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Selected Chapters



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AND OMBUDSMAN**

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The Thirty-sixth Report of the Ombudsman is hereby submitted to the Knesset.

The year 2009 will be noted as a prominent milestone in the history of the Office of the Ombudsman. The number of complaints received during this year – approximately 13,000 – reached an all time peak. This is a 20% increase in complaints compared to 2008, and twice the number of complaints received 5 years ago.

The dramatic growth in the number of complaints clearly shows the public's increasing confidence in the Office of the Ombudsman as a main venue for the citizen in his dispute with the governing authorities. Another reason for the growth in the number of complaints is the public's increased accessibility to the Ombudsman, due mainly to the regional reception branches that were opened in Beer-Sheva and Nazareth. Last year these branches alone dealt with about 3000 inquiries and complaints, most of them from the underprivileged living in the periphery. Recently, a branch of the Nazareth office was opened in Upper Nazareth and another regional branch is scheduled to be opened in the Ramla-Lod area in the near future, in order to raise awareness of the Office of the Ombudsman among those in need of its services.

The annual report includes a description of the range of subjects dealt in 2009 by the Office of the Ombudsman as part of its efforts to assist the individual in protecting his rights and improving his welfare. For instance, the Ombudsman assisted Holocaust survivors to receive benefits; a

homeless widow to have an erroneous debt cancelled thereby making her eligible for rental assistance; a blind woman to receive financial assistance for an aid worker; a cancer patient to get his medical treatment covered by the public health services, etc.

Through resolving individual complaints, the Ombudsman often discovers general problems that need to be resolved for the good of the general public. For example, a complaint was addressed to the Ombudsman by Druze women, residents of the Golan Heights, who claimed that the Ministry of the Interior discriminated against them by rejecting their applications for exit permits to Syria in order to visit the grave of their prophet Habil, while accepting similar applications from Druze men. As a result of the Ombudsman's intervention with the Minister of the Interior, the Minister decided to allow 43 Druze women to leave for Syria; the Minister also announced his intention to re-examine the governing regulations for travel of Golan Heights' residents to Syria. Another such example arose out of a complaint of a Member of Knesset (MK) who was forbidden by the Ministry of Construction and Housing to meet hostel residents in order to assist them in matters related to their living conditions. In light of the findings of the investigation and the functions and privileges of the MKs, the Ombudsman notified the Minister of Construction and Housing that MKs who wish to visit hostels, in the course of their duties and meet the residents should be allowed to do so.

In this context it should be noted that there is sometimes a clear advantage in the unique Israeli system in which the roles of State Comptroller and Ombudsman are combined in the hands of one person and a single organization. Experience teaches that the mutual exchange of information and coordination between the State Comptroller institution and the Ombudsman institution serve both organizations and ensure consistent interpretation of the relevant legal principles and behavioral norms, thus

contributing to the improvement of the public service and strengthening the protection of individual rights.

The year 2009 saw the passing of Mr. Joseph Tamir, a publicist and public figure who served as a Member of Knesset for many years. Mr. Tamir was the person who first called for the formation of an Ombudsman institution in Israel, and it was his diligent efforts to promote the necessary legislation that led to the establishment, in 1971, of Israel's national Ombudsman. May he be of blessed memory.

Micha Lindenstrauss

Micha Lindenstrauss, Judge (Ret.)

State Comptroller
and Ombudsman

Jerusalem, April 2010

The annual report of the Ombudsman is hereby submitted to the Knesset in accordance with section 46(a) of the State Comptroller Law, 5718-1958 [Consolidated Version].

This report summarizes the activities of the Ombudsman from 1st January 2009 until 31st December 2009.

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General Summary

About the Office of the Ombudsman

The State Comptroller performs his duty as Ombudsman¹ through the Office of the Ombudsman, which investigates complaints about bodies that are statutorily subject to audit by the State Comptroller.

At the head of the Office stands the Director who is appointed by the State Control Committee of the Knesset, according to the Ombudsman's recommendation.

The Office of the Ombudsman has offices in Jerusalem, Tel Aviv, Haifa, Nazareth and Beer-Sheva. The broad distribution of offices throughout the entire country enhances the public's accessibility to the Ombudsman; it also contributes to effective investigation of complaints, mainly complaints against bodies located in the region where the office is situated or complaints requiring a visit by an Ombudsman official, such as complaints about environmental nuisances or defective maintenance of buildings.

Some 60 lawyers are employed to investigate complaints in the offices of the Ombudsman institution. There are 10 lawyers from the Arab sector, as well as a number of employees who speak Russian and one employee who speaks Amharic (an Ethiopian language). The percentage of women in the management echelons of the Office of the Ombudsman is 75 percent.

There are nine departments in the Office of the Ombudsman. One department registers the incoming complaints, and categorizes them

1 Article 4 of the Basic Law: State Comptroller determines that the State Comptroller will investigate complaints from the public against bodies and persons as will be stated in the law or according to it, and in this role the Comptroller will serve under the title "Ombudsman".

according to various criteria, investigating some urgent complaints and referring the rest to the other eight departments. Each one of the eight departments investigates complaints against certain bodies. The division into departments allows a more efficient complaint investigation, as each department has expertise in the laws and working procedures binding its investigated bodies. A complaint against more than one body is investigated jointly by the relevant departments.

Powers of the Ombudsman

Bodies against which a Complaint may be Filed

The Ombudsman is authorized to investigate complaints against government ministries, local authorities, state enterprises or institutions, government corporations, other public bodies, and their employees and officials.

If a complaint has been received against an entity that the Ombudsman has no authority to investigate, the Office of the Ombudsman notifies the complainant that it is not authorized to investigate his complaint and refers him, if possible, to the body that might be able to assist him.

Subjects of Complaints and Reasons to Intervene

In general the Ombudsman investigates a complaint if it concerns an act – including an omission or delay in acting – that is directly harmful to, or directly withholds a benefit from, the complainant. In addition, the act must be contrary to law or without lawful authority, or contrary to proper administration, or involve an overly rigid attitude or flagrant injustice.

Who is Entitled to Submit a Complaint

Any person may file a complaint to the Ombudsman free of charge. The complainant is required to state his name and address. Anonymous complaints are not investigated.

It is possible to submit a complaint on behalf of another person, on the condition that the complainant received that person's agreement to submit a complaint on his behalf.

Members of the Knesset may also complain about an act that directly harms another person.

Ways of Submitting a Complaint

A complaint may be hand written and submitted by the complainant; no legal knowledge or background is necessary. The complaint does not have to be written in Hebrew. Complaints written in other languages will be translated if necessary.

To facilitate and increase the efficiency of the investigation of complaints, it is important that complainants provide their identity numbers, a precise address for sending letters, even when the complaint is sent by e-mail, and a telephone number.

It is important to attach copies (it is best not to send originals) of the documents needed to investigate the complaint: copies of letters to the body complained against, replies received, decisions, and so forth.

A person may submit a complaint in a number of ways: via special letter-boxes situated in the Ombudsman's reception offices, by mail, fax, e-mail; by filling out a special form which can be found on the Ombudsman's website (www.mevaker.gov.il); or orally at the branch offices. Complaints may not be submitted over the phone.

The Reception Branches

The Ombudsman operates regional reception branches, in order to facilitate the submission of complaints: in Jerusalem, Tel Aviv, Haifa,

Nazareth and Beer-Sheva. Recently, the Ombudsman opened a reception branch in Upper Nazareth, and next year another office is planned to be opened in the Ramla-Lod region. Oral complaints can be submitted at these offices. The complaint is recorded by an official of the Office of the Ombudsman and signed by the complainant.

The peripheral reception branches facilitate the accessibility of the office of the Ombudsman to the public; they allow the disadvantaged population, to whom the regular ways of making contact with the Ombudsman – by mail, e-mail or fax – are not always accessible, to come to the office, to consult with an office employee and file their complaint. The branches have Russian and Arabic speaking employees, who help the complainants with their application and give them information. In the Beer-Sheva branch, there is an Amharic speaking lawyer who facilitates interaction with the Ethiopian community in the southern region.

In order to make the public aware of the existence of the Ombudsman, his authority to investigate complaints and ways of filing them, the offices' staff engage in extensive publicity activities at the welfare offices of the local authorities in those areas where the branches operate and among different social welfare organizations. Additionally the Office of the Ombudsman publicizes the relevant information several times a year in local Hebrew, Arabic and Russian newspapers and also in newspapers distributed in the Ethiopian community.

It should be noted that these publicity activities have been relatively successful; since the opening of the branches in 2007, scores of people have visited the branches and submitted complaints, most of them being from groups who had hardly ever contacted the Ombudsman before or knew of his existence.

In 2009 alone some 3000 people contacted the reception branches. Some of them filed complaints (about 14% of the complaints received

were submitted in the reception branches), and some received guidance and assistance in solving their problems, as a result of which the filing of a formal complaint was sometimes rendered unnecessary. When the complaint concerned a matter or a body that was not subject to investigation by the Ombudsman, the complainant received information about bodies that could be contacted to deal with his matter.

Description of the activity in the reception branches is brought on page 44.

On page 141 of the appendices, addresses of the Ombudsman offices, the reception hours at the offices, fax numbers and e-mail addresses for sending complaints can be found.

Information flyers in several languages were distributed in many places, among them welfare offices and aid centers, containing information about the Ombudsman, his authority and the methods for filing a complaint.



The Procedure of Investigating a Complaint

After a complaint has been submitted the Ombudsman's office opens an investigation, unless it is found that it does not comply with the conditions determined in the State Comptroller Law, 5718-1958 [Consolidated Version] (hereafter - "The Law" or "Comptroller Law"), or it is frivolous or vexatious, or the Ombudsman believes that he is not the proper body to investigate the complaint.

The Ombudsman may discontinue the investigation of a complaint if it has been found that one of the causes justifying the non-opening of an investigation exists, or that the matter to which the complaint relates has been rectified, or that the complainant has withdrawn the complaint or has not responded to the Ombudsman's requests addressed to him.

The Ombudsman's Office is authorized to investigate complaints in any manner it sees fit and is not bound by the rules of procedure or the rules of evidence. It may contact any person if it is deemed beneficial and may require any person or body to answer any questions and provide any documents or information that are likely, in its opinion, to assist in the investigation of the complaint.

Investigating Complaints through Mediation Procedure

In cases found suitable, the Ombudsman's office investigates complaints by means of an informal procedure, bearing characteristics of mediation. The aim of this procedure is to settle the dispute between the complainant and the authority through mutual understanding and agreement. It should be noted that Ombudsmen in other countries integrate in their activities similar procedures in order

to strengthen the culture of dialogue between citizens and public authorities.

Some of the employees of the Ombudsman's office received basic training in mediation principles, with emphasis on the unique characteristics of the Ombudsman institution.

Complaints that are fit to be dealt with by this procedure are mainly complaints about improper behavior of a public servant where the dispute between the parties is based on misunderstanding, complaints where the parties have long term relations, or complaints where the authority has broad discretion in the exercise of its power.

So far, experience teaches that through mediation it is possible to settle disputes between the parties, and that usually one meeting is sufficient.

It should be noted that at any stage of the procedure each side is entitled to stop and return the complaint to a regular investigation. In cases where an understanding between the parties has not been achieved, the complaint is also dealt with as a regular complaint, resulting in the decision of the Ombudsman as to whether the complaint was justified or not.

Outcome of Complaints Investigation

If the Ombudsman finds that a complaint is justified, he notifies the complainant and the body complained against the reasons for the decision. The Ombudsman may instruct the body to correct the defect discovered by the investigation and the ways and time to do so. The body complained against must then notify the Ombudsman of the steps it took to correct the defect.

If a complaint is found to be not justified, the Ombudsman's Office notifies the complainant and the body complained against and explains the reasons for the decision.

Types of Complaints that will not be Investigated

The State Comptroller Law determines which subjects and which officials or authorities are not to be investigated. According to the Law, complaints against the President, Knesset and its committees or a Knesset member will not be investigated; neither will the Ombudsman investigate complaints against the government and its committees, complaints against a Minister's actions in the course of his duties as a member of the government (as opposed to his course of action as the officer-in-charge of the Ministry), or complaints against the governor of the Bank of Israel, except in his course of action as officer-in-charge of the bank. Also, the Ombudsman will not investigate complaints against judicial or quasi-judicial actions or complaints concerning subjects pending or decided in a court or tribunal.

The Ombudsman does not have the authority to investigate: complaints filed by soldiers, police officers, and prison officers concerning service procedures, terms of service, or discipline; complaints of State employees and employees of other audited bodies in matters concerning their service as employees, except for an act alleged to be contrary to any law, regulation, the Civil Service Regulations, a collective agreement or similar general agreements. Exceptions to this rule are specified in sections 45A-45E of the State Comptroller Law, which relate to the investigation of a complaint of an employee in an audited body whose rights have been violated as a result of his exposing acts of corruption and a complaint of an internal

auditor regarding action taken against him as a result of actions he carried out in the course of his duties.

The Ombudsman will not investigate complaints regarding a matter in which a decision has been given, against which an objection, petition or appeal can or could have been filed according to the law, or a complaint filed after a year has elapsed from the date of the act to which it relates or the date on which such an act became known to the complainant, unless there is a special reason justifying such an investigation.

Protection of Whistleblowers

The Power of the Ombudsman to Issue a Protective Order

Sections 45A-45C of the State Comptroller Law determine the power of the Ombudsman to investigate complaints of employees who complain about harm caused to them due to exposing acts of corruption within the body in which they are employed, and issue temporary or permanent orders to protect the rights of these employees. The Ombudsman is also authorized to protect an internal auditor in an audited body against actions taken against him in retaliation for acts performed in the course of his duties.

It should be noted that the Legislature limited the power of the Ombudsman to investigate complaints related to employment issues as stated in section 38(8) of the Law, because it believed that the Ombudsman should not interfere in labor relations. Nevertheless, due to the importance of protecting Whistleblowers, the Legislature authorized the Ombudsman to investigate the complaints of these employees.

The Law's provisions regarding protection of persons who expose corruption balance between the right of the employer to make management decisions relating to his employees (promotion, dismissal, transfer from position, and so forth) and the need to protect employees who expose acts of corruption and, as a result, suffer harsh retaliation from their employers.

The Conditions for Investigating Such Complaints

For a complaint of a whistleblower or internal auditor to be investigated, it must fulfill several conditions as described in section 45A of the Law, as follows:

a) Complaint of a whistleblower

1. The complaint must be of an **employee** in an audited body against an **action** committed by his superior in his workplace in retaliation for his reporting **acts of corruption** committed in the body where he is employed.

It should be noted that the term "corruption" is not defined in the State Comptroller Law or other laws. In light of the role of the institution of the State Comptroller – preserving integrity and rules of proper administration and protecting employees who protest against serious actions committed in their workplace – the interpretation of this term is broad and goal-oriented in accordance with the circumstances of each case.

2. The retaliatory act was directly injurious to the complainant, and was contrary to law or done without lawful authority or contrary to proper administration, or involved excessive inflexibility or flagrant injustice.

3. The complainant **reported** the acts of corruption committed in the body in which he is employed **before** the action he complained about was committed.

4. The said reporting was done **bona fide and in accordance with proper procedure**. Bona fide in this regard means that the employee believed that the acts of corruption that he reported indeed were

committed, and that he had a reasonable basis for so believing. Reporting in accordance with proper procedure means reporting to a person authorized to investigate the complaint either in the body itself (i.e. the employee's superior or the internal auditor) or outside it (i.e. the State Comptroller or Israel Police Force). However, under section 45B of the Law, if the Ombudsman finds reasons to justify it, he may investigate the complaint even if the employee did not report the acts of corruption in accordance with proper procedure.

5. The act concerning the complaint was carried out in reaction to the complainant's reporting acts of corruption, that is to say, a **causal connection** was found between the action performed against the complainant and his reporting the acts of corruption.

b) Complaint of an internal auditor

1. The complaint is against an **act** committed by a superior of the internal auditor, provided that the act is contrary to the provisions of law, regulations, Civil Service Regulations, a collective agreement, or similar general arrangements, or involves the transfer of the internal auditor from his post.

2. The said act was committed in retaliation against the actions of the internal auditor in fulfilling his duties.

Only if all the aforementioned conditions are met -- especially the condition regarding the causal connection between the claimed retaliation and the reporting of the acts of corruption or the actions of the internal auditor -- will the Ombudsman issue an order protecting the complainant in accord with the power granted him under section 45C of the Law.

The legislator granted the Ombudsman broad discretion with respect to the content of the protective order, and he may make any order he

deems just and correct to protect the rights of the employee, taking into account the need to maintain the proper functioning of the body where the employee is employed and to prevent disruption of its activity.

The Ombudsman may issue a temporary protective order, that is valid until the completion of the investigation or until another decision is made by the Ombudsman. The purpose of the order is to prevent additional injury to the complainant during the investigation or to prevent a change of the situation, especially where there is concern that at the end of the investigation the previous situation could not be restored.

If the complaint is made by a whistleblower who was dismissed, the Ombudsman may order revocation of the dismissal, and if the Ombudsman believes that returning the employee to his post might impair the proper functioning of the body in which he is employed, the Ombudsman may award special compensation to the employee, financial or otherwise. The Ombudsman may also order the transfer of the employee to another post in the service of his employer.

Results of Issuing a Protective Order

To date, every protective order issued by the Ombudsman has been carried out. Under section 45D of the Law, the Attorney General, the Civil Service Commissioner, or the head of the body complained against may request the Ombudsman to review his decision. If the audited body opposes the outcome of the investigation or the issuance of the order, or provides the Ombudsman's Office with new information that it did not have at the time of the investigation of the complaint, the objection shall be brought before the Ombudsman to determine if he should review the matter. The same is true if a

complainant objects to the decision of the Ombudsman not to make a protective order.

The situation in which a whistleblower must return to his post with the employer against whom he complained is uncomfortable for both sides. Generally, however, both sides return to work in cooperation. If this does not occur, the complainant may again turn to the Ombudsman's Office, which will investigate this petition as well.

Reasons for Not Issuing a Protective Order

The Ombudsman receives many complaints by employees who claim that their employers retaliated against them for exposing acts of corruption at their workplace. The Ombudsman does not always issue a protective order in their cases, this for the following reasons:

1. The primary reason that the Ombudsman will not issue a protective order is that the conditions specified in the Law for making an order are not met:

(a) The investigation of some of the complaints revealed that the employee asked for the Ombudsman's protection according to section 45A of the Law although he did not report acts of corruption; in other cases, the investigation revealed that the acts which were reported were not acts of corruption, but indicated, at most, improper administration. It should be noted that while investigating complaints the Ombudsman **does not examine** if the acts of corruption complained about were actually committed, but whether the complainant believed bona fide that they were committed, and whether he had an apparently reasonable basis for so believing. The departments dealing with state audit in the State Comptroller's Office are those that examine if these actions were actually committed.

(b) In a substantial portion of complaints that were investigated, no causal connection was found between the acts taken against the complainant – dismissal or other violation of his rights as an employee – and his reporting of the acts of corruption. Such cases include, for example, complaints of employees who reported acts of corruption **after** proceedings of dismissal or disciplinary proceedings had been initiated against them. These complainants sought to take advantage of the protection given by the Law to persons who expose corruption and claimed that the reason for their dismissal was exposure of corruption, knowledge of acts of corruption, or prevention of corruption.

It should be noted that section 45E of the Law states that submission of a complaint under section 45A or 45B of the Law vexatiously or otherwise than bona fide, is a disciplinary offense.

2. Another reason for not issuing a protective order or for stopping the investigation of a complaint is that the complainant filed an action in court or in the Labor Tribunal regarding the same matter; under section 38(5) of the Law, the Ombudsman's Office is prevented from investigating a complaint that is pending in a court or tribunal or in which a court or tribunal has given a decision with regard to the substance of the complaint.

3. A protective order will not be issued if it is also found that the complainant and the employer reached an agreement between them during the course of investigation of the complaint.

Expanding the Scope of Protection of Whistleblowers

Past experience shows that protection given to whistleblowers is incomplete. Generally, an employee who exposes corruption is not favorably seen by his work colleagues and supervisors, who view him

as a "traitor" to the organization in which they work, and although under the Law, failure to fulfill the Ombudsman's protective order constitutes a disciplinary offense, the abuse of the whistleblower does not always cease.

Internal auditors, whose function is to identify and expose defects in the organization in which they are employed, may encounter, in the course of their role, friction and confrontations with their superiors. The superiors may breach the rights of the internal auditors or take revenge against them by disciplinary means or file complaints against them with the police, all with the objective of preventing proper auditing.

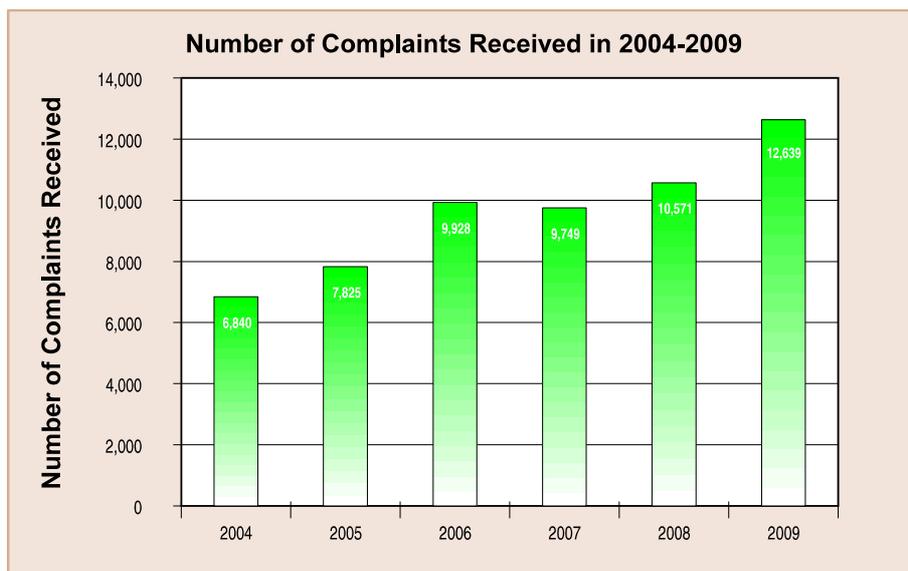
In December 2007, the State Comptroller and Ombudsman submitted to the State Control Committee of the Knesset an opinion, under section 21 of the State Comptroller Law, on "Protection of Persons who Expose Corruption," which contains a review of the existing means to protect persons who expose acts of corruption, the Ombudsman's Office's accumulated experience as a result of investigating the complaints, the existing legislation on protection of persons exposing corruption, and proposals for legislative amendments in this matter.

Data on Complaints in 2009

General Data

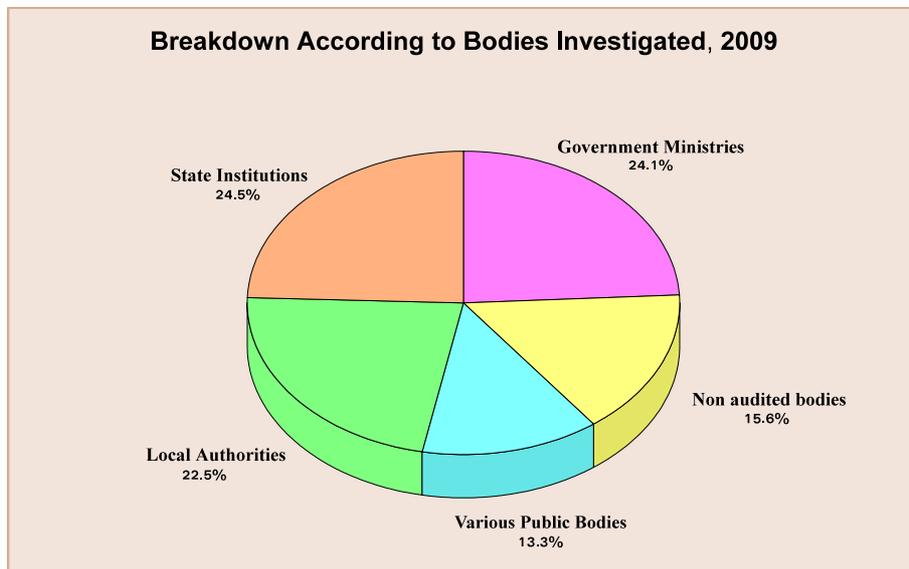
Number of Complaints Received

In 2009 the Office of Ombudsman received 12,639 complaints on 13,766 subjects. This is a record number of complaints received in a single year since the establishment of the Office of Ombudsman in 1971.



As reflected in the chart, 2009 saw a dramatic increase of 20% in the number of complaints as compared to 2008. It should be noted that over the period of 2004-2009, the number of complaints received by the Ombudsman's Office nearly doubled.

Breakdown of Complaints According to the Bodies Investigated



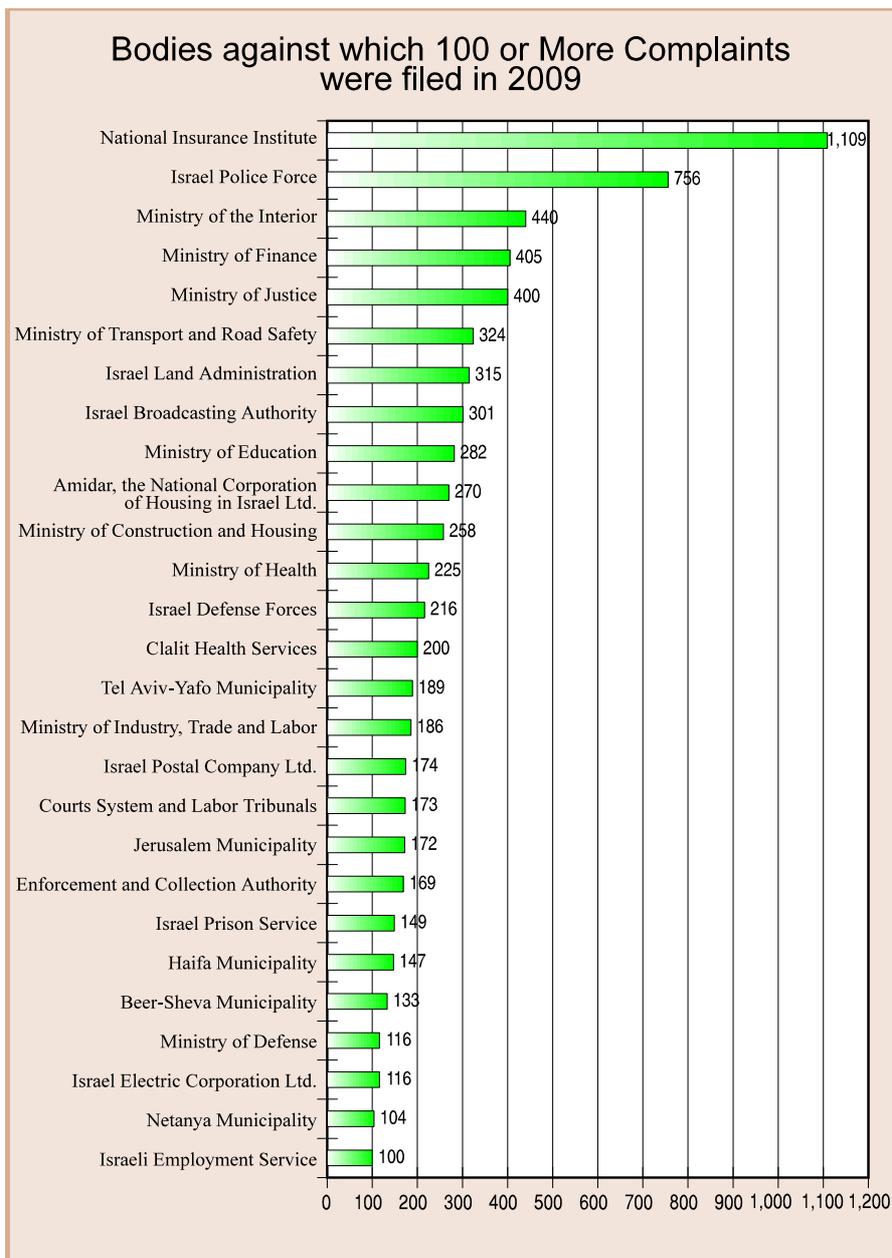
3,093 (24.5%) of the complaints were against **state institutions** – the National Insurance Institute, Israel Police Force, IDF, Courts System, Enforcement and Collection Authority, Israel Land Administration and others.

3,040 (24.1%) of the complaints received by the Ombudsman were against **government ministries**.

2,846 (22.5%) of the complaints were against **local authorities**: Municipalities – City Councils, local and regional councils, local boards and other municipal bodies like local committees for planning and construction, municipal associations, and water and sewage corporations.

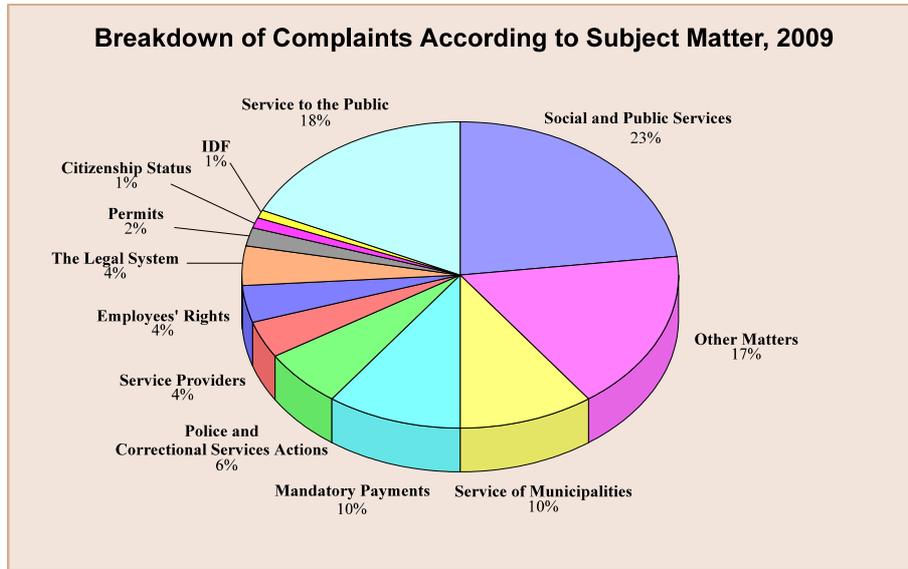
1,685 (13.3%) of the complaints were against **various public bodies** – Infrastructure and transportation corporations, housing companies, education and scientific institutes, public health services, etc.

1,975 (15.6%) of the complaints were against **non audited bodies** like banks and telephone companies.



Breakdown of Complaints According to Subject Matter

The following chart displays the breakdown of complaints received in 2009 according to subject matter:



23% of complaints dealt with defects relating to **social and public services** – Educational matters, welfare, health, assistance with housing and benefit payments.

18% of complaints dealt with flawed **service to the public** – Failure to respond to inquiries, improper behavior of a public servant, non-handling of complaints etc.

10% of complaints dealt with defects in the **service of municipalities** – Non-handling of obstacles and nuisances, infrastructure problems, planning and construction matters and objections to parking tickets.

10% of complaints dealt with objections to tax collection procedures, fees and other **mandatory payments**.

6% of complaints dealt with objections to **police and correctional services actions** – Behavior of police officers, the way police dealt with complaints, the way it conducted investigations, traffic tickets, behavior of correctional officers and handling of prisoners' complaints etc.

4% of complaints dealt with defective service given by different **service providers** among them the public transportation companies, infrastructure corporations and companies that provide communication services.

4% of complaints dealt with infringement of **employees' rights** – Wage issues, dismissals, improper behavior of supervisors and applications of employees exposing corruption for protective orders.

4% of complaints dealt with matters related to **the legal system** – Defective work procedures within the courts administration, objections to enforcement procedures and fine collections etc.

2% of complaints dealt with issuing **permits**, their renewal and revocation.

1% of complaints dealt with **citizenship status**.

1% of complaints dealt with matters related to the **IDF**.

The rest of the complaints (17%) dealt with **other matters**.

Breakdown of Complaints According to Method of Submission

The Ombudsman receives complaints by mail, fax, e-mail or by means of a designated complaint form that can be found on the Ombudsman's

website. In the branches of the Office of the Ombudsman complaints are also submitted orally and written down by the Ombudsman's staff.

The table below displays the breakdown of complaint issues according to the way they were received in 2009:

Way the Complaint was Received	No. of Complaint Issues	In Percent
Regular Mail	4,521	32.8
Internet	4,808	34.9
Fax	3,452	25.1
Orally	985	7.2
Total	13,766	100

The year 2009 shows an increase of approximately 10% in the number of complaints received via the internet and fax compared with 2008.

Activities of the Reception Branches in the Periphery

The Beer-Sheva Branch



The branch employs a Russian speaking secretary, an Arabic speaking lawyer and an Amharic speaking lawyer. This year too the office held campaigns and informational activities among the residents of the area especially among the Ethiopian community and the Bedouin sector, and visited audited bodies and places relating to the complaints.

In 2009 the office received 1,963 complaints orally and in writing (an increase of approximately 22% compared to 2008). 1,584 of complainants came to the office (an average of 132 complainants a month). They submitted complaints that the office employees wrote down and they also received advice and guidance regarding the matter of their concern or they received an update on the investigation of their complaints. All in all 866 complaint files were opened. 473 of

the complaints were submitted orally at the office, the rest of them were received in writing – by fax, mail or e-mail.

The breakdown of the complaints by sectors: Immigrants from the former Soviet Union submitted approximately 44% of the complaints, people from the Bedouin sector submitted approximately 29% of the complaints, members of the Ethiopian community approximately 6% of the complaints, and other residents – 21%.

The main bodies against which complaints were lodged at the office: National Insurance Institute (approximately 21% of complaints), Amidar Housing Corp. (approximately 13% of complaints), Beer-Sheva Municipality (10% of complaints), other municipalities in the southern region (12% of complaints).

The Nazareth Branch



The branch employs a Russian speaking employee and two Arabic speaking lawyers. In the course of the office activity, dozens of complaints and documents were translated from Arabic and Russian.

Furthermore, many visits were made to audited bodies and other locations in which nuisances or other defects had been reported by complainants, in order to understand the substance of the complaints.

In the year 2009 the office received 1,008 inquiries, both written and oral, and 570 complaint files were opened. 285 of these complaints were submitted orally to the office with the assistance of the office employees, while the rest of the complaints were submitted in writing.

Approximately 50% of the complaints received in the office were from the Arab sector, 21% from new immigrants and 29% from other residents.

The main bodies that complaints were submitted against were: Municipalities in the northern region (30% of the complaints), National Insurance Institute (12%), Israel Police Force (9%), Ministry of the Interior (5%).

Outcome of Investigated Complaints

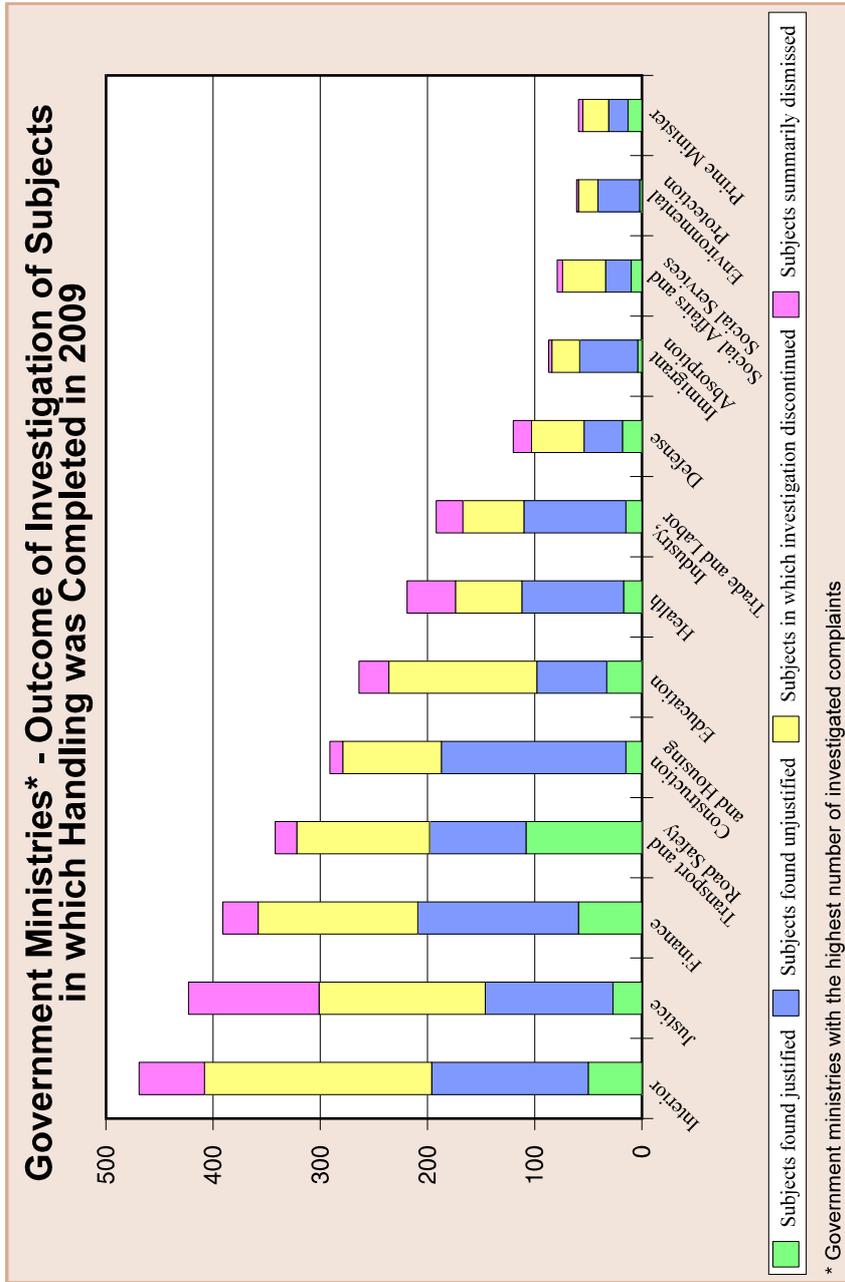
In 2009, 12,011 complaint investigations were concluded (compared with 12,639 complaints submitted during the course of the year). It should be noted that, of the complaints the investigations of which have not yet been completed, 61% were received in the last quarter of the year 2009.

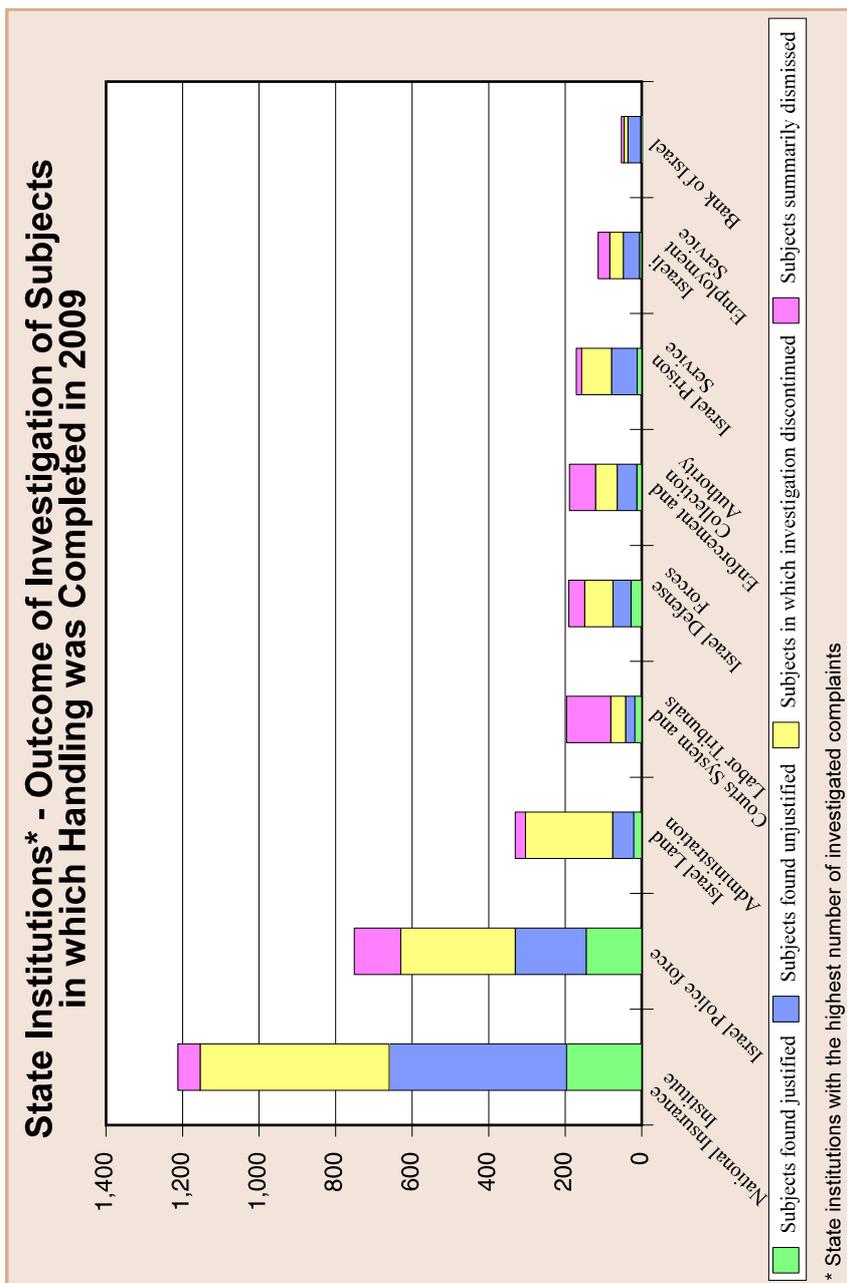
The completed investigations dealt with 12,952 subjects. The table below displays the investigation results in these subjects:

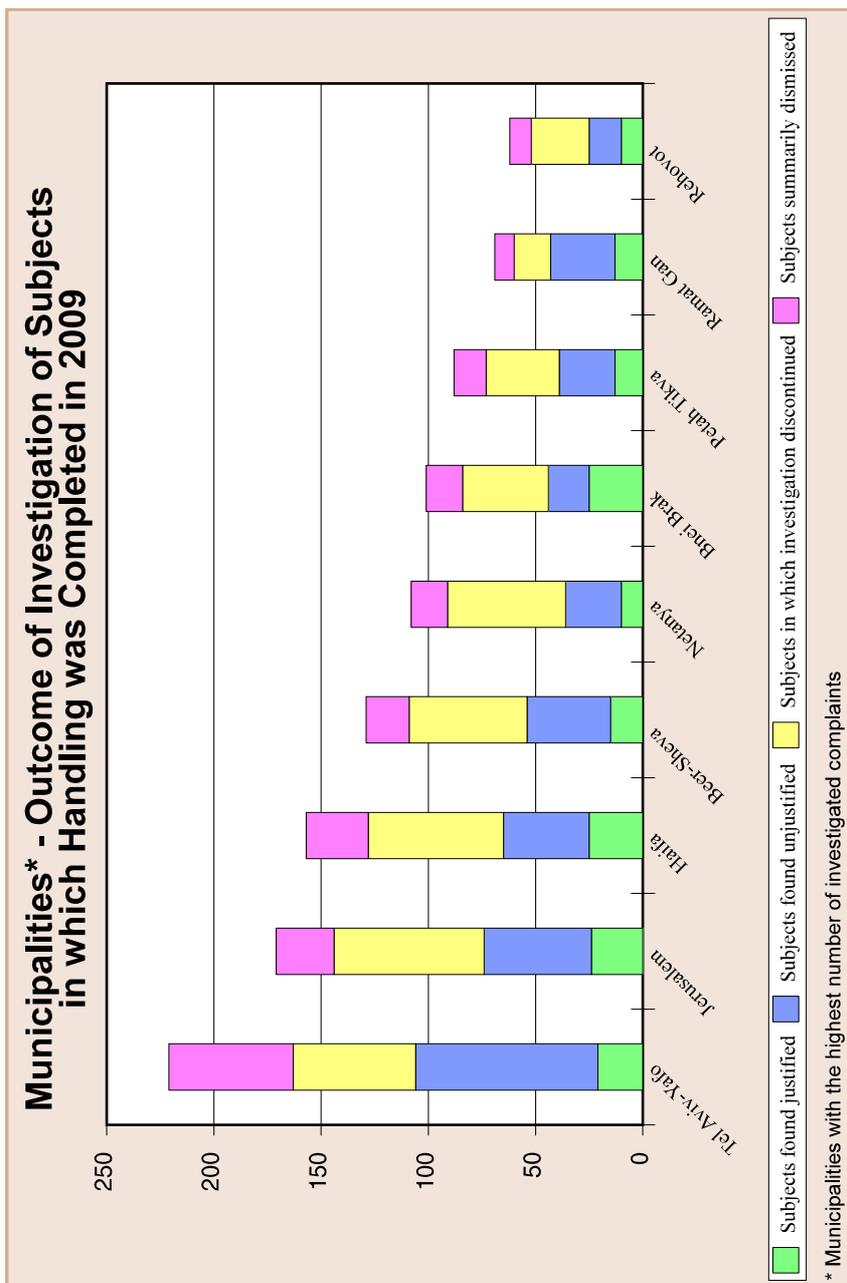
Investigation Outcome	Subjects Investigated in 2009	
	In Numbers	In Percent
Decision was Made in Essence of Matter*	5,224	40.3
Investigation Stopped**	4,252	32.8
Complaint was Summarily Dismissed***	3,476	26.9
Total Number of Investigated Subjects	12,952	100

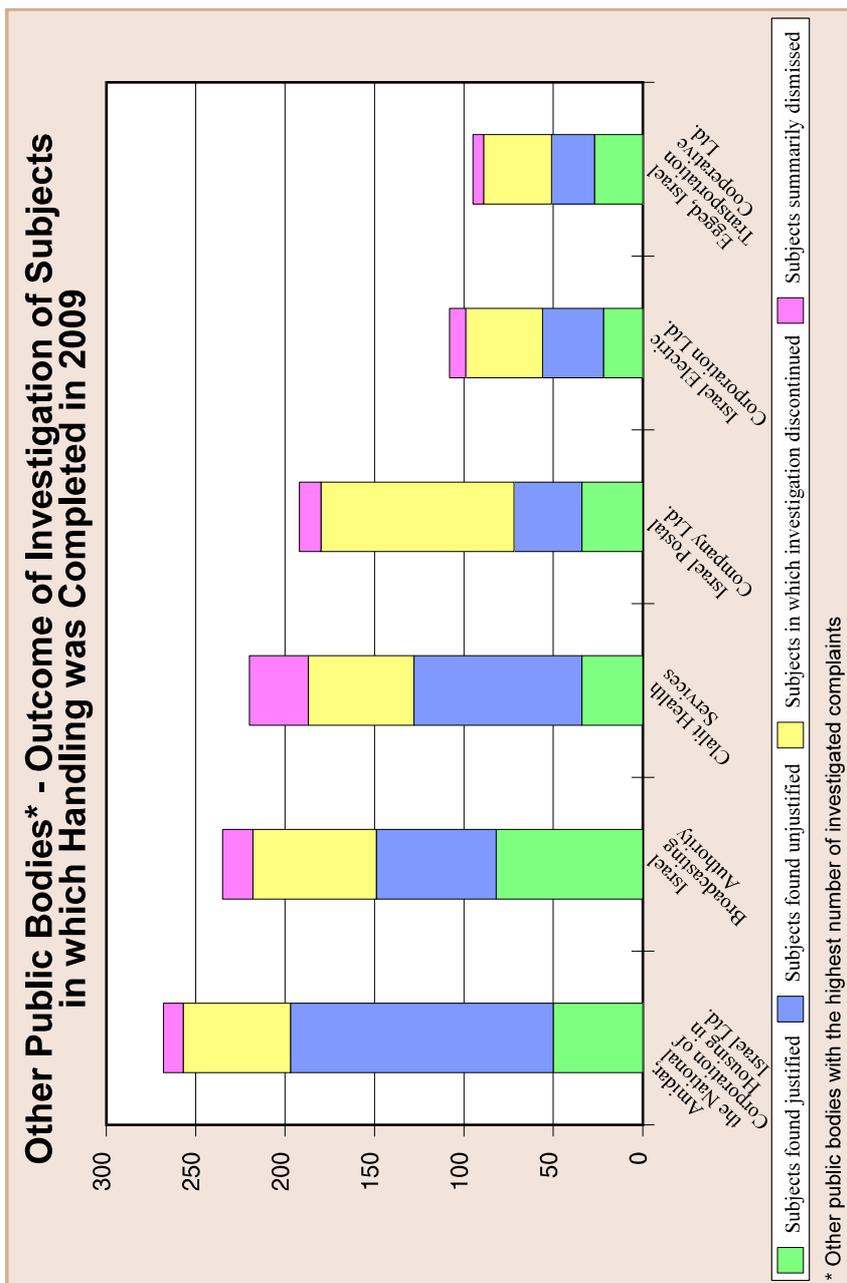
- * and it was determined whether the complaint was justified or not.
- ** the investigation was stopped at different stages of handling due to the following reasons: The matter raised in the complaint was resolved (1,937 [43%] of the complaints); it was found that one of the reasons specified in the Law for not opening an investigation applied (429 [10%] of the complaints); the complainant withdrew his complaint or did not respond to the Ombudsman's communications (1,010 [24%] of the complaints); other reasons (876 [21%] of the complaints).
- *** the subject matter of the complaint was dismissed on the spot for different reasons among them: The complained body is not one of the listed bodies against which a complaint may be filed under section 36 of the Law (2,002 [58%] of the complaints); the action described in the complaint did not directly harm the complainant or it is not against the law or the procedure of proper administration (324 [9%] of the complaints); the complaint is about a subject, body or office holder against which it is impossible to file a complaint according to section 38 of the Law (531 [15%] of the complaints); the complaint is barred by limitation or the complainant had the right to appeal the decision concerning the complaint and there is no special reason to investigate it (343 [10%] of the complaints); the Ombudsman thought that he is not the right institute to investigate the complaint (227 [7%] of the complaints); another reason (49 [1%] of the complaints).

The following charts display data of outcome of investigated complaints. Each of the charts deals with one of the four kinds of audited bodies with the highest number of complaints – government ministries, state institutions, municipalities and other public bodies.









Justified Complaints

Of the 5,224 complaints concerning which a decision was made on the merits, 1,600 (30.6%) were found to be justified.

	Percentage of subjects constituting justified complaints
2005	32.7%
2006	32.2%
2007	33.7%
2008	30.0%
2009	30.6%

It should be noted that investigations in an additional 1,937 complaints were discontinued after the issue complained about was resolved. In the final analysis, then, it would seem that the majority of the matters complained about were in fact resolved due to the intervention, of one kind or another, of the Ombudsman's Office.

The following is a detailed list of audited bodies (minimum 50 complaints) where the rate of justified complaints was greater than the average:

Government Ministries

Ministry of Transport and Road Safety – 54.5% out of 198 complaints where a decision on the merits was reached, were found to be justified; **Ministry of Education** – 33.7% out of 98 complaints; **Ministry of Defense** – 33.3% out of 54 complaints.

State Institutions

Israel Police Force – 43.8% out of 331 complaints where a decision on the merits was reached, were found to be justified; **IDF** – 37.3% out of 75 complaints.

Municipalities

Haifa Municipality – 39.3% out of 56 complaints where a decision on the merits was reached, were found to be justified; **Jerusalem Municipality** – 32.4% out of 74 complaints.

Other Public Bodies

Israel Broadcasting Authority – 55.0% out of 149 complaints where a decision on the merits was reached, were found to be justified; **Egged, Israel Transportation Cooperative Ltd.** – 52.9% out of 51 complaints; **Israel Postal Company Ltd.** – 47.2% out of 72 complaints; **Israel Electric Corporation Ltd.** – 39.3% out of 56 complaints.

Complaints of Whistleblowers

Data on the Investigated Complaints

In the year 2009 the Ombudsman investigated 53 complaints by complainants that alleged that they were injured as a result of exposing acts of corruption in the body where they worked. Four of the complaints were submitted by internal auditors who claimed that they were injured as a result of actions they performed in the course of their duty. 58 such complaints were submitted in the year 2009 (an increase of approximately 49% compared with 2008).

During the year the Ombudsman issued 13 temporary orders that are valid until the completion of the complaint investigation.

Complaints of Members of Knesset

The Knesset has a special status with regard to complaints submission. According to section 37 of the State Comptroller Law a member of the Knesset can also submit a complaint against an action that is directly injurious to another person, rather than himself.

The following chart displays number of complaints submitted by members of the Knesset in the years 2005-2009.

**Number of Complaints Submitted by Members of Knesset,
2005-2009**

Year	No. of Complaints
2005	9
2006	17
2007	83
2008	57
2009	34

Complaints about Discrimination Against Women

Section 6(c) of the Authority for Promotion of Women's Status Law, 5758-1998 (hereafter - the Law), prescribes the following:

"The Ombudsman shall submit an annual report to the Knesset regarding all the complaints filed with him which relate to discrimination against women as women and shall specify his conclusions."

Under section 6(a) of the Law, the Authority for Promotion of Women's Status (hereafter - the Authority) may forward complaints to the Ombudsman regarding any act within its area of activity, if it considers that the Ombudsman should investigate the complaint and if the complainant has given her consent.

In the year 2009 the Authority did not submit any complaints in this matter to the Ombudsman. However, the Ombudsman handled a few complaints that were directly submitted, as detailed below:

1. The Ombudsman received many complaints from Druze women residing in the Golan Heights, that their applications to the Ministry of the Interior for exit permits to Syria to visit the grave site of prophet Habil were refused. The complainants alleged that they had been discriminated against, as the procedure determined by the ministry allowed the travel of clergymen only to visit the grave site while their applications were broadly rejected.

As a result of the Ombudsman's intervention the ministry of the interior permitted the 43 women to travel to Syria for the purpose of visiting the prophet's gravesite.

2. Another complaint was submitted by a woman who had worked as a basketball instructor at one of the school clubs in Tel Aviv. At the beginning of the 2009-10 school year, her work was terminated. In her complaint to the Ombudsman she alleged that the school principal gave the order to remove her from her post as, in the principal's opinion, a male instructor was preferable, among other reasons because the children in the club are all boys.

The investigation of this complaint is ongoing.

3. The Ombudsman received two additional complaints regarding alleged discrimination against women, but in the process of the investigation it was found that the complainants had petitioned the court in the same matter. Section 38(5) to the State Comptroller Law states that a complaint as to a matter pending in a court or tribunal shall not be investigated; therefore, the Office of the Ombudsman discontinued the investigation

Decisions Regarding Correction of General Defects

In some instances, investigation of a particular complaint exposes general defects that are not related only to the individual's complaint. When this occurs, the Ombudsman's Office points out the need to correct the general defect, in order that other persons will not be adversely affected, and the Ombudsman keeps track of the correction of the defects. There have been many such corrections during the course of the history of the Ombudsman's Office. Recently, one of the Ombudsman's decisions resulted in the discontinuation of collection of entrance fees to the Ammunition Hill memorial site, after the Ombudsman determined that this was "a public commemorative site", and as such, the state was responsible for its funding and maintenance.

In the year 2009, the Ombudsman instructed many bodies regarding the need to amend general defects that were revealed in the course of complaint investigations, and many of these defects were indeed amended. Some of those complaints are described herein.

Government Ministries

Ministry of Finance

Publishing information in the Government Services and Information Portal on the Internet

The Government Services and Information Portal (www.gov.il) (hereafter - "Portal") included three ways to search for information regarding whether a lien had been placed on a vehicle. One listed option was: "Enter the mortgage database of the Ministry of Justice and request a report on a vehicle." The complainant chose this option

and paid for the information, only to find out that this database provides information about pledges and mortgages but not about liens. As a result of the Ombudsman's intervention the information was corrected so that visitors to the site can now know where to find information regarding vehicles under lien, on the one hand, and vehicles pledged as collateral, on the other.

The Israel Tax Authority

Issuing information regarding disruptions in hours of reception

Following the investigation of a complaint regarding lack of published information concerning work slowdowns by income tax workers resulting in cancelled afternoon reception hours, the Ombudsman determined that the Tax Authority should have advertised the disruption in reception hours in the media as well as on the Tax Authority's website where reception hours are listed. Also, it was determined that if this was technically impossible, it would be necessary to insert a "pop up" message on the site that would attract the attention of visitors to the site. The Tax Authority told the Ombudsman that should there be any need for it in the future information regarding this subject will be announced on their website with much more emphasis. It will also examine the need for advertisements in the media.

Ministry of Health – The Tel-Aviv Sourasky Medical Center (Ichilov Hospital)

Protecting medical records against loss or damage

The Ombudsman received a number of complaints from patients of the dental clinic at Ichilov Hospital, who stated that their medical records had been lost or damaged and therefore they could not receive medical treatment on time. Following the investigation of these complaints, the hospital informed the Ombudsman that actions had been taken to protect the medical records against loss or damage:

- In order to improve the clinic's archive organization and to ease its load, old medical records and records of inactive patients will be stored in an archive outside the hospital.
- To date medical records of each patient have not been filed in a separate folder. In order to avoid the loss of records and to facilitate location of them and minimize the risk of their being damaged, the clinic will file records of each patient in a binder.
- At the end of the treatment the patient will no longer give the medical documents back to the receptionist, but rather it is the doctors who will do so.
- The option of using the hospital's computerized storage to document details of the medical treatments and payments will be examined.

Ministry of the Interior

Information provided on the ministry's website

During the investigation of a complaint, it was found that the Ministry of the Interior does not clearly point out on its website that an adult

applying for a passport for the first time must appear personally at the office of the Population, Immigration and Border Authority when submitting his application. The Ministry updated its website to include this requirement.

The Ministry website included a general directive regarding how to register the birth of a child, born overseas to an Israeli female citizen when the child was not registered at the Israeli Embassy there. This directive requires submitting a translation of the foreign birth certificate into Hebrew together with a notarial authentication of the translation. The website did not point out that according to the Ministry's guidelines, it is unnecessary to provide such translations when the birth certificate is in Arabic or English. Following the investigation of a complaint, the Ministry updated its website to indicate that there is no need to provide the abovementioned documents if the certificate is written in Arabic or English, as long as it does not contain too much wording.

Population, Immigration and Border Authority

Delay in transferring a file between the Authority's offices

Following an investigation of a complaint regarding a delay of about 4 months in the transfer of a file between offices of the Population, Immigration and Border Authority (hereafter - "The Authority") the Ombudsman pointed out to the head of the Authority the need to take action to prevent similar flaws in the future. The Authority informed the Ombudsman that it is acting to cut down the time it takes to transfer files between offices, and noted that this problem will be fully resolved in the future, when the Authority files become fully computerized.



National Elections Inspector

Version of the Notice to the Voter in the Arabic Language

Following an investigation of a complaint regarding many linguistic mistakes in the Arabic version of the Notice to the Voter received by the complainant in advance of the municipal elections of November 2008, the Ombudsman instructed the National Elections Inspector at the Ministry of the Interior to contract with a translation company to translate into Arabic every official publication of the Inspector, including Notices to the Voter in order to prevent similar incidents in the future.

Ministry of Transport and Road Safety

Licensing Division

Resending Notices to Examinees

The licensing division of the ministry of transport and road safety suspended the complainant's driver's license because she failed to send updated medical documents according to the request of the Road Safety Medical Institute. The Ombudsman's investigation found that due to an error in the postal system, the request sent to the complainant was returned to the Institute, and was subsequently placed in her medical file without making any attempt to resend it or contact the complainant.

The Institute explained to the Ombudsman that each month it sends approximately 6,000 notices to examinees, and due to the large number of notices, when a letter is returned to the Institute after being sent to the examinee's address as it appears in the licensing division, the Institute does not resend the letter and does not contact the examinee by phone to make enquiries.

The Ombudsman made clear to the Institute that since non-submission of the medical documents may result in the suspension of the driver's license – a critical decision for the driver – it would be appropriate to resend the letter returned by mail, especially in cases where it was obvious that the addressee had not deliberately refrained from receiving the letter. The Institute informed the Ombudsman that it instructed its employees to act in accordance with the decision.

Vehicle Division

Improvement of Service Given to Applicants for Vehicle Import Licenses

Due to significant increase in the number of applications for licenses to import vehicles into Israel, the Import Department in the Vehicle Division of the Ministry of Transport and Road Safety experienced difficulties in handling the many applications. In the years 2008-2009 the Ombudsman received many complaints regarding delays in issuing import licenses and lack of information about the status of the applications that were submitted. As a result of the Ombudsman's intervention the Ministry of Transport added manpower to the import department and also took other steps to cut down the department's response time.

Ministry of Transport and Road Safety and Israel National Road Company Ltd.

Conditions for getting a Copy of Expropriation Map

A complaint investigation found that the Israel National Road Company will provide a copy of a map attached to a Land Expropriation Order issued by the Ministry of Transport only if the applicant signs a special waiver. This waiver exempts the Company

from liability for any consequences connected to the copying of the map or any future use of it by the applicant.

As a result of the intervention of the Ombudsman, the Ministry of Transport instructed the company not to require such a waiver in the future. The Ministry acted accordingly and also instructed the Israel Railways Corporation to act according to this decision in the course of handling applications to copy maps in its possession, relating to land expropriation for the purpose of building railroads.

State Institutions

National Insurance Institute

Handling of applications regarding insurance contributions

In a previous report, the Ombudsman uncovered ongoing delays over the course of five years, in the National Insurance Institute's handling of requests to adjust insurance contributions and refund insurance payments¹. Although the National Insurance Institute informed the Ombudsman that it is trying to formulate a solution to the problem in question, and that it referred the handling of requests to the Institute's branch in Jaffa, a follow-up by the Ombudsman found delays even today of more than a year in handling of such requests.

The Ombudsman issued a notice to the Institute regarding this matter, and the Institute's General Manager recently informed the Ombudsman that in order to reduce the above delay in the handling of requests, it was decided to hold a special campaign so that requests already submitted will be dealt with by May 2010. The Ombudsman is following this issue.

1 See Ombudsman, annual report No. 35 (2008), p. 225, complaint 42

Lack of assessment committees as required by law

According to the National Insurance Law, anyone who is charged with additional insurance contributions is entitled to appeal before an assessment committee. An investigation of a complaint found that the Institute does not comply with the above ordinance and such assessment committees have not yet been established. The Institute notified the Ombudsman's Office that it intends to work towards changing the law and creating an alternative appeal system. At present, though, there is no appellant body to which one can appeal the amount of insurance contributions.

The Ombudsman determined that, notwithstanding the Institute's announcement that it intends to work towards changing the law, the law as it stands requires the Institute to establish assessment committees. The Ombudsman made clear that it will follow up to ensure compliance in this matter.

Courts System

Handling of debt collection regarding court fee

An investigation of a complaint found that due to an error, the court secretariat transferred to the Center for Collection of Fines, Fees and Expenses (hereafter - "the Center") a request for collection of debt for failure to pay a court fee only five and a half years after the conclusion of the trial. Furthermore, it was found that at the time of the transfer of the request, the court's file had already been destroyed, and the court secretariat and the Center possessed little information regarding the legal procedure, including the issue of the payment of the fee.

Following an intervention by the Ombudsman's Office, the Court Administration ordered the court secretaries not to destroy files until

the fee has been paid in full. The secretaries were also directed to transfer files for collection to the Center within three years of the creation of the debt.

Enforcement and Collection Authority

Execution Bureau

Issuing approval for discharge from guarantee

An investigation of a complaint found that a person who was discharged from a guarantee cannot receive from the execution bureau written confirmation of this. As a consequence of the investigation, the Enforcement and Collection Authority announced that from now on, a confirmation of cancellation of guarantee will be issued to any guarantor who requests it, and that it has decided to examine the possibility of issuing such confirmation routinely.

The Center for Collection of Fines, Fees and Expenses

Charging expenses arising out of unnecessary collection procedures

An investigation of a complaint found that the Center for Collection of Fines, Fees and Expenses hired the services of a private collection contractor to locate addresses of debtors, thereby adding to the collection expenses imposed upon debtors, even though these addresses can be located through a simple check of the population registry. Following intervention by the Ombudsman's Office, the Center announced that it is taking measures so that it will be able to receive this information directly from the Ministry of the Interior's database.

Municipalities

Bnei Brak Municipality

Lack of handicapped parking spaces adjacent to shopping centers and medical centers

Following a complaint regarding a lack of handicapped parking spaces adjacent to shopping centers and medical centers in the city of Bnei Brak, the municipality added parking spaces reserved for handicapped persons in public places throughout the city.

Rehovot Municipality

A discount in property tax for those receiving income support benefit

The tax division in the municipality was not aware of the fact that the cancellation of a discount in property tax, following an amendment that was made in the discount regulations, did not apply to receivers of income support benefit who fulfill the relevant criteria. As such, the municipality did not give a discount in property taxes to citizens eligible for it. The Ombudsman determined that the municipality must check its listings and ensure that all the city's residents who receive income support benefit and fulfill the criteria indeed receive the discount in property tax to which they are eligible. The municipality's tax division director informed the Ombudsman that he directed the division's employees to act in accordance with the Ombudsman's decision.

Mateh Asher Regional Council and Abu Snan Local Council

Reading bid documents without payment

The Ombudsman investigated complaints dealing with the refusal of the Mateh Asher Regional Council and the Abu Snan Local Council (hereafter - "the Local Authorities") to allow the complainant, a business company, to view bid documents which they published without having to pay for it. The Ombudsman determined that according to law, the Local Authorities must allow anyone who requests to read bid documents, including the complainant, to view the bid documents without payment.

International Relations

In June 2009, the 19th Annual Conference of the International Ombudsman Institute (IOI) took place in Stockholm, Sweden. During the conference, which was organized in cooperation with the Swedish Ombudsman and the Swedish Government, various professional issues were discussed, and the 200th anniversary of the Swedish Ombudsman institution was marked. Israel was represented by State Comptroller and Ombudsman Judge (ret.) Micha Lindenstrauss, and the Director of the Office of the Ombudsman, Adv. Hillel Shamgar, and they gave lectures to conference participants on the roles of the Ombudsman and the integrated model which is unique to Israel, whereby the State Comptroller also acts as Ombudsman.

At the end of June 2009, the Armenian Ombudsman visited Israel. He met with the State Comptroller and Ombudsman and with the Director of the Office of the Ombudsman.

In July 2009, as part of a reciprocal visit, the State Comptroller and Ombudsman visited Madrid, Spain, as the guest of the Spanish Ombudsman. The Ombudsman was accompanied by the Director of the Office of the Ombudsman. In the course of the visit, the two met with the Spanish Ombudsman and his office's senior staff, with the President of the Spanish Congress and with members of the Jewish community.

In September 2009, the former Ombudsman of Poland, Dr. Janusz Kochanowski², visited Israel. He met with the State Comptroller and

2 After the publication of this report, Dr. Kochanowski was tragically killed in a plane crash together with the President of Poland and other Polish officials.

Ombudsman, the Director of the Office of the Ombudsman and the office's senior staff and discussed professional matters with them.

The guest met in the Knesset with Knesset Speaker, MK Reuven Rivlin, and Chairman of the State Control Committee, MK Yoel Hasson. The guest also met with the Honourable Justice Salim Joubran in the Supreme Court.

As part of the visit, the guest and the Polish Ambassador to Israel awarded the State Comptroller and Ombudsman with the Officer's Cross of Merit of the Republic of Poland. The medal was bestowed in the name of the President of Poland to Judge (ret.) Lindenstrauss for his work as State Comptroller and Ombudsman on behalf of human freedom and democracy in Israel. This medal is awarded to prominent personalities around the world, among them former President of the Supreme Court of Israel, Prof. Aharon Barak, and United States Supreme Court Justice, Antonin Scalia.

Following an invitation by the Moroccan Ombudsman, in November 2009 the State Comptroller and Ombudsman participated in a meeting of the Organization of Ombudsmen of the Mediterranean Countries, which took place in Tangiers, to mark the dedication of the organization's new office building. He was accompanied by the Director of the Office of the Ombudsman. Judge (ret.) Lindenstrauss, who holds a position on the organization's governing board, spoke during the meeting.

In December 2009 the Third Annual Conference of the Organization of Ombudsmen of the Mediterranean Countries took place in Athens, and discussed the subject of transparency in public administration and the struggle against corruption. Israel was represented by the Director of the Office of the Ombudsman, Adv. Hillel Shamgar, and he gave a lecture on the topic "Protecting those who Expose Corruption: The Israeli Experience."



**The dedication of the headquarters of the Organization of Ombudsmen
of the Mediterranean Countries**

Third from left: State Comptroller and Ombudsman – Member of the
organization's governing board; Sitting: The Moroccan Ombudsman –
President of the organization

DESCRIPTION OF SELECTED CASES

Government Ministries

MINISTRY OF FINANCE -
HOLOCAUST SURVIVORS RIGHTS
AUTHORITY



**REFUSAL TO INCREASE DISABILITY RATE DUE
TO NON-RECOGNITION OF DISEASE**

An advisor in the Center for Implementation of Rights of Holocaust Survivors filed a complaint to the Ombudsman in the name of a Holocaust survivor (hereafter - "the complainant"). In his complaint he claimed that since the Authority does not recognize the fact that the complainant is suffering from Osteoporosis (hereafter - "the disease"), it refuses to increase her disability rate.

It was also contended in the complaint that the complainant had four times presented to the Authority medical documents according to which she was suffering from the disease, but the Authority's head doctor determined that no evidence had been found that she in fact suffered from it.

According to section 17 of the Disabled Victims of Nazi Persecution Law, 5717-1957, the complainant is entitled to appeal the decision before an appeals committee. However the complainant informed the Ombudsman that she did not file an appeal regarding the repeated rejections of her requests due to the high cost involved in filing an



appeal, and instead she turned once in a while to the Authority requesting that it reconsider her request to increase her disability rate based on additional medical material she sent to the Authority, but as stated all her requests were denied.

According to section 39(1) of the State Comptroller Law, the Ombudsman may not investigate a complaint regarding a matter in which a decision has been reached against which it is possible or was possible by law to file an objection or appeal, unless the Ombudsman finds that there is a special reason to justify an investigation. The Ombudsman felt that although the complainant did not take advantage of the right to appeal given to her, the special circumstances of the case justified the investigation of the complaint.

Following a request by the Ombudsman, the head doctor once again reviewed the complainant's file and noted that one of the documents attached to the request escaped his notice although it was in the file, and in light of that document it was decided to recognize the complainant's disease and accordingly increase her disability rate.

The Ombudsman noted that under the circumstances there was no justification to deny the complainant's requests and guide her again and again to file an appeal, since from the medical documents she presented it was clear that she suffers from Osteoporosis. The Ombudsman instructed the Authority that it must act to prevent similar cases in the future.

MINISTRY OF DEFENSE - DEPARTMENT OF FAMILIES AND COMMEMORATION

2

REFUSAL TO INCREASE GRANT FOR VEHICLE PURCHASE BY A BEREAVED PARENT

According to the procedures of the Department of Families and Commemoration in the Ministry of Defense (hereafter - "the Department"), bereaved parents are entitled to a grant for the purchase of a new vehicle every five years and to an increased grant for the purchase of a new vehicle every six years (hereafter - "the Increased Grant"). The assistance in purchasing a vehicle is granted both to bereaved parents who are a couple and a bereaved parent who is separated or widowed.

The complainant, a bereaved parent, purchased a vehicle in August 2006 (hereafter - "Vehicle 2006"), having owned his previous vehicle for approximately 11 years, and asked to receive an increased grant for the purchase. However, the Department refused his request for an increased grant on the grounds that the complainant's ex-wife had purchased a vehicle in June 2001 (hereafter - "Vehicle 2001") while they were married, and six years had not yet passed from the date of its purchase. The complainant claimed that his ex-wife purchased Vehicle 2001 after they had signed a separation agreement but before the court had approved the agreement, and that according to that agreement the vehicle was the sole property of his ex-wife.

The investigation of the complaint revealed that the complainant's ex-wife indeed purchased Vehicle 2001 after the separation agreement between the two had been signed (on April 23, 2001) and after the agreement had been presented for judgment by the Family Court (on May 6, 2001), but before the Court gave the agreement the validity of a judgment (on July 8, 2001). The investigation also found that in the agreement it was determined that the wife would buy a vehicle which would be her sole property.

The Department informed the Ombudsman that a bereaved parent receives recognition of his status as "separated" for the purpose of determining his eligibility for assistance in purchasing a vehicle from the time that the separation agreement is made valid by the Family Court¹. Since in this case the Court only gave validity to the separation agreement on July 8, 2001, and Vehicle 2001 was purchased a month before, indeed at the time of purchase the complainant did not have the status of "separated", and therefore he was not eligible for an increased grant at the time of purchase of Vehicle 2006.

After the Ombudsman considered the Department's position, it determined that considering the special circumstances of the case and without this serving as a precedent, it was appropriate, to give the complainant the increased grant, since the separation agreement was signed and submitted for court approval before the complainant's ex-wife purchased Vehicle 2001, and the time period required for the Court to give the agreement the validity of a judgment was not under the control of the complainant. Therefore, since the Department's procedures do not explicitly state the determining date recognized as

1 Or on the date of issuance of the divorce certificate or on the date of opening of the divorce process in the Rabbinical Court.

the date of separation, the Ombudsman determined that the complainant's status as "separated" should be recognized as of the date of the submission of the separation agreement for court approval. The Department notified the ombudsman that it paid the complainant the increased grant, according to his decision.

MINISTRY OF CONSTRUCTION AND HOUSING

3

PROHIBITING THE HOLDING OF A MEETING BETWEEN A KNESSET MEMBER AND RESIDENTS OF HOSTELS

Hostel residents asked a Knesset Member to meet with them in order to present their complaints regarding different aspects of the living conditions in hostels. When the Knesset Member asked the company which manages the hostels on behalf of the Ministry of Construction and Housing (hereafter - "the Company" and "the Ministry", respectively) to coordinate a meeting, the Company transferred his request to the Ministry. The Ministry replied to the Knesset Member that it would be unable to grant his request since Ministry guidelines do not allow meetings between political figures and hostel residents on hostel property. The Knesset Member submitted a complaint to the Ombudsman both about the Ministry's refusal to grant his request and about the matters which had been raised by the residents of the hostels.

The Ministry informed the Ombudsman's Office that the hostels, in which there are apartments designed for homeless elderly, are considered the "private property" of the elderly living in them and not a home for the elderly, which is a "residence" under the Residential Control Law or any other public institute. Therefore, in the Ministry's

opinion, it would not be proper to allow meetings between Knesset Members and hostel residents to take place on hostel properties.

The Ombudsman determined that the complaint was justified. Knesset Members are elected by the people and represent them, and one of their roles is to keep in touch with them, hearing their complaints and assisting, where possible, those who turn to them. This important role is also reflected in section 37(2) of the State Comptroller Law, which states that Knesset Members are authorized to file complaints on behalf of people who have turned to them. In light of the powers and functions of the Knesset Members and without deciding the question of the legal status of the hostels, the Ombudsman determined that the all-encompassing restriction regarding meetings between Knesset Members and hostel residents on hostel grounds was inconsistent with the duty to allow a Knesset Member to fulfill his functions and to assist him in doing so.

In light of the above, the Ombudsman pointed out to the Construction and Housing Minister the need to allow Knesset Members who wish to do so to visit hostels and meet residents for the purpose of fulfilling their duty.

DENIAL OF DISCOUNT IN ELECTRICITY PAYMENT FOR HOSTEL RESIDENTS

The complainants are residents of a public housing hostel located in Pardes Hanna (hereafter - "the hostel"). The hostel was built by the Ministry of Construction and Housing (hereafter - "the Ministry") in 1996, on the grounds of a geriatric hospital which operates in the area. The Shikmona Company manages the hostel today on behalf of the Ministry. The complainants complained that they do not receive a discount on electricity payments to which they are eligible according to the Electricity Sector Law, (hereafter - "the discount" and "the Law", respectively).

According to the law, a reduction is granted to a person who purchases electricity from the Electric Corporation (hereafter – "registered consumer") and is entitled to an income support benefit under section 2(a)(4) of the National Insurance Law, 5731-1980. According to the rules laid down by the Public Utility Authority – Electricity (hereafter – "the Authority"), a person who uses electricity in a place which is registered under the name of a registered consumer (hereafter – "secondary consumer"), is also eligible for the reduction.

The investigation found that the hostel was built without a building permit and was occupied without having been given the necessary permit allowing it to be legally connected to the electricity grid. According to the Ministry, the reason for this was that at the time the hostel was built, the property of the geriatric hospital in which it is located was not under the responsibility of any planning and building committee.

Since the hostel was not given a legal occupancy permit, the Israel Electric Corporation (IEC) was prevented from connecting it to the electricity network, and therefore the hostel connected to the geriatric hospital's electrical network on its own without having been given a permit for this by the IEC. The Ministry installed electricity meters in all the apartments in the hostel, and the Shikmona Company reads the meters frequently and collects payments from the residents for electrical consumption, which it transfers collectively to the hospital. As far as the IEC is concerned, the hospital is the only consumer of electricity and the hostel and its residents are not recognized at all as consumers of electricity.

Since the hostel was connected to electricity illegally and electricity is distributed in it without a permit to distribute electricity as required by law, the Authority rejected the Ministry's request to provide the hostel's residents with a discount so long as the hostel is not legally connected to the electricity network.

The Ministry informed the Ombudsman that it has begun the required proceedings to legalize the building of the hostel and legally connect it to the electricity network, yet it estimates that implementation of these proceedings will take a long time. The Ministry added that until the said connection is carried out it will not be able to bear the difference between the electricity payments that the residents are required to pay and the reduced payments they would have been eligible for had they received the discount for which they are eligible under the law and the rules of the Authority.

It should be noted that in the rental agreements signed between the hostel residents and the Shikmona Company it was determined that if the tenant is eligible by law for discounts in payment he shall pay the reduced payments according to the discount for which he is eligible.

The Ombudsman found the complaint to be justified and determined that the present situation was unacceptable and blatantly unjust toward the residents. Most of the hostel's residents are elderly immigrants and Holocaust survivors whose socio-economic situation is difficult, and yet they are not receiving the discount due to an omission by the Ministry and due to circumstances beyond their control.

In light of the above the Ombudsman determined that the difference between the electricity payments that the residents actually make and the payments they would have made had they received the discount, should be borne by the Ministry itself, from the date on which the tenants' right to the discount was established and until the hostel is legally connected to the electricity network and the residents will be able to receive the discount directly from the IEC.

The Ombudsman is monitoring the implementation of its decision.

FLAWS IN EXPELLING A STUDENT FROM SCHOOL

The complainant complained that his son, who was supposed to study during the 2008-9 school year in tenth grade, was expelled from school. He claimed that on the first day of the school year the school principal informed his son that it had been decided that he could not continue to study at this school, and that he must continue his studies at a vocational school. The complainant claimed that during the conversation he was told that the decision was made by the pedagogical council of the school (hereafter - "the Council"), however he had not been invited to the Council's discussion, nor given the opportunity to make his arguments against the decision. He also did not receive the protocol of the discussion or a written notice about the Council's decision. The complainant wrote to the District Manager at the Ministry of Education, objecting to the decision, but his objection was denied.

The Ministry of Education notified the Ombudsman that there was no intention of expelling the student from the school, but that in light of his achievements and behavior the Council decided that he should remain an additional year in ninth grade or move to a vocational school. According to the Ministry, the complainant and his son did not

accept the decision, and after the school prevented the student from continuing his studies in tenth grade he discontinued his studies.

The investigation found that once the student refused to remain for another year in ninth grade, the result of the school's decision to prevent the student from studying in tenth grade was in fact to expel him from the school. Therefore it was appropriate to implement the procedure necessary for expelling a student, according to the instructions prescribed by the regulations.

According to the Compulsory Education Regulations (Rules for expelling a Student Permanently from an Educational Institution Due to His Academic Achievements), 2004, it is possible to expel a student in Grades 7-12 due to poor achievements in his studies, if the conditions set forth in the regulations are met, among them the condition that the student refused the school principal's suggestion to remain another year in the same grade. The process is carried out according to the instructions set out in the Student Rights Regulations (Publication of Instructions and Removal of Students), 2002 (hereafter - "Student Rights Regulations").

According to the Student Rights Regulations, before the decision to expel a student is made the school principal must hold a discussion on the matter with the participation of the relevant officials. The student and his parents must also be summoned to the discussion, by means of a written notice sent via registered mail, so that they can voice their arguments on the matter. If the Council decides to remove the student, notice of this decision must be sent to his parents by registered mail; the notice must make clear that they are eligible to file an appeal about the decision to the District Manager at the Ministry of Education. If an appeal is filed, the District Manager must hold a hearing of the student and his parents before a committee established by law. The District

Manager must inform the student and his parents of his decision in writing.

An investigation of the complaint found that the complainant and his son were not invited to the meeting held by the Council, they were not sent a notice in writing about the Council's decision, and they were not informed that they are eligible to appeal the decision before the District Manager. Moreover, after the complainant objected the Council's decision before the District Manager, a hearing committee was not convened, and the complainant and his son were not invited to voice their claims in front of it, as required by regulations.

The Ombudsman pointed out to the District Manager there were significant flaws in the expulsion procedure. Consequently, the District Manager met with the complainant and his son. After the meeting, the District Manager informed the Ombudsman that in light of the above mentioned flaws, and since the student had not enrolled with another school, she decided that he would immediately return to study in tenth grade at the school, on condition that he promise in writing to meet the school's requirements, and that his parents promise to cooperate with the teaching staff. A follow-up by the Ombudsman revealed that the student continued to study at the school.



REFUSAL TO HAND-OUT END OF YEAR REPORT CARD TO A HIGH SCHOOL STUDENT

The complainant, a ninth grade student, wrote to the Ombudsman during the 2009 summer vacation, complaining that the principal of the school in which she studied refused to give her the end of the year report card, which she needed in order to apply to another school.

An investigation of the complaint found that the school principal delayed giving the report card to the complainant due to a debt by the student's parents to the school. The Ombudsman and the Ministry of Education informed the principal that according to the administrative guidelines published by the Director General of the Ministry of Education, she was not permitted to refuse to give the report card because of a financial debt, and as a result of this the report card was sent to the complainant.

ISSUING AN EXIT PERMIT TO SYRIA TO DRUZE WOMEN FOR THE PURPOSE OF A RELIGIOUS VISIT

In accordance with the Order Extending the Validity of Emergency Regulations (Leaving for Abroad), 5709-1948, it is prohibited to leave Israel for certain countries, among them Syria, unless a permit for this is given by the Minister of the Interior or the Prime Minister. The guidelines of the Ministry of the Interior (hereafter – "the Guidelines") determine the circumstances under which an exit permit to Syria will be granted to residents of the Golan Heights. According to the Guidelines, in September of every year, exit permits to Syria are issued for a group of Druze ministers who are residents of the Golan Heights for the purpose of a religious visit to the grave of the Prophet Habil.

The Ombudsman received numerous complaints from Druze women, residents of the Golan Heights, whose requests for permits to Syria in September 2009, for the purpose of visiting the Prophet's grave, had been denied by the Office of the Interior. The complainants claimed that they were being discriminated against, since the Guidelines permitted male ministers to leave the country for Syria, whereas all requests made by women were denied.

The Ombudsman approached the Minister of the Interior on this issue and mentioned that since the principle of equality is a founding principle in Israeli law, it would be appropriate to re-examine the Guidelines which prevent exit permits for women, and consider, for example, allowing women to exit to Syria for humanitarian reasons, subject to approval by security services and to an individual examination as required.

Following a meeting held on the issue between the director of the Ombudsman's Office and the Minister of the Interior, the Minister decided in September 2009 to allow forty three Druze women aged 70 and above to leave for Syria, and indeed these women left for a visit at the grave of the prophet Habil.

In addition to this, the Ministry of the Interior informed the Ombudsman that it intends to appoint a team to examine the Guidelines regarding the issue of exit permits to Syria and to formalize recommendations for making changes. The Office of the Ombudsman is following up the Ministry's handling of the matter.

MINISTRY OF THE INTERIOR - NATIONAL ELECTIONS INSPECTOR



MISTAKES IN THE ARABIC LANGUAGE VERSION OF THE NOTICE TO THE VOTER

The complainant complained about many linguistic mistakes that were made in the wording of the notice to the voter in the Arabic language which he received preceding the elections to the local councils that took place in November 2008.

In response to the Ombudsman's inquiries, the National Elections Inspector at the Ministry of the Interior (hereafter - "the Inspector") said that the mistakes had already been corrected preceding the elections to the Knesset that took place in February 2009.

The Inspector added that in order to prevent similar incidents in the future it was decided to contract a translation company to translate to Arabic any official publication in Arabic by the Inspector, including notice to the voter.

MINISTRY OF SOCIAL AFFAIRS AND SOCIAL SERVICES AND THE LOCAL COUNCIL OF MASHHAD



NON-PAYMENT OF A COMPANION ALLOWANCE

According to the "Social Work Regulations" (hereafter - "the Regulations")¹ published by the Ministry of Social Affairs and Social Services (hereafter - "the Ministry"), a blind person aged 18 and above who meets the conditions set in the Regulations is eligible for companion allowance. It was also established in the Regulations that a person diagnosed as blind before the age of 18, will begin receiving a companion allowance when he reaches age 18, subject to an examination.

The complainant was diagnosed as blind when she was 10 years old, but due to her age at the time of diagnosis was not eligible for companion allowance. In 2007, when she was 22 years old, the complainant submitted to the Ministry, through the Local Council of Mashhad (hereafter - "the Local Council"), a request for companion allowance. The Local Council transferred the complainant's request to

1 "The Social Work Regulations" include directives of the Director General of the Ministry of Social Affairs and Social Services for social services in local authorities.

the Ministry, which determined that she was eligible for companion allowance from the date of her application but denied her request to receive companion allowance retroactively for the period that preceded that date. The complainant complained about the Ministry's said decision.

The Ombudsman contacted the Ministry and brought the Ministry's attention to the Regulations according to which it appears that the complainant should have been eligible for companion allowance upon reaching the age of 18 and to the Regulations regarding retroactive payments which did not prevent payment of companion allowance to the complainant retroactively.

Following intervention by the Ombudsman, the complainant was asked to present to the Ministry medical documents from 2003, the date in which she turned 18, attesting to her blindness at the time. After presenting the required documents her case was brought before an appeals committee, operating pursuant to the Welfare Services Law, 5718-1958. The appeals committee determined that according to the medical documents the complainant was completely blind from childhood, but the Department of Social Services in the Local Council, which had been dealing with the complainant since she was a child, admitted to the committee that it hadn't advised her to submit a request for companion allowance when she reached age 18. In light of these findings the appeals committee instructed the Ministry to pay the complainant the companion allowance retroactively from the date she reached age 18. Following the decision the Ministry's accountant was instructed to pay the complainant companion allowance retroactive in the sum of approximately 45,000 NIS.

In addition to this the Ministry informed the Ombudsman that a change had been made in the method used to treat requests for companion allowance; this issue has been transferred from the local

offices of social services to the Ministry's headquarters, and this year the headquarters sent all the blind persons who reached age 18 a notice regarding their rights.

The Ombudsman emphasized in his decision that although the change in the treatment method for companion allowance may avoid similar cases in the future, the Ministry must also notify all employees who handle requests of adult blind persons for retroactive payment of companion allowance that such requests should not be summarily dismissed, but rather each case should be considered according to its merits.

MINISTRY OF TRANSPORT AND
ROAD SAFETY AND
ISRAEL POLICE FORCE

10

ILLEGAL DETENTION OF A DRIVER

The complaint revealed a web of hardships that the complainant was put through in connection with the annual license examination for his vehicle:

The complainant's vehicle successfully passed an annual license examination at a licensing center. Upon exiting the center, he was stopped by a police officer who instructed him to bring the vehicle for a repeat examination at a mobile vehicle examination car belonging to the Ministry of Transport. The examination found defects with the reflective striping of the car and the pedals rubbers; the Ministry of Transport examiner decided that the vehicle did not have to undergo an additional examination, but rather registered a written notice in the vehicle's license documentation that the complainant undertook to fix the defects within seven days.

The complainant was then asked to wait for the arrival of a police examiner. When the police examiner arrived, he decided, notwithstanding the decision of the Ministry of Transport examiner, to register a notice prohibiting the use of the vehicle except for the purpose of driving it to a garage to repair the defects. The police

examiner further instructed the complainant to report to the police station two days later at 2:00 pm for a repeat examination of the vehicle. Furthermore, the complainant was issued a warning for driving a defective vehicle.

According to the complainant, following a request by the Ministry of Transport examiner the police officer instructed him to return to the licensing center, and there he was forced to wait for approximately an hour until the Ministry of Transport examiner finished speaking with the center's manager and until his licenses were returned to him.

The complainant had the vehicle's defects repaired and reported to the police station the very same day. However, he was informed that the examiner was not at the station and that therefore it would be impossible to examine the vehicle at that time. The complainant requested to be allowed to drive the vehicle to the examiner himself to have it examined, but his request was denied. The following morning he returned to the police station, but was then told that it would not be possible to examine the vehicle until 2:00 pm. According to the complainant, because of this he was forced to cancel a medical examination that had been scheduled in advance and to lose a day's work.

An investigation of the complaint found that the Ministry of Transport, in cooperation with the police, performs oversight of the licensing centers by examining vehicles that have just passed the licensing examination. As part of these ongoing oversight activities, the complainant's vehicle was examined after it exited the licensing center. However the investigation found many flaws in the repeat examination process of the complainant's vehicle and in the decision to prohibit the use of the vehicle:

1. According to the Traffic Regulations, 5721-1961, an officer who is not a traffic examiner is not authorized to detain a driver for the

purpose of examining his vehicle by a licensed traffic examiner, unless the officer has reasonable grounds to believe that the vehicle is defective, and that it is likely to endanger others on the road. The Ombudsman found that the officer who detained the complainant when he exited the licensing center was not a traffic examiner and did not have reasonable grounds to believe that the vehicle was defective and likely to endanger others. Therefore she was not legally authorized to direct the complainant to the Ministry of Transport's mobile examination.

2. As aforementioned, at the conclusion of the second examination the complainant was instructed to return with his vehicle to the licensing center, and he was detained there until the entire matter was clarified with the manager of the center. The investigation found that the complainant had been asked to return to the licensing center not for the purpose of a repeat examination of his vehicle, but rather so that the Ministry examiner and the police officer could prove to the manager of the licensing center that the vehicle had defects that should have prevented the vehicle from passing the licensing test. However, under these circumstances, the officer and the examiner were obligated to receive the complainant's consent -- in advance and in writing -- to return to the center; such consent was not requested.

3. The decisions of the police examiner concerning the vehicle were not compatible with those of the Ministry of Transport examiner: the Ministry of Transport examiner decided that it was sufficient for the complainant to undertake to repair the defects, and that there was no need for a repeat examination of the vehicle, whereas the police examiner prohibited the use of the vehicle and instructed the complainant to bring the vehicle for a repeat examination after repairing the defects. The Ombudsman instructed the police and the Ministry of Transport that the professional authorities in both offices must coordinate their decisions.

4. As for the repeat examination at the police station, the Ombudsman commented that the conduct of the police in this case was flawed, since the number of hours in which repeat examinations of vehicles were performed at police stations were less than required, and examinations during the early afternoon were not suitable for working people, forcing drivers to miss work hours.

Following the investigation of the complaint, the police put out guidelines to traffic inspectors on the subject of examining a vehicle, as follows:

1. An officer who is not a traffic examiner may detain a vehicle for examination only if he has reasonable grounds to believe that the vehicle is defective and may pose a danger ;
2. A driver may not be obliged to go to a licensing center for a repeat examination without giving his explicit consent in advance and in writing ;
3. Drivers should be invited for repeat examinations of their vehicles by police examiners during customary police reception hours;
4. If possible a repeat examination of the vehicle should be performed on the same day.

The new police guidelines also made clear that with regards to joint activities between the police and the Ministry of Transport, the Ministry of Transport examiners will have the professional authority to make decisions whether defects discovered should prevent the use of the vehicle.

The Ministry of Transport informed the Ombudsman that it instructed Ministry professionals, whenever possible, not to return vehicles to a licensing center after a repeat examination. When this is not possible, the waiting time until the examination of the matter with the center's manager is concluded, must be shortened as much as possible.

_____ Ministry of Transport and Road Safety and Israel Police Force

The Ministry apologized to the complainant for the inconvenience that was caused to him.

State institutions

FLAWS IN INTERROGATION AND ARREST PROCEDURES

The complainant arrived at a police station and asked to file a complaint about an attack on him by his girlfriend while they had been traveling together in a vehicle. After an hour long wait, a police officer approached him and informed him that his girlfriend had alleged that he was the one who attacked her. The complainant was then arrested and interrogated, and was only released the next morning. He complained about the actions taken against him, among them the decision to arrest him, the length of time that passed until his interrogation, the fact that he did not receive any food or drink during the hours he was under arrest, and the way in which he was released.

An investigation of the complaint revealed several flaws in the methods used by the police:

1. **The decision on the arrest** – The investigation found that following the complainant's arrival at the police station, the police made telephone contact with his girlfriend. In this way the police found out that she was on her way to hospital in an ambulance after alleging that she had been attacked by the complainant. Therefore, the officer dealing with the matter was instructed to

detain the complainant; in fact, however, the complainant was arrested¹. The police officer who arrested the complainant claimed that he decided to arrest him after discovering that the complainant had thrown his girlfriend from a moving vehicle; however, the Ombudsman's investigation found that at no point did the girlfriend or anyone else make such a claim. Therefore, the Ombudsman found a flaw in the reasoning for the decision to arrest the complainant, even though the grounds for arrest cited in the arrest report (suspicion of assault- family violence) were legitimate.

2. **Bringing before an officer** – According to the law and police guidelines, a police officer who has made an arrest without an arrest warrant must, without delay, bring the person arrested to the police station and transfer him to the officer in charge, unless in the meantime he finds grounds to release him. The Ombudsman's investigation found that the complainant was not brought before an officer within a short period of time from the moment of his arrest as required by law, but only after approximately five hours. The investigation also found that after the interrogation of the complainant, the need for his arrest was not reconsidered, and he remained in custody.
3. **The delay until interrogation** – The investigation found that the complainant waited a very long time under arrest (at least 5.5

1 According to the Criminal Procedure Law (Enforcement Authorities – Arrests), 5756-1996, a police officer is permitted, under certain circumstances, to detain a person if he had a reasonable basis to suspect that an offense was committed. As a rule, the length of detainment is up to three hours and its intent is to conduct inquiries and checks related to the suspicion that an offense was committed. This limitation on a persons freedom is less severe than the limitation caused by an arrest.

hours) until he was first interrogated concerning the suspicions attributed to him, and this too only after he complained about the delay. The police said that the complainant was asked to wait since it was impossible to interrogate him without first collecting the testimony of his girlfriend, who was in the hospital at the time. Therefore his interrogation took place after the police officer who was sent to the hospital to collect the girlfriend's testimony returned to the station. However the investigation material shows that more than two hours elapsed from the time the police officer returned from the hospital until the interrogation of the complainant.

4. **Non-provision of food and drink** – The investigation found that the complainant indeed did not receive any food or drink during his arrest. The complainant mentioned that only after he complained that he did not feel well did he receive a bottle of water.
5. **Course of the interrogation** – The complainant complained also about the course of his interrogation and claimed, among other things, that his interrogator refused to consider as evidence recordings and SMS messages from his cellular phone, which he asked to present as support for his version. The inquiry found that the interrogator indeed refused to accept recordings and SMS messages that the complainant wished to present, claiming that the delivery of such material was only possible through a technician, who was not at the station at the time of the interrogation. However the Ombudsman concluded that even in the absence of a technician, the interrogator could have listened to the recordings and read the SMS messages, documented them and allowed the complainant to refer to them, even if he would have had to present them through a technician at a later time for the purpose of preserving the evidence as such. The police informed

the Ombudsman that following the incident, officers had been instructed to consider accepting evidence in this manner.

6. **The release from arrest** – The complainant complained that he was only released on the morning after the day of his arrest, after being taken to court with the other arrested persons. The investigation found that an officer who studied his case overnight decided it was possible to release him, and in the morning she instructed the investigators to release the complainant even before being brought before a judge. However the instruction was not given early enough, and therefore the complainant was brought with the other prisoners to court, and only after the hearing in the cases of the other prisoners was he informed of his release.

The Ombudsman pointed out to the police the serious defects revealed regarding the complainant's case. In response, the District Commander of the area in question expressed his regret over the incident and notified that he had brought the investigation's findings to the attention of all the policemen and officers in the district in order to prevent such flaws from occurring in the future. The District Commander also notified that the commander of the officer who had been head of shift at the time of the incident had commented to the officer about his handling of the incident.



FLAWS IN TREATMENT OF A DRIVER SUSPECTED OF A TRAFFIC OFFENCE

The complainant was driving in his car accompanied by his girlfriend when he was detained at a junction by a traffic policeman on suspicion of failing to obey a stop sign. He claimed that the policeman detained him on the spot for a long time while attempting to make telephone contact with an officer at the police station to consult with him on how to handle the incident, and that when he got out of his vehicle in order to clarify the reason for the delay, the policeman raised his voice at him and demanded that he wait in the vehicle.

The complainant also claimed that after contacting the police station, the policeman informed him in a stern tone that he had committed a serious offence, that his driver's license would be temporarily revoked and that he would receive a temporary driver's license; in addition, he was informed that he would have to present himself at a later date at the police station for a hearing before the police officer. However when the policeman realized that he did not have the proper forms with him to carry out the said actions, he demanded that the complainant accompany him immediately to the police station. Following an additional delay at the police station, the complainant received a court summons for the offence attributed to him as well as a temporary driver's license valid for three days, until his scheduled appearance before the traffic officer at the station. According to the complainant, the entire incident lasted approximately two hours. When he presented himself to the traffic officer as required, the officer returned his driver's license to him.

The policeman denied having spoken to the complainant sternly and explained that he had asked the complainant not to leave his vehicle due to the danger involved. According to the policeman, he detained the complainant in the vehicle since he had committed a serious traffic offence, and therefore it was necessary to consult with the traffic officer at the station and receive instructions from him on how to handle the matter. At first he had difficulties in making telephone contact with the officer, but when he finally succeeded, the officer directed him how to proceed¹. However, the policeman did not have the appropriate forms in the patrol vehicle, and therefore he asked the complainant to accompany him to the police station.

The investigation found that the policeman was in fact a volunteer who had received various police powers for the purpose of fulfilling his duties. The investigation also found that at the same time that the complainant filed his complaint with the Ombudsman he also submitted a complaint with the police, and the Public Complaints Officer of the district in which the incident took place investigated the complaint. The Public Complaints Officer also received the policeman's version of the incident and did not find fault with the actions he took.

The Ombudsman, on the other hand, found flaws in the conduct of the police in the case, as enumerated below:

1 According to the Traffic Ordinance (New version), 5721-1961, if a driver has committed certain offences, a policeman is authorized to confiscate his driver's license and summon him, within a short period of time, to a hearing before an officer authorized to decide whether to continue the revocation of the license for a limited period of time. When the policeman confiscates the license as said, he gives the driver a temporary permit to drive until the date of the hearing.

The entire process was prolonged due to lack of proficiency in the law and police procedures

– The detention of the complainant for approximately two hours due to suspicion of a traffic offence was unreasonable. Although the offence attributed to the complainant is an offence that traffic policemen handle as a matter of routine, the policeman did not know how to act in the case of the complainant and required telephone instructions; in addition, he did not have in his possession the appropriate forms for temporary confiscation of a driver's license and for summoning the driver to a hearing. Had it not been for these two flaws, there would have been no need to detain the complainant in his vehicle for such a long time, and it would certainly have been unnecessary for the complainant to go to the police station, where he waited an additional period of time.

Lack of proper record-keeping regarding the team of the patrol car

– It turned out that during the incident a policewoman had also been present in the patrol car, yet despite requests by the Ombudsman to locate the policewoman for the purpose of the investigation, the police did not succeed in locating her. The Ombudsman found in this an additional flaw in the conduct of the police, since the police must be strict in its record-keeping, recording precisely the makeup of teams and the activities they perform.

Flawed inquiry of the complaint at the Public Complaints Division

– Although there was no dispute that the policeman was not acquainted with police procedures and did not have in his possession the appropriate forms for revoking a license and summoning to a hearing, the Public Complaints Officer who examined the complaint did not find any fault in the actions taken by the policeman.

In light of the severity of the flaws found, the Ombudsman brought the findings to the attention of the Chief of the Traffic Department, the Commander of the District and the Head of the Public Complaints

Division of the police, and stressed the importance of implementing appropriate rules and guidelines, and directing that volunteers should only be granted police powers and sent on assignments after they have been properly trained to perform such duties.

Following the Ombudsman's investigation the police published instructions intended to prevent repetition of these flaws.

FLAWS IN TRANSFER OF A PRISONER'S COMPLAINT TO THE OMBUDSMAN

According to the Prisons Ordinance (New Version), 5732-1971 (hereafter - "the Ordinance"), the Israel Prison Service (hereafter - "the Service") is permitted to open letters of prisoners and examine their contents according to the conditions determined for this in the Ordinance. However section 35 of the State Comptroller Law states that a complaint by a prisoner to the Ombudsman will be presented in a sealed envelope and will be transferred to the Ombudsman without having been opened by the Service. A similar instruction is included in the Prisons Commissioner Directive No. 04.43.00, according to which a letter which was sent to a prisoner by the Ombudsman will be transferred to him without being opened by the Service.

The complainant, a prisoner at the Carmel Prison, sent the Ombudsman a complaint regarding different flaws in the prison. The complaint was received by the Ombudsman and attached to it was a response by the prison manager regarding the complainant's claims.

In light of the Law and the Prisons Commissioner Directive, the Ombudsman directed the Prisons Commissioner to explain why the prisoner's complaint had not been transferred in a sealed envelope, but rather read and responded to by the prison manager.

The Office of the Prisons Commissioner (hereafter - "the Office") replied to the Ombudsman that the prisoner's complaint to the Ombudsman had been received by the office of the Prisoners' Officer in the prison on a sheet of paper and not in a sealed envelope, and that the prisoner had even written on it "via the management of the Carmel Prison". As such whoever dealt with the complaint assumed that the prisoner had chosen to transfer the claim in an open letter, because he did not object to it being read by prison management.

The Ombudsman reiterated to the Office the need to adhere by the rules which apply to filing a complaint to the Ombudsman by a prisoner, and emphasized that even if a prisoner files a complaint that is not in a sealed envelope, the Service must bring to his attention his right to transfer his complaint in a sealed envelope. The Ombudsman instructed the Office to refresh the instructions among the relevant Service personnel.

Following the investigation by the Ombudsman, the Office published an instruction to the relevant Prison Service personnel, according to which complaints by prisoners must be sent to the Ombudsman in a sealed envelope, without the prison's response. If a prisoner is interested in transferring his complaint through prison management, it should be clarified to him that he is entitled to send the complaint in a sealed envelope. If he is not interested in doing so, he should be asked to sign a document requesting to bring his complaint also to the attention of prison management.

In light of the circumstances and in light of the steps taken following the intervention by the Ombudsman, the Ombudsman was satisfied with pointing out that the Prison Service must pay heed to protect the rights of prisoners to send the Ombudsman confidential complaints, and expressed the hope that incidents such as this will not be repeated.

PAYMENT OF INCOME SUPPORT BENEFIT TO A SINGLE PARENT WHO IS A UNIVERSITY STUDENT

The complainant, a single mother, had been receiving income support benefit as a job seeker¹ since January 2006. According to her complaint, she found out that following a July 2008 amendment to the Income Support Law, 5741-1980 (hereafter - "the amendment"), a single parent engaged in academic study is still eligible for income support benefit. According to her complaint, the complainant visited the Beer-sheva office of the National Insurance Institute (hereafter – "the N.I.I.") in order to verify that her eligibility for the benefit would not be revoked if she began studies at an institute of higher learning, and after she was given a positive answer, she started to study in October 2008.

In January 2009, after the complainant submitted documentation regarding her studies to the N.I.I., pursuant to its request, she was informed that since her studies took place during the morning hours, she was not eligible for the benefit. As a result, her eligibility was

¹ A job seeker is eligible for income maintenance allowance on condition that he presents himself at the employment bureau at a determined frequency and is available for work.

revoked retroactively from the date she began her studies, and she was informed of a debt totaling 6,096 NIS owed to the N.I.I. and arising from benefit payments paid to her since her studies began.

An investigation into the complaint found that until the amendment, anyone who studied at an institute of higher learning was not eligible for income support benefit. After the amendment, under certain conditions, the eligibility of a single parent for the benefit would not be revoked due to academic studies. The language of the amendment made clear that it was not to be read as changing the conditions for eligibility established in the Law, one of them being that a job seeker must be available for work.

The N.I.I. explained to the Ombudsman that according to its interpretation of the amendment, as far as it applied to job seekers receiving income support benefit, the amendment only applied to a person who studied in the evening, since someone who studies during the day cannot be said to be 'available for work' as required by the Law. Since the complainant studied one day a week during the morning hours, her eligibility for the benefit was revoked.

The complainant claimed that she cannot study during the evening hours, both because she is a single mother who raises her children on her own and also because of the nature of her studies, and that the prohibition to study during the morning renders the amendment insignificant.

The Ombudsman's position was that the interpretation of the N.I.I. was inconsistent with the purpose of the Amendment – to encourage single unemployed parents to acquire higher education in order to improve their chances of finding employment. According to the interpretation of the N.I.I., those who would benefit from the amendment would not be the job seekers but rather those eligible for income support benefit for reasons that do not require presence at the

employment bureau (such as a single parent who has sole custody of a child who is under 2 years of age, or a single parent who is taking care of his parent or his sick child in need of constant supervision). Furthermore, the interpretation of the N.I.I. would force a single parent who is a job seeker to work during the day and study at night, all this while taking care of his children by himself. This would, undoubtedly, take a heavy toll and may discourage single parent job seekers from studying altogether.

In light of the position of the Ombudsman, and following a reexamination of the issue the N.I.I. decided not to revoke the eligibility for a benefit of single parents who meet the conditions established in the Amendment, even if they study during the day. Consequently, the complainant's debt to the N.I.I. was annulled and her eligibility for the benefit was retained.

Municipalities

LEVYING PROPERTY TAX ON A PERSON WITH NO ENTITLEMENT TO THE PROPERTY

In January 2008 the complainant received from the Tel Aviv-Yafo Municipality a demand to pay a property tax and water debt for a certain apartment in Tel Aviv. He approached the collections department at the municipality and was told that the demand arose out of a debt of his late brother who was registered in the municipality's books as being the property holder since 1987, and that since he is his brother's heir he must pay the debt. The complainant claimed that neither he nor his late brother had any rights to the property; he even presented the municipality with documents attesting to the fact that his brother had been under guardianship, living in a day care center from 1969 until his death. The complainant asked the municipality to freeze the collection proceedings against him and to send him confirmation that the issue of the debt was under investigation, but the municipality denied his request and also refused to present written proof of its claim regarding his entitlement to the property.

Since the complainant disputed his being charged a payment, he hired a lawyer to represent him in his contacts with the municipality. The lawyer wrote a detailed letter to the municipality in which he explained that neither the complainant nor his brother had any entitlement to the property, and that the complainant had come to the

municipality four times to clarify this; however, despite the lawyer's letter, the municipality continued to send the complainant letters demanding payment of the debt.

Following the intervention of the Ombudsman, the municipality delayed the collection proceedings against the complainant until the conclusion of the investigation of the complaint, and sent his lawyer a notice in this regard. An examination of the matter by the municipality found that the property in fact belonged to another person whose first name and last name were identical to those of the complainant's brother, and that the municipality had mistakenly added the brother's identification number under the name of the property holder, which ultimately led to the complainant's being charged with the debt. When the error was discovered, an order was given immediately to correct it, and the municipality apologized to the complainant for the distress caused to him.

The Ombudsman pointed out to the municipality that it should have examined the complainant's claims and the information he repeatedly submitted more carefully, and concluded that it had been possible to locate the error when the complainant first approached the municipality, and thus spare him of the distress caused him and the cost of hiring the lawyer.

The municipality informed the Ombudsman that following his comment the guidelines were refreshed and clarified to the employees and department managers in order to avoid recurrence of similar cases.

DEMAND FOR PAYMENT OF FEES AS A CONDITION FOR RECEIVING INFORMATION REGARDING NOTICES OF PARKING FINES

Several complainants received from the Haifa Municipality (hereafter - "the Municipality") demands to pay fines for parking offenses many years after the offenses were committed. The complainants claimed that over the years they had not received demands to pay the fines; therefore, they requested that the Municipality furnish them with written proof that such notices were indeed sent to them (including, confirmation by the post office of delivery of the notices by registered mail, and other documents). In their complaint to the Ombudsman the complainants complained that the Municipality conditioned the receipt of the requested documents on submission of a request to receive the information according to the Freedom of Information Law, 5758-1998 (hereafter - "the Freedom of Information Law"), and payment of the application fee and fees for the processing of the request and for the photocopying of the requested information.

Section 18(d) of the Freedom of Information Law establishes that there would be no fee in regard to "a person's request to receive information about himself". Regulation 6 of the Freedom of Information Regulations (Fees), 5759-1999 (hereafter - "the Regulations") establishes that "information that a person requests

about himself and his rights, is exempt from an application fee, as well as from a processing fee for 4 hours of work beginning in the third hour".

The Ombudsman asked the Municipality to explain how the demand for payment of a fee was consistent with the Law's directives, and the Municipality replied that a fee must be paid for delivery of the requested information since this is information on actions taken by the Municipality.

Since the person in charge of the implementation and execution of the Freedom of Information Law is the Justice Minister, the Ombudsman requested the position of the Ministry of Justice on the issue. The investigation found that the Ministry's position was consistent with the position of the Ombudsman according to which a person who requests to receive information regarding the delivery of fine notices intended for him is exempt from request and handling fees, as determined in the Freedom of Information Ordinances.

The Ombudsman found therefore that the complaint was justified and instructed the Municipality to apply the directives of the Freedom of Information Regulations regarding information that a person requests about himself, in such cases.

The Municipality's legal counsel informed the Ombudsman that following the Ombudsman's decision he directed the appropriate employees at the Municipality not to collect an application fee or a processing fee for the first six hours of the handling of the request for information. A fee will be collected only for the copying and printing of information and also for delivery by mail of the information to the applicant, should the Municipality be asked to do so.

AN ILLEGAL INCREASE OF DAY CARE TUITION

The complainants, mothers of children who attend nursery schools run by the Mateh Asher Regional Council (hereafter - "the Council"), complained that the Council decided to raise the tuition in nursery schools during the 2008-9 school year without having received the parents' consent.

An inquiry into the complaints found that in June 2008 the Council distributed a notice to parents which said that tuition in nursery schools during the upcoming school year will be 2,000 NIS per month for children aged three months to a year and a half and 1,700 NIS for children aged a year and a half to three years (hereafter - "the notice"). It was also said in the notice that "payment [is] until the end of the school year 10.8.09".

Despite what was said in the notice, in December 2008 the Council decided to raise tuition in nursery schools starting in January 2009 by 180 NIS per month (hereafter - "the additional payment"), due to a deficit in the budget of the nursery schools. The Council informed the parents that if they did not pay the additional payment it would close the nursery schools.

By law, an authority is permitted to release itself from an agreement or change its conditions only in rare and special cases in which the continued existence of the agreement would be inconsistent with the

public interest. The Ombudsman examined the Council's explanations and was not convinced that under the circumstances of the case there had been adequate justification to change the conditions determined in the notice¹. Therefore the Ombudsman instructed the Council to cease collecting the additional payments from the complainants and return the money collected as additional payments since January 2009.

The Council announced that in light of the Ombudsman's decision it would cease to collect the additional payment from all parents whose children attend nursery schools and pay them back the monies paid by them as additional payments since the beginning of 2009.

1 Since the parents registered their children in the nursery schools based on what was said in the notice, the conditions set in it are considered a binding agreement between the parents and the Council.

Other Public Bodies

AN UNJUSTIFIED REFUSAL TO FINANCE A REHABILITATION TREATMENT TO A CANCER PATIENT

The complainant is a cancer patient who underwent excision of a malignant tumor in his cheek and oral mucous and received radiation therapy. According to recommendations of the physician attending to the complainant at the Unit for Rehabilitation of Face and Jaw at the Sheba Medical Institute, the complainant required rehabilitation therapy which included installing prostheses and implanting jaw implants for the purpose of proper gripping of the prostheses. Clalit Health Services (hereafter - "Clalit"), which was providing the complainant with medical services, refused to cover the cost of the implants because the excision was in the cheek area and not in the area of the jaw, and therefore the complainant was not eligible for treatment coverage. The complainant brought the issue of the refused coverage before the Ombudsman.

According to the Second Addendum to the National Health Insurance Law, 5754-1994, an insured person who received chemotherapy or radiation therapy or surgical treatment in a tumor **in the jaw area** is eligible for full funding of the rehabilitation therapy according to the Clalit tariffs. According to guidelines of the Ministry of Health, patients who underwent an excision **of the jaw or adjacent tissue** due

to a tumor are eligible for rehabilitation which includes, if necessary, implants. In these cases Clalit must pay for the full treatment according to the payment schedule in use at its dental clinics.

In light of the Ministry of Health guidelines, the Ombudsman requested the Ministry's position in regard to the complaint. The Director of the Division of Dental Health at the Ministry responded that since this was an excision in an area very close to the jaw, indeed the rehabilitation therapy which the complainant required was included in his opinion in the "health services basket".

The Ombudsman brought the position of the Ministry of Health to the attention of Clalit, and Clalit decided to have the complainant examined by its own expert. Following the expert's examination Clalit informed the Ombudsman that it will pay for the rehabilitation therapy program suggested by the complainant's physician, including the implants, according to the payment schedule of its dental clinics.



NON-FINANCING OF A MEDICAL EXAMINATION

The complainant's father underwent a video fluoroscopy examination (hereafter - "the examination") in accordance with the recommendation of a doctor he consulted with. The complainant complained about the refusal by Clalit Health Services (hereafter - "Clalit") to pay for the examination which cost 658 NIS.

In response to an inquiry by the Ombudsman, Clalit said that the examination was not explicitly included in the "health services basket" and therefore it was not required to pay for it. Nonetheless, Clalit decided in its internal guidelines to cover the cost of the examination for children up to age 18 who have a defined medical problem. Since the complainant's father did not meet the standards set by Clalit for the funding of the examination, his request was denied.

The Ombudsman brought to the attention of Clalit a report published by the Ombudsman operating under the National Health Insurance Law, according to which the Ministry of Health and the Ombudsman determined that the examination was in fact included in the "health basket".

Following the intervention by the Ombudsman, Clalit announced that it had removed the age restriction on the funding of the examination and it had decided to reimburse the complainant's father for the cost of the examination.

APPENDICES

Addresses of Ombudsman Offices and Reception Hours

The Main Office in Jerusalem

12 Beit Hadfus St., Givat Shaul, P.O. Box 1081, Jerusalem 91010
Phone: 02-6665000, Fax: 02-6665204

The Office in Tel Aviv

19 HaArba'a St. (13th Floor), P.O. Box 7024, Tel Aviv-Yafo 61070
Phone: 03-6843555, Fax: 03-6851512

The Office in Haifa

12 Hassan Shukri Str., Hadar HaCarmel, P.O. Box 4394, Haifa 31043
Phone: 04-8649748, Fax: 04-8649744

The Office in Nazareth

85 Paulus HaShishi St., HaMercaz Halavan, P.O. Box 50400,
Nazareth 16162
Phone: 04-6455050, Fax: 04-6455040

The Office in Nazareth Illit

3 HaMelacha St., Lev HaAsakim Building, Nazareth Illit
Address for letters: P.O. Box 50400, Nazareth 16162
Phone: 04-6080200, Fax: 04-6080100

The Office in Beer-Sheva

8B Henrietta Szold St., Rasko City Building, P.O. Box 599, Beer-
Sheva 84102
Phone: 08-6232777, Fax: 08-6234343

Reception Hours

Sundays-Thursdays between 8:30am and 12:30pm (the Office in Nazareth is closed on Sundays)

Wednesdays also between 3:00pm and 5:00pm

The Ombudsman's Website

www.nezivut.mevaker.gov.il

E-Mail

ombudsman@mevaker.gov.il

Basic Law: The State Comptroller

Basic Law: The State Comptroller*

1. State audit is vested in the State Comptroller. Substance
2. (a) The State Comptroller shall audit the economy, the property, the finances, the obligations and the administration of the State, of Government offices, of all enterprises, institutions or corporations of the State, of local authorities and of the other bodies or institutions made subject by law to the audit of the State Comptroller. State Audit

(b) The State Comptroller shall examine the legality, moral integrity, orderly management, efficiency and economy of the audited bodies, and any other matter which he deems necessary.
3. A body subject to the audit of the State Comptroller shall at his request, without delay, provide the State Comptroller with information, documents, explanations, or any other material which the Comptroller deems necessary for the purposes of audit. Duty to provide information
4. The State Comptroller shall investigate complaints from the public about bodies and persons, as provided by or under law; in this capacity the State Comptroller shall bear the title "Ombudsman". Complaints from the public
5. The State Comptroller shall carry out other functions as provided by law. Other functions
6. In carrying out his functions, the State Comptroller shall be accountable only to the Knesset and shall not be dependent upon the Government. Accountability to the Knesset

* Passed by the Knesset on February 15, 1988.

Election and term of office	<p>7. (a) The State Comptroller shall be elected by the Knesset in a secret ballot; the election procedures shall be prescribed by law.</p> <p>(b) The term of office of the State Comptroller shall be seven years.</p> <p>(c) The State Comptroller shall serve only one term of office.</p>
Eligibility	<p>8. Every Israeli citizen, resident in Israel, is eligible to be a candidate for the office of State Comptroller; additional qualifications may be prescribed by law.</p>
Declaration of allegiance	<p>9. The State Comptroller-elect shall make and sign before the Knesset the following declaration of allegiance:</p> <p>"I pledge to bear allegiance to the State of Israel and its laws, and to carry out faithfully my functions as State Comptroller".</p>
Budget	<p>10. The budget of the State Comptroller's Office shall be determined by the Finance Committee of the Knesset, upon the proposal of the State Comptroller, and shall be published together with the budget of the State.</p>
Salary and benefits	<p>11. The salary of the State Comptroller and other payments payable to him during, or after, his term of office, or to his survivors after his death, shall be determined by law or by a resolution of the Knesset or of a committee of the Knesset authorized by the Knesset for this purpose.</p>
Contact with the Knesset and submission of reports	<p>12. (a) The State Comptroller shall maintain contact with the Knesset, as prescribed by law.</p>

(b) The State Comptroller shall submit to the Knesset reports and opinions within the scope of his functions and shall publish them, in the manner and subject to the restrictions prescribed by law.

13. The State Comptroller shall not be removed from office except in the following circumstances: Removal from office

(1) he is permanently prevented for health reasons from performing his duties – on the day that a majority of the members of Knesset vote in favor of such a decision, following a procedure determined by law.

(2) on grounds of behavior unfitting the position of State Comptroller – on the day that at least three-quarters of the members of Knesset vote in favor of such a decision, following a procedure determined by law.

14. If the State Comptroller is unable to carry out his functions, an acting Comptroller shall be appointed, in a manner and for a period prescribed by law. Acting Comptroller

**State Comptroller Law, 5718-
1958
[Consolidated Version]**

State Comptroller Law, 5718-1958

[Consolidated Version]*

Chapter One: The Comptroller

1. (a) The State Comptroller (hereafter - the Comptroller) shall be elected by the Knesset in a secret ballot, at a session convened exclusively for that purpose. Election of
Comptroller

(b) Should there be two or more candidates, the candidate for whom a majority of Members of the Knesset vote is elected; if no candidate receives such majority a second ballot shall be held; if again no candidate receives such a majority, another ballot shall be held; in the third and every subsequent ballot, the candidate who received the smallest number of votes in the previous ballot, shall no longer be a candidate; the candidate who receives a majority of the votes of the Members of the Knesset present and voting in the third or subsequent ballots is elected; if two candidates receive an equal number of votes, the ballot shall be repeated.

(c) Should there be only one candidate, the ballot shall be either for or against him and he shall be elected if the number of votes for him exceeds the number of votes against him; should the number of votes for him be equal to the number of votes against him, the ballot shall be repeated.

(d) Should the Comptroller not be elected in accordance with subsection (c), the ballot shall be repeated within thirty days of the date of the election under the provisions of this section and sections 2(b) and (c) and 3; however the nomination of a candidate in accordance with section 3(a) shall be filed not later than seven days before the date of the election.

Date of election 2. (a) The election of the Comptroller shall take place not earlier than ninety days and not later than thirty days before the expiration of the serving Comptroller's term of office; if the office of the Comptroller falls vacant before the expiration of his term, the election shall be held within forty-five days from the day the office fell vacant.

(b) The Speaker of the Knesset, in consultation with his deputies, shall set the date of the election and shall give notice of it in writing to all the Members of the Knesset at least twenty days before the election.

(c) If the date of election falls at a time when the Knesset is not in session, the Speaker shall convene the Knesset for the election.

Nomination of candidates 3. (a) When the date of the election has been set, ten or more Members of the Knesset may nominate a candidate; the nomination shall be in writing and shall be delivered to the Speaker of the Knesset not later than ten days before the date of the election; the candidate's consent, in writing or by telegram, shall be attached to the nomination; no Member of the Knesset shall sponsor the nomination of more than one candidate.

(b) The Speaker of the Knesset shall notify all Members of the Knesset, in writing, not later than seven days before the date of the election, of every candidate nominated and of those Members of the Knesset who nominated him, and shall announce the names of the candidates at the opening of the election session.

4. On the occasion of his declaration of allegiance, in accordance with section 9 of the Basic Law: The State Comptroller, the Comptroller may, in coordination with the Speaker of the Knesset, address the Knesset.

Comptroller's
address in the
Knesset

4A and 5. (Repealed).

6. (a) The Comptroller shall carry on his activities in contact with the State Audit Affairs Committee of the Knesset (in this Law referred to as "the Committee") and shall report to the Committee on his activities whenever he thinks fit or is required to do so by the Committee.

The Committee

(b) A person who served as a Minister, as a Deputy Minister or as a Director General or Deputy Director General of any of the Government offices shall not be Chairman of the Committee within two years from the day of termination of his tenure of such office.

(c) A member of the Committee who served in one of the posts specified in subsection (b) or in the Schedule to the Civil Service (Appointments) Law, 5719-1959, shall not participate in the discussions of the Committee relating to his area of responsibility during the period in which he served as aforesaid.

7. (a) During his term of office, the Comptroller shall not be actively engaged in politics and shall not -

Prohibited
activities

- (1) be a member, or a candidate for membership of the Knesset, or of the council of a local authority;
- (2) be a member of the management of a body of persons carrying on business for purposes of profit;
- (3) hold any other office or engage, either directly or indirectly, in any business, trade or profession;
- (4) participate, either directly or indirectly, in any enterprise, institution, fund or other body holding a concession from or assisted by the Government or in the management of which the Government has a share or which has been made subject to the control of the Government or the audit of the Comptroller, and shall not benefit, either directly or indirectly, from the income thereof;
- (5) buy, lease, accept as a gift, use, or hold in any other manner, any State property, whether immovable or movable, or accept from the Government any contract or concession or any other benefit, in addition to his remuneration, except land or a loan for the purpose of settlement or housing.

(b) A person who has been Comptroller shall not, for three years from the termination of his tenure, be a member of the management of a body of persons carrying on business for purposes of profit and being an audited body within the meaning of section 9(3), (5), (6), (7), (8) and (9).

8. The Comptroller's tenure of office terminates -

Termination of
tenure of office

(1) upon expiration of his term of office;

(2) upon his resignation or death;

(3) upon his removal from office.

8A. (a) The Knesset shall not remove the Comptroller from office, except upon the demand of at least twenty Members of the Knesset, submitted in writing to the Constitution, Law and Justice Committee of the Knesset, and upon the proposal of that Committee.

Removal of the
Comptroller
from office

(b) The Constitution, Law and Justice Committee of the Knesset shall not propose removing the Comptroller from office before he has been given an opportunity to be heard.

(c) The proceedings of the Knesset under this section shall be held at a session, or successive sessions, devoted exclusively to this matter; the proceedings shall begin not later than twenty days after the decision of the Constitution, Law and Justice Committee; the Speaker of the Knesset shall notify all the Members of the Knesset, in writing, at least ten days in advance, of the date on which the proceedings are to begin; if that date falls when the Knesset is not in session, the Speaker shall convene the Knesset to hold the proceedings.

Removal from
office for health
reasons

8B. The Knesset shall not decide upon the removal of the Comptroller from office for health reasons unless such a recommendation is adopted by at least two-thirds of the members of the Knesset Committee on the basis of a medical opinion prepared in accordance with criteria decided upon by said Committee.

Chapter Two: Scope Of Audit

Audited bodies

9. The following bodies (hereafter referred to as "audited bodies") shall be subject to the audit of the Comptroller:

- (1) every Government office;
- (2) every enterprise or institution of the State;
- (3) every person or body holding, otherwise than under contract, any State property or managing or controlling any State property on behalf of the State;
- (4) every local authority;

- (5) every Government company within the meaning of the Government Companies Law, 5735-1975 (hereafter referred to as "the Government Companies Law) and every enterprise, institution, fund or other body in the management of which the Government has a share;
- (6) every person, enterprise, institution, fund or other body made subject to audit by law, by decision of the Knesset or by agreement between him or it and the Government;
- (7) every Government subsidiary within the meaning of the Government Companies Law and every enterprise, institution, fund or other body in the management of which one of the bodies enumerated in paragraphs (2), (4), (5) and (6) has a share; but the audit of such a body shall not be actually carried out unless and in so far as the Committee or the Comptroller so decides;
- (8) every enterprise, institution, fund or other body assisted, either directly or indirectly, by the Government or by one of the bodies enumerated in paragraphs (2), (4), (5) and (6) by way of a grant, a guarantee or the like; but the audit of such a body shall not be actually carried out unless and in so far as the Committee or the Comptroller so decides;

(9) every general employees' organization, and every enterprise, institution, fund or other body in the management of which such employees' organization has a share, provided that the audit shall not be carried out on their activities as a trade union; but the audit of such a body shall not be actually carried out unless and in so far as the Comptroller so decides and subject to international conventions to which the State of Israel is party; if the Comptroller decides to carry out such audit, the Comptroller shall have all the powers granted him in respect of an audited body, even in respect of the activities of such employees' organization, enterprise, institution, fund or body, as a trade union, provided that the Comptroller deems that necessary for the purposes of the audit of their other activities.

In this paragraph –

"activities as a trade union" means representation of employees with regard to the advancement, realization or protection of their rights as employees;

"general employees' organization" means a national employees' organization, operating as a trade union in more than one branch of employment.

(10) a body which, after 9 February 1997, ceased to be included in the list of the bodies enumerated in paragraphs (1) through (9), regarding the period in which it was included in the said list of bodies, provided that three years have not elapsed since the day that it ceased to be included therein; with regards to a body falling within this paragraph, the Comptroller shall, according to the circumstances, have all the powers granted him in respect of an audited body.

10. (a) Within the scope of his functions the Comptroller shall, as far as necessary, examine - Extent of audit

(1) [a] whether every expenditure has been incurred within the limits of the legal appropriation and for the purpose for which it has been assigned;

[b] whether the income has been received in accordance with law and is authorized by law;

[c] whether there are sufficient vouchers in respect of all expenditure and income;

[d] whether every act within the scope of his audit has been done in accordance with law and by the person competent to do it;

- [e] whether the keeping of accounts, the drawing-up of balance sheets, the checking of the cash-in-hand and the stock, and the voucher system are efficient;
 - [f] whether the method of keeping moneys and safeguarding property is satisfactory;
 - [g] whether the state of the cash-in-hand and the stock tallies with the accounts.
- (2) whether the audited bodies within the meaning of section 9(1), (2), (4) and (5) have operated economically, efficiently and in a morally irreproachable manner; this examination shall also comprise bodies supervised under section 9(6) unless the law, decision or agreement referred to in that paragraph otherwise provides, and bodies audited under section 9(7), (8) and (9) if and to the extent that their audit thereof is actually carried out;
- (3) any such other matter as he may deem necessary.
- (b) The Committee may, upon the proposal of the Government or the Comptroller, prescribe from time to time, in respect of an audited body or an item of its budget, special or limited forms of audit.

Chapter Three: Audit Procedure

11. (a) An audited body shall, within such time as the Comptroller may prescribe, but not later than four months after the expiration of its financial year, submit a report on its income and expenditure during that year.

Audited body to submit report, balance sheet, survey and information

(b) The Comptroller may require of an audited body, within such time as he may prescribe -

(1) a balance sheet showing its assets and liabilities as at the expiration of the year;

(2) a detailed survey factually describing the economic and administrative operations carried out by the body during that year.

(c) The report and balance sheet shall be accompanied by any such document as the Comptroller may require for the purpose of verification.

(d) The Comptroller may require a report and balance sheet as aforesaid of any enterprise, institution, fund or other body which is an audited body within the meaning of section 9(7), (8) or (9) even though the audit thereof, in respect of the year to which the report or balance sheet relates, may not have been actually carried out.

(e) (Repealed)

Minister of
Finance to
submit
comprehensive
report and
balance sheet of
the State

12. The Minister of Finance shall, within such time as the Comptroller may prescribe, but not later than six months after the expiration of the financial year of the State, submit a comprehensive report on the income and expenditure of the State during that year together with any document which the Comptroller may require for the verification of the report; moreover, the Minister of Finance shall, within such time as the Comptroller may prescribe, but not later than nine months after the expiration of the financial year of the State, submit a balance sheet showing the assets and liabilities of the State as at the expiration of that financial year, together with any document which the Comptroller may prescribe for the verification of the balance sheet.

Audit of
associations

13. The following provisions shall apply to audited bodies within the meaning of section 9(5), (7) and (8) (in this section referred to as "associations") in addition to the other provisions of this Law and the provisions of any other law;

(1) the Comptroller may, after consultation with the Minister of Finance, lay down directives for associations with regard to their accounting system and the drawing up of their balance sheet;

(2) the Comptroller may lay down directives for the auditor who audits the accounts of an association with regard to the scope and mode of the checks to be carried out by him, and of his report, in respect of that association, and with regard to the circumstances under which he is to report directly to the Comptroller;

(3) the Comptroller may require every association to draw up an annual plan of operations, based on the financial-economic situation during the current year and containing a forecast of its future financial and economic operations, and to submit that plan to him within such period as he may prescribe; he may also lay down directives for the drawing up of the said annual plan.

14. (a) Where an audit has revealed defects which have not been explained, or infringements of any law, of the principles of economy and efficiency or of moral integrity, the Comptroller shall communicate to the audited body the results of the audit and his demands for the rectification of the defects and, if he deems it necessary to do so, shall bring the matter to the knowledge of the Minister concerned and of the Prime Minister.

Modes of
dealing with
results of audit

(b)(1) Where an audit has revealed defects or infringements which the Comptroller, in view of their bearing upon a fundamental problem or in the interests of upholding moral integrity or for any other reason, deems worthy of consideration by the Committee prior to the submission of a report under section 15 or 20, he shall submit a separate report to the Committee which shall be tabled in the Knesset and made public; and upon his doing so, the Committee may, of its own motion or upon the proposal of the Comptroller, decide upon the appointment of a commission of enquiry; if the Committee so decides, the President of the Supreme Court shall appoint a commission of enquiry to investigate the matter; the provisions of the Commissions of Enquiry Law, 5729-1968, shall apply, mutatis mutandis, to the commission of enquiry.

(2) Notwithstanding the aforesaid in subsection (1), if the Comptroller submits a separate report to the Committee pursuant to the aforementioned subsection during the recess of the Knesset, the report shall be made public at a time decided by the Comptroller, as early as possible, and shall be tabled in the Knesset no later than the end of the first week of the next session of Knesset.

(b1) The Committee may, in special circumstances and with the agreement of the Comptroller, decide upon the appointment of a commission of enquiry, also on a subject included in a report under section 15 or 20, and the provisions at the end of subsection (b) will apply thereto. But the Committee shall not so decide, except by a majority of at least two-thirds of its members, in a meeting convened solely for that matter; the invitation to the first meeting shall be by notice given at least ten days in advance.

(c) Where a suspected criminal act has been uncovered during an audit, the Comptroller shall bring the matter to the knowledge of the Attorney General; a suspected violation of civil service disciplinary regulations may likewise be referred to the Attorney General; the Attorney General shall notify the Comptroller and the Committee, within six months after the matter was brought before him, of the manner in which he has dealt with the subject.

Chapter Four: Reports And Opinions Of The Comptroller

15. (a) Not later than the 15th of February each year, the Comptroller shall present a report for the consideration of the Prime Minister and of the Chairman of the State Audit Affairs Committee of the Knesset on the results of the audit of the audited bodies, within the meaning of section 9(1) and (2), carried out during the course of the past financial year. The Comptroller may present the report in parts, provided that the entire report is presented within the aforesaid time.
- Comptroller's report on Government offices and State institutions
- (b) In a report under subsection (a) the Comptroller shall summarize his activities in the field of audit and -
- (1) specify any infringement of moral integrity;
 - (2) specify any such defect and any such infringement of a law or of the principles of economy and efficiency as in his opinion deserve to be included in the report;
 - (3) make recommendations for the rectification and prevention of the defects.
 - (4) specify any improvement or outstanding actions that the Comptroller deems worthy of inclusion in the report.

Observations by
Prime Minister
and tabling the
report in the
Knesset

16. (a) (1) The Prime Minister shall provide to the Comptroller, within ten weeks of the day on which he received the report, in whole or in part, all of the following:

[a] his observations concerning each defect and injury detailed in the report;

[b] the responses of the audited bodies to the report, as submitted to him in accordance with subsection (a1);

[c] a report concerning the remedy of defects and infringements detailed in previous reports, including, inter alia, the details referred to in section 21B(a) and (b), and a report on decisions that the Government made as a result of the reports, and on execution of those decisions.

(2) Upon the expiration of the period as aforesaid in paragraph (1), the report, and the responses and observations, shall be tabled in the Knesset; however if the said time is during a recess of the Knesset, the report shall be tabled in the Knesset no later the end of the first week of the next session of Knesset.

(a1) An audited body dealt with in a report shall submit to the Prime Minister, within the time frame set out by the Prime Minister, its responses regarding each defect and infringement detailed in the report which relate to said body.

(b) The Comptroller, on his own initiative or upon the proposal of the Committee, may determine, in consultation with the Committee, that in a certain year the period stipulated in subsection (a) shall be shorter or longer by not more than fourteen days; such decision shall be made and brought to the notice of the Committee and the Prime Minister not later than the day on which the report is submitted, in whole or in part, as aforesaid in section 15(a).

17. (a) A Subcommittee of the Committee (hereinafter – "the Subcommittee") may, upon consultation with the Comptroller, decide that the report or opinion of the Comptroller, or parts thereof, shall not be tabled in the Knesset and shall not be made public if it deems it necessary to do so in the interests of safeguarding the security of the State or in order to avoid an impairment of its foreign relations or its international trade relations. The provisions of section 5 of the Knesset Law, 5754-1994 shall apply in regard to the Subcommittee.

Safeguarding
security and
foreign relations
of the State

(a1) A copy of the report or opinion of the Comptroller, or parts thereof, concerning which the Committee has reached a decision as stated in subsection (a), shall be submitted by the Ombudsman to the Chairman of the Committee for External Affairs and Security of the Knesset and he shall be entitled, with the consent of the Chairman of the Committee, to bring them to the knowledge of the subcommittee of the Committee for External Affairs and Security of the Knesset which is authorized to handle the matter in question; this provision does not diminish the authority of the Committee under this law.

(b) (Repealed).

(c) Having regard to the necessity of safeguarding the security of the State, the Comptroller may, having been requested by the Government on grounds which he is satisfied are reasonable, decide that a report or opinion of the Comptroller or parts thereof, shall not be laid on the table of the Knesset and shall not be published; a report or opinion of the Comptroller or parts thereof, concerning which the Comptroller has reached a decision under this section, shall be submitted to the Chairman of the Committee and shall be brought to the knowledge of the Chairman of the Committee for External Affairs and Security of the Knesset.

(d) The remarks of the Prime Minister and the response of the audited bodies to a report of the Comptroller or parts thereof, concerning which a decision has been reached as stated in subsections (a) or (c), shall not be laid on the table of the Knesset and shall not be published.

Procedure in the
Committee and
in the Knesset

18. (a) When the report has been laid on the table of the Knesset, or a report or opinion has been published, the Committee shall consider them and submit its conclusions and proposals for the approval of the Knesset, and it may submit them chapter by chapter.

(a1) A report or opinion of the Comptroller or parts thereof, concerning which the Committee has reached a decision as stated in Section 17(a), shall be discussed by the subcommittee of the Committee, and the provisions of Section 5 of the Knesset Law, 5754-1994 shall apply.

(a2) A report or opinion of the Comptroller or parts thereof, concerning which the Comptroller has reached a decision as stated in Section 17(c), shall be discussed by a joint committee of the Chairman of the Committee and the Chairman of the Committee for External Affairs and Security of the Knesset, which shall be chaired by the Chairman of the Committee (in this section – the Joint Committee); in the aforesaid discussion, the Joint Committee shall have the authority vested in a committee by any law; the meetings of the Joint Committee shall have immunity.

(b) If the Committee does not submit its conclusions and proposals as aforesaid in subsection 15(a), the Knesset shall consider the report when the subsequent report is laid on the table of the Knesset.

(c) The conclusions and proposals of the Committee in respect of those parts of the report which, in pursuance of section 17(a), have not been laid on the table of the Knesset, as well as conclusions and proposals of the Joint Committee, shall also not be laid on the table of the Knesset and shall be deemed to have been approved by the Knesset; conclusions and proposals as stated in this subsection shall be submitted to the Prime Minister.

Appearance
before the
Committee

18A. (a) For the purpose of preparing the conclusions and proposals of the Committee in accordance with section 18, the Chairman of the Committee may invite any person, who held office or fulfilled a function in the audited body during the period covered by the Comptroller's report, to appear before the Committee in order to respond to the report in regard to matters with which the said person is connected; he may also invite any person who holds such office or fulfills such a function at the time or who held such office or fulfilled such a function in the past in order to respond to the report; the Chairman of the Committee must invite such a person if he is requested to do so by the Committee or by at least three of its members; in this subsection, "held office or fulfilled a function" in an audited body includes the exercise of a power with respect to it by law, or by virtue of being a member of its management or an employee.

(b) Whenever a person who was invited according to subsection (a) did not appear, the Committee may, by a majority of its members, demand that he appear before it, as aforesaid; the demand shall be in writing, signed by the Chairman of the Committee, and attached to it shall be a copy of the Comptroller's report or that part of it to which the demand is directed; the demand shall be submitted at least ten days before the time stipulated for his appearance.

(c) A person required to appear before the Committee by invitation or demand shall submit to it, at least two days before the time stipulated for his appearance, a written summary of his response, together with copies of the documents which he intends to submit to the Committee.

(d) Any person who received a demand to appear as aforesaid in subsection (b) and did not do so, and did not show a justifiable reason for such, is liable to a fine.

(e) A demand to appear according to this section shall not be sent to -

(1) the President of the State or the Speaker of the Knesset;

(2) in a matter under judicial consideration a person holding judicial office.

19. The Comptroller shall submit the report on the balance-sheet showing the assets and liabilities of the State, for the consideration of the Minister of Finance, not later than the end of the month of March following the submission of the balance sheet by the Minister of Finance as specified in section 12, and shall lay it on the table of the Knesset at the same time as the report under section 15.

Comptroller's
report on
balance sheet of
the State

20. (a) Upon completion of an audit of audited bodies within the meaning of section 9(3), (4), (5), (6), (7), (8) and (9) (hereinafter – "other audited bodies"), the Comptroller shall prepare a report on the result of his audit. In his aforesaid report, the Comptroller shall include a summary, details, and recommendations as aforesaid in section 15(b).

Comptroller's
report on other
audited bodies

(b) The Comptroller shall submit each report on the audit of an audited body within the meaning of section 9(4) to the head of the local authority audited, together with copies for all the members of such local authority; a copy of the report shall be submitted by the Comptroller to the Committee, to the Prime Minister and to the Minister of the Interior.

(c) Each report on the audit of an audited body within the meaning of section 9(3), (5), (6), (7), (8) and (9) shall be submitted by the Comptroller to the Committee; a copy of the report shall be submitted by the Comptroller to the Prime Minister, to the Minister concerned and to the audited body; but a copy of such a report on an audited body within the meaning of section 9(9) shall only be submitted by the Comptroller to the audited body itself.

(d) In regard to other audited bodies, the head of the audited body, as defined in section 21A, shall submit to the Comptroller, within ten weeks of receiving the report in whole or in part, his observations concerning the report regarding every defect or infringement detailed therein.

(e) The provisions of section 16(b) shall apply, *mutatis mutandis*, in regard to the dates for submission of observations under this section.

(f) At the end of the time period referred to in subsection (d), the report and the observations in regard thereto shall be tabled in the Knesset, and the provisions of the final clause of section 16(a)(2) shall apply.

(g) The Prime Minister shall decide, with the approval of the Committee, matters pertaining to the preparation of observations under this section, including the manner in which they are to be written, consolidated and arranged.

Opinion

21. (a) The Comptroller shall, if requested to do so by the Knesset, the Committee or the Government, prepare an opinion as to any matter within the scope of his functions. The said opinion shall be made public at a time specified by the Comptroller.

(b) Notwithstanding the aforesaid in subsection (a), if the Comptroller prepared an opinion pursuant to the aforementioned subsection during the recess of the Knesset, the opinion shall be made public at a time decided by the Comptroller, as early as possible, and shall be tabled in the Knesset no later than the end of the first week of the next session of Knesset.

21A. (a) In this section, "head of an audited body" means each of the following:

- (1) in an audited body as referred to in section 9(1) or (2) – the minister in charge of that body;
- (2) in an audited body referred to in section 9(4) – the head of the local authority;
- (3) in another audited body – the directorate or comparable body in the audited body;

(b) In each audited body, the head of the audited body shall appoint a team to rectify the defects, to be headed by the director general in that body, and, where the position of director general does not exist, by the comparable office holder in that body (hereafter referred to as "the team").

(c) Where the audit revealed defects in the activity of the audited body, the team shall – within sixty days of the prescribed time as defined in section 28(a)(1) – discuss the ways to rectify the defects, make decisions relating to rectifying them, and report on their discussions and decisions to the head of the audited body within fifteen days after making said decisions.

(d) The team may, upon approval of the head of the audited body, delay rectifying a particular defect.

21B. (a) The head of the audited body as aforesaid in section 21A(a) shall report to the Comptroller regarding the decisions made pursuant to section 21A(c) and (d) within thirty days of the date they are reported to him. If the audited body is of the type referred to in section 9(1) or (2), the head of the said audited body shall also report to the Prime Minister. Such reports shall detail the method and timeframe for rectifying defects and set out if there is to be a delay in the correction of certain defects and the reasons for such delay.

(b) The Prime Minister shall inform the Comptroller, within eight months from the time a report is presented to him in which it was determined that defects were found in the activity of an audited body as referred to in section 9(1) or (2), of the results of the handling of the said defects.

(c) The Comptroller may at any time demand reporting in addition to those enumerated in this section.

(d) The Comptroller may, with approval of the Committee, set out a framework for reporting the rectification of defects, including with regard to the particulars to be included in such a report.

Chapter Five: The Comptroller's Office

Staff of the
Comptroller's
Office

22. (a) The staff of the Comptroller's Office shall have the same status as other State employees, but as regards the receipt of instructions, and as regards dismissals, it shall be under the sole authority of the Comptroller.

- (b) (1) The prohibitions applying to the Comptroller under section 7(a) shall apply also to such members of the staff of his Office as are employed in audit work, but the Comptroller may, upon the request of a staff member as aforesaid, permit him to do any of the things enumerated in section 7(a)(2), (3) or (4) (hereafter referred to as "the activity"), if in his opinion the activity does not infringe upon the audit work or create a conflict of interests; the aforesaid permission does not exempt the staff member from meeting the requirements of any law or custom regulating the activity.
- (2) A staff member as aforesaid in paragraph (1) who leaves his post shall not, save with the approval of the Comptroller, be employed by an audited body within two years from the day of leaving.
- (c) In carrying out his functions, the Comptroller may, to the extent that he deems it necessary to do so, avail himself of the assistance of persons who are not members of the staff of his Office.

22A. (a) The Comptroller shall appoint a person in charge of security, who shall be responsible for organizing security actions within the meaning of the Security in Public Places Arrangements Law, 5758-1998 (in this section - the Law), in the Comptroller's Office, and for supervising these actions.

Person in charge
of security

(b) A person shall not be appointed the person in charge of security pursuant to subsection (a) unless he met the conditions stated in section 4(b) of the Law, and met the conditions for qualification stated in section 5 of the Law.

(c) The person in charge of security shall have the powers provided in section 3 of the Law, and the provisions of section 13 of the Law shall apply to the person appointed by the person in charge of security to serve as a security officer in the Comptroller's Office.

(d) The provisions of section 14 of the Law shall apply to the person in charge of security and to a security officer in the Comptroller's Office, however the certificate of appointment shall be issued by the Comptroller or by a person empowered by him for this purpose.

(e) The Comptroller shall establish the procedures for auditing and supervising the exercise of powers by the person in charge of security and by a security officer appointed pursuant to this section.

Duty of secrecy 23. The staff of the Comptroller's Office and any person with whose assistance the Comptroller carries out his functions shall keep secret any information obtained by them in the course of their work and shall give a written undertaking to such effect upon starting work.

24. The budget of the Comptroller's Office shall be determined by the Finance Committee of the Knesset, upon the proposal of the Comptroller, and shall be published together with the budget of the State. The Finance Committee may, upon the proposal of the Comptroller, approve changes in the budget of his Office.

Budget of the Office

25. After the expiration of the financial year, the Comptroller shall submit the financial report of his Office for the approval of the Committee.

Financial report to Committee

Chapter Six: Miscellaneous Provisions

26. The Comptroller and any person appointed by him for that purpose with the approval of the Committee shall, mutatis mutandis, have all the powers referred to in sections 8 to 11 and 27(b) and (d) of the Commissions of Enquiry Law, 5729-1968.

Powers of commission of enquiry

27. (Repealed)

28. (a) The following are liable to imprisonment for a term of one year or to a fine as prescribed in section 61(a)(2) of the Penal Law, 5737-1977:

Penalties

(1) a person who publishes a report that the Comptroller must submit in accordance with the provisions of section 15 or 20, or in accordance with the provisions of any other law, or an opinion that the Comptroller prepared pursuant to the provisions of section 21, or a person who publishes a part of such report or opinion, or of the contents thereof, before the prescribed time; in this section, "the prescribed time" means -

- [a] in the matter of a report that must be submitted in accordance with the provisions of section 15 or 20 -- the time it must be tabled in the Knesset as provided in section 16 or 20, as applicable;
 - [b] in the matter of an opinion that must be prepared in accordance with the provisions of section 21 – the time it must be tabled in the Knesset or made public as per the decision of the Comptroller pursuant to section 21(b), whichever is earlier;
 - [b1] in the matter of a separate report pursuant to section 14(b) – the time it must be tabled in the Knesset or the time it is made public pursuant to section 14(b)(2), whichever is earlier;
 - [c] in the matter of a report that must be submitted in accordance with the provisions of any other law, the time for submitting the report, and where a time is specified for its publication, the time of its publication;
- (2) a person who publishes any report or opinion or a part thereof or of the contents thereof in contravention of the provisions of section 17;
 - (3) a person who without obtaining the Comptroller's permission publishes the results of an audit carried out by the Comptroller.
- (b) The provisions of this section shall not release a person from criminal responsibility under any other law.

29. If the Comptroller is temporarily unable to carry out his functions, the Committee shall appoint an Acting Comptroller for a period not exceeding three months; the Committee may extend the appointment for additional periods, provided that the sum total of all the periods served by the Acting Comptroller shall not exceed six months; if the Comptroller is unable to carry out his functions for a period of six consecutive months, he shall be considered to have resigned.

Acting
Comptroller

30. (a) No reports, opinions or other documents issued or prepared by the Comptroller in the discharge of his functions shall serve as evidence in any legal or disciplinary proceeding.

Material not to
serve as
evidence

(b) A statement received in the course of the discharge of the Comptroller's functions shall not serve as evidence in a legal or disciplinary proceeding, other than a criminal proceeding in respect of testimony on oath or affirmation obtained by virtue of the powers referred to in section 26.

Chapter Seven: Investigation Of Complaints From The Public

31. (Repealed).

Unit for
investigation of
complaints

32. (a) The Ombudsman shall carry out his functions with the assistance of a special unit in the State Comptroller's Office, to be known as the Office of the Ombudsman. The Director of the Office of the Ombudsman shall be appointed by the Committee upon the proposal of the Ombudsman and shall be directly responsible to him. The duty of announcing the vacancy under section 19 of the Civil Service (Appointments) Law, 5719-1959, shall not apply to the appointment of the Director of the Office of the Ombudsman.

(b) If the post of Director of the Office of the Ombudsman falls vacant or if the Director is for any reason unable to carry out his functions, the Ombudsman may entrust the carrying out of such functions to another person for a period not exceeding three months.

Complaint by
whom

33. Any person may submit a complaint to the Ombudsman.

Modes of
submitting a
complaint

34. A complaint submitted in writing or taken down according to the complainant's oral statement shall be signed by the complainant and shall indicate his name and address.

35. A complaint by a prisoner within the meaning of the Prisons Ordinance [New Version], 5732-1971, shall be submitted in a closed envelope, and the Commissioner of Prisons or a person empowered by him in that behalf shall forward it unopened to the Ombudsman.

Complaint by
prisoner

36. A complaint may be submitted against one of the following:

Complaint
against whom

- (1) an audited body within the meaning of paragraphs (1) to (6) of section 9;
- (2) one of the bodies referred to in paragraphs (7) and (8) of section 9, to the extent that the Committee or the Ombudsman has decided that this chapter shall apply in respect thereof and notice to such effect has been published in Reshumot;
- (3) an employee, office-holder or bearer of any function in any such body as referred to in paragraphs (1) or (2) of this section.

37. The subject of a complaint may be –

Complaint
about what

- (1) an act directly injurious to, or directly withholding a benefit from, the complainant – or another person, provided that the complainant has received, in a manner and to an extent acceptable to the Ombudsman, the agreement of said person to submit a complaint in the matter, or

- (2) if the complainant is a Member of the Knesset, also an act directly injurious to, or directly withholding a benefit from, another person,

such act being contrary to law or without lawful authority or contrary to good governance or involving excessive inflexibility or flagrant injustice; for this purpose, "act" includes an omission or delay in acting.

Complaints not to be investigated

38. The following complaints shall not be investigated:

- (1) a complaint against the President of the State;
- (2) a complaint against the Knesset, a Committee of the Knesset or a Member of the Knesset in respect of an act done in, or for the purpose of, the discharge of his functions as a Member of the Knesset;
- (3) a complaint against the Government, a Committee of Ministers or a Minister as to his activity as a member of the Government, except his activity as the person in charge of a Ministry or sphere of activity;
- (3A) a complaint against the Governor of the Bank of Israel, except as to his activity as the person in charge of the bank;
- (4) a complaint against a judicial or quasi-judicial act;

- (5) a complaint as to a matter pending in a court or tribunal or in which a court or tribunal has given a decision with regard to the substance thereof;
- (6) a complaint by a person serving in regular service under the Defense Service Law [Consolidated Version], 5746-1986, or serving in the reserves under the Reserves Service Law, 5768-2008, with regard to service arrangements, terms of service, or discipline;
- (7) a complaint by a police officer or prison officer with regard to service arrangements and terms of service or discipline in the Israel Police or the Prison Service;
- (8) a complaint by a State employee, or by an employee of a body referred to in section 36, in a matter relating to his service as an employee; but there shall be investigated an act alleged to be contrary to the provisions of any law or regulations, the Civil Service Regulations, a collective agreement or general arrangements prescribed on behalf of the Civil Service Commissioner or, in the case of a body referred to in section 36, similar general arrangements.
- (9) a complaint by a person in a matter pertaining to an individual referred to in subsection (6), (7) or (8), with regard to the issues delineated in the relevant subsection.

Complaints only to be investigated for special reason

39. The following complaints shall not be investigated unless the Ombudsman finds that there is a special reason justifying their investigation:

- (1) a complaint in a matter, other than of the class of matters referred to in section 38(5), in which a decision has been given against which a contestation, objection or appeal can be, or could have been filed under any law;
- (2) a complaint filed after a year has elapsed from the date of the act to which it relates or the date on which such act became known to the complainant, whichever is later.

Opening of investigation

40. (a) When a complaint has been filed, the Ombudsman shall open the investigation thereof unless it appears to him that it does not comply with section 34, or that it does not come within the scope of sections 36 or 37, or that it should not be investigated for one of the reasons enumerated in sections 38 and 39, or that it is vexatious or intended merely to annoy, or if he is of the opinion that the Ombudsman is not the proper body to investigate the matter.

(b) In the cases referred to in subsection (a), the Ombudsman shall notify the complainant in writing that he will not deal with the complaint, stating his reasons.

Modes of investigation

41. (a) The Ombudsman may investigate a complaint in any manner he thinks fit and shall not be bound by rules of procedure or rules of evidence.

(b) The Ombudsman shall bring the complaint to the knowledge of the person or body complained against and, if such person is an employee as specified in section 36(3), also to the knowledge of his superior (hereafter referred to as "the superior") and shall give him, it or them a suitable opportunity to answer it. The Ombudsman may require the person or body complained against to answer the complaint within the period specified in his request.

(c) The Ombudsman may hear the complainant, the person whose matter was raised by the complainant under section 37(1), the person or body complained about and any other person if he deems it useful so to do.

(d) For the purpose of the investigation, the Ombudsman may require any person or body to give him, within such period and in such manner as he shall prescribe in the request, any information or documents likely, in his opinion, to assist in the investigation of the complaint. A person or body required to deliver information or a document as aforesaid shall comply with the request. The provisions of this subsection shall not derogate from the provisions of sections 47 to 51 of the Evidence Ordinance [New Version], 5731-1971.

42. The Ombudsman may discontinue the investigation of a complaint if he is satisfied that one of the grounds justifying the non-opening of an investigation exists or that the matter to which the complaint relates has been rectified or that the complainant has withdrawn the complaint. In this case, he shall notify the complainant, the person or body complained against and the superior, in writing, that he has discontinued the investigation, stating his reasons.

Discontinuance
of investigation

Consequences
of investigation

43. (a) Where the Ombudsman finds that the complaint is justified he shall notify the complainant, the person or body complained against, and if he so deems fit, the superior, to such effect, stating his reasons. He may set out a summary of his findings in his reply, and may point out, to the person or body complained against and to the superior, the need to rectify a defect revealed by the investigation and how and by what time it is to be rectified.

(b) The person or body complained against or the superior shall, within the time referred to in subsection (a), inform the Ombudsman of the steps which have been taken. If he or it fails to do so, or if the information does not satisfy the Ombudsman, the Ombudsman may bring the matter to the knowledge of the Minister concerned or of the Committee.

(c) Where the Ombudsman finds that the complaint is not justified, he shall notify the complainant, the person or body complained against and, if he so deems fit, the superior, to such effect, stating his reasons. He may set out a summary of his findings in his reply.

(d) Where the investigation of the complaint gives rise to the suspicion that a criminal offence has been committed, the Ombudsman shall bring the matter to the knowledge of the Attorney General; and he may do so where the investigation of a complaint gives rise to the suspicion that a disciplinary offence has been committed under any law. The Attorney General shall inform the Ombudsman and the Committee, within six months from the day that the matter was submitted to him, of the manner in which he has dealt with the subject.

44. (a) A notification by the Ombudsman under section 43(a) or (c) shall not contain or disclose any material or information which in the opinion of the Prime Minister or the Minister of Defense is a matter of State security or which in the opinion of the Prime Minister or the Minister of Foreign Affairs is a matter of foreign relations or international trade relations of the State. Restrictions on notification

(b) Where it appears to the Ombudsman that his notification is likely to contain or disclose any material or information as referred to in subsection (a) and the ministers did not express their opinion as specified in that subsection, the Ombudsman shall ask the opinion of the Prime Minister or the Minister of Defense or the Minister of Foreign Affairs, as the case may be, before making his notification.

(c) The Ombudsman shall be exempt from stating his findings or reasons -

(1) where the complaint relates to an appointment to a particular post or the assignment of a particular function;

(2) where in his opinion the material or evidence may unlawfully prejudice the right of any person other than the complainant;

(3) where in his opinion the disclosure of the material or evidence will involve the disclosure of a professional secret, or of secret information, within the meaning of any law.

45. (a) The decisions and findings of the Ombudsman as to a complaint - Rights and relief

- (1) shall not grant to the complainant or any other person any right or relief in any court or tribunal which he did not previously have;
 - (2) shall not prevent the complainant or any other person from exercising any right or applying for any relief to which he is entitled; but where a time-limit is set thereof by any enactment, the submission or investigation of the complaint shall not entail an extension of time.
- (b) No court shall entertain an application for relief against the decisions or findings of the Ombudsman in the matter of a complaint.

Complaint by public servant who has exposed acts of corruption

45A. Notwithstanding anything contained in section 38(8) -

- (1) a complaint by an employee referred to in section 36(3), other than a police officer, prison officer or soldier (such an employee hereafter in this chapter referred to as "the employee"), about an act referred to in section 37 by which his superior reacted to his reporting, in good faith and in accordance with proper procedure, any acts of corruption committed in the body in which he is employed, shall be investigated under the provisions of this chapter, subject to sections 45B to 45E.

(2) a complaint by an employee, who is an internal auditor in a body referred to in section 36(1) or (2), other than a police officer, prison officer or soldier, relating to his removal from that post or to an act contrary to the provisions of any law or regulations, the Civil Service Regulations, a collective agreement, or general arrangements prescribed on behalf of the Civil Service Commissioner, or similar general arrangements, which is directly injurious to or directly withholds a benefit from the complainant and which was committed by his superior in reaction to his activities in fulfilling his function as internal auditor shall be investigated under the provisions of this chapter, subject to sections 45C to 45E.

45B. Where the Ombudsman finds that there is a reason justifying it, he may investigate a complaint under section 45A(1) even if the employee reported the acts of corruption otherwise than in accordance with proper procedure.

Complaint only to be investigated for special reason

45C. (a) The Ombudsman may make any order he deems right and just, including a provisional order, to protect the rights of the employee, having regard to the proper functioning of the body in which he is employed.

Relief

(b) Where the complaint relates to the dismissal of the employee, the Ombudsman may order revocation of the dismissal or the award of special compensation to the employee, in money or in rights.

(c) The Ombudsman may order the transfer of the employee to another post in the service of his employer.

(d) An order under this section shall be binding on any superior of the employee and on the employee himself, and a person who contravenes it commits a disciplinary offence. But their responsibility for a disciplinary offence shall not detract from their criminal responsibility for the contravention of that order.

Reconsideration 45D. The Attorney General may request the Ombudsman to reconsider a decision given under section 45C. The Civil Service Commissioner may so request in the case of a complaint by a State employee; in the case of a complaint by someone who is not a State employee, the head of the audited body may also so request.

Submission of complaint otherwise than in good faith 45E. The submission of a complaint under section 45A or 45B otherwise than in good faith, or vexatiously, shall be a disciplinary offence.

Publication of provisions 45F. A body referred to in section 36(1) or (2), except for the Israel Police Force, the Prison Service, and the Israel Defense Force, shall publish, in a conspicuous place at the work site, the primary provisions of sections 45A to 45E, in a form that the Ombudsman shall determine.

Report 46. (a) The Ombudsman shall, at the beginning of each year, prepare a report on his activities, containing a general survey and an account of the handling of selected complaints. The aforesaid report shall be tabled in the Knesset.

(b) The Ombudsman may, prior to the submission of the annual report, submit to the Knesset a special report. The aforesaid special report shall be tabled in the Knesset.

(c) When a report has been laid on the table of the Knesset, the Committee shall consider it and shall submit to the Knesset its conclusions and proposals for approval. In regard thereto, the provisions of section 18A shall apply, mutatis mutandis.

(d) A report under this section shall not be published before being laid on the table of the Knesset.

(e) The provisions of section 44 shall also apply, mutatis mutandis, to a report under this section.

47. (a) Sections 22, 23, 26, 28 and 30 shall apply, mutatis mutandis, for the purposes of this chapter. Application of provisions

(b) The provisions of this chapter shall not derogate from the power of the State Comptroller to make use in his other activities of material which reached him in connection with a complaint, whether or not he has investigated it.

48. The provisions of any law according to which there shall be appointed in an audited body a person, whose function is to investigate complaints against that body, shall not derogate from the powers and status of the Ombudsman under this law. Priority of powers and status

The original State Comptroller Law, 5709-1949, was passed by the Knesset on May 18, 1949. It was amended in 1952, 1954, and 1958. The original law and the aforesaid amendments were consolidated in the State Comptroller Law [Consolidated Version], 5718-1958.

Since 5718-1958, there have been 43 amendments to this law.

This version is the consolidated version, as amended by the following amendments: State Comptroller (Amendment) Law, 5722-1961; State Comptroller (Amendment No. 2) Law, 5722-1962; State Comptroller (Amendment No. 3) Law, 5724 -1964; Holders of Public Office (Benefits) Law, 5729-1969; State Comptroller (Amendment No. 5) Law, 5731-1971; State Comptroller (Amendment No. 6) Law, 5732-1972; State Comptroller (Amendment No. 7) Law, 5734-1974; State Comptroller (Amendment No. 8) Law, 5735-1975; State Comptroller Amendment No. 9) Law, 5738-1978; Police Ordinance (Amendment No. 7) Law, 5740-1980; State Comptroller (Amendment No. 11) Law, 5741-1981; State Comptroller (Amendment No. 12) Law, 5744-1983; State Comptroller (Amendment No. 13) Law, 5744-1984; State Comptroller (Transitional Provisions) Law, 5748-1988; State Comptroller (Amendment No. 15) Law, 5750-1990; State Comptroller (Amendment No. 16) Law, 5751-1990; State Comptroller (Amendment No. 17) Law, 5752-1992; State Comptroller (Amendment No. 18) Law, 5753-1993; State Comptroller (Amendment No. 19) Law, 5754-1993; State Comptroller Amendment No. 20) Law, 5754-1994; State Comptroller (Amendment No. 21) Law, 5754-1994; State Comptroller (Amendment No. 22) Law, 5754-1994; State Comptroller (Amendment No. 23) Law, 5755-1995; State Comptroller (Amendment No. 24) Law, 5755- 1995; State Comptroller (Amendment No. 25) Law, 5755-1995; State Comptroller (Amendment No. 26) Law, 5755-1995; Bank of Israel (Amendment No. 19) Law, 5755-1995; State Comptroller (Amendment No. 28) Law, 5755-1995; State Comptroller (Amendment No. 29) Law, 5756-1996; State Comptroller (Amendment No. 30) Law, 5756-1996; State Comptroller (Amendment No. 31) Law, 5757-1997; Organization of Security in Public Bodies Law, 5758-1998; State Comptroller (Amendment No. 33) Law, 5761-2001; State Comptroller (Amendment No. 34) Law, 5763-2003; State Comptroller (Amendment No. 35) Law, 5765-2005; Organization of Security in Public Bodies (Amendment No. 2) Law, 5765-2005; State Comptroller (Amendment No. 37) Law, 5765-2005; State Comptroller (Amendment No. 38) Law, 5767-2007; State Comptroller (Amendment No. 39) Law, 5768-2007; State Comptroller (Amendment No. 40) Law, 5768-2008; State Comptroller (Amendment No. 41) Law, 5768-2008; State Comptroller (Amendment No. 42) Law, 5768-2008; State Comptroller (Amendment No. 43) Law, 5768-2008, the last amendment, which was passed on July 29, 2008.

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