

Ombudsman of the Kaliningrad region of the Russian Federation

ANNUAL REPORT 2006

Summary

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

It contains the information about the ombudsman's activities in 2006, which were devoted to the state securing and observance of the human rights and freedoms by the state authorities and the institutions of local governing in the Kaliningrad region.

For these purposes the ombudsman

- exercised control of the human rights observance by the state authorities and local governing authorities of the Kaliningrad region;
- assisted to the restitution of the violated rights of the citizens;
- assisted to develop the legislation system of the Kaliningrad region in the field of human rights observance;
- informed the citizens of the Kaliningrad region about the situation with the protection of human rights and freedoms in the region;
- took measures in order to develop the mechanism of ensuring and protection of human and civil rights and freedoms;
- assisted to coordinate the cooperation of the state and local governing authorities in the sphere of ensuring and protection of human and civil rights and freedoms;
- assisted to the development of the legal education in the Kaliningrad region.

In 2006 the Ombudsman of the Kaliningrad region received 1066 appeals, including 627 written, 439 oral and 41 collective complaints (from 955 citizens), thus 2021 people appealed to the ombudsman.

The comparative analysis during the years 2002-2006 has shown that the most numerous categories of citizens, appealing to the ombudsman for the defence of their rights are pensioners, disabled people and prisoners. Since 2003 due to adoption amendments to the legal texts the number of foreigners and stateless people, who appeal to the ombudsman, have greatly decreased.

In 2006 the ombudsman has received 41 collective complaints (from 955 citizens). They mainly concerned people's disagreements with the building up public green space, the building gambling houses nearby their dwelling houses or communal-general service problems.

Analysis of the appeals has allowed to single out a number of the most complicated problems with protection of human rights in the region.

I. The observance of the children's rights

1. The observance of the children's rights in custody.

One of the priorities of the ombudsman's work in the Kaliningrad region is the defence and restitution of the rights of children in custody. Every year the number of orphans increase in the region. By the first of January 2006 there had been 7527 such children. The most complicated problem with the defence of their rights is to provide housing for them.

Here is an example of one complaint.

An orphan has been living in the foster home till full age. When she was 18 years old she had to move to her former house, where lived her consumptive drinker mother. The floor space of the room is seven square meters and it is impossible to bring there the second bed and the writing-table for the girl. The ombudsman appealed to the city hall of Kaliningrad, and the orphan was provided with the single room in the communal flat.

2. The observance of the handicapped children's rights

According to the data from the Ministry of Social Policy and Labour there are 1115 families in the Kaliningrad region, who has handicapped children. In 2006 the ombudsman has received some complaints from parents of handicapped children about the decisions of the medical-social commission of experts. Here is an example of them.

A handicapped child has made medical checkups during 12 years. His state of health has not improved up to the present moment, but the last medical check up has not recognized him as disabled. The expertise was held in accordance with the new "Rules of declaring the person to be disabled". The ombudsman has appealed to the legislative authorities with initiative to insert the amendments into these rules.

Furthermore a lot of handicapped persons cannot properly exercise their rights because the majority of buildings and means of travel in the city are not equipped with ramps. The ombudsman has often discussed this issue in mass media, at the local government's meeting. As a result the ramps have been built in some offices and dwelling houses.

Lack of the TV programs with subtitles and gesture-translation leads to violation of the deaf people's rights to gain access to information.

3. The observance of the children's rights to citizenship and passportization.

In order to solve this problem the ombudsman of the Kaliningrad region has many times appealed to the ombudsman of the Russian Federation, to the Human Rights Council under the President of the Russian Federation, to the Ministry of Internal Affairs (MIA) of the Russian Federation. As a result the article of the Directions 37 given by the MIA was repealed, thus underage citizens can exercise their right to the Russian citizenship without regard to their parents' registration in place of residence or stay. And other needless formalized procedure of children's citizenship verification was canceled. The Russian citizenship of children can be proved both with birth-certificate itself and with the corresponding check in this certificate.

4. The observance of the children's rights to health care

During the year the ombudsman received some claims concerning the violation of rights for being providing with free medicines.

At the beginning of the year the ombudsman received an appeal from a citizen having many children. The woman had problem with providing her ill children with free medicines. The ombudsman addressed to the Ministry of Health of the Kaliningrad region and the children's rights were restored.

One of the dimensions of healthy life-style is food. Monitoring of the years 2005-2006 has shown that the nutrition in the educational institutions was organized on a very inadequate level.

The main problems in this sphere are insufficient financing, poor material and technical basis, infringement of sanitary requirements in nutrition units. The food provision does not take into account physiological needs of child's organism. A number of recommendations were made by the ombudsman to the administration in order to improve situation with food provision in the educational institutions in the region.

5. The preventive measures against the child neglect and juvenile delinquency

According to the data from the Office of the Public Prosecutor and the Department of Internal Affairs of the Kaliningrad region the number of crimes compared to 2005 have increased by 8,3%. In order to reduce the child neglect and juvenile delinquency in the region the Task Program "The preventive measures against the child neglect for 2006-2010" was passed with the ombudsman's participation. The Program foresees the material and financial support of activities against the child neglect and juvenile delinquency.

6. Protection of the child's rights in educational system

In 2006 the ombudsman received many complaints concerning violation of the right for free education. For example, the violation of the right was that the school's administrations obliged parents to pay for schools equipment, classrooms' renewal and school guard, however it was not legal. The ombudsman has given some consultations for parents about their rights to make voluntary payments.

There were two claims to the ombudsman concerning the violation of citizens' rights because of conversion of rural schools: in the villages Krasnolesje and Kaluschskoje. The teachers and parents consider that the schools' elimination leads to the violation of their social rights, violation of children's rights to life, health and security. According to the court decision the problem with the school in the village Krasnolesje is solved at present. The case on the school in Kaluschskoje is still trying by court.

II. The human rights' observance in view of application of legislation on citizenship, registration and passportization. Realization of the rights to citizenship.

Compared to the previous years the number of appeals concerning the problems with obtaining the Russian citizenship have greatly reduced.

In 2006 there were three appeals from foreign citizens concerning the problems with obtaining the Russian citizenship because of spelling mistakes in their official papers: in passports, birth certificates and others. The ombudsman has addressed to the Office of the Federal Migratory Service in the Kaliningrad region and his requests regarding these cases were satisfied.

During the year the ombudsman has received some appeals from citizens, who obtained the Russian citizenship in the embassies of the Russian Federation in the republics of the former Soviet Union. They all needed to confirm the obtaining of the Russian citizenship. The ombudsman has addressed to the representative office of Ministry of Foreign Affairs in the Kaliningrad region, and in the most cases the citizen's appeals were satisfied.

III. The observance of the rights for a fair court trial

In 2006 the ombudsman's authority received 139 complaints concerning the violation of rights for a fair court trial, including 121 complaints regarding unsatisfactory court judgments.

The ombudsman has received a complaint from a pensioner concerning an unfair court judgement. The pensioner was shopping in the supermarket "Victoria", when suddenly a glass

case nearby him shattered. The supermarket's administration brought charges against him and exacted 20 thousands of rubles from the customer. The customer's appeal hasn't been satisfied. The ombudsman was of opinion that the administration of supermarket did not secure the man when he was shopping. Moreover the supermarket's administration didn't give enough evidences proving that the glass case was broken because of customer's actions. As a result the court judgement on exaction of damage was reversed.

One of the main problems of realization of the right for a fair court trial is non-execution of court judgments. It is explained by several factors: increase of work for the officers of justice, insufficient providing this service with office equipment. Moreover the existing legislation does not regulate the work of officers of justice in full measure. Therefore the ombudsman considers as necessary to increase staff of the officers of justice and to develop legal system in order to increase the effectiveness of citizens' rights defence.

IV. The observance of the social rights

A considerable number of complaints have been received because of the implementation of a Federal law # 122 regarding the substitute of benefits by pecuniary compensation. In 2006 it was 71 complaints concerning this issue. The citizens consider such a compensation to be unequal, and the situation is getting even worse in the conditions of constantly growing prices for food, services and communal payments. It is the ombudsman's opinion that this law contradicts article 55 of the Constitution of the Russian Federation, which prohibits the amendment of laws, which derogates people's rights and freedoms. Thus the principle of people's trust in the state and law is broken. The right to choose – money or benefits – should be proved for people, not for officials.

The implementation of the Federal law # 178 "On state social assistance" causes displeasure among the citizens. This law determines social assistance for indigent families and single living citizens. Until the 1st of October of this year they have to make decision what do they get – benefits or pecuniary compensation. The ombudsman has received some complaints concerning desire to change the chose after the 1st of October, but the law doesn't foresee any exceptions.

For instance, the ombudsman has received a complaint from one disabled woman. She wants to get money because she can't go the chemist's shop for medicine: she is bedridden. In September 2005 the woman refused free medicines in favour of money. In the next year she didn't write such an application thinking that she had already made her decision in the previous year. But the law foresees in such cases when a person doesn't write an application, that he wants to obtain free medicine. So until the next October the woman will get medicine, which she can't get.

It is necessary to change this situation by moving amendments to the federal law. In order to protect the rights of the most unprotected social groups it is recommended

- to address the Committee on Labor and Social policy with initiative to improve the legal texts concerning the substitute of benefits by pecuniary compensation;
- to increase the amount of pensions and other payments.

V. The observance of the right to housing

The Constitution of the Russian Federation guaranties the citizens the right to a home. Unfortunately the situation is still problematic. According to the data from 01.01.2006 of the Kaliningrad city administration there are 19 880 people in need of habitation. In 2006 only 215 families improved their living conditions.

In 2006 the ombudsman received 194 claims concerning the problem with habitation, including the communal-general service problems.

The analysis of the appeals allowed to single out the following problems in this field:

- essential disparity lies between the market-value of the housing and the level of people's incomes;
- building of the municipal housing is proceeding very slowly;
- considerable number of living houses in the region are in an unsatisfactory state of repair.

A critical situation is in the region with the provision of housing for people. Prohibitive prices of apartments both in the new buildings and in slum dwellings do not give the opportunity for people to solve problem with habitation. This is of especially importance for young families.

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

In 2006 the problem with protection of citizen's right to housing in Baltijsk (outside Kaliningrad) was solved. About this complaint the ombudsman wrote in the previous years. During the building of a new house in 2004 the military builders totally destroyed the house where the complainants lived. People applied to many authorities, including the court and the President administration. The complainants were renting housing for their own expenses. The Baltic district court had made a court decision and obliged the military unit to provide housing for people, but the court decision has not been fulfilled.

In this case not only the constitutional right for housing is violated (article 40 of the Constitution of the Russian Federation), but also the right for legal defence guaranteed by the article 6 of the Convention on Human Rights and the article 46 of the Constitution of the Russian Federation).

The people have applied to the ombudsman and got the consultation how to apply to the European Court of Human Rights. As a result of ombudsman's efforts the commander of the Baltic fleet made decision to provide housing for these people.

VI. The observance of the labour rights

In 2006 the ombudsman received 43 appeals concerning violation of these rights. The main reasons of complaints were delay of salary payments, refusals to give out work-books and other documents after dismissals, illegal bringing to disciplinary account.

The ombudsman has received a complaint from people from Chernjakchovsk. They did not get salary payments and severance pays after dismissals in spring 2005. The ombudsman has applied to the Public Prosecutor and to the State Labour Inspectorate with the request to make necessary inspections. As a result of check-up the Labour Inspectorate obliged the administration to pay off arrears. However, this demand was ignored. The people had to apply to the court. The court decision was to pay off the salary payments, the severance pays and offset of moral damage. The complainants have got money only in a year.

VII. The observance of the environmental rights

In 2006 the ombudsman received 29 complaints about the violation of the environmental rights. A great number of claims were received by different authorities including the President

administration. They regard the illegal construction and building work in the central areas of the city. Number of mass demonstrations against illegal constructions in the yards of the living houses, park zones and relaxation areas increased during the last years. People living in houses nearby cafes, bars and 24-hour shops often appealed to the ombudsman because of the violation of their rights for peace and quiet.

VIII. The observance of the military people's rights

One of the dimensions of the ombudsman's activity is ensuring and provision of the military people's rights. As in the previous years in 2006 the ombudsman

- considered received written appeals and claims,
- consulted military people coming personally,
- visited military units in order to get information about the military service conditions there ,
- implemented a number of human rights educational activities during visiting of the military educational institutions in the region,
- took part in call-up commission's work,
- protected the rights of veterans and pensioners of the Armed Forces of the Russian Federation,
- met with military command and officials of the military procurator's office for discussing significant issues concerning the defence of military people's and veterans' rights.

A critical situation is in the region with the provision of housing for military people. A new housing legislation, which has come into force since the 1st of March 2005, does not foresee providing the people retired from the army with the housing out of turn. As a result thousand of retired people are deprived of legal right to obtain a home.

Other problem concerns retirees' pensions: in accordance to the federal laws retirees do not have right to get both military and labor pensions. The military retirees many times appealed to the Constitutional Court of the Russian Federation for restoring of their rights. And the Constitutional court prescribed to develop a legal mechanism by federal legislators, which will restore violated rights of retirees. This fact is an important point, because many people of this category are living in the Kaliningrad region. However, no decisions have been taken in this field until now.

In 2007 the ombudsman is going to keep on his activities in the sphere of protection of military men's and veterans' rights.

IX. The observance of prisoners' and people's in custody rights

A number of complaints coming to the ombudsman from prisons or custody do not decreased. In 2006 the ombudsman received 263 complaints about unsatisfactory conditions in penitentiary institutions and appeals concerning the violation of criminal law procedure.

In every case the ombudsman has initiated inspections together with the public prosecutor, and the complainants have been informed about inspections' results. The investigated violations have been removed by request of the ombudsman and the prosecutor.

The analysis of the data receiving from the appeals, by visiting the penitentiary institutions of the region shows that the social, economical and legal conditions in prisons and in custody have been improved a little.

However a great number of problems are still unsolved. They concern in particular the violation of people's rights in custody in suspicion of committing a crime and in the isolation wards of temporary stay. The majority of the complaints concern unsatisfactory conditions in the isolation wards of temporary stay in Kaliningrad and in other towns of the region. The inspections show that the majority of the isolation wards in the region do not meet requirements of the Russian and the international legislation.

The other problem is the difficulty to find job for prisoners. The ombudsman has received some complaints about the violation of the labor law in the penitentiary institutions. They mainly concerned unwillingness of prison's executives to sign a labour contract, as well as low level of salary.

X. Gender equality of rights and possibilities

In 2006 the ombudsman's authority registered no cases of women's discrimination. Every year more high rank positions at the 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 23 female nongovernmental organizations in the region.

At the same time according to the recent unemployment data 75% of unemployed people in the Kaliningrad region are women.

In 2006 531 women and 494 men appealed to the ombudsman. Typical topics of the appeals from women were defence of children's rights, defence of social, housing and pensioners' rights. Men complained more often about violation of rights in custody or in prisons and violation of criminal law procedure.

XI. Human rights education

Development of the human rights education is one of the main aspects of educational policy in Russia. In 2006 monitoring of the human rights education in the schools of the region made by the Department of Education with the ombudsman's authority has shown the absence of complex and systematic approach in this sphere. The monitoring allowed to single out the following problems:

- absence of methodological literature and legal texts in the schools libraries;
- absence of available information about the human rights organizations dealing with defence of people's rights;
- educational process is directed only at pupils and does not involve parents and teachers in;

In 2006 the ombudsman took part in several projects concerning promoting of human rights education in the region. The experts of the ombudsman's authority together with NGO's activists organized seminars, conferences and round tables in Kaliningrad and other towns of the region. Several activities arranged for the Day of Human Rights and the Day of Children's rights took place in a lot of schools of the region.

Moreover, on the website www.ombudsman.mn.ru the ombudsman places the legal texts about the protection of human and children's rights, gives information about the organizations in the Kaliningrad region dealing with human rights' defence, about the educational activities in the region: competitions, seminars, round table and conferences.

However the absence of complex and systematic educational work leads to lack of effectiveness by acting in this direction. In order to get a real result in this field it is necessary to unit efforts and to pass and implement the regional Programme of civic and legal education aimed to modernization of educational standards and principles.

XII. About problems with observance of the rights of the inhabitants of the Kaliningrad region caused by the specific geopolitical position of the region

The Kaliningrad region is the most western region of Russia, totally separated by land borders of foreign states and the Baltic sea from the rest of the country.

In 2006 the ombudsman received several appeals concerning the violation of inhabitants' rights determined by the specific geopolitical position of the region.

In the previous reports the ombudsman spoke about the problem with citizen's passportization. The realization of right for free movement for the inhabitants of the Kaliningrad region was threatened with signing of the agreement between Russia and Lithuania on the adaptation of the simplified transit documents. In accordance to this agreement the Kaliningrad citizens need to have a foreign passport for traveling since 01.01.2005. The problems were caused by the necessity for Kaliningraders to obtain foreign passports as well as financial costs for this purpose. The ombudsman several times appealed to the Government of the Russian Federation and other authorities regarding the problem with pecuniary compensation of costs for obtaining a foreign passport for the inhabitants of the region. In December 2005 this problem was solved and now the Kaliningraders do not pay these duties.

Other problem concerned the rights of foreign citizens. Entry of Lithuania into the EU has created a significant threat for the realization of rights for freedom of movement because of long-term obtaining of necessary identifying documents. It is vitally important for Kaliningrad to take active measures and establish consulates and diplomatic representatives of foreign countries in the region.

In 2004-2005 the ombudsman was working on the problem of compliance of the right for privacy and defence of personal data by customs authorities, medical care and educational institutions. When traveling by train at the borders the customs executives read out publicly the personal data of the passengers, which is a confidential information. They make customs inspections of personal belonging and ask personal questions in public. The ombudsman's appeals to the authorities concerning this issue were not satisfied. The ombudsman sent an appeal to the commissioner for human rights in the Russian Federation with the initiative about the necessary regulation of customs procedure not violating human rights. In 2006 the federal law "On personal data" was adopt. It provides requires to keep personal data confidentially. The violation of this law leads to the penalty provisions.

One of the specific problems with realization of human rights in the region is the observance of rights and legal interests of the citizens of the Kaliningrad region working at foreign ships. It is the ombudsman's opinion that this aspects of his activity is very important, because this category of people is very large in number in the region.

The ombudsman has received some complaints from seamen about the violation of their labor rights. The ship-owners do not pay salary them for several months. At presents the ombudsman takes measures on defence of violated rights, but this problem cannot be solved without activities of the state authorities and local government.

XIII. International and interregional cooperation in the sphere of the human rights defence

Effectiveness of the ombudsman's activity in the Kaliningrad region is not possible without an international and interregional cooperation in the sphere of the human rights defence. In 2006 the ombudsman actively cooperated with the Regional Duma, the local government, the office of public prosecutor, the representatives of Ministry of Foreign Affairs, the courts and other institutions. The ombudsman participated in the government's meeting, gave recommendations how to improve the system of human rights defence and discussed social problems.

The ombudsman communicated with the commissioner for human rights in the Russian Federation and other ombudsmen. They organized conferences and seminars for experience exchanging in the sphere of human rights defence and discussed the most significant issues.

In 2006 the ombudsman's authority together with the Saint-Petersburg State University by support of the Council of Europe held the seminar for law-defenders: lawyers, jurists, ombudsmen, journalists, representatives of the NGOs and other interested in the subject people.

The defence of the rights of people in custody is one of the most important directions of the ombudsman's activity. In 2006 the ombudsman took part in the international seminar about "Application of the European Convention for the protection of human rights in the penitentiary system in the Kaliningrad region". The participants analysed the penitentiary system of the region and discussed its accordance with the European standards and norms. As a result several recommendations concerning the application of the European Convention were worked out.

In 2006 more than 100 representatives from 30 states, the U.N.O, the Council of Europe and different international NGOs participated in the All-European Conference "The ombudsman's activity in the sphere of children's rights defence". The ombudsman of the Kaliningrad region took part in this event and submitted a report about the observance of the juveniles' rights in the Kaliningrad region.

The ombudsman of the Kaliningrad region is an institutional member of the European Ombudsman Institute. In September 2006 N.Schwaerzler, the chief executive of the EOI, visited Kaliningrad with the view of developing the cooperation in the sphere of human rights defence and investigation.

The ombudsman often participated in conferences and seminar organized by the Immanuel Kant State University of Russia. Students of the faculty of law practiced law at the ombudsman's office.

XIV. Cooperation with mass communication media

In accordance with the Law "On the Ombudsman in the Kaliningrad region" the ombudsman should inform the citizens of the Kaliningrad region about the situation with human rights defence and assist to develop the legal education in the Kaliningrad region. In this regard the ombudsman cooperated with the regional and local mass communication media.

On the website www.ombudsman.nm.ru the ombudsman publishes news and reports about his activity, his annual and special reports, the information about the organizations dealing with human rights defence and other useful information.

Conclusions

As a result of the ombudsman's work a number of recommendations were worked out in order to improve the situation with observance of human rights in the Kaliningrad region. Here is some of them.

It is necessary:

- 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 subjects of Russia;
- to pass the federal law "On custody", to develop and to pass the similar law in the Kaliningrad region;
- to work out mechanisms of defence of the children's rights for a home;
- to work out and adopt the regional Program on human rights education;
- to provide the realization of children's rights in rural schools for education, security and freedom of movement to the school and back home;
- to establish a system of juvenile justice in the region;
- to increase staff of service of the officers of justice;
- to improve financing of service of the officers of justice;
- to appeal to the State Duma of the Russian Federation with initiative to improve mechanisms regulative the substitute of benefits by pecuniary compensations;
- to increase the level of salary and pensions;
- to take measures to protect housing rights of the families with disabled children;
- to increase number of TV-programmes with subtitles and gesture-translation for deaf people;
- to take measures to provide housing for handicapped people, war veterans, military people;
- to reinforce the control of the legacy of new building;
- to improve legal education of military men;
- to reinforce the prosecutor's control of penitentiary institutions in the Kaliningrad region;
- to take measures to accomplish the reparation work and reconstruction of the isolators of temporary stay.

