



**ANNUAL REPORT ON RESULT OF THE  
ACTIVITIES BY THE HUMAN RIGHTS  
OMBUDSMAN OF BOSNIA AND  
HERZEGOVINA FOR 2012**



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## INTRODUCTION

*According to Articles 34 and 35 of the Law on Human Rights Ombudsman of BiH, BiH Ombudsmen communicate Report on the results of the activities of Human Rights Ombudsman Institution for 2012 together with data on degree of respect for constitutional and legal rights of BiH citizens. The Report is communicated to the Presidency of BiH, the House of Representatives and the House of Peoples of the Parliamentary Assembly of BiH, the Parliament of the Federation of BiH and Peoples Assembly of Republika Srpska.*

*In the introductory part of the Report there is statistical data on cases handled by BiH Ombudsmen on department-to-department basis: Department for following of political and civil rights, Department for following of economic, social and cultural rights, Department for following of the rights of persons with disabilities, Department for following of the rights of national, religious and other minorities, Department for following of the rights of detainees/prisoners, Department for following of the rights of the child and Department for elimination of all forms of discrimination; as well as on office-to-office basis: Banja Luka, Brčko, Mostar, Sarajevo and Livno. There are also analytical reviews of problems encountered by offices/regions together with examples and recommendations issued.*

*In this reporting year 222 recommendations were issued and 6 Special Reports prepared, which is significantly more than in 2011, during which 3 Special Reports were prepared. With regard to statistical and numerical indicators, evidently the citizens mainly address the Institution through telephone and immediate contacts (reception of the citizens), and there is significantly less number of written complaints filed by the citizens.*

*Department for following of political and civil rights received the most – 1.737, which is 55,60 of complete number of complaints received by Ombudsman Institution; then Department for following of economic, social and cultural rights - 742 complaints and the greatest number of complaints received is related to violations of the rights from area of labor relations - 362.*

*The lowest number of complaints was received by Department for following of the rights of national, religious and other minorities – 17. Number of complaints, as well as number of citizens' addressing to this Department, can not be objective indicator of human rights situation of persons belonging to national, religious or other minority, for it frequently happens that complaints filed by members of some minority are registered in some other Department according to sort of right that was subject of violation.*

*Complete number of complaints processed by Ombudsman Institution in 2012 is 5.009, all those received in 2012 and those transferred from previous years, and 3.030 cases were closed, and the main number of violations were redressed during Ombudsmen intervention – 1.095.*

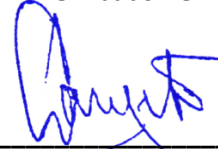
*In comparison with previous year complaints related to various forms of discrimination defined by provisions of the Law on Prohibition of Discrimination is increased for 35%. According to forms of discrimination, the greatest number of discrimination is related to mobbing -81, which means that in comparison with 2011, when 41 complaints were registered, the number of such complaints is increased for 99%. Unfortunately, Ombudsman Institution is still not supported by financial resources for full capacity functioning of Department for elimination of all forms of discrimination and these resources are set forth by law.*

*According to strategy of the Institution for 2010-2014, in 2012, too, the Ombudsmen strengthened cooperation with governmental institutions in segment of implementation of recommendations, developed partnership with the NGOs and media, and were active internationally.*

*On the occasion of preparation of present Report, aiming to achieve logistical compatibility of text, the Ombudsmen decided to use common gender nouns that include both semantic elements, that is, masculine and feminine.*

March, 2013

BiH Ombudsmen



Ljubomir Sandić



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## CHAPTER I – KEYNOTES ABOUT OMBUDSMAN INSTITUTION OF BIH

### 1.1. Legal framework for the work of the Ombudsmen

Basis for functioning of the BiH Ombudsman as an independent institution are provided for in Annexes IV and VI of the General Framework Agreement on Peace for Bosnia and Herzegovina to protect human rights and promote good governance and the rule of law.

In present conditions BiH Ombudsman functions on the basis of BiH<sup>1</sup> Constitution and the Law on the Ombudsman which guaranties its independence and provides infrastructural framework for the protection and promotion of human rights and fundamental citizens' freedoms.

According to Article 1 of the Law on Human Rights Ombudsman of Bosnia and Herzegovina, Ombudsman is an independent institution set up in order to promote good governance and the rule of law and to protect the rights and liberties of natural and legal persons, as enshrined in particular in the Constitution of Bosnia and Herzegovina and the international treaties appended thereto, monitoring to this end the activity of the institutions of Bosnia and Herzegovina, its entities, and the District of Brčko.

Ombudsman Institution acts in accordance with the Constitution, legislation, other regulations and general acts, as well as in accordance with ratified international treaties and generally accepted rules and standards of international law.

### 1.2. Scope of Ombudsman's work

The Institution shall consider cases involving the poor functioning of , or violations of human rights and liberties committed by, any government body. The Institution shall act either on receipt of a complaint or ex officio. The Institution may undertake general investigations. The Institution may recommend appropriate individual and/or general measures. The Institution shall not consider cases concerning decisions, facts or events prior to 15 December 1995<sup>2</sup>.

The Institution's competence shall comprise the power to investigate all complaints concerning violations of rights and freedoms allegedly committed by the military administration<sup>3</sup> and is also empowered to investigate all complaints made about the poor functioning of the judicial system or the poor administration of an individual case and to recommend appropriate individual or general measures.

Further, it is explicitly provided that an Ombudsman shall not interfere with the adjudicative functions of a court, which means that he or she is not competent for reconsideration of court decisions in capacity of some higher instance.<sup>4</sup>

According to Article 6 of the Law on Human Rights Ombudsman of BiH (hereinafter: the Law), An Ombudsman may refer cases of alleged human rights violations to the highest judicial

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<sup>1</sup> The Law on Human Rights Ombudsman of BiH (Official Gazette of BiH no.: 32/00,19/02,35/04,32/06,38/06,)

<sup>2</sup> See Article 2 of the Law on Human Rights Ombudsman of BiH (Official Gazette of BiH no.: 32/00, 19/02)

<sup>3</sup> See Article 3 of the Law on Human Rights Ombudsman of BiH (Official Gazette of BiH no.: 32/00, 19/02)

<sup>4</sup> See Article 4 of the Law on Human Rights Ombudsman of BiH (Official Gazette of BiH no.: 32/00, 19/02)

authorities of Bosnia and Herzegovina competent in human rights matters, pursuant to the rules concerning appeals to these authorities, whenever he or she finds that this is necessary for effective performance of his or her duties.

Ombudsman Institution is empowered with special competencies against discrimination provided for in the Law on Prohibition of Discrimination<sup>5</sup>, according to which it is central Institution for protection against discrimination. Within its competences, the BiH Ombudsman shall have the competence to receive individual and group complaints related to discrimination, provide needed information to natural and legal persons who filed a complaint for discrimination about their rights and obligations, and possibilities of judicial and other forms of protection, the BiH Ombudsman may decide not to accept a complaint or to initiate an investigative procedure, propose initiation of process of mediation, collect and analyze statistical data on discrimination cases, deliver annual reports on discrimination to the Parliamentary Assembly of BiH, FBiH Parliament, RS National Assembly and Brčko District Assembly. Give opinions and recommendations aiming to prevent and combat discrimination, monitor legislation, improve policy and practices aiming to ensure equal treatment.

Ombudsman Institution is also empowered with special competencies provided for by provisions of BiH Law Ministerial, Council of Ministers and other Appointments<sup>6</sup>, according to which the Ombudsman may undertake all measures necessary to investigate the complaint and raise questions concerning the appointment process to which the complaint refers and may require the Responsible Public Official to submit to his/her office all documents and records relating to the appointment.

Ombudsman Institution is also empowered with special competencies provided for in Freedom of Access to Information Act for BiH<sup>7</sup>. In performing its functions in relation to this Act, the Ombudsman for Bosnia and Herzegovina may *inter alia* consider creating and disseminating information such as guidelines and general recommendations concerning the administration and implementation of this Act, include in its annual report a special section regarding its activities in relation to this Act; and propose instructions on the implementation of this Act.

Aiming to protect citizens' rights, Ombudsman deals with individual and collective complaints, informs natural and legal persons on their rights and obligations, informs them on possibilities of judicial or other protection, propose initiation of mediation procedure, etc.

The Institution shall register and acknowledge receipt of the complaints submitted, whether it considers that they should be pursued or not. When an Ombudsman decides not to pursue a complaint, he or she shall do so in writing, explaining the grounds and informing the person concerned of the most appropriate means of taking action, if any exist.

An Ombudsman may refuse to pursue anonymous complaints and complaints which he or she considers to have been made in bad faith, which are ill founded, which include no claim, which

<sup>5</sup> The Law on Prohibition of Discrimination (Official Gazette of BiH no. 59/09)

<sup>6</sup> BiH Law Ministerial, Council of Ministers and other Appointments (Official Gazette of BiH br.:37/03), the Law on Ministerial, Governmental and Other Appointments for FBiH (Official Gazette of. FBiH 12/03 i 34/03) and the Law on Ministerial, Governmental and Other Appointments for RS (Official Gazette of RS, no. 41/03)

<sup>7</sup> Freedom of Access to Information Act for BiH (Official Gazette of BiH no.: 28/00, 45/06, 102/09 i 62/11), Freedom of Access to Information Act for FBiH (Official Gazette of FBiH, no. 32/2001) and Freedom of Access to Information Act for RS (Official Gazette of RS, no. 20/2001)



entail damage to the legitimate rights of a third party, or which were lodged with the Institution more than 12 months after the facts, events or decisions complained of.

Where, during an investigation, an Ombudsman finds that the execution of a decision of the administration may result in irreparable prejudice for the rights of the complainant, he or she may suggest to the competent government body to suspend the execution of the challenged measure. Government bodies are obliged to provide the Institution with preferential assistance in its investigations and inspections. During an investigation, an Ombudsman may present himself or herself at any government body in order to check all requisite information, conduct personal interviews or study the necessary files and documents. When the case under investigation concerns the conduct of persons employed in government service and is connected with the duties they perform, the Institution shall inform the person concerned and either his or her superior or the body to which he or she is attached and may demand written statements. An Ombudsman may check the veracity of the elements submitted.

An Ombudsman may require government bodies to hand over any documents he or she considers necessary to perform his or her duties, including those classified as confidential or secret in accordance with law. In such cases, the Ombudsman shall apply the requisite discretion to these documents and shall not make them available to the public and with the greatest discretion without prejudice to the considerations which the Ombudsman finds it appropriate to include in the reports. Special protective measures shall be taken.

Following all necessary investigative actions related to complaint, obtaining of documentation, statements by complainant and organs and bodies involved in case, an Ombudsman may make recommendations to government bodies with a view to the adoption of new measures. Government bodies which receive such recommendations are obliged to reply in writing and to inform the Ombudsman of the effect given to the recommendations within a period indicated by the Ombudsman.

If, once recommendations have been made, the government body concerned does not take appropriate measures, the superior organ shall be informed, and then the case shall be included in Annual Report on Results of the Activities of the Ombudsmen, which is communicated to Parliamentary Assembly of BiH, the Parliament of FBiH, Peoples Assembly of RS and BiH Presidency.

## CHAPTER II – STATISTICAL AND NUMERICAL INDICATORS ON ACTIVITIES OF OMBUDSMAN INSTITUTION IN 2012

In reporting period for 2012 Ombudsman Institution was addressed by 12.441 citizens, which indicates increase for 20% in comparison to previous 2011 when 9.888 complaints were registered. Increase is mainly registered due to telephone addressing and immediate contacts, while increase of complaints was insignificant.

In 2012 BiH Ombudsman Institution received **3124 complaints**, and with complaints transferred from 2011 and 2010 (**1885 complaints**), there were processed **5009**, which is 250 complaints more than in 2011 when **4750** complaints were processed.

Increase of addressing to the Institution is caused by various factors such as difficult economic situation and increased activities on human rights promotion, and increased confidence of citizens in possibility of their human rights protection.

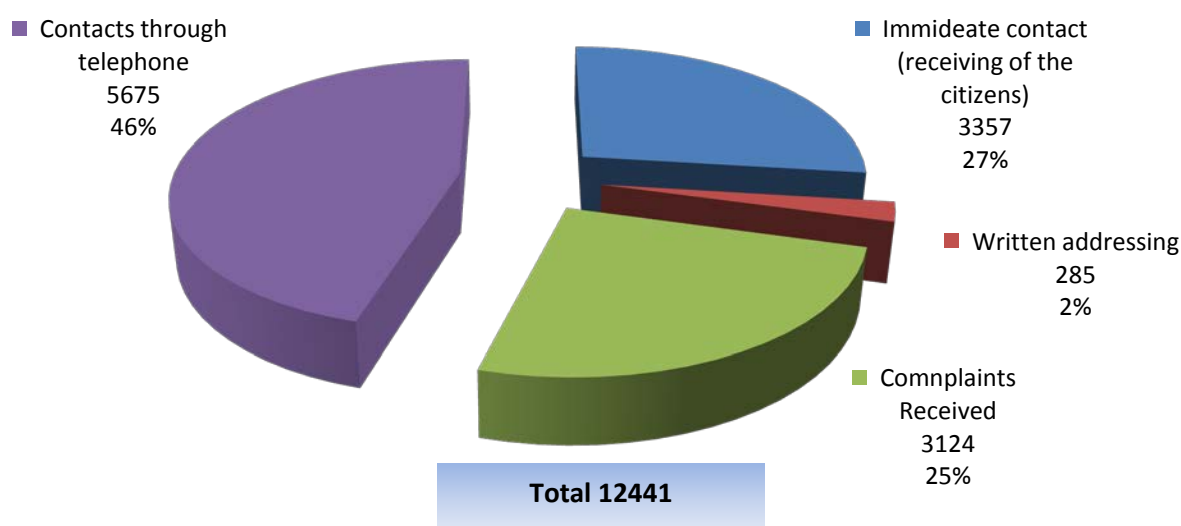


Chart 1: Addressing by the citizens in 2012

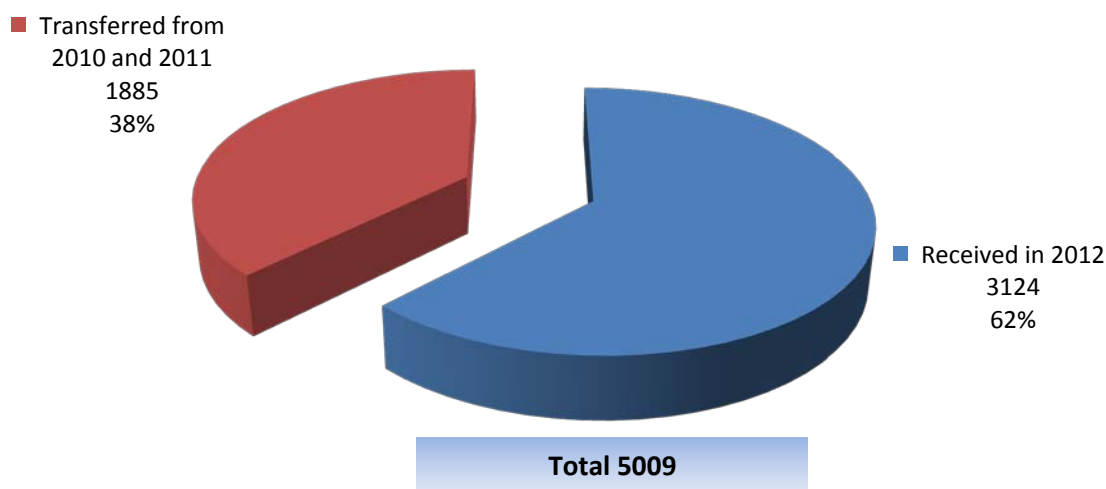
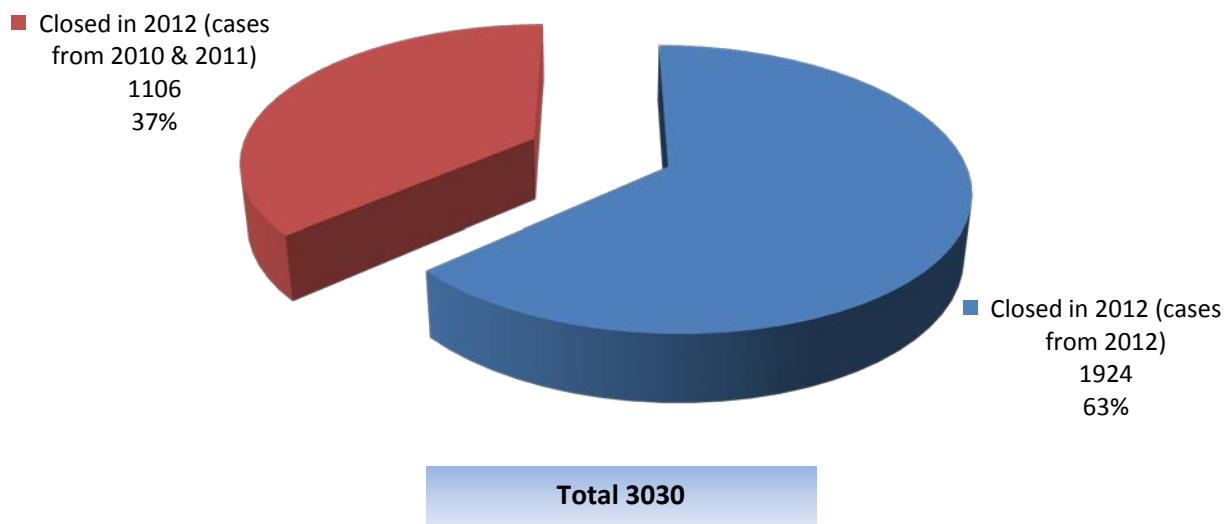


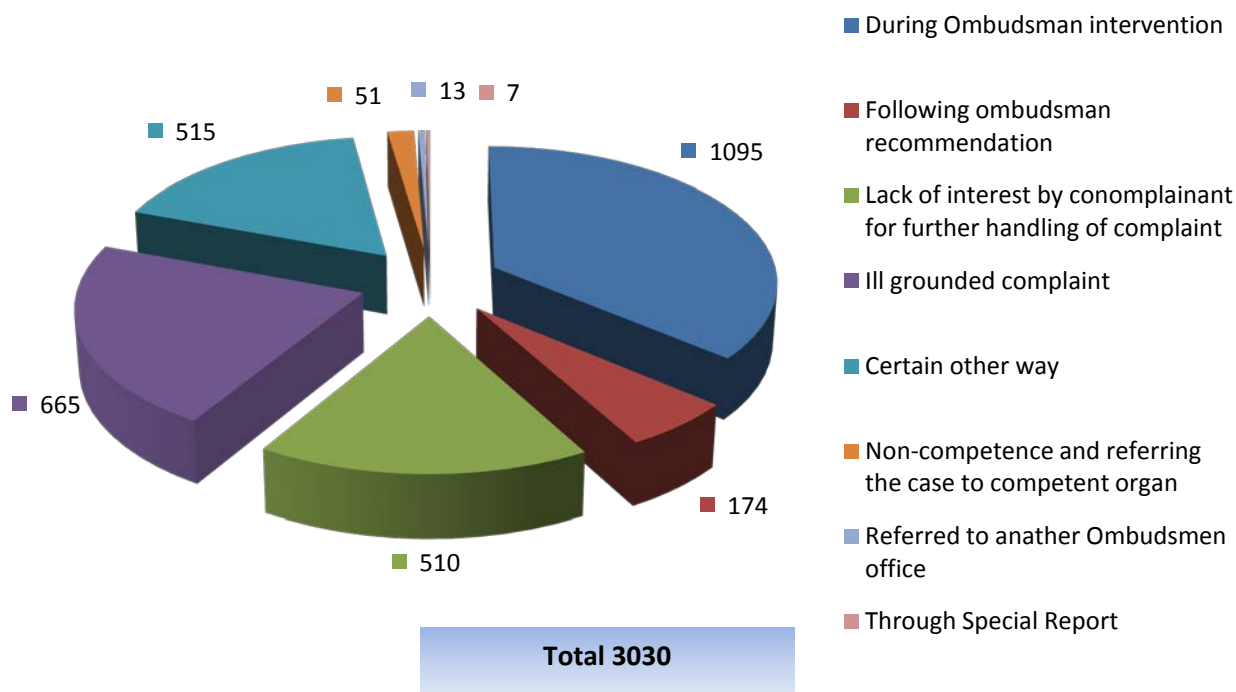
Chart 2: Complaints received in 2012 and those transferred from 2010 and 2011<sup>8</sup>

<sup>8</sup> Statistical data is shown for time period from 2010 when electronic following of the cases was established in data base, which means that statistical data registered by Ombudsman Institution does not include cases registered before 01.01.2010.



**Chart 3: The cases closed in 2012**

Out of complete number of complaints received in 2012 (**3124** complaints) **1924** cases, which is 63% (3% more than in previous reporting period). At the same time, out of complete number of complaints that were handled, including those transferred from previous calendar years (5009), 3030 cases are closed.



**Chart 4: The manner of closing of the cases in 2012**

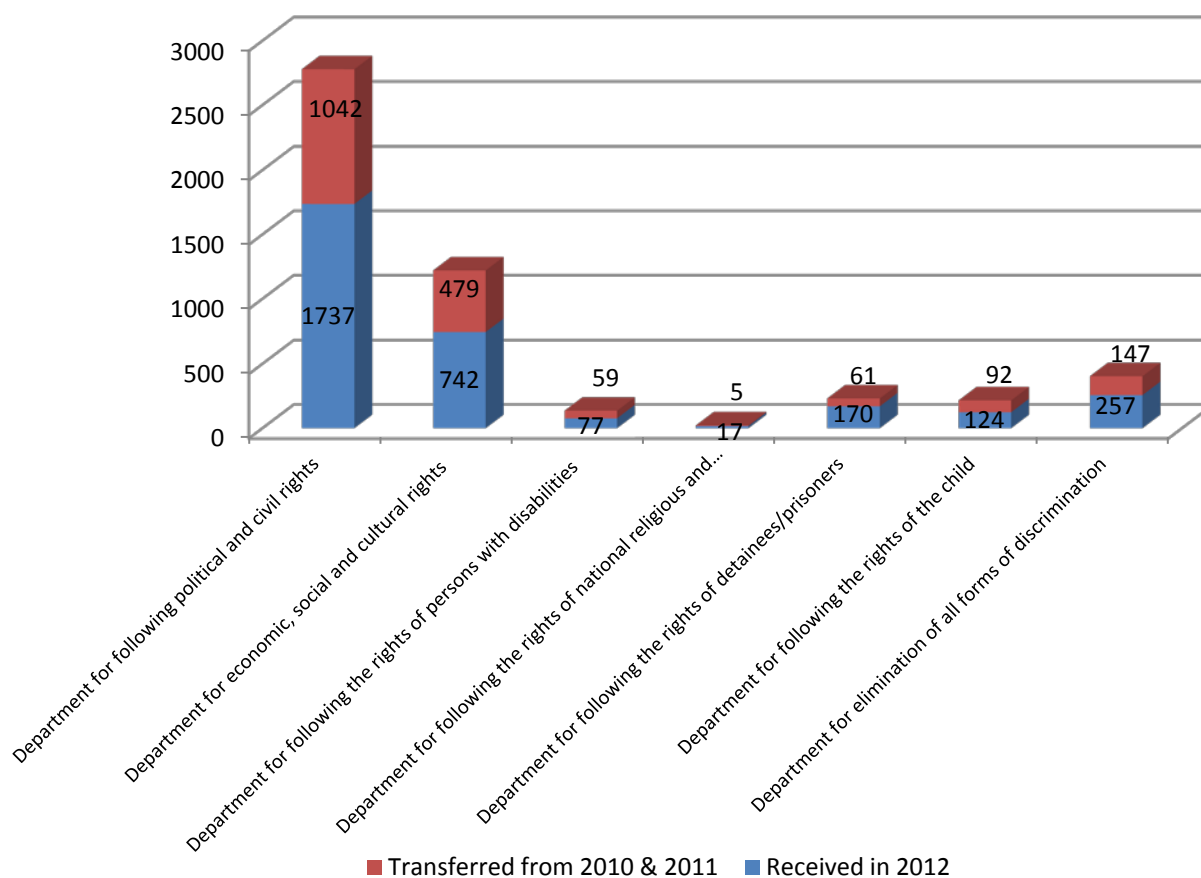
The following statistical indicators show the manner in which the cases were closed in accordance with the Law on Human Rights Ombudsman of BiH and its Rules of Procedure. In 2012 the greatest number of complainants realized their rights during ombudsmen's intervention. In this way 1095 were resolved, while in 2011 in this way 891 cases were resolved. Processing complaints in 2012 Ombudsman Institution undertook thousands of various activities connected to complaints filed, including investigation of received complaints, issuance of recommendations, explanations of organs concerning recommendations issued, monitoring of court and administrative procedures, information provided to complainants regarding

explanations of responsible parties, urgencies to competent organs, requests for complaint's addendum, etc.

Cases registered by Ombudsmen Institution are distributed to departments according to form of violation of rights. Again, the greatest number of complaints was registered in Department for following of political and civil rights, in 2011 department received 1815, and in 2012 somewhat less number – 1737. In comparison with 2011 increase of complaints received in 2012 is registered in Department for elimination of all forms of discrimination where 257 complaints were received, while in 2011 there were 191 complaints registered.

DEPARTMENT	Received in 2011	Transferred from 2010 and 2011	Received in 2012.	Complete number of complaints processed in 2012 (2+3)
Department for following of political and civil rights	1815	1042	1737	2779
Department for economic, religious and cultural issues	735	479	742	1221
Department for following of rights of persons with disabilities	86	59	77	136
Department for following of rights of national, religious and other minorities	9	5	17	22
Department for following of rights of detainees/prisoners	121	61	170	231
Department for following of the rights of the child	110	92	124	216
Department for elimination of all forms of discrimination	191	147	257	404
<b>TOTAL</b>	<b>3067</b>	<b>1885</b>	<b>3124</b>	<b>5009</b>

**Table 1: Comparison of number of complaints received in 2011 and 2012 and number of complaints transferred from 2010 and 2011**



**Chart 5: Number of complaints received in 2012 and those transferred from 2010 and 2011 on department-to-department basis**

According to number of complaints received in 2012 relating to territorial organization of Ombudsman Institution, in relation to 2011 increase is registered in Banjaluka, Sarajevo and Livno offices. In 2012 in Brčko office 307 complaints are received, which is 138 complaints less than in previous year. Insignificantly less number of complaints is registered in Mostar office, which is visible in comparative tabular review provided in table 2.

Office	Received in 2011.	Transferred from 2010 and 2011	Received in 2012.	Complete number of cases processed in 2012 (2+3)
Banja Luka	766	270	915	1185
Brčko	445	373	307	680
Mostar	222	110	204	314
Sarajevo	1397	1077	1425	2502
Livno	237	55	273	328
<b>TOTAL</b>	<b>3067</b>	<b>1885</b>	<b>3124</b>	<b>5009</b>

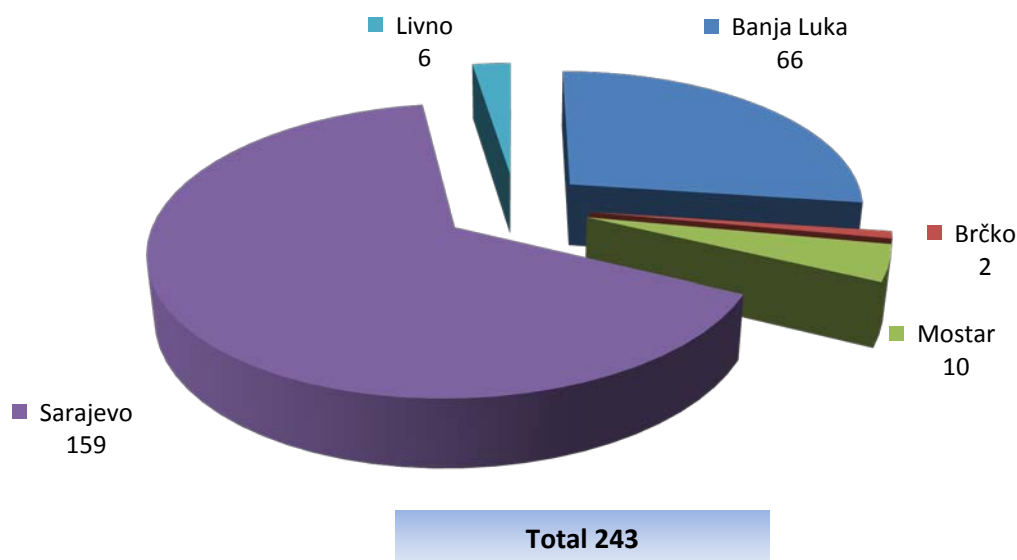
**Table 2: Number of complaints received in 2011 and 2012 and number of those transferred from 2010. and 2011 on office-to-office basis**

## 2.1. Recommendations communicated to governmental organs

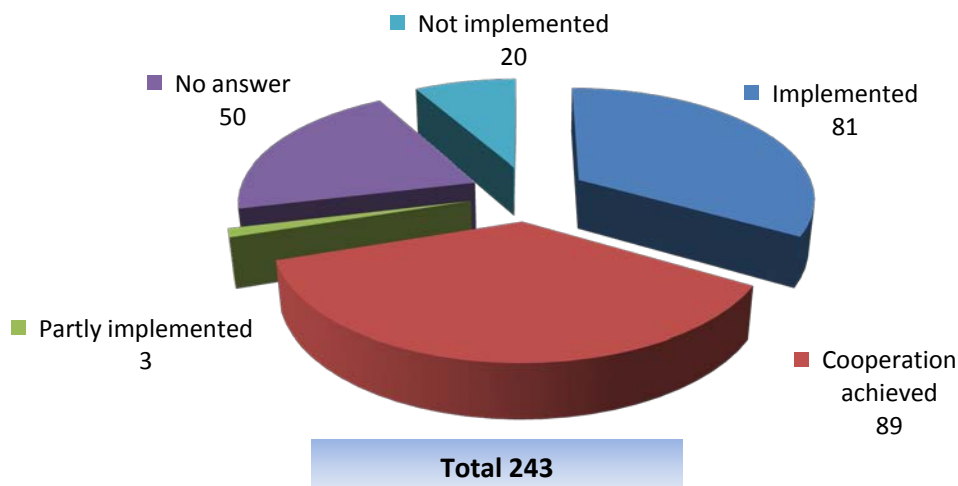
In 2012 Ombudsmen issued 243 recommendations, which is in relation to 2011 registered increase when 221 recommendations were issued concerning cases processed. With regard to offices, the greatest number of recommendations were issued by Regional office Sarajevo - 159, Head office Banjaluka – 66, and in Regional offices Mostar – 10, Brčko - 2 and in Field office Livno – 6.

Office	Number of cases with recommendations in 2012	Number of cases with recommendations in 2011
Banja Luka	66	72
Brčko	2	9
Mostar	10	3
Sarajevo	159	130
Livno	6	7
<b>Complete number of cases with recommendations issued</b>	<b>243</b>	<b>221</b>

**Table 3: Comparison of cases resulting in recommendations on office-to-office bases in 2011 and 2012**



**Chart 6: Number of cases resulting in recommendations on office-to-office bases in 2012**



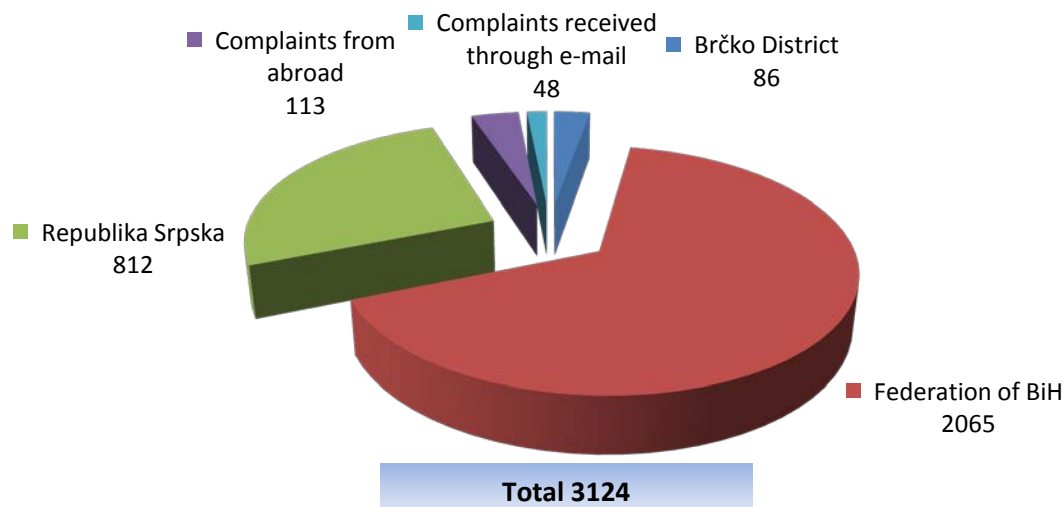
**Chart 7: Review of manner of recommendation's implementation in 2012**

Out of 243 recommendations springing from the cases processed, 81 was implemented, 3 partly implemented, 20 not implemented, and regarding 89 cases, cooperation was established, while regarding 50 case recommendations, the Institution did not get feedback information on the way of activities recommended.

## 2.2. Statistical indicators related to territorial place of residence of citizens addressing Ombudsman Institution

In 2012, too, Ombudsman Institution found it important to identify territorial places of residence of complainants, although this criteria, having in mind structure of the Institution, relative indicator, since complainants are enabled to file complaint with any office of the Institution regardless of place of living or residence of complainants. One of decisive factors is the fact that complaints are frequently filled in the office where human rights violator has its Seat, which results in greater number of complaints registered by Ombudsman Institution offices placed in the territory where structure of authorities is more complex. Accordingly, 2065 citizens from FBiH in 2012 filed their complaints – somewhat less than in 2011 when this number was 2111. At the same time number of complaints filed in RS was increased; in 2012

there were 812 complaints, and in the District of Brčko there were 80 complaints filed – 37 less than in 2011 when 102 complaints were registered. Number of complaints filed electronically was more than doubled, 19 in 2011 and 48 in 2012.



**Chart 8: number of complaints received according to place of residence of the complainants**

Territorial indicators can not be considered as criteria according to which it could be concluded, having in mind number of complaints filed, that in concrete territory human rights are violated more than in other territories, since Ombudsman Institution offices register complaints according to will of complainants expressed through act of filing complaints. Another important segment related to territorial indicators is in the fact that some of Ombudsman Institution offices are placed in capitols of territorial units of the State (state, entities, cantons), which is reflected in increased number of complaints in these offices.

## 2.3. Special Reports prepared in 2012

In 2012 Ombudsman Institution prepared 6 Special Reports: U 2012:

1. BiH Ombudsmen's Special Report on application of Article 143 of Labor legislation of FBiH
2. Special Report on application of the Law on Cessation of Application of the Law on Use of Abandoned Property in Republika Srpska; the Law on Temporary Abandoned Immovable Owned by Citizens for FBiH; the Law on Amendments to the Law on Cessation of Application of the Law on Abandoned Apartments for FBiH,
3. Special Report on Human Rights Conditions in Institutions for Execution of Criminal Sanctions in Bosnia and Herzegovina,
4. Special Report "The Juveniles and Children in Conflict with Law",
5. Special Report – Recommendation for Improvement of Protection of the Rights of the Child to Privacy where the Rights are Violated by Media in BiH,
6. Special Report – Health Protection of Children in BiH.

## 2.4. Review of number of complaints filed against opposite parties

With a view to prevention of human rights violations it is important to draw attention to governmental institutions and organs most frequently appears as opposite party in citizens'

complaints. This is important for decision-making bodies, before all competent ministries and legislative bodies to use their mechanisms and impact factors causing registered institutions that violate the rights. As it could be seen most frequent offenders are still Correctional institutions where the number of complaints is directly proportional to number of persons accommodated in such institutions, then city and municipal level of the authorities and pension and disability insurance institutions.

Unfortunately, it is still evident that great number of complaints is related to judicial institutions, which is quite concerning, for judiciary should be the most effective mechanism at disposal of the citizens. Tables 4 and 5 show 20 institutions and 10 judicial institutions mainly indicated by the citizens as human rights violators.

No.	NAME OF ORGAN	Number of Complaints
1.	CORRECTIONAL INSTITUTION OF CLOSED TYPE „ZENICA“	48
2.	CORRECTIONAL INSTITUTION OF HALF-OPENED TYPE „TUZLA“	33
3.	THE MINISTRY OF WORK AND VETERANS AND DISABLED PERSONS PROTECTION OF REPUBLIKA SRPSKA	25
4.	COMMISSION FOR IMPLEMENTATION OF ARTICLE 182 OF RS	24
5.	CITY OF MOSTAR	23
6.	CITY OF BANJALUKA	23
7.	PENSION AND DISABLEMENT FUND OF FBiH	22
8.	MUNICIPALITY STARI GRAD	19
9.	FEDERATION INSTITUTION FOR PENSION AND DISABLEMENT FUND MOSTAR	18
10.	PENSION AND DISABLEMENT FUND OF RS, BANJALUKA BRANCH	18
11.	INTERIOR MINISTRY OF CANTON SARAJEVO	18
12.	THE GOVERNMENT OF BIH DISTRICT OF BRČKO	18
13.	MUNICIPALITY NOVI GRAD SARAJEVO	16
14.	MUNICIPALITY CENTER	16
15.	BIH FEDERATION MINISTRY FOR VETERANS AND DISABLED PERSONS OF FBiH	15
16.	CORRECTIONAL INSTITUTION LUKE BIHAĆ	14
17.	MUNICIPALITY TUZLA	14
18.	MUNICIPALITY ZENICA	13
19.	THE MINISTRY OF REFUGEES AND DISPLACED PERSONS OF RS	13
20.	INTERIOR MINISTRY OF RS	13

**Table 4: 20 opposite parties with the greatest number of complaints filed by citizens in 2012, excluding judiciary**

No.	NAME OF JUDICIAL INSTITUTION	Number of complaints
1.	MUNICIPAL COURT OF LIVNO	74
2.	MUNICIPAL COURT OF TUZLA	60
3.	MUNICIPAL COURT OF SARAJEVO	50
4.	BASIC COURT OF BANJA LUKA	50
5.	COUNTY COURT OF BANJA LUKA	34
6.	CANTONAL COURT OF LIVNO	29
7.	CANTONAL COURT OF SARAJEVO	29
8.	CANTONAL COURT OF TUZLA	25
9.	CONSTITUTIONAL COURT OF BIH	25
10.	MUNICIPAL COURT OF MOSTAR	19

**Table 5: 10 opposite parties from area of judiciary mostly complained of by the citizens**



## CHAPTER III – CASES PROCESSING – COMPLAINTS STRUCTURE AND WORK REVIEW ON DEPARTMENT BASIS

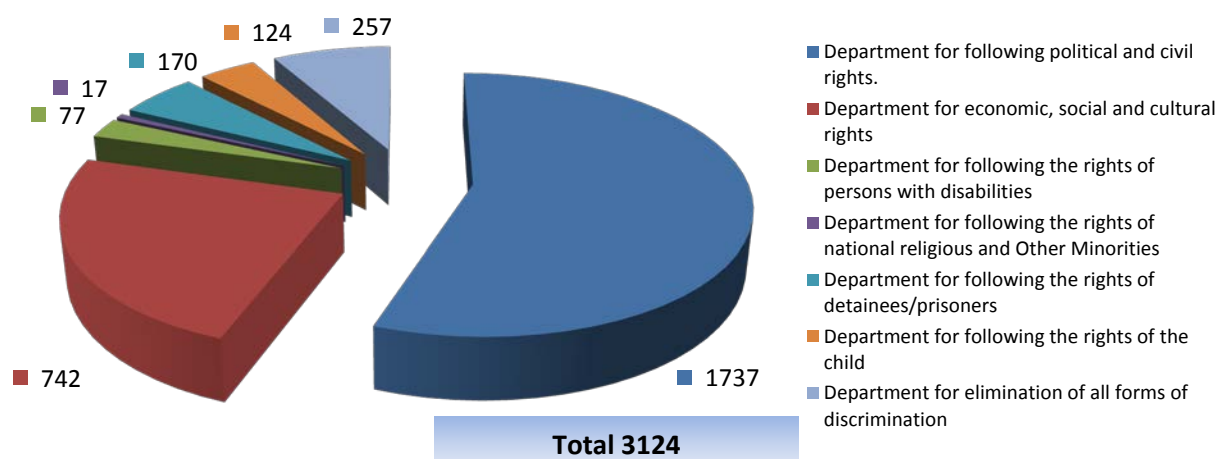
According to the Law on Human Rights Ombudsman of BiH the Institution is obliged to establish departments: for following of the rights of the child, persons with disabilities and minorities, while other departments could be established where necessary. The Law on Prohibition of Discrimination imposed establishment of Department for Elimination of all Forms of Discrimination. Considering complaints received, Ombudsmen concluded that apart from 4 mentioned departments it was necessary to establish additional departments that should exclusively deal with protection of the rights provided for in the Covenant on Civil and Political Rights and Convention on Protection of Economic, Social and Cultural Rights, and Department for Following the Rights of Detainees/Prisoners. Statistics contained in table 6 justifies such Ombudsmen decision, since exactly these 3 departments and Department for Elimination of all Forms of Discrimination registered the greatest number of complaints. Continual following of human rights situation in BiH, particularly from perspective of complaints filed, indicates necessity for establishment of Department that should deal with complaints related to judiciary and administration, and freedom of access to information, and media.

Such position of the Ombudsmen is supported by permanent increase of cases handled by Department for following of political and civil rights where complaints related to functioning judiciary and administration are registered, including freedom of access to information and media freedoms.

In comparison to 2011, when 191 complaints were revived, in 2012 there were 66 complaints more (34,5%) filed with the Department for Elimination of all Forms of Discrimination.

Department	Received in 2012.	Received in 2011.
Department for following of political and civil rights	1737	1815
Department for economic, religious and cultural issues	742	735
Department for following of rights of persons with disabilities	77	86
Department for following of rights of national, religious and other minorities	17	9
Department for following of rights of detainees/prisoners	170	121
Department for following of the rights of the child	124	110
Department for elimination of all forms of discrimination	257	191
<b>TOTAL</b>	<b>3124</b>	<b>3067</b>

**Table 6: Number of complaints on department-to-department basis received in 2012 and 2011**



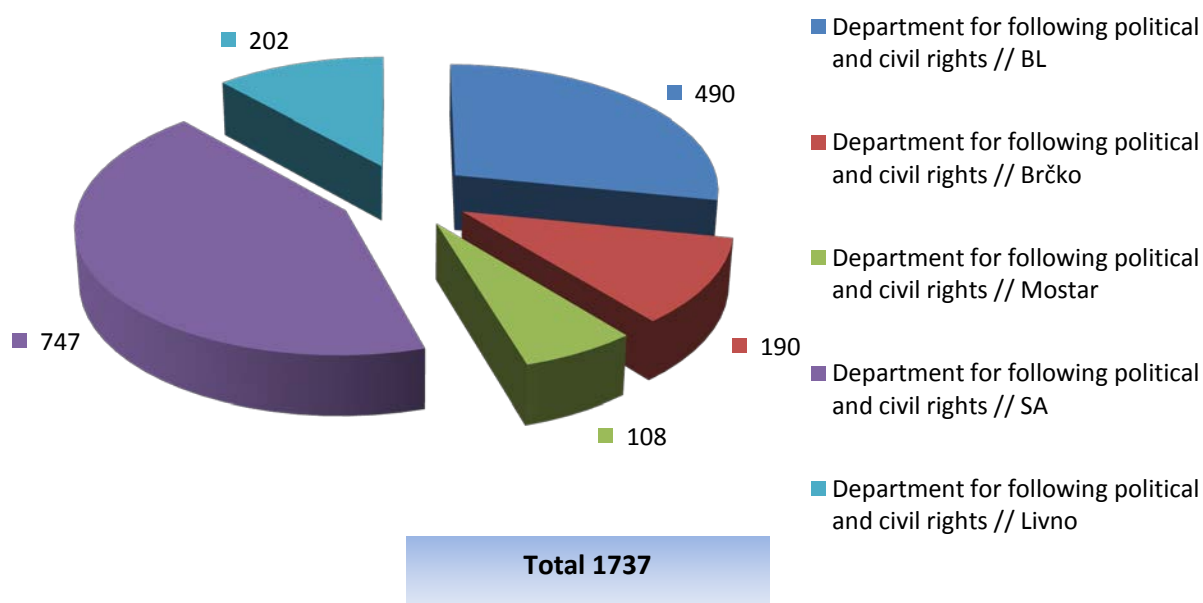
**Chart 9: Number of complaints on department-to-department basis received in 2012**

### 3.1. DEPARTMENT FOR FOLLOWING OF POLITICAL AND CIVIL RIGHTS

With a view to ensure following, protection and promotion of political and civil rights in BiH, Ombudsman Institution established internal structure within which Department for following of political and civil rights is established (hereinafter: the Department).

In 2012 the Department undertook a series of activities results of which are presented in present Report. Activities are realized to ensure protection of civil and political rights related to: right to life, right to life without torture, cruel, inhuman and degrading treatment or punishments, right to life without slavery or work exploitation, freedom of access to information, freedom of opinion, conscience and religion, freedom of expression covering freedom to request, get and disseminate information and thoughts of all kinds, regardless of the boundaries (freedom of access to information), right to property, public documents, right to electoral rights and participation in public services, freedom of movement and choice of place of living within borders of the State, right to citizenship, ministerial and governmental appointments, functioning of administration and judiciary, equality of males and females in enjoying of civil and social rights, etc.

Although the right to freedom and personal safety is civil-political right which obliged the State to ensure that no one shall be arbitrary arrested or detained, or deprived of the liberty, except due to legally envisaged reasons, activities of Ombudsman Institution aimed to enjoyment of this right, due to its specificity, are realized through special department for enjoyment of mentioned right, which is competent for following of the rights of detainees/prisoners, and the results of such activities are presented in present Report related to work of Department for following of rights of detainees/prisoners. Results of activities concerning rights of minorities in present Report are presented within presentation of report on activities performed by Department for protection of minorities.



**Chart 10: Review of complaints filed with Department for following of political and civil rights in 2012**

### 3.1.1. Analysis of complaints filed

In 2012 the Department **registered 1.737 complaints**, which is 55,60% out of complete number of registered complaints in Ombudsman Institution, and with cases transferred from previous years<sup>9</sup> the Department processed 2.779 or 55,58% cases. If this statistical data is compared with complete number of complaints received in 2012 - 3.124, as well as with complete number of cases processed by Ombudsman Institution<sup>10</sup> - 5.009, then it can be concluded that ***the greatest number of complaints processed by Ombudsman Institution in 2012 was related to area of civil and political rights.***

In relation to territorial indicators in 2012 complaints falling under competence of the Department were registered in Territorial Office Sarajevo - 747; Head Office Banjaluka - 490; Territorial Office Brčko, including complaints filed in days when public is admitted in Tuzla - 190; Territorial Office -108, and Field Office Livno - 202.

Structure of violated rights from competence of the Department is insignificantly changed in relation to complaints registered in 2011, which is presented in table 7 and it is also visible that the greatest number of complaints is related to the work of courts - 637, while in 2011 there were registered 623 complaints of this kind. In 2012 number of complaints related to functioning of administration decreased, so 400 complaints registered in 2011 declined to 381 complaints registered in 2012. In all other areas of competencies of the Department number of complaints decreased, which resulted in the fact that the Department received 78 complaints less than in 2011.

Violations	Received in 2012	Received in 2011
Courts	637	623
Administration	381	400
Property rights	150	228
Access to information	225	243
Ministerial and governmental appointments	115	119
Police	123	117
Public documents	26	32
Prosecutor's offices	44	30
War damage	11	13
Public Attorney's Offices	5	5
Media and freedom of information	2	0

**Table 7: Comparison of complaints received on annual basis for 2012 and 2011 that are characteristic for Department for following of political and civil rights**

### 3.1.2. Courts

In 2012 trend of increasing number of complaints filed with Ombudsman Institution due to human rights violations committed by courts was continued. Most frequently complainants addressed to the Institution were related to **lengthy court procedures** and non-effective

<sup>9</sup> From 2010 and 2011 1.042 cases were transferred

<sup>10</sup> Complaints received in 2012 and those transferred from previous years

execution of court decisions<sup>11</sup>. At the same time, when BiH Constitutional Court determines violation of the right to trial within reasonable period of time it indicates deadline of three months to ordinary court concerned to undertake measures for completion of the trial and inform Constitutional Court on measures undertaken for realization of the Decision.<sup>12</sup>

During investigation conducted by Ombudsman Institution, courts in their reports mainly allege approximate deadline until which concrete cases shall be taken in work, which, according to case-law of European Court for Human Rights, does not provide amnesty for state from responsibility for human rights violation set forth in Article 6 of European Convention on Human Rights (ECHR), and is related to obligation of courts to take decision in reasonable period of time. This is particularly important, since it is not enough that the State ensures right to existence of courts as such, but should ensure that this right is effective. For instance, Cantonal Court Tuzla, which mainly provide similar standard answers upon requests for explanation related to complaints of the citizens, where there are not contained answers of acting judges. Therefore, Ombudsmen in present Annual Report, due to permanent increase of complaints related to court decisions within reasonable time period, again wish to draw attention at obligation of BiH, as a member of the Council of Europe, to ensure application of case-law of European Court for Human Rights (hereinafter: the Court). In Decision on Zimmermann and Steiner vs. Swiss<sup>13</sup> the Court set up criteria that serves for defining of reasonable period of time of the procedure, according to which ***reasonable time of the procedure falls in scope of Article 6, paragraph 1, and should be assessed in every case individually based on circumstances of the case.***<sup>14</sup> Court must *inter alia* take in account complexity of the facts and legal issues appearing in the case, behavior of complainant and competent governmental organs, assessing of what importance is the latter for the complainant; besides, overdue itself which can be attached to state may justify finding on failure to respect „reasonable deadline“. <sup>15</sup> The Court reminds that it is task of state-member to organize its judicial system so that courts of state concerned are able to guaranty to every person right to final decision in disputes related to their rights and obligations, which should be taken within reasonable deadline.<sup>16</sup> Concerning criminal cases, „reasonable period of time“, defined by Article 6, paragraph 1, starts immediately following a person is declared „defendant“, and can start even before the cases is in processing<sup>17</sup>, for instance, on the date of arresting, on date when a person is officially informed on prosecution, or on date when preliminary investigation started. With regard to civil procedure, „reasonable period of time“ referred to in Article 6, paragraph 1, usually starts on the date of filing of the claim „to court“ [...] nevertheless, in certain conditions it is possible that the deadline starts even earlier.<sup>18</sup>

Analysis of complaints registered by Ombudsman institution shows ***that exist a number of objective and subjective factors impacting of lengthiness of court procedure.*** Courts mainly explain their non-processing in reasonable period of time by lack of human and material resources, a great number of backlog of court cases, which results in the fact that every newly registered case is probably automatically to be taken in procedure in the future and shall not be resolved in reasonable period of time. It is visible that courts in bigger towns have bigger case

<sup>11</sup> -BL-05-67/12, P-28/12 Recommendation to basic court in Prijedor – undertake actions with a view to competition of executive procedure – recommendation complied with; Regarding case: Ž-MO-05-193/10 recommendation no.. P-3/12, was issued with a view to consistent implementation of final and executive decision by competent courts in this concrete case.

<sup>12</sup> Ž-BL-05-258/12; Ž-BL-05-259/12; Ž-BL-05-323/12; Ž-BL-05-334/12; Ž-BL-05-605/11; Ž-BL-05-737/12

<sup>13</sup> 13 July 1983, Series A no. 66, page. 11, paragraph 24

<sup>14</sup> See Decision Buchholz of 6 May 1981, Series A no. 42, page. 15, paragraph 49

<sup>15</sup> see, mutatis mutandis, Decision König of 28 June 1978, Series A no. 27, page. 34-40, paragraphs 99, 102-105 i 107-111

<sup>16</sup> derived from the case law –European Court for Human Rights

<sup>17</sup> See, for instance, Decision Deweer of 27. February 1980, Series A no. 35, page 22, paragraph 42

<sup>18</sup> Decision Erkner and Hofauer vs Austria (23 April 1987, Series A no. 117, pages 61-62, paragraphs 64-65)

burden, so they need more time for respect of rights of parties to the procedure to procedure in reasonable period of time referred to Article 6, paragraph 1, of ECHR. This indicates that judicial system, as third pillar of the authorities in cooperation with legislative and executive authorities and independent regulators, together with broader consultation with the society, should propose modals for clear distinction between backlog cases, where there exist obvious danger of violation of Article 6, paragraph 1, of ECHR in relation to newly registered cases which should be processed immediately.

When Ombudsman Institution deals with complaints related to lengthiness of court procedures, following explanations provided by courts there is always dilemma how to act, having in mind the fact that investigation has shown that procedure in certain case takes unreasonable long time, and that, at the same time, the court explains such situation by lack of resources, and disregard obligation referred to in Article 6, paragraph 1, of ECHR, according to which court *inter alia* must take in account complexity of the facts and legal issues appearing in the case concerned, behavior of complainant and competent governmental organs, assessing particularly of what importance is concrete issue for the complainant. It is exactly the courts who in their explanations never explain mentioned criteria but stress that if concrete case would be taken as a priority, this would violate the rights of other parties. Example for above mentioned is standard type explanation of Cantonal Court Tuzla wherein it is stated that court resolve the cases according to Plan of Processing of old cases, which is adopted in on 13.01.2012, all of it in accordance with guidelines issued by the High Prosecutors and Judges Council, including impossibility to provide any explanation regarding time of taking of the decision. It is particularly important to draw attention at increased number cases where court acted, however, certain actions are postponed due to judge's illness, reallocation of judge to some other court, and party to the procedure is informed on this at the moment when certain action should have been performed or one day earlier. Ombudsmen register that certain number of complaints shows, despite of the fact that law provides for urgent procedures, decision-making on citizens existential issues takes too long time, such as those related to labor relations, payment of outstanding claims from work, and compensation for various forms of damages. There are cases registered where court conducts bankrupt procedures of enterprises and directly damaged workers do not have information on certain procedural actions. Particularly in segment of execution of court decisions, it is important to stress that very frequently court decisions are not respected and it takes too long time for execution of the latter.

Characteristic complaints also appear regarding slow actions of courts in civil procedures related to establishment of legal and property relations between family members (inheritors), neighbors, etc. Complainants frequently address the Institution concerning reinstatement in their jobs, following competent court's decisions on temporary measures on ensuring that complainant shall be reinstated until completion of court procedure.<sup>19</sup>

In 2012 Ombudsmen encountered practice of non-cooperation by certain number of courts with Ombudsman Institution, where, with a view to ensure preconditions for protection of complainants' rights, Ombudsmen had no choice but to issue recommendations to the courts concerned<sup>20</sup> in which the courts were reminded on obligation to cooperate with Ombudsman Institution set forth by Article 25 of the Law on Human Rights Ombudsman.<sup>21</sup>

<sup>19</sup> As concrete examples here can be listed: Ž-SA-05-1301/11 i Ž-SA-05-1302/11. Cases put in archive on 18.01.2012.

<sup>20</sup> Concerning case Ž-BL- 05-239/12, recommendation issued, no: 205/12 of 20. 11. 2012 to Municipal Court Velikoj Kladuši due to non-cooperation with the Institution. Following recommendation, the court established cooperation and forwarded

Ombudsmen repeatedly stress problem of still active cases handled by BiH Court for too long time, related to decisions by the CRPC-a. Mentioned problem is connected to non-resolving of issue of legal successor of the CRPC and is related to approximately 330 cases before BiH Court. Following cessation of validity of agreement between entities and the Council of Ministers of BiH, Commission for Property Claims ceased to exist and against decision of this Commission, 330 administrative disputes are initiated. **Consequently, sued party does not exist and for several years now answers concerning the claims are not provided** and BiH Court does not process **initiated** disputes, because of which it is necessary that the Council of Ministers undertake measures, with a view to ensure implementation of obligations referred to in Annex 7 of Dayton Peace Agreement.

In 2012 Ombudsman Institution registered certain number of complaints against behavior of judges and prosecutors and disciplinary prosecutor is informed on this. Answers provided regarding these cases to Ombudsman Institution by disciplinary prosecutor are mainly of standard type with explanation that the Office of disciplinary prosecutor considered allegations of complaint and concluded that there is not ground for initiation of disciplinary procedure. Acts by disciplinary prosecutor does not contain reasoning based on which such conclusion is made. Illustrative is complaint registered<sup>22</sup> where revision of respondent was referred for answer with overdue of two years and three months. Following Ombudsman Intervention the violation was restored.

During this reporting period the greatest number of complaints were related to Municipal Court Livno - 74, Municipal Court Tuzla - 60, Municipal Court Sarajevo - 50 and Municipal Court Banjaluka – 50, etc.<sup>23</sup> To assess validity of effectiveness of courts, facts such as territory, particularly population gravitates to concrete court, existence of certain facts causing need for court protection, etc, certainly should be analyzed.

In connection to functioning of judicial system certainly should be stressed problems encountered by courts in Canton 10, that is, why is the greatest number of complaints from this area registered exactly in Ombudsman Institution's Field Office Livno. Generally, this Office of Ombudsman Institution in 2012 had good cooperation with Municipal and Cantonal Courts in Livno, which significantly impacts to investigations concerning defining causes of citizens' addressing to Ombudsman Institution. It is the fact that Municipal Court Livno through its territorial jurisdiction covers six municipalities of Canton 10, and within scope of its activities, judicial function is performed in Court Departments in Tomislavgrad and Drvar. Although following reorganization of judicial system visible improvement is made in relation to backlog and unresolved cases, still in some of the cases, which are, according to law, considered to be of urgent nature, tardiness and non-effectiveness of courts were determined.<sup>24</sup> With regard to

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requested information, so the case was positively resolved. Generally, the Institution received great number of complaints against the work of Municipal Court Velika Kladuša, because of which the Court was asked whether the Court commenced initiative for increase of number of ordinary and additional judges, with a view to resolution of great backlog of cases. Concerning case Ž-BL-05-504/12 recommendation to Basic Court Prijedor was issued due to non-cooperation with the Institution, since in the case concerned it was determined that executive procedure started in 1992.

<sup>21</sup> Governmental organs are obliged to provide the Institution with adequate assistance in investigation and supervision. During an investigation, an Ombudsman may present himself or herself at any government body in order to check all requisite information, conduct personal interviews or study the necessary files and documents. An Ombudsman may not be denied access to any file or administrative document or to any document relating to the activity or service under investigation, without prejudice to the provisions of Article 28 of the present Law.

<sup>22</sup> Ž-SA-05-25/12

<sup>23</sup> Table 5

<sup>24</sup> Ž-LI-05-61/11 On 09.06.2009 complainant proposed regulation of boundaries. Complainant addressed Ombudsman Institution on 14.03.2011. Only after 2 urgencies on 07.06.2012 the judge took action according to proposal of the complaint.

execution of court decisions related to which court should act urgently, particularly in implementation of decisions related to work relations, executive procedures takes longer period of time. The reason is in the fact that respondent person (employer) has not got financial resources on his/her bank account, or has no property that could be sold.<sup>25</sup> Procedures before courts are unreasonable lengthy due to absence of judges who left their posts, and the practice is registered that in Cantonal Court, due to transfer of one judge to another duty (the judge went to another duty on 01.07.2012), the Court remained to function with the president of the court and three judges. Vacant judge's post is still not filled, which is reflected to the work and results, since cases handled by former judge are still not re-assigned to another judge, and employment of new judge is still awaited. Fact is that in such cases, following investigation of Ombudsmen's Field Office Livno, concrete cases are re-assigned to another judge.<sup>26</sup> Having in mind lengthy procedure of appointment of judges, the Ombudsmen are of the position that cases handled by former judge should be re-assigned who work in court, by which complaints against unreasonable duration of procedure would be avoided. According to data held by Livno Office, a great number of complaints received by this Office in 2012, and which are related to functioning of judicial system, are resolved through Ombudsmen intervention.

### 3.1.3. Administration

The greatest number of complaints registered i 2012 relating to work of administration – 381 was related to **lengthy administrative procedures, silence of administration, non-effective responds by inspections and lack of processing of administrative cases within legally prescribed deadlines on the occasion of deciding on various citizens' requests**. In most number of the cases, following Ombudsmen's intervention, decided on citizens' requests and informed the Institution on taking of decision or some other act and in this way the cases were closed.. Some cases processed by administrative organs are resolved only after long-term ombudsmen's interventions There is a practice present according to which party to the procedure did not show interest for continuation of appeal procedure.<sup>27</sup>

The Ombudsmen, based on complaints registered, are due to stress poor functioning of administration, which is impacted by a number of circumstances, including *inter alia* differently determined levels of competencies, lack of indication on legal remedy on certain first instance administrative acts, unprofessional employees, etc. Additionally, Ombudsman Institution registered complaints related to functioning of administration showing that first instance organs did not act in conformity with second organ's decision, that is, did not annulled

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Ž-LI-05-203/11, In January of 2011 complainant put forward claim regarding work relations. Following urgency by Livno Office, preparatory hearing was scheduled for 19.04.2012.

<sup>25</sup> Ž-LI-05-167/12, Complainant addressed the Office on 13.08.2012, since the court took decision allowing proposed execution, yet not according to the latter (labor relations claim).

<sup>26</sup> Ž-LI-05-258/12, Complainant appealed to Cantonal court on 14.06.2012, and addressed Ombudsman Institution on 19.11.2012. In its explanation the Court informed the Institution that the case was handled by judge who abandoned his position, and that the case will be assigned to another judge.

<sup>27</sup> Ž-LI-05-129/12 – By decision of Cantonal Court Novi Travnik of 24.09.2010 Decision by Federation Pension and Disablement Fund Mostar and Decision of Cantonal service Travnik were annulled, so the case was referred for reconsideration. Complainant addressed Ombudsman Institution on 07.06.2012. Following investigation conducted, on 25.06.2012 responsible party – Cantonal administrative service of Pension and Disablement Fund Travnik on 25.07.2012 informed the Institution that they processed the case concerned. Ž-LI-05-66/12 – Complainant addressed Ombudsman Institution following expiration of 60 days from submission of request splitting and determination of a parcel, which was submitted to Service for legal and property issues of Municipality Glamoč. . Following investigation conducted, responsible party explained that surveyor was on the spot, carried out splitting of the parcel, following which decision on this case was taken.

challenged first instance decision and conducted renewed procedure,<sup>28</sup> and there are also present practices of non-execution of decisions taken in administrative dispute.<sup>29</sup>

In 2012 Ombudsmen also registered complaints showing that the citizens are not in a possibility to exercise their rights due to non-establishment of certain protective mechanisms within administrative organs. This is particularly linked to functioning of supervisory bodies, that is, inspections, the role of which is to ensure respect for law and lawfulness of work. Ombudsman Institution registered significant number of cases related to work of inspections and implementation of decisions taken by the inspections, as well as to filling of vacant inspectors' posts. It could be said that supervision, issuance of rulings and procedure of the latter takes too long time, which is particularly visible in area of illegal constructing. In certain case<sup>30</sup> of 14.09.2012 complainant addressed the Institution and following 2 years since he repeatedly requested Service for Economic and Inspections of Livno municipality to survey the spot by zoning and constructional inspector. Similar situation is in the case<sup>31</sup> where complainant on 28.03.2012 submitted request for surveying of the spot by constructional inspector of Service for Economic and Inspections of Livno municipality. In both cases cooperation of competent organs with Ombudsman Institution lacked. In concrete cases it was determined that construction inspector was on long sick leave. However, this is not justification for assistant chief-of-staff of Service for Economic and Inspections who had to find adequate replacement and acted according to requests, and inform Ombudsmen Institution concerning concrete cases. To ensure the rule of law and protect citizens' rights, in certain cases Ombudsmen were forced to issue recommendations. So, Cazin municipality<sup>32</sup> was recommended to initiate procedure for filling of vacant position of zoning and constructional inspector, and that municipal inspector should act according to request of complainant for execution of decision on of pulling down.

In 2012 Ombudsman Institution registered certain specific complaint as well, which shows that development of administration in BiH does not follow developing trends in other areas of life. Namely, complainant paid tax for issuance of passport through e-banking, which resulted in the fact that the Ministry of Finances and Treasure of BiH did not register such payment, since development of e-banking was not followed by e-administration.<sup>33</sup>

### 3.1.4. Legal aid

In 2012 it is spot that Ombudsman Institution was addressed by a number of citizens, **requesting legal aid due to initiated court procedures**, proceedings in their suits, as well as in the cases where complainants appear in capacity of sued or damaged party as well. Reason for requests for legal aid is most frequently of financial nature, since complainants can not hire lawyer, and due to their ignorance they can not actively participate in court proceedings. In such cases Ombudsman Institution provided legal advice. It is not doubttable that, with a view to ensure effective approach to court, it is necessary to consider existing system of legal aid for ensuring further strengthening of this legal institute. This is particularly important concerning position of European Court, according to which member-states have obligation to establish legal aid program. Although Article 6, paragraph 3.c of ECHRI mentions only criminal

<sup>28</sup> Ž-SA-05-696/12

<sup>29</sup> Republican Administration for Geodetic and Property Affairs (RUGIPP RS) still has not implemented decision by the Supreme Court of RS taken in 2010.

<sup>30</sup> Ž-LI-05-202/12

<sup>31</sup> Ž-LI-05-228/12

<sup>32</sup> P-167/12

<sup>33</sup> Case no: Ž-SA-05-1223/11



proceedings, and despite of the fact that similar provision does not go for civil procedure, Article 6, paragraph 1, may sometimes requests states to ensure assistance by lawyer, where such assistance is necessary due to effective approach to court because legal representation is obligatory in various disputes as it is the case in some member-states, based on domestic legislation, or due to complexity of the case itself.<sup>34</sup>

In 2012 Ombudsman Institution received certain number of complaints related to **work of lawyers**,<sup>35</sup> and tried to resolve them in cooperation with BAR Associations. Complainant-lawyer<sup>36</sup> addressed the Institution due to its repeated addressing to BAR Association of RS, complaining of its work and also forwarded urgencies to which he/she never received any answer. Ombudsmen institution communicated its act to BAR Association and on 11.11.2012 got answer that disciplinary procedure is conducted against lawyer-complainant and that the case is processed by disciplinary prosecutor. Following taking of final decision, Ombudsman Institution would be informed about it.

Similar complaint is registered<sup>37</sup> concerning Regional BAR Association Tuzla, where complainant submitted complaint regarding the work of lawyer, and Ombudsman Institution did not get answer since date of filing of the complaint by Regional BAR association Tuzla. Since Regional BAR Association did not cooperate, on 08.06.2012 the Institution issued recommendation<sup>38</sup>, requesting the Association to establish cooperation with the Institution. Acting in accordance with recommendation, the Association provided Ombudsman Institution with answer and decision taken by disciplinary prosecutor, dismissing complaint against lawyer, since it was determined that in activities of the lawyer there were no elements of disciplinary offence. Human rights ombudsmen wish to stress basis and principles of lawyers' practice, which contributes to creation of picture of lawyer and European BAR Association, according to which: „in society based on respect for law, lawyer has got a special role. Lawyer's duties do not start or ceased on date of completion of what was he/she was requested to do in accordance with law. Lawyer has to serve to interest of justice as well as of those whose rights and freedoms are entrusted to him to prove and defend and duty of lawyer is not only to defend, but also do advice its client. Respect for lawyers' practice is fundamental condition for the rule of law and democracy.“

### 3.1.5. Police

In 2012 Ombudsman Institution registered 123 complaints related to work of the police, while in 2011 there were 117 complaints registered. Complaints registered by Ombudsman Institution could be classified in two groups: Complaints alleging that police through its activities or omissions to act in accordance with law and violated complainants rights, and complaints submitted by police officers themselves due to violation of their rights, particularly relating to rights from work relations, including issue of ranking, promotion, etc.

Citizens mainly complained of non-effectiveness of FBiH and RS police, misuse of position, exceeding of competencies, and application of force in various ways. Complaints filed with Ombudsman Institution show that members of police forces in cases of citizens' rights

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<sup>34</sup> See decision R.D. vs. Poland of 18. December 2001, complaint no. 29692/96, paragraphs 43-52.

<sup>35</sup> Ž-BL-05-366/11,

<sup>36</sup> Ž-SA-05-926/12

<sup>37</sup> Ž-SA-05-1074/11

<sup>38</sup> P-93/12

violations did not take activities according to their mandate, and that police use its power arrogantly and in certain cases police inflicted physical and mental pain to citizens, disregarding its work obligations and ethic code, and frequently police officers treated citizens in degrading manner. There were cases in which police in pre-electoral period summoned members of families and friends of electoral officials to informative interviews, illegally deprived citizens of their liberty, took citizens in medical institutions by force, denied issuance of personal documents, and following expiration of measure of driving prohibition denied to return driving licenses due to non-payment of monetary penalties for committed traffic petty offences.<sup>39</sup> Ombudsman Institution also registered complaints related to issuance of identification documents, rejection of requests for evidence on place of residence and issuance of personal documents due to incompletely or wrongly entered data from birth registers, certificate on citizenship, etc.<sup>40</sup>

Ombudsmen repeatedly stress that if exercise of some citizens' right is preceded by action of some other organ and if failure existed in action of such organ, the citizens must not suffer from consequences and competent organ should not request complainants to undertake actions to restore emerged failures, but they should do it through direct correspondence with organ that made failure, and such organ should restore the right *ex officio*. This is particularly important in the cases of internally displaced persons, returnees, that is, persons who are in such status without their will, which increases obligation of all institutions in BiH to take measures aimed to ensuring enjoyment of rights of these categories of citizens. Generally, necessity for preparation of comprehensive analysis of impacts of all legal solutions is visible concerning enjoyment of status issues of citizens, such as registration in registry books, identification number, citizenship, place of residence, etc, with special reference to vulnerable categories such as internally displaced persons, refugees and returnees.

Complaints against police are also related to dissatisfaction by police decisions in petty offence procedure,<sup>41</sup> which is mainly related to deadline issues, where in entity petty offence legislation and the District of Brčko there is determined that deadline period runs from the date of sending of misdemeanor warrant, and not from the date of delivery, due to which Ombudsmen lounged initiative for adoption of Amendments to Petty Offences of the entities and the District of Brčko to ensure that the deadlines of misdemeanor warrant runs from the date of delivery. Competent entity and BiH Brčko District bodies informed Ombudsman Institution that the initiative is referred to further procedure.

Certain investigations conducted upon complaints have shown that police frequently initiates petty offence procedures even against persons who reported unlawful behaviors, due to which such citizens requested protection by Ombudsman Institution. This is particularly expressed in the cases of violation of public order. Citizens aiming to protect their rights, where there exist suspicion that rights are violated by the police, try to use available mechanisms and most frequently address Unit for professional standards and Commission for internal control, yet Ombudsmen's experience has shown that mechanisms of internal control of the police work

<sup>39</sup> Ž-MO-05-4/12; Ž-MO-05-7/12; Ž-MO-05-17/12; Ž-MO-05-95/12; Ž-MO-05-138/12; Ž-MO-05-147/12; Ž-MO-05-157/12; Ž-MO-05-165/12; Ž-MO-190/12 i Ž-MO-199/12; Ž-LI-05-43/12; Ž-LI-05-64/12; Ž-LI-05-67/12; Ž-LI-05-142/12; Ž-LI-05-148/12; Ž-LI-05-157/12; Ž-LI-05-163/12; Ž-LI-05-230/12; Ž-LI-05-256/12; Ž-SA-05-159/11; Ž-SA-05-452/12; Ž-SA-05-961/12; Ž-SA-05-969/12; Ž-SA-05-1239/12; Ž-SA-05-1266/12; Ž-SA-07-825/12; SA-05-1/12; Ž-SA-05-600/12; Ž-SA-05-635/12; Ž-SA-05-727/12; Ž-SA-05-924/12; Ž-SA-05-9737/12; Ž-SA-05-978/12; Ž-SA-05-982/12; Ž-SA-05-1147/12; Ž-SA-05-1273/12; Ž-SA-05-1357/12; Ž-SA-05-465/12; Ž-SA-05-467/12; Ž-SA-05-910/12; Ž-BL-05-534/12; Ž-BL-05-429/12; Ž-BL-05-72/12; Ž-BL-05-189/12; Ž-SA-05-892/12; Ž-SA-05-1369/12, Ž-BR-05-222/12

<sup>40</sup> Ž-SA-05-931/12, Ž-SA-05-932/12 i Ž-SA-05-943/12

<sup>41</sup> Ž-BL-05-146/12 Ž-BL-05/12, Ž-BL-05-493/12, Ž-BL-05-568/12

are most frequently non-effective and are only formally established bodies.<sup>42</sup> A complainant<sup>43</sup>, also addressed Unit for professional standards for police work Sarajevo, where it was concluded that there were not ground for internal investigation upon request by the complainant. The same conclusion was also taken by Unit for professional standards of police work in Bihać concerning complaints no: Ž-SA-05-924/12 and Ž-SA-05-635/12, where Department for internal control of police work of Canton Zenica-Doboj made conclusion that allegations of complainant were groundless. Ombudsmen's experience acquired through investigation have shown that, as a rule, complainants are not heard at all, but the decisions are mainly taken according to statement of policeman against whom complaint was submitted, and based on statements by his colleagues as well.<sup>44</sup> Particularly concerning is the fact that even recommendation issued<sup>45</sup> on necessity for conduction of independent investigation and determination of all relevant facts and determination, the Institution got answer ...*"that Office for complaints of the public in Interior Ministry of Canton Sarajevo on its regular session made conclusion that Unit for internal control of Interior Ministry of Canton Sarajevo shall not conduct internal investigations upon mentioned case, since Office of Police Commissioner assessed, based on previously conducted procedure, regarding justification of use of force, that physical force and means of binding were in the way and under conditions prescribed by law and rulebook"*, although it was undoubtedly determined that in actions of police officers basic principles of respect for and protection of human dignity, particularly dignity of a woman, were not respected and that violation of the Law on Police Officers took place, since before using of their power police officers did not identify themselves through showing of their official police ID cards or badge, that justifiable use of force was not credibly proved and that there existed no circumstances that use of force was necessary in degree needed for realization of lawful goal. Generally, complaints received show that it is necessary to reconsider existing modalities of education of police forces and consider possibility for establishment of new modal that would guaranty continuity and systematic application of this process.

With regard to cooperation between police and Ombudsman Institution, it should be stressed that police acts in accordance with requests by Ombudsman Institution, while frequently urgencies to act in accordance with requests should be communicated as well. Ombudsmen particularly wish to stress that complaints by citizens indicating that police does not respond to citizen's reports enough effectively, which is particularly concerning regarding returnees population, women-victims of violence, elderly persons, etc. Certain complaints registered by Ombudsman Institution have shown that upon reports by citizens, police does not act until citizens request intervention by Ombudsman Institution.<sup>46</sup>

Regarding to rights from work relations of police officers, ranking, promotion, Ombudsman Institution registered several complaints. In his application<sup>47</sup> complainant alleged that he was discriminated and during its procedure Ombudsman Institution determined that there was not discrimination but legal provisions were applied wrongly concerning a number of policemen, and not only concerning the complainant. In concrete case Ombudsman Institution on 03.12.2012 received information by police commissioner of Interior Ministry of Canton Herzegovina-Neretva on positive resolving of concrete case, and that mentioned police officer was promoted as well as other 16 policemen who met conditions prescribed by law.

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<sup>42</sup> Institution issued recommendation to Interior Ministry of Ze-Do Canton, Ž-SA-05-1366/11

<sup>43</sup> Ž-SA-05-600/12

<sup>44</sup> Ž-SA-05-467/12; Ž-SA-05-910/12; Ž-BL-05-852/12, Ž-BR-05-171/12

<sup>45</sup> Ž-SA-05-598/12

<sup>46</sup> Ž-LI-05-215/12; Ž-LI-05-107/12

<sup>47</sup> Ž-MO-06-219/10

### 3.1.6. Prosecutor's offices

Ombudsman Institution registered complaints related to functioning of prosecutor's office, where complainants mainly alleged **duration of investigation, that is, slow undertaking of actions for determination of responsibility for criminal offence of charged party**.<sup>48</sup> There was also complaint registered that prosecutor who was to act in concrete case too long conducted investigative actions before he/she decide to put forward a charge.<sup>49</sup> On 20.06.2011 complainant submit criminal report to Cantonal Prosecutor's office of Canton 10 against assistant chief-of-staff of Service for economic and inspections of Livno municipality. On 15.08.2011 complaint was received by Ombudsman Institution. Following investigation and several urgencies forwarded, prosecutor decided to act according submitted report, that is, to put forward a charge on 20.06.2012.

Complaints were also received due to lengthy investigations and opinion of complainant that prosecutor's office was under pressure by political party aiming to „hush up“ the case for protection of highly positioned official about which complainant informed BiH Federation Prosecutor's Office.<sup>50</sup>

In dealing with the case<sup>51</sup> it was determined that prosecutor's instigation procedure took place since 2007<sup>52</sup> and was related to a great number of falsified documents in registry offices. In its explanation BiH Prosecutor's Office such lengthiness of procedure justified by complexity of the case and before all by the fact that the case was handled by foreign prosecutor who left and linked this case with other cases relating to the same facts but were related to other territories. Following taking over of the case from the prosecutor-foreigner, actions were taken regarding referring of the case to lower level of prosecutor's office, and were got back with explanation that BiH Prosecutor's Office is competent, since it initiated investigation in which BiH Court accepted its competence. Unfortunately, non-conduction of effective investigation in these cases resulted in the fact that great number of citizens, especially the returnees, encounters problems concerning enjoyment of their status rights.

### 3.1.7. Legal and property rights

Ombudsman Institution is addressed by complainants due to **impossibility of peaceful enjoyment in some of their property rights**.<sup>53</sup> Such complaints are frequently filed at the same time parallel with addressing of complainants to courts, so that such cases show problems related to effectiveness of work of administration and courts. Structure of such complaints is the best confirmation that in this area still exist citizens' rights violations in BiH. Some of Ombudsmen's observations related to enjoyment of property rights are: citizens request ensuring of exercise of guaranteed rights to property and effective protection of housing and business premises and land against all forms of illegal actions (illegal construction, etc.), including monopolistic behaviors by public enterprises; adequate compensation for property damaged in various ways; repossession of apartments and other real estate on which the complainants are holders of the right; unconditional ensuring of the right to alternative

<sup>48</sup> Ž-MO-05-58/12, Ž-MO-05-84/12 i Ž-MO-05-87/12; Ž-BL-05-874/12; Ž-BL-05-210/12; Ž-BL-05-35/11; Ž-BL-05-601/12; Ž-BL-05-560/12, Ž-BR-05-209/12

<sup>49</sup> Ž-LI-05-146/11

<sup>50</sup> Ž-LI-05-143/12, Ž-LI-05-164/11, Ž-BR-05-259/12

<sup>51</sup> Ž-SA-05-988/12

<sup>52</sup> Prosecutor's office case no. KT-151/07, now CMS no. T20 0 KT 000 3132 12

<sup>53</sup> Ž-BL-05-93/12, Ž-BR-05-162/12

accommodation; renewal of property in conformity with agreed principles and contracts concluded with investors of constructional works; successful resolving of problems related to infrastructure, which enables peaceful enjoyment in property without which property can not be used normally; assistance for preservation and adequate distribution of property owned by government (business premises) that is allocated to citizens for usage, all of it with a view to exercise of the right to work and survival of complete families.

Complainants request Ombudsmen to undertake activities to remove obstructions in procedure of sale of apartments, decisions-making-process on property claims/financial resources belonging to citizens (old foreign currency savings) and issuance of documents on status of immovability owned by returnees, recovery of various damages of property, etc.<sup>54</sup>

Complaints show that there exist practice of inappropriate lengthiness of procedure of sale of apartments with occupancy rights,<sup>55</sup> violation of property rights through competent organs' approving illegal construction to third parties in manner which endangers property of complainants,<sup>56</sup> violation of right to property through non-execution of final and executive decisions by urban and constructional inspectors<sup>57</sup> issue of determination of boundaries, problem of allocation of right to logging, procedure of exchange of parcels<sup>58</sup>, etc.

Specifics and dimensions of problems arising from violation of rights by non-execution of final decisions by inspectors could be seen through example of a complaint<sup>59</sup> where recommendation is issued to City of East Sarajevo to undertake necessary measures according to their legal competencies and international standards of human rights and fundamental freedoms protection with a view to pulling down of illegally constructed building constructed by a legal person on real estate owned by the complainant. In concrete case competent organs established cooperation with Ombudsman Institution, nevertheless, recommendation was not complied with, which was explained by the fact that there were not contractors, since no one applied to the published public tender.

Similar application<sup>60</sup> was registered regarding decision by Service for undertaking and budget of Kalesija municipality, no: 02/4-5-23-8-2602/8 of 03.04.2009, where illegal constructor was ordered within 30 days upon receipt of decision to remove constructions done through construction of an additional on the top of a dwelling object, constructed without building license and it was decided that if the party does not act in accordance with decision by his/her own will, municipal administrative organ would remove illegal construction by other party, which would be paid by illegal constructor. Realization of the decision never took place and Kalesia municipality explained that no one applied on published tender for contractor for execution of decision.

<sup>54</sup> Ž-MO-05-6/12; Ž-MO-05-9/12; Ž-MO-05-10/12; Ž-MO-05-13/12; Ž-MO-05-15/12; Ž-MO-05-21/12; Ž-MO-05-23/12; Ž-MO-05-27/12; Ž-MO-05-30/12; Ž-MO-05-40/12; Ž-MO-05-42/12; Ž-MO-05-57/12; Ž-MO-05-60/12; Ž-MO-05-62/12; Ž-MO-05-67/12; Ž-MO-05-68/12; Ž-MO-05-69/12; Ž-MO-05-70/12; Ž-MO-05-74/12; Ž-MO-05-80/12; Ž-MO-05-86/12; Ž-MO-05-91/12; Ž-MO-05-97/12; Ž-MO-05-98/12; Ž-MO-05-99/12; Ž-MO-05-104/12; Ž-MO-05-115/12; Ž-MO-05-120/12; Ž-MO-05-126/12; Ž-MO-05-128/12; Ž-MO-05-130/12; Ž-MO-05-135/12; Ž-MO-05-160/12; Ž-MO-05-162/12; Ž-MO-05-163/12; Ž-MO-05-166/12; Ž-MO-05-167/12; Ž-MO-05-169/12; Ž-MO-05-170/12; Ž-MO-05-171/12; Ž-MO-05-173/12; Ž-MO-05-179/12; Ž-MO-05-180/12; Ž-MO-05-191/12; Ž-MO-05-192/12; Ž-MO-05-194/12; Ž-SA-05-822/12; Ž-SA-05-1052/12; Ž-SA-05-1101/12; Ž-SA-05-1102/12; Ž-SA-05-1046/12; Ž-BR-05-119/12

<sup>55</sup> Ž-SA-05-260/12;

<sup>56</sup> Ž-SA-05-339/12

<sup>57</sup> Ž-SA-05-257/12;

<sup>58</sup> Ž-BL-05-657/12; Ž-BL-05-717/12; Ž-BL-05-376/12; Ž-BL-05-504/11; Ž-BL-05-828/12

<sup>59</sup> Ž-SA-05-257/12

<sup>60</sup> Ž-SA-05-1304/12

In segment of property rights there are registered a certain number of complaints related to issue of enjoyment of right to pension, which is presented within results of activities of Department for Following of Economic and Social Rights.

Ombudsman Institution also registered certain number of complaints relating to exercise of right to allocation of **replacement apartments to former owners of nationalized or confiscated apartments**. In connection, Ombudsman Institution followed execution of Decision taken by the Constitutional Court of FBiH which determined that the Law on Amendments to the Law on Sale of Apartments with Occupancy Rights set forth, in parts related to obligation of units of self governance to allocate replacement apartments to mentioned category of citizens, the rights to self-governance of municipalities Stari Grad and Novo Sarajevo were violated, and FBiH Parliament was provided with possibility to harmonize mentioned legislation within 6 months. Since Amendments to disputable Law were not adopted, former owners of nationalized and confiscated apartments are still not in a possibility to exercise the right to allocation of replacement apartments due to absence of regulations that determine bearer of such obligation, which also goes for regulations for initiation of procedures.

With regard to property rights, it is anyway needed to stress that in BiH it is still not ensured right to home to all citizens, particularly to returnee population. Many of internally displaced persons unfortunately still live in collective centers.

### 3.1.8. Freedom of access to information

Freedom of access to information is *conditio sine qua non* in a democratic society and constitutes constitutional category which appears as independent right, i.e., as integral part of right to freedom of expression determined by Article 10 of ECHR. This right is basic democratic citizens' right and is very important tool in ensuring of the rule of law and good governance. Access to information enables citizens to control elected representatives and protects against misuse, and also enables participation of citizens in determination of governmental priorities, which also goes to concept of good governance, which means open government functioning on principles of effectiveness, transparency and lawfulness. With a view to ensure realization of concept of good governance, governmental institutions are obliged to ensure transparency of their work through duly and comprehensive information on their activities and provide them to the public, meet needs of the citizens, ensure accessibility and transparency. Right to access to information includes access to users of information, i.e., availability of information and right to further dissemination of available information. What should be particularly stressed is that right to access to information is not „against„ the authorities, but in favor of both „citizens“ and „the authorities“. Freedom of access to information is as such prescribed in a number of international documents, including UN Universal Declaration on Human Rights (Article 19); UN Covenant on Political and Civil Rights (Article 19); European Convention on Human Rights and Fundamental Freedoms (Article 10); Recommendations by the Council of Europe, Aarhus Convention, etc.

Bosnia and Herzegovina, as a democratic country seeking to accession to EU membership, is the first country in region which in 2000 adopted Freedom of Access to Information Act, at first on the State level and then in 2001 in both of its entities.<sup>61</sup> According to listed pieces of legislation,

<sup>61</sup> Freedom of Access to Information Act for BiH, Official Gazette of BiH BiH, no: 28/2000; the Law on Amendments to Freedom of Access to Information Act for BiH, Official Gazette of BiH, no. 45/2006, 102/2009, 62/2011; Freedom of Access to Information Act for FBiH, Official Gazette of FBiH, no: 32/2001, the Law on Amendments to Freedom of Access to Information

the Ombudsman for Bosnia and Herzegovina shall perform its functions in relation to this Act in accordance with its mandate and responsibilities as established under Article II paragraph 1 of the Constitution of Bosnia and Herzegovina, Annex 6 of the General Framework Agreement for Peace in Bosnia and Herzegovina, and any subsequent legislation regulating its competence and responsibilities. In performing its functions in relation to this Act, the Ombudsman for Bosnia and Herzegovina may *inter alia* consider creating and disseminating information such as guidelines and general recommendations concerning the administration and implementation of this Act, includes in its annual report a special section regarding its activities in relation to this Act; and propose instructions on the implementation of this Act to all competent ministries within Bosnia and Herzegovina. With a view to realization of its competence determined by the Act, Ombudsman Institution established mechanism for following for following of the situation in this area in the way that it follows implementation of obligations of public organs set forth by the Act and acts upon complaints filed with Ombudsman Institution.

In connection to carrying out of obligations referred to in articles 19 and 20 of the Act, data held by the institution shows **that 71 public organ** on the level of the State (see Annex at the end of present Report) fully fulfill its obligation to appoint Information Officer. Concerning this obligation in the District of Brčko, Ombudsman Institution finds that public organs of Brčko District do not fulfill obligation of communication of statistical data, and provision of data related to information officer was done only by Office of Mayor of the District of Brčko.

Regarding entity levels, in 2001 in FBiH the Law on Amendments to Freedom of Access to Information Act for FBiH was adopted<sup>62</sup> with purpose of harmonization of the FBiH Act with Freedom of Access to Information Act for BiH, with a view to change competent organ for taking actions and, having in mind that FBiH Ombudsman Institution ceased to work, so that complainants requesting protection of this right now should address BiH Ombudsman Institution. In connection, public organs on level of FBiH, according to adopted Amendments, now should refer updated data on information officer, guidelines and register index to the Institution of Human Rights Ombudsman of BiH. Up to date this obligation is **carried out by 13 public organs** of FBiH<sup>63</sup>, while in RS procedure of harmonization of the Acts is not carried out and BiH Ombudsman Institution is provided with data by **5 public organs**<sup>64</sup> from territory of RS.

Ombudsmen express concerns by the fact that obligations from the Act are not carried out and all public bodies performing public functions, as well as legal persons owned or controlled by public organ, such as: hospitals, schools, public enterprises universities, medical posts, public services, social work centers, etc.

According to Article 20 (c) of the Act, public organs are obliged to communicate statistical data on three-months-basis, which should contain data on number of received requests, type of information requested, determined exemptions decisions taken during procedures and final decisions. However, public organs do not communicate statistical data regularly neither in form

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Act for FBiH,, Official Gazette of FBiH, no 48/11, Freedom of Access to Information Act for RS, Official Gazette of RS, no. 20/2001

<sup>62</sup> Sl. novine FBiH, broj : 48/11

<sup>63</sup> Banking Agency of FBiH, Service for common affairs of organs and bodies of FBiH, Tax Administration of FBiH, the Ministry of Justice and Administration of Canton Sarajevo, Cantonal Prosecutor's Office of Canton Posavina, Interior Ministry of Ze-Do Canton, Service for general administration, affairs of local communities and inspections of Visoko municipality, Service for general administration and social affairs of Cazin municipality, Service for social affairs and general administration of Zavidovići municipality, Service for social affairs and general administration of Zavidovići municipality, Vareš municipality, Breza municipality, Public health institution Medical post with polyclinic Dr, Mustafa Šehović-Tuzla, Olympic swimming pool - Sarajevo

<sup>64</sup> Commission for Shares of Republike Srpske, County Court Banja Luka, Social Work Center Banja Luka, Teslić municipality, Primary school Sokolac

prescribed by the Act, and very frequently communicate only annual reports or mid-term reports, while information regarding quarters where request in accordance with the Act were not received do not communicate at all. On the level of BiH statistical data is communicated by 57 public organs, on the level of FBiH 47 public organs and on the level of RS statistical data is communicated by 18 public organs (see Annex at the end of present report).

Through analysis of data provided, it was observed that **the most number of public organs does not maintain separate statistics concerning requests exclusively relating to Freedom of Access to Information Act**, but such requests are merged with daily requests by media, requesting interview and/or telephone requests of informative nature by natural persons. Quarterly reports do not consist all elements set forth by the Act but, for instance, provide data on number of requests where public organ ascertain that it answered to all requests, without information on what kind of decisions were taken during procedure and whether these decisions were final decisions, i.e., whether there were complaints on decisions taken. Irregular provision of statistical data that do not contain all elements and indicators disables Ombudsman Institution systematically to follow situation in this area and act preventively or *ex officio*, aiming to improve degree of implementation of the Act in all territory of BiH.

Compared to dealing with individual complaints, in 2012 Ombudsmen Institution registered 225<sup>65</sup> complaints relating to freedom of access to information, which is in relation to 2011 – 243 complaints, is less for 18 complaints. Review of complaints received relating to freedom of access to information on office-to-office basis shows that the greatest number of complaints was filed with Regional Office Sarajevo - 111, then Head Office Banjaluka- 92, Regional Office Mostar – 10, Regional Office Brčko – 10, and Field Office Livno -2.

Offices	Number of complaints received on office-to-office basis
Banja Luka Office	92
Brčko Office	10
Mostar Office	10
Sarajevo Office	111
Livno Office	2
<b>Total:</b>	<b>225</b>

**Table 8: Review of complaints received in 2012 relating to access to information**

Analysis of complaints received still shows that there exist identical weaknesses in implementation of the Act, which was stressed in previous annual reports by Ombudsman Institution, which is primarily related to: inconsistent application of legal instruments regulating area of „freedom of access to information in BiH”, and which is primarily manifested through stalling of procedure for taking the first instance and second instance decision, and following submission of request for information or filing of complaint; decisions by competent organ are not made properly, both formally and substantially, (formally and substantially), and are frequently without reasoning and legal remedy.

<sup>65</sup> Some of complaints from area of freedom to access to information: Ž-BL-05-567/11; Ž-BL-05-387/11; Ž-BL-05-709/11; Ž-BL-05-162/12; Ž-BL-05-725/12; Ž-BL-05-343/12; Ž-MO-05-24/12; Ž-MO-05-78/12; Ž-MO-05-85/12; Ž-MO-05-123/12; Ž-MO-05-140/12; Ž-MO-05-158/12; Ž-SA-05-841/12; Ž-SA-05-291/12; Ž-SA-1196/12; Ž-SA-05-59/12; Ž-SA-05-1192/12; Ž-LI-05-219/12; Ž-LI-05-243/12, Ž-BR-05-104/12



Freedom of access to information, as an instrument for protection of citizens' rights, is frequently used by citizens in order to get information related to public competitions and vacancy notices, and particularly regarding information on procedure of employment of a candidate to vacancy working post. In 2012 Ombudsman Institution also received significant number of complaints by civil society organizations wherein they stress that those competent organs did not provide information requested that could be in no way attached with activities of such organizations. Although the Act excludes all limitations regarding access to information from aspect that requestor must prove legitimate interest for exercise of the right to information, ones get impression that certain civil society organizations collect information from area where they try to prove in the act existence of unlawful actions and corruption. In such cases there is practice applied by complainant to address Ombudsman Institution even before their addressing to competent organ.

In 2012, as specific problem related to freedom of access to information, the question is raised concerning access to information, if such information contain certain personal data, disregarding facts that the Act as an exemption for refusal of provision of information, also defines protection of the right to privacy, and not protection of personal data, yet only following public interest test. Namely, the Act determines: *„every person has a right to access this information to the greatest extent possible consistent with the public interest, and that public authorities have a corresponding obligation to disclose information“*. The Act set forth that *„personal information“* means any information relating to a natural person who can be directly or indirectly identified by reference to factors such as but not limited to, an identification number or that person's physical, mental, economic, ethnic, religious, cultural, or social identity.“

According to the Act, every natural and legal person has the right to access information in the control of a public authority, and each public authority has a corresponding obligation to disclose such information. This right of access may only be subject to such formalities and restrictions as are prescribed by this Act. This right of access may ***only be subject to such formalities and restrictions as are prescribed by this Act***. Consequently, Requested information shall be determined to be exempt from disclosure on a case-by-case and ***based on examination of every individual case*** related to functioning of public bodies regarding confidential commercial information and protection of privacy, which implies the case that requested information contains personal data relating to privacy of third party. Before taking final decision on level of public organ, where it is determined that certain information falls in category of exempts from free access to information, in order to prevent usage of such information even where this is not justified, Freedom of Access to Information Act stipulates that every individual case should be subject to „public interest test“ .

Regardless of listed limitation, legislator, assessing significance and dimension of right to free access to information, prescribed that where public organ determines that in the cases where public organ requested information could fall in possible exemptions and that certain damage could be done through its disclosure – should disclose information ***if it assesses that disclosure of information would result in greater social benefit***. In determination whether disclosure is justified by public interest, public organ obligatory takes in account facts and circumstances on whether information contains any proofs stressing disrespect of legal obligation, unauthorized spending of public resources, danger for health or safety of individuals, society and environment, and presence of such factors are treated in the way which preferring disclosure of such information.

Until adoption of the Law on Protection of Personal Data, in practice there were not registered problems in application of Freedom of Access to Information Act, and if information contained certain personal data which could endanger citizen's privacy, public organ through test of public interest could decide on exemption.

Namely, the Law on Protection of Personal Data is designed to ensure to all citizens of BiH protection of human rights and fundamental freedoms, particularly right to protection against processing of personal data relating to the citizens.<sup>66</sup> Article 6 of the Law on Protection of Personal Data stipulates that controller (data processor) may process data without consent of data subject, *under existence of certain conditions*.<sup>67</sup> When the data subject finds or suspects that the controller or processor breached the data subject's right, or that there is a direct risk of breach of right, the data subject may file a complaint with the Agency for the purposes of protecting his/her rights. The Agency is an independent administrative organization established for the purpose of ensuring the protection of personal data. The Agency shall issue a decision on the data subject's complaint, which shall be submitted to the complainant and the controller. Agency's competence is to supervise the implementation of this Law and other laws on personal data processing, to act on data subject's complaints. At the same time provisions of this Law shall be taken into consideration in application of Freedom of Access to Information Act.<sup>68</sup>

Viewing aforementioned in context of relevant BiH legislation, it could be ascertained that governmental institutions appear **according to Freedom of Access to Information Act as public organs** who hold information of public importance and are due to ensure access to information, and **according to the Law on Protection of Personal Data they are controllers of data**. Although Article 6 of the Law on Protection of Personal Data allows controller to disclose data without consent of data subject in the case of processing personal data in accordance with law, or which is required to comply with the duties specified by law, or if personal data processing is required in order to complete the task carried out in the public interest, or if is necessary for the protection of rights and interests exercised by the controller or user, and if such processing is not in contradiction with the right of the data subject to protection of personal privacy and personal life, in practice there exist examples of limitation in data disclosure, not only concerning individual (concrete) cases, but also through actions by Agency for protection of personal data, the acts are taken by which whole areas are exempted from access to information. It is important to stress the fact that complainants do not address information controller but Agency for protection of data, by which information controller, and at the same time public organ according to Freedom of Access to Information Act, is denied to act in accordance with competencies provided for by law. This is particularly important in cases of disclosure of verdicts or other documents taken by court, having in mind the fact that disclosure of court decisions is public interest, and if protection of personal data concerning defendants or sentenced persons is requested with a view to protection of privacy, which also means that information requested includes personal information, then competent organ is obliged to determine exemptions. Before taking of final decision on level of public organ, when it is determined that certain information falls in category of exemptions from free access to information, to prevent usage of such exemptions

<sup>66</sup> Personal data shall mean any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to a personal identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

<sup>67</sup> Some of conditions *inter alia* are: if he is carrying out personal data processing as provided by law or which is required to comply with the duties specified by law; if the personal data processing is required in order to complete the task carried out in the public interest; if it is necessary for the protection of rights and interests exercised by the controller or user, and if such processing is not in contradiction with the right of the data subject to protection of personal privacy and personal life;

<sup>68</sup> *idem*, Article 54

to be used even when it is not justifiable, Freedom of Access to Information Act stipulates „public interest test“ in every individual case.

Ombudsmen repeatedly wish to draw attention at obligation for respect of Article 14 of International Covenant on Civil and Political Rights, which sets forth: „that all are equal before court. Everybody has right to just and public trial...“, and that „the press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; **but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.**“ Mentioned right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals.

However, attention should be drawn at legal possibility of public organ, when it determines that an information may falls in possible exemptions as provided for in International Covenant and that it may result in certain damage by its disclosure, when it assess that disclosure of information would result in greater public benefit. Accordingly, freedom of access to information is a fundamental right and restrictions must respect proposition of tests of proportionality and public interest in imposing of restrictions, in the way that such restriction is provided for by law, promote legitimate goal – public interest and that such solution is necessary in democratic society. Generally, there is not clear formulation of exemptions or issue of application of international legal standard of „public interest test“. In practice of countries exempted rights of access to information are justified by legal standards restricting access to information containing data:

- classified as confidential (state, military, official, professional, and business secret),
- protected by legislation establishing right to privacy,
- related to prevention, detection or prosecuting of criminal offences,
- that would disable conduction of legally-governed actions,
- that would disable conduction of administrative supervision or supervision of lawfulness,
- that would be expected to cause substantial harm to life, health, security or environment,
- that would endanger economic or monetary policy,
- that would endanger right to intellectual ownership, except in cases where author or owner explicitly allows disclosure in writings, as well as data
- endangering right to privacy, life, honor and reputation, as well as other personal human and citizens' rights provided for in provisions of legislation establishing right to privacy.

However, prescribing of exemptions themselves that are generally defined by legislation, constitutes limitation of basic principle and obligation of authority organs to disclose every information they hold and in the states which in their legislation on access to information have incorporated standard of „public interest test“, decrease acquired level of development of democratic society and principle of openness and accountability toward the citizens who elected them and toward to whom they have an obligation to be accountable and should be held responsible for spending of public money.

Undoubtedly, ensuring of free access to information is a long-term process and requires permanent rising of awareness on its importance for society that wishes to be established and developed according to democratic principles.

Complaints received by Ombudsmen Institution, with regard to broadness of the problem and problems related to free access to information and protection of personal data, and were also stressed by representatives of civil society, requires necessity for broader consultative meetings, which would include representatives of legislative, executive and judicial authorities, independent regulators, civil sector, etc. It is very important to ensure that freedom of access to information is limited only in cases where limitation as such is provided for by law, if there exist proportionality relating to targeted aim, and that in democratic society practice of European Court for Human Rights should be anyway considered.

The second important package of complaints related to freedom of access to information is related to fact that complainants frequently use Freedom of Access to Information Act for getting information which competent organs are obliged to disclose in accordance with provisions of certain procedural legislation. This is particularly visible in court proceedings, where courts „refer claims back“ to the claimants to formulate them in the way which should ensure data of claimed party, such as: address of dwelling, residence, identification number, etc. Such data is held by Interior ministries and courts could have requested such data directly. Complainants, calling on court decisions, requests interior ministries to provide data, calling on provisions of freedom of access to information, instead to call on provisions of procedural legislation. The reason of such actions is in the fact that, according to the Act complainants do not pay tax, and calling on some procedural legislation means obligatory payment of taxes. The lawyers frequently act in the same way.

As for complaints related to disclosure of information held by inspections<sup>69</sup> following recommendation issued on obligatory disclosure of information through minutes of inspection examination, Federation administration for inspections stated that it shall not comply with Decision on determination of exemptions from information disclosure, and that Decision is taken in accordance with Freedom of Access to Information Act and the Law on Protection of Personal Data. Additionally, in statement is alleged: „that every minutes on inspection supervision constitutes document contain in data for which it could be reasonably determined that it includes personal interests relating to privacy of third party, as well as data related to personal information, identification number, identification number of enterprise, address of residence, etc., of legal and natural persons and responsible organs of legal person who are subject to inspections which are included in every inspection minutes“. Federation administration additionally calls on provision of the Law on Inspections in FBiH, according to which an inspector is obligated to keep business secret and information related to inspection supervision, and may be suspended from duty if breaks obligation to keep business or other secret.

Such behavior of governmental organs, whose basic obligation is to supervise and remove unlawfulness, is contrary to basic purpose of existence and functioning of such organs, including its preventive role with a view to ensuring the rule of law and prevention and detection of corruption, nepotism, non-effective functioning of other organs and authorities bodies. This is particularly so because according to the Act even inspection organ as a public organ is obligated to disclose information, and, according to provisions of the Act, information may be disclosed only in its part, which means that obligation of Administration for inspections was to conduct public interest test and subsequently, if it assess that there exist personal data or data that may endanger privacy, deny disclosure of such data, and not deny access to all data contained in

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<sup>69</sup> Ž-SA-05-388/12

minutes on conducted supervision. Denial of data disclosure can only increase suspicions of information requestor that competent organ does not perform duties from its basic competence or performs them in an unlawful way, or tries to prevent detection of unlawful actions and work of other organs. Ombudsmen repeatedly stress that one of the basic goals of Freedom of Access to Information Act is that the Act is instrument of control of authority organs work and instrument for determination of their accountability.

### 3.1.9. Media

Although in 2012 in Ombudsman Institution there were not registered complaints directly related to media, a number of complaints were received that stressed problems existing in media, and that were indirectly reflected to freedom of expression, including right to access to information. Complaints received could be divided to complaints relating to **status of public broadcasters**, which also involves the issuance of consent for founding acts of public broadcaster by the founder, appointment and termination of appointment of members of the Board of Directors, appointment and termination of appointment of management of public broadcasters, etc. During investigation of these cases, that are registered in part relating to ministerial and governmental appointments of present Report, it is determined that certain activities are performed without respect of principles set forth by the Law on Ministerial, Governmental and Other Appointments. Another group of complaints is related to **legal and work status of media employees**, where registered complaints are related to mobbing, non-execution of court decisions taken upon claims from area of legal and work disputes, replacement, etc.

In 2012 Ombudsmen had several meetings with media representatives and their associations, where they expressed their concerns related to a number of journalists employed in media without regulated legal and work status, and due to endangerment of their existence they were not ready to request assistance, and that journalistic trade union organization is also disputable. Journalists' associations try to protect rights of their members, however, significant number of journalists, particularly in smaller communities, are exposed to certain attacks, harassments, and are disabled from access to information, and by this very fact are disabled in fulfillment of their work obligations.

### 3.1.10. Governmental and ministerial appointments

Although ministerial and governmental appointments may not be directly linked to violation of any individual citizen's right, legislator, with a view to ensure independent following of application of rule of law principles in this area, entrusted Ombudsman Institution the powers to reconsider appointment process and prepare its findings and conclusions upon receiving of complaints concerning final appointment. The reason for such position of legislator is contained in the fact that Ombudsman Institution is independent institution, independent national human rights mechanism accredited with „A“ status, which is guaranty that on the occasion of consideration of cases of governmental and ministerial appointments mentioned principle shall be maintained.

Unfortunately, frequent elections in BiH, where every two years general and communal elections take place alternately, results in changes of structures of authorities, which is automatically reflected in change of management structures in regulated organs, and intention

for adoption of the Law on Ministerial, Governmental and Other Appointments<sup>70</sup> was to prevent exactly such actions and to ensure the rule of law.

The Law on Ministerial, Governmental and Other Appointments se ensures respect for principles of **legality, merit, independent scrutiny, openness, transparency and representative recruitment** through provisions of Article 3 which stipulates that process of appointment can not be conducted without respect and application of mentioned principles except in cases that are as exemptions determined in Article 4 of the Law. These exemptions are primarily related to:

- a. Short term nominations/appointments. These are nominations or appointments for duration of no longer than 2 months which are non-renewal and in respect of which the total remuneration for the duration concerned does not exceed five thousand Convertible Marks.
- b. Work Experience (including programs and schemes). These are appointments intended to give the incumbent work experience. Their duration must not exceed 6 months and must be unpaid, except that travel and other necessary expenses may be reimbursed. Notwithstanding the foregoing, if the expenses to be reimbursed exceed five hundred Convertible Marks per month, in the period of the traineeship, the provisions of this Law shall apply.
- c. In the event that there are any appointments as advisors to any of the officials detailed in this paragraph, such appointments shall be exempt from the provisions of this Law: members of the National Assembly; President and Vice-Presidents; Prime Minister of the RS Government; Ministers of the RS Government; members of the Council of Peoples; the President and Vice-President of the Municipal Assembly; Head and Deputy Head of Municipality; and the City and Deputy Mayor.

Dealing with cases related to governmental and ministerial appointments, Ombudsmen noticed occurrence of misuse of the fact that in cases of appointment to short term appointments does not exist obligation of application of principles prescribed by the Law. It results in unclear basis for appointment of persons for short term period, which is important, since such persons hold the same competences as finally appointed persons, appointment of who is subject to respect for principles and procedures determined by the Law. There is also a practice present that persons appointed for short time period remain on certain function longer than prescribed by the Law, that is, longer than 60 days, which constitutes violation of legal provisions and opens issue of legality of actions and activities performed by such persons.

BiH Ombudsmen also received complaints related to procedure of termination of appointment. Although the Law does not clearly define this procedure, it may be concluded that mandate of appointed persons may ceased only in accordance with some of ways determined by the Law and following conduction of just and prescribed procedure. Nevertheless, in practice it happens that appointments are terminated without conduction of any procedure and not in accordance with principles determined by the Law that are related to appointment, so that appointed persons learn about termination of appointments following announcement on termination of appointments in official gazette or through press release. Ombudsmen express their concerns regarding the fact that such practice is particularly applied in educational and health institutions, having in mind population that exercise its rights in these institutions. Such actions result in emerging of legal insecurity and seriously endanger principles of the rule of law.

<sup>70</sup> The Law on Ministerial, Governmental and Other Appointments of F BiH „Official Gazette of FBiH, no. 12/03 and 34/03, BiH Law on Ministerial, Council of Minister's and Other Appointments "Official Gazette of BiH", no. 37/03, the Law on Ministerial, Governmental and Other Appointments of RS „Official Gazette of RS“, no. 25/03

Ombudsmen noticed, that on the occasion of termination of appointment, issues of legal and work status of person with terminated appointment, including its enjoyment in rights from mentioned status, due to which such person address Ombudsman Institution in accordance with provisions of the Law, however, aiming to protect its rights from area of legal and work relations. There are also cases where persons with terminated appointments at the same request protection from both Ombudsman Institution and competent court. So in the case of termination of appointment of director of Cantonal administrative service in Livno, decided by the Board of Directors of Federation Pension and Disablement Fund, person with terminated appointment addressed Ombudsman Institution, stressing that termination of appointment is of political nature, and in reasoning of termination failures in work are provided only arbitrarily. Ombudsmen conducted investigation and determined that complainant also initiated court procedure, and Livno municipal court imposed temporary measure, and then took decision on acceptance of the claim.<sup>71</sup> This case reveals that failures in application of provisions of the Law result in the fact that persons with terminated appointment even request exercise of their rights through court protection mechanisms. In the case where court determines violation of right, organ which decided on termination of appointment is obligated to compensate the claimant from public resources. Therefore, Ombudsmen draw attention at significance of ensuring consistent application of the Law, together with respect for relevant labor legislation.

There still exists practice that principles and procedures set forth by the Law are not fully respected regarding final appointment. Dealing with complaints filed with Ombudsman Institution<sup>72</sup>, through investigation related to appointment of new Supervisory Board of Investment and Development Bank a.d. Banjaluka, it was determined that responsible public official<sup>73</sup> did not keep documentation of registered candidates. According to statement of responsible public official, following conducted competition procedure concerning most of the candidates documentation was brought back to the candidates, which is contrary to provisions of Article 10 of the Law, which set forth: „ All decisions including those to reject, must be fully documented and kept by the Ministry or body under whose portfolio the Regulated Body falls“. Lack of documentation based on which appointment procedure was conducted results in the fact that Ombudsman Institution can not carry out its mandate determined by the Law, particularly in a part relating to determination of whether the candidates had fulfilled general and special requirements contained in vacancy notice.

In area of ministerial and governmental appointments in 2012 **115 complaints**<sup>74</sup>, were registered, out of which 80 relating to procedure of appointment, 17 related to procedure of termination of appointment, and regarding 18 complaints, following investigation conducted, it was determined that these complaints were not linked to procedures of appointment and termination of appointment in regulated organs.

As well as in previous annual report, most frequent reasons for addressing of the citizens to Ombudsman Institution concerning appointment/termination of appointments from position in regulated bodies were **violations of procedure for election and appointment of boards of directors and supervisory boards in economic and public enterprises, and public institutions,**

<sup>71</sup> Ž-LI-05-235/11

<sup>72</sup> Ž-BL-05-318/12

<sup>73</sup> The Ministry of Finances of RS

<sup>74</sup> Some cases from area of ministerial and governmental appointments:: Ž-BL-05-77/12; Ž-BL-05-85/12; Ž-BL-05-234/12; Ž-BL-05-179/12; Ž-BL-05-350/12; Ž-BL-05-674/12; Ž-BL-05-54/12; Ž-BL-05-362/12; Ž-BL-05-767/12; Ž-BL-05-841/12; Ž-BR-05-105/12; Ž-BR-05-178/12; Ž-BR-05-208/12; Ž-MO-05-134/12; Ž-MO-05-81/12; Ž-MO-05-117/12; Ž-SA-05-132/12; Ž-SA-05-83/12; Ž-SA-05-85/12; Ž-SA-05-207/12; Ž-SA-05-425/12; Ž-SA-05-448/12; Ž-SA-05-621/12; Ž-SA-05-811/12; Ž-SA-05-1221/12; Ž-SA-05-447/12

and smaller number was related to violation of procedure of election of director, appointment of who necessary requires consent by the Government or competent Ministry.

With regard to complaints received in 2012, Ombudsmen made 14 findings, conclusions with recommendations for cancellation of appointments or termination of appointments, and 12 findings and recommendations determining groundless allegations contained in complaints or failures in procedure that could not have had impact to final appointment, that is, application of Article 17 of the Law on Ministerial, Governmental and Other Appointments.

Reasons for issuance of recommendations were *inter alia* irregularly composition of the Commission for election, lack of determined criteria for election, non-existence of rank list of candidates, non existence of principle of representative recruitment in employment, disrespect of the Law on Gender Equality, disrespect of determined order from proposed rank-list of candidates for appointment, etc.

### 3.1.11. Public documents

Issue of exercise of the right to travel documents in Ombudsman Office is frequently registered under code relating to functioning of administration. Yet, in 2012 several complaints were registered related to citizens' problems concerning public documents. These problems are primarily in lawfulness, related to delete of complainant from BiH citizens registry<sup>75</sup>, subsequent entering of non-registered data on citizenship in birth registry<sup>76</sup>. There was also complaints registered, showing that complainant addressed to Registry Book Office in Glamoč for issuance of new birth certificate, and it was issued, only it contained wrong date of birth.<sup>77</sup> This failure in issuance of birth certificate negatively impacted exercise of the right to pension, having in mind obligation that on annual basis pension insurance of Germany, where the right to pension is exercised, should be provided by complainant documents, including birth certificate. Following intervention by Ombudsman Institution, mistake in birth certificate was corrected and the complainant was enabled duly to exercise right to pension again.

Ombudsman Institution registered complaint regarding Administrative service of Banja Luka City, too, where Administrative service of Banja Luka City did not harmonize competition procedure with the Law on Protection of Personal Data, and recommendation was issued for removal of failures that was not complied with and immediately superior person was informed on this.<sup>78</sup>

<sup>75</sup> Complainants were born in Germany and are citizens of BiH based on the fact that their parents are BiH citizens. In August of 2011n before competent organs of Germany, they initiated procedure for acquiring German citizenship and in December of 2011 they were informed by competent organ that they shall get citizenship under condition following delete from BiH citizenship. Written request for delete from BiH citizenship were submitted on 05.04.2012 to BiH Consulate in Frankfurt and on this occasion they acquainted competent official of the Consulate with their intention to go to annual leave in BiH in June of 2012. The Official of the Consulate informed them that there exist no obstacles and that on the occasion of entering to BiH they would stay for awhile in order get their passports taken away and to be deleted from BiH citizenship registry. Following Ombudsmen's intervention, the case was positively resolved so they were re-entered in evidence system through repossession of passports due to which they managed to get back to Germany, where they would receive administrative act – decision on delete from BiH citizenship..Ž-SA-05-722/12,

<sup>76</sup> Ž-SA-05-1118/12, Ž-BR-05-18/12

<sup>77</sup> Ž-SA-05-442/12

<sup>78</sup> Ž-BL-05-396/12



### **3.1.12 Implementation of recommendations**

The Department in 127 cases issued recommendations and 39 were complied with, 2 only partly, in 48 cases cooperation was established and 7 recommendations were not complied with, while in 31 cases there were not answers.

#### **Illustrative examples**

##### **Case Ž-BL-04-169/12**

Complainant alleges that he/she requested that request for disputable part of the pension was submitted 13.09.2002, and exercise of the pension right is not realized up to data, although Cantonal Court in Bihać took decision in favor of the complainant, and due to referring of the case to reconsideration, his/her right is not exercised for 9 years now, which complainant sees as violation of right to legal remedy, too. Ombudsman Institution issued recommendation to Cantonal Court in merit to decide on relevant administrative issue and take decision without referring of the case for reconsideration.

##### **Case Ž-LI-05-22/12**

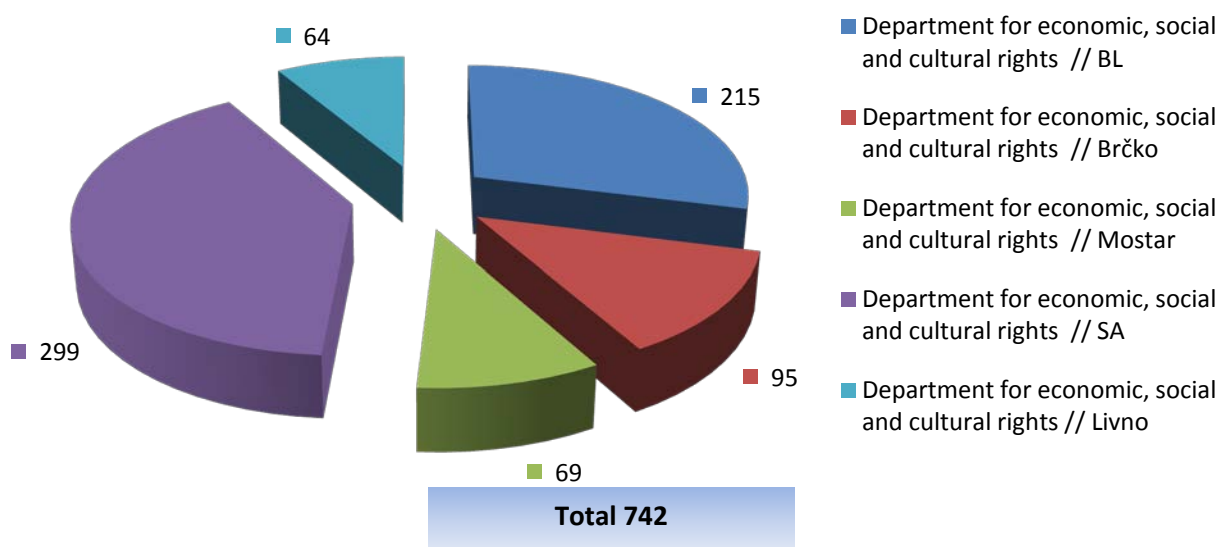
Since 2000 employer did not pay contributions to complainant all until his retirement in 2009. Proposal for execution of final decision was forwarded to Livno municipal court and the decision is up to date not executed.

##### **Case Ž-BL-06-292/12**

Complainant addressed the Institution, alleging that petty offence procedure conducted against her husband due to domestic violence takes place before basic court in Banjaluka. The court was requested to provide its statement regarding allegations contained in complaint, and the court stated that cases are resolved in chronologic order of backlog of cases. In concrete case Ombudsmen evaluated relation between general interest of equal resolving of the backlog and individual interest reflected in extremely difficult family situation of the complainant, threatening to escalate. Determining the odds of individual interest of complainant and her underage children, Ombudsmen issued recommendation to the Court to take relevant case in the work as a priority. The Court provided its answer and informed Ombudsman Institution that in mentioned case it scheduled verbal hearing, by which the case is resolved positively.

### 3.2. DEPARTMENT FOR ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Department for economic, social and cultural rights (hereinafter: the Department) of Human Rights Ombudsman Institution of BiH functions on principle of receiving individual complaints and initiate investigations *ex officio* in the cases where it determines human rights violations guaranteed by or international standards, particularly regarding exercise of rights referred to in International Covenant on Economic, Social and Cultural Rights and Revised European Social Charter.<sup>79</sup> Task of the Department is to inform competent organs and institutions, and the public, too, on violations of rights from area of economic, social and cultural rights. The Department treats issues relating to labor relations, education, ecology and protection of environment, communal services, health, social protection, pensions, war damages and public income. Consequently, in relation to aforementioned, it may be concluded that competence of the Department encompasses various areas and issues, which is in relation of complaints filed and their diversity, request knowledge of numerous regulations belonging to different legal areas.



**Charter 11: Review of complaints received by the Department for economic, social and cultural rights in 2012 on office –to-office bases**

#### 3.2.1. Analysis of complaints received

In 2011 Ombudsman Institution received 735 complaints, while in 2012 it received 742 complaints. Difference in number of received complaints is quite insignificant.

Regarding structure of complaints received, **the greatest number of complaints** is related to violation **in area of labor relations** - 362., and in comparison to 2011 number of complaints from this area is increased for 42 cases, that is, 13,1%. According to number of complaints filed with the Institution, complaints relating to pension – 185, communal services – 71, social protection – 53, health protection – 46, education – 32, war damage – 11, ecology and environmental protection – 9, and public incomes – 5 complaints.

Out of 742 complaints received in 2012, 471 complaints are resolved, while 271 complaints are still processed and, at the same time, in 2012 Department processed 479 complaints

<sup>79</sup> Strasbourg, 3 May 1996

transferred from 2010 and 2011, out of which in 2012 265 are resolved and 214 cases are transferred to 2013.

Accordingly, in 2012 Department processed 1221 complaints, out of which 736 are resolved, while 485 complaints are still to be resolved.

Dealing with complaints, Department in 2012 issued 58 recommendation, out of which 35 are related to area of labor relations, 9 to pension issues, 4 to communal services, 4 to health protection, 3 to ecology and environmental protection, 1 to social protection and 1 to area of education.

### 3.2.2. Right to pension

In 2012 Department received 185 complaints related to rights from pension and disablement insurance, which is in relation to 2011 when 189 complaints were received insignificant decrease.

Though investigation of soundness of complaints, Ombudsmen successfully **cooperated with Pension and disablement insurance fund**, which duly forwarded statements requested and information on cases, and in most number of cases, following first Ombudsmen's intervention, undertook activities for protection of rights of complainants.

Similarly as in 2011, citizens mainly addressed Ombudsman Institution due to lengthy procedure for exercise of rights to pension, that is, lack of actions of Pension and Disablement Insurance Funds within legally prescribed deadlines<sup>80</sup>. Such allegations were particularly stressed in the cases where cooperation between different insurance holders was necessary, i.e., exercise of right to proportional part of pension regulated by provisions of Agreements concluded between BiH and other countries<sup>81</sup>.

In their statements communicated to Ombudsman Institution, the Funds stated that foreign insurance holders do not provide documentation duly or such documentation is unduly completed and can not be base for decision requested by complainants, which is reflected to lengthiness of procedure in individual cases, due to which Ombudsmen on several occasions referred such documentation to Ombudsmen of foreign countries for undertaking actions and measures toward insurance holders in respective countries<sup>82</sup>.

Certain number of cases filed with Ombudsman Institution was related to non-taking of decisions by second instance organ upon appeals against first instance decisions of cantonal administrative services within legally prescribed deadlines<sup>83</sup>, and cessation of payments of pension or abolition of this right due to acquiring of new findings following revision conducted<sup>84</sup>.

Ombudsman Institution is still addressed by citizens due to their dissatisfaction by the way of pension calculation where Ombudsmen, unfortunately, may not request explanation by Federation Pension and Disablement Fund of FBiH or RS, and they advice complainants to request the first instance decision, that is, initiation of administrative dispute.

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<sup>80</sup> Ž-BL-04-310/12, Ž-BL-04-449/12, Ž-BL-04-768/12, Ž-SA-04-1189/12, Ž-SA-04-482/10

<sup>81</sup> Ž-SA-04-384/12, Ž-SA-04-31/12, Ž-SA-04-387/12, Ž-BL-04-711/12

<sup>82</sup> Ž-BL-04-711/12, Ž-SA-04-384/12

<sup>83</sup> Ž-SA-04-1326/11, Ž-BL-04-747/12

<sup>84</sup> Ž-SA-04-78/12

In the cases where initiation of administrative disputes relating to assessment of lawfulness of competent Funds, Ombudsman Institution on several occasions issued recommendations to competent courts to take decisions, that is, in merit on relevant administrative issues to take decisions without of referring the case back for reconsideration, having in mind that such cases are or property and social rights<sup>85</sup>.

Significant number of cases was filed with Ombudsman Institution regarding exercise of right to family pension. Following complaints against actions of Federation Pension and Disablement Fund, its administrative service Livno, where complainants request right to exercise family pension following death of husband, however, was denied due to debts made by the husband because of non-payment of contributions, and Ombudsmen proposed to responsible party extrajudicial alignment, which was achieved following intervention by Ombudsmen<sup>86</sup>.

On the occasion of complaint related to non-payment of contributions, Ombudsman Institution, through recommendation no. P-6/12, BiH Federation Government was recommended to reconsider problem of complainant and other persons for who former Service for common affairs of republican organs paid contributions in period 1992 - 02.02.1996, and that accordingly take measures considered to be appropriate with a view to enable complainants to exercise rights based on pension insurance. The recommendation was complied with and complainant got temporary decision according to which he/she gets its pension paid<sup>87</sup>.

### 3.2.3. Right to work

Department received great number of complaints relating to violation of the right to work and rights springing from labor relation. Out of complete number registered in the Department, 320 are related to rights from labor relations. In this reporting period number of complaints is increased in comparison with 2011<sup>88</sup> for 13,1 % or 42 more complaints.

Having in mind generally difficult economic situation in BiH, lately, it is noticed that **number of complaints related to vacancy notice procedures increased**, and complainants more and more frequently claim that employment procedures are not in accordance with law, that is, that such procedures are irregular and non-transparent. A great number of citizens in their complaints filed with Ombudsman Institution also stressed **disrespect of procedures on the occasion of employment of public servants** done by all levels of the authorities, both on BiH level, entity levels and on level of the District of Brčko.<sup>89</sup>

Further, Ombudsman Institution is addressed by citizens stressing unlawful actions by private employers.<sup>90</sup> Namely, employers avoid their legal obligations and in this way violate right to work of their employees through non-payment of contributions for health and pension insurance, do not pay agreed salaries, request workers to overtime work without payment, do not respect provision of existing laws on work and collectives contracts with regard to notice period and severance pay. In mentioned and similar cases, having in mind its legal mandate, that is, the fact that it can not act regarding private enterprises, Ombudsman Institution advices citizens to address to the closest work inspection. If competent work inspection upon complainant's request within legal deadline does not perform supervision or does not inform

<sup>85</sup> P-57/12 Ž-SA-04-217/11, P-62/12 Ž-SA-02-596/11, P-129/12 Ž-BL-04-169/12

<sup>86</sup> Ž-LI-04-45/12

<sup>87</sup> Ž-SA-04-1157/11

<sup>88</sup> 320 complaints from area of labor relations.

<sup>89</sup> Ž-SA-04-1190/12; Ž-SA-04-170/12; Ž-SA-04-950/12

<sup>90</sup> Immediate contact with citizen.

complainant on it, Ombudsman Institution acts toward inspection to make it perform all legally envisaged measures. Therefore, in its work on labor related cases, Ombudsman Institution **realizes its cooperation with competent inspection organs.**

Due to complaints relating to competition procedure concerning production of documentation contrary to existing legislation, such as **certificate of conviction and non-conviction of citizens and medical certificate**, Ombudsmen issued public release, since mentioned documents are requested contrary to existing domestic legal provisions and international conventions.<sup>91</sup>

In two cases<sup>92</sup> it was even requested forwarding of **faculty diplomas copies, verification of which can not be older than 6 months.** In this case, too, Ombudsmen Institution responded through public release<sup>93</sup> and draw attention of organizations and institutions in Bosnia and Herzegovina that they should consider valid verified faculty diploma copies regardless of the date of verification, since facts contained in faculty diplomas are not subject to changes.

In 2012 a great number of complaints were related to **procedure of employment in public institutions**, that is, **primary and secondary schools in BiH.** One of examples is complaint<sup>94</sup> where complainant applied for post of teacher in one of the schools in Lopare municipality. This case has shown that not only wording of vacancy notice requested provision of certificate on non-conviction, but also, in concrete cases, appeared violation of provisions of the Law on Primary Education and Care of Republika Srpska<sup>95</sup>, due to which Ombudsman Institution issued recommendation. It was partly complied with, in the segment related to certificate on non-conviction.

The law on Primary Education and Care of RS was also disrespected in primary school in Novi Grad<sup>96</sup> concerning employment of school's secretary, and Ombudsmen issued recommendation. Nevertheless, the school refused to comply with the recommendation, since there was pending court procedure. About above mentioned Ombudsmen informed the Ministry of Education and Culture of RS, and the Ministry requested statement by the school and informed Ombudsmen that school statement would be communicated to the Institution.

Since Ombudsman Institution is in possibility of monitoring court procedures, the citizens frequently address it with request for monitoring of court procedures, particularly concerning work disputes before competent courts. However, number of complaints in connection with number of Institution's staff, disables actions according to all complaints.

In 2012 Ombudsman Institution, in smaller number of cases, performed monitoring of court procedures<sup>97</sup>, and, exceptionally, monitoring of bankrupt procedures following request by representatives of group of workers of „Vranica“ d.d. Sarajevo<sup>98</sup>. The workers addressed the Institution with request targeted to exercise of right from labor relations, i.e., payment of unpaid salaries, contributions for pension and disablement insurance, health insurance and other debts. Regarding realization of these requests, the workers addressed to relevant

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<sup>91</sup> Public release of 31.05.2012.

<sup>92</sup> Ž-SA-04-256/12 i Ž-SA-04-279/12

<sup>93</sup> Public release of 11.07.2012.

<sup>94</sup> Ž-SA-04-1067/12; P-177/12

<sup>95</sup> „Official Gazette of RA“, no: 74/08, 71/09 i 104/11

<sup>96</sup> Ž-BL-04-569/12; P-160/12

<sup>97</sup> Ž-SA-04-1460/11 i Ž-SA-06-1196/10

<sup>98</sup> Ž-SS-04-332/12

governmental institutions, and Ombudsman Institution addressed the Prosecutor's Office of Canton Sarajevo, BiH Federation Government and Municipal Court in Sarajevo. Finally, bankrupt procedure was initiated before Municipal Court in Sarajevo.

Significant number of complaints received in 2012 was related to work of Clinical Center of Sarajevo University. A part of complaints was related to replacement within organizational units of the Clinic<sup>99</sup>. Following investigation it was determined that the Clinic still applied practice of distribution of its employees through conclusion of new contracts, although Ombudsman Institution, during meetings with the management, repeatedly stressed that order and replacement of employees should be done through taking of certain decisions, and that conclusions of new contracts to existing contracts or annexes to contracts should be avoided. Further, complaints by employees were submitted also due to violation of rights linked to reduction of working capacity due to long-years work<sup>100</sup>; replacement to another working post without prior notification<sup>101</sup>; mobbing by immediately superior person<sup>102</sup>; complaints relating to right to break during working time and improper calculation of salaries for employees working in rotating turn-over shifts<sup>103</sup>.

Ombudsman Institution received complaints<sup>104</sup> relating to announcement of competitions in schools in Canton Sarajevo related to application of *Rulebooks with criteria for announcement on cessation of need for workers who are partly or completely without working tasks and procedure of fulfillment of vacancy posts in primary or secondary schools as public institutions in Canton Sarajevo*<sup>105</sup>. Namely, complainants drew attention at disputable Article 11, paragraph 8, according to which advantage in competitions in education is in favor of candidates *who on 11.12.2009* were employed for certain period of time. This means that candidates who were not employed on mentioned date do not have priority in employment, which reveals discriminatory nature of mentioned Article, putting applicants in unequal position. Mentioned Article causes dissatisfaction among educationists, and therefore initiative for its amending was lounged. In processing of complaints Ombudsman Institution acquired findings that the Ministry of Education, Science and Youth of Canton Sarajevo created Commission for preparation of amendments to the Rulebook. At the beginning of this year the Ministry of Education, Science and Youth of Canton Sarajevo adopted a new Rulebook containing criteria for employment in pre-school institutions, primary and secondary schools in Canton Sarajevo. The Rulebook contains seven criteria concerning ranking of candidates: the most points will wear school education, and then points related to work experience or time spent in employment bureau, then scoring success in faculty, title and professional examination that would finally be added by points springing from interview.

### 3.2.3.1. Issue of severance payment in Republika Srpska

For long time now Ombudsman Institution deals with problem of citizens who addressed the Commission for Implementation of Article 182 of Labor Legislation in Republika Srpska, requesting recognition of right to severance payment. Enormous number of complaints received in 2009, 2010 and 2011, shows that substation improvement of the situation did not

<sup>99</sup> Ž-SA-04-175/12, Ž-SA-04-226/12

<sup>100</sup> Ž-SA-04-1112/12

<sup>101</sup> Ž-SA-04-1398/12

<sup>102</sup> Ž-SA-02-1187/12

<sup>103</sup> Ž-SA-04-572/12.

<sup>104</sup> Ž-SA-04-1002/12

<sup>105</sup> "Official Gazette of Canton Sarajevo", no: 34/09

take place, while certain procedural improvements in the work of the Commission are registered.

In 2012 Ombudsman Institution received fewer complaints in comparison to previous years. Ombudsmen ascertain that the Commission lacks human and financial resources to decide on all claims, that is, recognition of the right and payment of severance payments, however, at the same time, all mentioned circumstances do not decrease duties and obligations of RS, i.e., the State to enable full implementation of Labor Legislation of Republika Srpska<sup>106</sup>.

### **3.2.3.2. Special report, issue of legal and work status concerning implementation of Article 143 of BiH Federation's Labor Legislation**

In 2012 Ombudsman Institution registered certain number of complaints, showing that in the Federation, too, violations related to rights from area of legal and work status of people who happened to be employed on 31.12.1991, and who within legal deadline addressed employers concerning establishment of their legal and work status. Regardless of the fact that all individual cases are different in many ways, relevant facts are identical in all cases. Namely, it is undisputable that complainants meet conditions prescribed by Article 143 of FBiH Labor Legislation, i.e., all of them happened to be employed on 31.12.1991, that within legal deadline they addressed employers for establishment of legal and work status and that, in the meantime, they were not employed by other employer. Decisions issued by the competent Commission for implementation of Article 143 of FBiH Labor Legislation, recognize status of employees on laid-off lists and employers are ordered to resolve their legal and work status, yet employers or their legal successors did not act in conformity with decisions. Some of complainants requested court protection, that is, execution of decisions taken by competent Commissions through executive procedures before competent court to make employers obliged, based on recognized status of worker on laid-off list, to recognize all rights belonging to them exactly due to status they have. However, competent courts dismissed such proposals for execution as inappropriate for execution, since acts/decisions by Commissions have not capacity of executive documents, i.e. they are necessary for execution, in accordance with the Law on Executive Procedure of FBiH. According to position of courts, mentioned decisions are of declaratory character and obligation for executor is not determined, including time of execution as well. Accordingly, complainants are not re-employed by their employers or enterprises even ceased to work without having legal successor, so that, in accordance with law, complainants' work relation ceased to exist, however, at the same time, although they have right to severance payment, nobody recognized this right or eventually paid them severance payment.

Ombudsmen recommended<sup>107</sup> the Ministry of Work and Social Policy of the Government of the Federation of BiH to undertake all necessary activities and measures in FBiH to ensure institutional protection and exercise of right referred to in Article 143 of Labor Legislation. Ombudsman Institution did not receive feedback information by competent organs, that is, in concrete case Ombudsmen recommendation was not complied with and, moreover, even cooperation with competent ministry, which is BiH Federation Government, was not established.

<sup>106</sup> Official Gazette of Republika Srpska", no. 55/07

<sup>107</sup> No. P-5/12

### 3.2.3.3. Problems with VAT Administration of BiH

In different periods from 2005 to end of 2010 Ombudsman Institution was addressed with complaints by former workers of Republican Custom Administration of RS and the District of Brčko. Having in mind existing regulations, Ombudsmen issued and forwarded Special report to Administration for Indirect Taxation (hereinafter: Administration). Special Report contained recommendation to Administration within 90 days to consider status of its employees at disposal through conduction of procedure of organizational restructuring, having in mind BiH Court's decisions, annulling decisions taken by Administration. Namely, BiH Court in most of the cases took final decisions where complainants had partly success in work disputes initiated against Administration in the part of their claims requesting cancelation of decisions regulating their legal and work status in Administration. Following preparation and forwarding of Special report with recommendation, Ombudsmen still received complaints with identical factual bases, due to which the Special report was made. Ombudsmen fully explored legal competencies in concrete individual cases, yet they can not disregard fact that Administration did not act in accordance with BiH Court's decisions and on the occasion of ordinary executive procedures by first instance courts, courts took position that decisions are necessary for forcible execution.

### 3.2.4. Ecology and environment protection

Within its Department Ombudsman Institution deals with issues of environment and its protection as necessary for actual themes in Bosnia and Herzegovina. BiH clearly defined policy of activities in this area, which opens question of fulfillment of internationally taken over obligations.

International treaties from area of environment protection are framework conventions, parties to which take over obligations and by which legal framework for gradual adoption of additional protocols are created with detailed and concrete obligations, including those organizing protection of different elements of environment of regional or global importance. BiH ratified numerous conventions and protocols: UN Framework Convention on Climate changes, Kyoto Protocol, Convention on Control of Cross-Border Movement of Dangerous Waste and its Depositing, UN Convention on Biological Diversity, Cartage Protocol on Biological Security, Protocol on Water and Health, etc. One of more important conventions is UNCE Convention on Access to Information, Participation of the Public in Decision-Making Process and Access to Judicial Organs from Area of Environment-Aarhus, 1998 Denmark. This Convention is frequently called Aarhus Convention.

Aarhus Convention constitutes international legal framework for regulation of environment protection, and is related to access of information and judicial instances, including participation of the public in deciding on ecological issues. **Bosnia and Herzegovina signed Aarhus Convention on 15 September 2008.**<sup>108</sup>

Ombudsman Institution attended the workshops and education for application of Aarhus Convention, such as: participation in round table held in Center for education of judges and prosecutors of FBiH on topic: Implementation of the third pillar of Aarhus Convention held within project: „*Provision of training for professionals from area of judiciary in national and*

<sup>108</sup> „Official Gazette BiH-MU“, no: 8/08



*international environmental legislation and facilitating public approach to legal issues related to environment protection“.*

Within its activities in 2012 Ombudsman institution continued to work on implementation of the Law on Protection and Welfare of Animals in BiH<sup>109</sup>, which was performed in previous year, too. Additionally, representative of Ombudsman institution participated in conference of Municipalities Union and Cities of FBiH called: „Problems linked to implementation of the Law on Protection and Welfare of Animals from aspect of local communities“, held in Sarajevo on 14.03.2012. Ombudsman Institution forwarded to the Council of Ministers recommendation for consideration of necessity for preparation of strategy or plan of action for application of the Law on Protection and Welfare of Animals<sup>110</sup>. The Council of Ministers instructed Office for Veterinary of BiH, in order of resolving of the problem of increased number of street dogs, to prepare information on measures taken. Up to date BiH Ombudsmen have not received answer on further activities related to realization of the recommendation.

Importance of environment protection is confirmed by citizens' addressing relating to various problems they encounter in this area. On the occasion of complaint of an inhabitant of certain village in territory of Kakanj municipality, due to inadequate care of an animal in certain household, where existed possibility of infection outbreak, BiH Ombudsmen recommended Kakanj municipality, administration for inspections of Ze-Do Canton, the Ministry of Agriculture, Forestry and Water Management of Ze-Do Canton, Federation Ministry of Agriculture, Forestry and Water Management, to apply the Law on Protection and Welfare of Animals and regulations related to veterinary<sup>111</sup>. BiH Ombudsmen did not receive answer related to mentioned complaint.

One of the complaints relating to environment protection is lodged by an NGO „Organizacija sportskih ribolovaca Konjic“<sup>112</sup>, who are of the opinion that JP Elektroprivreda BiH should not get environmental permit again, due to its impact on environment. This case is still processed.

Upon complaints by Association of Private Forest Owners Sanski Most, recommendation was communicated to the Parliament of FBiH with a view to adoption of the Law on Forests in BiH, which is essential for environment protection, prevention of illegal logging, destruction of forests and restoration of forest reserves<sup>113</sup>. This recommendation contained two aspects, violation of right to property and environment protection, forests and ecosystem as a whole. Obligation springing from Berne Convention, that is, Council of Europe's Convention on the Conservation of European Wildlife and Natural Habitats were also stressed, according to which BiH authorities are inter alia obliged to take various measures (protection, implementation of plans of action, submit reports to permanent Committee for implementation of Berne Convention). BiH Ombudsmen prepared answer showing that Commission for Human Rights of the House of Peoples of FBiH Parliament, following insight in recommendation, referred it to Chairperson and Deputy Chairperson of the House of Peoples for further procedure.

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<sup>109</sup> „Official Gazette BiH“, no: 25/09

<sup>110</sup> P-102/12; Ž-SA-04-1146/11

<sup>111</sup> Ž-SA-05-545/12; P-127/12

<sup>112</sup> Ž-SA-04-1238/12

<sup>113</sup> Ž-SA-05-1014/12; P-176/12

### 3.2.5. Right to social protection

Department of Ombudsman Institution deals with cases related to social protection system. Essence of social protection system is to ensure social stability of the State in the way that most vulnerable categories of the society are ensured access to necessary aid. Accordingly, BiH has an obligation to ensure progressive exercise of social rights and it should be done in just, appropriate and non-discriminatory way. Although it is well-known that global economic crisis and in BiH, too, is in its climax, number of complaints received relating issues of social protection decreased for 33% in relation to 2011 when 79 complaints from this area were received, while **in 2012 the Institution received 53 such complaints.**

Although Ombudsman Institution has relatively small number of complaints registered in subcategory of social protection, **this fact does not reflect real picture of actual problem, since quite frequently violation of rights from this area is qualified under other spheres** such as, for instance: violation of right to work, pension, etc.

In entire territory of BiH there 20 laws relating to area of social protection on the level of entities and cantons.

With regard to cantonal level adopting legislation from area of social protection, it is obvious that such legislation is not always harmonized with the Law on Basic Social Protection, Protection of Civil Victims of War and Protection of Families with Children in FBiH. Social protection rights **are exercised by citizens depending of economic possibilities of cantons**, that is, budgetary resources envisaged for this purpose and these resources are frequently not enough for realization of all citizens' needs who live in different cantons concerning area of social protection. So, it could be concluded that social benefits are not the same at cantonal level, which brings citizens in unequal position.

General notice by Ombudsman Institution, springing from analysis of complaints related to social protection, is that the situation in this area is extremely difficult and that numerous citizens are in the situation of social need.<sup>114</sup>

Citizens complain against non-payment of one-time monetary assistance, which reveals increased number of citizens in the situation of social need. Concerning complaint<sup>115</sup>, following Ombudsman Institution intervention, Jezero municipality answered that complainant's request, together with dozens of identical request for one-time assistance, will be resolved in accordance with filling of the budget of the municipality in question.

Complaints concerning social protection were frequently related to work of social work centers, particularly related to work of professional officers, stressing dissatisfaction by their decisions for determination of personal disability payment, determination of monetary aid and other rights from social protection. Ombudsman Institution cooperates with social work centers and they inform the Institution on measures undertaken from their competencies.

<sup>114</sup> Ž-LI-04-271/12; Ž-LI-04-230/11

<sup>115</sup> Ž-BL-04-553/12

Following a lengthy period of time, in 2012 in connection to complaint<sup>116</sup> Livno Municipal Council took decision on allocation and sale of apartments for which the municipality has the right to dispose, which enables persons who need social housing to resolve housing problem.

### 3.2.6. Right to health protection

Regarding health protection, **there are more and more citizens requesting protection of right, for they are disabled to exercise right to health protection.** The reasons for complaints from area of health protection are different, and most frequently due to the fact that employers do not pay contributions for pension and disablement insurance, which disables employees' access to health protection.

Further, there are complaints by citizens whose request for insurance through a member of family is not accepted due to non-payment of contributions.<sup>117</sup> Moreover, a complainant<sup>118</sup> requested assistance to get ocular prosthesis that complainant could not buy due to its difficult financial situation, and following Ombudsmen intervention, social work center in Prijedor ensured finances for buying of prosthesis. Because of non-approval of healing costs in Hart Center in Tuzla BiH<sup>119</sup>, following Ombudsmen intervention, complainant was approved fecundation for installation of ICD equipment, as well as costs of hospital treatment.

There is a case registered<sup>120</sup> due to violation of right of choice of family doctor and unauthorized exception and transfer of medical records of complainant, her husband and child to another ambulance station, where, upon request of employer reconsideration of ill leave was requested or ambulance treatment, and which is even not an ambulance post belonging to place of residence of complainant and her family. Ombudsman Institution issued recommendation to the Institution of health insurance of Ze-Do Canton and family medicine ambulance „Centar” Zenica to remove actions and treatments that led to violation of right of complainant and her family to free choice of doctor in conformity with certain legal provisions<sup>121</sup>. Chief-of-staff of Service for family medicine informed the Institution that recommendation was implemented and that issue of medical treatment of complainant was resolved. Yet, the complainant informed the Institution that recommendation was not complied with, that is, that her medical records were brought back to chosen ambulance post but not to doctor that she chose and that medical records of her husband and child were not brought back in original ambulance post, which leads to conclusion **that recommendation was only partly complied with.**

In the same case it was noted that through Order on fulfillment of basic conditions for recognition of family medicine of Ze-Do Canton, which is a by-law, it is prescribed that until adoption of cantonal regulations, patients shall be distributed on team-to-team basis and ambulance posts in accordance to the gravitational field by decision of director of Medical Post. Since cantonal regulation was never adopted, it could be ascertained that through by-law right determined by existing legislation is derogated, which is unacceptable.

<sup>116</sup> Ž-LI-04-99/10

<sup>117</sup> Ž-LI-04-11/12

<sup>118</sup> Ž-BL-04-184/12

<sup>119</sup> Ž-SA-04-1152/12

<sup>120</sup> Ž-SA-06-227/12; P-185/12

<sup>121</sup> Article 64 of the Law in Health Insurance and Article 16 of the Law on Rights, Obligations and Responsibilities of Patients

### 3.2.7. Communal services

In 2012 Ombudsman Institution received 71 complaints related to communal services and activities. Every citizen must have adequate standard of living which means drinking water supply, gas, electric power, municipal waste disposal, etc. Exactly these are the reasons due to which citizens filed complaints.<sup>122</sup> General observation by Ombudsman institution concerning complaints received is monopolistic behavior of public enterprises. In such situation public enterprises without justifiable reason may suspend<sup>123</sup> or perform irregular operation of services, or increase their prices. Accordingly, the citizens have not possibility to refuse offered conditions or address other providers. In one of the cases user of services put forward a charge against Elektordistribucije ZP "Elektorkrajina" a.d. Banja Luka, since supply of power was suspended despite of regular payment, and monitoring by Ombudsman institution was requested, which was present at scheduled hearing.<sup>124</sup>

Due to poor financial situation many citizens more and more difficultly fulfill their obligations, since they are not in possibility regularly to pay the bills. Pensioner who could not regularly to pay communal services to J.P. „Komunalno“ Livno<sup>125</sup> filed complaint with the Institution and found herself before warning before power cuts. Following Ombudsmen Intervention, communal enterprise accepted portions payment of debt incurred and in this way Ombudsmen showed readiness to assist complainant as well as other citizens who find themselves in similar situations.

Increasing number of citizens address Ombudsmen requesting assistance concerning debts toward public enterprises, due to unpaid bills for gas, power or water. It is important to say that in mentioned cases, if it is determined that there exist court decision determining debts toward certain enterprise, Ombudsman Institution is of the opinion that there is not ground for action, since it is execution of court decision.

Ombudsman Institution **is still addressed by returnees concerning energy supply** which is essential for decent life, and in this way renewal and return is prevented, since it takes years particularly for introduction of electricity in homes even in the cases where access to electricity existed before the war.<sup>126</sup>

Further, floods and water spills in BiH very frequently caused pollution of environment in the cases where near watercourses are unedited sewer systems. Because of this Ombudsmen issued recommendation<sup>127</sup> to Cazin municipality, in which they stressed importance of maintaining of arms flow of rivers and canals. Namely, the Law on Waters set forth obligation of local self governance units to apply regulations concerning waters, which in indirect way requests regulation of communal activities prescribed by separate legislation.

Complaints against communal activities very frequently are under competence of BiH Ombudsman for Consumers, and Ombudsman Institution in 2012 referred 11 complaints to this Institution for further processing.<sup>128</sup>

<sup>122</sup> Ž-MO-04-31/12; Ž-MO-04-59/12; Ž-MO-05-91/12; Ž-MO-04-164/12; Ž-MO-05-128/12

<sup>123</sup> Ž-LI-04-173/12 i Ž-LI-04-174/12

<sup>124</sup> Ž-BL-04-228/12

<sup>125</sup> Ž-LI-04-56/12

<sup>126</sup> Ž-MO-04-92/12; Ž-MO-04-59/12; Ž-MO-05-62/12

<sup>127</sup> Ž-SA-05-920/12

<sup>128</sup> Ž-SA-04-565/12; Ž-SA-05-1085/12; Ž-SA-04-853/12; Ž-SA-04-1227/12; Ž-SA-05-927/12

## ILLUSTRATIVE CASES

### Case Ž-SA-04-950/12

Complainant addressed the Institution due to employment competition procedure for administrator in public institution Museum, Bihać, Una-Sana Canton. Following its investigation, Ombudsman Institution issued recommendation, no: P-178/12 because it determined that Commission for reception of candidates did not conduct procedure properly, for even documents that were not requested by wording of public competition announcement were scored during the competition and in favor of employed candidate. Additionally, through its investigation Ombudsman Institution determined that certificate on non-conviction was requested, too. Ombudsman institution called on opinion of BiH Agency for Protection of Data and announcement by BiH Ombudsmen, according to which institution or organization on the occasion of employment have not right to request candidates to produce certificate on non-conviction. The Museum answered positively and stated that employment competition was canceled.

### Case Ž-SA-04-178/12

Complainant addressed Ombudsman Institution due to employment competition procedure for post of public servant, that is, Deputy Mayor of Novi Travnik municipality. Complainant alleged that competition procedure was completed without selected candidate, although complainant was the only one in the list of successful candidates of Civil Servants Agency of FBiH for employment on the post of Deputy Mayor in the list of the Agency. The Agency informed the complainant that Municipal Mayor informed the CSA FBiH that he would not request opinion of the Agency concerning employment of candidate, for he did not intend to take decision on employment of the candidate on mentioned vacant post. Further, complainant, following Agency's information, appealed to Commission for appeals of civil servants Agency in FBiH. The Commission accepted appeal and referred the case back to first instance organ for reconsideration. During its investigation, Ombudsman Institution reputedly addressed Municipal Mayor, who duly forwarded his statements. Essence of his explanations was that, according to his opinion, the candidate was not good enough to perform deputy's duties, although according to opinion of the CSA he met competition's conditions. Following investigation conducted, Ombudsman Institution determined that the Mayor did not respect legal procedures and issued recommendation to Novi Travnik municipality, the Agency and the Commission, recommending that Mayor of Novi Travnik municipality should act in accordance with legal provisions. The CSA FBiH forwarded answer that it complied with recommendation and issued its opinion on the employment. Since Mayor of Novi Travnik Municipality did not complied with recommendation, Ombudsman Institution, within its legal powers, informed immediately superior organ, that is, Municipal Council. Municipal Council provided answer explaining that employment is exclusively under Mayor's competencies. Accordingly, this example is presented as an obvious negating of recommendations issued BiH Ombudsmen by Novi Travnik municipality.

### Cases Ž-LI-04-173/12, Ž-LI-04-174/12

Complainants stressed tha JP „Komunalac“ Drvar suspended water supply, although they duly paid the bills. The reason for suspension was non-payment of the bills by several housing object dwellers. During investigation, it was stressed that, as a rule, the users may not be deprived of communal services. However, this may be done only exceptionally where technical conditions enables so, and without endangering of other users of communal services. Following respond

by Ombudsman Institution, responsible party enabled access to water in the building where complainants live and sued irregular payers.

**Case Ž-LI-04-45/12**

Following death of her husband who maintained independent trading shop, complainant had no any income anymore, so she submitted request for family pension. The request was rejected, since her husband had contributions debt of 20.000 KM. Following Ombudsmen intervention, the complainant and Federation Institution of Disablement and Pension Fund-Administrative service Livno, reached an out of court settlement of debt, so complainant realized right to pension with certain monthly deductions.

### 3.3. DEPARTMENT FOR FOLLOWING RIGHTS OF PERSONS WITH DISABILITIES

Department for following of rights of persons with disabilities (hereinafter: Department), of the Ombudsman Institution for Human Rights of BiH processes individual and collective complaints relating violations of the rights of persons with disabilities, *ex officio* initiates and resolves determined violations and with a view to ensure their protection issues recommendations, drawing attention of domestic governmental organs to obligation to respect all obligations set forth by BiH legislation, as well as obligations taken over by BiH through ratification of UN Convention on Rights of Persons with Disabilities with its Facultative Protocol, Standard Rules for equal arms possibilities for persons with disabilities, Action Plan of the Council of Europe for promotion and full participation of persons with disabilities on equitable basis in relation to the others.

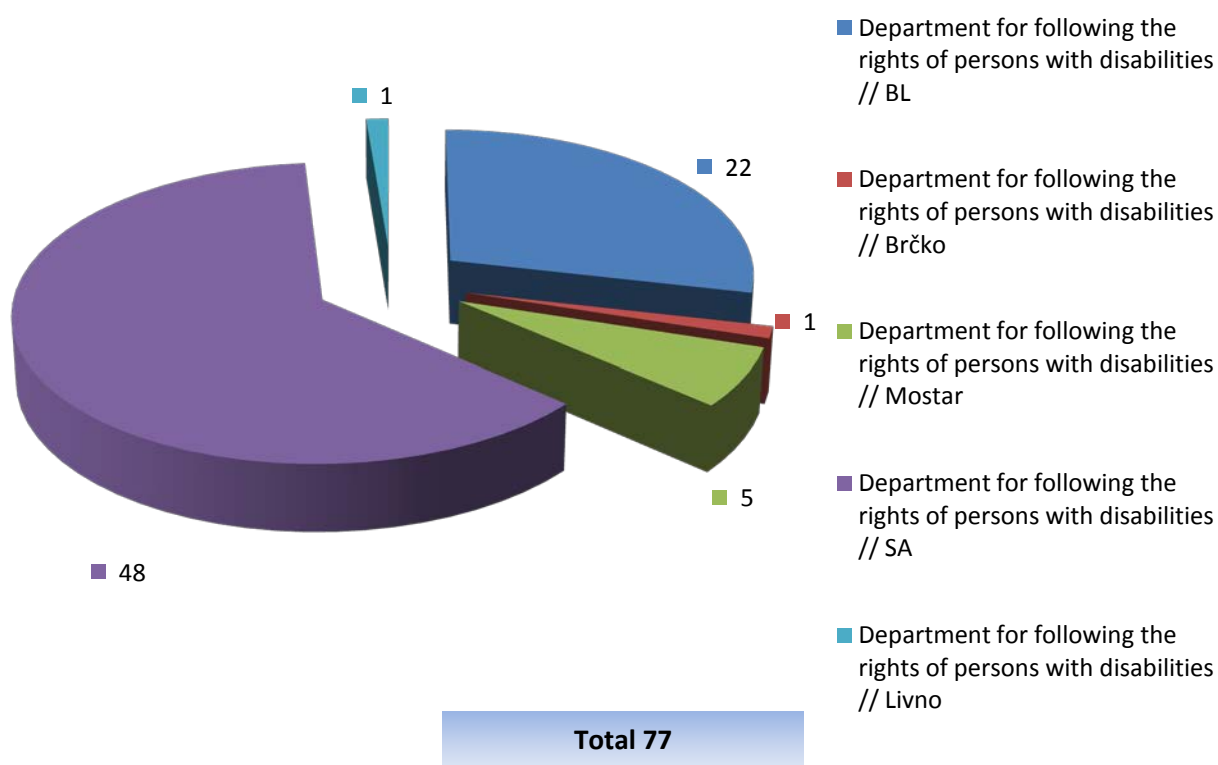


Chart 12: Review of complaints filed with Department for following of rights of persons with disabilities in 2012 on office-to-office basis

#### 3.3.1. Analysis of complaints received

With regard to complete number of complaints processed by the Department, **136 complaints** were related to violations of the rights of persons with disabilities, out of which 59 complaints were transferred from 2010 and 2011, and in 2012 Department received 77 complaints, 22 in Head Office in Banja Luka, one in Brčko Office, one in Livno Office, five in Mostar Office and 48 in Sarajevo Office.

In 2012 94 complaints were resolved and 42 complaints remained unresolved, 19 transferred from 2010 and 2011 and 23 complaints received in 2012.

No.	Way of resolving	Cases 2012	Cases 2010 and 2011	Total
1	During Ombudsmen intervention	18	19	37
2	Through Ombudsmen recommendation	0	9	9
3	Lack of interest of complainant for further procedure	10	4	14
4	Inadmissible complaint	17	1	18
5	Some other way	8	7	15
6	Competence and referring of cases to competent organ	1	0	1
7	Referred to other Ombudsman Office	0	0	0
8	Through Special report	0	0	0
9	<b>Total</b>	<b>54</b>	<b>40</b>	<b>94</b>

**Table 9: Review of Ombudsman actions upon complaints received by the Department for following of rights of persons with disabilities according to way of resolving the cases**

Out of 18 inadmissible complaints, 12 were groundless, 1 was related to already considered facts, 1 was related to non-use - failure to use ordinary legal remedies, and 1 complaint due to violation of legitimate rights of third person and complaints concerning other cases.

Out of 136 complaints processed in 2012 94 are put in archive and 14 were from 2010, 26 from 2011 and 54 complaints processed in 2012.

Comparing number of complaints received in 2012, it may be ascertained that in relation to 2011 number of complaints received decreased, since **Ombudsman Institution reacted promptly concerning observed problems through preparation of Special reports on rights of persons with disabilities**<sup>129</sup>. Federation Ministry of Work and Social Policy, in its implementation of recommendations contained in reports, executed social aid payments and undertook measures for more effective second instance procedures and in 2011 executed 15.533 social aid payments to persons with disabilities. (beneficiaries according to „old legislation“), which expressed in financial terms was 43,995.832,97 KM. Concerning outstanding debt toward beneficiaries in amount of 14,078.183,72 KM the Ministry prepared proposal of the Law on Way of Settling Obligations Arising under the Law on Basic Social Protection, Protection of Civil Victims of War and Protection of Families with Children.

Since during 2012 complaints received in previous years were processed, it was noticed that the complaints were file with the Institution due to the following reasons: findings and assessment of health situation<sup>130</sup>, non-payment of assistance for personal disability<sup>131</sup>, determination of cessation of right to personal disability<sup>132</sup>, non-payment for disability and orthopedic prosthesis<sup>133</sup>, failures in recognition of right based on disablement,<sup>134</sup> lengthy appeal second instance procedures<sup>135</sup>, non-payment of accommodation costs in institutions for

<sup>129</sup> [http://www.ombudsmen.gov.ba/materijali/publikacije/Invaliditet\\_BOS.pdf](http://www.ombudsmen.gov.ba/materijali/publikacije/Invaliditet_BOS.pdf)

<sup>130</sup> Ž-SA-02-54-1/10, Ž-SA-02-139/12, Ž-SA-02-421/12,

<sup>131</sup> Ž-SA-02-83/10, Ž-SA-02-190/10, Ž-SA-02-254/10, Ž-SA-02-111/11, Ž-SA-02-9/12, Ž-SA-02-17/12, Ž-SA-02-192/12, Ž-SA-02-373/12, Ž-SA-02-461/12, Ž-SA-02-1395/12,

<sup>132</sup> Ž-SA-02-145/10, Ž-SA-02-226/10., Ž-SA-02-81/11, Ž-SA-02-200/11, Ž-SA-02-53/12, Ž-SA-02-283/12, Ž-SA-02-913/12,

<sup>133</sup> Ž-SA-02-161/10,

<sup>134</sup> Ž-SA-02-162/10, Ž-SA-02-185/10, Ž-SA-02-186/10, Ž-SA-02-161/12, Ž-SA-02-362/12, Ž-SA-02-411/12, Ž-SA-02-686/12, Ž-SA-02-1179/12, Ž-SA-02-1306/12, Ž-MO-02-161/12, Ž-MO-02-51/12, Ž-MO-02-44/12, Ž-MO-05-25/12.

<sup>135</sup> Ž-SA-02-21/12, Ž-SA-02-22/12,



persons with disabilities<sup>136</sup>, complaints related to work of the Institute for evaluation of work capacity<sup>137</sup>, non-resolving of rights within legal deadlines<sup>138</sup>, complaints related to architectural barriers<sup>139</sup>, housing<sup>140</sup>, refusals of requests for co-financing for purchase of prosthesis<sup>141</sup>, exercise of right to health protection<sup>142</sup> deployment to other jobs due to reduced work capacity<sup>143</sup>, inadequate protection of veterans' rights<sup>144</sup>, etc.

In 2012 Department issued 10 recommendations, out of which 2 were complied with, 1 was not implemented, in 5 cases cooperation was established with responsible organs<sup>145</sup>, while regarding 2 recommendations the Institution was not provided with answer – statement<sup>146</sup>.

In 2012, too, the Institution received complaints relating **to long waiting period for the Institute for Medical Assessment of health status** (hereinafter: the Institute) **to conduct expert evaluation of health status**, or to finish the procedure concerning the appeal filed against the decision of the Institute on Disability assessment<sup>147</sup>. As well as in previous annual reports, behavior of the Institute was recorded, since the Institute does not provide the Institution with its answers following requests by Ombudsman Institution, neither implements recommendations issued, due to which, in accordance with their competencies, Ombudsmen took measures and informed the founder – the Government of Federation of BiH<sup>148</sup>.

Additionally, the Institute never provided BiH Ombudsman Institution with its explanations of reasons and circumstances due to which, in cases of revision of health status of beneficiaries, following determination of new findings and opinions leading to decrease of degree of disability in comparison with initial findings, which results in loss of previously acquired right. Department particularly stresses that from complaints' allegations and interviews with complainants – persons with disabilities **is evident a high degree of dissatisfaction with the relation of the Institute's professional teams working health status revisions**, and, according to complainants, they work superficially, do not conduct all the necessary checks, due to which they do not have an objective picture of health, do not adequately treat equally all persons with disabilities, and often do not work as a team, but one of the team physician conducts revision and assessment of status.

The practice of the Institute to refuse to conduct expertise of health status unless individuals – beneficiaries do not pay costs of expertise is continued, although there exist assessment by the Constitutional Court of FBiH on this issue<sup>149</sup>, determining that Decree on payment of cost for medical expertise of health status from area of pension and disablement insurance is contrary to the Constitution of FBiH, and position of Court that the Decision may not be applied since 06.09.2011 until this issue is legally regulated, and at longest within three months following date of announcement of the Decision in Official Gazettes.

<sup>136</sup> Ž-SA-02-528/12,

<sup>137</sup> Ž-SA-02-695/12, Ž-SA-02-1399/12,

<sup>138</sup> Ž-SA-02-837/12, Ž-SA-02-1117/12, Ž-SA-02-1193/12, Ž-SA-02-1345/12,

<sup>139</sup> Ž-SA-02-1045/12, Ž-SA-02-1240/12, Ž-BL-02-81/12, Ž-BL-437/12

<sup>140</sup> Ž-SA-02-1323/12, Ž-SA-02-1397/12,

<sup>141</sup> Ž-LI-02-152/12

<sup>142</sup> Ž-BL-02-554/11

<sup>143</sup> Ž-SA-04-1112/12

<sup>144</sup> Ž-MO-02-65/12,

<sup>145</sup> P-97/12, P-117/12, P-159/12, P-214/12, P-215/12

<sup>146</sup> P-65/12, P-156/12

<sup>147</sup> Ž-SA-02-1562/10, Ž-SA-02-1190/10,, Ž-SA-02-924/10,, Ž-SA-02-348/11,

<sup>148</sup> Ž-SA-02-654/11, Ž-SA-02-519/10,

<sup>149</sup> U-33/10 od 05.04.2011. godine

Although the Ombudsmen on 09.12.2011 communicated recommendation to the Government of FBiH, Federation Institution for Pension and Disablement Insurance Mostar and Institute for Medical Expertise of Health Status in Sarajevo, recommending FBiH Government to as soon as possible regulates issue of payment of costs of medical expertise, up to date it has not been done.

Additionally, occurrence that lately appeared complaints by former members of HVO, who following the war recognized status of war military disabled person due to consequences of wounding and confinement, with associated rights. The same status was confirmed in 2006, however, following revision by Federation Ministry of Veterans Issues and Persons Disabled in Homeland War in FBiH, decision was taken, annulling status of war military disabled persons with associated rights, due to which they are forced to initiate court procedures and file complaints with Ombudsman Intuition.<sup>150</sup>

It should be mentioned that in 2012 Ombudsman Institution *ex officio* and upon individual complaints processed complaints **related to the issue of accessibility**.<sup>151</sup> In this way Department stresses that BiH is party to numerous international documents that protect rights of persons with disabilities, and one of basic rights is right to accessibility. UN Convention on the Rights of Persons with Disabilities, adopted together with Facultative Protocol, in Article 9 stipulates obligation of all parties to the Convention to enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia: (a) buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces, (b) Information, communications and other services, including electronic services and emergency services.

States Parties shall also take appropriate measures to:

- a. Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- b. Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- c. Provide training for stakeholders on accessibility issues facing persons with disabilities;
- d. Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
- e. Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- f. Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- g. Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

<sup>150</sup> Ž-SA-02-362/12, Ž-MO-02-25/12

<sup>151</sup> Ž-SA 02- 1283/11, Ž-SA-02-1045/12, Ž-SA-02-1240/12, Ž-BL-02-81/12, Ž-BL-437/12, Ž-SA-02-733/12

- h. Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Complaints processed were mainly concerning existence of architectural barriers, unmarked pedestrian crossings without audio signals, so activities of the Institution were targeted to request toward organs in conformity with existing legislation to **ensure implementation of technical solutions in the design and construction of buildings**, which enable disabled persons and persons with reduced mobility to ensure unimpeded access, movement, residence and work in those buildings at the same level as other persons, particularly administrative buildings and similar purposes, health and social and rehabilitative purposes, educational and educational purposes, cultural purposes, where buildings often staying disabled, places and areas of public use (pedestrian square, streets, paths in parks, playgrounds and walkways, pedestrian bridges, street crossings, and the like buildings and traffic, sports, entertainment, religion and religious purposes).

It is also *ex officio* checked how insurance mechanisms accessibility for handicapped people with the electoral process<sup>152</sup>, during which it was determined that the availability of polling stations for persons with disabilities and the voting of persons with disabilities with the help of another person insured through the adoption of Guidelines on types, method and time limits for the determination of polling stations<sup>153</sup> and Rulebook on the manner of conducting elections in Bosnia and Herzegovina<sup>154</sup>, which ensures participation in political and public life under Article 29 of UN Convention on the Rights of Persons with Disabilities in the formal sense, but it is missing the opportunity to check whether the above by-laws are consistently implemented throughout the electoral process.

Ensuring accessibility is an ongoing task and obligation of the authorities at all levels of government, as Bosnia and Herzegovina just began the work on implementing the UN Convention, which was ratified

We wish to emphasize support and appreciation to Federation Ministry of Labor and Social Policy, which is through its willingness, cooperation, including certain funds, helped in the organization and implementation of the projects carried out by NGOs in BiH, such as "living in the community with support", "Try to be yourself" and actively participated in the campaign "Let's act together "and others., and thereby encourage cooperation relationships and partnerships among existing associations of people with disabilities and mitigate the consequences of social exclusion and contribute to sensitize the public to the presence of people with disabilities in the community and problems they face every day, and focus on the possibility that such persons have.

**To praise is the work of existing organizations and associations of people with disabilities**, who through their projects contribute to the knowledge of the current state of the environment in which people with disabilities live, and its activities indicate the state of the law, its application, proposing measures and amendments law, and contribute to the improvement of the situation in all aspects of inclusion in education, social inclusion, employment, housing, addressing barriers and their removal.

<sup>152</sup> Ž-SA-02-733/12

<sup>153</sup> Article 6, paragraph 3, – Official Gazette of BiH, no.30/10

<sup>154</sup> Articles 35, paragraphs 1 and 2 and Article 38, paragraph 1, Official Gazette of BiH, no.30/10,71/10 i 22/11

The Department also wishes to underscore the importance of exceptional efforts and financial assistance by organizations Shia - Sweden Organizations of Disabled Persons, International Aid Association, Representative in BiH, performed in implementation of the project "Monitoring the rights of people with mental disabilities and the implementation of the UN Convention on the Rights of Persons with Disabilities", results and indicators of which will not only establish legislative framework but also a database of people with disabilities, scan the current situation in BiH based on surveys conducted by the association, and educate people with disabilities and their associations on the process and preparation of shadow report on the situation in Bosnia and Herzegovina.

## ILLUSTRATIVE CASES

### Case Ž-MO-02-161/12.

Complainant did have knowledge of progress of the cases processed by Cantonal Courtt in Sarajevo, which was deciding on his rights based on disability. Upon request by the Ombudsmen, President of Cantonal Court in Sarajevo that the case was scheduled for processing, by which violation of rights alleged in complaint was restored.

### Case Ž-SA-02-596/12

Complainant filed complaint, alleging that enterprise where he worked delivered him decision on cessation of employment, and he accepted it together with severance payment end recommendation for disability, not knowing consequences of dismissal from work. Following his address to the association of disabled persons for help, it was found that a person with a mental disability who is unable, to analyze the consequences of dismissal, and in the meantime, he did not realized disability pension. After testing complaint's allegations and submitted documentation BiH Ombudsman Institution has established contact with the director of the company and president of the association of disabled persons of ZHŽ, who have shown a willingness to find common ground and overcome the situation. President of the Association of Disabled ZHŽ, notified the Institution that after the completion of medical records and the joint visit of the Commission to determine the health status of the complainant, he was determined level of disability rating of 100% and that the complainant will be entitled to a disability pension.

### Case Ž-SA-04-1045/12

Complainant, who is the mother of a child who is 100% disabled, who can not hear, do not walk, speak, and that without the help of parents can not do anything alone, she turned to the Institution of the Ombudsman alleging that she lives on the first floor of the house and the stairs poses a major problem for the health of the child, because they are not able to make a child out for a walk. It is necessary to build an access ramp for which they have no means. After referring act of Ombudsman Institution, the complainant informed the Institution that Stari Grad Municipality has provided funds for the construction of an access ramp.

### Case Ž-SA- 02- 375/11

In their complaint members of the association of people with disabilities in Sarajevo Canton allege that the Assembly of the Association at the meeting made a decision on the suspension of a member and Chairman of the Board, for the reason that more than half of the term he was not in the country, and thus did not perform his duties. Revocation of previous members and election of a new one the Assembly voted on and passed unanimously. Association in 2010

submitted the application for registration of changes in the register of associations, with all prescribed forms and the Decision of the Assembly, to the Cantonal Ministry of Justice. As president of the association was not satisfied with decisions made by the Assembly of the Association since 2010 she obstructs the implementation of the decisions supported by cantonal ministries responsible for social policy and justice and governance.

Complainants believe that officials of relevant ministries, because of improper treatment allows individual members of the association to use the facilities, and the seal of the property in a manner contrary to general attitude of members of the Assembly of the association, which leads to violations of human rights and freedoms, abuse, arbitrary actions, errors and implementation of the law in the way which leads to unjust outcomes for part of the membership of the association.

Following issuing three recommendations for non-cooperation, non-implementation of the recommendations in terms of fulfillment of obligations by monitoring of the work of the Association in segment of social activities, and supervision in ensuring the functioning of the association in accordance with the relevant legislation, and failure to meet the recommendations of the competent ministries in reviewing accountability of officials for decisions taken and committed violations of procedures and applicable laws and remove doubts and ambiguities regarding its jurisdiction and control substance that is prescribed by the Law on Associations and Foundations, as *lex specialis*, **up to date the recommendations have not been implemented**, although the Ministry of Labor and Social Policy of Sarajevo despite knowledge of problems in the functioning of the association regularly remitting funds to finance the work of the association. It follows that on the will of the Ministry that, depending on the situation and the case in question, arbitrarily decide when and whether to monitor and, when required to prevent further violations and fragmenting the interests of association members that acts as incompetent authority.

### 3.4. DEPARTMENT FOR FOLLOWING RIGHTS OF NATIONAL, RELIGIOUS AND OTHER MINORITIES

Department for following rights of ethnic, religious and other minorities (hereinafter: the Department) was established in 2009 to protect the rights of national, religious and other minorities. The competencies of the Department include receiving and reviewing complaints where complainants allege that their rights have been violated as members of minorities. Among other things on behalf of the Ombudsman Institution Department prepares reports relating to the implementation of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages<sup>155</sup>, various documents and questionnaires forwarded by the BiH authorities pertaining to minority issues<sup>156</sup>. The Department also participates at the direction of the Ombudsman when creating response to media and other interested parties about the rights of minorities in cooperation with information officers of Ombudsman Institution.

In 2012 The Department has registered 17 complaints pertaining to violations of the rights of minorities, as in previous years,<sup>157</sup> **this number can not be an objective indicator of the status of these groups, nor of their addressing.** In fact, a number of complaints, given that minorities allege they experienced discrimination, registered in the jurisdiction of the Department for the Elimination of All Forms of Discrimination<sup>158</sup>, and in a number of cases related to economic and social rights within the jurisdiction of the Department of Economic, Social and Cultural Rights<sup>159</sup>.

Of course, there is a counter-example, if we were able to determine that certain items which are registered by the Department fell partly to the responsibility of other departments such as the Department for Protection of Children's Rights<sup>160</sup>.

Above dilemmas that faced Ombudsman Institution for registering cases and giving cases to the various departments are not unusual considering the complexity of the legislation in BiH, as well as numerous problems that occur in the post-war Bosnian society and the transition period, and it is not rare cases that individual persons who file complaints with Ombudsman institution can be classified into several categories.

Certainly, we must take into account that Ombudsman institution relatively recently, on 2009 created all departments, and that only four years back registration of cases was done by departments and will in the future be addressed and eliminated all dilemmas when giving cases in the individual departments.

After examining the complaints received, it is evident that in 2012 **most of complaints were related to political and civil rights of minorities.** So, in 2012 Ombudsman Institution received complaints by the Council of National Minorities of BiH Federation<sup>161</sup>, the council of National

<sup>155</sup> In previous period Ombudsman Institution participated in preparation of periodical reports communicated by BiH to the Council of Europe.

<sup>156</sup> The Ombudsman Institution in 2012 submitted replies to materials related to the implementation of Action Plans

<sup>157</sup> Annual Report of BiH Ombudsmen for 2010 and 2011.

<sup>158</sup> As an example we can present complaint no. Ž-SA-06-386/12

<sup>159</sup> As an example we can present complaint no. Ž-SA-05-965/12

<sup>160</sup> Case Ž-BL-03-831/12

<sup>161</sup> Case no. Ž-SA-03-58/12

Minorities in the National Assembly of Republika Srpska<sup>162</sup>, as well as complaint concerning election of members of the Council for National Minorities of BiH<sup>163</sup>.

These complaints have their peculiarities, namely they are related to decisions made by representative bodies, whether it comes to their acts governing the status and remuneration of members of the Council of National Minorities in BiH Federation<sup>164</sup>, or related to decisions made by representative bodies of local self-governance, in this case the Municipality of Doboј, for amendments statute governing guaranteed number of persons belonging to national minorities<sup>165</sup>, as well as to manner of election<sup>166</sup> of the Council of National Minorities that are not explicitly listed in the Law on Protection of Members of National Minorities<sup>167</sup>.

Ombudsman Institution, taking into account the specifics of the case, and the fact that the decisions of representative bodies may be considered only in exceptional cases (e.g. when Representative decision-making body takes decision outside of its jurisdiction, or violates other regulations), closely monitored and reviewed these and similar cases, and taking into account that it is functioning, or choosing subjects addressed by the consultative body.

In doing so, the Ombudsman Institution took into account Comment number 2 of Advisory Committee on the Framework Convention for the Protection of National Minorities<sup>168</sup> of the Council of Europe concerning the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in relation to Article 15 of the Framework Convention for the Protection of National Minorities, which reads: "*The Parties shall create the conditions necessary for effective participation of persons belonging to national minorities in cultural, social and economic life and in public relations, especially those related to them.*"

The institution of Ombudsman has already discussed the topic of the previous period, carrying out an investigation in 2010 concerning adoption of legislation on cantonal level on the Rights of National Minorities<sup>169</sup>, and therefore Institution of Ombudsman will continue, in accordance with its responsibilities, to cooperate with the various consultative mechanisms.

Similarly, in 2012 there were complaints pertaining to the application of Election Law and the election of members of national minorities in the municipal council and the municipal assembly<sup>170</sup>, reviewed by Ombudsman Institution and did not determine violation of the right. Department for Minorities in 2012, unlike in previous years, actively approached the opening of *ex officio* cases, including investigation regarding the purchase and distribution of textbooks to the Roma minority

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<sup>162</sup> Case no. Ž-BL-03-324/12

<sup>163</sup> Case no. Ž-SA-03-1309/12

<sup>164</sup> Ž-SA-03-58/12

<sup>165</sup> Ž-BL-03-324/12

<sup>166</sup> Ž-SA-03-1309/12

<sup>167</sup> "Official Gazette of BiH", no. 12/03, 76/05 i 93/08

<sup>168</sup> Adopted on 27.02.2008

<sup>169</sup> Annual Report of Ombudsman institution for 2010

<sup>170</sup> Thus, Ombudsman Institution, except the above cases involving the statute of the municipality of Doboј, considered complaint Ž-SA-03-347/12 which referred to the statute of the Municipal Council of Ilijaš, and complaint Ž-SA-03-367/12 which refers to the more representative body of local self-governance.

Department for Minorities in 2012, unlike in previous years, actively approached the opening of *ex officio* cases, including investigation regarding the purchase and distribution of textbooks to the Roma minority<sup>171</sup>, representation of themes related to the minorities in programs of public broadcasters<sup>172</sup>, and issues of registration of certain religious groups<sup>173</sup>.

Mentioned themes were taken due to their actuality. It is an undeniable fact that can not be expected to improve the situation of the Roma population in Bosnia and Herzegovina if the authorities do not find the programs and measures that will result in a large number of Roma children who enroll and complete primary and secondary school, and also noted the university.

The above issues can be extremely complex, and one of its components and the provision of textbooks and school supplies. However, this measure alone is not sufficient but necessary part of the wider community, NGOs and the parents themselves. As a good example of the actions to be taken can specify text "Support for Education of Roma children in Bijeljina"<sup>174</sup> which describes the experiences of UNHCR and NGOs Suedost in implementing programs for aimed at increasing the number of Roma children enrolled in primary school in the municipality of Bijeljina.

Also the way in which the public through the media becomes aware of the problems faced by Roma minority in particular, is essential, not only for the removal of prejudice, but also paying sufficient attention to public problems faced by different groups, and presenting many of the general public other activities (ranging from cultural events, publications, various folk festivals and the like). Ombudsmen particularly want to point out as an example the appearance of the portal manjine.ba that issue of national minorities and other groups made available to younger people who are more likely to seek information through the Internet and other publications such as the Journal of Promotion of the Roma community in Bosnia "Amaro Drom".

The Ombudsperson Institution continued as in the past, within their competence, monitor the implementation of action plans to address the issue of Roma, particularly of the Action Plan for the Housing Fund, and is part of the project "housing of Roma in BiH 2012th" The Ministry of Human Rights and Refugees and memorandums signed by BiH and contracts worth a total of 2.150.000, KM.<sup>175</sup>

Finally we need to look at a subject that is mentioned the most in the public and reporting on minority rights in 2012 in BiH, and refers to the implementation of judgments of the European Court of Human Rights Sejdic and Finci. BiH Ombudsmen advocate compliance and enforcement of judgments of courts, and we hope that it will be implemented in 2013.

## ILLUSTRATIVE CASES

### Case Ž-SA-03-43/12

Ombudsmen Institution opened an *ex officio* investigation concerning procurement and distribution of textbooks to the Roma minority. The above investigation was opened on the

<sup>171</sup> Case no. Ž-SA-03-43/12

<sup>172</sup> Case no. Ž-SA-03-44/12

<sup>173</sup> Case no. Ž-SA-03-1307/12

<sup>174</sup> Published on the website of the European Center for Roma rights from Budapest, on 18.06.2007 by the authors Meredoc McMinn and Danijela Čolaković

<sup>175</sup> Release announced on website of the Ministry of Human Rights and Refugees of BiH on 20.12.2012.



basis of several reports published in the media, especially the text on the website," Journal" published on 12.12.2011. During Ombudsman investigation, the institution contacted the Federal Ministry of Education and Science, Ministry of Education, Science, Culture and Sports of Tuzla Canton, Ministry of Education, Science, Culture and Sports of the Zenica-Doboj Canton and the Ministry of Education, Science, Culture and Sports of the Central Bosnia Canton, and the Association of "Children's Country" Tuzla. In considering the above problem, Ombudsman Institution took into account the revised Action Plan of BiH needs of Roma. Ombudsman Institution in forthcoming period shall make a decision in this case, taking into account the complexity of this issue, and the fact that the topic of should be viewed in the broader context of the measures necessary to ensure greater participation of Roma in education.

**Case Ž-BL-03-324/12**

The case dealt with amendments to the charter of the Municipality of Doboj, for possible amendments to the charter of the Municipal Council Ilijaš. The institution of the Ombudsman after an investigation found no violation of the rights of national minorities guaranteed by the BiH Election Law, and the provisions of the Election Law which guarantees the councilors and council seats for ethnic minorities in their place, according to 1991 census, as members of ethnic minority respondents than 3% of the population and the local self-governance.

### 3.5. DEPARTMENT FOR THE PROTECTION OF THE RIGHTS OF DETAINEES/PRISONERS

Department for the protection of the rights of detainees/prisoners (hereinafter: Department) investigates complaints of prisoners and detainees, as it carries out *ex officio* investigations involving cases of human rights violations with regard to this category of citizens in order to fulfill requirements for human treatment, absence of any discrimination, safeguarding their physical and psychological integrity while keeping necessary order, discipline, safety, treatment, re-socialization and re-education within the correctional facilities, as well as their future social re-integration into society.

Criminal sanctions execution is a key component in the assessment of efficiency in international human rights standards implementation. In addition to that, an efficient and reliable system of criminal sanctions execution ensures respect for individual rights of persons subjected to criminal sanctions, and enables public insight into this area which contributes to increasing of general trust in the whole judicial system.

In this reporting period, like in periods before, Ombudspersons have demonstrated strong commitment to the promotion of human rights of prisoners and detainees and ensuring harmonization of legislation and practice with international standards related to prison system and follow-up the situation in criminal sanctions execution facilities in order to prepare comprehensive analysis and reports to the relevant authorities so they can have input for resolving of observed problems and improvement of situation in said areas.

In 2012 the Ombudsman **received 170 individual complaints of detainees/prisoners**. Out of that number 98 was finished and 14 recommendations sent to the relevant parties. Like the previous years, jeopardizing and infringement of human rights of detainees/prisoners mostly relate to their lack of satisfaction with health care quality and denial of privileges to be used outside the establishment, transfer to other prison, lack of satisfaction with housing conditions and treatment, different forms of abuse, that is unfair or inappropriate behavior of the staff or other inmates, to a minor degree visits of family members, wording and interpretation of rules and regulations, inquiries of the stage of appellate proceedings before the Constitutional Court of BiH and accommodation of persons with mental incapacity and other disability.

If we compare this with data from previous years, it could be concluded that **number of complaints of detainees and prisoners seeking the intervention of this Institution is constantly increasing<sup>176</sup>**. It should be emphasized that number of demands for help of the Ombudsman is much higher than presented in statistics since we receive on a daily basis telephone calls of the inmates and there are also cases of complaints based on multiple grounds what we do not register as a new case. Not surprisingly, the most of complaints comes from Zenica Prison since it is the largest correctional facility accommodating 800 of prisoners.

Ombudspersons think that the reason behind this continuous increase of number of complaints is owed to frequency of visits of the Department staff to the prison system establishments and better awareness of the inmates of possibility to lodge a complaint to the Ombudsman and its role in human rights protection.

<sup>176</sup> In 2009 – 91, 2010– 118, 2011 – 125 and in 2012. – 170

In the past period criminal sanctions execution system was a subject of the special interest of the Ombudsman, especially the part related to serving time in prison. In order to establish progress made in this field Ombudspersons prepared a **Special report on human rights situation in the establishments for the execution of criminal sanctions in Bosnia and Herzegovina** which was presented in September 2012. The basis for this report was the situation in prison establishments found in 2009 and presented to the public in a special report from that year. The mentioned report included a set of comprehensive recommendations for the enhancement of general conditions of prison system, which were not unrealistic and did not place too heavy burden to prison establishments, so that most of these recommendations were complied with fully or in part, while smaller number of them was not implemented, which will be further elaborated below.

Prior to preparation of this report unannounced visits were made to penal-correctional institutions in BiH. Some segments of this report were presented in more detail, some in a shorter form, because irregularities had larger extent in some aspects of prison system and smaller in some others or were absolutely non-existent.

Ombudspersons of BiH put particular emphasis to the analysis of legislation in this report since the Institution received a number of complaints in which convicted persons indicate to legislation as a source of their rights violation and that it created conditions in which convicted persons could be treated differently. Necessity of taking this approach was further confirmed by the fact that the Council of Ministers of BiH recognized challenges existing in the criminal sanctions execution segment which lead to their adoption of a Strategy for Judiciary Sector Reform in BiH<sup>177</sup> which classified all the problems burdening the criminal sanctions execution sector into three sub-groups, where non-harmonized legal framework establishing the criminal sanctions execution system was recognized as the first cause leading to the inconsistent implementation of legislation in BiH.

Analysis of the relevant legislation in the field of criminal sanctions execution in BiH<sup>178</sup> including the rules on criteria to sending of convicted persons to penal-correctional institutes<sup>179</sup> *has shown that there is lack of harmonization within the mentioned legislation in the field of committing to serving prison sentence, transfer of convicted persons, use of the right to leave and conditional release.*

For instance, Ombudspersons recommended the Federation Ministry of Justice with regard to treatment of convicted persons in procedure of their commitment to serve prison sentence to take the residence criterion as a relevant basis for their commitment regardless to entity, which is aimed at facilitating their contacts with their families. In addition to this, the Federation Ministry of Justice and the RS Ministry of Justice were recommended to take measures to harmonize relevant legislation in part related to the length of served sentence as a pre-requisite for transfer to another prison, and provisions governing the issue of transfer from the entity to another. These ministries were also recommended to harmonize legal provisions

<sup>177</sup> Strategy for reform of justice sector in BiH for the period 2008-2012, column 2: criminal sanctions execution, p. 24

<sup>178</sup> BiH Law on the Execution of Criminal Sanctions, Detention and Other Measures ("Official Gazette of BiH" no. 12/10 and 117/11), Law on the Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina ("Official Gazette of F BiH" no. 44/98, 42/99, 12/09, **42/11**), Law on the Execution of Criminal Sanctions, Detention and Other Measures in the Brčko District of Bosnia and Herzegovina ("Official Gazette of Brčko District of BiH" no. 31/11)

<sup>179</sup> Rulebook on Criteria for Sending the Convicted Persons to Serve Prison Sentence («Official Gazette of F BiH" no 34/11), Rulebook on Criteria for Sending the Convicted Persons to Serve Prison Sentence («Official Gazette of the Republic of Srpska", no. 34/11), Rulebook on Criteria for Sending the Convicted Persons to Serve Prison Sentence ("Official Gazette of BiH", no. 47/09 - consolidated, 37/11)

governing use of privileges out of the establishment and conditional release to ensure practical implementation of these provisions.

### 3.5.1. Health care

With regard to health care in the opinion of the Ombudsman health policy is almost completely non-existent, so that all the issues related to health care of prisoners are regarded as any other issue within the prison system and its practical implementation is left to the individual prisons, which leads to different levels of health care provided to convicted persons. Furthermore, very few establishments employ qualified medical practitioners (Banja Luka Prison, Zenica Prison, Bijeljina Prison, Tuzla Prison). Instead, they mostly use the other option provided for in European Prison Rules, that is, a part-time engaged medical practitioner provided that s/he visits the establishment regularly<sup>180</sup>. **This type of health care organization** is subject to the highest number of complaints since convicted persons claim that such engagement of doctors is not sufficient given the number of prisoners.

In the framework of health care provision, Ombudspersons also noted lack of awareness about contagious diseases among the prisoners. It often causes lack of understanding and conflicts between the prisoners, especially in cases involving HIV positive inmates or those suffering from hepatitis.

In this sense the Ombudsman recommended the Federation the Ministry of Justice, RS the Ministry of Justice, the Judicial Commission of Brčko District with co-ordination of the Ministry of Justice of BiH to define minimal standards in the area of health care of convicted persons, in particular the right to specialist tests and examinations and more expensive medical interventions.

### 3.5.2. Accommodation conditions

In segment of accommodation, Ombudspersons note that prisons managements are making efforts to improve accommodation conditions pursuant to the European Prison Rules. Unfortunately in some establishments, despite the invested funds in the last three years, Ombudspersons cannot confirm that any improvement has been achieved in this segment of prison system. This is particularly case with Doboj Prison – significant amounts of money were invested in improvement of accommodation capacity through the building of an additional storey, then in Tuzla Prison where a new building in Kozlovac was constructed, but executed works are of poor quality and below minimal standards, especially when it comes to hygiene.

Ombudspersons notice that some prisons are **still functioning in the buildings which were constructed for or had served other purposes**. This is the case with Bijeljina Prison and Sarajevo Prison. Ombudspersons observe the efforts of the Ministry of Justice to further extend prison capacities and improve the quality of life in prison, but no success can be expected without a long-term strategy based on certain criteria including the density of population.

It is necessary to say that situation in the Federation of BiH is more difficult from this aspect. According to the information provided by the Federation the Ministry of Justice, as much as 932

<sup>180</sup> A doctor can be engaged based on a service contract in Doboj Prison, Foča Prison, Istočno Sarajevo Prison, Trebinje Prison, Bihać Prison, Mostar Prison, Sarajevo Prison, Busovača Prison and Orašje Prison.

convicted persons are in a waiting row to serve their sentence for over crowdedness in prisons there. Situation in the Republic of Srpska is much better in this issue as occupancy rate in the prisons in this entity reaches 71,03%.

According to the information given by the Federation the Ministry of Justice, in 7 penal-correctional facilities including 2 departments with capacity of 1844 (1520 places for prisoners and 324 places for detainees) number of convicted persons serving sentence is 1901, while number of detainees is 265.

The Ministry of Justice of the Republic of Srpska registers that 6 prisons have capacity to accommodate 1373 persons, and the occupancy as at 31.12.2012 was such that there was 923 prisoners and 139 detainees.

It is obvious that prison institutions are obligated to provide and maintain safety to every and each convicted person and that cases of safety rules violation should be carefully investigated, processed and sanctioned.

Prison establishment	Capacity			Occupancy rate as at 31.10.2012			Occupancy rate in percentage		
	Prisoners	Detainees	Total	Prisoners	Detainees	Total	Prisoners	Detainees	Total
Banja Luka	303	80	383	295	38	333	97,36	47,50	72,43
Foča	395	-	395	371	-	371	93,92	-	93,92
I.Sarajevo	159	44	203	84	36	120	52,83	81,82	67,33
Bijeljina	77	50	127	68	24	92	88,31	48,00	68,16
Doboj	134	66	200	80	16	96	59,70	24,24	41,97
Trebinje	35	30	65	25	25	50	71,43	83,33	77,38
	1103	270	1373	923	139	1062	77,26	56,98	71,03

**Table 10: Total capacity and occupancy rate in the prisons located in the Republic of Srpska as at 31.12.2012**

	Banja Luka		Istočno Sarajevo	
	Capacity	Occup. rate	Capacity	Occup. rate
<i>Depart. for female convicted persons</i>	-	-	22	17
<i>Juvenile Prison Department</i>	-	-	20	3
<i>Educational-Correctional Facility</i>	16	7	-	-

**Table 11: Total capacity and occupancy rate with regard to women and juveniles as at 31.12.2012**

Ombudspersons notice that relevant authorities issuing zoning and building permits required for the construction of buildings in the neighborhood of prison establishments do not take care of the general public interest, which is to ensure full safety to the establishments for criminal sanctions execution. Such permit was issued to the shopping center „Tempo“ in Istočno Sarajevo next to the building of Istočno Sarajevo prison. This complicates security aspects, and requires additional engagement of the Prison employees.

Ombudspersons found that there is some progress achieved in the general safety segment, and there was no any case of escape from any prison establishment while number of abuse of out-of-prison privileges has decreased. In personal safety segment some progress has also been

achieved compared to the situation since convicted persons do not complain of abuse by the prison staff.

**Complaints of convicted persons mostly relate to personal safety violations committed by other prisoners** manifested as blackmailing, forcing to do certain jobs for other prisoners, verbal insults, threats and like. In the establishments where cases of physical abuse of prisoners by their fellow inmates were registered, Ombudspersons paid special attention to check whether or not the prison managements took appropriate measures whenever violation of safety and order took place

For example, in case involving complaint lodged by prisoners of Serbian ethnicity who serve their sentence in Zenica prison Ombudspersons have issued recommendation to the prison management to which they replied providing all the details of all the incidents involving Serbian prisoners along with the list measures taken in this regard. In order to check out veracity of details provided by the prison management Ombudspersons visited Zenica Prison during which visit particular attention was paid to records related to the incidents complained of, reviewing carefully those involving Serbian ethnic background prisoners. Based on this visit the Ombudsman prepared appropriate information and forwarded it to the relevant authorities for further action.

Ombudspersons also indicate to a **problem of committing to prison persons convicted of war crimes**, where legislation causes practical problems since convicted persons are committed to serve their prison sentence in prisons located far from their places of residence. This situation is additionally complicated when convicted person are committed to the other entity where it happens that such persons serve together with prisoners who had lost some family members in war. Such situation creates environment of intolerance and hatred between the convicted persons, which is manifested in verbal and sometimes physical violence.

Unfortunately, prison managements do not have much help in resolving of these problems. Instruments available to them are mostly directed to ad-hoc interventions in order to stop violation of the rights of convicted persons by their inmates and are not foreseen to have any long-term effect.

Issues involving transfer of convicted persons is directly linked to the issue of their commitment to serve the prison where the same principles should be observed, that is, to try to ensure to allocate a sentenced person to the establishment which is the closest to their places of residence. In practice these principles are not observed which is in violation with European Prison Rules as it aggravates contacts with families and furthermore impedes the social rehabilitation of convicted persons.

### 3.5.3. Food

As it comes to quality of food and hygiene of places where food is cooked and served, only the prisoners from Igman Ward complained of quality and quantity of food, while prisoners Muslims serving their sentence in Doboj Prison complained claiming that pork meat is put in their food. After conducted investigation, these allegations were proven to be true and the reason was the engagement of some prisoners assisting in the kitchen who did such things. The

Prison management took measures to redress this and take more strict scrutiny over the meet selection and separation.

In general, very professional staff members are engaged in kitchens, and some establishments such as Bijeljina Prison, Busovača Prison and Zenica Prison can benefit from their own produce obtained as a result of their farming in the framework of labor engagement, that is, occupational therapy.

#### **3.5.4. Prison work and other activities**

With regard to prison work and other activities, it is established that occupational therapy extent is less than necessary. A few number of convicted persons is engaged in boiler rooms, laundry, kitchen, in cleansing jobs, while very small number of them work in prison farms.

#### **3.5.5. Contact with outside world**

During their visits to prisons Ombudspersons have observed that implementation of the right of the prisoners to receive visits of their family members and their lawyer is on satisfactory level in most of the establishments. However, there are different practices in place as to the procedures followed during these visits, so that some prisons require presence of the guard during the visits, while other prisons do not have it. It raises the issue of criteria for restriction of communication and visits. The Ombudsmen also observed differences between the prisons in use of free visits, so that some prisons allow for two such visits a month, and others only one.

Ombudspersons highlight a positive example of the management regarding the visits, this is example of Foča Prison which made special arrangements and made available for visits the room where children of convicted persons can visit their parents.

Ombudspersons observe that the issue of access to information is solved in a different fashion in prisons. Whereas some prisons enable limited access, the others have cable channels available to the inmates. Practice varies from prison to prison also when it comes to possibility that convicted persons bring their own TV set or radio.

#### **3.5.6. Religious needs**

The Ombudsman note that prison managements made efforts to ensure fulfillment of religious needs of the prisoners and detainees.

Issue of engagement of religious professionals in order to provide meeting of religious needs of convicted persons is regulated differently: in some institutions these services of religious professionals are paid for based on service contracts, while some religious professionals provide these services free of charge.

#### **3.5.7. Complaint handling**

Visits to prisons were the opportunity for the Ombudsman to explore the efficiency of complaint procedures from the aspect of a convicted person. It was stated that there were different methods to register complaints of convicted persons within the establishments. In

some prisons there are so-called applications briefings, reports of which are sent to the director of the establishment. This practice is characteristic for the establishments in the Republic of Srpska and some in the Federation of BiH (Bihać Prison). Such method of registration aggravates its classification per types of the rights allegedly violated, as there is difference between an application and a complaint, including the legal grounds.

In addition to the management of prison in which they serve their sentence convicted persons are addressing the Ministry of Justice, the Ombudsman and other institutions. In some institutions prisoners can only address the Ombudsman in open letters registered in the official prison register along with reply of prison management to the allegations. Reasons for such a procedure, according to prison managements is to prevent from happening events and occurrences causing complaints of convicted persons. In some prisons convicted persons said that the staff told them: "No use from your addressing the Ombudspersons, they cannot help you". Ombudspersons got the impression that prisoners do not have a minimum of privacy of their written correspondence since there are prisons where this correspondence is fully under the management's control.

Following their visits to the prison establishments, Ombudspersons have concluded that there is no a uniform method of complaint lodging, receipt, registration and handling, that is, complaint solution procedure mostly depend on prison managements.

Highlighting the flaws identified in protection of convicted persons through prison managements, **entity ministries and the Judiciary Commission of Brčko District of BiH are recommended to draft the framework for complaint handling procedure that would ensure separation of applications from complaints** and establish a unified method of complaint registration and handling, in addition to ensuring their confidentiality.

Very often during the visits to prisons prisoners emphasize that no judge has ever visited them or talked to them although the judges have the obligation to visit the prisoners, talk to them and instruct them as to their rights and methods of their implementation. This is an unpleasant aspect and the Ombudsman thinks that complaints of the prisoners should become an efficient legal remedy as foreseen by the legislator while adopting The Law on Criminal Sanctions Execution.

### 3.5.8. Staff

Ombudspersons are concerned about the facts established in the criminal sanctions execution institutions related to **lack of professional staff appropriate to the number of convicted persons**. This is particularly expressed in **rehabilitation and treatment segment** which raises the issue of the very objective of a criminal sanction's execution. The Ombudsman turns the attention to the fact that number of convicted persons is increasing while number of professionals engaged in prisons is not following that trend, especially guards and rehabilitation officers. On contrary, in this field we register stagnation caused by lack of funds. For instance, it happens that employees go to retirement, while their posts remain unfilled. In most of prisons in the Federation percentage of engaged staff compared to the staff foreseen in relevant job classification rulebooks is 70%.



Prison	Security service		Treatment service		Health service		Priv. Instr. služba		Opšta služba		TOTAL		%
	foreseen	engaged	foreseen	engaged	foreseen	engaged	foreseen	engaged	Fore s.	engaged	Fore.	engaged	Percent
Banja Luka	128	125	25	23	6	3	35	29	27	26	221	206	93,21
Foča	148	117	19	17	6	5	65	62	38	31	276	232	84,06
I. Saraj.	83	68	21	19	5	3	47	41	13	9	170	140	82,35
Bijeljina	69	63	12	8	3	2	21	18	22	18	127	109	85,83
Doboj	67	63	9	6	4	2	8	4	17	15	105	90	85,71
Trebinje	39	35	7	4	3	0	3	2	10	6	62	47	75,81
<b>Total:</b>	<b>534</b>	<b>471</b>	<b>93</b>	<b>77</b>	<b>27</b>	<b>15</b>	<b>179</b>	<b>156</b>	<b>127</b>	<b>105</b>	<b>961</b>	<b>824</b>	<b>85,74</b>

Table 12: Percentage of staff engagement in Republic of Srpska

Prison	Total foreseen in internal by-laws	Treatment engaged	Treatment foreseen	Security engaged	Security foreseen	Health service engaged	Health service foreseen
Zenica	558	24	41	235	300	18	21
Sarajevo incl. Ustikolina	196	3	10	129	135	4	7
Mostar	114	6	11	59	61	2	7
Tuzla	163	12	16	103	104	4	6
Bihać	80	5	9	36	39	2	5
Orašje	60	3	4	48	46	2	2
Busovača	60	2	3	43	45	2	2
<b>Total</b>	<b>1231</b>	<b>55</b>	<b>94</b>	<b>653</b>	<b>730</b>	<b>34</b>	<b>50</b>

Table 13: Percentage of staff engagement in the Federation of BiH

It is logical that lack of staff reflects on quality of individual treatment of prisoners since sometimes officers cannot answer to their requests for meeting and it happens that even a month passes from the first request of a prisoner for a meeting before it takes place, sometimes the subject seems to be topical.

Issue of professional training and staff supervision is the field where no significant developments were registered compared to previous years. Prison professionals have partial support of the relevant ministries, which lack necessary staff as well.

Women are especially vulnerable category of convicted persons and in this regard Ombudspersons note that conditions for the execution of criminal sanctions for women are improved a great deal. For instance at the moment of visit by the Ombudsman newly constructed building earmarked for women was opened in Istočno Sarajevo and Tuzla Prison took some measures to comply with recommendations of the Ombudsman and other institutions as well in order to improve situation of female prisoners. Prison building in Istočno Sarajevo was built according to standards which ensure the female prisoners to fully enjoy all their entitlements according to European Prison Rules where special space is arranged for women with babies and small children. It is unfortunate, however, that women are engaged in traditionally female jobs, such as sewing or crocheting or kitchen jobs or some hygiene maintenance related works.

Visits to prisons in the FBiH has also shown that expiry of mandate of some prison governors reflected to the quality and safety of the whole process of criminal sanctions execution, which

compelled some prisoners to complain to the Ombudsman. The fact is that the mandate of prison governors and their deputies in the prisons of Zenica, Tuzla, Orašje, Busovača, Sarajevo had expired before their successors nor acting officials were nominated, so it raises the issue of legality of the procedures implemented in these institutions, especially from the aspect of taking measures aimed at ensuring smooth procedure of criminal sanctions execution process. The Ombudsman is especially concerned about the situation in Tuzla Prison where governor's post is vacated for most than a year.

For the above reasons the Ombudsman recommended the Government of FBiH and the Federation the Ministry of Justice to take necessary measures with no further delay to ensure nomination of governors of prison institutions in the Federation of BiH.

All these aspects of criminal sanctions execution system require a constant training and material investments in order to improve prison system safety, which has impact to the safety of the whole community.

## ILLUSTRATIVE EXAMPLES

### Case Ž-SA-07-1238/11

After a short period spent in I pavilion, complainant claimed that he was transferred to IV pavilion, which is considered to be disciplinary ward without any reasoning or justification of such a move. Having spent two years in I pavilion, complainant was informed that he was reported for committing disciplinary offence of planning and organizing an assault against a prison officer. Irrespective of the fact that he was informed that he need not to appear before the disciplinary panel, he remained in the IV pavilion. He was also complaining of behavior of his inmate, convicted for murder of complainant's son, who is threatening him an writing intimidating messages on prison walls, even in the room earmarked for visits, so that complainant's family members could read it during their visits. After the investigation the Ombudsman recommended the Zenica Prison management to review its reasons for placing the convict to pavilion IV.

In reply to the Ombudsman the governor of Zenica Prison informed the Ombudsman of his intention to implement issued recommendation, but some facts need to be mentioned, such as the fact that the complainant was not committed to IV pavilion as a disciplinary measure, and above all, that the said pavilion is not anything like disciplinary ward as claimed. This is a regular high security prison ward where the Prison management puts convicted persons who put other inmates at risk, commit constant disciplinary offences and jeopardize safety of the whole institution and people accommodated there, as well as convicted persons who used to be subjected to other disciplinary measures, but with no positive outcome (in concrete case it is an attempt to escape and constant conflicts with his inmate convicted for participation in murder of the complainant's son...). Soundness of this decision on placement is proven by the fact that the complainant managed to smuggle a mobile phone that he had used despite the intensified disciplinary measures taken by the management. Having the above facts in mind, the Prison management is convinced that the complainant has to remain in the pavilion IV.

### Case Ž-SA-07-500/12

Complainant claims that the management of Zenica Prison sent two letters (in June and December 2011) to the Visoko Police station to make field check-ups in order to establish security background related to the complainant's application for use of out-of-establishment

privileges on the territory of Visoko Municipality. Furthermore, he emphasizes that his application to take a personal insight into the letter comprising a negative opinion given by the Visoko Police station was refused and he was only orally informed of this negative opinion. At request of the Ombudsman the Visoko Police station provided the mentioned document.

**Case Ž-SA-07-779/12**

Complainant claims that he has no objections as to the living conditions in Doboj Prison. His complaints is related to the period of his serving the sentence in Tunjice Prison in Banja Luka. During a search he was found in possession of a mobile phone. He claims that he was beaten at that time and forced to kneel on his knees while the search commander was beating him on his back. He was punished by solitude confinement for 7 days and was denied access to doctor or his lawyer. After this incident he was urinating blood, and tips of his fingers became numb. This example was mentioned in the Ombudsman's special report on prisons. Although the Doboj Prison was not complained of, they provided an answer whereby they argue that the complainant was not examined by a doctor during his transfer to Doboj Prison, but he was sent to the doctor when he felt difficulties as described, so on 03.07.2012 he was taken to the General Hospital Sveti Apostol Luka in Doboju to see a radiologist and on 17.07.2012 to see a neurologist. Copy of medical findings was attached to the letter.

**Case Ž-SA-07-166/12**

Complainant claims that he is an elderly person who lost consciousness a couple of months ago, but is denied access to medical services and that he is unable to keep personal hygiene by himself. The Ombudsman asked the prison management to give their reply as to these allegations and on 02.03.2012 the Doboj Prison governor informed the Ombudsman that this convict is placed in the Prison's Medical Unit due to his age and health conditions. This Medical Unit has its toilet, lavatory and shower. Claims that the complainant is denied medical services are not true as it could be seen from his medical records and his medical history. It is also not true that he cannot keep his personal hygiene by himself since he is mobile and goes every day to walk outside the Medical Unit. Above all, his sentence will end in a month.

### 3.6. DEPARTMENT FOR THE PROTECTION OF THE RIGHTS OF THE CHILD

Department for the protection of the rights of the child (hereinafter: Department) receives and registers complaints related to violation of the rights and freedoms of children, handles these complaints, investigates claims and assists citizens in protection of their children's rights and freedoms, follow-up the children's rights situation, informs Ombudspersons of its findings, observed challenges, prepares reports on the rights of the child, follows-up functioning of legislative, executive and judicial authorities relevant for the enjoyment and implementation of the rights of children, co-operates with other departments, especially when violation of the rights of children is related to violation of other rights. Particular attention is paid to the vulnerable categories such as refugees displaced persons, socially vulnerable categories, affirmation of the children's rights, analysis of the main causes of non-functioning of authorities relevant deciding on the rights of the child and removal of obstacles to the consistent application of the international conventions ratified in Bosnia and Herzegovina, especially UN Convention on the Rights of the Child.

#### 3.6.1. Analysis of received complaints

This Department started working in 2009 and the largest number of complaints received was related to the **right to education, rights to health care, right to maintenance of personal contact and relations with other parent and his/her relatives in cases of divorce, right to be free of violence and neglect**. Mostly mentioned responsible bodies mostly complained of are social welfare centers, courts, schools, rarely inspections and ministries covering the area of education and social welfare. Sometimes the work of this Department is linked to other departments since violation of some other rights sometimes also involves the rights of children. In 2012 the Department **received 124 complaints**, and issued 8 recommendations.

#### 3.6.2. Education

In 2009 the Ombudsman received a complaint lodged by the Trade Union of the Secondary school of Stolac for their dissatisfaction with work of the Government of Hezegovina – Neretva Canton and their failure to pay their salaries<sup>181</sup>. Since this has a direct impact to the rights of children, that is, their right to education, the case was registered with Department<sup>182</sup>. The Ombudsman followed-up developments with related to the allegations of this complaint, especially activities of the relevant authorities responsible to ensure smooth education process in Stolac Municipality in accordance with the international standards. Ombudspersons asked the relevant Ministry of Education, Science, Culture and Sports to submit all the relevant facts and information about the above. Since it failed to meet requests of the Ombudsman, it issued a recommendation and informed the Government of Hezegovina – Neretva Canton with the same outcome, that is in vain, **therefore this example of lack of co-operation and disregard to the recommendations of the Ombudsman** is made public and incorporated in the 2012 Annual report on the activities of the Ombudsman Institution.

Ombudspersons would like to emphasize that **implementation of the rights of teachers should never be done at the expense of children**, so all strikes and protests of teachers involving halt

<sup>181</sup> Ž-BL-01-446/09

<sup>182</sup> Ž-BL-01-446/09

of teaching process and children not attending school are not in the best interest of children and are in violation of the rights of the child. Having full understanding for issues and problems of teachers and aggravated circumstances surrounding their work, Ombudspersons recall provisions of Article 3 of the UN Convention on the Rights of the Child according to which in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration.**

A complaint of parents and children attending primary school from some settlements of Jajce Municipality<sup>183</sup> claimed that children from these settlements do not go to school because they do not have transportation provided. This problem is not new, but it is in place for a couple of years, in fact since nine-year primary school system was introduced. Following the intervention of the Ombudsman an agreement was reached between the cantonal and local authorities and school principals from concerned region. The Ombudsman was informed that children go to school and have regular transportation organized. Yet, according to parents, some difficulties do take place from time to time with regard to **the organization of transport** on permanent basis, Ombudspersons decided to inform the relevant authorities on this issue in order to find permanent and durable solution for this problem. From interviews with the complainants the Ombudsman learnt that this issue is not unique and specific only for this region, but is present in other territories in Bosnia and Herzegovina so it remind the authorities at all the levels of their obligations with regard to the organization and payment of transportation for school children. The Ombudsman calls on all the authorities and all the local communities to remember that we are all obligated to enable children to attend school, which also includes organization of **free transportation for school children.**

The Ombudsman also received a case of a Roma woman<sup>184</sup>, mother of five children who complained of work of the municipal authorities of Zavidovići for inhuman living conditions for her family. Following the investigation it was established that the complainant has school age children who do not attend school for which the Ombudsman asked relevant authorities to provide explanation of this situation involving violation of the children's right to education. A couple of letters were exchanged with relevant municipal and cantonal services and authorities which submitted that the complainant would not let her children attend school, as municipal service in charge of communal affairs claimed, while relevant Ministry informed of limited legal remedies available such as *initiate offence charges against the parent* and apart from this there are not any legal mechanisms in order to include children in regular education system. Having in mind all circumstances of this case, guided by the principles of the UN Convention on the Rights of the Child the Ombudsman called on the minister of education to put additional efforts to enable these children inclusion into regular education and upbringing process and to consider taking of repressive measures against the parent if she keeps insisting on her attitude toward school. The complainant was informed of her legal obligation to enable her children regular education since she cannot justify her refusal to send her children to school by her housing problems as education is one of the main prerequisites for a normal and beneficial development of the child.

In handling an anonymous complaint of a parent of a primary school child from the territory of Republika Srpska<sup>185</sup> protesting for the fact that school excursion had been cancelled in the last

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<sup>183</sup> Ž-BL-01-685/12

<sup>184</sup> Ž-BL-01-499/11

<sup>185</sup> Ž-BL-01-431/12

moment, the Ombudsman investigated relevant facts and established that it happened because of a selected tour operator and its technical problems. The procedure of selection of a tour operator, however, was done pursuant to the Rulebook on organization of school excursions and the relevant Ministry was aware of consequences involved and how it could reflect on children. In order to prevent such events from happening in the future the RS Ministry of Education and Culture of Republika Srpska sent a letter to all the schools explaining that in cases when excursions be cancelled due to a failure of a selected tour operator, the school principals must invite parents to a meeting and present them situation, reasons for cancellation of an excursion and possibility to postpone it to September or otherwise to reclaim the paid amounts from a tour operator or finally, to press charges and claim recovery before court. In concrete case the school principal convened a meeting with the parents who refused to send children to excursion in September.

As for secondary education in Bosnia and Herzegovina, according to the applicable legislation, it is not mandatory. However, the best interest of the child imposes such an obligation to the community since it certainly is in the child best interest. In this regard the Ombudsman had a complaint of a parent whose child was expelled from school<sup>186</sup> and continuation of education process denied. The Ombudsman repeatedly and using several means contacted the relevant ministry of education pointing out the best interest of the child in this case. This communication with the Ministry was fruitful and in second-instance proceedings they cancelled decision of the inspection expelling the child so the child was enabled to continue school in academic 2011/2012.

### 3.6.3. Neglect and violence

The Ombudsman Institution received and registered an anonymous complaint about neglect and abuse of children on the territory of Mrkonjić TOWN OF. Social Welfare Center in charge was informed that the Ombudsman is aware of all the challenges guardianship authorities face in their work and have full understanding of it, since these centers are the most important link in the chain of institutions responsible for the implementation of the rights of the child in given local community. Ombudspersons would like once more to indicate to the authorities **to difficult situation of social welfare centers in BiH**, as well as the fact that municipal authorities allocate (too) small amounts of money for realization of the rights pertaining to social and child care, which, directly or indirectly, diminishes the importance of social welfare centers and limits their possibilities to normally carry out their duties and functions. In the opinion of the Ombudsman it should be take all available measures to keep children in the family, but, from the other hand, when it is established that some parents manifestly do not possess enough capacity and resources to discharge their parental duties in quality or at least satisfactory manner, it is necessary to take available legal remedies. According to the applicable practice, institute of parental rights deprivation as a mechanism for the child protection from abuse and violence is used very rarely or not at all. Therefore the Center was called to give a serious consideration to all available legal mechanisms following which the Center adopted a conclusion that minor children in this concrete case should be entrusted to care of another person pursuant to Article 205 of the Family Law and event the parents accepted this solution. Ombudspersons would like to use this opportunity to commend the Social Welfare Center of Mrkonjić TOWN OF having in mind unfavorable conditions for their work such as lack of staff

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<sup>186</sup> Ž-MO-01-35/12

and funds underlining that good will and coordinated work of all the relevant bodies can yield satisfactory solutions to the benefit of children whenever it is necessary.

Since the Department for the Protection of the Rights of the Child within the Ombudsman Institution represents a national mechanism intended to ensure harmonization of approaches used for the protection of the rights of children on the whole territory of BiH, Ombudspersons issued their **Recommendation for the protection of children from peer violence in schools of FBiH and Brčko District of BiH** whereby the Ministry of Education and Science of the Federation of BiH is recommended in co-operation with cantonal ministries and the Department for education of the Brčko district Government to take necessary measures and activities to ensure that discipline in school is kept in a way consistent with the child's human dignity including the legal definition of procedure to be followed in cases of peer violence, and to the BiH Ministry of Civil Affairs to take activities of co-ordination in order to harmonize procedure to be followed in cases of peer violence on the whole territory of BiH<sup>187</sup>. Namely, there is a Protocol on procedure to be followed in cases of peer violence in educational institutions signed in 2008 by the RS Ministry of Education and Culture, Internal Affairs and Health and Social Policy of this entity. With regard to the issued recommendations, relevant authorities expressed their readiness to take the recommended activities, but to date no concrete action was taken so that the Ombudsman considers this recommendations not complied with.

As mentioned above, it happens that complaints lodged within the other departments comprise violation of the children's rights. For instance, in a case registered within Department for Elimination of all Forms of Discrimination<sup>188</sup> complainant sought the assistance of the Ombudsman for domestic violence. As the complainant claims, her two daughters suffer for years from physical and psychological abuse inflicted by her husband and the children's father. During the proceedings it was established that all the relevant institutions were informed of this case and they took measures in accordance with law and her husband was found guilty for domestic violence, but abuse continues, after all the measures taken, however, restricted to verbal insults. The complainant is particularly worried because of the fact that her husband is disturbing her while working so that she is afraid of being fired. Aware of the fact that the relevant institutions have applied legally available steps, Ombudsman is yet worried about the fact that the complainant and her children cannot be helped in order to find final solution to this problem and put an end to her husband's harassment.

### 3.6.4. Conflict divorces

From co-operation and frequent contacts with social welfare centers, both direct contacts and written correspondence, problem of so-called *highly conflict divorces* are identified as one of the main reasons for violations of the rights of children. This includes the rights of children during divorce proceedings before the court (contacts and visits to the other parent, conflicts related to parental rights, guardianship, issuance of travel documents, disputes around child maintenance, property division, disposal of property etc.). Particular problem is enforcement of administrative authorities decision, social welfare centers, but sometimes even the court decisions since such enforcements require engagement of guardianship bodies and very often there are problems related to use of force by the police. Ombudspersons would like to turn the attention of the relevant authorities to **problems with forcible enforcement of decisions of the social welfare centers /guardianship bodies and absence of efficient measures to ensure their**

<sup>187</sup> Ž-BL-01-350/11

<sup>188</sup> Ž-BL-06-69/11

**enforcement**, particularly in situations when the child is suffering and in the enforcement of decisions enabling contacts with the other parent. From the frequency of addresses to the Institution about this problem, the Ombudsman concluded that a very large number of children in put in unfavorable position because of conflict divorces and related problems. Also, it was observed that the **legal and professional solutions do not provide guarantees of the child's protection** and protection of their rights in similar situations whenever a parent is resolute to exclude the other parent from the child's life or to hamper his/hers discharge of parental duties.

### 3.6.5. Activities of the Department

#### 3.6.5.1. Ombudsman in your school

In co-operation with the partner organization Save the Children in 2012 the Ombudsman has implemented a series of the activities on children rights promotion in the framework of the Project „Strengthening of capacities of the Department for the Protection of the Rights of Children of the Human Rights Ombudsman of BiH“. One of these activities is „Ombudsman in your school“ in the framework of which it visited 3 primary and 3 secondary schools in the municipalities of Zavidovići, Široki Brijeg and Kozarska Dubica. This activities used to be implemented in previous years and will be continued in 2013. Results of these activities are making the children familiar with the UN Convention on the Rights of the Child which leads to their sensitization for the activities harmonized with the Convention, gives them a motive to take a active role in efforts for the implementation of their rights, and makes them familiar with the role of the Ombudsman Institution in the protection of their rights. This familiarization with the role and objectives of the Ombudsman originates from the wish of this Institution to be recognized as a partner by the children in realization of their rights. It is important to point out that visits to local communities were „utilized“ for discussions with the representatives of local and cantonal authorities, social welfare centers and other bodies and institutions . Activity „Ombudsman in your school “was also implemented in the institutions for children without parental care, that is, Mother's Village in Međugorje and the Public Institution „Dom porodica“ Zenica, as well as children from Families with four or more children Banja Luka.

#### 3.6.5.2. Surveys and special reports of the Department made in 2012

##### 3.6.5.2.1. Special report on CHILD HEALTH CARE IN BIH

Ombudspersons decided to prepare an analysis on quality of children's health care in Bosnia and Herzegovina in order to get input data and information to get a realistic picture of the current situation of health care on the whole territory of the state. Survey was based on direct contacts, oral conversations and written communications with the relevant authorities. Survey is based on direct oral and written communication with the relevant authorities, NGOs, and review of situation of health institutions at cantonal level in the Federation of BiH, in the Republic of Srpska and the Brčko District of BiH.

Ombudspersons emphasize that every child in BiH should have equal access and equal possibility to have health care with no discrimination on any grounds. Equal access and equal possibilities mean the same conditions for all the children and that could only be achieved with good co-operation and co-ordination of all relevant authorities. Survey on child health care has shown that procedures for implementation of the rights to access to health care is in violation of the UN Convention on the Rights of the Child which provides for every child below 18 must



have access to health care. Situation analysis has shown that children in BiH do not have equal access to health care under the same conditions and that price of mandatory participation in health services payment poses restrictions to equal access for all the children. Also, health care providers are facing different and many challenges such as lack of educated experts, provision of additional training, for instance for work with children with psycho-physical difficulties, or children from marginalized groups. During 2013, the Ombudsman will follow-up implementation of this special report.

### **3.6.5.2.2. Special report on JUVENILES AND CHILDREN IN CONFLICT WITH LAW**

Preparation of Special Report „Juveniles and children in conflict with law“ is primarily aimed to indicate relevant legal framework governing the area of minors in conflict with law, show real situation in practice, reveal advantages and gaps identified through this survey, and issuing of recommendations to competent institutions and organs of legislative and executive authorities on the level of State of BiH and its entities with purpose of improvement of the situation of the rights of the children in conflict with law. Special focus is given to rights of children serving time sentence in juvenile prisons and correctional measures in competent institutions, including general improvement in these institutions. Preparation of this special Report was a research that included legal analysis of relevant legislation and field situation

Based on gathered information the Ombudsman issued recommendations both to individual relevant institutions along with some general recommendations to the relevant authorities at the level of BiH, FBiH, RS and BD. Issued recommendations mostly relate to finding solutions for issues such as separation of minors and adult offenders, which is a problem burdening most of the institutions, regulation of health service provision, and hiring doctors based on permanent work contract. Relevant authorities were recommended to primarily adopt the of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings in the Federation of FBiH, planning and implementation of professional training for different experts in this field and hiring of additional professional staff as necessary.

### **3.6.5.2.3. Special report on RECOMMENDATIONS TO IMPROVE THE PROTECTION OF THE CHILDREN'S RIGHT TO PRIVACY IN CASES OF VIOLATIONS BY THE BiH MEDIA**

The overall objective of the research on the state of media violations of children's right to privacy in BiH was to establish whether and to what extent the media in BiH violate that right. Specific objectives of the research were to identify the manner of reporting on children in the media in general, with special emphasis on reporting on children victims of sexual abuse, as well as the level of knowledge of media representatives on the Convention on the Rights of the Child and the Journalists' Code, and the extent to which the non-governmental sector is active and familiar with the situation in this area, and, finally, to examine the opinions of experts/professionals. Ombudspersons are well aware of the fact that the media very much participate in creating a perception on certain social phenomena in society. That automatically imposes on them both professional and moral obligation to carry out their reporting in a manner prescribed by both the laws and the relevant professional codes. Ombudspersons use the opportunity to once again emphasize to the journalists the necessity of avoiding sensationalism in reporting on children, particularly taking into account their vulnerability and the consequences that sensationalist reporting could cause to the overall psychophysical development of the child.

Also, the Ombudsmen invite the media to keep providing a constant and additional training to their employees in specialized areas on which they report. On behalf of the children, the

Ombudsmen wish to point out to the media the necessity of respecting the children's rights to privacy, as well as the dignity of the child victims of any type of violence. The obligation of all of us is to protect children from potentially harmful media content and exploitation used for purposes of different types of advertising, and to fill the media space with positive content for children and about children.

### 3.6.5.3. Follow-up of implementation of special reports issued in 2010 and 2011

In 2010 the Ombudsman made a ***Special report on participation of children and adults in the interest of children in schools***. At the beginning of 2012, Ombudspersons reminded the relevant authorities, the Ministry of Education and Culture and the Federation Ministry of Education and Science to have in mind recommendations of the Ombudsman while planning their future activities and to inform schools, to the extent possible, on recommendations of the Ombudsman. In addition to that, they were asked to provide feedback to update the Ombudsman on developments in realization of principle of participation of children and adults in the interest of children in schools or on activities taken to this end.

Based on the submitted Special report on participation of children and adults in the interest of children in schools, and instruction of the Federation Ministry of Education and Science, the Ombudsman Institution received feedback of the following ***the Ministry of Education, Science, Culture and Sports of Bosna-Drina Canton Goražde, the Ministry of Education, Science and Youth of Sarajevo Canton and the Ministry of Education, Science, Culture and Sports of Zenica-Doboj Canton***. The Ministry of Education, Science, Culture and Sports of Bosna-Drina Canton Goražde replied that they had no chance to read the Report earlier. However, they conveyed the recommendations of the Ombudsman to all the schools on the territory of that Canton later. The Ministry of Education, Science and Youth of Sarajevo Canton, among other things, informed the Ombudsman that they did steps to have better participation of the parents to the School Board and for better functioning of the school in general they adopted the Law on Primary Education and Upbringing in December 2011 under which the number of the parents, members of the school boards is increased from one to three. In this way the school boards have seven members instead of five as it was before. In December 2011 established was Association of parents of primary and secondary school students of Sarajevo Canton which co-operates with the Ministry. The Ministry of Education, Science, Culture and Sports of Zenica-Doboj Canton supports co-operation with NGO sector. They also underline their co-operation with OSCE BiH in preparation of bylaws, that is, regulation governing the implementation of legislation related to the selection of school principals, establishment of school boards and empowerment of school management in general.

The Ministry of Education of the Republic of Srpska informed the Ombudsman that they nominated members of school boards in all primary and secondary schools in 2009 pursuant to the Law on primary education and upbringing of the Republic of Srpska and Rulebook on selection and functioning of school boards upon the proposal of the mayors, employees or the parent councils. Since their mandate is four years, in 2013 new members have to be nominated. In all the schools the boards have 7 members and that they are engaged in preparation of amendments to decisions related to the election of school board members as necessary, that is, under some specific circumstances. They are also supposed to give their consent to nomination of acting school principals and such consent is granted on condition that the public announcement be published within 60 days from the date of such consent. Article 110 of the Law on Primary defines that teachers, expert associates and other employees in

schools must pass medical examination prior to the beginning of regular school year and for this a list of medical institutions in charge was obtained from the Ministry of Health and Social Welfare of the Republic of Srpska and forwarded to all the schools. In addition to that, school principals, pedagogues and class masters make children familiar with work and role of school boards, student councils and parent councils and there are information counters in schools to provide additional information on these bodies. Also, in realization of the recommendations of the Ombudsman they informed the Institution that they organize free activities in schools and that in many schools different types of extracurricular activities is organized as well as extended stay of pupils in school, optional and elective subjects and one-day excursions. As for the recommendation of the Ombudsman related to the establishment of a register of violations of the rights of children without discrimination and methods of their redress employed by the school, which would be an official information included in annual report on the school activities, the Ministry submitted that they forwarded this recommendation to all the schools, and in some future period they will ask the schools to give their feedback on this issue.

Based on this feedback on compliance with recommendations from the Special report of the Ombudsman on participation of children and adults in schools in the interest of children the Ombudspersons would like to express their satisfaction about the progress achieved, and they inform the relevant authorities of necessity to keep implementing the said recommendations and also to call on the Federation Ministry of Education and Science to inform the cantonal ministries on the recommendations of the Ombudsman and put their best efforts in implementation of these recommendations.

At the end of 2011 the Department published a special report comprising an ***“Analysis of the situation of the implementation of the rights of the child with regard to the area of pre-school education and upbringing”***. Report included a number of general recommendations.

The Ministry of Education and Culture of the Republic of Srpska replied to the recommendations of the Ombudsman of the Republic of Srpska saying that in the process of harmonization of the Law on pre-school education and upbringing with the Framework Law at the level of Bosnia and Herzegovina in part in which pre-school education is prescribed as mandatory, they were guided by the fact that there do not exist neither special nor human resources in the Republic of Srpska to include all the children in pre-school education one year prior to their enrollment in primary school. Being aware of the importance of early inclusion of children in preschool programs, the Government of the Republic of Srpska took the obligation to find necessary funds and other prerequisites to implement this program, mostly for the fact that local communities are not equal in their capacity to deal with this issue.

Since some cantons failed to reply to the inquiry on measures taken upon the recommendations of the Ombudsman, Ombudspersons use this opportunity to turn the attention of the relevant authorities that ministries of education in Central Bosnia Canton, West Herzegovina Canton and Herzegovina – Neretva Canton do not co-operate with the Ombudsman nor comply with its recommendations. During 2013 the Ombudsman therefore plans to call on them once more to implement recommendations related to preschool education.

During 2010 a research was conducted on accommodation of children deprived from parental care in relevant institutions, institutions earmarked for children with socially unacceptable behavior and part of institutions for children with difficulties in their development. It resulted

in preparation of a ***Special report on the rights of children in institutional care, with particular emphasis to norms and standards***. In the framework of this research the Institution staff visited 33 institutions in the whole BiH identified by the relevant ministries, NGOs, citizens, individual complaints lodged within the Ombudsman and from field work. Based on results of his research identified were problems and gaps in this area and relevant recommendations issued. However, issuance of report does not mean the end of the Ombudsman's activities. Therefore, in 2012 we followed-up compliance of the recommendations issued by the Ombudsman, and letters were sent including the Ombudsman's inquiries on compliance. The Ministry of Civil Affairs of BiH in their reply emphasized that they have implemented the Project entitled SPIS on Strengthening of social welfare system and children's inclusion in BiH in co-operation with UNICEF and European Union. This Project is adopting an integrated inter-sector approach based on best practices, planning, implementation, monitoring and evaluation.

The Federation Ministry of Health referring to a recommendation of the Ombudsman given in the report according to which the establishment of a social welfare fund should be considered, replied that the establishment of such a fund would certainly contribute to equalization of the status of all the children and their rights in the area of social welfare. Reply of the Federation Ministry of Labor and Social Policy emphasizes that in order to give an optimal legislative framework for of better social care to accommodate needs of children they prepared a „Policy for the protection of children deprived from parental care and families under risk of separation in the Federation of BiH 2006 - 2016“, which was adopted in 2008 by the Government of the Federation of BiH and both houses of the Parliament of FBiH. It was also mentioned that the Government of the Federation of BiH and both houses of the Parliament of FBiH have in 2011 adopted the Strategy on equal opportunities for persons with disabilities in FBiH 2011 - 2015. Although the measures foreseen in this Strategy do not explicitly relate to children, in some chapters, such as health care and education objectives related to the improvement of situation of children and creation of conditions for their equal participation in these sectors are emphasized. This Strategy creates a framework for all future disabled persons involving activities.

The Ministry of Education, Science, Culture and Sports of Bosna – Drina Canton sent a letter to the Ombudsman following its inquiry on steps taken with regard to its recommendations underlining that they do not have institutions in their Canton intended to accommodate children without parental care, nor children with socially unacceptable behavior or experiencing difficulties in their development so that they could not monitor or follow-up developments in these areas.

In Una – Sana Canton answers were received from the Ministry of Education, Science, Culture and Sports and the Ministry of Health and Social Policy. The Ministry of Education, Science, Culture and Sports pointed out that in their activities involving the educational institutions located on their territory they offer any available assistance to children in form of recommendations and guidelines on how to enjoy their right to enrolment in school, how to realize the right to extraordinary examinations and obtaining of desired qualifications. They also mentioned that the Law on Education of the Adults which is in preparation stage is intended to regulate possibility of education for children that could not accomplish in regular school. The Ministry of Health and Social Policy submits that when it comes to social care of children without parental care their entitlements were returned to the amount of 219 BAM. With regard to the orphanage, there is no progress achieved so that children are accommodated following the public invitation without carrying out procedure foreseen by the

Law on Social Protection, Protection of Civil War Victims and Protection of Families with Children.

The Ministry of Education, Science, Culture and Sports of Herzegovina – Neretva Canton informed the Ombudsman that children with special needs are included in regular education. They added that there are no any institutions for children with socially unacceptable behaviors although there are such children who can find assistance in SOS Children Village Mostar and other institutions.

Ombudspersons would like to commend and support the adoption of Strategy for combating violence against the children in for the period 2012 to 2015 adopted by the Council of Ministers, as well as the establishment of an independent monitoring team to follow-up the implementation of the Strategy for combating violence against children in BiH 2012-2015. Independent monitoring team is composed of members of NGO sector with profound experience in the field of children protection.

#### **3.6.5.4. Other activities of the Department**

In 2011 submission to the UN Committee for the Rights of the Child was finalized and sent in February 2012 on the implementation of UN Convention on the Rights of the Child and situation of the children's rights in Bosnia and Herzegovina. In October 2012 the UN Committee sent recommendations to the state of Bosnia and Herzegovina. Being aware of the importance of the recommendations of the Committee, the Ombudsman Institution in co-operation with the NGO network named „Louder voice for children“ and the Ministry of Human Rights and Refugees of BiH engaged in a joint activity – organization of a roundtable in the Parliamentary Assembly of BiH entitled „Recommendations of the UN Committee addressing the state of BiH – how to proceed?“ to mark ***the international Day of the Child (20 November)***. It was agreed that such joint activities be continued in 2013 with support of the partner organization Save the Children International aimed at implementation of individual recommendations of the Committee.

In 2012 the Department team visited specialized institution for the protection of children's rights in the Republic of Croatia in order to empower legal experts of the Department to deal with issues specific for this sector, in particular in the field of proactive measures in the area of children's rights and to become more sensitized for work with children and with children-related topics. It was an opportunity for the exchange of information and experience with colleagues from the Office of the Croatian Ombudsman for Children, especially on methods of complaint handling, preparation of analyses, special reports and recommendations and establishment of co-operation between the two offices aimed at the implementation of new ideas and projects, and enhancement of practices applied in child protection in BiH. For that reason the Department team received training for work with children, especially because of many activities carried out in schools, and that was a two-day training, in addition to another training for making relevant analyses in child protection sector, as well in duration of two days.

The Ombudsman and the Department team were active in 2012 in work of the regional network CRONSEE - Children's Rights Ombudspersons' Network in South and Eastern Europe and the European Network of the Ombudsman for Children – ENOC. Members of CRONSEE had a conference in Montenegro which dealt with the issue of protection of children from abuse through the Internet and their protection from sexual exploitation and abuse.

In addition to the Conference in Montenegro, the Department representatives participated at the Annual Conference of the European Network of Ombudspersons for Children in Nicosia, Cyprus where they exchanged experience with other members on issues of juvenile delinquency which was very useful in preparation of a special report on young people in conflict with law.

## ILLUSTRATIVE CASES

### Case Ž-BL-01-622/12

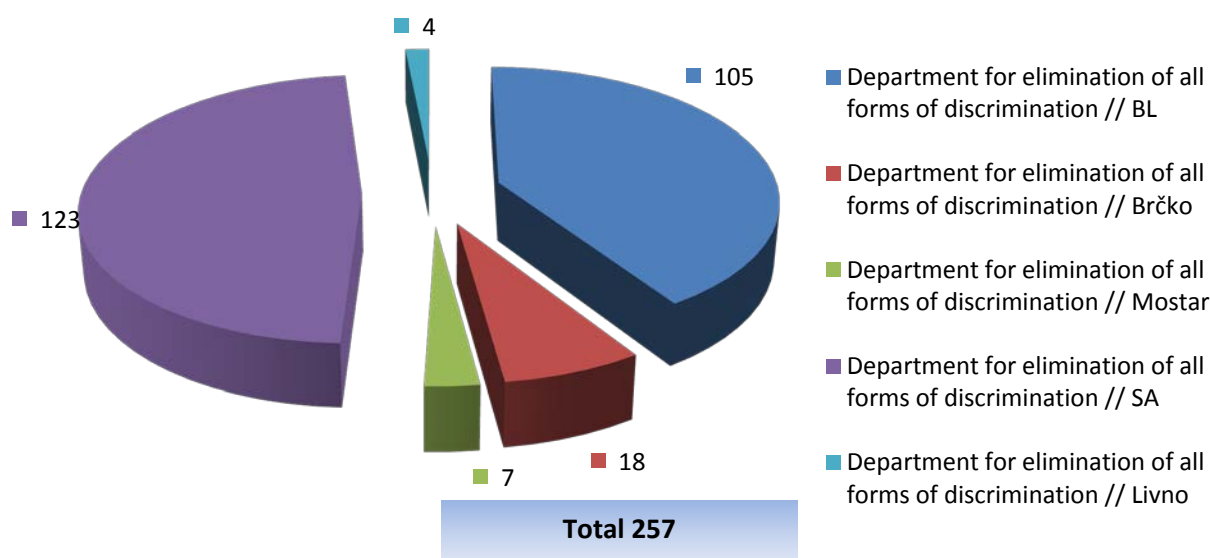
Parents of children from the municipality of Dobretići informed the Ombudsman that the issue of transportation of children to school was resolved following the intervention of Ministry of Education, Science, Culture and Sports of Central Bosnia Canton and from 10 October 2012 they have adequate transportation to school. It came after the Ombudsman addressed the municipal authorities and the Ministry.

### Case Ž-BL-02-554/11

A blind child was sent to a specialized institution in Derventa to school. The child was classified as a 100% disabled of I category who needs a constant medical care, which the child had actually enjoyed while being in the place of birth and residence, however, this care was denied in the place of attending the school. The parents argued that the child did not go to another city by their decision, but was sent by the Social Work Center of Ključ, which was their place of residence, in agreement with the cantonal minister of health for Una – Sana Canton since this family is in social need provided by the mentioned Center (the child's father is also disabled). The Ombudsman recommended the Cantonal minister of health to take necessary measures falling within his mandate in order to enable the complainant to enjoy his rights where the child attends the school.

### 3.7. DEPARTMENT FOR ELIMINATION OF ALL FORMS OF DISCRIMINATION

Department for elimination of all forms of discrimination (hereinafter: the Department) was established in January 2009 to ensure harmonized approach to exercise and protect citizens' rights in entire territory of BiH and undertake effective measures to prevent any form of discrimination in exercise of citizens' constitutionally guaranteed rights on the whole territory of Bosnia and Herzegovina. Through work on individual complaints or ex officio investigations the Ombudsmen endeavor to stress importance of consistent application of provisions on prohibition of discrimination comprised in international treaties and domestic legislation, as well as to importance of harmonization of domestic legislation with international human rights standards. Through recommendations and other decisions responsible institutions and services are remind of factors that hamper equal legal treatment of all BiH citizens and propose adequate measures for effective legal intervention aimed to protection of the citizens' rights.



**Chart 13: Overview of complaints registered by Department for elimination of all forms of discrimination in 2012 by offices**

Since the Law on Prohibition of Discrimination in its Article 7 paragraph (2) item f imposes an obligation on the Ombudsman to report on its activities related to the implementation of said Law, activities of this Department are provided in more detail in its annual report on discrimination.

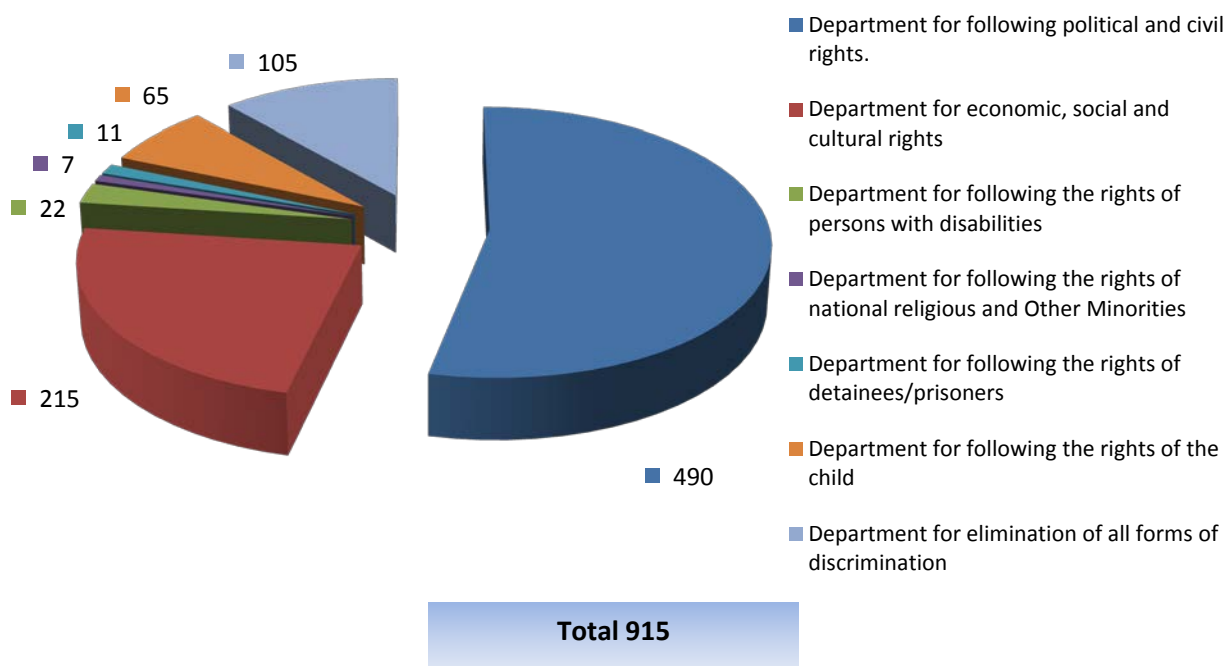
## CHAPTER IV – COMPLAINTS HANDLING PROCEDURE – COMPLAINTS STRUCTURE AND REVIEW OF THE WORK PER OFFICES

### 4.1. CENTRAL OFFICE BANJA LUKA

Central Office in Banja Luka (hereinafter: Central Office) is at the same time the headquarters of the Institution of the Human Rights Ombudsman of BiH. In 2012 this Office **registered 915 complaints**, which is for 149 complaints more than last year (an increase in number of complaints of 19,4%). 270 complaints were carried forward from the previous years. Out of 915 registered cases in 2012 resolved was 649, and out of 270 complaints carried forward from the previous years resolved is 232 complaints so that the Office of Banja Luka resolved 881 case in total during 2012.

Most of cases was resolved during the intervention of the Ombudsman - 313 cases, 218 cases was resolved otherwise, 147 complaints were inadmissible, there was 126 cases that were closed due to lack of interest of the complainant, 4 cases were closed following the issuance of a special report, while 6 cases was 6 forwarded to other Ombudsman offices, 12 cases were forwarded to another body and 55 cases were closed upon the issuance of appropriate recommendations which were complied with.

Central Office has issued 66 recommendations to the relevant authorities in order to redress violated rights. Out of this, 20 recommendations was complied with, in 20 cases co-operation with respondent body was established, while in 23 responded party failed to reply, while one recommendation was partially complied with. Two recommendations were not complied with.



**Chart 14: Overview of complaints registered by the Central Office in Banja Luka in 2012 by the departments**



#### 4.1.1. Analysis of registered complaints

According to the statistics, **most of complaints** received by the Central Office in 2012 was lodged for violation of the rights falling within the mandate of Department for the protection of civil and political rights – 490 complaints.

In the framework of the Department for the protection of civil and political rights it could be stated that most of **problems exist in functioning of judicial and administrative bodies**, which is evident from the number of complaints against these bodies. In 2012 the Central Office registered 163 complaints against courts and 127 complaints against the administrative bodies.

Complaints against courts, like the last year, relate to the violation of the right to trial within a reasonable time period, that is, slowness and inefficiency in court proceedings, non-enforcement of court judgments, stall of proceedings or work of a judge. **Most of complaints are lodged against the Basic Court of Banja Luka, Municipal and Cantonal Court of Bihać.**

Complaints against **administrative bodies** relate to non-observance of legal deadlines for deciding in **administrative proceedings**.

Significant increase of complaints compared to the last year in Department for the protection of civil and political rights in the last year was registered with regard to the **right of free access to information under** the Law on Freedom of Access to Information. Number of complaints lodged in respect of this right was 92 and the most frequent cause was non-observance of legal deadlines for deciding on requests for access to information and non-satisfaction with reasoning given by the body as an explanation of their refusal to enable access to information.

The Central Office in Banja Luka received 38 complaints against the work of public security centers/police stations employees. It was noted that co-operation with **these bodies is very good**, and they provide timely and detailed replies to the inquiries of the Ombudsman.

Next most frequent category of complaints falling within the mandate of Department for the protection of economic, social and cultural rights **relate to violation of the labor related rights** – in this category the Institution registered 99 complaints, mostly for violation of the rights of employees by their employers for **non-payment of contribution for pension and disability insurance, violation of provisions of the Labor Law related to the hiring and firing procedure or denial of legally granted rights**. In this Department, 73 complaints are about the pension benefits, mostly delay in delivering decisions on pension or dissatisfaction with the established pension amount. 23 complaints were about communal utilities and their services.

In 2012 Department for elimination of all forms of discrimination registered 95 complaints. Compared to 2011 inflow of complaints is significantly increased. **Citizens complain for mobbing, discrimination on ethnic grounds, because of social status or origin and discrimination in employment.**

Department for the protection of the rights of the child received 61 complaints mostly about the right to education, health care, relationship with the other parent and his/her relatives in cases of divorce, the right to protection from violence, the right to freedom of negligence and like. Respondent parties complained of were social welfare centers, courts, school, in some cases inspections, or ministries of social welfare and education.

**ILLUSTRATIVE CASES****Case Ž-BL-04-91/12**

This complaint is lodged against the RS Ministry of Refugees and Displaced Persons, more precisely the Commission for monitoring of legality of concluded and renewed contracts and establishment of the right to renewal of a contract whereby the body failed to reach a decision of request of the complainant for legalization. After the Ombudsman's recommendation the Ministry informed the Institution that the decision was issued.

**Case Ž-BL-04-643/12**

Complainant expressed dissatisfaction with length of proceedings for the establishment of his military service during the war and benefits arising thereof by the Department for military registers in Banja Luka. He claimed that he lodged his application back in 2009. Following the intervention of the Ombudsman the decision was delivered.

**Case Ž-BL-04-481/11**

This complainant has residence in Subotica, Serbia but she is entitled to a part of her pension from the Federation of BiH. The Pension fund in charge of her pension asked for some additional data, but after she submitted it, they still refuse to pay her pension. The complainant managed to realize her right only after the intervention of the Ombudsman.

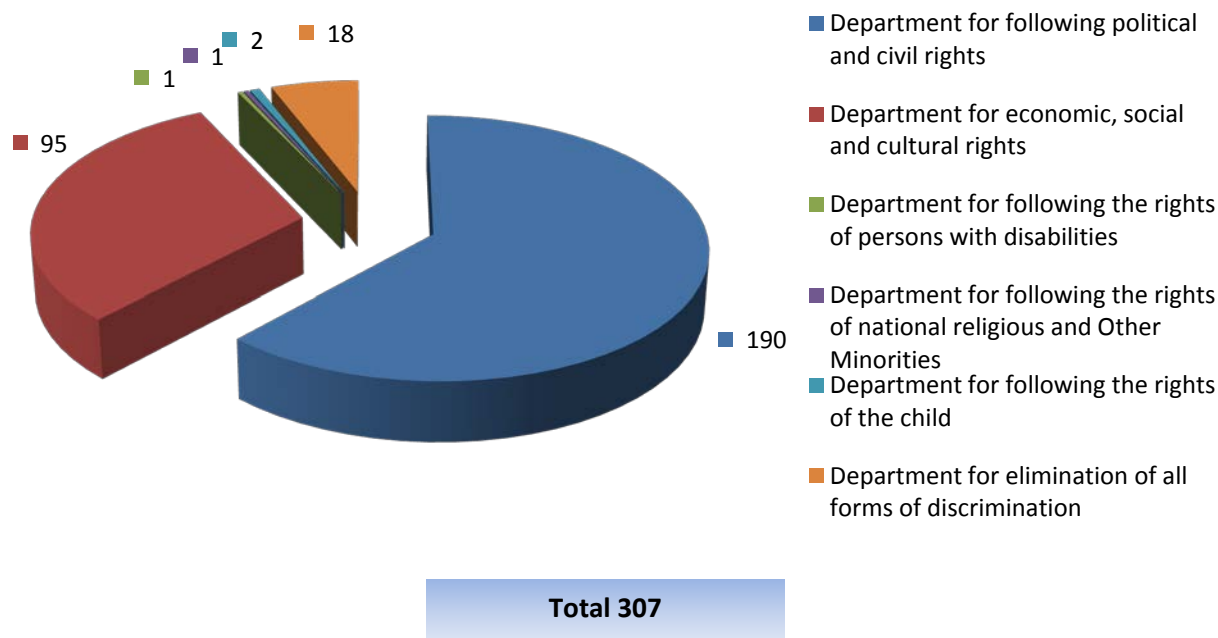
## 4.2. REGIONAL OFFICE BRČKO

In the last year the Regional Office in Brčko **registered 307 complaints**, which is less than it received in the year before for 138 complaints (decrease of 31%). 373 complaints were carried forward from previous years, which mean that they handled **a total of 680 complaints**.

In total closed is 302 cases, out of which 142 cases registered in 2012 and 159 cases carried forward from the previous years.

Most of cases was resolved during the intervention of the Ombudsman – 93 cases, while 90 complaints was inadmissible for not having legal grounds.

It is important to mention that a large number of recommendations issued in previous years were complied with. Namely, in 2010 and 2011 a total of 55 recommendations were issued, so now with the fact that most of these recommendations were complied with, the cases could be closed. In this reporting period number of recommendations was much less.



**Chart 15: Overview of complaints registered by the Regional Office in Brčko in 2012 by departments**

Regional Office in Brčko is organizing **duty days in Tuzla** in order to facilitate the access to the Institution to the citizens from Tuzla Canton and north-eastern part of the Republic of Srpska. Complaints lodged during the duty days in Tuzla are registered in the Office of Brčko.

In 2012 this Office registered **1212 contacts with citizens**, mostly in direct meetings, but there were also telephone calls and emails.

### 4.2.1. Analysis of received complaints

According to the statistics, in 2012 the Regional Office in Brčko registered the highest number of complaints – 190 by the Department for the protection of civil and political rights. Analysis of registered complaints shows that the biggest challenges exist **in functioning of judicial and administrative bodies**, as it could be seen from such high number of complaints. Out of this

number, 102 complaints are lodged against the work of courts, primarily the Municipal Court in Tuzla and Cantonal Court in Tuzla<sup>189</sup>, while the rest of 33 complaints was lodged against the administrative bodies<sup>190</sup>. Complaints against courts mostly relate to violation of the right to trial within a reasonable time period<sup>191</sup>. As for the Municipal Court in Tuzla, the highest number of cases upon complaints of citizens was resolved following the intervention of the Ombudsman in a way that a hearing was scheduled, or the work on a case intensified in order to reach its closure.<sup>192</sup> However, there is still a problem in court decision enforcement procedure which is fast enough.<sup>193</sup>

Asked of reasons for not deciding in certain cases in due time, the court responded that they did not have available necessary material and technical resources, or that **acting judge was transferred to another function or that acting judge is on a sick leave**<sup>194</sup>.

There is lot of complaints about the work of the Cantonal Court in Tuzla. On the Ombudsman's inquiries about the excessive length of proceedings this Court usually provide answers saying that *the Cantonal Court in Tuzla hears the cases according to the Plan for elimination of court backlogs adopted by the Court on 13.01.2012 pursuant to the Instruction of the High Judicial and Prosecutorial Council of BiH so they cannot provide even the framework time period when the decision will be reached*.<sup>195</sup>

Complaints against the **administration** are also mostly related to the length of administrative proceedings. In the Department for the protection of economic, social and cultural rights the most of the cases is related to labor relations – 29 complaints and it is linked to lack of payment of pension and disability insurance contributions, violations of the Labor Law in hiring and firing procedure and denial of entitlements and benefits arising from the employment.<sup>196</sup>

Complaints about social care were subject to 25 cases mainly for **impossibility to enjoy social care related entitlements** for lack of meeting of legal requirements and prerequisites for these entitlements<sup>197</sup> or lack of funds of relevant authorities preventing them to meet requests of citizens for assistance and allocate them their entitlements.

On the territory of Brčko district registered are also **requests for the assistance lodged by the unemployed citizens** who had lost their jobs during the war. They submit individual and group complaints articulated through the workers association "Voice of the worker 1992" from Brčko. They are dissatisfied with criteria for monetary assistance allocation provided by the Government of Brčko District for social assistance and care of workers who lost their jobs without their fault in 1992.<sup>198</sup> The Ombudsman is still investigating these complaints. In 25 complaints filed before the Ombudsman respondent party is Pension/disability Fund of FBiH

<sup>189</sup> Ž-BR-05-291/12, Ž-BR-05-265/12, Ž-BR-05-278/12, Ž-BR-04-244/11, Ž-BR-05-146/11, Ž-BR-05-270/12;

<sup>190</sup> Ž-BR-05-58/12, Ž-BR-05-25/12, Ž-BR-88/12, Ž-BR-05-109/12, Ž-BR-05-277/10

<sup>191</sup> Ž-BR-05-270/12, Ž-BR-05-245/12, Ž-BR-05-203/12, Ž-BR-05-278/12

<sup>192</sup> Ž-BR-05-198/12, Ž-BR-05-19/12,

<sup>193</sup> Ž-BR-05-314/11, Ž-BR-05-207/12, Ž-BR-05-40/12, Ž-BR-05-201/12.

<sup>194</sup> Ž-BR-05-81/12, Ž-BR-05-138/12

<sup>195</sup> Ž-BR-05-269/12, Ž-BR-05-265/12, Ž-BR-05-291/12, Ž-BR-05-244/12, Ž-BR-05-253/12

<sup>196</sup> Ž-BR-04-49/12, Ž-BR-04-210/12,

<sup>197</sup> Ž-BR-04-159/12, Ž-BR-04-227/12, Ž-BR-04-193/12, Ž-BR-04-199/12

<sup>198</sup> Ž-BR-05-235/12

and RS and the reason is **length of proceedings before these bodies**<sup>199</sup> Following the Institution of the Ombudsman many of these proceedings were finished.<sup>200</sup>

Department for elimination of all forms of discrimination received 18 complaints, mainly of mobbing in public institutions<sup>201</sup>, and on other grounds<sup>202</sup>.

In the past period it is necessary to emphasize **good co-operation** with the following institutions: Pedagogy Institute of Tuzla Canton, Cantonal Administration of Tuzla Canton Inspections, Federation Pension and Disability Institute Mostar, Basic Court of Brčko District BiH, Municipality of Ugljevik (the Mayor).

## ILLUSTRATIVE CASES

### Case Ž-BR-05-198/12

The Institution received and registered a complaint about the violation of the right to hearing within a reasonable time for the length of the enforcement procedure before the Municipal Court in Tuzla based on a final and binding court decision. Following its intervention the Ombudsman was informed in a letter that the enforcement procedure is finished.

### Case Ž-BR-04-114/12

Subject to this complaint is the right to adequate medical treatment as the Health Center Tuzla refused to accept clinical recommendation for further treatment in a spa facility issued by the Clinical Center in Tuzla. Following its intervention the Ombudsman was informed by a complainant that he was enabled to continue his medical treatment in a spa and enjoy his rights.

### Case Ž-BR-04-313/11 i Ž-BR-04-311/11

The Institution received and registered a complaint about the violation of the right to work lodged by a university teacher from Tuzla region teaching biology and chemistry for the opinion issued by Ministry of Education, Science, Culture and Sports of Tuzla Canton claiming that she has no adequate qualifications to teach chemistry in a secondary school although she is a biology and chemistry university teacher. Following the intervention of the Ombudsman and consultations with Pedagogic Institute of Tuzla Canton the Ombudsman was informed that Ministry of Education, Science, Culture and Sports issued Decision on Amendments to the Curricula in part related to required qualifications for teachers in such a manner that violation of the rights of the complainant was redressed. .

### Case Ž-BR-06-226/11

Complaint in this case was about the procedure of the Social Welfare Center in Bijeljina, that is the officer in charge, in a case involving her report of domestic violence. In this case the Ombudsman issued its recommendations following the conducted investigation<sup>203</sup> recommending the *Public Security Center/Police Station in Bijeljina and the Social Welfare Center Bijeljina: to take measures to prevent domestic violence and inform the Ombudsman on the implementation of this recommendations within 30 days.*

<sup>199</sup> Ž-BR-06-65/11, Ž-BR-04-126/10

<sup>200</sup> Ž-BR-04-159/12, Ž-BR-04-227/12, Ž-BR-04-193/12, Ž-BR-04-199/12, Ž-BR-04-271/11

<sup>201</sup> Ž-BR-06-275/12, Ž-BR-06-248/12, Ž-BR-06-186/12, Ž-BR-06-187/12

<sup>202</sup> Ž-BR-06-86/12

<sup>203</sup> P-209/12

### 4.3. REGIONAL OFFICE MOSTAR

In 2012 Regional Office Mostar registered 204 complaints. Together with complaints from previous years, the Office had 314 complaints in total, out of which 159 was closed and 10 recommendations issued.

The largest number of complaints was received by the Department for the Protection of Civil and Political Rights – 108 complaints, then the Department for the Protection of Economic, Social and Cultural Rights – 69 complaints, and the Department for the Protection of the Rights of the Child – 15 complaints.

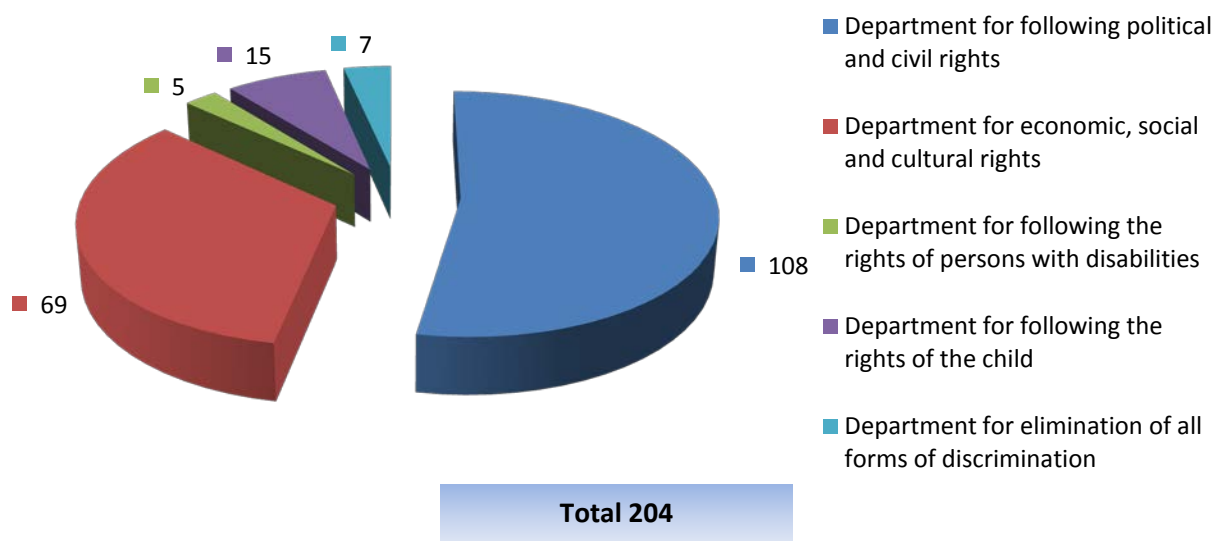


Chart 16: Overview of received complaints by the Regional Office Mostar in 2012 by departments

#### 5.3.1. Analysis of received complaints

Number of complaints received by the Regional Office Mostar must be taken conditionally since it is not a direct indicator of the number of human rights violations complained of. This means that practice of lodging group complaints has continued in this reporting period, just as it was the case in the previous years. A couple of examples include the following group complaints: inhabitants of the settlement Zgoni II, final year students at the Humanistic Study Faculty of the University "Džemal Bijedić" Mostar, secondary schools secretaries holding university degree, workers of the Company "Komunalno" Grude, Political Party NS Radom za boljitak, employees of the Veterinary Station Mostar, pre-war tenants of the building "Željeznička", "Conram" d.o.o. Brčko, UUKOD "Tor" Mostar, Udruženje "Vaša prava BiH", Public Secondary Electrotechnical School Mostar, parents of the Primary School Kruševo's students, parents of the Primary School Biogradi's students, group of tenants living in the streets Rudarska and Centar II Mostar, employees of the Grammar School Mostar, employees of the Public Institution People's Theatre of Mostar, Roma children Mostar (ex officio) and a group of employees of the Company "Vinoplod" Mostar.

Reasons for complaining to the Department for the Protection of Civil and Political Rights are violations of **property and title related rights** – **51 registered complaints**, delays and stall of proceedings before the courts – 20 complaints, inappropriate behavior of the police – 10

complaints, and violations of the provisions of the Law on Freedom of Access to Information – 10 complaints.

Out of the total number of complaints lodged to the Department for the Protection of Economic, Social and Cultural Rights the most is related to the **labor relations – 52 complaints**, the right to pension – 8 complaints, education – 6 complaints, communal utilities – 5 complaints and social welfare – 3 complaints. Communication with some departments of the Municipal Administration of the Mostar Town and the president of the City Council of Mostar kept being aggravated in 2012, just like before.

Analyzing complaints of the citizens in the field of property and title related rights, that is, citizens complain about the right to property and peaceful enjoyment of their property, property renewal, denial of access to a settlement, or illegal construction.<sup>204</sup>

When it comes to the labor related rights, these are mostly group complaints for non-regulated legal status following bankruptcy, such as the case of the companies “Granit” and Jablanica<sup>205</sup> or they resolve their status related issues following privatization<sup>206</sup>. The Ombudsman also received complaint of the employees of the Grammar school and some companies for non payment of salaries and benefits.<sup>207</sup> There was one complaint about mobbing.<sup>208</sup> Mostar Office also had a complaint of the parents of primary school students for poor quality of teaching so they wanted the right to education in an improved form.<sup>209</sup>

In this reporting period the Mostar Office did monitoring in three cases. One was a case before the Municipal Court Široki Brijeg<sup>210</sup>, the other before the Municipal Court of Čapljina<sup>211</sup> (both finished), and the third, which is still pending, is a case before the Municipal Court of Mostar<sup>212</sup>.

A representative of the Institution also took part at almost all the seminars, roundtables, and other meetings convened in the area covered by this Office, although the Office is functioning for the second year now without the Head of Office/the Department for the Protection of Economic, Social and Cultural Rights .

## ILLUSTRATIVE CASES

### Case Ž-MO-05-119/12

Issue complained of in this case was stall of the court proceedings and difficulties in obtaining of relevant information on the case status before the Cantonal Court of Mostar. The Ombudsman recommended for the complainant’s case to be dealt with as a matter of priority.

### Case Ž-MO-04-26/12

In this case complainant was an ex-director of a legal entity that seized to exist a long time ago. However, the complainant was asked to pay taxes for the whole past period for that legal entity. Following the intervention of the Ombudsman, the Federation Ministry of Finance in

<sup>204</sup> Ž-MO-05-64/12; Ž-MO-05-98/12; Ž-MO-05-99/12; Ž-MO-05-160/12

<sup>205</sup> Ž-MO-04-83/12; Ž-MO-04-100/12

<sup>206</sup> Ž-MO-04-28/12

<sup>207</sup> Ž-MO-05-181/12; Ž-MO-04-184/12

<sup>208</sup> Ž-MO-06-8/12

<sup>209</sup> Ž-MO-04-129/12; Ž-MO-04-154/12

<sup>210</sup> Ž-MO-05-196/10

<sup>211</sup> Ž-MO-05-98/10

<sup>212</sup> Ž-MO-05-106/12

Sarajevo reached a final decision in this case according to which the Tax Office Mostar reacted adequately and the complainant received a decision according to which her tax obligations ceased to exist in this regard.

**Case Ž-MO-05-91/12**

Complainant claimed that he was denied the access to his family house in the settlement Malo Polje, due to the presence of an illegal landfill that was formed there. Following the intervention of the Ombudsman the access road was cleared and the Department for Economy, Communal Utilities and Inspections informed the Ombudsman thereabout.



## 4.4. REGIONAL OFFICE SARAJEVO

In 2012 Regional Office Sarajevo received and **registered 1425 complaints**. In addition to that this Office handled some complaints carried forward from the previous period, all together 2502 cases dealt with. In this reporting period it was finished 1418 complaints, which is much more than the last year. Out of the total of resolved cases 367 originated from 2011.

Out of the total number of complaints received in 2012 resolved during the intervention of the Ombudsman was 226 cases, there was 269 of complaint without legal grounds, and 139 complainants lost their interest in further pursuing of their complaint. In 28 cases, the subject matter complained of fell out of the mandate of the Ombudsman so these cases were forwarded to the authorities in charge, while the rest was handled in accordance to legally foreseen procedure and mandate of the Ombudsman.

In the reporting period, Sarajevo Office issued 159 recommendations, which is more than before.

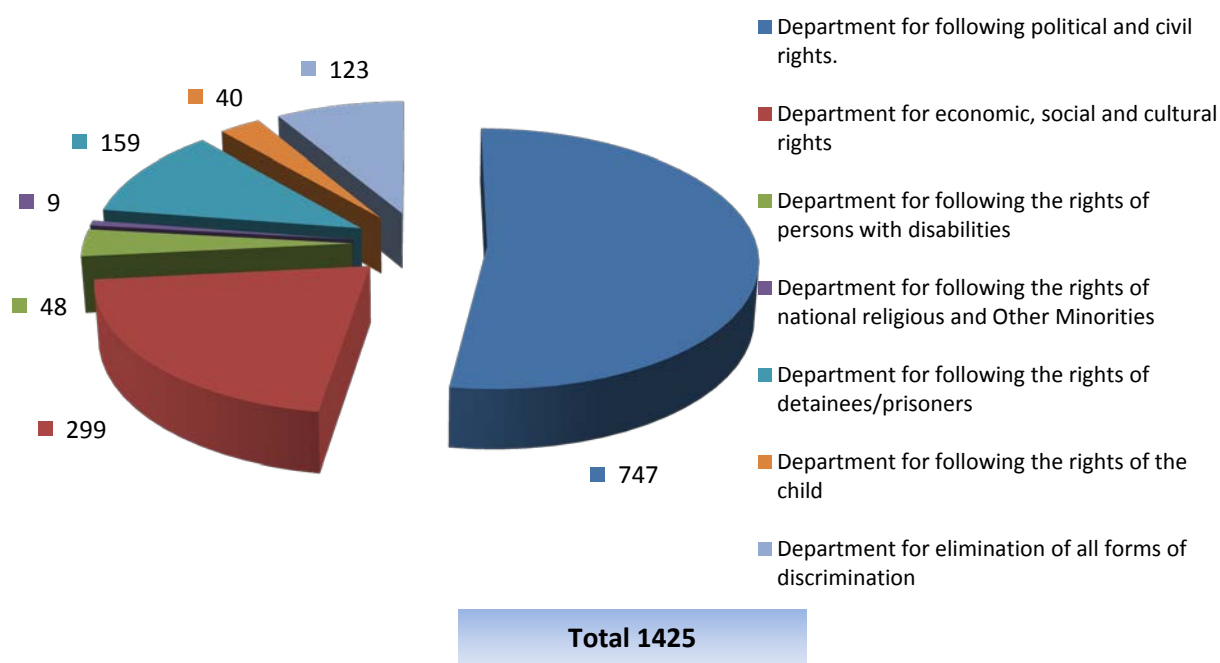


Chart 17: Overview of received complaints by the Regional Office Sarajevo in 2012 by departments

### 4.4.1. Analysis of received complaints

Analysis of received complaints shows that the most of complaints were received by the Department for the Protection of Civil and Political Rights – 747. Among these complaints, the highest number of applications is directed against the **judicial bodies** - 227, functioning of administration - 165, violation of the provisions of the Law on Freedom of Access to - 111 and violations of the Law on Government, Ministerial and Other Appointments - 72.

Further analysis of complaints in which the respondent party are judicial bodies, it could be seen that these applicants complain for alleged violation of the right to trial in a reasonable time period<sup>213</sup> and non-enforcement of the court's decisions<sup>214</sup>.

<sup>213</sup> Ž-SA-05-1066/12, Ž-SA-05-33/12, Ž-SA-05-140/12

Complaints against the work of **administrative bodies** mostly indicate to infringement of processing provisions of the Law on Administrative Proceedings, that is, failure to reach decisions within the legal deadlines, silence of administration, too long second-instance proceedings, frequent return to the first-instance body and like.

In 2012 most frequent reasons for addressing the Institution of the Ombudsman as it comes to **the implementation of the Law on Freedom of Access to Information** are non-deciding on requests for information<sup>215</sup>, non-compliance with legal deadlines for deciding on requests, issuance of decisions without the instruction on legal remedies, and length of second-instance proceedings<sup>216</sup>.

In the area of **governmental and ministerial appointments** there were 72 complaints lodged to the Ombudsman in 2012. The complainants objected to irregularities of appointment and dismissal procedures. Just like in previous years, citizen mostly claim violations in process of the appointment of the steering or supervisory board members in public companies and institutions, while minor number of complaint relate to the selection of directors where consent of the Government or the relevant ministry should be obtained. Allegations in the complaint are related to appointments of temporary steering or supervisory board members, appointments based on political affiliation of the candidates, composition of the selection panels, selection criteria, securing share of certain categories during the employment, unclear provisions etc.

In 2012 the Department for the Protection of Economic, Social and Cultural Rights received 299 complaints. **Citizens are complaining for violation of the labor related rights and benefits – 169**, violations in the area of the right to pension - 62, the right to health care - 30, and, to a minor degree social care, education, environmental protection and war damages. Complaints in the area of labor relations are mostly related to the right to participate in public competitions<sup>217</sup>, or irregularities in competition related procedures<sup>218</sup>, non-payment of health and disability insurance contributions, and even salaries<sup>219</sup>.

With regard to the rights related to pension and disability insurance, most of complaints is about **the length of proceedings for the realization of the right to pension**, and there is also a large number of complaints about failure of second-instance bodies to reach decisions on appeals from the decisions of cantonal administrative services within the legal deadlines, stall in payment of salaries or benefits and revocation of the rights following a review.

In the last year, Department for Elimination of all Forms of Discrimination had 123 complaints. **Most of it was about discrimination in the employment sector** in competition procedures, then in labor relations where discrimination is manifested as **mobbing or harassment at work**, and there were also complaints about discrimination in internal transfers within an organization. As it comes to discrimination on ethnic grounds, complaints registered by the Ombudsman mostly relate to the non-enforcement of law and foreseen affirmative measures.

<sup>214</sup> Ž-SA-02-9/12 (payment of war damages)

<sup>215</sup> Ž-SA-05-59/12

<sup>216</sup> Ž-SA-05-678/12

<sup>217</sup> Ž-SA-06-962/12

<sup>218</sup> Ž-SA-04-917/12

<sup>219</sup> Ž-SA-04-240/12

In 2012 the Protection of the Rights of Persons with Disabilities received 48 complaints. Subjects complained of involve **medical opinion and evaluation of health condition, non-payment of personal disability allowances**, seizure of the right to personal disability allowance, non-payment of disability allowances and orthopedic devices, lack of recognition of the rights arising from disability, length of second-instance proceedings upon appeals from decisions, non-payment of costs of accommodation of disabled persons in the institutions, complaints about the costs of the Institute for evaluation of working capability, lack of deciding within the legal deadlines, refusal of co-funding of orthopedic and other disability devices acquisition and enjoyment of the right to health.

In 2012 Department for the Protection of the Rights of the Child received 40 complaints. Most of them is linked to the **right to maintenance of personal relations with the other parent and his/her relatives in cases of divorce**<sup>220</sup>, where social welfare centers appear as a respondent party, and when it comes to courts<sup>221</sup> complaints are mostly about the length of court proceedings in cases involving children and their rights.

Department for the Protection of the Rights of Detainees/Prisoners has registered 159 complaints in 2012. Detainees/prisoners mostly complained about the **denial of their use of the out-of-establishment privileges**, the right to health care, and transfer to another prison.

## ILLUSTRATIVE CASES

### Case Ž-SA-06-905/12

The applicant in this case complained of the public competition procedure in the Secondary Medical School – Jezero Sarajevo. Candidates were asked to submit court records to show whether the applicant were under investigation in any criminal matter at the time of application (not older than 3 months). Following the investigation the Ombudsman turned warned the school that published the advertisement of the provisions of the *Law on the Personal Data Protection in Bosnia and Herzegovina* according to which public competitions where candidates are asked to submit information falling within the category of protected data are illegal, as well as refusal of candidates who fail to submit such documents. This creates legal uncertainty among candidates, both the selected ones and the refused ones. After some time the School Jezero Sarajevo informed the Ombudsman that they have published a correction of the published advertisement where requirement that court records should be submitted was erased, thus redressing the violation of the public competition procedure.

### Case Ž-SA-05-57/12

This complaint was about the failure of the respondent body, that is, the Cantonal Social Welfare Center Sarajevo to reach a decision on a request for information in accordance with the Law on Freedom of Access to Information. Following the intervention of the Ombudsman the respondent body acted in accordance with provisions of the above Law and issued decision to allow the requestor to get the required information.

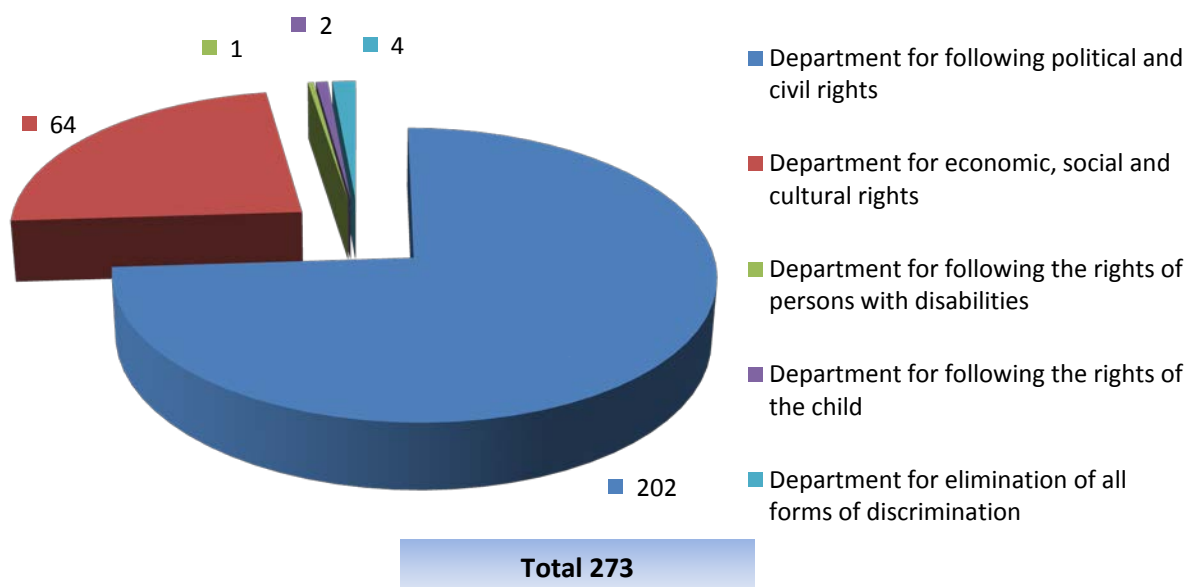
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<sup>220</sup> Ž-SA-01-412/12

<sup>221</sup> Ž-SA-01-190/12

## 4.5. FIELD OFFICE LIVNO

Field Office Livno (hereinafter: Livno Office) **has received 273 complaints** in 2012, which is for 36 more than the number of complaints in the previous year. In addition to that, there was 55 complaints carried forward from the previous years, so that the Office handled 328 cases in total. Out of 273 cases that were registered in 2012, during the same year it was solved and closed 218, while out of 55 from the previous year 53 was resolved and closed. So, out of 328 cases dealt with in the last year **resolved was 271**, while 57 is still pending.



**Chart 18: Overview of complaints registered by the Field Office in Livno in 2012 by departments**

Out of 271 finished cases, from the aspect of resolution method, 175 were resolved during the intervention of the Ombudsman, 48 were inadmissible, and in 36 cases the complainants were not interested in further proceedings. 9 cases were resolved otherwise, 1 following the issuance of a recommendation to the respondent authority, and 2 cases fell out of the mandate of the Ombudsman so these complaints were referred to the authorities in charge.

The Livno Office has issued **two recommendations** to the relevant authorities for redress of the established violations. One recommendation was fully complied with, and the other is still pending. **There were also three recommendations** whereby the relevant authorities were invited to co-operation with the Institution of the Ombudsman. One recommendation was complied with and in other two no replies were received in the foreseen period. However, the Ombudsman received oral promises that replies to these recommendations would be sent.

All the matters considered, it could be stated that there exists **good co-operation with the authorities in Livno**. It is reflected in readiness of the authorities to provide oral and written answers to the inquiries of the Ombudsman as it could be seen from the large number of cases resolved following the intervention of the Ombudsman.

In Livno Office the most of complaints was from the mandate of Department for the protection of civil and political rights, as much as 202 complaints, then the Department for the protection of economic, social and cultural rights, 64 complaints, Department for elimination of all forms of discrimination 4 complaints, Department for the protection of the rights of the child, 2

complaints and Department for the protection of the rights of persons with disabilities, 1 complaint.

#### 4.5.1. Analysis of received complaints

**The most complaints** were lodged against the **judicial authorities** – 120, against the administration – 53, police – 21, labor relations related – 20, the right to pension – 17, public utilities -13.

**A large number of complaints against court indicate the inefficiency in the judicial system functioning**, which is manifested in slowness of court procedures and length of enforcement procedures following final and binding decisions. Non-enforcement is particularly present in cases involving labor related disputes (non-payment of contributions and salaries), and length of bankruptcy procedure. It is also evident that proceedings related to real property division also take very long time. In comparison with the year before, in 2012 the Office received 38 complaints more.

**Complaints of citizens related to administration** are second most frequent ones. In the reporting period number of complaints received was the same like the year before. The Ombudsman noted many problems related to return and reconstruction of demolished property linked to administrative obstructions and wanted to do something about it. To this end it opened an ex officio investigation to establish facts about this issue following which it convened a series of meetings and sent some letters to the responsible authorities to turn their attention and remind of all the challenges related to return and reconstruction and calling for stronger engagement on this issue.<sup>222</sup>

**Local administration at municipal level** is slow in deciding on requests of citizens. Some cases are resolved after the determined and repeated interventions of the Ombudsman. Particular problem is **inefficiency of inspection services**.

Evident is also a high number of complaints against the work of **police officers**. In this area the Office received 5 complaints more than in the year before. However, **complaints against the police officers proved to be mostly with no grounds** or the applicants lost their interest in further pursuing of their case. Complaints related to the investigation measures used by the police. The only challenging case is confiscation of the applicant's driving license and refusal to return it before he pays the traffic fines.<sup>223</sup>

Compared to the year before, in 2012 it was received **6 complaints less in the area of labor relations**. Out of all the cases, in 6 complaints the applicants restored their rights owing to the Ombudsman, while their complaints had no grounds in 6 other cases. In 3 complaints the applicants lost their interest having received replies from the bodies complained of, while in 3 other cases all the legal remedies had not been exhausted. Two complaints were out of the Ombudsman's mandate since respondent party was in a foreign state.

Complaints were about non-payment of health and pension insurance contributions, allocation to another post without the official decision, non-payment of salaries during the strike, non-hiring after being the first-ranked candidate on public competition, replacement to another

<sup>222</sup> Ž-LI-05-121/12

<sup>223</sup> Ž-LI-05-256/12

post as a “punishment|” for trade union engagement, non-payment of monetary support by the Employment Office to ex-employees in cases of no-fault dismissal.

**Violation of the right to pension** was subject to 17 complaints, which is 12 complaints more than the year before. Only one case in this area remained pending in which the recommendations was issued calling the respondent party to co-operation with the Ombudsman.<sup>224</sup> Restitution of the rights took place in 9 cases, 7 complaints were established as not having grounds, and one complaints was inadmissible since the complainant failed to furnish the necessary documents to the respondent party.

13 complaints were lodged in relation to **public utilities**, which is for 6 complaints more than in the previous reporting period. In 7 cases the applicants found restitution of their rights, 4 cases had no ground, and 2 cases are pending.

**Denial of the right to education** was a reason of 6 complaints. The parents of a student expressed their dissatisfaction with their children’s success and the way how the teachers treated their children and themselves. In 4 cases the applicants’ rights were restored, 1 complaint had no grounds, and 1 complainant lost the interest in further procedure after receiving the letter of the respondent party proving that the complaint had no grounds.

**6 complaints related to the right to social care**, which is 5 complaints less than before. In 3 cases the rights of the applicants were reinstated, while 3 cases had no grounds. In a case originated from 2010<sup>225</sup>, the respondent party, after many years of lobbying has adopted the Rulebook on allocation and sale of the apartments intended for social housing, which enabled citizens in need for that type of housing to submit their applications.

4 complaints were filed for the alleged violation of **Law on Prohibition of Discrimination**, the same number as before. These complaints were about the alleged mobbing in education, gender-based discrimination, education and denial of labor related benefits. In case involving alleged mobbing the Ombudsman asked responded party to plea and after it did, the applicant had no further interest in pursuing the case, in case of gender-based discrimination<sup>226</sup> the Ombudsman issued a recommendation which is still pending the answer of the responsible party. Denial of labor-related benefits was resolved positively, and education-based discrimination is still under investigation.

Violation of **property rights** was claimed in 3 cases, 4 cases less than in 2011. Two complaints had no grounds, and in one case the applicant initiated court proceedings and withdrew his complaint before the Ombudsman.

In three cases the applicants expressed their dissatisfaction with the work of **the prosecution**. In this sector the Office had 2 complaints less than in the year before. We also had 2 complaints carried forward from 2011, these were resolved following the intervention of the Ombudsman. As for two above mentioned complaints, one was resolved successfully and a motion to indict instituted, while the other was inadmissible. In the case no.: Ž-LI-142/12 the applicant complained of length of investigative actions. The Ombudsman keeps monitoring the work of the Prosecutor’s Office in this case.

<sup>224</sup> Ž-LI-04-194/12, P-197/12

<sup>225</sup> Ž-LI-04-99/10

<sup>226</sup> Ž-LI-06-161/12 P-201/12

Two complaints were registered for denial of **the right to free access to information**, unlike the year before when no complaints on such grounds were received. Complaints are about non-issuance of decisions within legal deadlines or in required form of a decision on requests for information. In one case the requestor had no second-instance at disposal since the decision to deny information was signed by the Mayor and legal remedy foreseen was to appeal to the same person – the Mayor. Following the intervention of the Ombudsman the complainants realized their rights.<sup>227</sup>

Violation of the **rights of children** was claimed in two complaints unlike the year before when no complaints on such grounds were received. One of these two cases was initiated *ex officio*<sup>228</sup> for neglect of the child by the mother. After a series of the activities taken in co-operation with the relevant authorities and initiating the charges against the mother, the case ended in a way that the mother and the child had moved to Sweden for family reunion. In the second case<sup>229</sup> it is about an adult threatening a child. The investigation in this case is still pending.

The rights to **health care** was subject to two complaints, which is for 4 less than before. The investigation has shown that this complaint had no grounds. The Ombudsman Office Livno had only one complaint<sup>230</sup> filed by a **disabled person** and this complaint was inadmissible.

## ILLUSTRATIVE CASES

### Case Ž-LI-05-97/12

Complainant was a nun with a first-instance court decision issued on 07.12.2011. Respondent appealed from the decision and Cantonal court Livno did not reach a decision on that appeal to date although it resolves other appeals within 6 months.

### Cases Ž-LI-05-50/12, Ž-LI-05-84/12, Ž-LI-05-146/10, Ž-LI-05-132/12, Ž-LI-05-229/12

Complainant expressed dissatisfaction by the work of the relevant authorities in the property rehabilitation and repair. They think that in addition to objective problems related to lack of funds, there are subjective problems as well, that is for absence of objectivity of the relevant authorities in the process of the beneficiaries selection.

### Case Ž-LI-05-107/12

Returnees Serbs filed charges before the Police Station Livno against “secondary row material collectors” for harassment and stealing of fence. They complained to the Ombudsman claiming that police did not take any step. The Police replied that they referred the case to the Prosecutor’s Office reporting against five persons for the felony of theft and grave theft.

### Case Ž-LI-04-266/12

Complainant was an employee of Glamoč Municipality. At the last year’s elections he was a candidate for the Mayor. For this reason he had the right to absence from work and the Mayor approved it. However, following the elections when the same Mayor was elected, the complainant was fired. Investigation in this case is ongoing.

<sup>227</sup> Ž-LI-05-219/12 and Ž-LI-05-243/12

<sup>228</sup> Ž-LI-01-226/12

<sup>229</sup> Ž-LI-01-269/12

<sup>230</sup> Ž-LI-02-152/12

## CHAPTER V – FUNCTIONING OF THE OMBUDSMAN

### 5.1. Introduction

Since the budget of the Ombudsman Institution had not been increased in 2012, the Institution is still facing the **problem involving the opening of new field and regional offices**. Namely, in the framework of the approved budget, the Institution could neither find necessary funds to employ new staff members, nor procure required equipment.

Just like in previous years, in 2012 Ombudspersons employed additional efforts to overcome the impossibility to have field presence in form of new offices by their personal outreach. For instance, in 2012 they have visited the municipalities of Ključ, Ribnik, Glamoč, Grahovo, Široki Brijeg, Zenica, Trebinje, Tuzla, Bihać, Livno, and Mostar. Practice of holding the duty days in Tuzla was continued, so with support of the Municipality of Tuzla and UNDP, in addition to the Assistant Ombudsman, Head of the Regional Office Brčko District who had worked for two days a week, hired were two trainees on temporary basis, so that the citizens of the Tuzla Municipality can approach the Ombudsman during the whole week.

It is important to mention that many activities were realized to strengthen already successful co-operation with NGO sector, media and international organizations.

### 5.2. Staff

As of **31.12.2012** total **number of employees** of the Ombudsman Institution was **55**, which is for two persons less than it was in 2011. It should be mentioned that number of employees in 2010 was even 61 in some periods.

In addition to the mentioned 55 employees, the Ombudsman Institution hired three bachelors of law who were engaged for the Project Strengthening of Capacity of the Department for the protection of the rights of the child in co-operation with Save the Children Norway – Regional Office for South-East Europe and the Embassy of the USA.

The biggest challenge for the Ombudsman remains in 2012 the impossibility of filling-in the vacant positions of Assistants Ombudsman in the Central Office Banja Luka and Regional Offices Sarajevo and Mostar.

### 5.3. Location and technical equipment of the Institution

Despite continuous efforts of the Ombudsman to find permanent accommodation for the Central Office and regional offices of the Institution, in 2012 it was still in rented offices, save for the Brčko District. It is worth mentioning that the Ombudsman, acting in accordance with the recommendations of the Council of Ministers of BiH in **2012 reduced costs for rent in all the offices**.

For lack of funds the Ombudsman could not buy new vehicles which are necessary having in mind the age of the current ones.



## 5.4. Budget and finances

In 2012 the Ombudsman Institution just like the other institutions at the BiH level had been functioning within the framework of the budget based on the Decision on temporary financing, which means that the funds were very limited.

To which extent the funds are reduced it could be seen from the fact that used budget for 2012 amounted at 2,386,000 BAM, and in 2011 it was 2,558,991 BAM, while the approved budget for 2013 amounts at 2,374,000 BAM. **The Institution is exposed to the permanent pressure of funds restrictions, as it could be seen from the statistics.** Carrying out the tasks is aggravated in all the segments and the Ombudsman additionally engaged to provide funds from the other sources.

At its 26<sup>th</sup> meeting held on 17.01.2013 the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina have praised the Ombudsman in public for functioning in accordance with the applicable legislation and disposing with the allocated funds with due diligence in 2012. The Audit Office gave a positive opinion to the Institution of the Ombudsman commending it in public, which is a very good sign for this Institution which does its best to be fully functioning pursuant to the legal provisions and oral and written suggestions by the Audit Office.

## 5.5. Status of the Institution

The Institution of the Ombudsman was in 2010 accredited in status “A” by the Sub-Committee for Accreditation (SCA) of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC) Geneva, with recommendation to the Ombudsman to initiate legal amendments to ensure full financial independence of the Institution.

The issue of effective functioning of Ombudsmen Institution, as a national human rights prevention mechanism, particularly the issue of its independence is a subject to verifications through process of accreditation performed by International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC), Geneva. Through the process of accreditation and re-accreditation Ombudsman Institution is due to prove its functioning in conformity with the Paris Principles setting out the independence.

Paris Principles is an important instrument that obligates the national human rights institutions to act in accordance with these Principles, and, at the same time, obligates competent authorities to enable the existence and functioning of the national human rights protection mechanism acting in conformity with Paris Principles.

Acting in accordance with the recommendations of the SCA, the Ombudsman Institution sent a letter to the House of Representatives and the House of Peoples of Parliamentary Assembly of Bosnia and Herzegovina an initiative for the amendments of the Law on Human Rights Ombudsman of Bosnia and Herzegovina as recommended by the SCA.

Realization of recommendations by Sub-Committee for Accreditation (SCA) of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC) issued in 2010 was considered by this body at its session held in Geneva from 19 to

23 November 2012 within the regular re-accreditation process of the BiH Human Rights Ombudsman Institution. The SCA postponed taking of decision on status of Ombudsman Institution to its next session to be held from 13 to 17 May 2013 and issued Recommendations to be realized by Ombudsman Institution by 10 March 2013 at latest. These recommendations request the Ombudsman Institution to take measures to ensure adequate financing and financial independence necessary for smooth functioning of BiH Ombudsman Institution and to initiate activities targeted to amendments to the Law on Human Rights Ombudsman of BiH in its part related to composition and appointment of the ombudspersons in order to ensure pluralism and increased transparency of this process.

## **CHAPTER VI – CO-OPERATION WITH LOCAL AND INTERNATIONAL INSTITUTIONS AND ORGANIZATIONS**

### **6.1. Co-operation with the institutions and organization in BiH**

In 2012 the Ombudsman put emphasis on intensification of its co-operation with the parliaments, either on the state or the entity level. Particularly important were discussions of the members of the parliaments on special and annual reports of the Institution. These discussions have created space for better understanding of the work of the Institution and dialogue on the human rights situation in Bosnia and Herzegovina. NGO sector is an important partner of the Ombudsman Institution in the implementation of its strategic goals, therefore the Ombudsman intensified its partnership with them. Also, the Institution recognized the need for additional training in the field of human rights, and delegated its representatives to participate at workshops, roundtables and public discussions, in particular on invitation of universities with an aim to get their students more familiar with the function and the mandate of the Ombudsman.

The Ombudsman found it important to be present in local communities as this is where the citizens realize their rights in their daily life. However, since the year 2012 was the year of local elections, the Ombudsman limited their visits to less municipalities than the year before in order to prevent possible misinterpretation of their visits as support to certain political options instead of the promotion and enhancement of human rights situation in these communities.

Visits to the municipalities of Ribnik, Bosanski Petrovac, Drvar, Ključ, Glamoč, Grahovo, Kozarska Dubica, Srebrenica and Zavidovići Ombudspersons used as opportunities to discuss human rights issues, especially with regard to the employment, return, health and social care, the right to home, good administration, the right to choose, and the rights of national minorities in particular in Zavidovići Municipality where 600 members of Roma minority is registered.

When it comes to consultative meetings, the Ombudsman continued good practice established earlier to maintain co-operation with relevant ministries, particularly in segment of the implementation of the Ombudsman's recommendations and gathering entry information and data for its special reports.

The Ombudsman took part in a couple of public discussions on the following topics "Provision of free legal aid in Bosnia and Herzegovina" organized by the Ministry of Justice of BiH, which was very important having in mind extent of poverty and situation of socially vulnerable categories to which this is the only available legal remedy. In addition to that, the Ombudsman's representatives gave their contribution in dialogue related to transitional justice strategy in BiH and the structural dialogue on judicial sector in the framework of Stabilization and Accession Agreement between the EU and BiH (SAA).

Just like the previous years, the Ombudsman kept co-operating with the Ministry of Human Rights and Refugees of BiH, taking part in task forces and work groups for the preparation of instruments for gathering data on incidence of violence against children in BiH, then in the area of the protection from discrimination, establishment of the National Preventive Mechanism against torture (NPM) under the Optional Protocol on Prohibition of Torture, and through

participation in reporting process to the different UN committees where it submits its independent submissions and enables exchange of Institution with this Ministry.

In light of co-ordination of the activities in the area of the protection from discrimination there was established co-operation with the Gender Center of the RS Government and the Gender Center of the FBiH from the aspect of their familiarizing with the activities of the Department for elimination of all forms of discrimination and promotion of the Annual report on occurrences of discrimination in Bosnia and Herzegovina, and sensitizations of the Institution's staff for the gender perspective, especially for gender-based discrimination.

Rights of national minorities are exceptionally important for the Ombudsman and in order to identify main concerns in this issue, representatives of the Institution met the National Minorities Association and Council of the Republic of Srpska and the National Minorities Council of the Federation of BiH. The most emphasized problem facing these associations and the communities whose rights they articulate in the employment in public sector where very few or none minority members get hired through the public competition, not even as trainee or a volunteer.

With a view to the establishment of co-operation or information exchange in 2012 meetings were held with the Ministry of Education, Science, Culture and Sports of West Herzegovina Canton, social welfare centers on the territory of the whole BiH, Health Department of the Brčko District the Government, Return fund, police of Brčko District, police of Srebrenica and many other partners in the institutions with a common goal of enhancement of human rights respect in Bosnia and Herzegovina.

## 6.2. Co-operation with NGOs and civil sector

Analyzing the co-operation of the Ombudsman Institution with NGO sector and civil society in 2012 it could be qualified as continuous, based on partner relations and implemented in a couple of main segments/thematic blocks that were in the focus of interest or these organizations. These are primarily protection from discrimination, the children's rights, combating corruption, trafficking in human beings, violence against women and access to information.

When it comes to awareness raising on necessity of prohibition of all forms of violence, the Institution of the Ombudsman took a series of activities in order to inform the NGOs on its mandate as a central institution for the protection from discrimination and activities taken in this regard.

In this context the Ombudsman had a series of meetings with many associations and organization such as: The Association of Blind Persons of the Republic of Srpska, Human Rights Center of the University of Sarajevo, Women Association Banja Luka, the Association "Nova Generacija", NGO Hi, neighbor, Association of Mediators of BiH, Youth Initiative for Human Rights, Helsinki Parliament of Citizens, Association of paraplegics and polio survivors and other bodily disabled aimed at the exchange of experiences and challenges facing these associations and organizations in light of implementation of the Law on Prohibition of Discrimination. The Ombudsman had its representatives at the Roundtable on „Co-operation of the authorities and civil society in combating discrimination“ organized by the Center for Information Legal Aid Zvornik where one of the topics was “Legal and political framework for equality”. In segment of research and

survey the Institution gave its contribution and co-operation was established with the Social Research Center „Analitika“, and Open Center Sarajevo dealing with the LGBT related issues.

Child protection area lays at heart of the Ombudsman activities and its co-operation with NGOs, especially since Department for the protection of the rights of the child is engaged since 2009 in implementation of the activities in the framework of the Project in co-operation with partner organization Save the Children. In 2012 we highlight some segments of the activities::

- Support to work of Drop-in Center Mostar including the joint lobbying activities for the Shelter station in Mostar in co-operation with the NGO Altruist
- Participation in public discussions on Ethical Codex for surveys and research on children and involving children in BiH Strengthening of the role of civil society in monitoring of the implementation of the national Strategy for combating violence against children in BiH 2011 – 2014“organized by the NGO „Vesta“ and „Zemlja djece“
- Participation at many expert meetings dealing with peer violence, peer mediation, children safety, children and youth in conflict with law and implementation of closer co-operation with the SOS children villages in BiH.

The Ombudsman representatives also took part at the public discussion on „Sexual violence and responsibility“ jointly organized by the International Criminal Tribunal for ex-Yugoslavia (ICTY), Swiss Association TRIAL and Medica Zenica, with support of the UN Women and OSCE Mission to BiH. Aim of this discussion was to encourage dialogue between the different groups: victim associations of different categories, representatives of the executive authorities, courts and prosecution in order to define challenges, gaps and efforts in offering satisfaction to victims, especially survivors of sexual violence in BiH. Focus was put on the rights of victims of war and methods to give them satisfaction, in particular from the aspect of the obligation of the state to ensure realization of criminal justice, to prosecute and sanction those responsible for crimes.

In this context realized was co-operation with the BH NGO network RING dealing with trafficking in human beings with particular attention to prevention and assistance to the trafficking victims.

It is the third year now that the Institution participates and supports the activities implemented by the Local Democracy Foundation, an organization engaged in implementation of the Law on the Protection from Domestic Violence through the awareness raising on violence against women in Bosnia and Herzegovina among other measures.

In 2012 NGOs in BiH show an increasing interest in monitoring of and lobbying for transparency in work of local authorities, combating corruption and in this context the implementation of the Law on Freedom of Access to Information.

NGO „Zašto ne“ was a host of the international conference in co-operation with CRTA (Center for Research, Transparency and Responsibility) from Serbia and Metamorphosis from Macedonia held in Sarajevo under the title Political accountability and new technologies which saw participation of the Ombudsman's representatives.

Working session on „public data opening“ globally and in BiH, with particular focus on the obligation provided for in the Law on Human Rights Ombudsman of Bosnia and Herzegovina, according to which all the bodies are obligated to co-operate with the Ombudsman and furnish

data including those considered to be confidential or secret, and the mandate of the Institution under the Law on Freedom of Access to Information were the issues discussed at this conference.

Discussion of the network LACON organized by the NGO „Civil Society Center Kyodo“, on criminal legislation and free access to information, suggested amendments to the Law on Political Parties Funding and suggested Principles as a basis for the Law on Whistleblowers' Protection was another. In a series of similar discussions organized also by the Anticorruption network in BiH ACCOUNT and Transparency international where the representatives of the Ombudsman presented their experience in light of registered complaints of the BiH citizens.

In the framework of its regular activities the Ombudsman also had a meeting with NGOs acting on the territory of East Herzegovina. The aim of this meeting was information on the role of the Ombudsman and exploring the possibilities of co-operation in the area of human rights promotion in Bosnia and Herzegovina.

### 6.3. Co-operation with the international institutions and organizations

International co-operation segment should be regarded in context of co-operation established and developed with representatives of the international institutions and organization acting in Bosnia and Herzegovina and co-operation at the international level realized in accordance with commitments linked to the **accreditation status „A“** granted to the BiH Ombudsman by the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights and in light of the Ombudsman's dedication to develop regional co-operation and finally in the framework of regular activities in the international networks in fulfillment of obligations arising from the membership in those network.

In 2012 the Ombudsman Institution, in accordance with its defined priorities at the international level, especially in light of re-accreditation process that started in this year, took part at the 25<sup>th</sup> annual meeting of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (**ICC**) which was earmarked to the presentation of the priorities of the Office of the High Commissioner for Human Rights (OHCHR-a) for 2012 and issues related to national institutions for human rights (**NHRI**) such as business and human rights environment, monitoring of the obligations under the Option Protocol to the Convention Against Torture (OPCAT), transitional justice and monitoring of the implementation of recommendations from the Universal Periodic Review(UPR).

As a member of the European Group the Ombudsman of BiH supported the idea of the establishment of the European Group Secretariat as well as many joint statements of the members on different topics such as the rights of disabled persons, prohibition of gender-based violence, status and role of NHRIs within the UN human rights protection system.

In accordance to its capacity the Ombudsman intensified its co-operation with the OHCHR through participation at many surveys related to the violence against women, discrimination, protection of the rights of elderly people and other issues from human rights domain and through the exchange of experiences at the international conferences for instance the one dedicated to the strengthening and co-ordination of the activities between the human rights mechanisms at international, regional and national levels that was held in Geneva.

As members of the **Association of Mediterranean Ombudsmen (AOM)** the Ombudsman representatives participated at the 6<sup>th</sup> Annual Meeting on Activating the Role of the Ombudsman with issues such as relationship of the Ombudsman and public administration, methods how the Ombudsman approaches vulnerable groups (children, disabled, women, elderly) and challenges facing the Ombudsmen with regard to the rights of migrants.

As a full member of the **European Network of Ombudsmen for Children (ENOC)** the Ombudsman participated at the annual meeting of this network dedicated to the juvenile justice, exchange of best practices and international perspective in viewing this issues, which was very useful for the Department for the protection of the rights of the child in preparation of their special report on Children and Youth in conflict with law.

VII conference of the **Network of Ombudsmen for Children in South- East Europe (CRONSEE)** held in Montenegro on Protection of children from abuse through the Internet where the Ombudsman the work of the Department for the protection of the rights of the child and expressed support to the general conclusions of the Conference that the institutions engaged in child protection should put primarily be concerned about the prevention and lobbying for the children's education and training on their protection on the Internet be incorporated in regular school curricula.

One of the subjects in human rights fields that was in focus of the attention of the OSCE-ODIHR Council of Europe and the European Commission are the rights of the minorities and strengthening of transparency principles in administration. In this regard the Ombudsman representatives took part at a couple of expert meetings that dealt with these issues from multiple aspects, particularly from the aspect of importance of guaranteeing of the rights of minorities as one of the commitments taken by candidate countries in process of their EU integrations. Some of the meetings were the following:

Regional Conference "Implementation of the rights of minorities in the Balkans region: trends, challenges and perspectives held in Skopje.

Joint Launching Conference on Best Practices for Roma Integration – EU/ OSCE-ODIHR  
Promoting Human Rights and Minority Protection in South East Europe – EU/CoE  
Regional Initiative for Inclusive Education – EU/CoE

Regional Seminar organized by the European Commission and TAIEX, which took place in Stockholm had an objective is to highlight the crucial role of the Ombudsman institution for good governance in the enlargement countries. Emphasis was put on rule of law and good governance, and one of the instruments for the establishment of good administration is better transparency in work of the public bodies. European standards were presented to the participants of this seminar in the field on free access to information and personal data protection.

Regional conference entitled „Co-operation of the National Parliaments and Independent Bodies in South East Europe” was held in Belgrade with the support of OSCE Mission to the Republic of Serbia, Foundation for an Open Society and Friedrich Ebert Foundation was an opportunity to visit the Protector of Citizens of the Republic of Serbia. Expert meetings in the region are aimed at strengthening of regional co-operation of the Ombudsman institutions

from ex-Yugoslavia based on principles agreed in Sarajevo on 18 May 2010 and presented in the signed Statement on Co-operation.

The Ombudsman of the Republic of Macedonia as a national human rights institution accredited by International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights – ICC in status "B" organized a conference in Skopje inviting the Ombudsman of Bosnia and Herzegovina as a NHRI with accreditation status "A" to convey its experience in accreditation process. Emphasis was put on harmonization of the work of an Ombudsman Institution with international standards and best practices through a review of legal, political and economic aspects of the current institutional framework for the human rights protection in line with political and socio-economic specifics in each country.

Necessity for deepening and strengthening of co-operation between the regional equality bodies for more efficient combating against discrimination resulted in a regional roundtable in Belgrade on "Implementation of rules on burden of proof in matters involving discrimination in proceedings before the equality bodies". One of the conclusions of the Conference at which the Ombudsman had an active role was that case-law of the courts has not been extensive enough to be referred to in disputes involving discrimination, and that relatively small number of proceedings before the court were initiated for discrimination and that even formal registration of such type of cases is questionable.

In the area of discrimination the Ombudsman had close co-operation with the Czech NGO Poradna pro občanství, občanska a lidska prava, and exchange of experience in the implementation of the Law on Prohibition of Discrimination through its participation at the Workshop on „Combating discrimination through strategic litigation“ held in Prague and Brno.

Having ended activities on the „Peer to Peer“ Project that saw active participation of the Ombudsman representatives in previous years, in 2012 the Council of Europe has developed a project focusing on migrations and the protection of the rights of IDPs which was a main topic of a conference held in Belgrade in December for the Ombudsmen of South Caucasus and ex-Yugoslavia where representatives of the BiH Ombudsman took part as well.

The Conference "Bringing together the Watchdogs: Evaluating and Enhancing the Oversight of Intelligence Service in the Western Balkans" organized by DCAF - Center for Democratic Control of Armed Forces Geneva, took place in Ljubljana with participation of the regional parliaments, Ombudsman institutions and media and that was the end of the international engagement of the Ombudsman in the reporting period.

As for the activities related to the international co-operation within the BiH, in 2012 the Ombudsman continued collaboration with its partner organizations that support the Ombudsman owing to the nature of their mandate and objectives. These are primarily OSCE, Council of Europe, UN agencies acting in Bosnia and Herzegovina (UNICEF, UNHCR, UNDP, UN Women), the US Embassy, Delegation of the European Commission to BiH, ICMP, NATO.

Co-operation with Save the Children continued in 2012 through the implementation of the Project activities of the Department for the protection of the rights of the child, then through support of the Save the Children aimed at empowerment and visibility of the Ombudsman in particular in the process of reporting to the UN Committee for the Rights of the Child and



participation in the work of the European Network of Ombudsmen for Children (ENOC), as well as support to the activities on marking of the Day of the Child, 20 November.

In the area of the children rights protection the Ombudsman realized remarkable co-operation with the UNICEF in BiH participating in their activities, surveys, consultations and like. In 2012 the mentioned activities related to the following fields and topics:

- better protection of children from violence
- access of children to justice with emphasis to children and youth in conflict with law
- institutional care of children without the parental care
- increased possibilities for early learning
- protection of the rights of the child in light of preparation of the Progress report in the process of EU enlargement

Co-operation between the Ombudsman and OSCE Mission to BiH has continued in 2012 in a couple of segments:

- implementation of the Project activities earmarked to the Ombudsman's capacity-building training received from two seminars, the first being on human resources management and the second one on the enhancement of the internal and external communication of the Ombudsman in addition to capacity-building in the area of discrimination
- Intensification of co-operation between the Ombudsman's field offices and the OSCE
- Implementation of the promotion activities in form of participation at local radio stations aimed at awareness-raising on the implementation of the Law on Prohibition of Discrimination and the mandate of the Institution
- Support in the promotion of the Ombudsman's Report on human rights situation in the criminal sanctions execution establishments in BiH
- Initiation of the activities related to the strengthening of protection mechanisms of the Law on Freedom of Access to Information

Co-operation with the Office of the Council of Europe in Sarajevo is primarily taking form of meetings with monitoring missions:

- Advisory Committee of the Framework Convention for the Protection of National Minorities
- Delegation of the Parliamentary Assembly of the Council of Europe
- Congress of local and regional authorities of the Council of Europe
- Monitoring mission on the Framework Convention for the Protection of National Minorities of the Council of Europe

The Ombudsman also participated in the activities of the Council of Europe related to education and promotion of professionalism and tolerance in BiH media, with focus to hate speech.

The Ombudsman BiH is particularly grateful to the Embassy of the Kingdom of Norway which supported the Project of preparation and re-design of the Ombudsman's web site in three official languages in order to facilitate access to information and documents of the Ombudsman to all the citizens. Activities on implementation of this Project are ongoing.

The Ombudsman also thanks to the Office of UNDP in Sarajevo which gave support to the Project of strengthening of capacity of the Ombudsman's Office in Brčko District BiH, which also covers the most densely populated Municipality of Tuzla in the FBiH.

Another partner of the Ombudsman Institution for many years now is the Swiss Embassy in BiH which provided financial support through the OSCE in order to facilitate capacity-building and enhancement of skills of the employees. In this sense we are grateful to the Embassy of Switzerland and the US Embassy which have recognized the importance of the Ombudsman's initiative to provide training to young educated people in the period when the state authorities do not have vision or plan of professional training for young people, in particular in the area of human rights. Ombudspersons hope that in the future there will be possibilities to development similar co-operation with the other institutions in order to establish continuous training opportunities in protection and promotion of human rights.

## CHAPTER VII – CO-OPERATION WITH MEDIA

Media are an important partner of the Institution, therefore Ombudspersons have paid particular attention to the establishment of professional co-operation with both electronic and printed media on the equal bases on the whole territory of BiH. Such an approach secures that citizens are informed on due time on all the issues involving human rights

At the same time, topics tackled in media space, especially through research journalism are a useful input for the Ombudsman for its investigations made ex officio and a good basis for the establishment of human rights situation. Therefore the Ombudsman follows-up media reports with attention, especially when it is related to vulnerable categories such as children, elderly, disabled etc. In this sense media, through the topics they affirm in their reporting have an important role in discovering of human rights violations in situations when actors are not able to address the Institution themselves.

Co-operation with media could also be seen from the aspect of recommendations issued by the Ombudsman in respect to the protection of the child's right to privacy in media of BiH that followed an extensive research results of which were presented in a special report.

Issues that attract the attention of the journalists are the same issues attracting the attention of the Ombudsman and these involve free access to information, mobbing, verbal assaults etc. In this regard the Ombudsman representatives had a meeting with representatives of journalist association in the framework of research as a preparation for a special report.

Respecting the principles of transparency, during 2012 the Ombudsman tried to meet all the requests for information, and at the same time to inform the media and attract their interest for topics related to human rights that could be interesting for all the citizens. Readiness of Ombudspersons and their assistants to cooperate with journalists had contributed a lot to the fact that most requests for information were met in due time thus giving the general public an insight to all relevant human right issues.

In 2012 the Ombudsman received and responded to **153 media requests for information** which included providing comments or answers to various issues or participation in electronic media programs. In press releases issued, the Ombudspersons presented views and standpoints of the Institution on different issues of public interest, especially with regard to the additional mandate of the Institution (discrimination, public competitions, protection of vulnerable groups). In addition to that, Ombudspersons had a significant number of media appearances based on direct contacts with journalists established on the occasions involving their participation in different public events organized by domestic or international NGOs that tackled variety of human rights issues. Such public statements are not included in the above statistics, as well as individual media statements during the press conferences. The Ombudsman Institution has organized **five press conferences** in 2012 to present their special reports or to mark significant human rights dates.

While the level of media interest for the activities of the Ombudsman in 2012 kept almost the same as in 2011, the difference is visible in topics attracting the media attention. In the framework of the Ombudsman's mandate, media interest was mostly focused to the concrete cases handled by the Ombudsman Institution, recommendations issued by the Ombudsman earmarked to the human rights violations redress, statistics on human rights violations or the views of Ombudspersons on various issues falling into category of economic, social or civil and political rights – 48, for instance, or the labor rights, property rights, administration, courts etc.

**Discrimination, and especially mobbing as one of the forms of discrimination, was a point of interest in most cases - 36.** It is possible to assume that media interest for this topic had caused an increase of citizens turning to the Institution on that basis in 2012. This way the Ombudsman in co-operation with media, making these issues actual, had informed the citizens on mechanisms of their protection from discrimination. Particular attention of media was paid to the first annual report on the occurrences of discrimination in BiH, as well as the first court sentence for mobbing in BiH that also had a loud echo in public. From the aspect of realized contacts with media, it is also important to mention that the rights of LGBT population, although not very high in percentage, attracted media interest in 2012. What is also important to say is that co-operation of the Ombudsman, that is, its Department for Elimination of all Forms of Discrimination and OSCE Mission to Bosnia and Herzegovina on the promotion of the Law on Prohibition of Discrimination continued in 2012 through the participation of the Ombudsman's representatives in different radio shows dedicated to this issue.

Particular attention in their work the Ombudsman through its Department for the Protection of the Rights of the Child in co-operation with the partner organization „Save the Children“, is paid to the protection of the rights of the child. It resulted in three special reports that were presented to the general public at press conferences in Banja Luka, Sarajevo and Mostar (for more information see chapter with the activities of the Department for the Protection of the Rights of the Child ). In addition to these activities, various aspects of children's rights were subject to many media appearances of the representatives of the Ombudsman. In 2012 we had 33 media requests for information related to the rights of the child.

Compared to 2011 there was observed **a media shift of attention so that there was expressed interest in the rights of national, religious and other minorities, especially the Roma population**, as it could be seen from an increased number of media requests related to this issue. Significant increase of interest could be also be noted in the area of the rights of prisoners and detainees. Rights of the persons with disabilities were paid somewhat less media attention in 2012 compared to 2011, which calls for better promotion of their rights. In addition to the mentioned topics, other topics related to the promotion and enhancement of human rights were also presented in media.

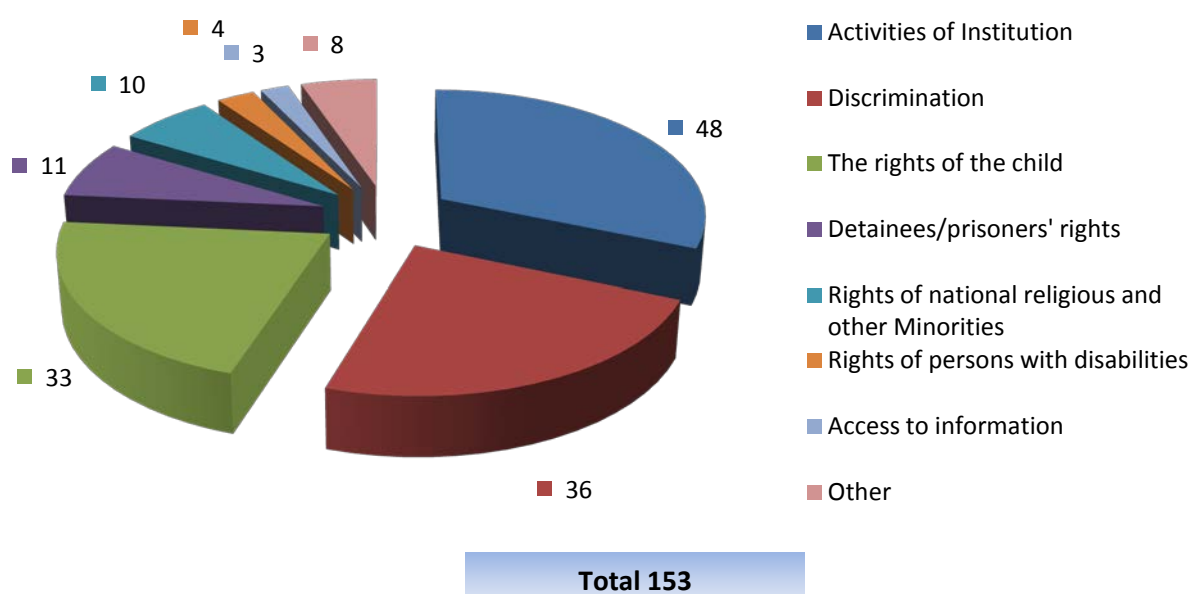


Chart 19: Overview of media requests for information by human rights area

**The most of media appearances involving Ombudspersons and their assistants took place in electronic media.** These involve statements and participation in TV houses programs, and in radio shows. The next most frequent media type are printed media, portals and news agencies. Number of appearances in radio shows and printed media is almost equal. This is in contrary of the trend from 2011 where the interest of TV and radio outlets was increasingly higher than the interest of printed media. Now it came into balance when it comes to media interest in work of the Ombudsman.

As for TV outlets, it is the BHRT that is mostly interested in following-up the work of the Ombudsman and then come the local radio stations from the territory of the whole Bosnia and Herzegovina. Out of all printed media, Start magazine showed higher interest in work of the Ombudsman than the other media outlets.

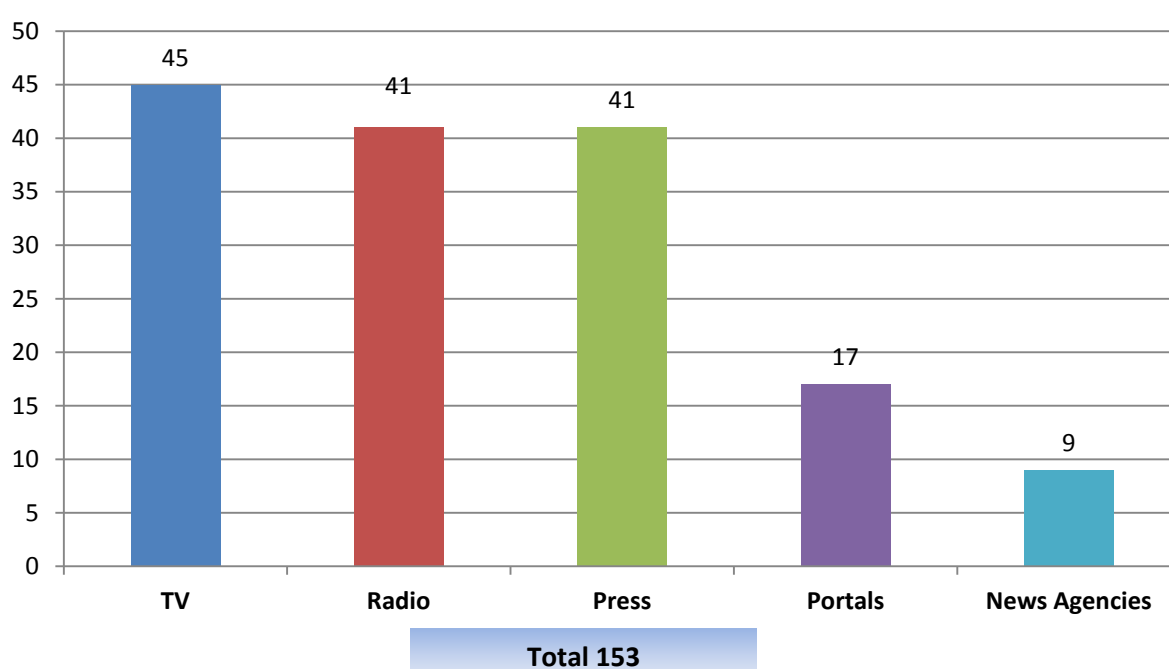


Chart 20: Media interest for the work of the Ombudsman Institution by media outlet type

Ombudspersons put efforts to boost media attention in order to inform citizens by increased presence in regional and field offices of the Institution. This was the additional promotion of their work and another possibility for the citizens for addressing the Institution in any of the offices such as Livno, Mostar or Brčko District, which were most present in media after the headquarters in Banja Luka and Sarajevo Office.

The public was regularly updated on the activities of the Ombudsman through **50 individual press releases** published at the web site of the Ombudsman ([www.ombudsmen.gov.ba](http://www.ombudsmen.gov.ba)), which were used by both printed and electronic media. These information were mostly follow-up of the activities of Ombudspersons and their assistants and they included visits to local communities, co-operation with Ombudsman networks, various project activities, participation at conferences, lectures and seminars in the country and abroad. In addition to that there were presentations of special reports and other relevant publications. The web site of the Institution includes also a complaint form that the applicants can use for their complaints among other contents. All the news are given in three official languages on rotation basis. This was to compensate for lack of full representation of all three languages which was caused by technical and material restrictions for which the Ombudsman was unable to provide that the full content be presented in three official languages. In order to make this breakthrough the Ombudsman sought the ways to have all three languages fully presented and so designed web site will appear in 2013.

## CHAPTER VIII – TABLE OVERVIEW OF RECOMMENDATIONS

Recommendation no.	Case no.	Respondent party	Violated right	Recommendation date	Implementation	Received reply
P-1/12	Ž-BL-05-210/11	WATERWORKS AND SEWERAGE PUBLIC COMPANY "15. APRIL" AD VIŠETOWN OF -- VIŠETOWN OF	03 - Access to information	04-01-12	Cooperation established	YES
P-2/12	Ž-BL-04-841/10	PRIMARY SCHOOL "VUK KARADŽIĆ" BRATUNAC -- BRATUNAC	03 - Access to information	04-01-12	Complied with	YES
P-3/12	Ž-MO-05-193/10	TOWN OF MOSTAR - MOSTAR --PRESIDENT OF CITY COUNCIL OF THE TOWN OF MOSTAR	19 - Administration	04-01-12	No reply	NO
P-4/12	Ž-SA-05-859/11	FACULTY OF DENTISTRY OF THE SARAJEVO UNIVERSITY -- SARAJEVO	03 - Access to information	22-11-11	Complied with	YES
P-5/12	SPECIAL REPORT OF THE OMBUDSMAN ON IMPLEMENTATION OF ARTICLE 143 OF THE LABOR LAW Ž-BL-04-113/10, Ž-BL-04-14/10, Ž-BL-04-818/10, Ž-SA-05-286/10	MINISTRY OF LABOR AND SOCIAL POLICY OF THE FEDERATION OF BOSNIA AND HERZEGOVINA	10 - Labor relations	29-12-11	No reply	NO
P-6/12	Ž-SA-04-1157/11	GOVERNMENT OF THE FEDERATION OF BIH -- SARAJEVO	25 - Pensions	16-01-12	Complied with	YES
P-7/12	Ž-SA-05-1223/11	COUNCIL OF MINISTERS OF BIH -- SARAJEVO	19 - Administration	19-01-12	Complied with	YES
P-8/12	Ž-SA-04-1146/11	TOWN OF MOSTAR, GOVERNMENT OF HNK, OPĆINE SA PODRUČJA HNK	14 - Environmental protection	25-01-12	No reply	NO
P-9/12	Ž-SA-04-1146/11	MUNICIPALITY OF TRAVNIK , GOVERNMENT OF SBK AND MUNICIPALITIES FROM THE TERRITORY OF SBK	14 - Environmental protection	25-01-12	Cooperation established	YES
P-10/12	Ž-BL-04-549/11	PRIMARY SCHOOL "ŠTURLIĆ" -- ŠTURLIĆ	10 - Labor relations	01-02-12	Complied with	YES
P-11/12	Ž-BL-01-608/11	PRIMARY SCHOOL "MLADEN STOJANOVIĆ" G.PODTOWN OFCI -- GORNJI PODTOWN OFCI-TOWN OFIŠKA	13 - Rights of the child	03-02-12	Complied with	YES
P-12/12	Ž-SA-05-509/11, Ž-SA-05-952/11	FACULTY OF PHILOSOPHY OF THE UNIVERSITY OF SARAJEVO- SARAJEVO, CANTONAL ADMINISTRATION FOR INSPECTIONS -- CHIEF CANTONAL INSPECTOR FOR EDUCATION,	10 - Labor relations	13-02-12	Not complied with	YES

		MINISTRY OF EDUCATION AND SCIENCE OF THE CANTON OF SARAJEVO				
P-13/12	Ž-SA-05-771/11, Ž-SA-05-772/11	PARLIAMENTARY ASSEMBLY OF BIH -- SARAJEVO	22 - Governmental and ministerial appointments	02-02-12	Complied with	YES
P-14/12	Ž-BL-05-709/11	PENSION AND DISABILITY INSURANCE FUND OF RS, BANJA LUKA BRANCH AND BIJEJINA BRANCH	03 - Access to information -- 03-2 - refusal to grant access	03-02-12	Complied with	YES
P-15/12	Ž-BL-06-610/11	INTERNET PORTAL WWW.TUZLARIJE.NET - EDITOR, TUZLA	01 - Discrimination -- 01-11 - Based on ethnic origin	03-02-12	Complied with	YES
P-16/12	Ž-BL-02-554/11	MINISTRY OF HEALTH OF THE GOVERNMENT OF UNA-SANA CANTON - BIHAĆ	12 - Disabled persons	03-02-12	Complied with	YES
P-17/12	Ž-BL-04-500/11	PC"ELEKTROKRAJINA" AD BANJA LUKA PU "ELEKTRODISTRIBUCIJA" BANJA LUKA	21 - Public utilities	03-02-12	Cooperation established	YES
P-18/12	Ž-BL-05-183/11	REPUBLIC ADMINISTRATION OF LAND SURVEY AND PROPERTY ISSUES - PU BANJALUKA	09 - Courts --09-3 Enforcement of judgments	03-02-12	Cooperation established	YES
P-19/12	Ž-SA-04-478/11	MINISTRY UNUTRAŠNJIH POSLOVA KANTONA SARAJEVO - SARAJEVO	10 - Labor relations	06-02-12	Not complied with	YES
P-20/12	Ž-SA-07-1217/11	DOBOJ PRISON- DOBOJ	07 - Prisons	09-02-12	Cooperation established	YES
P-21/12	Ž-SA-05-810/11	GOVERNMENT OF BPK CANTON GORAŽDE , MINISTRY OF SOCIAL POLICY, HEALTH CARE, DISPLACED PERSONS AND REFUGEES OF BPK GORAŽDE	22 - Governmental and ministerial appointments	10-02-12	Cooperation established	YES
P-22/12	Ž-SA-05-3/12	PI "CANTONAL SOCIAL WELFARE CENTER ", SARAJEVO ,MINISTRY OF INTERIOR OF SARAJEVO CANTON- SARAJEVO	19 - Administration	29-02-12	Complied with	YES
P-23/12	Ž-BR-04-335/11	MUNICIPALITY OF BRATUNAC -- BRATUNAC	19 - Administration	19-03-12	Not complied with	YES
P-24/12	Ž-MO-04-10/11	TOWN OF MOSTAR – THE MAYOR OF MOSTAR	25 - Pensions	28-02-12	No reply	NO
P-25/12	Ž-MO-04-126/11, Ž-MO-04-136/11, Ž-MO-04-98/11	FEDERAL MINISTRY OF AGRICULTURE, WATER MANAGEMENT AND FORESTRY SARAJEVO -- SARAJEVO	10 - Labor relations	28-02-12	Complied with	YES
P-26/12	Ž-SA-05-1161/11	MUNICIPALITY OF VOGOŠĆA , MINISTRY OF LANDSCAPING AND ENVIRONMENTAL PROTECTION OF SARAJEVO CANTON	15 - Property relations	17-02-12	Complied with	NO
P-27/12	Ž-BL-04-553/11	UNIVERSITY OF SARAJEVO-FACULTY OF CIVIL ENGINEERING -- SARAJEVO	10 - Labor relations	02-03-12	Cooperation established	YES
P-28/12	Ž-BL-05-67/12	BASIC COURT PRIJEDOR -- PRIJEDOR	09 - Courts - 09-2 - length	02-03-12	Complied with	YES
P-29/12	Ž-BL-05-748/11	COUNCIL OF MINISTERS OF BIH -- SARAJEVO	22 - Governmental and	02-03-12	Not complied with	YES



			ministerial appointments			
P-30/12	Ž-BL-06-649/11	ART SCHOOL BIHAĆ - BIHAĆ, MINISTRY OF EDUCATION, SCIENCE, CULTURE AND SPORTS OF USK - BIHAĆ	01 - Discrimination	13-03-12	Cooperation established	YES
P-31/12	Ž-BL-04-86/12	THE MINISTRY OF EDUCATION OF THE REPUBLIC OF SRPSKA -- BANJA LUKA	10 - Labor relations	13-03-12	Complied with	YES
P-32/12	Ž-BL-05-738/11	MUNICIPALITY OF VELIKA KLADUŠA -- VELIKA KLADUŠA	03 - Access to information -- 03-1 – non-deciding within legal deadlines	13-03-12	No reply	NO
P-33/12	Ž-BL-01-688/11	SOCIAL WELFARE CENTER DOBOJ -- DOBOJ	13 - Rights of the child	13-03-12	Complied with	YES
P-34/12	Ž-BL-01-446/09	MINISTRY OF EDUCATION, SCIENCE, CULTURE AND SPORTS OF HNŽ -- MOSTAR	13 - Rights of the child	14-03-12	No reply	NO
P-35/12	Ž-SA-01-861/11	MEDICAL FORENSICS INSTITUTE -SARAJEVO- SECOND-INSTANCE PROCEEDINGS DEPARTMENT	23 - Health care	16-03-12	No reply	NO
P-36/12	Ž-SA-05-94/12	FACULTY OF MEDICINE AT SARAJEVO UNIVERSITY -- SARAJEVO	03 - Access to information -- 03-2 - refusal to grant access	19-03-12	Partially complied with	YES
P-37/12	Ž-SA-05-1456/10	REPUBLIC ADMINISTRATION OF LAND SURVEY AND PROPERTY ISSUES -- BANJALUKA	03 - Access to information	02-03-12	Not complied with	YES
P-38/12	Ž-SA-05-1260/11	MUNICIPALITY OF TUZLA - TUZLA, CANTONAL ADMINISTRATION FOR INSPECTIONS – TUZLA	19 - Administration	26-03-12	Cooperation established	YES
P-39/12	Ž-SA-05-1260/11	CIVIL SERVICE AGENCY OFF BiH-SARAJEVO	19 - Administration	26-03-12	No reply	NO
P-40/12	Ž-SA-05-323/12	MUNICIPAL COURT MOSTAR -- MOSTAR	09 - Courts	29-03-12	Complied with	YES
P-41/12	Ž-SA-02-375/11	THE MINISTRY OF JUSTICE AND ADMINISTRATION OF SARAJEVO CANTON -- SARAJEVO	12 - Disabled persons	29-03-12	Cooperation established	YES
P-42/12	Ž-SA-04-78/12	FEDERAL MINISTRY OF LIBERATION WAR VETERANS AND DISABLED BY WAR – SARAJEVO	25 - Pensions	29-03-12	Complied with	YES
P-43/12	Ž-SA-05-1187/11	THE RS MINISTRY OF EDUCATION AND CULTURE -- BANJALUKA	22 - Governmental and ministerial appointments	29-03-12	Cooperation established	YES
P-44/12	Ž-SA-05-127/12	STEERING BOARD OF PROFESSIONAL REHABILITATION AND EMPLOYMENT OF DISABLED PERSONS OF F BiH - SARAJEVO	22 - Governmental and ministerial appointments	29-03-12	Complied with	YES
P-45/12	Ž-SA-05-1220/11	GOVERNMENT OF TUZLA CANTON AND MINISTRY OF HEALTH OF TUZLA CANTON – TUZLA	21 - Public utilities	29-03-12	No reply	NO
P-46/12	Ž-SA-05-1175/1	MINISTRY ZA PITANJE BORACA I RATNIH	03 - Access to information	29-03-12	Complied with	YES

		VOJNIH INVALIDA USK - BIHAĆ				
P-47/12	Ž-SA-05-399/11	MUNICIPAL COURTU BUGOJNU -- BUGOJNO	09 - Courts	02-04-12	Complied with	YES
P-48/12	Ž-SA-04-1271/11	MINISTRY OF LABOR, SOCIAL POLICY AND REFUGEES OF SARAJEVO CANTON AND MINISTRY OF SOCIAL POLICY, HEALTH CARE, DISPLACED PERSONS AND REFUGEES OF ZE-DO CANTON - ZENICA	24 - Social care	30-04-12	Cooperation established	YES
P-49/12	Ž-BL-05-162/12	PRIMARY SCHOOL "VUK STEFANOVIĆ KARADŽIĆ" DOBOJ -- DOBOJ	03 - Access to information -- 03-2 - refusal to grant access	02-04-12	Cooperation established	YES
P-50/12	Ž-BL-05-568/10	REPUBLIC ADMINISTRATION OF LAND SURVEY AND PROPERTY ISSUES RS - BANJA LUKA	09 - Courts	03-04-12	Cooperation established	YES
P-51/12	Ž-SA-05-1314/11	PI ELEKTROPRIVREDA BIH -- SARAJEVO	03 - Access to information	27-03-12	Complied with	YES
P-52/12	Ž-SA-04-552/11,	APPEALS BOARD OF CIVIL SERVICE ADMINISTRATION OF THE FEDERATION OF BIH - SARAJEVO	10 - Labor relations	05-04-12	Cooperation established	YES
P-53/12	Ž-SA-05-291/12	PRIMARY SCHOOL "AVDO SMAJLOVIĆ" -- SARAJEVO	19 - Administration	27-04-12	Complied with	YES
P-54/12	Ž-MO-05-143/10	TOWN OF MOSTAR – THE MAYOR OF MOSTAR	15 - Property relations	27-04-12	Complied with	YES
P-55/12	Ž-MO-05-178/11	TOWN OF MOSTAR - THE MAYOR OF MOSTAR	15 - Property relations	27-04-12	No reply	NO
P-56/12	Ž-SA-04-178/12	MUNICIPALITY OF NOVI TRAVNIK -- NOVI TRAVNIK	10 - Labor relations	27-04-12	Not complied with	YES
P-57/12	Ž-SA-04-217/11	PENSION AND DISABILITY INSURANCE FUND -- TUZLA	25 - Pensions	30-04-12	Complied with	YES
P-58/12	Ž-BL-05-149/12	MUNICIPALITY OF PRNJAVOR-THE MAYOR AND HEAD OF INSPECTIONS DEPARTMENT – PRNJAVOR	19 - Administration	10-05-12	Cooperation established	YES
P-59/12	Ž-BL-05-5304/08	GOVERNMENT OF THE FEDERATION OF BIH -- SARAJEVO	15 - Property relations	21-05-12	Complied with	YES
P-60/12	Ž-BL-06-73/12	"ELEKTROKRAJINA" AD BANJA LUKA -- BANJA LUKA	01 - Discrimination --01-03 - Mobbing	27-04-12	Complied with	YES
P-61/12	Ž-SA-05-1001/11, Ž-SA-05-1062/11, Ž-SA-05-1109/11, Ž-SA-05-974/11, Ž-SA-05-997/11, Ž-SA-05-999/11	GOVERNMENT OF SBK – PRIME MINISTER OF SBK GOVERNMENT, MINISTRY OF EDUCATION, SCIENCE, CULTURE AND SPORTS OF SBK -- TRAVNIK	22 - Governmental and ministerial appointments	08-05-12	No reply	NO
P-62/12	Ž-SA-02-596/11	CANTONAL COURT SARAJEVO -- SARAJEVO	25 - Pensions	08-05-12	Cooperation established	YES

P-63/12	Ž-SA-05-311/12	MUNICIPALITY OF CENTAR SARAJEVO – LANDSCAPING ADMINISTRATION FOR ZA UPRAVU ZA PROSTORNO UREĐENJE I KOMUNALNE POSLOVE - SARAJEVO	19 - Administration	10-05-12	Complied with	YES
P-64/12	Ž-SA-07-1238/11	KAZNENO -POPRAVNI ZAVOD ZATVORENOG TIPRA ZENICA- ZENICA	07 - Prisons	08-05-12	Cooperation established	YES
P-65/12	Ž-SA-02-348/11	INSTITUT ZA MEDICINSKO VJEŠTAČENJE ZDRAVSTVENOG STANJA KANTON SARAJEVO - SARAJEVO	12 - Disabled persons	06-07-12	No reply	NO
P-66/12	Ž-BL-04-757/11	THE RS MINISTRY OF EDUCATION - BANJA LUKA	17 - Public documents	28-05-12	Complied with	YES
P-67/12	Ž-SA-05-1516/10	MUNICIPALITY OF VITEZ – PROPERTY AFFAIRS, CADASTRE AND URBAN DEVELOPMENT DEPARTMENT – VITEZ	15 - Property relations	17-05-12	No reply	NO
P-68/12	Ž-SA-06-357/09	THE PROSECUTOR'S OFFICE OF BIH -- SARAJEVO	01 - Discrimination -- 01-03 - Mobbing	21-05-12	Complied with	YES
P-69/12	Ž-SA-05-1191/11	MUNICIPALITY OF DRVAR – MUNICIPAL COUNCIL, EXPERT SERVICES OF THE MUNICIPALITY OF DRVAR	03 - Access to information	21-05-12	Complied with	YES
P-70/12	Ž-SA-05-644/11	MINISTRY OF JUSTICE FBIH -- SARAJEVO	03 - Access to information	21-05-12	Complied with	YES
P-71/12	Ž-SA-05-33/11	MUNICIPAL COURT VISOKO -- VISOKO	15 - Property relations	22-05-12	Complied with	YES
P-72/12	Ž-SA-06-534/12	SECONDARY SCHOOL STOLAC – GRAMMAR SCHOOL- STOLAC	01 - Discrimination -- 01-14 - Based on political or other opinion	13-06-12	Cooperation established	YES
P-73/12	Ex officio – Initiative for the amendments to the Law on Misdemeanors, Ž-BL-05-476/12	THE NATIONAL ASSEMBLY OF RS - BANJA LUKA, THE ASSEMBLY OF BRČKO DISTRICT - BRČKO AND PARLIAMENT OF FBIH - SARAJEVO	05 - Police	29-05-12	Cooperation established	YES
P-74/12	Ž-SA-04-1306/11	FEDERAL MINISTRY OF LABOR, SOCIAL POLICY – COMMISSION FOR IMPLEMENTATION OF ARTICLE 143 OF THE LABOR LAW – SARAJEVO	10 - Labor relations	29-05-12	Cooperation established	YES
P-75/12	Ž-BL-04-335/12	MINISTRY OF LABOR AND SOLDIERS AND DISABLED PERSONS PROTECTION OF THE RS – COMMISSION FOR IMPLEMENTATION OF ARTICLE 182 OF THE LABOR LAW -- BANJA LUKA	10 - Labor relations	28-05-12	Complied with	YES
P-76/12	Ž-BL-04-337/12	MINISTRY OF LABOR AND SOLDIERS AND DISABLED PERSONS PROTECTION OF THE RS – COMMISSION FOR IMPLEMENTATION OF	10 - Labor relations	28-05-12	Complied with	YES

		ARTICLE 182 OF THE LABOR LAW -- BANJA LUKA				
P-77/12	Ž-BL-05-85/12	GOVERNMENT OF UNA SANA CANTON -- BIHAĆ	22 - Governmental and ministerial appointments	29-05-12	No reply	NO
P-78/12	Ž-BL-04-91/12	THE RS MINISTRY OF REFUGEES AND DISPLACED PERSONS – BANJA LUKA DEPARTMENT – BANJA LUKA	19 - Administration	29-05-12	Complied with	YES
P-79/12	Ž-SA-04-552/11	FEDERAL MINISTRY OF ECOLOGY AND TOURISM -- SARAJEVO	10 - Labor relations	29-05-12	Cooperation established	YES
P-80/12	SPECIALNI REPORT on the implementation of the Law on Cessation of the Implementation of the Law on Use of Abandoned Property in the Republic of Srpska, Law on temporary abandoned real property owned by citizens in the Federation of Bosnia and Herzegovina, the Law on Amendments to the Law on Abandoned Apartments in the Federation of BiH; Ž-SA-05-299/12, Ž-SA-05-838/11	GOVERNMENT OF FBiH, PARLIAMENT OF F BiH, MINISTRY OF HUMAN RIGHTS AND REFUGEES OF BiH, MINISTRY OF REFUGEES AND DISPLACED PERSONS OF F BiH, GOVERNMENT OF RS, THE NATIONAL ASSEMBLY OF RS, THE MINISTRY OF HUMAN RIGHTS AND REFUGEES OF THE REPUBLIC OF SRPSKA	09 - Courts - 09-2 - length	29-05-12	No reply	NO
P-81/12	Ž-SA-06-264/12	CAFEE "BRAZIL" SARAJEVO	01 - Discrimination -- 01-13 - Based on affiliation with national minority	04-06-12	Complied with	YES
P-82/12	Ž-SA-05-102/10,	MUNICIPALITY OF DONJI VAKUF -- DONJI VAKUF	19 - Administration	06-06-12	No reply	NO
P-83/12	Ž-SA-05-301/12	MUNICIPAL COURT TUZLA -- TUZLA	09 - Courts - 09-2 - length	04-06-12	Complied with	YES
P-84/12	Ž-SA-05-303/12	MUNICIPALITY OF FOČA -- FOČA	03 - Access to information	04-06-12	Complied with	YES
P-85/12	Ž-SA-05-632/11	FEDERAL THE MINISTRY OF JUSTICE - ADMINISTRATIVE INSPECTIONS - SARAJEVO	03 - Access to information -- 03-1 - non-deciding within legal deadlines	06-06-12	Not complied with	YES
P-86/12	Ž-BL-06-292/12	BASIC COURT BANJA LUKA -- BANJA LUKA	01 - Discrimination --01-18 - Based on social status and	15-06-12	Complied with	YES

			gender			
P-87/12	Ž-SA-06-225/12	ELEKTROPRIJENOS BOSNE I HERCEGOVINE A.D. BANJA LUKA	01 - Discrimination -- 01-11 - Based on ethnic origin	15-06-12	Complied with	YES
P-88/12	Ž-SA-05-275/12	MUNICIPAL COURT OF SARAJEVO -- SARAJEVO	09 - Courts -- 09-3 - Enforcement of judgments	15-06-12	Cooperation established	YES
P-89/12	Ž-MO-06-219/10	HERCEGOVINA- NERETVA CANTON ASSEMBLY - MOSTAR	01 - Discrimination	18-06-12	Complied with	YES
P-90/12	Ž-SA-05-257/11	TOWN OF ISTOČNO SARAJEVO – INSPECTIONS – ISTOČNO SARAJEVO	19 - Administration	18-06-12	Cooperation established	YES
P-91/12	Ž-SA-05-1184/10	BOSNIA AND HERZEGOVINA AIR NAVIGATION SERVICES AGENCY - MOSTAR	03 - Access to information	18-06-12	Complied with	YES
P-92/12	Ž-SA-05-229/11	MUNICIPALITY OF NOVI TRAVNIK -- NOVI TRAVNIK	15 - Property relations	18-06-12	No reply	NO
P-93/12	Ž-SA-05-1074/11	REGIONAL BAR ASSOCIATION OF TUZLA-TUZLA	09 - Courts	18-06-12	Cooperation established	YES
P-94/12	Ž-BL-04-542/11	VETERINARY INSPECTIONS OF THE MUNICIPALITY OF DOBOJ -- DOBOJ	19 - Administration	15-06-12	Complied with	YES
P-95/12	Ž-BL-04-406/12	COMMISSION FOR IMPLEMENTATION OF ARTICLE 182 RS -- BANJA LUKA	10 - Labor relations	18-06-12	Cooperation established	YES
P-96/12	Ž-BL-05-186/12	BASIC COURT BANJA LUCI- BANJA LUKA	09 - Courts -- 09-3 - Enforcement of judgments	15-06-12	No reply	NO
P-97/12	Ž-SA-02-56/11	MUNICIPALITY OF GRAČANICA - GRAČANICA	12 - Disabled persons	19-06-12	Cooperation established	YES
P-98/12	Ž-SA-06-971/11	MINISTRY OF DEFENSE BIH -- SARAJEVO	01 - Discrimination -- 01-03 - Mobbing	19-06-12	Complied with	YES
P-99/12	Ž-SA-05-714/12	GOVERNMENT OF THE FEDERATION OF BIH -- SARAJEVO, FEDERALNO MINISTRY OF JUSTICE - SARAJEVO	22 - Governmental and ministerial appointments	29-06-12	No reply	NO
P-100/12	Ž-BL-01-651/11	SOCIAL WELFARE CENTER GORNJI VAKUF-USKOPLJE -- GORNJI VAKUF-USKOPLJE, MUNICIPAL COURT U BUGOJNU - BUGOJNO	13 - Rights of the child	02-07-12	Cooperation established	YES
P-101/12	Ž-SA-05-1219/11	MUNICIPALITY OF STARI TOWN OF -- SARAJEVO	19 - Administration	02-07-12	Cooperation established	YES
P-102/12	Ž-SA-04-1146/11	COUNCIL OF MINISTERS OF BIH -- SARAJEVO	14 - Environmental protection	02-07-12	Cooperation established	YES
P-103/12	Ž-SA-06-478/12, Ž-SA-06-718/12, Ž-SA-06-719/12	MINISTRY OF HEALTH OF SARAJEVO CANTON FEDERAL MINISTRY OF HEALTH - SARAJEVO	01 - Discrimination	05-07-12	Not complied with	YES
P-103/12	Ž-SA-06-478/12, Ž-SA-06-	MINISTRY OF HEALTH OF SARAJEVO CANTON --	23 - Health care	05-07-12	Not complied with	YES

	718/12, Ž-SA-06-719/12	SARAJEVO				
P-104/12	Ž-SA-02-1562/10	MEDICAL FORENSICS INSTITUTE FOR DETERMINATION OF HEALTH CONDITIONS OF SARAJEVO CANTON – MEDICAL FORENSICS DEPARTMENT - SARAJEVO	12 - Disabled persons	06-07-12	Not complied with	YES
P-105/12	Ž-SA-04-380/12	HEALTH INSURANCE INSTITUTE OF ZENICA – DOBOJ CANTON - ZENICA	23 - Health care	04-07-12	Complied with	YES
P-106/12	Ž-SA-05-1192/11	MINISTRY OF INTERIOR OF TUZLA CANTON - TUZLA	03 - Access to information	06-07-12	Complied with	YES
P-107/12	Ž-SA-05-154/12	CANTONAL COURT TUZLA -- TUZLA	09 - Courts - 09-2 - length	06-07-12	Complied with	YES
P-108/12	Ž-SA-05-588/11	MEDICAL FORENSICS INSTITUTE – SARAJEVO	03 - Access to information -- 03-1 - non-deciding within legal deadlines	06-07-12	Not complied with	YES
P-109/12	Ž-SA-04-689/12,	MUNICIPALITY OF ZAVIDOVIĆI -- ZAVIDOVIĆI	10 - Labor relations	06-07-12	Complied with	YES
P-110/12	Ž-SA-05-588/12	MUNICIPAL COURT SARAJEVO - SARAJEVO	15 - Property relations	06-07-12	Cooperation established	YES
P-111/12	Ž-BL-05-165/12	FEDERALNO MINISTRY OF FINANCE -- SARAJEVO	19 - Administration	06-07-12	No reply	NO
P-112/12	Ž-BL-04-364/12	COMMISSION FOR IMPLEMENTATION OF ARTICLE 182 RS -- BANJA LUKA	10 - Labor relations	09-07-12	Complied with	YES
P-113/12	Ž-BL-05-396/12	TOWN OF BANJA LUKA-THE MAYOR - BANJA LUKA	22 - Governmental and ministerial appointments	09-07-12	Cooperation established	YES
P-114/12	Ž-SA-05-207/12	MUNICIPALITY OF ŽIVINICE - ŽIVINICE	22 - Governmental and ministerial appointments	10-07-12	Complied with	YES
P-115/12	Ž-SA-05-1222/11, Ž-SA-05-898/11, Ž-SA-05-899/11	MINISTRY OF INTERIOR OF ZE-DO CANTON -- ZENICA	22 - Governmental and ministerial appointments	10-07-12	Cooperation established	YES
P-116/12	Ž-SA-07-370/12	FEDERAL MINISTRY OF JUSTICE - SARAJEVO	01 - Discrimination -- 01-11 - Based on ethnic origin	20-07-12	No reply	NO
P-117/12	Ž-SA-02-375/11	MINISTRY OF LABOR, SOCIAL POLITICS AND REFUGEES OF SARAJEVO CANTON – SARAJEVO	12 - Disabled persons	20-07-12	Cooperation established	YES
P-118/12	Ž-SA-06-1212/11	MINISTRY OF DEFENSE OF BIH AND JOINT STAFF OF ARMED FORCES OF BIH – SARAJEVO – SARAJEVO	01 - Discrimination -- 01-10 - Based on religion	23-07-12	Cooperation established	YES
P-119/12	Ž-SA-05-388/12	FEDERAL INSPECTIONS ADMINISTRATION -- SARAJEVO	03 - Access to information -- 03-2 - refusal to grant access	23-07-12	Cooperation established	YES
P-120/12	Ž-SA-05-723/11	PRIMARY SCHOOL "BRANKO RADIČEVIĆ" -- BRATUNAC	03 - Access to information -- 03-1 - non-deciding within legal	23-07-12	Cooperation established	YES

			deadlines			
P-121/12	Ž-SA-05-697/12	MINISTRY OF EXTERIOR OF BOSNIA AND HERZEGOVINA - SARAJEVO	17 - Public documents	23-07-12	Cooperation established	YES
P-122/12	Ž-SA-05-578/12	EXPERT SERVICES OF THE ZE-DO CANTON GOVERNMENT -- ZENICA	03 - Access to information	23-07-12	Complied with	YES
P-123/12	Ž-SA-05-1332/11	"ZRAK" D.D. SARAJEVO, PRECISE MECHANICS, OPTICS, ELECTRONICS AND ELECTRICAL MECHANICS COMPANY – SARAJEVO	03 - Access to information	23-07-12	Complied with	YES
P-124/12	Ž-SA-05-407/12	BANKING AGENCY OF FBBIH -- SARAJEVO	03 - Access to information -- 03-2 - refusal to grant access	23-07-12	Complied with	YES
P-125/12	Ž-BL-06-400/12	HEALTH INSURANCE INSTITUTE OF USK-BIHAĆ - BIHAĆ	19 - Administration	09-08-12	Cooperation established	YES
P-126/12	Ž-BL-06-402/12	TAXY ASSOCIATION "ZENICA TAKSI" -- ZENICA	01 - Discrimination -- 01-16 - Based on membership in trade union or other association	13-08-12	Complied with	YES
P-127/12	Ž-SA-05-545/12	CANTONAL ADMINISTRATION FOR INSPECTIONS OF ZE-DO CANTON , MUNICIPALITY OF KAKANJ – INSPECTIONS DEPARTMENT- KAKANJ, MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT OF ZDK, FEDERAL MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT - SARAJEVO	19 - Administration	17-07-12	Cooperation established	NO
P-128/12	Ž-SA-04-158/12	UNIVERSITY OF ZENICA – FACULTY OF MECHANICS ZENICA - ZENICA	10 - Labor relations	01-08-12	Cooperation established	YES
P-129/12	Ž-BL-04-169/12	CANTONAL COURT BIHAĆ - BIHAĆ	25 - Pensions	13-08-12	Complied with	YES
P-130/12	Ž-MO-06-75/11	INTERNATIONAL AIRPORT - MOSTAR AIRPORT - - MOSTAR	01 - Discrimination	10-08-12	Not complied with	YES
P-131/12	Ž-MO-04-107/11	THE MINISTRY OF HEALTH. LABOR AND SOCIAL WELFARE OF HNK/Ž -- MOSTAR	10 - Labor relations	10-08-12	No reply	NO
P-132/12	Ž-SA-05-652/12	MUNICIPALITY OF VOGOŠĆA - VOGOŠĆA, THE MAYOR AND CITY COUNCIL PRESIDENT VOGOŠĆA	19 - Administration	10-08-12	No reply	NO
P-133/12	Ž-SA-05-841/12	MINISTRY OF INTERIOR OF SARAJEVO CANTON -- SARAJEVO	03 - Access to information	10-08-12	Complied with	YES
P-134/12	Ž-SA-05-121/11	PUBLIC COMPANY "STAN" TRAVNIK -- TRAVNIK	03 - Access to information	13-08-12	Complied with	YES
P-135/12	Ž-SA-05-277/12	MUNICIPALITY OF NOVO SARAJEVO - THE	19 - Administration	13-08-12	Cooperation	YES



		MAYOR AND CITY COUNCIL PRESIDENT N.SARAJEVO- SARAJEVO			established	
P-136/12	Ž-BL-05-285/12	BASIC COURT BANJA LUKA -- BANJA LUKA	09 - Courts - 09-2 - length	14-08-12	Cooperation established	YES
P-137/12	Ž-SA-05-496/12	MUNICIPALITY OF CENTAR SARAJEVO - SARAJEVO	15 - Property relations	14-08-12	Cooperation established	YES
P-138/12	Ž-LI-05-98/12	MUNICIPALITY OF LIVNO –THE MAYOR AND CONSTRUCTION, LANDSCAPING AND UTILITIES SERVICE – LIVNO	19 - Administration	04-10-12	Complied with	YES
P-139/12	Ž-SA-05-454/12	MUNICIPALITY OF STARI GRAD SARAJEVO - THE MAYOR AND CITY COUNCIL PRESIDENT OF STARI GRAD SARAJEVO	15 - Property relations	02-08-12	Complied with	YES
P-140/12	Ž-SA-04-1031/11	BANKING AGENCY OF FBiH -- SARAJEVO	01 - Discrimination -- 01-17 - Based on education	14-08-12	Cooperation established	YES
P-141/12	Ž-SA-06-344/12	CIVIL SERVICE AGENCY OF FBiH -- SARAJEVO	01 - Discrimination	15-08-12	Cooperation established	YES
P-142/12	Ž-SA-04-149/12	FEDERALNO MINISTRY OF JUSTICE - SARAJEVO	25 - Pensions	14-08-12	No reply	NO
P-143/12	Ž-SA-05-536/12	CANTONAL COURT SARAJEVO -- SARAJEVO	09 - Courts - 09-2 - length	16-08-12	Complied with	YES
P-144/12	Ž-SA-05-425/12	GOVERNMENT OF SARAJEVO CANTON AND THE CANTONAL ASSEMBLY SARAJEVO - SARAJEVO	22 - Governmental and ministerial appointments	01-10-12	Cooperation established	YES
P-145/12	Ž-SA-05-908/12	GOVERNMENT OF SARAJEVO CANTON -- SARAJEVO	22 - Governmental and ministerial appointments	01-10-12	Complied with	YES
P-146/12	Ž-SA-05-341/12	STEERING BOARD OF SPORTS AND RECREATION CENTER TEŠANJ -- TEŠANJ	22 - Governmental and ministerial appointments	01-10-12	Cooperation established	YES
P-147/12	Ž-BL-05-387/12	REPUBLIC ADMINISTRATION LAND SURVEY AND PROPERTY ISSUES OF RS REGIONAL UNIT ŠIPOVO – ŠIPOVO	03 - Access to information -- 03- 1 - non-deciding within legal deadlines	22-10-12	Complied with	YES
P-148/12	Ž-BL-04-114/12	FEDERAL MINISTRY OF HEALTH – SARAJEVO	17 - Public documents	01-10-12	Cooperation established	YES
P-149/12	Ž-SA-05-920/12	MUNICIPALITY OF CAZIN - CAZIN	19 - Administration	01-10-12	No reply	NO
P-150/12	Ž-SA-05-920/12	GOVERNMENT OF USK - BIHAĆ AND CANTONAL ADMINISTRATION FOR INSPECTIONS OF USK - BIHAĆ	19 - Administration	01-10-12	No reply	NO
P-151/12	Ž-SA-05-492/12	CITY COUNCIL OF THE MUNICIPALITY OF BOSANSKI PETROVAC	22 - Governmental and ministerial appointments	01-10-12	Cooperation established	YES
P-152/12	Ž-SA-05-981/12	MUNICIPALITY OF ZENICA – THE MAYOR AND PROPERTY AND CADASTRE ADMINISTRATION – ZENICA	09 - Courts	04-01-12	Cooperation established	YES



P-153/12	Ž-SA-04-525/12	MINISTRY OF HEALTH AND SOCIAL CARE OF HNK/Ž -- MOSTAR	10 - Labor relations	01-10-12	No reply	NO
P-154/12	Ž-BL-04-515/12	COMMISSION FOR IMPLEMENTATION OF ARTICLE 182 RS -- BANJA LUKA	10 - Labor relations	08-10-12	Complied with	YES
P-155/12	Ž-BL-05-78/12	FEDERAL PENSION AND DISABILITY INSURANCE INSTITUTE MOSTAR	25 - Pensions	08-10-12	Cooperation established	YES
P-156/12	Ž-SA-02-1229/10	HEALTH INSURANCE INSTITUTE SARAJEVO AND GOVERNMENT OF SARAJEVO CANTON	12 - Disabled persons	02-10-12	No reply	NO
P-157/12	Ž-SA-05-480/12	STEERING BOARD OF THE FACULTY OF MEDICINE OF SARAJEVO UNIVERSITY -- SARAJEVO	03 - Access to information	02-10-12	Cooperation established	YES
P-158/12	Ž-SA-05-914/12	MINISTRY OF EDUCATION, SCIENCE, CULTURE AND SPORTS - TUZLA	22 - Governmental and ministerial appointments	02-10-12	No reply	NO
P-159/12	Ž-SA-02-375/11	GOVERNMENT OF SARAJEVO CANTON, MINISTRY OF LABOR, SOCIAL POLITICS, DISPLACED PERSONS AND REFUGEES OF SARAJEVO CANTON AND MINISTRY OF JUSTICE AND ADMINISTRATION OF SARAJEVO CANTON -- SARAJEVO	12 - Disabled persons	26-09-12	Cooperation established	YES
P-160/12	Ž-BL-04-596/12	PRIMARY SCHOOL "SVETI SAVA" NOVI GRAD-- NOVI GRAD	10 - Labor relations	11-10-12	Not complied with	YES
P-161/12	Ž-BL-06-491/12	THE RS MINISTRY OF INTERIOR- LEGAL AND HUMAN RESOURCES ADMINISTRATION - BANJALUKA	01 - Discrimination -- 01-01 - Harassment	22-10-12	Cooperation established	YES
P-162/12	Ž-BL-06-151/12	MUNICIPALITY OF TUZLA – UTILITIES, CONSTRUCTION AND LOCAL COMMUNITIES ADMINISTRATION -- TUZLA	01 - Discrimination -- 01-11 - Based on ethnic origin	22-10-12	Complied with	YES
P-163/12	Ž-BL-06-359/12	PENSION AND DISABILITY INSURANCE FUND OF THE REPUBLIC OF SRPSKA – SECOND-INSTANCE DELIBERATIONS DEPARTMENT – BANJA LUKA	01 - Discrimination -- 01-12 - Based on national or social origin	11-10-12	Not complied with	YES
P-164/12	Ž-SA-06-446/12	TRANSFUSION MEDICINE INSTITUTE OF F BiH - SARAJEVO	01 - Discrimination--01-19- Based on sexual expression or orientation	02-10-12	Complied with	YES
P-165/12	Ž-SA-05-824/12	SARAJEVO CANTON – THE MINISTRY OF EDUCATION, SCIENCE AND YOUTH OF SARAJEVO CANTON	19 - Administration	16-10-12	Complied with	YES
P-166/12	Ž-SA-04-911/12	HEALTH CENTER OF SARAJEVO CANTON -- SARAJEVO	10 - Labor relations	16-10-12	Complied with	YES

P-167/12	Ž-SA-05-1153/11	MUNICIPALITY OF CAZIN - CAZIN	09 - Courts	16-10-12	No reply	NO
P-168/12	Ž-SA-05-598/12	MINISTRY OF INTERIOR OF SARAJEVO CANTON AND INTERNAL CONTROL DEPARTMENT OF THE MINISTRY OF INTERIOR OF SARAJEVO CANTON – SARAJEVO	05 - Police	16-10-12	Cooperation established	YES
P-169/12	Ž-SA-05-627/12	MUNICIPAL ASSEMBLY OF ISTOČNI STARI GRAD OF - ISTOČNI STARI GRAD	22 - Governmental and ministerial appointments	16-10-12	Cooperation established	YES
P-170/12	Ž-SA-05-1012/11	GOVERNMENT OF SARAJEVO CANTON – SARAJEVO	22 - Governmental and ministerial appointments	16-10-12	Cooperation established	YES
P-171/12	Ž-SA-05-1346/11	UNIVERSITY OF TUZLA - TUZLA	22 - Governmental and ministerial appointments	16-10-12	No reply	NO
P-172/12	Ž-SA-05-132/12	GOVERNMENT OF SARAJEVO CANTON -- SARAJEVO	22 - Governmental and ministerial appointments	16-10-12	Cooperation established	YES
P-173/12	Ž-BL-01-253/12	SOCIAL WELFARE CENTER BIHAĆ -- BIHAĆ	13 - Rights of the child	16-10-12	Cooperation established	YES
P-174/12	Ž-BL-01-232/12	MUNICIPALITY OF RIBNIK – THE MAYOR- RIBNIK	13 - Rights of the child	16-10-12	Complied with	YES
P-175/12	Ž-SA-05-256/11	FEDERAL MINISTRY OF JUSTICE - SARAJEVO	09 - Courts -- 09-3 - Enforcement of judgments	24-10-12	Complied with	YES
P-176/12	Ž-SA-05-1014/12	PARLIAMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA - SARAJEVO	19 - Administration	25-10-12	Cooperation established	YES
P-177/12	Ž-SA-04-1067/12	PRIMARY SCHOOL "VELJKO ČUBRILOVIĆ" PRIBOJ MUNICIPALITY OF LOPARE -- LOPARE	10 - Labor relations	30-10-12	Partially complied with	YES
P-178/12	Ž-SA-04-950/12	UNA-SANA CANTON MUSEUM -- BIHAĆ	10 - Labor relations	14-11-12	Complied with	YES
P-179/12	Ž-SA-05-622/12	RADIO – TELEVIZSION OF BOSNIA AND HERZEGOVINA – STEERING BOARD -- SARAJEVO	22 - Governmental and ministerial appointments	08-11-12	Not complied with	YES
P-180/12	SPECIALNI REPORT ON HUMAN RIGHTS SITUATION IN CRIMINAL SANCTIONS EXECUTION ESTABLISHMENTS IN BIH Ž-SA-07-1257/11, Ž-SA-07-370/12	THE MINISTRY OF JUSTICE OF BIH, FBIH AND RS , JUDICIAL COMMISSION OF BD AND PRISON ADMINISTRATION	01 - Discrimination--01-11- Based on ethnic origin	September 2012	Cooperation established	YES
P-181/12	Ž-SA-04-211/12	THE MINISTRY OF EDUCATION, SCIENCE AND YOUTH OF SARAJEVO CANTON – SARAJEVO	10 - Labor relations	28-11-12	Cooperation established	YES
P-182/12	Ž-SA-05-1206/12	CANTONAL COURT SARAJEVO - SARAJEVO	09 - Courts - 09-2 - length	19-11-12	Cooperation established	YES
P-183/12	Ž-BL-05-156/10	ENVIRONMENTAL PROTECTION FUND OF THE REPUBLIC OF SRPSKA -- BANJA LUKA	22 - Governmental and ministerial appointments	05-01-11	Partially complied with	YES

P-184/12	SPECIALNI REPORT ON "CHILDREN AND YOUTH IN CONFLICT WITH LAW /EX OFFICIO Ž-SA-01-1254/12,	PARLIAMENT OF FBiH, ENTITIES AND BD GOVERNMENTS, THE MINISTRY OF JUSTICE OF FBiH AND RS AND INSTITUTIONS FOR ACCOMMODATION OF CHILDREN AND YOUTH IN CONFLICT WITH LAW IN FBiH AND RS	13 - Rights of the child	16-10-12	Cooperation established	YES
P-185/12	Ž-SA-06-227/12	CANTONAL HEALTH INSURANCE INSTITUTE OF ZE-DO CANTON - ZENICA AND FAMILY MEDICINE HEALTH CENTER "CENTAR" - ZENICA	01 - Discrimination -- 01-03 - Mobbing	20-11-12	Not complied with	YES
P-186/12	Ž-BL-06-614/12	NGO "FRONT" TUZLA - TUZLA	01 - Discrimination -- 01-14 - Based on political or other opinion	23-11-12	No reply	NO
P-187/12	Ž-BL-06-492/12	MINISTRY OF DEFENSE OF BIH -- SARAJEVO	01 - Discrimination -- 01-17 - Based on education	22-11-12	Complied with	YES
P-188/12	Ž-SA-06-319/12	CIVIL SERVICE AGENCY OF FBiH -- SARAJEVO	01 - Discrimination -- 01-01 - Harassment	22-11-12	Complied with	YES
P-189/12	Ž-BL-04-790/12	COMMISSION FOR IMPLEMENTATION OF ARTICLE 182 RS -- BANJA LUKA	10 - Labor relations	22-11-12	No reply	NO
P-190/12	Ž-BL-05-318/12	MINISTRY OF FINANCE OF TREASURY OF THE REPUBLIC OF SRPSKA -- BANJA LUKA	22 - Governmental and ministerial appointments	26-11-12	Cooperation established	YES
P-191/12	Ž-SA-06-402/12	BANCRUPTCY GOVERNOR OF "KRIVAJA" D.O.O --ZAVIDOVIĆI ACTING GENERAL DIRECTOR	01 - Discrimination -- 01-03 - Mobbing	23-11-12	Cooperation established	YES
P-192/12	Ž-SA-06-402/12	BANCRUPTCY GOVERNOR OF "KRIVAJA" D.O.O --ZAVIDOVIĆI ACTING GENERAL DIRECTOR	01 - Discrimination -- 01-03 - Mobbing	23-11-12	No reply	NO
P-193/12	Ž-SA-06-402/12	TRADE UNION OF "KRIVAJA" COMPANY, TRADE UNION OF GRAPHIC, EDITING AND MEDIA INDUSTRY OF BIH	01 - Discrimination -- 01-03 - Mobbing	23-11-12	No reply	NO
P-194/12	Ž-SA-05-132/12	GOVERNMENT OF SARAJEVO CANTON AND MINISTRY OF EDUCATION AND SCIENCE OF THE CANTON OF SARAJEVO -- SARAJEVO	22 - Governmental and ministerial appointments	23-11-12	No reply	NO
P-195/12	Ž-LI-05-187/12	MUNICIPAL COURT LIVNO -- LIVNO	09 - Courts -- 09-3 - Enforcement of judgments	03-12-12	Complied with	YES
P-196/12	Ž-LI-05-50/12	FEDERALNO MINISTRY OF DISPLACED PERSONS AND REFUGEES -- SARAJEVO	19 - Administration	03-12-12	Complied with	YES
P-197/12	Ž-LI-04-194/12	GOVERNMENT OF CANTON 10 -- LIVNO	25 - Pensions	04-12-12	No reply	NO
P-198/12	Ž-SA-05-937/12	GOVERNMENT OF SARAJEVO CANTON-- SARAJEVO	22 - Governmental and ministerial appointments	27-11-12	Cooperation established	YES
P-199/12	Ž-SA-05-603/12	MUNICIPALITY OF NOVI TRAVNIK -- NOVI TRAVNIK	19 - Administration	27-11-12	Cooperation established	YES

P-200/12	Ž-LI-05-211/11	CANTON 10 ASSEMBLY – LIVNO	19 - Administration	12-12-12	No reply	NO
P-201/12	Ž-LI-06-161/12	INTER-COUNTY COORDINATION BODY FOR SOCCER COMPETITONS OF LOCAL COMMUNITIES AND SETTLEMENTS-- ČITLUK	01 - Discrimination -- 01-18 - Based on social status and gender	04-12-12	Cooperation established	YES
P-202/12	Ž-SA-04-1190/12	PRIMARY SCHOOL "HAŠIM SPAHIĆ" ILIJAŠ -- ILIJAŠ	10 - Labor relations	30-11-12	Not complied with	YES
P-203/12	Ž-SA-04-957/12,	FEDERAL ADMINISTRATION FOR INSPECTIONS - SARAJEVO	10 - Labor relations	30-11-12	Cooperation established	YES
P-204/12	Ž-SA-04-1112/12	KLINIČKI CENTAR OF SARAJEVO UNIVERSITY -- SARAJEVO	10 - Labor relations	30-11-12	Cooperation established	YES
P-205/12	Ž-BL-05-239/12	MUNICIPAL COURT VELIKA KLADUŠA -- VELIKA KLADUŠA	09 - Courts -- 09-1 - complaints about work of a judge	20-11-12	Cooperation established	YES
P-206/12	Ž-SA-05-1042/12	FEDERAL ADMINISTRATION FOR LAND SURVEY AND PROPERTY ISSUES – SARAJEVO	03 - Access to information	28-12-12	No reply	NO
P-207/12	Ž-SA-05-577/12	MUNICIPALITY OF ZENICA – GENERAL ADMINISTRATION AND HOUSING ADMINISTRATION – ZENICA	19 - Administration	28-12-12	Cooperation established	YES
P-208/12	Ž-SA-04-1336/12	SECONDARY SCHOOL CENTER PALE – SCHOOL BOARD AND CANDIDATES SELECTION PANEL - PALE	10 - Labor relations	28-12-12	Complied with	YES
P-209/12	Ž-BR-06-226/11	THE RS MINISTRY OF INTERIOR – POLICE STATION BIJE LJINA -PS BIJE LJINA, SOCIAL WELFARE CENTER BIJE LJINA -- BIJE LJINA	16 - Violence	26-12-12	Cooperation established	YES
P-210/12	Ž-SA-06-732/12,	MUNICIPALITY OF BOSANSKI PETROVAC -- BOSANSKI PETROVAC	01 - Discrimination -- 01-11 - Based on ethnic origin	28-12-12	No reply	NO
P-211/12	Ž-BL-06-627/12	FEDERAL MINISTRY OF REFUGEES AND DISPLACED PERSONS – SARAJEVO	01 - Discrimination -- 01-12 - Based on national or social origin	26-12-12	Cooperation established	YES
P-212/12	SPECIAL REPORT "HEALTH CARE OF CHILDREN IN BOSNIA AND HERZEGOVINA/EX OFFICIO -Ž-SA-01-1414/12	MINISTRIES OF HEALTH OF F BiH CANTONS AND RS, HEALTH INSURANCE FUNDS AND INSTITUTES OF THE CANTONS AND RS, GOVERNMENT OF F BiH, CANTONS, RS AND BD BiH -- SARAJEVO, BANJA LUKA, BRČKO, MOSTAR	13 - Rights of the child	28-12-12	Cooperation established	YES
P-213/12	Ž-SA-06-1260/12	CULTURAL CENTER "CENTAR SKENDERIJA" D.O.O. SARAJEVO -- SARAJEVO	01 - Discrimination -- 01-12 - Based on national or social origin	26-12-12	Not complied with	YES
P-214/12	Ž-SA-02-1190/10	MEDICAL FORENSICS INSTITUTE FOR	12 - Disabled persons	28-12-12	Not complied with	YES

		DETERMINATION OF MEDICAL CONDITIONS OF F BiH F BiH -SARAJEVO				
P-215/12	Ž-SA-02-924/10,	MEDICAL FORENSICS INSTITUTE FOR DETERMINATION OF MEDICAL CONDITIONS OF F BiH -SARAJEVO	12 - Disabled persons	28-12-12	Cooperation established	YES
P-216/12	Ž-BL-04-552/12	ELEKTRODISTRIBUCIJA BANJA LUKA -- BANJA LUKA	21 - Public utilities	28-12-12	No reply	NO
P-217/12	Ž-BL-04-140/12	ELEKTRODISTRIBUCIJA BANJA LUKA -- BANJA LUKA	21 - Public utilities	28-12-12	Cooperation established	YES
P-218/12	Ž-BL-05-377/12	MUNICIPAL COURT BIHAĆ - BIHAĆ	09 - Courts -- 09-3 - Enforcement of judgments	31-12-12	Cooperation established	YES
P-219/12	Ž-SA-05-1364/12	MEASUREMENTS INSTITUTE BIH -- SARAJEVO	19 - Administration	28-12-12	No reply	NO
P-220/12	Ž-SA-05-1221/12	GOVERNMENT OF SARAJEVO CANTON -- SARAJEVO	22 - Governmental and ministerial appointments	28-12-12	Cooperation established	YES
P-221/12	Ž-BL-04-48/12	FEDERALNO MINISTRY OF HEALTH -- SARAJEVO	23 - Health care	28-12-12	Complied with	YES
P-222/12	Ž-BL-05-506/12	MUNICIPALITY OF ŠAMAC -- MUNICIPAL ASSEMBLY-- ŠAMAC	22 - Governmental and ministerial appointments	28-12-12	Complied with	YES
P-223/12	Ž-BL-04-361/12	HEALTH CENTER BUŽIM -- BUŽIM	10 - Labor relations	28-12-12	Complied with	YES
P-224/12	Ž-BL-05-669/11	BAR ASSOCIATION OF FBiH -SARAJEVO	03 - Access to information -- 03-2 - refusal to grant access	31-12-12	Complied with	YES
P-225/12	Ž-BL-05-619/12	MUNICIPAL COURT BIHAĆ -- BIHAĆ	09 - Courts	28-12-12	Complied with	NO
P-226/12	Ž-SA-05-620/12,	MINISTRY OF JUSTICE OF RS -- BANJALUKA	03 - Access to information	31-12-12	Cooperation established	YES
P-227/12	Ž-SA-06-405/12,	MUNICIPALITY OF DONJI VAKUF -- DONJI VAKUF	01 - Discrimination -- 01-01 - Harassment	28-12-12	Complied with	YES
228/12	SPECIAL REPORT- Recommendations for the enhancement of the protection of children's right to privacy when it is violated by media in BiH	COUNCIL OF MINISTERS OF BIH, PARLIAMENTARY ASSEMBLY OF BIH	13 - Rights of the child	December 2012	Cooperation established	YES

## ANNEX I – 2012 Cumulative Overview

0304 Institution of the Human Rights Ombudsman of Bosnia and Herzegovina

Form 2

**CUMULATIVE OVERVIEW**  
of budgetary expenses per economic categories  
for reporting period: from 01.01. to 31.12.2012

Item	Type of expense	Account	Approved by the current year's budget	Modifications: budget amendments, <u>restruct., reserve</u> (+,-)	Corrected budget (4+,-5)	Realized in the current period	Realized in previous year	Index (7/6)
1	2	3	4	5	6	7	8	9
<b>I</b>	<b>Operating expenses</b>		<b>2.388.000</b>	<b>87.931</b>	<b>2.464.584</b>	<b>2.451.186</b>	<b>2.637.559</b>	<b>1</b>
1.	Gross salaries and compensations	611100	1.685.000	0	1.724.148	1.723.562	1.711.783	1
2.	Remuneration of the employees' expenses	611200	176.000	-912	175.088	170.388	233.998	1
3.	Travel expenses	613100	71.000	3.230	74.230	73.450	81.149	1
4.	Telephone and postal services	613200	55.000	5.400	60.400	58.818	58.006	1
5.	Energy and communal utilities expenses	613300	20.000	1.000	21.000	20.920	19.284	1
6.	Procurement of material	613400	33.000	3.310	36.310	35.772	37.887	1
7.	Expenses for transportation services and fuel	613500	26.000	7.001	33.001	31.292	31.740	1
8.	Lease expenses	613600	255.000	-1.500	253.500	253.067	256.724	1
9.	Operating maintenance expenses	613700	23.000	0	23.000	22.991	28.436	1
10.	Insurance expenses	613800	7.000	800	7.800	7.490	6.898	1
11.	Contractual and other special services	613900	37.000	30.454	67.454	53.436	171.654	1
<b>II</b>	<b>Capital expenses</b>		<b>0</b>	<b>2.000</b>	<b>2.000</b>	<b>1.974</b>	<b>8.169</b>	
1.	Land acquisitions	821100	0	0	0	0	0	
2.	Buildings acquisition	821200	0	0	0	0	0	

3.	Equipment acquisition	821300	0	2.000	2.000	1.974	8.169	1
4.	Other fixed assets acquisition	821400	0	0	0	0	0	
5.	Acquisition of assets in form of rights	821500	0	0	0	0	0	
6.	Re-construction and investment maintenance	821600	0	0	0	0	0	
<b>III</b>	<b>Current grants</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
1.	Grants to other authority levels	614100	0	0	0	0	0	
2.	Grants to the individuals	614200	0	0	0	0	0	
3.	Grants to non-profit organizations	614300	0	0	0	0	0	
4	Grants given abroad	614700	0	0	0	0	0	
<b>IV</b>	<b>Capital grants</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
1.	Capital grants to other authority levels	615100	0	0	0	0	0	
2.	Capital grants to individuals and non-profit organizations	615200	0	0	0	0	0	
<b>V</b>	<b>Expenses for interests and other fees</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
1.	Interests to loans received through the state	616100	0	0	0	0	0	
2.	Expenses for interests abroad	616200	0	0	0	0	0	
3.	Interests for domestic loans	616300	0	0	0	0	0	
4.	Other fees related to loans	616400	0	0	0	0	0	
<b>GRAND TOTAL (I+II+III+IV+V):</b>			<b>2.388.000</b>	<b>89.931</b>	<b>2.477.931</b>	<b>2.453.160</b>	<b>2.645.728</b>	<b>1</b>

## ANNEX II – Law on Access to Information

### 1. Public authorities at the level of BiH fulfilling their obligation to appoint Public Information Officer and submit Guide and Index-Register pursuant to Article 19 and 20 of Freedom of Access to Information Act in BiH

Item	Institution's name	Item	Institution's name
1	Police Support Agency	36	Concessions Commission
2	CIVIL SERVICE AGENCY of BiH	37	Demining Commission
3	Forensic Examinations and Expertise Agency	38	National Monuments Preservation Commission of BiH
4	Agency for identification documents, registers and data exchange BiH	39	Council of Competition of BiH
5	Public Procurement Agency of BiH	40	MINISTRY of Civil Affairs
6	Medicines and Medical Devices Agency	41	MINISTRY of Finance and Treasury of BiH
7	Market Monitoring Agency of BiH	42	MINISTRY of Communications and Traffic
8	Deposit Insurance Agency of BiH	43	MINISTRY of Defense of BiH
9	Insurance Agency of BiH	44	MINISTRY of Justice of BiH
10	Postal Traffic Agency of BiH	45	MINISTRY of Safety of BiH
11	Pre-school, Primary and Secondary Education Agency	46	MINISTRY of Foreign Trade and Economic Affairs of BiH
12	Labor and Employment Agency of BiH	47	MINISTRY of Exterior
13	Agency for Development of Higher Education and Quality Assurance of Bosnia and Herzegovina	48	MINISTRY of Human Rights and Refugees BiH
14	Food Safety Agency of BiH	49	Intelligence Security Agency of BiH
15	Statistics Agency of BiH	50	State Public Service Appeals Board
16	Foreign Investment Development Agency	51	Parliamentary Assembly of BiH
17	Personal Data Protection Agency	52	Public Attorney Office of BiH
18	Archive of BiH	53	Regulatory Communications Agency of BiH
19	The Centre for Information and recognition of Qualification in Higher Education of BiH	54	Secretariat of the Presidency of BiH
20	Demining Center	55	Foreigners' Affairs Service
21	Central Bank of BiH	56	Service for Common Affairs of the Institutions of Bosnia and Herzegovina
22	Central Election Commission of BiH	57	Service for Common Affairs of the Institutions of FBiH
23	BiH Directorate of Civil Aviation - BHDCA	58	Court of BiH
24	Directorate of Economic Planning of BiH	59	Prosecutor's Office of BiH
25	Directorate for European Integration	60	BiH Administration for Plant Health Protection
26	The State Investigation and Protection Agency	61	Indirect Taxation Administration
27	BiH State Regulatory Agency for Radiation and Nuclear Safety	62	BiH Public Administration Reform Coordinator Office
28	BiH The State Electricity Regulatory Commission	63	Audit Office of the Institutions of Bosnia and Herzegovina
29	Elektroprivreda BiH – Electric Power Utility of BiH	64	Veterinary Office BiH
30	Return Fund	65	Legislation Office
31	Border Police of BiH	66	Constitutional Court of BiH
32	Institution of the Consumer Protection Ombudsman	67	BiH Foreign Trade Chamber
33	Accreditation Institute of BiH	68	Council of Ministers of BiH, General Secretariat
34	Intellectual Property Institute of BiH	69	High Judicial and Prosecutorial Council of BiH
35	BiH Standardization Institute		



**2. Public authorities at the level of BiH providing statistics pursuant to Article 20 of Freedom of Access to Information Act in BiH**

Item	Institution's name	Item	Institution's name
1	Police Support Agency	30	National Monuments Preservation Commission of BiH
2	Agency for Staff Education and Professional Training	31	Council of Competition of BiH
3	CIVIL SERVICE AGENCY OF BiH	32	MINISTRY of Civil Affairs
4	Forensic Examinations and Expertise Agency	33	MINISTRY of Finance and Treasury of BiH
5	Agency for identification documents, registers and data exchange BiH	34	MINISTRY of Communications and Traffic
6	Public Procurement Agency of BiH	35	MINISTRY of Defense of BiH
7	Market Monitoring Agency of BiH	36	MINISTRY of Justice of BiH
8	Deposit Insurance Agency of BiH	37	MINISTRY of Safety of BiH
9	Insurance Agency of BiH	38	MINISTRY of Foreign Trade and Economic Affairs of BiH
10	Postal Traffic Agency of BiH	39	MINISTRY of Exterior
11	Pre-school, Primary and Secondary Education Agency	40	Intelligence Security Agency of BiH
12	Labor and Employment Agency of BiH	41	State Public Service Appeals Board
13	Agency for Development of Higher Education and Quality Assurance of Bosnia and Herzegovina	42	Parliamentary Assembly of BiH BiH-Secretariat
14	BiH Food Safety Agency	43	Public Attorney Office of BiH
15	BiH Statistics Agency	44	Secretariat of the Presidency of BiH
16	Foreign Investment Promotion Agency	45	Regulatory Communications Agency of BiH
17	BiH Personal Data Protection Agency	46	Foreigners' Affairs Service
18	Archive of BiH	47	Service for Common Affairs of the Institutions of BiH
19	Central Banka BiH	48	Court of BiH
20	Central Election Commission of BiH	49	BiH Administration for Plant Health Protection
21	BiH Directorate of Civil Aviation - BHDCA	50	Indirect Taxation Administration
22	Directorate of Economic Planning of BiH	51	BiH Public Administration Reform Coordinator Office
23	Directorate for European Integration	52	BiH Appeals Office
24	The State Investigation and Protection Agency	53	Audit Office of the Institutions of Bosnia and Herzegovina
25	BiH Border Police	54	Veterinary Office BiH
26	Institution of the Consumer Protection Ombudsman	55	Constitutional Court of BiH
27	Accreditation Institute of BiH	56	Council of Ministers of BiH, General Secretariat
28	Intellectual Property Institute of BiH	57	High Judicial and Prosecutorial Council of BiH
29	BiH Standardization Institute		

### 3. Public bodies at the level of the FBiH providing statistics pursuant to Freedom of Access to Information Act in BiH

Item	Entity level	Item	Cantonal level	Item	Municipal level
1	Banking agency of F BiH	1	Cantonal Court Tuzla	1	Municipality of Čitluk
2	Federal Weather Forecast Institute	2	Cantonal Prosecutor's Office of Sarajevo Canton	2	MUNICIPALITY OF Bihać
3	Securities Commission of the Federation of BiH	3	MINISTRY justice and administration of Sarajevo Canton	3	MUNICIPALITY OF Breza
4	Parliament of the Federation of BiH – Public Relations Office	4	MINISTRY of Interior of Sarajevo Canton	4	MUNICIPALITY OF Bugojno
5	Joint Affairs Service of the Authorities of the Federation of BiH	5	MINISTRY of Interior of Zenica – Doboj Canton	5	MUNICIPALITY OF Cazin
6	GOVERNMENT of the Federation of BiH	6	MINISTRY of justice and administration of Zenica – Doboj Canton	6	MUNICIPALITY OF Čitluk - General administration and social affairs and war veterans administration
7	Supreme Court of the Federation of BiH	7	Olympic Pool Otoka	7	MUNICIPALITY OF Donji Vakuf
				8	MUNICIPALITY OF Foča-Ustikolina
				9	MUNICIPALITY OF Fojnica
				10	MUNICIPALITY OF Gornji Vakuf-Uskoplje
				11	MUNICIPALITY OF Gračanica
				12	MUNICIPALITY OF Grude
				13	MUNICIPALITY OF Hadžići
				14	MUNICIPALITY OF Hadžići – General administration and social and joint affairs administration
				15	MUNICIPALITY OF Ilijaš
				16	MUNICIPALITY OF Jajce
				17	MUNICIPALITY OF Kakanj
				18	MUNICIPALITY OF Ključ
				19	MUNICIPALITY OF Konjic
				20	MUNICIPALITY OF Lukavac
				21	MUNICIPALITY OF Maglaj
				22	MUNICIPALITY OF Novi TOWN
				23	MUNICIPALITY OF Novi Travnik
				24	MUNICIPALITY OF Sanski Most
				25	MUNICIPALITY OF Sapna
				26	MUNICIPALITY OF Stari TOWN
				27	MUNICIPALITY OF Tešanj
				28	MUNICIPALITY OF Usora
				29	MUNICIPALITY OF Vareš
				30	MUNICIPALITY OF Visoko
				31	MUNICIPALITY OF Zavidovići
				32	Municipality of Bosanska Krupa – General administration and social affairs administration
				33	MUNICIPAL COURT Sarajevo

**4. Public bodies at the level of the Republic of Srpska providing statistics pursuant to Freedom of Access to Information Act in BiH**

Item no.	Entity level	Item	Regional level	Item	Municipal level
1	Pension and disability Insurance fund of the Republic of Srpska	1	Regional Court Banja Luka	1	Municipality of Han Pijesak
2	Health insurance fund of the Republic of Srpska	2	Regional Commercial Court Doboj	2	Municipality of Istočna Ilidža
		3	Regional Court Doboj	3	Municipality of Kneževo
				4	Municipality of Milići
				5	Municipality of Pelagićevo
				6	Municipality of Prnjavor
				7	Municipality of Rudo
				8	Municipality of Sokolac
				9	Municipality of Teslić
				10	Municipality of Trnovo
				11	Municipality of Ugljevik
				12	Basic Court Doboj
				13	Basic Court Teslić