

REF: BC109/147/01()

31<sup>st</sup> December 2021

Hon. Fabakary Tombong Jatta  
Speaker of the National Assembly  
Independence Drive  
Banjul

Honourable Speaker,

**SUBMISSION OF 2021 ANNUAL REPORT**

I have the esteemed honour and privilege to submit the 18<sup>th</sup> Annual Report of the Office of the Ombudsman covering the period 1<sup>st</sup> January to 31<sup>st</sup> December 2021 with pleasure.

The Report is submitted pursuant to Section 163 (2) (f) of the Constitution of the Republic of the Gambia 1997 and Section 15(1) of the Ombudsman Act 1997.

I remain

Yours sincerely,

.....  
Mr. Bakary K. Sanyang  
Ombudsman

CC: File

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# CHAPTER 1

## 1.1 REMARKS BY THE OMBUDSMAN

The creation of an Ombudsman Office in the Gambia is a constitutional requirement, as stated in Chapter X (ten) Section 163 of the 1997 Constitution of The Republic of The Gambia which states “***Subject to the provision of this Constitution, An Act of the National Assembly shall within six months of the coming into force of this Constitution establish the Office of the Ombudsman and provision of his or her functions and duties.***” Thus, the 1997 Ombudsman Act establishes the Office of the Ombudsman and prescribed the powers and functions of the Ombudsman.

Honourable speaker, I would like to reiterate that since the establishment of the Office of the Ombudsman, one of our major concerns has been to work towards fully realizing all the mandates of the Office. Great successes were registered but certain impediments also existed. However, we never relented in that quest and today, in addition to our core mandate of complaints handling and investigations, we have been able to realize our objectives of visiting prisons and all detention centres and the implementation of the Assets declaration by public officers.

We cherish this as a great opportunity to advance the cause of administrative justice in the Gambia. My office will continue to perform its mandate with firm commitment to the values that are characteristic of an impartial and reliable system of justice.

Honourable speaker, a good chunk of my statement will be directed to the new activities of the Office vis-a vis Assets Declaration by government Officials and visits conducted in police cells, prisons and all detention centres in which great strides have been made.

On visiting prisons and all detention centres, Section 3(b) of the 1997 Ombudsman Act mandates the Ombudsman “to investigate complaints concerning the functioning of the Public Service Commission, the Administrative and Security Organs of the State, The Gambia Police Force, and Prisons Service in so far as the complains relate to the failure to achieve a balanced structuring of the force and service or equal access by all to recruitment to the force and service or fair administration in relation to them.”

Section 11(2) of the Ombudsman Act 1997, further states that “Notwithstanding the provision of any written law, where a prisoner or any other person held in any institution makes an allegation or complaint to the Ombudsman, the allegation or complaint shall not be made through or subject to scrutiny of any other person. This section gives the Ombudsman the jurisdiction to receive complaints from prisoners and to start investigation on the lawfulness of the decision.”

Honourable speaker, The Ombudsman and team continue to visit the main Prisons at mile two and the Prison at Jeshwang. All cells at mile two and Jeshwang Prisons were visited, including the kitchen, the clinic, food stores, the skill centre etc.

The team interviewed prisoners and inspected various administrative records. Similar procedures were done at police stations. An area of great concern is the state of the remand prisons in terms of the number of years that some of them have remain in custody without being judged and sentenced or acquitted. The Ombudsman recognizes the importance of the protection of the fundamental rights and freedoms of all Gambians particularly those in prisons and all detention centres as set out in chapter IV of the 1997 constitution of The Republic of the Gambia. This mandate is spelt out clearly in Chapter X Section 163 of the 1997 Constitution.

The main objective of our visits to these detention centres is to conduct inspections and investigations which make prisons and all detention centres more transparent and to draw attention to problems and conditions endured by vulnerable prisoners. With this any unjust, unfair, unsound and illegal conditions will be discovered and recommendations made for corrective measures.

The Ombudsman will ensure that detainees are kept in a conducive environment and to report to Government its findings and make appropriate recommendations in line with the optional protocol on the convention against Torture and all degrading Acts. Thus, the Ombudsman will be coming up with reports containing genuine evidences of conditions in Prisons, Police cells and all places of detention. In addition, the Ombudsman will be receiving genuine complaints from prisoners and people in detention for appropriate action and recommendations

On Assets Declaration, Section 223 of the 1997 Constitution of the Republic of The Gambia requires all public officers to submit to the Ombudsman a written declaration of all property and assets owed by him or her and of liabilities owed by him or her whether directly or indirectly. The declaration of income and assets is a constitutional requirement. Chapter XX1 (Code of Conduct of public officers) Section 223 (Declaration of Assets) of the 1997 Constitution of the Republic of The Gambia requires public officers to declare to the Ombudsman a written declaration of all property and assets owned to him or her, and of liabilities owned by him or her, whether directly or indirectly on assuming office, at the end of every two years and on ceasing to hold public office.

The 1997 Constitution of the Republic of The Gambia states that a false declaration in any such declaration shall be deemed to be a contravention of the code of conduct set out in chapter XX1 It further states that a declaration shall be produced if required by a proceeding before a court of competent jurisdiction other than a district tribunal and in

proceedings before a commission of inquiry appointed in accordance with the constitution.

Any property or assets acquired by a public officer after an initial declaration of assets which is not attributed to his /her income from his/her public office or other permitted employment, personal gifts, as permitted by the code of conduct, inheritance or a loan or investment (including any saving scheme) or ordinary commercial terms, shall be prima facie (clear) evidence of having been acquired and in the absence of a credible explanation by the public officer concern may be deemed to have been acquired in contravention of the code of conduct and shall render the public officer liable to disciplinary action by the appropriate person or authority or removal from office or proceedings for removal as provided by the constitution or any other law.

Honourable speaker, assets declaration is not a threat to privacy but instead it is a powerful tool to fight corruption which is a concern in most countries. It has immense benefits jurisdiction. The literature on asset declaration states many benefits of the process. Including the following:

- It increases transparency and the trust of citizens in public administration.
- It protects public officers from false accusation
- It enhances the legitimacy of government in the eyes of the public
- It stimulates foreign direct investment
- It is a tool for the exposure of substantial unjust enrichment
- It also helps heads of public institutions prevent conflict of interest amongst their employees and to promote integrity within institutions.
- The principal goal of income and asset declaration is to fight corruption
- It dissuades public officers from misconduct or other illegal activity
- It promotes economic growth in a country.

Most countries have come up with new innovations and anti-corruption laws that require public officials to declare their assets and income on assuming and leaving office. Some laws even went further to demand for the declaration of assets and income of their spouses and dependents.

However, the officers who are required to declare and the amount of details required vary from country to country. In the Gambia, there is a standard declaration form to be filled by the declarant. I am happy to report that the compliance rate so far is great.

Permanent Secretaries, Deputy Permanent Secretaries, Managing Directors, Deputy Managing Directors, Executive Directors, Deputy Executive Directors and Directors, from both government institutions and parastatals have redeclared their assets and the

compliance rate is high. The process will be trickled down to all senior government officers and those in parastatals. Let me at this junction assured all and sundry that the information collected will be treated and tackled with confidentiality and strictly in according to the dictates of the 1997 Constitution of the Republic of The Gambia and the Ombudsman Act 1997. A cardinal principle of ombudmanship is to treat information with confidentiality, integrity, justice and fair play. I will ensure that the fundamental rights and freedom of all citizens are safeguarded.

Honourable speaker, the Ombudsman services are free of charge, speedy and confidential. The office remains independent with no interference from any external force as enshrine in the constitution. The office in turn continues to safeguard the integrity and impartiality of the Ombudsman.

## 1.2 THE REPORT

This is the 18<sup>th</sup> annual report of the Ombudsman and it covers the period 1<sup>st</sup> January to 31<sup>st</sup> December 2021. During the year under review, the Office registered cases from all regions of the country and continued to successfully settle cases registered.

### 1.2.1 DATA ANALYSIS

At headquarters 90 complaints were registered, out of these 20 complaints were satisfactorily resolved in favour of the complainants, 19 dismissed after full investigation due to lack of merit, 18 discontinued due to the fact that they were frivolous and not made in good faith, 4 withdrawn, and 29 pending.

At the Kerewan Regional Office 9 complaints were registered and investigations conducted on all the complaints. Out of these 5 complaints were settled in favour of the complainants, 1 discontinued and 3 pending.

At the Mansakonko Regional Office 18 complaints were registered Office. Out of these 4 complaints were settled in favour of the complainants, 2 dismissed after full investigation for lack of merit. 1 withdrawn and 11 pending.

At the Basse Regional Office 49 complaints were registered out of these 21 complaints were settled in favour of the complainants, 13 discontinued, 4 dismissed and 11 pending.

The institutions with the highest number of complaints during the period under review are:

- Gambia Police Force 10
- Gambia Prisons 6
- Senior Secondary Schools 6

The report contains samples of cases investigated with summary of the cases. However, the Statistics depicts a true representation of the cases in 2021.

### 1.3 ACTIVITIES OF THE OFFICE

During the year under review, apart from the routine investigation activities and participation in the voters registration in the greater Banjul area and the regions, the office accomplished series of activities as per the offices work plan and strategic plan 2019-2023.

#### 1.3.1 VOTERS REGISTRATION

During the period under review the office observed the IEC's voter registration process in line with its proactive mandate.

The voter registration was the foundation on which the elections were going to be based. The process had several ramifications which could have far-reaching implications hence the need for independent observation.

Being the watchdog for the public sector in the promotion and protection of good governance, democracy and human rights, our involvement in the process was an important contribution to protecting election integrity.

We commenced our observation on 1 July 2021 and ended it on 11 July 2021. A total of 215 registration centres were visited by a total of 16 officials who observed and conducted interviews, the results of which were contained in a preliminary report to the IEC on Wednesday, 7 July 2021 to address the issues as a matter of urgency. A final report was later issued.

#### 1.3.2 FINDINGS

Below is a summary of the findings contained both in the preliminary and the final report: the preliminary report was issued during the process and the final report was submitted after the exercise.

Generally, the process was smooth process, and the registration teams demonstrated a high sense of team work.

Procedures of registration were mostly observed and consistently followed. Generally, it took only a few minutes for applicants to go through the process and received their cards

.

Party agents and other independent observers were on the ground to observe the process.

There were isolated incidents of fracas. Temporal closure or interruption of the entire process of a registration centre was also reported due to quarrels.

A number of registration centres ran out of ribbons used for printing; as a result, the affected registration centres resorted to taking particulars of applicants and requesting

them to come back the following day for their cards. To print the cards, they were taking laptops to regional headquarters for the printing of cards.

This problem caused delays in the issuance of cards as opposed to the instant issuance of cards before the ribbon issues emerged.

Taking laptops to places other than their designated registration centres for printing purpose raised transparency concerns which could cause mistrust.

Frustrations were expressed and some even threatened to not come back for their cards. A registration centre was seen with stack of cards yet to be collected by their owners. In another place a registration centre had to ask a village alkalo to announce for people to come for their cards.

Registration team members were expected to be punctual; however, this was often not the case. Closing of registration centre before the official closing was also observed.

Where a number of villages shared the same registration centre, it attracted a lot of people leading to commotion, pressure on registration staff and applicants waiting for more than necessary.

Work could not progress at some centres because of shortages of registration materials or faulty equipment like generator, printers, electronic thumb pad, generator or even non-availability of generator. People were asked to go home and to come back the following day for their cards. Some would come but only to find out that their cards were not printed.

Some printed cards had white lines on the pictures which affected the quality of the cards.

Registration officers were required to ask applicants if they had not registered elsewhere, but this procedure was not always observed.

In some places registrations were conducted in rooms with raised verandas making them not easily accessible to persons with disability, especially the wheelchair-bound and those using crutches.

Many other centres were only in the open despite the exercise being in the rainy season. This did not reflect good planning in view of the fact that the exercise was being held in the rainy season. Only a few places have witnessed interruptions owing to rain in the provinces.

There were several requests for attestation forms. So many people did not have any document at all, yet they insisted on supervisors giving them attestation forms.

Some supervisors were not happy with the way some alkalos handled the attestation issues.

Some supervisors reported instances of interference by party agents, political figures, alkalos, parents, district and divisional authorities. The main form of interference was linked to attempts to register ineligible applicants.

Performing the role of other registration officers should have been only in their absence or in a situation of extreme lateness, for indeed a team member's lateness or absence should not hold the process to ransom. However, it was observed that the team members were performing each other's role even when all members of a team were present.

This was done to such extremes, that even police officers would sometimes go to centres in mufti (civilian dress), take their seats at the desks to perform as clerks, card issuers and even handling attestation.

### 1.3.3 RECOMMENDATIONS

The following recommendations were contained in the preliminary and the final report:

- The issue of ribbons be addressed as soon as possible in order to enhance the transparency of the process and prevent its attendant problems.
- It was recommended that where urgent solution could not be found, instead of taking laptops to regional headquarters for printing of cards, the printers that the commission was using to print the cards at those regional headquarters be moved around the centres. It was advised to do that only as a temporal measure.
- It was recommended that registration teams be strictly advised to desist from going to the registration centres late and to also desist from closing before official closing hours. They have a contract with IEC to start at 8am and close at 5pm and this must be observed.
- Where several villages shared a single registration centre, and as a result were attracting lots of people, it was recommended that, in order to reduce the crowds at such centres and to improve the orderliness at those centres, the commission allocate special days to particular villages and special days be set aside for absentees. That strategy was observed at another place and helped to manage the crowds; hence the recommendation was aimed at having other teams replicate it.
- In order to prevent the white streaks seen on some cards possibly caused by dust particles thereby affecting card quality. It was recommended for the teams to print within enclosures if that could help.

- It was also recommended for the commission to ensure that necessary registration materials were available at all times. It was evident that the non-availability of simple items like forms and thumb pad is not as a result of resource constraints. It was further recommended for the commission to stress to supervisors to make requisitions on time and for SROs to do the needed follow-up to ensure there was no recurrence of such avoidable scenarios.
- Since it was part of the IEC registration process that applicants be asked whether they have registered elsewhere, it was recommended for the registration teams to be reminded to do so in order to avoid double registration and waste of public resources.
- The Ombudsman recommended that the Election Act be amended and the provision for attestation be removed to enhance the integrity of our elections.
- Rather than making laws that seem to encourage or normalize non-acquisition of national documents by citizens, laws should be made to discourage or make it punishable for Gambians who have no documents or fail to regularize their documents.
- Although versatility of team members could come in handy especially in instances of serious lateness or absence, playing each other's role should not be encouraged without a reason. Strict adherence to the separation of responsibilities will enhance quality of work and it will be easier to easily identify and hold someone responsible in case of any wrongdoing.
- Police officers on IEC duties should wear uniforms at all times and be restricted to only security-related work. The presence of uniformed police officers on IEC duties will create a sense of security or even fend off potential crime. Also being in uniform commands respect for law enforcement officers and this will aid compliance with their orders thereby enhancing orderliness of process.
- It is recommended that relevant laws be enacted to criminalize any attempt by people to register underage persons and same be done for attempts by non-nationals to get documents which entitled them to vote in elections. If attempts are considered insignificant and ignored, there will be more attempts and possibly more successes which if not addressed can make elections less credible or trigger election related conflicts.
- The IEC should embark on massive sensitization through different media and through community outreach in the run-up to major electoral exercises. Some of

the behaviour of the people towards registration teams are attributable to low levels of awareness. Sensitisation activities should target the various stakeholders of the electoral process.

- The layout of registration centres or venues of IEC activities should be made easily accessible to persons with disabilities.
- IEC contracts for the supply or purchase of equipment in the future should have warranty clauses to cover the period of exercise and ensure that faulty equipment is replaced.
- In order to prevent problems similar to the ribbon issue, the commission should also ensure key, replaceable parts of equipment used in major exercises are locally available or if not available, contingency measures be put in place to replace the parts promptly.

It is recommended that future events such as this exercise should not be conducted in the rainy season. If that is not possible proper shelter must be arranged to ensure staff, equipment and applicants or people in the queue are protected from rain and the process.

#### 1.4 INVESTIGATIONS

On investigation and complaints handling, the office continued to receive increase number of cases. The highest number of complaints received were wrongful dismissal or termination followed by unfair treatment and injustice.

#### 1.5 CONSTRAINTS

The regional offices Mansakonko and the Kerewan Regional Offices are operating from the Governor's Office. The Basse Office was operating within one of the Ministry of Agriculture's complex. The Ministry of Agriculture has taken their office and currently the Basse Office is renting. There is the urgent need for the office to have its own structures. The management has been submitting budget proposals to finance to the effect. Another constraint the office is facing is lack of vehicles.

#### 1.6 WAYFORWARD

- Visiting prisons and police cells and all detention centres in the whole country
- To execute Section 223 of the 1997 Constitution of Republic of The Gambia Declaration of Assets by Public Officials
- To expand the decentralization process to have satellite offices in Soma, Brikama, Farafenni and Janjangbureh

- Continuous capacity building for both long term and short term and to conduct study tours to other Ombudsman Offices based on our new mandates
- Conducting more proactive investigations.
- Visiting mental health homes and hospitals
- Strengthening the website.
- Strengthening the Nation-wide sensitization to create more awareness on the role and functions of the Ombudsman using TV adverts, radio programs, clinics and “bantabas”
- Creation of a Newsletter on activities of the Ombudsman

## CHAPTER 2

### 2.1 AIMS AND OBJECTIVES

#### The Institution's main objectives are:

- To subject Government's use of power to close scrutiny and so help create an environment within the civil sector in which public officers, irrespective of their hierarchy, would refrain from unjust procedures.
- To play the balancing act not only to enable public servants to understand how they can do their job better and thereby improve the standard of services to the public, but also to enhance the public understanding why Government takes certain decisions.
- To dispense administrative justice through protocols that evolve to ensure fair, reasonable, expeditious administration of the Public Sector by using **the reactive model**, that is, wait for complaints and act on them, and **the proactive model**, that is, seek out matters of concern and initiate investigations.
- To put civility, reasonableness and procedural fairness at the centre stage of public officers' dealings with the citizen.
- To be accessible and responsive to the interests and complaints of all persons particularly those who are vulnerable to unfairness such as the poor, the physically handicapped, the incarcerated, the young, the old and women.
- Seen to be transparent and, where necessary make public the findings and recommendation of its investigation.

### 2.2 STRATEGY

Objectives will be achieved by but not limited to the following means:

- Ensuring a culture of respect for the rights and obligations of all people in The Gambia.
- Dispensing and promoting justice in a free, informal and relatively expeditious manner.
- Ensuring fairness, efficiency, transparency, accountability and application of best practices.
- Using a well-trained motivated workforce and the most modern technology.

- Ensuring that the Ombudsman services are easily and freely accessible to all people in The Gambia.
- Creating awareness for the public to understand the role and function of the Ombudsman.

In carrying out all these activities the Office of the Ombudsman will be guided by the need for impartiality and independence and the importance of collaborating with other Government institutions as well as civil society.

### 2.3 TRAINING

Staffs training continue to be priority areas in the activities of the office as management is cognizance of the importance of training and capacity building in the effective implementation of an institutional mandate.

#### **OVERSEAS TRAINING 2021**

| <b><u>NAME</u></b>   | <b><u>DESIGNATION</u></b> | <b><u>TRAINING<br/>COURSE</u></b>                                        | <b><u>INSTITUTION</u></b>                               | <b><u>DURATION</u></b>                   | <b><u>SALARY<br/>STATUS</u></b> | <b><u>SOURCE OF<br/>SPONSORSHIP</u></b> |
|----------------------|---------------------------|--------------------------------------------------------------------------|---------------------------------------------------------|------------------------------------------|---------------------------------|-----------------------------------------|
| Mr Bakary K. Sanyang | Ombudsman                 | Creating the Effective Ombudsman-Strategies, Performance, Best Practices | Governance and Management Services International (GMSI) | 11-15 October 2021<br><br>Abuja, Nigeria | With salary                     | Ombudsman                               |
| Mr Ousman G M Nyang  | Deputy Ombudsman          | Creating the Effective Ombudsman-Strategies, Performance, Best Practices | Governance and Management Services International (GMSI) | 11-15 October 2021<br><br>Abuja, Nigeria | With salary                     | Ombudsman                               |
| Mr Sanna Kolley      | Senior Investigator       | Creating the Effective Ombudsman-Strategies, Performance,                | Governance and Management Services                      | 11-15 October 2021                       | With salary                     | Ombudsman                               |

|                  |                     |                                                                          |                                                         |                                      |             |           |
|------------------|---------------------|--------------------------------------------------------------------------|---------------------------------------------------------|--------------------------------------|-------------|-----------|
|                  |                     | Best Practices                                                           | International (GMSI)                                    | Abuja, Nigeria                       |             |           |
| Mr Nurudeen Mbye | Senior Investigator | Creating the Effective Ombudsman-Strategies, Performance, Best Practices | Governance and Management Services International (GMSI) | 11-15 October 2021<br>Abuja, Nigeria | With salary | Ombudsman |

### **LOCAL TRAINING**

| <b><u>NAME</u></b> | <b><u>DESIGNATION</u></b> | <b><u>TRAINING COURSE</u></b>                           | <b><u>INSTITUTION</u></b>        | <b><u>DURATION</u></b> | <b><u>SALARY STATUS</u></b> | <b><u>SOURCE OF SPONSORSHIP</u></b> |
|--------------------|---------------------------|---------------------------------------------------------|----------------------------------|------------------------|-----------------------------|-------------------------------------|
| Pierre Simon Secka | Director of Investigation | LLB Programme                                           | University of The Gambia         | 2019-2023              | With salary                 | Ombudsman                           |
| Isatou Fatty       | Investigator              | Masters in International Relations & Diplomacy          | University of The Gambia         | 2019-2021              | With salary                 | Ombudsman                           |
| Mr Samba Bajie     | Deputy Ombudsman          | Advanced Hybrid Office Management In Training Programme | Management Development Institute | 14-19 June 2021        | With salary                 | Ombudsman                           |
| Landing Bojang     | Driver                    | Training of Driving                                     | Riders for Health                |                        | With salary                 | Ombudsman                           |

## CHAPTER 3

### 3.1 MONITORING VISITS TO PLACES OF DETENTION

In pursuance of Section 11(2) of the Ombudsman Act 1997, the Office of the Ombudsman in 2021 visited prisons, police cells, immigration detention facilities, military detention facilities, detention facilities of Drug Law Enforcement Agency the Gambia (DLEAG) and Tanka-Tanka Psychiatric Hospital.

The objectives of the visits were to follow up on the recommendations made in the previous years as well as to assess the treatment and conditions of persons deprived of their liberty at the time of the visits and make recommendations for improvement and compliance with national, regional and international human rights standards.

The cooperation of the authorities at the places of detention was very good. The members of the visiting team were granted access to all the facilities.

Areas that were looked into during the visits included cells, food, water, health care, sanitation, treatment, activities, contact with the outside world and staff matters.

#### 3.1.2 PRISONS

All the three prisons in the country were visited. Jeshwang Prison was visited on 12 January 2021, Mile II Prison on 14 January 2021 and Janjanbureh Prison on 5 April 2021.

#### 3.1.3 ACCOMMODATION

The cells in the three prisons were found clean. The windows were big and there were adequate ventilation and natural light. There was also sufficient artificial lighting. However, the windows of the cells at Janjanbureh Prison did not have any cover. Inmates in cell numbers 1, 2, 3 and 4 of the prison complained that cats and insects entered their cells through the windows while they were sleeping

The dormitories and cells in the three prisons were old. It was indicated in the Office's 2020 report that the dormitories and cells needed renovation, but things remained the same in 2021. The floor of the cell in Janjanbureh female wing was still in a bad condition.

Although the four new blocks constructed in Jeshwang were occupied by remand prisoners, the cells for convicts were not up to standards.

There were still not enough mattresses in the cells at Mile II remand wing. Cells at Janjanbureh Prison had mattresses and sheets but the ones in cell 1 and cell 2 were old.

Fans and mosquito nets were provided to the inmates. TV sets were also found in many cells. However, in Janjanbureh Prison cell number 1 for convicts, cell number 4 for remand prisoners and the cell for female inmates did not have any TV.

Cells in the three prisons still had no chairs and tables for the inmates to use when eating or writing letters. Inmates hung their clothes on ropes and mosquito nets as there were no wardrobes.

#### 3.1.4 OVERCROWDING

Overcrowding remained a challenge for the prisons. Some of the cells at Mile II remand wing had 13 inmates whilst one of the them had 14 instead of 7 inmates. This means the number of inmates each cell was supposed to have was doubled. Cell no. 3 and cell no. 4 of Janjanbureh Prison had 14 inmates each instead of 11.

#### 3.1.5 SANITATION AND HYGIENE

There were still only two toilets and two bathrooms used by the inmates at the remand wing of Mile II Prison, which were not in the cells. Two toilets and two bathrooms were not enough for 127 remand inmates found there during the visit. It was still buckets that the inmates in Mile II remand wing used to urinate and defecate in the cells at night. Some of the toilets and bathrooms in the three prisons were not up to standards. Sanitary towels were provided to female inmates, as recommended by the Ombudsman. Each Inmate was given a bar of soap once a week to wash his or her clothes and sheets, but Inmates said that was inadequate. Inmates were not given any soap to wash their bodies and were also not provided with toothpaste and toothbrush. They were also not given towels.

#### 3.1.6 FOOD AND WATER

Inmates at Janjanbureh Prison said that the food provided to them was adequate and of good quality. Whilst some inmates at Mile II Prison said that the food given to them was better than what they had in the past, many others said that the food was not good. They added that there was a lack of variety as they were always given 'chereh' for dinner and bread and butter for breakfast instead of bread and mayonnaise and bread and chocolate. Some of the inmates at Mile II said that the amount of food given to them should be increased. Inmates in the three prisons had access to clean drinking water. There were taps in most of the toilets.

### 3.1.7 HEALTH CARE

It was still only Mile II Prison that had a clinic. Officers at Jeshwang and Janjanbureh prisons took sick inmates to nearby health facilities. Mile II also had a sick bay following the recommendation made by the Office of the Ombudsman. However, the clinic did not have adequate trained nurses.

One of the major problems faced by the three prisons was a shortage of essential drugs such as paracetamol. Some of the inmates at Mile II Prison said that it was their relatives who bought drugs for them.

Janjanbureh Prison did not have an ambulance to take sick inmates to Bansang Hospital when treatment could not be provided by the health centre in the place.

### 3.1.8 COVID-19

The inmates at Mile II Prison said that they had been given face masks for protection against Coronavirus (Covid-19). They added that they kept on washing them so that they could use them again. They further stated that they had also been given three water tanks containing soap for washing their hand but only two were functioning at the time of the visit.

There were no cases of Covid-19 at Janjanbureh Prison. The visiting team was informed that sanitizers had been provided to inmates to wash their hands but were finished at the time of the visit. Thermometers had also been provided the prison to check temperatures but were not being used at the time of the visit. The officers promised that they would start using them to check anyone coming into the prison.

### 3.1.9 CLOTHING

Inmates at Mile II Prison informed the visiting team that the prison authorities used to provide them with blankets and sheets but that was only for a short time. They added that they did not have any blanket at that moment. Sweaters were also not provided to inmates to protect them from cold during harmattan. Inmates at Janjanbureh Prison said that many of them had only one pair of uniform instead of two or more.

### 3.1.10 ILL-TREATMENT

Whilst inmates at Janjanbureh Prison said that they were not ill-treated, some of the prisoners at Mile II complained of beaten by the officers. One of them said he was beaten twice with a cutlass while others said they slapped, kicked and beaten. Other prisoners said they witnessed the beating of their colleagues. The inmates added that it was Disciplinary Officers (DOs) who beat them and that other prison officers were nice to them.

The visiting team was also informed at Mile that the DOs touched some inmates' private parts through strip searching. One of the inmates said that he was asked to take off his trousers and when he complied one of the DOs touched his buttocks and penis.

The prison authorities were asked to investigate the matter and take appropriate actions against any officer found involved in the ill-treatment. They were also asked to report to the Ombudsman the findings of their investigation and any action they have taken.

#### 3.1.11 ACCESS TO JUSTICE

Delay in court cases was still a major problem faced by many prisoners. For example, an inmate at Mile II Prison said he had been there since November 2014, which means he was on remand for 6 years. He said that in June 2020 his lawyer submitted no case to answer at the High Court in Banjul and a date was set for the prosecution to reply but nothing happened. Another inmate said that the last time he went to court was 22 October 2019, which means for one year and four months he had not been in court.

Many inmates also complained about delay in hearing the appeals they had made against court rulings. One of the convicted prisoners at Mile II Prison said that he made an appeal 8 years and any time he asked about it he was told that they were working on it.

#### 3.1.12 EDUCATION AND VOCATIONAL TRAINING

Basic education classes were still being conducted for some inmates at Mile II Prison and for juveniles at Jeshwang Prison. There were still no basic education classes for inmates at Janjanbuerh Prison and for adult inmates at Jeshwang Prison. Whilst inmates at Mile II Prison could do electrical installation, solar installation, satellite fixing, plumbing, sewing, welding and entrepreneurship, those in Jeshwang and Janjanbreh prisons were still not provided with any vocational training. Mile II Prison still had a library but was not well-equipped with up-to-date materials. There was a small room in Janjanbureh containing a few books which the officers at the prison said was a library. The books were old and mostly novels. The visiting team could not see any library at Jeshwang Prison.

#### 3.1.13 WORK

Inmates were still not engaged in any paid work inside or outside the prisons. Only some inmates at Mile II Prison were occasionally given work to do for which they were paid some amount of money. Some inmates did baking and other non-paid jobs.

#### 3.1.14 RELIGION

Religious services were still offered at the prisons. Each of the three prisons had a mosque. Christian inmates were still offered voluntary services by pastors who visited the prisons.

#### 3.1.15 CONTACT WITH THE OUTSIDE WORLD

Inmates were allowed to have visitors. However, they were not allowed to talk direct to their families on the phone. It was prison officers who passed information from inmates

to their families and vice versa. Jeshwang and Janjanbureh prisons still did not have landlines or other official communication facilities for inmates to communicate with their families, friends and others. The prison officers used their own phones to communicate with the inmates' families whenever they could.

Non-Gambian inmates at Janjanbureh Prison said that they could not communicate with their embassies in the country.

Inmates were still allowed to be out of their cells for nine hours, from 8 am to 5 pm. The inmates at Jeshwang and Janjanbureh prisons were still not allowed to go beyond the verandahs.

#### 3.1.16 EXERCISE AND RECREATION

There were no sports facilities for inmates at the Remand Wing of Mile II Prison. The juvenile wing of Jeshwang Prison had a lawn, which was used by juveniles for playing basketball and football, but there were no sports facilities for adult inmates. There were also no sporting facilities at Janjanbureh Prison. Inmates in the three prisons were still not given the opportunity to do daily exercise for one hour.

#### 3.1.17 SECURITY AND SAFETY

None of the three prisons had CCTV cameras, alarm bells, metal detectors, fire extinguishers and razor wire. The fences of Jeshwang and Janjanbureh prisons were still low. The two prisons still did not have towers.

#### 3.1.18 STAFF MATTERS

The staff quarters were still in bad condition and needed renovation. Janjanbureh staff quarters still had asbestos and toilets and bathrooms were in a state of disrepair. Jeshwang and Janjanbureh prisons still had no telephones, no access to the internet, no printers and no photocopiers. Janjanbureh Prison had only one computer, which was even faulty. The other problems included a shortage of vehicles, small office space and inadequate accommodation. Some officers at Janjanbureh Prison had been in the same rank for 10 and 11 years without any promotion or longevity.

#### 3.1.19 RECOMMENDATIONS

- Ministry of Interior should take measures to ensure that there is no overcrowding in the prisons.
- Ministry of Interior should communicate with the judiciary to address the problem of prisoners being held in remand for a very long time, as justice delayed is justice denied.
- Ministry of Interior should collaborate with Ministry of Justice to ensure that the government uses non-custodial measures or alternatives to imprisonment, such as probation, community services and suspended or deferred sentence, as

recommended in Kampala and Ouagadougou Declarations and the UN Tokyo Rules on non-custodial measures.

- There should be visiting judges and magistrates who go to prisons to check the legality and length of pretrial detention.
- Government should ensure that all prisoners have access to effective legal aid, as stipulated under Rule 61(3) of the Mandela Rules.
- Adequate and quality food should always be provided to inmates.
- The prison authorities should put an end to Mile II remand wing prisoners' use of buckets in cells to urinate and defecate at night. All prisoners should have access to toilets at any time, including at night.
- Adequate drugs and equipment should be provided to all the prisons.
- Ministry of Interior should also ensure that Janjanbureh Prison is provided with an ambulance.
- Each inmate should have at least two pairs of uniform, a sweater, a blanket and sheets.
- Inmates should be provided with toothpaste and toothbrush regularly. They are also to be provided with towels to dry their bodies after having a bath. They should also be given enough soap for both bath and washing of their clothes, rather than only one bar of small soap given once a week for washing clothes.
- Cells should be renovated. The windows of Janjanbureh cells should have covers to prevent rain and insects from entering.
- Each inmate should be provided with a mattress. New mattresses should be provided to replace the ones that are worn out.
- Basic education and vocational training should be provided to inmates at Jeshwang and Janjanbureh prisons.
- Each prisoner should be allowed to have at least one hour of exercise in the open air each day, in good weather condition, as required by rule 23(1) of the Mandela Rules. Measures should be put in place to ensure that prisoners at the remand wing of Mile II, adult wing in Jeshwang and in Janjanbureh are not kept only under the verandah of the cells all the time.
- Sports facilities should be provided in Jeshwang and Janjanbureh so that inmates can play football, volleyball and sports to reduce stress, depression and other problems
- Enough furniture should be provided in the cells, including wardrobes for inmates to keep in their clothes.
- The staff quarters should be renovated. The asbestos in the staff quarters at Janjanbureh Prison should be removed as a matter of urgency.

- Janjanbureh Prison should be provided with enough computers and vehicles. The issue of small office space and inadequate accommodation should also be addressed for the prison.
- The issue of officers at Janjanbureh remaining in the same rank for 10 and 11 years without any promotion or longevity should be addressed.
- Each prison should have CCTV cameras, security alarm, fire extinguishers and other facilities. Jeshwang and Janjanbureh prisons should have towers and high fences.
- Ministry of Finance should increase the amount allocated to the prisons so that the recommendations can be implemented.
- A new prison should be built to replace Mile II Prison, which is not in a conducive environment and not up to regional and international standards.
- The outdated Prison act should be amended or a new prison law be enacted.

### 3.2 POLICE DETENTION FACILITIES

A total of 40 police stations and 4 police posts were visited and a total of 70 cells inspected in 2021.

The police stations visited in NBR were: Juffureh Police Station, Barra Police Station, Amdallai Police Station, Ndungukebbbeh Police Station, Kerewan Police Station, Njain Sanjal Police Station, Farafenni Police Station, Kuntaya Police Station and Njabakunda Police Station.

The police stations and posts visited in CRR were: Kaur Police Station, Njau Police Station, Firdawsey Police Station, Kuntaur Police Station, Jareng Police Station, Brikama Ba Police Station, Janjanbureh Police Station, Bansang Police Station, Karantaba Police Post and Dankunku Police Post.

The police stations visited in URR were: Fatoto Police Station, Sare Ngai Police Station, Diabugu Police Station, Bakadagi Police Station, Basse Police Station and Fatoto Police Station.

The police stations and posts visited in LRR were: Bureng Police Station, Kwinella Police Station, Soma Police Station, Mansakonko Police Station, Keneba Police Station, Koliyorr Police Station and Sankandi Police Post.

The police stations and posts visited in Kanifing Municipality were: Serrekunda Police Station, Bundung Police Station, Bakau Police Station, Kanifing Police Station, Kairaba Police Station, Old Jeshwang Police Station, Manjai Police Station, Tallinding Police Station and Tallinding Police Post.

The police stations visited in West Coast Region were: Brikama Police Station, Yundum Police Station and Brusubi Police Station.

### 3.2.1 CONDITION OF CELLS AND DETENTION ROOMS

Police cells still had no artificial light in the cells. Only the two cells at Bakadaji Police Station had artificial light. Whilst cells at Kaur, Bakadaji and a few other police stations had big windows with adequate natural light and ventilation, most police cells had only holes or small openings with poor or no artificial light and ventilation. For example, the cells at Kerewan and Fatoto police stations had four small openings and no windows, the cell at Kanifing Police Station had three small openings, the cells at Tallinding, Abuko, Old Jehwang and Soma police stations had two openings only. Brikamaba Police Station had neither a window nor an opening and was very dark. It was not fit for keeping anybody in it. Kanifing and Kotu police stations were also dark.

Many cells were not clean at the time of the visit. For example, the cell at Fatoto Police Station had cobwebs whilst the cells at Mansakonko, Kwinella, Abuko and Fatoto police stations had traces or marks of urine. None of the police stations had mattresses for detainees to sleep on. Detainees still slept on mats or empty cartons provided by police officers.

There were still no separate cells or detention rooms for female detainees and juveniles.

### 3.2.2 SANITATION AND HYGIENE

There were still many police stations that used pit latrines that were not hygienic, such as Karantaba Police Post and Kwinella Police Station. In Jareng, Fatoto and Brikamaba police stations, officers and detainees used the same pit latrines. Keneba Police Station had no toilet.

The toilets at some detention facilities were not in good condition and had unpleasant smell. In some police detention facilities, such as the ones at Manjai, Abuko and Mansakonko, detainees were not allowed to use toilets at night. They were asked to urinate in the bottles in the cells at night.

Most police stations in the regions were still not provided with detergents such as dettol, soap and omo to clean the cells. Officers used their own money to buy detergents to clean the cells and their offices. In Kanifing Municipality, officers at police stations such as Manjai, and Bakau said that they were supplied detergents only once a month, which was inadequate.

### 3.2.3 FOOD AND DRINKING WATER

The government still did not provide food to detainees in most police detention facilities, especially the ones in the regions. The government allocated only D5 for feeding each detainee a day, which could not afford even breakfast. It was still the police officers or families who provided food for detainees in many police detention facilities.

Some police stations in Kanifing Municipality such as Serrekunda, Bundung and Bakau police stations received detainees' food from the Police Intervention Unit (PIU). The visiting team was informed that this arrangement was made between the authorities at the police headquarters and PIU. Other stations such as Kairaba and Manjai police stations received detainees' food from Tourism Security Unit (TSU) at Senegambia but officers complained that they paid fare to collect the food using their own money. Brusubi Police Station received detainees' food from the Police Anti-crime Unit. Only lunch was provided to the detainees.

Detainees had access to drinking water. However, there were still many police stations and posts that did not have taps or had difficulties in having access to water. The police stations and posts that did not have a tap were Njabakunda, Ndungukebbbeh, Kuntaya, Jareng, Sare Ngai, Kwinella and Bureng police stations and Karantaba Police Post. The officers at Diabugu Police Station said that they fetched water from the village tap because the tap at the station did not get water for a month.

#### 3.2.4 HEALTH CARE

Sick detainees were taken to nearby health facilities. When drugs were not available at health facilities, detainees or their relatives used their own money to buy them at pharmacies. When detainees or their relatives did not have enough money, police officers at some stations used their own money to buy drugs. Some police officers still paid D25 for a ticket when they took sick detainees to health facilities. At Serrekunda, Bundung and several other police stations, the visiting team was informed that health facilities still asked for D500 for a medical report.

Police cells were not fumigated to remove insects, bacteria and disease. Places of detention were still not visited by health professionals to assess the health conditions of detainees.

#### 3.2.5 CONTACT WITH THE OUTSIDE WORLD

There were still no landlines or other communication facilities at police detention facilities for detainees to communicate with their families. It was mostly the police officers' personal phones that detainees used to speak to their families.

#### 3.2.6 TREATMENT

There was no incident of torture or ill-treatment. The visiting team was informed by the detainees that no force was used against them and that they had not been beaten, insulted or ill-treated in any other way.

#### 3.2.7 LAWFULNESS OF DETENTION

In some police detention facilities detainees were kept beyond the 72 hours stipulated in the constitution. For example, one of the detainees at Kanifing Police Station was

detained for 20 days, almost three weeks, without being taken to court and a detainee at Brikama Police Station was in detention for 15 days. The officers at Basse Police Station said there was only one sitting magistrate for both Upper River Region (URR) and some part of Central River Region (CRR), which caused delay in delivering justice as he always spent only two weeks in Basse and then travelled to Kombo.

### 3.2.8 STAFF MATTERS

Most police stations still did not have any car such as pick-up to facilitate their work. For example, the whole of URR had only one car. The visiting team also found that most police stations and posts did not have computers, printers, photocopiers, scanners, telephones and furniture to enable them to work efficiently. They did not also have access to the internet and TV.

Other issues include irregular supply of uniforms, inadequate staff, inadequate office space, inadequate staff accommodation, overstaying in one station, delay in promotion, inadequate house allowance of D150 for junior officers and inadequate fuel for stations having a car. There was no CCTV at any police station.

### 3.2.9 RECOMMENDATIONS

- Ministry of Interior should ensure that adequate funds are allocated for feeding of detainees at police stations and posts. The funds should be adequate for breakfast, lunch and dinner, rather than only lunch or breakfast. At least D100 for each detainee instead of D5, which cannot get even a loaf of bread.
- Ministry of Interior should also ensure that all the police cells have mattresses and sheets for detainees to sleep on, rather than detainees using mats being provided by police officers or sleeping on a bare floor.
- The ministry should ensure that police cells are renovated and modernized for them to be in line with international standards.
- There should also be adequate natural and artificial light and sufficient ventilation in all police cells. Windows should be large enough to let fresh air and natural light into the cells. Ceiling fans should also be provided in cells and detention rooms as places get hot during summer.
- The ministry should also ensure that each place of detention has separate cells or detention rooms for juveniles, female detainees and male detainees. Juveniles are not to be detained in the same cell or detention room as adult detainees, as stipulated in section 29(3) of the 1997 Constitution, sections 210(6) and 212(8) of the Children's Act 2005 and article 10(2)(b) of International Covenant on Civil and Political Rights.

- Inspector General of Police (IGP) should ensure that detainees do not urinate in bottles in cells at night. Toilets and bathrooms should be in cells rather than outside. Detainees should have access to toilets at all times when requested, including at night.
- All police stations and posts should be provided with adequate supply of cleaning products such as soap, omo, Dettol and vim. Cells, detention rooms and toilets are to be kept clean all the time to avoid unpleasant smell and infectious diseases such as tuberculosis.
- Ministry of Interior should ensure that police stations and posts that do not have taps or have difficulties in getting water are provided with taps.
- Ministry Health should be communicated with, to ensure that police officers do not pay D25 for a ticket at health facilities for the treatment of detainees or D500 for a medical report.
- Ministry of Interior should ensure that health professionals frequently visit places of detention to assess the health conditions of detainees and fumigate detention rooms.
- There should be communication facilities in police stations and posts for detainees to speak to their families.
- The IGP should ensure that no one is detained beyond 72 hours without the permission of a magistrate.
- Ministry of Interior should discuss with the judiciary the need to appoint sitting magistrates in all the regions in the country to avoid detainees being kept beyond 72 hours.
- The IGP should ensure that station officers always inform detainees of their basic human rights.
- Ministry of Interior should ensure that each police station is provided with a car for effective service delivery.
- Ministry of Interior should ensure that dilapidated police stations and staff quarters are renovated and the plots of land allocated to police are developed in places where they are renting.
- As we are in the age of technology, Ministry of Interior should ensure that all police stations and posts are provided with computers, printers, photocopiers, scanners, internet, TV sets and CCTV cameras.

### 3.3. IMMIGRATION DETENTION FACILITIES

Five immigration stations and two immigration posts were visited in 2021. The immigration facilities visited were: Basse Immigration Station, Farafenni Immigration Station, Soma Immigration Station, Brusubi Immigration Station, Yundum Immigration Station, Bakadaji Immigration Post and Fatoto Immigration Post.

Immigration stations and posts had no cells. They had only temporary detention rooms. Only Soma, Yundum and Brusubi immigration stations had detention rooms. Basse Immigration Station and Bakadaji Immigration Post kept detainees in the control office. The officers at Fatoto Immigration Post said they kept detainees for one or two hours and then took them to Basse Immigration Station. Only Yundum Immigration Station had detainees at the time of the visit. It had three detainees.

The detainees at immigration detention facilities were non-Gambians who failed to regularize their stay in the country. Detainees did not spend the night at immigration detention facilities. They were released the same day after making payment for regularization of stay. Those who could not pay were asked to come the following day. However, the visiting team was told that six detainees spent the night at Brusubi Immigration Station and were released in the morning. The officers at the station said they rarely detained anyone more than a day.

The detention rooms were tiled and clean. They had toilets with taps which detainees could use. The detention room at Soma Immigration Station had very good natural light and ventilation, a ceiling fan, a TV, a fridge and chairs. The one at Yundum also had very good natural light and ventilation. However, the detention room at Brusubi Immigration Station had inadequate ventilation and natural light. There was no artificial light in the detention rooms of both Yundum and Brusubi immigration stations. There was no fan in the detention rooms except for the one at Soma.

There were no separate detention facilities for women and juveniles in any of the immigration detention facilities visited.

With regard to cleaning materials, the officers at Yundum said that they were supplied with adequate omo, Dettol and vim by the Immigration Department. Those at Brusubi said they were not given any detergents by the department. They added that they used their own money to buy them.

The officers at Yundum Immigration Station said that the Immigration Department gave them D 5000 every month to be shared among immigration detention facilities in the West Coast Region for the feeding of detainees. They added that when that was finished, they used their own money to give breakfast and lunch to detainees. They did not provide them with any food or money to feed detainees. Those at Soma said that a year before the visit they were given food items by the Immigration Department to provide lunch for detainees. The officers at Brusubi immigration Station said that the department did not give them money or food to feed detainees. They added that they used their own money to buy food for detainees. Drinking water was provided to detainees from the water dispensers at Yundum and Brusubi stations and from the tap at Soma detention room.

Detainees were allowed to call their families using their own phones or those of the officers and were also allowed to have visitors.

There was no complaint of torture or ill-treatment. The commissioner for West Coast Region said he had told officers in his region not to insult or beat detainees.

There was no vehicle such a pickup in most of the immigration facilities visited. The whole of URR had only one operational vehicle. The officers at Fatoto did not have even a motorcycle. No landline or other communication facilities were provided to immigration stations and posts. Other problems faced by the staff included lack of computers, scanners, printers, photocopiers, internet, TV, A/C, inadequate furniture, inadequate office space, no staff accommodation and meagre house allowance.

### 3.3.1 RECOMMENDATIONS

- The Immigration Department should ensure that all detention rooms have adequate ventilation, natural light, artificial lights and fans, as done for Soma Immigration Station.
- Mattresses and sheets should be provided to all the immigration detention facilities for detainees to sleep on when kept overnight.
- Ministry of Interior should ensure that adequate funds are provided to immigration detention facilities for breakfast, lunch and dinner to be prepared for detainees.
- Communication facilities should be provided at immigration detention facilities for detainees to easily communicate with their families and others.
- Immigration Department should ensure that immigration officers always inform detainees of their basic human rights, such as the right not to be tortured or ill-treated and the right to contact with families.
- Ministry of Interior should ensure that enough vehicles are given to immigration stations and posts for effective service delivery.
- As we are in the age of technology, all immigration stations and posts should be provided with computers, printers, photocopiers, scanners, internet and TV.
- The issues of lack of accommodation, small office space, inadequate furniture and meagre house allowance should also be addressed to motivate the officers, especially those in the regions.
- Ministry of Interior should ensure that structures are built on the piece of land allocated to the immigration officers in Bakadaji and Basse.

### 3.4 MILITARY DETENTION FACILITIES

The team visited Farafenni Barracks in NBR on 3 April 2021. The two cells at the barracks were clean and had mattresses and sheets. There was improvement in the condition of the cells compared to 2020 when there was inadequate natural light and poor ventilation as the cells had only four small openings and no windows. In 2021 the cells had big

windows and there was adequate ventilation and natural light. However, as in 2020, the cells still had no artificial light.

The two toilets at the detention facility, one flush and one squat, were found clean. The flush toilet could not be flushed at the time of the visit because of the broken handle. There was a tap in one of the toilets.

Detainees were given breakfast, lunch and dinner and adequate drinking water. The visiting team was informed that detainees were fed from Central Cook House, which was part of the government feeding scheme.

There was no complaint of torture or ill-treatment in any of the military detention facilities visited. There was also no complaint of use of force.

Some of the problems faced by the barracks were inadequate number of staff, inadequate furniture, inadequate air conditioners, no access to the internet, no electric cookers, no risk allowance compared to other security agencies and shortage of drugs at the barracks clinic.

#### 3.4.1 RECOMMENDATIONS

- There should be artificial light and fans in both cells.
- Ministry of Defence should ensure that adequate drugs are provided to the clinic.
- Internet facilities should also be provided to all the barracks, taking into account the fact that we are in a modern age.
- Adequate staff, furniture and other facilities should be provided to the barracks for effective and efficient operations.
- There should be CCTVs at the barracks for better security.
- Ministry of Defence should ensure that risk allowances are paid to all military officers, as done for the police and other security agencies.

#### 3.5. DRUG LAW ENFORCEMENT AGENCY THE GAMBIA DETENTION FACILITIES

The detention facility at Banjulunding station of the Drug Law Enforcement Agency the Gambia (DLEAG) was visited on 30 September 2021. The station had 1 detention room and no cell. Seven detainees were found in the detention room, who the officers at the station said were brought there by the taskforce Joint Operation Zero Crime. Some detainees were sitting on mats whilst others were lying down.

The detention room had two medium windows with burglar proofs having nets. It did not have adequate natural light and ventilation. There was no artificial light. The detention room had a toilet with a door. The toilet had no water and this was brought to the attention of the visiting team.

The officers at the station said that the DLEAG head office gave D70 for each detainee's food every day, D35 for lunch and D35 for dinner. Detainees were given drinking water from the water dispenser at the station. The visiting team was informed by the detainees that they had been given breakfast that day.

Detainees were allowed to communicate with families and could receive visitors up to 6pm.

There was no complaint to torture or ill-treatment. The visiting team was informed that the officers at the station were told to act according to the constitution.

Some of the challenges faced by the officers at the station were inadequate number of staff, inadequate handcuffs and inadequate vehicles.

### 3.5.1 RECOMMENDATIONS

The authorities at DLEAG head office should ensure that the detention room has large windows for adequate ventilation and natural light. There should also be artificial light and a ceiling fan in the detention room.

The officers at the station should ensure that there is always water in the toilet for detainees' use.

Adequate and quality food should be given to detainees. Detainees should also be provided with breakfast instead of only lunch and dinner.

There should be mattresses in the detention room for detainees to sleep on rather than mats.

The issues raised by the officers at the station should be addressed by the authorities at DLEAG head office.

### 3.6 TANKA-TANKA PSYCHIATRIC HOSPITAL

Tanka-Tanka Psychiatric Hospital was visited on 21 March 2021. The hospital is a department of Edward Francis Small Teaching Hospital (EFSTH). The hospital had 8 male wards and 4 female wards. It was built to accommodate 100 patients and had 100 beds but the officers at the hospital informed the visiting team that sometimes more than 100 patients were admitted there. At the time of the visit there were 99 patients at the hospital, 85 of whom were males and 14 of them females. Six of them were forensic patients. The hospital used both voluntary and involuntary admission and voluntary and involuntary treatment.

The hospital had 5 doctors, 4 of whom were psychiatric doctors from Cuba. The fifth doctor was a Gambian psychiatrist who was residing at the hospital. The hospital also had 29 nurses and 2 social workers.

Doctors visited the hospital on Tuesdays and Thursdays to review the conditions of patients. The visiting team was told that a review of patients' conditions was done one week after their admission.

The visiting team was informed that patients spent two weeks to one month with them and got stable. However, they also said that there were 3 patients who spent 3 to 8 years with them. They added that the one who had spent 8 years there could not be released no one was willing to say that they were his relatives.

The hospital got drugs from EFSTH and Central Medical store in Kotu. Some of the drugs were fluphenazine decanoate, which was given to patients to stabilize them monthly and chlorpromazine (largactine), which makes them sleep to stop aggressiveness. The officers said that normally they were supposed to get drugs every week.

The visiting team was informed that the means of restraint used at the hospital were medication (sedation) and seclusion.

The officers at the hospital said that the meals given to the patients were of good quality. However, they also said that patients sometimes told them that the food given to them was small or did not have good taste. They added that each patient was given his own plate. The visiting team found that the patients were given food in plastic basins, which the visiting team believed could cause health problems. The officers said iron basins had been provided but patients used them to harm others. There was a bakery at the hospital. The hospital had taps from which water was fetched in buckets and given to patients.

There were four squat toilets and four bathrooms for male patients and another four squat toilets and four bathrooms for female patients. There were taps in the area. The bathrooms had showers but patients were asked to use buckets because officers said that they used to harm each other. The visiting team found that the showers were not working. The toilets and bathrooms were found clean and without any unpleasant smell.

The wards had artificial light but no fans. The reason given by the officers for not putting fans in the wards was that patients used it to harm others. The wards also had mosquito nets but not all beds have them. The officers said that some patients told them that they did not need mosquito nets. The officers added that patients had access to TV, but not in their rooms or wards.

The visiting team was informed that the sheets of the patients' beds were soaked twice every month and beds and rooms were fumigated twice a month. They added that bedbugs were a problem for the place.

Patients were allowed to have visitors after 72 hours of being admitted and there was a visitors' room at the hospital. The officers said they encouraged visiting of patients as a way of family therapy. Visits were allowed every day from 10am to 5pm. The maximum duration for visits was 1 hour 30 minutes but the officers said this could be extended. No telephone was provided by the government. The visiting team was told that family calls were made for patients using officers' phones and money.

The visiting team was informed that group therapy and occupational therapy were provided for patients, including carpentry, gardening, manicure and pedicure, draughts, puzzles and football. The hospital had a basketball lawn.

The hospital was faced with many challenges. The visiting team was informed that the hospital did not have adequate drugs and that key drugs were unavailable. For example, artane, a medication that is used to counteract the side effects of other anti-psychotic drugs, was not available for over a month. The hospital did not have a public health expert and psychologists for group therapy, family therapy and individual therapy. More mental health nurses were also needed.

The officers said they needed outside training to update their skills. They also said they needed a digital system of record keeping to replace their old system.

The visiting team was also informed that the hospital was not given adequate detergents by the government. The officers said that the detergents given to them did not last for a month. They added that it was philanthropists who provided them with sufficient detergents.

The visiting team was also informed that the hospital needed heavy duty washing machine as the two small machines they had were not adequate. There was also no steamer. The hospital did not have any vehicle to facilitate its work.

The visiting team was told that violence against the staff was frequent and could happen at any time.

One of the male patients said that he was beaten by one of the officers whilst a female patient also said that she was slapped hard by the same officer. The patients did not say it in the same place. When informed about this, the officer got angry and said he would beat the male patient if behaved violently again.

The visiting team observed that patients were not wearing any shoes.

### 3.6.1 RECOMMENDATIONS

- Government should abolish involuntary admission of persons with mental disabilities at Tanka-Tanka Psychiatric Hospital. Involuntary admission is contrary to section 60(1)(b) of Persons with Disabilities Act 2021, where it is stated that ‘... the existence of a disability shall in no case justify a deprivation of liberty’. It is also contrary to article 14(b) of the UN Convention on the Rights of Persons with Disabilities which also states the same thing. Involuntary admission is unlawful and arbitrary detention. It also deprives the person of his or her right to legal capacity, contrary to article 12(2) of the Convention on the Rights of Persons with Disabilities.
- Involuntary treatment should also be abolished. Ministry of Health should require all psychiatric professionals and other health officers to obtain free and informed consent of persons with mental disabilities before providing any treatment. Persons with mental disabilities should make supported decision-making instead of substitute decision-making.
- There should also be no forced restraint. Physical, mechanical, chemical and other forceful means of restraint should be abolished. Using means of restraint amounts to torture or inhuman or degrading treatment or punishment, which is contrary to section 21 of the 1997 Constitution of the Gambia, section 64 of Persons with Disabilities Act 2021 and articles 15 and 16 of the UN Convention on the Rights of Persons with Disabilities.
- The staff at Tanka-Tanka Psychiatric Hospital should be informed that use of physical and other means of restraint is no longer allowed. They should be trained in de-escalation and other methods of dealing with violent or aggressive persons with mental disabilities.
- Officers at the hospital should be warned against beating patients, as this constitutes torture or inhuman or degrading treatment or punishment, which is a violation of their right stipulated under section 21 of the Gambia’s 1997 Constitution and article 2(2) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the Gambia has ratified.
- Ministry of Health should ensure that adequate and quality drugs are provided all the time. Only second-generation drugs should be provided to persons with mental disabilities.
- Ministry of Health should ensure that adequate mental health nurses, psychologists and public health experts are provided.
- The ministry should also ensure that adequate and quality food is always provided to persons with mental disabilities.

- The ministry should sensitize the public to the right of persons with mental disabilities to freedom from discrimination and stigmatization.
- Ministry of Health should also ensure that other problems mentioned in this report are addressed.
- Ministry of Health should adopt measures or plans to abolish institutionalization of mental disability and introduce community living and care for persons with mental disabilities. Keeping persons with mental disabilities in institutions such as Tanka-Tanka and other psychiatric centres is contrary to section 21 of Persons with Disabilities Act 2021 and article 19 of the Convention on the Rights of Persons with Disabilities, which deal with the right of persons with disabilities to live independently and be included in the community.

## CHAPTER 4

### 4.1 CASES BROUGHT FORWARD

**CASE NO:** 1 /2019  
**NATURE OF COMPLAINT:** Unfair Treatment

#### COMPLAINT

The complainant said that a levy was imposed on him by a public authority on a provisional land allocated to him. He applied for the allocation of land in the tourism development area in 2015. He was granted approval for the land after waiting for a period of three years. However, he was taken aback by the new levy requirement of almost 25,000 US dollars. He believed that this amount should not apply to him for the following reasons:

- The new levy came into force three years after his application.
- There was no mention of this levy anywhere on the requirement at the time of his application.
- If his application was processed on time, this levy would not have applied.
- It was not his fault that his application was not processed on time.
- The body responsible was requesting for the levy without allocating him a specific area prior to making the payment.
- The current value of land at the said Tourism Development Area (TDA), Tanji and Tujereng, is way less than the levied amount.
- There is a systematic favouritism of foreigners for these lands' allocation due to bribes received from these foreigners. He has undeniable evidence of the above claims.

#### FINDINGS

The relevant government institution on 13 August 2018, conveyed to the complainant the provisional offer for a land in the Tourism Development Area for the construction of an Indoor Water Amusement Park. They requested a non-refundable development levy of 10% of the total project cost amounting to 49,536 US Dollar.

The complainant was informed following a government decision to reduce the non-refundable development levy. It was reduced from 10% to 5% of the total project cost. Therefore, he was advised to pay the non-refundable development levy amounting to 24,768 US Dollar.

The institution via letter dated 8 April 2019, conveyed to the Ombudsman that a provisional land was allocated to the complainant on terms prescribed by the institution. It made clear the criteria for such land allocation at the time of allocation. They emphasized that land allocation had never been automatic.

An application needs to be made, which is dealt with in accordance with the procedures in place before it is submitted to the committee. The committee eventually makes the provisional land allocation.

They stated that there was limited land available for allocation in the Tourism Development Area. Applications are subject to conditions and rules that are reviewed periodically. The terms of the allocation are determined depending on the circumstances and considerations in existence.

Applicants do not have the right to be granted land or to have their applications processed on a particular date. The complainant thought that he was entitled to have his application granted merely upon application.

The complainant was unwilling or unable to comply with the terms of his allocation.

## **CONCLUSION**

The complainant has failed to provide concrete evidence to support his allegation that there was systematic favouritism of foreigners for these lands allocation due to bribes received from foreigners.

The Ombudsman therefore, recommended that he should adhere to the terms of the provisional offer and pay the non-refundable development levy amounting to 24,768 US Dollars, failing which, the land may be reallocated to the applicants who are in the queue.

**CASE NO:**

**6 /2019**

**NATURE OF COMPLAINT:**

**Unfair Dismissal**

## **COMPLAINT**

The complainant was enlisted into a security institution in 2013. In December 2016, he alleged that he was dismissed from the service verbally. He stated that he was asked to go home and no reason was given. He further alleged that his salary was stopped. He was neither given the opportunity to be heard nor issued with a dismissal letter.

## **FINDINGS**

The complainant was enlisted into the security institution on 26 September 2013.

The complainant's first dismissal was on 2 September 2014 due to negligence at work. He wrote a letter dated 6 August 2015 addressed to his head of institution appealing for reinstatement. He promised to fulfil his duty as required of him. He was reinstated with effect from 3 August 2015.

The complainant was again dismissed on 18 January 2017 on the grounds that he was not punctual at work, did not obey lawful orders and overstayed his annual leave for 21 days.

## **CONCLUSION**

The Ombudsman was satisfied that the complainant was not unfairly treated due to the fact that he overstayed his annual leave for 21 days without reasonable excuse.

**CASE NO:**

**31 /2019**

**NATURE OF COMPLAINT:**

**Unlawful Termination**

## **COMPLAINT**

The complainant was appointed on 15 September 2019 as operator. He alleged that he had served three years and was later transferred to Brikama branch, then Churchill's Town.

In 2011, he was deployed to Brikama office as senior operator until 2015 when he was promoted to the position of supervisor on grade F of his institution's pay scale.

In June 2016, after the amalgamation of his institution with another, he became supervisor, customer service. As a novice at Customer Service, he requested induction training on the job. He alleged that the manager always told him that he would be able to do the job.

The complainant further alleged that in January 2018, there was an alleged illegal transfer of credit to two different numbers of which he was accused of. He was called to a disciplinary hearing and reaffirmed his position that he had not committed the act or had any knowledge about it.

He suggested to his institution to invite the two customers to whom the "credits" had been transferred to set the record straight but the disciplinary committee could not establish the contact numbers. He stated that if they had wanted to establish the two numbers where these "credits" were transferred, they could have done so but instead refused thereby implicating him. He alleged that after one month his service was terminated.

## **FINDINGS**

The complainant was appointed as operator with effect from 15 September 2001.

The complainant was queried on 27 June 2005 for his involvement in a fraud case. He was required to explain why his service should not be terminated.

The complainant was suspended on 1 June 2007 for a period of two weeks without salary. The reason for his suspension was that he was fond of leaving duty station without permission from his supervisor which contravened their service rules.

The complainant was promoted on 24 June 2010 to the position of senior call centre assistant. He was again promoted to the position of supervisor internet café.

In a memo dated 18 April 2016 it was stated that at one of the branches, he owed the institution D4, 700. The complainant unilaterally loaned himself from the said branch over a period in contravention of their service rules.

A disciplinary committee hearing was held on 23 June 2016. It was recommended that he should refund the money with immediate effect, otherwise it would be recovered from his salary.

He was given a final warning on 28 November 2016 to avoid recurrence of such malpractice, failing which severe disciplinary measure would be taken against him.

On 30 January 2018, the complainant was queried for using another officer's account to do unauthorized adjustment in sending D60,000 and D19,000 worth of credit to two customers. He was requested to explain his involvement in the case.

A disciplinary committee hearing was held on 28 February 2018. He accepted responsibility without any justifiable reason, which resulted to some financial loss to the institution. He was surcharged for his involvement in cash suppression.

The complainant's service was terminated on 22 March 2018 due to his alleged involvement in unauthorised credit transfers. His dishonest actions caused his institution financial loss amounting to D30, 100 including a recovery balance of D3, 133.34 plus his outstanding building loan of D37, 496.80. His total liability amounted to D70, 730.23.

## **CONCLUSION**

The confidence bestowed on the complainant by his employer has been severely eroded. He has appeared twice before the disciplinary committee in similar fraud cases which contravened the institution's service rules. The Ombudsman upheld the institution's decision to terminate his services. The Ombudsman recommended that his employer should compute his terminal benefits and deduct all the amount due to them and the difference be paid to the complainant accordingly.

Through letter dated 24 September 2021 the Ombudsman was informed that the complainant's request for terminal benefit was forwarded to Social Security however, he was yet to receive his terminal benefits because he has not attained the age of 45.

**CASE NO:**

**78 /2019**

**NATURE OF COMPLAINT:**

**Injustice**

## **COMPLAINT**

The complainant, an employee of a security institution, alleged that while on parade on 21 June 2019, he was asked to report to the Intelligence and Security Unit. When he arrived at the office, he was informed that he was needed at the charge office. Later, he was escorted to the institution's headquarters.

He also alleged that when he arrived at the headquarters, his statement was not taken on that day but the following day. The panel comprised senior officers. When he entered, he was told that one of his co-conspirators said that he was one of those who wanted to assassinate their head of institution. He was also informed of where they allegedly assembled to discuss their plan. The complainant said upon hearing the name of the person who gave them the information, he was shocked and told the panel that it was not true. However, he admitted knowing the said co-conspirator but explained that their relationship was based purely on the job and nothing more.

Furthermore, the complainant alleged that one of the accused persons was also asked by the panel if the informant's statement was true but he rebutted it saying that he was not one of them but the panel allegedly accused this officer who cleared him of involvement as being mentally unstable and instead adhered to what the informant told them. He was then asked to write his statement in which he was forced to plead guilty. When he was done writing his statement, he was escorted and detained for 4 months 17 days.

Finally, the complainant alleged that after one month of their detention, they were again called to their headquarters where they faced another panel comprising representatives of other security institutions. He was asked about the allegation made against him. He told them that he was not part of the team and knew nothing about it. Later, he and the other accused persons were returned to their place of detention where they were further detained. He was later dismissed.

## **FINDINGS**

The complaint's head of institution wrote to the Ombudsman dated 21 November 2019, and stated that the complainant was part of a group of junior officers who were accused of mutinous conduct.

The said group planned to arrest the head of their institution and other senior government officials both civilian and security to make certain unlawful demands which included that the ECOMIG Forces must leave The Gambia within 72 hours.

The plan was disclosed by some officers of whom some of the mutineers approached to inform them of their plot and to solicit support from them. All officers that were part of the group were arrested and detained pending the outcome of the investigation.

The preliminary investigation revealed that there was ample evidence against all the group members that were planning to stage a mutiny. As a result, a taskforce comprising members of various security institutions was set up to further probe into the matter and the outcome of their investigation found the group members culpable.

They recommended for their immediate trial and if found guilty to be dismissed. The complainant and colleagues were tried in line with the law, rules and procedures of their institution. The complainant and colleagues were all found guilty and dismissed accordingly.

Both investigations conducted by his institution and the taskforce did not find the complainant innocent. The complainant's head of institution contested that the complainant's argument that his name was mentioned by only one person was refuted. He contended that alone cannot affect the credibility of a witness or person's testimony. He further argued that it would have been different if the same person who said the complainant was among the group turned around in total contradiction of himself and denied his involvement.

Moreover, there were other evidence to show the complainant's involvement in the said offence which triggered his trial, conviction and sentenced by dismissing him from the service.

## **CONCLUSION**

As a disciplined force and the mere fact that the confidence bestowed on the complainant has been eroded for security reasons it would not be prudent to maintain him in the service. The Ombudsman found nothing wrong with the decision to dismiss him.

**CASE NO:**

**84 /2019**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

## **COMPLAINT**

The complainant was appointed as acting director of finance effective 1 April 2010 and confirmed in the said position after the completion of his probation period.

He added that in May 2018 after the swearing-in of the head of their institution, he was assigned by the CEO to procure office equipment and furniture for the head of institution. He did the necessary inventories and obtained invoices/quotation amounting to D160, 500 for the equipment and furniture. At the completion of the said assignment, the CEO asked him to cancel the procurement as the head wanted to do the purchase herself.

He alleged that he was later given an invoice of D337, 410 by the CEO to purchase the same office materials he had previously provided for with an invoice of D160, 500. He added that he was directed by him to prepare the payment vouchers. However, since the previous assignment given to him was cancelled by the CEO, he needed a fresh mandate to prepare the said payment voucher. He then urged the CEO to prepare a memo and instruct him to that effect. This did not go down well with the CEO.

Furthermore, he alleged that during the 2018 Koriteh Sales (Wanterr), the council chose party sympathizers who were not employees of the council to collect revenues instead of council's own staff. He maintained that he informed them that there was an audit query condemning the participation of non-council members in the council's activities especially finance. After few days, he was sent a memo by the CEO directing him to pay the participants (non- council staff) a lump sum of D10, 000 which he did.

He further alleged that on 1 July 2018 after the council's general meeting, he was supposed to pay each councilor and staff present at the said meeting an amount of D1500 according to the approved budget line. To his surprise, when he received the list of participants, the amount payable to the head of institution was inflated to D3000 instead of D1500 as approved. In addition, the head's orderly together with the driver and secretary were all paid D750 each. He informed the CEO that the driver, orderly and secretary did not attend the meeting and therefore should not be paid. His comment did not go down well with them and he was forced to pay which he did.

After the above incident, he was forced to go on one-month leave effective 16 July 2018. At the expiry of his leave, he was issued with a second leave extension from the 17 August to 18 October 2018. When he received the letter extending his leave, he tried reaching out to the CEO to no avail. Then he sought redress from the ministry. The ministry wrote to the council dated 20 August 2018 and informed the council that such leave extension contravened the Local Government Act. He added that this said letter from the ministry triggered his suspension by the council dated 23 August 2018. His suspension was further extended to another two months in a letter dated 19 October 2018.

Following the above extension of his suspension, he wrote to the ministry dated 26 October 2018 informing them of his unlawful suspension. On the 10 July 2019, the ministry wrote to the CEO to reinstate his service with immediate effect. After a week, another letter from the ministry was sent reminding the council to reinstate the complainant and pay all his accrued benefits.

He further alleged that the above two letters from the ministry for his reinstatement were not adhered to. Instead, the commission wrote to the council in a letter dated 14 August 2019, reversing his reinstatement and directed that his unlawful suspension should

continue until further notice. Since the reversing of his suspension, neither the council nor the ministry communicated to him. He finally urged the Ombudsman to intervene for redress since he is only paid basic salary with no allowance.

## **FINDINGS**

The complainant was appointed as acting director of finance effective 1 April 2010 and confirmed in the said position after the completion of his probation period.

The Local Government Act, 2002 provides in section 43 (3) (b) (c) and (d) as follows:

The Chief Executive Officer shall-

(b) Be responsible for the day-to-day performance of the executive and administrative functions of the council and the implementation of all its decisions;

(c) Supervise, monitor and co-ordinate the activities of the departments of the council and ensure accountability and transparency in the management and delivery of council's services;

(d) Be the accounting officer of the council

Section 202 of the Financial Manual for the Local Government Authorities also provides

In addition, the Financial and Accounting Manual for the Local Government Authorities also provides that payment voucher must be properly authorized by the chief executive officer or other responsible officer delegated by him to do so.

The Financial and Accounting Manual for Local Government Authorities also provides that the director of finance is directly responsible for the control of expenditure. He is personally responsible for the control of all votes and liable for any unauthorized expenditure.

The National Audit Office conducted an audit exercise at the council covering the period 1 January 2015 to 31 August 2017 and the following findings were made:

- I. There was an unexplained cash difference between the amount collected by council's main cashiers and the amount deposited at the bank. An amount of D21, 458,522.81 remained unaccounted for.
- II. There was a huge variance between the amount collected and the amount accounted for in the cash book and the amount paid to the council.
- III. There was no deposit slip in the month of February 2015.
- IV. An amount of D206, 645 was given as imprest but was never retired.
- V. The report also revealed that a procurement totaling D1, 406,900 was made during the audit period without obtaining the three (3) quotations as required by GPPA regulations.
- VI. Payment amounting to D509, 778.52 was made by the council without proper supporting documents to justify payment.
- VII. The director of finance also authorized the payment of per diem allowance instead of travel allowance to staff even though the invitation letter clearly

stated that the host was responsible for accommodation and ground transportation.

- VIII. The director of finance failed to provide details of all bank accounts maintained by the council and there was also no evidence that bank reconciliation was conducted during the period.

The complainant via memo dated 16 July 2018 was asked to proceed on one-month leave to allow the task force to have a proper evaluation of the council's financial management system. He was directed to make a proper handover to the finance manager.

Following the expiry of the one-month leave, he was again written to via memo dated 13 August 2018 informing him that his leave was extended for another two months to allow the task force to complete their work.

The ministry wrote to the council dated 20 August 2018 pointing out that the leave extension contravened the Local Government Service Rules Section V 0502, which states that "the number of working days leave for Local Government Officers Grade 10 and above is 25 working days".

Subsequent to the ministry's letter to the council, the complainant was issued a memo dated 23 August 2018 informing him that he was suspended for two months pending further financial investigation by the task force.

The complainant wrote to the ministry dated 26 October 2018 informing them about his unlawful suspension. To resolve the matter, the ministry referred the complainant's case to the relevant authority.

The said authority dated 15 July 2019, directed for the reinstatement of the complainant with immediate effect and that the complainant be paid all benefits and dues for the period of his suspension.

The justification for their decision was that the complainant's suspension has no legal or substantive basis. In addition, the decision was reached because council failed to furnish the commission with the necessary documents such as the term of reference of the task force and the task force report.

The CEO on 30 July 2019 forwarded documents to the permanent secretary the relevant ministry for the relevant authorities to assess the reasons that prompted the suspension of the director of finance as recommended by the task force.

The report recommended the transfer of the director of finance due to the following reasons:

- The complainant's involvement in procurement matters, distorting the processes for his personal gain, evidence by the weekly payment to suppliers for undelivered goods.
- The complainant's inability to produce financial report and bank reconciliation statements due to limited financial skills.
- Undue allocation of imprest that were never retired.
- Failure to submit monthly receipts and payments to both the chief executive officer and Internal Audit.
- Failure to provide a proper accounting system as stipulated by the financial and accounting manual for the local government authorities.
- Continuous loss of revenue books, GTRs and payment vouchers.

The authorities wrote to the council in a letter dated 14 August 2019 reversing the complainant's reinstatement and directed that the suspension should continue until further notice.

The complainant was dismissed on 7 October 2019 from the council with immediate effect. The reasons for his dismissal were gross negligence of duty, incompetence and financial impropriety as contained in the audit report covering 1 January 2015 to 31 August 2017.

The complainant was never given the opportunity to react to the accusations made against him before his dismissal. According to the authority that dismissed him, they did not see the need to invite the complainant to the commission because he failed to respond to the audit queries after several opportunities were given. However, that assertion was not supported by any evidence. The council responded to the National Audit queries without the involvement of the director of finance.

It was also observed that the recommendations made by The National Audit Office for the period 1 January 2015 to the 31 August 2017 were yet to be implemented.

## **CONCLUSION**

It is the responsibility of the authority having powers to dismiss the complainant to investigate information provided to them by the council in view of establishing the truth. They should not have accepted such information from the council hook, line and sinker without asking for the other side's reaction.

The right to be heard has no exception what is provided under section 17(2) of the constitution where the exercise of fundamental rights and freedoms are subjected to non-interference with the rights and freedoms of others and to the public interest. It is in the public interest that a person accused of a crime or a wrongdoing be given adequate time to be heard or react to the allegations against him.

The chief executive officer is the accounting officer of the council. Upon receipt of the audit report, he should have taken the responsibility to ensure that the audit queries raised were addressed. He cannot neglect his duties only to blame the director of finance for not responding to the audit queries.

### **RECOMMENDATION**

Based on the above findings and in view of the principle of natural justice, the Ombudsman recommended that the authority review its decision on the complainant's dismissal and afford him the opportunity to respond to the allegations forming the grounds for his dismissal.

**CASE NO:**

**97 /2019**

**NATURE OF COMPLAINT:**

**Claiming Payment of Basic Salary  
Increment Arrears and Gratuity Shortfall**

### **COMPLAINT**

The complainants alleged that in the 2019 budget speech, a declaration was made by the minister to increase the basic salaries of all civil servants using the integrated government pay scale effective 1 January 2019. However, to their dismay their head of institution chose to pay only himself and other members of staff excluding them. When they made enquires, he referred them to a certain law.

They believed that this law did not exclude them. The head of institution's justification of paying only himself the increment was unfounded because he is also a member of staff and if they were temporal members of staff, so was he.

In a separate but similar allegation, the complainants also alleged that in 2019 when their gratuities were paid, they realized that the amount paid in 2019 was less than the previous year's amount. Their investigations revealed that the fuel part of the allowance was not included in the computation of their 2019 gratuity. They were therefore claiming the basic salary increment arrears for the 12 months and the gratuity shortfall.

### **FINDINGS**

Through letter dated 13 July 2016 the secretary general conveyed to the head of this institution that his recommendation for the appointment of one of the complainants had been endorsed. However, the letter did not state the personal emoluments of the complainant, the terms and condition of the appointment and the effective date the appointment would commence.

The other complainant was written to on 16 September 2015 informing her that her appointment had been renewed for another term.

On 17 February 2020 the authority complained against conveyed to the Ombudsman that the complainants were not on salaries but on allowances. He stated that they had been

paid all their entitlements up to date as per the approved budget. He further emphasized that their fuel supply could not be calculated on their gratuity.

According to the approved budget the head is on fixed salary while the complainants are entitled only to allowance. The head of institution's salary is determined by the Office of the President whereas the institution determines the salaries of the complainants and other members of staff.

The category under which the complainants fall are appointed for a period of seven years in accordance with the 1997 Constitution. Their allowances are determined by the institution and they are eligible for ex gratia or gratuity payment annually, equivalent to 25% of their annual emoluments.

### **CONCLUSION**

Their claim that their pay should have been increased was not justifiable since they were paid allowances and not salaries.

According to the relevant laws the salaries and allowances of the category under which complainants fall are supposed to be determined by the Office of the President and the institution itself.

### **RECOMMENDATION**

Since the commissioners were only paid allowance and not salary, the Ombudsman recommended that the issue of the commissioners' salaries be referred to the Office of the President to determine their salaries in line with the institution's revised law version 2018.

The Ombudsman upheld the decision that fuel supply should not be calculated on the commissioners' gratuity.

**CASE NO:**

**9 /2020**

**NATURE OF COMPLAINT:**

**Stoppage of Salary**

### **COMPLAINT**

The complainant was enlisted into a security institution in 2010. In 2014, six of them were transferred to another security institution on the request of the former president until the change of government in 2016 when he was transferred to the provinces.

In 2018, he went on a peace keeping mission and returned to the Gambia the same year. In February 2019, while boiling hot water for breakfast, one of his comrades accidentally poured hot water on his hand. As a result, he was given 2 weeks excuse duty (ED). After the ED, he felt unfit to resume work and stayed for almost 2 months without going to work.

After being absent from work for two months, he was arrested by his institution and detained for 21 days. After his release from detention, he was recalled by his former institution but he was told that the institution that he was working for would continue to pay his salary until February 2020 when the institution he was now moving to would then take charge.

The complainant alleged that since April 2019, he had been performing his duties but that institution had not been paying his salary. Some of his colleagues who were also recalled were receiving their salary regularly.

## **FINDINGS**

The complainant was enlisted into a security institution in 2010. He was transferred to another security institution in 2014. Following the change of regime in 2016, he was transferred to the provinces.

The complainant absented himself from work for two months without permission on the pretext that someone accidentally poured hot water on his body and it rendered him unfit to work. He failed to obtain excused from duty to legitimize his absence.

Furthermore, the complainant failed to inform his commanding officer that he got burnt and absented himself from work for two months. Consequently, he was published absence without leave (AWOL).

The complainant's salary was stopped. He was later arrested and detained pending disciplinary measure to be taken against him. While under detention, it coincided with the period when those who were transferred to the institution, he was working for were offered the option to return to their former institution. He opted to return to his former institution and the institution he was working for at the time allowed him the rare option to return instead of dismissing him.

## **CONCLUSION**

The complainant absented himself for two months without the least courtesy to inform his commanding officer that hot water was accidentally poured on his body and it rendered him unfit to work. Therefore, the Ombudsman upheld the decision to publish him absent without leave (AWOL).

On the stoppage of his salary, the Ombudsman is satisfied that he was not unfairly treated due to the fact that he absented himself from work for two months without excused duty.

**CASE NO:**

**23 /2020**

**NATURE OF COMPLAINT:**

**Injustice**

### **COMPLAINT**

The Complainant stated that on 1 March 2020, he was offered a contract at 5C energy Company as ICT project supervisor for a period of one year. This prompted him to apply for a secondment on 5 March 2020 to enable him to proceed on the job. To his dismay the Management of GRTS responded in a letter rejecting his request reason being that the Board of Directors of GRTS has put a moratorium on all secondment applications until further notice. He found this to be discriminatory because some of his colleagues were given this opportunity. He thus complained to the Ombudsman to look into the matter for justice to be done.

### **FINDINGS**

On 1 May 2016, the complainant was offered contract as IT technician for a period of six months which was due to expire on 31 October 2016.

On 1 May 2017, he was offered another contract which was to expire on 31 December 2017. On 21 February 2018, he was appointed to the permanent and pensionable post of IT technician effective 1 January 2018.

On the 26 February 2019, he was elevated to act in the position of IT engineer. On 5 March 2020, he applied for secondment to take up a 12- month contract. In his application letter, he intimated to the director general that he intended to proceed on his secondment, if approved, on 1 April 2020. His application for secondment was rejected on 10 March 2020. He was informed that the Board of Directors had imposed a moratorium on all secondment applications effective 1 January 2020.

On 31 March 2020, he wrote back urging a rescission of management decision in rejecting his secondment application citing that secondment was his entitlement. In response to his letter, management informed him that the granting of secondment is not a right but a privilege which is granted based on the circumstances.

On 14 April 2020, his immediate supervisor wrote to the DG that he had not been reporting to work since 1 April 2020.

On 8 May 2020, the institution's human resource manager wrote to the complainant and informed him of his absence from work since 1 April 2020 without permission. He was requested to write and explain why he was not reporting to work.

On 26 May 2020, he was sent a final reminder to explain the reason(s) for his absence failure of which disciplinary action would be taken against him as per their service rules.

Through a letter dated 20 April 2020, the complainant service with the institution was terminated. The reason for the termination of his service was due to his absence from work since 1 April 2020. He was further informed that according to the institution's service rules absenteeism from work for 14 days, as in his case, tantamount to termination of one's service. On this basis, his appointment with the institution was severed with immediate effect.

## **CONCLUSION**

The complainant's termination was in line with the rules. There was no cause to complaint of any wrongful doing since it was his own making. His case has no merit

**COMPLAINT NO:**

**25/2020**

**NATURE OF COMPLAINT:**

**Claiming Board Allowance and  
Difference in Salary Increment**

## **COMPLAINT**

The complainant was appointed as managing director of a public institution with effect from 16 December 2014. He stated that on 7 March 2017, he received a letter of interdiction. He was paid half basic salary pending the outcome of an investigation.

The authority that gave instruction for his interdiction wrote to the management of his institution informing them of the lifting of the interdiction and authorising them to pay the amount of his emoluments that were withheld from 7 March 2017 to 27 December 2019. He was paid his emolument except the following:

- The Board Allowance arrears during the period of the interdiction (7 March 2017- 27 December 2019 and January 2020).
- The payment of January 2020 increment in salary 50% and 25% on other allowances.
- The difference in basic salary increments during the period.

## **FINDINGS**

The complainant on 7 March 2017 was informed of the decision to interdict him from the public service in accordance with the Public Service Regulation 35(1) effective 7 March 2017. He was placed on half salary until further notice.

The complainant was issued with a letter dated 27 December 2019 informing him that following the completion of the Jannet Commission's enquiry and the publication of Government white paper, an executive decision was made lifting the interdiction proffered against him and to pay him the amount of his emoluments which were withheld during the period he was interdicted

The complainant via a letter dated 21 February 2020 was deployed to another institution with effect from 1 February 2020. In addition, approval was granted for his former institution to pay him full salary for the month of January 2020.

The Act which established the complainant's institution provides for the establishment, constitution and membership of its board of directors. It provides for, among others, three ex-officio members, one of which it states, is the managing director.

The term "ex officio is defined in the Black's Law Dictionary (8 edition) as follows: "Ex officio [Latin] by virtue or because of an office; by virtue of the authority implied by office. A member ex officio, is a member who serves (on a board committee) ex officio and whose membership will therefore pass with the office to his or her successor"

The complainant prior to his interdiction in March 2017, occupied the office of managing director and was therefore a member of the board of directors as an ex-officio member in accordance with the Act. Membership of the board of directors attracts a monthly allowance paid to each serving member.

The complainant's membership in the board of directors was as a result of holding the position of managing director which he lost when he was replaced shortly after his interdiction. The person who replaced the complainant was not serving in an acting capacity, rather he was appointed as the substantive holder of the position of managing director. Thus, the board allowance payable to the managing director as ex officio member of the board was being paid to the new holder who replaced the complainant.

On the complainant's claim of the difference in his basic salary during the period of his interdiction, the complainant at the time of his interdiction was at the top of his grade i.e. 10.08 and therefore no annual increment was accruing on his basic salary.

On the claim of payment of 50% increment on basic salary of staff in January 2020 plus the increment on the augmented allowances, his institution acknowledged that his claim was genuine and that payment would be effected accordingly.

## **CONCLUSION**

The board allowance is only paid to substantive and serving members of the board. The right to receive the board allowance was lost the moment he was replaced as managing director. The Ombudsman upheld the decision that the complainant was not entitled to be paid board allowance.

**COMPLAINT NO:**

**76/2020**

**NATURE OF COMPLAINT:**

**Failure to Implement Court Order**

## **COMPLAINT**

The complainant alleged that he was accused by a security institution of obtaining money by false pretence. He was detained for 26 days, beaten, tortured and later

arraigned before Bundung Magistrate Court. On his first appearance at the court, he was remanded at the Mile II Central Prison in Banjul. He said whilst on remand, the court ordered for his car BMW-X3 blue in colour to be returned to him within 48 hours.

He asked a relative to collect the car on his behalf. An official of the said institution told his relative that he could not act on behalf of the complainant because the court order contained the name of the complainant and not his.

His relative went to the court and explained the matter to the magistrate who told him that the order was still valid and could be executed and there was no need to change it.

The complainant alleged that during his detention, he was handcuffed and escorted to his house and the following materials were taken:

- A brand-new fridge
- 13,000 Pound sterling
- A flat screen TV
- TV Stand
- Samsung S8
- A gold ring
- Silver bangle
- 6 crates of Eggs
- 6 crates of can drinks

The complainant requested that the said materials be returned to him as soon as possible.

## **CONCLUSION**

The complainant informed the office that the items he was claiming were returned to him. The investigation was discontinued.

**COMPLAINT NO:**

**87/2020**

**NATURE OF COMPLAINT:**

**Unlawful Dismissal**

## **COMPLAINT**

The complainant was appointed as field technologist effective 30 July 2014 on grade 5 of the government integrated pay scale. In 2015, she graduated with a bachelor's degree in biology. Upon completion, she submitted her certificates and was congratulated for completing the programme. She stated that the starting grade point for graduates is grade 8 of the government integrated pay scale. She continued to serve on grade 5 despite being a graduate.

In July 2017, she applied for a government scholarship and was given a one-year scholarship tenable at Bangor University in the United Kingdom. She completed her master's programme in September 2018 and returned to The Gambia.

She resumed duties on 4 February 2019 and still on grade five despite holding a master's degree. She approached the relevant authorities about the way forward since she had obtained a master's degree but still paid grade 5. She was told that it was not factored in the 2019 budget and that she should wait until 2020. While waiting, she was not given much work to do. She spent most of the time in the office doing nothing.

As a result, she applied for a position elsewhere. She was offered a position and because it was the same public office, she decided to accept the offer and resigned from his institution effective 31 July 2019. She received a response on 22 July 2019 from the authorities indicating that she could not go until she finished serving her bond.

To her utmost dismay, she received a dismissal letter effective 2 November 2020 with several threats that legal action would be taken against her if she failed to repay the money spent on her master's programme. She urged the Ombudsman to intervene and make the following recommendations:

- rescind the dismissal;
- facilitate her promotion and for her to continue to work with any public sector relevant to her course of study;
- or,
- transfer her service to the institution that had just appointed her.

## **FINDINGS**

The complainant via letter Ref:130144/(10) dated 24 July 2017 was given scholarship to pursue a Master's degree Programme in Marine environment Protection tenable at Bangor University United Kingdom.

The complainant after completing her master's degree was still paid grade 5 when the starting grade point for graduates is grade 8 of the government integrated pay scale.

The complainant via letter Ref:ANJ49/215/01/(191) dated 1 July 2019 was offered appointment as Maritime Safety & Environment Officer effective 1 August 2019.

She resigned from her institution effective 31 July 2019, and took appointment with another institution.

The complainant via letter Ref:0130144(30) dated 2 November 2020 was informed that in line with PSC Regulation 57, the Public Service Commission has dismissed her from the civil service effective 1 August 2020.

As per the bonding of the Civil Service she asked to refund to the Government 150% of what has been spent on her in terms of tuition fees, stipend, air ticket and salaries amounting to D2,321,315. She was given up to 1 December 2020 to settle the aforementioned amount failing which legal action will be institute against her.

## **CONCLUSION**

Following a meeting between the Ombudsman and the permanent secretary of the said authority in connection with the complainant's dismissal, the complainant informed the Ombudsman that her dismissal from the service was rescinded and she has been reinstated into the civil service.

**CASE NO:**

**92 /2020**

**NATURE OF COMPLAINT:**

**Undue Delay for the Award of Degree**

## **COMPLAINT**

The complainant averred that he was admitted into a public tertiary institution to undergo BA. Ed in English language effective September 2015. The duration of his programme was four years and was due to end in December 2019. He alleged that he should have graduated at the last convocation ceremony in February 2020 had the institution uploaded his EDU 304- teaching practice grade in his transcript. He added that he had done the said course in the 2018/2019 second semester but the course was not uploaded in his transcript. It was a requirement for him to do before he was eligible to graduate with a BA. Ed at the School of Education. He further added that the withholding of his teaching practice grade was without any justification and it was uploaded in his transcript after a rigorous follow up with the dean.

He also alleged that his ordeal was further compounded when the Account's Department refused to issue him clearance to process his attestation. He was asked to pay an extra-money for the second semester of 2018/2019 academic session as it was outside his scholarship package. He refused to pay the extra amount requested by the accounts department and added that the department misconceived the period of his scholarship award. He maintained that his scholarship award was to elapse in December 2019 and he had not done any course beyond the duration of his scholarship.

He further alleged that the institution breached its duty of care owed to him as a student when it failed to upload his Teaching Practice EDU 304 grade thereby preventing him from graduating at the last convocation ceremony. That it further breached its duty of care owed to him when he was refused clearance by the account's department for his attestation without any justification.

He finally added that he paid a heavy price for the delay in the award of his degree and the refusal to issue him clearance for his attestation. His employment status was supposed to be elevated and so his earnings. But due to the institution's inordinate delay in uploading his Teaching Practice grade into his transcript, he lost the opportunity to be

elevated to another rank and an increase in his salary. He concluded by stating that this ordeal he was subjected to, had caused him psychological stress and tarnished his image in the eyes of his sponsor.

## **FINDINGS**

The complainant was on 30 July 2014 awarded an offer of admission to the School of Education (BA Ed English Language) by a tertiary institution commencing 2014/ 2015 academic year (1<sup>st</sup> Semester) and to complete his programme in December 2019.

The complainant via letter dated 5 March 2015 was granted approval by the said institution to defer his programme to the 2015/2016 academic year.

The complainant was granted government scholarship on 1 September 2015 to pursue BA. Ed English Language at the said institution effective September 2015 academic year for a period of 4 years.

The complainant commenced his studies in September 2015 following the scholarship award and he completed his programme in December 2019.

All students considered to have completed their coursework for the award of a degree are required to go through the process of verification of their financial status and transcript. They would be granted clearance if found to have settled all their liabilities and completed their programmes. The complainant could not proceed to the next stage of verification of transcript because it was discovered that he had tuition fee arrears.

The complainant's programme was supposed to last eight semesters (i.e. September 2015 to June 2019) instead it lasted for nine semesters meaning that he owed them the tuition fee for the 1<sup>st</sup> semester in the academic year 2019/2020.

## **CONCLUSION**

The Ombudsman concurred with the institution that the complainant had a semester tuition fee to settle. The Ombudsman therefore recommended that the complainant should settle his tuition arrears before he is eligible for the award of a degree (BA. Ed English Language). He complied and was awarded a degree (BA. Ed English Language).

## 4.2 UNLAWFUL TERMINATION/DISMISSAL

**COMPLAINT NO:** 39/2021  
**NATURE OF COMPLAINT:** Unfair Dismissal

### COMPLAINT

The complainant worked for the civil service for 40 years serving at various departments and ministries. In 2001, he was posted to the Edward Francis Small Teaching Hospital as Hospital Administrator. In December 2002, he was appointed as Chief Executive Officer at Sulayman Jungkung Hospital. He stayed in the said position until in December 2019 when he was transferred to the ministry without any portfolio and his salary was not paid for four months. He added that the issues with his salary was regularized when he was appointed as Director of Health Services without portfolio. He further added that at the time of his appointment, there were three vacant positions at the ministry, and two of the vacant positions, i.e. DPS, commensurate with his position as CEO. Notwithstanding, the ministry appointed his juniors to fill the said positions.

On the 28 June 2019, by a letter ref: MH/C/125 (8-PIC), he was redeployed as Regional Health Director, North Bank East. While carrying out the functions of a Regional Director, his salary was to be drawn from his position of Director of Health Services. He further stated that he did not report to his posting since it was irregular and not line with protocols.

On 15 September 2020, he was issued a warning letter of his failure to report to work after his redeployment. He was instructed to justify why disciplinary action should not be initiated against him. He replied and crave the indulgence of the PS to desist from such moves since it was unfair to initiate any disciplinary action against him.

On 11 January 2021, he was dismissed from the civil service in accordance with the PSC Regulation 57 with effect from 1 January 2021. He alleged that he received his dismissal letter in May 2021 upon enquiry. He further alleged that his dismissal letter was backdated since he was paid salary in the month of January up till March 2021 when it was stopped.

He finally lamented that his length of service with the civil service was made insignificant as a result of his dismissal, having forfeits his gratuity and other benefits.

### FINDINGS

Prior to the complainant's redeployment to the ministry, he served as the Chief Executive Officer in a hospital. His deployment to the ministry was made without any portfolio. As a result, He was not paid salary for two months, of March and April 2019.

To facilitate the payment of his salary, the ministry wrote to PMO in a letter dated 24 April 2019 soliciting approval to hold him against the vacant position of a director which was granted via letter ref: PMD 7/122/01/ Part 8 (33) dated 25 April 2019.

On 28 June 2019, the complainant was redeployed as Regional Health Director North Bank East which he refused to comply but continued to enjoy his salary for nearly two years without reporting to his posting station. After almost one year three months following his deployment to NBR (East), He was given a warning letter of his refusal to comply with the posting order in a letter ref: MH/C/125 (72-M.L.J) dated 15 September 2020. In the said letter, the complainant was warned that his refusal to report to his posting place constituted a gross misconduct and a violation of the General Order. He was requested to justify why disciplinary action should not be taken against him.

The complainant replied to the above letter on the 25 September 2020 stating so many things of which the last two paragraphs were seen as an attempt to justify his refusal to go on posting. In the last two paragraphs of his reply, He indicated that his posting was irregular which needs to be regularized. It was his view that he could not be held against two positions i.e. as Regional Health Director and Director of Health Services. The former being a lower grade to the latter. He added that he cannot be paid from the salary of the latter position while executing the functions of the former position. He considered this arrangement to be an irregularity and a breach of protocol.

In the final paragraph of the complainant's reply, he indicated that he had been posted for 17 years, uninterrupted, and it is unfair and unjust to be subjected to another provincial posting where he would be separated from his family. Against this backdrop, He submitted that it would be unfair to initiate disciplinary proceedings against him.

However, in a letter ref: MH/C/125 (75-M.L.J) dated 12 October 2020, the ministry acknowledged receipt of his reply letter but did not see the reasons he provided as sufficient to justify why disciplinary actions should not be taken against him as a result of his refusal to report to his posting station. In the said letter, the ministry also endeavoured to clarify the position of Director of Health Service. It was stated in the letter above by making reference to PMO's letter dated 25 April 2019 that holding him against the position of Director of Health Services did not in any way suggest that he was the substantially appointed as Director of Health Services.

Consequently, a report of his refusal to comply with the posting order was submitted to PMO by the ministry for appropriate disciplinary actions to be taken against him. In response to the ministry's report, PMO wrote to the secretary of the PSC in the Ministry of Health Posting File dated 10 December 2020 and informed the PSC that he refused to comply with the posting order. As a result of his refusal, a charge letter was written to him on 15<sup>th</sup> September 2020 in line with the PSC regulation 57 to justify why disciplinary action should not be initiated against him but he failed to provide a good reason why disciplinary action should not be initiated.

Given the above circumstances, the ministry recommended for his dismissal from the civil service in accordance with rule 57 of the PSC Regulation and section 6.1.1 (4) of the Code of Conduct for the Civil Service. On 4 January 2021, the secretary of the PSC wrote back in the said file informing the PS, PMO, that the PSC has approved his dismissal from the civil service with effect from 1 January 2021. PMO received the file containing

recommendation for his dismissal on the following day i.e. 5 January 2021. Accordingly, on 11 January 2021 via letter ref: 146106 (184), the complainant was informed that the PSC has approved his dismissal from the civil service in accordance with rule 57 of the PSC Regulation and section 6.1.1 (4) of the Code of Conduct with effect from 1 January 2021.

## **CONCLUSION**

The objective of the Ombudsman's investigation, amongst others, is to test the legality of the action taken by the institution complaint against. In doing so, we seek to find out whether there are valid reason/s that can support the action taken, and whether the due procedure was followed before the impugned action was taken.

In this case, it was uncontroverted that the complainant dismissal from the civil service was made in accordance rule 57 of the Public Service Regulation and supported by rule 6.1.1 (4) of the Code of Conduct for Civil Service. The investigation revealed that the PSC rightfully invoke the above rule in view of the complainant's refusal to report to his posting station for more than a year.

In addition, He was engaged by both PMO and the PSC on his refusal to report on posting. He was also written to justify why disciplinary action should not be initiated against him. He did as require but the justification he provided was found unsatisfactory. The Ombudsman is satisfied that, the act of writing to him and the separate meetings he had with PMO and the PSC, proved that due procedure was followed before his dismissal.

The Ombudsman did not find merit in his complaint against. It is hereby discontinued in line with section 9 (3) (a) of the Ombudsman Act.

**COMPLAINT NO:** 43/2021  
**NATURE OF COMPLAINT:** Wrongful Termination

## **COMPLAINT**

The complainant complained that the termination his nineteen years of dedicated service was unfair and unjustifiable. He stated that he was a staff of the institution since 2002 and he rose+ through the ranks to the position of Audit Manager until the unprecedented termination of his service. He further stated that he went on study leave without salary to pursue a master's program in the United Kingdom. Upon completion he sent a letter dated 12 August 2020 requesting for an extension of study leave without salary for one year in order to pursue a professional qualification (ACCA). His employer responded via letter indicating that he should provide school acceptance for the program which at the time he could not provide reasons being colleges and universities were closed due to the Covid 19 outbreak. He rescinded the letter for extension of study leave which was replaced by another letter applying for leave of absence for one year. He alleged that his letter was

deliberately ignored best reasons known to his employer. His employer later wrote to him giving him an ultimatum to resume work or else his services would be terminated. He drew his attention to his letter for leave of absence which he did not act on neither was any reason given to him. He was perplexed upon receipt of the termination letter. He urged the Ombudsman to engage his employer about this unprecedented termination of his service.

## **FINDINGS**

The complainant was granted study leave without salary to pursue a program at the United Kingdom. At the expiry of his study leave, He applied for extension of study leave for another one year duration. He was instructed to furnish the institution with his acceptance letter for the consideration of his application. Instead of providing the acceptance letter as requested, He rescinded His application and replaced such application with an application for leave of absence without salary dated 5 October 2020.

the complainant was written to via letter ref: NAO/P/0021/ (83) dated 19 April 2021, informing him of the decision on his application for extension of study leave for a period of one year to enable him pursue completion of his ACCA .

His employer in a letter dated 1 October 2020 requested the complainant to submit supporting documents ascertaining his enrollment/status i.e. admission with the professional body was yet to be responded to. As a result, he was requested to return to post immediately not later than 17 May 2021 failing which his position would be declared vacant.

On 20 April 2021 the complainant wrote to his head of institution acknowledging receipt of his letter ref: NAO/P/0021/ (83) dated 19 April rejecting his application for extension of study leave with salary. He re-echoed his application for leave of absence without salary and he be granted approval to pursue his course.

The complainant failed to report to work on the stipulated date. He was informed via letter Ref: NAO/P/0021/(87) dated 18 May 2021 that his service with the institution was terminated with immediate effect.

## **CONCLUSION**

An employer acting within the ambits of the law cannot be seen to be acting irrationally since what is expected of an employer is to respect the law. In this instant case, the complainant's employer has acted in accordance with the rule, and his decision to terminate the complainant's service would not be seen as irrational.

The Ombudsman found that the complainant's complaint of unfair termination of his service was without merit. Furthermore, the decision of his employer to terminate his service on the facts already highlighted was in line with the service rules of the institution.

Notwithstanding it was recommended that the complainant's employer should facilitate the payment of all benefits due to the complainant.

**COMPLAINT NO:** 49/2021  
**NATURE OF COMPLAINT:** wrongful Termination

### **COMPLAINT**

The complainant was offered appointment by the Chairman of the Commission as Senior Registration Officer from the 14 May to 14 July 2021 via letter ref: AGL 87/150/03/ (48) dated 14 May 2021.

Her service was terminated with immediate effect on grounds of contravening the rules, regulation and ethics of the condition of service. she denied the allegations and stated that she was not found wanting nor was she warned of any wrongdoing. She alleged that the termination of her appointment was triggered by the issues she had with the Regional Electoral Officer.

She further alleged that she was being harassed and treated unfairly by the Regional Electoral Officer . She also added that the unfair treatment meted to her was as a result of her refusal to respond to the Regional Electoral Officer unofficial requests, and this refusal occasioned the termination of her appointment by the Commissioner.

### **FINDINGS**

The complainant was offered appointment on contract as Senior Registration (SRO) Officer effective 14 May 2021 to 14 July 2021.

On the 11 June 2021, she was issued a termination letter in which her appointment as SRO was terminated with immediate effect on grounds of breaching the rules, regulation and ethics of her mandate as SRO.

It was observed that the reasons relied upon to terminate the complainant's appointment were reported to the commission by third parties. The commissioner admitted that he never took time to verify the truth of the allegation, nor did he engaged the complainant to hear her own side of the story as a matter of due procedure.

### **CONCLUSION**

The commissioner's omission to investigate the truth of what was said to him against the complainant by different individuals clearly impacted his sense of justice and fairness.

Furthermore, where a public officer purports to exercise powers conferred on him/her by law (if any), particularly to the disadvantage of other person, the reason why such power was exercised must be grounded on established fact, not hearsay evidence. Section 222(3) of the 1997 Constitution provides that "A public officer shall not, in the course of

his or her official functions do or cause to be done any action which is prejudicial to the rights of any other person". The termination of the complainant's contract of appointment without factual reasons prejudices his expectation to work and earn a living for the duration of the contract.

In view of the above, the Ombudsman resolved that the termination of the complainant's appointment without any valid reason but rather on hearsay evidence, and without the observance of due procedure, amounts to a wrongful termination of her contract of appointment.

Therefore, the complainant is entitled to damages for wrongful termination. The measure of damages, in this instant case, is the amount the employee would have earned had she continued with the employment i.e. her salary for the duration of the contract and all other benefits.

The Ombudsman recommended that the complainant be paid all remuneration and other accrued benefits which she would have earned if not for the wrongful termination of her appointment.

The complainant was paid D38,000 via Zenith Bank cheque number 00730635 dated 28 March 2022.

|                             |                             |
|-----------------------------|-----------------------------|
| <b>COMPLAINT NO:</b>        | <b>55/2021</b>              |
| <b>NATURE OF COMPLAINT:</b> | <b>Wrongful Termination</b> |

### **COMPLAINT**

The complainant alleged that he had been unjustly treated by the school he worked for. He reported that he had been victimized and disrespected in front of his students by top management. He also narrated that his salary was one time deducted for an unavoidable absence from school. According to him, burglars entered his house and stole his valuable things. It took him three days to help the police with their investigations and this was the reason for his absence from work. The complainant believed he was unlawfully terminated as no genuine reason was put forward.

### **FINDINGS**

The complainant was appointed as English and literature teacher in September 2008. He was queried for being absent from school for six consecutive days without management's approval. He called the vice principal to inform him of an alleged burglary in his house but the vice principal gave him one day permission. It is the school's policy that absence for more than one day from work has to be approved by the principal on the recommendation of the board.

Two of the complainant's colleagues attested that he was hard working and did his work as expected. On the contrary, two other colleagues said that he was pompous and at one time insulted the principal in a meeting. In addition, three students randomly said he taught well but at time used vulgar language on them while in the classroom.

There was no police report to corroborate his alleged burglary.

There was bad blood between the principal and the complainant and this eroded the trust the principal had in him.

The complainant received three warning letters before the termination of his service.

### **CONCLUSION**

The fact that their relationship soured suggested that the environment was no more conducive for an amicable relationship. He also received three warning letters prior to the termination of his service which was the culmination of his conduct and comportment.

**COMPLAINT NO:** 59/2021  
**NATURE OF COMPLAINT:** Unfair Dismissal

### **COMPLAINT**

The complainant was employed by a bank on 7 June 2016 as cashier. On 15 January 2019, he was dismissed from the services of the bank as a result of a cash shortage of D51, 500 which occurred on Wednesday 12 December 2018.

It was stated in the complainant's dismissal letter that he acted with intention to cover up the said cash shortage which action resulted to the commission of the offence of theft attracting an instant dismissal under the Bank's Service Rules, and he denied the said allegation. In his denial, he stated that at the time of the alleged cash shortage, he was not alone in his cage. So, the possibility of the money being taken by an assistant within was likely.

### **FINDINGS**

The complainant had a cash shortage of D51, 500 on the 12 December 2018. He undertook to pay the said amount but never did.

On 18 December 2018, He wrote a letter reference "cash shortage" where He stated as follows "the purpose of writing this letter to you is that, early in the morning the Note Counter inform me that some of my bunch have shortage so at that particular moment I have no money with me to pay the shortage, so for that matter, I took the amount from the cash am receiving to pay the shortage I have from the Note Counters. At the end of

the day, I have shortages from my cash amounting D51, 500. I was told to make good the amount. I wrote an undertaken supported by a personal check of D51, 500.00.”

In a meeting held at the Office of the Second Deputy Governor the complainant stated that the Note Counter informed him that his cash bundles of the previous day i.e. 11 December 2018, had a shortage of D51,500; that he promised the Note Counters that he would pay back the money by the end of the day and they should not inform the Treasurer. By the end of the day, He paid back the D51, 500. When asked how he was able to raise such an amount at the shortest time, He admitted that He took the money from the cash bundle He received subsequently, and that created the shortage on the following day of 12 December 2018.

### **CONCLUSION**

By the complainant’s own narration, he attempted without success to cover up the cash shortage. The act of taking cash of the bank to offset his liability revealed an act of dishonesty which is an element of theft and embezzlement. These are act of serious misconduct and a ground for summary dismissal where an employer need not give notice or give less notice that which you are entitled by a statutory provision or contractual term.

Furthermore, the complainant’s contention that he was not alone in his cage when the cash shortage happened holds no water since the missing cash was his responsibility. Besides, during his meeting with the Second Deputy Governor & ors, he took full responsibility for the cash shortage. The Ombudsman found it difficult to understand why the sudden change of faith?

On the foregoing, the complainant’s complaint to the Ombudsman lacks merit and was not made in good faith. Investigation is hereby discontinued.

**COMPLAINT NO:**

**73/2021**

**NATURE OF COMPLAINT:**

**Unfair Dismissal**

### **COMPLAINT**

The complainant was appointed as assistant binder in 2014. He alleged that in early October the assistant production manager called the production manager and complained about lateness, absenteeism and failure to work overtime by some staff. The production manager cautioned those staff and advised for attitudinal change. He stated that the staff also complained to the production manager that their work environment was not conducive and they were not paid overtime.

He added that he attended court proceedings alternately on Fridays and would be absent from work on such days. His supervisor and production manager were also notified. He further alleged that he was called to the managing director’s office but to his dismay the assistant production manager accused him of insulting the managing director. During the

said meeting, the managing director said that he had warned him several times but to no avail. At this point he interrupted him and he sent him out of his office. Management regarded his action as misconduct and invited him for a dismissal meeting in a letter dated 4 October, 2021. After the meeting, he was issued with a dismissal letter dated 20 October, 2021. The complainant alleged that he had a savings with the credit union and could not have access to his account to withdraw from his savings.

## **FINDINGS**

It was established that the said institution had engaged the complainant on several occasions regarding his attitude towards work but he was not compliant.

It was further revealed that the complainant went to the extent of verbally abusing his seniors which completely went against acceptable behaviour.

Management convened a disciplinary meeting dated 4 October, 2021 and terminated his service with immediate effect in line with a provision of the institutions service rules.

The complainant's financial situation with the credit union was settled and this was communicated to him through a letter dated 5 April 2021.

## **CONCLUSION**

Based on the findings, the Ombudsman upheld the managing director's decision to terminate the service of the complainant.

|                             |                         |
|-----------------------------|-------------------------|
| <b>COMPLAINT NO:</b>        | <b>81/2021</b>          |
| <b>NATURE OF COMPLAINT:</b> | <b>Unfair Dismissal</b> |

## **COMPLAINT**

The complainant was appointed by an authority as scientific officer on 1 September 2021. His service with the institution was terminated on 10 November 2021 barely two months from the date of his employment.

He alleged that the termination of his service was as a result of an accusation by his senior that he had squashed and thrown away an official letter addressed to him by the director general which he denied. He added that if the accusation was true, a copy of the said letter would not have been found since it was thrown away.

Following the above incident, he was summoned to the director general's office where the director general showed outrage over what had been narrated to him by his senior. He further alleged that the director general concluded without investigating what actually

transpired between his senior and himself. He said that he was not availed the opportunity to state his own side of the story. This shortfall on the side of the director general rendered the termination of his employment wrongful since the decision to terminate his service wholly centered on the story of his colleague.

He alleged that even though his employment with the authority was terminated while he was on probation, he still has rights which should be respected by the authority, and that is the right not to terminate his services without any valid reason.

## **FINDINGS**

The complainant was employed as scientific officer effective 1 September 2021. By a letter dated 10 November 2021, the authority terminated his employment by reason of gross misconduct he committed on 8 November 2021. It was stated in the letter that he had squashed and thrown away an official correspondence minuted for action by the director general (DG).

The complainant did the alleged act in the presence of two of his colleagues. One of them who was sharing the same office with him, had direct knowledge of the alleged misconduct. He confirmed the reason given by the authority in terminating the complainant's service as credible. He added that he was present when the letter from the director general was placed on the complainant's table, and also saw the complainant's immediate reaction in squashing and throwing the official letter towards the dustbin.

During the complainant's meeting with the director general and other senior officers of the institution regarding his alleged misconduct, he left the meeting without being excused.

Given the nature of his disrespectful conduct towards the director general and his colleagues, the authority deemed it necessary to terminate his service with immediate effect.

Section 51 of the Labour Act provides that during a probationary period either party may terminate a contract of employment at any time without notice and without regard for the requirement set out in section 83(1), i.e. providing justification for termination. In other words, an employer can terminate the contract of employment of an employee in probation without the required notice period or even providing reason for terminating such a contract.

The rules that apply to an employee who is confirmed in his/her appointment does not apply to an employee serving a probationary period. An employer wants to avail himself the opportunity to gauge the suitability of an employee to carry out his duties, his/her ability to work with people, and whether the employee would conform to the standards of behavior expected of him/her. This list is not necessarily exhaustive.

The institution's own service rules provides that it can terminate the services of an employee on probation if he/she is found wanting for gross misconduct.

**CONCLUSION**

The conduct the complainant displayed at his office when the official letter was given to him and his conduct during the meeting, he had with the director general and other senior officers was disrespectful. As such, the authority was right to consider such behavior as an act of gross misconduct and to invoke the necessary section in the service rules to terminate his service.

### 4.3 UNFAIR TREATMENT

**CASE NO:** 1 /2021  
**NATURE OF COMPLAINT:** Stoppage of Salary

#### **COMPLAINT**

The complainant was appointed as qualified teacher on 1 October 2014 and posted to a lower basic school. In the 2015/2016 academic year, he was transferred to another lower basic School and served in many other schools in the regions.

In the 2018/2019 academic year, he was posted again to another lower basic school. In March 2020, he wrote a letter entitled “poor administrative behaviour” and addressed it to the African Centre for Democracy and Human Rights Studies and the regional educational authorities explaining corrupt practices of the management of the school. Three months after sending this letter, his salary was stopped. He made follow up but to no avail. At the end of the state of public emergency period, he wanted to resume duties but was stopped by the head teacher.

In the 2020/2021 academic year, he was transferred to another lower basic school but refused to comply with the transfer order. He told the head teacher that they were only transferring him because of his petition. The head teacher then informed him that his salary would only be restored if he complied.

#### **FINDINGS**

The complainant was offered appointment as qualified teacher with effect from 1 October 2014.

Through a letter dated 26 September 2019, the head teacher of a lower basic school informed authorities of the complainant’s continuous refusal to prepare lesson plans, scheme of work and other records relating to his work.

As a result, he was transferred to a lower basic school in one of the regions during the 2020/2021 posting but he refused to comply with the posting.

This led to the principal education officer in his region to inform him in a memo dated 14 December 2020 that following his transfer to a different region he had ceased to be a member of staff of the school from where he was transferred with effect from the beginning of 2020/2021 academic year. He was strongly advised to peacefully vacate the staff quarters and handover the keys to the school authority but failed to comply.

He wrote to the regional director through a letter dated 16 March 2020 informing him that he would not report to work until further notice. The reasons he advanced for his action were: that children were forced to come for study classes and were not given proper care;

misuse of school improvement grant; children had no good toilet facilities and the borehole used to supply water to the toilets was not repaired.

Through a letter dated 2 April 2020, the regional director wrote to the permanent secretary recommending for the stoppage of his salary on the grounds of professional misconduct. Consequently, his salary was stopped in June 2020.

Through a letter dated 6 October 2020, he was informed by the National Human Rights Commission that his complaint was inadmissible on the grounds that it did not disclose a human rights violation.

On 27 January 2021, he admitted to the Ombudsman that he had not been preparing lesson plans but added that he was not alone.

The complainant admitted breaking the padlocks on two occasions. He also admitted making illegal pipe connection to the general pumping system for the whole school that resulted in acute shortage of water supply.

Again, he admitted tampering with the school's electricity supply and brought it to a halt. This prompted his employer to direct that his salary be stopped due to this gross misconduct.

## **CONCLUSION**

The Ombudsman advised him to comply with the posting order but he emphasized quite clearly that he would not go on posting.

His failure to obey the postings contravened section 6.1.1(4) and (9) of the Code of Conduct of the Civil Service which is a gross misconduct.

The Ombudsman upheld the decision to stop his salary until he complied with the posting.

**CASE NO:**

**12/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

## **COMPLAINT**

The complainants were ex-students of a training Institute. Upon completion of their courses on mechanical and electrical engineering, they were approached by someone who offered them a job at a cement factory. In October 2020, they were verbally hired and promised to be issued with employment letters after serving three months' training on the job. The complainants stated that towards the end of the three months, they started abusing and frustrating them. They added that their working conditions were terrible and there was no sanitary facility within the premise.

The complainants alleged that the dispute resolution institution with which they lodged their complaint, mishandled their complaint by misrepresenting their complaint to be “claiming for unpaid salaries” instead of unfair treatment, abuse of rights and non-issuance of employment letters. The complainants alleged that they were dismissed forthwith for filing a complaint against their employer.

## **FINDINGS**

The complainants lodged a complaint of unfair treatment, abuse of rights and non-issuance of employment letters with a dispute resolution institution against their employer on 28 December 2020. The complaints department visited the factory and conducted an inspection.

The dispute resolution institution invited the complainants’ employer for a tripartite meeting which was scheduled on 12 January 2022. The subject of the said letter prompted the complainants’ employer to write through their legal representative that one of the complaints, whose name was mentioned, was not owed any monies and that he was not their employee.

The institution sent another letter to the complainants’ employer for another tripartite meeting which included the names of other complainants but the company maintained that they do not owe the complainants salary.

The said dispute resolution institution indeed misrepresented the claims of the complainants in their letter. They apologized to the complainants and the management of the company and invited them for a meeting to resolve the matter, but the company again failed to honour the invitation.

The institution then advised the complainants for the complaint to be referred to the industrial tribunal for redress.

## **CONCLUSION**

The institution acknowledged the errors in their two correspondences to the company and extended their apology to the complainants. They rectified their errors and re-invited the company but they failed to appear. The matter was then referred to the Industrial Tribunal.

**COMPLAINT NO:**  
**NATURE OF COMPLAINT:**

**13/2021**  
**Salary Drawback Claim**

### **COMPLAINT**

The complainant was appointed as security officer on 1 June 2015. He resigned from his post on 30 June 2020. He said that in 2019 approval was granted to increase the special/sitting allowance to 100% (i.e. from D2500 to D5000) effective January 2020. He alleged that there was a delay in the beginning and as a result payment was made in the last quarter of 2020 when he had already resigned from the service.

After his resignation, he got the information that the drawback had been paid in respect of the special/sitting allowance. He alleged that he consulted but he was informed that he was not eligible because of his resignation. The complainant was claiming drawback from January to June 2020 amounting to D15000.

### **FINDINGS**

The institution in a letter dated 2 March 2021 stated that they had requested the accountant general to effect payment amounting to D15000 to the complainant.

The complainant called on 30 April 2021 and confirmed that he received D15000.

### **CONCLUSION**

The complainant was paid D15,000.

**CASE NO:**  
**NATURE OF COMPLAINT:**

**16/2021**  
**Maladministration**

### **COMPLAINT**

The complainant stated that he was appointed as internal audit clerk on 1 November 2002 on grade 4 and posted to their main office. He was promoted to accounting assistant grade 6 effective 1 August 2006. In a letter dated 25 June 2007 he was transferred from internal audit unit to another section with immediate effect.

He was confirmed in appointment and upgraded to the position of trade license officer grade 10.1 with immediate effect in a letter dated 7 January 2008. He was downgraded from grade 10 with immediate effect in a letter dated 5 July 2011. He alleged that his demotion was interpreted as departmental transfer that was stated on the letter and no reason advanced to the effect.

He further alleged that he wrote a letter to the CEO enquiring the reason for such action but it fell on deaf ears. He wrote another letter in 2011 highlighting the irregularities in his appointment.

He was then redeployed to the Trade License Office as license officer grade 6 effective 3 June 2013 when officers on the same cadre were on grade 10. He stated that he was again redeployed to the Administration Unit as acting public relations officer with

immediate effect in a letter dated 12 August 2013. In another letter dated 30 December 2013, the complainant was further redeployed to Cost Recovery as head of the unit on grade 10.1 with effect from 1 January 2014.

He was confirmed as PRO and clerk to council on grade 8.1 effective 1 April 2014 in a letter dated 27 March 2014.

The complainant was issued with a letter dated 27 March 2014 stating that he was upgraded from grade 6.2 to 8.1 effective 1 April 2014.

In a letter dated 29 December 2016, he was promoted as administrative manager and PRO on grade 11.1 effective 1 January 2017.

The complainant was issued with another letter dated 30 January 2019 informing him to retain his position as administrative manager with effect from 1 February 2019.

He alleged that he fell sick and stayed on excused duty for 1 week. During this period, he received a letter dated 12 August 2020 that he absented himself from work without permission and was requested to justify the reason for his absence.

He responded in a letter dated 24 August 2020 and attached a medical note as evidence for his absence. He said that he was again issued with another letter dated 26 August 2020 in which he was threatened with a deduction of 5 days' pay from his salary as a result of his alleged refusal to sign and receive a letter from the messenger.

He further alleged that his office was not painted and lacked air conditioner compared to those of his colleagues'.

The complainant further alleged that he had been experiencing discrimination at work and was claiming the following:

- his salary differences from grade 10 to 6 over the downgraded period as it had been done for a colleague who is retired;
- payment of appropriate allowance and necessary drawbacks;
- improvement on the condition of his office and the restoration of his responsibility; and
- transport refund arrears while pursuing his post graduate program.

## **FINDINGS**

The complainant via letter dated 30 September 2002 was appointed as internal audit clerk on grade 4.1 of the new government integrated pay scale.

He was promoted via a letter dated 21 August 2006 to the position of accounting assistant on grade 6 of the new government integrated pay scale. Through a letter dated 25 June 2007, the complainant was transferred from the Internal Audit Unit to the Rates Section as acting rates officer.

The complainant was upgraded and confirmed to the position of trade license officer Grade 10.1 with immediate effect via letter dated 7 January 2008. His monthly basic salary was D3919.

The complainant's pay slips from January 2008 to March 2008 indicated that he was paid salary on grade 10.1 until April 2008 when he realised the drastic changes in his salary. He wrote a letter dated 1 May 2008 to the council concerning his April 2008 salary complaining that he could not comprehend the reason behind the changes in his salary. He urged management to clarify why the under payment and suppose it was an error, he would appreciate if corrective measures were taken to rectify the anomaly but he never received a reply.

The complainant through a letter dated 12 August 2013 was informed that he was redeployed from the Licence Unit as licence officer to Administration Unit as acting public relation officer. He was again redeployed from the post of acting public relation officer to the Cost Recovery Unit as head of the unit via letter dated 30 December 2013. The grade attached to the post is grade 10.1 of the government integrated pay scale but did receive salary on the above grade. However, he was issued with another letter dated 27 March 2014 titled "Upgrading" informing him that his grade as PRO was improved from 6.2 to 8.1.

The complainant via a letter dated 29 December 2016 was promoted to the position of administrative manager and PRO on grade 11.1 of the newly integrated pay scale effective 1 January 2017.

The complainant was queried via a letter dated 26 August 2020 for absenting himself from work without permission and not providing medical report to justify his absence. However, he produced a medical paper dated 3 August 2020 to management indicating that he was diagnosed of indigestion and cough as a result he was granted a week's excused duty. He was supposed to resume duty on 10 August 2020 but failed to report for work.

The complainant via a letter dated 26 January 2021 was offered acceptance to pursue Masters of Public Administration at the Groupe Supdeco Dakar- Campus Banjul. He applied for sponsorship from the council to pursue a master's degree in public administration via a letter dated 28 January 2021.

The complainant through a letter dated 7 April 2021 was informed that no application was received by the council pertaining to his application for sponsorship. He instead chose to channel his application through the project team responsible for an EU sponsored project. As a result, his application for sponsorship was not considered for approval.

The complainant was downgraded from grade 10.1 to grade 6.2 in April 2008. The council failed to give genuine explanation for the circumstances that led to the changes in his salary. He was never queried for being inept to warrant such a decision.

## **CONCLUSION**

Since the council could not give any tangible reasons that led to the downgrading of his salary from grade 10.1 to 6.2 and the mere fact that the council failed to give reasonable explanation for downgrading his salary, the Ombudsman held the view that the complainant was unfairly treated and recommended that he be paid the difference of his salary and allowances from April 2008 to December 2016.

The transport fare which the complainant was claiming is a privilege and the council can revoke it whenever it deemed it appropriate to do so.

**CASE NO:**

**24/2021**

**NATURE OF COMPLAINT:**

**Non-issuance of Official Receipt**

## **COMPLAINT**

The complainant stated that the principal cadí at a magistrates' court presided over the distribution of the estate of her late husband. The property is situated at Brikama Jalambang West Coast Region measuring 39.45m x 163.20m x 27.90m x 30.00m x 29.80m to be assigned to the beneficiaries which were the deceased wives, his two sons and two daughters

She alleged that the principal cadí charged her D10, 000 being the cost of transfer of ownership for the properties situated at Kerr Sereign and Brikama Jalambang. She requested for a receipt and the principal cadí issued her with a receipt which she suspected was not official. She was of the view that it was a malpractice and urged the Ombudsman to intervene so that she would be issued with an official receipt or her money be refunded.

## **FINDINGS**

It has been the practice that sometimes the cadí court through the cashier issues temporary receipts when the receipt book is not in stock or when the cashier is not at work.

The complainant was not issued with an official receipt.

## **CONCLUSION**

It is not proper for the cadí to be receiving payments from litigants and issuing them with temporary receipts. This act contravened the financial instruction and may encourage corruption and abuse of office.

The Ombudsman recommended that all payments should be paid to the cashier and not the cadí. In addition, individuals who made payments should be issued with official

receipts and not temporary receipts. The Ombudsman further recommended that the complainant be issued with an official receipt.

**COMPLAINT NO:**

**54/2021**

**NATURE OF COMPLAINT:**

**Requesting Reinstatement**

### **COMPLAINT**

The complainant stated that he worked as a security officer since 2008. He was trained in human psychology, profiling and passport control, anti-money and counter-financing for terrorism, identification of drugs and analysis under the Scientific Unit.

He alleged that he got sick in 2015 while on posting. His application for sick leave was approved and this enabled him to undergo treatment. He went to Senegal for treatment and continued to receive his salary until 2018 when he unconsciously resigned from the service of the government due to mental illness.

He recovered from his illness in 2019 and wrote to his former department for reinstatement but his request was rejected. He was asked to apply for re-enlistment but he was not willing to do that.

### **FINDINGS**

In February 2018, the complainant wrote a letter to the director of administration resigning from his position. He was an inspector at the time of writing his resignation.

Prior to his resignation, he was granted sick leave to enable him to undergo treatment in Senegal.

He continued to receive salary until when he applied to resign from the service of the government and his request was granted. His resignation from the service was effective 1 May 2018.

A medical report dated 26 March 2021 showed the complainant's mental status at the time. He was treated at Centre Psychiatrique Emile Badiane de Kenia Ziguinchor, Senegal and administered on schizophrenic drugs. He was certified after being tested stable and sound.

He wrote his resignation while on sick leave stating that he could not continue to receive salary that he did not work for. Management discussed with him on the matter but he adamantly insisted that his decision be respected.

Management concurred that at the time of his resignation he was mentally ill but since there were no medical records at the time confirming his medical stability, management considered his re-enlistment rather than reinstatement.

### **RECOMMENDATION**

The Ombudsman recommended for the complainant's reinstatement since at the time of tendering his resignation, his employers suspected that he was mentally ill. It takes a sound mind to make an appropriate decision, which did not apply in this case.

### **CONCLUSION**

The complainant was reinstated in November 2021 as Inspector.

|                             |                                   |
|-----------------------------|-----------------------------------|
| <b>COMPLAINT NO:</b>        | <b>64/2021</b>                    |
| <b>NATURE OF COMPLAINT:</b> | <b>Non-Payment of NPF Benefit</b> |

### **COMPLAINT**

The complainant was appointed as assistant officer (screen printer) in June 2014. He alleged that in 2019 his health condition was deteriorating thus making him not able to deliver as expected. He further alleged that he was due for voluntary retirement on 5 July 2021. He applied and his application was approved. He was also requested to proceed on 3 months' accrued leave from 2015 to 2021.

The complainant further alleged that upon retirement he enquired about his benefits but he was referred to Social Security and Housing Finance Corporation (SSHFC). However, he was informed by SSHFC that his institution defaulted in the payment of his contributions from the period September 2018 to June 2021.

### **FINDINGS**

The complainant discovered that his health condition was deteriorating. He applied for voluntary retirement and it was granted.

Approval was granted for him to proceed on 3 months' accrued leave from 12 April 2021 to 5 July 2021.

He was paid D 43, 257 on 25 October 2021 being arrears from September 2018 to June 2021.

### **CONCLUSION**

The complainant was paid D43,257 as contribution to the National Provident Fund.

**COMPLAINT NO:** 79/2021

**NATURE OF COMPLAINT:** Unlawful Transfer of Service & Stoppage of Salary

### **COMPLAINT**

The complainant stated that he was appointed as Driver on 1<sup>st</sup> point of grade D with effect from 18 June 2012. He alleged that he was the driver for vehicle number GNALSA ESSP – 018 and the vehicle was impounded in September 2021 by Vehicle Control Unit to be used during the president's meet the peoples' tour. He further alleged that the director general was informed to release the vehicle and the driver but she failed to comply and as a result the vehicle was confiscated at Denton Bridge when he was transporting staff to work.

He alleged that he called the procurement officer to inform him about the situation but he responded that he was notified. After the presidential tour he was issued with a letter from Office of the President for the office to facilitate payment of his night allowance but the director general failed to comply. He added that on 28 October 2021 the director general ordered for his salary to be deducted for the days he spent during the period of the presidential tour. To his utmost dismay, he was issued with another letter dated 28 October 2021 instructing him to report to the library and return the vehicle or else disciplinary measures would be taken against him. The complainant is claiming payment of allowance for the period covered during the tour and to restore his salary.

### **FINDINGS**

A letter ref: BCG40/234/06/08(309) dated 16 December 2021 was addressed to the director general. In her response she informed the Ombudsman that the allegation that the complainant presented a payment request which was denied was false. She said her intuition did not have funds at the time of the request and when funds are available the complainant would be paid.

### **CONCLUSION**

The complainant informed the Ombudsman that his night allowance was paid by the institution. Thus, that aspect of his complaint was foreclosed. Also, the complainant's salary from October to December 2021 were paid.

## CHAPTER 5

### 5.1 CASES REGISTERED KEREWAN OFFICE

**COMPLAINT NO:** 2/2021  
**NATURE OF COMPLAINT:** Unfair Treatment

#### COMPLAINT

The complainant stated that he was enlisted into a security institution in 2010. He rose to the rank of a corporal.

He further stated that in 2020, the institution approved the payment of risk allowance of D1000 to its personnel but he was yet to receive the said allowance enjoyed by his colleagues. He made several follow-ups to no avail.

#### FINDINGS

The said institution approved payment of risk allowance to different categories of officers (Grade 1 to 6) at the rate of D500 per month. The said allowance was later increased to D1000 in 2021.

The complainant's pay slip indicated that on 1 December 2020 he was paid risk allowance of D500 and on 1 February 2021, he was paid D1000.

The sum of D1385 was being deducted from the complainant's salary to service a loan. An amount of D750 was also being deducted as payment for the cost of a plot of land allocated to him.

#### CONCLUSION

The complainant was not unfairly treated.

**COMPLAINT NO:** 3/2021  
**NATURE OF COMPLAINT:** Unfair Treatment

#### COMPLAINT

The complainant stated that she was approached by an official of a public institution to step in for their cleaner who died.

She accepted the offer with the promise that she would be subsequently appointed to replace the deceased cleaner. She worked for 4 years but was neither appointed nor paid any salary.

She alleged that in January 2021, she was told that her appointment had been processed but her name was misspelt thereby conveying a different name. The complainant stated that she had a family to take care of and had since sacrificed her gardening to take up the offer with the hope that she would be appointed as promised.

## **FINDINGS**

The complainant was approached by the said official to step in for the deceased cleaner.

The complainant's application for the post and recommendation letter from the branch she was working for were received by the institution in November 2020. The institution also wrote to the appointing authority for clearance to appoint the complainant as cleaner since she had been volunteering for more than four years.

The complainant was not paid salary but was being paid quarterly incentive from 2017 to 2021 as a form of motivation pending her appointment.

In January 2021, she was informed by the regional officer that there was a mistake in processing her clearance for appointment as her name was mistakenly written.

## **CONCLUSION**

The department confirmed her appointment effective January 2021, but the letter was not delivered as a result of poor mail service in the regions. She was then asked to process her bank details for her salary to be processed, which she did.

The complainant confirmed receiving her salary drawbacks effective January 2021 as stated in her appointment letter.

**COMPLAINT NO:**

**4/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

## **COMPLAINT**

The complainant stated that he was appointed as cleaner. Following his appointment, he was never issued with an appointment letter.

He further stated that in September 2014, he realised that his salary was being deducted D306 as a monthly contribution to an insurance company, which he had no idea about because he could not remember joining any insurance company. When he made the necessary follow-up, he was refunded all that was deducted, which amounted to D5563. He was still not sure if the deduction had stopped because what he was receiving as a monthly salary was very small.

The complainant further alleged that in February 2021, he was not paid his monthly salary and when he went to receive his March salary, he was paid only D550 which was posted into his salary account even though he was not paid salary the previous month.

He alleged that he had not been provided with the necessary tools to do his job. He had on several occasions requested brooms and rakes to no avail.

## **FINDINGS**

The complainant was appointed as cleaner. He was receiving his salary from the accounting officer at a sub treasury.

The authorities in February 2021 stopped payment of salaries over the counter and directed all civil servants to open current accounts with commercial banks.

The complainant failed to open a current account as directed and as a result his salary was stopped. He later opened a current account on 2 January 2021.

The complainant received D627. The reason for his low salary earning was that he was servicing a loan he took from their credit union. His salary was also being deducted D306 every month as contribution to an insurance company.

The complainant was asked to place a requisition for his cleaning materials to the headquarters through his station officer and to also collect his appointment letter.

## **CONCLUSION**

The complainant informed the Ombudsman that he had been issued with his letter of appointment and the necessary correction in his salary had been made. He had also received his quarterly allocation of cleaning materials.

**COMPLAINT NO:**

**6/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

## **COMPLAINT**

During a visit to a security station on 14 April 2021, as part of the office proactive mandate, the officers present lamented the lack of electricity. The station officer said a cash power meter was requested since 2020 and payment was made since 18 September 2020.

He said that efforts made to secure the said meter proved futile, but they were informed by an operator at a branch of the company concerned that most of the requested meters were available but that of his station was not among the supplies

## **FINDINGS**

The said electricity meter was mistakenly taken to a station with similar name. The operator stated that they were making all efforts to ensure that the meter was taken to the station.

## **CONCLUSION**

The officers confirmed to the Ombudsman that the said meter was installed on 31 December 2021.

**COMPLAINT NO:**

**7/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

## **COMPLAINT**

The complainant stated that he accidentally fell down in June 2021 and sustained a fracture on his ankle which later developed into a serious wound. Since then, he found it difficult to do his job effectively.

He stated that he received a letter dated 27 August 2021 accusing him of refusing to execute his duties as cleaner at the council.

He further stated that due to the said injury he was given one-month leave without allowances effective 15 September 2021 to enable him to undergo a medical treatment.

Upon resuming work on 15 October 2021 after the one-month leave, he submitted a clinic card to the council which was rejected for failing to produce a medical certificate.

He stated that in 2020 he lodged a complaint with the Office of the Ombudsman claiming his transport allowance. He alleged that he was unfairly treated by the council.

## **FINDINGS**

The complainant had a fracture on his leg and was limping. As a result, he was given one month leave to undergo treatment.

The management of the council had acted wrongfully by stopping all his allowances without reference to the General Orders 04114.

The General Orders provides for public officers on sick leave to be paid full salary and allowance for a period of one month and beyond depending on the gravity of the illness, they were asked to refund the complaint his allowances.

**CONCLUSION**

The complainant informed the Ombudsman that he was paid all his allowances.

**COMPLAINT NO:****9/2021****NATURE OF COMPLAINT:****Appeal for Road Maintenance/ Repair****COMPLAINT**

The complainant was the president of a driver's union of a regional settlement. He stated that he was informed by drivers plying Barra/Farafenni highway that there was a big pothole before the bridge coming from Barra end and at a very dangerous bend/curve which cannot be quickly detected by drivers. The complainant stated that if quick action was not taken, it could result to a fatal accident.

**FINDINGS**

On 25 November 2021, the governor visited the location and confirmed the existence of the pothole and the eminent danger it posed to drivers and commuters.

**CONCLUSION**

The relevant authority on 27 November 2021 rehabilitated the affected area.

## CHAPTER 6

### 6.1 CASES REGISTERED MANSAKONKO OFFICE

**COMPLAINT NO:** 3/2021  
**NATURE OF COMPLAINT:** Unlawful Dismissal

#### **COMPLAINT**

The complainant alleged that he had always been going to every night but was surprised that he was dismissed.

#### **FINDINGS**

The complainant was appointed on contract in 2018 as night security guard.

The complainant was served with two warning letters for not coming to work. It was also noted that the complainant was given one month notice before his service was terminated.

#### **CONCLUSION**

Since the appointment was temporary and the complainant did not fulfill his part of the contract agreement, the termination of his service was within the law.

**COMPLAINT NO:** 10/2021  
**NATURE OF COMPLAINT:** Unfair Treatment

#### **COMPLAINT**

The complainant alleged that he used to have a shop around a garage, but during the renovation of the garage, he and others were asked to relocate to a temporary area till the completion of the renovation. However, after the completion of the renovation, he was asked to apply for a shop which he did but he was denied.

#### **FINDINGS**

The complainant used to have a shop in the said garage. He and others were asked to relocate to the other part of the market to allow the renovation of the garage.

After the completion of the renovation and reconstruction of new shops, the complainant and others were asked to apply for shops as the number of shops available were not many. The number of applicants were more than the shops available.

## **CONCLUSION**

The area council was advised to look into the complainant and others' situation. Priority should be given to those who first had shops in the garage and had been paying their rates regularly.

**COMPLAINT NO:**

**13/2021**

**NATURE OF COMPLAINT:**

**Non-issuance of receipt to patients**

## **COMPLAINT**

The Office of the Ombudsman received information that a health centre was not issuing receipts to patients for laboratory services.

## **FINDINGS**

Although the laboratory unit was conducting laboratory tests and charging people for laboratory services, there was evidence of non-issuance of receipts to patients after paying for those services.

## **RECOMMENDATIONS**

The senior management was advised to regulate the system in the health centre and laboratory technicians were verbally warned to desist from such practices. The director was asked to make a follow-up and reprimand the staff that were involved in such malpractices.

**COMPLAINT NO:**

**15/2021**

**COMPLAINANT:**

**Proactive**

**NATURE OF COMPLAINT:**

**Charging Laissez-Passer to Gambians**

## **COMPLAINT**

The Office of the Ombudsman received information that a security officer collected from six Gambians travelling to Casamance D300 for issuing them with laissez-passez which he knew was wrong.

## **FINDINGS**

On 18 November 2021, the said officer collected D50 from each of the six Gambian travelers for issuing them with laissez passez amounting to D300 because the said travelers were not in possession of their Gambian ID cards .

## **CONCLUSION**

The officer concerned was warned by his superior and posted him to another security post in the provinces. The D300 was refunded.

**COMPLAINT NO:**

**16/2021**

**NATURE OF COMPLAINT:**

**Wrongful Dismissal**

## **COMPLAINT**

The complainant said that he was a general science teacher at a senior secondary school. He alleged that he was wrongfully dismissed in connection with a leakage of examination paper.

## **FINDINGS**

The complainant was a general science teacher at the said senior secondary school since 1 September 2018.

Based on the testimony of a female grade 12 Art student of the said school, the complainant sent her the questions on WhatsApp. This was corroborated by other students, all grade 12 Art students.

One of the students in particular who was a longtime friend to the said female student said that he got all the questions from her.

There was also a WhatsApp audio that clearly proved that the complainant was responsible for the leakage of the examination paper. In the audio he accepted responsibility for the leakage. The printout of his text communication with the said female student also showed that he was responsible.

His dismissal as general science teacher was in relation to a leakage of general science examination paper. The said question paper was in the complainant's mobile phone which was accessed by a student.

## **CONCLUSION**

The complainant's allegation was dismissed because his action was a gross misconduct which attracted a dismissal. A teacher should inspire trust but not otherwise. Both audio and material evidence showed that the said WhatsApp message came from the complainant's phone.

**COMPLAINT NO:**

**18/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

## **COMPLAINT**

The complainant alleged that he paid tax for his shop twice in the same year. He paid tax on 6 October 2021 and on 21 December 2021, D5, 000 and D3, 000 respectively totaling D8000.

## **FINDINGS**

The first payment was an underpayment for tax due to the fact that the complainant had two shops.

According to the institution concerned, the first payment was an underpayment. Upon their second visit to the complainant's shop, they found out that he owned another shop.

## **CONCLUSION**

The complainant was not unfairly treated.

## CHAPTER 7

### 7.1 CASES REGISTERED BASSE OFFICE

**COMPLAINT NO:** 1/2021  
**NATURE OF COMPLAINT:** Unfair Treatment

#### COMPLAINT

The complainants stated that on 19 January 2021, staff members of a water and electricity company went to their home and disconnected their water service because they had arrears. They alleged that they had explained to them that they had inherited the said arrears from the previous tenants. They further alleged that they had explained to them that at the time of disconnecting their water service they were gradually settling the said arrears. They had been paying a monthly bill of D350 even though their bill never exceeded D235.

#### FINDINGS

It was confirmed that on 19 January 2021, the said staff members had disconnected the water supply to the complainants' home. The said arrears which amounted to D12,421.93 was inherited from the previous tenants.

The landlord was informed of the arrears but he failed to settle it. Following the death of the landlord in May 2020, the complainants had been paying D350 monthly even though their water bill never exceeded D235. The remaining D115 was used to gradually service the arrears.

The water bill was estimated at D235 per month because the meter was faulty.

#### RECOMMENDATION

The company was advised to replace the faulty meter.

#### CONCLUSION

The complainants made a part payment of D1400 and their water service connection was restored. The complainants also agreed that they would be paying D700 monthly so that D235 would be the regular monthly payment while the remaining D465 would be used to gradually settle the arrears.

**COMPLAINT NO:** 2/2021  
**NATURE OF COMPLAINT:** Unfair Treatment

#### COMPLAINT

The complainant stated that while he was riding his motorbike on 19 January 2021, he was stopped by two security officers at a checkpoint. He said that since he was carrying a patient and an escort, he was cautioned by the officers. He added that he explained to

the officers that the one in the middle was a sick child and it would be unsafe to let him sit at the back of the motorbike.

He alleged that the officers disregarded his excuse, seized his motorbike's documents and packed it. The officers requested him to pay D500 which he refused. He was later allowed to take the patient and the escort to a health centre with the instruction to return and surrender his motorbike. He further stated that his motorbike would be released upon payment of the requested D500. However, he failed to return to the checkpoint to collect his documents.

## **FINDINGS**

The complainant was stopped at the checkpoint. He was stopped because he was carrying two people and also none of them was wearing a crash helmet.

The officers seized his motorbike documents but since one of the people he was carrying was sick, he was allowed to take them to the health centre.

The complainant was instructed to report to the station but he did not for the fear that his bike would be packed pending the payment of a fine.

## **CONCLUSION**

The complainant was strictly cautioned to desist from riding a motorbike without crash helmets. He was also advised not to carry again more than one person. His documents were returned on 9 February 2021.

**COMPLAINT NO:**

**3/2021**

**NATURE OF COMPLAINT:**

**Claiming Gratuity**

## **COMPLAINT**

The complainant complained on behalf of the hires of his late brother who was appointed as caretaker by a public institution effective 8 May 2008. In November 2017, his salary was stopped on retirement grounds. The complainant averred that his late brother had pursued his retirement benefit until his death on 27 May 2020 to no avail. He therefore urged the Ombudsman to intervene so that his late brother's gratuity could be paid to its beneficiaries.

## **FINDINGS**

The complainant's late brother was appointed as caretaker effective 8 May 2008. His salary was stopped in November 2018 because he was overdue for retirement. It was confirmed that following his salary's stoppage, he pursued his retirement to no avail.

The deceased's retirement benefit could not be processed because he was due for statutory retirement since March 2015 but had overstayed in appointment for 2 years 8 months.

## **CONCLUSION**

Since the deceased had overstayed, it was realised that he had received salaries during the period that far exceeded his benefits. For that reason, the institution was not obliged to pay his benefits.

**COMPLAINT NO:**

**6/2021**

**NATURE OF COMPLAINT:**

**Shortage of Teachers**

## **COMPLAINT**

During a brief discussion with a teacher at their cluster gathering on 22 February 2021, a staff member lamented over the shortage of teachers and overcrowding at the school. The staff member expressed dissatisfaction over the condition at which the Early Childhood Development (ECD) pupils were seated. He added that even though the setting was not conducive for effective teaching and learning, the observation of Covid-19 precautionary protocols was a challenge because some of the ECD pupils could not wear face masks.

## **FINDINGS**

The school had a student population of 402. Grades 1 to 6 were housed in 4 rooms operating on a double shift while the ECD pupils were housed in a building belonging to the Ministry of Health which had been used for antenatal clinics.

The building where the ECDs were housed was not designed for school setting. It was further revealed that the ECD pupils which comprised over 100 pupils were being taught by only one teacher.

The principal education officer affirmed that his directorate was aware of the situation. He averred that the overcrowding of pupils was as a result of space problem which was a concern to his ministry. He added that the teacher shortage was as a result of the unwillingness of teachers to go to that region. He lamented that the salary for ECD teachers was too small especially the untrained teachers. This made it difficult to retain them.

## **CONCLUSION**

On 24 April 2021, the principal education officer informed the office that two teachers were posted to the said school to fix the existing teacher gap. He affirmed that his ministry was putting up efforts to build more classrooms for schools with inadequate classrooms.

**COMPLAINT NO:**

**7/2021**

**NATURE OF COMPLAINT:**

**Abuse of Power**

**COMPLAINT**

The complainant stated that on 10 February 2021, his brother was charged by a security officer because he had stopped by a shop on a highway. He alleged that his brother explained to the officer that he had not packed, but stopped to carry 4 packets of tiles. However, the officer ordered that he must go to the station.

The complainant further alleged that he went to the station and was told that the said officer had closed for the day. He engaged him on phone but was told that his brother should pay a fine of D1000 for causing obstruction on public highway contrary to Section 32 of the Road and Highway Act. He added that since there was no signboard to indicate no parking or stopping, he requested that his brother be summoned accordingly to no avail. He lamented the seizure of his brother's car key and particulars for just an alleged traffic offence.

**FINDINGS**

The complainant's brother had stopped on the highway at a T-junction in the market to collect 4 packets of tiles. He was escorted to the station and charged a mandatory fine of D1000 for causing obstruction on the public highway contrary to Section 32 of Road and Highway Act.

There was no signboard to indicate no parking or stopping. The driver stopping at a T-junction to collect 4 packets of tiles obstructed the traffic. The officer had also seized the driver's car key and particulars.

**CONCLUSION**

Since the complainant's brother had committed a traffic offence, the D1000 mandatory fine was in order. However, the officer was cautioned to desist from seizing driver's car keys for traffic offences.

**COMPLAINT NO:**

**8/2021**

**NATURE OF COMPLAINT:**

**Abuse of Power**

**COMPLAINT**

The complainant stated that while driving his car on 20 April 2021, he was stopped by a security officer. His car was inspected, it was discovered that his fire extinguishers expired. He apologised and immediately went and bought two bottles of fire extinguishers. He said that even though he replaced the expired fire extinguishers, the officer insisted that he was going to serve him a summon. He complained that since he had immediately replaced the expired fire extinguishers, the issuance of a summon was unnecessary.

## **FINDINGS**

The complainant's fire extinguishers expired; he immediately replaced them. The said officer still insisted on summoning him to pay a mandatory fine.

## **CONCLUSION**

Since the complainant had replaced the expired fire extinguishers, the police officer was advised to rescind his decision which was adhered to.

**COMPLAINT NO:**

**10/2021**

**NATURE OF COMPLAINT:**

**Abuse of Power**

## **COMPLAINT**

The complainant stated that on 20 April 2021 while driving his taxi, he was stopped by security officers at a checkpoint. He alleged that he had told the officers that the car was packed for more than 3 months and he had just resumed driving it. He said that he admitted to them that his road tax was expired and appealed to be allowed to renew it that day but they refused insisting that he must pay a fine first.

He alleged that when he was taken to the station, the officers present requested D4000 but he refused arguing that was more than his road tax. Therefore, he was committed to pay D700 and allowed to go and renew his road tax. The next day, he went and renewed his road tax. He said that denying him the chance to renew his road tax the day he was stopped was an abuse of power because he did not commit an offence which could warrant the packing of his car until the next day.

## **FINDINGS**

On 20 April 2021, the complainant was stopped at a checkpoint. His road tax had expired and as a result he was taken to the station where his car was packed.

His car was packed because it was the fourth month of the year and car owners were obliged to renew their documents within the first 3 months.

The complainant's allegation of paying D700 to the police could not be supported by evidence because he was not issued with a receipt. One of the officers whom he alleged to have given D700 denied the allegation. Besides, the complainant could not provide witnesses to confirm his allegation.

## **CONCLUSION**

Since the complainant could not bring evidence or witnesses to support his allegation of being forced to bribe the police, the investigation on the matter was discontinued.

**COMPLAINT NO:**

**13/2021**

**NATURE OF COMPLAINT:**

**Claiming Building Permit**

### **COMPLAINT**

The complainant alleged that his son bought a plot of land in a village in 2019. His son had a land in the village and intended to build a shop on the plot of land he bought. In February 2021, he moulded bricks in order to start a building. Before the start of the building, some villagers reported to the alkalo that his son wanted to build a mosque which should be stopped because he belonged to a certain religious sect. He alleged that his son requested a building permit from the physical planning officer but was told by him that he could not measure the land because the villagers were against the erection of the building. However, he told his son to proceed on building the shop.

In March 2021 while they were about to start the building, the Village Development Committee chairperson and the village imam reported them to a police station, when they went to the station, the officer in charge said it was a civil matter and referred them to the chief.

The following day, they went to the chief's house but the villagers insisted that his son should not build the shop. Despite the chief's appeal, they still insisted that the shop would not be built. They had another meeting but they could not reach an agreement.

### **FINDINGS**

The complainant's son purchased a plot of land in the said village in 2019. In February 2021, he made some bricks. In March 2021, he attempted to build a shop on the said plot of land but was stopped by the villagers.

The villagers had stopped the building on the grounds that the complainant's son belonged to a certain religious sect. They also refused on the basis that his son was not in the habit of attending village funerals, naming ceremonies and was not partaking in communal works organized by the village.

The complainant's son had applied for a building permit from the physical planning officer but was told by the officer that he could not because the villagers were against the erection of the building. His refusal was due to the fear that the villagers might harm him spiritually.

### **RECOMMENDATION**

It was recommended that the physical planning officer without further delay provide building permit to the complainant.

### **CONCLUSION**

In July 2021, the sketch plan, building plan and building permit to the plot of land was issued to the complainant's son.

**COMPLAINT NO:**

**14/2021**

**NATURE OF COMPLAINT:**

**Abuse of Power**

### **COMPLAINT**

The complainant alleged that while riding on his motorbike on 27 April 2021, he was stopped by a security officer. He said he was neither wearing crash helmet nor was he in possession of the motorbike's documents. For this reason, the officer attempted to seize his motor bike's key but he refused. He stated that he refused to surrender the key to the officer because he denied him riding on the bike to the station ordering that he should pushed it. After a push and pull, he sat behind him to the station.

He further alleged that on arrival at the station, the officer packed his motorbike, seized the key and returned to the highway. He added that he appealed to him several times to no avail.

### **FINDINGS**

On 27 April 2021, the complainant was stopped at a checkpoint. He was not in possession of the motorbike's documents and was not also wearing crash helmet.

The officer initially refused him riding on the motorbike to the station because he thought he would attempt to escape. The officer packed the motorbike at the station and seized the key.

### **RECOMMENDATION**

The officer was advised to either summon the complainant or charge him a mandatory spot fine accordingly. The officer was advised to stop seizing keys to motor bikes as it was improper.

### **CONCLUSION**

The complainant's key was returned to him and was also charged accordingly.

**COMPLAINT NO:**

**16/2021**

**NATURE OF COMPLAINT:**

**Unlawful Detention**

### **COMPLAINT**

On 30 April 2021, the complainant stated that he was stopped by security officers. He was asked to produce the particulars of the motorbike which he could not produce. He was ordered to pack and surrender the key. He was asked to go for the document of the motorbike. He alleged that when he brought the document which was expired, he was detained for riding unlicensed motorbike.

### **FINDINGS**

On 30 April 2021, the complainant was stopped by the said security officers at a checkpoint.

The complainant was not in possession of the motorbike's particulars and was ordered to pack and surrender the key.

The complainant produced expired document. He appealed to be given the chance to renew the document but was denied.

While at the checkpoint, the complainant used the spare key and quickly rode the motorbike to his residence.

An officer pursued him using a trio-wheel motor bike and apprehended him. He was then arrested and detained.

### **CONCLUSION**

The complainant was lawfully detained and was later granted bail by the police.

**COMPLAINT NO:**

**20/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

### **COMPLAINT**

The coordinator of a tertiary institution, complained that the institution was not supplied with electricity from 31 May to 2 June 2021. He said that they were of the opinion that it was a general power cut until on 2 June 2021 when they were made to know that it affected only their institution. He alleged that he had tried to engage the company's branch manager and operation engineer to no avail. He said that considering the harsh weather coupled with the fact that the institution was distant from the town centre, the situation was unbearable and as such required quick intervention.

### **FINDINGS**

The complainant's institution was not supplied with electricity from 31 May to 2 June 2021. The company had disconnected the line to the institution because they were fixing some electrical problems on that line. After fixing the problem, they forgot to reconnect the line.

### **CONCLUSION**

On the evening of 2 June 2021, the complainant informed the Ombudsman that their electricity had been restored.

**COMPLAINT NO:**

**22/2021**

**NATURE OF COMPLAINT:**

**Abuse of Power**

### **COMPLAINT**

The complainant alleged that while he was riding his motorbike on 22 August 2021 from, he was stopped at a security checkpoint. He added that the officer at the checkpoint while checking on other motorbikes ordered him to go. Before he reached his destination, another officer who was sitting at a distance from the checkpoint pursued him and ordered him to stop. When he stopped, he told him that he had failed to stop at the checkpoint.

The complainant said that he tried to explain to him that he was ordered by the officer at the checkpoint to go but he insisted that was not true. Without wasting time, the officer seized his motorbike key and took the bike to the station.

### **FINDINGS**

The complainant was stopped at a security checkpoint. While the officer at the said checkpoint was attending to other motorbike riders, he managed to escape. He was noticed by another officer who pursued and apprehended him. It was also established that the complainant was not in possession of the motorbike's documents and a driving licence when he was stopped. His motorbike was therefore taken to the station for necessary action.

### **CONCLUSION**

The complainant was not unfairly treated. However, he was strictly warned to desist from dodging checkpoints as well as riding a motorbike without the possession of a valid driving licence and documents.

**COMPLAINT NO:**

**24/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

### **COMPLAINT**

The complainants alleged that on 25 August 2021, staff members of a water and electricity company went to their home and disconnected their water service connection on the grounds that they had arrears which amounted to D12,277.83. They also threatened to disconnect their electricity connection if they failed to settle the said arrears in 5 days. They said that they went to get their water service reconnected but were told by the head of the Customer Care Unit that they should pay three quarter of the arrears. However, they made it known that it was a long-time arrears which was inherited from the former tenants. On 3 September 2021, they went to the company with the landlord to settle the matter without success.

### **FINDINGS**

This was a long-standing arrears which was inherited by the complainants since 2018 when it was at D19,000. The complainants had engaged the landlord to settle the arrears without success. As a result, they had been gradually settling it. In August 2021, their water service connection was disconnected because they had D12,277.83 arrears.

The company refused to reconnect their water supply unless three quarter of the arrears was settled. However, they pleaded to pay D3000 but it was not accepted by the company. It was further confirmed that there was no meter installed in the complainants' home to read the amount of water consumed instead it was estimated at D235 monthly.

## **RECOMMENDATIONS**

The company was advised to ensure that bills were served on time to avoid unreasonable accumulation of arrears.

It was recommended that a meter be installed to indicate the actual amount of water consumed.

Since the tenants were willing to pay D3000 to get their water service reconnected, it was recommended that the offer be accepted.

## **CONCLUSION**

The complainants paid D3000 to the company on 6 September 2021. On that same day, their water service was reconnected.

**CASE NO:**

**25/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

## **COMPLAINT**

The complainants stated that they were family members of an alkalo (village head). They fumed at the manner in which their chief had handled a land dispute between their village and another village. The complainants added that the disputed farmlands were acquired from the people of the other village about 85 years ago when their village was established.

Moreover, they further stated that in 2019, they were notified by the people of the other village to abandon their farmlands situated at the northern side of their village. The complainants said that they refused on the basis that the lands belonged to them. They continued farming on the said lands until July 2021 when they were ordered by the chief to stop. They stated that even though the said lands were acquired from the people of the other village, they were virgin lands at the time.

The complainants also alleged that prior to the chief's order for the stoppage of farming on the disputed lands, they were sometime in June 2020 summoned to a district tribunal by the alkalo of the other village. According to them, the chief had passed a controversial judgement that the disputed lands belonged to them but the entire lands including where their village is settled belonged to the people of the other village.

## **FINDINGS**

The complainants' village, which was established decades ago, was settled on the lands of the other village. The disputed farmlands were allocated to them by the people of the said village.

In 2018, a Guinean national who had settled in the other village was allocated a portion of the disputed lands as farmland. The portion allocated to him had not been cultivated for decades. However, this did not go well with the people of the complainants' village and as such they denied him from using the land. This situation angered the people of

the other village who were the original owners of the lands. Consequently, the people of the complainants' village were asked to stop cultivating the entire lands on the north of their village which they refused.

It was further revealed that they continued cultivating the said lands until June 2021 when they were ordered to stop.

A meeting on this matter was convened earlier in June 2020 at the chief's residence. During the meeting, the chief affirmed that the land in which the complainants' village and its farmlands were settled originally belonged to the other village.

The people of the complainants' village on the orders of the chief, stopped cultivating the entire farmlands situated on the northern side of their village. This situation left them with fewer farmlands to the extent that they resorted to travelling a distance of 11 kilometres into Casamance for farming. In addition, some of their youths were compelled to travel to Kombo in search of jobs since they could not have enough farmlands.

## **CONCLUSION**

The Ombudsman engaged the chief to invite the two villages for a dialogue. Consequently, the people of the complainants' village were given back the disputed land with agreement that the Guinean, would continue cultivating the portion of land allocated to him.

## **CASE NO:**

**30/2021**

## **NATURE OF COMPLAINT:**

**Claiming Pension Arrears**

## **COMPLAINT**

The complainant stated that he was appointed by a ministry in 1981 as well digger. He was confirmed in appointment in 1984 and worked successfully under the said ministry until his retirement in 1999.

He said that since his retirement, he had been receiving a monthly pension of D380. He alleged that the 100 per cent monthly pension increment in 2019 did not reflect on his monthly pension.

## **FINDINGS**

The complainant's monthly pension as of December 2018 was D195.84. However, in January 2019, the 100 per cent increment on the complainant's pension was effected, which increased it to D391.68.

## **CONCLUSION**

The amount paid to the complainant was in accordance with the said 100 per cent pension increment.

**CASE NO:**

**31/2021**

**NATURE OF COMPLAINT:**

**Claiming Pension Arrears**

## **COMPLAINT**

The complainant said that he was appointed in 1970 as orderly and posted to a health centre where he worked until his retirement in 2000. He alleged that since his retirement, he had been receiving a monthly pension of D470 despite the 100 per cent increment on pensions in 2019.

## **FINDINGS**

The complainant's monthly pension in December 2018 before the said 100 per cent increment was D238.73. In January 2019, the 100 per cent increment was effected on the complainant's monthly pension which increased it to D477.46.

## **CONCLUSION:**

The amount paid to the complainant was in accordance with the said 100 per cent pension increment.

**COMPLAINT NO:**

**33/2021**

**NATURE OF COMPLAINT:**

**Corrupt Practice**

## **COMPLAINT**

The complainant on 22 October 2021 informed the Ombudsman that he took his sick daughter to a health centre around 8 am but was not attended to until 3 pm. He alleged that following his daughter's diagnoses, a nurse prescribed 3 syrups and some tablets for the patient. The nurse sold him the said syrups at D350 and the tablets at D100. He added that since the nurse removed the prescribed drugs from his drawer, he believed that they were government supplied drugs. As a result, he held the drugs and refused to pay the D450. The nurse became angry and hit him on the hand he held the drugs with. He further attacked him and while he tried to avoid a fight, other escorts intervened.

## **FINDINGS**

The complainant took his sick daughter to the said health centre on 22 October 2021 at 8 am. However, she was not attended to until 3 pm. After being diagnosed with malaria, the community health nurse, prescribed Paracetamol, Kill Cough, and Multi Vitamin syrups to the patient which were charged for D350. Amoxicillin was also charged for D100. The complainant refused to pay for the drugs because he was of the belief that they were government supplied drugs.

This annoyed the nurse who hit the complainant and eventually took back the syrups. The supply of drugs to the health centre was inadequate and as such, the nurse was in the

habit of buying drugs from private pharmacies to sell in the health centre. With respect to the late attendance to the patient, the officer in charge stated that the health centre was challenged with inadequate manpower.

### **CONCLUSION**

The complainant was advised to purchase the prescribed drugs from a private pharmacy. However, the nurse was strictly warned to respect his terms of reference and regulations as well as to desist from selling drugs within the health centre.

**COMPLAINT NO:**

**34/2021**

**NATURE OF COMPLAINT:**

**Corrupt Practice**

### **COMPLAINT**

During a visit to a health centre on 22 October 2021, the complainant stated that she took her granddaughter and was admitted. She alleged that a community health nurse, sold prescribed drugs to her at D500. She was worried about the cost noting that it was on the high side considering the types of drugs issued. She also expressed that she was not comfortable with the sale of drugs in the health centre because she was suspicious that they were government supplied drugs.

### **FINDINGS**

The said nurse had prescribed and sold drugs to the complainant at D500. The drugs were confirmed to be Amoxicillin, Pirton tablets, Vitamin B Complex, Multi Vitamin and Nipitimin.

The drugs sold to the complainant were not worth D500. While the complainant was expressing her dissatisfaction over the cost and sale of drugs in the health centre, the nurse impolitely seized the drugs without regards to her sick granddaughter.

The nurse's attitude towards patients and escorts was unprofessional.

### **RECOMMENDATION**

The nurse was instructed to immediately return the seized drugs and the D500 to the complainant. The nurse was seriously cautioned to desist from selling drugs in the health centre otherwise strict disciplinary actions would be taken against him.

### **CONCLUSION**

The recommendation was complied with.

**COMPLAINT NO:**

**35/2021**

**NATURE OF COMPLAINT:**

**Negligence of Duty**

### **COMPLAINT**

The complainant alleged that on 22 October 2021, he took his sick child to a health centre around 3 pm but could not find a nurse to attend to his child. He made an enquiry and was told that nurses at the children's ward had closed from work. Since that was the ward from which his child had been receiving medication, he became disturbed and urged the Ombudsman to intervene.

### **FINDINGS**

The ward which the complainant's child sought medication from was run by a private institution giving support to the health centre. Their staff members usually close at 2 pm. He did not find any nurse in the ward because he arrived around 3 pm.

### **CONCLUSION**

The nurses were not negligent as alleged by the complainant. The complainant was advised to go back the following day or seek medical service elsewhere.

**COMPLAINT NO:**

**37/2021**

**NATURE OF COMPLAINT:**

**Negligence of Duty**

### **COMPLAINT**

The complainant stated that on 11 October 2021, she escorted a woman to a health centre. Upon arrival at 2 am, she called the nurse on duty, but he failed to attend to them stating that they were disturbing. When the man who took them to the health centre went to call him, he came but denied that the woman was in labour. After he left, the woman screamed in pain. By 5 am, the complainant rushed and called the nurse again but to her dismay, he again said that she was disturbing him. Before she returned to the maternity ward, the woman had given birth to a baby boy. The complainant then shouted which caused the nurse to respond.

### **FINDINGS**

The complainant had escorted a pregnant lady, to the said health centre on 11 October 2021 around 2 am. They had arrived at the time when the nurse had just completed attending to another pregnant lady. Upon their arrival, the nurse measured the pregnant lady's stomach and found out that the Cervical Dilatation (CD) was 6 cm. This indicated that her condition was not ready for delivery and that it could take 4 hours except for a precipitated delivery. The nurse advised the complainant to keep an eye on her patient while he from time to time would be checking on the pregnant lady.

Around 5am the pregnant lady was screaming but the nurse had left for the Nurse Station. The complainant then rushed to call the nurse, but before she returned, the lady had given birth to a baby boy. For this reason, the complainant shouted in panic. When the nurse

arrived, she insulted him. Both the baby and the mother were confirmed healthy and held until 5pm when they were discharged.

The officer-in-charge said that the nurse in question was the only nurse on duty that night because the number of nurses posted to the health centre was inadequate. He stated that he reported the matter to the health authorities to no avail.

### **CONCLUSION**

The nurse was not negligent as alleged. However, he was advised to be more patient and cooperative with patients.

**COMPLAINT NO:**

**38/2021**

**NATURE OF COMPLAINT:**

**Delay in the Issuance of ID Card**

### **COMPLAINT**

The complainant alleged that he applied for The Gambia bio metric ID card on 28 January 2021. He was given 3 weeks to check whether it was printed. After 3 weeks, he went to check whether it was printed but it was not. Since then, he continuously followed up in futility

### **FINDINGS**

The complainant had applied for the ID card on 28 January 2021. He was promised that it would be printed in 3 weeks. However, he went after 3 weeks but was told that it was not printed. He made several follow-ups for months to no avail.

On 18 December 2021, the officer in charge of the station asserted that the complainant's ID card was processed since January 2021 but did not know the cause of the delay in its printing. He therefore promised that he would engage his men to get the document the soonest possible time.

### **CONCLUSION**

On 8 February 2022, the complainant informed the office that he was issued with his national documents.

**COMPLAINT NO:**

**40/2021**

**NATURE OF COMPLAINT:**

**Abuse of Power**

### **COMPLAINT**

The complainant stated that on 20 October 2021 while she was carried on a motorbike by her son, they collided with a donkey cart and sustained injuries.

They were taken to a health centre for treatment and before they were discharged, a security officer went to them and instructed them to report to the station. Upon reaching the station, they were interrogated and their motorbike packed. On 22 October 2021, the

complainant's husband went for the motorbike and was asked to pay D300 as fare for the checking officer. On 25 October 2021, her husband went for the motorbike again and was asked to pay D1,000 which he challenged. Subsequently, he was given the motorbike.

He alleged that the documents for the motorbike were not given to her husband because the police stated that a child on the said donkey cart was admitted and was not visited by her or her son.

### **FINDINGS**

The complainant on 20 October 2021 while on a motorbike with her son, collided with a donkey cart carrying a man and a child. On the same day, they were taken to a health centre by 8pm. Before they were discharged, a police officer instructed that they should report to the station. At the station, their statements were recorded and the motorbike packed.

When the complainant's husband went for the motorbike on 21 October 2021, he was asked to pay D300 which he did. He was not given the motorbike because the child who was on the donkey cart was still under medication. On 25 October 2021, the complainant's husband went to the station and was given the motorbike. However, the police held the motorbike's documents awaiting the recovery of the injured child. They denied the allegation that they requested D1,000 from the complainant's husband.

### **CONCLUSION**

The police were acting in accordance with the law. On 11 November 2021, the complainant's husband was given back the documents to the said motorbike.

**COMPLAINT NO:**

**41/2021**

**NATURE OF COMPLAINT:**

**Corrupt Practice**

### **COMPLAINT**

The complainants complained against a public institution for their failure to stop the illegal logging in a certain forest. They alleged that chainsaw operators were frequently reported for the excessive logging in the forest. They alleged that any time the matter was reported, the operators were caught and the logs seized. They stated that whenever the logs were seized, they were again sold to the same operators from whom they were seized. They added that their village was not gaining anything from the logs seized and as such urged the Ombudsman to intervene.

### **FINDINGS**

A director of the said institution in the region, confirmed that they had been receiving reports from the people of the said village. He added that any time reports were received, their officers were assigned to visit the site. He stated that the suspects were not always found at the scene where the logs were found. No one claimed responsibility for cutting down the logs. The alkalo of the village had always been consulted but he claimed not knowing anything about the loggers.

Most of the reports were received from the forest guard, who lived in another village. The last case was reported by the chairman of the complainants' Village Development Committee on 5 November 2021.

Seized logs were disposed of by selling through an order of magistrate signed by either the magistrate, governor or district chief. Official receipts were issued and the proceeds were paid into a government account.

In some instances, seized logs were given to communities gratis upon request for public interest which did not require the issuance of receipts. In this instance, the seized logs upon request, were given to the complainants' village for the renovation of their mosque.

### **CONCLUSION**

The complainants' allegation was unfounded as the said institution was acting in accordance with their policies.

on his pension and urged the Ombudsman to intervene.

### **FINDINGS**

The complainant's actual monthly pension as of December 2018 before the said hundred per cent increment was D257.28. However, due to the hundred percent pension increments in January 2019, the complainant's pension allowance increased to D514.56 which contradicted the complainant's allegation.

### **CONCLUSION**

The complainant's claim was unfounded.

**CASE NO:**

**45/2021**

**NATURE OF COMPLAINT:**

**Corrupt Practice**

### **COMPLAINT**

On 20 November 2021 at 11:45 AM while travelling to Kombo from Basse, some passengers; on board a vehicle were issued with laissez- passer (visitors' pass) at D50 each at a security checkpoint. However, one of them was charged D100. A regional Ombudsman officer was also on board the same vehicle when these travellers were charged laissez- passer. He reminded the officer who collected money from passengers that laissez- passer (visitors pass) should be issued gratis.

### **FINDINGS**

A security officer on duty 20 November 2021, charged four travellers each D50 for issuing them with visitors' pass while one of them was charged D100.

She was reminded that visitors' pass is to be issued gratis, yet she remained defiant. She stated that her seniors had never informed her that visitors' pass should be issued gratis. She asked the regional Ombudsman officer to report the matter to two of her superiors.

The officer-in-charge, refuted her assertion that she was never informed that visitors' pass is to be issued gratis. He fumed at her display of unethical behaviour and promised that necessary action would be taken against her.

### **RECOMMENDATION**

It was recommended that appropriate disciplinary action be taken against her to deter the recurrence of such unethical conduct.

### **CONCLUSION**

On 29 November 2021, the officer-in-charge, informed the regional Ombudsman officer of the redeployment of the said officer to another checkpoint. She was further charged with the task of cleaning and mopping the floors of the offices for a week.

### **COMPLAINT NO:**

**46/2021**

### **NATURE OF COMPLAINT:**

**Abuse of Power**

### **COMPLAINT**

The complainant alleged that while he was riding his motorcycle on 22 November 2021, he was confronted by a security officer saying that he had taken a U-turn at a junction. He said that he told him that there was no traffic signboard to indicate that one should not make a U-turn at that point. The officer then seized his motorcycle's key and documents. He added that he explained to him that he made a turn at a different junction instead of the junction alleged but he refused.

He alleged that when he pleaded with him, the officer asked him to pay D200. When he told him that he had no money, he asked him to see him at 2pm. By 3pm, he went back to him and was told to pay D100 instead. He gave D100 to him and was given back his motorcycle's key and documents.

### **FINDINGS**

On 22 November 2021, the complainant was stopped by the said officer just after he had made a U-turn on the highway. The officer also seized his motorcycle's key and documents and requested D200. Because the complainant told him that he had no money, his motorcycle was packed. The complainant later gave him D100 and his motorcycle and its documents were given back to him.

However, the officer could not back his allegation that the complainant had taken a U-turn because he could not provide any witness because he was alone at that point.

### **RECOMMENDATION**

The officer was cautioned to desist from extorting money from people and wasting their time as meted out on the complainant. He was reminded that he was in the past warned

for seizing motorcycle keys and the recurrence of such would lead to disciplinary action taken against him. He was also ordered to immediately return the D100 he took from the complainant to which he complied.

## **CONCLUSION**

After returning the complainant's money, the case was closed.

**COMPLAINT NO:** 47/2021  
**NATURE OF COMPLAINT:** Abuse of Power

## **COMPLAINT**

The complainant alleged that while he was riding his motorbike on 22 November 2021, he was stopped by a security officer at a junction. When he requested his motorbike's documents, he reminded him that he had seized them the previous day. He alleged that while he was talking to one of the officers, another officer removed his motorbike's key and seized it. He said that he tried to plead with him but he refused and was threatened with a mandatory fine if he did not give him money.

## **FINDINGS**

The complainant on 22 November 2021 was stopped by the said security officer because he made a U-turn at a junction. The officer requested the documents to the motorbike and was reminded that he had already seized them the day before when the complainant had committed a traffic offence.

Another officer removed the motorbike's key and threatened the complainant with a mandatory fine if he did not give him money.

## **CONCLUSION**

The complainant was cautioned in the presence of the two officer to avoid committing traffic offences failure of which he would be summoned accordingly.

Also, both officers were cautioned to avoid seizing keys and documents of motorbikes or cars.

**COMPLAINT NO:** 48/2021  
**NATURE OF COMPLAINT:** Unfair Treatment

## **COMPLAINT**

The complainant stated that she voluntarily worked as orderly at a health centre from 2012 to September 2018. She was given 3 months' contract by the Catchment Area Committee of the said health centre from October to December 2018 on a monthly pay of D1500. The contract was extended for another 6 months from January to June 2019 at a monthly pay of D1500. However, from July to December 2019, the contract was not renewed but she was encouraged by the officer in charge (OIC) to continue working

voluntarily because he would ensure that she was appointed. She added that from January to March 2020, she was again contracted and paid accordingly.

She stated that in April 2020, she was told that the contract could not be renewed but she was encouraged to continue working. She said that since then, she had been working and waiting to be appointed to no avail.

## **FINDINGS**

The complainant voluntarily worked as orderly at the said health centre since 2012. She was granted 3 months' contract by the health centre's Catchment Area Committee from October to December 2018 on a monthly pay of D1500. The contract was renewed for another 6 months from January to June 2019. It was established that the contract was not renewed in July 2019 but the OIC encouraged her to continue working voluntarily. The contract was again renewed for 3 months from January to March 2020. However, in April 2020 she was informed that her contract could not be renewed.

The OIC asserted that the health centre's Catchment Area Committee could not renew her contract because it was financially handicapped. It was revealed that he had engaged the ministry through the regional health authorities for the complainant to be appointed without success.

## **RECOMMENDATION**

Since the position of orderly was available and the fact that the complainant had been volunteering for years, the Ombudsman recommended that she be appointed.

## **CONCLUSION**

The complainant was finally appointed as orderly by the ministry on Grade 1 of The Gambia government integrated pay scale with effect from 1 December 2021 through a letter dated 2 February 2022.

**COMPLAINT NO:**

**49/2021**

**NATURE OF COMPLAINT:**

**Unfair Treatment**

## **COMPLAINT**

The complainant said that she voluntarily worked as orderly at a health centre from 2016 to September 2018. She said that she was given 3 months' contract by the health centre's Catchment Area Committee from October to December 2018. The contract was renewed twice from January to June 2019. However, from July to December 2019, her contract was not renewed but she was encouraged by the officer-in charge (OIC) to continue working as orderly. She added that the OIC had promised her that he would ensure she was appointed by the ministry. She stated that the contract was renewed again for 3 months from January to March 2020.

She stated that effective April 2020, the contract was not renewed but she was still encouraged by the OIC to continue voluntarily working as orderly. She alleged that since then, she had been diligently working and awaiting appointment to no avail.

## **FINDINGS**

The complainant worked voluntarily as orderly at the health centre from 2016 to September 2018. She was given 3 months' contract by the Catchment Area Committee of the health centre from October to December 2018. She was again granted another 6 months contract from January to June 2019. However, the contract was not renewed from July to December 2019 yet she was encouraged by the OIC to continue working. The contract was renewed for another 3 months' period from January to March 2020.

In April 2020, the complainant's contract was not renewed but she was still encouraged by the OIC to continue working. Her contract was not renewed by the Catchment Area Committee because it lacked funds. The OIC had engaged the regional ministry through the regional health authorities so that the complainant could be appointed to no avail.

## **RECOMMENDATION**

Since the position of orderly was available and the fact that the complainant had been volunteering for years, the Ombudsman recommended that she be appointed.

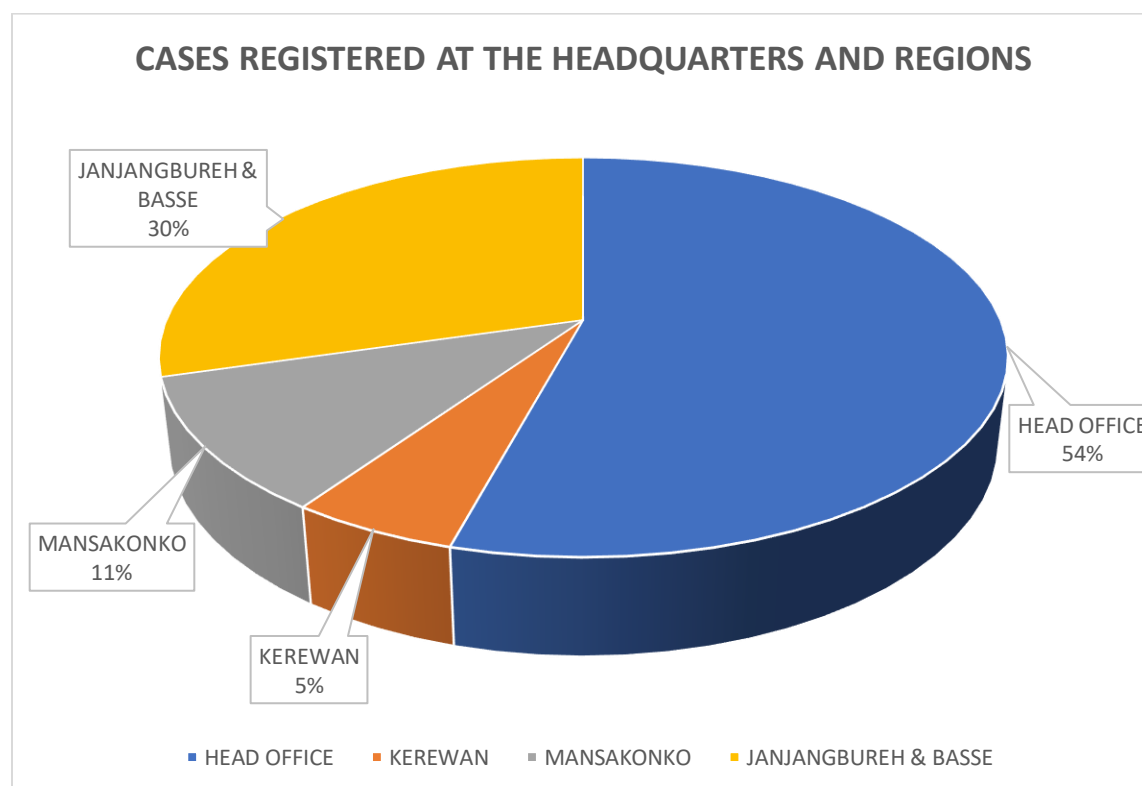
## **CONCLUSION**

The complainant was appointed as orderly on Grade 1 of The Gambia government integrated pay scale with effect from 1 December 2021 through a letter dated 2 February 2022. The case was closed accordingly.

## STATISTICAL APPENDICE

TABLE 1: NUMBER OF CASES REGISTERED BY OMBUDSMAN'S HEAD OFFICE AND REGIONS

| CASES REGISTERED BY LOCATION |              |            |
|------------------------------|--------------|------------|
| LOCATION                     | NO. OF CASES | PERCENTAGE |
| HEAD OFFICE                  | 90           | 54         |
| KEREWAN                      | 9            | 5          |
| MANSAKONKO                   | 18           | 11         |
| JANJANGBUREH & BASSE         | 49           | 30         |
| TOTAL                        | 166          | 100        |

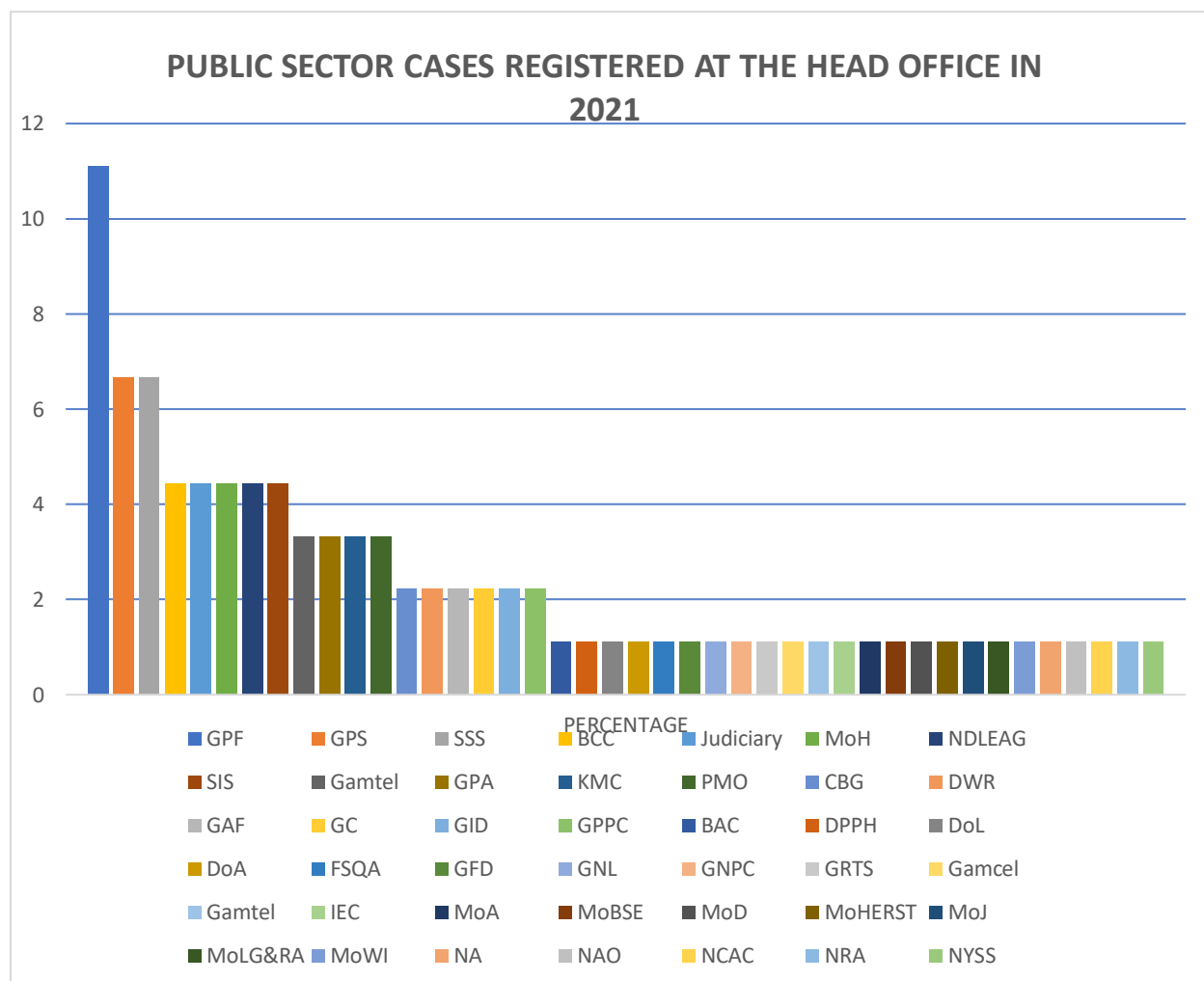


**TABLE 2: PUBLIC SECTOR CASES REGISTERED AT THE HEAD OFFICE IN 2021**

| <b>AUTHORITY COMPLAINED AGAINST</b>         | <b>ABBREVIATION</b> | <b>NUMBER OF COMPLAINT</b> | <b>PERCENTAGE</b> |
|---------------------------------------------|---------------------|----------------------------|-------------------|
| Gambia Police Force                         | GPF                 | 10                         | 11                |
| Gambia Prisons Service                      | GPS                 | 6                          | 7                 |
| Senior Secondary Schools                    | SSS                 | 6                          | 7                 |
| Banjul City Council                         | BCC                 | 4                          | 4                 |
| Judiciary                                   | Judiciary           | 4                          | 4                 |
| Ministry of Health                          | MoH                 | 4                          | 4                 |
| National Drug Law Enforcement Gambia        | NDLEAG              | 4                          | 4                 |
| State Intelligence Service                  | SIS                 | 4                          | 4                 |
| Gamtel                                      | Gamtel              | 3                          | 3                 |
| Gambia Ports Authority                      | GPA                 | 3                          | 3                 |
| Kanifing Municipal Council                  | KMC                 | 3                          | 3                 |
| Personnel Management Office                 | PMO                 | 3                          | 3                 |
| Central Bank of The Gambia                  | CBG                 | 2                          | 2                 |
| Department of Water Resources               | DWR                 | 2                          | 2                 |
| Gambia Armed Forces                         | GAF                 | 2                          | 2                 |
| Gambia College                              | GC                  | 2                          | 2                 |
| Gambia Immigration Department               | GID                 | 2                          | 2                 |
| Gambia Printing and Publishing Corporation  | GPPC                | 2                          | 2                 |
| Brikama Area Council                        | BAC                 | 1                          | 1                 |
| Department of Physical Planning and Housing | DPPH                | 1                          | 1                 |

|                                                            |         |   |   |
|------------------------------------------------------------|---------|---|---|
| Department of Labour                                       | DoL     | 1 | 1 |
| Directorate of Treasury                                    | DoA     | 1 | 1 |
| Food Safety & Quality Assurance                            | FSQA    | 1 | 1 |
| Gambia Federation Disable                                  | GFD     | 1 | 1 |
| Gambia National Library                                    | GNL     | 1 | 1 |
| Gambia National Petroleum Company                          | GNPC    | 1 | 1 |
| Gambia Radio & Television Services                         | GRTS    | 1 | 1 |
| Gamcel                                                     | Gamcel  | 1 | 1 |
| Gamtel                                                     | Gamtel  | 1 | 1 |
| Independent Electoral Commission                           | IEC     | 1 | 1 |
| Ministry of Agriculture                                    | MoA     | 1 | 1 |
| Ministry of Basic & Secondary Education                    | MoBSE   | 1 | 1 |
| Ministry of Defence                                        | MoD     | 1 | 1 |
| Ministry of Higher Education Research Science & Technology | MoHERST | 1 | 1 |
| Ministry of Justice                                        | MoJ     | 1 | 1 |
| Ministry of Local Government & Religious Affairs           | MoLG&RA | 1 | 1 |
| Ministry of Works & Infrastructure                         | MoWI    | 1 | 1 |
| National Assembly                                          | NA      | 1 | 1 |
| National Audit Office                                      | NAO     | 1 | 1 |
| National Council for Arts & Culture                        | NCAC    | 1 | 1 |
| National Road Authority                                    | NRA     | 1 | 1 |

|                               |      |           |            |
|-------------------------------|------|-----------|------------|
| National Youth Service Scheme | NYSS | 1         | 1          |
| <b>Total</b>                  |      | <b>90</b> | <b>100</b> |



**TABLE 3: NATURE OF CLOSURE OF CASES REGISTERED AT HEAD OFFICE IN 2021**

| NATURE OF CLOSE | NUMBER OF CASES | PERCENTAGE |
|-----------------|-----------------|------------|
| Settled         | 20              | 22         |
| Dismissed       | 19              | 21         |
| Discontinued    | 18              | 20         |
| withdrawn       | 4               | 4          |
| Pending         | 29              | 32         |
| Total           | 90              | 100        |

**NATURE OF CLOSURE OF COMPLETED 2021 CASES AT HEADQUARTERS**

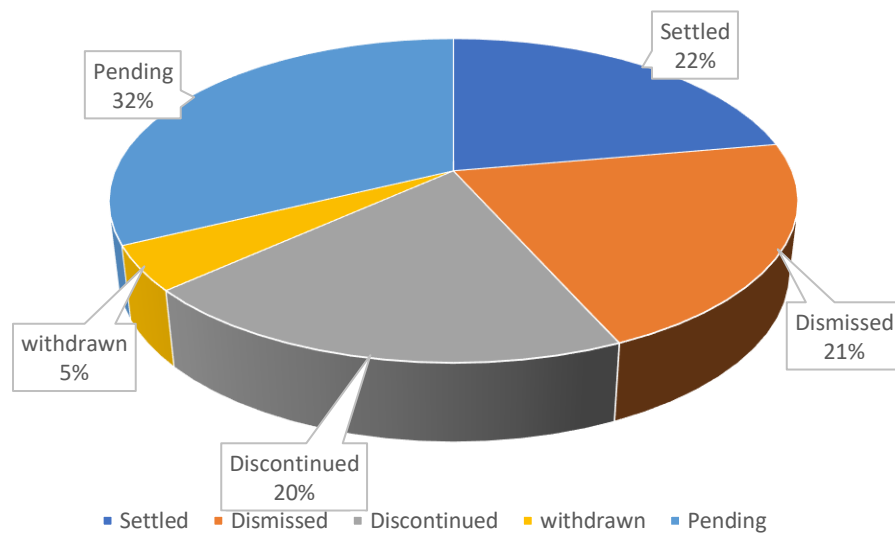
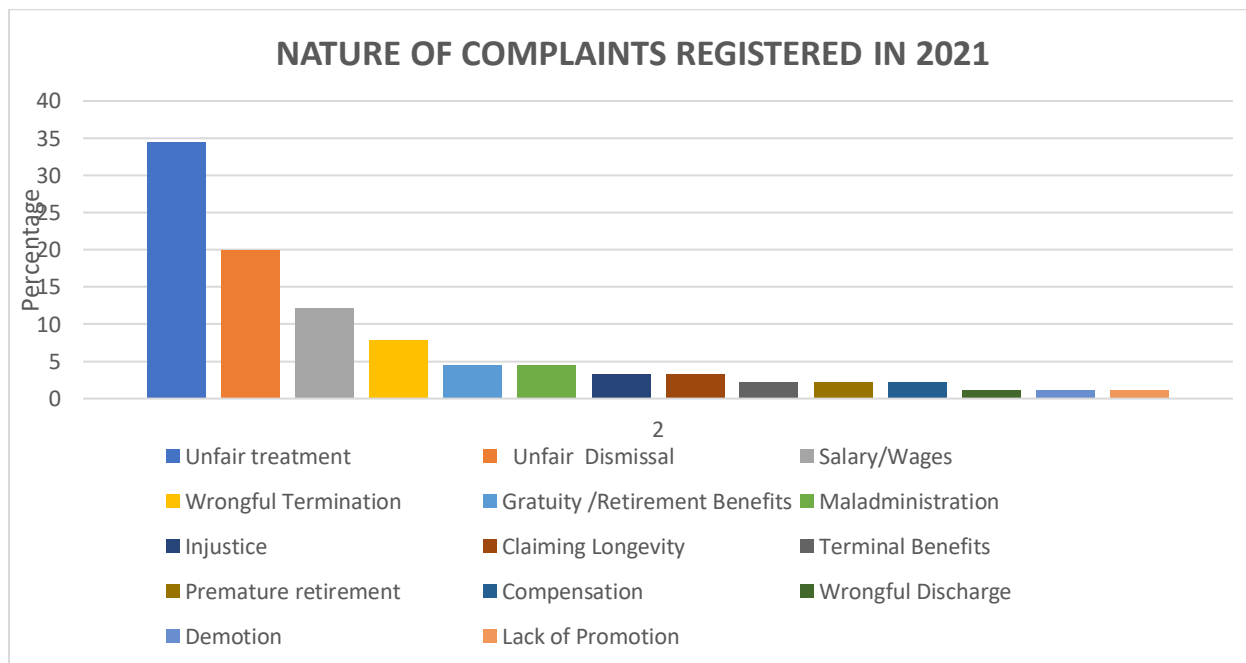


TABLE 4: NATURE OF COMPLAINTS REGISTERED IN 2021 AT HEAD OFFICE

| NATURE OF COMPLAINT           | NUMBER OF CASES | PERCENTAGE |
|-------------------------------|-----------------|------------|
| Unfair treatment              | 31              | 34         |
| Unfair Dismissal              | 18              | 20         |
| Salary/Wages                  | 11              | 12         |
| Wrongful Termination          | 7               | 8          |
| Gratuity /Retirement Benefits | 4               | 4          |
| Maladministration             | 4               | 4          |
| Injustice                     | 3               | 3          |
| Claiming Longevity            | 3               | 3          |
| Terminal Benefits             | 2               | 2          |
| Premature retirement          | 2               | 2          |
| Compensation                  | 2               | 2          |
| Wrongful Discharge            | 1               | 1          |
| Demotion                      | 1               | 1          |
| Lack of Promotion             | 1               | 1          |
| <b>TOTAL</b>                  | <b>90</b>       | <b>100</b> |



## TABLE 5: SUMMARY OF CASES INVESTIGATED IN 2021

| CASE SUMMARY                                           | NUMBER    |
|--------------------------------------------------------|-----------|
| Brought forward cases in 2020                          | 55        |
| Cases Registered in 2021 at Headquarters & the Regions | 166       |
| Total cases investigated in 2021                       | 221       |
| Total cases completed                                  | 156       |
| <b>Total cases pending</b>                             | <b>65</b> |

## CHAPTER TEN OF THE CONSTITUTION OF THE REPUBLIC OF THE GAMBIA 1997

### CHAPTER X THE OMBUDSMAN

- 163. National Assembly to establish Office of Ombudsman**
- (1) Subject to the provisions of this Constitution, an Act of the National Assembly shall within six months of the coming into force of this Constitution establish the Office of the Ombudsman and provision for his or her functions and duties-
- (a) in the investigation of any action taken by a government department or other authority, or public body, to which the Act applies, being action taken in the exercise of the administrative functions of that department or authority, on a complaint by a member of the public who claims he or she has suffered injustice in consequence of maladministration or mismanagement, or discrimination on any ground set out in Chapter IV, in connection with such action;
  - (b) in the investigation, on his or her own initiative, of allegations of maladministration, mismanagement or discriminatory practices in any government department, authority, or other public body, to which the Act applies; and
  - (c) in the investigation of complaints of any failure to observe the code prescribed in Chapter (XXI) for the conduct of public officers.
- (2) Without prejudice to the generality of subsection (1), an Act of the National Assembly may;
- (a) determine the departments, authorities and other public bodies to which the Act shall apply;
  - (b) determine the actions or classes of action which may be subject to such investigations;
  - (c) determine the departments, authorities, public bodies and actions which shall be excluded from such investigations;
  - (d) determine the procedure to be adopted in any investigation and the powers which may be exercised in the course of such investigation, including the power of the Ombudsman to require persons to furnish documents and other information and to provide evidence, and provide for the right of any department, authority, other public body or person to be heard when its, or his or her, actions are the subject of an investigation;
  - (e) provide for sanctions for the obstruction of the Ombudsman in the exercise of his or her functions or a failure to comply with his or her lawful requirements;

- (f) provide for the making of reports by the Ombudsman, including an annual report to the National Assembly, and reports to the Inspector General of Police in the event of his or her investigations disclosing the commission of a criminal offence or to the Attorney-General in the event of their disclosing any other failure to comply with a provision of law;
- (g) provide for the appointment of one or more Deputy Ombudsman to exercise, under the directions of the Ombudsman, the functions of that office.
- (h) Make such administrative and financial provisions as may be necessary or desirable for the efficient functioning of the Office of Ombudsman.

**164.  
Appointment  
and  
tenure of  
office of**

**Ombudsman**

- (1) The President shall appoint an Ombudsman and his or her Deputies in consultation with the Public Service Commission, subject to confirmation of the National assembly within seven days of the presentation of the request.
- (2) In making an appointment under this section, the President shall have regard to the need for persons exercising the functions of Ombudsman to have substantial administrative or professional experience.
- (3) The Office of the Ombudsman and Deputy Ombudsman shall be offices in the public service.
- (4) A person shall not be qualified to hold office as Ombudsman or Deputy Ombudsman if he or she is a Member of the National Assembly, a Secretary of State or State or holds any other public office.
- (5) Subject to this Constitution, an Act of the National Assembly shall prescribe the tenure and terms of service of the Ombudsman and any Deputy Ombudsman.
- (6) An Ombudsman or Deputy Ombudsman may only be removed from office by the President for inability to discharge the functions of his or her office (whether arising from infirmity of mind or body or from any other cause) or for misconduct, and shall not be removed unless the National Assembly has appointed a tribunal to investigate the case and his or her removal has been approved by resolution of the National Assembly

supported by the votes of not less than two-thirds of all the members of the National Assembly. The Ombudsman or a Deputy Ombudsman shall have the right to be heard and to be legally represented before the tribunal.

**165.Independence of Ombudsman**

- (1) Subject to the provisions of this chapter, in the exercise of his or her functions, the Ombudsman and a Deputy Ombudsman shall not be subject to the direction or control of any person or authority but subject only to the Constitution and the law.
- (2) All departments, authorities and other public bodies which are subject to investigation by the Ombudsman shall accord such assistance as he or she may require for the protection of the independence, dignity and effectiveness of the Ombudsman in the performance of his or her functions.

## **THE OMBUDSMAN ACT 1997**

**AN ACT to establish the Office of the Ombudsman and to define and prescribe the powers, duties and functions of the Ombudsman was assented to by the President on 29<sup>th</sup> September 1997.**

**ENACTED by the President and the National Assembly of The Gambia.**

### **Short Title**

1. This Act may be cited as the Ombudsman Act 1997 and shall come into force on such date as the Secretary of State may by order published in the Gazette appoint.

### **Establishment**

2. (1) There is hereby established the Office of the Ombudsman which shall consist of the Ombudsman and two Deputy Ombudsmen.  
  
(2) The Ombudsman and Deputy Ombudsmen shall be appointed by the President in consultation with the Public Service Commission and subject to confirmation by the National Assembly.  
  
(3) The Ombudsman and Deputy Ombudsmen shall be appointed for a period of five years and shall be eligible for re-appointment.  
  
(4) The Ombudsman and Deputy Ombudsmen shall, before entering upon the duties of office, take an oath of office.  
  
(5) The Ombudsman and Deputy Ombudsmen shall not hold any other public office.  
  
(6) The Ombudsman and any Deputy Ombudsman shall constitute a quorum for the purpose of arriving at any decision.

### **Functions of the Ombudsman**

3. (1) In addition to the functions of the Ombudsman under the Constitution, the Ombudsman shall have the following functions -
  - a. to investigate complaints of injustice, corruption, abuse of power, maladministration and unfair treatment of any person by a public officer in the exercise of official duties;
  - b. to investigate complaints concerning the functioning of the Public Service Commission, the administrative and security organs of the State, the Police Service and Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services

or equal access by all to the recruitment to those services or fair administration in relation to those services.

- (2) The Ombudsman may, where it is considered desirable, investigate into any matter referred to in paragraphs (a) and (b) of subsection (1)

**Action or steps to be taken in connection with outcome of inquiry or investigation**

4. (1) The Ombudsman shall after holding any enquiry or investigation
- a) recommend appropriate action or steps to call for or require the remedying correction and reversal of matters or instances specified in section 3 through such means as are fair, proper and effective;
  - b) notify the person who laid the matter before the Ombudsman of the outcome of such inquiry or investigation in such manner and form as the Ombudsman may determine and to such extent as the Ombudsman may deem necessary in the public interest or that the matter shall not be further enquired into or investigated in terms of section 8.

**General powers of the Ombudsman**

5. (1) For the purposes of performing his or her functions, the Ombudsman shall have the following powers –
- (a) to determine the nature and extent of any inquiry or investigation referred to him or her;
  - (b) upon the issue of a warrant under the hand of the Ombudsman to enter at any time any building or premises or any part of any building or premises to make enquiries and put such questions to any person in connection with the matter in question;
  - (c) access to all books, vouchers, stamps, securities, equipment, stores and other movable goods in the possession or under the control of any person;
  - (d) to request particulars and information from any person;
  - (e) to make enquiries into, extracts from or copies of any book, voucher or other document which he or she deem necessary in connection with any inquiry or investigation;
  - (f) to seize anything which they deem necessary in connection with an inquiry or investigation.

**Power to summon witnesses**

6. (1) The Ombudsman shall have the power to summon witnesses and to examine witnesses under oath.

(2) A summons for the attendance of a witness or the production of documents shall be served in the same manner as if it were a subpoena for the attendance of a witness in court.

(3) The ombudsman may by warrant order the arrest of any person, who after being served with a summons fails to appear before it.

**Orders by Ombudsman**

7. Orders, writs and directions issued by the Ombudsman shall have the same force as an order, writ or direction of the High Court.

**Certificate of the President**

8. (1) Notwithstanding section 5, where the President has certified that the giving of any information, or the production of any document: –
- a) might prejudice the security, defence or international relations of the State or the investigation or determination of offences; or
  - b) might involve the disclosure of the deliberation of the Cabinet or any sub-committee of the Cabinet relating to matters of a secret or confidential nature and would be injurious to the public interest;

The Ombudsman shall not require the information to be given or the document to be produced.

**Jurisdiction of Ombudsman**

9. (1) The Ombudsman shall have jurisdiction to inquire into the conduct of any person to whom this Act applies.

(2) Notwithstanding subsection (1), the Ombudsman shall not have power to question or review -

- a) the decision of any court of law or of any judicial officer in the exercise of judicial functions;
- b) decisions of any tribunal established by law;
- c) any matter which is sub-judice;
- d) any matter relating to the exercise of the prerogative of mercy, and

e) any matter relating to the affairs of the President.

- (3) (1) The Ombudsman may decide to discontinue an investigation where he or she is satisfied that -
- a) the complaint is trivial, frivolous, vexatious, or not made in good faith; or

b) the inquiry would be unnecessary, improper or fruitless.

- (4) The Ombudsman shall, in any case in which he or she decides to discontinue an investigation, inform the complainant in writing accordingly but shall not be bound to give any reasons.

**Investigations to  
be in camera**

10. (1) Every investigation under this Act shall be in camera.

- (4) Notwithstanding subsection (1), the Ombudsman may in the public interest publish his or her findings at the end of an investigation.

**Provisions relating  
complaints and  
allegations**

11. (1) A complaint under this Act can be made by anybody in any form; provided that where a complaint is made orally it shall be reduced into writing by a member of staff of the Ombudsman.

(2) Notwithstanding the provisions of any written law, where a prisoner or any other person held in any institution makes an allegation or complaint to the Ombudsman, such allegation or complaint shall not be made through, or subject to the scrutiny of any other person.

**Evidence and  
procedure**

12. (1) The procedure for conducting an investigation shall be such as the Ombudsman consider appropriate in the circumstances.

(2) The Ombudsman may authorise any of his or her staff to exercise any of the powers under section 5.

(3) Where the Ombudsman proposes to conduct an investigation, it shall afford to the principal officer of any department or authority concerned, and to any other person who is alleged to have taken or authorised the action

## **Reports**

complained of, an opportunity to comment on any allegation made to him or her.

13. (1) The Ombudsman shall submit to the President a report of every investigation it has conducted which shall contain -
- (a) a summary of the evidence taken together with the conclusions and recommendations;
  - (b) a statement of any action that has been taken by any person whose conduct is under investigation or by the department or authority of which such person is a member, to correct or ameliorate any conduct, procedure, act or omission that is adversely commented upon in the report;
  - (c) where any person has suffered loss or injury as a result of any alleged misconduct, maladministration or abuse of office or authority by any person whose conduct is under investigation, the Ombudsman may in his or her recommendations state that compensation should be paid to the person who has suffered such loss or injury or to any dependent of such person, and shall determine the sum which it recommends as compensation.

## **Enforcement and notification**

14. (1) The President may, on receipt of the report of the Ombudsman on any investigation conducted by him or her, or during the continuance of any such investigation, take such decision in respect of the matter investigated or being investigated into by the Ombudsman as the President deems fit.
- (2) When the Ombudsman receives such decision he or she shall notify the complainant and the person complaint against whom the complaint or allegation was made.

## **Report to National Assembly**

15. (1) The Ombudsman shall submit to the National Assembly an annual report of his or her operations.
- (2) The annual report shall be submitted within six months of the following year.
- (3) A report under this section shall not disclose the identity or contain any statement which may point to the identity of any person into whose conduct an investigation is made.

## **Staff of Ombudsman**

**Finality of Ombudsman's acts**

16. The Ombudsman shall employ such staff as he or she shall determine, who shall become public officers.

17. (1) No investigation, proceedings, process or report of the Ombudsman shall be held bad for any error or irregularity of form or be challenged, reviewed, quashed or called into question in any court save on the ground of lack of jurisdiction.

**immunity of Ombudsman and members of staff of office of Ombudsman**

(2) The High Court shall be the final court of appeal in all matters in which the Ombudsman is a party.

18. (1) No proceedings, civil or criminal, shall lie against any Ombudsman or member of staff of the Ombudsman for anything done in good faith in the course of the exercise of his or her official functions.

(2) Subject to the provisions of this Act, the Ombudsman or member of staff of the office of the Ombudsman shall not be called to give evidence before any court or tribunal in respect of any information received in the exercise of official functions.

**Expenditure**

19. (1) All expenditure in connection with the office of the Ombudsman shall be charged on the Consolidated Revenue Fund and shall be paid at the beginning of each financial year.

**Offences**

(2) A person summoned as a witness under this Act may on the order of the Ombudsman be paid such allowance as the Ombudsman may prescribe.

20. (1) If any person who: -

(a) being a witness before the Ombudsman without lawful excuse refuses to be sworn or affirmed, or having been sworn or affirmed refuses to answer fully and satisfactorily any question lawfully put;

(b) having been sworn or affirmed knowingly gives false testimony touching any matter which is material to any question under investigation;

**Power to make  
rules**

(c) intentionally insults, interrupts or otherwise obstructs the Ombudsman or member of staff of the Ombudsman in the performance of functions under this Act;

(d) intentionally disobeys any order made under section 6 commits an offence and shall be liable to the same penalty as any person who commits a like offence in relation to a court.

21. (1) The Ombudsman may make rules for the better carrying into effect of this Act and, without prejudice to the generality of the foregoing, for any of the following matters:

(a) prescribing terms in respect of proceedings before the Ombudsman;

(b) prescribing the duties of officers and other persons appointed under this Act; and

(c) prescribing the procedure for conducting investigations.

Passed in the National Assembly this Fourth day of July, in the year of our Lord one thousand Nine hundred and Ninety-Seven.

**D S Njie**

**Clerk of the National Assembly**

