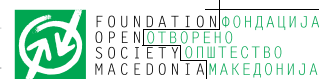


REFORMS VERSUS RIGHTS



EFFICIENCY OF INDEPENDENT HUMAN RIGHTS BODIES IN REPUBLIC OF MACEDONIA *

During the 90s in the last century, and especially after 1993 World Conference on Human Rights, in global terms, the number of national institutions for protection of human rights was significantly increased. As part of their transition towards democracy, many states, including the Republic of Macedonia, established this type of institutions.

Efficiency of these institutions depends on their functional capacity, optimal use of human and financial resources, accessibility and transparency, consultations with the civil society, speedy and effective actions upon complaints, as well as their mandate, jurisdiction and supervision, whether they treat issues related to human rights in systematic manner, and public perception about them and their performance.

**THE RESEARCH STUDY TITLED
“EFFICIENCY OF INDEPENDENT
HUMAN RIGHTS BODIES IN
REPUBLIC OF MACEDONIA”
PROVIDES ANSWERS TO THE
QUESTION ABOUT EFFICIENCY OF
THESE DOMESTIC INDEPENDENT
HUMAN RIGHTS BODIES IN THEIR
RESPECTIVE WORK.**

By targeting operation of national human rights bodies in the period from 2009, when the European Commission recommended opening of accession negotiations with the Republic of Macedonia, until the end of 2015, this research reconsiders several aspects related to the effectiveness of these bodies. In support of this research, survey was conducted on public awareness and perceptions about performance of selected bodies, on multi-stratified and verified representative sample comprised of

1,013 RESPONDENTS.

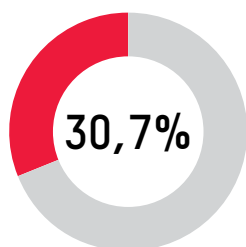
* This text represents a summary of the key findings and recommendations of the analysis. Full version of the analysis is available [here](#)

CITIZENS ARE NOT INFORMED ABOUT EXISTENCE OF NATIONAL BODIES

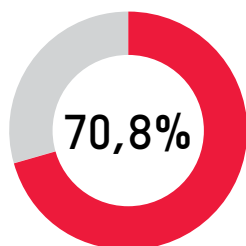
According to survey data, Macedonian citizens are not informed about the existence of national human rights bodies like the Ombudsman and the Commission for Protection against Discrimination, in spite of their respective competences, as well as about the Commission for Protection of the Right to Free Access to Public Information and the Directorate for Personal Data Protection.

Data from the research study *“Efficiency of Independent Human Rights Bodies in Republic of Macedonia”* show that citizens indicating knowledge about operation and competences of national human rights bodies have assigned average assessments for their performance.

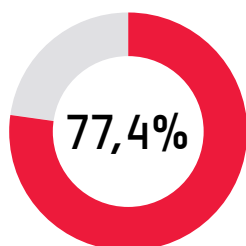
Almost all bodies, as part of their reports, indicate that financial resources at their disposal are insufficient for proper operation, i.e. they are facing difficulties in operation due to lack of funds. This shows that protection of human rights on the part of these bodies is systematically under-funded by the state. Another reason, directly related to previously indicated lack of funds, concerns insufficient human resources at these bodies, which also affects ineffective operation. Equally important to the increased number of staff members are their qualifications, as well as strengthened possibility for these human rights bodies to influence enforcement of their findings.



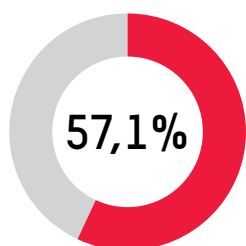
OF CITIZENS HAVE NOT HEARD ABOUT THE OMBUDSMAN



OF CITIZENS HAVE NEVER HEARD ABOUT THE COMMISSION FOR PROTECTION AGAINST DISCRIMINATION

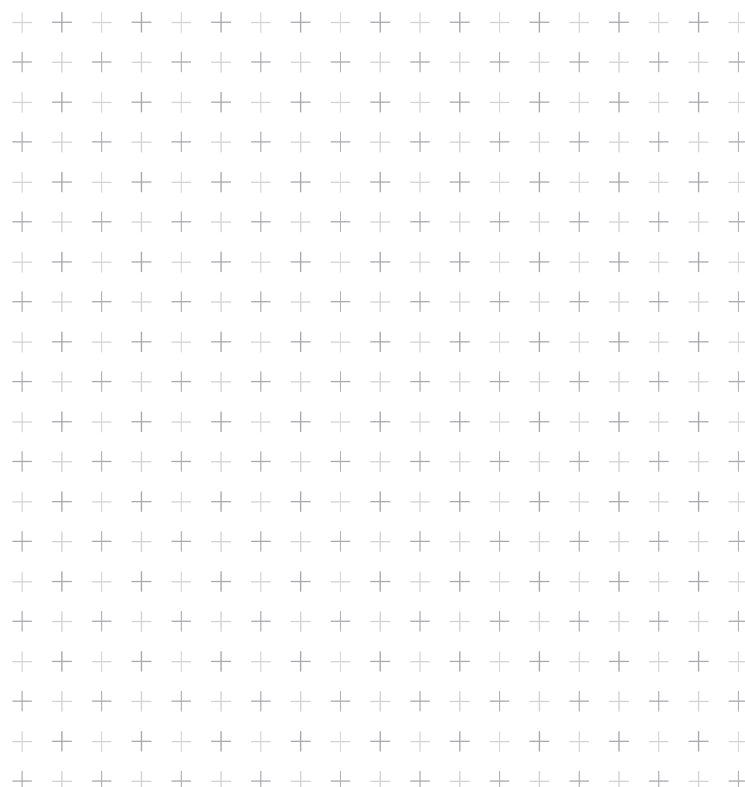


OF CITIZENS HAVE NEVER HEARD ABOUT THE COMMISSION FOR PROTECTION OF THE RIGHT TO FREE ACCESS TO PUBLIC INFORMATION



OF CITIZENS HAVE NEVER HEARD ABOUT THE DIRECTORATE FOR PERSONAL DATA PROTECTION

MAJORITY OF CITIZENS THAT INDICATED AWARENESS OF NATIONAL HUMAN RIGHTS BODIES ALSO REPORTED THAT THEY HAVE LEARNED ABOUT THESE BODIES AND THEIR COMPETENCES FROM THE MEDIA.



OMBUDSMAN

According to research data, **in the period 2009 – 2015** the Ombudsman **employed around 73 staff members and completed an average of 4,084 complaints on annual basis**. Half of the total number of staff members directly worked on complaints. The annual average of completed complaints **per staff member among those tasked to act upon them (50% of all staff members) is 110.8 complaints**.

The number of ex-officio procedures initiated by the Ombudsman is low, i.e. this office has initiated an average of **23 ex-officio procedures on annual basis**. On the other hand, the annual average of complaints submitted by citizens that have been completed without establishment of violation of certain right accounted for 2,873 complaints.

Having in mind that vast number of citizens' complaints is completed without establishment of violation, it can be concluded that citizens cannot individually identify violation of their rights, and therefore ex-officio procedures initiated by the Ombudsman gain in importance and their number should be increased.

The Ombudsman **disposes with an average annual budget in the amount of 64,770,114 MKD**. In almost all annual reports, the Ombudsman emphasized the fact that it operates with insufficient human resources and insufficient budget funds. Increasing the number of staff members directly tasked to work on complaints compared to administrative and technical staff members could be conducive to greater efficiency of this institution.

The Ombudsman's lack of mechanisms for monitoring enforcement of its findings seriously affects effectiveness of this institution. In many cases, after having established violations, the Ombudsman has exhausted all legal possibilities at its disposal, but the recommendations made had not been accepted/implemented.

The Ombudsman of Republic of Macedonia has **6 regional offices** (in Bitola, Kicevo, Kumanovo, Strumica, Tetovo and Stip). Its website is accessible and well maintained, and in addition to Macedonian, features contents in English and Albanian language.



ON ANNUAL BASIS, THE OMBUDSMAN HAS COMPLETED AN AVERAGE OF

4,084
COMPLAINTS



THE OMBUDSMAN EMPLOYED AN AVERAGE OF

73
STAFF MEMBERS



1 STAFF MEMBER HAS COMPLETED AN AVERAGE OF

110.8
COMPLAINTS



ON ANNUAL BASIS, THE OMBUDSMAN DISPOSED WITH AN AVERAGE BUDGET IN THE AMOUNT OF

64,770,114
MKD

IT OPERATES WITH INSUFFICIENT HUMAN RESOURCES AND INSUFFICIENT BUDGET FUNDS.

THERE ARE NO EFFECTIVE MECHANISMS FOR MONITORING IMPLEMENTATION OF FINDINGS ISSUED BY THE OMBUDSMAN.

COMMISSION FOR PROTECTION AGAINST DISCRIMINATION

This commission, comprised of seven members, has been presented with an annual average of 80 complaints from its establishment, and has completed an annual average of 56 complaints, whereby it created backlog of unresolved cases whose number is increasing from year to year. On average, one commissioner has completed around 8 complains on annual basis.

According to the law, the Commission issues its opinion on alleged discrimination within a deadline of 90 days from the complaint's submission. Nevertheless, certain reports on the operation and performance of this commission underline the fact that it has breached this deadline when acting upon complaints.

Although marked by increase, the number of complaints addressed to the Commission for Protection against Discrimination is still very small. Factors contributing to the small number of complaints, as reported by the Commission, include fear from secondary victimization; lack of trust in the state institutions; and insufficient public information about this human rights body. Moreover, the number of complaints had significantly decreased in 2015. According to the Commission, such drop in number of complaints is due to lack of technical working conditions at the Commission.

During its years of operation, the Commission has spent an annual average budget in the amount of 4,307,665 MKD. The Commission has stressed that budgetary limitation have major impact on the scope and efficiency in implementation of its activities. The seven commissioners, which enjoy the status of appointed officials and perform this function in parallel to their other professional activities, are entitled to monthly reimbursement in the amount of two average net salaries paid in the Republic of Macedonia. Budget funds made available to the Commission are barely sufficient to cover costs related to monthly reimbursements for commissioners.

The question is raised whether the Commission's performance could be more efficient if the number of commissioners is reduced and saved funds are used to establish an expert service that would be solely tasked with continuous and professional engagement in terms of acting upon complaints that are currently handled by the Commission.

Unlike the Ombudsman, the Commission for Protection against Discrimination does not have regional offices. According to the Commission, this prevents establishment of contacts with persons from other towns across the country. At the same time, lack of funds is identified as the primary reason for insufficient presence of commissioners in the field, among citizens. Its website allows the possibility for online submission of complaints.

Although persons/entities addressed by recommendations issued by the Commission should act upon them, there are no institutions that have taken actions in compliance with these recommendations. The Commission does not provide any information about the number of complaints that have been completed with established discrimination followed by initiation of court procedures and about the number of motions for misdemeanour procedures initiated by the Commission.

The Commission stressed that, due to the small budget at its disposal, it is prevented to fully perform its law-stipulated obligations, including monitoring of court procedures led for discrimination cases.



THE COMMISSION
HAS BEEN
PRESENTED WITH
AN AVERAGE OF

80

COMPLAINTS
ON ANNUAL
BASIS



HAS COMPLETED
AN AVERAGE OF

56

COMPLAINTS
ON ANNUAL
BASIS



THE COMMISSION
HAS SPENT
AN ANNUAL
AVERAGE OF

4,307,665
MKD, DURING ITS YEARS
OF OPERATION

IT OPERATES WITH INSUFFICIENT HUMAN
RESOURCES AND INSUFFICIENT BUDGET FUNDS.

COMMISSION FOR PROTECTION OF THE RIGHT TO FREE ACCESS TO PUBLIC INFORMATION

On annual level, **the Commission for Protection of the Right to Free Access to Public Information has acted upon an average of 698 appeals.** Number of appeals significantly varies from year to year, which means that the Commission must have relevant capacity to timely act in cases of higher influx of appeals. According to its experience, the Commission has often failed to act upon appeals within the law-stipulated deadline.

Among the average of 698 appeals submitted to the Commission on annual basis, **each commissioner has acted upon an average of 140 appeals, whereas each staff member at its secretariat with relevant legal education has worked on average of 116 appeals.**

The Commission disposed with an annual budget of 12,849,591 MKD and had 14 staff members. In its annual reports, the Commission underlined that, according to professional qualifications and numbers, it does not dispose with sufficient staff members for quality and timely performance of its competences. Moreover, the Commission continuously stressed that due to insufficient financial resources it is facing difficulties in performance of its competences.

Website of the Commission is available in Macedonian, Albanian and English language. In terms of accessibility, its premises are not accessible for persons with physical disabilities.

Law on Free Access to Public Information does not include special misdemeanour provisions on sanctioning non-enforcement of the Commission's final decision, although it believes that direct issuance of misdemeanour sanctions could lead to more efficient procedures and, consequently, to increased efficiency in operation.



THE COMMISSION HAS BEEN PRESENTED WITH AN AVERAGE OF

698
APPEALS



EACH STAFF MEMBER HAS WORKED ON AN AVERAGE OF

116
APPEALS ON
ANNUAL BASIS



THE COMMISSION DISPOSED WITH ANNUAL BUDGET IN THE AMOUNT OF

12,849,591
MKD



THE COMMISSION HAD

14
STAFF MEMBERS

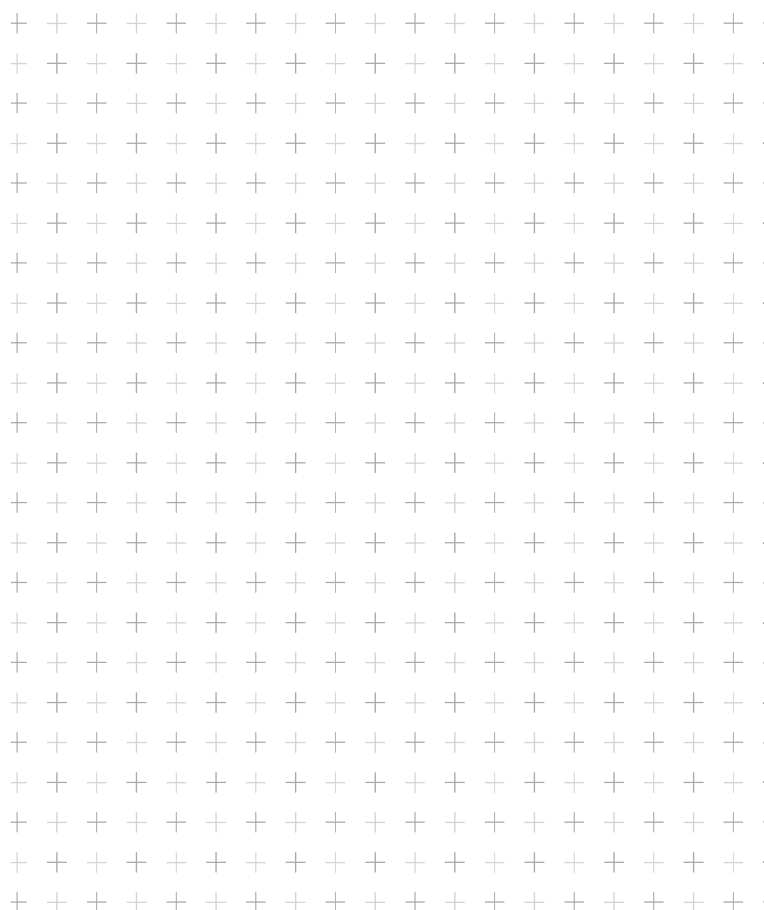
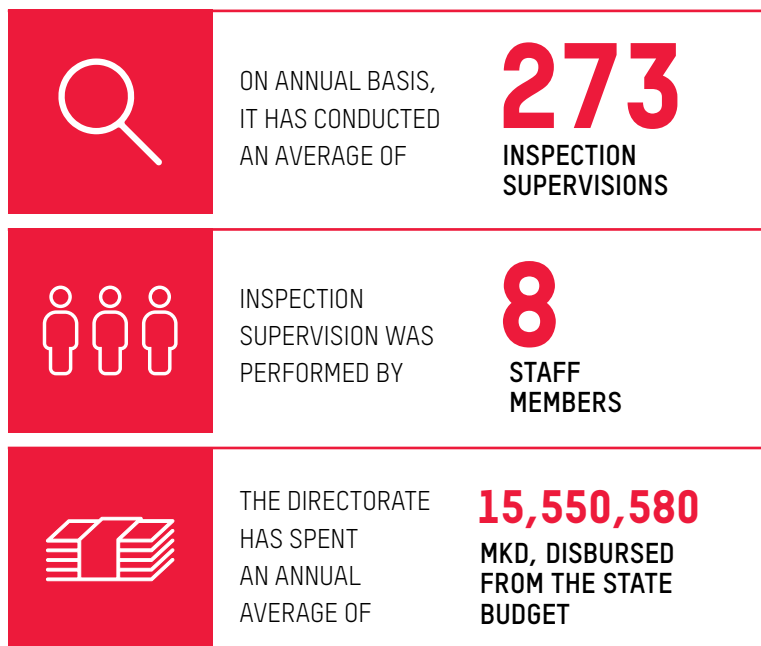
DIRECTORATE FOR PERSONAL DATA PROTECTION

On annual basis, the Directorate has performed an average of **273 inspection supervisions**, and employed an average of **8 staff members** tasked with performance of inspection supervision (from total of **23 staff members**, excluding volunteers). The Directorate spent an annual average of **15,550,580 MKD**, disbursed from the state budget. It employs 8 inspectors. Due to lack of human resources, and for the purpose of timely performance of its competences related to inspection supervision, in the period 2011-2015, the Directorate has engaged additional 4-5 staff members for performance of inspection supervision. According to the Directorate, one of the more serious challenges it has faced concerns continuous loss of qualified staff.

Citizens can access the Directorate by means of personal visits to its premises, via telephone, by submission of applications for establishment of violation of the right to personal data protection, and by means of initiatives for inspection supervision, as well as other forms of contacts via e-mail or visits to its social network accounts.

The Directorate's website is functional and available in Macedonia, Albanian and English language. As regards accessibility, its premises are inaccessible for persons with physical disabilities.

Due to the specificity of its competences, the Directorate has the best possibilities to influence enforcement of its findings. More specifically, after having established violation of the right by means of minutes from performed inspection supervision, the Directorate adopts decision and establishes deadline for elimination of said violation. In cases the violation is not eliminated within the indicated deadline, control supervision is performed to establish which violations that have not been eliminated. Inspectors are obliged to initiate misdemeanour procedure in cases when extraordinary inspection supervision has established violation of the right to personal data protection.



RECOMMENDATIONS

Greater efficiency of national human right bodies necessitates strengthened budgetary and human resources for all of them, establishment of expert service at the Commission for Protection against Discrimination and reduced number of members at this commission and at the Commission for Protection of the Right to Free Access to Public Information.

Due consideration should be made of the possibility to merge the Directorate for Personal Data Protection and the Commission for Protection of the Right to Free Access to Public Information into single body that would work in both areas.

At the same time, possibilities to influence enforcement of their findings need to be enhanced for the Ombudsman, the Commission for Protection against Discrimination and the Commission for Protection of the Right to Free Access to Public Information.

For the purpose of improving accessibility of the Commission for Protection against Discrimination, due consideration should be made of the possibility for regional offices of the Ombudsman to be used by citizens for submission of complaints to the Commission for Protection against Discrimination.

Moreover, premises of the Commission for Protection of the Right to Free Access to Public Information and the Directorate for Personal Data Protection should be dislocated, in order to ensure their accessibility for persons with physical disabilities.

Due to the small visibility in the society of all human rights bodies, greater efforts are needed to inform citizens about existence and operation of these bodies. In that, these efforts should be geared towards greater media presentation.