



Republika e Kosovës • Republika Kosovo • Republic of Kosovo
Institucioni i Avokatit të Popullit • Institucija Ombudsmana • Ombudsperson Institution

ANNUAL REPORT 2015

No. 15

Pristina 2016

Mr. Kadri Veseli

The President of the Assembly of the Republic of Kosovo

Prishtinë

Honored Mr. President of the Assembly,

Based on the Article 135, paragraph 1 of the Constitution of the Republic of Kosovo and the Article 29, paragraphs 1 and 2 of the Law on the Ombudsperson, I am pleased to submit to you the fifteenth Annual Report of the Ombudsperson of the Republic of Kosovo.

At the same time, please accept our request for presentation as well as discussion of this Report in a plenary session of the Assembly of the Republic of Kosovo during spring session.

Respectfully submitted,

Hilmi Jashari
Ombudsperson

Pristina 31 March 2016

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Ombudsperson's statement

The year 2015 marked the 15 anniversary since the establishment of the Ombudsperson Institution (OIK), when the institution for the first time opened its doors to receive citizens' claims whenever they considered that their rights have been violated by public authorities. I was fortunate to be one of three local legal advisors who commenced working on that day, to continue further as Investigation Director and Deputy following with acting Ombudsperson at that time, returning on July 2015 as Head of this Institution elected by the Assembly of Republic of Kosovo.

Annual reporting of OIK before the Assembly of the Republic of Kosovo is a good opportunity to reflect on the impact that this independent mechanism has when it comes to control the work and services of public authorities in relation to the citizens, the effectiveness of services and the use of legal remedies, adherence to the administrative procedures, improving management and accountability.

In July 2015, three basic laws for the protection of human rights entered into force: the Law on the Ombudsperson, the Law for Protection against Discrimination and the Law on Gender Equality, which have strengthened the mandate and given additional powers to the Ombudsperson.

These laws foresee shorter timeframes for case review, the establishment of the National Mechanism for Prevention of Torture (NMPT), covering not only public but private sector as well in relation to discrimination, punitive measures for not cooperating with the Ombudsperson, the initiation of proceedings by the Ombudsperson, appearance of the Ombudsperson's in quality of the Friend of the Court (*Amicus Curiae*) in court proceedings related to human rights, issues of equality and protection from discrimination, etc.

I should emphasise that the Ombudsperson, as a separate and independent constitutional category, as a core of its mandate and mission covers the supervision and protection of the rights of individuals from unlawful and incorrect acts or omissions by public authorities. In fulfilling this role, my vision remains clear in terms of the major issues where I need to focus my work and the institution I manage:

Strengthen the implementation of OIK's recommendations and, therefore, enhance the trust in this institution;

Expansion of knowledge on the role of the Ombudsperson, to each individual, throughout the country, and open doors to receive and handle their complaints;

Working closely with the media, civil society and public institutions, in order to promote the protection of human rights and freedoms, implementation of legality, transparency and accountability

Considering the Annual Report of the Ombudsperson submitted to the Assembly of the Republic of Kosovo, as a general summary of the OIK's functioning in 2015, we should remind ourselves of three main challenges, OIK continues to face:

Securing public spaces for the functioning of the Ombudsperson, according to the internationally recognized principles and standards;

OIK's budget cuts without prior consent with the Ombudsperson, which implies a violation of the independence of the institution and an obstacle to fully implement constitutional and legal mandate of OIK;

Implementation of OIK's recommendations, which, in fact, has shown a positive trend of 50% in the second half, compared with the first six months of 2015, when only 11% were implemented.

I consider that this progress in implementing the recommendations resulted from the initiation of intensive communication by the Ombudsperson with the Public Authorities, having in mind positive outcome of the cases, within effective timeframes and advancing the overall human rights. This positive outcome regarding the implementation of recommendations is also a result of the joint commitment of OIK's staff and enhanced accountability of public authorities when it comes to the fulfilment of constitutional and legal obligations in service of citizens.

However, the situation of human rights in Kosovo imposes the necessity of consolidating the legal system, which remains fragmented and not aligned in many cases. The effects of such a system hinder adequate protection of human rights. The judicial system continues to face a backlog of cases and thus is unable to provide an effective mechanism in terms of legal protection of rights, whilst the public administration, both at central and local level is not held into account mostly due to lack of adequate judicial control of the Administration sector.

The Ombudsperson has two fundamental aspirations in terms of its work: firstly, to reinstate the violated right of individuals who have suffered violations of human rights and secondly, to improve the performance of the Administration and the Public Authorities responsible for violations caused.

In this context, the Ombudsperson will be the institution whereby citizens' concerns and complaints could be addressed and solutions found against the acts or omissions of public authorities. At the same time, the Ombudsperson will be the appraiser and promoter of good and positive practices, aiming at consolidating democratic values, having the rights and freedoms as fundamentals guaranteed by the Constitution of the country, as well as with international agreements and instruments, directly applicable within the Republic of Kosovo.

Human rights have been the guiding principle and the central issue of changes in this country, therefore, any institutional leader and public officer must respect and uphold the rights and freedoms and the mandate of the Ombudsperson, in order to resolve citizen's

problems on the one hand and strengthening democracy and strengthen the rule of law on the other. Freedoms and rights are not just abstract constitutional guarantee, these in essence are means through which we need to create our way of life and hope for the future!

Ombudsperson Institution

According to the Constitution of the Republic of Kosovo (Articles 132-135) the Ombudsperson Institution (OIK) is defined as a constitutional category, specifically as an independent constitutional institution.¹ The Ombudsperson supervises, promotes and protects fundamental rights and freedoms of natural and legal persons from illegal and improper actions or inactions of public authorities, institutions and persons or authorities exercising public authorizations in the Republic of Kosovo (further in the text: public authorities), as well as the establishment of the National Mechanism for Prevention of Torture (NMPT).² In addition, the Ombudsperson represents equality mechanism for promoting, monitoring and supporting equal treatment without discrimination on grounds recognized by the Law on Gender Equality and the Law on Protection from Discrimination.³ According to Constitution, the Ombudsperson has one or more deputies,⁴ while Law on Ombudsperson provides that the OIK is composed of five Deputy Ombudspersons and the staff of the OIK.⁵

On 28 May 2015, the Assembly of the Republic of Kosovo adopted a package of basic laws on human rights: Law no. 05/L-019 on Ombudsperson, Law no. 05/L-020 on Gender Equality and Law no. 05/L-021 on Protection from Discrimination. These laws were decreed by the President of the Republic of Kosovo on 15 June 2015, were published in the Official Gazette of the Republic of Kosovo (OGRK), no. 16, on 26 June 2015, and entered into force on 13 July 2015.

The Assembly of the Republic of Kosovo, in the plenary session held on 2 July 2015, elected the new Ombudsperson, Mr Hilmi Jashari, to a five-year mandate.

Mandate of the Ombudsperson Institution

Mandate of the Ombudsperson Institution is defined by the Constitution of the Republic of Kosovo and the Law on Ombudsperson, according to which the Ombudsperson receive and investigate complaints from any person, inside or outside the territory of the Republic of Kosovo, who claims that his rights and freedoms have been violated by public authorities in Kosovo.

¹*Constitution of the Republic of Kosovo*, Articles 132-135.

²*Ibid.*, Article 132 and *Law no. 05/L-019 on Ombudsperson*, Article 1, paragraph 1.

³*Law no. 05/L-019 on Ombudsperson*, Article 1, paragraph 2.

⁴*Constitution of the Republic of Kosovo*, Article 133, paragraph 2.

⁵*Law no. 05/L-019 Ombudsperson*, Article 5.

The OIK is independent in the exercise of its duties and does not accept instructions or intrusions from public authorities, which are obliged to respond to the requests of the OIK and submit all requested documentation and information in conformity with the law.

In its work the OIK is guided by the principles of impartiality, independence, the supremacy of human rights, confidentiality, and professionalism,⁶ and has organizational, administrative and financial independence in the fulfillment of the obligations provided for by the Constitution and the law.⁷

In the framework of his constitutional⁸ and legal⁹ powers, the Ombudsperson conducts investigations on complaints received from any natural or legal person related to allegations of the violation of human rights provided for by the Constitution, laws and other acts, as well as by international human rights instruments, and especially by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

The Ombudsperson may conduct investigations on his own initiative (*ex officio*) if testimonies, facts, findings or knowledge gained provide an indication of the violation of human rights. Likewise, the Ombudsperson uses mediation and reconciliation, and can also provide good services to citizens of the Republic of Kosovo who are located abroad. Services provided by the OIK are free of charge.

According to the new Law on Ombudsperson, among his or her additional powers are: if the Ombudsperson during the investigation conducted observes the presence of criminal offence, then he/she informs the competent body for initiation of investigation; and the Ombudsperson may appear in the capacity of the friend of the court (*amicus curiae*) in judicial processes dealing with human rights, equality and protection from discrimination.

The Ombudsperson does not intervene in cases and other legal procedures, except in the case of delays of procedures, but the Ombudsperson may provide general recommendations on the functioning of the judicial system.

The Ombudsperson may initiate matters to the Constitutional Court of Kosovo in accordance with the Constitution and the Law on Constitutional Court.¹⁰

The Ombudsperson performs other functions provided for by the Law on Protection from Discrimination, the Law on Gender Equality, and other legislation in force; collects statistical data concerning cases of discrimination and equality presented to the OIK, data that he also publishes; publishes reports and makes recommendations on policies and practices on combating discrimination and promoting equality; cooperates with social

⁶*Ibid.*, Article 3, paragraph 1.

⁷*Ibid.*, Article 3, paragraph 3.

⁸*Constitution of the Republic of Kosovo*, Article 132.

⁹*Law no. 05/L-019 on Ombudsperson*, Article 16.

¹⁰*Constitution of the Republic of Kosovo*, Article 113, paragraph 2, and Article 135, paragraph 4; *Law no. 05/L-019 on Ombudsperson*, Article 16, paragraph 10; *Law no. 03/L-121 on Constitutional Court of the Republic of Kosovo*, Article 29.

partners and NGOs that deal with issues of equality and anti-discrimination, as well as with international bodies similar to the Ombudsperson.¹¹

The new Law on Ombudsperson has also provided for the creation of the National Mechanism for Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (NMPT).¹²

Within one year after this law's entering into force, the Ombudsperson Institution will begin exercising its legal powers and obligations as the NMPT.¹³

The Ombudsperson, in the framework of responsibilities as NMPT, is obliged to visit regularly, and without notice, all places where persons deprived of liberty are held (including police detention, detention on remand, stay at medical institutions, customs detention, immigration detention, and any other place when it is suspected that there may be violations of human rights and freedoms); as well as to establish a special mechanism that will carry out all of the functions of the NMPT. The Ombudsperson must cooperate with international and domestic mechanisms in the field of the prevention of torture as well as of other forms of cruel, inhuman, or degrading treatment or punishment. In addition, the Ombudsperson may issue suggestions and recommendations to persons and responsible institutions responsible where persons deprived of liberty are held, of whatever kind and whatever the premises and the circumstances in which they are being held, with the aim of improving their treatment and conditions.

The Ombudsperson also has further legal responsibilities: not only to investigate alleged violations of human rights and acts of discrimination, but also to work to eliminate them; to draft and approve specific procedures for the receiving and handling of complaints from children, as well as the creation of a specialized team for children's rights and of a permanent program for raising the awareness of children regarding their rights and the role of Ombudsperson Institution in their protection; to inform about human rights and to make recommendations to the Government, the Assembly, and other competent institutions of the Republic of Kosovo on matters relating to promotion and protection of human rights and freedoms, equality, and non-discrimination; to publish notifications, opinions, recommendations, proposals and his/her own reports; to recommend promulgation of new Laws in the Assembly, amendment and supplementation of the Laws in force as well as promulgation or amendment and supplementation of sub-legal and administrative acts by institutions of the Republic of Kosovo; to prepare annual, periodical and other reports on the situation of human rights and freedoms in the Republic of Kosovo; to recommend the harmonization of domestic legislation with international standards for human rights and freedoms, equality, and discrimination, and to conduct research on the issue of human rights and fundamental freedoms, equality, and discrimination in the Republic of Kosovo; to cooperate, in accordance with the Constitution and legislation in force, with all local and

¹¹*Law on Ombudsperson no. 05/L-019*, Article 16, paragraphs 13-16.

¹²*Ibid.*, Article 17.

¹³*Ibid.*, Article 38.

international institutions that deal with the protection of human rights and freedoms; to keep-safe the confidentiality of all information and data he or she receives, paying special attention to safety of complainants, damaged parties, and witnesses, in accordance with the Law on personal data protection (an obligation binding on the Ombudsperson, his deputies and the OIK staff, even after the end of the mandate or employment contract).¹⁴

The Ombudsperson presents to the Assembly of Kosovo an annual report for the previous year till 31 March of following year, which is reviewed in the plenary session in the Assembly, during spring session.¹⁵

Creating and developing a culture of good governance and administration, which requires a professional, efficient, and effective administration, transparency, accountability and a sense of responsibility of the public administration towards citizens and the strengthening and development of the rule of law, are the primary objectives of the Ombudsperson.

The Ombudsperson is committed to enhancing public confidence in public administration, the judiciary and other state organs.

Citizens can file complaints against public administration, according to a simple procedure free of charge. Complaints addressed to the OIK can refer to actions, inactions or decisions of public administration that applicants may consider unfair or unfavourable. When reviewing such complaints, actions of the OIK's lawyers involve offering legal advice, accompanied by requests for data from the public administration, the courts and other important institutions concerning the complaints filed, as well as by supervision of certain administrative and judicial proceedings.

The Ombudsperson also defends public authorities from unfounded and unsubstantiated criticisms, from disinformation and illegal actions, whether intentional or unintentional.

In cases that require immediate action, the Ombudsperson submits requests for interim measures. If the Ombudsperson considers that immediate measures must be taken by public authorities, he may legally request that the competent administrative body undertake or suspend a particular action, as a temporary measure to prevent irreparable damage to complainants or to their property.

If the requests for intervention and efforts to mediate are not successful, the Ombudsperson may issue a report, ensuring public analysis and exposure for violations of human rights or of applicable laws, along with recommendations for the public institution, to avoid violations. Reports are the last advocacy tool of the institution, and copies of the report are submitted to the authority that committed the violation, to the Assembly of Kosovo and to other relevant organizations.

To cover specific areas that include the special concerns of certain groups of people (children, persons with disabilities, women, women and girls from Roma, Ashkali and

¹⁴*Ibid.*, Article 18.

¹⁵*Ibid.*, Article 29.

Egyptian communities, LGTB community), whose rights are considered most vulnerable in Kosovo, the Unit for children's rights, the Gender Equality Unit and the Aon-Discrimination Unit have been functioning for some years. The Ombudsperson may establish additional units on an as-needed basis.

The powers of Ombudsperson to review issues having to do with the protection from discrimination in general and gender discrimination in particular were provided for by two other basic laws on human rights (the Law on Protection from Discrimination and the Law on Gender Equality).

Thus, according to the Law on Gender Equality,¹⁶ the Ombudsperson is a gender equality institution that deals with cases related to gender discrimination, in accordance with procedures provided for by Law on Ombudsperson.

On the other hand, according to the Law on Protection from Discrimination,¹⁷ the Ombudsperson is a state institution, which undertakes the promotion and protection of human rights and deals with cases of discrimination in accordance with the Law on Ombudsperson. The powers of the Ombudsperson provided for by this Law are almost the same as those provided for by the Law on Ombudsperson, but it is worth mentioning what the Ombudsperson presents a report at least once per year on the implementation of Law on Protection from Discrimination and may also draft special reports on its implementation.¹⁸

The Office of Good Governance (OGG) within the Office of the Prime Minister (OPM) is responsible for monitoring the implementation of the Ombudsperson's recommendations having to do with the implementation of the Law on Protection from Discrimination.¹⁹

The Ombudsperson, in the framework of his legal obligations, in accordance with the Law on Ombudsperson,²⁰ on 15 December 2015 adopted *Regulation No. 01/2015 on the mode of application, and the procedure for selection and proposal of the list with the names of candidates for the deputies of the Ombudsperson*, which was published in the OGRK on 16 December 2015 and entered in force on 30 December 2015.

At the same time, two other draft Regulations are being prepared – *the Draft Regulation on internal organisation and systematisation of staff positions in the OIK* as well as the *Draft Rules of Procedure of the OIK*, which are expected to be approved during the first half of 2016.

Access to the Ombudsperson Institution

¹⁶Law no. 05/L-020 on Gender Equality, Article 13.

¹⁷Law no. 05/L-021 on Protection from Discrimination, Article 9.

¹⁸*Ibid.*, Article 9, paragraph 2, subparagraph 2.12.

¹⁹*Ibid.*, Article 10, paragraph 1, subparagraph 1.2.

²⁰*Ibid.*, Article 8, paragraph 2.

Every business day, the OIK welcomes citizens who claim that their rights have been violated. They are welcomed by the OIK's legal advisers, who handle cases with carefully, confidentially, and professionally.

In order to facilitate the access of the citizens of Kosovo to the OIK, aside from the Main Office in Prishtina, the OIK has regional offices in Ferizaj, Gjakova, Gjilan, Mitrovica, Peja, Prizren and Gracanica. Furthermore, within the Regional Office of the OIK in Mitrovica, it has a sub-office that operates in the north of the city. The OIK's offices are composed of a professional staff in service of citizens that responds to their requests and complaints, as well as protects their rights, which they claim have been violated.

Citizens' complaints can be filed on any business day (Monday to Friday) from 8:30 to 16:00, but for urgent matters, citizens may also come outside of working hours.

Another easier mode of access for citizens is the holding of Open Days by the Ombudsperson and his deputies. They are organized in Prishtina (twice a month) and in the regional offices (once a month). Regional offices inform citizens of the respective municipalities about open days through publication of dates throughout these municipalities, via local media and via the OIK official website.

Other forms of access are via mail, phone, fax and e-mail, which is being used increasingly often and which, in most cases for the moment, is being used by citizens living abroad to file complaints. In the OIK's Main Office in Prishtina there is a telephone line, free of charge, for urgent matters, but also for other ordinary cases.

OIK officials conduct regular visits to all prisons and places where people with limited freedom in Kosovo are held. To enable direct communication with detainees, in cooperation with the authorities of the Kosovo Correctional Service and with prison authorities in Kosovo, the OIK has, since 2004, placed mailboxes in visible areas in all prisons and detention centres in Kosovo, mailboxes that are opened only by representatives of the OIK. This practice has shown that the mailboxes located in prisons, and in places where persons are deprived of freedom, helped many prisoners or detainees establish their first contacts with the Ombudsperson. Such boxes are also placed in mental health offices and centres, which facilitates patients' access to the OIK. These offices and centres are visited regularly every month by OIK representatives.

I. PROTECTION OF HUMAN RIGHTS AND FREEDOMS AND GOOD-GOVERNANCE IN THE REPUBLIC OF KOSOVO

The Ombudsperson during 2015 monitored the process of drafting, reviewing, and adopting laws. According to the legislative programme for 2015 adopted by Government of the Republic of Kosovo in its sixth meeting by decision no. 02/06, dated 14 January 2015, 100 draft laws were planned for review and adoption during 2015 (35 new ones and 65 amending and supplementing existing laws), as well as amendments to the Constitution of the Republic of Kosovo. During this year, the Assembly of the Republic of Kosovo adopted 46 laws and Amendment no. 24 to the Constitution of the Republic of Kosovo, while there are 26 other draft laws under review, 16 of which have passed the first review (reading) in the Assembly, 9 that have been disseminated to the members of Parliament, and one that has not been disseminated to members of Parliament.

It is worrying the fact that out of 100 draft laws planned for review and adoption during 2015 according to the Legislative programme, a large majority (65 draft laws) are laws for the amendment and supplementation of existing laws. Also this fact is the indicator proving that the adopted laws have not met required quality standard and that they have not been drafted in accordance with the developments in the areas which these laws aimed to regulate. Such legal processes do not offer sustainability of legal system and they hardly damage legal security.

Moreover, such developments in legal system do not offer possibilities for adequate implementation of laws, not only by the executive organs but also in cases of issuing sanctions by the judicial organs in relevant administrative, civil or minor offence procedures.

The Directorate for standardisation, approximation and legal harmonization, which is a part of the Assembly of the Republic of Kosovo, provides professional support in the approximation of draft laws and amendments proposed by parliamentary committees, with the intention of approximating European Union legislation (“EU Acquis”) and international conventions applicable in Kosovo. Also, special attention should be paid to the harmonisation of proposed draft laws with the existing ones.

Another problem, which followed the process of law drafting is lack of harmonization of legal terminology. Very often, there are cases of ambiguous terminology or different phrases for the same legal institution being used while drafting laws. In this regard, there is an urgent need of preparing a dictionary of legal terminology, which would be used during the process of adopting the laws and which would also considerably help the sponsors of laws, which usually come from various government branches.

Also, in a number of occasions the OIK has provided its opinion regarding the need of initiation of two parallel processes in the Assembly of Kosovo, which have to deal with legislative area. First recommendation relates to process of consolidation of the laws in force, known as process of harmonization of the laws within the legal system. It is evident in some cases that different laws contain provisions that exclude each other, and in some cases the same law contains contradictory provisions. In order to avoid such problems, OIK has recommended enhancement of the legal offices within the Assembly, which by their professional support would help avoiding consequences of contradictory law provisions, which impede law implementation and offer possibility of discretion in law implementation and/or its interpretation.

While, the second recommendation for the Assembly provided through the OIK opinions, relates to law codification, meaning the process of collection of the laws that regulate the same or similar legislative fields. Until now, a considerable number of legislative fields are partially regulated by different laws or there are situations where vast majority of legislation is regulated by secondary legislation, which is published in the web pages of the relevant institutions. A codification process would ensure that legislation regulating the same legislative field would be contained in one document, which would facilitate access to law that represents the basic condition for law implementation and would also help the organ implementing the law for an effective control of the relevant field of law.

In 2015 the Government, specifically ministries (as the main sponsors of draft laws) processed 72 draft laws, of which 46 were adopted by the Assembly, while 26 draft laws remain to be processed. Although the Government has processed the majority of draft laws proposed by the Legislative programme for 2015, not all managed to be adopted, since a number of them were sent late by the Government, or were not reviewed in time by the relevant parliamentary committees, and thus they were not able to be reviewed within the specified time limits. An obstacle in this respect was the failure to hold plenary sessions in the Assembly during the second half of September and the better part of October, but also the failure to hold a number of parliamentary committee meetings due to the lack of a quorum.

With respect to legislation of vital interest,²¹ in 2015 only Law No. 05/L-018 on State Matura Exam was adopted but other draft laws proposed in the Legislative programme have not been adopted.

Draft Law on Higher Education in the Republic of Kosovo was distributed to members of Parliament, while the Draft Law on amending and supplementing Law on Religious Freedom in Kosovo was returned to the Government.

Nonetheless, the following draft laws of vital interest were not processed.²² In the area of human rights legislation, three basic laws on human rights were adopted (Law No. 05/L-019

²¹ *Constitution of the Republic of Kosovo, Article 81 and Amendments 2 and 3 to the Constitution of the Republic of Kosovo, entered into force on 7 September 2012.*

on Ombudsperson; Law No. 05/L-020 on Gender Equality; and Law No. 05/L-021 on Protection from Discrimination) as well as Law No. 05/L-003 on Electronic Supervision of Persons Whose Movement is Limited by the Decision of the Court; Law No. 05/L-030 on Interception of Electronic Communications and Law No. 05/L-036 on Crime Victim Compensation.

The following draft laws which were passed on the first reading in the Assembly of Kosovo: Draft Law for amending and supplementing Law on Copyrights and Related Rights and Draft Law on Status and Rights of Paralegic and Quadriplegic Persons, while Draft Law No. 05/L-077 for Registration and Provision of Services and Measures for the Employment of Unemployed Persons, Jobseekers and Employers, as well as Draft Law No. 05/L-078 for amending and supplementing Law No. 03/L-019 on Vocational Ability, Rehabilitation and Employment of People with Disabilities were distributed to members of Parliament.

However, numerous other draft laws related to human rights have not been processed.²³

In the meantime, OIK received a series of draft laws and draft administrative instructions from the Government and ministries, soliciting comments. According to the Rules of Procedure of the Government of the Republic of Kosovo, no. 09/2011, the body that proposes draft laws and sublegal is obligated to consult not only with relevant ministries but also with the OIK on their compliance with "... *internationally accepted standards on human rights and fundamental freedoms...*"²⁴

Amongst providing comments and recommendation for the basic laws on human rights, the Ombudsperson sent comments for the Draft Law on Mental Health and the Draft Law for supplementing and amending the Law nr.03/L-149 for Civil Service of the Republic of Kosovo (together with other independent institutions: Office of Auditor General OAG, Central Election Commission CEC and Independent Media Commission IMC).

The Ombudsperson positively assesses that the practice, on the part of state institutions of the Republic of Kosovo, of consulting with the OIK on draft laws, draft administrative instructions and other sub-legal acts, is a positive one.

²² Draft Law for amending and supplementing Law No. 03/L-047 on Protection and Promotion of the Rights of Communities and their Members in the Republic of Kosovo; the Draft Law for amending and supplementing Law No 02/L-88 on Cultural Heritage; the Draft Law for amending and supplementing Law No. 03/L-064 on Public Holidays in the Republic of Kosovo; the Draft Law for amending and supplementing Law No. 2004/37 on Kosovo Education Inspection; the Draft Law for amending and supplementing Law No. 03/L-040 On Local Self-Government; and the Draft Law for amending and supplementing Law No. 03/L-041 on Administrative Borders of Municipalities.

²³ The Draft law for amending and supplementing Law no. 02/L-31 on Religious Freedom in Kosovo; the Draft law for amending and supplementing Law no. 03/L-172 for Protection of Personal Data; the Draft law for protection of children; the Draft law for amending and supplementing Law no. 03/L-047 on Protection and Promotion of the Rights of Communities and their Members in the Republic of Kosovo; the Draft law on Minor Offences; the Draft law on Pension for Police Officers of Kosovo Police; and the Draft law for amending and supplementing Law no. 03/L-212 on Labour.

²⁴ Rules of Procedure of the Government of the Republic of Kosovo, Article 7, paragraph 2.

In addition, the Ombudsperson reconfirms its willingness to provide the OIK's assistance and professional support in this area and recommends that all domestic institutions send normative acts to OIK for consultation and comment, in particular those that are related in any way with human rights and freedoms.

Within the responsibilities of the Ombudsperson provided for by Law on Ombudsperson is also the responsibility: *“to recommend promulgation of new Laws in the Assembly, amendments of the Laws in force and promulgation or amendment of administrative and sub-legal acts by the institutions of the Republic of Kosovo.”*²⁵

The Ombudsperson recommended that the Assembly of the Republic of Kosovo amend Law no. 03/L-139 (amended and supplemented by Law No. 03/L-205) on Expropriation of Immovable Property, specifically that it completely remove some parts of Article 35 of this Law: paragraph 6, subparagraph 3 and 4, paragraph 8, as well as paragraph 13, subparagraphs 3 and 4 (see: Report with recommendations in *ex officio* case A. no. 517/2015).

Furthermore, the Ombudsperson recommended that the MLSW, with the support of the Government of the Republic of Kosovo, to take the initiative to amend and supplement Law no. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosova Liberation Army, Civilian Victims of War and Their Families, in order that the definitions in the law be consistent with the law's content (see: Report with recommendations in case A. no. 201/2015).

THE JUDICIARY

1.2. Judicial protection of rights

The domestic judicial system in accordance with new laws has completed legal reforms and structural organisation, with the aim of increasing quality in the areas of respect for the highest standards of honesty, integrity, impartiality, professionalism, efficiency, and accountability.

However, despite the conducted reforms in the judiciary, the Kosovo Judicial Council must continue improving the professional capacities of judges and their specialization, through the organisation of trainings in specific areas related to civil and criminal cases that are covered by international judges.

Also, the Judicial Council must continue with the process of selecting judges and prosecutors, and filling the remaining staff positions, in particular for minorities for whom Kosovo legislation has reserved a specific number of positions.

²⁵ Law no. 05/L-019 on Ombudsperson, Article 18, paragraph 1, subparagraph 1.7.

Another remaining challenge that requires attention is the integration of judges and prosecutors from the north of Kosovo into the domestic justice system in accordance with the “Agreement on justice, on the integration of judges and prosecutors,” Brussels Agreement of 10 February 2015. On 25 March 2015, the Kosovo Judicial Council had announced a vacancy for filling vacant positions on the Basic Court of North Mitrovica and its branches. Based on information available up until the drafting of this annual report, the Council is still in the process of assessing applications based on the criteria of the Law on Courts.

The Kosovo judicial system continues to be supported in the area of rule of law by the European Union Mission on the Rule of Law in Kosovo (EULEX), on the basis of the Law on Ratification of International Agreement between Kosovo and European Union.²⁶ EULEX judges and prosecutors will continue to assist domestic judicial authorities in developing and strengthening the independence of the justice system. The judges work with domestic judges on mixed judicial panels in the reserved areas of investigation and trial, such as: war crimes, genocide, terrorism, organised crime, corruption, inter-ethnic crimes, serious murders, economic crimes and other serious crimes, but also for trying civil cases of all kinds, in accordance with the Law on Jurisdiction.²⁷

A continuous challenge of the judicial system remains non implementation of standards of human rights and freedoms in the way required by Article 53 of Constitution, that rights interpretation be in harmony with the judicial decisions of the European Court on Human Rights (ECtHR). Citations of ECtHR precedents are rare, and in those cases when it does take place, the citations are abstract or general, with no concrete indication of the ECtHR’s assessments or of the connection with the circumstances of the cases at hand.

Whilst for the citizens, the use of international mechanisms for judicial protection of rights remains a challenge, respectively submission of claims before the European Court on Human Rights for protection of their rights, since the Republic of Kosovo is still not a member of the Council of Europe.

In contrast to other areas of his or her jurisdiction, as mentioned above, the Ombudsperson’s legal powers in the protection of human rights and freedoms in the context of the judiciary are more limited. The Ombudsperson may issue general recommendations on justice administration, respectively in cases of lengthy procedures and failure to enforce final judicial decisions.

The judiciary continues to be responsible for the largest number of complaints filed with the OIK, in comparison with other public institutions, since it still has not managed to meet its legal obligations in regard to citizens’ petitions for the judicial protection of their guaranteed rights.

²⁶ Law no. 04/L-274 on Ratification of International Agreement between the Republic of Kosovo and European Union on European Union Mission for Rule of Law in Kosovo.

²⁷ Law no. 03/L-053 on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo, Article 5, paragraph 1.

A number of complaints fell outside the jurisdiction of the Ombudsperson. Complainants have requested the drafting of submissions; therefore, parties were directed to relevant institutions for the provision of legal aid, such as the Kosovo Bar Association, the Legal Aid Commission and non-governmental associations, which provide free legal aid to citizens.

From an analysis of investigated complaints it can be noted that most of them are related to: multi-year delays in the judicial procedures for the resolution of their cases; failure to enforce final court decisions, ; prescription of judicial cases; and suspicions regarding the objectivity of judges in deciding cases. The complaints above all are referred to civil disputes, such as those involving property, family, contracts, employment, social problems, including cases in criminal matters. Lengthy procedures in deciding judicial cases, are above all the result of a large number of cases remaining unresolved from the previous year, together with a large number of new judicial cases being filed.

Although the number of judges has increased, no considerable progress was noted in resolving the cases within the time limit specified by law. In this regard after conclusion of investigation of the complaints on delays of judicial procedures, the Ombudsperson notes that it is unjustifiable for proceedings on property disputes to run for years, especially in light of the fact that there is no mechanism for compensation of parties due to lengthy proceedings

According to the report of the Kosovo Judicial Council for the first six months of 2015, the number of cases remaining unresolved was 425.277,²⁸ while 165.471 new judicial cases have been filed in courts.

On the basis of these statistics it can be established that the judiciary has a large number of unresolved cases which would have to be resolved in accordance with the law which obliges the KJC, but also other responsible institutions, to work towards finding a legal solution.

Related to the prescription of judicial cases in the courts, the above referenced report of the Kosovo Judicial Council does not contain data on prescription of judicial cases. However, OIK is aware of the fact that in this reporting year, there were instances of the prescription of judicial cases in the courts. Whilst in the prosecutors' offices, in the first six months of 2015, 1100 criminal cases were prescribed.²⁹

The prescription of cases may be the result of courts being overloaded with judicial cases and the impossibility of deciding within the deadlines, due to the insufficient number of judges. However, there are also cases in which prescription is the result of negligence or abuse of authority on the part of the judge.

The Ombudsperson emphasizes that prescription of judicial cases represents one of the most serious violations of the rights and freedoms of citizens guaranteed by Article 54 of the

²⁸ *Kosovo Judicial Council, report for the first six months of 2015, Statistics of regular courts, www.kgjk-ks.org (11.12.2014), page 3.*

²⁹ *Mr Imer Beka, Chief prosecutor, Basic Prosecution in Prishtinë, His statement in the Newspaper "Kosova Sot" 5.8. 2015.*

Constitution of the Republic of Kosovo, which expressly guarantees that: “Everyone enjoys the right of judicial protection if any right guaranteed by this Constitution or by law has been violated or denied and has the right to an effective legal remedy if found that such right has been violated.”

The Ombudsperson considers that the Office of the Disciplinary Counsel (ODC), in all cases of prescription of judicial cases, should conduct an in-depth investigation, and, in every case, without exception, initiate actions against the persons responsible for the prescription.

The Ombudsperson, also considers that the KJC should undertake all necessary measures for the strict implementation of legislation, in order that the courts deliberate and resolve cases within the statute of limitations in order to prevent their prescription.

The establishment of private enforcement agents in accordance with the Law on Enforcement Procedure,³⁰ and its functionalization, has contributed positively toward easing the work of the judiciary and toward ensuring citizens’ access to justice in regard to the more efficient and effective execution of judicial decisions. But despite these positive developments, the Ombudsperson during this year received a considerable number of complaints alleging the non-execution of final judicial decisions.

The execution of judicial decisions at the national level remains low. According to the report of the KJC for the first six months of 2015,³¹ they had 20.778 decisions or enforcement documents to be executed, while they executed 1582 cases, while in relation to enforcement in economic disputes they had 4017 cases, while they executed 231 cases. Causes which affect the low level of enforcement of final decisions, according to the KJC, lie with the small number of enforcement partners and lack of clear home addresses in Kosovo, which does not provide a justification for the non-execution of judicial decisions.

The Ombudsperson, in regard to complaints on the non-execution of judicial decisions³² that are under the jurisdiction of the courts, according to the Law on Enforcement Procedure, has addressed to the courts requesting information regarding the reasons of delays in their enforcement.

A portion of the complaints related to the non enforcement of judicial decisions relates to the private enforcement agents who issued writs of enforcement for the execution of decisions in commercial banks, whereby the accounts of the complainants had been blocked by bank authorities.³³ In this regard OIK has conducted ex officio investigations.³⁴ Following the investigation of the complaints, the Ombudsperson concluded that blocking of the bank accounts of the complainants aiming enforcement who were recipients of social

³⁰ Law no. 04/L-139, on Executive Procedure, Article 323

³¹ Kosovo Judicial Council, first six-month report 2015 , statistics of regular courts, www.kgjk-ks.org (11.12.2014),, page 9

³² Complaints, A.462/2015, A.615/2015 ,,against Basic Court in Prishtina

³² Complaints A.no.323/2015 and 341/2015, against Private Enforcement Agents.

³³ Case Ex.officio,no.409/2015, against Chamber of Private Enforcement Agents.

³⁴ Complaints A. no 615/2015, A.no.643/2015, A. no 691/2015 against Basic Court of Prishtina

assistance and old-age pensions, , is in violation of the law, which stipulates that only half of pensions, respectively one-third of social-assistance income is subject to the execution procedure. Following mediation by the Ombudsperson at the private executors, he managed to unblock eight complainants' bank accounts and to ensure that such blocking be conducted in accordance with the law.

The Ombudsperson, in receiving and investigating cases,³⁵ noted that there are delays in the procedure for decisions regarding objections. In this regard, the Ombudsperson noted that the Supreme Court of Kosovo has an assessment, summarised in the Legal Opinion no. 223/2015 dated 14 July 2015, in which uncertainties related to Article 72 of the Law on Enforcement Procedure are explained. The Supreme Court points out that the version of Law in Albanian set no deadline for deciding on objections, while the English version (Article 72, paragraph 1) sets out that: "*On presented objection the court shall decide within fifteen (15) days from the day when the objection was filed.*" In this legal opinion, the Supreme Court expressed that basic courts must decide on objections to writs of enforcement, issued by private enforcement agents, within a deadline of 15 days upon receipt. This is so because the Albanian version contains a technical omission on the part of the legislature.

The Ombudsperson considers that basic courts should comply with the legal opinion of the Supreme Court, since, according to complaints filed with the OIK in relation to this issue, there are delays of up to one year for a procedure that should last no longer than 15 days.

Another number of complaints were also filed due to inadequate representation of complainants in courts by their defense attorneys.³⁶ In all of these cases, the complainants were informed of their right to ask that their lawyers be replaced as well as to file their complaints before the Kosovo Bar Association.

Before the Kosovo Bar Association/Office of the Disciplinary Counsel, according to the annual report, there were 88 cases/complaints filed against lawyers, while in 44 cases, disciplinary procedures were initiated for unbecoming conduct and violation of the Professional Advocates Code of Ethics. Out of these initiated cases, the Disciplinary commission of the KBA in one case took a decision for temporary suspension from the profession, in four cases imposed a penalty with a fine and in two cases issued reprimands, while in the remaining cases rejected the complaints.³⁷

The KBA, to some extent is publicly transparent about disciplinary procedures, presenting the work of the commission in the website. In this regard , it has also adopted legal acts and professional operating standards according to the Professional Advocates Code of Ethics,

³⁵ *Complaints A. no. 615/2015, A.no. 643/2015, A.no. 691/2015 against Basic Court in Prishtinë*

³⁵ *Complaints A. no.158/2015, A.no.516/2015, against, Lawyers, Kosovo Bar Association.*

³⁶ *Complaint A.637/2015, against Basic Court in Gjilan*

³⁷ *Annual report 2014 of Kosovo Bar Association, published on 15 June 2015, page 90. Bar Association did not publish a report for 2015.*

but it has not managed to establish a system that would efficiently supervise and monitor the observance of these standards.

From the investigations of citizens' complaints filed on the basis of positive law, the Ombudsperson concludes that there were violations of human rights, guaranteed by the Constitution of the Republic of Kosovo, Articles 31, 32 and 54 and by Article 6 of European Convention on Human Rights and Fundamental Freedoms (ECHR), due to lengthy procedures in the deciding of cases, according to the legal means pursued.

In this regard, it is disturbing fact for the Ombudsperson that citizens do not have access to any legal mechanism that would constitute an effective remedy within the meaning of Article 13 of the European Convention of Human Rights, and that would ease this problem through the prevention and compensation of these violations, involving the prescription of judicial cases and excessive lengthy judicial procedures, despite repeated recommendations of the Ombudsperson to promulgate a legal instrument on this matter.

1.3. The role of executive organs in protection of human rights

According to the Constitution of the Republic of Kosovo, human rights and fundamental freedoms are indivisible, inalienable, and inviolable, as well as the basis of the legal order of the Republic of Kosovo. Protection, advancement and respect for human rights and freedoms are a state obligation and the state must be in line with international human rights agreements and instruments.

The Republic of Kosovo has included in article 22 of Constitution³⁸ the most important international agreements and instruments on human rights and fundamental freedoms, agreements and instruments that are directly applicable in Kosovo.

These international instruments are of special importance in the field of protection of human rights and fundamental freedoms, because they are directly applicable even in cases in which there are deficiencies or explicit gaps in the domestic legislation of Kosovo.

The Ombudsperson not only to investigate alleged violations of human rights, but also to advise and recommend to the Government, Parliament, and other competent institutions of

³⁸“Human rights and freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions:

- (1) Universal Declaration on Human Rights;
- (2) European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;
- (3) International Covenant on Civil and Political Rights and its Protocols;
- (4) Council of Europe Framework Convention for the Protection of National Minorities;
- (5) Convention on the Elimination of All Forms of Racial Discrimination;
- (6) Convention on the Elimination of All Forms of Discrimination Against Women;
- (7) Convention on the Rights of the Child;
- (8) Convention against Torture and Other Cruel, Inhuman, of Degrading Treatment or Punishment”

the Republic of Kosovo regarding programmes and policies for securing the protection and promotion of human rights and freedoms.

Therefore, the Ombudsperson, based on his mandate has observed that the OGG, in its “Annual Work Plan of the Government for 2015” foresaw the issuance of strategies and action plans for current strategies to create more efficient, sustainable and coordinated policies in the field of human rights and freedoms, with the OGG being responsible for the activities. To this end, some other strategic documents for the period 2016-2020 were expected to be drafted by the end of 2015, such as: *The Strategy and Action Plan on Human Rights in the Republic of Kosovo; the Strategic Plan on the Rights of the Child; the Strategic Plan for the protection of children from the dangers of the internet; and the Action Plan for Integration of the RAE Communities.*

There are six strategies currently being implemented, three of which end this year, such as: *The Strategy for the Integration of RAE Communities in the Republic of Kosovo (2009-2015); the Action Plan for Implementation of the Strategy for Integration of the RAE Communities in the Republic of Kosovo (2009-2015); and the Action Plan for Implementation of the Strategy on the Rights of Persons with Disabilities (2013-2015).*

Meanwhile, three (3) other documents are currently being implemented, such as: the National Programme for the Provision of Sign Language Services and Deaf Persons in the Republic of Kosovo (2013-2016); *the Government Strategy and Action Plan for Cooperation with Civil Society (2013-2017); and the National Strategy for the Rights of Persons with Disabilities in the Republic of Kosovo (2013-2023).*

From the aforementioned findings, one can see that the Government of the Republic of Kosovo, and specifically the OGG of the OPM, is engaged in policies for the advancement human rights and freedoms, drafting strategic documents in specific areas, something that is to be appreciated, but questions may be raised as to the sound coordination of strategies, in light of the fact that there is a number of strategic documents and special mechanisms to deal with the coordination of implementation and monitoring of these documents. Based on the above findings, the Ombudsperson notes that the OGG has drafted a number of strategic documents on human rights; therefore, starting from the fact that human rights are unified and inalienable, it is recommended drafting of a strategy on human rights and freedoms that would include all strategies in the field of human rights. on the national level.

Drafting of a unified strategy document on human rights would serve the Government of the Republic of Kosovo as the orientation on creation of more effective, sustainable and coordinated policies in the field of human rights, which would be far more practical and easier to be monitored by domestic and international human rights organizations, and that its implementation process could be monitored by only one governmental mechanism.

Based on experience up to this date, it is noted that the mechanisms assigned by the Government at the political level are the organs responsible for monitoring the progress and the difficulties of the implementation of the Strategy and Action Plan on human rights for

reporting to the Government of the Republic of Kosovo on annual basis, regarding their overall implementation.

From the findings emphasized above, it is also noted that reports on the implementation of the strategies are presented to Government of the Republic of Kosovo by the mechanisms established by the Government; therefore, in fact, we have a situation in which the drafting of the strategic documents on human rights and the reporting on their implementation are in the same institution in the Government. Therefore the Ombudsperson has recommended that, in the Prime Minister's reporting to the Assembly of the Republic of Kosovo, reporting on human rights on an annual basis regarding the implementation of strategies and action plans should also be included, before the Commission for Human Rights, Gender Equality, Missing Persons, and Petitions (and not only when this is required by this Commission).

However, the Ombudsperson considers that the public authorities should be kept responsible for lack of adequate law implementation and should bear consequences of their actions caused by discretionary interpretation of law, and in no way these consequences to be suffered by the citizens by causing them unnecessary expenses in realization of their rights through judicial procedures, as the result of failure by the administrative organs in providing effective legal remedies.

1.3.1. Protection of property rights in Kosovo

During the reporting year, the OIK received a number of complaints related to the right to property and issued a number of recommendations related to violations of property rights by state authorities. A considerable number of complaints deal with lengthy property disputes in the courts, which without doubt, besides being a violation of the right to fair and impartial judgment, also constitutes a hindrance to the peaceful enjoyment of property. Lengthy processes by the courts, as well as the hesitation at times to judge in special cases, not only violates property rights but also hinders the economization of properties and potential transactions, thereby negatively impacting the country's economy and the legal security of citizens.

Protection of property rights is a precondition for functioning of a legal and democratic system. State authorities have a long road ahead to meet standards on the protection of property rights.

1.3.2. Expropriation

Law no. 03/L-139 (amended and supplemented by Law no. 03/L-205) on Expropriation of Immovable Property, sets out a special procedure for judicial complaints against preliminary decisions on expropriation issued by the Government or a municipality. According to this

procedure, when a complaint is filed before the Basic Court of Prishtina against a preliminary decision on expropriation, the Court issues a decision on the case within 30 calendar days of receiving the response of the Expropriating Authority to the complaint filed, and if the Court fails to issue a decision within a period of 30 days, the court shall be considered to have ultimately issued a decision rejecting the complaint in its entirety, immediately after the expiration of this 30 day period.

The Ombudsperson initiated *ex officio* investigations, and during these investigations he found that:

Law No. 03/L-139 (amended and supplemented by Law no. 03/L-205) on Expropriation of Immovable Property, represents a violation of the right to property, according to Article 46 of the Constitution of the Republic of Kosovo and Article 1 of Protocol No. 1 of the ECHR, and a violation of the right to a fair and impartial trial, according to Article 31 of the Constitution of the Republic of Kosovo and Article 6 of the ECHR.

On 16 October 2015, the Ombudsperson published Report with Recommendations no. 517/2015 for the Assembly of the Republic of Kosovo (for more information, see the part of this report dealing with Reports with Recommendations).

The Commission for Legislation, Mandates and Immunities, the Assembly's Rules of Procedure, and Supervision of the Anti-Corruption Agency of the Assembly of the Republic of Kosovo, in a meeting held on 1 December 2015, reviewed the Report with Recommendations of the Ombudsperson and recommended that the Commission for Agriculture, Forestry, Environment and Spatial Planning, in cooperation with the Ministry of Environment and Spatial Planning, coordinate when preparing the legislative programme for 2016, and that initiative should be taken for amending and supplementing Law no. 03/L-139 (amended and supplemented by Law no. 03/L-205) on Expropriation of Immovable Property.

The Ombudsperson welcomes the Assembly's initiative to send the Ombudsperson's recommendations to the relevant parliamentary committees, related to amending of the law's provisions, which provide for a very short deadline for reviewing the complaints of owners, whose property is being subject to expropriation, against preliminary decisions on expropriation.

1.3.3. Kosovo Property Agency (KPA)

The Ombudsperson handled the complaints of a number of citizens whose properties are in Mitrovica North, properties over which they are unable to restore their possession, which was lost as a result of the war dating from 1999. The Housing and Property Claims Commission and the Housing and Property Directorate (HPD) recognized the right they had over these properties before 1999. The Housing and Property Claims Department, a

predecessor of the KPA, took properties under its administration, and due to the inability of owners/ possessors to return to their properties, they leased them out. However, the lessees turned into unauthorised users, since they refused to pay the rent established by the Department and also refused to vacate the properties. When handling this case, the Ombudsperson was informed by the KPA that it has under its jurisdiction a total of 390 properties, while about 27 evictions were carried out. On 12 March 2015, the Ombudsperson, following an investigation of complaints received not only during the reporting year but also during previous years, issued Report with recommendations no. 48/2012; no. 176/2012; no. 125/2013; no. 36/2015; no.49/2015 on the KPA and the Government of the Republic of Kosovo (for further information, see the part of this Report on Reports with recommendations).

The recommendations of the Ombudsperson presented in this report are valid not only for Mitrovica North, but also for all other similar situations in the territory of the Republic of Kosovo. While the KPA continues to attempt to accomplish its obligations, within the scope of its powers, the Government of the Republic of Kosovo does not provide proper support to the KPA in the fulfillment of its legal obligations.

On 15 June 2015, USAID (Property Rights Programme) organised a roundtable on the implementation of decisions issued by the Kosovo Property Claims Commission (KPCC) of the KPA. The OIK was invited to this roundtable as well. The KPA presented challenges it is facing in the implementation of decisions of the KPCC and expressed that the implementation of decisions has financial implications. The KPA presented some of the challenges related to the fulfillment of its mandate such as: Implementation of the compensation scheme (143 cases); implementation of the destruction of illegal structures (28 cases); the process of evictions in Mitrovica North; re-usurpations of properties, etc.

The KPA clarified that the majority of challenges mentioned have financial implications and that their accomplishment depends on the financial support of the Government and of eventual donors.

1.3.3.1. Cases of re-usurpation of properties vacated by the KPA

In general, cases of usurpation of properties in Kosovo are a very widespread phenomenon. In particular, the phenomenon of illegal re-usurpation of properties under KPA administration is clear. According to an OSCE Mission report in Kosovo,³⁹ between 2008 and 2013, the KPA referred 326 such re-usurpation cases to prosecutors. These cases had to do with properties under its administration, but the number of illegal re-usurpations throughout Kosovo is likely to be higher when properties that are not under KPA administration are included as well.

³⁹ REVIEW OF CASES OF RE-USURPATIONS IN KOSOVO, OSCE Mission in Kosovo, January 2015
<http://www.osce.org/sq/kosovo/141136?download=true>

Both in cases of usurpation of properties under the administration of KPA, and in other cases of illegal property usurpation in general, criminal acts are involved, and so cases of illegal usurpation are referred or should be referred to prosecutors and eventually to courts. Delays on the part of public authorities, prosecutors, and courts in handling such cases, which are the subject of many of the Ombudspersons' reports, directly affect the right to property.

1.3.3.2. Registration of a property claim certified by the KPCC

During the reporting year, the Ombudsperson received a complaint against the rejection of a request for registration of a property claim certified by a final KPCC decision.⁴⁰ Despite the fact that the complainant filed the decision of the KPCC with the Department of Geodesy, Cadastre and Property of the Municipality of Lipjan, he was subjected to an administrative procedure that ended with the initiation of an administrative conflict in the Basic Court in Prishtina, which on 22 May 2015 issued a decision approving the request for registration of the property claim. But even after the decision was issued by the BCP, the complainant was unsuccessful in registering the property claim due to its being rejected by the Department of Geodesy, Cadastre and Property of the Municipality of Lipjan.

Failure to register property claims in general, and in particular in cases settled by the KPCC, means that the property right has not been entirely re-established. The failure to register property claims leaves room for counterfeit registrations, which infringe on individuals' right to property.⁴¹

1.3.4. Kosovo Cadastral Agency (KCA)

Complaints from citizens were filed with the OIK alleging discrepancies between the municipal cadastral points provided by new registers in municipal cadastre offices (MCO) and the actual situation in the field. According to allegations of citizens that filed complaints at the OIK,⁴² discrepancies are caused by errors made in the creation of the electronic database by the company contracted by the KCA. The Ombudsperson wrote the KCA Chief Executive in relation to the allegations of discrepancies between electronic data and the situation in the field. The Executive Office of the KCA responded to the OIK, where *inter alia*, it asserted that there is a threshold of vectorisation errors that is specified by the Framework on Kosovo Cadastral Measuring no. AKK 2005/1- Level of Tolerance.

⁴⁰ OIK case A. no. 508/2015, *Complaint against the Municipal Assembly of Lipjan, Directorate for Geodesy, Cadastre and Property*.

⁴¹ See *Challenges in the Resolution of Conflict-Related Property Claims in Kosovo*, OSCE Mission in Kosovo June 2011, <http://www.osce.org/kosovo/80435?download=true>

⁴² OIK cases A. no. 362/2015 and A. no.385/2015

The Ombudsperson has neither the technical capacity nor the legal mandate to confirm either the allegations of the complainants, who assert that discrepancies exceed the level of tolerance, or the authenticity of the KCA's assertions. Therefore, the Ombudsperson concluded that the Ministry of Environment and Spatial Planning, in coordination with the relevant Commissions of the Assembly of the Republic of Kosovo, should assess the work of the KCA in creating electronic databases, without prejudging the result of any judicial proceedings initiated by citizens before the competent courts.

1.3.5. The Privatisation Agency of Kosovo (PAK)

During the reporting year, the Ombudsperson received complaints from citizens, former employees of socially owned enterprises that have now been privatised, related to delays in the distribution of assets by the PAK. Following the investigation of complaints and communication with the Privatisation Agency of Kosovo it was found that the failure to appointed the Board of Directors of the PAK caused delays in the distribution of means from the privatisation of socially owned enterprises.

In this regard, on 30 October 2015, the Ombudsperson published a Report with recommendations related to cases no. 23/2014 and no. 473/2014 for the Government of the Republic of Kosovo and the Assembly of the Republic of Kosovo (for further information, see the part of this Report on Reports with recommendations).

The Assembly of the Republic of Kosovo, in its plenary session held on 14 and 17 December, appointed eight members of the Board of Directors of the KPA proposed by the Government of Kosovo.

During 2015 the Ombudsperson received two complaints from new owners of privatised properties related to the usurpation of properties and the inability of the PAK, the Kosovo Police and the Basic Court of Prishtina to free them. During the investigation of the case, the Ombudsperson found hesitation on the part of the enforcement bodies to vacate the usurped properties. In addition, the Ombudsperson found that the Basic Court of Prishtina, to which complainants filed their lawsuits to vacate the properties, took no action on settlement related to the new owners' lawsuits. The Ombudsperson remains concerned with the inaction of enforcement bodies and the Basic Court of Prishtina in vacating the properties, considering that property usurpation constitutes a criminal act. However, the Ombudsperson focused his investigations on the PAK's responsibilities for freeing these properties, before tackling the hesitation to resolve these cases by the enforcement bodies and the Basic Court of Prishtina. The Ombudsperson found that in November 2014 PAK issued Decision no. 270/2014 and the Guidance for releasing Assets of Socially Owned Enterprises from Usurpers (Illegal Users), which is valid for properties currently under the jurisdiction of the PAK and actions taken by the PAK for releasing the properties on sale, but which is not valid for properties which were sold before November 2014. Despite the fact that the PAK

decision represents a positive initiative for ensuring that the PAK guarantees the selling of properties free from legal flaws, which in this case is the usurpation of properties, this does not resolve the situation of properties sold by the PAK, and so does not release them from usurpers and illegal users. In this regard, The Ombudsperson has been compiling a Report with recommendations for the PAK and the Kosovo Police.

This year, too, like in the previous year, the Ombudsperson continues to receive complaints against the PAK related to the non-inclusion of complainants in lists of former employees of socially owned enterprises privatized, and the privatisation of socially owned enterprises properties without reviewing the returning of properties which, in different forms, were taken from owners in order to establish socially owned enterprises.

Concerning the issue of inclusion in the 20% lists, UNMIK Regulation No. 2003/13, Article 10, amended by UNMIK Regulation no. 2004/45, Article 10 which is still in force and which regulates the distribution of the value of 20% of the sale of socially owned enterprises a person should have at least three working years in the socially owned enterprise and should be on the payroll at the time of privatisation. However, the SCSC, based on the Regulation and its interpretation of Article 8 of the Law on Anti-Discrimination (in force at that time) of the Special Representative of Secretary General, took the position that a person may file a standard claim of discrimination, facts from which one can presume that there was discrimination, along with a certified copy of the block of notes showing involvement in socially owned enterprises for more than three years; showing that that it is still open. In such a case he or she shall be considered a employee who may legitimately benefit from the value of 20% from the sale of the socially owned enterprise.⁴³ The Ombudsperson, based on his findings during interviews of complainants related to the issue of distribution of the value of 20%, considers that the employees of socially owned enterprises who were unable to find themselves in the list of employees of socially owned enterprises at the time of privatisation due to their being fired from work on discriminatory grounds, have not properly taken advantage of the decision of the SCSC, were not sufficiently informed or have had no adequate legal representation before the SCSC. In many cases, former employees of socially owned enterprises have used no legal remedy.

Concerning the issue of the privatisation of properties without first returning them to private owners, the Ombudsperson took the position in the previous annual report as well, agreeing with the findings and recommendations of the OSCE Mission in Kosovo, in *the Legal Review of Kosovo Trust Agency Claims from the Special Chamber of Supreme Court* (May 2008), that the Assembly of the Republic of Kosovo would have to adopt the Law on Return of Properties, which would not only restore properties to their legitimate owners, but should also take care to strike a balance between owners who were unable to restore their property

⁴³ See *Legal review of Kosovo Trust Agency claims by the Special Chamber of Supreme Court (May 2008)* at <http://www.osce.org/sq/kosovo/32013?download=true>

as a result of the lack of a Law for Restitution of properties and legitimate owners who would benefit from the Law on Restitution.

1.3.6. The Special Chamber of the Supreme Court of Kosovo (SCSCK)

The work and efficiency of the Special Chamber of the Supreme Court of Kosovo (SCSC) remains disturbing issue for this reporting period as well. Despite all the initiatives to improve the efficiency of this Court's work, there is still a problem with the backlog of cases, and a huge number of outstanding cases at this Court.

The SCSC, as part of the Supreme Court, has jurisdiction over cases related to the Privatisation Agency of Kosovo (formerly the Kosovo Trust Agency), which are handled by mixed panels, composed of local and international judges (appointed by EULEX). The SCSC reviews cases related to the privatisation process, lists of workers eligible for a 20% share of the privatisation of former socially owned enterprises, legal ownership claims, claims related to the liquidation process of socially owned enterprises and their reorganisation. The Appeals Chamber reviews complaints against SCSC decisions as well as complaints against other courts' decisions.

During 2015 there was an increase in the number of outstanding cases at this court. According to official data of the SCSC, by mid-December 2015 the court had a total of 23,327 cases being processed. There were 19,210 outstanding cases from the previous year, whereas by 16 December 2015 it received 4,117 additional cases. These numbers are extremely high because this court does not handle cases for years,. One of the main reasons is that the number of judges and staff assistants in this court is limited, whereas actions in this court are dependent on the appointment of international judges by EULEX, which are appointed for a relatively short mandate. Based on the obtained information during 2015 only 1,797 cases were resolved in all fields in both levels of the SCSC by five specialized panels and the Appellate Court. It is expected that this court in 2016 will have 21,530 outstanding cases and that the number of new complaints will be higher than in the previous year.

During this reporting period, the OIK received 43 complaints, in which the responsible party was the SCSC, including a group complaint comprising 73 complainants, former workers of SOE "Trepça."⁴⁴ The OIK started an investigation in response to 25 complaints, while 18 were rejected as inadmissible. Complaints submitted against the SCSC were mainly related to the prolonged duration of court procedures in cases related to entitlements of former workers who are eligible to 20% shares from the privatisation of socially owned enterprises, who in the past were owned by them before privatisation took place, ownership issues during the privatisation of socially owned property, which in the past were owned by private

⁴⁴*Complaint No.601/2015*

individuals, in relation to the failure to pay salaries of workers of the privatised socially owned enterprise as well as in relation to requests to buy socially owned apartments where conditions regulating apartments and leaseholder rights have been met.

In relation to one of the complaints filed with the OIK concerning the duration of procedures before the SCSC, on 23 March 2015 the OIK sent a report with recommendations to the court for implementation, without any further delay, of all necessary measures in reviewing the complainant's case issuing a decision.⁴⁵ It shall be noted that the case against the SCSC was received back in 2012, but until now this court has issued no decision in the case, and no session was held, and the complainant has no information concerning the actions undertaken by this court. The most worrying fact is that the OIK regularly received responses from the SCSC with similar contents, saying that the cases are being processed but with no details about what stage the case is in, and that in most cases new judges were assigned in the procedure which resulted in delays in work. The most common response was that the delays in procedure were caused due to the small number of judges in the court. Nonetheless, it should be noted that there exists a very good cooperative relationship between the OIK and the SCSC in some cases, whereas with regard to procedural actions when the OIK intervened, these complainants' cases were resolved within a short and reasonable timeframe.⁴⁶

Taking into consideration the current number of cases pending at the SCSC, the situation can be considered critical, and the Assembly of the Republic of Kosovo and Kosovo Judicial Council should seriously consider it when deciding on the necessity to increase the number of and give recommendations to EULEX concerning the duration of the mandate of international members. In compliance with the increased number of outstanding cases and the continuous increase of cases in this court from year to year, the Ombudsperson considers that the work and inefficiency in resolving cases indicates the failure of the Court to undertake necessary measures to resolve citizens' cases within a reasonable timeframe, and expects that the situation will change for the better in a near future.

1.3.7. Responsibility for Living Environment

Protection of the right to a healthy living environment, air pollution, land and waters, loss of agricultural lands, hindered public access to environmental information and the low participation of citizens in decision making, the treatment of environmental cases by the judges without any priority, failure to respect the basic norms of construction, hindered access to roads, destruction of forest areas, improper management of waste, noise, lack of sufficient monitoring systems, failure of cooperation between the local and central level, are the problems that were present also in 2015.

⁴⁵ *Complaint 302/2012, Report addressed to SCSC 23 March 2015.*

⁴⁶ *OIK cases: Complaint no. 279/2015, 272/2015, 265/2015 i 241/2015*

Despite these, disturbing remains the reduction i of budget for the execution of obligations related to environment protection, since compared to previous years the budget of the Ministry of Environment suffered a decrease. On the other hand, ecologic taxes collected from citizens during the vehicle registration have still not begun to be allocated for the environment.

Also, inter-institutional cooperation, specifically the exchange of information between central and local institutions concerning environmental issues, is not at the proper level.

The state's legal obligation for securing the development and stable utilisation of water resources, which are indispensable for the protection of public health, environment protection and socio-economic development,⁴⁷ remained an unimplemented legal provision.

The right of citizens to quality potable water, access to the waterworks system,⁴⁸ and improvement of the lack of water supply has not shown any obvious improvement.

The uncontrolled exploration, lacking any criteria, of sand and gravel from rivers, digging very deep holes next to rivers, construction of roads over the riverbeds, etc., may be considered alarming. The most utilised rivers continue to be Drini i Bardhë, Lumëbardhi i Pejës, Ereniku, Desivojci, Krivareka and Ibri.

It is worth mentioning that in the majority of cases floods were caused not only due to the exploitation, without any criteria, of inert rivers but also due to the non-maintenance of riverbeds, the dumping inert waste, construction beside riverbeds, etc. Flooding due to construction in contradiction with the set percentage of the total surface of green areas is not rare for absorbing the atmospheric precipitation compared to the area of cadastral land plots,⁴⁹ as well as due to the problems with water infrastructure.

Sewage and industrial waters continue to be discharged directly into the rivers. This is so due to the fact that only 60% of citizens are connected to the public sewage system, while the only plant for treating sewage waters is the one in Llaushë of Skënderaj.

The Ombudsperson considers that the issue of the lack of a sewage system comprises a violation of the right to a healthy environment as well as the right to housing, on which he received a number of complaints.

The right of citizens to a healthy environment continued to be affected by air pollution, industrial production, the use of old transport vehicles, the use of low-quality fuel, uncontrolled pollution by the construction of roads and buildings, the exercise of activities in quarries and quarry firms, the burning of stubble fields, and the improper management of landfills, urban and industrial waste.

⁴⁷Law No. 04/L-147, on Kosovo Waters, Article1.2.

⁴⁸Ministry of Environment and Spatial Planning, Agency for Protection of Kosovo Environment, a Report on Situation of Waters in the Republic of Kosovo

⁴⁹Law No. 04/L-174 on Spatial Planning, Article21, paragraph 5.8.

Based on the reports of the competent authorities, the allowed parameters were exceeded during the winter period in particular. The main polluters are KEK, Trepca industrial complexes, Ferronikel, Sharrcem, and emissions from Gjakova and Mitrovica heating.

Despite the concern, there is an improvement of citizens' access to information related to the quality of air, but there is a need for taking action for the full functionalization of the system for monitoring air quality and issuing of sanctioning measures or initiation of judicial procedures.

Land degradation from the impact of human activities remains concerning. The fragmentation of agricultural land, uncontrolled designation of use from agricultural to construction land, improper management of landfills, illegal household and industrial waste landfills, exploitation of gravel, and land erosion remained problematic during the reporting year.

The unauthorised changes from competent municipal institutions of agriculture land into non-agriculture land during 2015 marked a decrease compared to previous years but has not stopped entirely, since some municipalities do not respect legal procedures relating to the change of designation from agriculture-forest land into non-agriculture-forest land.⁵⁰

Deforestation continued and was also noted also within the national parks. Deforestation endangers stable management and land erosion.

Concerning the management of waste no activities were taken for their processing, treatment and recycling, which would obviously improve the waste situation, and its impact on environment and human health. The proper management of municipal and inert waste continues not to show any improvement, even in urban environments.

In the two cases investigated by the Ombudsperson, we noted that municipal bodies lack action plans, and that they have no centre for treatment of inert and construction waste.

The citizens of Kosovo continued to encounter problems in the lack of rational urban planning of pedestrian pavements/paths, which would enable a safe and healthy environment. Pavements continued to have insufficient width compared to the number of citizens and often are followed-up with their norms far from those foreseen, with the lack of accessible elements, ramps which hinder the continuous connection between different levels of the pavement, the obstructed connection with public surfaces, and obstructed access to main roads of circulation. Such obstacles obstructs the movement of citizens in general, and hinders the movement of persons with disabilities in particular.

Unpredicted holes, damaged manholes, blocking of pavements with exposed goods, and with other construction materials without any protective measures have been often noticed, which hinder the safe movement of citizens.

⁵⁰ *Official information received by Ministry of Agriculture, Forestry and Rural Development, 14 January 2016.*

While an issue in itself is the violation of life, health and safety of children, which in many cases is risked from the lack of adequate fences, the green one even, in pedestrian paths close to kindergartens, playgrounds and schools.

Lack of underpasses and overpasses, in main highways, motorways and regional roads is also problematic. Non-inclusion of citizens in decision-making, which would include citizens interests and would provide a more effective and rational solution, contributes to the problem.

The rights of citizens to a healthy environment and their privacy continued to be violated also by noise. Despite the attempts and the initiative of the Ministry of Environment and Spatial Planning to draft a new Law on Protection against Noise, it has not been adopted yet.

Though a basic principle of environment legislation is the principle of transparency and information, informing the public on environmental issues remains a challenge. Environmental information, despite general interest, continued to remain on the list of limited information according to the Law on Access on Public Documents.

Statistics on waste and water are collected now, but statistics on expenditures for the protection of environment, balances of circulation of materials and accounts of emissions on air are still not produced. Kosovo lacks a national system for environmental reporting. The level of participation of the public in decision making was not at a satisfactory level. The Ministry of Environment this year issued Administrative Instruction No. 18/2015 on Information, Public Participation and Stakeholders in the Procedures for Assessment of Environment Impact via which this situation is expected to improve.

Despite the environmental problems faced by the Kosovo citizens, it remains concerning the fact that courts still do not pay proper attention to cases related to environmental issues, initiated by the environment inspectorate and by citizens, in accordance with the international standards on human rights.

1.3.8. The rights of access to public documents

Free circulation of information is a very important tool for building trust between institutions and citizens to create transparency of actions, efficiency and effectiveness of public administration, for awareness-raising of citizens and administration on its obligations to provide services to citizens.

Although the right of access to public documents is guaranteed by the Constitution of the Republic of Kosovo, and merged and made concrete in the Law on Access to Public Documents (LAPD), the respect of this right and the implementation of the law continues to be challenging either due to the law's uncertainties or due to negligence of the officials in handling requests for access to public documents or due to lack of sufficient information of citizens with respect to this right.

It continues to be discouraging for citizens to go to the courts to vindicate their right for access to public documents, due to lengthy judicial procedures. Ever since the Law entered into force and up until now, only one court decision has been issued concerning this right, filed by the Balkans Investigative Reporting Network BIRN, giving it the right to access documents requested concerning expenditures made by government officers, but it is still not being implemented. The determination of the Ombudsperson Institution as a single body with recommendation powers seems not to be quite effective. According to law, the requestor of the document may initiate proceedings before a competent court, but the law does not specify what court and what institution.⁵¹

To make this law applicable, it needs immediate amendments. In this regard, the Office of the Prime Minister drafted a concept paper via which it identified some of the deficiencies in the implementation of law, but the supplementing and amending of the Law is not included in the Government Legislative Strategy for 2016, which means that there are no amendments expected to be made to the law during 2016.

In the majority of European Union countries, the supervision of the implementation of a law of this nature is done by the Commissioner for Information, who is entrusted with responsibilities with executive powers, and has authority to issue fines for failing to respect this right, which seems like a more acceptable solution.

During 2015, there were 33 complaints received by the Ombudsperson Institution concerning the limitation of the right of access to public documents. Out of these complaints, 23 of them were admitted for investigation, while 10 of them were found inadmissible. On the other hand, it received only eight (8) requests for access to documents produced and held by the Ombudsperson.

1.3.8.1. Unjustified limitation of the right of access to public documents

The long list of limitations described in Article 12⁵² of the LAPD constitutes an elastic limitation which leaves relatively much room for arbitrary interpretation by the responsible official in the relevant institution.

⁵¹*Rejection of a complainant's request and the failure of the public institution to respond within the deadline set is considered as a negative response and gives the complainants the right to initiate procedure before the Ombudsperson Institution, other public institutions, competent court, in accordance with the law in force.*

⁵²*Article 12, paragraph 1, of l Law No. 03/L-215 on Access to Public Documents. 1.1. national security, defence and international relations; 1.2. public security; 1.3. prevention, detection and investigation of criminal activities; 1.4. disciplinary investigations; 1.5. inspection, control and supervision by public institutions; 1.6. privacy and other private legitimate interests; 1.7. commercial and other economic interests; 1.8. state Economic, monetary and exchange policies 1.9. equality of parties in court procedure and efficient administration of justice; 1.10. environment and 1.11. the deliberations within or between the public institutions concerning the examination of a matter.*

Although Article 12, paragraph 2, of LAPD states that: “*Access to information contained in a document may be refused if disclosure of the information undermines or may undermine any of the interests listed in paragraph 1..., unless there is an overriding public interest in disclosure,*” the responsible officers in public institutions are not ready to comply with their constitutional obligation to limit the right in question only to the extent that is indispensable for an open and democratic society, in order to meet the objective for which the limitation is allowed, and to pay attention to the essence of the right which is limited, the importance of the objective of the limitation, the nature and volume of the limitation, and the relationship between the limitation and the objective intended to be achieved⁵³.

Though all documents contained by public institutions and state authorities are public with the exception of information that is limited by law, due to the increase of privacy, business secrets or classified security information, it is noted that the access to documents remains at the will of heads of institutions. In some cases the responses received seem most absurd, such as: due to the reason of limitation of the right of access to public documents, “... *we are not in the service to anyone and we do not work according to the wishes of anyone*”⁵⁴.

Despite the efforts of the Ombudsperson to explain the position and the powers entrusted by Law on Access to Documents, in some cases its role is not well understood.

Although in one of the responses received from the responsible institutions, the Ombudsperson was informed that the reason of limitation was “*misuse of official documentation,*”⁵⁵ each response was in accordance with LAPD, according to which the public documents received by the requestor cannot be used for the purposes of denigration, propaganda and commerce, but without providing facts on how and when the information was misused. The limitation of the right, for the reasons mentioned above in these cases should be done by taking into account the Law on the Protection of Personal Data and the Law on Classification of Information and Security Clearance, which prohibits the classification of information to conceal violations of law, abuse of authority, inefficiency or administrative error, prevent the humiliation of a person, public authority or organisation, prohibit competitiveness, or prohibit or delay publication of information which clearly does not have to do with security matters. None of these reasons were emphasized in the response received.

Despite citizens’ interest in environmental information, and although in contradiction with environmental laws in force, the Law on Spatial Planning, the Law on Construction, the basic principle of which is the principle of transparency and information, a principle which is integrated by the Aarhus Convention, environmental information remains on the list of exceptions, in article 12, paragraph 1.10, of the LAPD. The limitation of information in question should be only partially done, and only to the extent necessary and if the documents requested contain information which falls in one or more of these categories:

⁵³ *Constitution of the Republic of Kosovo, Article 55 [Limitations on Fundamental Rights and Freedoms];*

⁵⁴ *Complaint no. 348/2015, A. G, against Municipality of Fushë Kosovë;*

⁵⁵ *Complaint no. 348/2015, A. G, against Municipality of Fushë Kosovë;*

systems, installations, infrastructure, projects, plans or protection services related to the security interest of the Republic of Kosovo.⁵⁶

The key principle of the Directive of Council of Europe 2003/4/CE on access to public environment information sets out that the publication of environmental information encourages greater awareness-raising of citizens concerning environmental protection. Greater awareness-raising helps increase public participation in decision-making and make public institutions more transparent and accountable, building the trust of the public in institutions. The source of this directive is the international agreement called “Convention on Access to information, public participation in decision-making and access to justice concerning environment matters.” On 25 June 1998, in Aarhus, Denmark what is known as the “Aarhus Convention” was adopted.⁵⁷ The signatories of this convention agreed to publish documents containing environmental information.

1.3.8.2. Non-classification of documents by institutions and the failure to observe deadlines

Although a constitutional right, the right of access to public documents is, however, not an absolute right. It should be protected proportionally, balancing it with other rights, without damaging other interests. During the investigation and review of cases, in accordance with the limitation of the right of access to public documents, the Ombudsperson noted that state institutions, bearers, drafters and receivers of information, in the majority of cases have not classified the documents on time, as is foreseen by laws in force, Law No. 03/L-172 on Protection of Personal Data, and Law no. 03/L-178 on Classification of Information and Security Clearance.

Non-timely classification results in the non-observance of time limits for timely response to the requests of citizens for access to public documents, in spite of the importance of timely provision of information, since delays in the provision of information may unavoidably vitiate the entire value of the information and the interest related to it.

Moreover, the Ombudsperson, as the implementer of LAPD, in no case received a response from institutions, through which it would be informed that the request for access to public information has been rejected with the reasoning that the document requested is on the list of classified documents. Nor has he been presented the list of classified documents on which the document requested as a classified document would appear.

In the complaint registered with no. 370/2015,⁵⁸ the Municipal education department in Prishtina rejected the access of the complainant to the documents presented by candidates selected, as well as documents made during the process of the selection of children of a pre-

⁵⁶Law no. 03/L-178 on Classification of Information and Security Clearance Article4, paragraph 1.3.5;

⁵⁷<http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

⁵⁸ Complaint no. 370/2015 against Municipal Education Department in Prishtinë

school institution, with the reasoning that “... *private life and integrity of the individual may be violated and as such cannot be provided without the consent of the parents,*” which was a reason based on law, since the access to the documents requested falls into the category of personal data, and access to such data is permitted only if the subject of the data has provided his/her consent.

1.3.8.3. Promotion of the right of access to public documents

Based on the existing situation and problems identified related to the rights of access to public documents were the OIK during the reporting period organised eight workshops, in the regional centres where the regional offices of the OIK are located, and in Prishtina. Representatives of institutions from almost all municipalities of the Republic of Kosovo, and representatives of Non-Governmental Organisations conducting activities at the local level participated, as well as journalists from local media discussed about the importance of the free flow of information and access to public documents . It is concluded that there is a need to continue with the awareness raising campaigns.

1.3.9. Equality before the law

The Constitution of the Republic of Kosovo prohibits discrimination, and guarantees equality before the law and respect for human rights. It guarantees the right to equal legal protection without discrimination.⁵⁹

Discrimination includes a wide range of bases such as: nationality or relation to any community, social or national origin, race, ethnicity, colour, birth, origin sex, gender, gender identity, sexual orientation, language, citizenship, religious belief and religion, political affiliation, political opinion or other opinions, social or personal situation, age, family or marital status, pregnancy, maternity, wealth status, health status, disability, genetic or other inheritance, according to which an individual is treated different from other individual/s at the same situation or similar situation. Moreover, all of bases are specified in Article 1 of the Law on Protection from Discrimination , which became effective as of July of this year.

The relevant implementation of this Law is expected to be done by competent institutions in order to provide adequate protection to citizens in situations where their rights have been violated, namely when they are discriminated against. However, it is up to individuals to decide how to request protection in cases of discrimination since this law envisages that issues of discrimination are handled by five different procedures, depending on the

⁵⁹ *Constitution of the Republic of Kosovo, Article 24, page.7*

circumstances of every case. There may be uncertainties in a criminal and minor offence procedure on when criminal and minor offence procedures may be pressed in a given case.

The Law on Minor Offences of 1979, which is still in force, did not mention discrimination, and does not contain material provisions. The Criminal Code of the Republic of Kosovo (CCRK) did not mention discrimination either, while Law on Protection from Discrimination envisages the possibility of initiating criminal cases for discrimination. This raises the concern as to how functional and applicable in practice the Law on Protection from Discrimination truly is. Other than the issue of functionalization and applicability of this law, following the analysis of these provisions it remains to discuss its compatibility with the Constitution of the Republic of Kosovo and the Law on Ombudsperson.

The Law on Protection from Discrimination,⁶⁰ specifies that the Ombudsperson is the only equality mechanism for handling discrimination cases. . Article 12.1 of this law gives the right to any person or group of persons, based on Article 1 of this law, to file a complaint to the Ombudsperson.

Article 12.2 of the Law on Protection from Discrimination gives the Ombudsperson the mandate to handle complaints in accordance with procedures specified in the relevant law on Ombudsperson, while article 9.2.2 gives the power to provide assistance to victims of discrimination during the preparation of complaints against discrimination.

The implementation of these articles by the ombudsperson is considered as challenging taking into account the fact that these articles are not in accordance with one another, and with the legislation in force, which sets out the mandate of the Ombudsperson.

Mandate of the Ombudsperson is supervision and protection of rights and freedoms of individuals from actions or illegal and irregular inactions of public authorities. Thus, provision of assistance to victims of discrimination during preparation of complaints against discrimination exceeds the constitutional and legal mandate.

The Ombudsperson on 2 November 2015 organised a workshop with the support of the United Nations Development Programme (UNDP) on “Implementation of Law on Protection from Discrimination Procedures and Authorities responsible the Ombudsperson, Judiciary and other actors Challenges and Possibilities” during which the challenges on implementation of the Law on Protection from Discrimination have been discussed. The participants have confirmed that adequate implementation of substantial part of the law and also the procedural part of the law, in a manner specified by this law, represents a big challenge. In addition, they agreed that training should be provided for judges, prosecutors and lawyers on how to work on raising the awareness of the public.

Issues of Persons with disabilities are included in a number of basic laws but disability is concretely regulated by the Law on Pension Schemes financed by the State no. 04/L-131, the Law on material support for families of children with permanent disabilities, no. 03/L-

⁶⁰ See *Law on Protection from Discrimination no. 05/L-021*

022, Law on Vocational Ability, Rehabilitation and Employment of people with disabilities – no. 03/L-019, Law on Construction no. 04/L-110, Law on the Blind no. 04/L-092 and the Administrative Instruction on technical conditions of constructed premises for access of people with disabilities no. 2007/33. On November 2015, the Draft Law on Paraplegia and Quadripalegia passed the first reading in the Assembly of Kosovo.

The Law on Material Support for families with children with permanent disabilities provides that persons with disabilities under the age of 18 are to receive material support in the amount of 100 euros. After the age of 18, they are treated by the Law on Pension Schemes financed by the State, which did not set out the objective scale of disability, and the amount of financial support for these persons is €75. Therefore, despite the fact that with passage of time, with reaching of adult age, the living needs and the welfare of persons with disabilities change and their needs increase, their financial support is decreased by €25 according to this Law.

The issue of reassessment of persons with disabilities for pensions of persons with disabilities is concerning.

Despite the fact that persons with disabilities have the same diagnosis, after the reassessment by the medical commission they are removed from the list of pension beneficiaries, because according to the assessment of medical commission they do not meet the criteria required. This raises questions about the precision of the work of the medical commission, because according to NGO representatives working for / and with persons with disabilities, the medical commission when conducting reassessment, does not assess the applicants according to the diagnosis of professional doctors, but they assess them according to their subjective perception. According to them the number of users of pensions for persons with disabilities was 27.000, while this number decreased now to 17.000.

As we mentioned, in the area of the rights of the child in the field of education there are still many difficulties for comprehensiveness. Physical access of persons with disabilities in public schools and the provision of transport remains a problem. Only three schools in the Municipality of Prishtina meet the conditions for free access of children with disabilities to schooling, because facilities in other schools, apart from the horizontal access, do not meet conditions for vertical access.

Relevant institutions, *inter alia*, should undertake all measures necessary for improvement and enhancement of physical infrastructure, as well as allocate a special budget for provision of transport to children with disabilities, in accordance with legislation in force.

During this year, the Ombudsperson also received a complaint from the parents of children with disabilities who attend classes at Qendra Burimore për Mësim dhe Këshillim (Source Centre for Learning and Counselling) “Përparimi” in Prishtinë.⁶¹ The parents’ complaint was addressed against the school, which prohibited parents from staying in school facilities, during the time period while children attend classes, despite the fact that they used to stay at

⁶¹ From Ombudsperson Institution database, Complaint no. A.464/2015

the school during previous years. The Ombudsperson addressed the Directory of the Source Centre for learning and counselling “Përparimi” in Prishtinë with a letter, asking for information on the legal grounds according to which the parents of students of Source centre “Përparimi”, in Prishtinë, are now prohibited from remaining in the school premises during the learning process, from the beginning of the 2015/2016 school year.

Moreover, the Ombudsperson asked for information if there is sufficient professional staff, psychologists, speech therapists and medical officers in the Source Centre “Përparimi” in Prishtinë. The Directory of Source Centre for Learning and Counselling “Përparimi” in Prishtinë, on 30 November 2015, informed the IO that there is sufficient staff in accordance with the needs of child care in this centre and the presence of parents is only hindering the learning process. After investigation the case the Ombudsperson found that the actions of the centre in question were in compliance with the applicable policies and legislation.

The free and unhindered movement of persons with disabilities continues to remain a problem also in public areas and public institutions, including the University Clinical Hospital Service in Kosovo.

The Ombudsperson also presented this concern in previous annual reports.⁶² Limited access to movement remains a problem mostly for patients with disabilities, who are using wheelchairs as a subsidiary movement tool. In order to move they need to be accompanied by some chaperone, and often medical aid is given in inadequate places and especially in primary health care, where they are unable to access places where they should receive treatment.

The free movement of persons with disabilities is limited in the access to premises where they live. The Municipality of Prishtinë asked the list of persons with disabilities from NGO “Hendikos” living in collective buildings, in order to regulate the infrastructure for free access. However, unfortunately, Municipality of Prishtinë has still not taken the necessary actions to resolve this issue. However, as a positive step we can mention the fact that the Municipality of Prishtinë during this reporting year started to regulate some public areas, pavements in one part of the town, to adapt to conditions for free movement of persons with disabilities.

The Law on vocational training, rehabilitation and employment for people with disabilities in Article 12 provides for employment at the open work market.

According to article 1 of this Law, “*State administration bodies, employers of private and public sectors and also nongovernmental organizations are obliged to employ people with disabilities with appropriate conditions*”. Paragraph 2 of article 1 stipulates that: “*Every employer is obliged to employ a person with a disability, for every fifty (50) employees;*”

⁶² See OIK annual report 2014.

According to information possessed by OIK, paragraph 2 of article 12 of this Law has almost never been implemented, because no person has been employed on the basis of this Law. Persons with disabilities employed are mainly those employed based on their merits.

Concerning the health sector, persons with disabilities are exempted from paying for medical examinations, but they are obliged to secure medicines themselves with justification that there are insufficient medicines on the essential list for persons with disabilities. On this issue, a representative of the Ombudsperson contacted the person responsible in the Ministry of Health who declared that there are sufficient medicines in the essential list and the supply with medicines in the essential list to the primary health public institutions is done according to the request of these institutions. In this regard, the Ombudsperson is conducting investigations to assess the real situation in order to recommend the improvement of the situation with the supply of medicines in general and in particular with the medicines from the essential list.

Based on competences and responsibilities set out in the Law on Ombudsperson and the Law on Protection from Discrimination, the Ombudsperson shall also exercise his powers through mediation and reconciliation. Assessing it as an alternative, not only for the resolution of cases, but also for increasing institutional responsibility, the Ombudsperson has put into action legal possibilities and mediated between Mr F.R. and the Mayor of Municipality of Malishevë. The complainant filed a complaint to the Ombudsperson related to a public declaration of the Mayor, who in the function he is conducting, referring to the physical disability of the complainant, stated that due to health problems, the complainant cannot exercise the function of the deputy mayor. This declaration was considered by the complainant to be discriminatory. The Ombudsperson proposed mediation as a legal mechanism on the issue raised, on which both parties agreed and after meeting with the representative of the Ombudsperson, an agreement was reached. Taking into account the circumstances in which the declaration occurred, as well as the mutual respect that both parties showed for each other in the separate meetings, a joint meeting was held, on which occasion the mayor expressed regret about the situation created after his statement, and he stated that the statement was made without any intention of discrimination, and also offered a public clarification. He apologised for the worry he created in this case, which was appreciated and welcomed by the complainant in the form of moral satisfaction. The case was closed with a formal legal act of reconciliation. This form of resolving cases is an alternative and has positive effects on the general social education and leads to an increase of institutional and individual responsibility, in relation to equal and non-discriminatory treatment, as well as the language used in public declarations.

During the visits conducted in some primary and lower and upper secondary schools in Kosovo, in the context of the campaign “Familiarise yourself with the institution of the Ombudsperson Institution”, the OIK received a number of anonymous complaints from students.

From preliminary investigations it was noted that they referred to security in school premises, road safety for access to school premises, and unequal treatment and violation of human dignity by education personnel. The Ombudsperson is in the process of reviewing these complaints in order to come up with a report related to the violations found.

Based on some complaints received from the students of the secondary school “Hoxhë Kadri Prishtina”, in Prishtinë within the campaign in question, the Ombudsperson Institution initiated *ex-officio* investigations relating to the concerns of students concerning their safety in traffic for safe access to school premises.

According to the allegations of students they are concerned due to the lack of safety in traffic, because when they get off the urban bus at the bus stop in front of “Adem Jashari,” they have to cross a road with six lanes in both directions, and then a road with four lanes, in order to access school premises.

Students allege that despite the fact that the crossing spot is marked, vehicles travel at a high speed, which puts their life in danger every day. They asked that traffic lights or a secure crossing be established at this spot.

Thanks to OIK mediation and the positive cooperation of the relevant institutions, the issue has been positively resolved; a safe road crossing for pedestrians was established on the road.

1.3.9.1. The right to social protection

The Ombudsperson’s previous reports included as a recommendation for the Assembly of the Republic of Kosovo the International Covenant on Economic, Social and Cultural Rights in the Constitution of the Republic of Kosovo as an international instrument which would be directly applicable to institutions of the Republic of Kosovo, but even as of today, this recommendation has been left unimplemented.⁶³

Cases of social housing continue to be a challenge not only at the local level but also for citizens in need. The requirements for social housing are still evident. This year, too, there was no progress noted regarding the provision of social housing for inhabitants with such requirements.

In the Ombudsperson Institution there are complaints being investigated at the local level relating to the lack of provision of social housing.⁶⁴ In this reporting year, it is worth mentioning as a success the actions undertaken by the Municipality of Prishtina, relating to the inhabitants of “Fushën e Pajtimit” since as of 31 December 2015, their situation has improved. Inhabitants who used to live in containers for many years in “Fushën e Pajtimit” this year are housed by the Municipality of Prishtina. For two years, expenditures for

⁶³See previous reports of Ombudsperson Institution

⁶⁴From the OIK database, among others, Complaint no. A.590/2015, A.523/2015, A.581/2015

housing are covered by the Municipality of Prishtina, up to the completion of the construction of collective buildings for these cases. Subsequently, this reporting year too, it did not manage to finish the premises, which should have been constructed for providing shelter for families in need.⁶⁵

During this reporting year there were also complaints filed against the Ministry of Labour and Social Welfare, received by the Ombudsperson Institution, relating to the termination of social assistance. The Ombudsperson notes that a relative high number of social scheme beneficiaries have been removed from the list, which seem to have worsen their social situation. The MLSW should build up more stable policies concerning this issue in order that citizens enjoy a minimum standard of living.

1.4. Minority Community

The issue of protecting minority communities and their rights is quite important, and therefore, the OIK dealt with this issue during 2015. Thus, this presents an analysis of the overall situation concerning respect for and effective implementation of minority rights within the territory of the Republic of Kosovo.

The Ombudsperson considers that in this reporting period there has been no great and significant progress towards improving the situation of minority communities. Even though several institutions have started and continue to mark progress in this regard, others either have stagnated or have ignored issues and questions, which the minority community members face every day.. Whilst special attention has been paid to economic, social and educational inclusion, integration, and sheltering of Roma, Ashkali, and Egyptian communities.

1.4.1. Return and safety

According to the data of the UN High Commissioner for Refugees (UNHCR) in November 2015, out of 220,000 displaced persons from Kosovo after the end of the conflict in 1999 and the unrest in March 2004 in Kosovo, a little more than 11% (25,458 persons) of displaced persons and refugees from minority communities⁶⁶ returned. Even though the OIK has raised the issue of finding an urgent solution of displaced people placed in collective centres, and that there are still 29 functional collective centres all over Kosovo, where 504 people have been placed, including 14 people who were internally displaced persons from

⁶⁵See previous reports of Ombudsperson Institution

⁶⁶From 2000 to 2015 there are returned: 11.318 Serbs, 6 Turks, 3649 Roma, 16 Montenegrins, 1454 Gora, 3 Croats, 1849 Bosnians and 7163 Ashkali and Egyptians, UNCHR Statistic Statement November 2015.

the north of Kosovo, who were temporarily placed in Mitrovica South.⁶⁷ Based on the statistical data of the UNCHR, during the period of January to November 2015 in Kosovo only 726 people from minority communities returned.⁶⁸ Speaking of return, only older people return, whereas for young people return is a safety challenge, partly because of the lack of employment opportunities and their personal perceptions about safety, without ignoring here the fact that a bigger problem is education for children and youth and its poor quality. Among other, ethnic incidents which influence the sustainability of return and the interest in return should not be ignored. In comparison with the previous reporting period there were positive developments towards identifying perpetrators by Kosovo Police, which is appreciated by the Ombudsperson. However, local and central authorities did not do much to discourage such incidents. In this regard, it should be noted that a considerable number of incidents happened in returnee areas, especially in the first half of 2015. Back then, in the Municipalities of Klina, Peja and Istog there was an increase of incidents including theft, stone throwing, the writing of hateful messages in the Serb Orthodox Church, verbal insults, property damages, illegal property usurpations and intimidation. In August 2015 in Prizren there were hateful messages written in houses of members of the Bosnian community, which were addressed against Bosnians and Gorans. In November and December 2015 there were also several incidents, out of which several were more serious. In Goreazhdec, Municipality of Peja, there was an armed attack in the centre of village; there were gunshots at an inhabited family house.. This attack was publicly condemned by the President of Kosovo, the Mayor of the Municipality of Peja, and the Minister for Returns and Communities. In addition, in Gojbulje village, Municipality of Vushtrri, a bomb was thrown in a bar where mainly Serbian community members gather. Inter-ethnic incidents were also recorded in the Municipalities of Novobrd, Partes and Graçanica

The Ombudsperson considers that, concerning inter-ethnic incidents, institutions should establish a practice of public condemning such incidents in order that they reach the majority community as well as the population that is affected by such incidents.

1.4.2. Property Rights

The issue of protecting property and respecting property rights in the context of property rights of minority community members remains a big challenge to authorities of the Republic of Kosovo. A good job has been done in relation to these issues by the Kosovo Property Agency (KPA), which by the beginning of June 2015 has resolved all requests submitted in the first instance (42,749) whereas more than 500 cases are unresolved and which are currently in the appeals procedure at the Appellate Panel of the KPA at the

⁶⁷*Internally Displaced Persons within the country in collective centres: Mitrovica North 26, Leposavić 92, Zubin Potok 41, Zveçan 33, Mitrovica South 14, Shtrpce 247, Graçanica 40 and Obilic 11.*

⁶⁸*Returnees in 2015: 388 Serbs, 3 Turks, 77 Roma, 3 Montenegrins, 19 Gora, 15 Bosnians I 221 Ashkali and Egyptians.*

Supreme Court of Kosovo. The issue of the work and mandate of the KPA is treated by the OIK in a special section of this report which is related to property rights in general.

First, we should point out the problem and very spread negative trend of reoccupying immovable property, and issues which are faced by citizens. The problem can be classified as a general failure of executive judicial authorities in the territory of the Republic of Kosovo. Although re-occupying property is a criminal act defined under the Criminal Code of Kosovo (Article 332 CCK), which foresees a jail sentence of up to three years, there is no case indicating that this provision was implemented in practice. In addition, owners of re-occupied property are not able to permanently resolve this issue because regardless of criminal charges and reporting of usurpation to the KP, the cases remain in process for several years, whereas the KP, regardless of vested powers by the Law on Police (respectively Article 11.1 of the Law on Police),⁶⁹ refuses to intervene and the damaged person must request a court order for expulsion in such cases. Unfortunately, this has become a common practice of the KP. Whereas, based on the powers vested by the Criminal Code of Kosovo (CCK), the Kosovo Police can intervene in such cases to provisionally arrest and detain a person who illegally takes or usurps property when caught performing criminal acts, i.e. on the spot.⁷⁰ Due to these reasons the damaged persons are forced to address judicial authorities to re-confirm property rights which were already confirmed and to file a claim for obstruction to possession of property or removing people who are illegally placed, waiting for years for a final court decision, whereas during this period the people illegally placed in the property enjoy the property freely. Unfortunately, such cases represent one of the huge problems in relation to the enjoyment and availability of private property, which is necessary to resolve in the next period. It should be also noted that the issue of re-usurpation of immovable property has mainly affected minority community members, but recently the majority community is facing this issue. Thus, it is becoming a general problem of the enjoyment and availability of property, which is in contradiction with the democratic and general principles of respect for human rights. Therefore, in a situation where a major proportion of citizens are not able to enjoy his/her property freely creates distrust towards institutions and a climate to justify existence of legal insecurity.

1.4.3. Education

⁶⁹Article 11.1 Law No.04/L-076 on Police reads: "During the performance of police duties, a Police Officer has power to impose reasonable control on people and property within his/her jurisdiction and power to issue and enforce lawful orders and instructions for members of society in general to achieve legitimate police objectives" which means that the KP has the general authority to enter buildings to prevent the commission of a crime, like illegal usurpations of property by a third party.

⁷⁰Article 162 LCP no.04/L-012 reads: "If a person is caught in the act of committing a criminal offence prosecuted ex officio or is being pursued, the police or any other person shall be authorized to arrest him or her provisionally even without a court order" "and Article 69. LCP gives autonomy to the police to investigate criminal acts.

Regarding a unique education system, the OIK notes that no progress has been made in this field. There are two special education systems, one according to the plan and programme of the Ministry of Education, Science and Technology (MEST) of the Republic of Kosovo and the other according to the programme of the Ministry of Education, Science and Technological Development of the Republic of Serbia, for which the OIK has reported previous years

The situation is almost the same as it was in the previous reporting period. Formal cooperation between the two aforementioned systems does not exist. Members of minority communities choose one of the two education systems depending on their location and the place where they live, as well as the language they speak. MEST of the Republic of Kosovo provides education in Albanian, Turkish, and Bosnian languages, whereas the education system of the Republic of Serbia provides education in the Serbian language. Education in the Roma language is provided in several schools under two education systems.

Turk and Bosnian community members note that there is a problem with the absence of books of the two languages, which the OIK pointed out in previous reporting periods. Absence of school texts, particularly affect secondary school students, who are mainly supported by texts from Turkey, and Bosnia and Herzegovina. Considering that this problem has been unresolved for many years, the Ombudsperson considers that MEST should in the future seriously review the situation described above concerning school texts and resolve the issue by the next academic year. Taking into consideration that studying in the language of minority communities is also limited, some students from the Bosnian and Turkish community choose to follow university education in Turkey, Bosnia and Herzegovina, and Serbia. It shall also be pointed out the issue which has raised the attention and disapproval of minority communities related to academic year 2015-2016 and reserved quotas for minorities in the State University, on which the ECMI reported in a publication entitled “Minority Communities in Higher Education in Kosovo: Has the reserved quota system been abused?” Since 15 October 2015⁷¹ especially, in this report it is stated that there were 382 spots reserved for students coming from minority communities in the state university, although only 30% of these quotas were fulfilled by minorities whereas 70% of reserved quotas were fulfilled by majority communities through various abuses. The Committee on Rights and Interests of Communities and Returnees of the Assembly of the Republic of Kosovo was informed of the issue in mid-October, because the quota system was particularly suitable for members from Turkish, Bosnian, Roma, Ashkali, and Egyptian communities in order to achieve better integration of these communities and a possibility to benefit from higher education and contribute to their communities. The abuse came as a result of inadequate and unsuitable process of verification and confirmation of ethnic background. Therefore, it is necessary that this situation be urgently changed and that a verification mechanism be established to diminish such abuses to a minimum. In this regard, there is an initiative from the relevant Assembly Commission to enable the opening of a

⁷¹<http://www.ecmikosovo.org/wp-content/uploads/2015/10/Minority-Community-Students-SRB.pdf>

third term for the registration of students from minority communities who could register through the quota system for studies, but unfortunately the registration did not happen.

Speaking of recognition of University diplomas of the University of Mitrovica North, it can be stated that there were positive developments in this regard. Through the initiative of the Office of Prime Minister/Office for Community Affairs there is work being done to resolve this significant issue.

Through a decision of the Government of the Republic of Kosovo, No. 05/53 dated 16 October 2015, an Inter-Ministerial Commission on Community Issues has been established, which is mandated to review all issues related to the rights of communities based on the Constitution of the Republic of Kosovo, applicable legislation and the Strategy for Communities and Returns 2014-2018. In this regard, a technical working group is formed which is a mechanism for decision-making and a coordination body. Considering that the essential mandate of the Office for Community Affairs is the full integration of minority communities, one of the issues actively engaged is resolving the issue of recognizing diplomas from the University of Mitrovica North because under current circumstances such diploma are not recognized by institutions of the Republic of Kosovo. During talks between the representatives of the Republic of Kosovo and the Republic of Serbia held in Brussels, an agreement was reached in relation to the issue of mutual recognition of diplomas, but which essentially has not been fully implemented. Therefore, considering that there is no written instruction for the non-recognition of diplomas from the University of Mitrovica North, it was necessary to undertake such actions to reach a permanent solution on this issue. Through an initiative of the Governmental Working Group on Communities and based on technical recommendations concerning recognition of diplomas issued by the University of Mitrovica North, the Government of Kosovo in November 2015 approved a Regulation on the verification of diplomas obtained from 2001 to 2015 based on an agreement on the recognition of education certificates and equalizing qualifications which will contribute toward advancing the procedure for recognition of diplomas and certificates of education qualification and equalizing and toward greater mobility of workforce. The recognition of diplomas is a procedure for recognizing diplomas after completion of education for the purposes of continuing studies or obtaining employment in Kosovo. The diploma recognition procedure starts with an applicant's request at a Municipality Education Directorate. During the process of recognizing education documentation the duration and level of education, credibility of education documents, and other issues important for recognition must first be determined. Education Certificates issued in the Republic of Serbia shall not be subject to recognition, but they should be subject to legalisation of diplomas based on an Administrative Instruction of MEST IA No. 9/2015.⁷² In this regard there is no big issue on diplomas issued by public universities in the Republic of Serbia and the region.

⁷²*Administrative Instruction MEST IA No. 9/2015 principles and procedures for recognition of diplomas of higher education and professional schools and university grades issued in the Republic of Serbia from 10 August 2015.*

Related to this, the OIK received two complaints, which were resolved during 2015.⁷³ However, there is an issue with recognition of diplomas from private universities abroad. The Ministry of Education cannot verify (legalise) diplomas of private universities, since they are not members of the European Agency of Private Universities. Kosovo is a member of this agency but regional countries like Bosnia and Herzegovina are not members. However, it represents a big problem for citizens who have graduated from these and similar universities in the region.

1.4.4. Free Movement

The situation is mainly better and in general there are no big issues in comparison with the previous reporting period, despite ethnic tensions, particularly in the north of Kosovo and incidents in the west. In the north of Kosovo there are continuous ethnic tensions, incidents, often armed, as reported by the OIK in detail in the previous report. Unfortunately, after a year, the Ombudsperson may only conclude that the situation in relation to this issue has not improved at all. Concerning free movement the OIK has published an ex-officio⁷⁴ report in relation to construction of the “Park of Peace”, “Car Llazar Square”, “UÇK Square” and “Adem Jashari Square” in the Municipality of Mitrovica North, which is treated in more detail in this report in the section related to OIK reports.

During this reporting period there was progress related to the application of the free movement agreement reached between Kosovo and Serbia (which was reached back in 2011). Citizens were able to move freely within the Republic of Kosovo and the Republic of Serbia with ID cards only. The memorandum on car insurance has been fully implemented since August 2015, whereby all vehicles with number plates and insurance of the Republic of Serbia as well as vehicles registered in the Republic of Kosovo with old number plates “KS” have been excluded from the payment of additional taxes. This new decision is an improvement compared to the previous one because no taxes are paid while travelling from the Republic of Kosovo to the Republic of Serbia and vice versa, which did not happen in the past. However, vehicles with “RKS” number plates cannot yet be driven to the Republic of Serbia but only the provisional plates which can be taken at border crossing, for which no added fee should be paid, as happened in the past.

In relation to the free movement of citizens, it should be noted that the OIK, by the end of 2015, has registered a complaint related to an individual limitation of free movement. In particular, the complaint,⁷⁵ which was submitted to the OIK, states that the complainant at the “Jarinje” border crossing point in the north of Kosovo was prohibited from moving further, without further clarification and with no legal grounds. The case is in the

⁷³ *Complaint No. 159/2015 and Complaint No.200/2015*

⁷⁴ *Ex Officio 498/2014, Report addressed to the Assembly of the R. of Kosovo and Municipality of Mitrovica North 29.05.2015.*

⁷⁵ *Complaint No. 660/2015*

investigation stage at OIK, in which the complainant's complaint is being verified, including a request for a declaration on the case by the responsible party.

1.4.5. The Situation of Roma, Ashkali and Egyptian Communities

During the reporting period, particular attention has been paid to the situation of the Roma, Ashkali, and Egyptian communities, like in previous years they face a difficult situation in all aspects of life.

Based on the data taken from field visits of the OIK, in principle the security issue of Roma, Ashkali and Egyptians over the reporting period was stable, though several incidents in Gjakova and Mitrovica were registered, the victims being Ashkali, Egyptians and Roma. The social and economic aspects of these communities remain difficult. Placing more severe criteria in the Law on Social Assistance⁷⁶ for families receiving social assistance only worsened their situation. For example, it should point out that a disputed provision, which states that a child up to 5 years old can be a beneficiary of a social assistance, was subsequently nullified. Because of the new criteria, a large number of these families have lost their rights to social assistance, which leads to an increase in extreme poverty. This also creates possibilities for indirect discriminatory towards members of these communities with regard to approving requests for social assistance.

Based on information available to the OIK, the issue of repatriation of Roma, Ashkali and Egyptian communities remains a worrying issue, as in previous years. A bigger issue is taking care of families and their inclusion in the social assistance scheme. Besides this, there continues to be a problem with the inclusion of repatriated children in regular education. The only support they receive is from non-governmental organisations, which offer assistance to repatriated people by involving children in the education system and providing information and help in relation to exercising rights and receiving assistance from competent institutions.

We should also note a positive fact, that in order to implement reintegration policies a guide has been published to aid and support the reintegration of repatriated people, meaning stable and consistent reintegration, as well as a manual, drafted and published by the Government of Kosovo, for sustainable reintegration by providing instructions for monitoring reintegration procedures.

Regarding the process of returning Roma, Ashkali and Egyptians, a provisional sheltering of families of these communities is provided by state institutions for a period of 6 months with a possible extension for another 6 months. Nonetheless, the question it should be done w after this period, because the returnees owned property before the conflict in 1999, but they

⁷⁶Law no. 04/L-096 on amendment and supplementation of the Law no. 2003/15 on the programme of social assistance in Kosovo

often have no documentation to prove it, or due to a personal perception on security they cannot go back to the places that they left during the conflict but they are usually placed in other municipalities, which shows another obstacle in realization of certain of rights.

Significant progress has been achieved in relation to civil registration among the Roma, Ashkali and Egyptian communities due to the fact that competent institutions have continued the practice of offering free services for the registration of citizens one month during a year to exempt them from taxes that normally must be paid for delayed registration for a period of one year, for both services.

However, no progress has been made in addressing the high percentage of illiteracy among members of these communities. During the reporting period the OIK carried out visits in municipalities resided by Roma, Ashkali and Egyptians communities, whereby the parents and NGOs which support these communities presented many complaints and problems in relation to the education of the children of these communities. The number of pupils in primary and secondary school is not yet satisfactory; however, there is a lack of support for employment and sustainable job opportunities for communities' members. It should be noted that as an incentive for further education the MEST, based on foreign donations and in cooperation with the NGO "Zeri RAE", has given 500 scholarships to secondary school students of these communities, and will continue to do so in the future. Another thing to be noted is that Roma, Ashkali and Egyptian community members who graduate from higher education encounter difficulties finding a job in their profession.

Due to poor living conditions and lack of employment and social assistance, a large number of Roma, Ashkali, and Egyptians decide to migrate to European Union (EU), a very worrying fact. This community migration has increased the number children abandoning school, who were registered in all municipalities of Kosovo. Based on information taken from the terrain, the main reason of this community migration is lack of opportunities, which is also related to unemployment. Besides community engagement in seasonal employment, authorities could not create sustainable employment.

1.4.6. Employment in central and local bodies

The OIK during this reporting period monitored employment representation of minority communities in central and local bodies. Based on information of the Ministry of Public Administration obtained by analyzing participation of minority communities in institutions during this reporting period, there is an insufficient representation of these communities. Indeed, regarding proportional representation of communities their presence must meet minimum standards within certain institutions. Nonetheless, the highest representation of minority communities is in the Ministry of Communities and Return, the Ministry of Administration and Local Government, the Ministry of Labour and Social Welfare and the Ministry of Internal Affairs (Kosovo Police), and in institutions, which are directly or

indirectly related to minority communities issues. Therefore, representation of minority communities at the central level is 8.43%, out of 10% guaranteed.

It shall also be noted that there is a low number of members Roma (0.55%), Ashkali (0.16%), Egyptian (0%) and Gora (0.15%) communities employed in central government. In this regard, it indicates that not much has been changed from the previous reporting period. It is clear that provisions of the Constitution guarantee “fair and proportional representation,” though central authorities interpret this to mean in central level generally but not in ministries considered separately. The Ombudsperson thinks that these provisions should be interpreted as they are defined, meaning that representation must be adequate in any ministry and institution at the central level, otherwise it has not to do with proportional representation.

In relation to the aforementioned, the Office for Community Issues at the Prime Minister’s Office informed the OIK that it has carried out research on current representation of minority communities in public services and public enterprises in Kosovo. The research indicates that more attention should be paid and that investment should be concentrated in the employment of these communities in these areas to support their integration. In this regard, this office, in cooperation with the Royal Norwegian Embassy, has published an announcement on “internship programme in public institutions at the central and local level” for 100 graduated students from minority communities in Kosovo. The OIK welcomes such a positive step towards the further integration of minority communities in Kosovo society.

1.4.7. The Use of Language

In this part of the report the Ombudsperson provides his remarks and evaluation in relation to the application of the Law on the Use of Languages⁷⁷ for the reporting period, in which, in addition following procedures in response to citizens’ complaints related to the violation of language rights, the OIK also supervised and monitored the implementation and respect for language rights of communities at the central and local level. During this period, OIK representatives held discussions with representatives from local and central authorities, court representatives, the respective minority communities, etc., in order to observe the implementation of language rights.

Although the legal framework of Kosovo, based on the Constitution,⁷⁸ the Law on the Use of Languages, the Law on the Protection and Promotion of the Rights of Communities and their Members,⁷⁹ and the Law on Local Self-Government,⁸⁰ guarantees the equal status of

⁷⁷ *Law on the Use of Languages No. 02/L-37*

⁷⁸ *Constitution of the Republic of Kosovo, 2008, Article 5, Article 58 and Article 59*

⁷⁹ *Law on the Protection and Promotion of the Rights of Communities and their Members No.03/L-047, Article.4.1*

⁸⁰ *Law on Local Self-Government No.03/L-040*

the Albanian and Serbian language in official use, at both the local and central level, and provides for the use of official languages and languages of other communities in Kosovo that are considered official at the municipal level as provided for by the law, and also establishes protection mechanisms to monitor and ensure the protection of language rights, undoubtedly it is insufficient and has not been implemented with the purpose to protect and preserve the language identity of communities.

Even though from year to year changes in this regard can be noticed, there is a long road ahead to the full respect of the legal framework in relation to language rights. While analyzing the current situation, it is clear that there are issues in the equal implementation of official languages even after a decade since approval of the Law on Languages, and the equal official use of the languages of communities has yet to be fully achieved.

When speaking of central level, as in previous years, the process and quality of translation of laws into official languages is the key problem, as the Ombudsperson has continuously stated in annual reports. Reasons for these problems were not eliminated even during 2015. There is poor translation quality of laws and discrepancies between different language versions. Considering the equal status of official languages, this practice leads to a legal insecurity and violates the principle of equality before the law and the principle of non-discrimination, as the legal framework provides that all versions of the Law on official languages, Albanian and Serbian, are equally authentic. Therefore, in the process of drafting legislation it is absolutely essential to ensure the equal use of official languages in the legislative process and the full credibility of different language versions of the legislation and their high quality from the initial stages up to their publication in the Official Gazette.

The Ombudsperson believes that the provisions that regulate translation of draft laws and sub normative acts are not sufficiently clear and need to be further clarified, as this issue impedes the inclusion of communities in the legislative process. This procedure is not at a satisfactory level, neither at the central nor at the local level. This often happens with the quality of documents translated into Turkish and Bosnian languages, which are official languages or languages in official use in many municipalities of Kosovo.

The key issues identified regarding such practices are the same for many years and no progress has been noticed in relation to their resolution. There are limited financial, technical and human resources at the local and central level; lack of professional translators whose mother tongue is Serbian; lack of editors in Serbian language, the short deadline of translation required; overloading translation services with work; the lack of editing and proof-reading of primary as well as secondary legislation; difficulties in hiring qualified professionals on language issues and insufficient mechanisms to provide quality language prior to legal acts' approval.

Therefore, the Ombudsperson thinks that these facts show the need to establish oversight practices, specifically systematic editing and proof-reading of translation of legislation within legislative institutions with the aim of detecting translation mistakes and eliminating them on time in comparison with the original text, in order to prevent discrepancies between

different language versions before the Law or legislation is approved and published. It is necessary that such oversight be carried out by language experts with a legal background.

On the use of official languages at the central level it should be noted that the Ministry of Internal Affairs in July 2015 made progress by launching new software that allows municipalities to issue a document based on original-language data and forms in Bosnian and Turkish languages, including Serbian Cyrillic as well.

Based on the monitoring of language rights at the local level, the Ombudsperson concludes that problems are more or less similar to the previous years, even though there has been progress in providing translations during municipal assembly sessions, whereas in multi-ethnic municipalities, oral and written translations remains a problem due to an insufficient number of translators and poor translation quality, including the provision of municipal services and the issuance of documents to citizens, whereby documents are not issued in their mother tongue.

Titles in official languages, official names of municipal institutions are still only partly respected; the practice remains of writing the names of municipal services inside the building only in one language, whereas notices and announcements are published only in the language of the majority community. However, there has been significant progress in the erection of signs with names of municipalities, villages, roads and municipal roads in official languages; however, misspelled and damaged signs remain a problem. Research of the Language Commissioner in 2015⁸¹ has ascertained that more than one third of municipalities do not translate draft-regulations and approved legislation into official languages.

In relation to official municipal webpages, no municipality has conducted harmonisation in compliance with the law during this period, regardless of recommendations of the Ombudsperson presented three years ago in its *ex-officio*⁸² report in relation to the use of official languages in official municipal webpages.

The Ombudsperson believes that the Government of Kosovo should undertake proper measures to ensure full, equal and quality implementation of the Law on the Use of Languages in all municipalities of Kosovo, which is essential to preserving equal status for all official languages and to ensuring equal language rights to all citizens of Kosovo. The Ministry of Local Government, in the context of its supervisory role, must do more in monitoring and securing the availability of all municipal acts in all official languages of the various municipalities and also in providing instructions and directions to municipalities in relation to their responsibilities to apply the same status and equal use of official languages in their work, whereas the Ministry of Public Administration in cooperation with municipalities should ensure and monitor whether municipal webpages have information and content in all official languages, in compliance with the Law on the Use of Languages.

⁸¹ *Report of the Office of the Language Commissioner "Monitoring and evaluation of language rights in Kosovo", March 2015*

⁸² *Complaint No. 275/2012*

During this reporting period there was no obvious progress in the work of the Government in relation to recommendations of the Ombudsperson provided in previous annual reports which referred to the increase of awareness on the importance of creating the conditions and favourable climate to learn official languages and involving them in the Kosovo education system. Currently, this is a big and in the near future it will cause insurmountable difficulty towards implementing the Law on the use of languages.

The Ombudsperson thinks that this issue must not be ignored and prolonged but that Kosovo education system should encourage language approximation and emphasizes that the language issue is absolutely essential for protecting and promoting community rights in Kosovo, because it affects all areas of social life and is quite significant to the communities. Respect for language policies and language rights as a principle of a democratic society plays a key role in the European integration process.

The Government of Kosovo in 2012 has established Office of Language Commissioner with permanent staff and financial resources as a mechanism to ensure protection of language rights with the aim of implementing language policies; however, it does not offer adequate political support for implementation of the Commissioner's mandate. During the reporting period commitment and decisiveness was noticed in the Office of the Language Commissioner to exercise the mandate and establish better practices which in the use of official languages and their alphabet will be stable and in compliance with the Law. The Office of the Language Commissioner in March 2015 presented research on respect for language rights in Kosovo through a comprehensive report indicating key findings in implementation of the Law on the use of languages in Kosovo.

The Ombudsperson and his representatives by the end of the reporting period held two meetings with the Language Commissioner regarding complaints of citizens submitted to the OIK, which are related to the use of official languages in Kosovo and the implementation of the Law on languages and also to the way of communication in this field.

The Ombudsperson Institution received a smaller number of complaints in relation to violation of language rights during this period compared to the previous year. The Ombudsperson considers that regardless of the small number of complaints related to language rights, it cannot be considered that the use of language is at a satisfactory level but that the community members are not sufficiently informed of their language rights.

Complaints filed at the Ombudsperson are related to the violation of the rights to use the Serbian language in procedures before competent bodies; however, the Ombudsperson, upon completion of investigations of individual cases and based on relevant facts has found a failure to be in compliance with the law and a violation of the right to the use of language (for more information please see the report against MIA, OIK No. 290/2015 on OIK cases report).⁸³

⁸³ IOIK Report no. 290/2015, as of 25.11.2015.

In the second case against the Customs of Kosovo the Ombudsperson sent a letter with recommendations to the competent body⁸⁴ in relation to the violation of the complainant's right to use Serbian language, specifically the violation of the Law on the Use of Languages. The letter states that the Customs in a customs offence procedure was obligated to respect the use of a language that is understood by the responsible person in the process, because not doing so would imply direct violation of the right to use the language of the party in the procedure. Under the meaning of these legal provisions, the Ombudsperson recommended to the Customs the necessity to ensure the use of language rights of the party in procedure during the implementation of customs legislation, and all acts in the process shall be submitted to the responsible person in Serbian language.

In both cases parties responded within the deadline set out to receive and implement recommendations of the Ombudsperson.

1.5. Rights of child

On 14 January 2015, the Government of the Republic of Kosovo adopted the legislative programme by which it defined the list of laws to be promulgated and the ones to be amended and supplemented to regulate certain social areas. Within this programme drafting of the law for the protection of children was foreseen, which according to this programme would end on 30 October 2015, and was considered as one of the priorities of Government.

Drafting of the law for protection of the child has been part of the Government legislative programme since 2013. It seems it will remain part of the legislative programme also for 2016. By the end of November, it was not finalised to be sent for adoption by the Assembly of the Republic of Kosovo. Delays in drafting and approval makes it seem that the claims of government representatives that drafting constitutes one of the government's priorities in creating a relevant legal framework are only words. Relevant state institutions should with more seriousness and commitment undertake actions so that the process of drafting and adoption be done without further delays. In this regard, it should be followed with the quicker drafting and adoption of the Strategy and Action Plan for the rights of the child for 2016-2020. The process for drafting these documents started after the assessment of the Strategy and Action Plan for the Rights of the Child (2009 - 2013), completed by the United Nations Fund for Children (UNICEF) in the first part of 2015.

There is no doubt that the adoption of the Law in question and other relevant documents will facilitate and supplement the legal framework for protection and promotion of the rights of the child in Kosovo. However, drafting and adoption of laws, including the one for protection of the rights of the child, is not sufficient if laws are not implemented adequately, partially implemented or not implemented at all. The practical realisation of the rights of the child, their protection and their respect remain a challenge for Kosovo institutions. Kosovo

⁸⁴ *Recommendation Letter A. No. 67/2015, 16 February 2015*

institutions should coordinate and enhance efforts and actions in the respect, protection and implementation of the rights of the child, including here also the allocation of a sufficient budget for the protection and promotion of them in all levels. The government of the Republic of Kosovo should in reality place them at the top of its work agenda.

1.5.1. Complaints filed concerning the rights of the child

The OIK, during this reporting year, received 33 complaints, mainly filed by parents of children. Out of this number, 22 were accepted for investigation, while the others were declared inadmissible, since the matters they dealt with were outside the jurisdiction of the OIK, there was no violation of human rights, or the complainants were able to use or were using legal remedies.

1.5.2. Rights of the child in procedures before administrative and judicial organs

The OIK during this reporting period received a number of complaints against courts dealing with lengthy judicial procedures, relating to compensation of damage for the injuries suffered in traffic accidents, necessary for treatment and healing of the child suffering from the accident,⁸⁵ relating to the request for recognising the right to material support for families that have children with permanent disabilities under their care,⁸⁶ as well as for failing to implement final decisions, relating to the non-execution of personal contacts of children with parents.⁸⁷ In relation to non-realisation of contacts or the inability to realise regular contacts with children,⁸⁸ the OIK also received complaints against centres for social work.

In both situations, the OIK approached relevant institutions asking them to undertake necessary actions in order for children to be able to realise their rights, guaranteed also by the Convention on the Rights of the Child. Courts, namely centres for social work, should undertake all actions necessary so that cases of children or cases affecting the rights of the child be settled without delay, within the legal time-limits set, in order not to damage or risk the health of children, their welfare or their life. They should also undertake all actions necessary so that the best interest of children is primary during their work, including here work in the matters dealing with trust of children, or with the realisation / non-realisation of contact between children and parents.

⁸⁵ OIK, case A. no. 284/2014.

⁸⁶ OIK, case A. no. 231/2015.

⁸⁷ OIK, case A. no. 156/2015.

⁸⁸ OIK, case A. no. 180/2015.

1.5.3. The right of children to education

Providing quality education for all, inclusion of children with disabilities in education, provision of appropriate school infrastructure, as well as preventing and combating violence in schools, remain goals the achievement of which continuous engagement of the institutions of the Republic of Kosovo is required.

From the number of complaints received dealing with children's rights, eight of them refer to the right to education. In two of these complaints, upon completion of the investigation, it was concluded that there has been no violation of human rights, while two other complaints were resolved upon the request of the complainants, and others were not investigated.

Out of the complaints received, one refers to the issue of providing transportation for attending school for the children of one neighbourhood of Prishtina, whose parents due to inappropriate and insecure road, were thinking to withdraw their children from education. With the OIK's mediation and with the commitment of municipal authorities, these students were provided transportation and now they attend school. The provision of transportation was problematic also last year, including for children with disabilities. This year the OIK mediated with the relevant municipal authorities, namely the municipality of Gjakova to execute the payment of expenditures on the case in question of one student with disabilities, who attended classes at the respective school in Prizren.⁸⁹

Also relating to the enjoyment of the right to unhindered education, relating to difficulties and risks from vehicles when crossing the road to school, for the children of some upper secondary schools in the capital, the OIK initiated ex-officio investigations.⁹⁰ In cooperation with relevant institutions, it requested that the situation of traffic safety be assessed and relevant actions be undertaken to provide children safe access to school premises.

1.5.4. Rights of Children with disabilities

The situation of children with disabilities in Kosovo is very difficult. Lack of transportation to attend school is not the only barrier they are facing. From the complaints investigated through the years and information obtained from representatives of institutions and NGOs,⁹¹ it appears that they are facing numerous difficulties and barriers in all areas of life.

In the area of education, namely at school, they are also facing inadequate school infrastructure, lack of personal assistants, lack of supportive teachers and often lack of individual education plans, which is denying them the full enjoyment of the right to a quality, comprehensive education, as is set out by Law.

⁸⁹*OIK, case A.no.118/2015*

⁹⁰*OIK, case A. no. 577/2015.*

⁹¹*Information provided by representatives of state and non-state institutions, at the roundtable held on 3 December 2015, related to the situation of children with disabilities.*

In the area of health they are also encountering difficulties in relation to the realisation of the right to quality and free health services, since they are not always able to provide free medicines and other equipment that would enable the improvement of health, free movement and a life of dignity.

The inclusion and the provision of social services in the community is also scarce. There is a lack of daily centres where they can be treated, assisted or re-integrated as an equal part of society. In order to improve the situation of children with disabilities in all areas of life, the relevant competent institutions should undertake all actions necessary including offering the material support and allocating the necessary budget, so that they may enjoy their rights, in accordance with the Convention of the Rights of the Child (CRC).⁹²

1.5.5. Violence and the security situation in schools

Violence remains a worrying phenomenon in Kosovo's public schools. From the information available with the OIK it appears that the number of cases reported with the Kosovo Police⁹³ did not change much compared to the previous year, apart from the fact that during the year, there were no incidents that ended tragically with the loss of lives of students, as has happened in previous years.

Thus, the situation in protection and security in schools has not improved evidently despite attempts made by MEST. This year too, MEST in partnership with Office of the Good Governance/Office of the Prime Minister and the Kosovo Education Centre, within the obligations for the protection of children from all forms of violence, continued publicity activities relating to the implementation of the Protocol for the prevention and referral of Violence in Pre-University Education Institutions, no. 21/2013.⁹⁴

Children, students of lower middle and upper secondary schools, in meetings held with representatives of the OIK, said that they are unsatisfied with the security situation at their schools, the use of violence by certain teachers at their schools, but also by the fact that on the way to school and back they are endangered by stray dogs, and by vehicles moving at high speed. The data collected from representatives of some schools visited in Kosovo also

⁹² *The Convention on the Rights of the Child (CRC) is one of the most important acts of international law in the area of the rights of the child that is directly applicable by Kosovo institutions according to Article 22 of Constitution of the Republic of Kosovo.*

⁹³ *Information provided, among others, from the Kosovo Police representative in the Conference "What did or what should the state do to protect children," organised by NGO "Syri i Vizionit" in cooperation with Save the Children, held on 22 October 2015 in Prishtinë.*

⁹⁴ *Within the obligations for the protection of children from forms of violence, the Government of the Republic of Kosovo, on 6 September 2013, adopted GRK Regulation no. 21/20013 on the Protocol for Prevention and Referral of Violence in Pre-University Education Institutions. This protocol defined roles and responsibilities of educational institutions and other institutions for the prevention and treatment of cases of violence against children in pre-university institutions. In addition, the protocol also defines procedures of violence against children in pre-university education institutions.*

show the need to continue with information activities, as it seems that many representatives of these schools are not aware of their role and responsibility for prevention and referral of cases of violence in pre-university institutions. This is also confirmed by the investigations conducted by the OIK concerning a case of abuse of a child. It is more than indispensable that Kosovo institutions undertake all actions necessary to provide to children adequate protection and security not only in school environments but also on the way to school and the other way around. Moreover, in cases where it is suspected that children may have been victims of violence and maltreatment, all actions against the potential perpetrators should be taken, and disciplinary procedures, namely relevant judicial procedures, should be developed. Children are entitled to grow up without violence.

1.5.6. The children right to health

Realisation of the rights of the child, their position and their welfare is dependent also on the general social and economic situation in the country, which is serious for the majority of the Kosovo citizens, a part of whom are living in poverty. Poverty did not spare children either. A number of them face poverty and consequently problems related to welfare and health. In the health sector there is a lack of health services and adequate health treatment, which is violating their rights to quality health services. The health sector is one of the sectors least financed in the Republic of Kosovo, which results not only in the non-provision of quality services but also on the deferral of the implementation of institutional and legal reforms, adopted by the Kosovo Government. Citizens bear high costs for cure, it is considered that they include about 40-60% of health services. Poor citizens are most damaged, along with other vulnerable groups, such as children. Despite the fact that according to legislation in force, all health services for children are free-of-charge, in practice this does not occur. Patients (family members in the case of children) in the majority of cases are obliged to pay for the expenditures of supply with medicines or medical materials, which in the majority of cases are missing in hospitals, and suffer the consequences of non-provision of services and relevant medical assistance. Concerning the violation of this right, the Ombudsperson investigated ex-officio the case published in the article of daily newspapers, "Kosova Sot" and "Koha Ditore," relating to the claims for negligence of the Gynaecology personnel of KUCC in the case of the birth of the baby, in the corridor of the Gynaecology Clinics.

Such a situation in the health sector continues to obstruct the realization of basic needs for a better health for mothers and children, as is established under legislation in force. The Government of Kosovo, among others, through responsible mechanisms for public health institutions should ensure supply of medicines from the essential list of medicines and of other necessary material at all times, enhance oversight in health institutions of all levels in order not to deny children, among others, the right to adequate health care.

1.5.7. Street Children

As we mentioned above, the existence of a legal framework is not sufficient if relevant laws are not implemented adequately and sufficiently. There is no doubt that even relating to the issue of homeless children, there is relevant legislation, respective mechanisms have been created, plans and different documents have been drafted to prevent the heavy labour of begging children, child trafficking, etc. Institutions speak about the work done in this respect.⁹⁵ However, unfortunately all of this is called into question since every day on the streets of our towns we see children doing work which endangers their health—children collecting cans in garbage bins, children cleaning the window screens of vehicles, children selling chewing gum and other goods on streets and in cafes, even children begging. From all of these daily observations, there is the impression made that the number of children working is increasing, which increases the concern about whether there is enough being done for these children. Therefore, above all, Kosovo institutions should enhance their attempts depending on the needs, circumstances and their actual situation to give these children and their families adequate support and assistance, including material support too, so that they live their childhood, and live their life with dignity.

Thus, protection of children, improvement of their life should be done with maximum engagement by state institutions and other stakeholders working on this matter, but also with the engagement of the entire Kosovo society in general.

1.6. Freedom of Religion in Kosovo

The legal status of religious communities in Kosovo remains unresolved with the law during 2015 because the Law on amending and supplementing the Law on Freedom of Religion in Kosovo has not been approved, even though the approval of this Law was planned in the legislative programme of the Government of Kosovo for the year 2015. The Ombudsperson has noted in its annual reports of 2012, 2013 and 2014 the necessity to adopt this law.⁹⁶

Religious communities have been facing for many years the issue of returning property to religious communities, which in the last decades have been alienated through state processes or expropriation, now subject to the privatisation process. Legal framework on privatization is adopted in absence of the law on restitution.

The year 2015 is characterized by good inter-faith cooperation between all religious communities in Kosovo. From 27 to 30 May 2015 the fourth international religious

⁹⁵*Information provided by representatives of state and non-state institutions, in the regional conference for children at street, organised by OSCE Mission in Kosovo, in cooperation with Terre des Hommes and Kosovo Police held on 14 October 2015 in Prishtinë.*

⁹⁶*OIK, Annual Report 2012 pg. 40 , for year 2013 pg. 63 and for year 2014 pg. 57.*

conference in Prishtina was held, where representatives of all religious communities have participated, which aim was improving the dialogue between religions globally.

A special challenge which continues to follow Islamic Community of Kosovo (ICK) is lack of legal provisions that regulate registration of religious communities. The Law on Religious Freedom from 2006 does not contain provisions that regulate registration of religious communities in Kosovo. It results that the other religious communities in Kosovo are considered as branches of religious communities registered outside of Kosovo territory, ICK is considered an autonomous community within Kosovo and it is not possible to be registered due to lack of aforementioned provisions. Inability to be registered as a legal person in practice causes difficulties with respect to property matters, management of the possessions, donations, etc.

Whilst practicing of Islam, respectively wearing of headscarf in Kosovo continues to be the subject of media debate, there was lack of substantial treatment of this issue, in spite of OIK opinions in this regard.

The cause of this debate were provisions of secondary legislation which leave room to interpretations, whilst international standards directly applicable in Kosovo, emphasize that this issue of practicing this right is matter of discretionary right of the states in the spirit of the European Convention on Human Rights. Therefore, the only criterion of these standards is that this issue be regulated by law. In this regard, in order to offer legal security with respect to the abovementioned issue the Kosovo Assembly needs to, through the people's representatives, express the will of the majority by adopting a specific law, which would provide an adequate response in avoiding the ongoing debate.

The problems of the Serb Orthodox Church in Kosovo during 2015 were of the same nature as those of previous years. Among other issues is the lack of laws to regulate the legal status of religious communities and the issue of destroying religious buildings of OCK, although in comparison to previous years the number of such events and damages has diminished.

It should be noted, however, that the Christ the Saviour Temple in the centre of Prishtina on 15 June 2015 was used for alpine exercises, which is against the purpose of the temple and insults worshippers' feelings.⁹⁷ In Drsnik village, Municipality of Klina on 14 July 2015 the Saint Petka Church was smashed, money was stolen and icons were desecrated. In Bablak village, Municipality of Ferizaj on 8 September 2015 there was an attempt to burglarize the Holy Trinity Church. On 15 October 2015 in Rahovec stones were thrown at the Holy Virgin Church (. The Church called Crkva rođenja Presvete Bogorodice in Softovic in Municipality of Ferizaj and Saint Elias Church in Kačanik were smashed on 29 October 2015. The damage was done mainly on the doors and windows. A positive move was the OCK visit to the graveyard in Zadushnice and the local church in Gjakova on 7 December 2015, but it was supported by a strong Kosovo Police presence. Threats to priests and nuns

⁹⁷Ministry for Communities and Return, 15 June 2015, <http://www.mkk-ks.org/?page=3,12,865>, accessed on 9.12.2015

of the OCK and intimidations were recorded (through telephone calls addressed to nuns in the Gorioc Monastery of the Municipality of Istog, whereas threats were recorded against OCK priests in the east of Prishtina), stones were thrown at the curacy and there were attempts to stop prayers in religious buildings (Gjakova, Peja, Rahovec, Vushtrri, Mushitisht).

The most important issue to members of Catholic Church in Kosovo is adoption of a new law on freedom of religion and development of religious cooperation and dialogue. It should be noted that there were requests from Catholic Albanians in the municipality of Prishtina to enlarge and divide the graveyard parcel, but no response was given by the municipality. Also, it should be mentioned the disagreement of Llapushnik inhabitants, the Municipality of Drenas, in relation to beginning of construction of a church and the graveyard land, allocated by the Municipality of Drenas for this purpose. During the contact with the officials of the Catholic Church, we have been informed that this issue is expected to be resolved very soon.

The legal status of religious communities was one of the main issues of Protestant Evangelical Church in Kosovo for 2015. A bigger problem this community is facing is the lack of parcel for a graveyard in cities and places where they live, and the failure of local authorities to allocate a parcel and permit for construction of a Protestant Evangelical Church in Prishtina.

A “Jewish Week” manifestation has been held from 3 to 10 December for several years now, which is being held in different special settings through the display of the cultural heritage of the Jewish people in Kosovo. The Jewish Community in Kosovo has few members but is very active in interfaith dialogue. A positive change this year was the marking of the Jewish holiday, Hanukkah.

1.7. Gender Equality

Gender equality means the principles of equality before law for people of different genders. The achievement of gender equality is one of the main objectives and is a priority for the development of every democratic society, in which all its members will be treated equally in all situations without discrimination. Also, gender equality is a basic precondition of democracy for elimination of all forms of gender-based discrimination.

The concept of gender-based discrimination includes differentiation in treatment, limitation or exclusion based on gender, which endangers or prevents enjoyment or exercise of human rights and freedoms in society, culture and other areas. Whatever differentiation in treatment is discriminatory only when there is no objective or reasonable objective.

The Constitution of the Republic of Kosovo guarantees the right to legal protection without discrimination and equality of all citizens before the law, regardless of gender, language,

ethnic affiliation, political, religious, cultural, economic status, sexual orientation or some other status of citizens.⁹⁸

Although the Republic of Kosovo in 2004 adopted the Law on Gender Equality, during its implementation different problems were encountered. In 2015, following the process of amending and supplementing of this law, the Law on Gender Equality No. 05/L-020 entered into force. In addition, the Law on Protection from Discrimination no. 05/L-021 and the Law on Ombudsperson no. 05/L-019 entered in force.

Due to its status, the Republic of Kosovo was not a signatory of international instruments such as CEDAW. The Constitution of the Republic of Kosovo obliges all institutions of Kosovo to implement human rights instruments, including the Convention on the Elimination of All Forms of Discrimination Against women, which has prevalence over the domestic law.

1.7.1. Law on Gender Equality no. 05/L-020

The overall objective of the Law on Gender Equality no. 05/-020 is the promotion and securing of equality between women and men and the guarantee of equal opportunities in all fields of life. The new law defines new leading principles such as gender harmonisation, responsible gender budgeting and gender identity. It also gives a comprehensive definition of gender discrimination.

In the Law on Gender Equality, the in clarity of the previous law on the distribution of competences to different bodies was corrected, up to a certain extent. According to this law the main institution responsible for the implementation of this law is the Gender Equality Agency, which drafts the Kosovo Programme on Gender Equality and provides gender harmonisation and gender budgeting, while the Ombudsperson Institution is now a non-judicial body managing cases on gender discrimination. Article 13 of the Law on Gender Equality sets out the Ombudsperson as an equality institution, which handles cases related to gender discrimination in accordance with procedures provided for by the Law on Ombudsperson, while at the level of ministries and municipalities, this law sets out the officers for gender equality as the main actors for securing the implementation of the law in question.

Also, the recommendation of the Ombudsperson given in previous annual reports, according to which it was recommended to give legal protection and the selection of a competent body (administrative and judicial) for handling cases of gender-based discrimination, was implemented in the Law on Gender Equality. This recommendation was implemented by Article 22 of the Law on Gender Equality, which states that concerning the legal protection of the right to equal treatment of women and men, persons who consider that the principle

⁹⁸ *Constitution of the Republic of Kosovo, Article 3 and Article 24*

of equal treatment has not been implemented in their case may initiate procedures and shall submit evidence to the administrative authority or to the competent court in accordance with the provisions of the Law on Protection from Discrimination.⁹⁹

1.7.2. Right to employment

The high rate of unemployment, traditional gender roles, and economic factors in the Republic of Kosovo hinder the opportunities of the female gender to compete in the labour market. For gender equality the position of the woman in the labour market is very important. Chances are higher for men to find employment, in particular senior positions, even when there are women with same qualifications. In eliminating the inequality between women and men the inclusion of special measures in the legislation plays an important role, namely the establishment of a quota for the gender less represented, aiming at the elimination of the gender discrimination. Under the previous Law on Gender Equality, unequal representation existed at the time, when the representation of one gender was lower than 40%. With the new Law on Gender Equality the gender quota has increased to 50%. The representation quota in essence initially enables the creation of a culture for equal participation of women and men which after a period of time shall be substituted with real competition. Other aspects of discrimination in the area of work are presented by the illegal firing of women from work, obstacles to promotions at work and non-provision of opportunities for professional training and continuous advancement.

It should be highlighted that there are cases when discrimination starts upon the announcement of advertisements for job vacancies, where one of the criteria for employment is gender.

All of this clearly speaks to the fact that there is a lot of work to be done in order to properly strengthen the legal system with its built-in protective mechanisms for the prevention and prohibition of discrimination at work and in hiring.

1.7.3. The right to property and inheritance

Another obstacle in the independent life of many women in the Republic of Kosovo is the fact that in most cases they do not possess any private property or real estate. Laws in force give men and women equal rights related to property inheritance, but usually, the property belongs to men. This phenomenon occurs more often in rural areas.

Denial of property to women, insufficient education, and the advantage of male members of the family in education are characteristics of custom which considerably continue to have

⁹⁹*Law on Gender Equality no.05/L-020, Article22*

influence in Kosovo society. Among cases in which women asked for part of the family property, there were instances when they were threatened by their spouses or other family male members.¹⁰⁰

Concerning the position of women in our society, there are still considerable differences between rural and urban areas. In rural areas, due to traditions and customs, the social position of women is less favourable, is not equal to the one of her spouse and society is not much aware of the concept of gender equality. In urban areas society is more aware of gender, although not in a desired level.

1.7.4. Right to health protection

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), at Article 12, recognises the right to health insurance. This means the positive obligation of states to undertake actions in order to eliminate all forms of discrimination concerning health insurance. The CEDAW Convention, according to the Constitution has prevalence over domestic laws. The Ombudsperson continuously recommended adoption of the Law on Health Protection and Social Security,¹⁰¹ but this recommendation still has not been implemented. Regardless of the reasoning of the Government of Kosovo, the failure to implement this Law constitutes one of the most serious violations of human rights in Kosovo. The implementation of this Law will considerably secure the financing of health care and the improvement of the quality of services.

One of the cases investigated by the OIK concerning the right to health was a case initiated *ex officio* by the Ombudsperson according to an article in the daily newspapers on 9 March 2015. The case deals with the claim of negligence on the part of the personnel of the Gynecology Unit in KUCC, where, according to the declaration of the complainant, she gave birth to the baby in the corridor of this clinic, without being able to reach the delivery room. Following the investigation by the Ombudsperson, it was found that the Gynecology Unit took all actions to punish the personnel involved in the case that the complainant complained about.¹⁰²

1.7.5. Domestic violence

¹⁰⁰Complaint was repeated for judiciary monitoring for 2015. The complainant repeated the same complaint since her uncle made it unable for her to become house owner which her father built it in the joint family yard. Procedure has been conducted in the Basic Court in Prishtinë.

¹⁰¹Tenth OIK Annual Report, Eleventh OIK Annual Report, Twelfth OIK Annual, Thirteenth OIK Annual Report, Fourteenth OIK Annual Report, Gender Equality

¹⁰²OIK Case A.no.104/2015

Domestic violence continues to be present in Kosovo society. It constitutes a violation of human rights, is a basis of discrimination against women and continues to be a big problem for all communities in Kosovo. Only a small number of cases are reported to competent authorities. In the cases reported, the reaction and the actions of the competent bodies are not at the appropriate level. In the majority of cases, women remain victims not only of the violence exercised by their husbands, but of the inactions and negligence of institutions whose mandate is the provision of protection and assistance. On 3 November 2015, the OIK initiated ex officio investigations concerning the failure to undertake necessary actions for protection from domestic violence by the relevant institutions, based on an article of the newspaper “Koha Ditore,” according to which a woman was deprived of her life by her husband even though prior to this she had denounced the violence to responsible institutions.¹⁰³

Different social, economic and cultural factors have made it so that the level of violence in Kosovo remains unchanged. Unemployment and poverty do not justify domestic violence. Among the main problems making the position of victims difficult is economic dependency, but social factors are also very important in cases of domestic violence.

An obstacle to present cases is also social pressure and prejudices, according to which domestic violence is considered a shameful and a private issue, which should not go beyond the family circle.

Many times, the OIK monitored judicial proceedings in cases where victims of violence asked for assistance and monitoring of these processes within courts. Although there is a solid legal framework, we should emphasise that the implementation of this framework is not at the appropriate level. It is important to emphasize that prolongation of the judicial processes of cases dealing with domestic violence is very discouraging for such cases to be brought before the courts.

1.7.6. Women, survivors of sexual violence during war

Survivors of sexual violence during war who are women and girls are a category that was not legally recognized by Kosovo society. In the Republic of Kosovo a lot has been debated about this part of society. However, there is little to no discussion at all about survivors of sexual violence who are men and boys.

In the previous report, the Ombudsperson asked not only for legal support but also for financial and health support for victims of violence during war.

Women and girl victims of the war in Kosovo should be provided with institutional support and the relevant legal infrastructure, with a special focus on eliminating prejudices against this part of society. Kosovo society should engage more in their development, education,

¹⁰³ OIK Case A.no.533/2015

and emancipation in order to provide them with more opportunities for dignity and prosperity. Although the Kosovo Assembly, on 20 March 2014, adopted Law no. 04/L-172 on amending and supplementing Law no. 04/1-054 on the Status and Rights of Martyrs, Invalids, Veterans and Members of the Kosovo Liberation Army, Civilian Victims and their Family Members in relation to the compensation of victims of sexual violence, still not much has been done in the implementation of this law by responsible institutions.

The Ombudsperson Institution, based on the rule of law in Kosovo, also supports the issue of victims of sexual violence during war, in order that they enjoy their rights as civil victims of war. In this regard, a case filed by the victim of sexual violence during the war was registered with OIK.¹⁰⁴

1.7.7. Position of the LGBT population in Kosovo

Members of the LGBT population in Kosovo still represent one of the most endangered communities. The rights of the members of these communities are still at a low level, although there is a solid legal basis for their protection.

Problems the LGBT population faced during 2015 were similar to the ones in previous years. Rejection, stigmatisation and prejudices to which they were exposed in society and within their families, inability to gather freely to express their opinions, and the constant presence of fear from the reaction of the social environment are part of the daily life of the LGBT population in Kosovo. Although the Ombudsperson Institution has established contacts with representatives of organisations dealing with issues of LGBT population and encourages members of LGBT community to report cases of rights violations they are facing, during 2015 it received only one complaint of this nature.¹⁰⁵

It is important to emphasize that the LGBT population could seek support from the Office of Good Governance, and the Advisory Group, which serves as a mechanism for coordination and advising of institutions on the issues dealing with protection and promotion of the rights of the LGBT population.

During 2015, the implementation of the EU Twinning Project was very important. The basic objective of this project was to work toward and monitor the approval of new laws for the protection of the rights of LGBT persons, the increase of the level of awareness-raising of the population on their situation, as well as psychological counseling and empowerment, and the interrelation of different organisations that may contribute to the protection of the rights of the LGBT community.

In addition, by adoption of package of the human rights laws the advancement of rights of the LGTB is aimed. The Law on Gender Equality, Article 14.3, clearly prohibits the public

¹⁰⁴ Case A.no 27/2015

¹⁰⁵ IO Case A.nr.27/2015

appearance of any individual in any offensive, contemptuous or humiliating manner concerning gender or sexual orientation,¹⁰⁶ which shall provide for the possibility to sanction persons who in whatever manner offends LGBT persons, based on their sexual orientation.

During the reporting period there were numerous activities held in order to promote the rights of LGBT persons. The Office of Good Governance within the OPM, in cooperation with NGOs dealing with the protection and promotion of LGBT rights, on 17 May 2015, marking the International Day against Homophobia and Transphobia in Kosovo, organised a conference on “Realisation of the rights of the LGBT community in Kosovo”.¹⁰⁷ In addition, on the same occasion, on 17 May 2015, in the centre of Prishtina, a march of the LGBT community was held, and those supporting their sexual orientations as well.

Within the EU Twining project, “Normally different,” there was a training held for 15 persons from different state institutions who are specialised in the encouragement of the promotion of equal possibilities and equal treatment.

The education of the population on the existence of the rights of sexual minorities is one of the main problems in Kosovo, since in general there is no basic information on the existence of the rights of LGBT persons. Education not only would prevent the spread of all present misunderstandings and prejudices against this group of people, but also is one of the basic preconditions for accepting and involving this isolated minority group in general in community and society. The success of their integration in society will undoubtedly represent success not only in the country but also of society, which could accept such persons as they are, but unfortunately this is still not the case in Kosovo.

1.8. PROHIBITION OF TORTURE

1.8.1. National prevention mechanism against torture (NPM)

With the new law on the Ombudsperson, for the first time the National Prevention Mechanism against Torture and Cruel, Inhuman or Degrading Treatment or Punishment was legally recognised as a special structure within the Ombudsperson Institution. In accordance with this and as the Law sets out, the Ombudsperson upon a special decision established the National Prevention Mechanism against Torture within the Ombudsperson Institution. The objective of the activities of the NPMT is the implementation of regular visits in all areas of public institutions where the freedom of the individual is limited. Problems identified will be discussed in periodic national and international reports a, in order to promote the continuous respect and improvement of standards of the treatments of persons deprived of

¹⁰⁶ Law on Gender Equality Article 14.3, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923>

¹⁰⁷ Conference dated 17 May 2015 named “Normally Different”

liberty. Also, the improvement of standards of treatment of persons serving in these institutions will be promoted.

The Ombudsperson Institution being an independent institution with the mandate to protect and promote the human rights would best guarantee the professional and independent exercise of the obligations of the NPMT, as is foreseen by the OPCAT.

During its activity, the NPMT will cooperate and coordinate their actions with other departments of the Ombudsperson Institution.

Since the role and the activity of the NPMT is very important, the Ombudsperson, in cooperation with the Kosovo Rehabilitation Centre for Torture Victims (KRCT) and the Council for the Defence of Human Rights and Freedoms (CDHRF), who have also acted as a working group since 2011, has organised and developed meetings, conferences, seminars, study visits, etc., to promote the role of the NPMT.¹⁰⁸

The National Prevention Mechanism for Torture, in the fulfillment of its legal functions, will closely cooperate with civil society organisations that are specialised in this area. This cooperation is based on the provision of quality expertise by professionals of various fields such as doctors, psychologists, sociologists, etc., according to OPCAT standards.

In the field of cooperation and promotion of the NPMT's work in the international area, members of the NPMT have participated in meetings of the Network of South East Europe Mechanisms with the NPM Europe (SEE NPMT network).

The committee for the Prevention of Torture (CPT) visited Kosovo in April, the members of which met with the Ombudsperson. In the future, it shall be an obligation for the Ombudsperson to report on the role of the NPMT as is done by other states that have already established an NPMT according to OPCAT.

Due to the sensitivity of its work and the problems it handles, the prevention of torture and cruel treatment, the NPMT may face challenges and difficulties, in the sense of lack of human and financial resources. But we believe that the cooperation we have built through the years with state institutions will facilitate the work of the NPMT, for a better and as fair reporting as possible.

The Ombudsperson will continue cooperation with MoD, MIA, MoH, MLSW, etc., for better functioning and coordination of activities. On the other hand, the staff professional advancement of the NPMT will continue, in order to acquire knowledge so to develop its own activities. based During regular and unannounced visits, in which the complaints boxes were opened as well, the OIK received complaints on the maltreatment or exceeding of duties on the part of prison officers in the Detention Centre in Gjilan¹⁰⁹ and High Security

¹⁰⁸ OIK, KRCT, CDHRF on 10 May 2011, signed a Cooperation Agreement which foresees the creation of a Task Force – Working Group, which lobbied for creating a Prevention Mechanism against torture in Kosovo and acted until the legal recognition of NPMT, which is foreseen under Law on Ombudsperson, No. 05/L-019.

¹⁰⁹ IO Case A.no. 134/2015 P.D.F against Detention Centre in Gjilan

Prison.¹¹⁰ Investigations were initiated for these complaints and are in progress. The OIK has not received any complaints that there was a denial of the right to immediately inform one's family, the right to be visited by a doctor and the right to have a lawyer. Complaints are addressed against the decision of courts, the Conditional Release Panel (CRP), regarding health treatment, weekends, transfers, extraditions, etc. Complaints have also been addressed against the phenomena of corruption and favoritism, not only against the prison staff but the medical staff as well.

The OIK visited mental health and social care institutions, as well as the Asylum Centre, which do not represent places of deprivation of liberty in the classic meaning, but the OIK visits these places in accordance with the competencies set forth in Articles 4 and 20 of the Optional Protocol of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹¹¹

Visits to these institutions have taken place in full cooperation with the administration of Prisons and Correctional Service, the Ministry of Justice, the Ministry of Labour and Social Welfare, and the Ministry of Health. Moreover, cooperation continued in order to promote protection of the rights of prisoners.¹¹²

1.8.2. Complaints of persons deprived of liberty

During 2015 OIK conducted monthly monitoring visits in prisons and detention centres. During these visits, 174 persons were interviewed and, of them, 64 complaints were initiated for further investigations.

The OIK also managed to conduct visits in detention centres (Police stations) in seven regional directorates, but did not manage to visit detention centres at borders. In visiting these centres, where complaints boxes have been installed, the OIK did not receive any complaint from persons detained regarding violations of human rights by the officers of centres, but it received complaints about the use of force by police at the stage of interviewing, including slapping, kicking, and punching in order to force a confession or to arrive at the truth. The use of force by police occurred in several cases, after they took people under their control or after the arrest, in some cases of participants of the protests through other forms of complaining. The OIK received 101 complaints against the KP. Of those, 40 cases were opened, 59 were declared inadmissible.¹¹³

¹¹⁰ *IO Case A.no.228/2015 Sh.A against High Security Prison*

¹¹¹ *OPCAT has been adopted on 18 December 2002 in the 57th Session of the UN General Assembly, with the Resolution A/RES/57/199 and has entered into force on 23 June 2006*

¹¹² *Project of the Helsinki Committee of the Netherlands "Improvement of Conditions and Treatment of Minors aiming reintegration in correction centres"*

¹¹³ *Report with Recommendations A.no.89/2015 SH.J against Kosovo Police, published in the IO webpage on 3 November 2015*

During 2015, other institutions where the freedom of movement is limited were visited as well, such as, mental health institutes continue to be confronted with insufficient professional staff and lack of training, although there were improvements in the regulation of the infrastructure in general.

This year visits were conducted in all mental health institutions managed by the Ministry of Labour and Social Welfare (MLSW), where persons with mental disabilities or stagnation in development are treated. The monitoring was conducted in order to examine the conditions under which mentally ill persons are held, their treatment, and conditions in which work is done. Monitoring findings are discussed in a roundtable with main stakeholders in the field; concrete recommendations were made which will be published in a special report,¹¹⁴ while in 2016, another discussion roundtable is planned to be held to present the findings of monitoring of those institutions managed by the Ministry of Health (MoH), where persons with psychiatric diseases are treated.

1.8.3. Conditional release

The conditional release panel continued reviewing cases of persons that applied to be granted this right, holding three sessions every month, and reviewing 12-13 and up to 15 cases per session. During 2015, 418 persons applied for conditional release, and release was granted to 115 detained people, a number considerably higher compared to previous years.¹¹⁵

Out of the total number of the released, four were minors and five women. All persons released by the CRP were under the supervision of the Kosovo Probation Service (KPS). KPS has also had under its supervision cases inherited from previous years, 47 persons. Thus, in total there were 62 persons released from prison under the supervision of KPS for 2015. The supervision of KPS was successfully done by 70 persons and there were no cases of revoking conditional release.¹¹⁶

During this reporting year, the OIK monitored CRP sessions, since it constantly received complaints against the CRP, due to the small number of the released people, non-timely information on decisions taken, and deficiencies in the drafting of decisions, which in many cases were not justified appropriately. The OIK initiated investigations of five complaints against the CRP, which are being processed. In the majority of cases, the OIK communicated with detainees by phone or through e-mail to obtain information concerning the cases and to keep the detainees informed.

¹¹⁴ Roundtable held on 23 December 2015, on, "Removing working ability for persons with mental disabilities – stagnation in mental development" organised by OIK supported by OSCE;

¹¹⁵ OIK statistics were provided by the coordinator of PLK, Mr Bedri Duraku, through telephone, dated 29 December 2015;

¹¹⁶ OIK statistics were provided through e-mail by Ms Metije Ademi, Head of Division for Conditional release and programmes, dated 11 January 2016

The OIK held a discussion roundtable with members of the Conditional Release Panel and other relevant stakeholders, in order to discuss the procedures to be followed and challenges that the CRP and the Correctional Service are facing in the treatment of applications for this right. The recommendations made by the roundtable were sent to participants of the roundtable, serving to improve their work in the future.¹¹⁷

1.8.4. Monitoring and visits to places where persons deprived of freedom are held

In 2015, the Ombudsperson, in accordance with its constitutional and legal mandate, conducted regular monthly visits to all places where freedom of movement is restricted, to ensure full monitoring coverage of the situation on human rights in such institutions, prevention of violations of human rights and presentation of the real situation on the ground.¹¹⁸

The OIK monitored the treatment of detained persons with mental problems who, having committed a criminal offence, are serving their sentence in the Kosovo Institute of Forensic Psychiatry (IKFP).¹¹⁹ The opening of this institute was considered a big achievement, where along with psychiatric and forensic expertise, there is also compulsory treatment, which eased the overcrowding of prisons on the one hand and the violation of the human rights on the other.

The OIK received a number of complaints regarding mental health treatment in correctional institutions, the lack of medicines, inadequate treatment, and favoritism toward certain persons by medical staff, and other issues associated with health.

II. SUMMARY OF REPORTS WITH RECOMMENDATIONS

Based on the authorisation given to the Ombudsperson Institution according to Article 135, paragraph 3 of the Constitution of the Republic of Kosovo, and Article 16, paragraph 8 and Article 27 of Law on Ombudsperson no. 05/L-019, the OIK published the following reports during 2015.

2.1. Cases A.no: 48/2012 Xhevdet Kalludra; A.no.176/2012 Mexhit Balijs; A.no.125/2013 Abdylqerim Mripa; A.no. 36/2015 Hajrullah Bahtiri; A.no.49/2015 Muhamed Sherifi against the Kosovo Property Agency

¹¹⁷ Roundtable held on 21 December 2015, on: "Treatment of cases in the procedure for conditional release", organised by Ombudsperson, with the support of OIK;

¹¹⁸ Constitution of the Republic of Kosovo, Article 27 : "No one shall be subject to torture, cruel, inhuman or degrading treatment or punishment".

¹¹⁹ On 13 May 2014, the IPFK was opened;

On 12 March 2015, the Ombudsperson published a report with recommendations concerning the case. The issue of the case was raised separately by a number of citizens, the properties of whom are in Mitrovica North. The properties in question are under the administration of the KPA, based on the final decisions of Property and Housing Claims Commission of the Department for Property and Housing Claims. The properties are included in the rental scheme of the KPA, for which the complainants should receive a monthly rent, or in the alternative, the KPA should vacate the illegal occupiers from those properties, in cooperation with Kosovo Police. However, due to the refusal by the current occupiers of properties to pay rent or to vacate the properties, on the one hand, and due to the failure of the Kosovo Police to provide proper support to the KPA on the other hand, final decisions concerning these properties have practically remained unimplemented.

In this regard, the Ombudsperson identified violations of the right to property, violation of the right to fair and impartial judgement, as well as violation of the right to privacy, and recommended that: the Kosovo Property Agency should implement final decisions of the Property and Housing Claims Commission; the Government of the Republic of Kosovo, namely the Ministry of Internal Affairs, and the Kosovo Police, should provide support to the Kosovo Property Agency and should undertake all measures to create conditions for the restitution of possession for the displaced persons, as the only legal and sustainable solution; The Government of the Republic of Kosovo should create a fund for compensation in the name of rent for the housing properties of the displaced people, which are under the administration of the Kosovo Property Agency and for which it has been proved that they have been used without authorisation, for which the agency could not implement the rental scheme.

The Ombudsperson received a response from the KPA claiming that they lack the support of enforcement bodies in the implementation of final decisions, while he received no response from the Government of Kosovo relating to reporting within the deadline set in the report, even after a letter of reminder was sent to the Prime Minister, at the end of 2015.

2.2. Ex officio case no. 517/2015, concerning judicial proceedings on complaints against preliminary decisions for the expropriation of immovable property

On 16 October 2015, the Ombudsperson published a Report with Recommendations for the Assembly of the Republic of Kosovo concerning the case mentioned above. The Ombudsperson noted that Law No. 03/L-139 (amended and supplemented by Law no. 03/L-205) on expropriation of immovable property, sets out a special procedure for judicial complaints against preliminary decisions on expropriation issued by the Government or municipality. According to this procedure, upon presentation of a complaint against a preliminary decision, “the court ... shall issue its judgment on the case within thirty (30) calendar days after receiving the Expropriating Authority's response [to the complaint filed]” (*id.*, article 35, paragraph 6, sub-paragraphs 3) and “[i]f the court does not issue the

judgment within a period of thirty (30) days ... the court shall be deemed that it has finally issued a judgement on the rejection of the complaint in whole immediately after the expiry of this period of thirty (30) days” (*id.*, article 35, paragraph 8).

The Ombudsperson recommended to the Assembly of the Republic of Kosovo to delete entirely Article 35, paragraph 6, sub-paragraphs 3 and 4 of Law no. 03/L-139 (amended and supplemented by Law no. 03/L-205) on expropriation of immovable property: “Immediately after receiving the Expropriating Authority’s response, the court ... shall issue a judgement on the case within a period of thirty (30) calendar days after receiving the expropriating authority’s response; and sets time limits for the completion of procedures in the case in order to enable the issuance of a judgment within the period mentioned above of thirty (30) calendar days”; To delete entirely Article 35, paragraph 8 of Law no. 03/L-139 (amended and supplemented by Law no. 03/L-205) on expropriation of immovable property: “If the court does not issue the judgment within a period of thirty (30) days set out in sub-paragraph 6.3, paragraph 6 of this article, the court shall be deemed that it has finally issued a judgement on the rejection of the complaint in whole immediately after the expiry of this period of thirty (30) days; To delete entirely article 35, paragraph 13, sub-paragraph 3 and 4 of Law no. 03/L-139 (amended and supplemented by Law no. 03/L-205) on expropriation of immovable property: “After receiving the appeal, the appellate court. . . shall issue its judgment on the appeal within thirty (30) calendar days after the date of receiving the response of the other party or after the fifteen (15) day expiry period, for the submission of responses, whichever occurs earlier; and shall schedule all proceedings in the appeal in a manner that will enable the appellate court to issue its judgment within such thirty (30) day period”

The Commission for Legislation, Mandates, and Immunities, Rules of Procedure of the Assembly and Supervision of the Anti-Corruption Agency of the Assembly of the Republic of Kosovo, in a meeting held on 1 December 2015, reviewed the report with recommendations of the Ombudsperson and recommended that the Commission for Agriculture, Forestry, Environment and Spatial Planning in cooperation with the Ministry of Environment and Spatial Planning should coordinate when preparing the legislative programme for 2016, and the initiative should be taken to amend and supplement Law no. 03/L-139 (amended and supplemented by Law no. 03/L-205) on expropriation of immovable property. However, the government legislative strategy for 2016 did not include the amending and supplementing of this law.

2.3. Case A. no. 201/2015 Behram Krasniqi against Government commission for recognition and verification of the status of the national martyr, invalid of the Kosovo Liberation Army, or the internee of the Kosovo Liberation Army

On 23 October 2015, the Ombudsperson published a report with recommendations concerning the case. The issue of the case was raised by Mr Behram Krasniqi, a member of the Commission of Families of National Martyrs against the Government Commission for Recognition and Verification of the Status of the National Martyr, Invalid of the Kosovo Liberation Army, or Internee of the Kosovo Liberation Army, due to the non-recognition of the status of martyrs fallen within the period of 1968-1990. Mr Krasniqi stated that Article 8, paragraph 2 of Law sets out that rights to pensions and benefits for the families of martyrs and missing members of KLA are realised also for all families of the national martyrs, fallen in different forms for the freedom of the country in different historical periods. The Government Commission for Recognition and Verification of the Status of the National Martyr, Invalid of the Kosovo Liberation Army, or the Internee of the Kosovo Liberation Army, rejected the requests of the family members of national martyrs fallen within the period of 1968-1990. According to the complainant, the reasons for rejection were that the Government Commission declared that it was not competent to decide related to a category of national martyrs fallen within this period.

After reviewing the complaint, the Ombudsperson concluded that Article 8, paragraph 2 of the Law has created legitimate expectations for the family members of national martyrs fallen in different historical periods relating to the realisation of their rights. Failure to meet the legitimate expectations of the family members of national martyrs by the authorities of the Republic of Kosovo constitutes a violation of their rights set out by law.

In this regard, the Ombudsperson recommended that the Government of the Republic of Kosovo should give a mandate to the Government commission for recognition and verification of the status of the national martyr, invalid of the Kosovo Liberation Army, or the internee of the Kosovo Liberation Army to establish a new commission which would review requests for recognition of the status of national martyrs fallen in different historical periods according to the determination of the law itself; the Ministry of Labour and Social Welfare, with the support of the Government of the Republic of Kosovo, should undertake an initiative for amending and supplementing Law no. 04/L-054, on the Status and the rights of martyrs, invalids, veterans, Kosovo Liberation Army members, in order that definitions of the law are in harmony with the contents of the law.

The Ombudsperson has not received a response relating to the report within the deadline set by report even after the sending a reminder letter to the Prime Minister and Minister of the MLSW at the end of 2015.

2.4. Cases: A.no.23/2014 Pjetër Saliquni and others; 473/2014 Zvonimir Vasić and others against the Privatisation Agency of Kosovo relating to delays in the appointment of the members of the Board of Directors of the Privatisation Agency of Kosovo

On 30 October 2015, the Ombudsperson published a Report with recommendations relating to this case. The issue of the case was raised separately by the complainants, concerning delays in the distribution of the means and compensation of creditors of socially owned enterprises in liquidation. The respective socially owned enterprises in liquidation which are under the management of the PAK owe several monthly salaries to the complainants, the compensation of which has been ordered by court decisions, which have not been implemented because in order to compensate salaries, the approval of the Board of Directors of the PAK is necessary. The Board of Directors of the PAK holds all the competencies of PAK. The Board of the PAK is comprised of eight members, three of which are internationals, appointed by the International Civil Representative, and the five others of which are locals, appointed by the Assembly of the Republic of Kosovo. The mandate of the three international members expired on 31 August 2014 and ever since then the Board of the PAK has been dysfunctional, due to the lack of a quorum, while at the end of 2014 and at the beginning of 2015, the Board of the PAK lost its local members too. The delay in the appointment of the members of the Board of Directors could have been affected by different circumstances, but such a delay according to the Ombudsperson caused interference in the property right of the complainants and violation of the right to a fair and impartial judgement, because the execution of final decisions, in this case decisions for compensation, should be considered as an integral part of the judgement.

Therefore, the Ombudsperson in the Report with recommendations dated 30 October 2015, recommended that the Government of the Republic of Kosovo should undertake all actions necessary for proposing three members of the Board of Directors of the PAK, according to Article 4, paragraph 3 of Law no. 04/L-115 on amending and supplementing laws dealing with the completion of the International Supervision of the Independence of Kosovo; that the Assembly of the Republic of Kosovo should appoint members of the Board of PAK, in order that the board is complete and is made functional and should have at least the quorum required, as soon as possible, in order to prevent violations caused by the lack of a Board; that the stakeholders involved in the issues of the proposal and appointment of the members of the Board of Directors of PAK to establish be procedures for the appointment of the three members, who until 31 August 2014 had been appointed by the International Civil Representative.

The Ombudsperson received no response from the stakeholders involved in the process of appointment of the members of the Board of Directors; however, on 18 December 2015 the Assembly of the Republic of Kosovo appointed members of the Board of Directors of PAK.

2.5. Case no. 302/2012 Agim Memaj against Special Chamber of the Supreme Court of Kosovo related to procedural delays from Special Chamber of Supreme Court of Kosovo in the settlement of the case SR-11-0315/C-III-12-1993, dealing with the handing over of real estate of KBI “Progres” in Prizren.

On 23 February 2015, the Ombudsperson Published a Report with Recommendations for the Special Chamber of Supreme Court (SCSC) relating to the above-mentioned case.

The Ombudsperson found that there were violations of the right to a fair judicial process, within a reasonable timeframe and the right to effective legal remedies to decide on the case of the complainant. In the civil procedures, the time to take into consideration when concluding the delay of procedures is calculated from the moment of the initiation of procedures, which in the present case started from the moment when the complainant filed a lawsuit in 2005.

Therefore, the Ombudsperson recommended the Special Chamber of Supreme Court to take immediate measures for review and decision on the merits, without further delay on the judicial case of Mr Agim Memaj.

On 22 April 2014, the Ombudsperson received a response from the SCSC, where among other things it is mentioned that the length of case procedures mainly has to do with the need of translation of files in English, the replacement of judges and legal officers assigned to the case and amendments in the law concerning jurisdiction.

2.6. Case no. 602/2014 Sali Rexhepi against the Correctional Service of Kosovo due to the non-realisation of the right to education according to the Law on Execution of Criminal Sanctions, No. 04/L-149

On 13 May 2015, the Ombudsperson published a report with recommendations for Mr Hajredin Kuçi, Minister of Justice of the Republic of Kosovo concerning the above-mentioned case.

During the visit to the Dubrava prison, the OIK received a complaint from Mr Sali Rexhepi against the directorate of the Correctional Centre in Dubravë, relating to its request to continue unfinished exams at the Faculty of Education, according to the programme of the Ministry of Education, Science and Technology (MEST) for education and advancement of teachers. Mr. Rexhepi expressed his concern related to the Kosovo Correctional Service’s failure to answer his request to continue education. According to him, if he does not sit the unfinished exams in March and April 2015, he will lose the right to continue his education, since it is the last opportunity for his generation according to the MEST programme. According to Mr. Rexhepi, some prisoners are allowed to continue education, which was

confirmed also by the officers of Kosovo Correctional Service in communication with OIK officers.

The Ombudsperson found that the lack of a decision from the Kosovo Correctional Service to allow or not to allow the continued education of Mr. Rexhepi violated his right to legal remedies. When some prisoners who are serving the sentence are allowed to continue their education with administrative permissions or during weekends, this puts them in an unequal position vis-à-vis other persons deprived of this liberty.

Therefore, the Ombudsperson recommended that the Ministry of Justice, the Ministry of Education and the Kosovo Correctional Service should undertake immediate measures for the issuance of sublegal acts, which are required according to Article 249 of the Law on Execution of Penal Sanctions, through which the procedure for continuing higher education for the persons serving sentences is regulated; a decision should be issued and based on the administrative permissions which are used for other cases in correctional services, and in cooperation with the Ministry of Education, Science and Technology, the complaints should be allowed to take the unfinished exams; the responsible authorities of the Kosovo Correctional Service for the implementation of laws should respond in writing within legal time limits to all submissions addressed by the persons sentenced, as a constitutional and legal right of all citizens for using effective legal remedies and judicial protection of rights.

The Ombudsperson received a response from the acting director of the Kosovo Correctional Service who states that until a sublegal act on university education is issued, it remains for the prisoners to realise their right to education by meeting the conditions provided for, for the realisation of benefits or leave outside prison.

2.7. Ex officio no.498 /2015 concerning the erection of the “Parku i Paqes (Peace Park)”, “Square Car Lazar”, “Square UÇK” and “Square Adem Jashari”, in the Municipality of Mitrovica North

On 29 May 2015, the Ombudsperson published a report with recommendations for the Government of the Republic of Kosovo relating to the case mentioned above. Starting in June 2014, four constructions in the Municipality of Mitrovica North were constructed or were being constructed. These constructions are the so called “Parku i Paqes (Peace Park)”, “Square Car Lazar”, “Square Adem Jashari” and “Square UÇK”.

The Ombudsperson considered that a treatment of this issue and a legal and constitutional analysis of the situation from the point of view human rights is missing. In order to fill this gap, the Ombudsperson decided to initiate investigations on his own initiative concerning these constructions, upon which case he found that Square “UÇK” and Square “Adem Jashari” are illegal constructions, while the construction of the “Parkut të Paqes (Peace park)” and “Square Car Lazar” constitutes not only a violation of law but also a violation of the Constitution and international instruments on human rights.

Therefore, the Ombudsperson recommended that: the Administrative Office of the Municipality of Mitrovica North and the Government of the Republic of Kosovo, in the shortest time possible should remove “Parkun e Paqes (Peace Park)” from the main bridge of Ibër river, as well as to stop the works in the Square “Car Lazar” and to restore the road to its previous situation, thus allowing free movement on this bridge, both for pedestrians and vehicles; that the Administrative Office of the Municipality of Mitrovica North and the Government of the Republic of Kosovo, in the shortest time possible, remove all physical obstacles constructed in the Neighbourhood of Boshnjakëve and at the entrance of the Suhodoll village, namely the Square “Adem Jashari” and “Square UÇK”; measures foreseen by Law for the violation of the Constitution and laws in force, including criminal persecution, should be taken against all persons responsible for construction of the “Peace Park”, especially against their leaders, Mayor Rakiq and Mr Marko Gjuriq; Mayor Rakiq and President of the Municipal Assembly Bozhoviq, should take all measures necessary to cooperate at the proper level with other officers of the Municipality.

In relation to these recommendations, the Ombudsperson did not receive any response from the responsible authorities.

2.8. Case no. 221/2013 Arsim Biqaku against the Basic Court in Prizren concerning procedural delays by the court for decision of a case relating to the termination of the employment relationship

On 29 January 2015, the Ombudsperson published a Report with recommendations for the Basic Court in Prizren (BCP) relating to the above-mentioned case.

The case started to be processed in the BCP on 9 December 2003 and until the publication of the Report with Recommendations, the case still had not been decided upon. The settlement of the case thus far lasted 12 years. The second instance court returned the decisions of the first instance court for retrial three times in a row; likewise, the Supreme Court of Kosovo twice rejected the decisions of lower court instances and reinstated the matter for retrial.

The Ombudsperson assesses that excessive delays of judicial procedures and the lack of any final decision are in contradiction with the right to a fair judicial process, within a reasonable time limit, guaranteed by paragraph 31 of the Constitution of the Republic of Kosovo and paragraph 1 of Article 6 of the ECHR and Article 10.1 of the LCP.

Therefore, the Ombudsperson recommended that the Basic Court in Prizren undertake immediate measures for review and proper settlement, without further delays, of the judicial case of Mr Arsim Biqaku, case C. no.899/2012; to guarantee the review of cases for all parties within a reasonable time period, in compliance with articles 6 and 13 of the ECHR. He recommended to the Office of the Disciplinary Counsel to take measures against inactions/possible abuses on the part of the respective judges, in the three levels of the

judiciary, who treated the case of Mr Biqaku, for unreasonable delay of judicial procedure, in the case of Arsim Biqaku. And to the Kosovo Judicial Council it was recommended that the judiciary implement Article 190, paragraph 3, of the Law on Contested Procedure, that after the annulment for the second time of the judgements of the first instance courts, not to return cases for retrial, but to decide on the merits.

The Ombudsperson received a response from the Basic Court of Prizren and the Office of Disciplinary Counsel who described the case and stated that the delays came as a result of objective circumstances. On 15 December 2015, the Ombudsperson submitted a reminder letter to the President of the BCP concerning the failure to implement recommendations of the Ombudsperson in the report no. 221/2013, against the Basic Court in Prizren, to which he received no response.

2.9. Complaint no. 66/2015 Novica Filipović against the Basic Court in Prishtina, Graçanica branch in relation to extension of the court procedure

On 6 November 2015, the Ombudsperson published a report in relation to the duration of the procedure on dealing with the aforementioned case.

The Ombudsperson, *inter alia*, ascertained that the Basic Court in Prishtina, Graçanica branch, failed to resolve the complainant's complaint within a reasonable timeline, which represents a violation of the complainant's rights to a fair trial within a reasonable timeframe, according to paragraph 1 of Article 6 of the European Convention on Human Rights.

The case referred to in the report is related to a civil lawsuit initiated by the complainant back in 2009 and supplemented in 2011. The case is in relation to an employment dispute and according to the Ombudsperson, considering that the case was not complicated, the case could have been resolved in a short period of time. The competent branch of the Municipal Court in Graçanica has put the case into work in 2013 by planning three sessions. Subsequently, this Court did not undertake any actions in the case for more than two years from the last session and six years in total since submission of the complaint.

In relation to the abovementioned case, the competent court stated in a letter sent to the OIK that the branch in Graçanica was for a while without judges; therefore, the large number of backlogged cases caused the delay in procedure for this case. The Ombudsperson ascertained that these facts cannot justify postponement of the cases related to the dispute, but the Court did not bring any decision on the complainant's case. As a result, the court did not handle the case with the required care according to Article 6 paragraph 1 of the European Convention on Human Rights and Article 10 of the Civil Code of Kosovo.

The Ombudsperson concluded that the lack of legal remedies for violation of the rights to fair trial within a reasonable timeframe constitutes a violation of the right to effective legal remedies according to Article 13 of the European Convention on Human Rights.

The Ombudsperson in this report has provided recommendations to the President of the Municipal Court in Prishtina that, having in mind previous delays, he should ensure that the branch in Gračanica continue to work on the case with no further delays.

The Ombudsperson also recommended that the Government of Kosovo, in cooperation with the Judicial Council of Kosovo, should provide financial resources and appoint a sufficient number of Judges in Basic Courts and their branches or undertake other necessary measures to guarantee the review of cases and delivery of judgments to the parties within a reasonable timeframe. In addition, the recommendation was given to the Judicial Council of Kosovo to initiate the drafting of a legal instrument that ensures a legal effective tool as according to Article 13 of the European Convention on the Human Rights, which will ensure preventative and compensatory aid in relation to complaints in cases of excessive delays in civil procedure cases.

The OIK by the end of reporting period did not receive a response on this report. However, on 16 November 2015 the complainant informed OIK that upon publication of the OIK report the competent court has started the procedure in his case.

2.10. Complaint no. 435/2013 Nadežda Jovanović against PAK related to execution of Supreme Court Decision KI 187/13

On 6 May 2015, the Ombudsperson published a report on the non-execution of decisions first of the Supreme Court in 2012 and later on of the Constitutional Court in 2014 by the PAK Secretariat on executing an expulsion of an illegal usurper of a private property of Nadezhda Jovanovic, and collapse of illegal construction built on her property in Sofali, Municipality of Prishtina.

The Ombudsperson in this case, among others, concluded that the PAK did not act according to the requisite legal procedure, especially the application of a final decision issued by the Supreme Court and Constitutional Court which oblige the PAK to execute such a decision.

The Ombudsperson concluded that the constitutional and legal protection of property rights has no meaning if it is not protected in practice as well. It is an absurdity to speak of protection of property rights if citizens are not able to protect their legitimate rights through effective legal tools and mechanisms. The Ombudsperson has ascertained in this report that in failing to execute decisions of the Supreme Court first and then the Constitutional Court, the PAK has violated the rights of the complainant on peaceful enjoyment and availability of property, in accordance with Article 1 of Protocol 1 of the ECHR.

In addition, the complainant's right to equality before the law guaranteed under Article 24 of the Constitution of the Republic of Kosovo and Article 46 of the Constitution in relation to the protection of property has been violated.

The Ombudsperson in this report recommended that the PAK undertake necessary measures to execute the Decision of the Constitutional Court KI 187/13, dated 16 April 2014 and without further delays protect property rights in compliance with the Constitution and the Law. Copies of the report were delivered to the President of the Assembly of the Republic of Kosovo, the Judicial Council and the Supreme Court.

The OIK on 26 May 2015 has received a response to the published report by Acting Deputy Managing Director of the PAK, who stated that the Agency is not able to execute the decision of the Constitutional Court on the collapse of buildings constructed illegally on complainant's property, because the Agency has no budget allocated for this purpose. The PAK letter also states that in relation to this issue they have addressed the Ministry of Finance specifically on the execution of these cases but unfortunately no response was received by the PAK.

The Assembly of the Republic of Kosovo made no comments in relation to this report.

2.11. Complaint no. 290/2015 Hivzija Bukvić against the MIA in relation to the process of obtaining citizenship and the use of language

On 25 November 2015, the Ombudsperson has issued a report on violation of human rights in relation to the use of official languages and the right to citizenship in the case of Hivzija Bukvić.

The complainant in 2014 applied for citizenship of the Republic of Kosovo through the Municipality of Istog to the Department of Citizenship, Asylum and Migration, Ministry of Internal Affairs (DCAM, MIA). The application was rejected in the first and second instances (in second instance the Citizenship Appeals Commission CAC decides) and the decision was sent only in the Albanian language, which the complainant cannot read. In addition, his surname was misspelled twice: instead of Bukvić, "Burkić" was written. The complainant has requested from DCAM officials to receive the decision of the second instance in the Serbian language, but received a response that in order to have the Serbian version the applicant should file a request for a translated version.

The Ombudsperson on this report ascertained that the DCAM MIA CAC has violated the applicant's rights in relation to the use of official language, the right to citizenship and violation of the Regulation on CAC during the exercise of legislative authority when issuing a decision on the applicant's complaint for recognition of Kosovo citizenship.

The Ombudsperson found in this report in relation to the violation of the rights on the use of language as an equal status of Albanian and Serbian languages as official languages in Kosovo and their use in Kosovo institutions is regulated by the Constitution and Law on the use of languages and as such should be fully implemented and respected, whereas based on the undisputed facts in this case this was not the case. The Ombudsperson concluded in his report that there was a violation of complainant's rights to the use of official language.

Speaking of the right to citizenship, the Ombudsperson among other things has also concluded that any individual regardless of his or her location is guaranteed the right to a legal relationship with the state based on his or her nationality (Article 15 of Universal Declaration of Human Rights- UDHR). Concerning the procedure of the MIA competent authority, the Ombudsperson has ascertained that the Regulation of the CAC was not respected and the complainant was not informed of the date of the review his complaint by CAC.

Regarding the review and evaluation of evidence submitted in this case and the interpretation of laws and procedure, the Ombudsperson found that the MIA, DCAM, and the CAC did not carefully review all case evidence which resulted in material and formal mistakes in the decision making procedure, whereby the complainant was refused the right to citizenship of Kosovo.

The Ombudsperson made recommendations in this report to the Ministry of Internal Affairs to make sure that during administrative actions, the DCAM -CAC consider and makes a valid evaluation of all factors related to a certain administrative act and also make sure that in all future cases of citizenship the DCAM -CAC respect the Law on the Use of Language. A copy of the report was sent to the Office of the Language Commissioner.

On 4 December 2015 the OIK received a response to the published report of the Ministry of Internal Affairs stating that the Ministry acknowledges the recommendations.

The OIK on 16 December 2015 received a letter from the Language Commission that stated that the Commissioner will pay close attention to the violations of the rights to the use of languages in all institutions of the Republic of Kosovo and will monitor the implementation of recommendations of the OIK in relation to the implementation of the Law on the Use of Languages.

2.12. Ex Officio no. 680/2015, Recommendations addressed to the Government of the Republic of Kosovo in relation to the Strategy on the Protection of Human Rights

In accordance with his mandate and powers, the Ombudsperson on 16 December 2015 sent recommendations to the Government of the Republic of Kosovo in relation to the Strategy for protection of human rights and freedoms, which was drafted by the Office of Good Governance at the Office of the Prime Minister. Taking into consideration that the Government of the Republic of Kosovo and the Office of Good Governance at the Office of the Prime Minister are engaged with policies that manage the promotion of human rights and freedoms and the drafting of documents in certain strategic fields, the Ombudsperson considers that particular attention should be paid to this issue. The Ombudsperson considers that evaluation of this issue is necessary, as well as the coordination of strategies and their implementation. The Government has drafted numerous strategic documents and they all

have specific mechanisms for the coordination of implementation and monitoring their implementation. The Ombudsperson recommends that since the Office of Good Governance at the Office of the Prime Minister drafted strategic documents on human rights, it should also consider the fact that human rights are unique and inalienable and it is necessary to draft a Strategy on Human Rights and Freedoms at the central level, which strategy would include the current existing strategy and planned ones from this field.

The Ombudsperson has addressed the following recommendations to the Government of the Republic of Kosovo: to the extent possible, to draft a single strategic document in the field of human rights and freedoms which would cover all special strategies on human rights. And along with the Commission on Human Rights, Gender Equality, Missing Persons and Petitions of the Assembly of the Republic of Kosovo and the Office of Good Governance, to discuss results of the implementation of the strategy on human rights.

By the end of reporting period the OIK did not receive any response from the Prime Minister of the Republic of Kosovo to these recommendations.

2.13. Complaint no.124/2015 Božidar Perić against the Municipality of Partesh in relation to the right on work and non-application of the Decision of the Labour Inspectorate

On 24 November 2015, the Ombudsperson has published a report in relation to the violation of the right to work and non-application of the decision issued by the Labour Inspectorate in the case of Božidar Perić. The complainant has submitted a complaint to the OIK as well as evidence against the Municipality of Partesh in relation to delays in applying decisions of the executive body of the Labour Inspectorate related to the return of the complainant to the position of Assistant to the President of the Municipal Assembly of Partesh, from which position he was illegally dismissed in February 2015.

In his report the Ombudsperson concluded, *inter alia*, that the delay was unjustified in implementing the decisions of the Executive Body of the Labour Inspectorate, which is contrary to Article 6, paragraph 1, and Article 13 of the European Convention for the Protection of Human Rights, which clearly defined the obligation of the state, first and foremost, to protect human rights through the legal system, to provide an additional guarantee for the individual, so that they can effectively enjoy these rights. Thus, Article 13 guarantees individuals the remedy of an effective legal complaint before the local authorities, filed on the basis of the violation of his/her rights, while Article 6 provides for a hearing of the case within a reasonable time. Given that the decision of the executive authority of the Labour Inspectorate is of executive and binding nature and it has thus far been implemented by the Municipality of Partesh, the Ombudsperson in this case concludes that the actions of this municipality have resulted in the violation of human rights of the complainant.

By way of this report, the Ombudsperson sent to the Mayor of Partesh a recommendation for taking urgent measures to implement Decision no. 9/442, dated 15 April 2015, of the executive authority of the Labour Inspectorate.

On 29 December 2015, the OIK received an answer to the published report from the Director of Administration of the Municipality of Partesh, stating that on 02 December 2015 the municipality had initiated administrative proceedings against the Labour Inspectorate at the Basic Court in Prishtina, Department of Administrative Matters, and shall comply with the court decision, which has not yet been taken. Therefore, the Municipality of Partesh did not comply with the Ombudsperson's recommendation.

2.14. Complaints no. 189/2015 Shaban Jashari versus KP in Gjakova concerning the right to life

On 03 November 2015, the Ombudsperson issued a report concerning the right to life in the case of Shaban Jashari, referring to the lack of an effective investigation on the part of KP in Gjakova in connection to the disappearance of the complainant's son and the allegation that the KP in Gjakova has contributed to his son's disappearance.

On 31 January 2015, after the reports of his neighbours, Kosovo Police went to the complainant's apartment, took his son, and sent him to the Psychiatric Clinic in Gjakova. The son of the complainant since 1992 was diagnosed with "Psychotic Schizophrenia." On, said day he was alone in the flat and was breaking windows and this is the reason that the police intervened. The Kosovo Police, without a court order and without informing his parents, transported the aforementioned person to the Psychiatric Clinic. On 1 February 2015, after being hospitalized and after receiving therapy, the complainant's son escaped unnoticed from the Psychiatric Clinic and fled in an unknown direction, leaving no sign of his whereabouts. Neither the staff of the clinic nor the Kosovo Police were not able to give any explanation on his departure. The complainant also alleges that in his opinion the police deliberately contributed to his son's disappearance by way of a badly executed investigation and by ignoring the case.

In his report on the case, the Ombudsperson concluded that the applicant's complaint is justified and legitimate. In this case there has been a violation of human rights and fundamental freedoms, due to the very fact that police had sent the now-disappeared person to compulsory psychiatric treatment without a court order, thus acting contrary to constitutional principles and legislation in force.

Also, the report of the Ombudsperson concluded that the health institution receiving for treatment a person suffering from a mental illness did not provide him with the necessary professional assistance, due to the fact that from the time of his admission to the health institution until his disappearance from the said institution, he was never visited by a psychiatrist, but instead only by medical personnel on duty. The disturbing fact is that as a

result of inadequate treatment and poor patient oversight, he escaped from this institution unnoticed. During the investigation concerning this case, the OIK has concluded that the above stated Psychiatric Institution had prior cases of such escapes from the institution, whereby even mentally ill patients escaped without prior permission of doctors.

In this report the Ombudsperson concluded that the responsible state authorities have failed to take action with regard to positive obligations, and to protect the inviolability of the physical and psychological integrity of the person, especially when such integrity and human life are threatened.

When it comes to cooperation between the KP and the OIK, the Ombudsperson concluded that the failure to provide a copy of the case file on the part of the police upon the request of the OIK, constitutes an action that is unconstitutional and illegal. Also, the inability of the OIK to have access to the police file in the case of the complainant's missing son has prevented the OIK from verifying allegations of other possible violations of the rights of the missing person as alleged by the complainant in his complaint.

In connection with the above report Ombudsperson presented recommendations to the Kosovo Police to take urgent measures in finding missing persons pursuant to the responsibilities and powers arising from the law, and in cooperation with all other security agencies (not excluding the intelligence agency, as well as international assistance). Also, the Ombudsperson recommended that, in accordance with its legal responsibilities and competences, the Kosovo Police increase its professional capacities in relation to the right to life and the procedural aspects of an effective investigation in such cases.

The Ombudsperson provided a recommendation to the General Director of the Kosovo Police in order for him to issue a written instruction informing all police stations and units that it is their obligation and duty to cooperate with the OIK and upon request, provide the OIK with all requested information, including a full or partial copy of the case file, as it is in accordance with the Constitution and the Law on the Ombudsperson.

The Ombudsperson issued a recommendation to the Minister of Health and to the University Clinical Centre of Kosovo to issue an instruction informing all health care institutions concerning their obligations and responsibilities when faced with examples of admitting mentally ill individuals against their will, and to oblige these institutions to act in accordance with Articles 78 and 79 of the Law on Out Contentious Procedure. Also, the Ombudsperson recommended to the University Clinical Centre of Kosovo to take all actions necessary to strengthen the professional and ethical levels of the staff, and to request that health professionals treat patients with the utmost responsibility and professionalism, offering professional health care services and visually observing these patients during their hospitalization in medical institutions.

On 01 December 2015, the OIK received a reply in the published report of the Director General of the Kosovo Police in which he informed the OIK concerning the course of the KP's investigation in relation to the complainant's case, confirming that they have taken all

necessary measures provided in the recommendation of the report and that the disappearance of the complainant's son had been reported also to INTERPOL. In addition, the KP, after reports from the Ombudsperson in this case, has adopted Regulation No. 01/2015, which entered into force on 24 November 2015, on the obligation of police officers cooperate and provide support to the OIK in performing official duties.

On 04 December 2015, the OIK received a reply to the published report from the Ministry of Health confirming that the Law on Mental Health will be adopted (which in the meantime has been adopted and entered into force), and will regulate all matters identified by the Ombudsperson in his recommendations to the Ministry.

2.15. Complaint no. 337/2014 Mursel Bytyqi versus Basic Court in Prizren concerning the length of court proceedings

On 22 September 2015, the Ombudsperson issued a report in the above case in which it was concluded that the Basic Court in Prizren failed to resolve the complainant's case within a reasonable period of time, which represents a violation of the complainant's rights to a fair trial under Article 6, paragraph 1 of the European Convention for the Protection of Human Rights.

The above case involves a civil lawsuit that was initiated in 2002 in relation to the establishment of property rights and property restitution. The Basic Court in Prizren (at that time the Municipal Court) for several years rendered different Judgments that the Court of Appeals (at that time the District Court in Prizren), as the second instance court, annulled and sent back for retrial in the first instance, which lasted until 2006. Based on investigations undertaken by the OIK in this case, it appears that the last time the Basic Court in Prizren acted on this case was in 2012, and from that date until the publication of this report there have been no other procedural actions taken.

The Ombudsperson in his report concluded that the right to a fair trial within a reasonable time and the right to an effective legal remedy were not met, and that such actions are contrary to the complainant's right to a fair trial within a reasonable time, as guaranteed under Articles 31, 32 and 54 of the Constitution of the Republic of Kosovo, paragraph 1 of Article 6 of the ECHR, and Article 10.1 of the Civil Procedure Law.

In relation to the above report, the Ombudsperson has issued recommendations to the Basic Court in Prizren to resolve the complainant's case without further delay, in accordance with paragraph 1 of Article 6 of the European Convention. In relation to this case, the Ombudsperson has sent a recommendation to the Kosovo Judicial Council to initiate drafting of a legal instrument that would constitute an effective remedy in the sense of Article 13 of the European Convention on Human Rights, which provides preventive and compensatory relief with respect to complaints about the delay of court proceedings.

Copies of the report were sent to the Kosovo Judicial Council and the Court of Appeal.

On 12 October 2015, the OIK received a reply in the published report of the President of the Basic Court in Prizren, where he stated that they do not take responsibility for the delay in the handling of this case. In particular, the letter states that the Court in this case scheduled seven hearings, and then the former District Court Prizren sent the case back twice for retrial, and the delays in resolving the case were due to the high number of parties in the proceeding, and the complexity of the case. The letter also states that last time, this case was interrupted due to the death of one of the prosecutors, and in such cases it is necessary, in accordance with the Law on Civil Procedure, for the heirs to undertake this process, and the heirs were duly informed on 04 February 2015, but they did not take any action in this regard.

Attached to the letter of the President of the Court is the Decision rendered by the Court in this case on 30 January 2016, after the intervention of the OIK in relation to this case.

There is no declaration by the Kosovo Judicial Council and the Court of Appeal in response to this report.

2.16. Complaint no.305/2015 Alinexhat Zeqiri versus the Basic Court in Prishtina concerning the failure to enforce a final and enforceable judgment

On 06 November 2015, the Ombudsperson issued a report about the non-enforcement of a final judgment by the Basic Court in Prishtina in the case of Alinexhat Zeqiri, which has to do with the repossession of the complainant's property and his unhindered access to the property.

The Ombudsperson in his report concluded that the Basic Court in Prishtina has not taken the necessary measures for the execution of the final judgment, which became final in 2010. In connection to this case, the trial judge, in his letter addressed to the OIK, stated that the case was assigned to him in 2013 and that the Basic Court in Prishtina has been trying to execute the Judgment since 2011 with the Kosovo Police present, but for various reasons there was no execution of the judgment.

The report of the Ombudsperson concluded that the fact that from the first day when the Basic Court in Prishtina, precisely on 28 December 2011, in the presence of PK, attempted to execute the Judgment, it was postponed for more than 3 years until 17 January 2012, is worrying. Moreover, as of the date of publication of the report on this subject there was no attempt by the competent court in accordance with applicable law to complete the execution procedure in this case.

The Ombudsman also found that the complainant's right to a fair trial within a reasonable time and his right to an effective legal remedy for this case were violated, considering that the Basic Court has delayed the execution of the complainant's case for over 7 years and the proceedings in this case began in this Court in 2002 and have not yet been completed up to the date of publication of this report.

The Ombudsperson's report concluded that it is problematic when a process that lasts for more than 13 years, as in this case, has created a situation of total legal uncertainty, resulting in the erosion and the loss of citizens' trust in the justice system and the rule of law. No mean or special legal remedy existed at the disposal of the complainant that could have been used to complain about the length of proceedings in his case providing for any hope to obtain relief in the form of the prevention of injustice, or compensation for the injustice that he has suffered from the Court. This represents a violation of the right to an effective remedy under Article 13 of the ECHR.

In this report, the Ombudsperson issued a recommendation to the Basic Court in Prishtina requesting urgent action in the execution of the final judgment in the case of the complainant E. No. 193/2008, dated 18 March 2008.

By the end of the reporting period, the OIK received no reply from the President of the Municipal Court in Prishtina concerning the published report.

2.17. Ex officio no. 518/2014 concerning the registration of candidates from categories derived from the KLA war in the academic year 2014/2015

On 18 February 2015, the Ombudsperson published a Report with recommendations for the Government of the Republic of Kosovo and the Assembly of the Republic of Kosovo concerning the above-mentioned case.

The Ombudsperson found that the decisions of the Senate of the University of Prishtina, dated 30 May, 26 September and 16 October 2014, for determining the criteria for the admission of students in the academic year 2014/2015, are not in accordance with the Law since (a) they give advantage to registration only to some categories that should enjoy this advantage according to Law, and (b) give this advantage in conditions not completely equal with other candidates.

The Ombudsperson, concerning this case, addressed recommendations to the University of Prishtina that: if there are candidates remaining from six categories derived from the war (KLA veterans, KLA invalids and close family members of veterans, invalids, martyrs and missing persons of the KLA), who are still not enrolled, but have acquired the same number of points as some other successful candidate in the faculties where they applied, the University must enroll them, provided that their status is verified in accordance with law; that the University should take all measures necessary to complete the verification of the status of current students who were accepted on the basis of their status as a member of the family of a martyr, and take disciplinary measures in the event of discovering the submission of false information during the process of registration in the University of Prishtina.

The Ombudsperson also addressed recommendations to the Prime Minister and the Minister of MEST to annul the decision of the Ministry of Education, Science and Technology, on 13

November 2014, for enrolling children of the categories derived from war; not to intervene in any way in the determination of the criteria for the admission of students by the Senate of the University of Prishtina; to undertake all measures necessary to ensure in the future adequate cooperation with the Ombudsperson, in accordance with the Constitution of the Republic of Kosovo and the Law on Ombudsperson, and in accordance with the promise of Prime Minister Mustafa himself in his inaugural address as nominee for the post of Prime Minister. To the Assembly of the Republic of Kosovo the Ombudsperson recommended that it amend Article 30 of Law no. 04/L-261 on War veterans of the Kosovo Liberation Army, which provides that “the advantage of admission in public education institutions, in equal conditions, is a right realised by war veterans and their close family members,” deleting the phrase “and their close family members.”

The Ombudsperson received a response to the Report with recommendations from Prof. Dr. Ramadan Zejnullahu, Rector of the University of Prishtina “Hasan Prishtina,” who committed to implementing the recommendations of the Ombudsperson for the University of Prishtina. The Ombudsperson received no response from the Prime Minister and the Minister of Education.

2.18. Case no. 369/2014 concerning the delay of procedures for reviewing the request of Mr Sahit Kastrati, Mr Rrahman Mazreku and Mr Agim Hyseini, for failing to compensate travel expenditures and failure of the MLSW to cooperate with the Ombudsperson

On 19 February 2015, the Ombudsperson published a Report with recommendations for the Ministry of Labour and Social Welfare (MLSW) concerning the above-mentioned case.

According to the complainants, they were transferred to new positions by the employer, the Ministry of Labour and Social Welfare (MLSW), and they asked a few times for compensation of travel expenditures, but this was not done for several months. On 17 March 2014, they again filed a request for compensation of travel expenditures, but unsuccessfully, since the relevant authorities of the MLSW did not respond and they have still not decided concerning the request in question.

The ombudsperson found that the failure to review the complainants’ request filed on 17 March 2014 by MLSW constitutes a violation of the right to an orderly procedure, within a reasonable time, guaranteed by paragraph 31 of the Constitution of the Republic of Kosovo, paragraph 1 of Article 6 of ECHR, and Articles 11, 38.4 and 90.1 of the Law on Administrative Procedure.

The Ombudsperson, regarding this case, addressed recommendations to the Ministry of Labour and Social Welfare to undertake immediate measures for reviewing the request of Mr Sahit Kastrati, Mr Rrahman Mazreku and Mr Agim Hyseini for compensation of travel expenditures, without further delay, based on Laws mentioned above; to handle cases and decide similar requests on their merits, for all petitioners, within a reasonable time, in accordance with relevant legislation applicable in the Republic of Kosovo; to respond to the

letters the Ombudsperson sent on 2 September 2014 and 22 October 2014, as a constitutional and legal obligation for cooperation with the Ombudsperson. The Assembly of the Republic of Kosovo is recommended to use its legal and constitutional authority over other state bodies to ensure that they meet their constitutional and legal obligations concerning the requests and recommendations of the Ombudsperson.

The Ombudsperson has not received any response to the report with recommendations, even after sending a reminding letter on 18 December 2015.

2.19. Cases A. no. 542/2013 Hafije Bislimi, A. no. 4/2014 Suzana Caca, A. no. 85/2014 Xhemajl Ademi against the Ministry of Labour and Social Welfare (MLSW) concerning the complaints for suspension of the requests for the realisation of rights deriving from the Law on the Status of Martyrs, War Invalids, Veterans, Members of the Kosovo Liberation Army, Civil Victims and their Families, No. 04/L-054

On 14 July 2014, the Ombudsperson published a Report with recommendations concerning this case. The issue of the case was raised separately by a number of citizens in the case of whom the Department of Families of Martyrs, War Invalids and Civil Victims (DFMWI) refused to accept requests for recognition of the status of families of civil victims. During his investigation of these cases, the Ombudsperson came across Decision No. 171, issued on 9.6.2011 by the former Minister of MLSW Mr Nenad Rashid, concerning recommendations for actions to be taken by DFMWI. The decision instructs the DFMWI that the number of petitioners for recognition of status according to the Law on War Values be capped as of 31 May 2011, and that until “*a new political decision*” is issued by the Minister of MLSW, no new requests should be accepted for recognition and realisation of any right set out by Law.

The Ombudsperson found that there were violations of the right to equal protection of rights in procedures before courts, other state bodies and bearers of public power, and that there was unequal treatment before law between persons that applied before 31 May 2011 and those that applied after this date.

Therefore, the Ombudsperson recommended that the Minister of MLSW take immediate measures for vacating and annulling Decision no. 171, dated 9 June 2011; issue a new decision by the Minister of MLSW which would rectify the damages caused by the legal consequences of Decision no. 17, dated 9 June 2011, so that recognition of status and realisation of rights can be implemented from 31 May 2011; this recommendation should be forwarded to all units within the Government of the Republic of Kosovo and the MLSW, with the aim of implementing the laws in force and enabling the realisation of the right of all citizens guaranteed by the Constitution and the Law, and enabling the use of effective legal remedies, without any distinction.

The Ombudsperson received no response from the Minister of MLSW despite the fact that the Report with Recommendations dated 14 July 2014, was forwarded to MLSW on 16 January 2015 and on 16 December 2015. A reminder letter was sent to the Prime Minister

and the MLSW concerning the obligation of public authorities to respond to the requests of the Ombudsperson Institution.

III. ACTIVITIES OF THE OMBUDSPERSON INSTITUTION

3.1. Activities of the Group for the Rights of the Child

The Group for the Rights of the Child (GRC) within the OIK has been established specifically in order to supervise, protect and investigate violations of the rights of the child by public authorities in Kosovo.

During 2015, the GRC not only reviewed complaints filed before the OIK, but also undertook other activities to promote and protect the rights of the child, as well as to build professional capacities.

On 3 March 2015, a conference was held in Prishtinë for presentation of research on “Don’t shut my door, I am only a child!” organised by the NGO coalition for the protection of children (CNPC), in which the GCR also participated. The representatives of CNPC presented in this conference the findings of the research in question, which referred to the situation and the protection of children at risk for breaking the law and children who have broken the law but without penal liability.

On 27 March 2015, the GCR participated in the meeting of the Council for the Protection of and Justice for Children (CPJC),¹²⁰ which discussed the action plan of the CPJC for 2015.

On 30 March 2015, a representative of the OIK met students of the secondary economic school in Gjakovë, and informed them of the role of the OIK in the protection and promotion of human rights and on the procedure for addressing complaints to the OIK.

On 24 April 2015, a representative of the OIK talked to students of primary and lower secondary school “Mustafa Bakija” in Gjakovë, regarding the situation of respect of human rights in the school in question, among other topics.

On 14 May 2015, SOS children villages, in the context of the three-year campaign “Take care of me,” marked the beginning of the campaign “I give hope” which will be developed in order to raise the awareness of society, and in particular of state institutions, to enhance attempts and to undertake actions necessary to provide adequate protection to children without parental care and to families in general. A representative of the OIK participated in this event.

¹²⁰ CPJR was established by the Government of the Republic of Kosovo on 25 August 2011. The Mandate of CPJR deals with, among other things, the definition of priorities and necessary measures to be undertaken in order to improve the situation concerning protection of and justice for children. It is composed of governmental and non- Governmental representatives working in the area of the rights of the child. The OIK is part of the CPJC as an observer member

In Prizren, on 20-21 May 2015, a workshop was held for the adoption of priority areas for compiling strategic objectives and an action plan for drafting the strategic plan for the rights of the child for the period 2015-2019. Representatives of governmental and non-governmental institutions, including the OIK, in the workshop in question, discussed priority areas for drafting the new strategy (2015-2019), objectives that are supposed to be achieved, and a work plan for the drafting.

On 27 May 2015, the GCR took part in the regular meeting of the KMDF, in which the initiative for drafting the Law on Protection of Children and best practices of the Government of Netherlands in the area of the protection of children, were discussed.

“The rights of the child – between the interests of parents and state obligations” was the topic of discussion in the tenth annual conference of the Children’s Rights Ombudsmen Network in South East Europe (CRONSEE),¹²¹ held on 28 May 2015, in Zagreb (Croatia). The GCR participated in this conference as well. Representatives of Ombudsmen, members of CRONSEE, and relevant experts discussed how to realize the rights and interests of the child when it seems that the interest of parents is in contradiction with the child’s interests, and also discussed state obligations for the protection of the child’s welfare.

On 31 May 2015, upon marking Children’s Day, representatives of the OIK, in tents erected in the main square of Prishtina, talked to children about the rights of the child and the OIK’s role in the protection and the promotion of human rights, specifically the rights of the child.

On 1 June 2015, OIK representatives also talked to children in the Roma, Ashkali and Egyptian neighbourhood in Fushë Kosovë, and informed them about the OIK’s role in the protection and promotion of human rights, in particular society’s most vulnerable groups.

The same day, an OIK representative took part on a “Debate on Freedoms and the Rights of the Child,” organised by the Non-Governmental Organisation ETEA in cooperation with the Municipality of Prishtinë in order to raise citizens’ awareness about the importance and greater respect of the rights of the child.

From 10-13 June 2015, in Durrës, Albania, the Office of the Prime Minister, with the support of Terre des Hommes in Kosovo, organised a workshop that discussed and reviewed the Draft Law on the Protection of Children. Representatives of government institutions, Non-Governmental Organisations and the OIK participated in this workshop.

From 6-7 August, a workshop on drafting the platform for the group “Respect Our Rights” (ROR)¹²² was held in Peja, organised by the NGO “Syri i Vizionit” in cooperation with Save

¹²¹CRONSEE was established in 2006, in order to cooperate, promote and exchange best practices in the protection of the rights of the child in South East European countries. The OIK has been a member of this network since 2009.

¹²²The Group ROR was established within the development project of the organisation Syri i Vizionit and Save the Children, in the programme area of CRG (Children Rights Governance). The group is composed of 24 children from 10 cities in Kosovo. Children are of 14 to 17 years of age, from different ethnic groups or with disabilities.

the Children. An OIK representative participated in this workshop, too, in addition to ROR children.

From 22 - 23 September 2015, the nineteenth conference of the European Network for Ombudspersons for Children (ENOC)¹²³ was held in Amsterdam, Netherlands, in which representatives from the OIK participated as observers. The focus of the conference was combating violence against children and the role of Ombudspersons for Children in this battle.

In September of this year, Save the Children together with the OIK began to conduct a survey “Zërat e Fëmijëve (Children’s Voices),” which will reflect the opinions of Kosovo children aged 12, 14 and 16, on the rights of the child in Kosovo. The “Zërat e Fëmijëve” survey will be a very helpful tool in discussions with politicians, policy-makers and other stakeholders to raise their awareness on children’s view points on specific areas of human rights.

On 14 October 2015, a regional conference on street children was held in Prishtinë, organised by the OSCE Mission in Kosovo, in cooperation with Terre des hommes and Kosovo Police. The participants, representatives of Government and Non-governmental Organisations from Albania and Kosovo, including also OIK, discussed the intergovernmental cooperation concerning street children, among other things.

On 22 October 2015, in the framework of the campaign “the week against children’s violence” there was a conference held in Prishtinë on “What did the state do or should the state do for the protection of children,” organised by the NGO “Syri i Vizionit” in cooperation with Save the Children. The representatives of state institutions present at this conference, as well as the OIK and NGO, presented activities undertaken in the prevention of violence in educational institutions. The need to finish legislation regulating the area of protection of children, and the need for the voice of children to always be heard on issues dealing with them, was also discussed.

On 28 October 2015, a thematic meeting of the Ombudsmen Network of South East Europe was held in Osijek, at which there were also representatives of the OIK. The main topic of discussion referred to the third Optional Protocol of the Convention on the Rights of the Child and opportunities provided to them to file complaints to the Committee on the Rights of the Child when their rights are violated and internal state institutions do not provide them relevant protection.

On 18 November 2015, within the framework of the programme “Governing for the Rights of the Child,” a conference was held in Prishtinë to mark the Universal Children’s Day, organised by the NGO “Syri i Vizionit” in cooperation with Save the Children, in which representatives of government institutions, civil society, the media and the OIK participated.

¹²³ENOC was established in 1997 by 42 independent institutions dealing with the rights of the child in 34 European states. ENOC was established to encourage the full implementation of the Convention of the Rights of the Child, exchange of information, access and strategies, as well as to promote development of institutions of the rights of the child.

In this conference, participants discussed, among other things, achievements in the area of the protection and promotion of the rights of the child.

The Ombudsperson Institution also participated in marking the twentieth anniversary of the presence of UNICEF in Kosovo, on 20 November 2015. On this occasion, representatives of UNICEF and other partners involved presented to the participants the activities and the work of UNICEF through the years in promoting the rights of the child, and the improvement of children's health and welfare, without discrimination, in many areas of life.

During November and December 2015, the OIK conducted the information campaign "Familiarise Yourself with the Ombudsperson Institution" for students of primary, middle, and upper secondary schools, related to the role of the OIK in the protection and promotion of human rights in Kosovo.

The main objective of the organisation of the campaign was to inform children of the role of the OIK in the protection and promotion of human rights, and on opportunities to address the OIK in cases of human rights violations.

The other purpose of the campaign was the provision of opportunities to children to be heard by representatives of the OIK, namely to express their opinions, positions and concerns on different problems they are facing every day, not only in school, but also on the streets and elsewhere.

Children were also informed about an electronic platform within the campaign "Recognise your rights,"¹²⁴ which as of 2 December 2015 was transferred to the ownership of the OIK. From last November until now, the platform in question has been used more than 30 thousand times by 8000 visitors. The platform users have also been informed about the OIK and the possibility of filing complaints through the OIK in case their rights are violated by public institutions.

During this campaign there were many schools of villages and cities of the municipalities of Kosovo that were visited, such as Prishtina, Gjilan, Mitrovica, Ferizaj, Istog, Gjakovë, Rahovec, Prizren, Dragash, Mamush and Suharekë.

On 2 December 2015, an OIK representative and representatives of Innovations Law Kosovo (ILK) UNICEF, participated in the morning programme of RTK, in which viewers were informed about the electronic platform "Know your rights".

On 2 December 2015, the OIK, in cooperation with ILK, organised the launching of the public platform "Know your rights" in Prishtinë, in which main stakeholders of central and local level, youth and representatives of civil society participated.

¹²⁴On 20 June 2014, OIK and UNICEF signed a Cooperation Agreement concerning the project "Know your rights", which would be realised through the online platform: www.knowyourrights.org, which would enable the youth (16- 29 ages) to learn more about their rights, access to information relating to the functioning of the legal system in Kosovo as well as addressing and seeking legal aid for the presentation of complaints for violation of human rights.

On 4 December 2015, OIK representative took part in the afternoon programme in RTV 21, which discussed the electronic platform “Know your rights”.

On 8 December 2015, the UNICEF office in Prishtinë held a plenary meeting for reviewing the annual plan of UNICEF, at which government institutions and other actors were present, including the OIK. This meeting discussed the results achieved for children during 2015, and the main priority areas of the UNICEF Programme, as part of the Work Plan for 2016-2017.

On 10-11 December 2015, a training was held in Prishtinë about reporting procedures in relation to the implementation of practices of the Convention of the Rights of the Child, and its importance. A representative of the OIK participated. The training in question was organised by UNICEF.

On 15 December 2015, an OIK representative participated in the workshop “A Reflection on the Current Situation of Case management roundtables – CMR, achievements, Challenges and Future Vision” organised by the Terre des Hommes Foundation. In addition to a presentation of the assessment carried out related to CMR, through group work, the participants also identified and presented achievements, challenges and the vision of CMR’s work in Kosovo.

On 21 December 2015, an OIK representative took part in a consultative meeting organised by OPM/OGG in cooperation with UNICEF. The meeting discussed progress, challenges and possibilities in the achievement of the rights of the child by local government actors, whose recommendations will be used for setting strategic objectives and actions to be taken in the next three years, for the better promotion and governance, monitoring and accountability for children.

3.2. Activities of the Department against discrimination

In the Department against Discrimination (DAD) in the OIK, during this year, a considerable number of complaints were received referring to Article 24, Equality before the Law,¹²⁵ of the Constitution of the Republic of Kosovo. Complaints have been filed individually and also initiated ex-officio. The biggest number of complaints deals with discrimination in the areas of social issues, health, property, employment relationship, disability, etc.

Like the previous year, the DAD during this reporting year has made regular visits to NGOs that represent the interests of persons with disabilities, from whom OIK received complaints related to the conditions for free access to public institutions and legislation for people with disabilities. In addition, regular visits are made to primary and secondary schools, hospitals, settlements inhabited by the communities, and in nursing homes for the elderly.

Within the campaign “Familiarise Yourself with the Ombudsperson Institution,” schools in the Municipalities of Kosovo were visited and lectures were held on the role of the Ombudsperson on protection from discrimination.

During the reporting period, the DAD has had meetings with the Office of Good Governance, and with coordinators for human rights at the local and central levels.

In monitoring the respect for human rights for persons placed at homes for elderly people and in institutions of care, during this year the home for elderly people has been visited on a monthly basis. Also during this year, the Special Institute in Shtime was regularly visited.

During the reporting year, representatives of the DAD were participants in public debates in domestic audio-visual media, where topics relating to the rights of persons with disabilities and the LGBT community were handled.

The DAD during this reporting year visited the source centre “Përparimi” in Prishtinë where they talked to students and school personnel relating to human rights and in particular to children’s rights.

Taking into account the fact that the Ombudsperson under the new Law on Protection from Discrimination is set out as a mechanism for handling cases dealing with discrimination, DAD, on 2 November 2015, has held a workshop on “Implementation of the Law on Protection from Discrimination - Procedures and Responsible Authorities – Ombudsperson, judiciary and other stakeholders – challenges and possibilities”.

On 10 December 2015, the Ombudsperson Institution on the International Day for Protection of Human Rights, with support of the Organisation for Security and Cooperation in Europe (OSCE), organised a roundtable on the “Law on Protection from Discrimination on the Brail Alphabet, Procedures and Responsible authorities Mandate of the Ombudsperson as a mechanism for complaints for handling cases of discrimination”.

This roundtable provided possibilities for joint discussion between the Ombudsperson, representatives of Non-Governmental Organisation which are representing the interests of people with disabilities in Kosovo and other stakeholders relating to the legal protection of people with disabilities and the implementation and challenges in the implementation of the Law on Protection from Discrimination.

The DAD was also a participant and contributed to the meeting of the Advisory and Coordination group at the national level in the Republic of Kosovo for the rights of the LGBT community (Lesbian, Gay, Bisexual and Transgender).

During this reporting year, on the invitation of MAFRD, representatives of the DAD held a lecture for the senior level staff of the personnel of this Ministry on the Law on Protection from Discrimination –procedures and responsible authorities – the Ombudsperson.

3.3. Gender Equality Unit Activities

The Gender Equality Unit, in accordance with current legislation, has jurisdiction to receive and investigate complaints relating to gender-based discrimination. In addition, the unit's responsibility is to review and give comments relating to the implementation of legislation for gender issues. Other than legal analysis, Gender Equality Unit is also engaged in the prevention and monitoring of violations of gender-based human rights and in activities promoting the gender equality principle.

In the reporting period, the GEU received complaints relating to gender discrimination in the fields of education, ownership and health. Moreover, a number of complaints filed with the GEU had to do with domestic violence, as well as the right to access the judicial system.

During this period, the GEU has had regular contacts with international and domestic representatives and with civil society representatives. Collaboration of this unit has been achieved with representatives of Gender Equality Agency, UNDP, OSCE, UNIFEM and other NGO representatives.

The GEU also collaborated with the Kosovo Police, Social Work Centres and Safe Homes. In addition, the GEU has also cooperated with different NGOs such as "Kosovo's Women Network (Rrjeti i Grupeve të Grave të Kosovës)," "Norma," "Kosovo Gender Studies Centre (Qendra Kosovo re për Studime Gjinore)," and others.

3.4. Cooperation of the OIK with Civil Society

3.4.1. Cooperation with international institutions, organisations, and agencies

Part of the OIK mandate is cooperation with civil society for the enhancement, protection and promotion of human rights. During 2015 the OIK continued its cooperation with civil society and Non-Governmental Organisations. The cooperation with Non-Governmental Organisations had to do with, among other things, issues of protection from discrimination, rights of communities, gender violence, freedom of information as well as the protection of the rights of the child. These areas are discussed in the parts of this report that deal with activities of special groups. This cooperation mainly consisted in the participation of NGOs in the activities of the OIK, conducted for the promotion of human rights, the participation of the OIK in workshops and activities organised by NGOs for addressing different human rights issues, as well as helping NGOs in the achievement of special or joint projects.

OIK representatives were part of consultative meetings held during 2015 in the finalisation of the draft regulation on minimum standards in the process of consultation with the public, organised by the Legal office of the Office of the Prime Minister in cooperation with OSCE. The purpose of drafting the document in question had to do with the achievement of the

strategic objective of the Government with Civil Society 2013 – 2017, as well as the empowerment and inclusion of Civil Society in drafting and implementing policies and legislation deriving from this Strategy.

On 19 June 2015, the OIK took part in a roundtable organised by UNHCR – KRCT on “UNHCR Guidance on Criteria and Applicable Standards Related to Detaining Asylum Seekers and Alternatives to Detention,” in which participants were informed in detail of its contents, among other things.

On 29 September 2015, representatives of the NGOs of the Roma, Ashkali, Egyptian Communities, “Sun flowers” and “Shëndet për të gjithë” - “Health for all” (HFA) from Fushë Kosovo, visited the OIK. The purpose of this visit was to inform the NGOs on the mandate of the OIK and to present activities conducted by these two NGOs. The focus of conversation was seeing the possibilities of cooperation in joint projects for raising awareness of Roma, Ashkali and Egyptian communities on the human rights guaranteed by the Constitution and international conventions.

On 19 - 25 October 2015, the NGO “Syri i Vizionit” in Gjakovë, in partnership with the international organisation “*Save the Children*,” organised “*The week against children’s violence*.” In these activities in the Theatre of Gjakova a show was put on with title “*When I am right, I am right...!*,” in which representatives of Government institutions, NGOs, students of primary and secondary schools, parents, teachers and OIK representatives participated. The message of this show had to do with the prohibition of violence against children.

On 20 October 2015, a scholarship ceremony was held in Prishtinë for about 500 students of secondary schools of the Roma, Ashkali and Egyptian communities, in which OIK representatives participated. The programme of awarding scholarships for the 2015/2016 school year was supported by the “Roma Education Fund” in Budapest, the “Swiss Office for Cooperation,” the “Swiss Foundation HEKS,” the British Embassy in Prishtinë, and the Embassy of Norway in Kosovo in cooperation with MEST and the NGO Voice of Roma, Ashkali and Egyptians (VoRAE) with headquarters in Graçanicë.

On 2 December 2015, the Ombudsperson Institution (OIK), with the support of the OSCE, organised a roundtable on the “National Prevention Mechanism against Torture,” in which representatives of the Ministry of Justice, Ministry of Health, MLSW, Council of Europe, NGOs, and others participated.

The purpose of this roundtable was, among other things, to provide information on the mandate and role of this mechanism in the prevention of torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

On 14 December 2015, a roundtable was held in Gjakovë, organised by the Municipal Office for communities and returnees (OCR) in Gjakovë, for the rights of communities on “*Communities, learn and exercise your rights*,” in which OIK representatives participated, along with representatives of government institutions and Non-Governmental Organisations.

This roundtable discussed problems that minority communities are facing, in particular the need to improve their standard of living, level of education, employment and health conditions and their integration in society.

On 15 December 2015, an OIK representative took part in a promotion of the work "*Monograph for abducted and missing persons during the Kosovo war, 24 march 1999 - 12 June 1999,*" prepared and published by the associations "Cries of the Mothers" (Thirrjet e Nënave)," whose main office is in Gjakovë.

On 16 December 2015, the NGO "Cries of the Mothers," in cooperation with NGO "Women's right (Žensko Pravo)" in Gjakovë, in the context of the project "*Research and monitoring of public institutions about the implementation of Law on Family in Kosovo,*" held a workshop in which a brochure was presented with data on the applicability of the Law on Family in Kosovo. The OIK participated in the workshop.

On 21 December 2015, a discussion roundtable was held on: "Treatment of cases in the conditional release procedure." Participating in this roundtable were the Kosovo Judicial Council (KJC), the Conditional Release Panel (CRP), the Kosovo Correctional Service, the Legal Office of the Ministry of Justice, the Kosovo Probation Service (KPS), Correctional Centres, Detention Centres, Civil Society, EULEX, as well as the OIK. The purpose of organising this roundtable was to discuss the work of the CRP, challenges faced, cooperation with other key stakeholders involved in the procedure, the process of delivering files, of putting them in order, etc.

On 23 December 2015, a discussion roundtable organized by the OIK, with the support of the OSCE, was held in Prishtinë on the topic: "*Removal of the capacity to act for persons with mental disabilities – stagnation in mental development.*"

The purpose of the organisation of the roundtable was among other things, the presentation of OIK research on judicial decisions for removal and restoration of the capacity of act for persons with mental disabilities – stagnation in mental development of persons who are residents in institutions managed by the Ministry of Labour and Social Welfare (MLSW). In this workshop participants included institutions and organisations working on issues dealing with housing, monitoring, and protection of the rights of with mental disabilities and stagnation in mental development.

On 16 December 2015, in Prishtinë, the OSCE Mission in Kosovo organised a meeting with representatives of associations of journalists, media institutions, law enforcement institutions, institutions of justice, and civil society organisations in Kosovo, including OIK representatives.

The purpose of this meeting was to discuss the challenges of freedom of expression, freedom of the press and the security of journalists, in finding a solution so that journalists carry out their duties without obstacles, including issues of their treatment by employers and respect for employment terms and conditions, in accordance with legislation in force

On 25 and 26 November 2015, A Summit for Roma was held in Prishtinë, organised by the Civil Rights Defenders organisation, which discussed opportunities of involvement of Roma in society, in the Western Balkans.

In this Summit, among other things, the insufficient implementation of the Law on Civil Service in Kosovo concerning the minority community was discussed. This law obliges state institutions to recruit at least 10% of civil servants from non-majority communities. In this regard, the Roma, Ashkali, and Egyptian communities have particularly been left aside. Appeal was made for better integration and for the implementation of relevant legislation dealing with these communities.

On 10 December 2015, an OIK representative participated as a panel member in the regional Conference “Multiculturalism, Interculturalism and Human Rights” organised by the Kosovo Education Centre (KEC) in cooperation with the DVV International (Deutscher Volkshochschul-Verband) – Office in Kosovo. In this conference participants discussed the importance of multiculturalism and interculturalism in societies with many communities, and the achievements and best practices from the region were presented.

During the reporting year, the OIK has had better cooperation with Media NGOs. In order to enhance cooperation in the promotion of its work, OIK representatives visited local radio stations “Vizioni” and “Llapi” in Podujevë, TV Mitrovica in Mitrovicë, Radio “Vicianum” in Vushtrri, Radio-television “Besa” in Prizren, Radio “Graçanica” in Graçanicë, and Television “Vali” in Gjilan.

3.5. International cooperation

The OIK, as an independent constitutional institution on Human Rights in Kosovo, is committed to acting as a bridge in the exchange of best international practices in the area of human rights. Therefore, one of the OIK’s priorities continued to be cooperation with counterpart institutions and other international organisations for the protection and promotion of human rights.

Through the years, there has been an enhanced interest between international organisations, in particular the Council of Europe and the United Nations, in the Ombudsman Institutions as institutional mechanisms for guaranteeing human rights. Therefore, in order to achieve this goal these organisations and international institutions have developed many activities, international meetings and conferences, to which the Ombudsperson Institution is invited and provides its contribution in the fruitful discussions that are held.

The meetings presented in the table below served to enhance the international cooperation of the Ombudsperson Institution and its networking in the international arena in the area of human rights.

No.	Description of activities	Date
1.	<p><i>World congress for justice for Minors</i></p> <p>Geneva, Switzerland</p>	26-30 January 2015
2.	<p><i>Stabilisation and association dialogue meeting for Kosovo</i></p> <p>Brussels, Belgium</p>	27-29 January 2015
3.	<p><i>Annual meeting of the ICC</i></p> <p>Geneva, Switzerland</p>	10-13 March 2015
4.	<p><i>Meeting for the exchange of experiences among members</i></p> <p>Paris, France</p>	2 April 2015
5.	<p><i>Communication meeting among international networks and the public</i></p> <p>Vienna, Austria</p>	4-5 May 2015
6.	<p><i>Conference on the prevention of torture</i></p> <p>Hague, Netherlands</p>	8 May 2015
7.	<p><i>Conference of CRONSEE on the rights of the child</i></p> <p>Zagreb, Croatia</p>	28-29 May 2015
8.	<p><i>A Seminar on the dimensions of Human Rights and International Institutions on Human Rights</i></p> <p>Warsaw, Poland</p>	1-3 June 2015
9.	<p><i>Meeting of National Institutions on Human Rights within the European Development Day</i></p> <p>Brussels, Belgium</p>	4-5 June 2015
10.	<p><i>NPM Workshop of South East Regional Network (SEE), on the health care of persons deprived of liberty</i></p> <p>Tirana, Albania</p>	29-30 June 2015

11.	<i>A seminar of Ombudsman experts on the rights of persons with disabilities</i> Warsaw, Poland	13-15 September 2015
12.	<i>Third International Symposium for Ombudsman institutions</i> Ankara, Turkey	16-17 September 2015
13.	<i>General Assembly of the European Ombudsman Institute</i> Mainz, Germany	20-21 September 2015
14.	<i>19th Conference of European Network Ombudspersons for Children (ENOC)</i> Amsterdam, Netherlands	22-23 September 2015
15.	<i>9th Congress of the General Assembly of the AOMF</i> Quebec, Canada	13-15 October 2015
16.	<i>Conference of "Monitoring of implementation of the Istanbul Convention: New Synergies"</i> Sarajevo, Bosnia	20 October 2015
17.	<i>Meeting of the Working Group on the Convention on the Rights of Persons with Disabilities</i> Zagreb, Croatia	26-27 October 2015
18.	<i>7th International Conference of Ombudsman Institutions for Armed Forces</i> Prague, Czech Republic	25-27 October 2015
19.	<i>Meeting of CRONSEE on the Optional protocol of the Convention of the Rights of the Child - Role of Child Ombudsmen</i> Osijek, Croatia	27 October 2015
20.	<i>Workshop relating to the prohibition of migrants, return of migrants and failed treatment of asylum seekers in South East Europe</i> Tirana, Albania	29-30 October 2015

21.	<i>Workshop with many beneficiaries relating to the role of Ombudsman Institutions for the protection of the rights of migrants</i> Tirana, Albania	12-13 November 2015
22.	<i>Seminar “Role of Ombudsman in modern parliamentary democracy – a regional perspective”</i> Brussels, Belgium	18-19 November 2015
23.	<i>Belgrade Conference on the role of NHRI in the protection of refugees and emigrants</i> Beograd, Serbi	23-24 November 2015
24.	<i>Assembly general of ENNHRI</i> Utrecht- Hollandë	30 November r- 1 December 2015
25.	<i>Study visit on the exchange of best practices in protection from discrimination and the prevention of torture</i> Paris, France	7-10 December 2015

Table 1. Participation to international meeting

3.5.1. Cooperation with counterparts and other international organisations

Cooperation with counterparts and other international organisations in Kosovo and abroad is very important for the Ombudsperson Institution. Therefore, in this regard, in 2015 as well, some joint activities were realised.

It is worth mentioning that we have very good cooperation with all countries in the region, in particular with the Ombudsman in Albania, with which for some time now we have formalised this cooperation through the signing of a Memorandum. Since, in July 2015, the Assembly of the Republic of Kosovo appointed Mr Hilmi Jashari as Ombudsperson, one of the first visits to congratulate him was the visit by Mr Igli Totozani, Ombudsman of Albania. In addition, the Ombudsperson of Kosovo and his associates participated in two very fruitful workshops organised in Albania, one related to the work of the mechanism against torture in South East Europe and the other related to the role of the Ombudsman in the protection of the rights of migrants.

Another fruitful cooperation continues to be that with the Ombudsman of Turkey, who every year organises an international symposium, to which the Ombudsperson of Kosovo is invited. This year the symposium's intention was to create a discussion platform for best practices and the lessons learned for the effective functioning of Ombudsman Institutions in compliance with international standards and European practices.

Since the package of laws on human rights¹²⁶ entered into force in July 2015, a very good cooperation continues also this year with the Ombudsman of France and within this cooperation, with the financial support of the Embassy of France in Kosovo and TAIEX instrument, the Ombudsperson and his five deputies participated in a study visit in December 2015, whose intention was the exchange of best practices related to the treatment of cases against discrimination and the work and functionalization of the National Prevention Mechanism against Torture. During this visit, the delegation was hosted by French counterpart Mr Jacques Toubon, who talked about the special mandate and the responsibilities they have, challenges they are facing and perspectives on the work they perform. In order to continue future cooperation, Ombudsperson Jashari invited Mr. Toubon for a visit to Kosovo during the upcoming year, in order to bring French experiences to Kosovo, especially on issues relating to cooperation with the Parliament and other public institutions and following the implementation of recommendations. One day of this visit was devoted to the prevention of torture and work practices in France and for one whole day we stayed at the Inspector General of places of deprivation of liberty, which acts as a mechanism for the prevention of torture.

Good cooperation also exists with other counterpart institutions in the region and beyond, with which the Ombudsperson of the Republic of Kosovo is in permanent communication on issues of common interest.

The OIK also has very good cooperation with other organisations and foreign offices acting in Kosovo, which were a permanent supporting partner and which helped the OIK with different projects, intention of which was strengthening, capacity building and overall effective functioning.

One of these organisations is the Council of Europe, which started a project with the title, "*Support to the implementation of European standards on human rights in Kosovo,*" in which one of the beneficiaries is the Ombudsperson Institution, to which numerous seminars, training courses and awareness-raising campaigns are dedicated, which are expected to have undisputed impact in capacity building and the better realisation of the mandate.

¹²⁶ Law package on human rights is composed of Law on Ombudsperson, Law on protection from Discrimination and Law on Gender Equality.

In addition, the Swiss Government, namely the Swiss Embassy in Kosovo, has decided to support the Ombudsperson Institution with a project specifically dedicated to it, which will be a great help, especially during 2016, when the OIK is facing financial constraints to meet new mandates given to it by the human rights package. The project contains these activities: engagement of external consultants to help the investigation department, three thematic roundtables, and two trainings with topics on combating the incitement of hate speech and another one on combating xenophobia and racism, three manuals for work on discrimination cases, on the work of handling complaints and on the work for monitoring places of detention.

The Organisation for Security and Cooperation in Europe (OSCE), like in previous years during this reporting year also, supported the OIK with some activities, such as: the assessment of internal organisation through engagement of an external consultant, five thematic roundtables and one regional conference with a focus on good practices in the implementation of the law against discrimination. On International Human Rights Day, the OIK published the Law on Protection from Discrimination in the Brail Alphabet with the support of the OSCE. This law will help the poor-sighted community, one of the most vulnerable groups in Kosovo, to learn about their rights and the obligations that institutions have toward them.

In addition, the United Nations Development Programme (UNDP) also financially supported a workshop on the topic “Implementation of Law on Protection from Discrimination – Procedures and Responsible Authorities – the Ombudsperson, the Judiciary and other actors – challenges and opportunities.” Valuable recommendations came from this roundtable on the way forward concerning the implementation of the Law on Protection from Discrimination and the work necessary to be carried out by the responsible institutions.

In the end, it is necessary to point out the undeniable assistance received from the European Union Office in Kosovo and other international offices, supporting OIK in the challenges and problems it is facing. The OIK is very grateful for this good cooperation.

3.5.2. Membership in international organisations

International cooperation and membership in mechanisms dealing with human rights is known as a very important tool in the work of national institutions on human rights, since they provide opportunities to exchange information and the newest world developments in the area of human rights.

Thus, the OIK this year again has good news on this matter, since on 15 October 2015, in the General Assembly held in Quebec, Canada, it was accepted as a member of the Association of Francophone Ombudsmen and Mediators (AOMF). This association was established in 1988 and today it is composed of 49 member institutions. Its main role is the promotion of ombudsmen and mediators, and the consolidation and encouragement of independent institutions dealing with human rights.

In addition to this, the OIK has also joined the following international mechanisms:

- International Ombudsmen Institute (IOI) ¹²⁷
- European Ombudsmen Institute (EOI)¹²⁸–
- European Network of National Human Rights Institutions (ENNHRI) ¹²⁹ –
- Children Rights Ombudsperson for South East Europe (CRONSEE) ¹³⁰–
- Accession to the *Sarajevo Declaration for Cooperation* ¹³¹

3.5.3. Reporting to different international mechanisms

Every year, the OIK receives questionnaires on different topics from international organisations to report on the situation of human rights in Kosovo. Five questionnaires were sent this year and are listed in the following table.

Date	Report topic	Organisation / institution to which the report was sent
10 August 2015	Access to Justice for Children	Child Rights International Network (CRIN)
2 September 2015	Treatment of complaints and conflict resolution	Human Rights Centre- University of Essex
28 September 2015	LGBT community discrimination	Immigration and Refugee Board of Canada

¹²⁷ For more information about the European Ombudsmen Institute, visit this website: www.theoi.org

¹²⁸ For more information about the European Ombudsmen Institute, visit this website: www.eoi.at

¹²⁹ For more information about the European Ombudsmen Institute, visit this website: www.ennhri.org

¹³¹ This declaration has formalised the cooperation and activities of all Ombudsmen Institutions in the region. The Ombudsperson institution in Kosovo signed this Declaration on 4 April 2014.

5 November 2013	Policies of detention of foreign children in the Republic of Kosovo	Global Detention Project- Switzerland
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Table 2. List of reports submitted to international organisations

3.6. Media communication

In raising awareness and promoting human rights as well as the work of the OIK during 2015, the release of information, positions or reports, and advocacy in the accomplishment of mandate and mission has been done through different channels of communication, including direct communication with the public, the official website, and media and social networks. As such, communication has been intensive and continuous, tailoring communication channels depending on each situation, message or target group for communication.

The OIK website, along with its official page and profile on the social network Facebook, served as channels for distribution of materials to the public, including here the publication of seven reports concerning cases and three ex official reports, which are first submitted to responsible institutions. In addition, during this year, the OIK published the annual report for 2014 (in hard copy and soft copy) and the Executive summary of statistics and recommendations from the Annual Report of 2014 (in the Albanian, Serbian, Turkish, Roma and English languages).

In the reporting period 1 January – 31 December 2015, 57 pieces of information, declarations, news and notices were released for publication, through e-mail, the OIK official website and the OIK official profile on Facebook. Broken down statistically by month, they appear on Table 1 below:

	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
2015	2	6	4	2	2	3	4	4	5	13	8	4

Table 3: Breaking down of information/declarations/notices in the OIK official website

In addition, through flash news and a photo gallery, special activities held in different parts of the year are made known to the public.

Direct communication with media, through submission of information, declarations or notices by e-mail, as well as in statements in direct interviews, press conferences questions/answers opportunities in events where the OIK was organiser or participant, were some of the means used for advocacy and transparency.

During 2015, there were 115 public appearances made, mainly by the Ombudsperson, as well as OIK officials, in response to requests by media and journalists for statements, interviews, open programmes for citizens' questions, debates, etc., through traditional media, electronic portals and written media. Here the distribution or attachment of the same in other media written, electronic media or social network is not included. A list of media appearances, according to media, may be found below in Table 2.

MEDIA PRESENTATIONS DISTRIBUTED ACCORDING TO MEDIA			
ARTA TV	3	Portal "TeSheshi"	1
Betimi për Drejtësi	1	Radio "Prosperiteti", Gjakovë	2
BIRN / Kallxo.com	5	Radio Dukagjini	1
Bota Sot	2	Radio Kosovo	6
Express	2	Radio Evropa e Lirë (Free Europe)	3
Gazeta Tribuna	1	TV Rrokum	5
Indeksonline	1	RTK 1	7
Infokus	1	RTK 2	5
Jeta n'Kosovë	3	RTK 3	1
Klan Kosovo	9	RTV "Besa", Prizren	1
Koha Ditore	9	RTV 21	3
Kosovo Press	3	Top Channel	1

Kosovo Sot	5	Toskanapress	1
Kosovo 2.0	1	Tribuna Channel	10
KTV	12	Radio Vala Rinore, Prishtinë	1
Lajmi.net	1	Zëri	4
Media Centre Çagllavicë	1		

Table 4: List of media appearance, per media

In order to advocate for the implementation of the right to access to public documents, freedom of expression, and freedom of the media, and in order to raise awareness of institutional officials/civil society/media on the importance of these three segments of the wide range of human rights for institutional transparency and overall functioning of democracy, a project entitled *Project of workshops in the function of transparency* was realized in regional centres where regional OIK offices are located and in Prishtina, where representatives of relevant institutions from almost all municipalities of the Republic of Kosovo, representatives of non-governmental organisations conducting their activities at local level, and journalists from local media participated. In addition, through these workshops we promoted the work, mandate and competence of the Ombudsperson and Regional offices, as an integral part of the OIK.

In order to intensify communication and cooperation of the OIK with central and local institutions, in the period August – December there were a number of meetings held, in which the Ombudsperson himself was present. During visits in local centres, we also talked to non-governmental organisations acting at a local level, and with local media.

On the other hand, special activities, such as the marking 1 June, International Children’s Day, roundtables with specific themes, depending on the responsible parties involved, in order to discuss and promote the package of laws of human rights, which entered in force in July 2015, and other events organised by the OIK, served to distribute promotional materials, including materials printed on paper, t-shirts, caps, pens with logos of the OIK and with advocacy mottos on human rights. In order to inform communities with special needs, a considerable portion of a special information bulletin printed in Brail alphabet in Albanian, Serbian and Turkish language was submitted to the Association of the Blind of Kosovo and Special Schools for the Blind in Peja. In addition, in order to distribute promotional materials to new categories of the public at large, a number of annual reports and bulletins, from different multiyear periods of the work of the OIK was been submitted to the National Library of Kosovo.

IV. FINANCES

4.1. OIK Budget

The OIK is an independent institution financed by the budget of the Republic of Kosovo. According to the Law on Ombudsperson “*the Ombudsperson Institution prepares its annual budget proposal and submits it for approval to the Assembly of the Republic of Kosovo.*”¹³² According to this legal provision, the OIK is provided with a necessary budget “*irrespective of other legal provisions.*”¹³³

4.2. Financing of the OIK from the Budget of the Republic of Kosovo

Based on the legal process of preparation and submission of the regular budget request, the Ombudsperson, as in previous years, submitted this year a budget request to the Assembly of the Republic of Kosovo.

The Ombudsperson’s budget request for 2015 is based on the OIK work plan and activities planned. The budget allocation was not made in accordance with the Ombudsperson’s request, but rather was based on the budget allocation for 2014.

Moreover, the OIK budget for fiscal year 2015 was cut in July 2015 in the amount of € 112,037.⁰⁰, based on Law No. 05/L-046 for amending and supplementing of Law no. 05/L-001 on the Budget of Republic of Kosovo. This budget cut has been to the following categories: Wages and Salaries, in the amount of € 50,695.⁰⁰ and Goods and Services, in the amount of € 61,343.⁰⁰.

Reflection of the condition, cuts and budget flow of the Ombudsperson Institution for 2015 will be presented in table form, while the report and detailed accounting of all flows in the OIK budget for 2015 according to special economic categories and sub-categories is submitted to the Assembly of the Republic of Kosovo according to a standard form for financial reporting by independent institutions, as is required by the Commission for Budget and Finances of the Assembly of the Republic of Kosovo.

¹³² Law on Ombudsperson, no. 05/L-0195, Article 35, paragraph 2.

¹³³ *Ibid.*

The following table presents the OIK budget starting from *budget request, allocated budget, budget cuts and final budget for 2015*.

<i>Economic category</i>	Budget request for 2015	Budget allocated for 2015	Budget cut with amending and supplementing Law on Budget for 2015	Budget cut in December 2015, upon Government decision	Final budget for 2015	Final budget for 2014
Wages and Salaries	798.742.02	675.469.99	624.774.99	23.239.72	601.535.27	596.371.00
Goods and Services	459.239.00	390.353.00	329.011.00	14.809.27	314.201.18	390.353.15
Utilities	30.000.00	25.500.00	25.500.00	9.089.98	16.410.02	25.500.00
Capital expenditures	12.000.00	0.00	0.00	0.00	0.00	10.000.00
Total budget	1.299.963.02	1.091.322.99	979.285.99	47.138.97	932.147.02	1.022.224.15

Table 5: Budget request, budget allocated, budget cuts and final budget for 2015

Budget planning and budget expenditures have been implemented according to the needs and destinations according to the work and functioning of the OIK, while monitoring and internal control in budget use was not lacking. However, with the OIK budget cut for 2015, OIK has suffered consequences and obstacles in its work in the full discharge of the OIK's mandate and competencies, because, due to these budget cuts, the OIK was limited in new hiring for all positions / working positions permitted in the initial budget for 2015. Concretely, it affected directly the failure to fill ten vacant positions on the staff for 2015, which made difficult the work and full discharge of the legal and constitutional competences of the Institution during 2015.

At the end of fiscal year 2015, after financial analysis of the budget status compared to the funds planned for expenditure up to 31 December 2015, the OIK identified and assessed budget savings for the economic category Municipal Expenditures in the amount of € 8,000.⁰⁰. On 30 November 2015, the OIK submitted a written notice to the Ministry of Finance for saving and returning these budgetary financial funds, whereas a portion of other budget savings were directly withdrawn by the Ministry of Finances upon a decision of the Government of the Republic of Kosovo in December 2015.

4.3. Final OIK budget and execution of expenditures for 2015

The OIK budget for 2015 was spent up to 94.66 %. The following table presents the final budget situation compared to budget expenditures for 2015. The presentation of budget data has been organized according to economic categories and according to expenditures expressed in percentages (%).

No.	Economic categories	Final budget 2015	Budget spent	Unused funds	Execution in %
1.	Wages and salaries	601.535.27	601.535.27	0.00	100.00 %
2.	Goods and Services	314.201.73	268.896.91	45.304.82	85.58 %
3.	Utilities	16.410.02	11.951.32	4.458.70	72.83 %
4.	Capital expenditures	0.00	0.00	0.00	0.00 %
Total		932.147.02	882.383.50	49.763.52	94.66 %

Table 6: Final budget and execution of expenditures for 2015

4.4. OIK donor financing

During 2015, the OIK was supported by international organisations and institutions acting in Kosovo, such as the Council of Europe, the OSCE, the UNDP, GIZ, the Embassy of France etc. This support consisted in financial assistance in conducting different conferences, training courses and realisation of study visits abroad.

STATISTICS

5.1. Statistical summary of complaints and cases for 2015

As of 1 January 2015 to 31 December 2015, 1995 complaints and requests for legal advice of aid were filed by Kosovo citizens in the OIK Main Office in Prishtina and in its regional offices. There were 245 complainants who met in person with the Ombudsperson or Deputy Ombudspersons during “Open Days” held twice a month in Prishtina and at least once a month in other municipalities.

Most cases investigated by the OIK during the reporting period deal with the right to a fair and impartial trial, property protection, right to work and to exercise one’s profession, and health and social protection.

In the following table, the total number of complaints presented with OIK, during 2015 is given in detail. These tables reflect all types of actions and cases with absolute figures. In addition, it reflects also the cases resolved by OIK, reports of the cases investigated and recommendations given in reports, failures of authorities to respond to OIK letters, etc.

	Total number of complaints filed in the OIK	1995
	<i>Number of persons involved in the complaints presented¹³⁴</i>	3281
<i>Ethnic background of complainants</i>		
	Albanian	1764

¹³⁴ A complaint may have several complainants alleging that their rights have been violated by public authorities.

	Serb	131
	Bosnian	30
	Turk	21
	Roma	16
	Egyptian	13
	Ashkali	9
	Other	11
<i>Gender of complainants</i>		
	Male	1546
	Female	449
<i>Responsible authorities against which the complaints are filed (one complaint may have more than one responsible party)</i>		
	Courts	587
	Ministries	481
	Municipalities	360
	Police	101
	Natural persons	89
	Foreign authorities	64
	State prosecution offices	55
	Publicly Owned Enterprises	55
	Private companies	46
	Privatisation Agency of Kosovo	35

	Kosovo Property Agency	14
	Other	184

Table 7: Complaints filled by citizens during 2015

	Number of complaints declared inadmissible	1268
<i>Legal grounds of the inadmissibility of complaints based on the Law on Ombudsperson</i>		
	No violation, maladministration – Article 22, paragraph 1.1	367
	Failure to exhaust legal remedies - Article 22, paragraph 1.4	332
	In the process of exhausting legal remedies - Article 22, paragraph 1.3	253
	Outside of jurisdiction - Article 21, paragraph 1.3.1	248
	Filed after the legal deadline - Article 21, paragraph 1.3.2	37
	Lack of interest, failure of the complainant - Article 22, paragraph 1.2	31

Table 8: Complaints declared inadmissible during 2015

	Cases initiated for investigation from the complaints filed by citizens	727
	Cases initiated ex officio	30
<i>Ethnic background of citizens based on the cases investigated</i>		
	Albanian	608
	Serb	82
	Bosnian	9

	Turk	9
	Egyptian	7
	Roma	5
	Ashkali	2
	Other	5
<i>Complainants gender based on the cases investigated by the OIK</i>		
	Male	561
	Female	166
<i>Responsible authorities for cases investigated by the OIK (one complaint may have more than one responsible party)</i>		
	Courts	249
	Ministries	202
	Municipalities	146
	Police	41
	State prosecution offices	22
	Publicly owned enterprises	13
	Privatisation Agency of Kosovo	12
	Natural person	10
	Kosovo Property Agency	9
	Private companies	6
	Foreign authorities	6
	Other	76

Table 9: Complaints opened for investigation during 2015

	Right to a fair and impartial trial	228
	Property protection	118
	Right to work and exercise of profession	110
	Health and social protection	109
	Right to legal remedies	79
	Rights of the accused	55
	Equality before the law	53
	Prohibition of torture, cruel, inhuman and degrading treatment	27
	Right of access to public documents	23
	The rights of the child	22
	Right to education	22
	Judicial protection of rights	17
	Right to marriage and family	14
	Cases of mediation	13
	Responsibility for living environment	12
	Human dignity	8
	Right to life	8
	Right of freedom and security	7
	Freedom of movement	7

	Right to privacy	6
	Freedom of expression	2
	Freedom of association	2
	Limitation of rights and fundamental freedoms	2
	Other	8

Table 10 Subject of the investigated cases, based on the guaranteed rights by the Constitution (one case can contain more than one guaranteed right violation)

	Total number of cases closed	580
<i>Legal grounds for closing cases based on the Law on Ombudsperson</i>		
	Positively resolved, in accordance with the complainant's request - Article 21, paragraph 1.5.	328
	Inadmissible, in the process of exhausting legal remedies – Article 22, paragraph 1.3	87
	Inadmissible, no violation, maladministration – Article 22, paragraph 1.1	80
	Inadmissible, failure to exhaust legal remedies – Article 22, paragraph 1.4	39
	Closed due to lack of complainant's interest, failure of the complainant - Article 22, paragraph 1.2	22
	Closed with a report	20
	Inadmissible, outside of jurisdiction – article 21, paragraph 1.3.1	4

Table 11: Total number of cases closed by OIK during 2015 (not only cases of 2015, but also cases registered earlier and closed during this year)

Responsible authority	<i>Number of letters submitted by OIK</i>	Number of letters without responses
JUDICIAL AND PROSECUTORIAL SYSTEM		
Constitutional Court of Kosovo	<i>13</i>	11
Basic Court in Prishtinë	<i>73</i>	14
Appellate Court	<i>49</i>	2
Basic Prosecution in Prishtinë	<i>9</i>	2
Special Chamber of Supreme Court	<i>40</i>	2
EULEX Mission	<i>1</i>	1
GOVERNMENT AUTHORITIES		
Ministry of Labour and Social Welfare	<i>16</i>	12
Ministry of Justice	<i>3</i>	3
Ministry of Communities and Returns	<i>3</i>	2
Social Work Centre in Prishtinë	<i>2</i>	2
Government Commission for Verification of Status of War Veterans and Invalids	<i>2</i>	2
Ministry of Finance	<i>2</i>	1
LOCAL AUTHORITIES		
Municipality of Prishtinë	<i>12</i>	9
Municipality of Pejë	<i>4</i>	2

Municipality of Prizren	4	1
Municipality of Mitrovicë	3	1
Municipality of Lipjan	6	2
Municipality of Dragash	3	1
Municipality of Gjilan	3	1
Municipality of Drenas	2	1
Municipality of Ferizaj	2	1
Municipality of Gjakovë	1	1
OTHER PUBLIC INSTITUTIONS		
University Clinical Centre of Kosovo	3	3
Presidency of Kosovo	2	1
University of Prishtinë	8	3
Kosovo Police	15	3

Table 12: Failure of the responsible authorities to respond on OIK letters

	Reports for cases investigated (on the basis of citizens' complaints)	15
	Reports for cases investigated <i>ex officio</i>	5
	<i>Recommendations on cases investigated</i>	57

Table 13 Reports with recommendations for cases by the OIK Responsible authority

	<i>Recommendations implemented</i>	<i>Recommendations not implemented</i>	<i>Pending implementation</i>
The Assembly of Kosovo	1	2	3
Basic Court in Prishtinë	1	1	
Kosovo Correctional Service		3	
Ministry of Justice		2	
Ministry of Education, Science and Technology		2	
Ministry of Labour and Social Welfare		7	
Police	2		
Ministry of Internal Affairs	2		
Government of Kosovo	2	11	2
Ministry of Health	1		
Municipality of Partesh		1	
Municipality of Prishtinë		3	
Basic Court in Prizren	3		
Kosovo Judicial Council		2	
Kosovo Property Agency		2	
Special Chamber of Supreme Court			1
University of Prishtinë	1		1
Disciplinary Prosecution Office	1		

Total	14	36	7
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Table 14: Implementation of the issued recommendations for investigated claims by OIK

Review of complaints filed in OIK during 2015

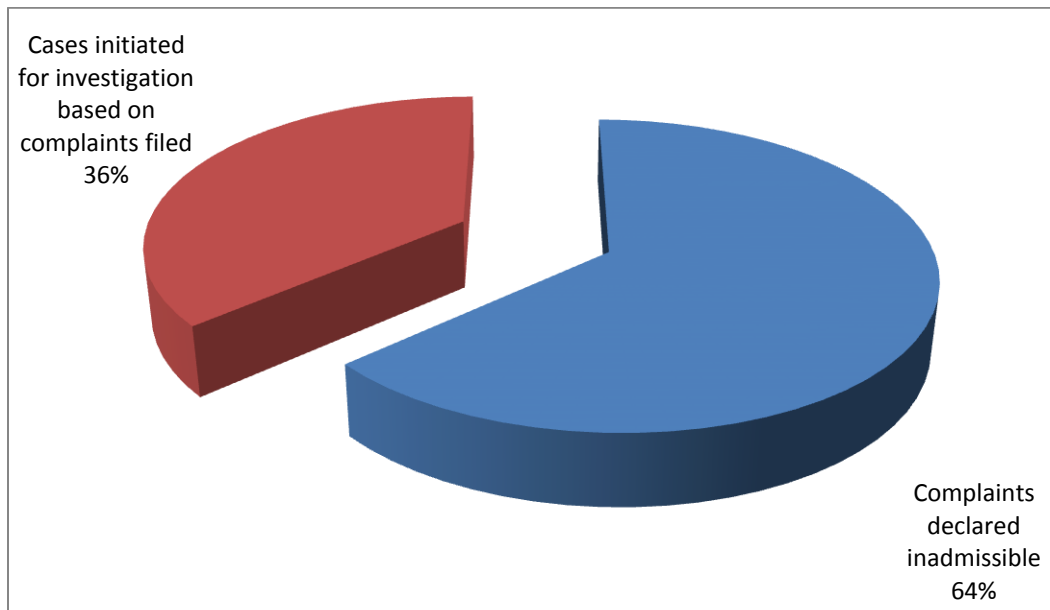


Figure 1: Graphic presentation of statistics, 1 January 2015 - 31 December 2015

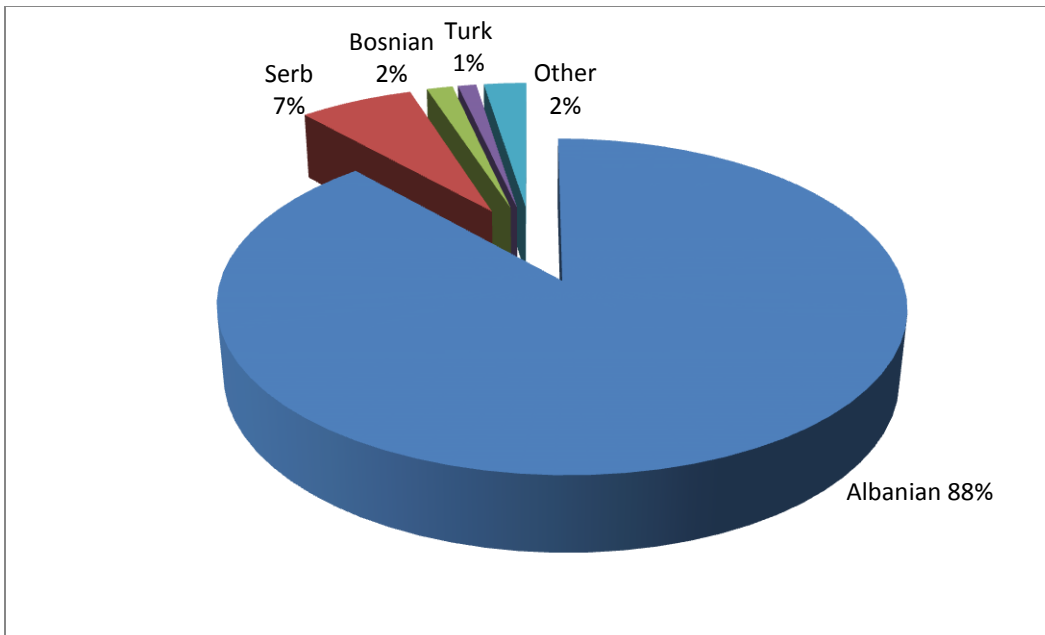


Figure 2: Ethnic background of citizens based on complaints filed in OIK during 2015

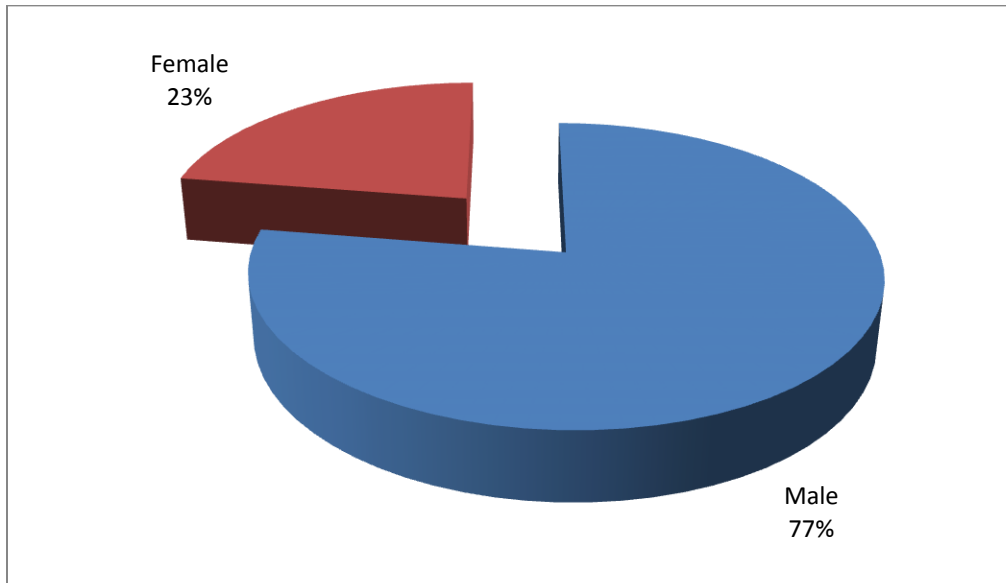


Figure 3: Gender of citizens based on complaints filed in OIK during 2015

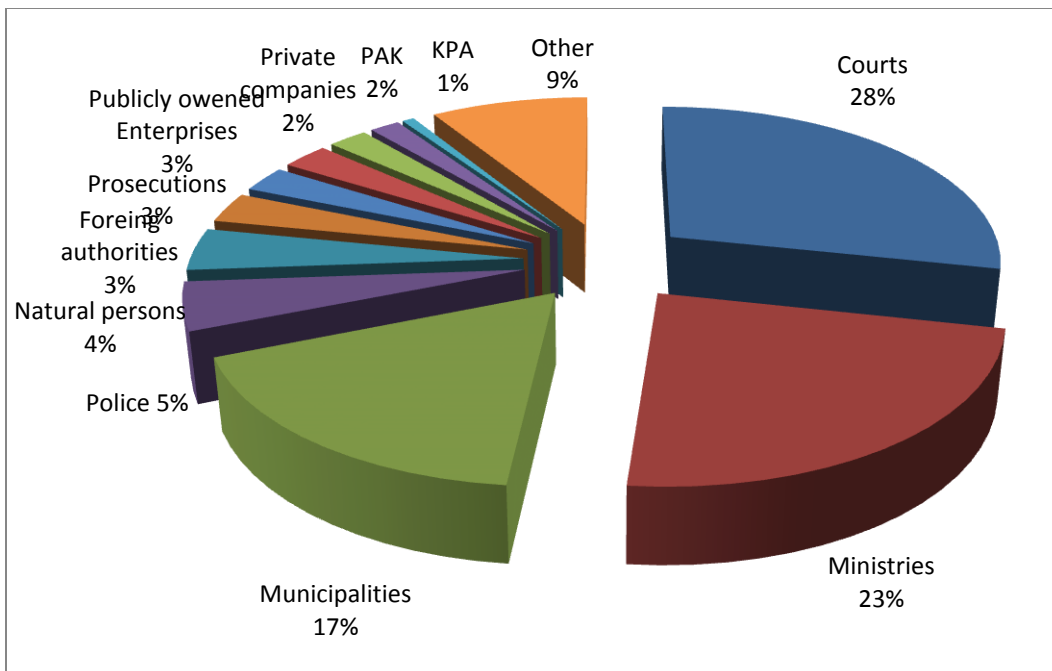


Figure 4: Responsible authorities in complaints filed in OIK during 2015

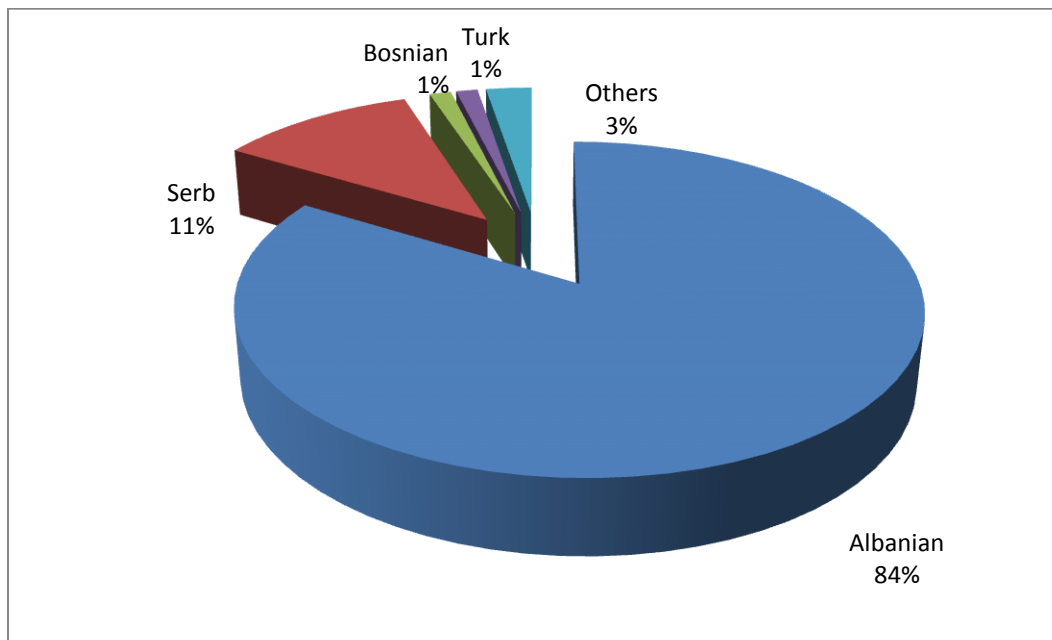


Figure 5: Ethnic background of citizens based on cases initiated during 2015

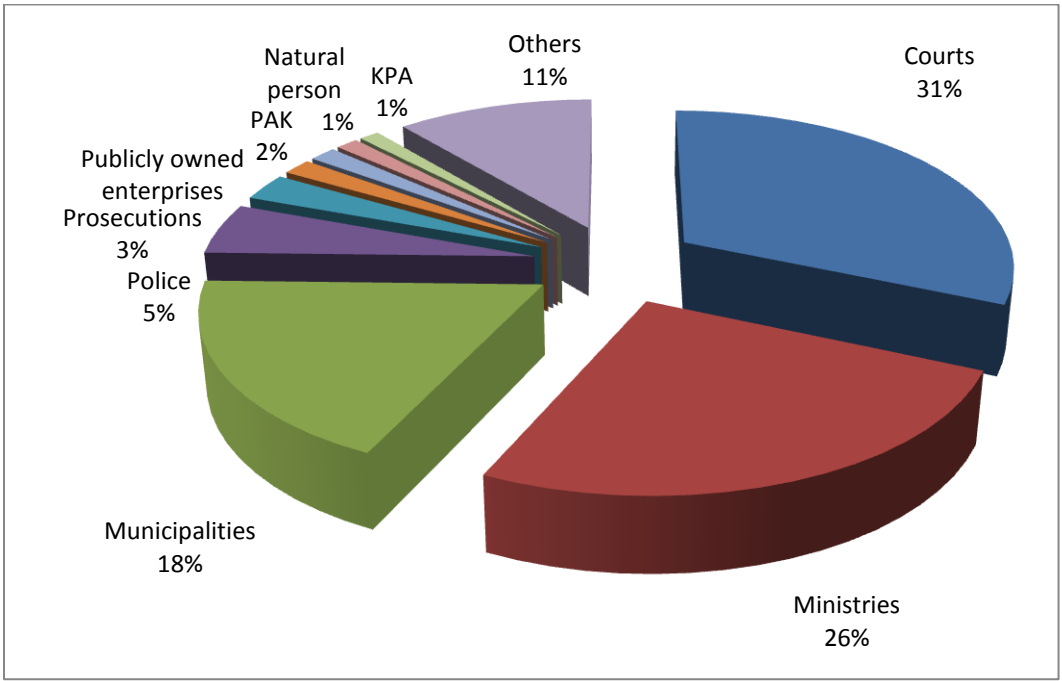


Figure 6: Responsible authorities in cases investigated by OIK

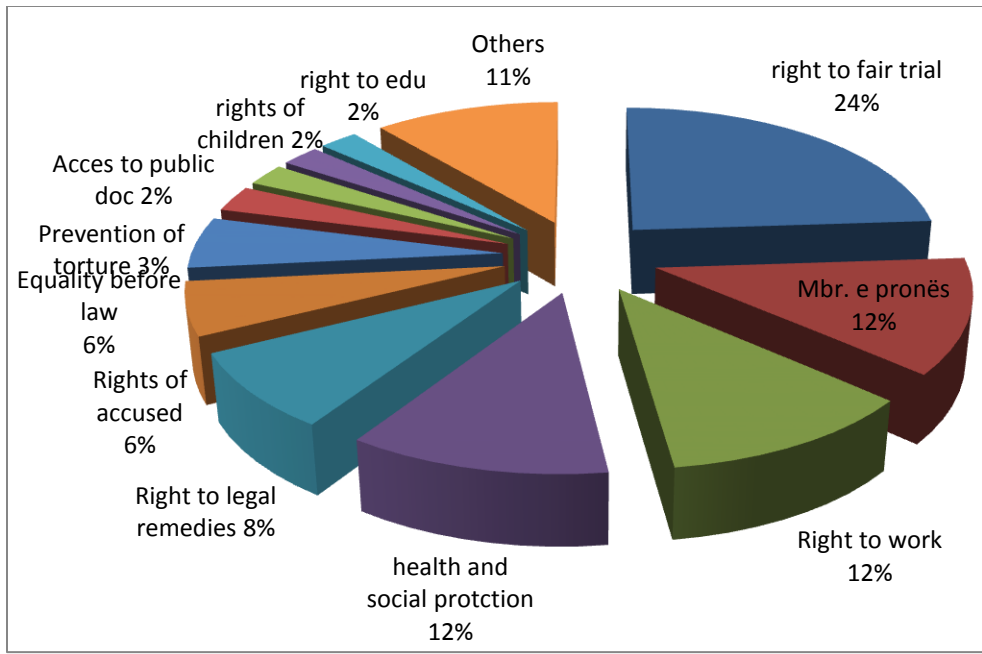


Figure 7: Cases investigated based on rights guaranteed by the Constitution

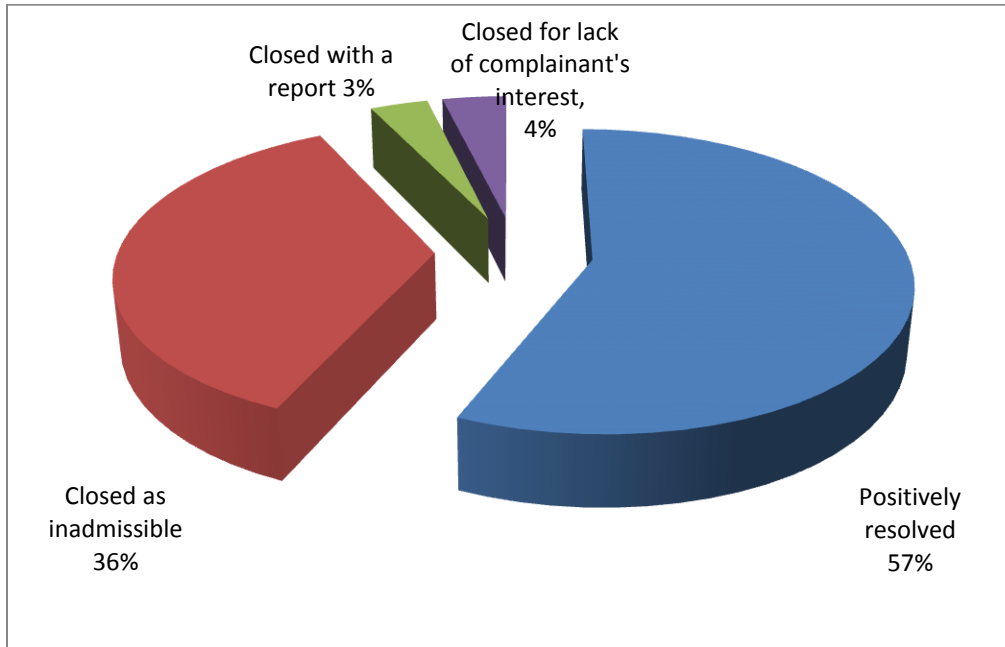


Figure 8: Cases closed by OIK during 2015 (not only cases initiated in 2015, but also cases registered earlier and closed during this year)

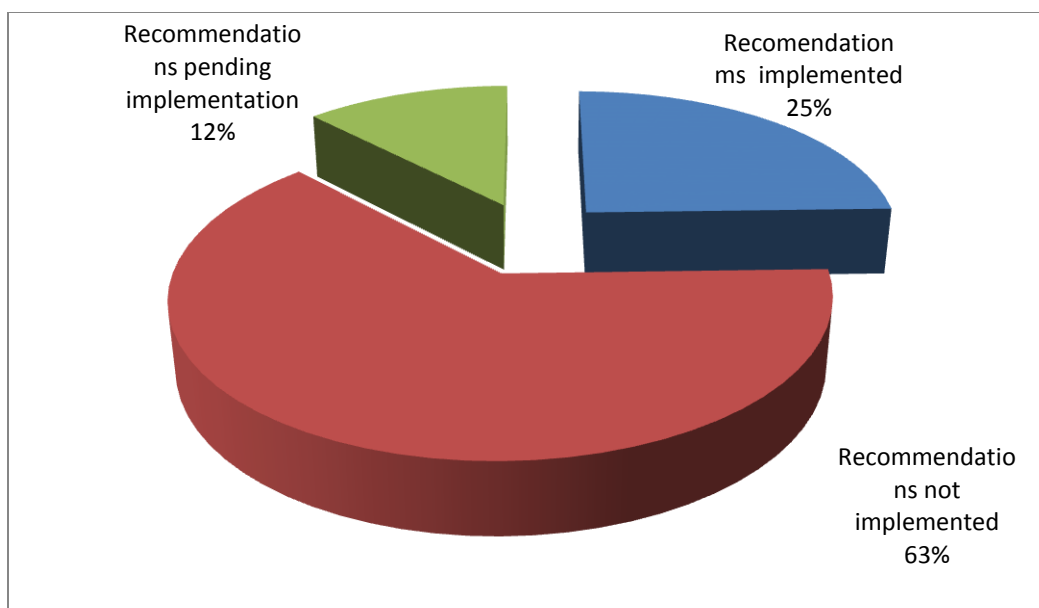


Figure 9: Implementation of recommendations issued in reports for cases investigated by OIK

Acronyms

AKA	Anti-Corruption Agency
AMO	Association of Mediterranean Ombudsmen
BCP	Basic Court of Prishtina
BCPz	Basic Court of Prizren
CC	Correction Center
CCK	Constitutional Court of Kosovo
CCRK	Criminal Code of the Republic of Kosovo
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
CEC	Central Election Commission
CNCR	Coalition of NGOs for Children's Rights
CPHRF	Council for Protection of Human Rights and Freedom
CPJC	Council for Protection and Justice for Children
CRONSEE	Southeast Europe Children's Ombudspersons Network
CRP	Conditional Release Panel
DAD	Department against Discrimination
DC	Detention Center
DCAM	Department of Citizenship, Asylum and Migration
DFMWI	Department of Families of Martyrs, War Invalids and Civil Victims
	Department for Families of Heroes, Invalids, Veterans and
ECHR	European Convention for Human Rights
ECMI	European Center for Minority Issues
ENOC	European Network of Ombudsmen for Children

EOI	European Ombudsmen Institute
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
GCR	Group for Children's Rights
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
HPD	Housing and Property Directorate
HSP	High Security Prison
ICC	International Coordination Committee
IMC	Independent Media Commission
IMH	Institute for Mental Health
IOI	International Ombudsmen Institution
KBA	Kosovo Bar Association
KEC	Kosovo Energy Corporation
KEDS	Kosovo Electricity Distribution and Supply Company
KEPA	Kosovo Environmental Protection Agency
KESC	Kosovo Economic and Social Council
KFPI	Kosovo Forensic Psychiatry Institute
KIC	Kosovo Islamic Community
KJC	Kosovo Judicial Council
KJI	Kosovo Judicial Institute
KLA	Kosovo Liberation Army
KPA	Kosovo Property Agency
KPC	Kosovo Prosecutorial Council
KPCC	Kosovo Property Claims Commission
KPS	Kosovo Probation Service
KRCT	Kosovo Rehabilitation Centre of Torture Victims
KSA	Kosovo Statistical Agency
KUCC	Kosovo University Clinical Center
LAPD	Law on Access to Public Documents
LGBT	Lesbian, Gay, Bisexual and Transgender
MAFRD	Ministry of Agriculture, Forestry and Rural Development
MCR	Ministry for Communities and Return
MDE	Municipal Directorate for Education
MESP	Ministry for Environment and Spatial Planning
MEST	Ministry of Education, Science and Technology
MIA	Ministry of Internal Affairs
MLGA	Ministry of Local Government Administration
MLSW	Ministry of Labour and Social Welfare
MoH	Ministry of Health
MoJ	Ministry of Justice
MPA	Ministry of Public Administration
NAPDP	National Agency for Personal Data Protection
NGO	Non-Governmental Organization
NHRIs	National Human Rights Institutes
NMPT	National Mechanism for the Prevention from Torture
OAG	Office of Auditor General
OCR	Office for Communities and Return
ODC	Office of the Disciplinary Counsel

OGG	Office for the Good Government
OIK	Ombudsman Institution of Kosovo
OPM	Office of the Prime Minister
OSCE	Organization for Cooperation and Security in Europe
PADK	Pensions Administration Department of Kosovo
PAK	Privatization Agency of Kosovo
PIK	Police Inspectorate of Kosovo
RTK	Radio Television of Kosovo
SAAK	State Archives Agency of Kosovo
SCSC	Special Chamber of the Supreme Court
SOC	Serbian Orthodox Church
UDHR	Universal Declaration for Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development