

# **Ombudsman of Kaliningrad region of the Russian Federation**

## **ANNUAL REPORT 2004 Of the ombudsman of the Kaliningrad region**

### Summary

The annual report is based on the analysis of the complaints and appeals of the Kaliningrad citizens, data from orphan's homes, military units, educational, medical and social institutions, prisons and other institutions, information presented by state and municipal bodies and organizations, NGOs of Kaliningrad region.

In the year 2004 the Ombudsman of Kaliningrad region received 1121 complaints, including 555 oral, 566 written and 23 collective appeals (from 1709 citizens). In general 2807 people addressed the ombudsman.

Analysis of the received complaints has allowed to single out a number of the most complicated human rights problems in the region.

- Violation of the right for freedom of movement of the Kaliningrad citizens, determined by the specific geopolitical position of the region.

Kaliningrad region is the most Western subject of the Russian Federation. The specifics of the geopolitical position of the region is that it has no land frontier with the rest of the Russian territory, and has a common border with Poland and Lithuania. Entry of these countries into the EU has created a significant threat for the realization of rights, guaranteed by the Russian legislation. Kaliningrad region is influenced by the EU legislative norms and national legislations of Poland, Lithuania and Belorussia. This fact especially influences the realization of the right of the citizens for freedom of movement, the implementation of citizenship legislation, legal status of foreigners, migration legislation etc. Besides, the disrupted legal space hinders from the realization of some social and economic rights, which was earlier reported by the ombudsman.

Thanks to the consistent negotiations of the Lithuanian, Polish and Russian authorities the problem of visa issue for Kaliningrad citizens is solved at present. However, the obtaining German, Latvian and Estonian visas is complicated due to the absence of the listed consulates in Kaliningrad. It is vitally important for Kaliningrad to take the necessary measures and establish consulates of Germany, Latvia and Estonia in the region.

It is necessary to carry out a complex expertise on the federal level of the correspondence of international, Russian and European legislation in the context of human rights due to the enlargement of EU. The monitoring of legal system is important because of the contradictions between the norms of Russian and international legislation, which leads to the violation of human rights.

- Violation of rights of the children in custody.

In 2004 many cases of violation of the housing rights of the orphans were detected due to ineffective work of custody authorities. In July 2004 an orphan from the Children's home # 1 was deprived of his 4-room apartment and received a 2-room flat in the countryside far outside Kaliningrad. Such a movement was motivated by the argument that orphan's flat was in the emergency condition. The child received 23 000 rubles in pay for this exchange, however, this price is much lower the commercial value of the apartment in Kaliningrad (according to unofficial data). Therefore, the legal interest and rights of the child were violated. The mayor and the custody authorities did not take any measures to keep the child's apartment in Kaliningrad. Public Prosecutor did not perceive any violation in this case. At present the materials of this case are sent to the Commissioner on human rights in the Russian Federation, who directed them to the Federal Public Prosecutor of the Russian Federation.

- Violation of family rights of the citizens in respect to the refusal of the registration authorities to immediately register children's birth.

The problem of collisions in the current law concerning the registration of birth, which provides the right for the civilian registry office to deny the issue of birth certificates, is still not solved. It hinders from the compliance of children's rights, whose parents have problems with identification documents and passports. As a result parents have no possibility to receive allowance for a child and free medical care. Children can not enter preschool institutions as well as travel outside the Kaliningrad region. Therefore, it is important to strive for the changes in current legislation of the Russian Federation to eliminate the existing collision with the international legal norms, and also activate the work of custody authorities.

- Problem of providing identification documents for orphans.

The problems with orphan's identification documents appear due to the undetermined civil status of the parents, facts of child's residence on the territory of the Russian Federation, absence of residence registration and other information. It is a common case that 17-18 year old people have no identification documents. They can not realize their rights for education and labour. The ombudsman of Kaliningrad region has appealed to the Kaliningrad administration and passport authority of the Department of Internal Affairs to solve the problem of orphan's passportization. The authorities have organized a number of seminars for the custody officials, executives and social workers from the orphanages, boarding schools, professional education institutions.

- Preventing trafficking of human beings.

The situation with human trafficking in Kaliningrad region is not properly investigated, there is no developed system of combating trafficking of women and children. Our knowledge on this problem is based on the uncoordinated messages from mass-media, NGOs, local migration authorities, department of internal affairs and other sources. The victims of trafficking do not know what authorities to address for help. There is no official statistics of trafficking and its victims. The real scope of this problem is not investigated, because there are no authorities or special organizations dealing with the situation of human trafficking in the region. On 30<sup>th</sup> March 2004 the Ombudsman of Kaliningrad region presented a report "Trafficking: specific problems of Kaliningrad region" at the international seminar in Vilnius (Lithuania), where she pointed out that we need effective public policy and legislation, which would have prevented the cases of "slave labor", both exported and imported.

- Child's rights violations in educational system.

In the year 2004 the Ombudsman received many complaints concerning violation of children's rights for education. Before entering the 1<sup>st</sup> grade of some schools in Kaliningrad children were obliged to undertake a number of preparatory courses, tests and interviews, which contradicts to the stated in Law "On education" principle of accessibility of education for all children. Another infringement of law found was that many schools do not have school regulations open to schoolchildren and public, regulations of internal school rule, lists of government authorities and their executives dealing with compliance of children's rights. Another problem of school education is that the right for free of charge education proclaimed in the Constitution is often violated. School often collect money from parents for buying student's books, repair and cleaning of classrooms and school territory, guarding service etc. Such an exaction is presented as parent's charity, however, teachers put psychological pressure on parents and children, who refuse to pay money.

- Problems of children alcoholization.

The Ombudsman of Kaliningrad region has undertaken a number of initiatives aimed at accepting beer as alcoholic drink and therefore restrict beer commercials on TV and free sale of beer to teenagers. The initiative was approved by the Kaliningrad regional Duma, commission on human rights by the President of Russian Federation. On 20<sup>th</sup> August 2004 the Federal Law # 115-FZ "On adopting changes to the Law "On commercials and advertising" was passed. According to it the beer commercials on TV are restricted. Federal Duma has recently passed the law "On the restrictions of beer sales and consumption", which prohibits beer consumption for teenagers and states punishment for selling alcoholic drinks to people under 18.

- Violations of rights of some categories of citizens caused by the implementation of citizenship legislation, passportization and registration.

The problem of passportization of citizens threatens the realization of right for free movement for the citizens of Kaliningrad region. In accordance with the agreement between Russia and Lithuania on the adaptation of the simplified transit documents, the Kaliningrad citizens need to have a foreign passport for travelling since 01.01.2005, which caused certain difficulties for people. The problems are caused by the necessity for all Kaliningraders to obtain foreign passports in order to travel to other regions of Russia as well as financial costs for this purpose. This fact can be looked upon as discrimination of Kaliningraders in comparison to other citizens of Russia. It is highly important to solve this problem by compensating the costs of obtaining a foreign passport for all citizens of Kaliningrad region.

Some categories of people, such as incapable, with limited capability, underage and others, experience additional difficulties obtaining civil and foreign passports. A special concern of Kaliningrad region is the problem of military people in obtaining foreign passports for travelling to other regions of Russia. The reason for that is their possession of secret information, which comprises the state secret. As a result they are deprived of their constitutional right for freedom of movement within the territory of Russian Federation. It is the ombudsman's opinion that such categories of people should be provided with financial compensation by the state for the airplane travelling to the other regions of Russia.

- Violations of rights for a fair court trial.

The Ombudsman's authority received 31 complaints concerning violations of rights in the criminal proceedings, 30 complaints – civil proceedings, 16 complaints – unsatisfactory judgements. The most common violation of human rights within judiciary system is the disregard of time constraints. It is explained by several factors: non-appearance in court, undue expertise, increase of work for judges due to the broadened court control function on the stage of pre-court proceedings. At the same time such a system of court control allowed to change the situation for the better in comparison with previous years.

In the ombudsman's opinion it is important to form a unified judicial practice in order to increase the effectiveness of legal defense, which is especially actual in the conditions of constantly changing legislation in Russia.

- Violation of social rights.

A considerable number of complaints has been received due to the implementation of a new Federal law # 122 concerning the substitute of benefits for some social groups by pecuniary compensation. Most people consider such a compensation to be unequal, and therefore this law has sufficiently worsened financial position of people. The situation is getting even worse in the conditions of constantly growing prices for food, services and communal payments.

The adopted law contradicts art.55 of the Constitution of the Russian Federation, which prohibits the amendment of laws, which derogates people's rights and freedoms. Therefore, people's trust in the state and law is diminished. A right to choose – money or benefits – should be provided for all people.

- Violations of housing rights.

The ombudsman received 145 complaints concerning violations of housing rights. A critical situation is with the provision of municipal housing for people. According to the city hall statistics for 01.01.2005, the number of people queueing for municipal housing is 21179 people. For this category of people only 4 apartments were provided in 2004. These figures allow us to make a conclusion that 5000 years is needed to provide all needy people with housing, if we don't change the situation with municipal housing urgently. Provision of housing for beneficial social groups of war veterans and handicapped people. In 2004 only 6 apartments were provided for them.

A great number of complaints concerning the violations of building norms and standards, refusals of municipal authorities to make the necessary reparations of housing, bureaucratic attitudes of government officials to housing and communal problems.

In 2004 the ombudsman received a complaint from citizens B. and K., who are registered in the non-existing house # 5 in Baltijsk outside Kaliningrad. During the building of a new house the military builders totally destroyed house # 5 nearby, where these complainants lived. During several years the commander of the Baltic Fleet promises to provide new appartments for the complainants. People have already applied to many authorities, including court and the President administration. On 19.09.2001 the Baltic district court has made a court decision and obliged military unit # 53110 to provide housing for people. However, the court decision is still not fulfilled up till present moment. The complainants are still renting housing for their own expenses.

In this case not only the constitutional right of for housing is violated (art. 40 Constitution of the Russian Federation), but also the right for legal defense (art. 6 Convention on Human rights, art. 46 Constitution of the Russian Federation). High-ranking officials deliberately avoid fulfilling court order. The ombudsman has informed military prosecutor's authority about this fact. However, the necessary measures have not been taken yet.

- Violations of labour rights.

In 2004 the main reasons for complaints were delay of salary payments, refusals to give out particular documents after dismissals, illegal disciplinary liability and other cases. The state inspectors gave 1838 orders for employers to eliminate different violations of labour legislation.

- Violations of environmental rights.

A great number of claims was received by different authorities due to the illegal construction and building work in the centre of Kaliningrad. A tendency for mass demonstrations against illegal constructions in the yards of the living houses, park zones and relaxation areas. The other problem which worries the citizens is the quality of tap water in Kaliningrad.

- Violations of rights for the full and true information in the extraordinary situations.

After the natural disaster in Kaliningrad on 21<sup>st</sup> September 2004 the ombudsman received complaints from citizens, who wrote about their concern that the Kaliningrad authorities did not properly inform citizens about and during the earthquake in the city. This fact demonstrated slowness, inertness and incompetence in forecasting the situation and taking all the necessary measures to prevent injuries. The ombudsman sent an appeal to the head of department of civil defense and asked for information about the measures taken by authorities during the earthquake. On 19<sup>th</sup> October 2004 theombudsman took part in the deputy hearings "Functioning of territorial regional system of extraodrinary situations in the conditions of earthquake". During the discussion the mistakes by local authorities were mentioned and a plan of forecasting natural disasters and informing people was worked out.

- Violations of right for privity and personal data in the institutions of health care, educational and housing institutions.

In 2004 the ombudsman has been working on the problem of compliance of the right for privity and defense of personal data by the customs authorities and medical care institutions. When travelling by train at the borders the customs executives publicly read ou personal data of the passengers, which is a confidential information, they undergo customs inspections of personal belongings and ask personal questions in public. The ombudsman sent an appeal to the Commissioner for human rights in the Russian Federation with the initiative about the necessary reglamentation of customs procedure not violating human rights.

- Violations of rights of military people.

A number of complaints concerning different violations of rights of military men received by the ombudsman in 2004 is 150 claims, which is much more than in 2003. The main problem mentioned in the complaints is the violation of housing rights. The most significant claim is the collective complaint from 73 military people and their families, who live in the military unit premises in Bagrationovsk. In the beggining of 2004 this unit was disbanded, and people living their were asked to leave their housing premises without any provision of other premises. The

ombudsman has provided legal aid for the complainants and advised on the mechanisms of human rights defense.

- Violations of prisoners' rights and in custody.

The main reasons for complaints from the people kept in prisons or in custody were disagreement with court sentence (55%), violations of criminal law (23%), unsatisfactory conditions in penitentiary institutions (12%). One of the problems mentioned is the difficulty to find job placements for prisoners. The facts of violations of labour law in the penitentiary institutions were mentioned in regard to unwillingness of prison executives to sign a labour contract.

Still unsolved are the problems of human rights violations of people kept in custody in suspicion of committing a crime. People under investigation are kept in the isolators of temporary stay. The ombudsman received many complaints on the unsatisfactory conditions of isolators in Kaliningrad.

- Gender discrimination.

The ombudsman pointed out the problem of gender equality in Kaliningrad at several international and regional seminars and conferences devoted to gender issues. At present there are only 3 women out of 22 heads of municipal institutions in Kaliningrad. Only 3 deputies of the regional Duma are women. At the same time the majority of medium and low rank (and low-paid) positions at government authorities are taken by women (72%).

- Human rights education.

The compliance of human rights is the main basis for a stable constitutional democratic state. That is why human rights education plays an important role in the modern Russian society.

Monitoring of the human rights education in Kaliningrad made by the ombudsman authority has shown government officials, teachers and NGOs work together in this sphere. However, the absence of complex and systematic approach in human rights education leads to lack of effectiveness of work in this direction.

In 2004 the ombudsman took part in several projects concerning promotion of human rights education in the region. The ombudsman organized seminars, round tables and conferences for teachers and NGO activists and promoted the teaching approaches developed by the Council of Europe ("Compass" human rights manual), by the St-Petersburg Institute of law ("Street law" project) and others. The experts of the ombudsman authority also use these methodological approaches in organizing seminars for schoolchildren and students.

As a result of the work of the ombudsman of Kaliningrad region, a number of recommendations for the federal and municipal authorities in order to improve the situation with human rights compliance in Kaliningrad region.

1. In order to secure the right of the Kaliningrad citizens for free movement within the territory of Russia it is important to consider financial compensations for obtaining foreign passports and other expenses concerned.
2. To work out and implement a regional law "On the housing policy in Kaliningrad region", to develop a programme of provision housing for war veterans, military people and handicapped people in the region.
3. To work out effective mechanisms of human rights defense for custody authorities dealing with orphans, underage and elderly people, mentally disabled people and other socially insecure categories.
4. It is necessary for the regional Duma to initiate the changes in the Civil Code and Family Code of the Russian Federation in order to change the status of custody authorities and provide them with wide latitude as the authority of the subject of the Russian Federation.
5. To improve the Russian legislation and eliminate the existing collisions with the norms of international law in the sphere of immediate birth registration of children.

6. To take measures to secure the social status of teachers and other executives of budget sector.
7. To improve the work of commissions on underage matters and mechanisms of defense of the rights of underage people.
8. To work out a mechanism of juvenile justice system.
9. To work out a programme and a plan of action on human rights education for the announced by the UN year 2005-2006 as “The year of civil society via education”.
10. To take under control that all schools of Kaliningrad have their regulations and internal rules open to the public as well as the contact information of human rights organizations in Kaliningrad, which can be addressed by children in case of need.
11. To take measures to establish special bodies dealing with human rights defense at educational institutions of Kaliningrad.
12. To improve the system of measures taken by the regional and municipal authorities in cases of natural disasters and extraordinary situations;
13. To monitor the situation with human trafficking in the region and to work out preventive mechanisms.
14. To fasten the realization of the project of the water system reconstruction in Kaliningrad within the framework of the “Regional plan of action on environmental security”; to provide control on the implementation of the Federal law “On constraints in sales and consumption of beer”.
15. To develop the system of customs control and examinations, to secure the technical provisions for customs authorities.
16. To take measures to accomplish the reparation work and reconstruction of isolators of temporary stay and secure the compliance of human rights in the penitentiary institutions.
17. To work out a migration policy in Kaliningrad region.
18. To continue the negotiations between the authorities of the Russian Federation, Kaliningrad region, Lithuania and other countries of EU concerning the problems of passenger and cargo transit from Kaliningrad to the other regions of Russia.
19. To carry out the monitoring of the Russian and international legislation due to the enlargement of EU and entrance of neighbouring countries in EU.

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