earned by

a healthy worker of the same professional category or level of education.

In other words, the Ombudsman reminds the insurance organisations or the competent local administrative committees that they have the capacity, within the limits set out by law, to assess the degree of insurance disability; that is to say, the ability to exercise professional activity, which may differ, and indeed usually does, from the degree of physiological disability.

Of equal significance is the question of the justification of applications for tetraplegia – paraplegia benefits. The Ombudsman has expressed the view that, on the basis of jurisprudence, it is the health committees' obligation to pronounce on whether the applicant's complaint results in the loss of use of the lower limbs, regardless of the appellation of the illness; whether, in other words, their complaint entails, in the opinion of the health committee, a disability of the same nature as tetraplegia – paraplegia.



The Department of Quality of Life handles cases involving breaches of environmental legislation, the degradation of the natural environment, illegal housing development and cultural heritage matters, and questions surrounding the more general degradation of the quality of life. The year 2005 saw continued intervention by the Office of the Ombudsman concerning:

- The completion of basic infrastructure projects, such as monitoring systems for drinking water quality, sewerage networks and land-fill sites;
- The effective control of illegal construction;
- The installation and operation of mobile phone base stations;
- The setting of operating conditions for bars, restaurants and other establishments subject to sanitary requirements;
- The classification of forested areas.



CHRYSI HATZI  
Deputy Ombudsman

Georgia Giannakourou, Deputy Ombudsman of the Department of Quality of Life resigned on 12-4-2005 following her appointment to a professorship at the University of Thessaly. Chrysi Hatzi took over her role on 6-6-2005.

The following are indicative of the findings issued by the Department of Quality of Life during 2005:

- The operation of a café-bar within the "Pefkias" public forest area in Ksylokastro, Korinthos;
- The installation of an escalator and the irreversible damage caused to the Alistrati Cave in Serres;
- The procedure for the issuance of operating licences for the Public Power Corporation's (DEI) steam turbine generators in Kardia, Agios Dimitrios and Ptolemai-da in the Prefecture of Kozani;
- The breach of noise limits by churches when signalling the time (loudspeaker installations and electronic church bells).

<b>TOTAL COMPLAINTS 2005</b>	<b>2,608</b>
Complaints within the Ombudsman's mandate	1,636
MALADMINISTRATION PROBLEM CORROBORATED	522
Problem resolved (favourable outcome)	441
Problem not resolved (the Ombudsman's recommendations were not accepted – impossibility of resolution)	81
MALADMINISTRATION PROBLEM NOT CORROBORATED	311
INVESTIGATIONS DISCONTINUED	138
CASES PENDING AT 31.12.2005	665

The following systemic administrative failures were observed amongst all cases handled:

- Delays by forestry authorities in the issuing of decisions classifying areas as forested or non-forested land;
- Legislative provisions not being abided by in the delimitation of seashore or coastal zones;
- Urban planning departments are slow in dealing with applications for building permits and other applications in general;
- Delays in on-site investigations, the hearing of appeals, the imposition of fines and the demolition of illegal constructions;
- Problems with the procedure for issuing permits to bars, restaurants and other establishments subject to sanitary requirements by municipal authorities;
- Delays in the procedures for the expropriation of properties and the payment of the relevant compensation to the citizens concerned.

In this year's report, the Department of Quality of Life has chosen to focus on two particular thematic groups, the first of which is the protection of ecosystems. Insufficient demarcation, the absence of proper classification and protective regime for certain natural ecosystems, as well as the circumvention of certain protective provisions and the procedures for environmental assessment approvals represent systemic failures and can

be observed at all levels of the administration. The second category concerns the urban environment and specifically the management of communal spaces by Local Government Authorities. A progressive degradation of urban green spaces can be observed as can the cancellation of the public use of such spaces.

**SPECIAL THEMATIC GROUP I**

**Ecosystem management**

Ecosystems require a special level of protection, due, on the one hand to their rich bio-diversity, and on the other to their vulnerability to continued degradation. According to both national and EU legislation, the state must establish appropriate preventive measures so as to avoid the degradation of natural habitats. Greece has so far proposed 151 special protection areas, 239 sites of EU importance (Natura 2000 Network), 10 wetlands of international importance protected under the Ramsar Convention, as well as 10 areas as national parks.

**National planning**

Discrepancies are repeatedly observed between the officially expressed will of the state and the implementation that follows, which frequently overrules more general protective requirements through specific regulatory instruments. In this manner, the country appears to renege on its commitments under international treaties (e.g. Ramsar Convention, Natura 2000 Network), as well as from the inclusion of areas into EU environmental

programmes (e.g. "LIFE" or "Habitat"). This carries a clear risk of losing EU Support Framework funds.

**Indicative case**

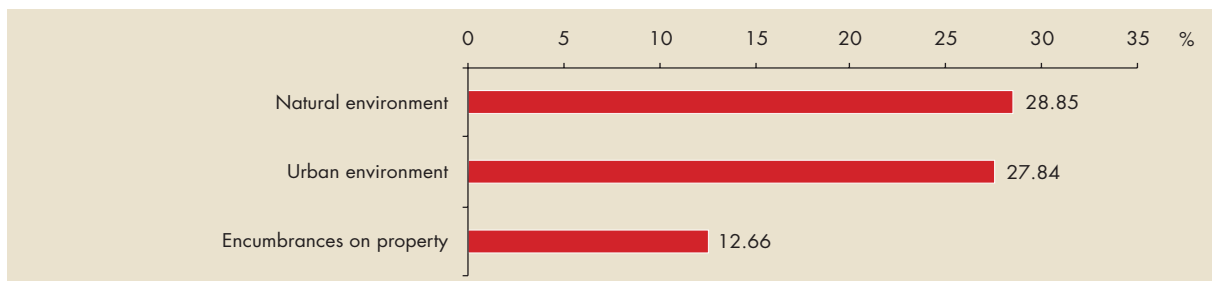
The assessment and approval of the installation of prefabricated wooden houses in forested areas, as an exception to urban planning and other rules, effectively institutionalises a procedure which by-passes both national and EU legislation. This calls for an environmental approval of the assessment and construction of settlements and their accompanying works in forested areas.

**Maladministration by Local Government Authorities – Insufficient monitoring**

The implementation of environmental law by decentralised devolved administrative authorities constitutes a basic parameter of integrated management. However, the Office of the Ombudsman has observed that primary and secondary level local governments



**MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT**





often misinterpret their authority, as vested in them by the Constitution for the administration of local affairs, viewing it as a carte blanche to depart from the established legal order.

#### Indicative cases

- ✿ The reluctance of prefectural authorities in appointing demolition crews and the common practice of suspending demolition orders;
- ✿ The extensive landfills and the construction of illegal building sites by the municipal authorities at Lake Kastoria, the Mesologgi Lagoon and Lake Kerkini.
- ✿ The permitting of cattle feed settlements next to Lake Alatzagiola in the Nestos Delta.

### Environmental Impact Assessment Studies

Environmental Impact Assessment Studies are in the process of being discredited either because environmental approval of projects or activities is bypassed, or because, in some cases, such studies are only commissioned after the final project plans have been drawn

up, with the sole purpose of confirming the site already selected and "substantiating" the absence of environmental impacts.

Frequently, the Environmental Impact Assessment Studies are vague and inconclusive, lacking a qualitative or quantitative assessment of environmental impacts, a cumulative assessment of a project in conjunction with other projects or activities in the area, or the examination of alternatives.

#### Indicative case

A permit was granted in June 2005 for the inception and operation of hydroplane flights to and from Lake Pamvotida in Ioannina, without prior approval of an Environmental Impact Assessment Study and of the relevant environmental terms, and despite the fact that this activity was not among those provided for in the area's specific protection legislation. The Office of the Ombudsman was informed that an Environmental Impact Assessment Study concerning the operation of a hydro-airport on Lake Pamvotida was only subsequently (on 7-9-2005) submitted to the regional authorities.

### Competent authorities: infrastructure and staffing

Competent authority staff shortages and shortfalls in properly trained or specialised staff, as well as a serious absence of information technology and other basic infrastructure, make substantive on-site investigations and the systematic monitoring of environmental conditions and natural resource status impossible.

Characteristic examples include the great delay in the procedure for classification of illegal constructions, the refusal to demolish invoking the large number of outstanding cases or the lack of funds, crews or time, as well as a consistent refusal on the part of the administration to implement court decisions. Ignorance of the applicable legislation and a general lack of information of the authorities concerned are also frequently observed.

### Indicative case

When issuing an environmental approval for a new harbour at Marmara Molos on Paros, it was not taken into account that the area in question was one of the 51 new areas proposed for inclusion as special protection areas under the Natura 2000 Network. The competent authority was not aware of this issue and only following the Office of the Ombudsman's intervention was an overall review of the project ordered.

### Legal and institutional framework

The conservation of numerous parallel legal regimes (forests, forested areas, national parks, archaeological areas, wetlands, special protection areas, areas of communal importance, rivers and streams, coastal zones, etc.), as well as a lack of legislative codification, create problems both in the implementation of the environmental legislation, and in its enforcement by the competent authorities. This makes the country appear to violate its obligations vis-à-vis the EU, since a number of cases (e.g. Evinos Delta, Chrysi Island in Ierapetra) present incorrect applications of EU environmental law.

It must be stressed that the issuing of a protective presidential decree is not sufficient to ensure an area's effective conservation; integrated management requires a number of other conditions to be met. By way of example it is worth noting that the site management bodies responsible for the maintenance of 27 out of the total number of protected areas were until recently still inactive, despite the fact that most of them have been founded since 2003.

The most important problems arise in those areas which, while fulfilling all the requirements, have not yet been included into a protective regime. Their management is the responsibility of the relevant prefectural, regional or central administration authorities, whose jurisdiction in this area frequently overlaps.

### Indicative case

The wetland of Agios Ioannis on Tinos Is-

land is of international significance (dunes, migratory path for birds and fish, Monachus Monachus seals and Caretta Caretta turtles) and contains a number of the ecological characteristics described for protected wetlands by the Ramsar Convention. Since this area is not classified for protection under either national or EU law, part of it has been included in the Agios Ioannis village.

### Public information and awareness

It has been shown in practice that a total ban on any human activity or intervention is not always necessary in order to protect natural habitats, as inhabitants provide the human element of an ecosystem. In fact, a higher and more effective level of protection can be achieved with some human presence and its limitation to moderate activities. However, information and awareness of residents regarding the benefits that can be derived from ecosystems, as well as the active involvement of stakeholders in the drawing up and implementation of management plans is necessary, as a fundamental guarantee of social consensus on any such intervention on an area.

### The administration's response to the Ombudsman's observations

In most cases where buildings had already been constructed it was found that demolishing illegal structures, according to the Ombudsman's recommendations, frequently fell foul of the administration's innate inability to act (due to financial, social or other reasons), even when the necessary will to comply with the Ombudsman's recommendations was there. In cases where environmental pollution and degradation had been observed, the necessary sanctions were not applied, nor were the appropriate protective measures taken. Only in a few instances was the Ombudsman informed that an environmental permitting procedure had been initiated.

### Indicative cases of breach of environmental law concerning the management of ecosystems

#### Illegal construction

- ✿ The illegal construction of a building site in the wider protection area of the Laganas Bay national sea park in Zakynthos.
- ✿ The construction, within the total protection urban zone of the Aliko wetland in Kos, of an illegal 1800 sq.m. hotel unit, on a permit allowing for a 600 sq.m. commercial building.
- ✿ The disastrous effects on the Mesologgi-Aitoliko Lagoon wetlands, through extensive landfill operations and illegal building, and other constructions in Tourlida.

#### Pollution

- ✿ The inadequate operation of a biological treatment facility at a fruit processing factory in the Prefecture of Arta, which caused the discharge of only partially treated sewage effluent into a stream leading into the Amvrakikos Bay.
- ✿ The environmental pollution caused by the leakage and burial of hazardous toxic waste from a fuel storage facility in the Skala Loutra area of Mytilini.

## Conclusions

The following are required in order to prevent ecosystem degradation:

- ✿ A full and explicit inventory of the current situation must be undertaken, as a prerequisite for effective protective measures to be taken, as well as for controls, general planning and organisation.
- ✿ The drafting of special environmental impact studies defining the permissible uses and moderate activities allowed in these areas.

- ✿ The incorporation of an ecological aspect in the planning stages of development policy for a number of sectors (agriculture, stock farming, fishery, tourism); the amendment, completion and modernisation of existing legislation with a view to achieving a more sustainable development.
- ✿ A strict enforcement of the law and the adoption of mandatory environmental monitoring.
- ✿ Adequate staffing with specialised personnel and the provision of sufficient funds to the environmental policy support structure, both at central and specifically at local government level.
- ✿ An institutional framework that can ensure transparency at all stages of the decision making process, access to environmental quality data, and the information and awareness of citizens.

## SPECIAL THEMATIC GROUP II

### The management of communal spaces by Local Government Authorities

The definition of communal goods can be so broad as to cover a large proportion of the natural and the urban environment. Communal goods are non-negotiable and belong either to the state (seashore, shore) or to Local Government Authorities who are charged with their management and development in such a way as to safeguard their communal nature and promote public benefit. Every citizen has the right to use public spaces freely, as well as to require the Local Government Authority responsible for their protection to safeguard their unhindered use where this is being obstructed. Given that this issue is so closely related to the quality of life (the overwhelming majority of green and other open spaces used by the public for their everyday recreation or other activity, such as roads, squares, parks, pavements, etc., are all communal spaces), points of contention between



citizens and local government arise frequently, and complaints received by the Office of the Ombudsman concerning the management of public spaces by Local Government Authorities constitute one of the Ombudsman's chief mediatory activities.

## **Cancellation of the public use of communal spaces**

### ***Occupation of communal spaces***

Apart from their obvious importance to the quality of life, communal spaces are, particularly in heavily built-up areas, one of the most important sources of income for the Local Government Authorities responsible for their management, through the issuing of concession permits for the total or partial occupation of a communal space. Permits are also granted, in exchange for significant sums of money, to restaurants and cafeterias for the purpose of placing seating areas on pavements and squares, for the establishment of kiosks, or for the sale of goods on pavements. While the professional activities of entrepreneurs in communal areas should support, or at least not hinder, common use, in practice this is either substantially curtailed or wholly eliminated through

the issuing of an increasing number of permits to entrepreneurs for the exploitation of communal spaces.

The deployment of tables and chairs in communal spaces has become a particularly acute problem, specially in tourist areas.

### **Indicative case**

In Athens' Thiseio area almost every bar, restaurant or other establishment subject to sanitary requirements places tables and chairs on adjoining roads and pavements, either in breach of the conditions of the relevant permit obtained from the Athens municipal authorities, or without any permit at all. The Office of the Ombudsman has stressed the importance of a full review of all such establishments' permits in order to identify any infringements and impose the appropriate administrative sanctions. Municipal police inspections should also be more frequent so as to ensure that owners of such establishments operate within the law.

The Municipality of Athens' council, reacting to the Office of the Ombudsman's intervention, made certain organisational changes to the municipality in order to ensure a more rapid response to complaints; to issue permits for concessions on communal spaces, as well as operating licences for establishments by the municipality's Estab-



lishments and Spectacles Department; and to provide personnel to this department immediately.

A large number of complaints addressed the issue of the occupation of communal spaces by entrepreneurs, without a relevant permit, and the lack of response by the municipal authorities in restoring legality. The majority of cases concerned unlawful construction in coastal zones (e.g. the unlawful extension of a bar on the coast at Mastihari in Kos, a large number of permanent illegal constructions along the beach area at Lep-



tokaria in Pieria, the operation of a sea-side bar on Thasos).

Municipal authorities are usually slow in their responses to the Office of the Ombudsman's interventions, as well as in taking specific steps. The majority of the country's municipalities, reluctant to limit a practice that is considered economically beneficial to the municipality and to the greater area, effectively refuse to tackle the issue of the occupation of communal spaces at its root.

## **Deterioration of common use**

### ***Conservation of green spaces***

In such a heavily built-up area as Attica, the conservation of green spaces takes on particular significance. The Office of the Om-

budsman has become involved in the question of the reduction of planted area in communal spaces, even where these retain their communal nature. Indicative cases include the creation of a playground by the Municipality of Kifisia in a local park, as well as the creation of a building complex for the housing of sports clubs, local unions and other community groups in three squares in Amarousio Municipality. The Ombudsman noted in both cases that any reduction in the total green space within a municipality is not permitted and that any planted area that is covered over must be replaced by another of equivalent size. The Municipality of Kifisia responded immediately, whereas the Municipality of Amarousio demonstrated total inaction, containing itself to a justification proclaiming the "invigoration of the area's social and cultural activity".

### ***Cleanliness of communal spaces***

Complaints relating to the cleanliness of communal spaces are a common issue for which citizens resort to the Office of the Ombudsman, particularly in the country's larger municipalities. Old abandoned buildings or allotments are converted into dumping areas for all sorts of waste and building materials, presenting real pollution hot-spots and a risk to public health. Citizens complain about the lack of cleanliness in squares, parks, uncovered areas, playgrounds and roads. The majority of the relevant cases were archived following a positive response by the administration.

The experience of the Office also shows that issues of cleanliness are often linked to the question of where to locate rubbish bins. Citizens submit large numbers of complaints every year concerning the choice of location for these bins, which are often placed directly below the balconies or in front of the windows of their houses. This creates unbearable conditions for residents, particularly when municipal rubbish collection staff are on strike and during the summer months. A large number of complaints also concern



a disproportionate concentration of rubbish bins on a particular street, or conversely, their absence from a certain area. There are clear indications that the choice of location for rubbish bins is often taken on the basis of unreasonable criteria.

***Insufficient care for communal spaces***

A large number of citizens have complained about the lack of appropriate care given to communal spaces, particularly streets and pavements. This matter is particularly trou-

blesome, because public access to streets and pavements is hindered not only by poor construction, but also by all kinds of obstacles (illegally parked cars and motorbikes, flower pots, sign-posts, shop-merchandise, etc.). In many cases, pedestrians are forced to walk on the road, thus raising the chances of causing an accident. The Office of the Ombudsman’s interventions in this area are rarely fruitful, due to the chronic staff shortages mentioned above, as well as the general inertia of the competent Local Government Authorities.

***Car parking***

The shortage of parking spaces is also a problem, as the number of cars increases at an exponential rate, resulting in more cases of parking in forbidden zones (pedestrian crossings, pavements, corners, etc.). Controls on such infractions by the relevant municipal police authorities are inadequate; in fact, Local Government Authorities frequently compound the problem by granting exclusive parking spaces to vehicles belonging to banks, insurance companies, newspapers, Members of Parliament, embassies, public offices, etc. The relevant findings drawn up by the Ombudsman emphasized the lack of legal basis in the decisions by local councils to grant exclusive parking spaces. This is because the Road Traffic Code authorises them to take certain measures to reduce congestion and restrict parking, not the opposite.

**Conclusions**

Local Government Authorities have a multitude of different responsibilities as regards the management of communal spaces and there is an almost never-ending list of relevant cases. As for the cancellation of communal use through the granting of concession permits, or the unlawful occupation for private activities, it appears that local government inactivity is due to a conscious political choice to put the economic development of their Region first, facilitating businesses within their area.



Concerning the deterioration of communal use, it seems that the inactivity or the inadequate action on the part of Local Government Authorities is due to their inability to exercise control over the situation in a satisfactory manner, despite their willingness to do so. This is caused by serious staff shortages, a lack of basic infrastructure and funds, as well as by the bureaucratic inflexibility of the competent authorities.

### Proposals

**The Ombudsman proposes:**

- ✿ More stringent regulation dealing with the conditions for the granting of concession permits for communal spaces and their conversion into private seating areas.
- ✿ The imposition of severe fines for those who breach the terms of their communal space concession permit; the revocation of permits and the refusal to grant them in the future to those who consistently breach the law, or whose infringements are particularly serious.
- ✿ Intensive controls on communal spaces by municipal police forces.
- ✿ The drafting of studies by Local Government Authorities' technical services regarding the location of rubbish bins, based on the principles of proportionality and equality amongst citizens.
- ✿ A particular emphasis should be placed on cleanliness, on the care of plants and the further planting of trees, wherever possible, in communal green spaces.
- ✿ The simplification of the bureaucratic process so that speedier and more effective resolutions to problems can be achieved, and at the same time the reinforcement of certain services (e.g. municipal police, municipal technical services) through the provision of further personnel and funding.





The Department of State – Citizen Relations examines complaints which raise issues of information and communication, the quality of services provided and maladministration in Local Government Authorities, public utility corporations, transport, communications, labour, industry, energy, taxation, customs, public finances, commerce and state procurement, agriculture and rural policies, education. The breadth of subject matter dealt with by the Department affords a cross-section view of administrative reality and this year highlights yet again instances of maladministration which have already been discussed in previous annual reports. From the complaints investigated in 2005, the following cases, which are symptomatic of certain malfunctions of public administration, are set out below.

<b>TOTAL COMPLAINTS 2005</b>	<b>4,350</b>
Complaints within the Ombudsman's mandate	2,914
<b>MALADMINISTRATION PROBLEM CORROBORATED</b>	<b>1,229</b>
Problem resolved (favourable outcome)	994
Problem not resolved (the Ombudsman's recommendations were not accepted – impossibility of resolution)	235
<b>MALADMINISTRATION PROBLEM NOT CORROBORATED</b>	<b>810</b>
INVESTIGATIONS DISCONTINUED	152
CASES PENDING AT 31.12.2005	723



KALLIOPE SPANO  
Deputy Ombudsman

## Income tax questions

A combination of inflexible regulations regarding apparent taxable income and the interpretation of tax law by the administration in a manner which is particularly limiting for citizens' rights, often give rise to instances of maladministration.

### Indicative cases

⊛ A tax-payer was requested to pay income tax on a house of over 200 sq.m., on the basis that the owner of a house over 200 sq.m. has a high presumed income. However, the Office of the Ombudsman pointed out that owing a house over 200 sq.m. does not give a full picture of a tax-payer's annual income, since properties may come into his possession through a gift or

an inheritance. In a more recent law the Ministry of Finance limited the amounts of imputed annual expenses for this specific category by 50%, if the property came into the taxpayer's possession through a gift or an inheritance.

⊛ A tax-payer was requested to pay tax on an amount he received from a bank as compensation (following a court ruling) because the bank had refused to employ him as a person with special needs, despite its obligation to do so under the law. Following the Office of the Ombudsman's intervention and a relevant ruling by the Legal Counsels of the State, the view that sums received as a result of court decisions, as financial penalty which is imposed on the debtor, do not constitute taxable income was accepted.



**Indicative case of successful intervention on the part of the Office of the Ombudsman**

***Misplacement of data contained into a personal file***

An employee submitted a complaint regarding the misplacement, through the fault of the administration, of data contained into her personal file concerning the recognition of her prior employment, with the result that she did not qualify for a salary increase. The Office of the Ombudsman intervened and the matter was resolved after the complainant submitted supporting documentation, and the administration proceeded to a reconstitution of the file. The matter was in any case definitively resolved with the issuance of a presidential decree in which the obligations of the administration, in the event of misplacement of a file, are clearly laid out.

rectly linked with the state limitations as to the imposition of obligations in a way which is compatible with the respect for significant individual rights (e.g. property).

**SPECIAL THEMATIC GROUP I**

**Agricultural policy**

The state's intervention in the restructuring of the agricultural sector and the support to the rural population has multiplied the number of contacts between civil services and farmers; with a section of the population, that is, which faces discernible difficulties in everyday dealings with the administration.

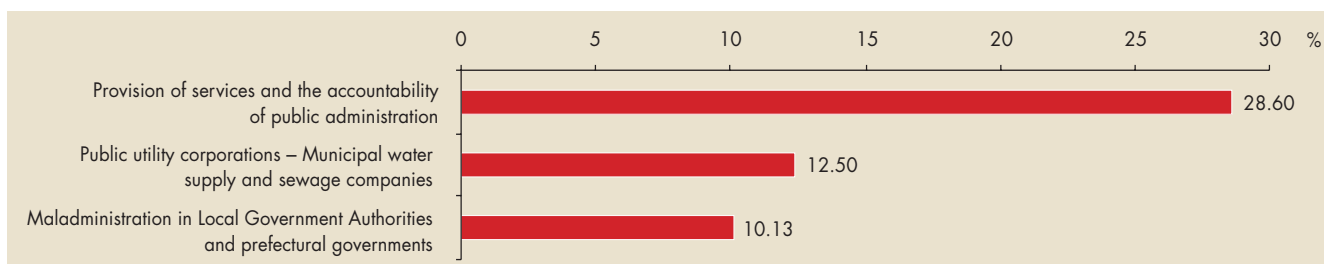
From the cases investigated by the Office of the Ombudsman it appears that for producers and livestock farmers the weak link in their relations with the administration is communication. Citizens frequently complain that it is impossible to communicate by telephone, that they are given insufficient or erroneous information, that their written applications remain unanswered, or that administrative acts which concern them are insufficiently justified.

**Insufficient justification of administrative acts**

Insufficient justification of administrative acts was clear in cases of cutbacks to the olive oil subsidy in the 2002-2003 period. From the cases examined by the Office of the Ombudsman it appears that the Organisation for the Disbursement and Monitoring of EU Guidance and Guarantee Funds did

The special thematic groups which have been chosen this year concern the agricultural policy, the transport policy and public administration debts. The agricultural policy questions concern the restructuring of the agricultural sector and support to agricultural income. In the transport sector, the malfunctions which are highlighted have principally to do with the regulation of this area of activity (permits, compliance with rules, etc.). Finally, the question of public administration debts constitutes one of the most sensitive areas of financial dealings between citizens and the state and, in the final analysis, is di-

**MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT**



not respect the procedure laid out in the relevant ministerial decisions.

The decision as to which producers would receive the olive oil subsidy for the period in question was made on the basis of criteria which were defined by decision of the Minister of Rural Development and Food. However, discrepancies between the information submitted by the producers, and the criteria laid out by the ministerial decision resulted in a reduction of the subsidy.

The producers who resorted to the Office of the Ombudsman had already received 60% of the subsidy – calculated on the total of their production – as an advance paid to all producers who submit an application for subsidy. However, the producers considered that, on the basis of the criteria set out by the ministerial decision, the total of their production should be subsidised, and, hence, they submitted their objections. In some cases, following the submission of the objections, a further amount, which in most cases corresponded to 20% of production, was deposited in their bank accounts.

The producers protested vigorously, because on the one hand they were not in-

formed that their objection was partially rejected, and on the other, because they were not supplied with a copy of the individual findings sheet during the examination of their objection, as is foreseen in the ministerial decision which sets out the procedure for the submission of objections.

Because of the uncooperative attitude displayed by the organisation, its refusal to respond to written questions submitted by producers, and because of the subsequent financial consequences which a reduction in the subsidy will entail, the Ombudsman addressed its findings to the Minister of Rural Development and Food.

### Sudden issuance of subsidy decisions

In many cases, citizens emphasise that administrative decisions do not allow for a period of adjustment to new regulations, or to the changes that these introduce.

#### Indicative cases

- ✿ A cotton producer was unable to respond in due time to a circular issued by the Organisation for the Disbursement and Mon-



itoring of EU Guidance and Guarantee Funds, which called for producers to submit, within four days of its circulation, a declaration of their stocks of seed cotton.

- ✿ Cotton producers who suffered financial loss as a result of sudden changes to the regime governing the distribution of cotton production rights. While in previous years they had established the right to grow cotton on the basis of their average production during the 1995-1999 period, cotton production rights for 2005 were determined by joint ministerial decision. It should be noted that the Joint Ministerial Decision was published on 20-05-2005, but had retroactive effect from 28-03-2005 and granted production rights only to those cotton farmers who were active in 2004.
- ✿ A farmer was informed by the Greek Agricultural Insurance Organisation (ELGA) that she must return a considerable sum, in relation to her financial standing, within a short period, because, through an error in calculation committed by the organisation itself, her account was credited in the spring of 2004 with a sum which was larger than that to which she was entitled in compensation for crop damage suffered in 2001. She was informed that non-payment of the debt within the due period would result in its compulsory payment. Following the intervention of the Office of the Ombudsman, the ELGA agreed to a settlement for the return of the amount.

### Administrative delays or omissions

In many of the cases examined by the Office of the Ombudsman, delays or omissions on the part of the administration were the cause of significant financial losses to producers and livestock farmers.

#### Indicative cases

- ✿ Delays on the part of the ELGA in carrying out on-site investigations on farms, in order to assess the extent of the damage caused by extreme weather conditions. The Plant Production Insurance Regulations

of the ELGA do not foresee a specific time limit between the date at which the damage is declared, and its assessment. In the event that the assessment does not take place before the time at which the crop is usually harvested, or the producer sees fit to plough his land, the producer is obliged to leave "witnesses", or untouched parcels of the crop, in order to allow the agronomist-assessor to reach a safe conclusion regarding the extent of the damage. However, from cases handled by the Office of the Ombudsman, it appears that when a considerable time has passed between the declaration of the damage and its assessment, the agronomist-assessor's findings are disputed. The producers consider that they have been wronged because they feel that the assessor does not acquire a complete impression of the damage suffered.

- ✿ Omissions on the part of the administration to proceed to actions which are part of its obligations. The implementation of the "Intensive animal farming" programme demanded as a precondition the drafting of an accepted study-inventory of the current state of grazing lands, and a decision of the Minister of Agriculture by which the reduction percentage in the density of grazing would be established. However, the necessary actions had not taken place in the Prefecture of Trikala, with the result that no application for funding under this programme could be considered valid. Thus, while the fundamental prerequisites for the implementation of the programme in this prefecture were not in place, which was the responsibility of the administration, the local directorate of rural development failed to inform the persons concerned, who submitted applications for inclusion in the programme, and had to bear the cost entailed by this procedure.
- ✿ The rejection of requests on formal grounds, such as information missing from files or declarations, which could be easily corrected. A problem arose during the examination of the applications of farmers, who were candidates for inclusion in

the programme "Improvement of the age composition of the rural population". The applicants had not been informed about the requested information that was missing from their applications at the time of submission, despite the fact that this was foreseen in the relevant law. From the information supplied to the Office of the Ombudsman, it is clear that the communities and municipalities who were responsible for taking reception of the applications and checking on their completeness had not fulfilled their obligation of active participation in the procedure. This resulted in candidates, who probably met the requirements, not qualifying for inclusion.

- ✳ Delegation of power by the administration to private entities, such as in the case of the implementation of the Integrated Management and Control System programme. The Ministry of Rural Development and Food, considering that the operating demands of the programme call for the provision of additional assistance to those producers wishing to apply for the programme, signed a "Memorandum of cooperation" with the Panhellenic Confederation of Unions of Agricultural Cooperatives, on the basis of which producers would address themselves to their local

Union of Agricultural Cooperatives, in order to submit their application forms for the Integrated Management and Control System programme and, if necessary, receive help in completing these forms. Through this cooperation, apart from the fact that the cost of providing the corresponding administrative services is assigned to the producer, the administration is ducking its responsibility to provide valid and complete information.

## SPECIAL THEMATIC GROUP II

### Administrative problems in the transport services

The number of complaints received by the Office of the Ombudsman concerning matters which lie within the scope of responsibility of the Ministry of Transport and Communications, and of the corresponding directorates of transport and communications at prefectural level, shows a steady increase. These instances of maladministration serve to highlight serious problems in the organisation, staffing and infrastructure of these services, as well as their inability to collaborate and coordinate their actions satisfactorily. Also apparent are phenomena incompatible with the principle of legality and the basic principles of administrative action.

#### *Delays in the handling of cases*

Considerable delays have been observed in the procedures connected with the issuance, renewal or replacement of driving licences and car registrations.

#### *This delay is due to:*

- ✳ Erroneous, incomplete or in-existent entrance of data in the central computer system of the Ministry of Transport and Communications;
- ✳ Loss of the files connected to driving licences or car registrations, which are kept by the local directorates of transport and communications.



When it is impossible to trace an old driving licence or car registration file, the directorates of transport and communications, both before and after the procedure for the compulsory reconstitution of the file which has been lost through the administration's fault, ask for the collaboration of the citizen concerned. In order to substantiate the new licence or registration, the services nearly always ask the citizen concerned not only to provide whatever supporting documents he may have, but also to search through the archives himself. Finally, once it has proven impossible, even with the mediation of the Office of the Ombudsman, to locate the file in question, the citizens have once again to go through the procedure for the issuance of a new driving licence (medical examination, written and practical examinations).

#### ***Faulty cooperation between services***

Citizens often suffer aggravation and financial loss – imposition of vehicle circulation fees, administrative penalties – because of inadequate collaboration and coordination both between the directorates of transport and communications and with other organisations, particularly regarding the entering, cross-checking or confirmation of data. Typical of this was the issuance by the competent directorates of driving licences to people who have been convicted by a court martial and who have either lost the right to drive or are obliged to surrender the licence they have. The problem lies in the excessively long period taken between the handing down of a judgement by a court martial and the relevant appraisal of the directorates of transport and communications.

#### ***Non-revocation of licences which have been issued illegally***

The East Attica Directorate of Transport and Communications has not proceeded, as it should have done, to the revocation of an extremely large number of driving licences

which are either forged or have been issued on the basis of irregular supporting documents. In contravention of the principle of legality, this considerable number of professional driving licences has been kept for years in the service's archives. Revocations only occur in individual cases, in which there was prior involvement of the courts.

#### ***Non-revocation of administrative decisions concerning vehicles being permanently struck off the register***

Citizens wishing their vehicles to be temporarily withdrawn, erroneously submitted, either in person or through Citizens Advice Bureaus, requests for the permanent withdrawal of their vehicles. The competent transport and communications directorates proceeded with their permanent withdrawal according to the regulations, and at the same time updated the Ministry of Transport and Communication's central computer to this effect. When the citizens concerned realised that their vehicles had been permanently withdrawn, they applied to the competent services for a reversal which was not, however, possible. The Ombudsman pointed out that the administration was not showing appropriate leniency in the matter, since, while there are established procedures for the correction of mistakes on the part of the administration, no corresponding procedures are provided for citizens. The view of the Ombudsman was accepted, the citizens' requests were re-examined and the permanent withdrawal of the vehicles was reversed.

#### ***Incorrect interpretation and implementation of provisions of law***

Problems frequently arise in the relations of citizens with the administration because civil servants have incomplete information regarding legislation in force. A case in point is that of an employee of the Piraeus Prefecture who, unaware of the current legislation, refused to take reception of a declaration request for permanent withdrawal of a ve-





vehicle, demanding that the owner pay vehicle circulation fees for the vehicle, despite the fact that municipal authorities had removed the vehicle from circulation.

***Non-issuance of the necessary presidential decree for the enactment of a law***

The non-satisfaction of citizens' requests is often due to the administration's excessive delay in issuing regulatory acts which are necessary for the enactment of a law.

**Indicative case**

The non-constitution of disciplinary committees, competent for the hearing of charges against professional taxi drivers, because for the past two years the necessary presidential decree has not been published.

**SPECIAL THEMATIC GROUP III**

**Public administration debts to citizens**

Over the past years the issue of the public administration's debts to citizens has been repeatedly brought to the Office of the Ombudsman's attention (800 cases since 1998). The factors that contribute to the perpetuation of the problem are:

- ✳ Gaps in legislation;
- ✳ Legislative provisions that overly favour the public administration;

- ✳ The inability of supervisory bodies to impose legality in such a way as to effectively ensure the rights of private individuals.

The largest proportion of cases in this category have to do with compensation due to expropriations and debts incurred because of the public administration's non-observance of its contractual obligations.

In the case of expropriations, significant delays, in many cases exceeding a decade, continue to exist in the payment of beneficiaries, resulting in the long-term seizure on citizens' property rights. The argument put forth by the public administration is that delays are due mainly to a lack of funds, which only reveals bad scheduling and the lack of planning. An indicative example of the inertia of control mechanisms is the deficient or even inexistent supervision of the actions of the Local Government Authorities by the competent regional authorities. The lack of supervision denies the administration the ability to take corrective measures before a citizen has resort to the competent courts.

But even the legislative regulations which define possible consequences for acts of omission on the part of public administration bodies are not always distinguished for their level of cohesion. A case in point is the regulations of Law 3301/2004 by which payment orders are exempted from judicial decisions that are binding for the administration.

**The state's civil liability**

The Office of the Ombudsman has identified a lack of protection for citizens in domestic legal order in cases where actions harmful to citizens arise from the legal actions of state officials, such as the pursuit of robbers. This issue has to do with the state's general responsibility to compensate citizens for harmful actions taken by its own officials, and particularly: a) when these actions are illegal in nature, and b) when there is a private law legal relationship. The combination of these factors makes compensation of citizens impossible in cases where the above do not

apply, while compensating a citizen for an injury suffered through no responsibility of his own, seems in principle to be just. However, in other countries it is accepted that the public administration has a general responsibility to compensate citizens who have suffered significant damages, even if this did not occur as a result of illegal actions on the part of state officials (France), or damages that constitute a special sacrifice in favour of the greater public good (Germany).

### **Granting of loans to Local Government Authorities**

Local Government Authorities can borrow at preferential rates from the Deposits and Loans Fund in order to pay overdue debts to private individuals. The loan granted concerns the payment of specific debts based on a register of names drawn up by the local government involved. Investigation into this matter revealed that no effective mechanism exists for monitoring the disposition of the funds disbursed in the form of a loan. The result of this lack of supervision is that the settlement of debts is not completely safeguarded.

#### **The Office of the Ombudsman considers**

essential that procedures be established to safeguard effective supervision of the disposal of funds that Local Government Authorities borrow from the Deposits and Loans Fund, as well as the imposition of sanctions for violators.

### **The public administration's liability due to breach of contractual obligations**

A significant number of cases involve the liability of the public administration due to breach of contractual obligations. Many cases concern contracts that are lacking in validity because they constitute mainly oral assignments of work, to be subsequently confirmed by a written contract. The majority of these cases involve Local Government Authorities, and appear to ensue from the fact that there is no effective supervision of their actions and that there is no pre-emptive supervision by the Court of Audit. Such supervision has been established recently, only for the expenditures of Local Government Authorities whose populations exceed 5,000 people.

In a number of cases involving the public administration's payment of debts to third parties, a notable unwillingness and excessive delays were displayed by the administration in complying with court decisions that mandated payment. In cases where the outstanding sum was relatively small, payment was carried out after mediation by the Office of the Ombudsman.

When the Ombudsman examines financial disputes between the public administration and citizens, it frequently observes that both the legislative framework and the actual operation of the supervisory and auditing bodies foster attitudes which lie completely beyond the sense of the rule of law. It is unfortunately an issue that raises doubts not only as to the credibility of the state, but also as to its ability to instil in citizens a sense of their own obligations towards it.



# DEPARTMENT OF CHILDREN'S RIGHTS

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The main object of the Department of Children's Rights is the protection and promotion of children's rights, fulfilling the mission of Children's Ombudsman, which was assigned to the Ombudsman by Law 3094/2003. A child is defined as any person who has not reached his/her eighteenth year. The Department investigates complaints that are submitted by the child itself, its parents or relatives, or by third parties who have become directly aware of violations against the child. Especially in cases of violations of children rights, the Ombudsman has competence for actions or omissions of private individuals, natural and legal entities. A significant part of the activity of the Children's Ombudsman involves the promotion of children's rights, which includes observation of their implementation, regular communication with children and the professionals that work with them, formulating and addressing institutional proposals related to the policy for children.



GEORGE MOSHOS  
Deputy Ombudsman

## Communication with children

The Office's direct communication with children was extended significantly due to the information on the Ombudsman for the Rights of Children disseminated by the Ministry of Education to schools and on the opportunities for children to communicate and meet directly with the Ombudsman. The Office visited 32 primary and secondary schools and held discussions with students. At the same time, students from four schools visited the premises of the Office of the Ombudsman and held discussions with members of the Department. Furthermore, the Deputy Ombudsman for Children's Rights

<b>TOTAL COMPLAINTS 2005</b>	<b>227</b>
concerning public administration	
Complaints within the Ombudsman's mandate	173
<hr/>	
MALADMINISTRATION PROBLEM CORROBORATED	68
Problem resolved (favourable outcome)	58
Problem not resolved (Ombudsman's recommendations were not accepted – impossibility of resolution)	10
MALADMINISTRATION PROBLEM NOT CORROBORATED	32
INVESTIGATIONS DISCONTINUED	8
CASES PENDING AT 31.12.2005	43

and associates visited 13 child protection institutions where they talked with the children and the professionals employed there. During its visits to schools, institutions, youth centres, camps and other areas where children live and congregate, the Ombudsman distributed special information leaflets on children's rights for adolescents aged 12–18. Another leaflet for children aged 6-12 is being prepared and will be distributed as of next year.

Also, the Ombudsman continues providing:

- a special reception area for children at its premises;
- a freephone line for minors (800 11 32000);
- a special Greek Ombudsman website for children, [www.synigoros.gr/0-18/](http://www.synigoros.gr/0-18/).

- The number of complaints of violations of children's rights increased slightly over the last year (6%).
- In four cases, the Department of Children's Rights carried out *ex officio* investigations.

<b>TOTAL COMPLAINTS 2005</b>	<b>77</b>
<i>concerning private individuals</i>	
CORROBORATION OF VIOLATION OF CHILDREN'S RIGHTS	27
Resolution of problem with acceptance and application of measures recommended	20
Handled through Ombudsman actions (mobilisation of organisations, informative consultation)	7
NON-CORROBORATION OF PROBLEM OF VIOLATION OF CHILDREN'S RIGHTS	7
INVESTIGATIONS DISCONTINUED	20
CASES PENDING AT 31.12.2005	23

### Children express their views on domestic violence

The Department of Children's Rights organised a campaign to combat and prevent corporal punishment for children. Many discussions with children in schools and institutions focused on the issue of domestic violence against children. The Ombudsman listened to children's views, concerns and proposals. The Department intends to conduct a wider survey on the subject among minors.

### Major thematic groups

#### The treatment of unaccompanied minors

The Ombudsman has noted complete inadequacy of facilities, services and procedures for the treatment of unaccompanied minors. Following an examination of cases, on-site investigations and communication with the competent authorities, a special re-

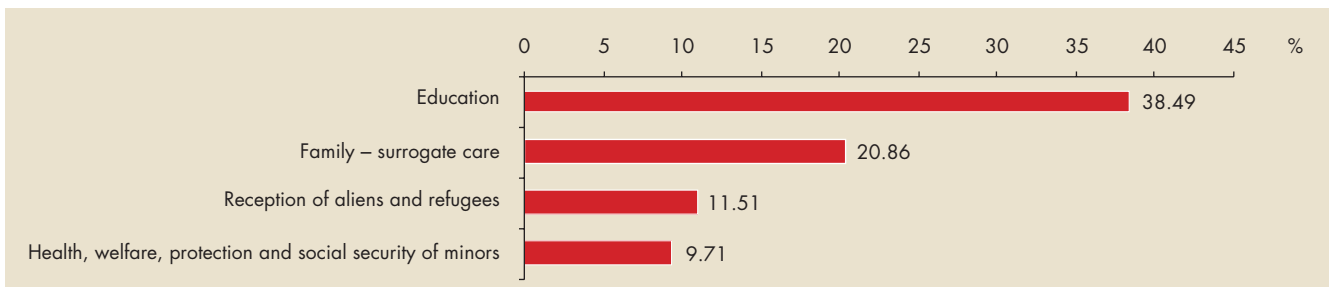
port entitled "Detention and Deportation of Alien Minors" was prepared. The report summarises the Ombudsman's conclusions and proposals in order for Greek legislation and administrative practices to correspond to the provisions of the Convention on the Rights of the Child.

#### Enrolment of alien minors in secondary education

From complaints submitted to the Office of the Ombudsman it has been ascertained that a number of alien minors could not enrol in secondary schools because they did not have residence permits. The Ombudsman requested that the Ministry of Education inform all the schools in the country that any minor has the right to enrol and study in primary and secondary schools without terms or limitations that have to do with their citizenship or the residence status of themselves or their parents. The ministry responded to the Ombudsman's observations and immediately issued a circular.



#### MAIN SUBJECTS OF THE COMPLAINTS HANDLED BY THE DEPARTMENT





### **Integration of Roma children in education**

The Office of the Ombudsman has received complaints that note that Roma children who live in encampments in various areas in the country do not attend school. Having been apprised of the measures taken in these areas, both by educational and other local authorities, the Office conducted on-site investigations and communicated with the competent services. It was determined that the issue of integrating Roma children in the educational system is closely linked to broader issues such as housing, and the provision of healthcare and welfare services to this group. Furthermore, it was determined that the educational system itself must be improved (training for teachers, production of special teaching aids, etc.), so that Roma children can be integrated in the educational system and prevent absenteeism. At the same time, the Ombudsman recommended that support services for Roma children and their parents be established in the areas where they live.

### **Integration of children with special educational needs in education**

Many cases involve integrating children with special needs in education. According to the provisions of Greek and international law, the educational system must provide services that can diagnose and assess the educational needs of children with special needs; and an education that aims at their optimum development, while corresponding to the

same specifications and goals as general education. The educational system is also called upon to implement the principle of equality of opportunity by giving all children with special needs access to educational structures that are part of the general educational system.

The Office of the Ombudsman ascertained that the Diagnostic Assessment and Support Centres continue to be understaffed with the result that they fall short in their mission to support the educators, the children and their families. Furthermore, the Special School Teaching Units have not yet been sufficiently developed; the result is that they cannot comprehensively fulfil the needs of children who cannot be integrated in ordinary schools. In fact, in most areas of the country there are no special schools for this category of children to attend.

Problems were also noted in the integration in education of children with marginal intelligence or slightly mentally retarded.

The institution of "parallel support by special education teachers" has indeed been put to better use by the educational system in recent years, but adequate funds are not always made available for the necessary number of special education teachers. Moreover, the appointments of special education teachers are frequently delayed, and as a result some children are unable to adapt to the educational process.

### **Implementation of court decisions regarding children's communication with their parents**

The Office of the Ombudsman has investigated cases in which divorced or separated parents claimed that judicial decisions regulating contact with their children are not being enforced. The Ombudsman has ascertained that the existing system for implementing these decisions has proven to be ineffective because there are no corresponding support mechanisms and special services. In the cases it handles, the Department encourages cooperation between the parents, and at the

same time tries to make use of public medical, pedagogic and counselling services.

### **Services and institutions for the protection of children**

Either during the investigation of particular cases or through visits to welfare services and child care institutions the Ombudsman has identified deficiencies in the system for the protection and care of children and families. Many prefectural welfare services face serious problems with staffing and lack of staff specialisation in the diagnosis and handling of cases of child abuse or neglect or serious family dysfunctions. Municipalities are not obliged by law to provide child welfare or family support services. Consequently, the organisation and very existence of social services in the municipalities is left to the discretion of each municipal authority. Minors' prosecutors have brought these deficiencies to the attention of the Ombudsman.

Besides some local specialised services, there is no national level agency for child abuse providing support and guidance to the professionals working in decentralised units, or collecting and processing research data, aimed at developing a national policy to deal with the problem.

The institution of foster care appears to be particularly weak; although it is provided for by legislation, in practice no system has been put in place to exploit this important family-oriented institution of alternative care for children who occasionally have to be removed from their own family surroundings.

The public child protection institutions are lacking in expert technical staff and there are no specialised facilities to house children and particularly adolescents who need multiple support. In many cases, the children housed are numerous, which reinforces an institutional image, whereas emphasis should be placed on creating small units in the form of homes. Also, the system of certification, supervision and funding for private (non-prof-

it) child protection centres and foundations is inadequate.

Because of these dysfunctions, in many cases of abuse or neglect or a family's inability to care for a minor, it is impossible to intervene in a timely and effective manner, and assess the problem, provide support and take measures to protect minors.

The Office of the Ombudsman considers that the national system of child and family protection services must be developed, that diagnostic, support, therapy and housing units must be adequately staffed with specialised professionals, and that the institution of foster care must be put to better use.

### **Day-care centres**

The Office of the Ombudsman has investigated a large number of complaints regarding the operation of municipal and communal infant and child day-care centres, has carried out on-site investigations and has made recommendations. The Office has determined that despite the existence of the Regulations for the Operation of Municipal and Communal Child and Infant Day-Care Centres, in the form of a joint ministerial decision, many such centres either have no such regulations for operation, or the existing regulations have not been fully adapted to the joint ministerial decision. Problems are linked mainly to registration criteria, to child-teacher ratios, to the boarding fees, and the units' facilities. The Ombudsman feels that a more effective system of supervision of Local Government Authorities' day-care centres is necessary.

## **Observing and promoting the rights of children**

### **Preventing and combating the corporal punishment of children**

Corporal punishment of children constitutes a form of violence against them that in many countries is acceptable socially and by law, despite the fact that according to modern expert opinion it harms their mental health



and constitutes a violation of their rights as enshrined in the Convention on the Rights of the Child.

The Ombudsman undertook two initiatives: a) it drafted a public statement proposing the prohibition of all forms of corporal punishment of children (February 2005), and b) it collaborated with representatives from agencies specialised in the protection of children's rights, in order to raise public awareness on the issue of abolishing corporal punishment of children and to promote relevant educational activities.

In October of 2005, the network was of-

ficially set up with the participation of nine founding members, including the competent ministries, public organisations, non-governmental organisations and the Department of Children's rights of the Ombudsman, which assumed its coordination.

The Deputy Ombudsman for Children's Rights took part in the special committee that drew up a new bill governing domestic violence. The draft law took into account the Ombudsman's proposals and included a regulation that clearly states that corporal punishment is not one of the disciplinary measures parents may exercise with their children.

### Implementation of the new penal code for minors

In collaboration with the Youth Support Cooperation Network, the Office of the Ombudsman organised a meeting on the problems that arise from the application of the new penal legislation for minors, and apprised the Ministry of Justice of its findings. It was determined, *inter alia*, that the law has not defined the prerequisites and the framework for the implementation of the new correctional measures, which extend the field of intervention of the judicial authorities and provide for the involvement of various agencies in the community, apart from the probation services of the minors' courts.

### Issue of guidelines for unaccompanied minors

The Office of the Ombudsman responded to the initiative of the High Commissioner for Refugees and took part in the drafting and presentation of a manual which includes guidelines for dealing with unaccompanied minors, as provided for by the Convention on the Rights of the Child, by other international legal texts, and proposals made by international human rights organisations. The manual is significant as it has a direct impact on the practices of the administration. At the same time it aims to improve the national legislative framework for dealing

with minors entering the country unaccompanied by their parents or other persons with legal custody.

### **Changes to the mass media's handling of children-related news items**

The Office of the Ombudsman has recommended to journalists that they avoid any form of reference to accusations or information that reveals or can lead to the disclosure of the identity of a minor, victim, offender or witness of a particular crime; to avoid presenting and making public material that constitutes the subject of judicial inquiry; to avoid presenting and making public recordings or other audio-visual material that has to do with minors and would cause them pain or harm; and to ensure that in reporting charges against public and private housing centres, hostels and foundations, they do not expand on the personal situation of the residents and thereby render their educational and social relations more difficult.

### **Presentation of significant cases**

#### **Absenteeism from school**

The headmaster of a primary school directed a complaint to the Office of the Ombudsman regarding a sixth-grade pupil absenting himself from school; during the previous academic year this pupil had not attended regularly, while in the year the complaint was made, just a few months before graduation, the pupil had ceased attending. The school, as it should have, had already communicated with the pupil's family, which was aware of the child's absences, but did not succeed in bringing the child back to school.

In order to avoid the intervention of the prosecuting authorities, because of the parents' penal liability, the school administration requested assistance from the Ombudsman. The Office informed the pupil's

mother that parents are responsible for a child's right to participate in compulsory education and that the child's unwillingness to continue at school did not relieve them from this responsibility.

It appeared that the child did not want to go to school because of his age difference from his class mates. Moreover, the parents' difficult financial and personal situation did not favour their exercising effective authority over the child and convincing bring him round.

The Ombudsman recommended to the mother that she seeks help from a child psychologist and the minor, thanks to the support he received, completed the sixth grade, graduated from primary school and enrolled in high school.

#### **Integration of Roma children in compulsory education**

A non-governmental organisation submitted a complaint according to which, following pressure applied by parents, the Municipal Council of the Movri Municipality (in Ahaia), issued a decision forbidding Roma children from enrolling in school if their parents are not registered with the municipality, and proposed that they register in the primary school of a nearby community and the creation of adaptation classes at the local encampment and not at the school.

The Ombudsman met with the headmaster and the teachers, as well as with representatives of the school's parents' and guardians' association, and discussed the matter with students, Roma and non-Roma. A University of Ioannina programme for the integration of Roma children in education was implemented in this particular school, and a subsidy of €300 was granted to every family that registered its children at the school; this resulted in many Roma children registering at and attending the school. However, the facilities and the training of the teaching staff were not up to the task of addressing special needs of the Roma children, who were in a school environment for the first time and in their majority did not speak Greek.





Following the intervention of the Ombudsman, a special teacher was appointed and a special adaptation class began to operate in the school. In addition, there are now programmes to train teachers in multicultural education and in parent advice. As a result of the persistent efforts of all parties to achieve the integration of the Roma children in the school, tensions are now a thing of the past; however, the special facilities and support services still leave room for improvement. The Municipality of Movri takes an active role in the fight against social exclusion and in the provision of support for special groups.

### **Correction of a birth certificate**

A twelve-year-old minor of Muslim religion, with the encouragement and support of a non-governmental organisation maintaining a day-care centre for children, submitted a complaint to the Office of the Ombudsman regarding a delay in correcting his birth certificate, on which his mother's name was not entered correctly. Since the child was born out of wedlock, this correction was necessary in order to register him in the mother's family record and so that his father, with whom he lived, could then recognise him.

Following an investigation, it was as-

certained that the court decision for the correction had been issued one year prior to the minor's complaint to the Office but had not yet become final, and therefore the administration rightly called for the final decision. There was also, however, some remissness on the part of the child's plaintiff (mother).

The Office of the Ombudsman requested that the legal representative of the mother submit the copy of the decision to the competent register office along with the document certifying the final nature of the decision. The case was filed after the Ombudsman had noted that the process of registering the minor with on the Males' Register records had begun.

### **Protection and accommodation of children and adolescents with mental disorders**

The Office of the Ombudsman received complaints from professionals and organisations that deal with the protection and mental health of children and adolescents, concerning the lack of infrastructure for the protection of minors with mental disorders, behavioural disorders or particular emotional difficulties, including special categories such as children who have suffered sexual abuse or serious neglect, victims of trafficking and exploitation, adolescents with mild mental disabilities and secondary emotional disturbances, those with problems of substance abuse, etc.

The Office of the Ombudsman ascertained that these institutions are inadequate in terms of infrastructure, staffing and staff specialisation. Furthermore, in cases where the "problematic" behaviour of an adolescent cannot be dealt with by the existing child care institutions, the youth ends up being treated indefinitely at the Emergency Unit of the Attica Children's Psychiatric Hospital. This results on the one hand, in invalidating the true purpose of this unit, and on the other, in serious violations of the rights of the children. In other cases, it has been noted that adolescents or young adults are admitted

into foundations for the chronically ill, which are also extremely unsuitable for their condition.

The Office of the Ombudsman issued a finding entitled "Structures for the Protection and Housing of Children and Adolescents with Mental Disorders", which notes that the lack of specialised infrastructure for housing children and adolescents with such problems constitutes a serious shortcoming in this country's system of protection and welfare for minors. The repercussions are very serious, both for the minors and for the regular operation of the child care institutions, as well as for other children housed there.

At the same time, the Office of the Ombudsman has noted the need for a balanced geographical distribution both of these units and more generally of child psychiatric services and family support organisations, so that when in need or in a crisis, children and adolescents throughout the country can receive proper care without being cut off from their family and social environment.

### **Domestic violence**

A teacher at the Lyceum attended by a 16-old victim of domestic violence, with the permission of the girl, submitted a complaint to the Office of the Ombudsman requesting its mediation so that immediate support action could be taken to help her deal with this

ongoing problem. The minor turned to the Office for help, with the aid of her teacher, when the latter observed obvious signs of violence on the pupil's body and a dramatic change in her behaviour, as well as a fall in her academic performance.

The Office of the Ombudsman communicated with the administration of the school and the teacher, and met with the minor who stated that she did not wish the judicial authorities to intervene in her case. As it transpired, the girl and her mother were the victims of domestic violence – both physical and emotional – by the father. Having informed the competent juveniles' prosecutor, with the consent of the girl, the Office of the Ombudsman contacted the children's mental health centre nearest her home, for her to be provided with counselling and support.

The Ombudsman kept up with the girl's progress with the centre, and shortly afterwards was informed of her decision to stop her sessions for personal reasons. The Ombudsman then contacted another state psychotherapy centre in the prefecture and managed to place her there so that she could receive support, this time with the assistance of her mother. The Office of the Ombudsman monitors this support process which appears to be having beneficial results.

# THE OMBUDSMAN AS AN AGENCY PROMOTING THE PRINCIPLE OF EQUAL TREATMENT

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## Law 3304/2005 and the new competencies of the Ombudsman

The ratification of Law 3304/2005 on the "Implementing of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation" constitutes a landmark in the promotion of the principle of equality and the protection of human rights in this country. This law reinforces the role of the Ombudsman by adding new competencies that are expected to help it fulfil its institutional objective more effectively. With the new legislative provisions, the Ombudsman is no longer excluded from investigating complaints that have to do with the service status of civil servants when such complaints touch upon discriminatory treatment governed by the new provisions.

With this law two EU Directives were incorporated into the Greek legislation:

- Directive 2000/43/EC re: "implementing the principle of equal treatment of persons irrespective of racial or ethnic origin" in the fields of employment, labour, participation in unions and professional associations, as well as in education, social benefits and access to and provision of goods and services, and

In order to promote equal treatment, the Ombudsman may conduct a wider investigation, draft pertinent reports and actively take part in coordinating state authorities, and raising awareness in the administration and civil society. In this context, the Ombudsman will put to use its collaboration with the new Equal Treatment Committee of the Ministry of Justice, as well as the Labour Inspectorate, both of which have been assigned the role of promoting equal treatment in the private sector.

Since the enactment of the law for the enforcement of the principle of equal treatment (27.1.2005) the Office of the Ombudsman has investigated 26 cases, of which:

- 9 are pending
- 4 were resolved in favour of the complainant
- 3 were filed as unfounded
- 7 did not fall under the provisions of the law
- 3 did not fall under the mandate of the Ombudsman

- Directive 2000/78/EC re: "combating discrimination based on religion, beliefs, disability, age or sexual orientation" exclusively in the fields of employment and labour.

#### The provisions of this law:

- Aim to combat phenomena both of direct and indirect discrimination;
- Provide special independent protection against harassment and any instructions for discriminatory treatment;
- Create a complex and, in part, innovative network of protective mechanisms for the person facing discrimination;
- Shift the burden of proof of unfair discrimination away from the victim and limit his/her obligation to presentation of simple prima facie evidence in support of the charge.

## Discrimination based on racial or ethnic origin

### Labour

A naturalised Greek of Ukrainian descent who was a practicing lawyer requested that an article in the Code of Attorneys at Law not be applied in her case. The article in question states that an alien who has acquired Greek citizenship by naturalisation cannot receive a licence to practise law for five years after naturalisation. The Office of the Ombudsman deemed that this article

puts naturalised Greeks in an unfavourable position compared to other Greek citizens, and recommended that the complainant re-submit her complaint when her internship came to an end. The Office has already brought up the issue with the bar association in question.

### Provision of services – Access to goods

Naturalised Greeks from the countries of the former USSR requested that the Ministry of Transport waive its refusal to convert the driving licences which had been issued in their countries of origin. The ministry refused, citing a provision that states that conversion of licences is provided only for those who acquired Greek citizenship at their birth. The Ombudsman deemed that, while this provision discriminates in terms of ethnic origin for naturalised Greek citizens – whether of Greek or foreign descent – this discrimination falls outside the bounds of the law on equal treatment because the issuance of driving licences does not constitute provision of a service, but rather depends exclusively on the regulatory competencies of public agencies.

### Provision of services – Housing

A Greek citizen, of Rom descent, complained of the imposition of excessively high fines by the Urban Planning Division of the Argolida Prefectural Government because he had built an illegal construction to house his family on a plot of land he owned. Because the complainant could not pay the fines, the shack was torn down. It is worth noting that the complainant intended to tear down the shack after finishing the construction of a house on this plot of land, which he had purchased using a loan offered by a Roma housing programme. The Office of the Ombudsman intervened immediately, noting that the wrongful imposition of fines by the public administration and demolition of the shack constitute actions that possibly conceal discriminatory treatment.

A citizen complained about Ano Liosia Mu-

nicipality's excessive delay in issuing a certificate of payment of property tax for a house which he had inherited. This certificate was necessary for drawing up the contract by which she was to sell her house to a Roma. Eventually, the certificate was issued after the Office of the Ombudsman had intervened. However, because delays by Ano Liosia Municipality in issuing certificates of payment of property tax, especially in cases where members of the Roma community are parties to the contract, are habitual and give rise to suspicions of discrimination, the Office will continue to monitor the situation.

### **Education**

An Albanian citizen complained to the Ombudsman of the refusal by the State Scholarships Foundation to grant him a student housing subsidy and a scholarship because he did not have Greek citizenship. The Office of the Ombudsman found that the relevant legislation does not recognise the right of alien non-EU students to receive these benefits. This discrimination, based on the citizenship of the complainant, does not therefore fall under the protection provided by Law 3304/2005.

### **Discrimination based on disability**

A citizen with 51% disability was hired by the "Papageorgiou" Hospital as a member of the ward staff. She received a negative reply from the hospital management to her request to be given disability leave, and after the end of the probation period she was dismissed for not being able to fulfil her duties. Verbally however, according to the complainant, she was told that she was being dismissed because she was disabled. Subsequently, the person in question participated in a new call for the same position, and was not selected on the grounds that, as had already been determined, she did not adequately fulfil her duties. The Ombudsman felt that this was a prima facie case of discriminatory treatment and will

take action at the end of the three month period following the submission of the complainant's objection, or the issuance of a relevant decision.

### **Discrimination based on age**

A citizen called upon the Ombudsman to examine if the Code of Attorneys at Law regulations setting a maximum age for the registration of Law School graduates in the bar associations' trainees' register is in line with the principles of equal treatment. The Office of the Ombudsman found that there is a need for further specification in the regulations of the Code of Attorneys at Law so that they comply with the minimum conditions of Law 3304/2005 under which differential treatment, based on age, in the fields of employment and labour, is legitimate.

### **Discrimination based on religion or other beliefs**

#### ***Membership in professional associations***

A doctor of Muslim religion, formerly a citizen of Jordan and now a Greek citizen, complained of a refusal by the Thessaloniki Medical Association to register him as a member, despite the fact that he met all the necessary requirements. Following an informal inquiry by the Ombudsman, the complainant was registered.

#### ***Provision of services***

A group of Muslim inhabitants of a Rodopi Prefecture municipality, complained about the behaviour of a police officer serving in the local station who fined them for offences that were arguable, and verbally abused and threatened them. According to their claims, this behaviour constituted harassment as defined by Law 3304/2005. Although the Office of the Ombudsman deemed that the actions about which it received complaints did not fall under the actions of the Police, which would constitute "provision of services" in the meaning of the law,

it unofficially mediated with the superior authorities to examine the legality of the police officer's actions based on the broader legislative framework.

### Discrimination based on sexual orientation

A citizen of FYROM, graduate student with a scholarship from the Greek state, complained to the administration of the University of Athens of discriminatory behaviour based on his sexual orientation. Based on his complaints of harassment by other students, the administration took measures against him and indeed threatened him with expulsion claiming that he was responsible for disturbing the smooth operation of the department. The investigation by the Office of the Ombudsman revealed that the university rightly considered that this was a case of conflict among students that was based on problematic personal relations, rather than the sexual orientation of the complainant. It disagreed, however, with the possibility of expelling the student. Following the intervention of the Office of the Ombudsman, the complainant was allowed to complete his education with his scholarship and to graduate. In any case, tertiary education is included as a field only for discrimination based on racial or ethnic origins.

### Use of statutory powers

#### Composite action for the Roma housing problem

The varied manifestations of exclusion to which most Greek Gypsies or Roma continue to be subjected have repeatedly concerned the Office of the Ombudsman. The structural nature of this phenomenon renders ineffective, to an extent, the intervention of agencies such as the Ombudsman, which focus on individual cases. However, at the same time, this makes the Ombudsman's wider intervention necessary in protecting

human rights and combating discrimination. The Ombudsman's appointment as an official agency for the promotion of equal treatment and for combating discrimination gives the Office wider scope to intervene in collaboration with state agencies, local government and the civil society.

Within this framework, the Office Ombudsman has focused its attention on the complex problem of settlement of the Greek Roma population. The experience of the Office until now has shown that this issue epitomizes the most fundamental social inclusion and participation problems of this sensitive segment of the population.

The purpose of the Ombudsman's action is, based on individual complaints, to locate and assess the problems of social exclusion, particularly with regard to health, employment, education, participating in public life, as well as the attitude of the administration, particularly in the fields of urban planning, municipal registration status, welfare and education. In this way, it will be possible to assess the practices of the administration in terms of its legality and its effectiveness in relation to its alleged concern for the well-being of the Greek Roma.

### Outreach activities of the Ombudsman

In order to address its new responsibilities, the Ombudsman appointed a standing group to handle cases that touch on the implementation of Law 3304/2005.

It also took part in:

- ✦ Training seminars and deliberations organised by international agencies, aimed at harmonising EU Directives with the national law of each member state;
- ✦ The National Working Group of the EU programme against discrimination;
- ✦ The European Equinet network that links and coordinates official agencies to realise EU Directives against discrimination in EU and pre-accession countries.

## Issues in implementing Law 3304/2005

The number of complaints investigated by the Ombudsman in its role as the agency promoting the principle of equal treatment does not as yet allow conclusions to be drawn, but do make it possible to make certain basic initial observations:

- ✿ The effort to implement the provisions in question in the course of the investigations described above, has brought to light serious problems of interpretation that are due to the broad and vague content of EU regulations incorporated in the Greek law.
- ✿ The national legislator did not take advantage of his ability to extend the protection provided by this law into fields other than those that are expressly mentioned in the Directives, and thus limited the law to the field of employment. Furthermore, the agencies promoting equal treatment in the private sector are not safeguarded with the usual guarantees of institutional independence.
- ✿ To a great extent, the public remains uninformed about the new framework to combat discrimination.
- ✿ Most of the complaints brought to the attention of the Office of the Ombudsman involved types of discrimination whose publicity does not usually incur an additional social cost for the victim (such as, for example, age or disability).
- ✿ One must not overlook the general clause of exception from the regulatory field of Law 3304/2005 concerning discrimination based on citizenship. So long as discrimination based on citizenship finds a foothold in this legislation, in combination with the fact that in our country access to a number of fields of employment continues, perhaps unjustifiably, to be tied to Greek citizenship, the preconditions are created for extensive discrimination against aliens due to race or national origin.

## Administrative detention and deportation of alien minors

In October, the Ombudsman published a special report entitled "Administrative Detention and Deportation of Alien Minors". This report was drafted because of the numerous complaints that had to do with inadequate protection of unaccompanied minors who are detained by the Greek Police and are then deported.

The main finding of this special report was that being a minor – which entitles one to protection according to national law and the international obligations of this country – takes second place if one is in violation of the immigration law. In consequence, this leads to a further violation of the rights of the minor by those very services that are mandated to protect him.

The problems that were identified did not so much have to do with compliance with the law or the stance of the police officers who have the difficult task of detaining the minors. The greatest problem lies in the complete inadequacy of, on the one hand, the infrastructure, which results in particularly harsh and unsuitable conditions of detainment considering the age of the detainees, and on the other, of the legislation governing issues of police checks, administrative (police) detention and deportation.



**In order to deal with the problems and protect the rights of unaccompanied alien minors, the Ombudsman proposes the following, *inter alia*:**

- ✿ Abolition of police detention for alien minors who illegally enter the country. This should be replaced by alternative measures for their housing and/or protective detention in suitable premises for the duration of the identification procedure, the investigation into the conditions of and reasons for their entry into the country, and locating their family and determining how they will be legally protected.
- ✿ Abolition of deportation for alien minors who are subject to international protection. In cases where the minors' right to residence cannot be established, deportation should be replaced by repatriation, when this is possible in such a way that their rights can be safeguarded and they can be reintegrated in the society of their country of origin. More particularly, it is recommended that all minors be protected from deportation unless they are accompanying a parent or someone with parental rights, who is being deported.
- ✿ The establishment of procedures for the systematic documentation, identification, information, legal representation and custody – guardianship of minors, as well as the protection all of their rights.



## The system of obligatory "placement" in the private and public sectors of persons with special needs, those with large families and other social groups

### Problems in implementing Law 2643/1998

In June 2005, the Ombudsman published a special report entitled "Law 2643/1998 – Access to Employment and the Social Integration of Disabled Persons, Those with Large Families, National Resistance Fighters and War Wounded or Victims of War".

This report was triggered by 204 complaints submitted to the Office of the Ombudsman, concerning two announcements issued in 2000 and 2002 which allowed for placements under Law 2643/1998. Examination of the complaints revealed that the manner in which this law is applied leaves groups of the population, which are otherwise considered vulnerable by the legislator, without protection.

The Ombudsman compiled a questionnaire addressed to the public administration and the concerned social groups<sup>1</sup>. Having examined the responses, the Ombudsman organised a meeting on Law 2643/1998 in its offices on 14.12.2004 at which, for the first time since the establishment of quotas for vulnerable social groups, the social groups concerned, the public administration and independent experts consulted and exchanged views.

The proposals of the Ombudsman cover three areas and constitute a foundation for the further fine-tuning of regulatory measures:

- ✿ With regard to the placement procedure, the Ombudsman submitted 16 proposals aimed at a more efficient handling of the procedure. As an indication:
  - Information of the staff already employed and the appointment of new, specialised staff to the regional offices of the OAED, as well as to other services involved in the operation of the system of obligatory placements (e.g. labour inspectorates, health committees).
  - Creation of a database to provide information on those who have in the past made use of their right to compulsory placement. These data could initially cover only those hired under Law 2643/1998, but in time all those who have been appointed or hired compulsorily on the basis of previous legislative regimes.
- ✿ With regard to making protection provided more specific, the Ombudsman submitted 13 proposals aimed at more effective integration in the labour market of persons protected by Law 2643/1998. As an indication:
  - Differentiation of the legislative framework for each protected group.
  - Measures to adapt workplaces for the disabled.
  - Ensuring the trustworthiness and objectivity of the system for the diagnosis and assessment of disability.
  - Provision of counselling and mediation services by the OAED and the private sector Labour Inspectorate during employment.

<sup>1</sup> The questionnaire was circulated to: the Greek Supreme Confederation of Large Families, the National Confederation of Disabled Persons, the Panhellenic Union of National Resistance Fighters, the National Confederation of Disabled ex-Servicemen and War Victims, the Association of Greek Industries, the Union of Greek Banks, the Athens Chamber of Commerce and Industry, and the Athens Chamber of Small and Medium Sized Industries.

- ✿ With regard to gaining greater acceptance of the measure by the enterprises obliged to implement it, the Ombudsman submitted seven proposals aimed at achieving broader social consensus in the working environment. As an indication:
  - A better correlation between the needs of appointees with the needs of the enterprises, and an improved ratio of placements to the size of each category of staff.
  - Linking the system of obligatory placements with training programmes for the protected persons, together with a parallel examination of the needs of the enterprises.
  - Implementation of the regulations that foresee the possibility of subsidising a proportion of persons with special needs' earnings, and an ergonomic layout of the workplace.



## Expropriation, deprivation, seizure on property and compensation

### Problems of administrative action

In April, the Ombudsman published a special report entitled "Expropriation, Deprivation, Seizure on Property and Compensation. Problems of Administrative Action". From its inception (October 1998), the Office of the Ombudsman has received over 400 complaints by individuals protesting the actions of the administration which expropriated, deprived them of, or substantively limited, their rights over their property without receiving the legal compensation or without seized their compensation in a timely manner.

The Ombudsman notes the need for:

1. Acceleration and standardisation of the relevant administrative procedures;
2. Coherent scheduling and financial planning in the implementation of town plans;
3. Rational allocation of the social cost of protecting the country's natural and cultural heritage;
4. Establishment of mechanisms for "city planning on private initiative", that have the advantage of saving time, public resources and administrative procedures.

The greatest problem is found in the large urban centres with high population density, intensive construction activity and limited plot sizes.

The competent administrative bodies represent the whole range of public administration: primary and secondary level Local Government Authorities (communities – municipalities, prefectures), the Ministry of Culture and agencies under its jurisdiction (Archaeological Receipts and Expropriations Fund), the Ministry for the Environment, Physical Planning and Public Works, and other agencies among which are the DEI, the Workers' Housing Organisation, the Attiko Metro SA, the harbour funds and the Army General Staff.

Most problems are found in cases of deprivation of property for urban planning purposes. A large number of complaints also concern deprivations of land for archaeological purposes and for public works projects. A smaller number of complaints concern expropriations for the protection of the natural environment.

#### From the handling of these cases, the following problems were highlighted:

- ⊗ Serious delays in the procedures for the announcement of compulsory expropriation, as well as in the payment of compensations. These delays exceed any reasonable limits (20- or even 70-year periods) in the case of expropriations for town planning.
- ⊗ Long-term deprivation of property without previous announcement of compulsory expropriation, particularly in cases of communal spaces, that is to say in cases where properties are designated in the town plan as sites for buildings of a public benefit nature (e.g. schools, hospitals, public buildings, etc). The same applies in cases where land is appropriated for archaeological purposes.
- ⊗ Temporary or permanent denial of the use of real estate without compensation, or without timely payment of due compensation. This problem arises especially in cases of properties requisitioned for excessive periods, as well as in cases of the occupation and use of property while public works are being carried out.





# LEGISLATIVE, OPERATIONAL AND ORGANISATIONAL PROPOSALS OF THE OMBUDSMAN

During 2005, the Ombudsman submitted a series of legislative, operational and organisational proposals to improve the operation of public administration. The Ombudsman formulated these proposals because it deems that the handling of some of the subjects it has investigated calls for either a change to the existing legislative framework or the restructuring of the organisation and operation of the competent services.

## Among others, the Ombudsman proposed:

### Ministry of Rural Development and Food

The immediate issue of a ministerial decision that will define the procedures necessary for the definitive closure of fish farming facilities.

### Ministry of Development

The granting of operating licences for the Public Power Corporation's plants on the basis of individual administrative acts for each plant separately, and not on the basis of a single legislative provision for all plants. In any case, before an operating licence is issued, the environmental terms of operation must have been approved for each station and these must comply with the dictates of EU law regarding the optimal available technologies and limits on the emission of pollutants for electricity generating plants.

### Ministry of Employment and Social Protection

That those insured with or receiving pensions from the IKA-ETAM be granted family allowances for the time during which, by court decision, they have custody of minors, provided they live together with the minors and have assumed their maintenance.

### Ministry of Public Order

With regard to the procedure for receiving and examining requests for asylum

- For a limited transitional period, to provide the Aliens' Department of Athens with extra staff, which will: a) immediately take the fingerprints of all those who come for an initial submission or renewal of a request for asylum, and b) aid ranking staff in interviewing candidates so that cases of abuse of asylum procedures can be effectively dealt with.
- The simplification and standardisation of the rapid examination procedure without loss of safeguards.
- The conducting of interviews following the detailed guidelines of the Office of the United Nations High Commissioner for Refugees.
- The establishment of an absolute order of precedence for the reception of requests and, in their examination, the application of social criteria only in exceptional cases.

### Ministry of Justice

- The addition of a second paragraph in article 104 of the Civil Code Preamble, by which it shall be laid out that if an individual suffers damage as a result of the legal actions of officers of the public administration while in the exercise of their duties, the individual shall have the right to reasonable compensation. The competent authority to determine the compensation should be the agency to which the officer who caused the damage belongs; the rights of the individual to appeal this compensation in the courts should be safeguarded.
- Amendment of article 1518 of the Civil Code to make it clear that corporal punishment is not included in those corrective measures which are permitted.

### Ministry of Education and Religious Affairs

- Inclusion of sickle-cell anaemia in the regulations that provide for appointments to the public administration of those suffering from thalassaemia.
- To deal immediately with the regulatory vacuum which has arisen following the abolition of the Technical Training Institute, which was competent to recognise degrees granted by colleges abroad as equal and/or equivalent to degrees granted by the Greek Technological Educational Institutes.

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

- ✿ For the administrative support of the Penteli Forestry Office
  - The Attica Region should immediately proceed in filling vacancies in the forestry office, and endeavour to increase the number of the office’s foresters, forestry resource managers and forest guards.
  - To establish an electronic protocol in order to register requests by individuals and, more generally, cases investigated and handled by the forestry office.
  - To immediately create an electronic archive to include maps, acts of classification of forest land, acts designating land for reforestation, protocols regarding administrative expulsion procedures and the provision of special compensation, and any other administrative act issued by the office.
  - To acquire suitable technical equipment, such as coloured orthophotomaps, etc.
- ✿ To re-examine the obstruction to the appointment of persons with prior criminal convictions to the public sector so that existing law can comply with the need for the social reintegration of released prisoners.

**Ministry of Transport  
and Communications**

- ✿ To amend relevant provisions so that persons of Greek descent from Turkey can acquire driving licences.
- ✿ To cover the gap in legislation by instituting a provision that will determine when and how stolen vehicles can be struck off the records.
- ✿ Replacement of the certificate of completion of a detoxification programme, with a certificate attesting to non-dependence, in cases where detoxified persons wish to regain their driving licence after having served a period of confinement. Also, the issue of a certificate attesting to the fact that criminal procedures have not been instituted against the claimant for a drug-related crime.

**Ministry of Economy and Finance**

Providing the committees that define the seashore, the shore and old coastal areas, as provided for in article 3 of Law 2971/2001, with scientifically supported data on all phenomena that impact on the formation of the coastal zone and the old coastal areas.

**Ministry of Culture**

The public administration or other competent authorities should, under certain conditions, undertake the financial burden for the restoration of listed buildings, as part of the state’s compliance with its obligation, established in jurisprudence, to protect the cultural environment (article 24 of the Constitution).

**Ministry of Transport and  
Communications**

**Ministry of the Interior  
Ministry for the Environment, Physical  
Planning and Public Works**

With regard to advertising billboards

- ✿ To prohibit completely the installation of advertising billboards outside urban planning areas, and in positions where they might constitute a hazard to motorists.
- ✿ To do away with the division of competencies between municipalities, regional authorities and the Ministry for the Environment, Physical Planning and Public Works regarding the location of billboards, the imposition of fines and the amount of these fines.

**Ministry of Health  
and Social Solidarity**

All necessary measures to be taken to implement the relevant legislation in order to ensure the provision of adequate and suitable care for children and adolescents with mental disorders, who exhibit behavioural disorders or particular emotional difficulties, including more specific categories, such as children who have suffered abuse or serious neglect, child victims of trafficking and exploitation, adolescents with mild mental handicaps and second degree emotional disorders, with substance abuse problems, etc.

## Acceptance of previous years' Ombudsman proposals

Following proposals formulated by the Ombudsman in previous years, a number of issues were settled in 2005, such as the manner for calculating the amount necessary for release from the national service, and the legal prerequisites for arrests, detentions, remanding, body searches and police checks.

### *The new legislative framework governing the residence of non-EU nationals in Greece*

During the preparation of Law 3386/2005 on the entry and residence of aliens in Greece, the Ombudsman submitted to the Ministry of the Interior, Public Administration and Decentralisation a series of proposals to improve the relevant institutional framework. Some of the 25 proposals that were accepted and incorporated in the new law are listed below:

- ✿ Unification of the two permits, residence and work, into one – residence for the purposes of work, and assignation of the competence to grant and renew permits to one single agency;
- ✿ The possibility to change employers, even during the period in which the initial residence permit for dependent employment is in effect;
- ✿ Removal of the undertaking to exercise a specific profession, when the alien requests a change of prefecture in order to seek employment, one year after the issuance of the initial residence permit for the purposes of work;
- ✿ The possibility to issue residence permits for humanitarian reasons to any persons resident at institutions or at foundations governed as public benefit legal entities;
- ✿ The possibility to issue independent residence permits to members of a non-EU family, five years after the granting of a residence permit for family reunification;
- ✿ Abrogation of the provision on "morals and personality" a criterion for the acquisition of a long-term residence permit;
- ✿ Prohibition of the deportation of pregnant women, and for six months after confinement;
- ✿ The possibility for registered aliens to complete the procedures foreseen by the programme for green card legalisation, and by Law 2910/2001, who were not successful in normalising their status.

### *Two other Ombudsman proposals were accepted in part:*

- ✿ That the calculation of the five-year period necessary for acquisition of a long-term residence permit starts from the date of issue of the residence permit according to Law 2910/2001.
- ✿ That administrative acts, such as registration with an insurance fund, the acquisition of a tax registration number, a request for residence for humanitarian reasons, and the rejection of an asylum request, be accepted as proof of residence before 31.12.2004 in order for the applicant to qualify for initial legalisation under Law 3386/2005.

## ON-SITE INVESTIGATIONS

In the course of investigating complaints, the Ombudsman is entitled to carry out on-site investigations in order to gain a first-hand view of the case. The Office of the Ombudsman carried out 54 on-site investigations in 2005. These included visits to detention areas for alien minors, prefectures and municipalities, hospitals, social insurance organisations, Roma settlements and a private crèche.

*As an indication, on-site investigations were carried out to ascertain and investigate:*

- ✿ *The procedures followed in imposing parking fines by the municipality of Patra;*
- ✿ *The conditions under which AIDS patients are treated at the "Andreas Syngros" Athens General Hospital for Venereal and Skin Diseases, at the "Agios Pandeimon" General Hospital of Nikaia and the Larisa University Hospital;*
- ✿ *The procedures for managing hospital waste at the "Agios Pandeimon" General Hospital of Nikaia, the "G. Gennimatas" General State Hospital of Athens, the "Andreas Syngros" Athens General Hospital for Venereal and Skin Diseases, the Larisa University Hospital and the Hospital Waste Incineration Unit of the Attica Municipalities' and Communities' Unified Association, in the Municipality of Ano Liosia;*
- ✿ *The conditions for the reception and examination of requests for asylum by the newly-formed Political Asylum Department of the Alien's Sub-Directorate;*
- ✿ *The conditions of operation of the Athens Public Water Supply and Drainage Company's drinking water processing facility at Menidi, Attica;*
- ✿ *Complaints regarding violations of approved environmental terms and the lack of the necessary equipment for recording and monitoring the noise levels of planes at the State Airport of Herakleion, Crete.*

## REFERRAL TO DISCIPLINARY AND PENAL INVESTIGATION

In cases where, during 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 2005, the Ombudsman submitted three applications for the disciplinary examination of administration officials.

*More specifically, the Ombudsman requested disciplinary investigations for:*

- ✿ *The Prefect of Korinthos for non-execution of court decisions;*
- ✿ *The Mayor of Alifeira in the Prefecture of Ileia for a refusal to cooperate with the Office of the Ombudsman in a case regarding the pollution of municipal drinking water;*
- ✿ *Officials of the Prefectural Government of Zakynthos for their refusal to cooperate with the Office of the Ombudsman. The Ombudsman was informed that a fine was imposed on the Director of the Urban Planning Department of the Zakynthos Prefectural Government.*

## 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 competent prosecutor. In 2005,

the Ombudsman referred one case to the prosecutor's office.

This case concerned the actions and omissions of the Urban Planning Department of the Municipality of Athens, and more specifically the incorrect implementation of the procedure governing illegal constructions.

## EX OFFICIO INVESTIGATION

When the seriousness of the matter warrants it, the Ombudsman has *ex-officio* the ability to take in hand cases that fall under its jurisdiction. In 2005, the Ombudsman decided to carry out *ex officio* investigations in five cases.

### As examples:

*Ex-officio* investigation into the conditions of police detention of seven minors with their mother at the Aliens' Department in Amygdaleza, Attica. The mother and her children were arrested in a hut in the Attica industrial area, where they were being held by an immigrant trafficking ring. During a visit by a delegation from the Ombudsman to the detention area, it was ascertained that there were serious problems with hygiene and cleanliness. Following the on-site investigation, the mother, who had already submitted a request for asylum, was taken with her children to a shelter run by a non-governmental organisation in Thessaloniki.

*Ex-officio* investigation into the administrative detention by the Greek police of a twelve-year-old alien girl whose mother prostituted her, as well as into the position of the administration on the issue of her protection. The Ombudsman proposed that the girl be registered in school, that she follow psychological monitoring, and that a suitable residence be found to accommodate her. At present, because operation of the shelter in which she was housed has been suspended, the case is with the Minors' Public Prosecutor.

*Ex-officio* investigation into the implementation by health facilities of the specifications laid out by the relevant joint ministerial decision and EU legislation, for the handling of medical waste.

## COMPOSITE ACTIONS

In order to resolve complex issues that touch on broader problems or in which many agencies are involved, the Ombudsman undertook actions in which two or more Departments of the Office cooperated.

A case in point is the action taken by the Department of Human Rights in cooperation with the Department of Children's Rights concerning malfunctions in the administrative procedure for the "legalisation" of aliens, and the conditions prevailing in the detention centres of the Athens Aliens' Sub-Directorate.

Also, on the complex issue of settling the Greek Roma population, the Department of Human Rights, in cooperation with the Department of Quality of Life and the Department of Social Protection, held meetings with competent agencies at both local government and central administration level, and carried out on-site investigations. More specifically, in 2005, ten on-site investigations were carried out at Roma encampments in the areas of Athens, Ermioni, Larisa, Mesologgi, Midea, Patra, Rio, Nea Kios, Tegea and Nea Tirynta.





# OUTREACH ACTIVITIES

## In Greece

### *We visited*

- ✿ Ksanthi, to meet with local officials and citizens who had complained to the Ombudsman. We also visited schools and talked to pupils and parents' and guardians' associations.
- ✿ Ioannina, to inform citizens and officials of the Region of Epirus administration about the mission and work of the Ombudsman.
- ✿ Schools in all of Greece, where we talked with students and teachers about children's rights and their protection and promotion, as well as the competencies and action of the Department of Children's Rights.



### *Working meetings were held*

- ✿ In the Region of Western Attica, with the participation of representatives of the Region and prefectural governments of Ahaia, Aitolakarnania and Ileia, municipalities and other services involved, to resolve 32 cases. The subjects ranged from the unlawful occupation of the seashore and coastal zones, to the disposal of urban sewage and solid waste, the monitoring of drinking water, the execution of infrastructure works, the demolition of illegal constructions, illegal boreholes, the deterioration of the Mesologgi Lagoon, the living conditions of the Roma, etc.
- ✿ In the Region of Central Macedonia, with the participation the Secretary General of the Region, representatives of municipalities and other services, to present the special report of the Ombudsman on restricted property, and to exchange views in order to resolve relevant cases pending.
- ✿ In Chios, with the municipal water supply company, with regard to the quality of drinking water; with the Directorate of Technical Services of the Chios Prefectural Government regarding the demarcation of a stream, and the Directorate for the Environment of the Chios Prefectural Government concerning expropriations for the expansion of the island's airport.
- ✿ With various departments of the Voiotia Prefecture regarding the encroachment on, and the restoration of, public roads in cases of reforestation.
- ✿ In the Region of the Southern Aegean and the Cyclades Prefectural Government (Ermoupoli), with regard to 12 cases concerning: the demolition of illegal structures in Santorini and Tinos; the illegal operation of a cemetery; the siting of a municipal waste-landfill in Naxos; the operation of a quarry and ready mix concrete facilities in Sifnos; environmental problems arising from the operation of a DEI plant in Syros, the leakage of sewage from a tourist facility in Tinos, and other matters.
- ✿ In Aspropyrgos, with the Deputy Prefect of Western Attica and representatives of the ministries of Development, Finance and Economy, the Region of Attica, the Western Attica Prefectural Government and the Zoning Organisation of Athens, regarding the closure of three local tanning factories.





ΔΙΚΤΥΟ ΓΙΑ ΤΗΝ ΠΡΟΛΗΨΗ ΚΑΙ ΚΑΤΑΠΟΛΕΜΗΣΗ ΤΗΣ ΣΩΜΑΤΙΚΗΣ ΤΙΜΩΡΙΑΣ ΣΤΑ ΠΑΙΔΙΑ

The Greek Network for the Prevention and Combating of Corporal Punishment of Children.

### ***We also met with***

- ✿ Representatives of the ministries of Health and Social Solidarity, Education and Religious Affairs, the General Secretariat for Adult Education, the General Secretariat for Youth, the Institute for Social Protection and Solidarity, the Children's Health Institute, the Hellenic Paediatric Society and the Greek National Committee of UNICEF to exchange views on legislative regulations to prevent corporal punishment in Greece.
- ✿ Representatives of the ministries of the Interior, Public Administration and Decentralisation, Finance and Economy, Transport and Communications, Development, Environment, the Union of Prefectural Governments of Greece, the Central Union of Municipalities and Communities of Greece, as well as the Commercial and Industrial Chamber of Greece, in order to discuss "The procedures for the removal of abandoned cars".
- ✿ Representatives of insurance organisations, such as the Social Security Organisation-Employees' Unified Insurance Fund, the Agricultural Insurance Fund, the Merchant Marine Retirement Fund, the president of the DEI Staff Insurance Organisation and the president of the Merchant Marine for Junior Crew Welfare Fund, for the resolution of general problems that have been brought to the Ombudsman's attention.
- ✿ The president of the Association for the Protection of Patients' Rights, to discuss the competencies of the Ombudsman of Health and the opportunities for cooperation with non-governmental organisations engaged in the protection of patients' rights.

### ***We appeared before***

- ✿ The Cross-Party Parliamentary Committee on the Resolution of Problems Faced by Disabled Persons, where we discussed the problems of persons with special needs, with emphasis on the Ombudsman's actions in this field.

### ***We organised seminars and meetings***

- ✿ In Patra and Ioannina on "The Tax Administration in the Service of Citizens. The Ombudsman's Role in Problem Resolution", in collaboration with the Educational Centre for Employees of the Ministry of Finance.
- ✿ In the offices of the Ombudsman, entitled "Reform of the Criminal Law for Minors. Prospects and Problems in the Implementation of Law 3189/2003", in collaboration with the Youth Support Cooperative Network.
- ✿ In the offices of the Ombudsman, on "Issues Arising from the Implementation of the Transitional Provisions of Law 3386/2005: Entry, Residence and Social Integration of Non-EU Citizens in Greece", for aliens' associations and the media, particularly the media which is addressed to aliens.
- ✿ In Larisa, concerning "Citizens' Dealings with Municipal Water Supply and Sewage Companies: Problems and Prospects", in collaboration with the Association of Municipal Water Supply and Sewage Companies and the Central Union of Municipalities and Communities of Greece.

### ***We took part in***

- ✿ The Thessaloniki International Trade Fair, where Ombudsman staff met daily with citizens and informed them of the Ombudsman's competencies, and the procedures for filing complaints with the Office.





## At an international level

### ***We visited***

- ✿ Albania, for an exchange of views and information on the protection of children from illegal trafficking, as well as to identify those services which can provide support in cases of the repatriation of unaccompanied minors.

### ***We were visited by***

- ✿ The Turkish Minister for Justice, Mr Cemil Çiçek, who had a working meeting with the Ombudsman and the Deputy Ombudsmen.
- ✿ A 25-member delegation from the Moldavian public administration, to receive information on the activities of the Office of the Ombudsman.
- ✿ A three-man Korean mission, in the framework of the Council of Europe's GRECO Team. A working meeting was held on corruption issues.

### ***We organised***

- ✿ A working meeting, in which the head of the Greek office of the International Organisation for Migration took part, as did a delegation from the Albanian government and the Albanian Ombudsman. The subject of the meeting was collaboration between the two countries on migration policy matters.

### ***We took part in***

- ✿ The annual conference of the European Network of Ombudsmen for Children in Warsaw. The Deputy Ombudsman for Children's Rights, George Moshos, was elected president of the Network for 2006.
- ✿ The ninth round-table meeting of the European Ombudsmen and the Council of Europe Commissioners for Human Rights, in Copenhagen.
- ✿ The international conference on "The Expansion of the Institution of the Ombudsman: Different Models and Their Territorial Scope", in Barcelona.
- ✿ The annual general assembly of the national agencies promoting the principle of equal treatment, on "Fighting Discrimination", organised by the Migration Policy Group, in Leuven.
- ✿ The "Seminar on Cultural Rights", organised in Brussels by the European Commission.
- ✿ The regional meeting of the European Network of Ombudspersons for Children – ENOC, entitled "Stop Violence against Children: Act Now", in Ljubljana.
- ✿ A working meeting on "Public Administration and European Administrative Law", as part of the conference organised by the European Group of Public Administration, in Berne.
- ✿ The fifth conference of the National Ombudsmen of EU member states, in The Hague.
- ✿ A conference on "Police Accountability and the Quality of Police Oversight", organised in The Hague by Altus Global Alliance.

## The EUNOMIA Programme

The EUNOMIA programme operates under the auspices of the Office of the Council of Europe Commissioner for Human Rights with special funding from the Greek Ministry of Foreign Affairs, and acts on the decisions of a three-member coordinating committee comprising the Commissioner for Human Rights, the European Ombudsman and the Greek Ombudsman, who has the supervision of the programme. Decisions are carried out by the programme's planning unit, which is housed in the Greek Ombudsman's offices and directs the 30-member panel of experts that take part in the activities.

The aim of the programme is to contribute to the creation, and provide support for the operation, of new ombudsman institutions in the countries of South-eastern Europe.



### ***Educational seminar on the environment***

In June, at Laimos, Prespes, an educational seminar for officials of the Ombudsmen of South-eastern Europe was held, with organisational help from the Society for the Protection of Prespes. The object of the seminar was to provide information on the ways of handling environmental issues, and the transfer of knowledge and experience in environmental matters acquired by the Greek Office and other European Ombudsmen. Taking part were representatives from counterpart institutions in Albania, Austria, Spain, the entities comprising Serbia-Montenegro, Bosnia-Herzegovina and FYROM.

### ***International seminar-conference on children's rights***

In October, a seminar-conference was held in Thessaloniki entitled "Ombudsmen for Children's Rights in South-Eastern Europe", with the support of the "ARSIS" Social Organisation for the Support of Youth. The aim of the seminar, in which representatives from independent agencies for human rights in South-eastern Europe took part, was to improve the quality of interventions for the protection and promotion of children's rights.

### ***We took part in***

- The training seminars organised by the Hellenic Foundation for European and Foreign Policy (ELIAMEP) in Halki, with a view to communicating, for the first time, the concerns and actions of the Office of the Ombudsman beyond the immediate staff of counterpart agencies. EUNOMIA organised a session on the role of the Ombudsman institution in the promotion of good governance.
- An international conference in Novi Sad in Vojvodina entitled "Ombudsperson in Multi-ethnic Societies", organised by the Vojvodina Ombudsman, the Council of Europe and the OSCE Delegation in Serbia and Montenegro.
- An international conference organised by the Council of Europe (DG IV) in Moscow, in collaboration with the Ministry of Regional Development of the Russian Federation, on networks for the sustainable development of the continent of Europe.



**We were visited by**

- A Turkish delegation comprising the president of the Committee on Human Rights of the Turkish Parliament, Mehmet Elkatmis; the president of the legislative committee for the Ombudsman, Zehra Odyakmaz, as well as a high official from the Ministry of Justice, on the occasion of the pending law governing the foundation of the institution of Ombudsman in Turkey.

- A delegation from the office of the Ombudsman of FYROM, headed by the Ombudsman Idzet Memeti. The purpose of the visit was to familiarise the counterpart officials with the experience of the Greek Ombudsman on matters of common interest, and to help them acquire an understanding of the various roles played by the institution in the state.

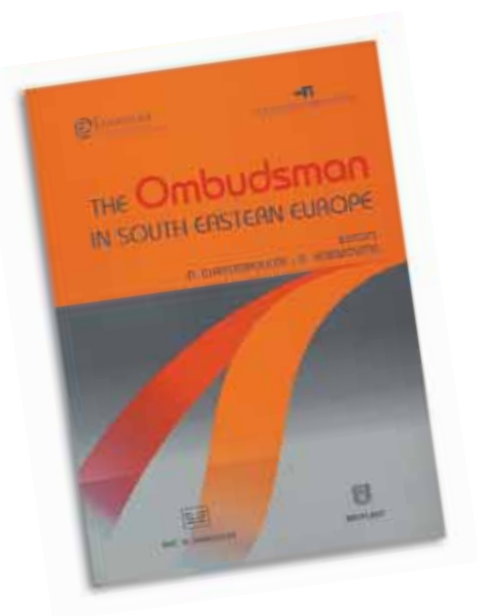
experience of the Greek Ombudsman on matters of common interest, and to help them acquire an understanding of the various roles played by the institution in the state.

**We collaborated with**

- The counterpart office of Albania for four weeks, returning the working visit made by the Albanian Ombudsman to the Greek offices. This exchange of visits, part of the Peer Evaluation Activity, aims to build personal relations of trust among the officials of the Ombudsman offices, with a view to enabling horizontal consultation when dealing with similar problems.

**We published**

- EUNOMIA made its publishing debut with the release, in English, of the collective volume *The Ombudsman in South-Eastern Europe*. This book records the EUNOMIA programme's 4-year experience in networking for the promotion of the institution of the Ombudsman in South-eastern Europe.



## Acronyms

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

DEI	Dimosia Epiheirisi Ilektrismou (Public Power Corporation)	OGA	Organismos Georgikon Asfaliseon (Agricultural Insurance Fund)
DIKATSA	Diapanepistimiako Kentro Anagnorisis Titlon Spoudon Allodapis (Inter-University Centre for the Recognition of Foreign Academic Titles)	OKANA	Organismos Kata ton Narkotikon (Organisation Against Drugs)
DOATAP	Diepistimonikos Organismos Anagnorisis Titlon Akadimaikon kai Pliroforisis (Cross-disciplinary Organisation for the Recognition of Academic and Information Technology Diplomas)	OSCE	Organisation for Security and Cooperation in Europe
ELGA	Organismos Ellinikon Georgikon Asfaliseon (Greek Agricultural Insurance Organisation)	SAEI	Symvoulío Anagnorisis Epaggelmatikis Isotimias Titlon Tritovathmias Ekpaidefsis (Council for the Recognition of the Professional Equivalence of Tertiary Education Diplomas)
ETEAM	Eniaio Tameio Epikourikis Asfalisis Misthoton (Unified Supplementary Insurance Fund for Employees)	SEATEK	Symvoulío Epaggelmatikis Anagnorisis Titlon Ekpaidefsis kai Katartisis (Council for the Professional Recognition of Training and Vocational Training Diplomas)
ELIAMEP	Elliniko Idryma Evropaikis kai Eksoterikis Politikis (Hellenic Foundation for European and Foreign Policy)	TAE	Tameio Asfalisis Emporon (Merchants' Insurance Fund)
IEK	Institouta Epaggelmatikis Katartisis (Vocational Training Institutes)	TEE	Tehniko Epimelitirio Elladas (Technical Chamber of Greece)
IKA	Idryma Koinonikon Asfaliseon (Social Security Organisation)	TEI	Tehnologika Ekpaideftika Idrymata (Technological Educational Institutes)
IKA-ETAM	Idryma Koinonikon Asfaliseon-Eniaio Tameio Asfalisis Misthoton (Social Security Organisation-Unified Insurance Fund for Employees)	TEVE	Tameio Epaggelmatikon kai Viotehnon Elladas (Professionals and Craftsmen's Insurance Fund)
NAT	Naftiko Apomahiko Tameio (Merchant Marine Retirement Fund)	TSA	Tameio Syntaksis Aftokinitiston (Pension Fund for Professional Drivers)
OAED	Organismos Apasholisis Ergatikou Dynamikou (Manpower Employment Organisation)	TSMEDE	Tameio Syndakseos Mihanikon kai Ergolipton Dimosion Ergon (Engineers and Public Works Contractors' Pension Fund)

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Tilla Bali

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Kleopatra Haritou

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*Production*

METROPOLIS SA

© The Greek Ombudsman  
5 Hadjiyanni Mexi, 11528 Athens  
Tel.: (+30) 210 728 9600, Fax: 210 729 2129  
[www.synigoros.gr](http://www.synigoros.gr)

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