

Office of the Ombudsman of Israel

A chapter from Annual Report 47 (2021)



The Third Age

"You shall rise before the aged and defer to the elderly"

(Leviticus 19, 32)

"Wisdom is with the aged and understanding in length of days"

(Job 12, 12)

Background

In the State of Israel, as in the rest of the world, changes are taking place in the demographic reality. The sector of the population that has increased relatively the most is the community of older persons¹. According to the data of the Central Bureau of Statistics, at the end of 2019 the community of 65 year-olds and older in Israel numbered 1.093 million - 606,000 women and 487,000 men. Some 40% of this community are aged over 75. At the time the state was established, older persons comprised 4% of the population, in 2019 - about 12%, and in 2040 they are expected to constitute some 14% (about 2 million). Life expectancy in Israel is on a continual upward trend, rising since the year 2000 by 2.9 years in men and 3.2 years in women². This phenomenon poses financial, social and legal challenges for Israeli society and its government authorities.

While it is customary to treat older persons as a single unit, this community is not homogeneous at all. The period of ageing covers a broad spectrum of ages, and every age group faces its own challenges - from a phenomenon of ageism in employment during the early ageing period³ to a deterioration in health and significant loss of independence in the later ageing period.

The increase in the percentage of older persons in the population obligates the public bodies who are charged with caring for this community to make the necessary arrangements. The Supreme Court has insisted on this, pointing out that "a broad stratum of society, unknown in the past, has been generated; its needs in the different areas of life must be taken into consideration by society. In addition, the means and tools at the law's disposal must be adapted in order to guarantee the provision of appropriate protection for older persons"⁴. Indeed, in Israel there is an extensive system of laws and regulations designed to protect older persons. Laws such as Defence of Protected Persons Law, 5726-1966, Prevention of Family Violence Law, 5751-1991, and Section 368 of Penal Law, 5737-1977

protect older persons by means of criminal punishment and social intervention; arrangements for providing Continuous Powers of Attorney and the appointment of Decision Supporters⁵ enable older persons to make arrangements for the time when their capabilities deteriorate; and Senior Citizens Law, 5750-1989 provides older persons with financial benefits in different fields, such as in public transport, entrance to cultural events and the purchase of medicine, as well as a discount in municipal taxes.

Government ministries and public bodies are responsible for the public services provided for the population of older persons, including the Ministry for Social Equality, the Ministry of Labour, Social affairs and Social Services, local authorities via the social services departments, the Ministry of Health, health fund clinics and the National Insurance Institute (NII).

In 1991, the General Assembly of the United Nations adopted a resolution pertaining to the UN's principles for older persons. This resolution laid down the obligation to ensure the independence of older persons and suitable living conditions for them, to enable them to lead a social life, to provide them with appropriate care, to give them tools for personal fulfillment and for the protection of their dignity⁶. At the UN World Assembly on Ageing that took place in Madrid in 2002, with the participation of all the organization's member states, including Israel, the states undertook to address the challenges posed by the ageing of the population in the 21st century and to take action in the following three fields: older persons and development, advancing the health and welfare of older persons and ensuring an enabling and supportive environment for older persons⁷.

The duty to care for older persons is thus at the foundation of Israeli society, both by virtue of Israeli law and by virtue of the state's international obligations.

1 Members of this community are also referred to as senior citizens, older people, the elderly.

2 Central Bureau of Statistics, **International Senior Citizen's Day 2020: Selected Data on Israeli Senior Citizens Aged 65 and Over** (2020).

3 A study conducted by the Taub Center for Social Policy Studies in Israel found that the level of happiness of people aged 60 - 80, who are employed in a place of work, is not significantly different from the level of happiness of people aged 60 - 80 who are unemployed, in cases where all the other variables (income, health, education, family situation and number of children) are fixed. However, the study found that people who have jobs that develop their capabilities experience a higher degree of happiness, as compared with those who do not have such jobs. See Hila Axelrad, Israel Luski and Arie Sherman, "Employment and the Level of Happiness: The Effect of Employment on the Level of Happiness Among Israelis Aged 60 - 80 (2021)", p.27.

4 High Court 1181/03 **Bar Ilan University versus National Labor Court**, 64(3), 204 (2011).

5 Legal Capacity and Guardianship Law, 5722-1962

6 "United Nations Principles for Older Persons, adopted by General Assembly Resolution 46/91 of 16 December 1991"

7 "Political Declaration and Madrid Plan of Action on Ageing" (2002)

The Office of the Ombudsman and challenges of the Third Age

The Office of the Ombudsman (Office) considers itself obligated to help older persons and their families to cope with the difficulties facing them and to act as their mouthpiece. In cases where the Office has no authority to intervene, it refers the older complainants to the appropriate bodies and assists them in exercising their rights. The Office pays special attention to the very old, including Holocaust survivors, and among other things takes measures to make its various services accessible to them and initiates inquiries with different bodies in order to assist them in exercising their rights.

While the complaints of older persons relate to multifarious issues, it is possible to indicate a few main areas that they concern. These areas pertain to the different challenges facing older persons - health problems and functional limitations, financial difficulties, ageism and discrimination on grounds of age. Following are details on the subjects of complaints of older persons; later on in this report, statistical data will be presented that show the characteristics of older complainants. A survey of the subjects of the complaints and an examination of the statistical data relating to complainants from the community of older persons reveal the extent to which the Office assists older persons in coping with the challenges facing them.

The issues raised in the complaints of older persons

Public service and the online world

In 2020, the Office handled 1,032 complaints of older persons concerning public service, and in 2019 it handled 1,292 such complaints. 34.3% of the complaints filed by older persons in 2020 related to this issue. The complaints concerned defects in the response to inquiries and requests, the behaviour of public servants, the manner in which call centres operated, and others. Another central issue raised by the complaints of older persons relating to public service was the online services provided by the public authorities, which play an important role in the provision of services for the public today.

The online world can enable older persons to receive services and perform various actions without having to

leave their home, and it can help to relieve loneliness. However, many older persons are likely to be excluded from the online world as a result of their inability to use technology or because of physical and cognitive barriers that make their daily conduct difficult in general and in the digital domain in particular.

The Office helps older complainants who are experiencing difficulties coping in the online world. For example, a 74 year-old man complained about the refusal of the Israel Tax Authority to send him by post VAT payment vouchers. The complainant claimed that since he did not know how to use the internet, he was unable to submit tax reports online. The investigation disclosed that as part of the measures taken to increase efficacy and save money, the Tax Authority had decided to stop sending tax payment vouchers to dealers, allowing them to report and pay taxes online only. Following the intervention of the Office, the Tax Authority sent payment vouchers to the complainant by post and informed him that he could ask the VAT tax office in his town of residence to instruct him how to pay the tax online. (1096146)

In another complaint, an 80 year-old couple complained that they were unable to obtain an appointment for the Covid-19 vaccination via the application or call centre of the health fund. The Office asked the health fund to contact them by phone and make them an appointment for the vaccination. (1109672, 1109792)

Ageism and discrimination on grounds of age

The demographic changes in the world population have generated, among other things, the term "ageism", meaning prejudice toward old age and older persons and fear of ageing. The age of a person can lead to preconceptions about his/her level of understanding and capability, thus affecting the way he/she is treated. As a result, he/she is likely to experience discrimination without substantive justification⁸.

The Office investigates complaints about discrimination on grounds of age, and checks if the discrimination had legal basis, was for an appropriate purpose and to an extent that was no greater than required. For example, following the intervention of the Office, the Ministry of Aliyah (immigration) and Integration cancelled an age limitation (up to 75) for the provision of assistance

8 On the subject of ageism see Israel Doron, *Law, Justice and Ageing* (2010), pp. 29 - 33; High Court 1268/09 *Zuzel vs. Prison Service* (published in the computer data system, 27.8.12).

to "returning" artists. Furthermore, Israel Aerospace Industries Ltd. removed age from its job application forms, after the Office brought to its attention the case law relating to discrimination on grounds of age and pointed out its duty to treat all job applicants equally⁹.

Financial benefits

Retirement and physical and health problems are likely to reduce older persons to poverty¹⁰.

The central tool used by the state to help older persons maintain a basic standard of living and dignified existence is the old-age insurance scheme of the National Insurance Institute. In addition, the state grants older persons old-age pension and various financial benefits: discounts on municipal taxes, on public transport and entrance fees to parks, sites, museums, cinemas and performances, discounts on medicine and so on.

The Office investigates the complaints of older persons about their failure to receive the financial benefits and allowances to which they are entitled. As a result of these investigations, the complainants receive the allowances and benefits. For example, following the intervention of the Office, the Local Council of Bnei Ayish (a town in central Israel) informed the Office that it would grant all its older persons eligible for income support benefit a 100% discount on municipal taxes¹¹.

Public housing

Independent older persons who do not own homes and have low income, who meet the determined criteria for eligibility, are entitled to accommodation in homes belonging to the public housing scheme for older persons. The older persons live in these homes at a reduced rent, in a protected environment and as part of the community¹².

The Ministry of Construction and Housing (Ministry of Housing) is responsible for providing housing solutions for older persons who are veteran Israelis, and the Ministry of Aliyah and Integration is responsible for providing housing solutions for older persons who are new immigrants. As a rule, public housing is run and maintained by government and private companies that have reached agreements with the government ministries. In public housing, the older persons receive the services of a housekeeper, maintenance and cleaning

services, and in some of the houses, the services of a social worker and social coordinator are also provided.

Since the supply of housing in the public housing scheme, including public housing for older persons, is less than the demand, persons eligible for public housing are required to wait, sometimes for several years, for an apartment to become available. The Ministry of Housing helps older persons by assisting in the payment of rent in the free market until a suitable public housing apartment or living unit becomes available.

Furthermore, under certain circumstances, the Ministry of Housing assists in the mortgage repayments of older persons aged 70 and above, who live on old-age pension and income supplement, or on disability benefit under the Persons Disabled in War against the Nazis Law.

31.1% of the complaints received in 2020 relating to public housing were filed by older persons. The complaints concerned the defective maintenance of public housing apartments, the rejection of applications to receive such apartments, the denial of requests for rental assistance for people renting in the free market and the failure to provide timely assistance¹³.

Health

Old age is often characterized by multiple illnesses and a worsening of existing illnesses. Furthermore, this stage in life witnesses the appearance of illnesses that are not common among younger people. Due to their age, older persons experience a deterioration in their ability to function on a daily basis and are thus in greater need of health services and appliances for rehabilitation and mobility. They are eligible for a reduction in payments for different health services, for a reduction in the price of medicines that are included in the state "health basket", and for preservative or restorative dental treatment according to age levels.

26.7% of the complaints relating to health, which were received by the Office in 2020, were filed by older persons. The complaints concerned, among other things, the quality of service of the bodies that provide health services, monetary charges for health services and the provision and financing of appliances for rehabilitation and mobility¹⁴.

9 See the description of the handling of these complaints in Office of the Ombudsman, **Annual Report 46** (2019), pp. 44 - 46 (Hebrew only).

10 Yitzhak Brick (Editor), **Old Age on the Poverty Line** (2005), pp. 10 - 11.

11 See a description of the complaint on page 89 (Hebrew only).

12 State Comptroller, **Annual Report 69B** (2019), "Regulation of public housing for the elderly", p.601 (Hebrew only).

13 See examples of complaints relating to rental assistance for older persons on pages 150 - 151 of Annual Report 47 for the year 2020 (Hebrew only); see also examples of complaints relating to retroactive payment of rental assistance for an elderly new immigrant and retroactive assistance with mortgage repayments of needy older persons, in Office of the Ombudsman, **Annual Report 46**(2019), pp. 93 - 94 (Hebrew only).

14 For an example of a complaint concerning the failure of a Holocaust survivor to receive an exemption from payment of medicines included in the "health basket", see Office of the Ombudsman, **Annual Report 44** (2017), p. 78 (Hebrew only).

Long-term care

Long-term care is provided for people with long-term functional disability who are in need of functional, mental or social assistance in carrying out their daily activities¹⁵. A fundamental characteristic of the next 20 years in the society and economy of Israel is an expected population increase of 1.5 percent per year, and an increase in the dysfunction index at the rate of 1.8 percent per year. In other words, the growth rate of dysfunction - and of medical needs and the need for long-term care - is some 16% per year higher than the growth rate of the population¹⁶.

The state takes actions to ensure the basic rights of older persons who are in need of long-term care, mainly through the National Insurance Institute (NII) in accordance with the conditions laid down in Chapter 10 of National Insurance Law [Consolidated Version], 5755-1995 (National Insurance Law). In addition, the Ministry of Labour, Social Affairs and Social Services provides various communal services for older persons, including day centres and assistance in managing the home and purchasing domestic equipment and medical appliances.

15% (44) of the complaints of older persons filed in 2020 on the issue of benefits concerned long-term care.

By law¹⁷, the right to long-term care benefit and the rate of the benefit are dependent on an income test. Among others, the Office investigates complaints relating to the erroneous calculation of the long-term care benefit. For example, the son of an older couple who are entitled to long-term care benefit, complained that the NII had reduced his mother's long-term care benefit by 50% on the basis of the joint income of his mother and father, as opposed to the individual income of each of them, as required in cases where both partners are in need of long-term care. The investigation disclosed that the complaint was justified. Following the investigation, the long-term care benefit of the couple was recalculated and they were reimbursed for the period during which they had received a reduced benefit. In addition, the complainant's mother was found eligible for additional weekly care hours. (1089972)

The Office and challenges of the Third Age during the Covid-19 crisis

The Covid-19 pandemic has been particularly hard on older persons, who have been required to cope with loss, fear, the curtailing of social activity and social isolation, care for a sick partner, an increase in manifestations of ageism and more¹⁸. The population of older persons is the largest community at danger from the pandemic, and thus the isolation of older persons has been inescapable. It has been difficult for family members and long-term carers to get to the homes of the elderly, and therefore the ability to provide them with food and health and home-care services, needed by them regardless of the pandemic, has been impeded.

Since the outbreak of Covid-19, the Office has taken measures to assist the community of older persons as well¹⁹. For example, the Office has made the ways of receiving complaints more flexible, enabling people who are unable to file complaints online, in particular older persons who have difficulty using digital means, to file complaints by phone. Furthermore, the staff of the Office have frequently spoken to older persons and helped them exercise their rights in receiving the special benefits conferred as a result of the Covid-19 outbreak. For example, staff members of the Office contacted Holocaust survivors who had filed complaints with the Office in the past, asked them how they were and checked if they needed assistance in light of the crisis.

In addition, within the framework of the investigation of complaints against the NII, the Office has brought about the rectification of wide-ranging defects, which have helped older persons in the Covid-19 crisis. For example, following the intervention of the Office, the NII decided to allow older persons living in retirement homes, who were unable to receive home-care service from external carers due to social isolation, to receive the whole of the benefit in money for a limited period. Furthermore, following the Office's inquiry, the NII recognized [as entitling for unemployment benefit] the resignation of an employee who had resigned during the Covid-19 period in order to protect elderly family members who were in the high-risk group for catching the coronavirus. The NII determined that the reason for the resignation justified paying the complainant unemployment benefit without the required 90 day waiting period²⁰.

15 Dov Chernichovsky, Avigdor Kaplan, Eitan Regev and Yochanan Shtessman, **Long-term care in Israel: issues of organization and financing** (2017), p.2.

16 Id. p. 4.

17 Section 224(d)(1) of National Insurance Law.

18 Liat Ayalon, "Ageism and inter-generational tension in the age of Covid-19", **Social Security** 110 (2020), pp. 1-2.

19 For further details on the activity of the Office during the Covid-19 crisis, see page 60.

20 For further details, see Office of the Ombudsman, **Investigating complaints during the first wave of the Covid-19 pandemic** .

People aged 67 and above who were sent on unpaid leave by their place of work because of the Covid-19 crisis, were ineligible for unemployment benefit due to their age²¹. The state therefore enacted a special law providing a monthly adjustment grant for these people²². However, complainants claimed that they had not received the grant to which they were entitled.

The Office's investigation disclosed that the NII did not possess exact data as to the dates that the complainants went on unpaid leave, owing to erroneous details provided by the employer or the complainant. Following the intervention of the Office, the mistaken details were rectified and the complainants received the adjustment grants for which they were eligible. (1101080)

Characteristics of Third Age complainants - statistical data

Due to the growth in the population of older persons and the unique challenges facing this community, the Office has seen fit to present the statistical data of the Central Bureau of Statistics on the characteristics of older complainants.

These data assist the Office in identifying the difficulties facing older persons and conveying them to the relevant public bodies.

These data will detail the percentage of older complainants out of the total number of complainants turning to the Office; their breakdown by age, gender and level of education; the percentage of older persons turning to the Office via representatives (lawyers, family members, organizations for the realization of rights or social workers); and the subjects and bodies about which older persons frequently complain²³.



”

"I wish to thank you for your professional and effective intervention in my matter.

Without this intervention, I would still be trying to make contact, by every means possible, with the National Insurance Institute, without knowing that the employer had given wrong details about the dates I was on unpaid leave.

Without your name being mentioned in the correspondence between the employer and me, I'm not sure he would have bothered to change the erroneous details. And now, following your intervention with the NII, I found out that the employer gave mistaken details and I was able to ask him to correct them.

When the rectification took longer than acceptable, just mentioning your name to the person handling the matter was enough to get the matter rectified!

And indeed today, finally, the 'adjustment grant' for the month of May was deposited in my account.

'And to Zion came a redeemer ...'

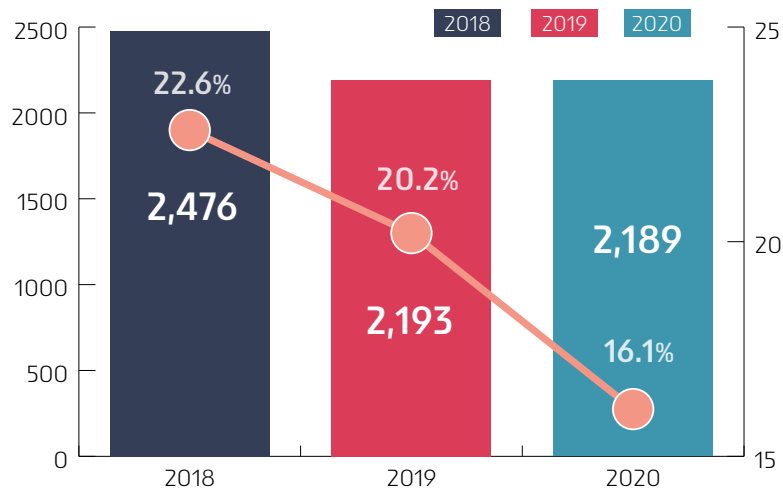
Thank you very much".

21 Section 158 of National Insurance Law.

22 Special Adjustment Grant Law for People Aged 67 and Above (Temporary Provision - the New Coronavirus), 5780-2020.

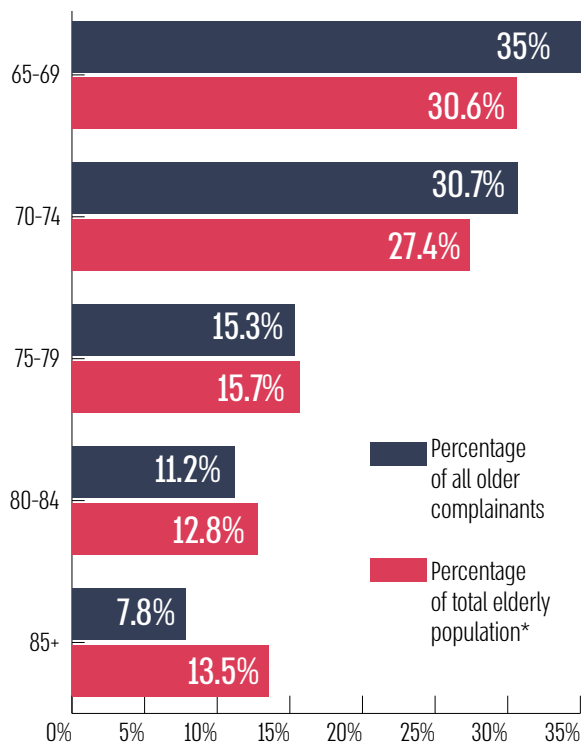
23 Complainants who filed several letters of complaint in the same year were counted once.

Percentage and number of older complainants out of the total percentage of complainants turning to the Office, 2018-2020

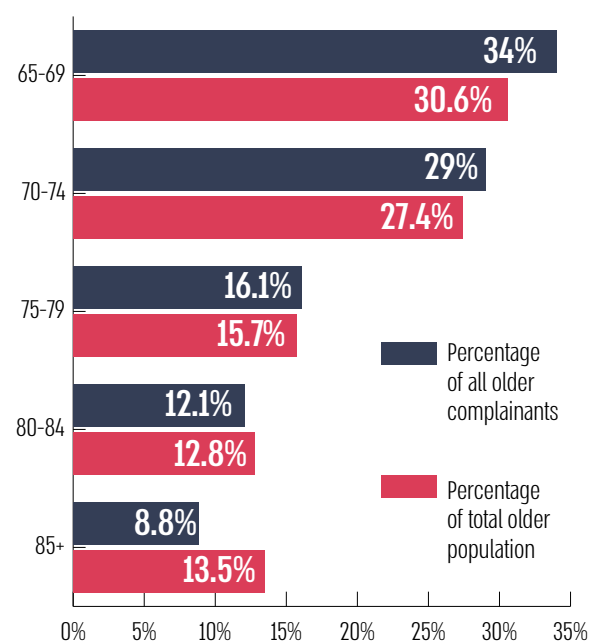


These data show that in 2020 the percentage of older complainants out of the total number of complainants dropped, due to an increase in the number of younger complainants turning to the Office about unemployment benefit during the Covid-19 crisis. However, the percentage of older complainants during the years 2018 - 2020 was still higher than their percentage of the population (12%)²⁴.

Breakdown of older complainants by age and by the percentage of each age group of the total population of older persons, 2020

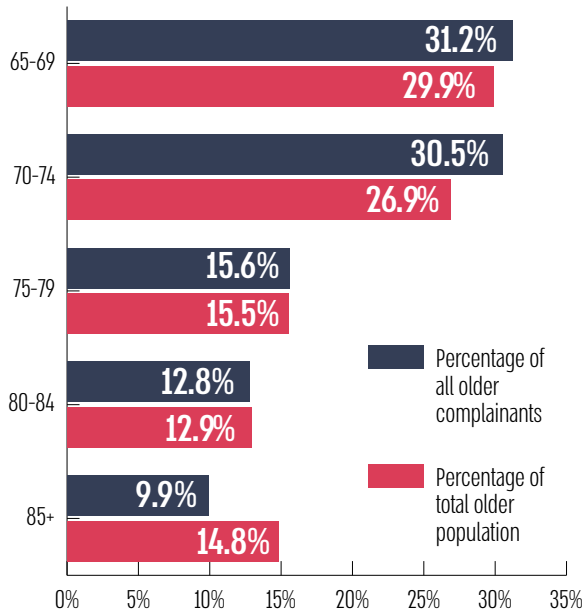


Breakdown of older complainants by age and percentage of each age group of the total population of older persons, 2019



*Since data on the population for 2020 have not yet been published, the percentage of the population for 2019 is presented here.

Breakdown of older complainants by age and percentage of each age group of the total population of older persons, 2018.

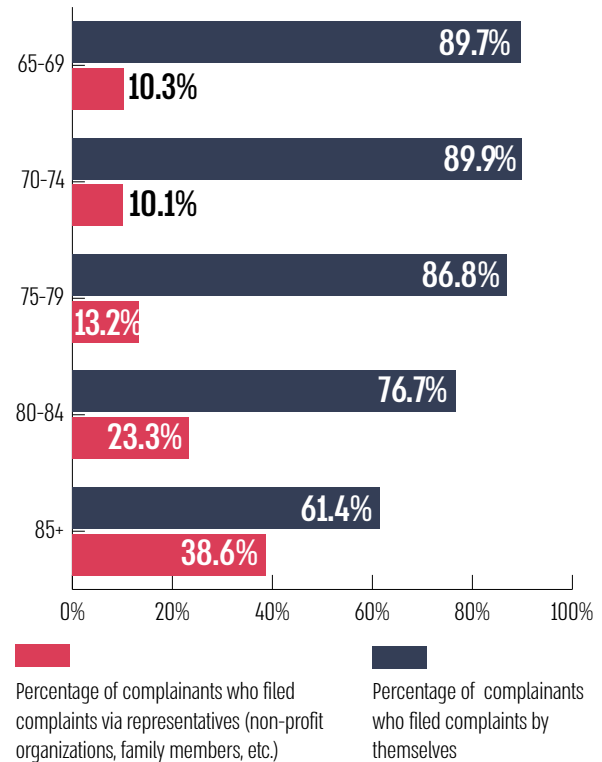


These data show that in the years 2018 - 2020, the percentage of complainants aged 65 - 74 out of the total number of older complainants was higher than their percentage of the total population of older persons; the percentage of older persons aged 75 - 79 out of the total number of complainants was similar to their percentage of the total population of older persons, and the percentage of complainants aged 80 and above out of the total number of complainants was smaller than their percentage of the total population of older persons. They also show that the percentage of complainants aged 65 - 69 of the total number of older complainants rose in the years 2018 (31.2%) to 2020 (35%).

The percentage of complainants aged 80 and above out of the total number of complainants was smaller than their percentage of the total population of older persons

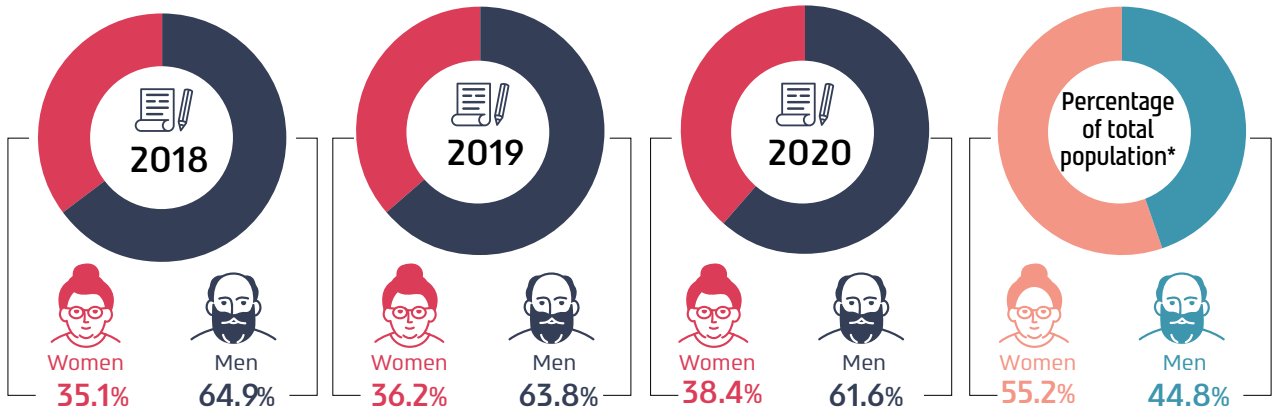


Breakdown of older complainants by age and by the way the complaint was filed, 2020



These data show that the older the complainant, the higher the percentage of complaints filed via representatives rather than by the complainant himself/herself. In light of this finding, since the percentage of complainants aged 80 and over is smaller than their percentage of the population, the Office focusses its informational activities on representatives of this community - organizations for the realization of rights of older persons, family members of older persons and social workers. By doing so, the Office aims to increase the number of complaints filed by the very elderly.

Breakdown of older complainants by gender, 2018 - 2020

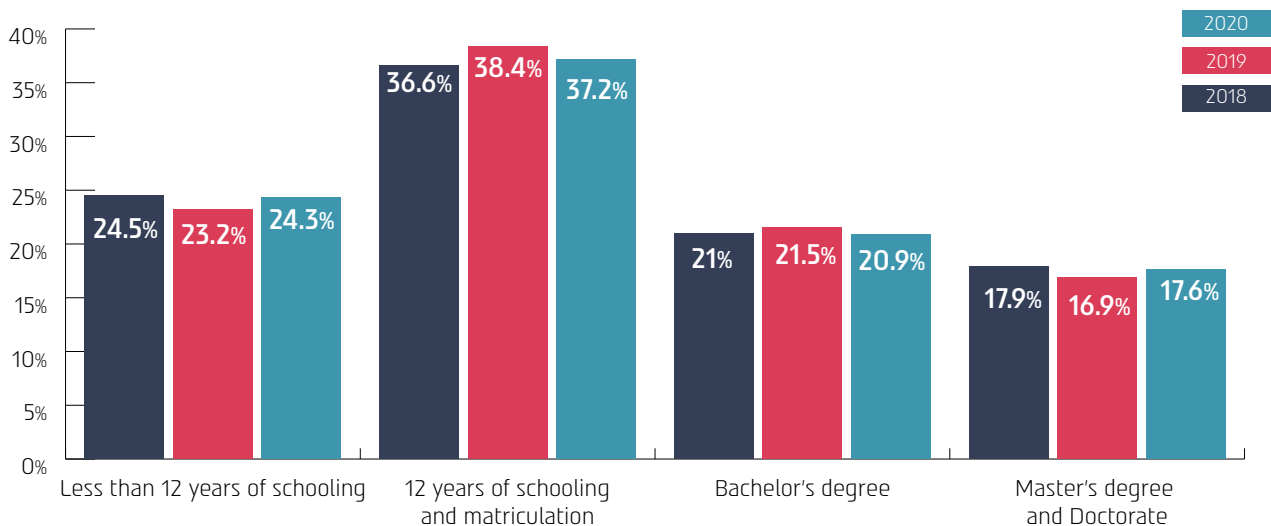


*Since the data on the population for 2020 have not yet been published, the percentage of the population in 2019 is presented here.

These data show that in the years 2018 - 2020, the percentage of older female complainants was smaller than their percentage of the population, whereas the percentage of older male complainants was higher than their percentage of the population. The data also show that during these years there was an increase in the percentage of female complainants from the

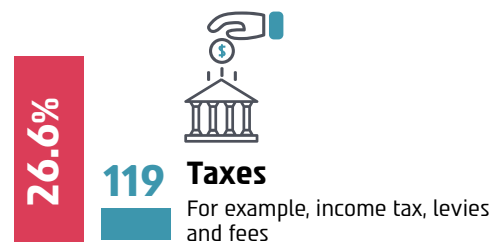
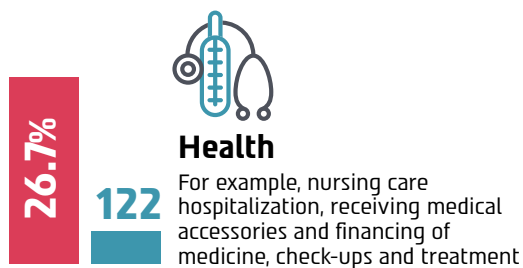
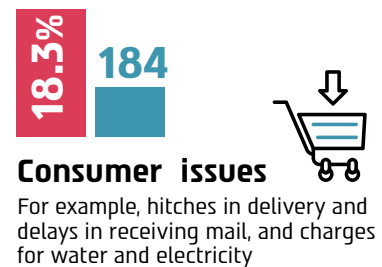
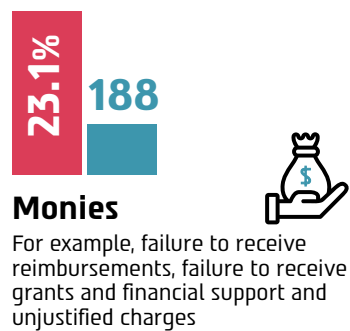
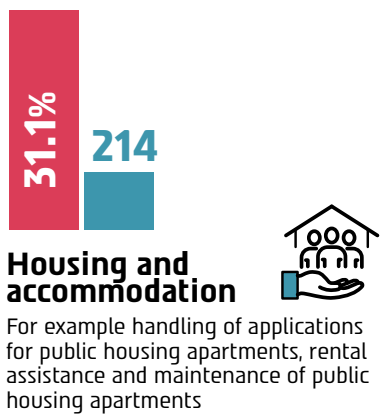
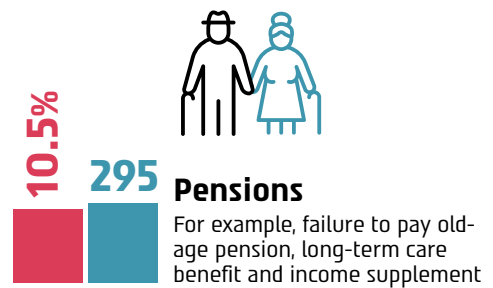
community of older persons, and a decrease in the percentage of male complainants. From the chart it can be seen that in every age group of older persons, the percentage of female complainants was smaller than their percentage of the population, whereas the percentage of male complainants was higher than their percentage of the population.


Breakdown of older complainants by education, 2018 - 2020




The data show that a large percentage of the older complainants (61%) do not have an academic education. This percentage is lower than the overall percentage of complainants without an academic education (68%).

The main issues complained about by older persons in 2020



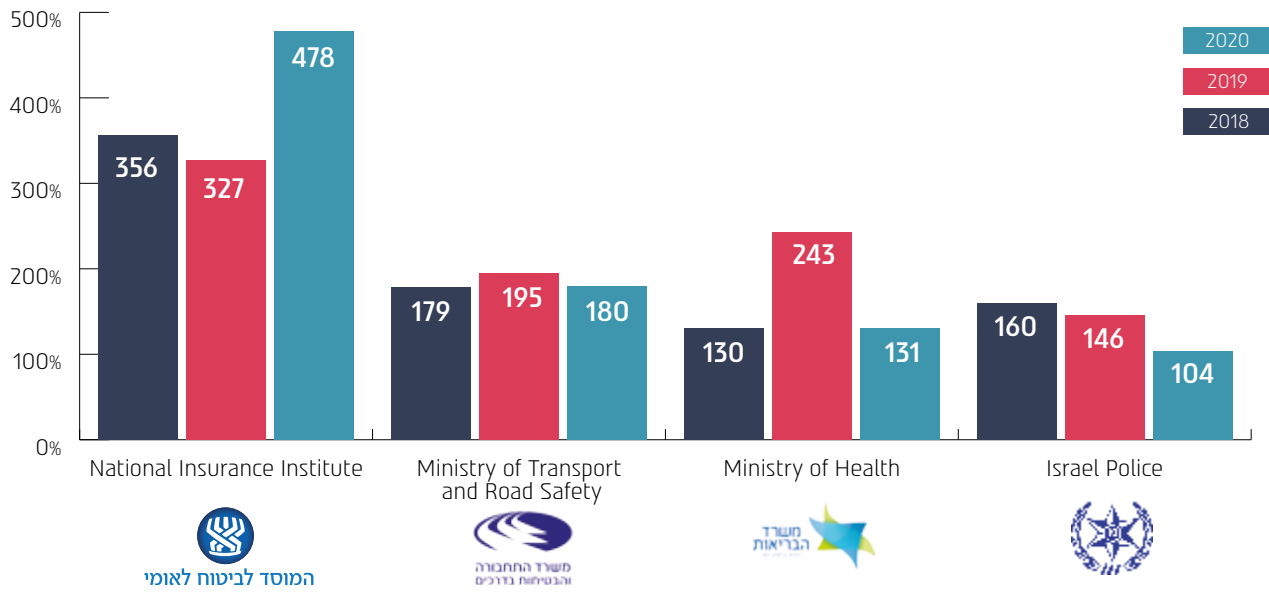
 Percentage of complaints of older persons out of all the complaints received by the Office on the same matter

 Number of complaints

The data show that in 2020, the percentage of complaints of older persons on each of the issues presented above (apart from pensions) out of all the

complaints received by the Office on the subject, was higher than the percentage of older persons in the overall population (12%).

Number of complaints of older persons against the main public bodies complained about



This graph shows that in 2020 there was a 46% increase in the number of complaints of older persons against the National Insurance Institute²⁵, and from 2018 - 2020 there was a 35% decrease in the number of complaints of older persons against Israel Police. With regard to the complaints of older persons against the Ministry of Health, there was an increase in the number of

complaints in 2019 as opposed to 2018, but in 2020 there was a similar drop in the number of complaints. Regarding complaints against the Ministry of Transport and Road Safety, the data show that there was no significant change in the number of complaints filed by older persons in the years 2018 - 2020.

25 In 2020, the number of people requiring the services of the National Insurance Institute rose due to the Covid-19 pandemic.

Selection of complaints of older persons



Population and Immigration Authority



An elderly and disabled woman asked to cancel her mailing address - and was required to go in person to one of the offices



The complaint

The complainant, an elderly and disabled resident of Jerusalem who is assisted by a walker, wished to file a request with the Population and Immigrant Authority (Population Authority), asking to cancel the mailing address that she had provided in the past. She complained that the Population Authority was demanding that she go in person to one of the offices of the Authority in the city in order to file the request. The complainant contended that due to her health and her mobility limitations, she was unable to go in person to one of the offices.



The investigation

It was found that according to Population Authority Regulation no. 2.13.0007, a request to register a mailing address, amend it or cancel it may be filed in person only at an office of the Population Authority or at one of the registration stations of the Authority. After receiving the complaint, the Population Authority suggested to the complainant that she sign a request form for amending her mailing address before a lawyer, and that the lawyer go to the office of the authority and file the request in her name. However, the complainant rejected this suggestion, since it would cost her money.

Later on, owing to the complainant's health condition and the restrictions imposed because of the Covid-19 pandemic, and as a gesture of good will, one of the staff of the Population Authority office, who lives near the complainant, offered to take the necessary documents to the complainant's house. The staff worker did indeed go to the complainant's house and the latter signed the documents.



The result

In accordance with the complainant's request, the Population Authority deleted from the Population Registry the mailing address that was registered in the complainant's name. (1089724)



Ministry of Transport -
Licensing Division



A 76 year-old woman waited over a year and a half for her driving license to be renewed

The complainant, a 76 year-old Holocaust survivor, had waited over a year and a half for her driving license to be renewed. She claimed that she had not yet received a payment voucher for the renewal of her driving license, even though she had sent in all the necessary medical documents.

Following the inquiry of the Office with the Licensing Office, the complainant's request was immediately handled. Furthermore, the public complaints coordinator of the Licensing Office went to the complainant's house and gave her personally the payment voucher for the renewal of her license. (1107753)





The Municipality of Bet Shean



Received Old Age Pension from 2015 - but was given a discount on municipal taxes from 2018 only



The complaint

At the end of 2015, the complainant, a resident of Bet Shean, started to receive Old Age Pension (the pension). In 2018, the complainant discovered that she had been automatically entitled to a 25% discount on municipal taxes from the day she had started to receive the pension, without the need to file an application²⁶. Her eligibility was based on the data that the Municipality of Bet Shean receives from the National Insurance Institute regarding the residents of the town who are entitled to a discount on municipal taxes.

The complainant contacted the municipality on the matter, and the latter determined that the complainant would receive the discount from 2018 onwards. The municipality refused her request to grant her the discount retroactively, from the time she had started receiving the pension, and to reimburse her with the excess sums she had paid. The municipality claimed that it did not confer discounts retroactively.



The investigation

The investigation disclosed that throughout the years, the municipality had been registering in its books the "head of the family" only as the holder of property that is a residential home. Therefore, even though the complainant and her husband were joint owners of the apartment in which they lived, and despite their living there together and informing the municipality of this by law upon purchasing the property, the municipality had registered the husband only as the holder of the apartment. Since the complainant was not registered in the municipality as holder of the apartment, the municipality did not update its records in accordance with the information received from the National Insurance Institute pertaining to the commencement of the complainant's eligibility for the pension and her ensuing entitlement to a discount on municipal taxes. It was also found that despite the fact that the Ministry of the Interior had authorized the local authorities to determine criteria for allowing a discount retroactively to taxpayers who were not in debt, at the time that the complainant filed her complaint the municipality had still not laid down such criteria.



The result

The Office determined that under the circumstances, the municipality could not prevent the complainant from receiving the discount retroactively, from the time she became a senior citizen, on the grounds that it had not yet laid down criteria for conferring the discount retroactively. This was because the complainant was entitled to the discount automatically as a senior citizen, and the failure to update the records of the municipality on the matter was the fault of the municipality.

Following the intervention of the Office, the municipality reimbursed the complainant with the tax sums that she had paid in excess in the years 2016 -2017. (1059828)

The Office determined that under the circumstances, the municipality could not prevent the complainant from receiving the discount retroactively



Bnei Ayish Local Council



Are you senior citizens and do you receive income support? You are entitled to a full municipal tax exemption



The complaint

The complainant, a senior citizen receiving Old Age Pension and income support, had over the years received full exemption from municipality taxes. In 2020, the Bnei Ayish Local Council notified the complainant that it had decided to reduce the rate of the discount on municipal taxes for residents of her status from 100% to 90%. The complainant contended before the local council that she was entitled to full exemption from municipal taxes under Senior Citizens Law, 5750-1989 (Senior Citizens Law), but the council responded that it was authorized to reduce the rate of municipal taxes under the provisions of the Economic Arrangements Regulations (Discount on Municipal Taxes), 5753-1993 (Discount Regulations). The complainant did not accept the local council's standpoint and thus contacted the Office.



The investigation

Several laws determine a municipal tax exemption or a discount on municipal taxes for different sectors (senior citizens, new immigrants, soldiers, etc.). As a rule, some of the discounts are obligatory, and the local council has no discretion whether or not to grant them; some of the discounts are optional and the local council has the authority to decide whether to confer them and by which criteria. The Discount Regulations authorize the local councils to fix discounts on municipal taxes for different properties and different populations, up to the maximum rate laid down in the regulations.

With regard to senior citizens who also receive income support, two legal provisions deal with their eligibility for a discount on municipal taxes: according to Section

9 of Senior Citizens Law, a senior citizen who also receives income support is entitled to a 100% discount on municipal taxes; and under Regulation 2(a)(1) of the Discount Regulations, a local authority is permitted to grant a discount of up to 100% for a senior citizen who also receives income benefit. As said, the local council claimed that it was acting in accordance with the Discount Regulations, under which it was permitted, but not obligated, to grant a 100% discount. Therefore, in 2020 it decided to reduce the discount rate to 90% only.

The Office referred the local council to the Rules of Legal Interpretation, according to which legal provisions override regulations pertaining to the same matter, and pointed out that the provisions of a specific law (such as Senior Citizens Law) override general legal provisions or regulations (such as the Discount Regulations that concern the whole population). In other words, the provision that bound the local council was the provision laid down in Senior Citizens Law and not the Discount Regulations, and the council was thus obligated to grant a full municipal tax exemption for senior citizens who received income support.



The result

The Local Council informed the Office that it accepted the latter's standpoint and that it would grant the complainant, and all the senior citizens entitled to income support, a 100% municipal tax discount for the year 2020. The complainant informed the Office that she had indeed received the exemption and expressed her sincere thanks for its handling of the matter.

(1091467)





Ministry of Health



Employed in job for older persons - and her complaint disclosed a defect in the computerized wage system



The complaint

Since June 2018, the complainant has been employed by the Ministry of Health in an older persons job. The complainant works on a weekly basis and receives a salary according to the number of hours she worked in practice. With the outbreak of the Covid-19 pandemic, she was sent on forced vacation, as a result of which holiday leave that she had accumulated was deducted. She claimed that the deduction of the holiday leave was contrary to the directives of the Civil Service Commission and the Ministry of Finance, which had regulated the employment of civil servants in an emergency arrangement (directives for employment in an emergency arrangement). Furthermore, from the salary paid her for the holiday leave that had been deducted, sums had not been allocated to her pension account and education fund (social provisions).



The investigation

The Ministry of Health informed the Office that it had paid the complainant a full salary for the days that she had been sent on forced vacation during the Covid-19 period, and that it had deducted her holiday leave in accordance with the directives for employment in an emergency arrangement.

Regarding the allocation of social provisions from the wages received by the complainant for holiday leave, it was found that the complainant had been employed as an hourly worker for more than 75 days per year. According to Annual Leave Law, 5711-1951 (Annual Leave Law), a worker employed under these terms is eligible for "vacation pay" as defined by law. Vacation pay is considered a salary and thus entitles the employee to social provisions. It became apparent that since June

2019, the Ministry of Health had changed the payment arrangement for the complainant's holiday leave that had been deducted, and instead of vacation pay she had been paid a "payment in lieu of vacation", which does not confer eligibility for social provisions.

After the Office pointed out to the Ministry of Health that it was prima facie contravening the provisions of Annual Leave Law, the Ministry of Health checked the matter in depth and found a hitch in the ministry's computerized wage system. As a result of this hitch, payment for holiday leave for all the hourly workers had automatically been registered as "payment in lieu of vacation", regardless of their terms of employment.



The result

The Ministry of Health deducted the complainant's holiday leave for the Covid-19 period and paid her wages in accordance with the directives for employment in an emergency arrangement.

Moreover, the intervention of the Office led to a systematic rectification of the defect discovered in the computer system with regard to holiday leave. The rectification was relevant for all the hourly workers, including older persons, whose salary had been registered erroneously, as well as that of the complainant. In the wake of the rectification, the Ministry of Health paid these employees their full salary retroactively, including the social provisions, as required by Annual Leave Law.

(1097034)



Israel Police



Received traffic report for crossing the road at a red light - report cancelled due to cognitive condition



The complaint

The complainant, a man suffering from dementia, received by hand a police report for crossing the road at a red light. In light of his cognitive condition, the

complainant did not inform his wife about the report that he had received, and she discovered its existence only when she received a demand for payment of the fine, including interest on arrears, from the Center for Collection of Fines, Fees and Expenses (Fines Collection Center). The wife contacted the Police and the Fines Collection Center and requested a revocation of the fine, claiming that her husband was unfit to receive it, but the Police refused to cancel the fine since the request for its revocation had not been filed on time.



The investigation

In light of the circumstances of the case, the Office asked the Police to treat the complaint filed with the Office as a request for revocation of the fine. The Office's request was made notwithstanding the delay in filing the request for revocation with the Police, which as said resulted from the complainant's cognitive condition, and taking into account the fact that the wife had made contact with the Fines Collection Center and had not known how to settle the matter.



The result

The Police notified the Office that after checking the entire circumstances of the complainant's case, the Police Prosecutor had decided to revoke the payment of fine notice and the decision would be conveyed to the Fines Collection Center. (1092431)



Public housing

The Office helped prove that there was no structure on the land - and the rent discount was renewed



The complaint

The complainant, a lone senior citizen, has been living for many years in an apartment belonging to New Amidar -

Israel National Public Housing Ltd., and paying a monthly rent of 188 NIS, after receiving a graded discount²⁷.

An inquiry conducted by the Ministry of Construction and Housing (Ministry of Housing) revealed that the complainant had joint ownership of stony land in the North of Israel, and in order to continue receiving the graded discount, the ministry asked the complainant to prove that there was no structure on the land. Due to the Covid-19 crisis, there was no reception of the public at the relevant government ministries, and the complainant was unable to receive documentation confirming that there was no structure on the land. The complainant's rent was thus raised to 1,900 NIS, a sum he was unable to pay. The complainant referred the matter to the Office.



The Investigation

The Ministry of Housing notified the Office that the complainant's request for a discount had been rejected, since a public housing tenant who owns/possesses or owned/possessed an apartment or part of an apartment in the last ten years is obliged to pay full rent. Since the complainant owns a share of the land, he is ineligible for a discount unless he proves that there is no structure on the land.

Following the repeated inquiries of the Office, and in order to assist the complainant, the Ministry of Housing decided to send an inspector to the site, at its own expense. The inspector confirmed that there was no structure on the land. The complainant's case was brought before the Exceptions Committee, which decided to take into account his special circumstances and approve him a graded discount.



The result

The complainant's monthly rent was restored to 188 NIS, and it was determined that in four years' time, he would be required to present updated documents relating to the land.

Following the investigation, the complainant was also reimbursed to the sum of 9,581 NIS, the amount he had paid in excess during the period in which he had been charged full rent.

The action of the Ministry Housing in this case should be commended. The ministry took measures to assist the complainant in proving that there was no structure on the land in his possession and took into account all the circumstances and the difficulties generated by the Covid-19 crisis.

27 A discount on rent granted by the Ministry of Housing in accordance with the financial situation of the tenant.

The complainant thanked the lawyer who had handled his complaint:



Ministry of Construction and Housing

M.G.A.R. Group was tardy - and the complainant received retroactive rental assistance



The complaint

The complainant, an elderly woman who owns no home, filed an application for rental assistance with the Ministry of Housing, via M.G.A.R. Group (M.G.A.R.)²⁸. The complainant presented all the necessary documents but did not receive an answer to her application, let alone rental assistance.



The investigation

The Office's inquiry with the Ministry of Housing disclosed that the complainant had filed her application with M.G.A.R. in December 2018, and had since then contacted the company more than ten times asking it to handle her matter. However, the worker who was handling her application had not done her job properly, and a 20-month delay had thus ensued. Following the intervention of the Office, the complainant's matter was transferred to a different worker, and the first worker was reprimanded. The complainant's application was subsequently approved and it was decided that she was eligible for assistance to the monthly sum of 1,040 NIS, from May 2020.

Furthermore, the Ministry of Housing fined M.G.A.R. for its negligent handling of the complainant's matter over such a long period.

Since it was found that M.G.A.R. had been tardy in its handling of the complainant's application, the Office asked the Ministry of Housing to check if it was possible to approve retroactive rental assistance for the complainant. After considering the matter, the Higher Accommodation Committee at the Ministry of Housing (Accommodation Committee) decided to reject the request.

The Office felt that in light of the circumstances of the case, the decision was unreasonable. It therefore asked the Ministry of Housing to check whether all the relevant facts had been brought before the Accommodation Committee, including M.G.A.R.'s negligence which had led to the complainant's failure to receive assistance on time.



The result

The Accommodation Committee reconsidered the matter and in light of the special circumstances and the negligent handling of the complainant's application, decided to approve retroactive rental assistance for her - from January 2019 to April 2020. Following the intervention of the Office, the complainant received assistance to the sum of over 20,000 NIS. (1098251)

28 A company that helps the Ministry of Housing handle applications for housing assistance.

Ombudsman institutions around the world and the challenges of the Third Age

The Office recognizes the importance of peer learning, and interfaces with parallel ombuds institutions around the world. Through these institutions, the Office gives updates on its activities and receives updates on the actions taken by the ombuds institutions on different issues.

In the framework of their authority, ombuds institutions around the world also investigate complaints of older persons. However, some countries have established special ombuds institutions that are responsible for handling complaints of older persons and finding solutions to their problems, such as in the fields of safety, welfare and rights of the individual. For example, Older Americans Act has authorized the states of the USA to establish a complaints commission for older persons requiring long-term care²⁹. The special complaints commissioners are at the disposal of older persons requiring long-term care who reside in different types of sheltered housing - nursing homes, retirement homes for the independent and frail, accommodation in the community and others.

According to the Older Americans Act, the Long Term Care (LTC) Ombudsman must ensure maximum access of older residents to him. This law also charged the LTC Ombudsman with the task of investigating complaints of people residing in sheltered housing; with representing their interests before government bodies; with conveying information to the public about sheltered housing and long term care services; with promoting the establishment of local organizations aimed at assisting older persons requiring long term care; and with making suggestions or recommendations with regard to legislation dealing with the health, safety, welfare and rights of residents of sheltered housing.

The following are the common subjects of complaints filed with the LTC Ombudsman: evacuation of residents from sheltered housing; improper provision of medicine; poor quality and insufficiency of food; faulty behaviour of sheltered housing staff; defective maintenance of sheltered housing.

The UK Parliamentary and Health Service Ombudsman published a special report on older people and complaints about the health services in Britain³⁰. The British ombudsman's examination regarding older people led to the following findings: older people lack information about how to complain and to whom; they are afraid they will be harmed if they complain; they prefer not to trouble anyone; they lack the necessary support for complaining.

In light of his findings, the British ombudsman recommended that bodies providing health services inform the older people of the ways of complaining and convey to them the message that they will not be harmed if they complain. Furthermore, in the framework of monitoring the quality of service, use should be made of complaints received about the health services in order to get a picture of the quality of service provided.

National Preventive Mechanism

The Optional Protocol to the Convention against Torture (OPCAT) lays down that countries that have signed the convention shall determine at least one body whose role is to protect the human rights of people living in institutes that deny them their liberty, including retirement homes and prisons; these rights concern in particular the prevention of abuse and humiliating treatment. Under the convention, this body is called a National Preventive Mechanism (NMP).

In many countries - for example, Austria, Cyprus, Serbia, Portugal, Norway, Sweden, Azerbaijan, Luxembourg, Croatia and Ukraine - the national ombudspersons have received the authorities of the NMP. In this capacity, these ombudspersons supervise the institutions where the liberty of the citizen is being denied, including retirement homes and nursing institutions.

For example, the Austrian ombudsman conducts visits to retirement homes and nursing institutions. In 2019, the Austrian ombudsman conducted 135 visits to retirement homes, of which 130 were unannounced³¹.

29 Long Term Care (LTC) Ombudsman

30 "Breaking down the barriers - Older people and complaints about health care"

31 Austrian Ombudsman Board, Annual Report on the Activities of the Austrian National Preventive Mechanism (NPM) (2019), p. 22

Ombuds institutions and the challenges of the Third Age during the Covid-19 crisis

Ombuds institutions across the globe have made efforts to find solutions to the difficulties encountered by older persons during the Covid-19 period. For example, following [the intervention of the Serbian ombudsman](#), carers of the elderly were given special approval to move around during the lockdown; [the Portuguese ombudswoman](#) brought about an increase

in the number of vacation days of people who have been looking after elderly family members during the Covid-19 period; [the ombudsman of Bosnia and Herzegovina](#) published a recommendation to increase awareness of the effect of public distancing on older persons as a result of the restrictions necessitated by the Covid-19 crisis.

2021 - The Office looks out for older persons

The year 2021, the Office's jubilee year, focuses on increasing the awareness of older persons to the possibility of filing complaints with the Office, on learning the challenges facing this community and adapting investigation procedures to its particular needs.

For example, on National Ombudsdays in June 2021, the staff of the Office conducted informational activities throughout the country, and gave lectures to older persons in sheltered housing and day centers, as well as to organizations dealing with the realization of rights of this community.

Just recently, at the end of the jubilee year, the Office hosted an international conference for all the ombuds institutions around the world, as well as for public complaints commissioners responsible for handling public complaints in Israel. The conference dealt with the challenges facing older people in an age of longevity and with adapting the services provided for this community by public sector bodies in general and ombuds institutions in particular.

The Office will continue to initiate innovative actions in order to make its services accessible to older persons, who frequently experience difficulties in exercising their rights and receiving optimal service from public sector bodies in Israel.

