Description of Selected Complaints

Government Ministries

Non-Funding of School Transportation Costs

The complainant complained that the Ministry of Education had ceased to subsidize the transportation costs of students from Zikhron Yaakov to the Beit Yaakov school in Haifa, where they studied. The complainant claimed that the school is the Ultra-Orthodox girls' high school closest to Zikhron Yaakov whose students take the matriculation exams.

In response, the Ministry of Education averred that it would not fund the transportation costs to the high school in Haifa because doing so would contravene the Ministry's policy of funding transportation costs only of a pupil who studies in a school in the educational framework suitable for the pupil that is closest to the pupil's place of residence. Since Hadera has an Ultra-Orthodox high school for girls, and Hadera is closer to Zikhron Yaakov than is Haifa, schoolgirls living in Zikhron Yaakov are not entitled to partial funding by the Ministry of Education of their transportation expenses to the school in Haifa.

The Office of the Ombudsman pointed out to the director-general of the Ministry of Education that, assuming that the Ministry encourages pupils to take the matriculation exams, it is proper that it share in the transportation costs of a pupil who studies at a school whose students sit for the matriculation exams, even when there is a school within the student's chosen educational framework that is closer to the student's

home, at which school, however, the pupils do not sit for the matriculation exams.

The director-general replied that he believed the Ministry had erred in its refusal to subsidize the transportation expenses of the Zikhron Yaakov schoolgirls who attend school in Haifa, and that he intended to act accordingly. Indeed, the Ministry informed the Office of the Ombudsman that the funding had been approved.

2

Delay in Granting of Matriculation Certificate due to Parental Debt

The Office of the Ombudsman received two complaints about the refusal of schools to grant students a matriculation certificate due to monetary debt owed by their parents to the school. One of the complaints was submitted by MK Zevulun Orlev.[1]

Clause 11.2 of the Ministry of Education General Director Guidelines, 5763 3/(A) (herafter – the Guidelines), regarding parental payments, sets forth as follows:

"An educational institution will not inflict a sanction upon a student due to an act or omission of his parents (except voluntary payments and voluntary purchase of services), such as: […] E) A matriculation certificate may not be delayed."

Upon inquiry to the Ministry of Education (hereafter – the Ministry), it was found that various functionaries at the Ministry held that the above Guidelines referred to cases in which parents had not paid the school mandatory payment; however, in cases where the debt derived from non-payment of voluntary payments or for services the parents had purchased voluntarily, such as cultural activities, trips, rental of textbooks, etc., the sanctions as set forth in the Guidelines may be imposed on the student, including delaying the granting of a matriculation certificate until payment of the debt.

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1 For a similar complaint, see Ombudsman, ***Annual Report 36*** (2009), p. 165.

Upon further inquiry by the Office of the Ombudsman, the Ministry clarified that its position is that a school is not entitled to delay a matriculation certificate because the parent did not pay for voluntary services or did not make voluntary payments; however, the school may initiate collection proceedings according to law against the parents.

The Office of the Ombudsman asserted that in these circumstances, the Ministry must notify the schools of its position as aforesaid and amend the Guidelines so as to clarify that it is impermissible to delay the granting of a matriculation certificate to a student because of an outstanding parental debt.

The Ministry notified the Office of the Ombudsman that it would act accordingly.

3

Disqualification of Immigrant's Entitlement to Public Housing

The complainant, a handicapped elderly woman, immigrated to Israel in 1996 with her three-year-old grandson. After one year had passed, the grandson's mother also immigrated to Israel and subsequently the grandson was registered in the mother's immigrant certificate, even though he continued to reside with the grandmother who raised him throughout the years. The complainant noted in her complaint that the difficult economic situation of herself and her grandchild did not allow them to continue renting an apartment on the private market, and therefore she had applied several times to the Ministry of Immigration Absorption (hereafter – the Ministry of Absorption or the Ministry) for a public housing apartment; however, her requests were rejected time after time. The complainant stated that she and her grandson would be willing to reside in an apartment fit for one tenant, provided they would not have to continue paying rent on the private market.

According to the guidelines of the Ministry of Absorption, an immigrant may be entitled to public housing from the Ministry for a period of ten years from the date of recognition of his or her immigrant status (hereafter – the entitlement period). However, the entitlement period for elderly immigrants is not limited. According to

the guidelines, if an only child is included in the entitlement of his elderly parent by the date set forth in the guidelines, he may also enjoy an unlimited entitlement period. In addition, the guidelines provide that an elderly immigrant is entitled to exercise his right to public housing at a hostel or residential complex for the elderly.

Investigation of the complaint revealed that in October 2007, the complainant had submitted an application to receive a public housing apartment for herself and for her grandson, but her application was rejected, as the grandson's entitlement period had ended and he was no longer entitled to receive assistance from the Ministry of Absorption. Notwithstanding the above, the committee approved the complainant's entitlement to a housing unit at a hostel as an elderly immigrant.

In May 2008, the director of the regional office of the Ministry met with the complainant at her place of residence and explained to her that she could not receive a public housing apartment together with her grandson as a family. In July 2008, the housing exceptions committee of the Ministry of Absorption reviewed the complainant's request and decided to reject it as no special reason was found to deviate from the guidelines.

In October 2009, the complainant was offered an apartment in a residential complex, but she turned down the proposal, explaining to the Office of the Ombudsman that she could not move to the apartment without her grandson.

In light of the special and extraordinary circumstances of the case, the Office of the Ombudsman requested the Ministry of Absorption to reassess the complainant's matter. Subsequently, the exceptions committee of the Ministry reexamined the case and decided to register the grandson in the complainant's immigrant certificate, thus facilitating their joint entitlement to a public housing apartment. Pursuant to the decision, the grandmother and her grandson were

offered a public housing apartment in their city of residence, and thus the matter was resolved.

Ministry of Industry, Trade and Employment – Daycare Centers and Pre-School Nurseries Department

4

Serious Defects in Operation of Service Center for Registration to Daycare Centers and Pre-School Nurseries

Pursuant to the Supervision of Daycare Centers Law, 5725 – 1965, the Ministry of Industry, Trade and Employment (hereafter – the Ministry) has supervisory authority over recognized daycare centers and pre-school nurseries (hereafter – daycare centers) operated by various organizations.

In line with the Ministry's policy of promoting the integration of women in the workforce, the Ministry provides partial funding of the fees charged by daycare centers. Eligibility for funding is based on criteria set forth by the Ministry.[1] As a rule, the amount of the funding provided by the Ministry and the consequent size of the discount awarded to the family, is based on the rating granted to the parents

1 The entitlement to funding is granted to a mother who is working, is studying, is a new immigrant, is unemployed, and so forth, each as defined in the criteria set forth by the Ministry's Daycare Centers and Pre-school Nurseries Department.

(hereafter – rating) according to the family's income, number of persons in the family, and the number of hours the mother works per week.

Until the September 2010-August 2011 school year, the directors of the daycare centers processed the registration of children for daycare and the submission of requests to the Ministry for financial assistance. A few days before the school year began, the director of the Ministry's Daycare Centers and Pre-school Nurseries Department (hereafter – the Department) announced a change in policy (hereafter – the change in policy) whereby from now on, the parents, and not the managers of the daycare centers, would register the children with the Ministry and would submit requests for a rating to determine the level of their entitlement to financial assistance.

On 26 August 2010, the Ministry announced on its website that, in order to improve efficiency and to shorten the time for processing requests for a rating, the Ministry would operate an online service center for registration of children in daycare centers and for processing requests for a rating. The announcement further stated that the center, which was scheduled to begin operating in two or three months' time, would remain in direct contact with the parents, and that until the opening of the service center, parents would pay fees to the daycare centers at a discount based on a temporary rating determined by the daycare center's manager.

Upon the opening of the online service center on December 22, 2010, the Ministry posted another announcement on its website, which stated that after a short trial period, the service center would shorten the time for the processing of children in the system: the time allotted for determining a rating would drop from an average of 84 days (in the old system) to 24 hours for applications submitted online, and to 14 days for applications submitted by certain other means. It was also

expected that 80 percent of telephone inquiries would be answered within 30 seconds.

However, the expectations were not realized. A month and a half after the online center became operational, the Office of the Ombudsman started receiving dozens of complaints from enraged and disappointed parents who were encountering difficulties as a result of the change in policy.

1. Many parents complained of defects in the functioning of the online service and in the Ministry's handling thereof : approving the ratings took many months, while the parents had no address for making requests or complaints since the Ministry and the online service center were not available by telephone; parents who managed to make telephone contact with the center complained that the personnel treated their requests or complaints with a lack of sensitivity and respect and did not act professionally; parents who succeeded in reaching the relevant persons in the Department complained of similar treatment. Some parents complained of total failure to reply to their inquiries.

   One of the complaints was from a mother of two children, who contacted the Ombudsman's Office after months in which her inquiries to the Ministry and to the online service center had not been answered. She stated that the manager of the daycare center her son attended had told her a few days before the 2011-2012 school year that the daycare center could not accept her son for that year because she owed NIS 11,000 for fees for the previous year. For months, the mother was unable to explain to the service center and the Ministry that the reason for the debt was that the rating approved by the center was incorrect. She then approached the Office of the Ombudsman. Due solely to the intervention of

the Ombudsman's Office, her claims were examined, her rating was corrected and her debt cancelled.

2. Parents also complained that, as a result of the failure of the service center to approve a rating – and the consequent funding - they had to take loans to cover the daycare costs. In some instances, the families had more than one child in daycare.

   For example, a father of twins was forced to pay daycare fees of NIS 1,050 a month for each of the two children because his rating had not been determined. He took out loans to pay the monthly charge of NIS 2,100, which amounted, he said, to about one-third of his monthly salary. He also complained that the rating he was ultimately granted was erroneous and that he was unable to clear up the mistake because it was impossible to contact anybody at the Ministry or at the service center. Throughout the period, he continued to pay interest on the loans he had taken out.

3. Other parents alleged that, after they were granted a rating (following great delay), it was found that based on the temporary rating of the daycare center managers, they had received a higher discount from the fees than they were entitled to and therefore, they owed the daycare center the difference. The amount owing was deducted from their bank accounts pursuant to a standing bank order in favor of the daycare center, without prior warning or notification of the rating that had been approved. The investigation conducted by the Office of the Ombudsman revealed that, in collecting the debt, no official took into account the economic status of the families who were demanded to pay the difference, and the amount was collected on occasion from families who were left without money in the bank.

   For example, from the beginning of the 2010-2011 school year, one mother had paid the daycare center reduced fees based on a

temporary rating.. In early March 2011, the service center determined that the parents were not entitled to funding even though they earned less than the minimum wage. Based on this determination, later found to be mistaken, NIS 3,700 was charged, in one payment, to the complainant's bank account, which caused her appreciable difficulties. In another case, a father complained that, when his wife went to make purchases for the Sabbath, she learned, to her embarrassment, that she could not pay for the items because, without warning, thousands of shekels had been debited from her account for the daycare fees, resulting in an overdraft.

The Ministry contended that the operator of the daycare center may collect from the parents debt that arose due to the difference between the temporary rating and the final rating approved, and that just as the daycare-center must reimburse parents in a single installment for overpayments so too may it demand a lump-sum payment of the parents' debt created as a result of underpayments.

The Office of the Ombudsman did not accept the Ministry's position and held that an analogy cannot be made between the financial condition of the organization operating the daycare center and that of an ordinary citizen, citing also that the difficulties caused the parents due to the change in policy were enough for them to bear. In the opinion of the Office of the Ombudsman, it was improper to cause parents additional injury by collecting debts arising from the approved rating – which was frequently mistaken – in a lump sum, without prior notice, and without the opportunity to pay in installments or to appeal the decision on the rating. The Ombudsman's Office also held that the Ministry should have instructed the daycare-center operators on the proper way to collect the parents' debt in such cases.

4. It was further found that, contrary to Ministry directives, some daycare centers did not reduce the fees in accordance with a temporary rating, and in many cases where daycare centers did reduce their fees, they granted a smaller discount than the parents had received the previous year or they reduced the fees based on a temporary rating only for children who had attended the daycare center in previous years. The Ministry did not monitor compliance with the directives in this matter.

Investigation of the complaints revealed that the Ministry was not properly prepared to implement the change in policy and that this failure had negative impacts in many cases; also the Ministry did not foresee, as it should have, the consequences attendant upon its change in policy. The Office of the Ombudsman issued a serious reprimand to the Ministry on the severity of the defects in implementing the new policy and noted that many families who send their children to daycare are not well-to-do and that the financial burdens placed upon them in the 2010-2011 school year, following the change in policy, were especially heavy. Contrary to the expectation that the Department, which is charged with servicing this population, would exhibit sensitivity, concern, and desire to assist the parents as much as possible, the parents encountered inflexibility and lack of concern with their situations. There were even cases in which children were suspended from the daycare facilities.

Furthermore, the Ombudsman's Office, too, had difficulty investigating complaints with the Department. The Ministry's responses to the inquiries of the Office were delayed many months, which made it difficult to aid the complainants. When responses finally arrived, they were partial or unclear, and, in some cases, indicative of the Department's inflexibility. Many of the complaints were ultimately found to be justified.

It is worth noting that, in response to the critiques of the Office of the Ombudsman, the Ministry admitted that the handling of requests to approve a rating and receive financial assistance for the 2010-2011 school year was overly prolonged due to unexpected problems with the new computerization system. The Ministry apologized for the difficulties caused to parents and emphasized that it had taken the necessary measures to prevent the problems from recurring in the 2011-2012 school year.

However, in the present school year as well, the Office of the Ombudsman continues to receive many complaints of delays in approving ratings and financial assistance, of the inability to make contact by telephone, and of improper and unprofessional attitude of service center personnel. The Ministry responded that, despite the efforts of the center's staff, it was impossible to respond to every telephone call due to the great number of callers, However, the Ministry recently informed the Office of the Ombudsman of several steps it had taken to improve the telephonic response, including allowing callers to leave their particulars with the service center and having a representative return the call the same day.

The Office of the Ombudsman will continue to monitor the situation and improvement of service to the parents. It will also monitor the rectification of the defects that the Ministry was called upon to correct.

5

Tuition Subsidy for Pre-school Nursery

During the 5771 school year (September 2010 – August 2011), the four-year-old daughter of the complainant attended a nursery operated by Na'amat, which she had also attended the previous year, as no appropriate place had been found for her by September 2010 at a kindergarten operated by the Municipality of Tel Aviv – Yafo (hereafter – municipal kindergarten), due to a shortage in kindergartens for her age in her area of residence. The nursery's administration notified the complainant that her daughter could continue attending the nursery in the 5771 school year as well; however, according to regulations of the Ministry of Industry, Trade and Labor (hereafter – the Ministry), the complainant was not entitled to a tuition subsidy because of her daughter's age.

According to the complainant, due to her difficult financial situation, she is unable to meet the tuition payments, and therefore the nursery suspends her daughter from time to time.

The Ministry explained to the Office of the Ombudsman that according to guidelines on tuition subsidies at eligible nurseries, a child who has reached the age of attendance at a municipal kindergarten is not entitled to a tuition subsidy at a nursery. The Ministry added that there was no possibility to deviate from the rules and subsidize the tuition paid by the complainant, even though her daughter was attending a nursery only because no place had been found for her at a municipal kindergarten. Had the child attended municipal kindergarten, her mother might have been entitled to discounted tuition at the municipal kindergarten, and she would

certainly have benefited from a tuition subsidy for afternoon hours if she had registered the child for the optional afternoon program offered at municipal kindergartens.

Notwithstanding the response from the Ministry, the Office of the Ombudsman requested the Ministry to consider subsidization the daughter's tuition due to the extraordinary and harsh circumstances of the case.

The Ministry responded that there was no possibility to deviate from the guidelines; however in consideration of the significant number of parents compelled to send their children to nurseries despite the fact that they had reached the age of kindergarten, the Ministry had established a new program for financial support for such parents, which would provide parents of such children who attended nurseries also during afternoon hours with a tuition subsidy consistent with the subsidy they would have received had the child attended an afternoon program at a municipal kindergarten. The Ministry added that the subsidy would be granted retroactively from the beginning of the current school year.

Due to the establishment of the new program for financial assistance, the complainant was able to benefit from a subsidy for tuition paid to the nursery for the afternoon hours, and she even received a partial refund for payments made to the nursery for such hours from the beginning of the school year.

Furthermore, due to the complainant's difficult situation, the Office of the Ombudsman also applied, in the course of the investigation, to the Municipality of Tel Aviv – Yafo about the possibility of registering the complainant's daughter in a municipal kindergarten close to her home, and a vacancy was indeed found for her. However, in light of the subsidy the complainant ultimately received from the Ministry she preferred that her daughter remain in the nursery for the remainder of the school year.

Ministry of Transport, National Infrastructures and Road Safety – Licensing Division

6

Unlawful Collection of Driver's License Fees

The complainant protested the fact that the Ministry of Transport and Road Safety (hereafter – the Ministry) demanded payment of a renewal fee for his driver's license twice within a period of several months. The complainant applied to the Licensing Division at the Ministry and claimed he had been charged twice; however, his requests for refund of the double payment were not answered.

Investigation of the complaint revealed that the complainant had not been charged twice, but that the additional demand or payment was retroactive to a period during which his license had lapsed, prior to his renewal thereof. However, the Licensing Division did not refer to a statutory source authorizing it to demand payment for the period during which the license was invalid.

According to Basic Law: State Economy, every demand for payment by an authority must have a clear statutory basis. Therefore, the Office of the Ombudsman notified the General Director of the Ministry that in the absence of a statutory basis to demand a fee for an invalid license, the Licensing Division must cease collection procedures immediately, at least prospectively.

The Office of Legal Counsel for the Ministry replied that the Licensing Division had been instructed to immediately cease such collection.

As to the complainant, prior to the resolution of the general issue as aforesaid, the Licensing Division had notified the Office of the Ombudsman that due to the circumstances of the case, including the delay in the Division's response to the complainant's applications, the Division had decided to refund the fee paid by the complainant for the period during which his license was invalid. The Office of the Ombudsman verified that the sum had indeed been returned to the complainant.

7

Failure to Give Certificates of Appreciation to Ethiopian Immigration Activists

The complainant, who represents a group of some one hundred Ethiopian immigrants active in promoting immigration from Ethiopia, complained that the state had not implemented a decision to give certificates of appreciation to the activists. He alleged that, following legal suits brought by the activists against the state, in which they contended that they had aided in the immigration of Ethiopian Jews in Operation Moses and Operation Solomon and had not been compensated or honored for their efforts, the government of Israel established, in 2000, an inter-ministerial committee to examine their claims (hereafter – the Committee). The Committee concluded that, "There is no question that the activists are entitled to recognition and appreciation for the time and efforts they expended in aiding members of their community in the complex, difficult, and dangerous process of immigration to Israel," and that each activist should be granted a monetary award and a certificate of appreciation at an official state ceremony.

The complainant, whom the Committee held was entitled to receive the said certificate and compensation, alleged that he and other activists had received the monetary grant in accordance with the Committee's decision, but had yet to receive the certificates of

appreciation. He further alleged that, over the years, he and his friends had sought assistance from various state institutions regarding the matter; however, the ceremony had not yet been held and the certificates of appreciation had not been presented.

Investigation of the complaint revealed that, as far back as March 2002, a settlement agreement, approved by the District Labor Court in Tel Aviv, had been reached between the state and a number of immigration activists, whereby the conclusions of the Committee were to be adopted and implemented.[1]

In response to the complaint, the head of the Policy Planning Department in the Prime Minister's Office (hereafter – PMO) stated that the PMO's position is that the ceremony could not be held, and the certificates of appreciation presented to the activists, due to the difficulty in formulating an agreed-upon list of the activists entitled to the certificates and the fear of creating a dispute within the Ethiopian community or intensifying an existing conflict on the issue.

In reply, the complainant asserted that, although the activists had in the past been divided, there is now a united organization, which he heads, that includes all the immigration activists. Therefore, he believes there is no reason not to hold the ceremony.

The Ombudsman ruled that the complaint was justified. Given the conclusions of the Committee and the court approved agreement referred to above, and the finding that there was no dispute that the activists who had received the monetary award were also entitled to certificates of appreciation, there was no bar to holding the ceremony and presenting the certificates of appreciation to the activists.

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1 Lab. Ct. Mot. (Tel Aviv) 913572/99 ***Elias et al. v. State of Israel, Prime Minister's Office*** (not reported).

The Ombudsman also held that, given the difficulties encountered by Ethiopian immigrants in general, and the activists in particular, in fulfilling their dream of coming to Israel, the ceremony and presentation of the certificates should take place without further delay.

Following the Ombudsman's decision, the PMO's office informed the Office of the Ombudsman that it had decided to hold the ceremony to grant the certificates of appreciation to the activists. The ceremony, which is being organized by the Prime Minister's advisor for Ethiopian immigrant matters, is scheduled to be held in 2012.

State Institutions

False Arrest

The complainant, a physician, was summoned to appear for questioning at the police station in Hadera regarding an ongoing controversy between her and her neighbor, an attorney. When the questioning was over, she was arrested and taken to an incarceration facility. She alleged that, despite her protestations and the repeated arguments of her lawyer that there were no grounds for her arrest, and that if the police thought otherwise, she should be brought before a judge as soon as possible, she was not brought to court until the next day, when the judge ordered her immediate release. The complainant and her attorney approached the Office of the Ombudsman, after the public-complaints officer of the Israel Police, who investigated the matter, informed the complainant that her complaint was not found to be justified.

Investigation of the complaint by the Office of the Ombudsman revealed that the complainant and her neighbor had been filing complaints against each other to the police over an extended period, and that the complainant had previously undergone questioning regarding those complaints. A day before the arrest, the head of the Investigations Division of the Hadera Police Station had met with the neighbor. In his notes on the meeting, he reported that the neighbor

had also complained about acts of the complainant during the previous weekend.

Subsequent to the meeting with the neighbor, the complainant was summoned to appear the next morning for questioning. She appeared as scheduled, and the questioning began at 8:32 and ended at 9:45. The complainant was asked about events, most of which had taken place many months earlier and about which she had already been questioned.

Upon completion of the questioning and after consulting with the head of the Investigations Division, the investigations officer filled out an arrest report, and the complainant was taken to the women's incarceration facility. The grounds for the arrest recorded in the report were obstruction of an investigation, endangerment, and the need for interrogation that cannot be conducted unless the suspect is under arrest.

The Ombudsman's Office discovered that, in fact, the only interrogation conducted while the complainant was incarcerated was that of the neighbor, at 11:38, in which no allegation was raised of the commission of a recent criminal act by the complainant. Furthermore, much of the neighbor's allegations, primarily regarding the incident that took place the previous weekend, were against the complainant's sister.

Despite the early hour in the morning by which the questioning of the complainant was completed, and despite that, by law, a person who is arrested by the police "shall be brought before a judge as soon as possible, and no later than 24 hours,"[1] the complainant was not

1 Section 29 of the Criminal Procedure (Enforcement Powers – Detentions) Law, 5756-1996.

brought to court for the purpose of determining if the decision to arrest her was reasonable. As stated, it was not until the following day that the complainant was brought before the judge, who ruled on the basis of the facts presented, that, the complainant should not have been arrested.

The Office of the Ombudsman presented its findings to the police, upon which the latter appointed an officer to investigate the matter. The officer determined that the investigative material did not support arrest on grounds of obstruction of justice and endangerment, that an alternative to arresting the complainant should have been considered, and that she could have been brought before a judge as soon as possible, as required by law. Furthermore, while she was under arrest and for the week following her arrest, the police did not carry out any investigative actions (except for taking a statement from the neighbor). It goes without saying that no investigative actions warranting arrest were taken.

9

Mistaken Summons to Appear for Questioning

A policewoman from the Rosh Ha'ayin Police Station called the complainant and told him that he must come to the police station the following day for questioning. The complainant asked about the nature of the matter and why it was so urgent, but the policewoman refused to provide any details.

The complainant, who had no idea why he had been summoned for questioning, was very worried by the summons, tried on his own and with the aid of other persons, to find out why the police were calling him in for questioning with such urgency; however, he did not succeed in learning the reason for the summons. The next day, instead of going to work, he went to the police station and waited there until he was taken to the interrogation room, where a policewoman informed him that he was suspected of assaulting one of his employees. The complainant immediately said that he was a student and a salaried employee, who did not have any people working for him. The policewoman made a few inquiries and then informed the complainant that he had been summoned by mistake and that he was free to go.

The complainant objected to the appalling ease with which a person may be summoned for questioning by the police, and he complained that the policewoman could have realized during the initial telephone call that the summons was a mistake, had she given him even a few basic details on the reason for the summons. The complainant requested that the police apologize for the way they had treated him, and he demanded compensation for the mental anguish caused him,

his loss of a day of work, and unnecessarily inconveniencing him to appear for questioning.

The investigation conducted by the Office of the Ombudsman revealed that a complaint for assaulting an employee had been filed against a person with the same name as the complainant and who owned a business in the town where the complainant lived. About three months after the employee's complaint was filed, a policewoman who was a police cadet at the time, was instructed to summon for questioning suspects regarding several offenses, including the offense of the person with the same name as the complainant. The cadet called the suspect's mobile phone number provided by the employee who had filed the complaint, but she was answered by a recording that the subscriber was not available. She informed the policewoman in charge of the cadet's program of the above, and the policewoman typed into the police's computer the name of the suspect and the name of the town in which the business is located (without knowing the details of the complaint and without having checked if the suspect lives in the same town). The computer system located the complainant, who, as noted, bears the same name as the suspect and lives in the same town as the business. The policewoman ordered the cadet to call the telephone number of the complainant, which appeared in the police computer system, and to summon him for questioning.

The following day, when the complainant arrived at the police station and was informed of the substance of the complaint against him, it became clear, as noted above, that he was not the person against whom the complaint had been filed.

The Office of the Ombudsman reprimanded the police station's commander on the serious flaws in the behavior of the station's police officers:

1. The complainant was summoned by telephone to appear urgently for questioning, despite that there was no urgency, as evidenced by the fact that the complaint had been filed with the police three months earlier.

2. Only one attempt was made to call the suspect at the telephone number provided by the complaining employee.

3. The policewoman, who tried to locate another telephone number of the suspect, was unaware of the particulars of the complaint, and consequently mistakenly typed in the name of the town where the business was located as the town in which the suspect lived. As a result, the computer system provided the particulars of the complainant, who had no connection at all with the case.

4. No attempt was made to verify, when checking the police computer, that the right person had been summoned for questioning, based on the particulars already known to the police.

5. Although the complainant was summoned for questioning based on a search of the police computer system rather than according to the particulars that the employee had provided, and even though the complainant insisted in the telephone conversation that there was no reason to call him in for questioning, the policewoman did not try to confirm his particulars and ask clarifying questions that would not be injurious to the investigation (such as what his occupation is) in order to verify that he was indeed the suspect.

The station's commander informed the Office of the Ombudsman that, inasmuch as the incident involving the complaint took only a few minutes, and the policewoman had apologized to the complainant about the slight inconvenience caused him, in his opinion, the matter did not warrant further investigation or compensation to the complainant. However, the incident and its consequences would be

studied in the weekly lesson given to the cadets, and measures would be taken to insure that such cases do not recur.

The Office of the Ombudsman did not accept the station commander's position, and therefore, chose to transmit to the Israel Police Public Complaints Unit the results of the Ombudsman's Office's investigation and the complainant's demand for an apology and compensation.

As a result, the Israel Police Public Complaints Unit concluded that the complaint was justified. The police sent the complainant a letter of explanation and apology and compensated him in the sum of NIS 1,000.

10

Improper Behavior of Police Officer

The complainant traveled by bus from Netanya to Jerusalem. When the bus arrived at Bene Atarot Junction and the bus driver wished to allow passengers to embark and disembark at the station, he discovered that the station was blocked by two cars and a motorcycle. The driver sounded the horn once in order to signal to the vehicles to vacate the station. The drivers of the cars moved their vehicles, but the motorcycle driver, who turned out to be a police officer in civilian clothes, boarded the bus and demanded the driver's license, claiming that he had violated the law by sounding the horn for a purpose other than preventing danger. The driver requested the police officer to identify himself; however, the police officer ignored the request, took the license from the driver and instructed him to accompany the officer to the nearest police station at Mesubim in order to get his license back. The driver explained to the police officer that he could not discommode 60 bus passengers to go to the police station, but he could also not continue driving to Jerusalem without the driver's license and without written confirmation from the police officer as to seizure of his license. The police officer ignored the driver and left with the license, preventing the bus with its passengers from continuing on its way. Having no choice, the driver drove the bus, with most of the passengers, to the Mesubim police station, only to find that the police officer was not there. After an additional wait, during which another bus was sent to the station to take the passengers to their destination, the police officer arrived at the station, gave the driver a traffic ticket and returned his license.

The complainant complained about the police officer's behavior, due to which the bus and its passengers were delayed for two hours.

Upon investigation of the complaint, part of which was performed by the Public Complaints Unit of the Police due to intervention of the Office of the Ombudsman, it was found that the behavior of the police officer was unprofessional and that his treatment of the driver and the passengers was improper:

- The police officer was not legally authorized to seize the driver's license, as the violation for which a ticket was issued to the driver is not included among the violations for which a police officer is authorized by law to seize the driver's license. At most, the police officer could have recorded the driver's details and sent him the ticket by mail.

- Even had the police officer been authorized to seize the driver's license, he should have provided the driver with confirmation of the seizure of the license so that he could continue driving. Instead, the police officer instructed the driver to continue driving and added that if another police officer stopped him, he should tell him to call the police station. The police officer was not permitted to give such an instruction.

- It was also found that the police officer instructed the bus driver to return to the Mesubim station at the end of the trip in order to retrieve his license. In view of the distance between the police station and Jerusalem, such an instruction was unreasonable and inappropriate even had the police officer been authorized to seize the license.

- It was also found that the police officer had acted rudely towards the bus driver and had refused to identify himself.

The findings of the complaint investigation - that the police officer acted unprofessionally and with poor judgment - were brought to the

knowledge of the Deputy Inspector General of the Police who ordered that disciplinary action be taken against the police officer and that he be instructed as to the proper course of action in such circumstances.

As for the ticket issued to the driver – in general, the Office of the Ombudsman does not investigate complaints regarding the circumstances under which traffic tickets are issued, as the recipient has recourse by law to alternative procedures, such as submitting a request to cancel the ticket to the authorized prosecutor or a request to be tried in court. However, in light of the investigation findings, the Office of the Ombudsman requested the Traffic Division of the Police to consider, in view of the obligation of the bus driver to have passengers embark and disembark safely inside the station, whether it was proper to issue a ticket for sounding the horn for the purpose of distancing vehicles parked in the bus station unlawfully. In response, the Traffic Division notified the Office of the Ombudsman that after it had examined the circumstances of the case, it had been decided to cancel the ticket.

II

Inflexible Treatment of Prisoner with Medical Problem

The complainant, a prisoner in Tzalmon Prison who suffers from severe vision problems, complained that, although he had received authorization from the prison physician to wear sunglasses, he was not permitted to wear his sunglasses, which had been placed in storage with the prison authorities. As a result, he was unable to exercise his right to take a daily walk in the courtyard because of potential exposure to the sun's rays.

The Israel Prison Service (hereafter – IPS) said in reply, that the decision whether to allow a prisoner to wear sunglasses is based, in part, on security considerations, principally the need to maintain eye contact with the prisoners. The IPS argued that there are alternative solutions which, from a medical perspective, would enable the complainant to take his daily walk in the yard, such as wearing a hat with a visor. The IPS noted that the complainant can go for his daily walk in a large interior yard with a roof, or he can take his walk late in the afternoon, when the sun's rays are not as strong.

Following a further request by the Office of the Ombudsman, the IPS reexamined the case and decided, for humanitarian and medical reasons, to allow the complainant to wear his sunglasses as he had requested.

12

Refusal to Allow Prison Visit

Many years ago, the complainant was incarcerated as a civil prisoner in a matter involving the Execution Office.[1] He complained that, because he was a former prisoner, the Israel Prison Service (hereafter – IPS) did not allow him to visit a prisoner held in a prison in Israel. He requested that the IPS be ordered to remove his name from the list of persons forbidden to visit inside a prison.

Prison Commissioner Regulation 04.42.00 states that a former prisoner who wants to visit a prisoner must receive the prior approval of the prison warden. However, the regulations also explicitly state that the said requirement shall not apply to a visit by a civil prisoner, and that in this matter, he is considered "the same as every other visitor."

Investigation of the complaint revealed that, despite the binding regulation, the complainant's name had been included in the list of persons forbidden entry to the prison because he was mistakenly identified as a "former prisoner."

Following the intervention of the Office of the Ombudsman, the IPS said that the complainant had been given approval to visit the prisoner, as he requested, and that his name had been removed from the list of persons forbidden entry to prisons.

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1 Under the Execution Law, 5727-1967, a person may be arrested, in certain circumstances, for non-payment of a monetary debt with respect to which he has not committed a criminal offense. Under the Prisons Ordinance [New Version], 5732-1971, a "civil prisoner" is a prisoner who is not a criminal prisoner.

Furthermore, given the results of the investigation, the IPS informed all the relevant officials in the IPS that former civil prisoners were to be allowed to visit prisoners in IPS prisons without need for prior authorization. Since the wording of the clarification sent to the prison officials indicated that the IPS's computer system identified civil prisoners as former prisoners, which prevented them from visiting in prisons, the IPS corrected the computer error.

13

Deducting a "Debt" From Unemployment Payment

The complainant's employment was terminated, and she was entitled to unemployment compensation beginning in October 2010. In her complaint to the Office of the Ombudsman, she contended that the National Insurance Institute (hereafter – NII) had deducted NIS 905 from her October unemployment payment for a debt she owed to the NII.

When the complainant asked the NII what the debt was for, she was told that, based on information it had received from the Employment Service, the NII determined that she was not entitled to payment for five days of unemployment payments that she had received in September 2000. As a result, a debt was recorded on the books of the NII, and the NII deducted the entire sum from the unemployment payment it made to her in October 2010.

The complainant averred that she did not know she owed the NII any money and that she had never been informed of the debt. She further contended that throughout the years she had worked and earned a living, and had she been required at that time to pay the debt, assuming it was justified, it would have been easier for her to pay it. Now, when she is out of work and needs all the unemployment compensation she receives, the NII has asked her to pay an old debt, about which she was completely unaware.

In its response to the Office of the Ombudsman, the NII stated that the data on the debt had been fed into the NII's computer system already in November 2000, but until October 2010, the complainant had not received an NII allotment, so that the NII had no way to offset the debt. The NII added that at this time it was unable to retrieve copies of any notices of the debt that may have been sent to the complainant.

The NII argued that, as the debt had already been deducted from the unemployment payment, there was no justification to consider canceling the debt.

The Office of the Ombudsman was of the opinion that the NII must consider whether to cancel the debt and reimburse the deducted sum to the complainant, for the following reasons:

1. Under section 315 of the National Insurance Institute Law, if the NII **improperly** pays a monetary benefit to an insured, it may deduct the said amount "from any payment that it owes, either in a single payment or in installments as the NII deems proper, taking into account the situation of the recipient of the payment and the relevant circumstances." However, as there was no evidence that the NII had sent the complainant notice of the debt proximate to the time of its creation it is doubtful that the complainant knew of the debt, and it seems, therefore, that she has no opportunity to contest it. In these circumstances, it is impossible to hold unequivocally that the complainant received a benefit payment **improperly**, which is a prerequisite to application of section 315.

2. The NII, which is charged with carrying out a social welfare statute, is subject to the rules of administrative law, under which it has an elevated duty to the insured of good faith, fairness, and transparency. Despite this, for some ten years, the NII did nothing to collect the debt and apparently, also did not notify the complainant that the debt existed. It was not until the NII began to pay the

complainant unemployment benefits, in 2010, that it deducted the debt from the unemployment compensation.

3. The NII's argument, that as the debt had already been paid it was unnecessary now to consider reimbursement of the sum that had been deducted, is unacceptable; after all, it was the NII that deducted, in a single payment and without any advance notice, the debt from the unemployment payment made to the complainant.

In light of the Office of the Ombudsman's position, the matter was brought before the NII"s Committee for Cancellation of Debts. The Committee determined that, under the circumstances of the case, the complainant should be reimbursed the sum that was deducted from her unemployment payment.

14

Erection of Tombstone on Grave of Deceased Person Without Family

In November 2009, MK Marina Solodkin applied to the Office of the Ombudsman and complained that no tombstone had been erected upon the grave of a childless Israeli citizen who had died in December 2004 and who was buried at the cemetery of Kibbutz Kefar Masaryk (hereafter – the Kibbutz).

According to the MK, she had applied to many entities – the Ministry of Religious Services, the National Insurance Institute, the Mate Asher Regional Council in whose jurisdiction the kibbutz is located and the cemetery coordinator at the Kibbutz – and requested that a tombstone be erected upon the deceased's grave. However, her applications were fruitless, and five years after the deceased had passed away, the grave was still left without a tombstone.

According to the law, the National Insurance Institute (hereafter – the NII) pays a burial allowance for every deceased person; however, the payment is not allocated for the erection of a tombstone which is usually done and paid for by the deceased's family. In order to prevent a situation in which graves are left without tombstones, the NII and the government signed an agreement in 1994 (hereafter – the financing agreement) for the financing of erection of tombstones for persons without family. The agreement provided that the NII would remit to "a company as defined in the National Insurance Regulations (Burial Allowance), 5736-1976" a grant for erection of a tombstone under certain conditions, including the execution of an agreement for the erection of tombstones between such company and the NII.

The NII explained to the Office of the Ombudsman that according to the financing agreement, it was entitled to execute an agreement for the erection of tombstones only with a company licensed by the Ministry of Religious Services to engage in burial, and since the Kibbutz was not licensed, the NII had not signed an agreement with it and could not provide the Kibbutz with a grant for erecting a tombstone for the deceased.

The Ministry of Religious Services confirmed that the Kibbutz had no license to engage in burial and was not likely to receive such a license in the near future.

The NII argued that in light of the aforesaid and despite its desire to assist, it was unable to find a solution in these painful circumstances.

The Office of the Ombudsman averred that the non-erection of a tombstone on the grave of the deceased, who had died over five years ago, is unwarranted and that an appropriate way to finance its erection must be found promptly.

Following the intervention of the Office of the Ombudsman, the NII announced that as the Kibbutz could not erect the tombstone, the NII had ensured that a licensed company, party to an agreement with the NII, would erect a tombstone on the deceased's grave. The Office of the Ombudsman received confirmation that the tombstone had indeed been erected.

15

Imposition of Attachment Due to Debts Deriving from Overpayment of Allowances

Two complainants submitted complaints alleging that the National Insurance Institute (hereafter – the NII) had imposed attachments on bank accounts of elderly women due to debts arising from overpayments. Descriptions of both complaints are as follows:

1. In 2006, the NII discovered that the complainant's mother, a Holocaust survivor born in 1912, had received income which she had not declared in her claim, submitted in 1991, for a senior citizen allowance. Therefore, she had received overpayments of the allowance for years. Following the discovery, the National Insurance Institute notified the mother that she owed the NII approximately NIS 242,000 and that to defray the debt, 20% of the senior citizen allowance and of any other payment made to her would de deducted each and every month.

The NII acted accordingly until October 2009, at which time it imposed attachments on the mother's provident fund and bank account and demanded that she repay the balance of the debt immediately.

The complainant's mother died in June 2010, before the investigation of the complaint was concluded.

2. A lawyer representing guardians of an elderly ward, born in 1921, also complained that in October 2009, the NII had attached the ward's bank account due to a debt totaling NIS 144,000. The attachment had been imposed due to the determination of the NII that the ward had mistakenly received overpayments of a supplemental

income allowance during the years 1982-2002. In this case, too, the NII notified the ward in 2003 that in order to defray the her debt, 25% of an allowance paid her would be deducted each month; nevertheless in 2009, the NII decided to attach her bank account and demand repayment of the entire debt.

The NII explained that according to the law, linkage differentials are added to the debt each month and if the size of the debt is significant, then offsetting a certain percentage of the allowances which are not high, is insufficient to cover the linkage differentials, and thus the debt principal does not decrease. Therefore, in 2009, the NII decided to change its debt collection policy such that debts above NIS 50,000 would be collected according to the Taxes Ordinance (Collection) by imposing attachments on bank accounts, provident funds or other financial sources of debtors. The NII noted that imposition of attachments was the only effective way of fulfilling the instructions of the State Comptroller[3] requiring the NII to increase the rate of collection of debts deriving from overpayments.

The Office of the Ombudsman notified the NII that its aforesaid policy compromised the reliance interest of debtors and their ability to support themselves, as throughout the years the NII had deducted the debts in installments until, unilaterally and without warning, it decided to change its policy and impose attachments on the debtors' accounts.

Moreover, the NII changed the manner of collection while ignoring the personal circumstances of each of the debtors and without considering the effects of the attachments upon them. Thus, the NII acted contrary to the norms binding administrative authorities,

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3 See State Comptroller, ***Annual Report 59B*** (2009), pp. 1339-1353.

requiring it to act fairly towards any person that might be harmed by a change in its course of action.

In response, the Deputy Director of Allowances at the NII clarified that when it was decided to impose the attachments, the NII lacked information necessary to enable classification of the debtors according to their medical or economic situation, and thus only if someone complained to the NII about the imposition of the attachment, did the NII remove the attachment and reach an agreement with the debtors.

The Deputy Director of Allowances also announced that in light of the lessons learned during the months in which the attachments had been imposed, it was decided that attachments would not be imposed on needy elderly people, persons unable to care for themselves or Holocaust survivors. Following the announcement, the attachments on the elderly women's accounts were revoked and thus the subject matter of the complaints was resolved.

16

Refusal to Change Address of Resident Living in Unrecognized Bedouin Community

The complainant, a Bedouin woman, requested the Population, Immigration and Border Crossings Authority (hereafter – the Authority) to change her address in the Population Registry from the town of Rahat to her place of actual residence, in an unrecognized Bedouin community in the south of Israel (hereafter – the community). The complainant explained that, after the death of her husband in 2004, she returned to live with her family in the community, where she had lived before she married and moved with her husband to Rahat. The Authority rejected her request, stating that the community is not recognized, so that it was statutorily impossible to register the community as her address.

The complainant argued that the lack of conformity between her registered address and her actual place of residence causes her great damage, including the inability to receive services from the Social Services Department of the Abu-Basmeh Regional Council, in whose jurisdiction the community lies.

Investigation of the complaint revealed that the Population Registry Regulations (Registration of Address), 5734-1974, contains an

exception that relates to the Bedouins, whereby their addresses in the Population Registry may be recorded as the name of the tribe to which they belong, together with the names of the sub-district and district, in accordance with the list of tribes appearing in an annex to the Regulations. The complainant's tribe appears on the list, and it was found that shortly before she married and moved to Rahat, her address was indeed registered thus, pursuant to the Regulations.

The Office of the Ombudsman asked the Authority to explain why the complainant's address was not recorded in accordance with the Regulations. The Authority replied that, for several years, the Authority's Beer Sheba District has not acted accordingly due to an internal directive providing that a person's address is not to be recorded without noting the name of the community in which he lives. However, the Authority admitted that, in accordance with the Regulations' provisions, it was indeed proper to change the registered address of the complainant in accordance with the exception, and that the registration would be corrected.

The Office of the Ombudsman pointed out to the Authority that it was operating in accordance with an internal directive that did not conform to the language of the Regulations. In response, the Authority informed the Office of the Ombudsman that the procedures for registering the addresses of members of the Bedouin community would be corrected immediately.

Local Government

Education and Welfare

17

Delay in Adjustment of Classroom to Hearing-Impaired Student

According to Ministry of Education (hereafter – the Ministry) guidelines, the Ministry assists with making classrooms accessible to hearing-impaired students by participation in financing the adjustment of the classroom to the student's needs, such as by installation of an acoustic ceiling or two-layered windows. A local authority interested in receiving funding from the Ministry must submit an application which includes details regarding the student needing accessibility to the classroom, blueprints of the school building and technical specifications of the proposed means of accessibility

In the 5768 (September 2008 – June 2009) school year, the complainant, father of a hearing impaired student in the 8th grade, applied to the Ilut Local Council and requested that his son's classroom be adjusted to meet his needs. In September 2008 the Council applied to the Ministry. However, the application was not prepared according to the Ministry guidelines and some of the required documents were not enclosed, including opinions from a speech therapist and an acoustician. Therefore, in October 2008, the Council was asked to amend the application and resubmit it along with the required documents. The complainant complained that the

Council was not dealing with the matter and that as a result, his son's academic achievements had suffered,

Investigation of the complaint revealed that the education department at the Council had not submitted the amended application to the Ministry, and only after the Office of the Ombudsman intervened, did the Council finally submit to the Ministry, in the middle of the 5770 school year (January 2010), all of the documents required for approval of the application.

The Office of the Ombudsman reprimanded the Head of the Local Council for the significant delay in submission of the amended application and documents to the Ministry, a delay which caused the complainant's son to spend two years learning in a classroom not fit for his needs.

The Office of the Ombudsman received confirmation that the Ministry had approved the application, and that the necessary adjustments to the classroom had been carried out.

18

Defects in Transportation Services for Disabled Students

The complainant, a resident of Kiryat Shmona, is a widowed mother of eight-year-old twins with severe autism. She complained that the vehicle that transported her children to school did not come to their house, but stopped at the far end of a communal parking area, about 200 meters from their house and on a busy main street. Therefore, she had to accompany the children each morning to the collection point and pick them up there on their return from school. Because of their autism, the children have a tendency to run away and not to listen to instructions, and therefore they are exposed to great danger as she is forced to maneuver them between the cars leaving the parking area and to wait with them to be picked up on the busy street. The complainant requested that the driver come to her house to pick up the two children.

In the course of its investigation, the Office of the Ombudsman visited the site together with municipal officials and representatives of the company providing school transportation service to the municipality. During the visit it was found that several severely disabled children ride to school in the transport vehicle, and that, due to the nature of their disabilities, a vehicle large enough to provide sufficient space between the driver and the children is needed for safety reasons.

Because of its size, the transport vehicle cannot maneuver inside the parking area, so that the driver is unable, for safety reasons, to drive the vehicle to the complainant's house.

After considering possible solutions to the problem, the best solution that was found was to transport the complainant's children with an escort in a separate vehicle – a sufficiently large taxi that has space between the driver and the children – which could be driven up to the house.

Following a meeting initiated by the Ombudsman's Office with the Municipality's director-general and other senior municipal officials, the director-general tendered the agreement of the Municipality to subsidize the cost for the separate transportation of the children.

With the cooperation of all the relevant persons, the necessary approvals were obtained within a short period of time, and the children have been traveling daily in a taxi that picks them up in front of their house and drives them home at the end of the school day.

19

Accessibility of Public Structures to the Handicapped

The complainant, a handicapped person who uses a wheelchair, resides at Moshav Herut which is within the jurisdiction of Lev Hasharon Regional Council. In his complaint to the Office of the Ombudsman, he complained that three institutions under the auspices of the Regional Council (the Regional Council building, a day center for senior citizens and the secretariat of Moshav Herut), were not accessible to handicapped persons in a wheelchair.

The Law on Equal Rights for Handicapped Persons, 5758-1998, sets forth the basic principle that "a handicapped person is entitled to accessibility to public places and public services". Accessibility includes the possibility to reach the place, and to move around and navigate within it. According to this Law, a public place must be accessible to handicapped persons, and those responsible for the public place must adjust it for such persons.

Following intervention by the Office of the Ombudsman, the Regional Council acted to make the Regional Council building accessible to the handicapped.

As to the day center for senior citizens, the Regional Council claimed that it had made the place accessible to handicapped persons; however, investigation of the complaint showed that a wheelchair-bound person could not enter the center without assistance as there

was no ramp between the road and the sidewalk adjacent to the entrance.

Following another application by the Office of the Ombudsman, the Regional Council performed the required repairs and paved a ramp at the center's entrance, such that today a person in a wheelchair can reach the entrance without having to ask for assistance.

Investigation of the complaint regarding the Moshav Herut secretariat revealed that the secretariat and the offices of the local council were located in an old building which was not accessible to the handicapped. Although by Law, there is no requirement to make old buildings accessible to the handicapped, due to the application of the Office of the Ombudsman, the Regional Council requested the secretariat to consider the possibility of making the building accessible. Consequently, the secretariat decided to make the necessary adjustments and until their completion, a handicapped resident who cannot enter the building may arrange to meet with the local council secretary at an adjacent public building.

Hazards and Nuisances

20

Failure to Remove Waste Hazard

A lawyer submitted a complaint on behalf of his client, the owner of a chicken-slaughtering business located in the jurisdiction of the Kabul Local Council. The lawyer alleged that there is no facility within the Council's borders for the disposal of carcasses and meat remnants from the slaughterhouses and butcher shops in the village.

According to the complainant, the businesses are forced to dump the waste in refuse containers in residential neighborhoods that are intended for household waste, creating a serious health hazard that endangers the villagers. He also claimed that stray animals, which feed off the carcasses and meat remnants in the refuse containers, are liable to spread diseases and plagues. The complainant and his attorney contacted the Council several times, asking that they designate a special container, located at a distance from the village, for the removal of waste from the slaughterhouses and butcher shops, but the Council was unresponsive to the request.

Animal carcass and waste alongside refuse container

Investigation of the complaint revealed that the village of Kabul has no industrial area, so that butcher shops and slaughterhouses operate within residential areas. Council officials said that it was at an advanced stage of obtaining permits and authorizations for construction of an industrial area and for locating a suitable place to dump the waste. The Council explained that the relevant government ministries and institutions to which it had submitted the requests for permits and authorizations had not yet reached a decision in the matter.

Following the intervention of the Ombudsman's Office, the Council announced that, as a temporary solution, it had designated some land far from the residential neighborhoods for waste collection and had placed a special container there for animal waste, until it receives the necessary approvals for building the industrial area.

21

Prolonged Treatment of Hazardous Noise from a Business

The complainant complained to the Office of the Ombudsman that the Municipality of Kiryat Ata (hereafter – the Municipality) was not taking sufficient action to eliminate noise emanating from a restaurant adjacent to his house, despite his repeated applications on the matter.

According to the Municipality, it had demanded from the restaurant owner to eliminate the noise coming from a bellows installed on the roof and from air conditioners that were positioned toward the complainant's apartment. The Municipality had also refrained from granting a business license to the restaurant until elimination of the noise. However, the Municipality confirmed that the noise had not yet been eliminated despite the long period of time that had elapsed since the restaurant owner had been required to act.

The bellows and air conditioners on the roof

Following intervention of the Office of the Ombudsman, a multi-participant meeting was held at the office of the Municipality General Director, attended by representatives of the Office of the Ombudsman, the complainant and his wife, the professional staff of the Municipality and representative of the Municipal Association for Quality of the Environment, the body appointed to examine hazardous noise nuisances and consider solutions therefore. At the meeting, the complainant's claims were reviewed, and a plan to bring about a solution of the problem was proposed. Afterwards, the participants visited the site, at which the representatives of the Office of the Ombudsman met with the restaurant owner and recruited him to take part in the solution.

Noise measurements on the roof during the visit at the place

Within several weeks after the meeting, and with the follow-up of the Office of the Ombudsman, the noise was dealt with - the bellows and air conditioners were relocated to a more distant place not facing the complainant's apartment, and the noise in the complainant's apartment was significantly reduced.

Other Public Bodies

223

Defects in Referral of Patient for Examination

The complainant, a resident of Rishon LeZion, was referred by a neurologist to have an MRI exam; however, due to his large dimensions, none of the machines at the clinics of Clalit Health Services (hereafter – Clalit) could be used to perform the exam. The complainant claimed that despite his applications to Clalit and the Ministry of Health, they did not act to find a fitting device so that he could undergo the exam.

Clalit responded that since no fitting device had been found with which to do an MRI, the complainant was referred to have an alternative exam (CT); however, the complainant refused, claiming that the CT exam involved the injection of iodine to which he was sensitive. Following intervention by the Office of the Ombudsman, the complainant was sent to have the MRI at Tel Hashomer Hospital. However, it turned out that the hospital's MRI machine was out-of-order, and it was not expected to install a new device that was suitable for the complainant's dimensions until two months following the date of referral to the Hospital.

In view of the failure of the above attempts to solve the problem, the Office of the Ombudsman decided to approach the Ministry of Health, which informed the Ombudsman's Office that Hadassah and Assuta Hospitals had machines that could accommodate the complainant's

dimensions. This information was passed on to Clalit, and it referred the complainant to do the exam at Assuta Hospital in Tel Aviv.

The Office of the Ombudsman reprimanded Clalit for not acting properly and as required under the circumstances of the case to find a fitting device for the complainant, and for the fact that the complainant was finally able to undergo the exam only due to the intervention of the Office of the Ombudsman.

23

Exemption of Blind Persons from Payment of Television Fee

According to the Broadcasting Authority Regulations (Fees, Exemptions, Fines and Linkages), 5734-1974, no fee is to be imposed for possession of a television set if possessed by a blind person who has provided proof that he is blind. According to the Israel Broadcasting Authority (hereafter – IBA) procedures in effect at the time of investigation of the complaint, a blind person was entitled to exemption from television fee from the date of issuance of a blind person certificate by the Ministry of Welfare. The Ministry of Welfare submits reports to the IBA of all such certificates it issues; however, the investigation of complaints on this matter revealed that at times, receipt of the information at the IBA is delayed. The IBA provided in its directives that the exemption would be granted retroactively for only one previous payment period, even if the certificate had been issued at an earlier date.

As the entitlement to the exemption becomes effective at the time of issuance of the certificate, the Office of the Ombudsman held that the rights of blind persons to an exemption from the fee should not be compromised due to defects in the transfer of data from the Ministry of Welfare to the IBA. Therefore, blind persons must be exempted from payment of the fee commencing on the date of issuance of the

certificate, and blind persons who had paid the fee for periods during which they were exempt from payment, were entitled to refunds.

The IBA announced it had amended its procedures pursuant to the decision of the Office of the Ombudsman, and that it would refund surplus fees to those entitled.

24

Change in Person's Postal Branch

The complainant, a resident of Petah Tikva, complained that the Israel Postal Company Ltd. (hereafter – the Postal Company) had determined that he would receive packages, large pieces of mail, and registered letters (hereafter – mail) at a particular postal branch, and had denied his request to receive the mail at the central post office branch in town, which is adjacent to the medical clinic that he often visits.

He contended that, over the course of several years, he had explained to the Postal Company that, due to his advanced age – he is over 90 years old – and the difficulty he has in walking, he is unable to get to the postal branch to which he had been assigned; however, his requests had not been granted.

The Postal Company explained, in response, that it endeavors to deliver the mail to the postal branch closest to the home of the addressee, but in areas where there is more than one postal branch, and due to the storage and service limitations of each branch, some addressees are liable to belong to a branch that is not closest to their home.

However, taking into account the circumstances of this particular case, as a gesture of goodwill, the Postal Company granted, the

complainant's request that mail addressed to him be delivered to the central post office branch.

25

Geographic Discrimination in Provision of Additional Health Services

The complainant, a resident of Beer Sheba, is insured by Kupat Holim Leumit (hereafter – the Kupat Holim) and is a member of the Kupat Holim's additional health services plan, "Leumit Gold" (hereafter – the Plan).

In her complaint, the complainant stated that her daughter required treatment for bedwetting; however, in Beer Sheba, unlike the central region of Israel, there was no treatment center party to a contract with the Kupat Holim at which she could receive treatment. Thus, her daughter was unable to receive the treatments she was entitled to according to the Plan. The complainant claimed that having the treatments at a private institute in Beer Sheba would cost approximately NIS 1,500, but that if there were a service provider under contract with the Kupat Holim in Beer Sheba, her daughter could receive treatments upon payment of a deductible of only NIS 280, the sum paid by members of the Plan that reside in the central region.

Following intervention by the Office of the Ombudsman, the Kupat Holim granted approval for the daughter to undergo the required treatment at a private institute near her place of residence. The complainant was requested to provide the Kupat Holim with an

original receipt in the amount paid to the institute so that the Kupat Holim could reimburse her for the sum paid, minus the deductible.

The Kupat Holim clarified that the arrangement approved for the complainant would apply to all persons in the region insured by the Kupat Holim, until the Kupat Holim reaches agreements with institutes that treat bedwetting.