**Response by the Ombudsman of the Republic of Bulgaria**

*Business & Human Rights Resource Centre invited the Ombudsman to respond to the following item:*

*- «The Financial Mines – Murky banking interests in the Bulgarian coal industry drain public funds, destroy thousands of human lives and heavily contaminate the environment», Greenpeace, January 2018*

[https://secured-static.greenpeace.org/bulgaria/Global/bulgaria/Campaigns/Climate%20and%20Energy/Coal/The%20Financial%20Mines\_EN.pdf](https://secured-static.greenpeace.org/bulgaria/Global/bulgaria/Campaigns/Climate%20and%20Energy/Coal/The%20Financial%20Mines_EN.pdf%22%20%5Ct%20%22_blank)

*In response, the Ombudsman sent the following statement:*

ATTN:
Ella Skybenko & Christen Dobson
Business & Human Rights Resource Centre

Dear Ms. Skybenko,
Dear Ms. Dobson,
With reference to an inquiry to the Ombudsman of the Republic of Bulgaria regarding its work for the protection of citizens’ rights in the area of mining industry, heating and electricity supply, we hereby provide you with the following information about the established problems and respective action taken.
As regards the labour of the employed in the mining industry, the Ombudsman has identified the need of protection of the rights of this specific category of labourers.
In view of this, the Bulgarian Ombudsman supported the protests of the miners from Babino mine in Bobov dol in relation to unpaid salaries, compensations and food vouchers. She even went 500 m underground and stayed there with the miners for eight hours. Maya Manolova held working meetings with representatives of the institutions in charge: Ministry of Energy, Ministry of Labour and Social Policy, trade unions, and the company management. Following those meetings, the company management promised to pay the overdue salaries and food vouchers. Since these initial promises were not fully kept, the Ombudsman had to intervene again, and as a result a commitment was made to pay the overdue compensations to the miners in three times shorter period as initially agreed upon a proposal of Bobov dol Mining management.
In response to their signal, the Bulgarian Ombudsman Maya Manolova supported the protesting workers from Obrochishte mine. Initially, after lengthy negotiations, a collective labour agreement was signed with the executive director of the concession holder company. The agreement provided for salary increase for all 230 employees of Evromangan EAD mining complex; provision of food vouchers also for the days of overtime work; medical examinations; raise of hourly pay for night shifts; free commuting including reimbursement of transport costs. Since the agreement was not applied, the Ombudsman had to visit the mine once again. A collective labour agreement was signed between the concession holder and the workers, which however was not fulfilled. All relevant institutions were signalled in search of a solution and inspection of the concession holder: the Ministry of Energy, Dobrich District Prosecutor’s Office, police, Chief Labour Inspectorate Executive Agency, National Revenue Agency, including the Prime Minister of the caretaker government.
After Maya Manolova established that following amendments to the Code of Social Insurance, miners from closed or pending closure underground mines shall not be able to benefit from their right to early retirement, she organised a series of meetings and negotiations with the Governor and Deputy-Governor of the National Social Security Institute, Prime Minister, and ministers of finance and labour. A decision was endorsed to resolve the pre-amendment cases by bylaws containing methodological instructions on the application of the law. Immediately afterwards a recommendation and a draft proposal were submitted in Parliament to protect miners’ pension rights and establish social justice corresponding to their labour.
In her work as an Ombudsman Ms. Manolova takes further action also in cases of violations of citizens’ rights by companies abusing their monopoly or dominant position on the market.
In relation to the heating companies, citizens usually complain of the following:
- the manner in which charges are incurred;
- inability to conclude individual contracts for heat supply or to reject the service;
- inaccurate measurement and reading of the consumed heat energy;
- poor quality of the provided service, frequent accidents in the heating networks.
The Ombudsman has taken the following actions in relation to the established problems:
-  held an open thematic public meeting on the problems experienced with the heating company that gathered together 250 citizens;
- drafted a report and an analysis of the established problems and made recommendations for amendments to the legal regulation that presented to the competent institutions and authorities during a round table that was attended by the minister of energy, the chairpersons of the Energy and Water Regulatory Commission and the Consumer Protection Commission, relevant Standing Parliamentary Committee, vice-chairperson of the Sofia City Municipal Council, management of the heating company, MPs and experts.
In follow-up the Ministry of Energy set up a working group, including an expert from the office of the Ombudsman, to elaborate draft amendments and supplements to the Energy Act, Chapter Ten “Heat Supply”. The working group completed its work in the end of June 2016; however, the draft amendments were not presented for public discussions or submitted in Parliament;
- The Ombudsman further addressed the EU Commissioner for Justice, Consumers and Gender Equality and EU Commissioner for Climate Action and Energy and asked for their opinion on the compliance of the Bulgarian legislation with Directive 2012/27/EU on energy efficiency and Directive 2011/83/EU on consumer rights as well as for some good practices in the area;
- Maya Manolova established contradictory case-law as regards disputes concerning due payments to the heating companies. Some courts hold that the owner of an apartment in a heated building is a consumer of heating energy by law and thus the Energy Act applies. Others hold that the Consumer Protection Act applies as the heating energy must be requested (otherwise payment is not due and the service is the subject of contractual obligations). In this regard the National Ombudsman turned to the Supreme Court of Cassation to adopt an interpretative decision on the established contradictory case-law; In its interpretative ruling no. 2/2016 of 25 May 2017, the Supreme Court of Cassation holds that “[F]or supply of household heating energy in a block of flats, those provisions of the Energy Act that do not contravene Article 62 read in combination with § 1 of the Additional Provisions of the Consumer Protection Act shall apply.“;
- Maya Manolova expressed her definitive view before the competent authorities (Ministry of Energy, Energy and Water Regulatory Commission and the respective heating companies) that the companies must reduce as much as possible the occurrence of accidents in the heating networks that frequently take place in recent years. Effective action is required to implement the repair and investment programmes of the companies. Heating companies must plan their investments and repair works in such a way as to guarantee the supply of heating energy and the consumers’ heating comfort;
- The Ombudsman made a recommendation that the Energy and Water Regulatory Commission should exercise effective control of the implementation of the repair and investments programmes of the heating companies.
As regards the electricity supply enterprises, citizens mostly complain about the following:
- poor quality of the electricity power supply that sometimes affects whole municipalities or parts thereof;
- unequal standing of electricity companies’ clients following provisions in the companies’ General Conditions;
- the possibility to make corrections in the sums due for energy for past periods.
Ms. Manolova has taken the following action in relation to the established problems:
- in relation to specific signals she made recommendations to the companies to undertake the necessary technical action to improve the quality of the supplied energy. She notes down with satisfaction that in a number of cases the companies have taken action to guarantee consumers’ right to a qualitative service;
- recommended that the companies’ General Conditions be amended and the unlawful provisions be repealed. Unfortunately, so far the General Conditions have not been revised;
- made a recommendation to review the legal regulation regarding the possibility to unilaterally correct the amount of due sums for electrical power, which, too, has not been done so far.