

# **Commissioner for Human Rights in the Kaliningrad region of the Russian Federation**

## **ANNUAL REPORT 2007**

### **Summary**

The annual report presents analysis of the complaints and appeals of the Kaliningrad citizens registered by the Commissioner for human rights in the Kaliningrad region, data from military units, educational, social institutions, detention places, information presented by state and municipal bodies and organizations, NGOs of Kaliningrad region and mass media. It includes information about the activities of the Commissioner in 2007 devoted to state securing and observance of the citizens' rights and liberties by the state public authorities and local self-governing of the Kaliningrad region, as well as its officials.

In accordance with the Law of the Kaliningrad region „On the Commissioner for human rights in the Kaliningrad region” the Commissioner should exercise control of human rights securing by the state authorities and the local governing authorities of the Kaliningrad region, assist to restore the violated citizen's rights, assist to develop the legislation system of the Kaliningrad region regulating human rights observance, inform the citizens of the Kaliningrad region about the situation with human rights and freedoms defense in the region, take action in order to perfect the mechanism of defending and securing human and civil rights and freedoms, assist to coordinate cooperation between state public authorities and local governing authorities in the field of human and civil rights and freedoms protection, assist to develop civil and human rights education in the Kaliningrad region.

In 2007 the Commissioner registered 1037 complaints from 1953 people, 617 of which were in written form, 420 were in verbal form. The number of appeals has decreased by 3% compared to the previous year.

The quantitative analysis of complaints registered during the years 2002-2007 has shown that the most of appeals were received in 2003-2004. It was caused by adoption of new legislation related citizenship and legal status of foreigners, which led to numerous violations of rights of foreigners, stateless people and persons without legal status. In 2006-2007 the number of complaints concerning obtaining of citizenship and passports decreased greatly due to adoption of amendments to the legislation.

The most numerous categories of citizens appealing to the Commissioner for the defense of their rights are pensioners, people with disabilities and prisoners as usual.

In 2007 the Commissioner received 46 collective complains (from 962 citizens), that is more than she did in 2006. 65 percent of collective complaints were received from citizens of the municipality of Kaliningrad. They mainly concerned housing issues.

#### I. Observance of the Children's Rights

One of the ombudsman's spheres of activities is preventive measures and restoration of violated children's rights, as well as control of local self governing activities related exercising minor's rights. In accordance with the article 20 of the Convention of children's rights "a child ... deprived of his or her family environment, or .... cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State". The RF Government took action to support orphans. There are 21 orphanages in the region, where 611 children live. In 2007 there were 865 children, who had got a family. The most complicated problem while exercising of orphans' rights is providing them with housing. In 2007 only 10 apartments were allocated to orphans. Housing problems also emerge by children who leave the children's institution and come back to a foster home once they come of age. The housing conditions often don't satisfy social standards. There is an utmost need to solve this problem at a federal level.

The procedure of RF citizenship obtaining for minors is still very complicated problem.

In 2005 – 2006 the ombudsman took some action for improving the procedure of citizenship acknowledgement. She appealed to the Human Rights Council under the President of the Russian Federation and to the Ministry of Internal Affairs (MIA) of the Russian Federation. The needless formalized procedure of children's citizenship acknowledgement was abrogated on 6 February 2007. The Russian citizenship of children can be proved both with birth-certificate itself and with the corresponding check in this certificate.

According to the data from the Office of the Public Prosecutor and the Department of Internal Affairs in the Kaliningrad region the number of crimes compared to 2006 has decreased by 0,1%. The Task Programme "The preventive measures against the child neglect for 2006-2010" is being carried out in the region in order to reduce child neglect and juvenile delinquency. The Programme foresees material and financial providing of activities against child neglect and juvenile delinquency. The Commissioner as a member of Commission on Children's Affairs under the Government of the Kaliningrad region attended a lot of arrangements devoted to issues concerning preventive measures against juvenile delinquency.

In accordance with the Article 2 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms "No person shall be denied the right to education. In the

exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions". The Russian legislation protects the right to education, which is independent from one's residence. But there were some cases concerning violation of children's right to education because they didn't have Russian passports.

## II. Human Rights' Observance in view of Application of Legislation on Citizenship, Registration and Issuance of Passport.

A lot of difficult problems concerning issuance of passports, entering and leaving of foreigners and stateless people, confirmation of citizenship's obtaining were successfully solved due to the functioning of the Representation of the Ministry of Internal Affairs of the Russia to Kaliningrad.

The Commissioner paid attention to the necessity of legislation's changing in order to simplify the existing legal norms. As a result the term for applying for citizenship in facilitated way for the former USSR-citizens was prolonged up to January 1, 2009.

The Federal law № 115 from July 25, 2002 „On legal status of foreigners in the territory of the Russian Federation“ limits obtaining of permit for temporary stay as well as residence permit for some categories of people such as: drug addicts, consumptives, persons without certificate justifying absence of HIV-infection, persons with any other dangerous infectious illnesses. Impossibility to legalize these persons in the territory of Russia causes ineffective state control of them. Moreover the state authorities can't deport them because they are stateless people.

In 2007 two federal laws came into force: the Federal law „On migratory registration of foreigners and stateless people in the Russian Federation“ and the amendments to the Federal law “On legal status of foreign people in the Russian Federation”. In accordance with the new legislation migrants can be registered both on the place of his/her living and on his/her place of work. The procedure of issuance of permit of temporary residence was also changed. In particular the number of documents has been reduced.

## III. Observance of Rights for a Fair Court Trial

The number of complaints to the court is permanently increasing. At the same time there are a lot of people, who are not satisfied with the courts' activity.

The existing procedural legislation restricts the ombudsman's ability to assist people to exercise their right for a fair court trial. The ombudsman does not have right to reverse judgments, to appeal court decisions, to become acquainted with civil and criminal cases. In these instances the ombudsman's activity limits just to advising the complainers. However the practice shows, that

this work also helps complainers to solve their problems. The ombudsman explains citizens their procedural rights, the procedure of appealing court decision, assists to draw up the documents.

In 2007 the Commissioner received 112 complaints, concerning violation citizen's rights to the fair court trial. (It is about 11 percent from the whole number of appeals. Approximately 22 % of them concern the officers' of justice activity).

#### IV. Observance of the Social Rights

(Article 39 of the Constitution of the Russian Federation)

The State establishes and guaranties exercising of the social rights of Russian citizens, including a system of state support for citizens.

The problem of social security of people is still acute in the Kaliningrad region. This fact leads to violation of right for social security in old age, in case of an illness, disableness, loss of the bread-winner, for upbringing of children and in other cases established by law.

In 2007 the Commissioner received more than 200 appeals from pensioners, people with disabilities, participants in the World War II, victims of fascism. The complaints concerned inadequate social conditions, municipal services, health protection. The great number of appeals concerned procedure of pension and allowances granting.

It is of high importance to perfect legislation in order to improve well-being of the elderly, in particular of the labor veterans.

A considerable number of complaints from the socially vulnerable groups of population – pensioners, veterans, persons with disabilities - concerned the implementation of a Federal law # 122-FZ from August 22, 2004, which established the procedure of substitution of benefits by pecuniary compensation.

There were also some complains from persons, who should be provided with free medicines. The procedure of free medicine providing is to be improved.

There is a problem with obtaining of driving license by people with diseases of the support and locomotion system. The ombudsman received a complaint from citizen S, who wrote that the handicapped persons in the Kaliningrad region disabled to obtain driver's license because there is no driving school for invalids in the region. Therefore the equality of rights of invalids and other citizens is violated.

The complainerin appealed to the Ministry of social policy and labor of the Kaliningrad region and got the answer that in April 2008 it was planned to open the driving school for invalids in the

municipality of Sovjetsk. It is necessary to open such school in Kaliningrad in order to ensure the exercising the social rights for invalids.

## V. Observance of Right to a Home

(Article 40 of the Constitution of the Russian Federation)

The Constitution of the Russian Federation guaranties citizens the right for housing. The bodies of state authority and regional government will encourage housing construction and create conditions for exercising right to a home. Low-income people and other persons mentioned in law and in need of a home will receive it gratis or for reasonable payment from the state, municipal and other housing stocks according to the norms fixed by law.

Unfortunately the situation with exercising this right is still problematic. The number of appeals concerning this issue is increasing. In 2007 the Commissioner considered more than 170 complaints on housing issues.

According to the data from 01.01.2008 of the Kaliningrad city administration there are 19 643 people in need of a home. In 2007 only 378 families improved their living conditions.

The Programme of settling from emergency houses has started working in the region.

The Orphans, who had needed home for a long time, received 10 „social“ apartments,.

There are some of examples of complaints concerning violation of right to a home and its restitution.

*During the last two years the Commissioner appealed to various instances with request to grant an well-furnished apartment to the family of persons B with disabilities.*

*In 1938 the householder took part in the war with Japanese militarists at the Lake Chasan, he was conferred with the Medal “For bravery” and other rewards. His wife is also a veteran of the World War II. Their daughter, 68 years old teacher, has had to stop working in order to nurse them.*

*The house where this family lived is declared as dangerous for living and it is to be taken down.*

*In 2007 as a result of the numerous insistent appeals of the Commissioner the family received a two-room flat in a new building.*

A great number of complaints concerned the violations of building norms and standards, the dilapidation of the existing houses, and refusal of municipal authorities to make the necessary

reparations of housing. In order to solve these problems the Commissioner cooperates with the officials from city administration.

## VI. Observance of Labour Rights

In 2007 the Commissioner received 32 appeals concerning violation of labor rights: delay in salary payment, refusals to give out work-books and other documents after dismissals, illegal bringing to disciplinary account. These sorts of violations used to happen to people working in private organizations.

The main reason of violations in this area is inactivity of labor people while defending their interests. The analysis shows that people do not demand from employers to draw up labor contract in written form, they agree on salary and other terms orally. Such sort of behavior gives dishonest employers the opportunity to deceive employees. As a result people have to appeal to the court to get their money.

Every year the Commissioner receives complaints from sailors and their families because of violations of their rights by employers and ship-owners. In 2007 the cockpit personnel of craft „Karat Rifer“ appealed to the Commissioner for the defense of their rights. The ship-owner had not paid salary to them for several months. The seamen didn't have enough food, medicine, warm working clothes. The Commissioner appealed to the Prosecutor, Officers of the Court Service, ship's agency company, she visited the craft together with other officials and mass media and spoke to the sailors. After some days the ship-owner paid off salaries and provided the craft with necessities.

Aforementioned problem can be solved if labor relations are registered duly. For this purpose it is necessary to keep on educational activity among labor people to let them know how they can defense their rights themselves.

## VII. Protection of Family, Maternity. Gender Equality of Rights and Possibilities

The bodies of state authority of the Russian Federation and local government of the Kaliningrad region take action aimed at ensuring social support to women, families with children, and also solution of demographic problem.

According to the coming in force Regulations every foreigner and stateless person, who has a child or children and if she/he has permit of temporary residence, should be provided with state allowance. Every woman should receive a child attendance allowance. The government of the Kaliningrad region increases amount of allowance, but very slowly.

In 2007 the Commissioner took action for defense of rights of citizen with children.

The Commissioner received an appeal from citizen R. living in Gvardejsky district without registration. She is widow and has two children. Her family came to the Kaliningrad region from the Republic of Kirghizia in 2004. The children have already obtained Russian citizenship; her papers are in the stage of registration. According to the Law # 487 of the Kaliningrad region from 14/01/2005 she can't receive children allowance because she hadn't got registration. The Commissioner appealed to the Ministry of social policy and labor of the Kaliningrad region. They made a decision to grant an allowance to this woman and to change the regional legislation in order to defense citizen's rights for children support.

In 2007 the ombudsman's authority registered no cases of women's discrimination. Every year more high rank positions at state and local governing authorities are taken by women. Approximately 58 % of the officials of the Kaliningrad region's government are women.

The women in the Kaliningrad region take an active civic position. There are more than 20 female nongovernmental organizations in the region.

At the same time one of the gender problems in the region remains unemployment. The most unprotected groups of women are in the most complicated situation at the labour-market. They are women with minors, children with disabilities, single women, wives of servicemen etc. Solution of these problems is possible providing cooperation with business community. It is necessary to create a bank of vacancies for students and women with children.

#### VIII. Observance of Prisoners' Rights and People in Custody

In 2007 the Commissioner received 294 complaints on conditions in the penitentiary institutions of the region and appeals concerning violation of criminal law procedure.

In all cases the Commissioner together with the public prosecutor has initiated inspections, and the complainants have been informed about inspections' results. The investigated violations have been removed by ombudsman's and prosecutor's request.

As in the previous years in 2007 the Commissioner closely cooperated with the Administration of the Federal Service of Execution of Penalty of Russia to the Kaliningrad region. Together with the officials from the Administration the Commissioner visited correctional institutions, took part in human rights educational events, round table meetings and others.

In 2007 the social, economic and legal conditions in correctional institutions and isolation wards of temporary stay ("IVS") were a little improved. The number of complaints from this category of people has been reduced. However the inspections showed that the conditions in "IVS" did not meet requirements of the Russian and international legislation. In January/February 2008 it

was planned to appropriate funds for repairs and reconstruction of IVS in Ozersk and Krasnoznamensk.

The problem of employment is still important for prisoners. In 2007 the number of nonworking people in penal colonies increased by 197 persons. The ombudsman received some complaints from apprehended people about the violation of labor law in the penitentiary institutions, mainly concerning unwillingness of prison's executives to sign a labour contract, as well as low level of salary.

## IX. Human Rights Education

Development of the human right education is one of the main principles of the educational policy in Russia. In October 2007 monitoring of the human rights education in the schools of the region was made by the Department of Education with the ombudsman's authority. 154 educational institutions took part in the investigation. The results have shown a lot of problems in this area: absence of complex and systematic approach in this field, low standard of practical knowledge of teachers. All these problems were reflected in the Concept of civil and human rights education in the Kaliningrad region for the period of years 2008-2011, which was developed by Ministry of Education of the Kaliningrad region together with the Commissioner for Human Rights, civil society representatives, professors of Immanuel Kant State University of Russia and Kaliningrad Institution of Law.

The Concept's objectives are creation and development of unbroken system of civil and human rights education in the Kaliningrad region.

In 2007 the Commissioner took part in several projects devoted to promotion of human rights education in the region. The experts of the ombudsman's authority together with NGO activists organized seminars, round tables in Kaliningrad and other towns of the region.

On the web-site [www.ombudsman39.ru](http://www.ombudsman39.ru) the Commissioner places legal texts about protection of human and children's rights, gives information about the organizations in the Kaliningrad region dealing with human rights' defense, about educational activities in the region: competitions, seminars, round table meetings and conferences.

In order to improve situation with civil and human rights education in the region it is recommended to approve and propagate the Concept of civil and human rights education, to develop the Programme of civil and human rights education in the region, to train teachers in the sphere of civil and human rights education.



X. About Problems with Observance of the Rights of the Inhabitants of the Kaliningrad Region caused by the Specific Geo-Political Position of the Region

In 2007 the Commissioner took part in solution of problems of inhabitants of the Kaliningrad region arising due to the special geo-political position of the region.

The position of region's inhabitants has become worse due to implementation of the Agreement between the Russian Federation and the European Community on the facilitation of the issuance of visas to the citizens of the Russian Federation and the European Union. Introduction of fees for processing visa applications, necessity to present documents justifying the purpose of the journey – these new requirements have caused reduction of local border cooperation, have influenced negatively the development of tourism and people-to-people contacts. Citizens of the Kaliningrad oblast need to obtain visa for visiting their relatives and friends in the Ukraine and Belarus, though the other citizens of Russia are exempt from visa obligation. The Agreement affected the exercising of migrants' rights sojourning in the region negatively. There were some problems with migrant's legalization. Violations were caused by changing the procedure of border crossing, what has entailed difficulties with obtaining identity documents. It is recommended to undertake active measures to simplify the procedure of visa issuance to inhabitants of the region. It is also necessary to attract diplomatic representatives from different foreign countries into the region.

In 2007 the Commissioner received appeals from people residing on the Baltic Spit. They complained about lack of regular ferry service between the town of Baltiysk and the Baltic Spit. Therefore the people could not arrive at work, at school. They could not get medical care, social support. This situation was considered as violation of freedom of movement, right for education and other constitutional rights. The Commissioner appealed to the administration of the town of Baltiysk and to the regional Government with request to resume ferry service. At present the problem is successfully solved.

One other issue which the Commissioner has been dealing with since 2001 is problems of migrants. At present the rate of legal residing and working migrants in the region is increasing. However many serious problems aren't still solved. One of them is legalization of former compatriots, who entered territory of Russia without visa a few years ago. This group of people can't fully exercise their rights. Because of absence of any identifying documents by parents their children cannot also obtain birth certificates. This fact is violation of children's rights in accordance with the Article 7 of the Convention on children's rights.

The public advisory Council under the Administration of the Federal Migratory Service of Russia to the Kaliningrad region was established in order to improve the migratory situation in the region. The Commissioner is one of the members of this council.

## XI. International and Interregional Cooperation in the Sphere of the Human Rights Defense

Effectiveness of the ombudsman's activity in the Kaliningrad region is not possible without international and interregional cooperation in the sphere of the human rights defense. In 2007 the Commissioner cooperated actively with the regional Duma, the local government, the office of public prosecutor, the representatives of Ministry of Foreign Affairs of Russia to the Kaliningrad region, the courts and others. The ombudsman participated in the government's meetings, gave recommendations how to improve the system of human rights defense and discussed social problems. During the year the Commissioner visited different municipalities of the region, met with its heads and inhabitants.

During the year the Commissioner took part in the draft board meetings. She consulted conscripts, their parents, gave organizing recommendations.

The Commissioner for Human Rights in the Kaliningrad region communicated closely with the Commissioner for Human Rights in the Russian Federation and other ombudsmen. They organized jointly conferences, seminars for exchanging of views in the sphere of human rights defense and discussing the most significant issues.

In July 2007 the Commissioner with the help of the Russian Ombudsman and Moscow Representations of the Konrad-Adenauer-Stiftung held an international conference dedicated to monitoring of human rights exercising.

Cooperation with international organizations dealing with human rights defense is going on. The Commissioner took part in the arrangements held by the International Organization for Migration and dedicated to issues of trafficking in human being and preventive measures of migratory risks. The Commissioner gave reports on these themes.

The Commissioner is one of the members of the European Ombudsman Institute. She took part in the II International Issyk-Kul's Forum of Ombudsmen and national Institutions for Human Rights. The participants of the meeting discussed human rights exercising control, migratory process, issues of ombudsmen's independent and others.

In 2007 the Commissioner cooperated fruitfully with the ombudsmen of Baltic States, of Commonwealth of Independent States and European ombudsmen. Partnership established between ombudsmen allowed to help complainers to solve their problems more successful.

The Commissioner also cooperated with Kaliningrad public organizations: Kaliningrad regional youth social organization «Tsunami», Kaliningrad regional youth organization Center “Youth for freedom of speech”, regional public organization “Union of women of the Kaliningrad region”.

The Commissioner communicated with the regional institutes of higher education. The Commissioner together with the colleagues from the Immanuel Kant State University of Russia, the Kaliningrad Institute of Law and representatives from the regional Ministry of Education worked out the Concept of civil and human rights education in the Kaliningrad region.

## XII. Cooperation with Mass Media

In accordance with the Law “On the Commissioner for Human Rights in the Kaliningrad region” the ombudsman should inform citizens of the Kaliningrad region about the situation with human rights defense and assist to develop civil and human rights education in the Kaliningrad region. For these purposes the Commissioner cooperated with the regional and local mass communication media.

In 2007 the Commissioner published 83 articles in 133 editions, that is more than she did in 2006.

On the web-site [www.ombudsman39.ru](http://www.ombudsman39.ru) the ombudsman publishes news and reports about meetings and action, annual and special reports, information about the organizations dealing with human rights defense and other useful information. The information about the ombudsman’s activities can be found also on the other web-sites.

## Conclusion

As a result of Commissioner’s activities a number of recommendations were worked out in order to improve the situation with ensuring human rights in the Kaliningrad region:

- Work out mechanisms for defense of the children’s rights for a home;
- Cover need of the region in preschool institutions;
- Continue building of rehabilitation centers for children and youth with disabilities as well as their parents in the municipalities of the Kaliningrad region;
- Intensify control for ensuring children’s right for health protection and security at educational institutions;
- Take action for nourishment improvement at educational institutions;
- Provide exercising of children’s rights in rural schools for education, security and freedom of movement to the school and back home;

- Elaborate and adopt a regional Programme of civil and human rights education;
- Hold contests, competitions on human rights, Promote participation in this events;
- Establish a system of juvenile justice in the region;
- Defend rights of foreigners and stateless people with HIV-infection and other infectious illnesses;
- Attract diplomatic representatives from different foreign countries into the region;
- Elaborate a national project on renewal of old housing and subjects of housing and communal services;
- Provide invalids and participants of the Great Patriotic War with home;
- Expand inhabitants' knowledge in the sphere of labor relations;
- Open more psychiatric hospitals in the region;
- Open rehabilitation center for alcoholics;
- Establish a driving school for persons with disabilities;
- Improve the procedure of free medicine proving of persons' in need;
- Perfect legislation on social support of families with children;
- (between the regional Administration of Pension Fund, Federal Tax Service and others) create a common bank of data about debtors in the Kaliningrad region for efficient execution of court decisions;
- Increase salary of officers of justice;
- Take action for prevention of death of persons kept in establishments of penitentiary system;
- Repair isolation wards of temporary stay, improve its material providing.

Mrs. I. Vershinina

Commissioner for Human Rights in the Kaliningrad region

Russian Federation