

Combating discrimination

This report reflects the work of the Greek Ombudsman in 2013, as the agency responsible for promoting the principle of equal treatment regardless of racial or ethnic origin, religion or belief, disability, age and sexual orientation, in accordance with its competence pursuant to Law 3304/2005.

This year, for a second consecutive year, the report includes cases in which the institutional tools provided for under Law 3304/2005 were not used, because they did not fall *sensu stricto* within the scope of the law. These cases were examined in the light of the Ombudsman's general competence regarding the protection of rights, as well as its more specific one as the national body promoting the principle of equal treatment (Article 19(1) of Law 3304/2005).

In more detail, in 2013, according to the above criteria, the Ombudsman investigated 175 cases, where there was alleged discriminatory treatment against one or more persons. From these, the cases pending from prior years are 73. Among all the cases, 18 were closed, as they fell beyond the Ombudsman's mandate, were unfounded, or their investigation was terminated due to the lack of sufficient information provided by the interested parties. The outcome of the 54 cases whose investigation was completed in 2013 was initially positive in 20 cases, whereas in 24 cases the Administration refused to comply and in 10 of them it was found that the administration had acted legitimately. The remaining 103 cases are still under investigation. There are 32 cases that have remained pending in the long-term, mainly related to the housing issue of the Roma. The appearance of a statistically significant increase in the number of reports recorded in the area of discrimination due to disability is due to the Greek Ombudsman's decision to include in this chapter the cases of children with disability, which are mainly related to failure to implement the special measures for access to education (special educational support).²

Statistics per area of discrimination

DISCRIMINATION ON GROUNDS OF RACIAL OR ETHNIC ORIGIN

THE PHENOMENON OF RACIST VIOLENCE AND HOW IT IS ADDRESSED

In the past two years, the Greek Ombudsman has repeatedly noted its growing concern regarding the increase of racist violence phenomena, in particular in those cases where it is combined with the organised and systematic action of extremist groups against members of vulnerable or excluded social groups (third-country nationals, Roma, etc.). The Ombudsman intervened publicly, especially in cases where the racist behaviour was expressed with particular ferocity. In these cases in fact, the action of organised criminal groups renders even more dangerous the state's inaction, which intensifies the diffuse sense of insecurity.*

In response to an extreme case of armed violence against foreign workers at strawberry crops in Nea Manolada, the Ombudsman asked for the immediate, coordinated and effective intervention of the state.* Four years ago the Ombudsman had highlighted similar problems in the area, suggesting the need to involve the competent police authorities and the services that control uninsured employment - without anyone listening, as results clearly demonstrate. The tardiness of the competent state authorities in addressing similar behaviours preserves the erroneous impression that they may be tolerated, fuelling tensions that disrupt social cohesion and peace and undermine the value and foundations of the rule of law itself.

Given the intensity and the escalation of racist attack incidents, the Greek Ombudsman, by utilising the institutional tools provided in the framework of its general and special competence as a body that promotes and supervises the principle of equal treatment regardless of ethnic or racial origin, chose to focus on this critical issue concerning the respect for the character and value of individuals without discrimination in a special report in September of 2013. In this report the Ombudsman took into consideration both the individual reports on improper behaviour of police officers that were submitted during 2012, and were thoroughly investigated, and the complaints of racist violence incidents that were recorded during a 16-month period (1.1.2012 - 30.4.2013) by the Hellenic Police, the press and NGOs. This combination yielded a record of 281 in total cross-checked incidents for this 16-month period, a number that reveals the distance between the official record by the police authorities and the reality of the "dark number" of racist attacks. According to the data of the Hellenic Police there were 84 incidents with a presumed racist motive in 2012, whereas the Ombudsman cross-checked evidence for 253 reported incidents of attacks with apparent racist motives in the same year. The need for creating an integrated system for recording racist violence throughout the country was one of the main conclusions of the Ombudsman's report.

Recording and investigation of racist motives by the Hellenic Police

In the context of its mission, the Ombudsman is frequently called upon to investigate complaints against police officers. It is especially crucial for the Ombudsman, as the national body for tackling discrimination, that the Hellenic Police understands the necessity for investigating phenomena of illegal police actions, when the reported incidents are labelled racist attacks.

Tolerance towards racist behaviours, especially the use of violence with a racist motive by public officers, is a threat for public order and security, as well as the rule of law, more so than any such behaviours by simple citizens.

In its special report, the Ombudsman assessed 17 complaints of racist behaviour by police officers which it received in 2012. A common element of the complaints is the citizenship, ethnic origin and/or racial characteristics of the victim. Nearly all of the complainants held legal residence documents (residence permit, asylum seeker card).

Local police stations, mainly in Attica, were involved in these cases, as well as the Xenios Zeus operation, the Hellenic Police First Responders Department of Attica, the DIAS Police Motorcycle Unit, the Aliens' Division of Attica, the Lesvos Police Division and the Thessaloniki Airport Police Division. The reported incidents were related to the police's tolerance or refusal to investigate complaints for attacks and actions of intimidation against foreigners by organised teams of private individuals, arbitrary police controls, unjustified arrests, verbal and physical violence during police controls and detention in police stations.

While investigating these cases, the Greek Ombudsman addressed the competent services in order to collect information regarding the actual events, and suggested a thorough investigation seeking racist motives in the behaviour of the investigated police officers, according to circular No. 7100/4/3/24.5.2006 of the Hellenic Police Chief at the time. According to this circular, police authorities must investigate the racist motives of the reported criminal offences, collect related information and record/report incidents using a specific form. However, it appears that in practice this circular has fallen into disuse. In 35% of the cases there was no room for further investigation since, according to the involved service, the reported incident was not recorded, or even if a relevant complaint was lodged, the evidence was not sufficient. We should note here that in several cases we see that the victim is unable or unwilling for the continuation of the investigation of his or her case.

The Ombudsman received two complaints by foreign nationals for violent behaviour and cause of physical harm by police officers of the Police Station of Kypseli, where the Police Station had not recorded the incidents (cases 41351/2011, 154256/2012). Especially as regards the second complaint, there was not even a record of the complainant's arrest either at the Police Station of Kypseli or the Police Station of Agios Panteleimonas (under whose jurisdiction the area where the incident took place, according to the complainant's allegations, falls). It is difficult to continue the investigation of the cases due to the lack of response by the victims.

Tolerance to attacks by private individuals is the area where we primarily see the police's omission to record and in the end refusal to investigate complaints.

These are frequently racist attacks, material damages and creation of a climate of intimidation with organised groups of private individuals checking the legalising documents of foreigners. The usual response is that there is no recorded incident or that, even though a complaint was

filed, the investigation did not have any specific results (cases 152213, 157506/2012). The outcome of the case of a foreigner who suffered severe bodily injury by members of an extremist group, a case that received widespread publicity, is a typical example. According to the State Security Division of the Hellenic Police Headquarters the complaint was not investigated because the victim could not be located in order to give a statement (case 160109/2012).

A special category are the complaints about the police's tolerance towards attacks against illegally entering third-country nationals, such as the case of injury of a foreign woman in Lesvos (case 159681/2012). According to the response by the Aliens' Division of the Hellenic Police there is no record of an injury incident, or even an attack against foreigners.

Types of disciplinary investigation: The Preliminary Administrative Investigation as a substitute for control

The police proceeded with a disciplinary investigation in 53% of the cases brought to the attention of the Ombudsman. Only in one of these cases was a Sworn Administrative Inquiry ordered by the Thessaloniki Airport Police Division, for a complaint of abuse of a Dutch citizen with Iranian origin. However, the issue of a decision was suspended due to a pending criminal procedure. The Ombudsman will request the completion of the inquiry once the one-year suspension deadline elapses (case 148259/2012).

It is characteristic that in eight of the nine cases where a disciplinary investigation was carried out by the police, the investigation was limited to a Preliminary Administrative Investigation. It is also characteristic that either the incident was not confirmed or that no disciplinary liability emerged in seven out of the eight Preliminary Administrative Investigations. Only in one case was the police officer found to be subject to a disciplinary investigation for offensive behaviour and refusal to serve a foreign woman from Moldavia, who visited a police station for an administrative transaction (case 153548/2012). However, in this unique case where liability was attributed, there was no racist motive found.

In those cases where the disciplinary procedure was completed, the Ombudsman reviewed the conclusions to find any negligence during the investigation or inadequate justification. Where needed the Ombudsman has asked for clarifications or a repetition of the procedure. In most cases we have not received any response or information regarding any actions by the service.

Indicative cases: Violence, verbal violence, arrests

In a Preliminary Administrative Investigation caused by the Ombudsman, following a complaint for use of violence during the police control of a foreigner, no disciplinary liability was found, whereas when the Ombudsman was seeking evidence, the complainant did not respond (case 148626/2012). In a similar case, the Ombudsman is examining the results of the Preliminary Administrative Investigation, which was conducted after its intervention. However, in this case as well, the police's investigation did not result in any disciplinary liability (case 150940/2012). In one complaint for violent behaviour against a foreigner by police officers of the First Response unit, no disciplinary liability was revealed by the Preliminary Administrative Investigation carried out (case 149656/2012). A Greek citizen also reported that he was arrested because he complained about the abuse of a group of foreigners by police officers of the DIAS unit. The Ombudsman found that the investigation of the case was inadequate, especially because the potential racist motive was not investigated, and it recommended a new investigation (case 160878/2012).

In the case of the abuse of a Nigerian detainee at the Aliens' Division of Attica, the case was filed by the Hellenic Police, because no disciplinary liability was found by the Preliminary Administrative Investigation. The Ombudsman reopened the case focusing on the issue of the detainee being handcuffed to the bars of her cell, and asked for a new investigation (case 151094/2012).

A foreigner received unprovoked threats and verbal abuse by police officers of the DIAS Unit, while waiting next to them at a stop light of a central street of Athens. The Hellenic Police conducted a Preliminary Administrative Investigation and came to the conclusion that the incident did not take place, and therefore did not attribute disciplinary liability to any party. The Ombudsman is investigating the material that accompanies the conclusion (case 152357/2012).

A French citizen with origin from the Comores, who was visiting Greece as a tourist, complained that he was illegally arrested and detained, without being informed of the reasons in a language he understood. After the Ombudsman's intervention, the Police Division of Cyclades conducted a Preliminary Administrative Investigation, with an exonerating result in the end (case 157344/2012).

Restoring legality

In a small percentage of these cases (12%), the Greek Ombudsman considers that legality was restored after its intervention, either through the service's commitment to follow the Ombudsman's recommendations or through immediate compliance.

In particular:

In one case of an unjustified arrest, a citizen of Sierra Leone asked for the Ombudsman's intervention, since police officers of the "Xenios Zeus" operation arrested him in Athens and took him to a detention centre of Komotini, despite the fact that he held a valid residence permit (case 156008/2012). After the Ombudsman's intervention, the complainant was released, the incident however gave rise to strong concerns regarding the abusive practices of the entire operation (see "Personal freedom and security", in the "Person and the state").

A foreign student also reported unjustified arrests to the Ombudsman. The student claimed that, due to his colour, police officers of the police station of his area arrested him repeatedly for identification checks, despite the fact that he carried with him a ratified photocopy of his passport - in one case in fact his father presented the original passport. The Ombudsman asked the Commander of the police station to give strict instructions that similar incidents in the area should be avoided (case 166032/2013).

Also, as regards the subject of arbitrary police controls, the Ombudsman investigated a complaint regarding controls outside the "Babel Day Centre" and subsequently the entry of police officers in the building in search of a third-country national. Considering that this practice created a climate of intimidation with this particularly sensitive group of immigrants dealing with mental health problems, which this centre is addressed to, the First Response Division of Attica committed to avoid similar actions, at least without first notifying the centre's managers (case 154342/2012).

Conclusions and recommendations

In conclusion, the examination of whether the police responded in a substantial manner to the reports received by the Ombudsman for the inappropriate behaviour of police officers with potential racist (ethnic-racial mainly) motive, confirms the picture of delays in internal investigations, which creates a sense of impunity.

The superficial examination of those incidents that are actually reported to the police, as well as the suspension of the investigation already from its preliminary stage, harm the credibility of the disciplinary investigations, to such a degree in fact, that any investigation ends up being considered a mere pretence by the victims and by many citizens and organisations.

Thus the unwillingness of the victims to report racist behaviour against them never ends, since the facts confirm their conviction that they will not be justified, a phenomenon which the Ombudsman has already noted in the special report of 2004 on the defects of the disciplinary investigations of the police.*

These recommendations, which the Ombudsman expresses herein, are summarised as follows:

- The police should quickly and fully launch and process the procedure of the disciplinary investigation of complaints against police officers.
- The Preliminary Administrative Investigation should acquire its true character, that of evidence collection, and the investigation should not remain pending for an exceptionally long time.
- The deposition of all witnesses, the necessary impartiality, the full justification should form an inviolable rule of the police's internal procedures.
- The disciplinary investigation, by the Internal Affairs Division, of the complaints about police officers involved in racist attacks, should not be delayed, in order not to give the impression of tolerance or cover-up.
- The planned Offices for Dealing with Abuse Incidents, as well as the Evaluation Committee of the relevant complaints should operate effectively, and under guarantees of independence, their operation being crucial for the review of cases after the issue of relevant decisions of the European Court of Human Rights (ECHR) (see Annual report 2011, pg. 92-93).

The Ombudsman intends to have an ongoing cooperation with the newly established services of the police for dealing with racist violence incidents and considers that the inclusion of the information of its special report in the investigation of the Internal Affairs Services of the Hellenic Police in October of 2013, with regard to incidents related to organised racist violence groups is a first practical step of cooperation.

DISCRIMINATORY TREATMENT ON GROUNDS OF ETHNIC OR RACIAL ORIGIN IN PRIMARY EDUCATION

The Ombudsman intervened in a series of cases related to discriminatory treatment by teachers or schools against students, which was connected with the ethnic or racial origin of the children. The negative attitude against foreign minors was identified in certain cases in the area of their formal inclusion in the educational procedure, while in other cases at the level of the daily life of these children. In a collective framework, the Ombudsman, after related reports and an ex-officio investigation (see "School" in "Family and School"), highlighted in its conclusion the problem where foreign students, even though they had a satisfactory school performance, were not promoted to the next grade, because they did not have all the necessary enrolment documentation, in many cases due to difficulties in the procedure for the acquisition and/or ratification of the related documents.

At the level in fact of the handling of personal complaints, it is indicatively noted that the Ombudsman intervened in order to curb the persistent refusal of a school principal, in

violation of the applicable laws (Article 72 of Law 3386/2005), to formally complete the enrolment of a student who was already attending this school, with the argument that the parent was illegally residing in the country. This refusal was actually linked to parallel behaviours of an essential exclusion of the child from the education process, such as refusal of the child's participation in school activities outside the school, and the creation of a climate of fear for the health of students and teachers, with the justification that the child had entered the country illegally and was not fully vaccinated (cases 167153, 172170/2013).

Despite the xenophobic behaviour of members of the educational community, the Ombudsman was invited to address, in an isolated case however, the intensely dismissive behaviour of a teacher against foreign students and an effort to cultivate a climate of intolerance (case 160830/2012). The more general however assessment of the Ombudsman in this case, and from other contacts with members of the educational community, is that similar negative attitudes are present, either apparent or masked, and cause tension among students, as well as the broader community, without always the necessary institutional response.

The Ombudsman, in every intervention in schools where such issues appear, recommends actions for raising awareness in the direction of accepting diversity, strengthening the ties between members of the community and easing the tensions through positive actions.

In the framework of the above special report on racist violence, the Ombudsman recommended to the Ministry of Education to make it clear to teachers, students and parents that the school does not tolerate any form of racist or xenophobic behaviour by any one, and that the affected students can turn to their school's administration, the supervisory directorates of education and specialised agencies that protect rights. It has also supported the necessity for the appropriate training and support of teachers. Finally, we note that the role of the parents is not negligible as regards the prevention and addressing of racist violence incidents in school. It is found however that unfortunately the cases of parents that seek the removal or non-enrolment of specific students in the school due to origin, disability or special educational needs are increasing.

ROMA

The various manifestations of the social exclusion of the Greek Roma have been repeatedly noted by the Ombudsman as the expression of a reality which the state has been proven over time completely unwilling to effectively address.

Municipal status and social exclusion

The particular municipal "invisibility" of the Greek Roma, the gaps in the existing institutional framework and the room for abuse it leaves, have been noted as major problems by the Ombudsman as far back as 2009.* Additionally, the very difficult living conditions of a large part of this population undermines any effort to plan and implement solutions for the inclusion of the Greek Roma in the social, economic and political life of the country and leads to their further impoverishment. Under these conditions it is clear that the involvement or exploitation of members of this racial group by organised illegal networks and "illicit networks" becomes easier, with a significant cost on themselves and for society in general.

The case of the minor which the police removed from a Roma couple in Farsala, highlighted the existing gaps in addressing this exceptionally complex issue, as well as the consequences of the long delay in undertaking coordinated initiatives. At the same time, it brought to light the ease with which prejudice is cultivated, allowing the expression of racist and intolerant behaviours against this racial group. It is indicative that the extensive publicity of this case was accompanied by a series of violations of the minor's rights, and a barrage of negative stereotypes being reproduced.

At a time when the state is unable to ensure for both minor and adult Roma the equal exercise of their rights in health, education, housing, employment and social participation, police "sweeping" operations of Roma settlements across the country are continued, intensified and highly publicized.

This way, the focus is shifted from the need to address social exclusion to the suppression of crime. These police operations result in the connection of crime in general with the racial group of the Roma and not with isolated members.

First of all the Greek Ombudsman, with a public intervention* regarding the minor Roma girl, requested that the protection of minors becomes a priority for national policy, with special focus on the vulnerable groups of the population, noting in particular that childhood should be respected and protected by the media as well. Regarding the issue of private adoptions that frequently hide economic transactions and foster the trade of infants, the Ombudsman recommended their abolishment, noting however the need for measures to accelerate public and intercountry adoptions under the conditions of the Hague Convention.

With regard to the general issue of the municipal status of the Roma, the Ombudsman asked for measures that will rationalise the existing situation in a reliable manner. This effort is a condition for a correspondingly credible plan for their housing problem, and is connected with assuring a series of rights in education, employment and health.

Forced eviction and obligation of relocation

The complex issue of the living conditions of the Roma and the nuisance for the neighbours, as well as the administrative aspects of the efforts for their relocation in the light of the protection of their rights, and the protection of the natural, residential and cultural environment, were in the Ombudsman's focus once more this year. These cases now appear with a standard typology. The Roma themselves, or their legal representatives, are the complainants, as well as third parties affected by their activities in neighbouring land or from the trespass of privately owned land where the Roma have illegally settled.

In this web of conflicting rights and interests, the most important intervention of the Ombudsman in 2013 was related to the Roma settlement in the Nomismatokopeio area, in Halandri. A report was filed about this case (case 157002/2012) by the Roma themselves, who complained regarding a decision to demolish their dwellings and their imminent eviction from the settlement. A report was then filed by the owners of the land which had been trespassed by the Roma, resulting in the owners being deprived of access to their property for many years (case 166988/2013). Finally, after the issue of a decision for the relocation of the settlement, a report was filed by local residents who complained about the new settlement of the Roma in their area.

In its initial intervention towards the Decentralised Administration of Attica, the Ombudsman asked for the suspension of the demolition, since the competent authorities had not indicated another location for their installation.

The Ombudsman's contribution pertained to monitoring the preparatory work by the state mechanism to find a suitable space for their relocation, in terms of urban planning and ownership legality, and the observance of legality as regards the removal process itself and the respect of the rights of the Roma, as they emerge from a series of provisions of international conventions that are binding for the country.

An appeal against the relocation decision has been lodged with the Council of State, a fact that forced the Greek Ombudsman to suspend the investigation of the case.

Imposition of fines

Within 2013, mediation for the illegal constructions that were recorded in the Roma settlement in Sofades, Karditsa, continued (case 143770/2011). The Ombudsman found an irregularity in the drawing up of 255 reports of on-site inspections of illegal constructions and calculation of fines, which the Urban Planning Directorate of the Municipality of Karditsa did not draw up on-site. Moreover, it did not calculate the fines or post the reports on the day of each inspection,

according to Presidential Decree 267/1998, but took these steps approximately eight months after the inspections. The result of these omissions was that the fines were calculated by the service based on the provisions of Law 4014/2011, which entered into force on a later date, after the on-site inspections, and, as regards the cases of the illegal constructions built according to the urban planning office's assessment before 2003, which are the majority, their Roma owners were charged with much higher fines than the ones provided for in P.D. 267/1998. As regards the failure to comply with the procedure of P.D. 267/1998 when drawing up the reports, the urban planning office invoked safety issues regarding the inspections in this case (which took place with the assistance of a special police force), the extent of the inspections (hundreds of constructions), and the need to complete the inspections within a few days. Moreover, the Greek Ombudsman found that many shacks were treated by the urban planning office as if they were conventional buildings, even though the reports describe them as constructions made of clearly cheap materials (wood, aluminium panels, nylon), and as a result the fines that were imposed were high.

For this reason, the Ombudsman proposed to the Ministry of Environment the resolution, possibly with a legislative regulation, of the above disproportionate charge, with fines proportional to the illegal huts and shacks of small value which were being used as residences. The Ministry however claimed that Law 4014/2011 does not provide for any differences in fines depending on the time and the materials of the illegal constructions. Since then the Ombudsman was informed by the relevant decentralised administration that 185 objections were filed against the inspection reports and that their review was pending. The Municipality of Sofades gave detailed information on the case and on actions to support the region's Roma, but also noted problems, which they attributed to the delinquent behaviour of members of this social group. However, they continued to not provide information to the Ombudsman about any specific measure as regards housing, especially for the Roma residing in hundreds of dwellings in an area, where there is provision for the expansion of the Municipality's sport facilities in the framework of the implementation of the new General Urban Plan of the city.

Discrimination in administrative treatment

In the past, the Ombudsman has shown systematic interest in cases of refusal or undue delay in the issue of certificates of Real Property Tax (TAP) by the Municipality of Liosia, especially when the candidate buyers of the plots being sold were Roma. In 2013, this issue emerged again, when the owner of a property in the Fyli Municipality, who intended to sell it to Roma buyers, was faced with the municipality's refusal to issue the necessary TAP certificate even though she had paid all the due taxes.

The Ombudsman, in an intervention towards the Fyli Municipality, noted that the granting of this certificate is an act of ascertainment and it is issued immediately, if no TAP tax is owed. At the same time, the Ombudsman claimed that the five-month delay in the granting of the certificate raises serious suspicions of intentional delaying tactics by the municipality's services, in order to deter the sale of properties to Roma. By underlining that this practice on the one hand deprives the owners, in an unlawful manner, of the right of free disposal of their property, and on the other hand constitutes direct discrimination against candidate buyers, with their racial origin as the sole criterion, asked for the immediate granting of the certificate within a 15-day deadline. After the lapse of one month without response, the Ombudsman returned, reminding them of the obligation to reply and underlining the provisions of the law against discrimination that relate to the reversal of the burden of proof, and those related to administrative and criminal sanctions in cases where a violation of the principle of equal treatment is discovered due to ethnic or racial origin in the provision of goods and services (Article 16, et seq. Law 3304/2005). The municipality replied that further to a relevant decision of the Municipal Council, they intend to buy the property for the municipality, to be used as a recreational area. The Ombudsman is following up the implementation of this commitment and the avoidance of further delays (case 162391/2013).

DISCRIMINATION ON GROUNDS OF DISABILITY

THE "SOCIAL MODEL" FOR APPROACHING DISABILITY

During 2013, the trend of workers with disability invoking the laws against discrimination continued, mainly as the basis for the satisfaction of requests for measures of reasonable accommodation, such as secondments, transfers, reduced working hours or change in duties.

The Greek Ombudsman notes that Directive 2000/78/EC (as well as Law 3304/2005) contains no definition of disability and that, in order to make up for this omission, it should be taken into consideration that the prohibition of discrimination on the grounds of disability in community law reflects the adoption at EU level of the social model in approaching disability. This is the evolution of the medical or welfare model, according to which disability was perceived exclusively as a non-treatable serious disease that justifies the increased provision of care by the state. On the contrary, the social model characterises disability as a factor of disadvantage that obstructs an equal civic participation and is due to the interaction between a physical, mental or psychological condition and the environmental factors or social prejudices in each case. In this light, the absence of a specific definition of disability in the law against discrimination should not lead to the adoption of definitions used in the implementation of legislation on welfare or insurance, where the goals differ from the prohibition of discrimination.

According to the above reasoning, it is not sufficient for the interested party to invoke a certified disability or a serious disease in order to substantiate his or her request for reasonable accommodation measures. The capability and the method for the satisfaction of such a request depend on the way in which this disability affects the performance of a specific type of work and the estimated cost of any possible alternative solutions.

Thus, the Ombudsman, while reviewing the report of an employee in a Legal Entity governed by Public Law, who was requesting a transfer invoking serious health reasons, asked the interested party himself to document the need for his transfer. It specifically asked him to indicate the service to which he wished to be transferred, its location and the place of residence of his family, to specify the systematic and specialised medical care he is deprived of while remaining in the place where he works and which he anticipates to have if he is transferred, as well as the necessity for care or support by his family and friends, potentially submitting a certificate by his physician or an occupational doctor certifying the above (case 169397/2013). Correspondingly, in order to review a request for the implementation of Law 3304/2005, in the case of a primary school teacher with disability, the Ombudsman asked the interested party to specify the type of his disability and the way in which it impedes him from carrying out all the duties assigned to him (case 169008/2013)

Apart from the field of work and employment, the Ombudsman addresses all cases of lack of accessibility as an issue of discrimination. It therefore reviewed the report of a person with a serious hearing problem regarding the lack of subtitling in Greek television broadcasts, which meant that he was excluded from watching them. Even though the report obviously referred to both state and privately owned TV stations, the Ombudsman's mediation was only with the Hellenic Broadcasting Corporation (ERT) (because it does not have the competence to mediate with private companies), also communicating its positions to the Greek National Council for Radio and Television. The Ombudsman in particular informed ERT that the lack of accessibility to TV broadcasts, beyond its potential constitutional dimension based on Articles 5(1) and 21(6) of the Greek Constitution, is also contrary to Article 8 of P.D. 109/2010 (through which the Audiovisual Media Service Directive 2010/13/EU was transposed into Greek legislation), that expressly obligates broadcasting organisations to gradually make their services accessible to people with visual or hearing impairment (case 163731/2013).

In certain cases the Ombudsman finds that, even though the subject of the submitted reports does not initially appear to be related to an issue of discriminatory treatment for any of the reasons covered by the relevant Directives, the way in which the issue is addressed by the involved administrative authorities indirectly reveals their doubts as to the actual existence of a disability.

A citizen, who is taxed as a disabled person with a physioanatomical disability of over 80%, had submitted an electronic tax statement, which resulted in a tax refund of about 30,000 euros. To certify the percentage of his disability, the interested party had submitted to the competent Tax Office a document from a Primary Health Committee, accompanied by other documentary evidence, in order to collect the refund of the tax. However, doubt about the interested party's disability was expressed, despite the existence of public documents that certified it, which appeared to be in direct connection with the high income he stated in his tax statement (100,000 euros annually). The interested party was called to give explanations about the amount of his income, and he informed the responsible employees, even though he was not obliged to, that he worked online, via the Internet. We note that the competent Tax Office has every right to dispute the allegations of the taxpayers regarding the method of acquisition of their income, but always in compliance with the provisions that regulate the relevant audits, and in any case there must be no delays in the processing of the case. After the Ombudsman's intervention, the due amount was paid to the interested party (case 164702/2013).

RIGHTS OF CHILDREN WITH DISABILITY

The protection of the rights of children with disability is imposed by special international conventions with increased formal power (International Convention on the Rights of the Child and the International Convention on the Rights of Persons with Disabilities). The avoidance of any discrimination and the effective addressing of the special circumstances of children with disability in order for their rights to be met on an equal basis as their peers depend on institutional and substantial conditions, which must apply in all the regulated areas. From an institutional aspect, Greek legislation is not compatible in its entirety with the established rights of children with disability. Moreover, from a substantial point of view, the realisation of the rights to protection, benefits and participation of children with disability is made more difficult under the existing economic circumstances, where the family income and public expenditure are shrinking.

Typical examples of chronic problems, which the Ombudsman has repeatedly highlighted, are identified in the allocation of resources to education. The results of the above are the delay in the start of the school year in special schools, the permanently late appointment of substitute teachers instead of permanent educational and special education staff, the significant delay or inappropriate provision of parallel support as well as its complete absence, especially in kindergarten and secondary education, the inadequate staffing of inclusion classes and special schools, especially in regional Greece, resulting in the obstruction of equal access to education for many children with special educational needs/disabilities.

At the same time, the lack of an integrated care system with support services for children with disabilities and the family - as the main core providing care for children and adults, especially those with mental disabilities - inside the community, increases the chances for violation of children's rights, neglect or even institutionalisation. A complainant, who gained the custody of her three minor grandchildren by a decision of the court, asked for the Ombudsman's mediation in order for her granddaughter who was disabled to be accepted by an institution for economic and social reasons. The Ombudsman contacted the social services of the relevant municipality, asking them to exhaust every option for the support of the child and the family, in order for the child to remain within the family environment, guaranteeing open care services in the community, special treatments, alternative care, etc. Social services notified the Ombudsman that they intended to provide economic and psychological support to the grandmother and they forwarded the issue to the public prosecutor. Finally, the minor was placed in an institution, since it was not possible to ensure proper alternative care, which is the primary goal and right of the child, when its immediate family is not in a position of caring for it (case 163559/2013).

In an other typical case, failure to provide care services on an equal basis as the other children in the community, led to the exclusion of a child, which had a development disorder, from a municipal nursery school. The Board of Directors of the Legal Entity governed by Public Law of the municipality decided to suspend the child's attendance, based on the Operation Regulations of municipal nurseries. The argument was that the child could not be integrated in class, while its behaviour put both itself and the other children at risk. The Ombudsman noted the child's right to social care on an equal basis as the other children, and that in this case the medical opinions of public bodies suggested the inclusion of the child in the nursery school in order to improve its social and cognitive functions. It was in fact underlined that the provision of the regulation, according to which it is possible to refuse to enrol children with a physical, mental or psychological condition, due to the lack of special infrastructure or because of serious behavioural problems, constitutes discrimination. The municipality maintained the refusal to enrol the child in the nursery, a few months later however it was smoothly enrolled in kindergarten (case 159755/2012).

DISCRIMINATION ON GROUNDS OF AGE

In 2013 the Ombudsman received a significant number of reports related to unjustified or inadequately justified establishment of age limits in the area of employment and work. In any case, the Ombudsman reminds that according to the provisions of Law 3304/2005, any direct or indirect discrimination on the grounds of age was prohibited. Deviations are acceptable only under specific conditions. Among other things, a different treatment due to age is considered justified when provided for by law to serve employment policy purposes, the labour market and vocational training and when the means for achieving these purposes are

appropriate and necessary (Article 11(1) of Law 3304/2005). It may also include the establishment of special conditions both for access to employment and vocational training and for employment and work for specific groups of the population, such as young persons, for example.

The Ombudsman has noted (see Annual report 2012, pg. 105) that the general exclusion of candidates from access to the armed and security forces, due to the establishment of a maximum age limit exceeds the limits permitted under Article 3(4) of Directive (2000/78/EC), to the degree where the age criterion is not assessed in correlation with the nature and duties of the specific position. Moreover, the prohibition of discrimination on grounds of age extends to the access to all types of vocational guidance and re-guidance, vocational training and education (Article 4(1b) of Law 3304/2005). In fact, according to the case law of the Court of Justice of the European Union (CJEU), higher education is considered a type of vocational education and training (case C-293/83 ECJ).

A report was filed with the Greek Ombudsman in 2013, on the subject of the establishment of a maximum age limit (21 years) for the enrolment of candidates in the Hellenic Corps Officers Military Academy (SSAS). Taking into consideration the specialisations of the SSAS (Medicine, Dentistry, Veterinary medicine, Pharmaceuticals, Psychology and Legal-economic Sciences), the Ombudsman addressed the Hellenic National Defence General Staff and noted that there is no direct connection, in principle, between age and the needs of the service, that adequately justifies the general exclusion of the candidates that belong to the over 21-year old age group, from the protection provided by the Directive and Law 3304/2005. At the same time, the Ombudsman asked for justification of the existing difference in the age limit between the SSAS candidates and other Higher Military Educational Institutes, where candidates must not be older than 22 years old to be admitted (case 168846/2013). The response of the Hellenic National Defence General Staff is pending.

Reports were also submitted to the Ombudsman, on the subject of the establishment of a maximum age limit (35 years), in NGO announcements for the conclusion of definite term employment contracts in the framework of the implementation of acts of the "Human Resources Development" Operational Program. The Ombudsman addressed the Special Culture and Tourism Agency of the Ministry of Culture, which had been designated as the management body of this programme. The Ombudsman was informed that this particular programme for employment in Culture, was included in the "Action plan for targeted interventions to support the employment and entrepreneurship of young persons". This plan was focused on addressing the unemployment of young persons (up to 35 years of age), with the aim of improving their access to employment and the labour market. A different treatment based on age was therefore considered adequately justified (cases 162428, 163217, 163938/2013).

Finally, in 2013 two conclusions were drawn up ("Determination of lower age limit in the appointment of mediators and arbitrators of the Organisation for Mediation and Arbitration (OMED)" and "Maximum age limit in the appointment of Special duties Officers in the Hellenic Police without special justification").

DISCRIMINATION ON GROUNDS OF RELIGIOUS OR OTHER BELIEFS

As noted in the past (see Annual report 2006, pg. 72 and Annual Report 2012, pg. 111), indirect discrimination between religious communities or persons based on their beliefs, do not necessarily fall under the regulatory scope of Law 3304/2005, but are typical examples of inequality, which is frequently caused by the legislator. Such inequalities can be the result of either the provision of favourable legal consequences due to beliefs or the privileged treatment of religious communities on the basis of their legal form.

Examination of requests for the recognition of conscientious objectors

According to articles 59 (1) and (2) and 62 (1) of Law 3421/2005: "Anyone who refuses to complete his military obligations invoking religious or ideological beliefs may be recognised as a conscientious objector [...], recognition is effected by decision of the Ministry of Defence, following an opinion of a special committee that reviews the application of the conditions for recognising the interested parties as objectors, either through supporting documents or in person [...] and consists of two University professors, one advisor or member of the Legal Council of State and two higher officers". The personal interview, as a means to ascertain contentious reasons is in itself ambiguous, to the extent that it subjects an internal belief to an honesty control. It becomes even more concerning both due to problems in the composition and operation of the committee (frequent absence of non-military members, inadequate justification), as they arise from a series of related reports, and due to a standard practice of unequal treatment: while for the so-called "religious" objectors, the committee is satisfied with a certificate from the relevant religious community and does not even invite them to an interview, the so-called "ideological" objectors are frequently called to answer questions that pertain to sensitive personal data, such as being a member of a specific political space (cases 165151, 167596, 168243/2013).

Inequality in addressing urban planning irregularities

In the framework of its intervention for a church of the Orthodox Church with urban planning irregularities, after a complaint by a religious community of a different dogma that has a legal worship space in the vicinity (case 10455/2008), the Ombudsman found that unequal treatment was being perpetuated even in recent provisions. According to article 16(1) of Law

4178/2013 "illegal constructions or changes of use in buildings or facilities that are used as worship spaces of known religions and dogmas with the legal form of a Legal Entity governed by Public Law", may be included in the regulation for the suspension of sanctions and exemption from demolition, even if they are located on a communal green area of the approved city plan. In addition to its other reservations regarding this provision in correlation to urban planning and the environment (see "Illegal construction" in "Environment and Development"), the Ombudsman expressed its reservations regarding its constitutionality also in relation to compliance with the principle of equality between religions (Council of State 1016/1963), to the degree that only some of the known religions are treated favourably, at the exclusion of the rest.

DISCRIMINATION ON GROUNDS OF SEXUAL ORIENTATION

The Ombudsman has repeatedly noted the hesitation of victims of discrimination on grounds of sexual orientation in reporting the discrimination they suffer, and the lack of knowledge regarding the protection options provided to them.

A unique case of a complaint for discrimination on grounds of sexual orientation, is the report of a Greek citizen residing in Belgium, who asked for a certificate that she is not married from the consulate, in order to enter into a same-sex marriage in Belgium. According to the complaint, the consulate refused to grant this certificate with the justification that this possibility is not recognised by the Greek legal order. After the direct intervention of the Ombudsman, the consulate did not persist with its objections regarding the legality of the reason for granting the certificate, but it claimed that a different type of certificate is needed, in particular a family status certificate. In this context, the Ombudsman noted that it should be ensured in any way possible that, whatever certificate is granted in the end, must be acceptable by the competent Belgian authorities. Also, it invoked the recent decision of the European Court of Human Rights, according to which the exclusion of same-sex couples from the scope of Law 3719/2008 and the possibility of concluding a civil partnership agreement constitutes violation of Article 8 ("Right to respect for private and family life") in combination with Article 14 ("Prohibition of discrimination") of the European Convention on Human Rights. The case is pending (case 173153/2013).

ACTIONS TO PROMOTE THE PRINCIPLE OF EQUAL TREATMENT RAISING AWARENESS AND EDUCATION

In 2013, with the end of March 2014 set as the timeframe for implementation, the Ombudsman is implementing a series of actions that are included in the annual Progress programme of the EU, which funds communication actions for tackling discrimination. In more detail, some of the programme's actions are: a) awareness events and meetings with local

authorities in the cities of Patras, Ioannina, Thessaloniki and Volos; b) dispatch of teams for on-site inspections and interventions on Roma issues in the areas of Kalamata, Thessaloniki, Karditsa and Lefkada; c) conference on the integration of the Roma with the participation of European agencies; d) issue of diversity guide providing useful knowledge to public servants; e) issue of leaflet on the Ombudsman's competences on issues of discrimination (see "Publications" in "The activities of the year") and finally; f) the upgrade of the Ombudsman's online presence in the entire spectrum of discrimination.

CREATION OF COOPERATION NETWORK WITH CIVIL SOCIETY

In October 2013 the Ombudsman addressed an open invitation through its website and the Press to organisations working on issues of discrimination to participate in a cooperation network.

The Ombudsman, bearing in mind: a) the serious difficulties which specific, especially vulnerable, social groups face as regards their access to the Ombudsman's mediation services for the protection of their rights, and b) the lack of information and expertise of many civil society agencies working in this field as regards the relevant legislative and case-law developments, as well the relevant work and competences of the Ombudsman, seeks to develop a network for the mutual exchange of information with civil society organisations, agencies and associations that are active in any region of Greece, in the protection of rights and provision of social support and tackling discrimination.

The goal of the network is to improve the Ombudsman's contact with anyone experiencing discrimination, to exchange information on the relevant developments at national and European level and to provide available specialised information regarding the appropriate access of involved agencies and persons to the competent authorities. The first working meeting of the network took place on 13 December 2013 with the participation of a significant number of representatives from civil society organisations.*

TRAINING AND COOPERATION WITH INTERNATIONAL BODIES

In 2013, building on its knowledge and experience, the Greek Ombudsman participated in a series of training seminars, aimed at informing and raising awareness on anti-discrimination issues. At the same time, the intensive cooperation and exchange of know-how between the Ombudsman and other bodies that are active within Greece and abroad continued on issues of implementation and promotion of the principle of equal treatment.

Representatives from the Ombudsman participated as trainers in numerous training seminars. For example, we note the ongoing cooperation of the Ombudsman with the Hellenic Police

Continuing Education School, as well as the National School of Public Administration, where the Ombudsman provides training on the subjects of rights and equal treatment.

At the level of cooperation and exchange of know-how, some of the conferences, workshops and events of European institutions, agencies and networks we participated in are:

- Ombudsman Kalliopi Spanou participated in an international conference organised by the Committee on Equality and Non-Discrimination of the Parliamentary Assembly of the Council of Europe – PACE), in cooperation with the Polish Lower Parliament, on the subject of the freedom of expression of LGBT individuals, in Warsaw (19 March). Made a presentation on the subject of "Tackling Homophobic Speech and Violence".
- The Ombudsman participated in the conference of the European Commission against Racism and Intolerance (ECRI) of the Council of Europe, on "Challenges Faced in the Current Institutional and Budgetary Environment", where she participated with the presentation "Equality Bodies: Accessibility and Relations with NGOs", in Strasbourg (30-31 May).
- Deputy Ombudsman Vasilis Karydis and a scientific expert represented the independent authority at the inter-European Forum for Dialogue on Discrimination organised by the Turkish Parliament in Nevsehir (Nyssa) (9-12 September). The event was funded by the EU in the context of the programme "Parliamentary exchanges and dialogue".
- An expert participated in a working meeting of the European Roma Information Office (ERIO) on the subject of "Protecting Roma against Discrimination: The Role of Equality Bodies" on the strategies for the integration of the Roma based on the European Directives against racial discrimination, in Brussels (27 September).
- A scientific expert participated in a conference on fundamental rights on the subject of "Combating Hate Crime in the EU" organised by the Fundamental Rights Agency (FRA) in Vilnius (12-13 November).

The Ombudsman also organised working meetings with representatives of international and European agencies and organisations. For instance:

- In the framework of the Joint Working Visit to Greece of the three Personal Representatives of the OSCE Chairperson-in-Office for tackling discrimination, a meeting was held at the Ombudsman's offices on 19 September. Deputy Ombudsman Vasilis Karydis and a member of the scientific staff participated in the meeting.
- Representatives of PACE visited the Ombudsman with the goal of collecting information for "Addressing Neonazi and xenophobic manifestations" (25 November). The independent authority was represented by Deputy Ombudsmen Vasilis Karydis and Giorgos Moschos.

The Ombudsman remains an active member of the European Network of Equality Bodies (Equinet), a network for the horizontal connection and coordination of the official bodies for the implementation of the community Directives against discrimination in EU countries and accession countries. The independent authority participates in all the working groups of the network and is systematically represented in the meetings held annually to organise the work of the groups and exchange information on issues of discrimination, in the context of the network's actions in each case.

Specifically, in the framework of Equinet, the Ombudsman's scientific experts participated in:

- Legal training seminars in Brussels (17-19 March and 29 November).
- A visit of the working group "Communication Strategies and Practices" to the offices of the Ombudsman in Athens (27 March) and the regular working meeting in Brussels (29-30 October).
- The meeting of the "Strategic Development" working group on the subject of "Working with and Supporting Duty Bearers", in Manchester (29-30 April) and in Zagreb (23-25 October).
- The meeting of the "Policy Formation" working group in Brussels (10-11 September).
- The annual general meeting of Equinet in Brussels (28 November).