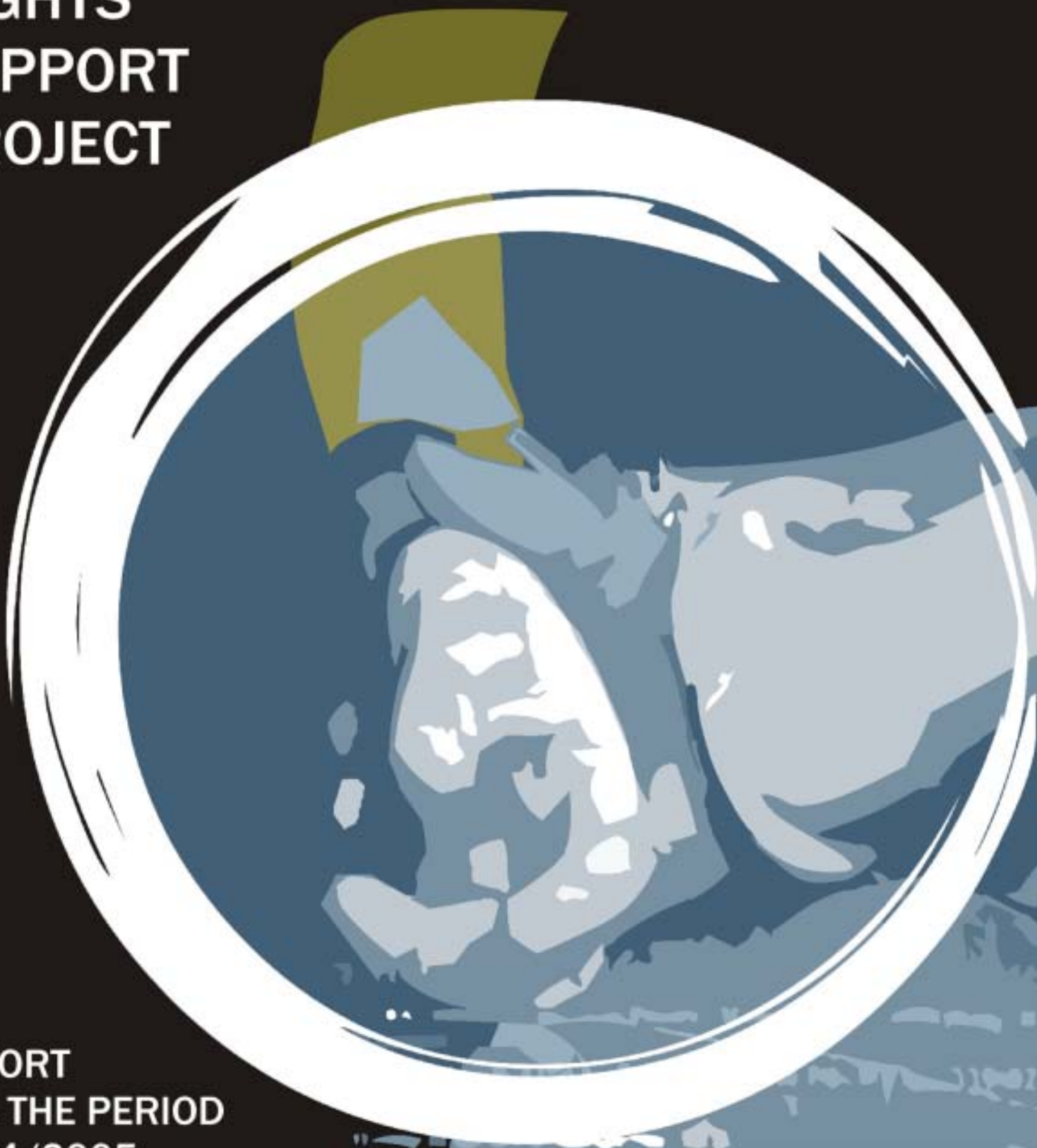


HUMAN RIGHTS SUPPORT PROJECT



REPORT
FOR THE PERIOD
2004/2005

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2004 - 2005

Autor: Petar Jordanoski

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Editor: Petar Jordanoski

technical editing and printing: RI-Grafika - Skopje
tel./x: (02) 2451-527
e-mail: rigrafika@mt.net.mk

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List of commonly used abbreviations

ARKA	Forum for protection of Roma rights
Coalition	Coalition “All for a fair trial”
CCI	Center for Civic Initiative
CDD	Center for Democratic Development
OSCE ¹	Organisation for Security and Cooperation in Europe, Spillover Monitor Mission to Skopje
HRSP	Human Rights Support Project
Mol	Ministry of interior
PSU,	Sector Professional Standards Unit
BPPO	Basic Public Prosecution Office
OO	Ombudsman Office
PC	Project Coordinator
PO	Project Officer
ECHR	European Convention on Human Rights
NGO	Non - Governmental Organisation
AOP	Authorised Official Person
LCP	Law on Criminal Procedure
CC	Criminal Code ¹

Executive Summary

The Human Rights Support Project (HRSP) is a civil society initiative focused on the phenomenon of *police misconduct or mistreatment*. The project aims to address the use of illegal physical and mental force by authorised Ministry of Interior officials during their official duties, and to assist in the development of an effective mechanism for the protection of the human rights of alleged victims.

Financially supported by OSCE Spillover Mission in Skopje, and implemented by 5 NGOs, the HRSP covers the entire territory of Republic of Macedonia.

As a result of the project activities conducted between 2004 and 2005, this Report has been produced using findings from the registered cases of police misconduct or mistreatment. The Report gives a comprehensive picture of the level of respect for human rights on the part of the Ministry of Interior, and the preventive measures taken by authorised institutions.

In the Report, special attention is given to the legal mechanisms for protecting the victims of police abuse, and in particular the Sector for Internal Control and Professional Standards (SICPS), the internal control body within the Ministry of Interior. Results show that the work of the SICPS is frequently prolonged and inefficient: while the SICPS has replied to submitted complaints in 66% of HRSP cases, in nearly all cases - over 97% - the reply have been after the 30 day deadline prescribed by the SICPS's Operational Rules.

Furthermore, in over 78% of cases the SICPS found that the police officers concerned had not exceeded their authority as has been alleged. Of the 10 cases where the SICPS did find that the police officer in question were at fault, only 3 led to internal disciplinary measures – the reduction of wages by 15% for a short period – and in only one case have there been criminal charges filed (although the officer in question is currently being prosecuted on torture charges).

The HRSP NGOs have also examined the work of the Ombudsman office and have recommended that greater use is made of available tools prescribed by law, including use of the media in egregious cases. However, it was also established that the opening of six regional Ombudsman offices has led to significant improvement in the access of the alleged victims of police abuse to the principle body established to defend their rights.

The report sets out a number of recommendations to improve the protection of human rights of persons in their contacts with authorised officials of the Mol. The HRSP NGOs

have found that the internal mechanism for controlling Mol officials is currently neither transparent, timely, comprehensive nor objective.

While the report recommends a number of measures to improve the work of the SICPS, the HRSP NGOs believe that the Macedonian government should actively consider establishing an independent, external body to review complaints. Such a body would be fully in accordance with *European Convention for Human Rights* standards.

Introduction

In January 2004, three non-governmental organisations, active in the field of protection of human rights and fundamental freedoms, started with the implementation of the Human Rights Support Project (hereinafter, HRSP). The basic goal was to provide free of charge legal advice and assistance to alleged victims of misconduct and mistreatment by the police, who are seeking assistance in order to file official complaints, utilising different available administrative and legal mechanisms. Initially, the Project was implemented in the regions of Tetovo, Skopje and Kumanovo, as a response to the increased number of cases of violation of human rights by the police in the crisis regions during and following the 2001 conflict. The monitoring conducted by national NGOs and international organisations that monitor citizen's complaints for human rights violations during the last few years, has indicated the need for the establishment of such a Project. They have noticed that victims often consider the complaint procedure to be complex, intimidating, slow, frustrating, expensive and sometimes unsuccessful.

The region of Tetovo was covered by the Centre for Democratic Development (CDD), the Information Centre for Civil Society (ICCS) covered the region of Skopje, and the Forum for Roma Rights ARKA covered the region of Kumanovo. Nevertheless, these three non-governmental organisations also registered cases of misconduct by the police in the cities of Kriva Palanka, Stip, Probistip and Struga. The Project included six project officers, two at each of the fore mentioned NGOs. The Project Officers monitored the cases of alleged misconduct and mistreatment by the police, which have been registered during the implementation of the Project, as well as the cases that have been referred by OSCE and the PROXIMA mission. The Project is financed and supported by the OSCE Spillover Monitor Mission to Skopje (hereinafter, OSCE).

As part of the free of charge legal counselling, legal officers participating in the project undertake the following activities:

- Interviewing and registration of findings;
- Photographing injuries and other evidence;
- Assistance to injured persons, in order to ensure proper documentation about the injuries;
- Collection of additional accompanying documentation;
- Transfer of information about the particular case to international organisations;
- Providing advice on the legal remedies that are available to the alleged victims, including filing complaints with the Mol Sector for Internal Control and Professional Standards, Ombudsman Office, Public Prosecution Office, as well as private claims and civil suits;

- Assistance to the alleged victims in preparation of letters, claims and complaints, to the above mentioned institutions;
- Accompanying and/or representing alleged victims during meetings with representatives from state institutions;
- Provision of means for socially endangered persons, in order to cover the expense of obtaining medical certificates (introduced in 2005).

Project implementation in 2005

The successful implementation of the Project continued during 2005, with the inclusion of two new NGOs: CHOICE from Strumica for the region of south-east Macedonia and the Centre for Civic Initiatives (CCI) from Prilep, for the south-west region. During 2005, the region of Skopje is covered by the Coalition “All for Fair Trials”, instead of the Civil Society Resource Centre, which withdrew from the Project. Consequently, the HRSP now fully covers the territory of the Republic of Macedonia. The continuation of the HRSP in 2005 is marked with the trend of strengthening coordination amongst the NGOs included in the Project and the NGOs assuming the directing role that the OSCE had during 2004. Namely, two new bodies have been established during 2005 within the HRSP with executive prerogatives: the Executive Board and the Project Coordinator. As such, of a network of five NGOs that work on cases of alleged police abuse has been formally established. The establishment of the NGO network increases the overall power of civil society towards a more efficient fight against weaknesses in society and to be a stronger and more efficient promoter of the human rights cause.

During 2005, the role of the OSCE has been reduced to *ad hoc* monitoring of the activities that are being undertaken within the HRSP, organisation of training events for strengthening of NGO capacities, strategic planning for the NGO network, and activities to increase the knowledge of HRSP legal advisors in the human rights field. Of course, during 2005 the OSCE also financially supported the Project.

One of the most important developments, and at the same time, a major achievement by the Project, are the monthly coordination meetings that are being organised by each NGO at a local level. The purpose of these meetings, is to monitor the cases of alleged misconduct and mistreatment by the police and to improve and strengthen working relations between the organisations that participate in the Project and state institutions.

The Report encompasses the cases that have been registered during the period from 1 January 2005 to 31 October 2005.¹

The conclusions and recommendations contained in the Report aim to suggest appropriate political and legislative reforms, based on the conclusions and findings of the Project, with reference to the appropriate domestic institutions, and to correct weaknesses and identified gaps in the implementation of the HRSP to date, in order to ensure the improvement and further development of the Project.

¹The HRSP Project Coordinator has prepared the Report.

1

Local coordination meetings – form of cooperation between HRSP and state bodies

As of April 2005, there are local coordination meetings organised in the offices of each of the five NGOs that implement the HRSP. The participants at these meetings include: inspectors from the Sector for Internal Control and Professional Standards (PSU), representatives from the Ombudsman Office, representatives from the Public Prosecution Office and local self-government, as well as representatives from the OSCE and PROXIMA missions.

Coordination meetings organised by the OSCE Field Stations in Kumanovo and Tetovo preceded these meetings. During 2004 and the first quarter of 2005, there have been 13 coordination meetings held at the OSCE Field Station in Kumanovo and 4 meetings at the OSCE Field Station in Tetovo. These meetings were organised on a monthly basis and provided for direct and effective monitoring of the registered cases of misconduct and mistreatment by the police.

The local coordination meetings are organised and moderated by HRSP Project Officers. During the meetings, Project Officers present new cases and open up discussion with the inspectors from PSU and the representatives from the Ombudsman Office, regarding actions that have been taken in relation to the registered cases of alleged victims of improper behaviour by the police within the framework of the HRSP.

Although it was envisaged for these meetings to take place on a monthly basis, between April and November 2005 only three local coordination meetings have been held in each of the cities of Kumanovo, Skopje and Tetovo, and only two meetings in Strumica and Prilep respectively. The reasons for this low number of meetings are:

- Insufficient number of registered cases during a period of a single month; and
- Preoccupation and unavailability of representatives from the Mol Sector and the Ombudsman Office.

From the records and minutes that the project coordinator has received from the local coordination meetings, and as a result of his presence at some of those meetings, one could draw the conclusion that these meetings have a significant impact on the acceleration of procedures being conducted in relation to complaints filed with the PSU and the Ombudsman Office. PSU can be pointed out as a specific example:

In general, since the number of Mol employees responsible for dealing with citizen's complaints has not been increased, in spite of a significant increase in the number of

citizen's complaints (1300 complaints during 2004), it appears that, objectively speaking, the PSU is not able to respond to complaints within the legal 30-day deadline. Quite often, people wait for months for a response. However, when such delays occur with a complaint filed through the HRSP, the PSU inspectors find themselves in a difficult situation, having to admit at several consecutive meetings that no action has been taken. As such, the coordination meeting process has served to speed-up the response from the PSU with regard to HRSP cases.

These meetings also improve the access and trust that citizens have in these state institutions and they additionally strengthen the previously established link between civil society and state institutions, which receive complaints for possible human rights violations.

It is worth mentioning that PSU representatives also participate at the training events organised for HRSP Project Officers, as well as representatives from the Ombudsman Office, representatives from the judiciary and Public Prosecution Office. So far, two training events of this type have been organised. The first one was organised in December 2003 and the second one in March 2005 in Skopje.

Conclusions:

- Local coordination meetings provide for direct and effective monitoring of registered cases of misconduct and mistreatment by the police;
- These local coordination meetings improve the access that citizens have to state institutions and strengthen the previously established link between the civil society and state institutions that receive complaints for possible human rights violations;
- These meetings are of major importance for the process of acceleration of proceedings that are conducted in relation to complaints filed with PSU and the Ombudsman Office.

Recommendations:

- Local coordination meetings are to be held regularly, once a month during 2006, in order to deepen and intensify the cooperation between the HRSP, NGOs and state institutions that receive complaints for possible human rights violations.

2

Recorded cases of misconduct and mistreatment by the police within HRSP

At the very beginning, it is worth mentioning that this year, the whole territory of the Republic of Macedonia is covered by HRSP. Bearing in mind that one of the recommendations of the Preliminary Report for 2004, was the inclusion of NGOs active in the field of human rights protection i.e. expansion of the Project in the regions that have such a realistic need, one can conclude that the inclusion of the NGOs CCI from Prilep and CHOICE from Strumica in HRSP, eliminated one of the major weaknesses, identified during the past year. This meant that the overall coverage of the Macedonian territory is 85%. Nevertheless, during the session of the Executive Board of HRSP held on May 4, 2005, a decision has been made to include the remaining 15% of the territory of the Republic of Macedonia, which were still not covered by the Project (central Macedonia), via the participation of the five NGOs that implement HRSP. Hence, HRSP is no longer limited only to the former crisis regions, as it was envisaged and implemented during 2004. Additionally, this enables a comprehensive insight in the problems related to the cases of misconduct and mistreatment by the police at a national level.

Table 1 : Recorded incidents of misconduct and mistreatment by the police

NGO	Referred cases from OSCE	NGO initiated cases	Referred cases from other Internat. Organisations	Recorded cases	Concluded cases	Ongoing cases
ARKA	5	22	2	29	10	19
Coalition	7	21	7	35	11	24
CDD	5	11	1	17	1	16
CHOICE	0	13	0	13	5	8
CCI	2	3	1	6	0	6
Total	19	70	11	100	27	73

As of October 31, 2005, NGOs that implement HRSP have registered 100 cases of exceeded authority or improper behaviour by police officials, which, compared with the 39 cases registered in 2004, represents an increase in the total number of registered cases 156,4%.

During the implementation of the Project so far, **ARKA** has registered **29** cases. Ten of those cases have been resolved and completed; one of the cases was closed because it was a case regulated by the Amnesty Law, and another case was closed because the registered alleged victims were not willing to file an official complaint. The other eight cases have been closed, because the Sector, the Ombudsman Office and the Public Prosecution Office established that those were not really cases of misconduct or

mistreatment by the police, and the alleged victims were not interested to file private complaints. The remaining 19 cases are still active. Out of the total number of cases, 5 have been referred by OSCE, 2 cases were transferred by PROXIMA, and the other 22 were a result of ARKA's self initiative. Out of a total number of 11 cases registered this year, 9 have been self-initiated.

The Project Officers of the **Coalition "All for Fair Trials"** have registered 35 cases. 11 of those have been closed. Namely, in the first case, one of the victims was not interested to continue with the proceedings, whereas in the second case, the victim was not willing to process the complaint, because he/she was scared that the complaint might provoke the police, and in the third case, the alleged victim passed away. The decision to close the third case was made by the PO's who are responsible for the Skopje region, in coordination with OSCE. The fourth case was closed, because of several reasons: the alleged victim did not show willingness to file a complaint with PSU, there was no sufficient evidence, and also, the victim preferred for the case to be managed by PROXIMA.

In three of the cases, the alleged victims who have been registered as drug addicts, refused to get medical certificates, although they were told that the expenses incurred for the certificate would be compensated. Additionally, the alleged victims were providing confused statements regarding the alleged offenders, as well as in relation to the particular location where the offence took place. Neither witnesses, nor material evidence was pointed out. One of the cases was closed, because after a response has been received upon complaints filed with PSU and the Ombudsman Office, and following the consultations with the alleged victims, the PO of the Coalition concluded that the rights of the victim have been violated by the security guards of a state agency, and not by the police. The negative response in relation to complaints filed by the Ombudsman Office and PSU, as well as the fact that the victim has provided false medical certificate, are the reasons for closing of another case. Another registered case was closed, following a negative response regarding a complaint filed by the Ombudsman Office, i.e. it was determined that the execution of the search warrant was legal. The litigant was no longer interested into further pursuing the procedure. One case was closed, following an oral response by PSU inspectors, who confirmed that all necessary documentation for the seized items was provided, thus, there is no violation of the alleged victim's rights. The alleged victim was no longer interested to continue with the proceedings, because in the meantime, the seized item was returned.

This means that the Coalition has 24 *active cases*. Two fifths of the total number of the Coalition cases were referred by other entities, that is to say 7 cases were referred by OSCE and another 7 by PROXIMA. The remaining 21 are self initiated cases by NGOs. 13 of the 21 cases registered this year, have been self-initiated by the Coalition.

CDD has registered 17 cases. One case has been transferred to CCI, and another case was closed, because of the lack of legal grounds to undertake legal action within the framework of HRSP. The remaining 15 cases are still active. 5 cases have been referred by OSCE, 1 has been transferred by PROXIMA, and the remaining 11 were self initiated by CDD. Out of the total number of cases registered in 2005, 1 was referred by OSCE, 1 by PROXIMA and nine were self-initiated.

Case **TE006** was closed, because all legal means and remedies within the framework of HRSP have been exhausted, and none of the aforementioned entities confirmed the violation of the rights of the alleged victim.

The newly included NGO within HRSP – **CHOICE** from Strumica, has registered **13** cases of police misconduct and/or mistreatment. Five of those cases have been closed. Namely, a negative response was received from PSU, and regarding the responses from the Ombudsman Office, in two of those five cases, in the reasoning of its decision, it is stated that the police has to show respect for human dignity, when performing its legal obligations. Probably the largest benefit for the Strumica region, as a result of the implementation of HRSP so far, is the fact that the five registered alleged victims have stated that after filing the complaints with the Sector and the Ombudsman Office, the behaviour of the police with respect to them has been changed in the positive sense, i.e. now, policemen respect the rights and freedoms of the alleged victims. Also, the 13 CHOICE cases are self-initiated.

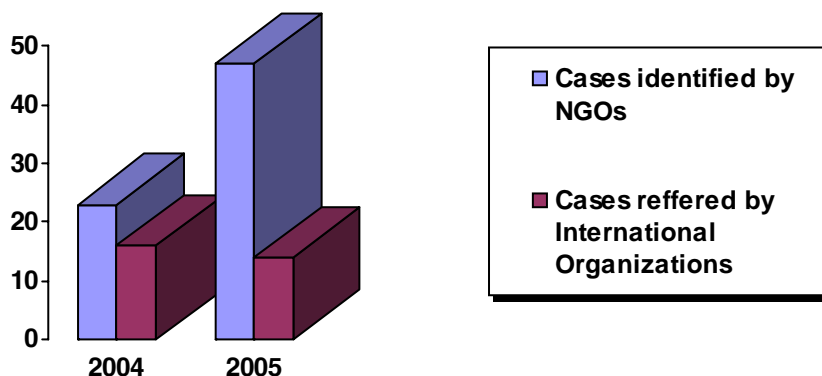
CCI has registered **6** cases in the southwest part of the Republic of Macedonia that it covers. During the month of April, case TE005 was transferred under the competency of CCI and received the code PP001, bearing in mind the territorial coverage of Macedonia by the NGOs and HRSP. All cases under the competence of CCI PO are still active. One of those cases has been referred by PROXIMA, and two have been transferred by OSCE. The 3 remaining cases are self-initiated.

The implementation of the Project so far, shows that a considerable number of citizens, alleged victims of police misconduct and/or mistreatment, turn to HRSP project officers, asking for legal assistance and advice, but are afraid to initiate a procedure against the AOPs from Mol.

As of October 31, 2005, NGOs that implement HRSP have registered 100 cases of exceeding of authority or misconduct and mistreatment by the police. Out of those, 70 cases were self initiated by the NGOs, 19 were referred by OSCE, 11 by PROXIMA. 27 cases have been closed, and the remaining 73 are still active.

It is worth mentioning that out of 39 registered cases during 2004, 23 have been identified by NGOs themselves, which implement HRSP, that is to say 59% of the total number of cases. In 2005, there have been 61 registered cases, out of which 47 have been self identified, i.e. 77,1% of the total number of cases. As a result, one could conclude that NGOs within HRSP increasingly detect and identify cases of police misconduct and mistreatment, and they do it on their own.

Manner of case identification within HRSP



Conclusions:

- 2005 marks the achievement of full coverage of the territory of the Republic of Macedonia by HRSP, with the inclusion of two new NGOs, active in the human rights field, thus providing for equal access to the services that are provided through the Project for all citizens;
- The number of registered cases of misconduct and mistreatment by the police within HRSP is 100, which, compared with the 39 cases registered in 2004, represents an increase in the total number of registered cases by 156,4%;
- Five registered alleged victims in the Strumica region believe that the behaviour of the police towards them has been changed in the positive sense, after filing complaints with the Sector at the Mol and the Ombudsman Office i.e. after a procedure has been initiated and as a result, policemen show respect for the rights and freedoms of the alleged victims.

Issues of concern:

- A significant number of citizens, alleged victims of misconduct and mistreatment by the police, are contacting the legal advisors of HRSP seeking legal assistance and advice, however, they are afraid to initiate a procedure against any APOs from Mol.

Recommendations:

- An intensive media campaign should be conducted, in order for the citizens to be introduced to the services that are provided by the project to alleged victims of misconduct and mistreatment by the police.

3

Ethnic, age and gender structure of the recorded alleged victims

The total number of victims of police misconduct and mistreatment, recorded by NGO **CHOICE**, which covers the southeast part of the country, is 13, all of which ethnic Macedonian adults, out of which 12 men and one woman.

CDD has records of 21 victims of misconduct and mistreatment by the police. All are adult males. 19 are ethnic Albanian and 2 are ethnic Macedonian.

The Project Officers of the **Coalition** have identified 41 alleged victims of police misconduct and mistreatment. Out of those, 36 are men, and 5 are women. 39 are adults and one person is a juvenile. There are 19 ethnic Macedonian alleged victims, 14 ethnic Albanian, 3 Roma, 1 Turkish, 1 Vlach, 1 foreign citizen and 2 persons with unknown ethnic origin.

Cases registered by CCI relate to 7 alleged victims, where six are ethnic Macedonians, and one person of ethnic Albanian nationality. All of them are adults and one of the registered alleged victims is a woman. The other six are men.

ARKA has recorded 40 alleged victims as follows: 15 Roma, 13 ethnic Albanians and 12 ethnic Macedonians. 38 adults and the other 2 are juveniles. All of the recorded alleged victims are male.

Table 2: Ethnic, age and gender structure of alleged victims

NGO	Albanian	Macedonian	Roma	Male	Female	Adults	Minors	Total
ARKA	13	12	15	40		38	2	40
Coalition	14	19	3	36	5	40	1	41
CDD	19	2		21		21		21
CHOICE		13		12	1	13		13
CCI	1	6		6	1	7		7
Total	47	52	18	115	7	119	3	122

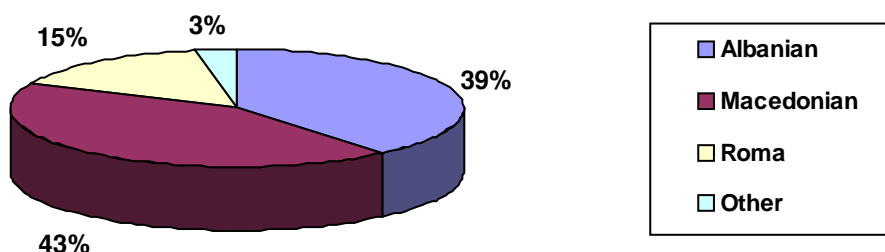
Throughout the whole country, there are *122 recorded alleged victims of police violence*, which represents an increase in the overall number of alleged victims by 141,8% in comparison with 2004. The ethnic structure is as follows: 47 ethnic Albanians, 52 ethnic Macedonians, 18 Roma and five others. In percents, this would mean that 42,62% of the alleged victims are ethnic Macedonians, 38,52% are ethnic Albanians and 14,75% are Roma.

The largest number of the alleged victims originate from the region of Skopje, which is covered by the Coalition – 33,6%, followed by the region of northeast Macedonia, which is covered by ARKA with 32,79%, then CDD, which covers the Polog-Kicevo region with 17,21% of the victims, NGO CHOICE is next with 10,65%, which covers the southeast region and finally CCI with 5,74% of the alleged victims. Three of the victims, or 2,45%, are juveniles and seven victims or 5,73% are women.

Conclusions:

- The total number of registered alleged victims of exceeded police authority within HRSP equals 122, which represents an increase of 141,8% in comparison with 2004;
- The largest number of registered cases of misconduct and mistreatment by the police originates from the Skopje region, the region of Kumanovo – Kriva Palanka, as well as the Strumica region;
- A huge majority of the victims of misconduct and mistreatment by the police are men (95,08% of the alleged victims) and adults (97,54% of the alleged victims);
- Out of the total number of alleged victims registered, 51 are Macedonians, 47 are Albanians and 18 are Roma. Percentage wise, this would mean that 42,62% of the alleged victims are ethnic Macedonians, 38,52% ethnic Albanians and 14,75% are Roma.

Ethnic structure of alleged victims



4

Types of authorised official persons involved in the registered cases within HRSP

Regarding the authorised official persons involved in the cases of exceeded authority by the police, recorded by the **PO of the Coalition**, the following has been noted:

In five cases of misconduct and mistreatment by the police, the alleged molestation occurred at the police station “Bit Pazar”. This cases involved *uniformed authorised official persons*, and allegedly, the *commander* of the police station is responsible for one of the recorded cases of molestation. It was noted that in 4 of the recorded cases, the alleged molestation occurred in the police station “Centar” (BEKO), which also involved uniformed authorised official persons. The cases at the police stations “Avtokomanda” and “Karpos”, besides the uniformed authorised official persons, also involved certain *inspectors* from Mol. One victim complained that he was beaten up by uniformed policemen from police station “Butel”, and one alleged victim complained about an AOP and an inspector from Sestor for internal affairs “Dracevo”.

There have been also incidents that took place outside of the police stations, and these were caused by authorised official persons and/or uniformed policemen. For instance: two of the alleged victims complain about the misconduct and mistreatment by authorised official persons, who are members of the *border police*. The specific complaints relate to members of the border police at the border crossings of Tabanovce, Bogorodica and Deve Bair. In another recorded case, authorised official persons were involved in an alleged illegal search, which took place at a police checkpoint, along the regional road that connects the village of Dolani and Stip. In another case, the alleged victims were attacked by AOPs from Mol, who were not on duty at that particular time and were in civilian clothing.

The *special police units* were involved in seven of the cases, that is, masked policemen during an alleged illegal search of a property, and an alleged illegal search conducted during the armed conflict, at a police checkpoint. Four of those cases relate to alleged brutal beating by the *special police forces “ALPHA”*. One of the alleged victims complains that he was brutally beaten in the centre of the city of Skopje, by the members of the *special police forces “ALPHA”*, as a result of which, the victim had to stay in a hospital for a week.

Cases recorded in the area that is covered by **ARKA**, show the following:

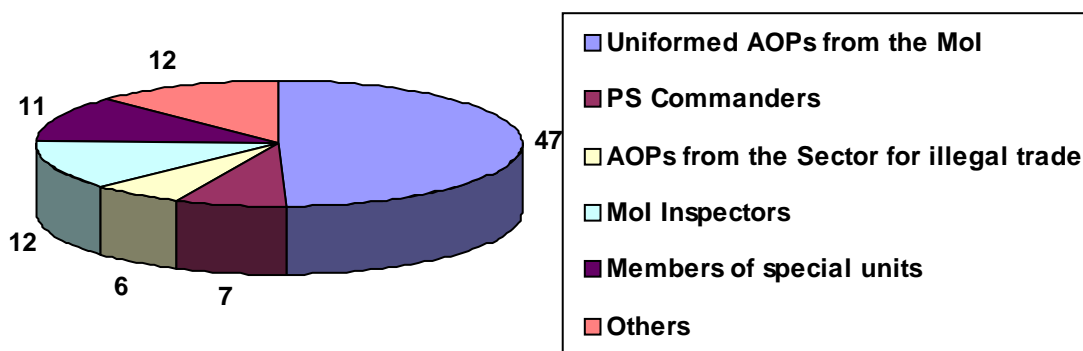
The former Commander of the police station “Rankovce” is involved in seven of ARKA's cases. A policeman from the police station “Rankovce” is involved in one of the cases, and another case involves an AOP from SIA Stip.

Uniformed authorised official persons working at the Sector for internal affairs in Kumanovo have been involved in eleven of the recorded cases of misconduct and ill-treatment by the police, and there are also two cases of involvement of an authorised official person working at the Sector for internal affairs in Kriva Palanka. In the alleged case of an alleged illegal search (the Sopot incident), there is some kind of involvement by inspectors, working at the Sector for internal affairs in Kumanovo and members of certain intelligence services. Inspectors from the Sector for internal affairs (SIA) in Kumanovo have been implicated in five of the alleged cases.

Members of the Special Unit for Rapid Interventions ALPHA within Mol-Skopje, have been involved in two of the cases, registered by ARKA.

The cases registered on the territory of the city of Tetovo by CDD relate to *uniformed policemen*, i.e. authorised official persons working at the Sector for Internal Affairs in Tetovo. One of the cases indicates towards possible implication of the *former Head of the Directorate for security and counterintelligence* in Tetovo. *Masked policemen* have been involved in two of the cases. Two additional cases relate to *inspectors* from SIA Tetovo, and one of the alleged offenders, an AOP from PS Grupcin, is being criminally prosecuted for the criminal offence of torture, in accordance with Article 142(1) of the CC.

Types of AOPs from the Mol involved in HRSP cases



The PO from **CHOICE** has recorded 6 cases with the involvement of *AOPs from the Sector for Illegal Trade* within SIA Strumica, as well as three cases with a possible involvement by *inspectors* from SIA Strumica. Uniformed authorised official persons are also implicated, i.e. a single case of an employee at SIA Strumica and two cases of AOPs, employed by SIA Vinica.

The case that has been transferred to **CCI** by **CDD**, implicates AOPs from the police station in Ohrid. Inspectors from SIA Prilep are involved in three cases registered by **CCI**, and one case implicates an inspector from SIA Kavadarci. One of the cases implicates the Head of the Forensics Department within SIA Prilep.

Conclusions :

- The largest portion of cases concern *uniformed* police officials who have allegedly exceeded their authority;
- Specifically with regard to the regions of Tetovo and Kumanovo, cases of exceeded police authority / improper behaviour suggest the possible involvement of uniform police officials working for the Sector for Internal Affairs in those areas;
- However, in the Strumica region, the largest number of cases relate to alleged excessive behaviour by representatives of the Sector for Illegal Trade from the Strumica Sector for Internal Affairs;
- In a number of registered cases of police abuse there is an indication of possible involvement by Ministry of Interior inspectors;
- In seven cases registered by the NGO ARKA, there are allegations of the involvement of a single individual – the former commander of the Rankovce Police Station;
- There are also registered cases alleging the involvement of police special forces and representatives of intelligence units;
- Six registered cases concern the 'ALPHA' special police force unit. Five complainants alleged that they had been physically beaten by ALPHA unit members;
- One of the alleged offenders, a police officer from Grupcin, is being prosecuted by the Tetovo Prosecutors Office for the criminal offence of torture (Article 142 (1) of the Criminal Code);
- In 2005, for the first time, the HRSP identified cases alleging the involvement of the border police at the Deve Bair, Tabanovce and Bogorodica border crossings;

5

Filing complaints with PSU at Mol

5.1. Introduction

One of the mechanisms available to the citizens, who complain because of misconduct and mistreatment by authorised official persons from Mol, is to file complaints with the Sector for Internal Control and Professional Standards at Mol. The **Sector Operation Rules** regulate the manner in which complaints are filed with the Sector, the investigations that are undertaken by the Sector at Mol on the basis of filed complaints, as well as the time period in which the Sector is obliged to inform the person who filed the complaint, about the results from the investigation conducted.

PSU takes part in the process of direct detection and disclosure of operational irregularities, upon received anonymous tip-offs, complaints by citizens and Mol employees, check-ups and responses to requests submitted by the Public Prosecution Office or the Ombudsman Office, which relate to behaviour and acts committed by Mol employees, and it also undertakes action after getting information about illegal acts that have been committed by Mol members, by operational means.

5.2. Filing complaints with PSU

The right of every citizen to file complaints with state and other public bodies, and also to receive an appropriate response in relation to those, is guaranteed by Article 24(1) of the Constitution of the Republic of Macedonia.

Article 10(1) of the Operation Rules of PSU, prescribes that citizens can file complaints in relation to illegal behaviour, misconduct and mistreatment by the police, and they can do that both in *written* and *verbal form*. When filing a verbal complaint, the citizen talks to the police officer on duty, and if that police station does not have a detached PSU inspector, he will appoint one of the policemen who will prepare the **report**. The report is drafted in a separate room and sent to PSU immediately, or within 24 hours. The report has to be signed by both the policeman who received the complaint and the citizen.

Paragraph 3 of the same article prescribes that in the regional organisational units of Mol, which have *detached inspectors from the Sector*, written complaints should be delivered. The Sector has detached inspectors in the following cities: Gostivar, Tetovo, Veles, Kumanovo, Ohrid, Stip, Strumica, Bitola and Skopje. The presence of detached inspectors at the local coordination meetings is a good indicator of the fact that PO's of HRSP have established satisfactory level of cooperation with the Sector.

Article 17(2), defines the *time period* within which the Sector has to complete the investigation in relation to the filed complaints. The investigations for less serious types of illegal and unprofessional behaviour are to be completed in a period of **30 days**, after the complaint has been filed, and for more serious types of misconduct and ill-treatment by the police, the final deadline is **90 days**.

Additionally, paragraph 3 states that if the Head of the Sector has given his approval and if there are justifiable reasons, the investigation can last longer, but not more than 6 months. Paragraph 4 adds that in every single case *when the investigation lasts for more than 30 days, within a period of 30 days following the filing of the complaint, the citizen will be informed about the continuation of the investigation, because of the need to establish additional facts.*

Article 24 of the Rules, provides that the *Sector is obliged to inform the persons who filed the complaints, about the progress and results of the proceedings, in a written form.*

The proposed Law on the Police, which as of November 2005 is undergoing a procedure for enactment, provides for a deadline of 30 days from the date of the incident, within which the citizen can file a complaint with the police. The HRSP NGOs believe that the proposed period of 30 days is restrictive as far as the protection of human rights are concerned for the following reasons:

- From the implementation of the project to date, it can be concluded that in a considerable number of cases, citizens launch their complaints after the period of 30 days has expired, especially in cases when citizens complain that the police did not undertake the necessary measures. As a result, the conclusion is that in future, if this deadline is adopted, a considerable number of citizens will be unable to protect their rights by filing complaints with PSU;
- The deadline for submission of complaints to the Ombudsman Office is 1 (one) year. On the other hand, the deadline for filing a civil suit is 3 months. By comparing these deadlines with the 30 days period that is being proposed, one can conclude that MoI, with the proposed text, is trying to reduce the burden of the Sector i.e. to reduce the number of filed complaints, at the expense of possible restriction of human rights.

During the MINOP² meeting held on 08 November 2005, the HRSP NGOs have presented their comments and remarks regarding the proposed Law on Police. The major issue within the overall remarks, was the proposed deadline of 30 days³. It remains to be seen, whether the working group that prepares the final text of the Law is going to accept HRSP comments and remarks. Unfortunately, the initial reactions are negative, and there is great probability that the Law will be enacted without taking into account the comments by the NGO sector, regarding the deadline that is being proposed.

²) MINOP is an informal group, comprised of representatives from MoI, the Ombudsman Office and different NGOs. At MINOP meetings, NGOs that implement the Project are represented by their Project Coordinators.

³) The deadline of 30 days is proposed with Article 8(1) contained in the text of the proposed Law on police.

5.3. Status of complaints filed with PSU by NGOs that implement HRSP

In the majority of the recorded cases within the framework of HRSP, a complaint has been filed with PSU. Table 3 contains information on the overall number of filed complaints, as well as information on information requests submitted to the Mol Sector.

Table 3: Complaints filed with the Mol Sector

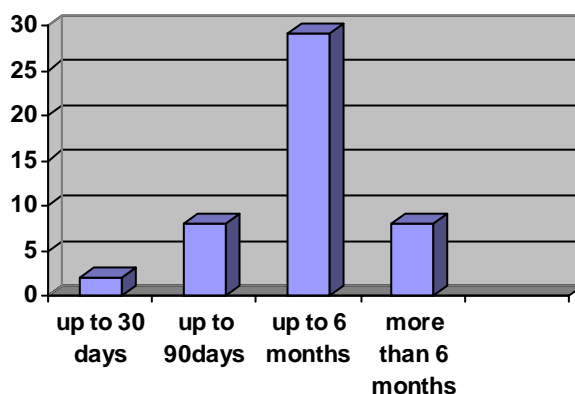
NGO	Complaints filed	Received information	Request for information	Response in relation to the request for information
ARKA	22	6	11	10
Coalition	20	10	4	3
CDD	13	6	5	4
CHOICE	12	8	0	0
CCI	4	0	1	0
TOTAL	71	30	20	17

During the implementation of HRSP so far, NGO POs have filed complaints with the Sector in 71 cases. *An answer from PSU was received in 47 cases, i.e. they have responded to 66,2% of the total number of filed complaints.*

The period within which PSU responds to complaints filed for misconduct and ill-treatment by the police does not correspond what so ever with the legally prescribed deadlines, within which the Sector is obliged to conduct the investigation regarding the elements of the filed complaint. Although, according to Article 17(2) of the Sector Rules, the investigations for less serious cases of illegal and unprofessional conduct should be completed in a period of **30 days** after the complaint has been filed, and for more serious cases of illegal and unprofessional conduct in a period of **90 days** at the latest, so far, there have been only **two cases** where a response to a complaint was received in a period of 30 days, whereas, within the period of 90 days, there was a response to only eight complaints.

Although the investigation can last mostly for six months, if there are justifiable reasons and if the Head of the Sector approves it, one can notice that a response within the period of 6 months has been received in the case of twenty-eight complaints. As a flagrant violation of the deadline for response to complaints, one can mention the fact that *in eight cases, the response was received after the period of six months has already expired.* Another curiosity would be the fact that *in two of the cases, people had to wait for a response by the Sector for 10 and 11 months, respectively.*

Period within which response was received in relation to filed complaints



5.4. Requests for information to the Mol Sector

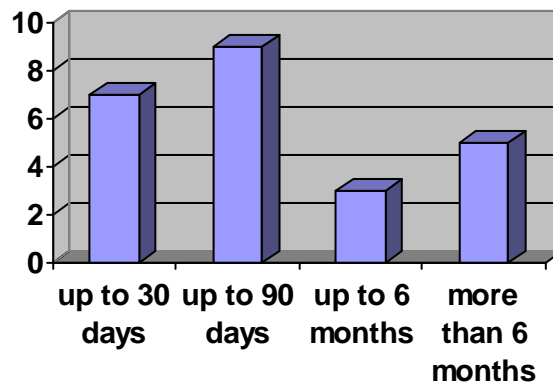
As a result of the untimely responses by representatives from PSU, the personnel working on the implementation of the Project has established a practice of submitting requests for information to PSU, for those cases where no response has been received in the prescribed time period, in relation to the complaint filed. In their requests for information, POs ask for information on the status of the complaint, the outcome of the investigation if one has been conducted, and information on the outcome of the disciplinary proceedings i.e. the proceedings for dismissal of the APO from Mol, if such a procedure has been initiated and implemented.

After the practice of organisation of local coordination meetings was established, the requests for information, besides in a written form by an official correspondence, can be delivered also verbally to the present inspectors from the Sector, which means that the NGOs that implement the Project are investing maximum efforts, in order to reduce the time interval, necessary to take actions with respect to filed complaints.

5.5. Complaints without any response by PSU

The Sector has not responded to 24 filed complaints in total. Seven of those complaints were filed in October 2005, nine of those were filed more than 30 and less than 90 days ago, three complaints were filed more than 90 days and less than six months ago, and 5 complaints that did not receive any answer, were filed with the Sector more than six months ago. One could easily draw the conclusion that one of the weaknesses in the operations of PSU, is the lack of action with respect to filed complaints, within the deadlines provided in the Sector Operation Rules.

Complaints without any response



The problem of prolongation of the deadline for completion of investigations regarding the allegations in the complaints and submission of a written response to the person who filed the complaint, was pointed out, also, by the Deputy Head of the Sector for Internal Control and Professional Standards, who was one of the presenters during the training of legal advisors who participate in HRSP.

In accordance with data at disposal to HRSP, the basic problem is the lack of human resources that would work on these particular issues. Namely, during the last few years, the number of complaints filed with the Sector has been increased significantly, whereas the number of employees has remained unchanged. The question is, bearing in mind the conditions of over employment in the public sector in the Republic of Macedonia; why not transfer some of the excess personnel to this department of Mol, so that it can fulfil its obligations within the legally prescribed deadlines.

5.6. Outcome of complaints filed with PSU

A) Legal framework

In accordance with Article 21(1) of the Sector Rules, if during the investigation it is determined that there is sufficient evidence to initiate a procedure for dismissal because of violation of job discipline, the Sector will submit a proposal for continuation of the investigation to the Dismissal Committee.

In accordance with Article 133 of the Mol Collective Agreement, after conducting a review and deducing evidence, the Committee established the responsibility of the employee and prepares a written proposal to the Minister of internal affairs, in order for an appropriate decision to be made. If the Committee establishes that the employee is not responsible or if the conditions that are necessary for a decision for dismissal are not fulfilled, it will propose to the Minister to drop the charges, i.e. to terminate the proceedings. If the Minister does not agree with the proposal, the case can be referred back for review, when the facts of the case have been irregularly established or are incomplete, if the material regulations have been wrongly applied, or he/she can make another decision.

Depending on the degree of responsibility of the employee, the conditions under which the violation of the official obligations took place, the seriousness of the violation and its consequences, the Minister can replace the dismissal of the employee with a monetary fine, which can not exceed 15% of the monthly salary of the employee, for a period of 1 to 6 months.

Besides that, in accordance with Article 144(11) of the Law on Criminal Procedure, on the basis of evidence and information collected, against the person for whom there is a reasonable suspicion that he or she committed an act that would represent a criminal offence, Mol files criminal charges and submits those, together with the evidence and documents about the undertaken measures and activities, to the competent public prosecutor. Furthermore, according to Article 3 of the Sector Rules, the Head of the Sector shall inform the Minister if the investigation establishes existence of incrimination activities, violation of working discipline or unprofessional conduct by an employee from Mol.

B) Outcome of complaints related to cases within the framework of HRSP

During the implementation of the Project so far, there was a response for 47 filed complaints and requests for information in total. In 37 of the cases of filed complaints and requests for information, the response was that **the allegations in the complaint are unfounded, i.e. that the authorised official persons have acted in accordance with the law**. This means that in **78,73% of the cases** where the Sector has completed an investigation, it has concluded that those were not cases of exceeded authority or misconduct and mistreatment by the police.

The following can be noted for the remaining ten cases, recorded by the POs from ARKA, the Coalition and CDD:

Regarding case **KU001** recorded by the PO from ARKA, a *disciplinary procedure* was conducted and the offenders were punished with a monetary fine in the amount of *15% of their salaries for a period of 6 months*. Regarding case **KU009**, the response confirmed that the allegations contained in the complaint were indeed founded, i.e. the authorised official person did not act in accordance with the rules and regulations that apply to Mol. A recommendation will be made to initiate disciplinary proceedings against the authorised official person, in accordance with the Mol Collective Agreement. However, there is *still no information on the outcome of the disciplinary proceedings*, if conducted at all. On two occasions, PO's from ARKA have sent requests for information to the Sector, about the outcome of the disciplinary proceedings, but there was no response by the Sector at all. Authorised official persons from SIA Kriva Palanka filed *misdemeanour charges against the alleged victim*, in accordance with Article 12 of the Law on misdemeanour offences.

Regarding case **KU017**, the Sector response was that the authorised official person did not act in accordance with the rules and regulations that apply to Mol. The authorised superior official will undertake appropriate measures against the authorised official person, in accordance with the Mol Collective Agreement. However, following two submitted requests by ARKA's PO, for information about the outcome of the proceedings, there is still no

information on the measures undertaken against the authorised official person. It is worth mentioning that *misdemeanour charges have been filed against the alleged victim*, for a misdemeanour offence in accordance with Article 15(1), item 3 of the Law on misdemeanour offences. In all other cases, where **ARKA** received a response, PSU claimed that no violations of the rights and freedoms of the alleged victims have been identified, by any of those AOPs from Mol.

As far as the region of western Macedonia is concerned, and covered by CDD, the following cases could be presented:

Regarding case **TE001**, the Sector responded by claiming that they have acted upon the complaint filed by the alleged victim and investigated the allegations. The Sector for Internal Affairs in Tetovo filed *criminal charges against the Head of the Directorate for security and counterintelligence in Tetovo*, for the criminal offence of abuse of official duties and authority, according to Article 353(1) of the Criminal Code. The report also points out that all additional actions fall under the jurisdiction of BPPO Tetovo and the Basic Court in Tetovo, and therefore the Sector cannot interfere in their work. Regarding case **TE002**, PSU responded by claiming that the Sector is reviewing the complaint and the request for information, in order to inspect the allegations, and that the alleged victim will be informed about the outcome of the investigation on time. Additionally, the Sector has asked the alleged victims for understanding and tolerance, for the prolonged investigation, because of the fact that it was an “out-dated case”. *“Timely” response is still being awaited.*

In its response regarding case **TE003**, the Sector claims that it has fully reviewed the complaint of the alleged victim, and, on the basis of the conducted investigation, it was not possible to establish the identity of the police officials who conducted the search and molested the alleged victim. Furthermore, the alleged victim is being advised to file a civil suit against an unknown offender, with the competent court. Regarding case **TE012**, PSU responded by saying that the Sector will respect and implement the decision by the court, with respect to the items seized during the conflict in 2001. Judicial proceedings are currently under way. With respect to the remaining **five cases** registered by CDD, the response by PSU was that following the investigation, it was established that there was no *violation of the rights of the alleged victims by the police.*

As far as case **SK003** is concerned, the PO of the Coalition was verbally informed that the allegations in the complaint have been inspected and that after the investigation a *disciplinary procedure* was conducted, following which the offenders were fined with 15% of their salaries. There was no information for how many months this disciplinary measure applies. A written response was never received. Even this scarce response was a result of two requests for information and a meeting with the Deputy Head of the Mol Sector, where information regarding this particular case has been asked for. Regarding case **SK005**, PSU responded by saying that the *allegations of the person who has filed the complaint are partly founded and correct* and the Sector advised the alleged victim to file a civil suit against the authorised official person involved in that case. There was nothing about whether there is an investigation or not and there was no information on the outcome of the proceedings. No administrative measures or sanctions have been imposed on the

authorised official person involved in the case. It can be noted that in case **SK006**, a notice has been received from the Sector, claiming that against two authorised official persons, the Sector has prepared a *proposal with an opinion for adoption of a decision for termination of working relations by dismissal*, which was submitted to the Dismissal Committee, because the fact that the authorised official persons from SIA Skopje did not act in accordance with Mol Collective Agreement, the Regulation on the use of firearms and the Operation Rules of the Mol. In this case also, the POs from the Skopje region were verbally informed that the two AOPs involved in the case have been fined with 15% of their monthly salary.

In all other cases where POs of the **Coalition** have received an answer, the response was that the PSU did not establish a violation of the rights and freedoms of the alleged victims by AOPs from Mol.

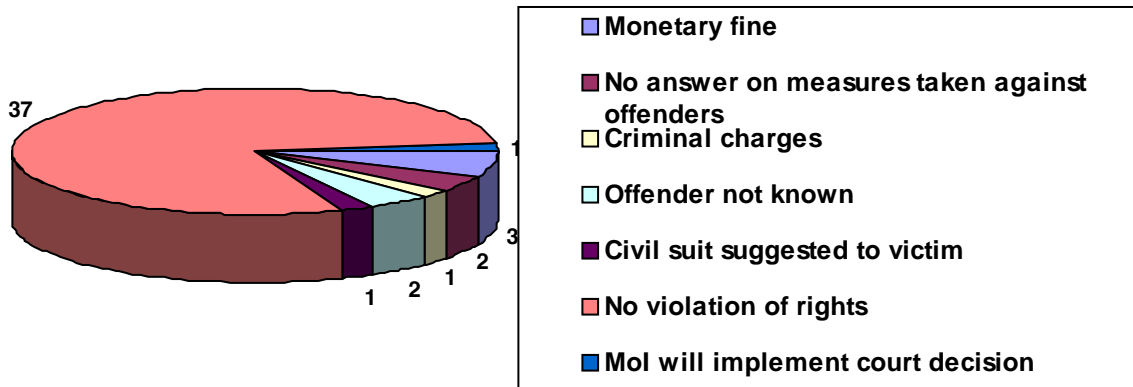
NGO **CHOICE** has received a response in relation to eight of the filed complaints, and in all those cases, following an investigation, the PSU did not establish a violation of the rights and freedoms of the alleged victims by AOPs from Mol.

As a **summary** of the **10** cases which received a response by the Sector after complaints have been filed, in which were established violations of rights of the alleged victims, one could note the following:

- *In 3 of the recorded cases of misconduct and mistreatment by the police, the offenders were subject of an administrative sanction in the amount of 15% of their salaries. In one of those cases, the administrative sanction has duration of six months, and in the other two cases, the duration of the administrative sanction is not known;*
- *In one case, the Sector for Internal Affairs in Tetovo filed criminal charges against the alleged offender, and the cases is currently pending with the Basic court in Tetovo;*
- *In two cases from the Kumanovo region, the report said that a disciplinary procedure was initiated, and there is no answer to the submitted requests for information as to what kind of sanctions, if any, have been imposed.*

These cases are characterised by the lack of transparency in the work of the Sector. In one of the cases, the response by the Sector said that the investigation was prolonged because it was an out-dated case, and in another case, the Sector informed that it was impossible to establish who were the police officials who conducted the search and molested the alleged victim. In the ninth case the information said that the allegations are partly true and the alleged victim was advised to file a civil suit. There were no disciplinary sanctions against the offender. In the tenth case, PSU's notification said that the Sector would act upon the court decision, in relation to the items seized during the conflict back in 2001. The court proceedings are currently under way.

Outcome of complaints with response



It has to be mentioned that in some of the cases of alleged police misconduct and mistreatment, the police has filed misdemeanour and criminal charges against the alleged victims.

5.7. Punishment of AOPs from Mol who violate human rights

From all these presented cases, recorded within HRSP, one could notice that the **only sanction⁴ that was imposed to authorised official persons from Mol**, for whom it was established that they did not act in accordance with Mol rules and regulations, i.e. **in the recorded cases of misconduct and mistreatment by the police, is the monetary fine in the amount of 15% of their monthly salary.**

There is not a single dismissal of AOPs from Mol, in relation to all cases recorded by the HRSP. Even more so, the Minister of Internal Affairs has the right to replace the dismissal of the employee with a monetary fine, which cannot exceed the amount of 15% of the monthly salary of the employee, for a time period of 1 to 6 months.

What can be worrying is the fact that the person who filed the complaint is not informed about the sanction that was imposed to the AOP, responsible for the violation. This is in accordance with Article 23 of the Sector Operation Rules, which stipulates that the person filing the complaint will be informed whether a disciplinary measure was imposed on the offender or not, but he/she will not be informed about the type of the measure.

The above mentioned provision is contrary to Article 24(1) of the Constitution of the Republic of Macedonia, which stipulates that every citizen has the right to file complaints to state bodies and other public entities and to receive an appropriate answer in this regard. A response would imply a full, comprehensive response, and not a partial response.

⁴⁾ Other sanctions are: dismissal and temporary segregation from work of the AOP from Mol.

Conclusions:

- Complaints for improper conduct by the police can be submitted to the appropriate Mol Sector and to the detached inspectors of the Sector in 8 different cities throughout Macedonia;
- The personnel working on the implementation of the Project has established the practice of submission of information requests to PSU, for those cases where no action has been undertaken in relation to a specific complaint, within the prescribed period for action in relation to a filed complaint;
- The only punishment that APO from Mol were subjected to for exceeding their authority by violating citizen's rights, was an administrative sanction – 15% of their monthly salary withheld for 1 to 6 months;
- Out of a total of 71 complaints submitted by PO of NGOs that implement the HRSP, only in 47 cases response has been received. Out of those, exceeding of authority by the police has been determined in 9 cases in total;
- The number of employees at the Sector who are responsible to deal with the complaints has not been changed for years now, although the overall number of complaints submitted to the Sector significantly increased in the meantime.

Issues of concern:

- If the case of an exceeded authority by an APO from the police is established and confirmed, the person who filed the complaint is not informed about the sanction that has been imposed on the APO, responsible for the violation. Even more so, the basis for this non-transparent behaviour by the Sector lies in Article 23(2), item 4 of the Sector Operation Rules.⁵ This provision of the Rules is adversative to Article 24 of the Constitution of the Republic of Macedonia⁶;
- In some of the registered cases of alleged misconduct and mistreatment by the police, the police has filed misdemeanour charges against the alleged victims, and criminal charges have been filed in certain cases as well;
- The proposed Law on the Police, which currently in November 2005 is undergoing a procedure for enactment, provides for a deadline of 30 days from the date of the incident, within which the citizen can file a complaint with the Police. The NGOs that implement HRSP believe that the period of 30 days, which is being proposed is restrictive, as far as human rights are concerned;
- The time period during which the Sector within the Mol is responding with regards to the filed complaints for exceeded authority of the police or improper conduct is far too long and does not correspond with the deadlines stipulated in the Sector Operation Rules;

⁵ The person who filed the complaint will be informed whether a disciplinary measure has been imposed on the offender, without specifying what kind of measure it is.

⁶ Every citizen has the right to file a complaint with the state administrative bodies and other public entities and services and to receive an appropriate response.

- The representatives of the Sector do not inform the people who have filed a complaint about the progress of the procedure in a written form, nor are they informed about the reasons for not respecting the 30 days deadline, although they are obliged to do so in accordance with Article 17(4) and Article 24 of the Sector Operation Rules; and
- The system of investigation of complaints related to alleged exceeding of authority by the police is not transparent, timely, comprehensive and objective to the extent that would be appropriate for a European democratic society.

Recommendations:

- The Mol Sector should avoid any unnecessary prolongation of the resolution of cases related to misconduct and mistreatment by the police;
- Mol should undertake all necessary measures in order to provide for timely, comprehensive, objective and transparent investigation by the Sector, regarding complaints filed in relation to exceeding of authority by the police or improper conduct;
- The Government of the Republic of Macedonia should review the possibility of establishing an independent, external body for review of complaints related to alleged exceeding of authority by the police;
- Additional expansion of the staff potential of the Sector is required, so that it can act upon received complaints in accordance with the deadlines provided in the Sector Operation Rules;
- The alleged victims should be regularly informed about the progress and duration of the procedure related to their complaint, i.e. the employees at the Sector should act according to Article 17(4) and Article 24 of the Sector Operation Rules;
- An initiative is to be launched with the Minister of interior for changes and amendments of Article 23(2), item 4 of the Sector Operation Rules and addition of a specific provision in the fore mentioned article, thus providing the Sector with an obligation to inform the victims of misconduct and mistreatment by the police about the measures that have been undertaken against APOs from the police, in registered police abuse cases;
- An initiative is to be launched with the Minister of Interior and the Macedonian Police Union for elimination of Article 138 of the Mol Collective Agreement, which enables the Minister to replace a dismissal of an employee with a monetary fine.

6

Filing complaints with the Ombudsman Office

6.1. Competencies of the Ombudsman Office

In accordance with Article 2 of the Law on the Ombudsman Office, the Ombudsman Office is an entity of the Republic of Macedonia, which protects constitutional and legal rights of citizens and all other people, when those are violated by certain acts, actions or lack of action on the part of state administration bodies and other entities and organisations with public authority.

The six (6) newly established regional offices of the Ombudsman⁷ represent a novelty, and these are located in the following cities: Bitola, Strumica, Stip, Kicevo, Kumanovo and Tetovo. This meant a significant improvement and easier access for citizens to this institution at a local level.

6.2. Filing complaints with the Ombudsman Office

Every person (natural, legal) can file a complaint with the Ombudsman Office, when he or she believes that his/her constitutional and legal rights have been violated. The complaint is submitted in a written form or verbally by completing a report at the Ombudsman Office, whereas neither taxes nor duties are paid for any action that might be undertaken.

When acting in relation to a complaint, the Ombudsman Office can act in one of the following manners: not initiating a procedure, it can initiate a procedure and it can stop or terminate the procedure. Procedure will not be initiated if there is a pending court procedure in relation to the subject of the complaint, except for its unjustifiable delay, or if the period of one year has elapsed, from the last decision or action taken by the entity, which constitutes the violation.

Within 15 days from the date when the complaint was filed, the Ombudsman Office is obliged to inform the person who has filed the complaint, whether a procedure has been initiated in relation to the allegations contained in the complaint, or it was maybe established that there are no proper grounds to initiate a procedure. If the Ombudsman Office establishes that constitutional and legal rights and freedoms have been violated, it can apply the following measures:

- 1) To provide recommendations, proposals, opinions and instructions on possible ways for elimination of the violations;

⁷⁾ The regional offices are provided for in the Ohrid Framework Agreement.

- 2) To propose for certain proceedings to be repeated in accordance with the law;
- 3) To launch an initiative for conducting disciplinary proceedings against an official, i.e. responsible person;
- 4) To submit a request to a competent public prosecutor for initiation of proceedings, in order to establish criminal responsibility.

6.3. Status of complaints filed with the Ombudsman Office

NGO	Complaints filed	Complaints that have received response
CHOICE	10	8
CDD	10	8
Coalition	18	10
ARKA	9	6
CCI	4	1
TOTAL	51	33

As the table shows, a total number of 51 complaints have been filed with the Ombudsman Office. 33 of those received a response, i.e. 64,7% of the total number.

Regarding 5 of the filed complaints, the Ombudsman Office applied Article 20(7) of the Law on the Ombudsman Office, which stipulates that the Ombudsman Office shall not initiate proceedings in relation to the complaint, if more than a year has passed since the offence took place or since the last decision of the body or organisation, except in those cases when it believes that the applicant missed the deadline because of justifiable reasons.

In fourteen cases, the Ombudsman Office established that there is no violation of the constitutional and legal rights of the applicant. In two of these nine cases, the reasoning of the decision says that the police has to show respect for human dignity when performing its legal tasks and duties.

In two cases (SK015 and SK016), a response was received from the Ombudsman Office, claiming that the Ombudsman Office sent a recommendation to Mol, the Border Police Department in Skopje, regarding the application of legal regulations related to crossing of the state border of the Republic of Macedonia, thus concluding the end of the proceedings. In one of the cases (SK024) the response said that it was a less important case and the Ombudsman Office will not take any action in accordance with Article 20(4) of the Law on the Ombudsman Office. No action has been taken in relation to case SK014, because it is subject of court proceedings, in accordance with Article 20(8) of the Law on the Ombudsman Office. No action has been taken in relation to cases **TE014** and **TE016**, because there are court proceedings initiated in relation to these cases, in accordance with Article 20(8) of the Law on the Ombudsman Office.

In one of the cases (KU001), the Ombudsman Office informed the victim that the *BPPO in Kumanovo* has raised an indictment against the alleged offenders. Regarding case SK004,

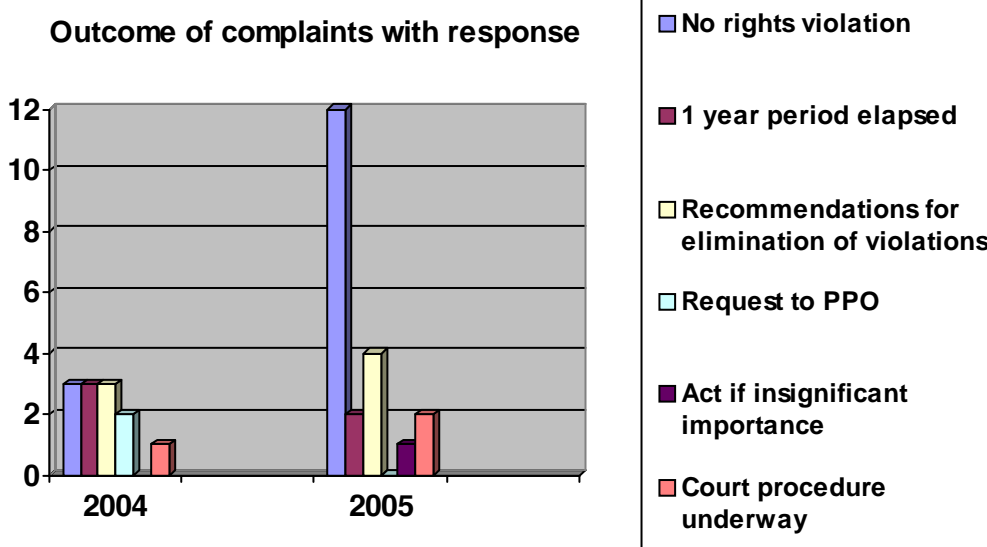
the Ombudsman Office submitted a *request to the competent public prosecutor* for initiation of proceedings, in order to establish criminal responsibility.

Regarding case TE001, the Ombudsman Office issued certain directives to the Mol Sector, in relation to the actions that are to be undertaken, and after the response was provided, the Ombudsman Office informed the alleged victim that the institution discontinued the proceedings, because a *criminal charge was filed against the alleged offender by SIA Tetovo*. Additionally, BPPO from Tetovo informed the Ombudsman Office that they are undertaking all necessary measures and activities, in order to complete the criminal charge.

Regarding case **KU005**, the PO from ARKA received a document titled “An opinion with respect to the police intervention in the village of Sopot”, which was sent to Mol by the Ombudsman Office. The opinion claims that it was established that during the intervention in Sopot, *Mol members violated the human rights of one portion of the population in that village*. This meant a violation of Article 7 of the Law on Internal Affairs; Articles 4, 5, 6, 50, 51 and 52 of the Mol Operation Rules, as well as Article 7 of the Regulation on the Use of Firearms.

The conclusion of the Ombudsman Office regarding case **KU020** was that AOPs from Mol *violated the basic human rights and fundamental freedoms*. It was established, that this meant a violation of Article 12 of the Constitution of the Republic of Macedonia and Article 5 of the European Convention on Human Rights and Fundamental Freedoms. Regarding case **KU021**, the Ombudsman Office concluded that AOPs from Mol *violated the basic human rights and fundamental freedoms*. *AOPs from Mol are requested to initiate disciplinary proceedings against the alleged offenders*.

According to the opinion of the Ombudsman Office, regarding case **PP003**, Mol has undertaken all necessary measures against the alleged offender, and therefore the Ombudsman Office will not longer take any further action in relation to that case.



It is worth mentioning the fact that the Ombudsman Office respects the deadline of 15 days, following the reception of the complaint, within which the applicant is to be informed whether proceedings will be initiated or not, in accordance with Article 20(9) and Article 22 of the Law on the Ombudsman Office. There is no legal time period prescribed, within which the Ombudsman Office is supposed to complete the proceedings with respect to filed complaints.

Conclusions:

- The opening of the regional Ombudsman offices in six cities around Macedonia has significantly facilitated the access of the alleged victims of misconduct and mistreatment by the police and generally speaking for all citizens to this relevant institution, at a local level;
- Out of a total of 51 complaints submitted by the HRSP to the Ombudsman, responses have been received in 33 cases. In 15 of those responses the Ombudsman did not identify a violation of the rights of the citizens. In 5 cases no action was taken in accordance with Article 20(7) from the Ombudsman Law: over 1 year had elapsed since the violation

Recommendations:

- An initiative is to be launched in relation to the announced changes and amendments to the Ombudsman Law, in order for a specific provision to be implemented in the legal text, thus prescribing a deadline within which the Ombudsman Office would be obliged to complete the procedure with respect to a specific complaint, as well as a mechanism for periodical informing of the citizens about the situation in relation to their complaint, for which no answer has been received within the legally prescribed deadline;
- Extensive use of the provision in Article 25(2) from the Ombudsman Law is recommended. This provision, in cases when a violation of legal rights and obligations has been established, authorises the Ombudsman Office to disclose and publicise the case via the public media, at the expense of the appropriate entity, responsible for the violation (in this case the Mol); and
- Extensive use of Article 30(1) is recommended, which provides the Ombudsman Office with the authority to launch initiatives for changes and amendments to laws and other secondary legislation with the authorised nominators, in relation to laws

7

Outcome of HRSP cases starting from criminal charges to indictment

7.1. Legal framework

In accordance with Article 42 of the Law on Criminal Procedure (LCP), the Public Prosecutor has the general right and duty to criminally prosecute all perpetrators of criminal offences that are prosecuted *ex officio*. Additionally, for criminal offences that are prosecuted *ex officio*, the public prosecutor is obliged to undertake all necessary measures for detection of criminal offences and discovering of the perpetrators and for guidance of the pre-trial procedure. During the pre-trial procedure, he/she can also issue orders for application of special investigative measures, under conditions and manner as defined by this Law, he/she can also ask for an investigation to be launched, and raise and represent the indictment, i.e. proposal for indictment before the competent court, to launch appeals to temporary court decisions and file for exceptional legal remedies against valid and applicable court decisions.

According to Article 160 of LCP, an investigation is launched for a specific person, when there is reasonable doubt that he/she has committed a criminal offence. The investigation is launched upon request by the Public Prosecutor, and the request is submitted to the investigative judge. After the investigative judge has received the request for an investigation, the judge will review the documentation, and if he/she agrees with the request, he/she will enact a decision to launch an investigation. The decision for launching an investigation is to be submitted to the public prosecutor and the defendant as well.

Article 142(1) of LCP stipulates that state administrative bodies, institutions with public authority and mandate and other legal entities are obliged to report criminal offences that should be prosecuted *ex officio*, about which they have been informed or have otherwise found out about them. *Out of the total number of registered cases within HRSP, on two occasions, it was the Ombudsman Office that filed criminal charges, and there was one more case, where criminal charges have been filed by SIA in Tetovo.*

A novelty in the Law is paragraph 3 of the aforementioned article, according to which, every single person is obliged to report a criminal offence, which would be prosecuted *ex officio*. This means that POs from HRSP are legally obliged to report criminal offences, which are normally being prosecuted *ex officio*.

Article 174(2) of LCP, stipulates the obligation of the investigative judge to inform the public prosecutor about any possible reasons for termination of the investigation and if the

public prosecutor does not inform the investigative judge that he recedes from criminal prosecution in a period of 8 days, the investigative judge will ask the trial chamber to adopt a decision and end the proceedings.

The investigative judge is obliged to end the investigation, if, during the investigation or after its conclusion, the public prosecutor recedes from criminal prosecution.

Article 177(2) of LCP, provides for a period of 15 days after the completion of the investigation, within which the public prosecutor is obliged to give a proposal for completion of the investigation or raising of an indictment, or to announce that he or she recedes from criminal prosecution. The trial chamber can prolong this deadline, upon receiving a proposal by the public prosecutor.

After the changes to LCP from March 2005, instead of the deadline of 8 days, Article 179(3) provides for a **period of 15 days**, within which the victim or individual plaintiff can file for an indictment, i.e. a civil suit, and if they fail to do so, it will be considered as if they have waived their right to prosecute. The proceedings end with a decision. This change of the deadline improves the position of the victim as a prosecutor and the individual plaintiff in the criminal proceedings.

7.2. Outcome of criminal charges filed with the Public Prosecution Office

NGO	Criminal charges filed	Indictment initiated	BPPO recedes from criminal prosecution	Subsidiary complaint filed
Coalition	4		2	2
ARKA	9	1	2	
CDD	8	1	2	1
CCI	1			
Total	22	2	6	3

Regarding case **SK004**, the Ombudsman Office requested from BPPO in Skopje to initiate a procedure for determination of criminal responsibility, and this request was fully accepted. The proceeding at the Ombudsman Office was terminated and it continued before the court as an investigative procedure. Witnesses were interviewed before an investigative judge on 19.05.2004. The authorised official persons from Mol were not interviewed before an investigative judge, although there was an order for an obligatory arrest. In the meantime, the investigative judge interviewed the two suspects, authorised official persons, and the case was then returned to the Basic Public Prosecution Office. BPPO made a decision to recede from any further criminal prosecution on 28.01.2005. In this case, the alleged victim resumed the criminal prosecution in accordance with Article 56 of LCP. *The court proceeding is currently under way for this particular case.*

In case **SK007**, the alleged victim filed criminal charges with BPPO in Skopje. The public prosecutor submitted a request to the investigative judge, who decided for an investigation to be launched. BPPO receded from further prosecution because of insufficient evidence.

According to Article 173 of LCP, the investigative judge stopped the investigation, since BPPO receded from criminal prosecution. Following the report by the investigative judge, the alleged victim submitted a proposal for continuation of the prosecution. *The court proceeding is currently under way.*

As far as case **SK011** is concerned, the alleged victim filed criminal charges for kidnapping with BPPO in Skopje on 07.09.2004. For the same offence, Mol filed misdemeanour charges against the perpetrator. BPPO submitted a request to the investigative judge for an investigation to be launched. The alleged offender did not show up for the first scheduled interview before the investigative judge. *The investigation is completed. The Basic Public Prosecutor Office's response is awaited, regarding the criminal charges.* On 12.02.2004, criminal charges have been filed in relation to case **SK010**, however, there is still no response with respect to the criminal charges. The alleged victim passed away in the meantime.

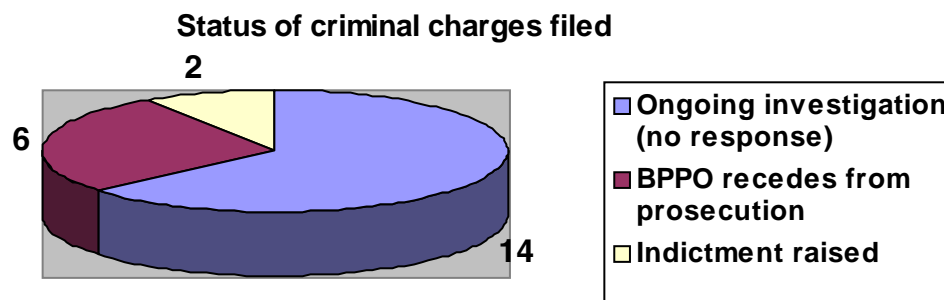
Criminal charges have been filed to BPPO in Kumanovo in relation to the following cases: **KU005** on 27.06.2003, **KU007** on 17.02.2003, **KU008** on 08.07.2004, **KU022** on 13.06.2005, **KU024** on 21.06.05 and **KU025** on 18.07.2005. No response has been received with respect to any of these criminal charges filed with BPPO in Kumanovo, although couple of those have been filed more than two years ago.

Criminal charges with BPPO in Kumanovo regarding case **KU021** have been filed on 04.04.2005, and regarding case **KU025** on 12.07.2005. In both cases, BPPO in Kumanovo receded from further criminal prosecution. In relation to case **KU001**, the criminal charges filed by the Ombudsman Office were fully accepted by BPPO in Kumanovo, which, in accordance with Article 161 of LCP, submitted a request to the investigative judge to conduct an investigation. BPPO also raised an indictment.

Regarding case **TE001**, SIA Tetovo filed criminal charges with BPPO in Tetovo on 20.04.2004, for the criminal offence of "abuse of official duties". The alleged victim was informed that *BPPO in Tetovo receded from further criminal prosecution on 24.03.2005.* In this case, the alleged victim took over the prosecution in accordance with Article 56(2) of LCP. As far as case **TE018** is concerned, criminal charges have been filed in September 2005. BPPO in Tetovo approved of the criminal charges and *it prosecutes the alleged offender according to Article 142(1) of CC that is "torture and other cruel, inhumane or degrading treatment or punishment"*.

Criminal charges have been filed with BPPO in Tetovo in relation to the following cases: **TE002** on 04.04.2004, **TE003** on 10.05.2004, **TE008** on 30.11.2004, **TE009** on 12.01.2005 and **TE017** on 19.10.05. No response has been received with respect to any of these criminal charges filed with BPPO in Tetovo. In the case **TE016**, the alleged victim filed a civil suit against the alleged offenders.

Regarding the case **TE010**, BPPO in Tetovo receded from criminal prosecution on May 21st 2005, because the Amnesty Law covered the offence. Criminal charges have been filed on 03.02.2005.



It can be noted that in two thirds of HRSP cases, where criminal charges have been filed with any BPPO, the investigation is still ongoing, i.e. no response has been received from BPPO. A drastic example would be the fact that there is no response even for criminal charges filed with BPPO, more than two years ago. BPPO has raised an indictment only in two of the total number of registered cases.

Recommendations:

- In total 22 indictments has been against APO of Mol. In only 2 cases the Public Prosecution has submitted criminal act;

Issues of concern:

- The procedure that follows after criminal charges have been filed with the Basic Public Prosecution Office is rather lengthy, stressful and confusing for the alleged victims of improper behaviour by the police. There are still responses missing in relation to criminal charges filed with the BPPO more than two years ago.

Recommendations:

- The provisions from the LCP should be fully respected, regarding the timely completion of the investigation in a period of 90 days, in order for an indictment to be prepared against the alleged offenders;
- Presence of the authorised police officials should be always ensured in judicial proceedings when they are the accused.

8

Standing Inquiry Committee for protection of human rights and fundamental freedoms

The Human Rights Support Project was presented before the members of the Parliamentary Committee on Human Rights and Fundamental Freedoms on 19.04.2005. The HRSP Project Coordinator conducted the presentation. It is worth mentioning that a representative from the Committee was one of the presenters at the training event for the legal advisors included in the HRSP, which was held in March 2005. Hence, close working relations have been established with this particular parliamentary body.

Having in mind that the Standing Inquiry Committee for protection of human rights and fundamental freedoms is one of the state institutions whose basic field of activity are the issues related to human rights, as well as the fact that this is the only Parliamentary Committee established by the Constitution of the Republic of Macedonia, the establishment of a proper relationship with this parliamentary body is of a crucial importance.

The HRSP received political support by the members of the Committee. The political support for the Project by this Parliamentary body was expressed via a statement, contained in one of the Minutes from the Committee sessions.

Notwithstanding the fact that police abuse cases have not yet been referred to the Standing Inquiry Committee, the members of the Committee remain open and available for review of prospective police abuse cases that might be presented before them, if such a need arises.

Conclusions:

- Working relations have been established with the Standing Inquiry Committee for the protection of human rights and fundamental freedoms.

Recommendations:

- After all other available legal mechanisms have been exhausted, certain cases of police abuse should be referred to the Standing Inquiry Committee for protection of human rights and fundamental freedoms, after obtaining an approval from the HRSP Executive Board.

9

Civil proceedings for compensation

The Constitution of the Republic of Macedonia and LCP guarantee the right of compensation for victims of police misconduct and mistreatment. Namely, Article 13(2) of the Constitution stipulates that the person, who was illegally arrested, detained or unlawfully convicted, has the right to be compensated, as well as other rights established by law. In addition, the person who was illegally arrested, detained or unlawfully convicted, has the right to be compensated from the state budget funds, has the right to be rehabilitated, as well as other rights established by law, as it is stipulated in Article 11 of LCP.

Out of the total 100 cases of alleged misconduct and mistreatment by the police within the framework of HRSP, civil proceedings for compensation have been initiated only in 15 of those cases. It is worth mentioning that one of the proceedings for compensation has been completed in first instance, and the victim (SK001) was awarded 120.000 denars as compensation for damages by the Basic Court Skopje 1. Unfortunately, this is a proceeding that was started more than ten years ago, back in 1994. The first instance courts in Macedonia are still considering all other cases.

Issues of concern:

- The initiated court proceedings for compensation of the victims last long and there has been a visible result just in one single case, i.e. compensation has been awarded.

10

Medical certificates and other evidence in cases of alleged misconduct and mistreatment by the police

The basic document that serves as evidence in the registered cases of alleged physical injuries caused by members of the police is the medical certificate. The medical certificate can be issued by any physician who has passed the professional exam and who is in possession of an appropriate work license.

The medical certificate contains general information about the patient, date of issue, information on the present medical condition of the patient (detailed description, size of injury, depth, functional changes), followed by the diagnosis and qualification according to the CC (physical and serious physical injury). The qualification of the physical injury is done according to the degree of detriment of the patient's health. The data that will be entered about the case, is basically the information that the physician will manage to get from the patient. One of the problems that occur, is the fact that quite often, physicians write everything what the patient is saying with regards to the manner in which the injuries were inflicted.

As far as medical certificates are concerned, the best possible evidence are the medical certificates issued by the medical centres around the country, because of the fact that in practice, one can find medical certificates with suspicious contents issued by private medical practices. Additionally, the medical certificate has to be obtained on time, within 1 day after the injury was inflicted. Anyhow, in the proceeding before the PSU, the Ombudsman Office and the Public Prosecution Office, there is no distinction made between medical certificates issued by private medical practices and those from the medical centres, as long as the certificate has been filled in appropriately.

There is a fund operating within HRSP, which is used to cover the expenses incurred for medical certificates by the alleged victims of misconduct and mistreatment by the police, if they are under social care. This is an attempt to assist socially imperilled cases, as an exceptionally vulnerable group in the cases of alleged misconduct and mistreatment by the police. It is inadmissible for a citizen not to be able to enjoy his or her rights, because he or she does not have the necessary funds to pay for the medical certificate, which might cost up to 5.000 denars.

Other evidence used in HRSP cases are statements made by witnesses and alleged victims, photographs of the alleged victims and video recordings of the incidents.

Conclusions:

- There is a special fund operating within HRSP, which is used to cover the expenses incurred for medical certificates by the alleged victims of misconduct and mistreatment by the police, if they are under social care; and
- In the proceedings before PSU, the Ombudsman Office or the Public Prosecution Office, there is no distinction between medical certificates issued by private medical practices and those issued by medical centres, as long as they are filled in appropriately.

Conclusions of the Final Report

- Out of a total of 122 alleged victims registered by the HRSP, 52 are ethnic Macedonians, 47 are ethnic Albanians and 18 are ethnic Roma. Percentage wise, this means that 42.62% of alleged victims are ethnic Macedonians, 38.52% ethnic Albanians and 14.75% are ethnic Roma;
- The vast majority of the alleged victims of police abuse are male (95.08% of the alleged victims) and adult (97.54% of the alleged victims);
- 122 alleged victims of the police misconduct or ill treatment have been registered through the HRSP, which represents an increase of 141.80% when compared with 2004;
- 100 cases of police abuse and/or improper behaviour by police officials have been registered through the HRSP is 100, which, compared with the 39 cases registered in 2004 represents an increase in the total number of registered cases of 156.40%;
- The largest number of registered cases of police abuse originate in the regions of Skopje, Kumanovo/Kriva Palanka and Strumica;
- Victims are afraid to initiate procedures against the police officers who allegedly violated their constitutional and legal rights;
- Monthly local coordination meetings facilitate direct and effective monitoring of registered police abuse cases;
- These local coordination meetings also improve citizen access to state institutions and strengthen links between civil society and state institutions;
- Furthermore, these meetings serve to accelerate the proceedings conducted by the Police Standards Unit and the Ombudsman office;
- In 2005 the HRSP achieved full nationwide coverage through the inclusion of two new NGOs, both already active in the human rights field, thus providing access to the Project's services for all citizens;
- The largest portion of cases concern *uniformed* police officials who have allegedly exceeded their authority;
- Specifically with regard to the regions of Tetovo and Kumanovo, cases of exceeded police authority / improper behaviour suggest the possible involvement of uniform police officials working for the Sector for Internal Affairs in those areas;
- However, in the Strumica region, the largest number of cases relate to alleged excessive behaviour by representatives of the Sector for Illegal Trade from the Strumica Sector for Internal Affairs;
- In a number of registered cases of police abuse there is an indication of possible involvement by Ministry of Interior inspectors;
- In seven cases registered by the NGO ARKA, there are allegations of the involvement of a single individual – the former commander of the Rankovce Police Station;
- There are also registered cases alleging the involvement of police special forces and representatives of intelligence units;
- Six registered cases concern the 'ALPHA' special police force unit. Five complainants alleged that they had been physically beaten by ALPHA unit members;

- One of the alleged offenders, a police officer from Grupcin, is being prosecuted by the Tetovo Prosecutors Office for the criminal offence of torture (Article 142 (1) of the Criminal Code);
- In 2005, for the first time, the HRSP identified cases alleging the involvement of the border police at the Deve Bair, Tabanovce and Bogorodica border crossings;
- Complaints for improper behaviour by the police can be submitted to the appropriate Ministry of Interior office in 8 different cities;
- HRSP staff have established the practice of submission of information requests to SICPS, for those cases where no action has been undertaken in relation to a specific complaint, within the prescribed period for action in relation to a filed complaint;
- The only punishment imposed on police officers found to have exceeding their authority and violated the rights of citizens, was an administrative sanction: 15% of their monthly salary withheld for a period of 1 to 6 months;
- Out of a total of 71 complaints submitted by the HRSP to the Professional Standards Unit, responses have been received in only 47 cases. Out of those cases, police exceeding their has been determined in only 9 cases;
- While the number of complaints submitted to the Professional Standards Unit has significantly increased over the past 2 years, the number of staff employed to deal with complaints has remained static;
- Out of a total of 51 complaints submitted by the HRSP to the Ombudsman, responses have been received in 33 cases. In 15 of those responses the Ombudsman did not identify a violation of the rights of the citizens. In 5 cases no action was taken in accordance with Article 20(7) from the Ombudsman Law: over 1 year had elapsed since the violation;
- The opening of 6 regional Ombudsman offices has significantly improved access to services for redress for alleged victims of police abuse;
- In total 22 indictments has been against APO of Mol. In only 2 cases the Public Prosecution has submitted criminal act;
- An effective working relationship has been established with the *Parliamentary Standing Survey Committee for the Protection of Human Rights and Fundamental Freedoms*;
- A special HRSP fund has been used to cover expenses incurred for the receipt of medical certificates by the alleged victims of police abuse, if they are under social care;
- In the proceedings before the Professional Standards Unit, the Ombudsman and the Public Prosecutor, no distinction has been made between medical certificates issued by private medical practices and those issued by medical centres, as long as they are completed correctly.

Issues of Concern

- The system of investigating allegations that the police have exceeded their authority is neither transparent, timely, comprehensive nor objective to the extent that would be considered appropriate in European democratic society;
- When criminal charges are filed with the Basic Public Prosecutors office, the procedure that follows is lengthy, stressful and confusing for alleged victims of improper behaviour by the police. There are examples of criminal charges being filed more than two years ago and still no response has been given by the Public Prosecutors office;
- Court proceedings initiated regarding compensation for victims are also lengthy and compensation has only been awarded in one case;
- A significant number of citizens alleging improper behaviour by the police, are contacting the HRSP to seek legal assistance and advice: however, those citizens are often afraid to initiate a procedure against the police officer allegedly involved;
- If the Professional Standards Unit establishes that a police officer exceeded his or her authority, the complainant is not informed of the sanction that has been imposed. Furthermore, this systematic non-transparent behaviour is regulated by Article 23(2), item 4 of the Professional Standards Unit's Rules of Operation.⁸ This provision is in conflict with Article 24 of the Constitution⁹;
- In some cases of alleged police abuse registered by the HRSP, the police has filed misdemeanour charges against the alleged victims, and in other cases criminal charges have been against the alleged victims;
- The proposed new Law on the Police, which as of November 2005 is being drafted and commented upon, will provide a deadline of 30 days from the date of the incident within which a citizen can file a complaint with the police. The HRSP NGOs believe that in the human rights context a 30 day deadline is too restrictive;
- The time taken by the Professional Standards Unit to respond to complaints of police officers exceeded their authority / improper behaviour is far too long and does not correspond with the deadlines stipulated in the Professional Standards Unit's Rules of Operation;
- The Professional Standards Unit does not inform complainants about the progress of on-going procedures in writing, nor the reasons for not respecting the 30 day deadline, although obliged to do so in accordance with Articles 17(4) and 24 of their Rules of Operation.

⁸⁾ The person who filed the complaint is informed that a disciplinary measure has been imposed on the offender but without specifying what kind of measure it is.

⁹⁾ Article 24 of the Macedonian Constitution states that "Every citizen has the right to file a complaint with the state administrative bodies and other public entities and services and to receive an appropriate response".

Recommendations of the Final Report

Recommendations to the Macedonian Government:

- The Macedonian government should consider establishing an independent, external body to review complaints alleging police officers exceeding their authority, fully in accordance with *European Convention for Human Rights* standards.

Recommendations to the Ministry of Interior:

- The Professional Standards Unit should avoid any unnecessary prolongation of the resolution of police abuse cases;
- The Ministry of Interior should undertake all necessary measures to ensure timely, comprehensive, objective and transparent investigations by the Professional Standards Unit;
- The Professional Standards Unit should regularly inform victims of the progress and duration of procedures related to their complaints;
- When judicial proceedings are enacted against police officials, or when they appear as witnesses in the trial, their presence at court hearings must be ensured by the Ministry of Interior;
- Staffing levels of the Professional Standards Unit should be increased so that it is able to properly act upon complaints in accordance with the deadlines set out in their Rules of Operation;
- Article 23(2), item 4 of the Professional Standards Unit's Rules of Operation should be amended to include a specific provision regarding the obligation to inform complainants about the measures taken against police officers;
- Article 138 of the Ministry of Interior Collective Agreement between the Minister of Interior and the Macedonian Police Union should be amended with the removal of the provision which allows the Minister to replace a decision to dismiss an employee with a monetary fine.

Recommendations to the Ombudsman Office:

- The proposed amendments to the Ombudsman Law should include a specific provision prescribing a deadline within which the Ombudsman is obliged to complete a procedure regarding a specific complaint, as well as a mechanism for periodically informing citizens of the status of their complaint when no final answer has been given within the legally prescribed deadline;
- Extensive use of the provision in Article 25(2) of the Ombudsman Law regarding publicising a case is recommended. This provision relates to cases where a violation has been established and authorises the Ombudsman to disclose and publicise the case via the public media, at the expense of the appropriate entity responsible for the violation, in this case the Ministry of Interior;

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- Extensive use of Article 30(1) of the Ombudsman Law is recommended, which provides the Ombudsman with the authority to launch initiatives for changes and amendments to laws and other secondary legislation with the authorised drafters, in specific relation to laws and secondary legislation that regulate the work of the police.

Recommendations regarding the future work of the HRSP:

- Monthly local-level coordination meetings should be held throughout 2006 in order to strengthen cooperation between the HRSP, other NGOs and the state institutions that receive complaints of possible human rights violations. Improved coordination will ensure a more efficient system for the resolution of complaints against police officers;
- An intensive media campaign should be conducted to raise awareness of the services offered by the HRSP to alleged victims of police misconduct;
- After all other available legal mechanisms have been exhausted; certain cases of police abuse should be referred by the HRSP to the *Parliamentary Standing Survey Committee for the Protection of Human Rights and Fundamental Freedoms*, with the approval of the HRSP Executive Board.

Recommendations regarding judiciary

- The provisions from the Law on Criminal Procedure should be fully respected regarding the completion of investigations within 90 days, in order for any indictment to be prepared against the alleged offenders in a timely manner;



Organization for Security and Co-operation in Europe

Spillover Monitor
Mission to Skopje