



STATE  
OF ISRAEL



OFFICE OF  
THE STATE COMPTROLLER  
AND OMBUDSMAN

# THE OMBUDSMAN ANNUAL REPORT 28

2000-2001

**Selected Chapters**



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*The Twenty-Eighth Report of the Ombudsman* is hereby submitted to the Knesset.

In September 2001, the Office of the Ombudsman celebrated its thirtieth anniversary. The Office was established to provide citizens with relief against injuries caused by governmental bodies. In a modern state, characterized by the expansion of the public apparatus and the diverse areas in which it is involved, the citizen is closely bound, willingly or unwillingly, to governmental bodies and administrative agencies. The state provides or supervises most of the services – such as health, education, transportation and welfare – that citizens require. The local authorities provide municipal services. Citizens are required to make various compulsory payments and obtain permits and licenses for particular activities and here, too, they come in contact with the authorities.

The numerous points of contact between the individual and the governing authorities and the large number of governmental bodies required by the citizen, create a wide area of friction between the citizen and the governing authorities and render the individual highly dependent on the bureaucratic apparatus. This increases the necessity to protect the individual against potential injury by the governing authorities. In most instances, the individual is able to contest governmental decisions or actions that, in his opinion, have violated his rights, by attacking them in court – in the High Court of Justice or the Court for Administrative Matters, for example – but that course is laden with expenses and requires legal knowledge which often prevents the individual from representing himself. The advantage of the Ombudsman is his power to intervene not only in instances of breach of

legal norms and rules, but also where the governmental authority acts with excessive inflexibility or flagrant injustice. Furthermore, the Ombudsman handles complaints in a convenient and straightforward manner, at no cost to the citizen.

The Ombudsman's primary goal is to handle the citizen's complaint and rectify the injustice caused to him. However, in some instances, investigation of a specific complaint has implications beyond the individual case, having an effect on similar cases, thus indirectly preventing injury to others and bringing about the overall correction of the matter complained about by the individual.

It should be emphasized that the combined functions of the State Comptroller and Ombudsman in one person enable the Ombudsman to evaluate the situation in the general sphere of public administration. At times, an individual complaint exposes a defective administrative process. In such cases, the State Comptroller investigates the complaint not only from the viewpoint of the complainants, but also from the wider perspective of the public interest. On the other hand, the State Comptroller's approach and position, which are based on conclusions from audits on general subjects, provide direction and guidelines for the Ombudsman's investigation of individual complaints.

During the Ombudsman's thirty years of activity, thousands of citizens have complained to him about the violation of their rights by the state authorities. In some cases, the Ombudsman found the complaints justified and the injustice was rectified. In other cases, where it was impossible to restore the situation to its former state, the Ombudsman ruled that the complainant was entitled to compensation for the trouble and harassment he suffered. However, even in the cases in which the complaint was not found to be justified, the complainant received dedicated treatment by the

Office of the Ombudsman and a substantive explanation of the Ombudsman's ruling.

Defects in public administration are not decrees from heaven. Proper governmental action and public administration are the life force of a well-ordered state; they can and must be improved. This is the goal of the Ombudsman.

A handwritten signature in black ink, appearing to read "E. Goldberg", with a long, sweeping horizontal line extending to the right.

**Eliezer Goldberg**

State Comptroller  
and Ombudsman

Jerusalem, February 2002

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# GENERAL SUMMARY

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## **1. POWERS AND AREAS OF ACTIVITY OF THE OMBUDSMAN**

The Ombudsman investigates complaints against bodies that are by law subject to auditing by the State Comptroller, such as government ministries, local authorities, state enterprises and institutions and government companies. The Ombudsman also investigates complaints against the employees of these bodies.

Complaints relating to the activities of public bodies which the law does not authorize the Ombudsman to investigate, such as banks, insurance companies and other non-governmental entities that serve the public, are often forwarded to the bodies statutorily charged with their supervision, examples being the Supervisor of Banks, Supervisor of Insurance and Director of Capital, Insurance and Savings.

A complaint is subject to investigation by the Ombudsman if it involves an act – including an omission or delay in acting – that is directly injurious to or directly withholds a benefit from the complainant. In addition, the act must have been committed contrary to law, or without lawful authority, or contrary to good administration, or involves a too inflexible attitude or flagrant injustice. Members of the Knesset may also complain against an act that injures another person.

When a complaint is submitted, the Ombudsman opens an investigation unless the complaint does not comply with the conditions set forth in the law for investigation of complaints, or it is vexatious or intended to annoy, or the Ombudsman believes that he is not the proper body to investigate the complaint.

The Ombudsman may discontinue 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 or has not responded to the Ombudsman's requests directed to him.

The Ombudsman may investigate a complaint in any manner he sees fit and is not bound by rules of procedure or rules of evidence. He may hear any person if he deems it beneficial and he may require any person or body to give him any documents or information that are likely, in his opinion, to assist in the investigation of the complaint.

The State Comptroller Law, 5718-1958 [Consolidated Version] (hereafter – the Law or the State Comptroller Law) determines the complaints that are not to be investigated and the bodies and officials that are not to be investigated: complaints against the President of the State, against the Knesset, a Knesset committee or a Member of Knesset; against the Government, a committee of ministers or a minister as to his activity as a member of the Government, as opposed to his activity as the head of a ministry or sphere of activity; and also against the Governor of the Bank of Israel, except as to his activity as the head of the Bank. Also, the Ombudsman may not investigate complaints against a judicial or quasi-judicial act, or relating to matters pending in a court or tribunal, or in which a court or tribunal has given judgment with regard to the substance of the matter.

The Ombudsman does not have the authority to investigate complaints submitted by soldiers, police officers and prison officers in regard to service arrangements, terms of service or discipline. The Ombudsman will not investigate complaints of State employees and employees of other audited bodies in a matter relating to his service as an employee, except for an act alleged to be contrary to any law, regulation, the Civil Service Regulations, a collective agreement or similar general agreements. An exception to the above is set forth in Sections 45A-45E of the State Comptroller Law, which involves investigation of a complaint submitted by

an employee of an audited body against his superior who violated his rights in reaction to the employee's reporting, in good faith and in accordance with proper procedure, acts of corruption committed in the body in which he is employed.

The Ombudsman will not investigate a complaint in a matter in which a decision has been given against which a contestation, objection or appeal can be, or could have been, filed under any law, or a complaint that was filed after a year has elapsed from the date of the act to which the complaint relates or the date on which the act became known to the complainant, unless the Ombudsman finds special reason justifying the investigation.

## **2. SUBMITTING A COMPLAINT**

Any person may submit a complaint to the Ombudsman free of charge. The complainant is only required to sign the complaint and state his name and address.

A person may submit a complaint in several ways: by letter – by mail, fax and even email – or orally at branch offices of the Ombudsman in Jerusalem, Tel-Aviv, Haifa, Beersheva and Nazareth.

The addresses of the Ombudsman's offices and of the offices for submitting oral complaints, their reception hours and the fax numbers and email addresses for the submission of complaints, are listed at the end of the appendices, on page 91.

### **3. DATA ON THE NUMBER OF COMPLAINTS AND THEIR OUTCOME**

1. Until this report, the Ombudsman's reports described the activity of the Ombudsman and the Office of the Ombudsman during the Hebrew-calendar year. Following Amendment 33 to the State Comptroller Law, which provides that the Ombudsman shall file a report to the Knesset at the beginning of each Gregorian-calendar year, this report is filed at the beginning of 2002. Therefore, it summarizes the activity of the Ombudsman and the Office of the Ombudsman for the period from September 30, 2000 to December 31, 2001, a total of fifteen months.

2. Below are details of the number of complaints received in the period under review and the outcome of the investigations of complaints completed during that period.

(a) A total of 7,016 complaints were submitted directly to the Ombudsman (in the Hebrew calendar year 5760 [1999-2000], 6,644 complaints were filed). The Ombudsman also received copies of hundreds of complaints that were submitted directly to audited bodies. The Ombudsman does not investigate these latter cases on the assumption that the addressed bodies will investigate them. In such cases, the Ombudsman notifies the complainant that if the body to which he wrote does not reply, or the reply does not satisfy him, he may complain directly to the Ombudsman, who will determine whether the Law provides for investigation of the matter. In addition, the information in these complaints is forwarded to the unit in the State Comptroller's Office charged with auditing the particular body.

(b) Of the 9,144 complaints handled during the period under review (including 2,128 complaints remaining from the year 1999-2000), the investigation of 7,580 complaints was completed, comprising 82.9% of all

the complaints (74.7% in the year 1999-2000). These complaints included 7,717 subjects for investigation, as described below:<sup>1</sup>

Outcome of Investigation	Subjects Investigated in the Period Reviewed	
	Number	Percentage
Subjects resolved substantively	4,234	54.9%
Subjects whose investigation was halted	1,392	18.0%
Subjects summarily rejected	2,091	27.1%
<b>Total Subjects whose Investigation was Completed</b>	<b>7,717</b>	<b>100%</b>

(1) In 4,234 subjects, comprising 54.9% of the total number of subjects investigated (56% in the year 1999-2000), the substantive handling of the investigation was completed. The complaints relating to 1,551 of them (36.6%) were found to be justified (compared to 37.1% in the year 1999-2000).

(2) The investigation of 1,392 subjects, comprising 18% of the total number of subjects investigated (16.9% in the year 1999-2000), was halted at various stages either because the matter that was the subject of the complaint was rectified, or the complainant withdrew his complaint or did not respond to questions posed by the Ombudsman, or because the Ombudsman believed that the Office was not the proper body to investigate the complaint.

(3) A total of 2,091 subjects, comprising 27.1% of the total number of subjects investigated (27.1% in the year 1999-2000) could not be investigated because they did not meet the criteria set by Sections 36 and 37 of the Law, which state who is allowed to submit a complaint and which

<sup>1</sup> The total number of subjects of complaints is greater than the number of complaints because some of the complaints refer to more than one subject.

matters can be the subject of a complaint, or because they involved matters that shall not be investigated as enumerated in Sections 38 or 39 of the Law.

At the end of the period under review, the handling of 1,564 complaints had not been completed.

3. (a) Data on the breakdown of the complaints by bodies complained against and by the outcome of their investigation are presented in Table 1 (p. 75) and Graphs 1-7 (pp. 78-84).

(b) Table 2 (p. 85) presents the breakdown of complaints by principal subjects: welfare services, municipal services, services provided to the public and others.

(c) Graphs 8-9 (pp. 88-89) present a multi-year comparison of the number of complaints received by the Ombudsman in the years 1991-2001 and of the outcome of the investigations of complaints for those years.

#### **4. APPLICATION OF LESSONS LEARNED FROM THE INVESTIGATION BEYOND THE SPECIFIC COMPLAINT**

The investigation of complaints occasionally exposes flaws that affect not only the complainant. In these cases, the Ombudsman points out the need to correct the general flaw to prevent future complaints on the same matter. The Ombudsman's activity has led to many defects being corrected in this manner.

This report also contains several cases in which the Ombudsman observed the need to correct a general flaw revealed during the investigation.

In one case, a complainant was notified that the file against her in the Execution Office had been closed after the debt had been "zeroed". She was later requested to make an additional payment for expenses incurred by the

creditor while the file was still open. As a result of the investigation of the complaint, the wording of the notice sent to debtors was changed, now stating that the Execution Office's file will be closed within thirty days from the time the debt is paid but that during the said period, other payments may be added to the zeroed debt and the debtor should verify that the Execution Office's file has indeed been closed (complaint 2, p. 28).

Following the Ombudsman's investigation and the filing of a petition with the High Court of Justice concerning the separation of records on printouts from the Crime Register, the Police informed the Ombudsman that any person wishing to obtain information relating to him from the Crime Register can receive 1) a complete printout that includes records which have become obsolete or have been erased from the Police Register, or 2) a separate printout from the current Crime Register (complaint 7, p. 46).

Following the investigation of another complaint that dealt with updating and correcting errors in the Crime Register, the Police informed the Ombudsman that persons may request the correction or updating of the Crime Register even if the Police investigation file has been destroyed. The change will be made upon submission of documents proving the need for the alteration (complaint 7, p. 51).

The Mitzpeh Ramon Local Council refused to issue a complainant certification that he was a resident of the Council because he had not made voluntary payments for his son, a student at a school within the Council's jurisdiction. The Council did not indicate any provision of law enabling it to stipulate issuing the certification of residency upon payment of fees, taxes or voluntary payments to the Council. The Ombudsman pointed out to the Council that it should issue certifications of residency to its residents if they paid the fees set forth in the Council's by-law for issuing this certification, and not to make it conditional upon other payments (complaint 9, p. 57).

Following the investigation of a complaint that the Local Planning and Building Committee had collected a fee for photocopying documents that, by law, citizens are entitled to view, the Ombudsman pointed out to the



committee that it may not impose a fee whose imposition is not provided for by law. Therefore, it must reimburse the complainant with the amount it had collected from him. The committee informed the Ombudsman that it had acted in accordance with the Ombudsman's ruling and that it now collects only the actual costs of photocopying documents in its offices (complaint 11, p. 61).

A complainant who was dismissed from his job wished to register at the office of the Employment Service at a time when the office was closed due to an extended collective vacation. As a result, he was not paid unemployment benefit for the whole vacation period, as opposed to persons seeking work who had registered at the office prior to the vacation. Following the Ombudsman's ruling in the matter, the Employment Service issued a circular that established special arrangements for staff to be present at the office during collective vacations, including a directive that each district office keep one or two staff members on duty (complaint 13, p. 67).

Students in an Optometry-studies program operated jointly by Bar-Ilan University and the College of Optometry complained that the degree they were to receive on completing their studies would be issued only by the College. Following investigation of the complaint, the Council on Higher Education decided to authorize Bar-Ilan University to grant the degree "Graduate of Optometry" to all students who successfully completed their studies in the joint program (complaint 14, p. 69).

## **5. INTERNATIONAL RELATIONS**

The State Comptroller and Ombudsman, Justice (ret.) Eliezer Goldberg, the Director of the Office of the Ombudsman, Mr. Avigdor Ravid, Adv. and Mr. Yehoshua Roth, Senior Assistant to the State Comptroller and International Liaison, participated in the VIIth International Ombudsman Institute Conference, held in South Africa in October 2000.

The theme of the conference was the establishment of ombudsman offices in most countries of the world, including developing countries. The main subject discussed was the role of the ombudsman in balancing the use of governmental powers with accountability.

In December 2000, the State Comptroller and Ombudsman, and the Director of the Office of the Ombudsman met with the Deputy Ombudsman of Poland, Dr. J. Swiatkiewicz, who was visiting in the region. During their meeting, they compared the legal means available to the Polish and Israeli Ombudsmen and the effectiveness of their activities.

In December 2000, a research delegation of the Chinese Parliament visited the Office of the State Comptroller and Ombudsman. The delegation was headed by the Director of Research of the Chinese Parliament, Ms. Xiao Ming Wang. The delegation was presented with a survey of the functions and activities of the Office of the Ombudsman, and the parties discussed the Office's reciprocal relations with the legislative authorities and the audited bodies.

In September 2001, the Polish Ombudsman, Prof. A. Zoll and the Deputy Ombudsman of Poland, Dr. J. Swiatkiewicz, visited the Office of the State Comptroller and Ombudsman. The visitors held several working meetings with the State Comptroller and Ombudsman. The Director of the Office of the Ombudsman, Mr. Avigdor Ravid, Adv., Director General of the Office of the State Comptroller, Mr. Mordechai Bass, Adv. and senior office staff also participated in the meetings. The discussions involved unification of the roles of the Ombudsman and the State Comptroller and the role of the ombudsman in preventing human rights violations and in times of emergency. Prof. Zoll also met with the staff of the Office of the Ombudsman and lectured to them on the authority of the Ombudsman in Poland.

In November 2001, European ombudsmen met at the Seventh Round Table with the Council of Europe. Mr. Avigdor Ravid, Adv., Director of the Office of the Ombudsman, Mr. Yehoshua Roth, Senior Assistant to the State Comptroller and Ms. Bracha Tal, Adv., Head of Division in the

Office of the Ombudsman, represented the State Comptroller and Ombudsman. At the meeting, the Commissioner for Human Rights of the Council of Europe met with the ombudsmen and discussed with them the ombudsman's role in matters of migration in Europe.

At the Round Table the following subjects were discussed: the principles of proper administration in light of judgments of the European Court of Human Rights, the protection of human rights via a system of law enforcement and cooperation among ombudsmen and between ombudsmen and the Council of Europe.

## **SUMMARY OF SELECTED CASES**

# MINISTRY OF HEALTH

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## **1. WOLFSON HOSPITAL – TERMINATION OF EMPLOYMENT FOLLOWING EXPOSURE OF ACTS OF CORRUPTION**

1. (a) In May 2000, the complainant, who worked at Wolfson Hospital (hereafter – the hospital), filed a complaint with the Ombudsman. He contended that, in reaction to his reporting acts of corruption in the hospital, the hospital's administration had informed him, on September 1, 1999, that his employment contract would not be renewed and he would be dismissed.

(b) The complaint was investigated pursuant to Sections 45A-45E of the State Comptroller Law, 5718-1958 [Consolidated Version] (hereafter – the Law), which deals with the complaint of a civil service employee regarding violation of his rights by his superior in reaction to the employee's reporting, in good faith and in accordance with proper procedure, acts of corruption committed in the body in which he is employed.

2. The Ombudsman's investigation of the complaint revealed the following:

(a) (1) The complainant began to work in the technical supplies room of the hospital (hereafter – the supplies room) on December 15, 1997 as a temporary employee pursuant to a special contract. The contract was extended three times, for six months each time, until June 30, 1999. The fourth time, the contract was extended for only two months, until August 31, 1999 and the fifth time, it was extended for one month, until September 30, 1999. On September 1, 1999 the hospital's administrative director

(hereafter – the Director) informed the complainant that the contract would not be extended after September 30, 1999.

(2) Several months after the complainant had begun working at the hospital, he informed a member of the Employees Committee about incidents of corruption that he believed had been committed in the supplies room. At the Committee member's request, the complainant began to collect evidence on the incidents of corruption.

(3) The complainant told other hospital employees about the incidents of corruption and rumors began to spread in the hospital about these incidents and also that the hospital's administration was about to terminate the complainant's employment. Following these rumors, in August 1999 the Committee member informed the Director that the complainant had documents proving incidents of corruption in the hospital. During their conversation, the Director told the Committee member that she would give the complainant notice of dismissal that very day. The Committee member requested that the Director refrain from that action because it would "not look good" and would damage the hospital's reputation.

(4) Following the conversation with the Committee member, the Director met with the complainant and heard his suspicions about the incidents of corruption. It was agreed that they would meet again, on August 28, 1999, to discuss the matter thoroughly. The meeting never took place. Instead, on September 1, 1999 the complainant received a letter signed by the Director terminating his employment on the grounds of "severe budgetary constraints".

(b) (1) The complainant contended that the reason given for the termination of his employment was not the real reason for his dismissal, and that the actual motive for the refusal to renew his employment contract and for terminating his employment at the hospital was his reporting the incidents of corruption.

(2) The hospital's administration contended before the Ombudsman that there was no connection between the complainant's claims of acts of

corruption and his dismissal. Rather, it claimed that the complainant was indeed dismissed because of severe budgetary constraints.

During the investigation, the hospital's administration gave the Ombudsman other explanations for the complainant's dismissal – differences of opinion between the complainant and his superior and criticism regarding the quality of his work.

(3) The hospital's administration contended that, as early as June 1999, it had considered dismissing the complainant, but that at the employee's request, it had renewed his contract for a further two months to enable him to find another job.

To prove this contention, the head of the hospital presented the Ombudsman with the draft of a letter that the Director had prepared on June 17, 1999. It was addressed to the complainant, notifying him of the termination of his employment at the end of the contract period. The letter mentioned no reason for the dismissal.

(4) The hospital's administration argued that, before receiving the notice of dismissal, the complainant had not presented any concrete evidence of incidents of corruption. The administration contended that it was only after receiving the letter of dismissal, that the complainant presented to the Director two cases of improper management in the supplies room and the hospital's administration had investigated those cases and found them to be unfounded.

(c) (1) The investigation revealed that the hospital's financial condition at the time of the termination of the complainant's employment was indeed serious. However, during the relevant period, the hospital took no other actions, nor prepared any plan, to cut-back on staff for reasons of "budgetary constraints" other than refusing to renew the complainant's contract.

(2) The hospital's administration was unable to provide any concrete evidence of poor performance by the complainant or any other explanation to support its decision to terminate his employment.

(3) The investigation revealed that, even if the Director had intended to dismiss the complainant in June, it is plausible that she already knew about the suspicions that the complainant had raised, and that her intention to terminate his employment in June resulted from that knowledge, which also explains why his contract was renewed for two months only and after that for only one month.

(4) It should be added that, after he was informed of his dismissal, the complainant gave testimony to the Police about acts of corruption that he alleged had been committed in the hospital. Following his testimony to the Police and other testimonies, the Police opened an investigation and an indictment was filed against the Director and other hospital employees.

### **3. The Ombudsman ruled that the complaint was justified.**

The Ombudsman's findings revealed that the complainant's disclosure in good-faith of the acts of corruption was the real basis for the non-renewal of his employment contract and that the reasons given by the hospital's administration were unfounded.

4. In light of this conclusion, it was necessary to determine the relief to be granted to the complainant.

Section 45C of the Law provides that the Ombudsman may "make any order he deems right and just", including "revocation of the dismissal or the award of special compensation to the employee, in money or in rights".

The complaint did not in fact involve actual dismissal, but the refusal to extend the special contract that had expired. However, the decision not to extend an employment contract must also be made in good faith and for reasons unrelated to the employee's reporting acts of corruption. Based on the circumstances described above, the Ombudsman was convinced, as noted, that the hospital's administration did not terminate the complainant's employment in good faith based on substantial grounds, but took this action only because the complainant had reported incidents of corruption.

The considerations to be taken into account by the Ombudsman are also set forth in the same section of the Law. The Ombudsman's order must "protect



the rights of the employee, having regard to the proper functioning of the body in which he is employed". The relationship between the complainant and the hospital's administration was problematic. The filing of indictments against those involved in the affair had increased the tension between the parties. Under these circumstances, it was felt that it would not be fitting or beneficial to order that the complainant continue to work in the hospital.

After considering all the circumstances, on May 21, 2001 the Ombudsman issued an order to the Ministry of Health, as follows:

After considering all the circumstances, I order the administration of the Ministry of Health to employ the complainant in the Ministry of Health pursuant to contract, in a place, for a period and under terms befitting the role of the complainant and the needs of the Ministry.

5. The Ministry of Health informed the Ombudsman that it would act in accordance with the Ombudsman's order.

# MINISTRY OF JUSTICE

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## **2. COLLECTION OF DEBT AFTER ISSUING NOTICE OF CLOSURE OF FILE AT EXECUTION OFFICE**

1. In March 2000, the complainant complained to the Ombudsman against the Execution Office in Tel-Aviv (hereafter – the Office). The details of her complaint are as follows:

(a) A file for the collection of a debt pursuant to a court judgment (hereafter – the debt) had been opened against the complainant in the Office.

(b) In January 2000, the complainant paid at the Postal Bank the entire sum of the debt, as specified in the warning the Office had sent her. After paying the debt, she called the national information center of the Execution Office in the Courts Administration to verify that the payment had been registered. She was told that "the file has a zero balance" and that she would be sent confirmation. On January 24, 2000 the information center sent her a notice indicating, inter alia, that the Execution Office's file had been closed the same day because "the debt balance was zero".

(c) Notwithstanding the notice, the complainant received a demand from the Office to pay an additional NIS 50 owed in the execution file. She paid this additional payment.

(d) In her complaint to the Ombudsman, the complainant protested the demand to pay a further sum of money after being informed that the execution file had been closed.

2. During the investigation of the complaint, the Office explained to the Ombudsman that execution files are in practice closed only thirty days after

the account is zeroed. This is to enable collection of additional sums to cover extra expenses incurred by the creditor in the proceedings for collection of the debt. The Office informed the Ombudsman that after the complainant had paid the amount of the debt, according to the warning on initiation of proceedings against her, the creditor also requested the Office to collect the costs of serving the warning, in the amount of NIS 50. The Chief Execution Officer approved this request on January 25, 2000 (the day after notification of closure of the file had been sent to the complainant). For this reason, payment was not demanded earlier.

3. The Ombudsman pointed out to the Office that the text of the notification of closure of the file misleads debtors who have paid the full amount of their debts. The notice states expressly that the execution file is closed while, in fact, debtors may be demanded to pay additional sums within the 30 days following payment of the debt. The Ombudsman therefore expressed his opinion that the text of the notice should be changed to make it clear that, even after full payment of the debt, additional sums may be demanded from the debtor and that the file will be closed only 30 days from the time that the account is zeroed.

4. Subsequently, the Courts Administration informed the Ombudsman that in September 2001, the text of the notice was changed and that debtors who have paid their entire debt are now informed as follows:

The execution file will be closed 30 days from the time the debt is zeroed. For your information, during this period further sums may be added to your debt in payment for proceedings that the creditor initiated against you. These sums will prevent closure of your file. Upon termination of the thirty days, please verify at the Execution Office or the information center that your file has indeed been closed.

### **3. INITIATING EXECUTION PROCEEDINGS AGAINST A PERSON WHO IS NOT THE DEBTOR**

1. In July 2000, the complainant complained to the Ombudsman against the Execution Office in Haifa (hereafter – the Office). The details of her complaint are as follows:

(a) At the end of June 2000, the complainant received notice from her bank that, following a declaration made by the Chief Execution Officer in Haifa that she was a "debtor of limited means", the bank had placed restrictions on her account, effective from July 7, 2000 to June 11, 2005 (the effect of the restrictions being that she could not open a checking account, draw checks and the like).

(b) Following receipt of the notice from the bank, the complainant filed, on June 27, 2000, an urgent application with the Execution Office to cancel the restrictions. She claimed that she was not the debtor in the execution file regarding which the restrictions were placed and was not connected with the file in any way.

(c) In her complaint to the Ombudsman, the complainant pointed out that she had not yet received a reply to her application to the Execution Office and requested that the Ombudsman order cancellation of the restrictions. During the investigation, the complainant also requested that the Execution Office compensate her for the expenses incurred and the mental anguish that she had suffered as a result of the baseless imposition of the restrictions.

2. The Execution Law, 5727-1967 (hereafter – the Law), authorizes the Chief Execution Officer, in the instances set forth in the Law, to declare a debtor a "debtor of limited means" and impose restrictions on him, including restricting him to the status of "customer restricted under special circumstances", within the meaning of the Checks Without Cover Law, 5751-1981.

3. Immediately upon receiving the complaint and in light of the harsh consequences of the declaration, the Ombudsman conducted an urgent investigation at the Execution Office. The investigation revealed that the restrictions were indeed mistakenly imposed on the complainant's account and that she was not the debtor in the relevant file, nor had any connection with the file. The Office informed the Ombudsman that following the application of the complainant to the Office and the pinpointing of the error, the Office took the necessary actions to nullify the declaration.

4. After finding that the declaration had indeed been cancelled, the Ombudsman conducted an investigation in the Office and in the Courts Administration as to the cause of the error.

The Ombudsman's investigation revealed the following:

(a) The execution file was opened against three debtors for failure to pay a debt pursuant to a court judgment. In the application to execute the judgment, which the creditor submitted to the Office when he opened the file, the creditor mistakenly recorded the identity number of the complainant rather than the identity number of one of the debtors (hereafter – debtor A), whose identity number was similar.

(b) During the execution proceedings in the file, the Chief Execution Officer decided on June 11, 2000, to declare debtor A a "debtor of limited means" and to impose the limitations on him as set forth in the Law, including the harsh bank restrictions.

(c) The Courts Administration procedures provide that when a debtor is declared a "debtor of limited means" and the restrictions are imposed on him, the Execution Office must verify his particulars, based on data registered in the Population Registry, before sending the declaration. The Office had indeed acted in accordance with this procedure and when the particulars of debtor A were compared with the data in the Population Registry, it was found that his name did not match the identity number recorded in the application to execute the judgment and that the identity number mentioned in the application belonged to the complainant. However, rather than properly investigate the explanation for this lack of

conformity and postpone imposition of the restrictions until the matter had been clarified, the name of the debtor recorded in the application was changed to that of the complainant in order to match the identity number recorded in the application. As a result, the restrictions were placed on the complainant rather than on debtor A.

**5. The Ombudsman ruled that the complaint was justified.**

The mistaken identity number was indeed given to the Execution Office by the creditor, but the failure of the Execution Office's staff to implement properly the procedures led to the restrictions being placed on the complainant, causing her expenses and mental anguish.

6. In light of the findings of the investigation, the Ombudsman requested the Courts Administration to consider the complainant's request for compensation.

7. Following the Ombudsman's request, the Courts Administration decided to compensate the complainant in the amount of NIS 1,500.

In addition, the Courts Administration informed the Ombudsman that it had issued the relevant directives to its employees to ensure that the defects in the handling of the complainant's case did not recur.

# MINISTRY OF THE INTERIOR

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## **4. UNAUTHORIZED USE OF POWER TO REFUSE ENTRY INTO ISRAEL**

1. The complainant complained to the Ombudsman against the Ministry of the Interior. The details of his complaint are as follows:

(a) The complainant and his wife invited their friend from Russia (hereafter – the friend) to visit Israel and stay at their home during his visit in the country, and bought a round-trip ticket for him. In preparation for the visit, the friend obtained a tourist visa at the Israeli embassy in Moscow.

(b) When the friend arrived on September 19, 1999 at Ben-Gurion Airport (hereafter – the airport), he was detained by the frontier control officer and questioned by a representative of the Ministry of the Interior, after which his visa was revoked. He was returned to Russia on the same airplane that had brought him to Israel.

(c) Meanwhile, the complainant and his wife were waiting at the airport for the arrival of their friend. When the friend failed to appear, the complainant checked with the airport administration about the reason for the delay. He was told that his friend had been refused entry and was already on the plane back to Russia.

(d) The complainant complained against the refusal to let the friend enter Israel and the manner in which the Ministry of the Interior and the Border Police behaved toward the friend: they refused his request to phone the complainant and his wife, who were waiting at the airport, his visa was revoked and he was immediately expelled to Russia while his luggage, which remained in Israel (apparently for examination), was delivered to him in Russia one week after he returned. The complainant contended that,

had the Ministry of the Interior allowed the friend to contact him, the complainant would have deposited any surety required to guarantee his friend's visit in Israel.

(e) The complainant also contended that the actions of the Ministry of the Interior and the Border Police caused him and his wife great mental anguish. They were prevented from hosting their friend even though they had purchased the plane ticket for him and spent time and money in preparing for his visit in Israel. In addition, their friend was returned in a humiliating fashion to Russia.

(f) In his complaint, the complainant requested reimbursement for the plane ticket that he had purchased for the friend, in the amount of \$467, and an apology from the relevant parties.

2. Section 9 of the Entry into Israel Law, 5712-1952 (hereafter – the Law) states:

When a person comes to Israel and requests entry, a frontier control officer may delay his entry until it has been ascertained whether he is permitted to enter, and he may indicate a place where such person shall stay until completion of such ascertainment or until his departure from Israel.

Section 11(a)(1) of the Law states:

The Minister of the Interior may at his discretion –

(1) cancel any visa granted under this Law, either before or on the arrival of the visa holder in Israel;

Section 16(a) of the Law states:

The Minister of the Interior may delegate to another person all or any of his powers under this Law, except the power to make regulations; notice of any such delegation of powers shall be published in *Reshumot*.

The sections quoted above indicate that the authority to delay the entry of a person into Israel rests with the frontier control officer and the authority to



cancel a visa is vested in the Minister of the Interior or a person to whom he has delegated his authority. In an announcement in *Yalkut HaPirsumim* [Compilation of Notices], the Minister of the Interior delegated his authority pursuant to several sections of the Law, including the authority to revoke visas, to the following officials of the Ministry of the Interior: Director-General, Director of the Population Administration, Deputy Director of the Population Administration, Supervisor of Visas and Foreign Persons, Deputy Supervisor of Visas and Foreign Persons and Director of the Population Administration at the airport.

3. The Ombudsman's investigation revealed the following:

(a) The friend arrived at the airport with a seven-day visa stamped in his passport. He had received the visa, as mentioned, at the Israeli embassy in Moscow. After the frontier control officer of the Israel Police Force delayed the friend's entry into Israel, the friend was questioned by both frontier control officers and a representative of the Minister of the Interior. At the end of the inquiry, his visa was revoked and he was returned to Russia on the airplane that had brought him to Israel.

(b) The "Report on a Passenger via a Border Station", prepared by the frontier control officer, states that the friend was questioned and "apparently had arrived with the objective of working and staying illegally. His entry was denied by the representative of the Ministry of the Interior who was present ... He left on the airplane on which he had arrived".

(c) The "Refusal of Entry" form (hereafter – the refusal form), which the Ministry of the Interior representative completed, states that the reason for refusal was the doubts raised regarding the friend's purpose in coming to Israel.

(d) The Supervisor of Visas and Foreign Persons in the Ministry of the Interior informed the Ombudsman that, in her opinion, the reasons given in the refusal form justified revocation of the visa and denial of the friend's entry to Israel.

(e) Regarding the complainant's contention that the Ministry of the Interior representative refused to grant the friend's request to phone the complainant and his wife at the airport, the Ministry of the Interior explained to the Ombudsman that the Ministry of the Interior representative usually grants such requests. It is possible, even though the refusal form does not mention it, that the friend asked to phone but the Ministry of the Interior representative did not grant his request because of time constraints and because a person who is refused entry must leave the country on the plane on which he arrived. The Ombudsman's investigation revealed that the friend arrived in Israel at 10:00 A.M. and the return flight took off at 12:11 P.M.

It should be noted that the Ministry of the Interior's internal procedures regarding refusal of entry into Israel provide that if a person entering Israel presents the telephone number of a person in Israel, that individual should be contacted and asked about the person wanting to enter the country.

4. (a) The Ombudsman concluded that the Ministry of the Interior representative's judgement regarding cancellation of the visa was not refuted, considering the data that she had at the time. Therefore, the Ombudsman did not see reason to object to her decision.

(b) However, the investigation revealed that the Ministry of the Interior representative was not authorized to revoke the friend's visa. As mentioned above, the authority to cancel a visa is given by law to the Minister of the Interior or to a person to whom the Minister so delegates it. The Ministry of the Interior representative at the airport is not among those officials to whom the Minister of the Interior delegated this authority.

(c) The Ombudsman pointed out to the Ministry of the Interior the said flaws in the action taken by the Ministry of the Interior representative at the airport.

(d) The Ombudsman also ruled that, despite the explanations of the Ministry of the Interior, the Ministry of the Interior representative should have allowed the friend to telephone the complainant. Clarifying the matter

with the complainant would have shed light on the reasons for the friend's coming to Israel and the purpose for his stay in the country.

Following the Ombudsman's request, the Ministry of the Interior decided to reimburse the complainant and his wife the \$467 cost of the airplane ticket that they had purchased for the friend, as requested.

# MINISTRY OF TRANSPORTATION

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## **5. LICENSING AUTHORITY – MALTREATMENT FOLLOWING EXPOSURE OF ACTS OF CORRUPTION**

1. (a) In November 1999, the complainant, a driving-test examiner for the Licensing Bureau in the Haifa and Northern District (hereafter – the Licensing Bureau), complained to the Ombudsman against the Director of the Licensing Bureau (hereafter – the Director). He contended that the Director had refused to give him a recommendation to obtain a driver's-education teaching license (hereafter – the teaching license). The reason for the refusal, the complainant contended, was that he had in the past exposed acts of corruption in the Licensing Bureau and assisted the Police in investigating a suspected case of bribery within the Bureau (hereafter – the bribery).

(b) The complaint was investigated pursuant to Sections 45A-45E of the State Comptroller Law, 5718-1958 [Consolidated Version] (hereafter – the Law), which deals with the complaint of a civil servant regarding violation of his rights by his superior in reaction to the employee's reporting, in good faith and in accordance with proper procedure, acts of corruption committed in the body in which he works.

2. The Ombudsman's investigation revealed the following:

(a) In 1995, the complainant discovered acts of corruption in the Licensing Bureau, including the payment of bribes to driving-test examiners. He immediately notified the Director. When, in his opinion, the Director failed to take the necessary measures, he filed a complaint with the

Police and gave testimony. The Police investigation led to the filing of indictments and the suspension of examiners who were found to have been involved in the bribery. The Director was among those arrested on suspicion of involvement in the bribery, but he was released after being questioned and no legal proceedings were initiated against him.

(b) According to the complainant, the Director had mistreated him from the time that he had assisted the Police in its investigation: in the past he delayed his promotion and was now refusing to give him a letter of recommendation to obtain the teaching license (hereafter – the letter of recommendation).

(c) The Director contended before the Ombudsman that there was no connection between his refusal to give the letter of recommendation and the complainant's exposure of the acts of corruption. Rather, the reason for his refusal was that during the previous year, the complainant had been involved in six traffic accidents while working as a driving-test examiner and also that the complainant was not a man of honesty and integrity, attributes which are prerequisite to receiving a teaching license.

3. (a) Section 250(b) of the Traffic Regulations, 5721-1961 states:

The Licensing Authority may, at its discretion, exempt an applicant for a license [teaching license], who served in the Licensing Bureau as a driving-test examiner or driving-instructor examiner, and who actually worked in the position of authorizing drivers or driving instructors for a period of at least five years prior to the submission of the application and upon the recommendation of the Bureau's Director, from the conditions set forth in Section 247 and 248, in whole or in part, except for the condition set forth in Section 248(a)(3).

(b) The Licensing Authority's policy of giving a letter of recommendation to driving-test examiners to obtain a teaching license, according to the provisions of Section 250(b), was determined in a meeting with the Director-General of the Ministry of Transportation, as follows:

It is agreed that, regarding a driving-test examiner who has worked for five years and has been recommended by his superior [letter of recommendation], a letter stating that he is entitled to a teaching certificate will be prepared and placed in his personal file, but he will receive it after a cooling-off period, as stated in the law.

4. During the investigation of the complaint, the Ministry of Transportation's administration instructed the Director to meet with the complainant, inform him of the reasons for refusing to provide the letter of recommendation and enable him to state his arguments in the matter.

The meeting took place on December 21, 2000 during which the Director mentioned the above-stated reasons for refusing to provide the letter of recommendation: the complainant's involvement in six traffic accidents during driving tests in the past year and his lack of honesty and integrity.

5. (a) The Ombudsman's investigation revealed that the complainant had worked as a driving-test examiner for more than eight years to the satisfaction of his immediate superior who had no criticism of his performance throughout the years.

(b) Regarding the reason concerning the traffic accidents – the Ombudsman received reports on the accidents in which the complainant was involved in 1999-2000. They indicated that some of the "accidents" were minor (i.e., scrapes to the hubcap of the car's wheel and to its tire when it rubbed against the curb) and the others were classified by the chief examiner, who is the complainant's immediate superior, as unavoidable.

(c) Regarding the contention concerning the complainant's honesty and integrity – the Ombudsman's investigation revealed that the Director's claims on this point relate to the accusations that the complainant had raised against him in the bribery matter and to the complainant's letter of May 1999, in which he had alleged that the Director used the Bureau's car in violation of the Civil Service Regulations.

As mentioned above, the Police questioned the Director in the bribery matter and took no measures against him. The Ministry of Transportation checked the complainant's contentions on use of the Bureau's vehicle and informed the complainant that the Licensing Division's administration had approved the Director's use of the vehicle.

**6. The Ombudsman ruled that the complaint was justified.**

(a) The investigation's findings revealed that the reason given by the Director concerning the accidents in which the complainant had been involved was unfounded and did not justify his refusal to provide a letter of recommendation. The work of a driving-test examiner inherently entails much travel with inexperienced drivers and the insignificant "accidents" that took place during the tests did not testify to his lack of skill. Some of the accidents, as the chief examiner had noted, were unavoidable.

(b) The circumstances of the case indicated that the claim concerning the complainant's lack of honesty and integrity was nothing more than the director's "getting even" with the complainant, and did not result from a genuine concern about the ethics of driving-test examiners.

(c) The Ombudsman ruled that the real reason for refusing to provide the letter of recommendation was the complainant's reporting, in good faith and in accordance with proper procedure, the acts of corruption that were committed in the Licensing Bureau regarding the bribery and his testimony to the Police in that matter.

7. In light of the aforesaid, the Ombudsman, pursuant to his authority under Section 45C of the Law, ordered that the Licensing Authority reconsider the complainant's request for a letter of recommendation to obtain a teaching license and that the decision be made by a person appointed as the Bureau's Director for that purpose only.

8. The Licensing Bureau informed the Ombudsman that, following the Ombudsman's ruling, the Licensing Authority reconsidered the complainant's request and provided him with a letter of recommendation to obtain the teaching license.

# MINISTRY OF TRANSPORTATION AND ISRAEL POLICE FORCE

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## **6. ISSUING PARKING TICKETS TO DISABLED PERSONS WHOSE VEHICLES BEAR STICKERS FOR THE DISABLED**

1. The complainant filed a complaint with the Ombudsman against the Israel Police Force and the Ministry of Transportation. The details of his complaint are as follows:

(a) The complainant is a disabled person who received a disabled-person's sticker for his car. The stickers are issued pursuant to law to a person recognized by law as disabled, allowing him to park in places where parking is forbidden to the general public.

(b) On November 12, 2000 the complainant's car, which was parked at Ben-Gurion Airport in a place designated for disabled persons, was towed away by the Police even though it bore a disabled-person's sticker. The complainant wandered around the area in an effort to locate his towed car and even had to pay the towing costs.

The complainant learned that his car was towed away because it did not appear in the Police's records as a disabled-person's vehicle.

2. The Ombudsman's investigation revealed the following:

(a) The Disabled Persons Parking Law, 5754-1993 provides that a person who has a disabled-person's sticker is entitled to park his vehicle, bearing



the sticker, in a place where parking is not allowed, provided that the conditions and restrictions laid down by law are met.

The first schedule to the Traffic Regulations, 5721-1961 provides the reduced-price annual licensing fees for a motor vehicle registered in the name of a disabled person and his spouse (hereafter – the disabled-person's fee).

The Ombudsman received similar complaints from disabled persons whose cars bore disabled-person's stickers but were nevertheless issued parking tickets by the Police and municipal parking authorities for parking in places where disabled persons were allowed to park.

(b) The investigation at the Ministry of Transportation revealed the following:

The Ministry of Transportation does not have a data bank of all holders of disabled-person's stickers. It has a directory that indicates the licensing fee paid for every motor vehicle (hereafter – the motor-vehicle directory). The motor-vehicle directory indicates the disabled persons who have paid the disabled-person's fee.

A person who is entitled to pay the disabled-person's fee is also entitled to receive a disabled-person's sticker, but not every person who is entitled to a disabled-person's sticker is entitled to pay the disabled-person's fee. Some disabled persons entitled to a disabled-person's sticker pay the full vehicle-licensing fee and are not, therefore, recognized as disabled persons in the motor-vehicle directory. The motor-vehicle directory indicates, as noted, only the disabled persons who have paid the disabled-person's fee.

The Ministry of Transportation forwards the motor-vehicle directory to the Police and updates it weekly. Furthermore, in response to computerized queries received from municipalities, the Ministry of Transportation provides information from the motor-vehicle directory that includes details of the owner of the vehicle and whether the disabled-person's fee was paid.

The Ministry of Transportation is developing a computerized information system that will include the entire list of persons entitled to a disabled-

person's sticker and hopes that it will attain the requisite budget to complete the project during 2002.

(c) The investigation concerning the Police revealed the following:

According to Police procedures regarding the issue of parking tickets, a disabled-person's vehicle is identified by the disabled-person's sticker on the vehicle. However, parking tickets are issued to a disabled-person's vehicle that is parked where a disabled person is allowed to park if the number of the vehicle recorded on the sticker does not conform to the license plate of the vehicle, or in instances in which the disabled-person's sticker is not signed by the Ministry of Transportation. Police officers are instructed in such cases to check firstly the vehicle's details in the motor-vehicle directory. This check is performed because the Police are aware that disabled-person's stickers are often misused.

The Police informed the Ombudsman that in practice, because of suspected forgeries, police officers check every parked vehicle that bears a disabled-person's sticker to see if it appears in the motor-vehicle directory. The Police are aware that not every holder of a bona fide disabled-person's sticker for a disabled-person's vehicle appears in the directory. Therefore, a parking ticket is issued to a motor-vehicle owner whose name does not appear in the directory, but when the owner provides the Police with a signed disabled-person's sticker, the ticket is nullified.

### **3. The Ombudsman ruled that the complaint was justified.**

The investigation revealed that the Police rely on an incomplete data bank and issue parking tickets to disabled-persons' vehicles that properly bear the disabled-person's sticker for parking where disabled persons are allowed to park, placing the burden on the disabled person to nullify the ticket. In some cases, persons with mobility disability even have to look for their towed car.

4. The Ombudsman pointed out to the Police that, as long as the Ministry of Transportation's motor-vehicle directory does not include all information relating to persons entitled to a disabled-person's sticker, the Police should

not relate to it as a comprehensive directory and should not issue parking tickets based solely upon it.

However, police officers should be given the discretion to issue parking tickets when they have additional information raising the suspicion that the sticker on the vehicle was not issued legally to the owner of the vehicle.

5. It should be noted that the relevant auditing division in the State Comptroller's Office monitored the preparation of the Ministry of Transportation's computerized information system on persons entitled to a disabled-person's sticker. The division was informed that the system has been installed and is operating on a trial basis. The Ombudsman indicated to the Ministry of Transportation that it should complete the system as soon as possible. The State Comptroller's Office will continue to monitor the Ministry of Transportation's activities in this matter.

# ISRAEL POLICE FORCE

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## **7. THE CRIME REGISTER**

1. The Crime Register and Rehabilitation of Offenders Law, 5741-1981 (hereafter – the Law), requires the Police to maintain a Crime Register containing particulars of convictions and sentences imposed on a person by a court or tribunal and of other decisions of the court or tribunal relating to the individual's case, such as probation orders, community service orders, etc.

In accordance with the Law the Police maintain, in addition to the Crime Register, a Police Register that contains, inter alia, information on investigation files that have been opened and on closed files.

The Law provides that the Crime Register and Police Register be confidential. Information from these registers may be transmitted, pursuant to the Law, only to authorities, officials and for the purposes mentioned in the Law. Section 12(a) of the Law states that every person is entitled to study the Register's information relating to him personally.

The Law also deals with the rehabilitation of offenders, that is, determining periods from the time the judgment or ruling is given, after which there is a restriction on providing information to the bodies and for the purposes mentioned in the Law (hereafter – the prescription period). When the number of years determined in the Law has passed from the expiration of the prescription period, the conviction is deemed obliterated and no information about it may be given except to certain bodies that are enumerated in a schedule to the Law and to the Attorney General (hereafter – the obliteration period). At the end of the prescription period, the obsolete information may not be taken into account by the entities that would have

been entitled to obtain the information were it not for the prescription, even if they have the information. Furthermore, a person who has information that has become obsolete is not obligated to forward it to a person who is not permitted to take it into account.

At the end of the obliteration period, the relevant person shall be deemed not to have been convicted and information on the obliterated conviction will not be taken into account as regards any law. Also, evidence that reveals a conviction that has been obliterated will not be admissible.

Section 18 of the Law states that the President of the State may shorten the prescription period and the obliteration period and apply the shortened periods to anyone who has committed one of the offenses enumerated in Section 17 of the Law.

It should be noted that, even after the prescription and obliteration periods have passed, the records in the Crime Register and Police Register remain and certain bodies are allowed to obtain the information for the purposes set forth in the Law.

2. The Ombudsman received several complaints concerning the Crime Register. Some of the complaints related to the manner in which the records were maintained and to the right of a person to whom the record concerns to study the record and obtain a printout of it. Some of the complaints related to the updating of the crime or Police records in the Register. The following is a description of the handling of some of these complaints that were investigated over the past year.

#### **Separation of records that have passed the prescription period or the obliteration period from other records in the crime register**

1. The complainant applied for work in governmental and public institutions and was requested to provide confirmation that he did not have

a criminal record. He went to the Police on July 18, 2000 and obtained a printout of the information in the Crime Register and the Police Register that related to him. At the top of the printout, it was noted that no information on a criminal record was found. However, when he studied the printout, he was surprised to see that the document contained details of a conviction for an offense that he had committed in 1989 as to which the President of the State had shortened the prescription period and the obliteration period.

The complainant filed a complaint with the Ombudsman on August 7, 2000, contending that information in the printout caused him injury – because of the record of the acts that he had committed as a youth, he was unable to obtain employment at the institutions to which he applied, although he had the qualifications for the job.

2. In its response to the Ombudsman's request of September 24, 2000, the Police replied on October 17, 2000 that the information in the Register that is provided pursuant to the right of a person to study the record relating to him is intended for his use only and not for the study of other persons or bodies, not even those that are entitled by the Law to receive information from the Register. The reason for this, the Police contended, is to maintain the confidentiality of the information in the Register and to prevent harm to a person whom the Law seeks to protect. In any event, the Police added, on the printout it is impossible to separate the records that have passed the prescription period or the obliteration period from the other records in the Crime Register.

The Ombudsman was not satisfied with the Police's response and on November 15, 2000, he asked the Police why it was impossible to separate the different kinds of records on the printout so that the complainant would be able to present others with the information that is relevant to them, while obtaining for his own use all the information relating to him.

The Ombudsman drew the Police's attention to a High Court of Justice decision, in which the court ruled that the very distinction between the two data bases – the Crime Register and the other records that the Police

maintain – requires that the Police maintain each of the data bases in separate directories, bearing suitable names. The decision pointed out that the State Attorney's Office had stated that a directive had been given to the computer unit according to which "it will not be possible in the future to extract the two kinds of records from the computer on one printout in which the various records are arranged in chronological order".

Although the manner of recording today is different, each kind of record bearing a separate title, however, the two kinds of recordings – the Crime Register and the Police Register – are still printed on one computer printout. The Ombudsman pointed out to the Police that printouts for the two data bases must be completely separate, so that two separate computer printouts are extracted – one containing the information that is in effect in the Crime Register and the second containing the information in the Police Register, which includes the other kinds of records.

3. During the investigation of the complaint, the Police informed the Ombudsman on January 31, 2001, that the Ministry of Justice was about to publish a proposed bill amending the Law. The bill expressly provides that a person asking to study the information relating to himself in the Crime Register is totally prohibited from obtaining a printout of the records in the Register. The purpose of the amendment is to prevent individuals and entities that are not entitled to receive the information by Law from obtaining the information through a person who is entitled to receive it. Therefore, the Police argued, even if the amendment is enacted, a person will be unable to obtain a printout, thus rendering it unnecessary to discuss how the information should be presented.

4. The Ombudsman's investigation at the Ministry of Justice, on March 18, 2001, revealed that the proposed bill amending the Law is still in the preparatory stages and is in any case only a proposal. Thus, there is no guarantee that it will be enacted.

The Ombudsman also learned that on March 12, 2001, a petition was filed in the High Court of Justice in a matter identical to that of the complainant.

Following filing of the petition, the Police, in consultation with the State Attorney's Office, decided that every person who requests information from the Crime Register may choose to obtain the complete printout of information in the Registers, including the information in the Police Register, or only a printout of the information from the Crime Register.

Following this decision, the petition was dismissed.

5. After another request by the Ombudsman to the Police in the matter of the complaint, the Police informed the complainant on May 14, 2001, that he would be able to choose whether to receive a complete printout of the information in the Register, or a printout containing only the valid information from the Crime Register.

#### **Separation between the police investigation-file records and the crime register**

1. The complainant applied for a job and was requested to provide certification that he had no record in the Crime Register. He went to the Police and was given a full printout, including details on investigation files that had been opened against him in the past and had been closed for some time.

The complainant contended that the complaints on which the investigation files were opened against him were baseless, as became evident during the investigations, and were consequently closed. Therefore, information about them should not be included in the printout that the Police issued.

On March 14, 2001, the complainant requested the Ombudsman to order that the details on the investigation files be deleted from the Crime Register printout.



2. As explained above, the information and details relating to closed investigation files are registered in the Police Register and not in the Crime Register.

3. In its response to the Ombudsman on May 14, 2001, the Police stated that the complainant had indeed received, as he was entitled to by law, a document that enumerated all the types of records, but it was also possible for him to obtain a printout containing only the valid information in the Crime Register.

4. On September 11, 2001, the Ombudsman again wrote to the Police requesting details on its arrangements for providing separate printouts.

On November 7, 2001, the Police informed the Ombudsman that it had initiated the development of new computer software enabling it to produce two printouts – one in which only the details from the Crime Register would appear and the second, which would include all the details of the records, both of the Crime Register and the Police Register. It had also instructed all the Police stations regarding the matter and had even prepared an information sheet for the public.

### **Revision and correction of the registries**

The Ombudsman's Annual Report 20 published the findings of an investigation of a complaint in which it was contended that the records in the Register relating to the complainant were baseless. The complainant contended that his requests to the Police to delete the records were rejected on the grounds that the investigation files had been burned and it was thus impossible to check his contentions.

The Ombudsman recently investigated a complaint in a similar matter. The details of the case are as follows:

1. The complainant applied for a job at a certain company and was requested to provide certification that he did not have a criminal record. When he received the Register printout from the Police, he was surprised to see that convictions were registered on his name for offenses committed since 1951. Not only had the period of obliteration already passed, but the records were defective and were totally groundless since he had never committed such offenses.

According to the printout, the complainant had been tried in the Magistrate's Court in Tiberias, the Juvenile Court had sentenced him to imprisonment in institutions for youth offenders and his occupation was "raw-metal processor".

The complainant contended that he had never been in the places stated in the printout, had never been tried by any court and that his occupation was not "raw-metal processor". He had worked as a clerk during the relevant periods and later at security institutions, some of which were classified and thus it was impossible that his earlier security checks had not revealed his "criminal past" as recorded in the printout, if he had such a past.

The complainant requested the Police Commissioner to delete the records. The Police responded that because of the time that had passed since the events had taken place and because the files had been destroyed, the Police were unable to check his contentions.

The complainant requested the Ombudsman to order the deletion of the faulty records, which had caused him embarrassment, mental anguish and injury. He attached to his complaint documents verifying his contention that he had worked as a clerk at the time he was allegedly in institutions for youth offenders, certification that he had worked at a governmental institution from 1964 to 1966 and certification from the security officer where he had previously worked that they had not received any information about his having a criminal record.

2. In its response to the Ombudsman, the Police reiterated, as it had stated to the complainant, that because the material had been destroyed, it was now impossible to check his contentions.

Documents provided by the Police to the Ombudsman in the course of the investigation indicated that the Police receive requests of this kind from time to time and that the Police always give the same answer, i.e., because the documents have been destroyed, it is impossible to investigate the request.

3. Section 9 of the Crime Register and Rehabilitation of Offenders Regulations, 5756-1986, enables a person to request correction of a mistake in the Register or information provided from it and to attach documents in support of his request.

4. The Ombudsman wrote to the Head of the Police Investigations Division, pointed out that the said Section 9 enables a person to make a request for correction of a mistake in the Register even in cases where the documents have been destroyed and observed that the fact that the documents had been destroyed was insufficient reason to deny the request.

Following the Ombudsman's investigation regarding the Police and the Ministry of Justice, the Police informed the Ombudsman that they would inform the complainant that if he provided affidavits and documents (in addition to those that he had previously sent directly to them) to prove his contentions, the Head of the Investigations Division would reexamine the matter.

5. Later, after the complainant submitted additional documents to the Police, the Police informed the Ombudsman that the Head of the Investigations Division had ordered that the records in the Crime Register relating to the complainant be nullified and notice of such was sent to him.

The Police also stated that they agree with the comment made by the Ombudsman regarding interpretation of Section 9 of the Crime Register and Rehabilitation of Offenders Regulations and that the Police now act in accordance therewith.

**6. The Ombudsman ruled that the complaint was justified.**

In the opinion of the Ombudsman, if the Police had been of the opinion that the documents provided by the complainant were insufficient, it should

have notified him that his request would be denied unless he provided additional documents to verify his contentions. The Police should not have rejected the request for the mere reason that it was impossible to check his contention because the documents had been destroyed.

# LOCAL AUTHORITIES

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## **8. EXERCISING THE RIGHT OF A DISABLED PERSON TO A REDUCTION IN MUNICIPAL TAXES**

1. The complainant filed a complaint with the Ombudsman against the Holon Municipality (hereafter – the Municipality) for refusing to reimburse him for the excess levying of municipal taxes. The details of his complaint are as follows:

In 1989, the National Insurance Institute recognized the complainant's wife as a disabled person entitled to a 100% disability allowance.

In the year 2000, the complainant learned that over the years, the Municipality had collected the full amount of municipal taxes on their apartment even though his wife was entitled to a reduction in municipal taxes since 1989 because of her disability.

The complainant requested that the Municipality reimburse him retroactively for the amount of the reduction to which his wife was entitled. However, the Municipality approved a reduction for the year 2000 only and refused to reimburse him for the excess payments in previous years. The Municipality based its refusal on the failure of the complainant's wife to request the reduction during those years.

The complainant requested that the Ombudsman order the Municipality to reimburse him the excess sums of municipal taxes that it had collected in the past due to its failure to grant the reduction to his wife.

2. The Ombudsman's investigation revealed the following:

(a) Regulation 2 of the State Economy Arrangements Regulations (Reduction in Municipal Taxes), 5753-1993 (hereafter – the Arrangements

Regulations), provides that the Local Authority's Council may determine a reduction in municipal taxes for occupiers of property who meet the conditions set forth in the regulation.

Regulation 2(2) of the Arrangements Regulations provides that a reduction will be granted to a disabled person who is entitled to a full monthly allowance from the National Insurance Institute and whose earning incapacity is 75% or above.

Regulation 4 of the Arrangements Regulations, which deals with the request to obtain the reduction, states:

(a) Reductions that the Council has determined pursuant to Subregulations 2(3) to (6) and (8) to (10), and Regulation 3, or reductions that it has determined in reliance on conditions or secondary tests that are laid down as stated in Regulation 2A, shall be granted in accordance with a signed request submitted by the applicant to the Local Authority on Form 1 in the Second Schedule, including the details included therein in accordance with Regulation 19.

(b) Where a reduction has not been granted or an error has occurred in determining the amount of the reduction to a person entitled pursuant to Regulations 2(1)(2) or (7), he may also submit such a request.

(b) In response to the Ombudsman's inquiry, the Municipality stated that it receives from the National Insurance Institute lists of the disabled persons entitled to full monthly allowances; the name of the complainant's wife had been included in the said list at least since 1995 and for this reason, she was indeed entitled to a reduction as set forth in Regulation 2(2).

Despite this, the Municipality contended that since 1996, it has attached to the municipal tax bill a pamphlet enumerating the rights and obligations of residents, including the right to a reduction in municipal taxes. Thus, the complainant's wife should have known, at least since 1996, of her entitlement to a reduction and since she did not receive the reduction, she

should have requested it. Having failed to submit a request, she was not entitled to a reduction for the previous years.

(c) Study of the Arrangements Regulations indicates that the requirement that a request be submitted to obtain a reduction, stated in Regulation 4(a), does not apply to reductions pursuant to Regulation 2(2). With regard to this regulation, *the entitled person may submit a request* as stated in Regulation 4(b) but is not obligated to do so in order to obtain the reduction.

It was therefore the Municipality's duty to ensure that the right of the complainant's wife be exercised, based on the lists of disabled persons that it receives from the National Insurance Institute, even if she did not request it. When the complainant pointed out the error to the Municipality, the latter should have granted the reduction to his wife, even though a formal request had not been submitted, and it should have done so retroactively.

3. After the Ombudsman informed the Municipality of its position as mentioned above, the Municipality informed the Ombudsman that the Ombudsman's position had been presented to the Municipality's legal advisor and had been accepted. As a result, the Municipality reimbursed the complainant's wife with the excess payments that it had collected from her since 1993, the year that the Arrangements Regulations were enacted. The excess payments were reimbursed together with linkage differentials and interest at the rate of 0.5%, pursuant to the Local Authorities (Interest and Linkage Differentials on Compulsory Payments) Law, 5740-1980.

## **9. STIPULATING GRANT OF CERTIFICATION OF RESIDENCY UPON PAYMENT OF FEES**

1. The complainant, a resident of Mitzpeh Ramon, complained to the Ombudsman against the Mitzpeh Ramon Local Council (hereafter – the

Council) for refusing to issue him certification that he is a Council resident (hereafter – certification of residency). The details of his complaint are as follows:

(a) The complainant, who lives with his family in Mitzpeh Ramon, requested the Council to issue him a certification of residency, which he needed to obtain a reduction in income tax.

(b) The complainant contended that the Council based its refusal to issue the certification of residency on his failure to pay the cultural activities and the "Karev Fund" fees (hereafter – the payments) that he was obligated to pay as a parent of a child attending a school within the Council's jurisdiction.

The complainant contended that the payments are defined in the circular of the Director-General of the Ministry of Education as voluntary payments and not as compulsory payments and that the Council is not allowed to stipulate issuance of the certification of residency on making a payment that is purely voluntary.

2. The Ombudsman's investigation revealed the following:

(a) The Council did not question the residency of the complainant, but contended that a certification of residency is issued in accordance with the Council's internal procedure. The procedure states that the payment of fees and taxes indicates actual residency and is a condition for obtaining a certification of residency. The Council further contended that the Parents Committee had decided to collect the payments from the parents and requested the Council to enforce collection, the Committee's decisions binding both the parents and the Council.

The Council did not refer the Ombudsman to any provision of law that allows it to stipulate issuance of a certification of residency upon payment of Council fees and taxes, much less voluntary payments such as those that the complainant was demanded to pay.

(b) Section 3(a) of the Mitzpeh Ramon Municipal By-Law (Certification Fee), 5725-1965 (hereafter – the By-Law) states:



A person requesting a certificate from the Head of the Council shall pay the Council a fee in the amount set forth in the Schedule.

Section 1 of the By-Law defines "certificate" as "a certification in writing in any matter within the authority of the Council".

(c) It should be noted that the Ministry of Education explained to the Council that it is illegal to stipulate the issuance of the certification of residency upon the making of the payments.

### **3. The Ombudsman ruled that the complaint was justified.**

The Ombudsman ruled that the Council had no legal basis authorizing it to stipulate issuance of the certification of residency upon the making of any payment, even a compulsory payment. The Council is only authorized to demand payment of the fee for providing the certification as set forth in the By-Law.

4. Therefore, the Ombudsman indicated to the Council that it must immediately issue a certification of residency to the complainant upon his paying the fee set forth in the By-Law.

5. The Council informed the Ombudsman that it had acted in accordance with the Ombudsman's ruling.

## **10. FAILURE TO PAY FULL WAGES TO A YOUTH EMPLOYED IN CHILDCARE FOR AN UNDERPRIVILEGED FAMILY**

1. In August 2000, the complainant filed a complaint with the Ombudsman against the Social Services Department of the Rechasim Local Council (hereafter – the Department). The details of her complaint are as follows:

(a) When the complainant was seventeen years old, she was employed by the Department to look after the children of a family that was in the Department's care. She worked four months, four days a week, three hours a day and received a fixed salary of NIS 500 a month.

After working for about four months, the complainant realized that her salary was approximately one-half of the minimum wage to which an employee is entitled and so she resigned from the job.

(b) In her complaint to the Ombudsman, the complainant contended that the Department had paid her less than the amount set in the Minimum Wage Law and had not paid her travel expenses to and from work. She requested that the Ombudsman instruct the Department to pay her the amounts to which she was entitled by law.

2. The Ombudsman's investigation revealed the following:

(a) The Department contended before the Ombudsman that before the complainant began to work, the Department's social worker had offered her orally a fixed monthly salary of only NIS 500, owing to budgetary constraints of the Department.

At first, the complainant's family did not consent to her working for that pay. Later, however, the complainant and her mother went to the Department on their own initiative and requested that the complainant be given the job, according to the terms and wages offered by the Department.

(b) Section 12 of the Minimum Wage Law, 5747-1987 provides that the right of an employee under that law is not subject to conditions or waiver.

(c) The Minimum Wage Regulations (Working Youth and Trainees), 5748-1987, defines a "working youth" as an employee who is under the age of eighteen. Regulation 6 of the Regulations provides that a full-time position is forty working hours a week and if a youth is hired for part-time work, he is entitled to the proportional share of the minimum wage. The Regulations further state that the minimum wage for youth over the age of seventeen is 83% of the minimum wage.

(d) Regarding the travel expenses to and from work – according to Collective Agreement 7017/97, which was extended by an extension order of May 8, 1997 and by customary practice, every employee who requires transportation to reach his workplace is entitled to receive from his employer his travel expenses, up to a maximum of NIS 15.58 a day.

3. In light of the above, the Ombudsman pointed out to the Head of the Rechasim Local Council that, pursuant to Section 12 of the Minimum Wage Law, referred to above, the complainant's consent is not to be deemed waiver of her right to receive the entire amount to which she is entitled pursuant to the Law. Therefore, the Council must pay the complainant the difference between the amount she was paid and the statutory amount to which she was entitled, based on the proportion of hours she worked, as well as her travel expenses to and from work.

4. The Rechasim Local Council informed the Ombudsman that it had paid the complainant on July 2, 2001 the wages owing to her, in the amount of NIS 786, and on August 15, 2001 it had paid her travel expenses in the amount of NIS 210.

## **11. CHARGING A PHOTOCOPYING FEE WITHOUT AUTHORIZATION BY LAW**

1. In March 2001, the complainant filed a complaint with the Ombudsman against the Yizraelim Local Planning and Building Committee (hereafter – the Committee) which had demanded that he pay NIS 50 (hereafter – the amount) for photocopying four pages of the Town Building Plan Code, which the complainant had photocopied at the Committee's office.

2. The Committee contended before the Ombudsman that "the cost for providing statutory information (due to the responsibility inherent in providing it) is different from that of the regular photocopying of a

document". However, the Committee decided that from April 2001, the charge would be reduced to NIS 20 for photocopying a document of up to five pages and NIS 50 for photocopying a document of five pages or more.

3. (a) Section 1(a) of the Basic Law: The State Economy states that taxes, compulsory loans and other compulsory payments shall not be imposed and their amount shall not be changed, except by law or pursuant thereto; the same applies for fees.

(b) Regulation 4 of the Planning and Building Regulations (Provision of Information), 5748-1989, states only the amount of the fee for requesting information *in writing* from the local committee, and as long as no law or regulations include a similar provision relating to studying documents, including, as a matter of course, photocopying the documents that a person has the right to study, the Committee does not have the authority to demand such payment or fix its amount.

**4. In light of the above, the Ombudsman ruled that the complaint was justified.**

5. The Ombudsman pointed out to the Committee that it is not authorized to charge a fee for photocopying a document for which no provision is made by law, and that it must reimburse the complainant the amount that it unlawfully collected from him for photocopying four pages from the Town Building Plan Code.

6. The Committee informed the Ombudsman that it had acted in accordance with the Ombudsman's ruling.

# NATIONAL INSURANCE INSTITUTE

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## **12. REDUCTION OF INCOME SUPPORT BENEFIT ON GROUNDS OF SAVINGS DESPITE ATTACHMENT ON SAVINGS**

1. In November 2000, the complainant filed a complaint with the Ombudsman against the National Insurance Institute (hereafter – NII). The details of his complaint are as follows:

- (a) In August 1998, the complainant began to receive an income support benefit from the NII as a result of his being unemployed.
- (b) In July 2000, the NII's branch office in Haifa (hereafter – the branch office) requested the complainant to submit updated information on his savings accounts. The complainant provided the NII with the requested information. In August of that year, the NII reduced his benefit by NIS 1,000 without giving him notice of the reduction. When the complainant telephoned the branch office, he was informed that the benefit had been reduced because of the savings in his and his wife's bank accounts.
- (c) The complainant wrote to the branch office on August 16, 2000, claiming that all the savings in the bank were attached and, therefore, should not be taken into account when calculating the income support benefit.
- (d) Two months later, having received no reply to his letter, the complainant spoke with the Head of the Income Support Department (hereafter – the Department Head) at the branch office. The

Department Head requested the complainant to provide additional documents relating to the savings in the bank accounts. Within several days, the complainant provided the requested documents. However, at the time of his complaint to the Ombudsman, he had still not received a reply from the NII.

(e) In his request to the Ombudsman, the complainant requested that the NII reimburse him the amounts that had been deducted from his benefit.

2. The Ombudsman's investigation revealed the following:

(a) On July 20, 2000, during a periodic check of the complainant's entitlement to an income support benefit, the branch office requested that the complainant provide updated information on savings in his bank accounts. The information provided revealed that the complainant had provident funds worth NIS 189,825. Therefore, the NII recalculated his income support benefit, taking into account the estimated income from the savings.

(b) Section 5(b) of the Income Support Law, 5741-1980 (hereafter – the Law) provides:

The benefit of an entitled person who has an income shall be of an amount equal to the difference between the benefit to which he would be entitled ... and the income.

Section 9 of the Law defines "income" as follows:

Income from the sources specified in Section 2 of the Ordinance [Income Tax Ordinance], even if not accruing in, derived from or received in Israel, and including –

...

(4) amounts to be regarded as income from property, even if no income is derived therefrom.

(c) Section 9(c) of the Law defines "property" as follows:

Any immovable or movable property and any contingent or vested right or interest...

(d) According to this definition, provident funds are "property" for the purposes of the Law.

(e) Regulation 10(a) of the Income Support Regulations, 5742-1982 provides, as regards computation of income from property, that:

An amount equal to eight percent of the value of the property, divided by twelve, will be deemed the monthly income from property, even if no income is derived from it, or the monthly income actually derived from it – whichever is higher.

(f) Based on the computation of "the income" from the complainant's provident funds, the branch office determined that the complainant was entitled to a reduced benefit.

(g) In her opinion of November 2, 2000, which was given following the complainant's letter of August 16, 2000, a coordinator in the NII's Income Support Service stated: "As long as the attachment is not realized, the provident funds should be taken into account." On the basis of this opinion, the branch office informed the complainant on November 15, 2000, that upon reexamination of the matter, it had decided to continue to take into account the value of his and his wife's provident funds when calculating the benefit.

3. (a) The Ombudsman's office wrote to the Legal Advisor of the NII, drawing her attention to a judgment of the National Labor Court which held that the intention of the legislature in enacting the Income Support Law was-

to provide income to whoever is unable to provide himself with sufficient means of subsistence. There is no doubt that when a person's income is deemed to include every amount that can in theory be derived from property in his possession, without taking into account if he is in practice able to derive

such amount from the property, the purpose of the legislature is not being promoted.

Therefore, the Court continued and held that–

Regulation 10 of the Regulations should be construed as if it stated: 'an amount equal to... will be deemed monthly income even if income is not derived from it, provided that the owner of the property is actually able to derive the income.' This interpretation is consistent with the intention that the legislature set for itself in enacting the Income Support Law.

In light of the judgment, the Ombudsman asked the NII's Legal Advisor if the savings in the provident funds, which were attached and from which it was impossible to derive income, should be considered "property" for the purpose of calculating the income support benefit.

(b) In its response to the Ombudsman, the NII's Legal Department stated that, following the Ombudsman's request, the matter was reexamined and it was found that, because the provident funds of the complainant and his wife were attached by the Execution Office in the amount of NIS 234,544 (as of September 13, 2000), the value of the provident funds should not be taken into account in calculating the complainant's income. Therefore, the file was returned to the branch office to handle payment of the differentials that resulted from reduction of the benefit.

(c) The investigation revealed that the branch office paid the complainant the benefit differentials for the time that the benefit had been reduced. It should be noted that in October 2000, the benefit payment ceased because the complainant began to work and was no longer entitled.

4. The NII accepted the Ombudsman's position that attached savings should not be taken into account in computing the income support benefit and it paid the complainant the differentials to which he was entitled. Thus, the complaint was properly resolved.



# EMPLOYMENT SERVICE

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## **13. REGISTERING AT THE EMPLOYMENT SERVICE'S OFFICE DURING COLLECTIVE VACATION**

1. The complainant was dismissed from his job and became unemployed on April 9, 2001, which fell on the first intermediate day of the Passover holiday. When he went the following day to the Employment Service Office (hereafter – the Office) to register as a person seeking work, the Office was closed because the staff was on collective vacation for the duration of the holiday. Therefore, he could only register at the Office on April 16, 2001, when the collective vacation ended. Registration at the Office is a prerequisite for receiving an unemployment benefit.

Upon receiving an unemployment benefit from the National Insurance Institute (hereafter – NII) for the month of April 2001, the complainant realized that the payment did not cover the intermediate days of the Passover holiday, during which he had been unable to register at the Office. In June 2001, the complainant filed a complaint with the Ombudsman.

2. The investigation of the Ombudsman revealed the following:

(a) The collective vacation in the Employment Service was set for the period April 8-12, 2001. In practice, however, the office was closed from April 6 to April 14.

(b) The Employment Service informed the Ombudsman that, according to its procedures, persons seeking work who first registered at the Office prior to the holiday were entitled to unemployment benefits also for the period of the holiday, even though they were unable to sign on during this period because the Office was closed. Thus, if the complainant had been dismissed from his job a few days before the collective vacation and had

been able to register at the Office before the vacation began, he would have been entitled to unemployment benefits for the holiday period as well. Since he first registered on April 16, the NII paid the unemployment benefits from that date only.

(c) The Employment Service informed the Ombudsman that when a person seeking work is unable to appear at the Office due to work slowdowns or strikes, he may submit an affidavit that he had intended to register and the affidavit will be held to constitute registration. However, collective vacations are like statutory non-work days, on which it is not possible to sign on nor receive credit for an appearance.

**3. The Ombudsman ruled that the complaint was justified.**

(a) The failure to enable persons seeking work to register at the Office during collective vacation (on days that are not statutory non-work days), or to provide an affidavit that they intended to appear, as is the case during work slowdowns and strikes, constitutes improper procedure, affecting persons requiring the Office's services.

(b) The Ombudsman ruled that the Office should arrange for staff to be available to receive persons during the collective vacations (except on statutory non-work days).

4. Following the Ombudsman's ruling, the Office notified the Ombudsman's office that it had issued a directive to accept the complainant's affidavit that he had intended to register as a person seeking work during the collective vacation and that it would so notify the NII. The Employment Office also issued a circular establishing special arrangements for collective vacations, including a directive to each district office to ensure that one or two employees are on duty each day.

# COUNCIL FOR HIGHER EDUCATION

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## **14. REFUSAL TO ALLOW AN INSTITUTION TO GRANT BACHELOR'S DEGREE IN OPTOMETRY**

1. In April 2000, the complainants, students in an Optometry program conducted jointly by Bar-Ilan University (hereafter – the University) and the Israel College of Optometry (hereafter – the College), complained to the Ombudsman. The details of their complaint are as follows:

(a) The complainants registered for a bachelor's degree program in Optometry conducted jointly by the University and the College (hereafter – the program). They registered for the program at the University and the College simultaneously. The publications of both the University and the College stated that the two institutions would jointly grant program graduates a bachelor's degree in Optometry. The studies took place both at the University and at the College and the complainants were required to meet all the academic requirements demanded of regular students of the University.

(b) Shortly before concluding their studies, the complainants discovered that the Council for Higher Education (hereafter – the Council) had decided that the degree they would receive upon completion of their studies would be given only by the College and not jointly by the two institutions.

(c) The complainants contended that they had registered for the program on the basis of the publications, according to which the graduates would receive a joint University-College academic degree, or at least a bachelor's degree from the University. The publications did not state that they would

receive an academic degree from the College only, which would not enable them to continue for a master's degree. For this reason, they had met all the requirements demanded of the University's students and had even paid a much higher tuition fee than that charged by another college that also offers a bachelor's degree in Optometry.

(d) The complainants requested to receive the degree that was promised them at the time they registered for the program.

2. The Ombudsman's investigation revealed the following:

(a) Until 1991, when the Engagement in Optometry Law, 5751-1991 was enacted, persons wishing to practice Optometry were not required to have an academic degree in Optometry. Since then, this law requires that persons requesting a license to practice Optometry must have a degree indicating that they completed their studies at a school for Optometry of an accredited institution, as defined in the Council for Higher Education Law, 5718-1958 (hereafter – the Law), or have a diploma from a comparable academic institution abroad.

(b) The Council, which operates pursuant to the Law, is the body authorized by the Law to permit the opening of an institution of higher education, to recognize it as an accredited institution of higher education and empower it to grant accredited academic degrees to graduates of its academic-studies programs. An institution of higher education that wishes to establish a program towards an academic degree in a particular field must obtain permission from the Council.

(c) The College – which was not an accredited academic institution when the Engagement in Optometry Law took effect – and the University – which wanted to offer a degree program in Optometry, but did not have the staff of instructors or infrastructure in this field – signed an agreement on December 22, 1994 which provided that the parties would establish a joint Optometry-studies program. The agreement provided that program graduates who successfully met all the program's requirements would be granted a bachelor's degree in Optometry given jointly by the University

and the College. The two institutions filed a joint request with the Council to approve the program.

(d) On January 3, 1995, the Council decided to grant the "Tel-Aviv Optometry Center" (the former name of the College) permission to open an institution of higher education and to offer, jointly with the University, a bachelor's degree in Optometry program. On January 15, 1995, the Council's secretary informed the University's rector and the College's director of the Council's decision.

(e) The program was opened in accordance with the agreement between the parties and the Council's approval. Simultaneously, the Council appointed a committee to monitor the program for the purpose of accreditation and authorization to grant an academic degree in Optometry (hereafter – the monitoring committee).

(f) On the eve of completion of the studies of the first class of the program, the Council decided, on December 21, 1999, to grant the College temporary accreditation and authorize it solely to grant a bachelor's degree in Optometry. This decision was inconsistent with the agreement between the University and the College and with the approval that the College had received from the Council, whereby the program's graduates would be granted a joint degree from the two institutions.

(g) In response to the Ombudsman's request, the Council contended that the permit of January 3, 1995 was given solely to the College and not jointly to the University and the College. In addition, the letter of the Council's secretary of January 15, 1995, which informed the University and the College about the granting of a joint permit to the two institutions, was mistaken and represented the opinion of the Council's secretary alone. Only when the monitoring committee submitted its recommendations did the Council realize that the letter had been sent. It then informed the University about the mistake and emphasized that the permit was given to the College only. The Council contended that the fact that the permit was given in 1995 to the College indicates only the Council's position as to which institution would be granting the degree if it received accreditation and authorization.

3. During the course of the investigation, the Ombudsman made the following observations to the Council:

(a) The Council knew about the agreement that the two institutions had made regarding the joint program and it was the basis for granting the College permission to open an institution of higher education. The University, being an institution of higher education, did not need such a permit. Since the Council gave the University and the College a permit to establish the joint program, the Council could not contend that it intended that the degree granted to program graduates would be given by the College only.

(b) The Council secretary's letter of January 15, 1995 was based on the Council's decision of January 3, 1995 to permit the College to open an institution of higher education and, simultaneously, to permit the two institutions to operate a joint program leading to a bachelor's degree in Optometry.

(c) During the duration of the program, the monitoring committee did not point out to the University and the College that their publications, which stated that graduates would receive a joint degree from the two institutions, did not reflect the Council's decision. If the Council's position from the beginning was that only the College would grant a degree to the program's graduates, it should have made this point clear to the University, the College and the program's students prior to commencement of the program and not place these institutions and the students before a *fait accompli* just before the end of the studies.

4. As a result of the Ombudsman's investigation, the Council decided to authorize the University to grant the degree of "Graduate in Optometry" to all the students who successfully completed their studies in the joint program.

# **APPENDICES**

**Table 1**  
**Breakdown of Complaints by Agencies Complained Against**  
(30.9.2000 - 31.12.2001)

Agency	New Cases		Cases Resolved During Report Year (Including Cases Received Previously)			
	Total Compl- aints	Total Subjects <sup>1</sup>	Number of Compl- aints	Number of Subjects	Subjects Resolved Substan- tively	Compl- aints Found Justified
<b>Prime Minister's Office</b>	41	42	36	37	28	8
<b>Ministry of Finance<sup>2</sup></b>	352	354	407	410	335	157
Income Tax	129	130	136	137	124	58
Customs and V.A.T.	42	42	64	65	43	9
Capital, Insurance and Savings Department	52	52	64	64	48	40
Office for Rehabilitation of Disabled Persons	65	65	71	71	53	26
<b>Civil Service Commission</b>	30	30	28	28	18	6
<b>Ministry of the Environment</b>	58	59	63	65	65	31
<b>Ministry of Defense<sup>2</sup></b>	90	90	90	91	45	11
Rehabilitation Department	52	52	53	54	22	6
<b>Israel Defense Forces</b>	93	95	93	95	40	21
<b>Ministry of Public Security</b>	6	6	7	7	6	3
Israel Police Force	440	444	481	486	303	83
Prisons Service	45	46	51	51	28	0
<b>Ministry of Construction and Housing</b>	250	251	243	245	199	40
<b>Housing Companies<sup>3</sup></b>	167	170	173	174	130	31
Amidar, the National Housing Company of Israel Ltd.	128	131	132	133	101	22
Others	39	39	41	41	29	9
<b>Ministry of Health</b>	191	192	207	211	140	43
<b>Health Funds<sup>3</sup></b>	128	129	141	147	87	25
Clalit Health Services	84	84	102	106	68	20
Others	44	45	39	41	19	5

<sup>1</sup> Some of the complaints refer to more than one subject.

<sup>2</sup> Detailed data have been presented only on agencies particularly subject to complaints - generally thirty complaints or more.

<sup>3</sup> Data have been presented on local authorities and other bodies against whom thirty or more complaints were filed.



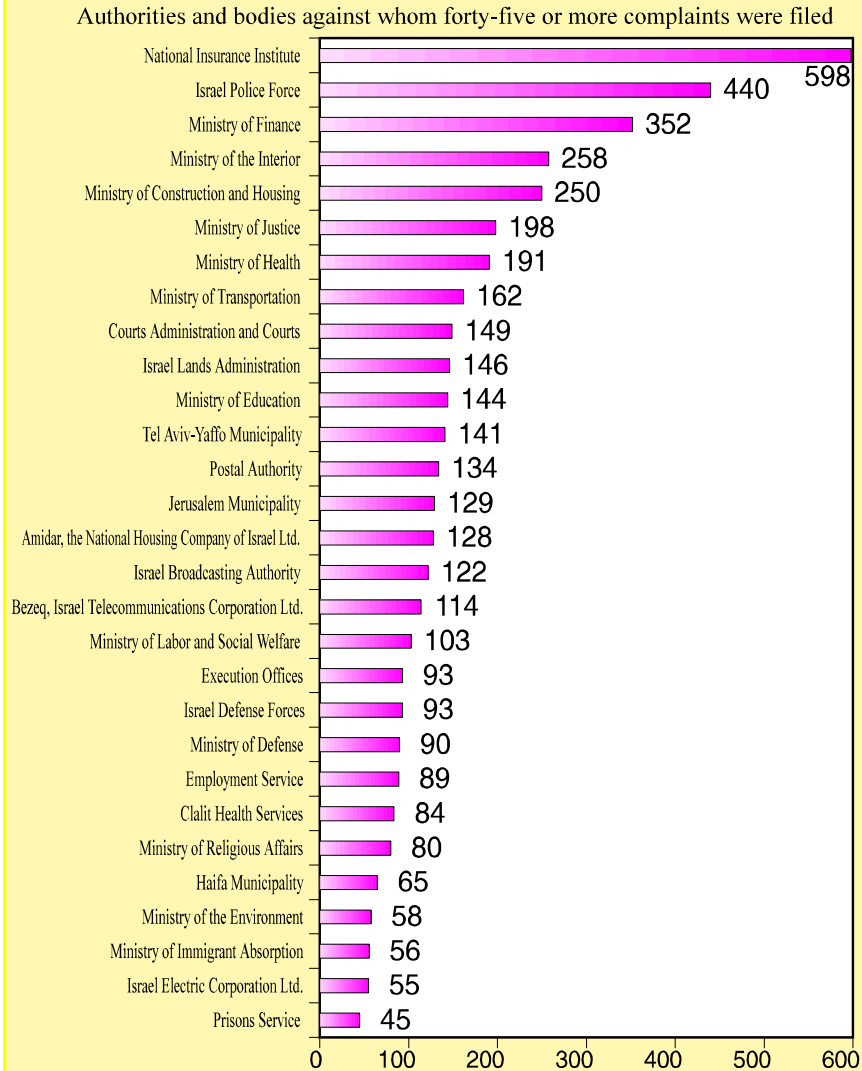
**Table 1 (Continued)**  
**Breakdown of Complaints by Agencies Complained Against**  
 (30.9.2000 - 31.12.2001)

Agency	New Cases		Cases Resolved During Report Year (Including Cases Received Previously)			
	Total Compl- aints	Total Subjects <sup>1</sup>	Number of Compl- aints	Number of Subjects	Subjects Resolved Substan- tively	Compl- aints Found Justified
<b>Ministry of Religious Affairs<sup>2</sup></b>	80	82	89	90	46	26
Rabbinical Courts	32	33	32	33	8	7
<b>Ministry of Foreign Affairs</b>	15	16	25	26	19	3
<b>Ministry of Education</b>	144	145	174	177	70	27
<b>Ministry of Agriculture and Rural Development</b>	20	20	15	15	6	2
<b>Ministry of Science, Culture and Sport</b>	8	8	7	7	5	3
<b>Ministry of Justice<sup>2</sup></b>	198	198	216	217	121	39
Legal Assistance	31	31	32	32	16	3
Courts Administration and Courts	149	149	139	140	33	10
Execution Offices	93	93	92	92	27	7
<b>Ministry of Labor and Social Welfare<sup>2</sup></b>	103	103	120	121	70	33
Labor	34	34	45	45	21	14
Social Welfare	41	41	40	40	35	13
Employment Service	89	90	96	97	35	12
<b>Ministry of the Interior</b>	258	260	300	303	212	115
<b>Ministry of Immigrant Absorption</b>	56	56	50	50	43	11
<b>Ministry of Transportation<sup>2</sup></b>	162	164	161	162	106	41
Licensing Division	78	80	67	68	43	22
<b>Ministry of Tourism</b>	7	7	9	9	8	1
<b>Ministry of Industry and Trade</b>	36	36	40	40	27	12
<b>Ministry of Communications</b>	19	19	17	17	7	4
<b>Bezeq, Israel Telecommunications Corporation Ltd.</b>	114	115	116	120	75	33
<b>Postal Authority</b>	134	137	143	145	103	57

**Table 1 (Continued)**  
**Breakdown of Complaints by Agencies Complained Against**  
(30.9.2000 - 31.12.2001)

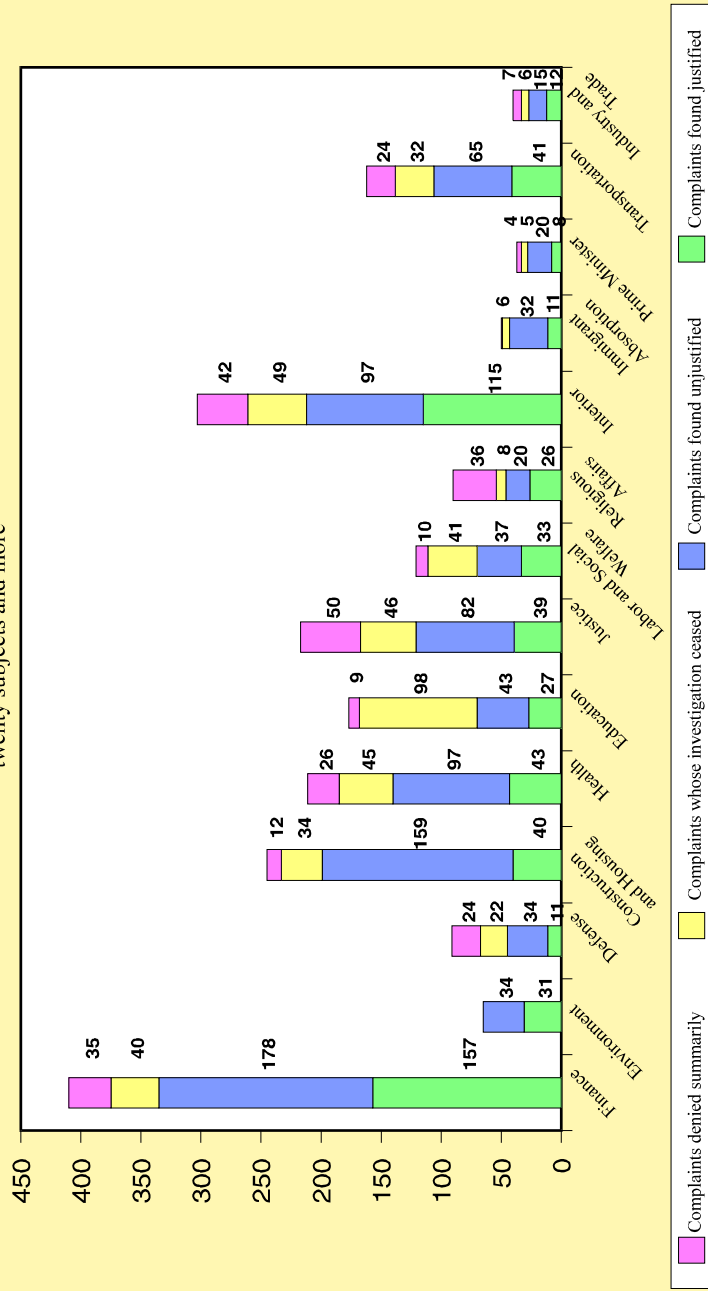
Agency	New Cases		Cases Resolved During Report Year (Including Cases Received Previously)			
	Total Compl- aints	Total Subjects <sup>1</sup>	Number of Compl- aints	Number of Subjects	Subjects Resolved Substan- tively	Compl- aints Found Justified
<b>Ministry of National Infrastructure</b>	25	25	22	23	12	3
<b>Israel Lands Administration</b>	146	148	149	152	81	44
<b>Bank of Israel</b>	28	28	25	25	19	3
<b>National Insurance Institute</b>	598	624	647	684	475	171
<b>Broadcasting Authority</b>	122	122	128	129	86	46
<b>Local Authorities<sup>3</sup></b>	1,560	1,587	1,716	1,762	981	338
Jerusalem Municipality	129	130	162	164	97	36
Tel Aviv-Yaffo Municipality	141	141	133	134	74	13
Haifa Municipality	65	66	92	98	60	17
Beer Sheva Municipality	40	42	36	37	17	8
Bat Yam Municipality	34	34	27	28	19	5
Hadera Municipality	35	37	34	36	18	8
Holon Municipality	35	36	41	41	26	8
Netanya Municipality	42	42	39	39	23	2
Ramat Gan Municipality	39	39	52	52	20	8
Other Municipalities	588	596	643	660	381	134
Local Councils	228	237	248	257	130	54
District Councils	103	104	121	124	65	27
Local Planning and Building Committees	48	49	62	65	31	11
Others	33	34	26	27	20	7
<b>Other Agencies<sup>3</sup></b>	237	238	245	248	143	51
Egged, Israel Transportation Cooperative Ltd.	32	32	31	31	23	7
Israel Electric Corporation Ltd.	55	56	56	57	42	9
Others	150	150	158	160	78	35
<b>Agencies Not Subject to Ombudsman Inspection</b>	724	724	819	819		
<b>Total</b>	<b>7,016</b>	<b>7,102</b>	<b>7,580</b>	<b>7,717</b>	<b>4,234</b>	<b>1,551</b>

**Graph 1: Breakdown of Complaints Received  
by Agencies Complained Against (30.9.2000 - 31.12.2001)**

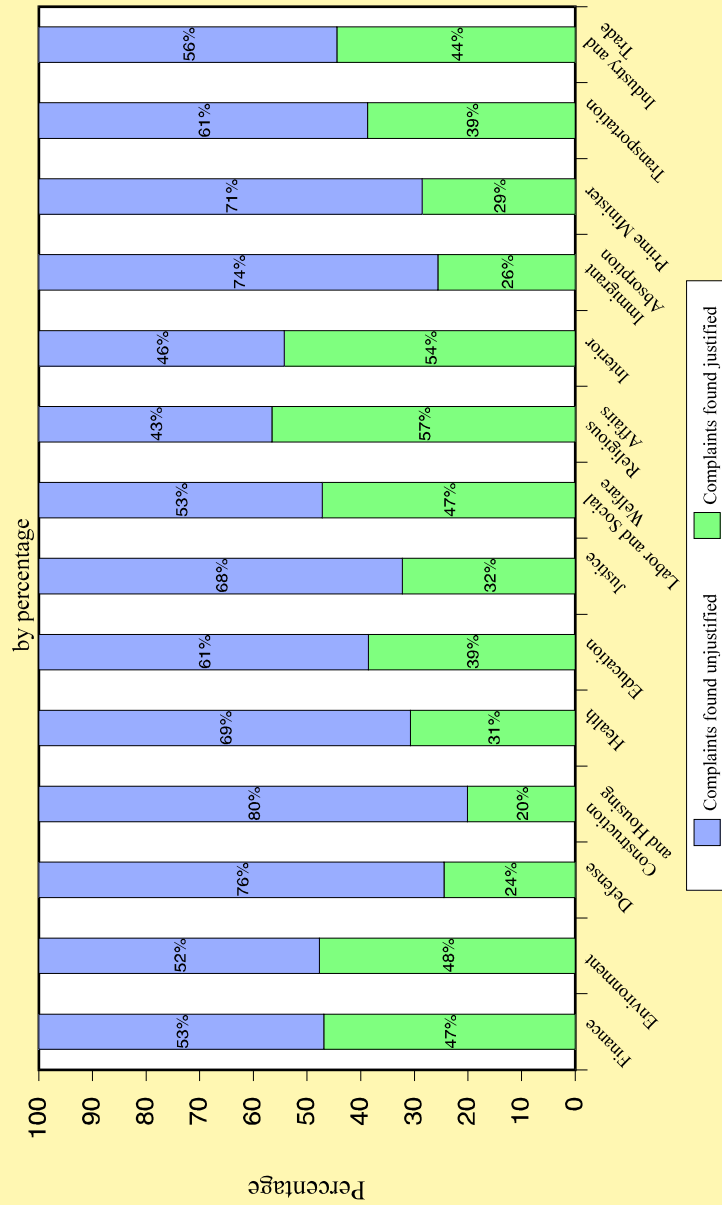


**Graph 2: Selected Government Ministries - Subjects whose Handling was Completed in the Period 30.9.2000-31.12.2001**

twenty subjects and more

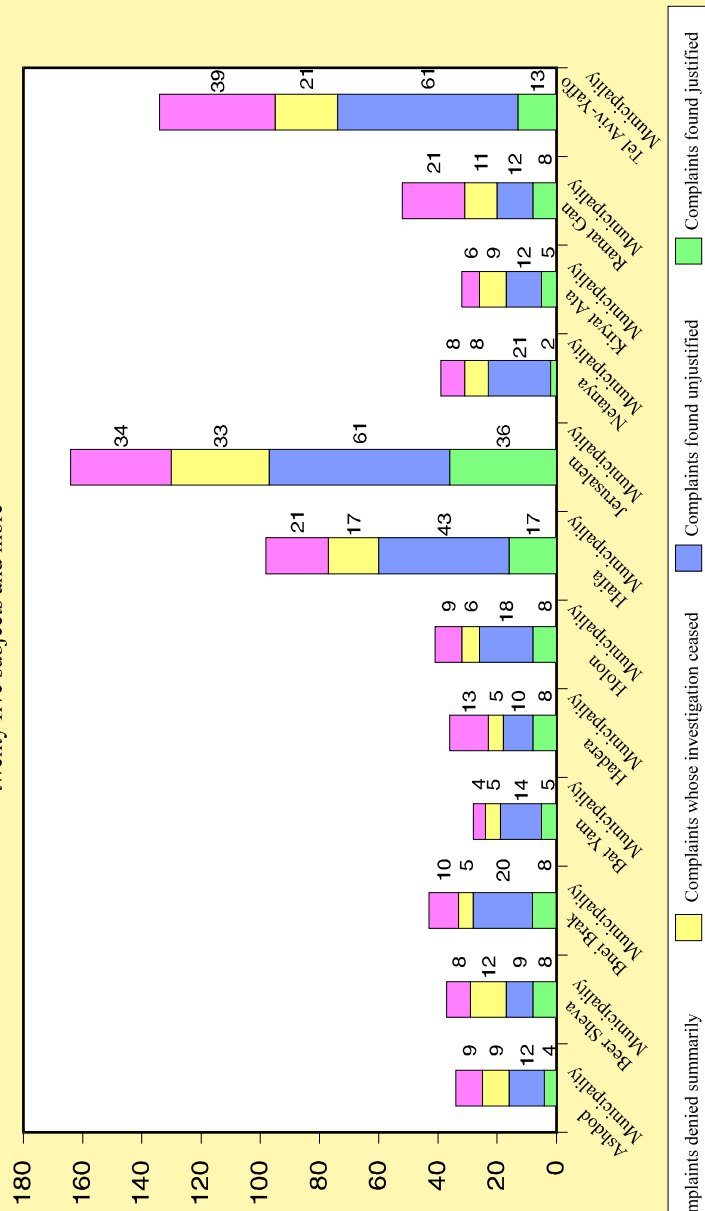


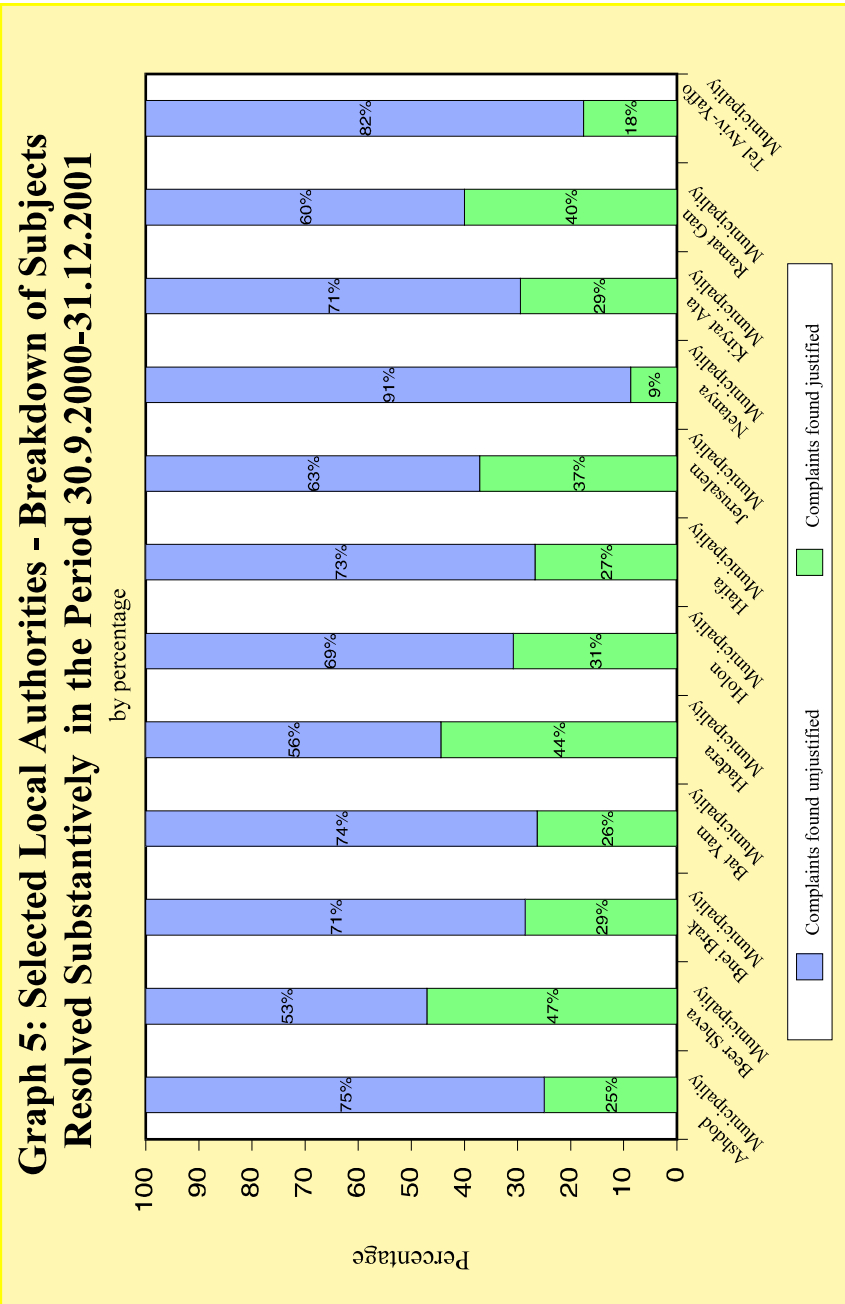
**Graph 3: Selected Government Ministries - Breakdown of Subjects Resolved Substantively in the Period 30.9.2000-31.12.2001**



**Graph 4: Selected Local Authorities - Subjects whose Handling was Completed in the Period (30.9.2000-31.12.2001)**

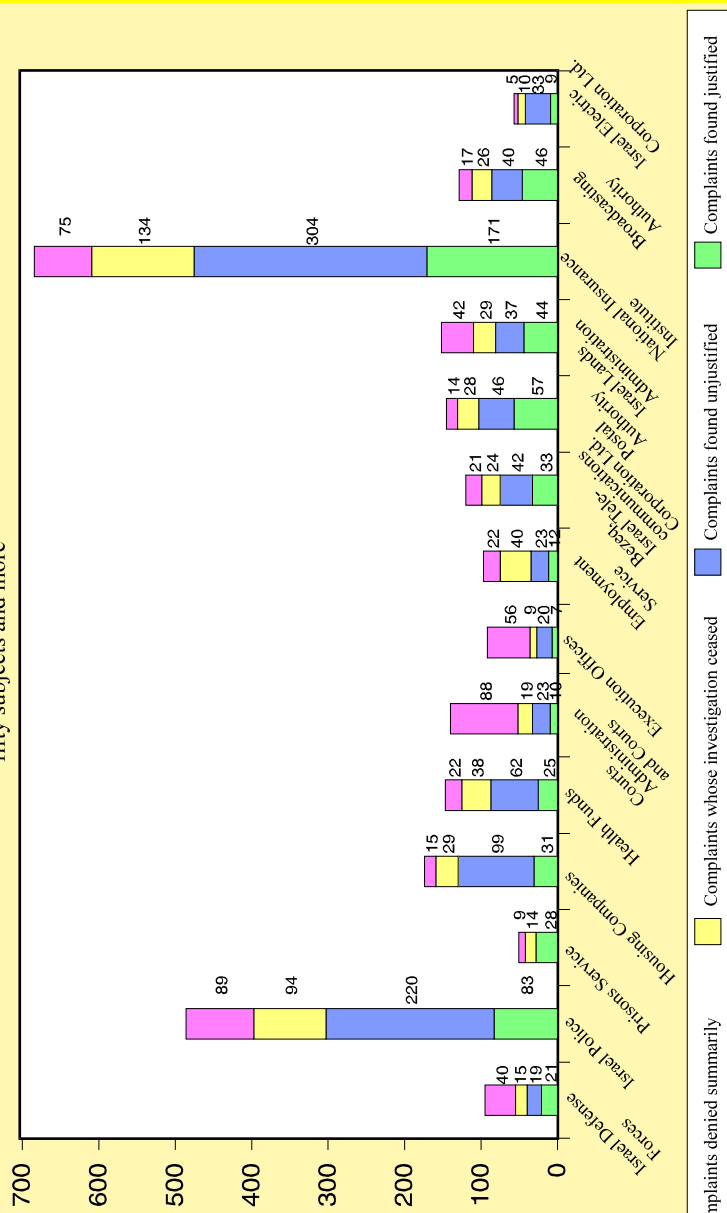
twenty five subjects and more





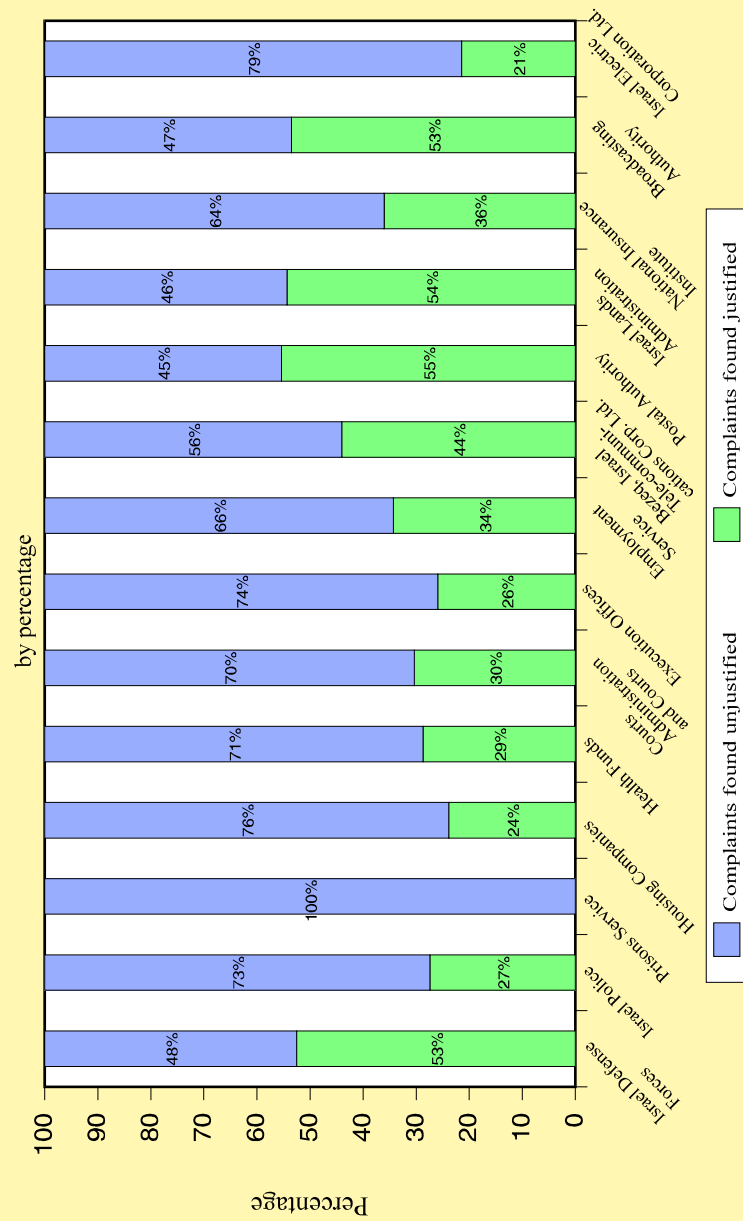
**Graph 6: Other Bodies Complained Against - Subjects whose Handling was Completed in the Period 30.9.2000-31.12.2001**

fifty subjects and more





**Graph 7: Other Bodies Complained Against - Breakdown of Subjects Resolved Substantively in the Period 30.9.2000-31.12.2001**



**Table 2**  
**Breakdown of Complaints by Principal Subject**  
(30.9.2000 - 31.12.2001)<sup>1</sup>

Subject	Total Complaints Received	Cases Resolved During Report Year (Including Cases Received Previously)		
		Total Subjects <sup>2</sup>	Substantively Resolved	Found Justified
<b>A. Welfare Services</b>	<b>1,661</b>	<b>1,792</b>	<b>1,225</b>	<b>345</b>
1. Housing	405	409	326	70
Improving housing conditions	117	117	97	12
Construction defects	35	33	23	10
Mortgages and apartment prices	39	43	36	8
Immigrant housing	41	51	46	3
Arrangements for paying rent	66	48	40	9
2. Welfare	242	264	192	29
Income support benefit	62	70	46	12
Social Workers	36	43	34	1
3. Education	205	226	113	46
Schools	96	106	57	21
Kindergartens	34	31	17	9
Vocational training	33	41	22	12
4. Disabled persons	264	286	179	60
Disabled persons (general)	221	242	162	56
IDF/defense agencies disabled persons	43	44	17	4
5. National Insurance	352	392	281	104
Insurance premiums	84	107	81	31
Unemployment payments	34	49	34	18
Work-related injuries	50	58	32	14
6. Health	193	215	134	36
National Health Insurance	93	109	69	17

- 1 The numbers under the headings of the principal subjects and the numbered sub-headings, which classify the sub-subjects, relate to principal matters that the complaints involved. Some of the complaints in each subject or sub-subject relate to matters that cannot be classified according to significant groups and are, therefore, not included in the table. As a result, the numbers appearing alongside the headings are not identical to their sum total.
- 2 The overall number of subjects of complaints appearing in this table is larger than the number of complaints received, because many complaints relate to two or more subjects.

**Table 2 (Continued)**  
**Breakdown of Complaints by Principal Subject**  
 (30.9.2000 - 31.12.2001)<sup>1</sup>

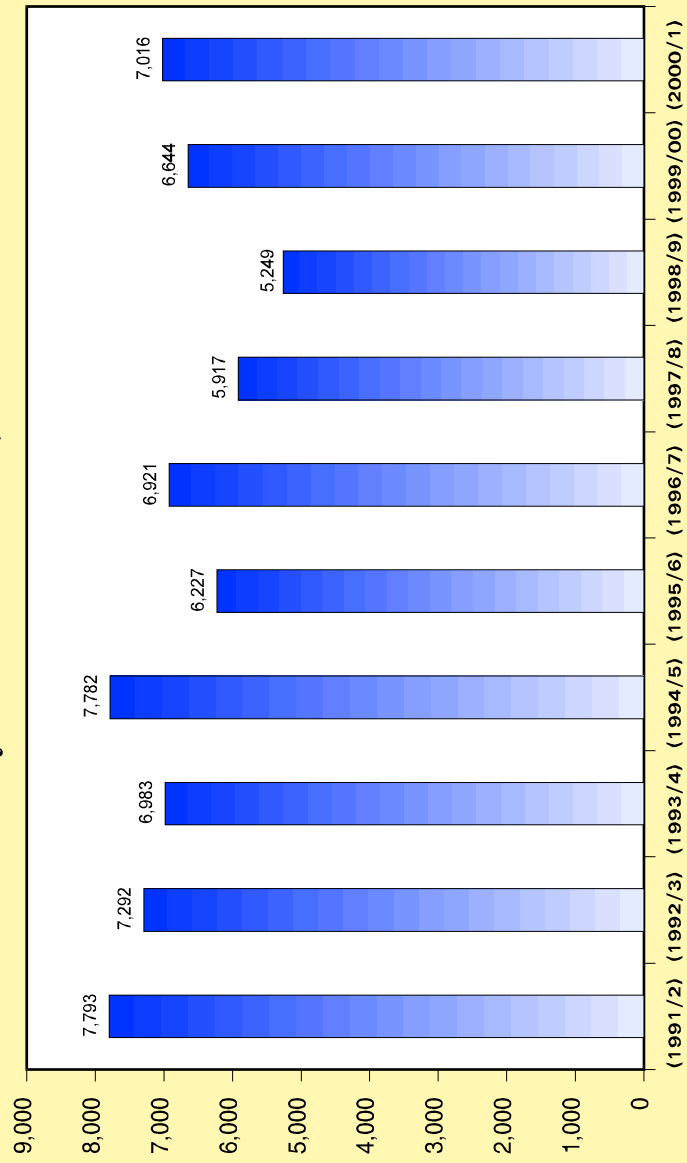
Subject	Total Complaints Received	Cases Resolved During Report Year (Including Cases Received Previously)		
		Total Subjects <sup>2</sup>	Substantively Resolved	Found Justified
<b>B. Services by Local Authorities</b>	<b>792</b>	<b>861</b>	<b>468</b>	<b>183</b>
Nuisances and hindrances	222	230	148	75
Building and building permits	267	285	108	46
Roads, sidewalks and garbage disposal	74	88	55	29
Fines for parking in violation of municipal by-laws	95	113	67	4
Business licenses	33	37	21	7
<b>C. Provision of public services</b>	<b>1,216</b>	<b>1,329</b>	<b>890</b>	<b>476</b>
Failure to provide response	664	702	493	307
Population Registry matters	128	151	104	45
Faulty service to citizen in public institution	57	66	46	25
Improper conduct by public servant	78	92	60	12
Defects in provision of service	37	50	24	16
<b>D. Telephone and postal services</b>	<b>189</b>	<b>201</b>	<b>134</b>	<b>68</b>
Telephone services	102	105	65	29
Postal services	87	96	69	39
<b>E. Taxes and fees</b>	<b>571</b>	<b>641</b>	<b>424</b>	<b>137</b>
1. Income tax	105	111	102	43
2. Radio and television fees	98	104	74	39
3. Local authorities' taxes and fees	313	347	192	45
Municipal property tax	220	234	122	21
Water charges	45	53	39	12
<b>F. Employees' rights and employment</b>	<b>386</b>	<b>434</b>	<b>177</b>	<b>45</b>
Wages and salary	33	33	8	1
Dismissal and severance pay	37	47	16	5
Employment	92	98	51	16

**Table 2 (Continued)**  
**Breakdown of Complaints by Principal Subject**  
(30.9.2000 - 31.12.2001)<sup>1</sup>

Subject	Total Complaints Received	Cases Resolved During Report Year (Including Cases Received Previously)		
		Total Subjects <sup>2</sup>	Substantively Resolved	Found Justified
<b>G. Miscellaneous</b>	<b>2,287</b>	<b>2,459</b>	<b>916</b>	<b>297</b>
1. Police	375	414	256	69
Police officers' conduct	33	44	31	13
Traffic violations	86	91	65	24
Failure to handle complaints	96	80	59	12
2. Courts	155	148	36	13
Judicial ruling	35	31	2	0
3. Legal Aid	32	32	14	2
4. Prisoners	41	44	25	0
5. Execution Office	90	86	22	6
6. Transportation	142	138	95	29
Motor vehicle	74	66	46	15
Public transportation	50	52	35	8
7. Purchase and expropriation of land	90	95	40	21
8. Lease and consent fees	31	35	18	6
9. Banks	40	38	25	6
10. Electricity	45	45	34	8
11. Tenders for work and services	33	38	23	10
12. Israel Defense Forces	61	64	20	13
13. Objections to procedures for investigating complaints	70	87	61	35
<b>Total<sup>2</sup></b>	<b>7,102</b>	<b>7,717</b>	<b>4,234</b>	<b>1,551</b>

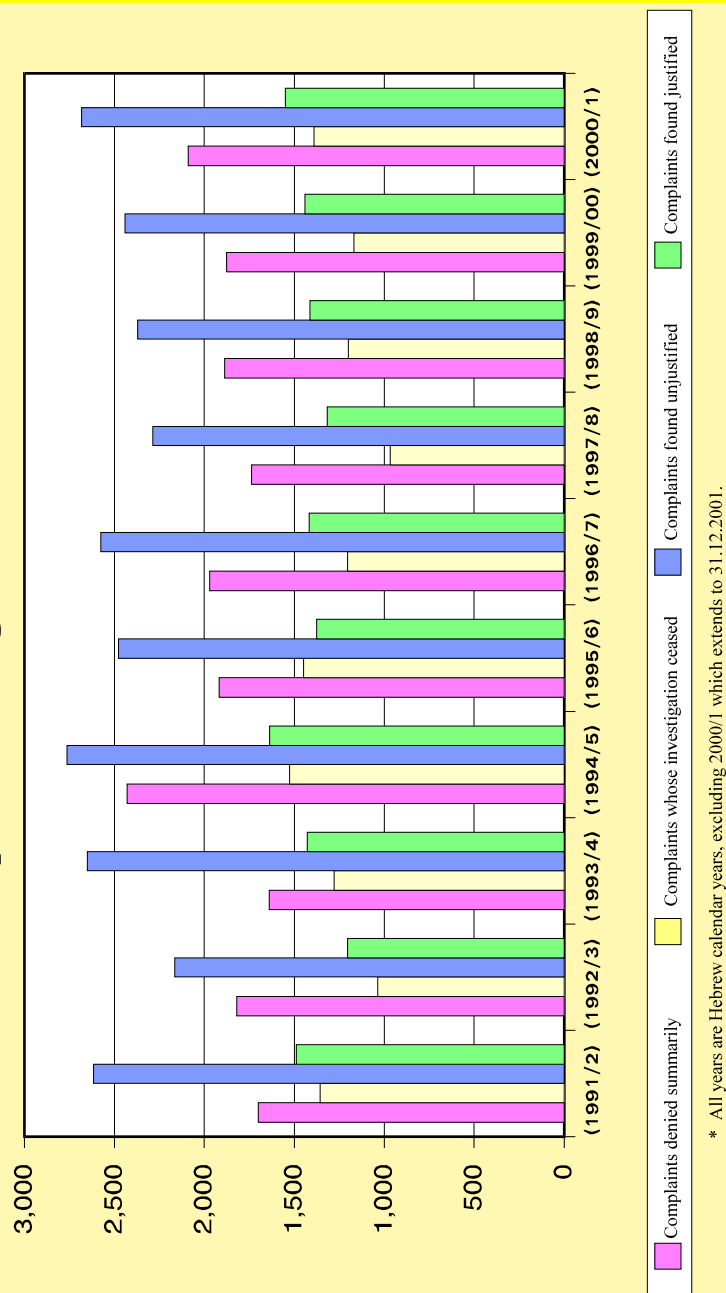
- 2 The overall number of subjects of complaints appearing in this table is larger than the number of complaints received, because many complaints relate to two or more subjects.

**Graph 8: Multi-Year Comparison of Number of Complaints Received by the Ombudsman, 1991-2001\***



\* All years are Hebrew calendar years, excluding 2000/1 which extends to 31.12.2001.

**Graph 9: Multi-Year Comparison of Outcome of Complaint Investigations, 1991-2001\***



## **Offices of the Ombudsman and Branch Offices Accepting Oral Complaints: Addresses and Reception Hours**

### **Main Office, Jerusalem**

12 Beit Hadfus Street, Givat Shaul, PO Box 669, Jerusalem 91006

Telephone 02-6665000, Fax 02-6665204

### **Tel Aviv Office**

99 Hashmonaim Street, Hakirya, PO Box 7024, Tel Aviv-Yaffo 61070

Telephone 03-6241916, Fax 03-6241632

### **Haifa Office**

22 Omar al-Kayyam Street, Hadar Hacarmel, PO Box 4394, Haifa 31043

Telephone 04-8673291, Fax 04-8642588

### **Beer Sheva Office for Receiving Oral Complaints**

Ministry of the Interior Building – Southern District Administration, Hakirya, 4  
Hatikva Street, Beer Sheva

Telephone 08-6263788

### **Nazareth Office for Receiving Oral Complaints**

Employment Service Building, Industrial Zone

Telephone 04-6555429

## **RECEPTION HOURS**

### **Offices in Jerusalem, Tel Aviv and Haifa**

Sundays – Thursdays, 8:30 A.M.-12:30 P.M.

Wednesdays, also from 3:00 P.M.-5:00 P.M.

### **Offices in Beer Sheva and Nazareth**

Every other Wednesday, 3:00 P.M.-5:00 P.M.

ombudsman@mevaker.gov.il      **E-Mail**