



# **OMBUDSMAN OF THE REPUBLIC OF LATVIA**

**ANNUAL REPORT 2021**

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## OMBUDSMAN'S ADDRESS

**Dear reader,**

First, I would like to express my sincerest gratitude to everyone who trusts the work of myself and my team. I appreciate that, at the beginning of last year, I was entrusted with leading the team of the Ombudsman's Office for a third consecutive term. In the last ten years, much has been done to significantly improve the importance and role of human rights in Latvia, but just as much remains to be done.

In my address last year, I stressed that 2020 was full of challenges. 2021, however, was full of fruitful work - issues under our supervision as well as the day-to-day agenda and tasks of our experts were increasingly guided by the COVID-19 pandemic, at almost all levels.

I have to admit that human rights were mentioned in every possible way and at every possible turn. In my opinion, one of the biggest mistakes of politicians this past year has been the inability to explain their own decisions in way that is clear to every group of society. Our office staff had to navigate this problem daily, by tirelessly preparing answers to citizens' enquiries and questions, answering calls, advising, explaining and educating.

I believe that the lack of high-quality and easy-to-understand information is what gave the public a false impression of what human rights is, how far they go and whether or not they can be restricted. I have stressed – publicly and repeatedly - that human rights have not been abolished, but that everything must be assessed in the context of proportionality and, as far as possible, the interests of each group of society, in particular the most vulnerable, must be taken into account.

I am truly pleased that last year we were able to quickly adapt to the new circumstances, and everyone was able to follow our discussions in a remote format, including discussions on the new model of assistant service for people with disabilities, gender stereotypes in advertising, the role of the ombudsman in relations between politicians and civil servants, the importance of digital skills for people with disabilities in everyday life, access to justice for people with disabilities, the role of art in the context of rights. This way, we once again highlighted the issues relevant to decision-makers, social partners, and the general public in the context of human rights, and brought

attention to the areas where further work is needed. We will continue to monitor whether the improvements are actually being implemented and draw attention to other major challenges.

Often, developments in other parts of the world raise issues that have been less emphasised so far. The tension on the Latvian-Belarusian border is one such example. In this regard, I would like to highlight the great cooperation with the State Border Guard and other cooperation mechanisms. I have repeatedly stated that even in this complex national security situation, it is crucial to assess the individual situations as to whether the people on the border need support, such as emergency medical assistance, food and weather-appropriate clothing.

I would also like to highlight the work of the Ombudsman's Office in educating the new generation - we delivered lectures on the latest developments in the data protection sector, electoral literacy and understanding of legal documents. Not least, after a one-year break, we successfully resumed the traditional moot court competition in human rights. Officials, on the other hand, had the opportunity to attend lectures delivered by our experts on human trafficking and prevention issues.

Finally, at the end of the year, we laid ground for victory in a Constitutional Court case we initiated, to eliminate the unjust circumstances, in which performers of economic activity must pay tax from non-existent profits. A noteworthy set of conclusions was also issued at the end of the year, which hopefully will soon improve the quality of investigations of sexual offences against children.

The role of human rights is gaining increasing importance in our daily lives. We will continue our work to educate, highlight problems and propose solutions to solve them.

**Wishing a successful year,**

**Ombudsman Juris Jansons**

## THE YEAR IN NUMBERS

### Implementation of the Ombudsman's recommendations (%)

Year 2019	89
Year 2020	82,9
Year 2021	76

### Submissions from private individuals

Children's Rights Division	260
Social, Economic and Cultural Rights Division	688
Civil and Political Rights Division	987
Other staff	10
TOTAL	1945

### Verification procedures launched

Children's Rights Division	25
Social, Economic and Cultural Rights Division	16
Civil and Political Rights Division	24
Among which, based on our own initiative	5
TOTAL	65

**Verification procedures completed or terminated**

Children's Rights Division	17
Social, Economic and Cultural Rights Division	15
Civil and Political Rights Division	38
TOTAL	70

**Replies and correspondence related to submissions**

Children's Rights Division	274
Social, Economic and Cultural Rights Division	639
Civil and Political Rights Division	567
Prevention Unit	20
Other staff	23
TOTAL	1523

**Documents received and sent by the Ombudsman's office**

Received	3952
Sent	3431

**Documents received and sent electronically**

Received	2574 (65.137 % of total)
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Sent 2467 (71.9 % of total)

**Correspondence received as part of verification procedures**

Children's Rights Division	131
Social, Economic and Cultural Rights Division	99
Civil and Political Rights Division	90
Prevention Unit	2
TOTAL	322

**Opinions for the Constitutional Court (Satversmes tiesa)**

2019	19
2020	30
2021	19

**Conclusions for public authorities on draft legislation**

2019	26
2020	38
2021	45

**Applications to the Constitutional Court**

2019	3
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2020	4
2021	1

### **Consultations**

By e-mail	1778
By telephone	4331
TOTAL	6109

### **Topics covered in legal consultations (%)**

Information requests	15,02
Right to a fair trial	12,38
Right to social security	8,85
Right to health protection	7,94
Rights of the child	7,78
Right to employment	6,48
Right to education	6,48
Principles of good governance	5,67
Right to respect for private and family life	4,96
Discrimination	3,86
Prohibition of torture, inhuman and degrading treatment or punishment	2,58
Right to housing	2,53
Right to property	2,48



Rights of persons with disabilities	2,38
Right to live in a benevolent environment	1,41
Not within the jurisdiction of the Ombudsman	1,38
Freedom of speech and expression	0,63
Right to liberty and security	0,31
Rights of prisoners	0,31
Unclear content	0,29
Legal status of a person	0,23
Right to free movement within the territory of the country	0,16
Right to freely leave and return to the country	0,16
Right to life	0,1
Right to vote and be elected	0,1
Freedom of assembly	0,05
Freedom of association	0,03
Right to perform public service	0,03
Other topics	5,41

#### **COVID-19-related submissions**

E-mails	596
Written submissions	258

## **Increasing public awareness**

Publications	6717
News and press releases	217
Events, seminars, discussions organised by the Ombudsman	181
Lectures delivered at events organised by other institutions, participation in discussions	322
Participation in working groups and commissions	187
Surveys of foreigners to be expelled	4

# PUBLIC AWARENESS AND INVOLVEMENT

## Public awareness

### *Discussions*

In 2021, the Ombudsman's Office held several public discussions, including a cycle of discussions on the rights of people with disabilities:

- 19 May - on the new assistant service model (recording [available here](#));
- 2 June - on the new assistant service model for children with disabilities (recording [available here](#));
- 16 June - on gender stereotypes and sexism in advertisements (recording [available here](#));
- 15 September - "The Ombudsman as Mediator in Disagreements Between Politicians and Senior Officials" (recording [available here](#));
- 13 October - on access to justice for people with disabilities (recording [available here](#));
- 3 December – "People with Disabilities and Digital Solutions. From User to Creator" (recording [available here](#));
- 10 December- "Art - Freedom or the Right to Shock?" (recording [available here](#)).

Representatives of the Ombudsman's Office also participated in discussions and seminars organised by cooperation partners:

- 21 June – a discussion organised by the Society Integration Foundation "How Do We Form Our Perceptions of Persons requesting International Protection in Latvia?", participants evaluated the prevalence of hate speech in the internet environment (recording [available here](#));
- 30 July – a discussion organised by the association of people with disabilities and their friends "Apeirons" - "People with disabilities. Medical rehabilitation" (recording [available here](#));

- 21 August - a presentation “Persons With Disabilities and Discrimination” in the seminar cycle “No to Discrimination!”, organised by the Latvian Cooperation Organization for People with Special Needs (SUSTENTO);
- 1 October - a representative of the Ombudsman’s Office presented their opinion on discrimination on the basis of age, in a public discussion “Age as a Value in Latvian Society” organised by the Society Integration Foundation as part of their campaign “Openness is Value” (recording is [available here](#)).

## Conferences

In 2021, the Ombudsman and representatives of the Ombudsman’s Office participated in several conferences:

- with a presentation on the UN Convention on the Rights of Persons with Disabilities and on the privacy of persons with disabilities, at an online conference “Does Latvia Need Special Intimacy Needs Educators?”, organised by the association of people with disabilities and their friends “Apeirons”;
- the conference “Availability of Housing for Families with Children” organised by the Latvian Union of Large Families’ Associations in cooperation with the Cross-Sectoral Coordination Centre Cooperation platform “Centre of Demographic Affairs”, the Ministry of Economics, the Latvian Development Finance Institution “ALTUM” and local governments. Participants of the conference discussed issue related to access to housing, and support measures to improve access to housing for families with children;
- with a presentation “Supported decision-making as an alternative to limiting the capacity to act. Article 12 of the UN Convention on the Rights of Persons with Disabilities” and participation in the panel “Is there a future for supported decision-making in Latvia?”, at the online conference “Providing Support Persons in Decision-Making Processes” organised by the Ministry of Welfare (recording [available here](#));

- discussions at the conversation festival “Lampa”, on topics such as “Why Should Children be Respected?” and “Discussion by the Wrong Families “What Else Do You Want?”” (recording [available here](#));
- the panel “When the Relationship Ends, Conversations Continue” at the conference “Fathers. Relationships”, organised by the association “Fathers” (recording [available here](#));
- with presentations “[Privacy as an Idea and Reality](#)” and “[Invasion of Private Life, Resulting from Video Surveillance](#)” at the conference “Private Data - Future Perspective” organised by the State Data Inspectorate;
- with a presentation “[Promotion of Environmental Accessibility in the Urban Environment, Compliance With General Principles of Law in Local Governments](#)” at the conference “Challenges of Inclusive Design in the Urban Environment” organised by the Ministry of Welfare;
- the annual Labour Law Forum organised by the Free Trade Union Confederation of Latvia, the theme of which was “COVID-19 Restrictions From a Labour Law Perspective” (recording [available here](#)).

### *Facebook page*

In 2021, the *Facebook* page of the Ombudsman’s Office, established at the end of 2020, also played an important role in increasing public awareness. It reached 2.2 thousand followers and 435 407 users (*page reach*).

The *Facebook* and *Twitter* social media accounts are used to publish news about the Ombudsman’s office, as well as brief answers and explanations based on questions from citizens’ submissions and e-mails. In addition, the Office has been using the *Facebook* page as a platform for live broadcasts of various discussions during teleworking ([Facebook page available here](#)).

## Public engagement

### *Children's drawing competition*

The aim of the drawing competition "[Draw Your Ombudsman](#)" in the spring of 2021 was to raise awareness among children and young people about the duties and tasks of the Ombudsman. The participants of the competition were students from grades 1-8; 97 drawings from 25 schools in Latvia were received.

### *Annual Award for Supporting People with Disabilities 2021*

For the seventh year in a row, the Ombudsman, in cooperation with the association "Apeiron" and the National Library of Latvia, organised the [Annual Award for Supporting People with Disabilities](#). The aim of the award is to recognise and support non-governmental organisations representing the interests of people with disabilities, as well as individual activities, thus promoting the development of good practice in the protection of the rights of people with disabilities, as well as promoting public awareness and involvement in improving the situation of people with disabilities.

## Human rights education

### *Moot Court Competition in Human Rights*

The Ombudsman's Moot Court Competition in Human Rights 2021 was dedicated to the right to freedom of assembly in the context of a pandemic, as well as labour law issues related to the mandatory vaccination for certain job groups. 12 teams from the University of Latvia, Riga Graduate School of Law, Riga Stradiņš University, Business Management College and Turība University took part in the online competitions during the five-year anniversary.

Find more information on the winners [here](#).

### *School programme “Ready for Life”*

In 2021, representatives of the Ombudsman’s Office continued their participation in the school programme “Ready for Life”, delivering lectures to children and young people in Latvian schools on data protection issues, trafficking in human beings and its prevention, reading of legal texts and electoral literacy.

# HUMAN RIGHTS IN RELATION TO THE SPREAD OF COVID-19 INFECTION

## Introduction

For the second year in a row, the COVID-19 pandemic and the issues related to its management, which created a series of human rights restrictions, were at the forefront of the Ombudsman's agenda. Citizens asked for clarifications and justifications of the various decisions already taken by the government, as well as the government's plans and even individual statements or statements made by politicians. Citizens criticised the government's actions and policies and expressed their reservations and views on how to address the COVID-19 crisis more effectively. Some people questioned the existence of the crisis as such, asking for the Ombudsman to defend them and provide swift action. Citizens also reported on different situations where, in their opinion, the order set up by the government was not working properly or was not balanced, or when practice proved the government's decisions to be ineffective. Keeping in mind the importance of the issue as well as the volume of citizens' demands, the Ombudsman actively followed the government's decisions.

The Ombudsman acknowledges that the COVID-19 crisis has led to divisions within society and even raised doubts about the rule of law and democracy in Latvia in part of the population.

The Ombudsman stresses that every country has a duty to ensure adequate protection of public security. Faced with a pandemic and a serious threat to public health, the state has a duty to take immediate action to eliminate the threat and normalise the situation. However, restrictions must be proportionate and should be applied for no longer than is objectively necessary. The government has a duty to regularly assess the current situation and consider reducing restrictions and, as far as possible, choose less restrictive solutions by weighing the risks.

During the reporting period, the Ombudsman regularly provided his assessment of the permissibility of certain restrictions, as well as explained to people what legal remedies were available to them.

During the reporting period, the majority of submissions received were related to COVID-19 vaccination and its impact on the right to privacy, labour law, the right to education and freedom of movement. The number of such complaints especially increased in autumn 2021, following the adoption of Cabinet Order No 720 of 9 October 2021 "On Declaring a State of Emergency", when



the rights of unvaccinated residents to perform work duties were increasingly restricted, and the right of every resident of Latvia to freely receive goods and services or, for example, to travel outside the house during night hours was constrained due to a curfew. The declaration of a state of emergency also affected, for example, the functioning of psychological assistance groups. Although the regulatory framework provided for relatively relaxed rules regarding the activities of the groups concerned, a worsening of the epidemiological situation led to a suspension of in-person activities of these groups. The Ombudsman also received complaints about restrictions on the rights of assembly. They were submitted by people who had been charged with a violation of the rules on epidemiological security during unapproved rallies. Also in these cases, the Ombudsman called on the individuals to make use of the legal remedies available to them.

According to the Ombudsman, the worsening epidemiological situation in the country as a whole and the overburdened healthcare system in the autumn of 2021 reflected the consequences of the government's indecisive stance – the government avoided adapting epidemiological security measures to the increasing level of threat and to epidemiologists' predictions, and did not pay sufficient attention to increasing the vaccination coverage. The government's difficulties in making unified decisions and the disagreements between ministries of different sectors led to a situation where unpopular government decisions were no longer reversible and citizens had to face particularly serious restrictions on human rights.

## **Initiatives**

During the reporting period, the Ombudsman repeatedly turned to the government and the legislator on various issues related to the COVID-19 crisis, including on improving the conditions for granting financial aid, on closer cooperation with non-governmental organisations and on communicating their decisions to the public.

## *On the prioritisation of patients during a state of emergency*

The Ombudsman issued an opinion on the prioritisation of patients during a state of emergency, pointing out that the State must ensure a fair and accessible healthcare system for all, i.e. a fair distribution of health-care resources must respect the principle of equality.<sup>1</sup> In addition, the State has a duty to ensure an effective use of intensive care resources during the COVID-19 emergency, achieving a fair balance in the availability of these resources to the largest possible portion of society. The division and allocation of limited health resources is ethically justified if it is based on fairness, good-minded principles and equality.<sup>2</sup> In addition, the right to life (closely linked to the right to health) entails the obligation for the State to adopt a legal framework requiring public and private hospitals to take appropriate measures to protect the lives of their patients.<sup>3</sup> Thus, in times of crisis in medicine, there is an objective necessity for clear guidelines or basic principles on how to fulfil these obligations, including within the framework laid down in regulatory acts. Given the motivation - to help as many patients who would benefit from treatment as possible, the considerations for prioritising patients' access to intensive care resources are aimed specifically at ensuring the most efficient use and availability of these scarce resources, for as many patients as possible.

The Ombudsman provided an assessment of the recommendations drawn up, calling on the Ministry of Health to arrange external regulations in the context of the delegation, and pointing out the need to explain the ethical, medical and legal aspects of patient sorting to the wider public.

The Ombudsman's opinion is available [here](#).

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<sup>1</sup> Constitutional Court judgement in case No 2008-37-03.

<sup>2</sup> Communication of the International Bioethics Committee of 6 April 2020: "Statement on COVID-19: ethical considerations from a global perspective", paragraph 3.

<sup>3</sup> The European Court of Human Rights stated in *Burke v. United Kingdom* (2006) that the right to life enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms protects various fundamental aspects of physical integrity. Article 2(1) of the Convention, in its first sentence, requires a State not only to refrain from the deliberate and unlawful deprivation of life, but also to take appropriate measures to protect the lives of persons under its jurisdiction. These principles apply not only to criminal law but also to public health and impose positive obligations on the State to adopt a legal framework requiring hospitals to take appropriate measures to protect the lives of their patients. See also *Calvelli & Ciglio v. Italy* and *Lambert v. France*. Available at: <https://www.echr.coe.int>

### *On the distribution of the vaccination newspaper in minority languages*

During the reporting period, the Ombudsman provided an opinion on legal norms in the field of the use of the official language, which prevent state and local government institutions from sending health-related information (e.g. vaccination newspapers) in minority languages without a specific request from interested parties, and their possible non-compliance with the Constitution (Satversme), the principle of good governance and international obligations.

The Ombudsman pointed out that the legislator, respecting the interests of minorities, has allowed for an exception to the procedure for the use of the state language, providing a legitimate opportunity for people to ask for the desired public information in a foreign language. This requires will and action from the relevant person, i.e. if they are in want or need of this information, they must request it at the relevant institution. According to the Ombudsman, this is both a proportionate and legally justified solution.

It should also be taken into account that there is no official register in Latvia that summarises up-to-date data on the addresses of residence of representatives of minorities who are unable to understand and perceive information in the official language. Consequently, the preparation and duplication of information in a foreign language by default, as well as its dissemination by public authorities, without the knowledge of the target audience, would not only run contrary to the norms of the use of the official language, but also lead to economically unsound and wasteful conduct and a violation of the principle of good governance.

The Ombudsman's opinion is available [here](#).

### *Calls for further clarification of the rules to the public*

Almost daily, the Ombudsman received questions from residents of Latvia that showed concern and lack of awareness about the government's decisions regarding the lifting of restrictions and the consequences the restrictions could cause in the future. The [Ombudsman asked the Prime Minister](#) to provide extensive explanations, including on why the Cabinet of Ministers had eased certain restrictions, whether or not they complied with the fundamental rights enshrined in the Constitution and how they would affect people's lives, especially in the area of employment.

In response to citizens' enquiries about changes in the coverage of the cost of COVID-19 tests, the Ombudsman requested the Ministry of Health to provide a clarification on the arrangements for covering COVID-19 testing costs as of 1 August 2021, in particular in the areas of health care and employment. Detailed information on the reply provided by the Ministry of Health is available [here](#).

Changes were observed in the procedures set out in Annex 1 of the Conditions for the Investigation and Diagnosis of COVID-19 Infection (testing algorithm) published on the website of the Centre for Disease Prevention and Control, listing the priority risk groups and objects who could receive state-funded COVID-19 testing for the purposes of routine screening. The Ombudsman asked the Ministry of Health to provide an explanation of the procedure for making changes to Annex 1 of the testing algorithm, including the bases/principles on which changes could be made, and which (if any) legislative act lays down these principles and procedures for making changes to the list of sectors covered by Annex 1.

Citizens also submitted questions related to a new condition introduced in the area of employment – if a COVID-19 testing certificate is needed for the purposes of fulfilling work duties, employees cover the costs of the test themselves, unless an agreement is set up with the employer establishing a different order. The Ombudsman asked for the Ministry of Welfare to provide a clarification as to which provision of the Law on the Management of the Spread of COVID-19 Infection grants a delegation to the Cabinet to determine that the expenses related to COVID-19 testing shall be paid not by the employer, but by the employee.

### *On the conditions for granting financial aid*

In response to complaints from individuals, claiming that it is not possible for start-ups to apply for COVID-19 crisis support because the regulations require the existence of a historical revenue, the Ombudsman asked the Ministry of Economics to improve on the government's rules, for example by establishing that aid is also offered to companies that began economic activity after 1 January 2020 and whose turnover in the month within the support period (November or December 2020) fell by at least 20 % compared to the average turnover in August, September and October 2020 taken together. The government corrected these shortcomings. The Ombudsman's opinion is available [here](#).

The Ombudsman also engaged in a dialogue between the beauty industry and the government. More detailed information is available [here](#).

The Ombudsman called for an amendment of the government regulations that stated that entrepreneurs who had not paid tax of at least EUR 200 within the period when their business was restricted due to the COVID-19 restrictions, were not eligible for aid. Such a criterion does not comply with the principle of equality. The government corrected these shortcomings. The Ombudsman's opinion is available [here](#).

The Ombudsman also called on the government to improve the idle time allowance for self-employed musicians and other creators, after the end of the state of emergency. Admittedly, the government did not offer or implement a clear solution. The Ombudsman stressed the need to discuss these issues in a timely manner, involving non-governmental organisations of the sector. The Ombudsman's opinion is available [here](#).

[The Ombudsman called for an amendment of the government regulations](#), requesting a change in the procedure under which no aid is granted if, in the previous year and at the time of the examination of the submission, the company or its board member had been penalised for an infringement relating to the company's tax obligations, customs offences or infringements of employment laws and regulations, unless the warning or fine imposed for an individual infringement does not exceed EUR 151 and the total amount of the fines does not exceed EUR 500 per year.

The Ombudsman found violations of the principles of equality and justice. The Ombudsman could not find a reasonable explanation as to why aid should be available to an entrepreneur who, for example, has failed to make payments of State social security contributions in the amount of EUR 1 000, but not to an entrepreneur who has been administratively fined with EUR 350 for failing to submit the informative declaration within the prescribed period and has paid the penalty. Similarly, there is no proportionality in the fact that a tax debt of EUR 1 000 or an unlimited amount of small administrative offences, the total amount of which may amount to EUR 500, is permissible in order to receive aid, while an administrative penalty of EUR 152 (even if paid in full) prevents the entrepreneur from receiving aid.

The Government [took note of the Ombudsman's recommendation](#).

The Ombudsman also called on the Cabinet of Ministers to improve the legal framework for the receipt of idle time allowance for persons who have been unable to work (e.g. have been on sick leave) during the period necessary to determine the amount of aid. This Ombudsman's recommendation was not taken into account by the Government.

### *On social security*

[The Ombudsman called on the Cabinet of Ministers](#) to amend the regulation on the sickness aid benefit referred to in Articles 48 to 53 of the Transitional Provisions of the law "On Maternity and Sickness Insurance", providing that its amount shall be determined following a principle of equality with idle time allowance. The Ombudsman also asked the Cabinet to review the criteria for granting sickness aid benefit, providing that it may also be granted to persons who cannot combine teleworking and child care.

The Ombudsman's recommendation was partly taken into account.

[The Ombudsman urged the Parliament](#) (Saeima) to eliminate the non-compliance of Article 50 of the Transitional Provisions of the law "On Maternity and Sickness Insurance" with the principle of equality included in Article 91 of the Constitution, as well as to supplement Article 48(1) of the Transitional Provisions for the purpose of legal clarity, by providing that the sickness aid benefit shall be paid if a person is unable to work remotely or perform work of adequate quality remotely.

The legislator did not take the Ombudsman's recommendation into account.

[The Ombudsman concluded](#) that Section 68(1) of the Law on the Suppression of Consequences of the Spread of COVID-19 Infection violates the principle of equality enshrined in Article 91 of the Constitution, as it excludes persons with disabilities who are recipients of a service pension from the list of beneficiaries of aid. The Ombudsman asked the Parliament, in cooperation with the Cabinet of Ministers, to correct this incompatibility of Section 68(1) of the Law on the Suppression of Consequences of the Spread of COVID-19 Infection with Article 91 of the Constitution.

The Parliament eliminated the violation found by the Ombudsman.

### *On the restriction of academic studies*

In the autumn of the academic year 2021/2022, a new arrangement was introduced for the implementation of the study process, according to which only students with an interoperable COVID-19 vaccination or recovery certificate could continue their studies in-person as of 11 October 2021. The Ombudsman received several submissions regarding these changes, enquiring whether or not the new procedure was discriminatory in relation to unvaccinated students.

The Ombudsman concluded that the envisaged restriction of the right of non-vaccinated persons to education i.e. the decision to organise the study process primarily in-person, ensuring the availability of studies only for vaccinated and recovered persons, is justifiable and justified by the need to ensure the provision of an epidemiologically safe service – a public health security consideration. The right to education is not absolute and can be restricted, and universities have a duty to ensure a high-quality educational process and a complete acquisition of the study programme. The provision of comprehensive training to young specialists is in the interests of the whole society.

The Ombudsman's opinion is available [here](#).

### *On restrictions on the right to work*

In mid-2021, the Ombudsman provided an opinion to the Parliament and the Cabinet of Ministers on the draft law “Amendments to the Law on the Management of the Spread of COVID-19 Infection”, through which the government attempted to regulate employment-related issues linked to the COVID-19 vaccination obligation for the first time.

The Ombudsman conceptually supported the further progress of the draft law, stressing the need to publicly and widely explain and clarify the proposed regulation. At the same time, the Ombudsman did not support the exception provided for in the draft law, stating that judicial officials could work without an interoperable COVID-19 certificate.

The Ombudsman's conclusion is available [here](#).

### *On the vaccination of Members of the Parliament*

In autumn 2021, the Ombudsman also expressed an opinion on the obligation of Members of the Parliament and local governments to fulfil the requirements arising from the emergency regulation. regarding the necessity of a certificate confirming the fact of COVID-19 vaccination or recovery for the performance of work duties. The Ombudsman stressed that, in his opinion, Members must comply with the laws of Latvia and the decisions taken on the basis thereof, thus setting an example and motivating and encouraging all other groups of society to do so.

### *On the right not to wear face covers in retail places*

The legal provisions provide for an exception to the obligation to wear face covers for persons with obvious mobility or mental health disorders, which result in a person's lack of ability or skills to use a mouth and nose cover. The Ombudsman found it necessary to address the management of a certain chain of supermarkets in regard to the correct application of these legal norms and the need to train security staff in this matter.

The Ombudsman's letter is available [here](#).

### *On restrictions on public transport*

The Ombudsman contacted the Ministry of Transport with a request to clarify the norm included in the government regulations, which gave local governments the right to decide that public transportation within the administrative territory of the municipality may be carried out during certain periods and only if passengers have an interoperable testing, vaccination or recovery certificate. In the Ombudsman's view, the basic principle for providing public transport services in Latvia is that these services are also provided in an epidemiologically unsafe environment, since they should be accessible to everyone as a service of public interest.



### *On bringing recovery proceedings against idle time allowance*

During the reporting period, the [Ombudsman expressed an opinion](#) on the admissibility of bringing recovery proceedings against idle time allowance. The Ombudsman admitted that the idle time allowance is equivalent to the remuneration and other payments laid down in Section 594 of the Civil Procedure Law, to which the bailiff has the right to seek recovery. In such a case, the debtor, like when making deductions from the remuneration to be paid, retains funds in the amount of the minimum monthly salary (EUR 500), while in child maintenance matters or for the benefit of the administration of the Maintenance Guarantee Fund – in the amount of 50 per cent of the minimum monthly salary (EUR 250).

### *On using a private vehicle together with colleagues, to commute to a workplace during curfew*

When examining a complaint by private individuals about restrictions on assembly, the Ombudsman stressed that legal provisions should be applied reasonably – taking into account their meaning and purpose. According to the Ombudsman, in situations where there is an objective need for persons from separate households to occupy the same vehicle, it is unreasonable to penalise them, and such use of a vehicle is permissible.

### *On the ability of residents to pay real estate tax*

The Ombudsman was contacted by a person asking why the real estate tax is not waived or decreased in circumstances when Latvia is in a state of emergency and many have been dismissed from their places of employment due to COVID-19. In order to clarify the situation, the Ombudsman contacted the Latvian Association of Local and Regional Governments and the Latvian Association of Large Cities, as well as the Ministry of Finance. The information received indicated that, by the beginning of 2021, local authorities had found no evidence of difficulties for residents

to pay the real estate tax; rather the real estate tax debt in municipal budgets was stable or even decreased. Furthermore, the State had implemented a broad support mechanism for overcoming the crisis caused by the COVID-19 infection, including for the payment of real estate tax.

### *On the right to purchase a meal only for take-away or eating outside a cafe*

The Ombudsman received a number of submissions indicating possible discrimination against persons who cannot present an up-to-date interoperable certificate in cafes and, as a result, could only purchase meals for take-away or eating outside the cafeteria premises.

According to the Ombudsman, such epidemiological requirements in public places aimed at combating the spread of COVID-19 infection and protecting the public and the health-care system, are not discriminatory or disproportionate. On the contrary, they reduce the risk of COVID-19 infection and contribute to the fight against the pandemic, which is in the common interest of society as a whole.

### *On covering the cost of the COVID-19 test for an unvaccinated person wishing to visit a loved one in a hospital*

The Ombudsman received a submission on a potential violation of human rights in a situation where a person who does not have an interoperable COVID-19 vaccination or recovery certificate is required to undergo and pay for a COVID-19 test, in order to visit their relatives in a hospital.

The Ombudsman found that, at the time, for epidemiological safety purposes, hospitals had established specific safety requirements to protect patients, medical professionals and visitors. For this purpose, persons who had not been vaccinated or recovered from COVID-19 and could not present an up-to-date interoperable certificate were obliged to carry out tests and pay for them themselves. According to the Ombudsman, such a requirement was objectively justified and proportionate, and did not cause human rights violations. COVID-19 vaccination is free of charge for all members of society. Consequently, the State is not obliged to cover the costs of tests for private

purposes, which would be a heavy and disproportionate burden on the State budget, given that the State offers vaccinations free of charge.

*For information on offensive attitudes in the media and social networks towards those who have opted out of COVID-19 vaccination, see the chapter on the “Freedom of Expression”. For information on the restrictions on access rights of prisoners in the context of COVID-19, see the chapter on the “Rights of Prisoners”.*

## Opinions for institutions

### *On including a ban on compulsory vaccination in the Constitution*

The Ombudsman provided an opinion to the Central Electoral Commission on whether the draft law “Amendments to the Constitution of the Republic of Latvia”, with which it was planned to supplement Article 111 of the Constitution with two sentences (“Compulsory vaccination is prohibited. Restrictions on unvaccinated persons is prohibited.”) could be considered to be fully developed.

The Ombudsman argued that it was not necessary to supplement Article 111 of the Constitution with the sentence “Compulsory vaccination is prohibited,” because there is already an obligation for the State to refrain from excessive interference in the implementation of the right to inviolability of a person and the right to health, established in international documents binding on Latvia. Supplementing Article 111 of the Constitution with the sentence “Restrictions on unvaccinated persons is prohibited”, however, would be contrary to Articles 89 and 116 of the Constitution and the international law norms binding on Latvia.

Consequently, the Ombudsman argued that the draft law “Amendments to the Constitution of the Republic of Latvia” submitted to the Central Electoral Commission could not be considered as being fully developed both in form and content.

The Ombudsman’s opinion is available [here](#).

### *On amendments to the Law on the Management of the Spread of COVID-19 Infection*

The Ombudsman also gave its opinion to the Central Electoral Commission on the draft law, which provided for the addition of three new provisions to Chapter I of the Law on the Management of the Spread of COVID-19 Infection. In particular, it proposed that:

1. restrictions on the rights of persons, if necessary for the purpose of preventing the spread of COVID-19 infection, shall only be imposed by law;
2. a person's right to work, the right to education, freedom of assembly cannot be restricted, depending on the fact of vaccination;
3. an elimination of the norms that include a delegation to the Cabinet of Ministers.

Having assessed the draft law, the Ombudsman concluded that it was not fully developed.

The Ombudsman's opinion is available [here](#).

### *On the restrictions for entering the country*

During the reporting period, the Ombudsman received several submissions on issues related to the availability of COVID-19 tests abroad and the necessity to undergo testing for entry into Latvia from abroad. Residents were also worried about the recognition of certificates in cases where the person was vaccinated outside the European Union, and inquired about the issuance of short-term certificates for entry into the Republic of Latvia.

The Ombudsman also provided an opinion to the Constitutional Court in case No 2021-10-03, in which it was assessed whether the legal norm, which imposed a requirement of a negative COVID-19 test for entry to Latvia, complied with the second sentence of Article 98 of the Constitution.

The Ombudsman, as an invited person, argued that the abovementioned restriction was established by law, serves the achievement of a legitimate aim and is proportionate. The Ombudsman's opinion is available [here](#).

### *On restrictions on large shopping centres in the context of COVID-19*

When providing an opinion to the Constitutional Court in case No 2021-24-03 on the legal norm, which imposed restrictions on large shopping centres in the period from 7 April to 19 May 2021 (due to the situation caused by COVID-19), the Ombudsman argued that the restrictions put on large shopping centres by the Cabinet of Ministers were unreasonable. In other words, they were disproportionately prevented from operating. The government had not sufficiently assessed alternatives modes of operation of these shopping centres, nor had it taken into account all available scientific studies. At the same time, the government allowed other shopping centres of the same size to operate.

In the opinion of the Ombudsman, the Cabinet of Ministers violated the right to property and equal treatment guaranteed by the Constitution. The Ombudsman's opinion is available [here](#).

# DISCRIMINATION AND LEGAL EQUALITY

## Introduction

In regards to violations of the prohibition of discrimination and possible unjustified differential treatment, citizens mostly complained about certain COVID-19-related government restrictions in the context of the right to work, right to education, and access to goods and services (*for additional information, see the chapter on “Human Rights Related to the Spread of COVID-19 Infection”*).

Like in previous years, the Ombudsman received complaints from people with disabilities about treatment in the working environment, and environmental or housing adaptations. Although as a result of Constitutional Court rulings the government significantly increased the minimum income level as of 2021, more and more submissions are being received from people with disabilities who feel discriminated against due to their low income. In other words, insufficient income prevents them from receiving a sufficient diet, and purchasing medicines and necessary goods.

Complaints were also received about possible unequal treatment in the working environment in connection with mobbing or bossing. The Ombudsman welcomes the improvement of employees' understanding of their rights. It could also be observed that there are employers who recognise long-term conflicts and disagreements as a serious risk factor for the working environment, and take action to eliminate such situations by negotiating, inviting specialists, giving employees the opportunity to receive professional support and attend supervisions. The Ombudsman pays particular attention to situations where a staff member is treated differently as a result of their whistleblowing.

To raise public awareness about violations of the prohibition of discrimination, a representative of the Ombudsman's Office delivered a presentation on age discrimination, at the public discussion “Age as Value in Latvian Society”, organised as part of the Society Integration Foundation's campaign “Openness is a Value”.

### Submission statistics

	Public sector activities	Employment	Education	Health-care	Access to goods/ services in the private sector	Public/ private sector activities	Hate speech	Total
Violation of legal equality	16	12	3	2	3	4		<b>40</b>
Grounds for discrimination:								
gender		2			1			<b>3</b>
age		2		1	1			<b>4</b>
religious affiliation	1	1						<b>2</b>
sexual orientation	3						2	<b>5</b>
disability	3	1	1	3	1			<b>9</b>
other grounds	1	2	1	1				<b>5</b>
whistle-blowing		1						<b>1</b>
<b>Total</b>	<b>24</b>	<b>21</b>	<b>5</b>	<b>7</b>	<b>6</b>	<b>4</b>	<b>2</b>	<b>69*</b>

\* A total of 68 submissions were received, one of which referred to multiple grounds of discrimination.

### *On mapping the situation of Roma*

The Roma are the largest ethnic minority in the European Union, accounting for a population of 10-12 million, of which six million are citizens of the European Union. At the beginning of 2021, Latvia's total population was 1 893 223<sup>4</sup>, of which 4 838 were Roma.<sup>5</sup> However, many Roma in the European Union still face prejudice and social exclusion, despite the prohibition of discrimination in Member States<sup>6</sup>. The European Union's Roma Strategic Framework for Equality, Inclusion and Participation for 2020-2030 sets seven targets to be achieved by 2030.

In order to map and analyse the situation of the Roma in Latvia, the Ombudsman has launched a study, during which consultations are held with representatives of the Roma community, Latvian local governments and state institutions. The results of the study are due to be published in the first half of 2022.

*For information on the prioritisation of patients during the emergency, unjustified differential treatment regarding preconditions for receiving support, and differential treatment in employment and access to education, see the chapter on "Human Rights Related to the Spread of COVID-19 Infection". For information regarding the respect of the rights of female scientists in projects involving funding from European Union funds, see the chapter on "Gender Equality".*

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<sup>4</sup> Population by nationality in regions, cities, municipalities, counties, towns, parishes, neighborhoods and densely populated areas. Central Statistical Bureau, 2021 Available at: [https://data.stat.gov.lv/pxweb/lv/OSP\\_PUB/START\\_\\_POP\\_\\_IR\\_\\_IRE/IRE070](https://data.stat.gov.lv/pxweb/lv/OSP_PUB/START__POP__IR__IRE/IRE070)

<sup>5</sup> Population by nationality and nationality at the beginning of the year. Central Statistical Bureau, 2021 Available at: [https://data.stat.gov.lv/pxweb/lv/OSP\\_PUB/START\\_\\_POP\\_\\_IR\\_\\_IRE/IRE060/table/tableViewLayout1/](https://data.stat.gov.lv/pxweb/lv/OSP_PUB/START__POP__IR__IRE/IRE060/table/tableViewLayout1/)

<sup>6</sup>[The equality, inclusion and participation of Roma in the EU.](#)



### *Discrimination on the basis of age in access to state-paid medical fertilisation procedure*

In a verification procedure, the Ombudsman assessed possible discrimination on the basis of age in the normative regulation, which restricts access to state-paid medical fertilisation procedures.

When assessing the legitimate aim of the regulation, the Ombudsman did not find a violation of the prohibition of discrimination enshrined in Article 91 of the Constitution. At the same time, when adopting the State Budget for 2022, the Parliament decided on the adoption of a more favourable regulation for private individuals, which provides for additional funding for state-funded medical fertilisation procedures. Consequently, they plan on increasing the age limit, allowing women over the age of 37 to receive state-funded medical fertilisation services.

The Ombudsman's conclusion is available [here](#).

### *Discrimination on the basis of age in the purchase of goods*

The Ombudsman found direct age discrimination in two company advertisements and sales campaigns. Specifically, advertisements informing about the discounts available were found to be discriminatory because the price discounts depended on the person's biological age, i.e. the older the person, the lower the discount available, and vice versa - the younger the person, the higher the discount.

Six months later, the Ombudsman found repeated age discrimination both in the company's shops and in advertisements on their website. On this second occasion, price discounts were higher for customers who were older than younger, the opposite of the previous campaign. According to the Ombudsman, the new advertisement was also discriminatory, since it did not exclude the discriminatory factor (age) but showcased a reversal of the discriminatory conditions.

Differential treatment on the basis of age is permissible only in cases where it is justified by a legitimate objective, achieved using means that can be considered proportionate, necessary and effective. In the present case, no exonerating factors could be found.

The company respected the Ombudsman's conclusion and corrected the violations.

*For information on differential treatment in the access to goods or services in the context of COVID-19, see the chapter on "Human Rights Related to the Spread of COVID-19 infection".*

*For information on the prohibition of discrimination on the grounds of sex in access to services and positive discrimination for the integration of young women into the labour market, see the chapter on "Gender Equality".*

*For information on the violation of the prohibition of discrimination in the context of an inaccessible environment, see the chapter on "Rights of People with Disabilities".*

*For information on discrimination on the grounds of sexual orientation in the context of access to family benefits, see the chapter on "Rights of Children and Young People".*

*For information on hate speech in relation to one of the prohibited discrimination grounds, see the chapter on "Freedom of Expression".*

## **Implementation of recommendations**

### *On a discriminatory norm in the application of immovable property tax relief*

In 2020, identifying discrimination, the Ombudsman called on the Sigulda municipal government to eliminate injustice in its binding regulations, which provided for immovable estate tax relief only if an adult is declared in the property. The Ombudsman stressed that the property can also belong to a child.

The Sigulda municipal government corrected deficiencies within two weeks of receipt of the recommendation.

# GENDER EQUALITY

## Introduction

Gender equality has been receiving increasing attention in recent years in a wide range of aspects. Discussions have led to Constitutional Court judgments (on the regime for the execution of a sentence for men and women; on compliance of the Istanbul Convention with the Constitution; on the right of the father to a paternity leave after the birth of a child). The topic of violence, which also has a gender dimension, is often reflected in the media. Advertisements have been placed in the media on equal opportunities for women and men in the labour market. However, it is clear from the discussions in the public sphere and in everyday life that gender stereotypes still persist in society, and they are reflected in various life situations.

During the reporting period, lawyers of the Ombudsman's Office continued to participate in gender equality working groups at both the national and international level: Committee for Gender Equality of the Ministry of Welfare and Equinet Working Group on Gender Equality. The working groups held discussions on relevant international and national gender equality initiatives.

## Initiatives

### *Discussion on stereotypes and sexism in advertising*

During the reporting period, the Ombudsman held an online discussion on gender stereotypes and sexism in advertisements and explained who to contact when noticing such an advertisement and whether the existing legal framework allows people to react to them.

As revealed by this exchange, the image of a woman is still used to promote household-related accessories or electrical equipment. Also, women are depicted as housewives, and sexual objects. It is possible that the goal of advertisers was not to offend anyone, but to take the easy road, which in itself speaks volumes about the perceptions rooted in society. This shows a violation of the principles of gender equality.

The discussion organised by the Ombudsman was attended by policy makers and representatives from the Consumer Rights Protection Centre, the Latvian Advertising Association, the Centre “Marta”, as well as Marita Zitmane, associate professor at the University of Latvia and advertising and gender researcher.

The discussion is available [here](#).

### *Proposal for a directive on pay transparency*

The Ombudsman participated in a discussion with the Ministry of Welfare to discuss certain aspects of Latvia’s position on the planned Proposal for a Directive on pay transparency by the European Parliament and Council. The Proposal for the Directive would strengthen the principle of equal pay for men and women for equal work or work of equal value. The Ombudsman stressed that discrimination in the area of pay based on a person’s gender is unacceptable and expressed support for a directive in this area.

The pay gap between women and men in Latvia is high and therefore the pay transparency provisions contained in the Proposal for the Directive are welcome. Certain articles in the Proposal concern national equality bodies (e.g. Articles 25 and 10, which enshrine the right of equality bodies to have access to employees’ pay data where necessary). This means that the Ombudsman’s Office, as an equality body, would have additional functions. The Ombudsman believes that the allocation of such additional functions still requires discussion.

## **Case analysis**

### *On respect for the rights of female scientists in projects using funding from European Union funds*

During the reporting period, the [Ombudsman gave an opinion](#) on the possible discrimination of female scientists on the grounds of pregnancy, limiting their opportunities if their research is financed from European Union funds. Latvia currently has a good gender balance in science and it

should be promoted. Furthermore it is necessary to support young female scientists who start to work in this field at a reproductive age. However, the solutions currently offered by the State Education Development Agency to balance career opportunities and pregnancy put female scientists at a disadvantage compared to men.

### *Prohibition of discrimination on grounds of sex in the provision of services*

[The Ombudsman issued his conclusion](#) on the services offered by a travel company (in practice, implemented by a Turkish hotel chain), preventing men or men travelling with children from receiving hotel services. Such a restriction is imposed on the grounds of the hotel positioning itself as a family-friendly hotel. Given that the service was actually provided in Turkey, the Ombudsman could not assess it on its merits, but invited the Consumer Rights Protection Centre (as the authority implementing cross-border cooperation) to report on this problematic situation to Turkey.

In the aforementioned case, although the tourism company had not created a restriction to receive a service due to gender, it has nevertheless spread this abovementioned restriction in Latvia. Consequently, a violation of the prohibition of discrimination on grounds of sex was found. The Ombudsman called for an end to this service, and the recommendation was implemented.

### *Positive discrimination regarding the integration of young women into the labour market*

The Ombudsman assessed a digital skills training offered only to young women (18-29 years old). The training aimed to raise awareness of digital skills and the gender gap, as well as to promote specific, innovative partnerships and solutions that increase the number of young women (a vulnerable group in the field of employment within the European Union) in the digital agenda.

Such positive action measures in the field of employment and training do not constitute discrimination or prohibited differential treatment, since the aim of these measures (achieving real equality, reducing and eliminating inequalities) is explicitly recognised in international human rights

documents as a legitimate justification for treating groups and individuals of groups who are in some way unequal or disadvantaged or have historically been discriminated against differently.

# THE RIGHT TO LIBERTY AND SECURITY. EFFECTIVENESS OF INVESTIGATIONS

## Introduction

The right to liberty and security is not absolute and may be restricted in accordance with procedures and to the extent laid down by law. Deprivation of liberty may be justified only in the cases and in accordance with the procedures laid down by law. It must be justified, it cannot be arbitrary. Thus, the person whose freedom has been restricted, must understand the reasons for it. The ruling on the basis of which a person's liberty is restricted must contain the motivation for doing so.

During the reporting period, the issue of an abridged judgement of conviction serving as a basis for the application of an arrest was raised again. In cases where, due to various reasons (including objective and justifiable), there is a delay in the drawing up of a full court judgment, a situation may arise where a person is under long-term uncertainty regarding the reasons for their detention. This, in the Ombudsman's opinion, is not permissible and causes an unjustified violation of the fundamental rights of the person. It is unacceptable that when a court draws up an abridged judgment, amends the security measure to a more restrictive one and later fails to draw up the full judgment for an extended period of time, the person is left unaware of the motives for amending the security measure and they are denied the possibility to contest the amendment of the security measure.

During the reporting period, the Ombudsman continued to receive submissions regarding the time limits within which the court must ensure periodic assessment of the application of arrest, after the two-month period provided for in Section 281(4) of the Criminal Procedure Law. However, no systemic problems or irregularities were identified.

At the same time, respect for the right to liberty also applies where, for example, the transfer of a vulnerable person to another safer place would prima facie be in the personal interest of the individual. However, even in such situations, public officials should carefully reflect on the need for such action and refrain from interfering with the life of a natural person, provided that the person does not endanger their own security or that of others. It should be taken into account that the

detention of a person is a procedural activity, the basis of which is laid down in law. Even in situations where it would be in the interests of the person to bring them to a safer place, this should only be done with the person's consent.

### Submission statistics

Topic	2018	2019	2020	2021
Conveyance by force	-	-	2	-
Detention of a person	13	3	1	4
Application of arrest in pre-trial proceedings	10	10	6	2
Application of arrest, following a decision of a court of first instance	5	4	-	4
Detention of foreigners	-	-	-	1
Detention of asylum seekers	N	N	N	1
Deprivation of liberty in institutions where the law does not provide for deprivation of liberty	-	-	2	0
Other	7	1	1	3

The number of submissions received regarding the right to liberty (15) is slightly higher than in the previous year. Additionally, five telephone, e-mail and oral consultations have been provided in the context of the right to liberty. Two of those consultations concerned the detention of asylum seekers, and three consultations were provided on other issues.



### *Restriction of the right to liberty in the interests of the individual*

In verification procedure No 2020-49-3A, the Ombudsman was approached by an official of an investigating institution who believed he had been unduly subject to a disciplinary penalty - a reprimand. The person who was recognised as a victim in criminal proceedings, against whom (as a person in a state of helplessness) a criminal offence had been committed and who was a client of a long-term social care and rehabilitation institution, went to see the suspect, who was under a security measure - prohibition to contact the victim. The suspect informed the leader of the proceedings without delay. The relevant official was asked to visit the suspect, in order to bring the victim to safety within the premises of a public organisation where accommodation services are provided. The views of the said official and the leader of the proceedings on the legal nature of the task (to take the victim from the suspect's home to the premises of a public organisation) differed, and the task was not completed. After two hours, the victim left the suspect's home on by his own account.

Having assessed the documentation of the verification procedure, the Ombudsman found that the public organisation is not a medical institution for persons with mental health disorders. Consequently, persons with mental disorders should not be placed in it (also in the case provided for in Article 5(1)(e) of the European Convention for the Protection of Human Rights and Fundamental Freedoms). The Ombudsman also concluded that the official investigation of events was not independent or timely. Moreover, the investigation of the circumstances has not been carried out with due diligence.

Although the order was not carried out in the case at hand and the fundamental rights of the individual (victim) were not restricted, the Ombudsman identified shortcomings which were brought to the attention of the investigating authority.

### *Violation of the right to liberty in the process of determining coercive measures of a medical nature*

In verification procedure No 2020-32-4C, the Ombudsman found that a person's right to liberty was unjustifiably restricted and the forced treatment of more than two months was applied unjustifiably. More detailed information on the factual circumstances and the conclusions drawn can be found in chapter on the "*Rights of Persons with Disabilities*".

### *Application of arrest by a court judgment*

In verification procedure No 2021-26-3E, a [conclusion](#) was drawn up, establishing a violation of the right to liberty laid down in Article 94 of the Constitution, as well as in Articles 5(1) and 5(4) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, in relation to insufficient justification for the application of arrest with an abridged judgment of a court. The conclusions expressed are similar in nature to those already formulated by the Ombudsman in verification procedure No 2019-30-3E. In the course of the examination of the verification procedures, the Ombudsman also assessed the situation when the persons were placed in arrest at the time of delivery of the abridged judgment, with no opportunity to appeal this decision separately. Thus, the Ombudsman concluded that, in practice, there are still cases of prolonged detention of persons on the basis of an abridged court judgment and without knowing the motivation for the application of the measure, thus continuing to infringe on the fundamental rights of persons.

On 23 September 2021, the issues of the application of arrest on the basis of an abridged judgment and the amendments necessary were examined by the Permanent Working Group on Criminal Procedure Law of the Ministry of Justice, with the participation of a representative of the Ombudsman. The working group found that there was no breach of the right to liberty in connection with the non-inclusion of the motive in the abridged judgment of the court, of which the Ombudsman was informed by letter of 3 November 2021 from the Ministry of Justice. The Ombudsman's recommendation was therefore not taken into account.

Given that this issue is fundamental to the full enjoyment of the right to liberty, the Ombudsman will continue to explore it in depth in 2022.

In verification procedure No 2021-44-3E, where a person was placed in arrest on the basis of a full judgment of the court, the Ombudsman, when assessing the motivation for the application of arrest included in the ruling, did not find circumstances that would indicate arbitrariness or disproportionality in the application of the measure. Thus, a violation of the right to liberty guaranteed in Article 94 of the Constitution and Article 5(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms was [not established](#).

### *Right of a detained person to receive legal assistance*

The Ombudsman received a submission from a defence counsel who was not allowed to meet with the detained person, even after presenting the order to officials of the State Police, because according to these officials a permit should have first been obtained from the person leading the proceedings. The defender asked for the immediate cessation of the violations of the rights of the detained person.

The Ombudsman emphasised the fundamental importance of the right of access to a lawyer as one of the procedural guarantees against abuse from the first moment of deprivation of liberty. However, the Ombudsman did not see any reason to intervene in the further resolution of the situation, since, according to information received, as a result of this incident, a service inspection of the State Police was being carried out at that time.

### *Periodic assessment of the application of detention during pre-trial proceedings*

During 2021, the Ombudsman received at least three submissions of similar content regarding possible delays in the periodic assessment of the application of detention during the pre-trial proceedings. For example, a defence counsel contacted the Ombudsman, indicating that the defendant has been placed under arrest and that periodic assessment of detention has not been carried out within two months, as laid out in Section 281(4) of the Criminal Procedure Law. Thus,

the person was unlawfully detained. The investigating judge first waited for the end of the two month period, and then carried out an assessment of the necessity to continue the detention in accordance with the procedure laid down in the Criminal Procedure Law. However, the mere fact that the periodic assessment of detention was carried out more than two months after the application of the detention does not in itself constitute a breach of a person's fundamental rights.

### *Execution of a custodial sentence*

The Ombudsman received submissions regarding possible illegal detention, i.e., in the opinion of the applicants, an incorrect accumulation of sentences. However, after obtaining additional information, no violations of the fundamental rights of individuals were found. The principles of the accumulation of custodial sentences were explained to persons. If a person was taken over from a foreign country for the execution of a custodial sentence in Latvia, then the basic principles of the Latvian system of execution of sentences were explained.

# RIGHT TO A FAIR TRIAL

## Introduction

During the reporting period, the Ombudsman received a total of 245 submissions regarding the right to a fair trial, which is less than in the previous year when 328 submissions were received. Statistical data show that the number of submissions regarding unethical actions of persons leading pre-trial proceedings and judges has increased. Several complaints were also received regarding the attitude of state-ensured legal counsel in legal proceedings and the assistance they provide, which indicates potential problems regarding this issue. Therefore, supervisory institutions, responsible officials, judges and representatives of participants in legal proceedings should pay attention not only to the regulation laid down in regulatory acts, but also to the principles of ethics in the performance of their duties and in communication with citizens.

Like in the past, citizens also expressed their dissatisfaction with the delay in cases both in pre-trial proceedings and in court, leading to a failure to ensure that the case is dealt with within a reasonable time frame. Citizens also drew the Ombudsman's attention to the performance of investigative actions and unjustified procedural decisions. In several cases, the Ombudsman asked the Public Prosecutor's Office to carry out inspections of the criminal-procedural activities of their officials.

During the reporting period, the Ombudsman made several proposals to the relevant ministries and the legislator regarding the right to a fair trial, for example, on the protection of the rights of people who acquire property in good faith in the Criminal Procedure Law, on the right of a person to appeal to a court a decision on the confiscation of property, on the issue of formalising representation and the possibility to receive personal data from the State Register of Vehicles and their Drivers in order to bring an action against this person in court. Furthermore, 17 verification procedures in 2021 revealed several systemic problems, which the Ombudsman brought to the attention of the responsible institutions, for example, on the issue of the moment of the start of the final sentence in the agreement process and the request to ensure certified translation of submitted documents into the state language in criminal proceedings.

The Ombudsman also organised public discussions in 2021 to raise awareness of the rights of certain groups - on access to justice for persons with disabilities (find more information [here](#)) and on the process of examining asylum cases.

### Topics of submissions

<b>Topic</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Pre-trial investigation	0	3	7
Conduct of the person leading the pre-trial proceedings	24	27	39
Appeal against decisions of the person leading the proceedings	17	14	16
Delaying the pre-trial procedure	10	9	5
Other infringements in the pre-trial procedure	30	18	7
Unlawful investigation methods	0	10	2
An independent, impartial trial, established by law	4	10	2
The right to a fair trial. Access to court	17	21	9
Right to a hearing within a reasonable time frame	4	11	11
Principle of equality between the parties	9	10	6
Fair trial	34	41	34
Open hearing of a case	5	5	0
Presumption of innocence	2	1	1
Availability of information on the charges	11	17	2
Time and resources for the preparation of the defence	4	2	2
Work of the legal counsel	13	15	14
Examination of witnesses	1	0	2
Right to an interpreter, free of charge	1	0	1
Enforcement of the ruling	17	18	17

Topic	2019	2020	2021
Enforcement of the ruling in trusteeship and access rights' cases	0	18	13
Grounds for the decision	22	34	13
Decisions and actions of sworn bailiffs	31	34	23
(Unethical) conduct of the judge	7	10	19

## Initiatives

### *On formalising the representation of the owner of infringed property*

The Ombudsman asked the Ministry of Justice to assess the necessity to make amendments to the Criminal Procedure Law in order to regulate the issue of formalising the representation of the owner of infringed property. In practice, the question on whether or not the power of attorney allowing a sworn advocate to represent the owner of the infringed property had to be notarised, revealed itself.

The Permanent Working Group on the Criminal Procedure Law of the Ministry of Justice conceptually agreed that amendments to the Criminal Procedure Law were necessary and the abovementioned normative act should be supplemented not only in relation to the registration of power of attorney for the owner of infringed property, but also for the victim.

The letter to the Ministry of Justice is available [here](#).

### *The principle of legal certainty in the adoption of new regulation*

The Ombudsman found that the legislator, when amending Section 337(3) of the Criminal Procedure Law, possibly did not comply with the principle of legal certainty, because the law did not include transitional provisions. The Ombudsman drew the legislator's attention to the fact that, when adopting a new regulatory framework, it is necessary to ensure compliance with this principle by providing for a lenient transition period to the new regulatory framework.

The Ombudsman's letter to the Parliament is available [here](#).

### *The procedure for examining asylum cases*

In verification procedure No 2020-43-8E, the Ombudsman concluded that, when examining a person's application in an asylum case, the Administrative District Court had not assessed the breach of the principle of equality. This verification procedure revealed the need to bring awareness to the issue of the right to a fair trial in the examination of asylum cases.

By conducting a study, the Ombudsman concluded that the current regulatory framework ensures the minimum standard of the right to a fair trial, i.e., the case is heard by the court of first instance, the ruling of which is not subject to appeal. However, in the Ombudsman's view, such a regulation creates potential risks, therefore a need to improve the regulatory framework should be considered, i.e., as is the case in most European Union Member States, the possibility of appealing against the decision of the court of first instance should be considered. The study also addresses the way asylum cases are examined - in oral or written proceedings. The [Ombudsman organised an online discussion](#) on these issues, where representatives of administrative courts, the Parliament, the Ministry of Justice, the Ministry of the Interior and the Office of Citizenship and Migration Affairs provided their opinions.

More information on the study is available [here](#).

### *On the beginning of the final sentence in an agreement procedure*

On the basis of a submission, the Ombudsman reviewed verification procedure No 2020-38-4N, in which he found unlawful conduct of the court in determining the final sentence, without taking into account the time period between the conclusion of the agreement with the prosecutor and approval in court and determining the date of delivery of the judgment as the starting point for the execution of the final sentence. The Ombudsman brought this issue to the Prosecutor General's Office, which submitted a protest against the court ruling, and the Senate of the Supreme Court annulled it.



Simultaneously, the Ombudsman asked the Ministry of Justice to develop amendments to the Criminal Procedure Law or to ensure that procedures in practice are carried out in a uniform way. The Ministry of Justice pointed out that the problem with the application of Sections 543(4) and 322(3) of the Criminal Procedure Law when determining the final sentence is related to its execution in practice, rather than to shortcomings in the regulatory framework. However, the Ministry of Justice is looking for solutions that would prevent the violations identified in the Ombudsman's conclusion, in the future.

The full text of the conclusion can be found [here](#).

### *On the right of a person to obtain information about another person's vehicle and data on its owner, possessor or holder*

In [verification procedure No 2021-33- 4C](#), the issue of the right of access to court was raised in a situation where a person was denied the opportunity to receive data from the State Register of Vehicles and Drivers on a natural person who caused damage to their vehicle, in order to bring an action against them in court.

Following a conclusion that changes to the regulatory framework were necessary in this matter, an online discussion was organised between inter-institutional experts, which concluded that Cabinet Regulation No 185 of 30 April 2019 on the State Register of Vehicles and Drivers should be supplemented by the right of both natural persons and legal persons to obtain information from the vehicle register. The Ombudsman approached the Ministry of Transport and the Road Traffic Safety Directorate with a request to develop relevant amendments to the Road Traffic Law and the related Cabinet Regulations.

More information is available [here](#).

### *On the right of a person to appeal a decision on confiscation of property to a court*

During the examination of [verification procedure No 2020-40- 4AD](#), the Ombudsman concluded that the Latvian legal framework (Section 59 of the Criminal Procedure Law) had not properly implemented and transposed the legal protection measures contained in Directive 2014/42/EU, related to ensuring the right of appeal in isolated confiscation proceedings. Taking into account the fact that, in accordance with the Criminal Procedure Law, it was not possible to appeal a decision on the confiscation of property, the Ombudsman found that the person was not ensured the legal process, in accordance with Article 92 of the Constitution.

In order to ensure compliance of the regulatory framework with the requirements of the Directive, the Ombudsman turned to the Legal Affairs Committee of the Parliament and the Ministry of Justice. According to the Permanent Working Group of the Criminal Procedure Law of the Ministry of Justice, amendments to the decision on the recognition of property as criminally acquired are not necessary and the regulation of Section 59 of the Criminal Procedure Law fully complies with the requirements of the abovementioned Directive. The Parliament, however, has not yet provided an opinion on this issue.

The Ombudsman's letter to the Legal Affairs Committee of the Parliament and the Ministry of Justice is available [here](#).

### *On the obligation to submit documents in State language or provide a certified translation*

Several foreign companies submitted a joint submission regarding their obligation to submit documents in the official language or provide certified translations, in criminal proceedings. In verification procedure No 2020-48-4AD, the Ombudsman found that national and international laws and regulations do not provide for an obligation for the owner of the infringed property to translate the materials to be submitted to the investigator. At the same time, they impose an obligation on the State to translate important documents in a criminal case, but the Criminal Procedure Law provides for the possibility for the State to recover the expenses related to translation.

In the verification procedure, the Ombudsman concluded that such an obligation unjustifiably restricted the rights guaranteed in the first sentence of Article 92 of the Constitution, and invited the State Police and the Prosecutor's Office to change the practice by not allowing unjustified restriction of the fundamental rights of persons.

The full text of the conclusion can be found [here](#).

### *The right to a hearing within a reasonable time frame*

In [verification procedure No 2021-21-4D](#), the Ombudsman assessed whether the court, when examining a civil case for almost 22 years, ensured the person's right to hearing in court within a reasonable time frame, as laid down in Article 92 of the Constitution and Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Although the duration of the proceedings is lengthy, in the specific case, the Ombudsman found that the proceedings were not delayed, as the length of the proceedings was influenced by the scope, complexity, large number of participants, carrying out of expertise and multiple suspensions of proceedings, since its examination was also closely linked to other proceedings.

## **Opinions for the Constitutional Court**

During the reporting period, the Ombudsman provided several opinions for the Constitutional Court, which assessed the compliance of the regulatory framework with Article 92 of the Constitution.

[Opinion in case No 2021-25-03](#) "On the Compliance of Sections 3, 4 and 5 of the Cabinet of Ministers Regulation of 8 November 2011 No 859 "Regulations Regarding the Maximum Amount of Legal Aid Costs to be Reimbursed to Individuals" (in the edition in force from 8 May 2015 to 9 April 2020) with the First Sentence of Article 92 of the Constitution of the Republic of Latvia".

The Ombudsman concluded that the legislator had not periodically assessed whether the legal framework was still effective, appropriate and applicable to social reality. Therefore, the legislator

should ensure that the legal framework is assessed and that the amount of legal aid costs to be reimbursed is consistent with social and economic reality.

[Opinion in case No 2021-22-01](#) “On the Compliance of the Second Sentence of Section 444<sup>1</sup>(3) of the Civil Procedure Law (in the edition that was in force from 1 March 2018 to 20 April 2021) with the First Sentence of Article 92 of the Constitution”.

The Ombudsman expressed the opinion that the legal norm, which does not provide for the right of a court or a judge to exempt a legal person from paying a security deposit by evaluating the financial situation of the relevant legal person, complies with Article 92 of the Constitution.

[Opinion in case No 2021-09-01](#) “On Compliance of Section 9(2) of the Law on the Road User Charge, which was in force until 30 June 2020, and the Edition of Section 149<sup>40</sup> (2) of the Latvian Administrative Violations Code, which was in force from 1 January 2017 to 30 June 2020, with Article 1 and the First Sentence of Article 92 of the Constitution of the Republic of Latvia”.

The Ombudsman concluded that the obligation for persons who do not use the relevant roads to pay the road user charge did not comply with the purpose of the Law on the Road User Charge and was considered a disproportionate restriction of rights. Moreover, in cases where the owner and driver of the vehicle, whose infringement was recorded by technical means without stopping the vehicle, are different people, the purpose of the administrative penalty is also not achieved, i.e. the person who committed the offence is not punished. Consequently, in the opinion of the Ombudsman, the relevant provision of the Law on Road User Charge, insofar as it prohibits the vehicle owner from providing information on the violation of the payment of the road user charge, which has been recorded by technical means without stopping the vehicle, provides, in essence, for a disproportionate restriction of the right to be heard.

[Opinion in case No 2021-38-01](#) “On the Compliance of Sections 529(1)(3<sup>1</sup>) and 550(1) of the Criminal Procedure Law with the First Sentence of Article 92 of the Constitution of the Republic of Latvia”.

The Ombudsman argued that the contested norms, in essence, do not deprive a person of the possibility to prepare and submit an appeal complaint, but restrict the possibility to submit it later than 20 days after the full court ruling became available. The Ombudsman concluded that the

contested norms of the Criminal Procedure Law comply with the first sentence of Article 92 of the Constitution.

### **Implementation of recommendations**

In 2020, the Ombudsman drew the attention of the Ministry of Finance and the State Revenue Service to the need to lay down a specific time limit for departmental examinations carried out by the Tax and Customs' Police Department of the State Revenue Service, and include it in the regulatory act.

According to the information provided, on 25 February 2021, the State Revenue Service issued Internal Regulation No 17 "Procedures for Carrying Out Departmental Examinations at the Tax and Customs' Police Department and the Internal Security Department", which laid down the time limit for carrying out the departmental examinations, the procedure for its extension, the maximum time limit for carrying out departmental examinations and other matters.

# ENFORCEMENT OF DECISIONS

## Introduction

As in previous years, in 2021, there were relatively many complaints about issues linked to the enforcement of decisions, as well as actions of sworn bailiffs and decisions taken during the enforcement of decisions. In total, in 2021, the Ombudsman received 17 submissions related to complaints regarding the enforcement of decisions as such, while a further 23 concerned complaints about actions or decisions taken by sworn bailiffs. However, compared to 2020 when the total number of submissions on the enforcement of decisions was 52, the number decreased by 12 in this reporting period. In addition, looking at the last four years, it could be concluded that the number of written complaints was the lowest in 2021 (56 in 2018, 48 in 2019, 48, 52 in 2020, 40 in 2021).

Additionally, a large number of consultations were still provided orally (both face-to-face and by telephone) and in the form of e-mail replies. In 2021, 54 consultations were provided on issues related to the enforcement of decisions and 164 on decisions and actions of sworn bailiffs. While the total number of e-consultations and oral consultations in 2020 was 134, it increased significantly in 2021, reaching a total of 218. This number is growing every year.

Most of the submissions and consultations provided were related to debtors' complaints about the actions of bailiffs, directing recovery against their income, without retaining the funds prescribed by law or by overcalculating the costs of enforcement of the judgment and setting them too high.

In relation to the spread of COVID-19 infection in Latvia, many submissions included issues related to debtors' rights during the pandemic, such as: debt recovery from the one-off child support of EUR 500 or EUR 20 benefit paid to vaccinated seniors, debt recovery from idle time allowance, eviction of persons from premises, possibility to pay a lower amount of credit during the pandemic, etc.

The Ombudsman actively monitored the activities of the state in improving the efficiency of the enforcement of decisions, as well as raised awareness to the problems affecting the interests of both debtors and collectors.

### *Extrajudicial debt collectors in maintenance cases*

During the reporting period, the Ombudsman [provided an opinion](#) on the draft law “Amendments to the Maintenance Guarantee Fund Law” (No 842/Page 13), which aimed to supplement the Maintenance Guarantee Fund Law with a new regulation (pilot project), using the services of debt collectors in the recovery of maintenance debts. In this system, before handing off a decision to a sworn bailiff for enforcement, the task of recovery of debt and lawful interest would first be transferred to a debt recovery service provider. However, the objections raised by the Ombudsman and other institutions regarding the involvement of debt recovery service providers in the recovery of the maintenance debt were not taken into account by a majority of the members of the relevant Parliamentary Committee. The amendments to the law were supported and entered into force on 1 September 2021.

### *The duration of the subsidiary recovery from the perpetrator’s parents*

The Ombudsman found that currently the application of Section 353(1)(2) of the Criminal Procedure Law provides for the duty of the bailiff to pursue the subsidiary recovery (which has been determined by a court judgment as a result of the perpetrator being a minor) for an unlimited period of time against the perpetrator’s parents, which could disproportionately infringe the rights of the parents of the guilty person. The Ombudsman [asked](#) the Ministry of Justice to consider the necessity of amendments to the regulatory framework, that would determine the age of the perpetrator from which subsidiary recovery against their parents should no longer be enforced.

The duration of the subsidiary recovery from the parents of the perpetrator was discussed in the Permanent Working Group of the Criminal Procedure Law of the Ministry of Justice, but the mechanism, which would provide for a better balancing of the rights of victims and parents, was not established, and it was decided not to amend the regulatory framework at the moment.

## *The professional development of bailiffs*

Last year, the Ombudsman was involved in the professional development of sworn bailiffs, and, on 6 May 2021, he gave a lecture in a training organised by the Council of Latvian Sworn Bailiffs on the possibilities of the Ombudsman's Office to control the actions of bailiffs in and assess these actions within the scope of the right to a fair trial.

## **Case analysis**

### *On the application of commission fees of credit institutions and other payment service providers for processing orders of sworn bailiffs*

During the reporting period, according to the information provided by the Welfare Department of the Riga City Council, the Ombudsman repeatedly raised awareness of the issue of the amount of tariffs set by credit institutions and other payment service providers, which the Ombudsman had actively addressed already in 2017 and 2018. Given that the processing of orders of sworn bailiffs is being carried out electronically as of 1 July 2019, thus significantly facilitating the administrative work that employees of credit institutions and other payment service providers had previously been performing manually, the question of the amount of commission fees should be reassessed. The Ombudsman [asked](#) the institutions, within the scope of their competence, to assess his observations and provide their vision for the resolution of the matter.

The Financial and Capital Market Commission, in cooperation with the Finance Latvia Association, [informed](#) the Ombudsman that even after the introduction of the electronic procedure for submitting orders of bailiffs, certain manual actions to ensure the servicing of these orders are still being carried out and the burden on credit institutions has not decreased significantly after 1 July 2019. Given that these activities clearly entail certain administrative costs for credit institutions, they are covered by the commission fees charged for the processing of bailiffs' orders.



### *On the recovery of procedural expenditure and transfer of funds for the covering of debt*

After receiving a submission from a private individual, the Ombudsman raised awareness of the issue of the transfer of funds seized within the framework of criminal proceedings to cover a debt. The Ombudsman [requested](#) the opinion of the Ministry of Justice on whether, in a situation where procedural costs in favour of the State have been recovered from the convicted person by a court judgment, it is appropriate and proportionate to issue an enforcement order to a sworn bailiff if the previously seized funds, which could cover the debt, are at the disposal of the State.

The Ministry of Justice [replied](#) that in the situation described in the Ombudsman's letter (and in similar situations), when funds have already been seized in order to ensure the recovery of different claims during the proceedings, it would be reasonable to initiate a discussion on the most rational procedure for ensuring the enforcement of judgments. It is therefore necessary to discuss this issue in depth among experts, inviting representatives of the Ombudsman to the discussion. The invitation from the Ministry of Justice or information on the timing of the discussion has not yet been received.

## **Implementation of recommendations**

### *On the effective enforcement of decisions and the amount of funds retained by a debtor - performer of economic activity*

In 2020, the Ombudsman raised awareness of issues regarding the effective enforcement of rulings and the amount of funds to be retained by a debtor - performer of economic activity. The Ombudsman addressed the Ministry of Justice and the Council of Latvian Sworn Bailiffs on these issues.

The Ministry of Justice, evaluating these issues, undertook the task to address them. When monitoring the improvements in the process of effective enforcement of court rulings and the progress in the issue of the amount of funds to be retained by debtors-performers of economic activity within the framework of enforcement proceedings, the Ombudsman [contacted](#) the Ministry

of Justice on 13 May 2021 with a request to provide information on its progress and on the measures taken and planned.

The Ministry of Justice [informed](#) the Ombudsman about the initiatives taken during the last year aimed at making debt recovery more effective. The Ministry pointed out that these issues were to be assessed in 2021, and assured that the Ombudsman would be informed of the conclusions of the evaluation.

So far, the Ombudsman has not received any additional information from the Ministry of Justice. Developments regarding this topic will be monitored in 2022.

# RESPECT FOR PRIVATE AND FAMILY LIFE

## Introduction

During the reporting period, the Ombudsman assessed 77 submissions of private individuals regarding the right to respect for their private and family life, the most common topics of which were protection of personal data (27 submissions), implementation of rights of access (17) and respect for private life (13). Similarly, 190 oral and e-mail consultations were carried out, 90 of which were related to the implementation of access rights, while 47 concerned data protection issues.

In the context of the spread of COVID-19, the Ombudsman explained to individuals the purposes of data processing for issuing and checking COVID-19 vaccination and recovery certificates, as well as addressed citizens' concerns about public access to vaccination registers. The Ombudsman argued that the processing of data was necessary for public health safety reasons.

Also, during the reporting period, the Ombudsman received complaints from persons regarding actions of State Police employees who, in the opinion of the complainants, had restricted the person's right to the inviolability of private life in an unjustified or disproportionate manner (for example, carrying out criminal-processual activities in a person's home). In addition, employees of a penitentiary institution argued for the need for video surveillance, drawing attention to potential security threats to which a person is exposed in areas without video surveillance. Meanwhile, individuals have requested information on the lawfulness of the processing of personal data by means of police body cameras.

## Initiatives

### *Participation in meetings of a Parliamentary Committee*

During the reporting period, representatives of the Ombudsman's Office regularly participated in the sessions of the Defence, Internal Affairs and Corruption Prevention Parliamentary Committee, where they evaluated extensive amendments to the Law on the Prevention of Money Laundering

and Terrorism and Proliferation Financing (No 872/13). They were intended to ensure the compliance of the regulatory framework with the requirements of the Directive 2018/843 of the European Parliament and the Council (EU).

The Ombudsman drew the legislator's attention to the risks of including proposals that could be widely interpreted, namely proposals identifying an impeccable reputation as a prerequisite in order for a person to run for certain posts. There was also a strong focus on issues related to the implementation and monitoring of customer research tools. These tools provide for a wide range of opportunities for businesses to obtain, process, transfer and store personal data.

### *Public awareness*

As part of the project "Ready for Life", lawyers of the Ombudsman's Office continued to deliver lectures for school students on data protection issues.

The Ombudsman also continued to express his views on data protection issues, with readings "Privacy as an Idea and Reality" and "Intrusion of Privacy Under Video Surveillance" at the conference "Personal Data - Future Perspective", organised by the Data State Inspectorate on 16 November 2021.

## **Case analysis**

### *Protection of personal data with regard to the publication of entries from the Register of Enterprises on websites*

The Ombudsman [issued a conclusion in a verification procedure](#), in which he found that the regulatory framework did not ensure the protection of a person's private life, in instances when they disclose their address of residence while registering the address of a legal person.

The Ministry of Justice has announced a plan to review and evaluate the regulatory acts regarding time limitations of retention periods for the data included in the registers.

### *Disclosure of the personal identity number on correspondence sent to detainees*

In [his conclusion](#), the Ombudsman found that the disclosure of a personal identity number on correspondence to detained persons does not ensure the principle of data minimisation laid down in the General Data Protection Regulation. The Ombudsman also made recommendations for the verification of a person's identity, avoiding disproportionate disclosure of personal data.

### *On the anonymisation of court rulings*

During a verification procedure, the Ombudsman found several instances when rulings of the Supreme Court that contained non-anonymised data of natural persons were published on the websites *www.likumi.lv* and *www.vestnesis.lv*. They included such data as the first name, surname, date of birth, former place of work, a brief description of the criminal case and sentence imposed. After addressing the administrator of the websites, the violation of rights was rectified by concealing personal data and suspending further publication of rulings containing such information. The conclusion is available [here](#).

### *On the obligation of local governments to disclose personal data to the investigating authority*

The Ombudsman issued [a conclusion in a verification procedure](#), in which he found that a local government had provided an investigating authority with disproportionately extensive information about an individual without carrying out an individual assessment, thereby violating the principles of data processing defined in Article 5 of the General Data Protection Regulation.

The Ombudsman stressed that an official's correspondence with another institution outside the performance of his duties should be considered as private correspondence, therefore institutions may disclose it only in exceptional cases (if the regulatory framework allows this and if there is a legitimate purpose for doing so).

### *On the processing of personal data of a deceased person*

During the reporting period, the Ombudsman examined submissions regarding the right of relatives of a deceased person to receive health data on the deceased person in order to be able to apply to the court. The Ombudsman found that there are isolated cases in which the relatives of a deceased person are entitled to receive this data. The Ombudsman pointed out that Section 10 of the Law on the Rights of Patients should be taken into account, and that each case should be assessed individually, evaluating the necessity of receiving such information and ensuring the protection of such data.

# ERADICATING DOMESTIC VIOLENCE

## Introduction

Domestic violence is a cycle of physical, sexual, verbal, emotional and economic harassment, which is recurrent and is being used against the victim to control them, and gain and hold power over them. Domestic violence refers to any offence, regardless of whether it has occurred between current or former spouses, current or former partners in an unregistered marriage, first degree relatives (children and parents) or second degree relatives (grandchildren, grandparents, siblings), persons who have a common (joint) household (living together in the same house or apartment).

During the reporting period, the Ombudsman received submissions from both victims of violence and persons whose rights have been restricted on the basis of a court decision on temporary protection against violence. In such cases, the Ombudsman informed these people about the rights' protection mechanisms available to them, as well as about the psychological support and legal assistance available to victims of violence.

## Initiatives

At the end of 2020, the charity marathon "Dod pieci!" ("High Five!") organised by public media drew public attention to the painful, often-hidden and uncomfortable topic of domestic violence. Taking into account the stories of victims of violence and analysing the cooperation of institutional cooperation, capacity, challenges and funding, in an open letter to senior officials the organisers of the marathon "Dod pieci!" proposed the implementation of a series of objectives to reduce the level of violence in the country.

As a result, under the auspices of the Parliamentary Committee on Social and Employment Matters, a working group on "Reducing the risk of violence in the family" was set up, which consisted of representatives of various state institutions and public organisations, including a representative of the Ombudsman's Office, sharing their views and recommendations in this field. The working group discussed the suggestions of the organisers of the marathon "Dod pieci!" and the possibilities for their implementation, provided information on the changes made and to be made in the regulatory

acts, discussed problems encountered in practice, summarised data at the disposal of various cooperation partners and identified in which areas data is missing. However, since the spring of 2021, the activities of the working group have been halted and the Ombudsman is not aware whether and when they will resume.

## Case analysis

### *On the simultaneous examination of an application for temporary protection against violence and examination of a claim and counterclaim*

After inspecting a person's submission regarding the court's examination of an application for temporary protection against violence while simultaneously examining the claim and counterclaim, the Ombudsman found that, in this particular situation, the court had published a notification of a judgment less than one month after it was issued - in accordance with the procedure on the notification of judgments laid down in the Civil Procedure Law. With this judgment, the court also ruled on the application for temporary protection against violence. The notification of a decision on temporary protection against violence less than one month after its adoption does not comply with regulatory acts and does not serve the purpose of this protection measure – a prompt reaction of the court to a potential threat to the personal rights of a person, if there are sufficient grounds to consider the risk to be genuine. Such practice also prevents the person who has requested the court to establish temporary protection against violence from exercising the right to implement the mechanism of protection of their rights within the shortest possible time (10 days) to appeal against a court decision if, in the opinion of the person, it is unfair and a person or child is under risk of violence.

Upon concluding the verification procedure, no deficiencies in the legal framework were established. However, deficiencies in the application of the norms of the Civil Procedure Law in practice were found in cases when the application for temporary protection against violence is examined in parallel with the examination of the claim and counterclaim, and only one ruling is made. Taking into account the importance of eradicating violence, in particular domestic violence and violence against children, it was concluded that it is important to improve the regulatory



framework in such a way as to prevent interpretations that can be found in judicial practice, which may have adverse consequences for potential victims of violence. The Ombudsman's conclusion on verification procedure No 2021-23-4R is available [here](#).

The Ministry of Justice was asked to assess the necessity to improve the regulatory framework on the examination of applications for temporary protection against violence in court, while simultaneously examining the claim and counterclaim. Judges were asked to draw up a separate decision and notification on temporary protection against violence in the event that such an application is examined together with the claim and counterclaim, irrespective of the outcome of the examination of the application.

The Ministry of Justice provided a reply, stating that the legal framework for the examination of an application for temporary protection against violence laid down in the Civil Procedure Law is sufficient and the Ministry does not plan on amending the Civil Procedure Law. The reply of the Ministry of Justice is available [here](#).

### *On alleged violations of the defendant's right to a fair trial in connection with a prolonged application of temporary protection against violence*

During the reporting period, the Ombudsman assessed similar submissions by two applicants in relation to a possible prolonged application of temporary protection against violence, thus creating a possible disproportionate restriction of the right to a fair trial, namely the principle of equality of the parties (the person was denied access to their home, which made it difficult for the applicant to have access to the documents they wished to submit to the court).

In relation to verification procedures No 2021-08-4E and 2020-50-4E, the Ombudsman concluded that applicants had an opportunity to obtain the necessary documents in a way that is not related to access to the dwelling in question. The Ombudsman found that although the restrictions resulting from the application of the measures of temporary protection against harassment are associated with certain inconveniences, they do not create difficulties that lead to an inability to access to the court, submit observations and arguments to the court, or place the person (as defendant) in a significantly worse position than the other party of the proceedings. The purpose of

the restrictive measures is not to restrict the defendant's ability to exercise his procedural rights during the proceedings, thereby placing him in an unequal position vis-à-vis the applicant, but to provide the applicant with an environment that is safe for their life and health and allows them to exercise their right to participate in the proceedings without hindrance, on an equal footing with the defendant.

Furthermore, no violations of fundamental rights were identified in connection with the possible prolonged application of temporary protection against violence.

# RIGHTS OF CHILDREN AND YOUNG PEOPLE

## Introduction

The Ombudsman is a full member of the European Network of Ombudspersons for Children (ENOC)<sup>7</sup> and also acts as the Children's Ombudsman. The Children's Rights Division of the Ombudsman's Office has five staff working exclusively on children's rights issues.

In 2021, there were a number of developments in the area of children's rights, the most important of which are discussed hereafter.

First, on 11 November 2021, amendments to Section 6 of the Law on the Protection of the Children's Rights further defined the principle of protection of the rights of the child and laid down the criteria for determining the best interests of the child. This will improve the assessment of the best interests of the child and reduce the number of cases when a decision is claimed to be based on the best interests of the child, without an actual evaluation. The Ombudsman was actively involved in the discussion and development of these criteria.

Second, on 16 June 2021, amendments to the Law on Orphan's and Custody Courts laid down higher qualification requirements for the members of the Orphan's and Custody Court and the need for members to conclude employment contracts, and established the competence of the assistant to the Chair of the Orphan's and Custody Court and the assistants to members of the Orphan's and Custody Court. This will prevent the functions of the Orphan's and Custody Court being performed by a person without appropriate qualification - a practice incompatible with children's interests.

While local governments have the right to autonomously determine the amount of social assistance to be provided to citizens in their administrative territory, this assistance should prioritise children. The best interests of the child must be a primary consideration at all stages of the budgeting process, as well as in all budgetary decisions affecting children.

Local governments must ensure that, in cases where several municipalities have been merged into one as a result of the administrative territorial reform, the support available to families with

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<sup>7</sup> See: [http://enoc.eu/?page\\_id=210](http://enoc.eu/?page_id=210)

children does not decrease to a level below what was available to them before the reform (the Ombudsman's explanation is available [here](#)). Therefore, the Ombudsman has [urged local governments](#) to adopt the new versions of the binding regulations of local governments and to plan their budget, prioritising the interests of children. The Ombudsman has called on local governments to avoid taking decisions that worsen the situation of children living within their territory, rather than improving it.

It should be noted that, already on 11 December 2018, the Ombudsman had sent his conclusion to the Cabinet of Ministers on verification procedure No 2017-42-27K "On the Information System for the Support of Minors", requesting information about the measures taken and the plans to improve the legal framework and the deficiencies in the use of the Information System for the Support of Minors (NPAIS). On 12 April 2019, the Cabinet of Ministers replied that the Ministry of Welfare has taken a leading role in reassessing the functionality of NPAIS, evaluating data quality and ensuring cooperation between the institutions involved, focusing on concrete actions for the transformation of NPAIS and starting practical actions for its improvement. However, when assessing the progress of the Ministry of Welfare in improving NPAIS, it was concluded that the tasks for the development of NPAIS have not been fulfilled. The draft information report "On the Transformation of the Information System for the Support of Minors" is still being updated and expanded on, the transformation of NPAIS has not started, the use of NPAIS has not improved, and the legal framework has not been improved.

In the field of children's and young people's rights, the number of submissions last year increased. 1210 submissions were received (2020 – 1009 submissions). Among these, 260 were written submissions, five were received from children (245 in 2020, one received from a child). Additionally, 950 telephone and email consultations were provided (2020 - 764). The increase in the number of submissions is mainly due to COVID-19-related restrictions. Like in the past, applicants most often approached the Ombudsman on topics such as the enforcement of access rights, the suspension/renewal of custody rights and the right to education.

## ON THE ACQUISITION OF SPECIAL KNOWLEDGE IN THE FIELD OF PROTECTION OF CHILDREN'S RIGHTS

### Introduction

Section 5<sup>1</sup> of the Law on the Protection of the Children's Rights defines subjects who need special knowledge in the field of protection of children's rights for the performance of their duties of office or work, and it sets out that this knowledge must be acquired in accordance with the procedures and to the extent determined by the Cabinet of Ministers. Knowledge of certain content and scope in the field of children's rights is an essential prerequisite for the child's rights and interests to be safeguarded by the worker's decisions (in particular, administrative acts), conduct or other types of performance at work or in service. The Ombudsman has promoted the expansion of the circle of professionals required to have special expertise and has followed up in order to ensure that employees in areas whose work affects children's rights and legal interests have acquired the expertise properly.

### Initiatives

#### *Sworn notaries*

Notaries work with divorce cases. In order to divorce a marriage with a notary, the spouses must conclude a written agreement on the custody of the joint minor child, access rights, child maintenance and sharing of joint property. Notaries shall draw up an agreement on custody matters in the form of a notarial deed. In order to facilitate the provision of children's rights when the spouses agree on custody issues, notaries need special knowledge in the field of protection of children's rights. On the basis of the competence laid down in Section 65<sup>2</sup>(3) of the Law on the Protection of the Children's Rights to submit proposals promoting the respect of children's rights, the Ombudsman submitted a proposal for a draft law amending the Law on the Protection of the Children's Rights (No 1020 / p13), supplementing the first paragraph of Section 5<sup>1</sup> ("Subjects Requiring Special Knowledge in the Field of Protection of the Rights of the Child") with a new paragraph "for a sworn notary".

Amendments to the Law on the Protection of the Children's Rights were adopted on 11 November 2021.

### *Public Prosecutor's Office*

When examining a person's submission, there was an impression that the content of the reply sent to the person by the Prosecutor's Office did not comply with the requirements of the Law on the Protection of the Children's Rights, namely, the prosecutor had indicated that, when it comes to special knowledge in the field of children's rights, the requirement for such knowledge applies only to the performance of procedural actions with children. In order to clarify this information, the Ombudsman repeatedly contacted the relevant department of the Prosecutor's Office, however, the content of the answers received still indicated a different understanding of the legal norm. The Ombudsman therefore has reason to believe that there are deficiencies in the application of Section 5<sup>1</sup>(11) of the Law on the Protection of the Children's Rights in practice, in the work of the Public Prosecutor's Office.

In order to promote a common understanding, the Ombudsman turned to the Prosecutor General's Office. It shared the Ombudsman's opinion on the need for all prosecutors to acquire special knowledge on children's rights issues and acknowledged that the answers of the specific department of the Prosecutor's Office show that, in matters of protection of children's rights, prosecutors have not fully understood the meaning and purpose of the requirements included in the law, which determines both the training of prosecutors in matters of the protection of children's rights, as well as the development of a common understanding of when and why a prosecutor should be trained.

The Ombudsman appreciates the actions of the Prosecutor General's Office, namely, their instruction for the Projects and Training Coordination Unit to take measures to train all prosecutors, including organising discussions under the guidance of experienced prosecutors.

The reply of the Prosecutor General's Office is available [here](#).

## Implementation of recommendations

### *State Police*

In 2020, the administration of the State Police was asked to:

- verify whether officials of the State Police working with children have acquired special knowledge in the field of protection of children's rights in accordance with the provisions of laws and regulations;
- ensure that these officials acquire this knowledge;
- prevent State Police from working with children, taking decisions (in particular, an administrative act), performing real actions or other types of service duties where the rights and legal interests of the child are or may be affected if the officials in question have not acquired special knowledge in the field of protection of the rights of the child.

The recommendations were taken into account, the State Police reported that the situation in their institution as a whole was studied and that the deficiencies identified are being corrected. In parallel, heads of each State Police structural unit have been tasked with re-introducing the personnel with the provisions laid down in laws and regulations, to ensure the acquisition of special knowledge of State Police officials working with children in the field of protection of children's rights at the State Police College.

In 2021, the Ombudsman verified that the recommendations to the State Police were taken into account in the long term and solutions and improvements had been found for the acquisition of special knowledge in the field of children's rights.

The reply of State Police is available [here](#).

## THE RIGHT OF THE CHILD TO BE FREE FROM VIOLENCE

### *Clarification of the term "abuse"*

An amendment of 11 June 2020 excluded the term "neglect" from Section 1(9<sup>1</sup>) of the Law on the Protection of the Children's Rights as one of the forms of violence. At its meeting of 8 December

2020, the Parliamentary Committee on Human Rights and Public Affairs instructed the Ministry of Welfare, in cooperation with other institutions, to prepare proposals for the necessary amendments to the Law on the Protection of the Children's Rights, which are related to the exclusion of the term “neglect”.

Work on the definition of violence against children continued in 2021 in a working group set up by the Committee on Human Rights and Public Affairs. The Ombudsman was actively involved in drafting and negotiating the amendments; the Committee agreed on the definitions of “neglect”, “abandonment” and “childcare obligations” and the related administrative responsibility. Amendments to the Law on the Protection of the Children's Rights were adopted on 11 November 2021.

The Ombudsman’s views on the concept of abuse can be found [here](#).

## Initiatives

### *On the investigation of sexual offences against children*

In 2021, the Ombudsman initiated verification procedure No 2021-24-2B on systemic problems related to crimes against child morality and sexual inviolability. In the verification procedure, the Ombudsman assessed the duration of pre-trial investigations, problems that delay pre-trial investigations, possible solutions to increase the effectiveness of pre-trial investigations, the role of prosecutors in pre-trial investigations and the issue of departmental examinations of the State Police.

In its last [recommendations](#) to Latvia in January 2016, the UN Committee on the Rights of the Child referred to the need for action in this area, namely:

- to swiftly investigate all reported cases of child abuse, as well as to prosecute and punish perpetrators (37b);
- to improve the capacity of law enforcement officials in relation to the obligation to record and investigate all known cases of child abuse (43b).



In the verification procedure, it was concluded that 28 % or almost a third of cases of criminal proceedings last two years or more. The State Police lacks investigators specialised specifically in investigating crimes against child morality and sexual inviolability.

The main recommendations: introduce specialisation of investigators and prosecutors; delegate the investigation of sex crimes to higher-level units of State Police; set a maximum term of one month for the carrying out of departmental examinations, during which the child may not be interviewed directly or indirectly about a suspected sexual offence.

In his conclusion, the Ombudsman draws attention to the fact that the investigation of sexual offences against children is a complex issue of children's rights, which requires continuous improvement of the system and the mobilisation of resources.

The information obtained in the verification procedure and the recommendations of the Ombudsman can be found [here](#).

### *The jurisdiction of administrative offence proceedings*

Section 81 of the Law on the Protection of the Children's Rights establishes administrative liability for physical and emotional violence against a child. Administrative offence proceedings regarding violations committed by officials or employees of State and local government institutions shall be carried out by the State Inspectorate for Protection of Children's Rights<sup>8</sup>. However, if an administrative offence has been committed by persons who are not officials or employees of State or local government institutions, including employees of private educational institutions, the administrative offence proceedings shall be carried out by the State Police or local government police until the examination of the case. The administrative offence case shall be examined by the local government administrative commission or subcommittee<sup>9</sup>.

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<sup>8</sup> Section 88(1) of the Law on the Protection of Children's Rights.

<sup>9</sup> Ibid., Section 88, second paragraph.

The competences, depending on the legal status of the person who has committed the offence, were also separated before the introduction of a codifying system for sectoral administrative offences on 1 July 2020. The Ombudsman asked the Ministry of Justice to provide an opinion on the possibility to allocate the State Inspectorate for Protection of Children's Rights with the competence to examine an administrative offence case also in cases when the violation was committed by employees of private educational institutions. The Ministry of Justice supported it in substance, but no progress was made on this issue in 2021.

### *On the victim status of a child in administrative offence proceedings*

The Ombudsman has found that, in administrative offence proceedings, if the offence is directed against a child, sometimes a decision on the recognition of the child as a victim is not taken, rather the status of the child is determined as - person who has suffered harm. If the child is not recognised as a victim, their representative has no opportunity to represent the child in the examination of the administrative offence case, to receive the ruling (to terminate the administrative offence proceedings or to impose a punishment on the person who has committed the violation), to appeal against it, to apply to the court for compensation of harm caused to the child, etc.

In these cases, the child's legal representative does not ask for the child to be granted the status of victim, because they have not been informed that such a request must be made to the official who leads the administrative offence proceedings. The legal representative of the child trusts that it is self-evident that in a situation where a violation has been committed against the child and the child has suffered, the official will give the child the status of victim. Moreover, it has been established that if a child is represented by an employee of the Orphan's and Custody Court in administrative offence proceedings, the child is also not requested to be recognised as a victim, because employees of the Orphan's and Custody Court are not aware of the abovementioned obligation.

In order to promote the respect of the rights of the child, the Ombudsman invited the responsible officials of the State Police, the State Inspectorate for Protection of Children's Rights, the Education Quality State Service, the Data State Inspectorate, the Health Inspectorate to inform the legal representative of the child within the framework of the administrative offence proceedings

regarding their right to request that the child be recognised as a victim, in all cases when violence has been directed against a child. The letter was also sent to all local governments with a request to forward the information to the local police and administrative commission, as well as to inform the Orphan's and Custody Court.

The letter is available [here](#).

### *About the educational institution for social correction "Naukšēni"*

On 11 November 2021, members of the Ombudsman's Office performed an unannounced inspection visit to the educational institution for social correction 'Naukšēni' (EISC 'Naukšēni'). The aim of the visit was to find out what support has been provided to children and employees after the State Inspectorate for Protection of Children's Rights found significant violations of children's rights at the end of September (the report on the findings of the inspection of EISC 'Naukšēni' is available [here](#)). Recommendations were given to the Ministry of Education and Science and EISC 'Naukšēni' to ensure respect for children's rights.

Although no information was obtained at the time of the inspection and the preparation of the report on the need to temporarily close the institution, on 30 November 2021 the Acting Director of EISC 'Naukšēni' Ms V Melngārša granted all students leave to visit legal representatives until 4 January 2022 (Order No 1.2/25). The order was said to be based on an emergency situation in EISC 'Naukšēni', as a result of which the number of teaching staff and supervisory regime employees available to the institution was not sufficient for the performance of the functions of the educational institution of social correction and for ensuring the rights of the children placed in the institution.

The Ministry of Education and Science (see [here](#)) and EISC 'Naukšēni' (see [here](#)) provided information on the implementation of the Ombudsman's recommendations. The Ombudsman will continue his work to ensure respect for children's rights at EISC 'Naukšēni' and will follow the implementation of recommendations in order to facilitate the execution of court rulings of specific children and the involvement of the State Police in the search for children in unauthorised absence.

## Implementation of recommendations

### *On a school's actions in the event of violence*

When examining a submission regarding three cases of physical and emotional violence against children in a school, the Ombudsman found that the school was only aware of one of them, i.e. in the other two cases, no information on the events was received from the child, their parents, or from classmates and teachers.

In order to prevent child-on-child violence at schools, it is important to respond to every case of violence without neglecting it. Otherwise, the perpetrator may have a false impression that their behaviour is acceptable. Perhaps an immediate response to the first case of violence would have prevented the following ones. In addition, it was found that the internal rules of the school did not comply with the procedure laid down by the Cabinet of Ministers regarding action in the event of violence. In particular, the school had stated that parents should be informed in the event of repeated violence, instead of any and all cases of violence. The school amended the rules following the Ombudsman's recommendation.

The Ombudsman's recommendation and the school's answer are available [here](#).

### *On the involvement of children in an international study*

The Ombudsman received complaints from parents about a survey distributed online to children, coordinated by a group of researchers belonging to the University of Ghent. Parents expressed their concerns to the Ombudsman about their children's data and general security.

The Ombudsman found that the LGBT and their friends' association "Mozaika" distributed an online survey in Latvian, aimed at children attending educational institutions in Latvia. This survey gathered sensitive data from children on their mental health, sexuality, as well as asked to provide information on the sexuality of their teachers and friends and other private information about their parents (their religious background, financial situation, nationality, etc.). According to the study, parental consent is not mandatory and this exception was accepted by the Ghent University Ethics Committee during the approval process, since requiring parental consent in such a study may lead

to not only young people being “outed” but also to verbal or physical violence. The survey also asked children to provide information that could identify the child or their teachers, such as the place and title of school, class, nationality and other private information.

The representatives of “Mozaika” have indicated that the research project (“The Free Project”) is coordinated by the University of Ghent and the study methodology has been developed, evaluated and monitored by the scientists responsible for the content of the study and the processing of the results.

On the basis of the information obtained, the Ombudsman contacted the University of Ghent, stating that, in his opinion, when organising a survey of pupils, researchers are obliged to inform children and their parents about the conduct of the study, its objectives and tasks. In addition, children should have been provided with information in a way that is understandable to them. According to the Ombudsman, the terminology used in the questionnaire without explaining it, in particular with regard to the various issues of gender identity, sexual orientation and sex exchange, could be unclear to a large proportion of the students who have decided to take part in the survey in question. The Ombudsman finds the study’s advice for children not to seek support from their parents, as this may lead to ‘verbal or physical violence’, unacceptable.

As set out in Article 5 of the UN Convention on the Rights of the Child, parents have the right and the duty to provide their child with assistance and advice appropriate to their degree of development. In research aimed at studying children’s health, well-being, and mental health, it is unacceptable to generalise all parents and indicate that a child risks being subjected to violence if they seek support from their parents when feeling anxious about the questions in the questionnaire. This practice is not ethical in research on issues that are sensitive to children.

The Ombudsman urged the University of Ghent to cooperate with another university accredited in Latvia when conducting studies involving children in Latvia and sensitive subjects, thus ensuring that the research is carried out in accordance with the host country’s values and social practices. A partnership with the local university could also address concerns about who would take responsibility at the national level if there is suspicion of data misuse and if such a study caused harm to children.

The Ombudsman received a reply from the University of Ghent, in which they apologised for having caused communication problems and misunderstandings in Latvia. The University thanked the Ombudsman for the shortcomings identified and committed to follow the Ombudsman's recommendations in future research. Currently, the survey of children in Latvia has been suspended.

## Case analysis

When examining a submission regarding the actions of a precinct of the Vidzeme Regional Administration of the State Police, delaying the examination of an application regarding possible sexual abuse of children, the Ombudsman found that, on 13 July 2021 a departmental examination had been initiated and the deadline for examination of the application was extended until 10 September 2021. As part of the examination, on 27 July 2021, requests had been sent to authorities.

On 25 August 2021, the Chief Prosecutor of Vidzeme Court District instructed an immediate examination of the information disclosed in the application and deliver a decision on the initiation of criminal proceedings, without taking into account the fact that a departmental inspection is being carried out in the precinct.

The Ombudsman called on the precinct in question to prevent further delays in the examination of applications for alleged violence against children and delays in requesting information within the framework of the departmental examination.

## RIGHT TO EDUCATION (PRE-SCHOOL EDUCATION)

### Introduction

During the reporting period, 43 submissions were received (8 written and 35 e-mails and oral consultations) regarding pre-school education. Submissions on unjustified discharge from a pre-school education programme highlighted the shortcomings in regulation which led to violations of

children's right to pre-school education. Shortcomings in the regulation were also identified with regard to the enrolment of orphans and children left without parental care in pre-schools.

## Initiatives

### *Unjustified discharge from a pre-school education programme*

In [verification procedure No 2021-05-20A](#) on the procedure for discharging children from a pre-school educational institution, the Ombudsman concluded that children's right to education is violated, since both the municipality, as founder of the pre-school educational institution, and private founders may set conditions for the discharge of children that do not correspond to the interests and rights of the children.

Section 4(18) of the General Education Law delegates to the Cabinet of Ministers the procedure by which students are enrolled in general education programmes and discharged from them. Cabinet Regulation No 591 on "Procedures for Enrolment of Students in General Education Programmes, Special Education Institutions and Special Pre-school Education Groups", adopted on 13 October 2015, did not lay down the procedure by which children who have not reached the mandatory educational age shall be discharged from a pre-school educational institution. It was for each founding member to determine the method of discharge.

The Ombudsman found that the Cabinet of Ministers had failed to fulfil the task delegated to it by law to determine the procedure for the discharge of children from pre-school education programmes; as a result, in a large part of municipalities, the grounds for the discharge of children from pre-school education programmes are not in accordance with the rights and interests of the child, for example, due to the actions of parents, the state of health or behaviour of the child, unsettled financial obligations of the parents, etc.

At a meeting on 6 July 2021, taking into account the Ombudsman's conclusion on the verification procedure, the Cabinet of Ministers instructed the Ministry of Education and Science, in cooperation with the Ministry of Environmental Protection and Regional Development, to

determine the procedure for discharging students from pre-school education programmes by 31 December.

On 11 January 2022, a new regulation was adopted - Cabinet Regulation No 11 "Procedures for enrolling students in general education programmes and discharging from them, as well as the mandatory requirements for moving students up into the next grade in such programmes", which lays down the criteria for discharging a child from a pre-school education programme.

## Case analysis

### *On deficiencies in the binding regulations of Limbaži municipal government*

The Ombudsman found that, in accordance with Sub-paragraph 42.3 of the Binding Regulation No 8 of Limbaži municipal government "On the procedure for the enrolment and discharge of children in educational institutions of the Limbaži municipal government that implement pre-school education programmes" set out on 22 March 2012, a child may be discharged from a pre-school educational institution due to an assessment of the Pedagogical Medical Commission on the state of health of the child, which precludes the child from attending a pre-school educational institution.

Regulatory acts do not allocate the Pedagogical Medical Commission with the competence to provide "an assessment on the state of health of the child, which would preclude attendance of a pre-school educational institution". Such an assessment would be contrary to the legal right of the child to education. The conduct of a pre-school educational institution, when deducting a child from the educational establishment because of their state of health, should be regarded as unlawful. Such conduct violates the prohibition of differential treatment<sup>10</sup> and is disproportionate to the best interests of the child.

Sub-paragraph 42.4 of Binding Regulation No 8 provides that a child may be discharged from a pre-school educational institution if payment for the child's attendance of the educational institution has not been made for two months, for an unjustified reason (except for children of compulsory pre-school education age). Pursuant to Section 11(2) of the Law on the Protection of the Children's Rights, a child has the right to free-of-charge pre-school preparation, so there is no legal basis for

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<sup>10</sup> Section 11 of the Law on the Protection of the Children's Rights and Section 3<sup>1</sup> of the Education Law.



imposing a fee for the child's attendance of an educational institution. If the payment for the child's attendance of an educational institution is actually payment for meals, the unsettled financial obligations of the parents with the educational institution may not be the reason for the municipality to restrict the child's right to education.

The Ombudsman urged the Limbaži municipal government (see [here](#)) to amend its Binding Regulation No 8. The local government took into account the recommendations and the shortcomings in the regulation were corrected.

### *Infringement of the rights of the child and of the principles of good governance*

The Ombudsman found a violation of children's rights and the principle of good governance caused by a failure to provide children with a place in Ādaži pre-school educational institution "Strautiņš". The assembling of groups for the school year 2020/2021 was carried out without complying with the procedure for the enrolment of children<sup>11</sup> laid down in the binding regulations of the local government. Several children born in 2017 were not provided with a place in a pre-school educational institution, and priority was given to children of a younger age who were registered for a place in the pre-school educational institution at a later time.

The Ombudsman called for the educational institution to take into account the binding regulations and the age criteria of each group of children, when ensuring the enrolment and grouping of children in the educational institution in the future.

The Ādaži municipal council was [recommended](#) to monitor the establishment of lists of children to be enrolled and to prevent the procedure from being left at the discretion of the head of the educational institution, as well as to evaluate the possibility of making amendments to the binding regulations. Given that the local government is obliged<sup>12</sup> to ensure the completion of a pre-school education programme for all children of the appropriate age registered in the administrative

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<sup>11</sup> Ādaži municipal council Binding Regulation No 24/2017 "On Registration and Enrolment of Preschool-Age Children in Ādaži Municipality Pre-school Education Institutions", 25 July 2017.

<sup>12</sup> Section 21 of the General Education Law, Section 17(1) of the Education Law.

territory of the municipality, the local government was asked to seek solutions to ensure equal access to pre-school education.

The Ombudsman's recommendations were taken into account. The Ādaži municipal council made amendments to the binding regulations, determining the establishment of a commission for the enrolment of children in educational institutions set up by the local government, and approving the by-laws of the commission. In order to address the issue of reduction of queues for places in local pre-school educational institutions, the local government decided to use the Ādaži Secondary School premises to host five groups of pre-school students. This will provide additional places for up to 100 students.

### *Registration of applications for enrolment of children to pre-school schools, in accordance with the principles of good governance*

The Ombudsman found that the registration of applications for enrolment of children to pre-school educational institutions in the Limbaži municipal government was incompatible with the principles of good governance. Namely, an application of a parent regarding the enrolment of a child in a pre-school educational institution was registered in the register of pre-school educational institutions of the Limbaži municipal government almost two months after it was received in the educational institution. Although the local government justified the situation with the obstacles created by the remote working process, their actions did not comply with the requirements of the Law on Submissions. In accordance with Section 4(2) of the Law on Submissions, the educational institution was obliged to forward the application to the competent authority – the Limbaži municipal government - for registration in the register of pre-school educational institutions, within seven working days after receipt of the application.

The Ombudsman called on the educational institution and the Limbaži municipal government to comply with the deadline laid down in the Law on Submissions when forwarding applications in cases where the examination of the application is not within the competence of the institution. The Ombudsman's letter is available [here](#).

### *On co-financing by the local government for enrolment in private pre-school educational institutions or for receiving child supervision services*

The Ombudsman found that the Limbaži municipal government is not able to provide places in pre-school educational institutions to all children registered in the Limbazi municipality, who have applied for admission to the municipal pre-school educational institutions; it also does not offer co-financing for enrolment in private pre-school educational institutions or for the provision of child supervision services. The local government justified the absence of co-financing by pointing out that it was still possible for children to receive pre-school education by enrolling in other pre-school educational institutions in the administrative territory of the municipality. However, such a possibility must be assessed in conjunction with the right of the child to receive education in the educational institution nearest to the place of their residence (rather than any educational institution), as well as the principle of prioritising the child's rights and interests. A local government may refuse to cover the costs of a pre-school education programme at a private educational institution if the alternative they have offered to the child - to acquire pre-school education in an educational establishment in another city or parish within its administrative territory - primarily ensures the principle of the best interests of the child, as well as is useful and effective, taking into account, in particular, the child's age, distance and possibilities of commuting to/from it.

The Ombudsman made [recommendations](#) to the Limbaži municipal government regarding the necessity to adopt a regulation, which provides for the possibility to receive local government co-financing for private pre-school educational institutions or children's supervision service providers in case the local government cannot provide a child with a place in the pre-school educational institution nearest to their place of residence.

### *On attracting teachers to pre-school educational institutions*

The child's right to quality pre-primary education and to safety can be jeopardised due to a lack of teachers. The Ombudsman received information about a high turnover of teachers in a pre-school educational institution in Jūrmala in 2020, which had a negative impact on children. One group was

closed altogether due to a lack of teachers. Parents were concerned that this situation may also reoccur in the school year 2021/2022, as no competitive salary is available to attract teachers.

In order to fulfil its autonomous function in providing pre-school children with places in pre-school education institutions, the local government is not prevented from implementing support measures that contribute to the development of a network of pre-school educational institutions, including by ensuring higher remuneration for teachers than the rate of salary prescribed by the State. The Ombudsman [recommended](#) the Jūrmala City local government to assess the possibility of increasing the amount of local government funding for the remuneration of pre-school educators in order to attract teachers and increase the availability of pre-school education services.

The Jūrmala City local government [informed](#) the Ombudsman that this option will be assessed when planning the municipal budget for 2022.

## RIGHT TO EDUCATION (PRIMARY/BASIC EDUCATION)

### Introduction

The right to education enshrined in Article 112 of the Constitution is an important fundamental right of a person, especially in relation to the rights of children and the obligation to acquire primary education. Therefore, legislators need to carefully assess the proportionality of the restrictions imposed to reduce the spread of COVID-19 with the child's right to education and compulsory primary education. During the reporting period, 87 submissions (25 written and 62 oral and electronic consultations) were received regarding the right of a child to basic education, most often in relation to the child's right to education in person during the emergency situation and the inclusion of remote learning as part of in-person education in the Education Law.

### *On the provision of remote learning in child care institutions*

In February 2021, the Ombudsman conducted a survey of child care institutions on the provision of remote learning. 22 child care institutions were interviewed: 3 state social care centres, 4 private/association-founded institutions and 15 institutions founded by local governments. As of 25 February 2021, they housed 626 children - 146 in state social care institutions, 142 in private/association-founded institutions and 338 in child care institutions established by local governments.

According to the survey, children make widespread use of smartphones in the learning process. In the Ombudsman's view, this technical equipment is not suitable for comprehensive and child-friendly remote learning because, for example, it is difficult to create and edit Word, Power Point, Excel format documents on smartphones. On smartphones, it is also difficult to use all the functions and features of online platforms such as Zoom while participating in online lessons.

With regard to students in out-of-family care, the Ombudsman draws attention to Point 6 of Cabinet Regulation No 857 of 15 November 2005 on social guarantees for orphans and children left without parental care who are in out-of-family care and after the termination of out-of-family care: *"The local government, the Orphan's and Custody Court of which has taken a decision on out-of-family care of the child, shall cover the expenses related to the education and residence of the child in an educational institution."* This norm clearly indicates that the local government, the Orphan's and Custody Court of which has taken a decision on the out-of-family care of the child and the child is under guardianship, foster family or care institution, must cover all expenses related to the education of the child - both in the remote and in-person learning regime, including by providing additional necessary funds for the purchase of technical support.

The Ombudsman called on all Latvian local governments to make sure and, if necessary, take action to ensure that each student under out-of-family care (according to the learning regime) has been provided with appropriate individual technical equipment for the full conduct of remote learning both in the circumstances of the emergency and in the future.

The results of the survey and the letter to local governments are available [here](#).

### *On including the expenditure for the acquisition of general education programmes within eligible expenditure*

The Ombudsman reviewed a verification procedure on the inclusion of general education expenditures within eligible expenditures, and found a violation of legal equality in relation to the acquiring of general primary education and secondary education, as the expenses for its acquisition are not included within eligible expenses. On the other hand, expenditure on primary or secondary vocational education is listed, although both forms of education are generally free of charge in the country.

Regarding students acquiring pre-school education, the Ombudsman found disproportionate differential treatment, as currently there are around 10 000 children in Latvia who do not have access to pre-school education free of charge. Parents whose children are not provided with a place in a municipal kindergarten are forced to pay approximately EUR 480 to EUR 3 000 each year to private kindergartens, and these parents' expenses for the education of their children are not included in their eligible expenses.

The Ombudsman drew the attention of the government, arguing that although pre-school education is not mandatory (except for preparation for the acquisition of basic education from the age of five), it is one of the educational levels established in the state, covered by children's right to education laid down in Article 112 of the Constitution, as well as in the Law on the Protection of the Children's Rights and the Education Law. According to the Ombudsman's observations, national policies are not aimed at supporting families with children at an early age. The Ombudsman has repeatedly drawn attention to the unequal approach to the provision of pre-school education (conclusion on verification procedure 2021-07- 26K is available [here](#)).

The Cabinet of Ministers rejected the inclusion of expenditures for pre-school education in eligible expenditures. Justification: *"The priority of local governments should be to open new pre-school educational institutions in order to ensure that all children living in the municipality receive state-funded pre-school education. The application of eligible expenditure to pre-school education expenditure would not solve the problem by nature and - taking into account the limit of total eligible expenditure (EUR 600 per year per person from whom EUR 120 is received in the form of*

*personal income tax reimbursement), as well as the level of income of children's parents - to a sufficient extent". The reply of the Cabinet of Ministers is available [here](#).*

### *On the impact of the opinions of pedagogical medical commissions on children's right to education*

When examining a submission, the Ombudsman launched [verification procedure No 2021-37-20G](#) regarding the actions of an educational institution, as a result of which the child, who successfully passed the entrance examinations and met the admission criteria, was denied the opportunity to acquire education in a State gymnasium, because the child had previously undergone studies in a special education programme for students with learning disabilities, recommended by the municipal pedagogical medical commission.

It is within the competence of pedagogical medical commissions of local governments to provide an opinion on the most appropriate educational programme for a child with learning disabilities in grades 1-4. However providing an opinion on the most appropriate educational programme for a child with learning disabilities in grades 5-9 is within the competence of the State Pedagogical Medical Commission.

In the verification procedure, it was important to find out whether the opinion of the pedagogical medical committee of the local government on the special basic education programme was also valid for the stage from grade 5 to grade 9. In the case at hand, the Ombudsman concluded that the opinion of the pedagogical medical committee of the local government was not applicable to students of grades 5 to 9, because the provision of recommendations in relation to students of these classes is not within its competence. If the child's learning impairment is not resolved in grades 1 to 4, the child should be evaluated by the State Pedagogical Medical Commission.

The Ombudsman would like to stress that learning disorders are not in themselves indicative of a child's reduced intellectual abilities, they rather indicate that the child may experience difficulties in various educational processes due to hereditary or acquired health disorders. There is widely available research on children's development, which helps to understand various disorders related to children's development and to discover learning techniques that can help the child adapt to

society and acquire education according to their intellectual abilities, regardless of specific health or developmental disorders. These children, with timely support, can compete on an equal footing with other children at the next stages of education, and discrimination against them should not be allowed.

The Ombudsman turned to Valmiera City municipal government with a request to correct the deficiencies identified in the practice of organising the educational process in a way that violates the right of children living in its administrative territory to receive equal education according to their abilities, by March 2022. The Ombudsman also called on the Ministry of Education and Science to further work on improving the functioning of the pedagogical medical commissions, taking into account, as a priority, the best interests of the child and the right of all children to receive education in accordance with their abilities and in the vicinity of their place of residence, as well as ensuring the development of an inclusive education system in Latvia.

### **Implementation of recommendations**

Also in 2021, the Ombudsman received a submission on possible discrimination against students enrolled in minority education programmes. The applicant claimed that the learning content available and the languages used in the acquisition of the learning material included in the online remote learning platforms used in exceptional circumstances, specifically the “Your Class” platform, did not comply with regulatory acts. After examining the submission, the Ombudsman turned to the Ministry of Education and Science.

The Ombudsman concluded that in the 2020/2021 school year, the platform “Your Class” did not provide Russian language education in the minority education programme. In view of the platform’s objective of facilitating remote learning and making materials available and accessible to everyone, the Ombudsman saw unequal treatment in access to the learning content provided by the “Your Class” platform for students enrolled in minority education programmes.

The Ministry replied that it was planning on developing a number of materials, including materials for minority education programmes, and place them on the platform “Your Class”.

The Ombudsman’s letter is available [here](#).



## Opinions for the Constitutional Court

### *Ombudsman's Opinion for the Constitutional Court on case No 2021-33-0103*

In September 2021, the Constitutional Court asked the Ombudsman to provide an opinion in a case on the norms that determine that the learning process in schools may be organised remotely even after the end of the state emergency situation announced on 6 April 2021. The Ombudsman gave his opinion on the compliance of remote learning with Article 112 of the Constitution, the right to quality education within the framework of Article 112 of the Constitution and the proportionality of the contested norms with the legitimate aim of protecting public health.

In the opinion of the Ombudsman, during the COVID-19 pandemic, when restrictive measures to combat the infection were adopted, the continuation of remote learning could be considered as a means to ensure the right guaranteed by Article 112 of the Constitution to acquire basic education and secondary education free of charge, rather than as a restriction of the rights laid down in Article 112. However, it is necessary to assess the extent to which decisions that affect access to education guarantee the child's right to quality education - irrespective of whether they relate to in-person, remote or any other form of learning. The Ombudsman concluded that the restrictions introduced through an application of the contested norms, which did not reinstate overall in-person learning after the end of the emergency situation, have significantly restricted the right to basic and secondary education established in Article 112 of the Constitution and therefore are incompatible with Article 112 of the Constitution. The publisher of the norms had not provided a reasoned justification for the proportionality of such a restriction with the legitimate aim.

The Ombudsman's conclusion is available [here](#).

### Implementation of recommendations

#### *On children's rights in sports*

The Ombudsman assessed a submission regarding changes made by the Latvian Football Federation to the Rules of Procedure of the Latvian Youth Football Championship for 2021. In comparison with the rules of the previous years' championships, the rules for matches in 2021 determined that teams in the U-13 group would use the ball size No 5 (previously No 4). The submission contained references to guidelines of international football organisations, studies on the impact of ball size on future health and development of children (particularly when hitting the ball with the head), as well as the practice of other countries in selecting ball size in the U-13 age group.

The Ombudsman asked other Latvian football clubs and schools whose teams participated in the 2020 Latvian Youth Football Championship U-13 Elite Group to provide their views on the changes in the size of the ball.

Section 6(1) of the Law on the Protection of the Children's Rights states that the rights and interests of the child are to be given priority. Special care should be taken to protect the health and development of the child. Any risk to the health of the child in contrast to the benefits is to be assessed negatively. The expected achievements of sport should not be estimated higher than the foreseeable and preventable risks to the health of the child.

The Ombudsman asked the Latvian Football Federation to make changes to the rules of the Latvian Youth Football Championship and to establish that in all U-13 groups (not only in elite or development groups, as mentioned in public), football is played using balls that minimise or even exclude risks to the health of the child.

The Latvian Football Federation changed its rules of procedure and stated that, in the U-13 group, children will be able to continue playing with lighter - size 4 - balls. More information is available [here](#).

### *On safety requirements for working with screens*

Like in 2020, the Ombudsman received submissions on safety requirements for working with technology in schools in 2021.

In the case of adults, there are occupational safety and health requirements for working with screens. For preschool educational institutions, there is a time limit for the use of electronic means of communication. However, for primary and secondary education, there are no safety requirements for the use of technology or for work organisation, and there are no such time limits.

The Ombudsman repeatedly called on the Ministry of Health to develop a regulatory framework that determines safety requirements for working with technologies in educational institutions at the level of primary and secondary education.

The Ministry of Health agreed that, with the development of technology, various health risks related to the use of electronic devices are increasing, which can negatively affect children's psycho-emotional health, quality and duration of sleep, physical activity, health of the body's support and movement apparatus, vision, etc., creating various chronic diseases in the long term. However, in the opinion of the Ministry, it is not useful to develop a regulatory framework, and it rather planned on completing a set of recommendations for the safe and healthy use of modern technologies for children.

Considering that the State, by not developing a regulatory framework, has not ensured maximum protection of the health of the child, as laid down in Sections 4 and 5 of the Law on the Protection of the Children's Rights and as it follows from Article 111 of the Constitution and Section 55(8) of the Education Law, the Ombudsman [sent a letter to the Cabinet of Ministers](#). In its [reply letter](#), the Cabinet of Ministers indicated the same reasoning as previously expressed by the Ministry of Health, explaining why a regulatory framework on this issue would not be developed.

### *On the presence of the parent during a child's inpatient treatment*

The well-being and safety provided by the presence of a parent or other person close to the child are important to improve the health of each child. The right of a child to receive support from a

parent or another close person during treatment also applies during the COVID-19 pandemic, amidst the epidemiological security measures introduced in medical institutions.

In response to information about various representatives of the State LLC “Children’s Clinical University Hospital” providing parents with conflicting information on the possibility to stay with the child during inpatient treatment after a surgical operation, the Ombudsman sent a [letter](#) to the hospital requesting to provide the internal regulations, which, inter alia, lay down the possibility for the legal representative of the child to be permanently present with the child during inpatient treatment and the obligation to comply with the necessary anti-epidemic measures, accessibility to the hospital’s premises and electronically to the hospital’s website. The Ombudsman also called for these regulations to be discussed with hospital staff in order to ensure a common understanding of the hospital’s procedures for the accompanying of children.

## CHILDREN’S RIGHT TO HOUSING

### Introduction

Adequate housing is one of the conditions for ensuring the child’s right to development. Although the primary responsibility for providing a child with housing lies with their parents, the local government is also obliged by law<sup>13</sup> to provide assistance to poor families, especially large families, in search of an apartment.

During the reporting period, the Ombudsman received a number of submissions regarding housing issues - the right to receive local government assistance in finding an apartment; long waiting time to receive an offer for a local government rental apartment, once a person is registered in the assistance register; the quality of the housing offered by the local government; recognition of the child as a member of the tenant’s family, etc.

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<sup>13</sup> Section 26 of the Law on the Protection of Children’s Rights; the Law on Assistance in Solving Apartment Matters; the Law “On Social Apartments and Social Residential Houses”.

## Initiatives

On April 15, 2021, the Ombudsman participated in the conference “Availability of Housing for Families with Children” organised by the Latvian Union of Large Families’ Associations in cooperation with the Cross-Sectoral Coordination Centre Cooperation platform “Centre of Demographic Affairs”, the Ministry of Economics, the Latvian Development Finance Institution “ALTUM” and local governments.

Participants of the conference discussed issue related to access to housing, and support measures to improve access to housing for families with children. The Ombudsman [addressed](#) the participants of the conference, outlining his view on the right to housing, the needs and interests of the child in the context of the right to housing, as well as the problems identified in this area.

### *On the compatibility of the living spaces offered by local governments with the needs of families with children*

In practice, it has been observed that when families with children are provided with assistance in case of eviction, they are often offered living spaces that are not sufficiently spacious and include common use areas (toilet, bathroom, kitchen) that, moreover, are in poor technical condition. The living conditions are not only unable to guarantee children’s right to full development (right to education, including remote learning in the context of the COVID-19 pandemic; the right to play and rest; the right to privacy), but also, in certain cases, jeopardise the safety of children.

## Case analysis

Within the framework of the assistance provided by the Riga city municipal government, a family with five children was offered a living room with utility rooms for common use, in a rental house with partial amenities. The common utility rooms - kitchen, toilet, washing room - were not adjacent to the living room, but were at the end of a common corridor. The parent had to leave the children, including three minors under four years of age, in the living room without supervision,

which is unacceptable. It was not possible to bathe the children in the proposed house because there was no bath or shower in the washing room.

The Ombudsman concluded that the specific offer was not appropriate for a family with children. The local government, when performing its autonomous function in providing assistance to residents in finding an apartment, has a duty not only to ensure that the residential space to be rented is suitable for living in accordance with the criteria referred to in Section 16(3) of the Law on Assistance in Solving Apartment Matters, but also to take into account the needs of families with children and ensure that the rental offers primarily ensure the principle of the best interests of children. It is unacceptable for the local government to ignore the needs and rights of children by providing families with children with housing of low level, insufficient space and which, by virtue of its design, is not suitable for ensuring proper care and supervision by parents.

The Riga City Council was [advised](#) to amend the binding regulations<sup>14</sup> by stating that families with children who are evicted from a living space cannot be offered rental living spaces with utility rooms in common use. Riga City Council [informed](#) the Ombudsman that, as far as possible, his recommendation will be taken into account when drafting the new binding regulations.

### *On the recognition of a child as a member of the tenant's family*

The Ombudsman received a submission regarding the refusal of Riga City Council to recognise the tenant's minor child as a member of the tenant's family and to include the child with this status in the lease contract for the living space. The refusal was based on paragraph 17 of the Riga City Council Binding Regulation No 153 of 9 June 2015 on the procedure for registration and provision of assistance in solving apartment matters, which does not provide for the possibility of including the child in the lease agreement as a member of the tenant's family.

The Ombudsman found that the lack of possibility to recognise a child as a member of the family of a tenant, who is the parent of the child, laid down in the binding regulations, was contrary to the regulation laid down in Sections 9(1) and (3) of the Law "On Residential Tenancy", Sections 14(1)

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<sup>14</sup> Riga City Council Binding Regulation No 153 "On Procedures for Registration and Provision of Assistance in Solving Apartment Matters", 9 June 2015.

and (2) of the Residential Tenancy Law<sup>15</sup> and the principle of prioritising the rights and interests of the child. Moreover, the Riga City Council, by imposing this restriction in their binding regulations, has exceeded the scope of the legal delegation given to it.

The Ombudsman [invited](#) the Riga City Council to correct the identified shortcomings by 10 February 2022, by making amendments to the binding regulations and ensuring practice in accordance with the Residential Tenancy Law, when making decisions on the status of a tenant's family member.

### *On the extension of rental agreements of residential premises for children left without parental care*

Taking into account that both the Ministry of Economics, the Ministry of Welfare and the Ministry of Environmental Protection and Regional Development interpret Section 14(4) of the Law on Assistance in Solving Apartment Matters as the establishment of a temporary lease contract of a residential space until the person reaches the age of 24 years, the Ombudsman appealed to the Parliament asking them to assess the necessity of amendments to the relevant legal norm in such a way that, in the future, the legal norm would be clear and unambiguous to those implementing it.

When examining the issue in the responsible committee of the Parliament, Members of the Parliament pointed out that the aim of the norm is not to unjustifiably target children who are left without parental care. Moreover, the norm does not prevent a local government from continuing to rent out a living space to a person even after reaching the age of 24. At the same time, it was acknowledged that the norm was nevertheless controversial and should be amended by clarifying the word 'provision' or replacing it, for example, with the words 'applying or registering', and that the wording of the article should be drafted in accordance with the intention of the legislature.

On the [initiative](#) of the Ombudsman, by [amendments](#) of 8 December 2021, Section 14(4) of the Law on Assistance in Solving Apartment Matters has been amended, stating that a child left without

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<sup>15</sup> The new Residential Tenancy Law entered into force on 1 May 2021 and consequently the law "On Residential Tenancy" ceased to be in force.

parental care is entitled to request assistance (renting of a residential space) until no later than reaching the age of 24.

## RIGHT OF FAMILIES WITH CHILDREN TO SOCIAL BENEFITS

### Introduction

In the field of social benefits for families with children, most submissions - 63 (11 written and 52 consultations) - were received on the entitlement to State Family Allowance. The State Family Allowance is a universal benefit granted – without an assessment of their material status - to persons raising a child between the ages of 1 and 15 (as of 2022, 1 to 16 years) or 20 years if the child is undergoing general education. In 2021, the government decided to grant a lump sum of EUR 500 per child to all beneficiaries in order to mitigate the effects of the emergency situation. This raised the issue of entitlement to this state benefit.

Historically, since the introduction of the State Family Allowance in 1991, it has grown slowly but constantly. It is therefore understandable that families for whom the reform of the State Family Allowance results in a reduction in the amount of the benefit as of 1 January 2022, are dissatisfied (the new order determining the “number of children” excludes adult children who are no longer under parent care). In the Ombudsman’s opinion, the amount that the families have lost as a result of the reduction in allowance due to the reform, will be compensated by the grant provided for large families with children undergoing studies.

The Ombudsman’s opinion is available [here](#) and [here](#).

### Initiatives

#### *On the right to an allowance during a child’s academic leave*

When assessing submissions from private individuals, the Ombudsman concluded that, as regards the payment of State Family Allowance, families whose child is studying in a vocational education institution are in a less favourable situation than families whose child is studying in a general educational institution. If a child who is studying in a general educational institution is unable to



attend an educational institution for more than a month due to their state of health, the studies are continued at their the house and one of the parents continues to receive family state benefit because the child is studying. On the other hand, if a child who is studying in a vocational education institution is unable to attend an educational institution for more than one month due to their state of health, the possibility to organise studies at home is not provided for by laws and regulations. The child must take an academic leave, on the basis of the opinion of the general practitioner. The parent loses entitlement to Family State Allowance during the period of the child's academic leave because the child is not undergoing studies.

The Constitutional Court has recognised that the purpose of the Family State Allowance is to provide regular support to families, which have incurred additional expenses due to raising a child.<sup>16</sup>

According to the Ombudsman, all families with children who have reached the age of 15 and are unable to attend an educational establishment due to their state of health are in the same comparable circumstances as regards the need to receive state aid. If the child is on academic leave because of their state of health, the child continues to be dependent on the parents and is unable to provide for themselves due to objective circumstances. Parents' expenses related to raising a child are not reduced. There is therefore no objective reason to suspend payment of the Family State Allowance, and entitlement to the allowance should be maintained during the period of the child's academic leave.

[The Ombudsman called on the Ministry of Welfare](#) to assess the need for amendments to Section 6(2)(2) of the Law on State Social Allowances. The Ministry of Welfare replied that, in order not to worsen the material situation of families during the child's academic leave, it is necessary to make amendments to the Law on State Social Allowances, stating that families are entitled to receive Family State Allowance also for children who, for justified reasons, temporarily cannot attend an educational institution, but legal relations with the educational institution have not been severed. The Ministry of Welfare prepared amendments to Section 6(2)(2) of the Law on State Social Allowances, and its proposal is included in the draft law "Amendments to the Law on State Social Allowances" (No 1215/13).

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<sup>16</sup> Constitutional Court judgement of 4 November 2005 in case No 2005-09-01, Point 9.2.

### *On informing Roma families*

In order for Roma families with children to receive state support due to them, the Ombudsman urged the Latvian Roma Association to inform the Roma community and non-governmental organisations about the possibility for parents to receive EUR 500 per child and to help parents prepare an application for Family State Allowance if it has not already been requested.

### *On the right of the parent, on the basis of whose application the child receives State-funded services in a long-term care and rehabilitation institution, to a lump-sum State benefit*

The Ombudsman received a submission from the head of a branch of a state social care centre regarding the legal basis for the receipt of a lump-sum State benefit for children who are in a care institution on the basis of an application from their parents, and the varied practices of Orphan's and Custody Courts in solving the issue of parental custody rights and receiving lump-sum State benefit for children who receive a State service in a social care institution. The Ombudsman made recommendations to the Ministry of Welfare. First, to provide guidance to childcare facilities on how to use one-time State benefits in accordance with the child's needs; second, to assess the need to amend the Law on the Suppression of Consequences of the Spread of COVID-19 Infection, in regard to the payment of lump-sum State benefit, giving the Orphan's and Custody Court the right to decide on the beneficiary of the benefit for the child placed in an institution if the parent does not apply for State benefits. The State Inspectorate for Protection of Children's Rights was invited to provide methodological guidance to the Orphan's and Custody Courts in order to ensure uniform practice in the application of the legal regulation on child care institutions on the basis of a parent's application, as well as to provide recommendations to the Orphan's and Custody Courts, drawing attention to the fact that, when examining the observance of children's rights and interests in child care institutions, it must be ascertained whether the care institution has used State benefits to ensure the needs of the child.

### *On the right to extended entitlement to Family State Allowance*

When analysing a submission, the Ombudsman found unequal treatment of same-sex couples, who raise children of both partners together, compared to married persons who raise children who are not the joint children of both spouses.

In particular, same-sex partner families cannot benefit from the extended entitlement to Family State Allowance for all children being raised together in a family, in accordance with the arrangements which entered into force on 1 January 2022 and which can be used by spouses, resulting in a negative impact on the budgets of these families. The Ombudsman submitted a proposal for a draft law “Amendments to the Law on State Social Allowances” (No 1215/13), setting out that the extended entitlement for one spouse to receive the Family State Allowance for all children to be raised jointly in the family, provided for in Section 16(1) of the Law, would be extended not only to spouses.

It proposed to establish: *“Granting of the same rights that spouses have been granted to persons whose relationship is recognised as a family relationship by a court judgment.”* This would apply to persons of the same sex whose marriage is prohibited but the State has not laid down any other way of legally recognising the family relationship. The Ombudsman 's proposal was included in the draft law, but was not supported at the meeting of the Parliamentary Committee on Social and Employment Matters on 18 January 2022.

The Ombudsman’s opinion is available [here](#). The reply of the Ministry of Welfare is available [here](#).

### *On the right of children who, on the basis of an application by parents receive State-funded services in a long-term care and rehabilitation institution, to receive an allowance*

Section 29(2)(3) of the Law on Social Services and Social Assistance provides that a child from the age of seven, as a client of a long-term social care and social rehabilitation institution, has the right to a certain amount of money for personal expenses: 15 per cent of the amount of the State social security benefit (in 2021, it was EUR 16.35).

The legal framework provides that all children from the age of seven in long-term social care and social rehabilitation institutions have the same right to receive a specified amount of money for personal expenses. According to the Ombudsman, although all children in care institutions are clients of the institution, children placed there on the basis of an application from parents and children left without parental care placed in a care institution are not in the same comparable circumstances. Parents, whose child receives State-funded care service on the basis of a parent's application, must continue to exercise custody rights to the extent possible outside the care service provided by the state. The child's personal expenses should be provided by parents from their own means, in accordance with the needs of their child and the capabilities of their parents.

The Ministry of Welfare was urged to initiate a discussion and assess the need to amend Section 29(2)(3) of the Law on Social Services and Social Assistance in relation to children who receive State-funded care service in a child care institution on the basis of an application from parents. The Ministry of Welfare announced that it intended to launch discussions on this issue in the fourth quarter of 2021.

## **Implementation of recommendations**

### *On equal opportunities to receive a lump-sum allowance for the birth of a child*

The Ombudsman received a submission from a resident of Roja on sub-section 5.4 of the Binding Regulation No 15/2017 of Roja municipal government "On Material Benefits in Roja District", which provided that a lump-sum benefit after declaring the place of residence of a new-born child in Roja municipality is paid to the parent of the child that has also declared their place of residence in Roja municipality, but in cases where the place of residence of the both parents of the child is declared in Roja municipality, the benefit is paid to the mother of the new-born (in case of the death of the new-born mother - the father of the children).

The Ombudsman drew the attention of the local government to the fact that the UN Convention on the Rights of the Child and the Civil Law strengthen the right of equal custody of the father and mother over the child. The restriction laid down in the binding regulations of the local government determining which parents are to be paid priority is contrary to the principle of parental equality enshrined in the UN Convention on the Rights of the Child and national legislation. In accordance with the principle of parental equality, the parents of the child agree among themselves to whom

the child allowance should be paid. Such arrangements, which provide that both parents of the child are equal in raising the child, are in the best interests of the child. In cases where the parents of the child cannot agree on this, in accordance with Section 19(2) the Law on Orphan's and Custody Courts, disputes between parents in matters of custody of the child are decided by the Orphan's and Custody Court.

In addition, sub-section 5.4 of the relevant local government binding regulations in the current version also provide for unjustified differential treatment based on the sex of the person, because if both parents are declared to the local government, only the child's mother may receive this benefit (except if the child's mother has died).

Roja municipal government took into account the Ombudsman's recommendation and made changes to its binding regulations.

## **EXERCISING ACCESS RIGHTS**

### **Introduction**

The largest number of submissions in the field of children's rights relates to difficulties in exercising access rights and enforcing court rulings in cases on access rights. 55 submissions were received regarding the execution of court rulings (13 written and 42 oral submissions during e-consultations), and 103 submissions – regarding access rights (17 written and 86 oral submissions during e-consultations). People turned to the Ombudsman regarding access rights in a total of 158 cases. By far the majority of submissions are related to the implementation of the access rights of separated parents, there are also submissions regarding contact with the child in out-of-family care and contact between siblings that live separately.

### *On ensuring access rights for children in out-of-family care*

In 2021, a problem within out-of-family care was raised: local governments do not provide sufficient support to parents with suspended custody rights, in ensuring access to children in situations where children are placed in foster families far from the parents' place of residence. It was also found that there was no contact between children from the same family living separately in out-of-family care. Deficiencies were identified in the application of legal norms on the implementation of the access rights of a child placed in a foster family and in inter-institutional cooperation.

The State Inspectorate for Protection of Children's Rights was invited to assess the need to improve the methodological materials for Orphan's and Custody Courts regarding cooperation with out-of-family care support centres in the field of foster families and specialised foster families, providing for the involvement of the social service in the cooperation between the Orphan's and Custody Court and the out-of-family care support centre.

The State Inspectorate for Protection of Children's Rights took into account the Ombudsman's recommendation.

### *On the quality of the mediation service*

Both when examining submissions of individuals and listening to parents in consultations related to child custody and access rights issues, the Ombudsman found that certified mediators, providing state-funded mediation services, do not inform parents about the possibility to continue the mediation sessions for a fee after the free sessions have ended - if the parents wish to do so and their disagreements have not been resolved. If an agreement cannot be reached in five sessions, a certificate of termination without result shall be issued.

The Ombudsman appealed to the Council of Certified Mediators asking it to:

- inform parents about the possibility to continue the mediation process for a fee after the free mediation sessions. Assess the possibility of including this information in the contract with the mediator;
- publish information about the possibility to continue mediation service for a fee after free mediation sessions on the website.

The Council of Certified Mediators implemented the Ombudsman's recommendations.

## Case analysis

### *Exercising access rights with separated parents*

When examining parents' submissions regarding the establishment and implementation of procedures for exercising access rights, the Ombudsman found violations of good governance and the right to a fair trial in the work of Orphan's and Custody Courts and courts, which directly affect the child's access rights to a parent that lives separately, as well as the possibilities of the parent to fulfil their duties and rights.

The most significant shortcomings identified in the work of the Orphan's and Custody Courts:

- the competence of the Orphan's and Custody Court in matters of custody and access rights, as laid down in laws and regulations, is not respected;
- procedural deadlines laid down in laws and regulations and deadlines set by courts for the provision of an opinion in civil matters are not complied with;
- in some cases, when delivering an opinion in civil cases, the Orphan's and Custody Court does not make sure that the solution they have recommended in the opinion for resolving the parental dispute in the best interests of the child would be enforceable if the court so decided;
- when providing an opinion to courts on custody of the child, place of residence and exercise of access rights, in cases where a dispute between parents is about a child who has half-sisters and half-brothers with whom the child lives in the same family, the provision of the

rights and interests of all children in the family (for example, the exercise of access rights) is not assessed if the children were to be separated.

In turn, the most important shortcomings in the work of courts when reviewing civil cases affecting custody and access rights are the following:

- the provisions of Section 20(3) of the Law on the Protection of Children's Rights are not complied with, and cases related to ensuring the rights and interests of the child are not examined out of turn within a reasonable deadline;
- when requesting an opinion from Orphan's and Custody Courts in civil cases, the deadlines for their provision are not reasonable, so the Orphan's and Custody Court are not able to comply with the procedures laid down in laws and regulations for the preparation of the opinion and ensuring the participation of the appropriate persons;
- in civil cases affecting the rights of the child, the procedural deadlines that are set do not allow the parties to exercise the rights and obligations laid down in the Civil Procedure Law;
- in civil cases regarding custody of a child, place of residence and exercise of access rights in cases where the parents' dispute concerns a child who has half-siblings with whom the child lives in the same family, on the basis of the principle of objective investigation, the provision of the rights and interests of all children in the family (for example, the exercise of access rights) is not assessed if the children are separated.

The Ombudsman informed the Ministry of Justice, the courts and the State Inspectorate for Protection of Children's Rights about the problems identified, and made recommendations for the application of regulatory acts.

In [verification procedure No 2021-25-5G](#), the Ministry of Justice was asked to assess the need to make amendments to laws and regulations by increasing the powers of the court in cases affecting custody and access rights of a child, for example, to oblige the parties to use certain social services, as well as to assess the necessity in cases concerning custody and access rights to determine cases where enforcement of a court decision should be envisaged in a similar way as a decision on securing a claim in accordance with Section 137(2) of the Civil Procedure Law.

In order to ensure the effective provision of the rights of the child in parental disputes, the Ministry of Welfare was asked to assess the need to establish a state-funded social service with a specific



content and provision of specialists, with the aim of improving and restoring the relationship between the child and the separated parent or to offer another effective solution to achieve the abovementioned goal.

In reply, the Ministry of Justice indicated that it is not necessary to make amendments to the Civil Procedure Law in relation to the powers of the court in cases arising from custody and access rights, establishing the right to oblige the parties to use certain social services. The Ministry of Justice considers that it is necessary to assess the need to make amendments to Cabinet Regulation No 1613 of 22 December 2009 “Procedures by Which the Necessary Assistance is Provided to a Child Who has Suffered from Illegal Activities” in order to determine that the court’s decision may also be the basis for the provision of social rehabilitation services to a child who has suffered from illegal activities.

[The Ministry of Welfare has indicated](#) that it will assess the need to make amendments to the relevant Cabinet Regulations, although the court’s decision could be the basis for the provision of social rehabilitation services to a child who has suffered from illegal activities, and will examine the issue of establishing a separate service for the implementation of the right of access with the child and the protection of children’s rights in parental disputes.

In [verification procedure No 2021-22-5G](#), a recommendation was given to the Ministry of Justice - when performing organizational management of district (city) courts and regional courts, to draw the attention of the courts to the duty to review cases related to the provision of the rights and interests of the child out of turn, in compliance with Section 20(3) of the Law on the Protection of Children’s Rights, and within reasonable deadlines. The State Inspectorate for Protection of Children’s Rights was asked to draw the attention of the Orphan’s and Custody Courts to the obligation to comply with the time limit set by the court for the provision of an opinion in civil cases, avoiding situations when the provision of an opinion is delayed for a disproportionately long time, thus hindering the work of the court.

The work on the verification procedure was continued in 2021 in order to review the information and the opinions of professionals obtained and to make recommendations to improve the legal framework and its application. When examining the submissions of parents, a further identification of problem situations in the execution of court rulings was carried out.

#### *On the adoption of rulings in a civil case sent to a regional court concerning custody and access rights*

When assessing submissions concerning custody and access rights, the Ombudsman established that, during the time when a civil case has been transferred to a regional court for examination of an ancillary complaint regarding interim regulation, the court of first instance does not progress the requests submitted by the parties, and the time period for examination of the civil case is extended.

The Ministry of Justice was asked to clarify the progress of civil cases affecting custody and access rights at the time when the civil case is transferred to the regional court for adjudication of an ancillary complaint regarding a provisional ruling. Clarification was also sought as to whether, and for what reasons, solutions could not be found using technology and judicial information systems to mitigate situations where civil proceedings are hindered for that reason. The letter can be found [here](#).

The Ministry of Justice had also taken note of situations where, in the span of one case, there are repeated requests to amend, supplement or revoke provisional decisions. Consequently, the situation arises that the court has to examine requests for provisional decisions regarding which ancillary complaints are submitted, which are also to be examined in accordance with the procedure laid down in the law, as a result of which the case cannot be reviewed on its merits for a long time. Such practice does not correspond to the rights and best interests of the child, as cases affecting the child must be dealt with out of turn and immediately, but the need to examine requests for provisional decisions and ancillary complaints about them for a prolonged period of time prevents the examination of cases.

In order to prevent the practice incompatible with the rights and best interests of the child, created by requesting reviews of provisional decisions and submitting ancillary complaints against them, the Ministry of Justice submitted proposals for the draft law “Amendments to the Civil Procedure Law” (No. 953/13) for the second reading. This included providing a clarification of Sections 238<sup>1</sup>

and 244<sup>10</sup> of the Civil Procedure Law in order to reduce the possibility of delaying proceedings, while promoting the protection of the rights of the child.

The law amending the Civil Procedure Law entered into force on 1 December 2021.

The reply of the Ministry of Justice is available [here](#).

### *On the adoption of rulings in civil cases concerning custody and access rights, sent to the regional court*

As of 25 September 2020, Cabinet Regulation No 1037 of 19 December 2006 on the operation of the Orphan's and Custody Court includes Chapter IX<sup>1</sup> "Provision of an Opinion by the Orphan's and Custody Court Upon a Request of a Court" with the aim of improving the effectiveness of the Orphan's and Custody Court's work in the protection of the legal interests of the child. Section 98<sup>2</sup> of this regulation states: *'On receipt of a request from the court, the Orphan's and Custody Court shall inform the court of the deadline within which the opinion of the court will be drawn up and shall forward that information to the party of the particular case...'*

In working meetings of the Ministry of Welfare regarding the planned amendments to Regulation No 1037, representatives of the Ombudsman's Office drew the attention of the participants of the meeting that the planned legal norm is not sufficiently clear and will create a false impression that it is the Orphan's and Custody Court that determines the deadline for the provision of an opinion to a court, and not the court or judge that determines the course of review of a civil case, setting a reasonable deadline for the provision of an opinion of the Orphan's and Custody Court.

When examining the submissions, it was established that civil cases regarding custody and access rights are reviewed for a disproportionately lengthy period of time, not complying with the provisions of the Law on the Protection of Children's Rights, and that cases affecting the rights of the child must be examined in court out of turn. Therefore, in order to improve the provision of children's rights and the observance of the right to a fair trial, the Ombudsman urged the Ministry of Justice, when performing organizational management of district (city) courts and regional courts, to draw the attention of the courts to the duty to review cases related to ensuring the rights and

interests of the child out of turn, in compliance with Section 20(3) of the Law on the Protection of Children's Rights.

The State Inspectorate for Protection of Children's Rights was asked to draw the attention of the Orphan's and Custody Courts to their obligation to comply with the deadline set by the court for the provision of an opinion in civil cases, avoiding a disproportionately long delay, thereby hindering the work of the court.

## Case analysis

### *On the evaluation of the rights of the child in civil matters*

The Ombudsman reviewed a verification procedure on violations of children's rights committed by the court and differential treatment of a person's children in a civil case, when resolving a dispute between former spouses (parents of children) regarding sharing of joint property, and found that the courts had not taken children's interests into account. In the verification procedure, it was established that, in a civil case, the district court, regional court and Supreme Court, in accordance with the principle of priority of the rights of the child, did not assess the impact of the ruling on the rights of the child to housing, ensuring a sustainable solution of the situation.

The courts were asked to assess the protection of the rights and interests of the child in future cases directly or indirectly affecting the rights of the child.

The conclusion is available [here](#).

### *On informing the social service and the participation of the Orphan's and Custody Court in court hearings*

In addition to the deficiencies in the work of the Orphan's and Custody Courts and courts in civil cases, which affect custody and access rights (see section "Exercising access rights"), it was established in [verification procedure No 2021-57- 27F](#) that the Orphan's and Custody Court had not

informed the social service about a family, in which the development and upbringing of the child was not sufficiently ensured due to disagreements or disputes between parents, and which is need of help. Moreover, the participation of the representative of the Orphan's and Custody Court in the examination of a civil case was not ensured, which was justified by a lack of employees in the Orphan's and Custody Court and the overburdening of employees. However, the court did not comply with the provisions laid down in Section 250<sup>62</sup>(5) of the Civil Procedure Law and did not send the decision on provisional protection against violence to the Orphan's and Custody Court and the social service, according to the place of residence of the child.

## RIGHTS OF CHILDREN LEFT WITHOUT PARENTAL CARE

### Initiatives

#### *On priority admission of children left without parental care and orphans to educational institutions*

When examining the submissions of guardians claiming that their ward children have not been admitted to the nearest educational institution of the place of residence, the Ombudsman found shortcomings in the legislation regarding the admission of orphans and children left without parental care in an educational institution. In particular, the Education Law lays down a special provision - Section 56(1), which provides that *"An orphan and a child left without parental care have the right to acquire education at any State or local government educational institution"*. The special provision included in the Law grants children who have lost their parents a special right to be admitted to any educational institution, because the legislator has taken into account the difficulties faced by children who have lost their parents - they are changing their place of residence. A different interpretation of that provision, which would not provide for the priority right of children left without parental care to be admitted to any State or municipal educational establishment, would run counter to its purpose. On the other hand, the binding regulations of local governments refer to the child's declared place of residence as a priority rule for the admission of a child, while there is no advantage for children left without parental care. The Ombudsman asked the Cabinet of Ministers' regulations to be supplemented with a paragraph

stating that orphans and children left without parental care should be admitted to an educational institution as a matter of priority.

In light of the Ombudsman's proposal, Cabinet Regulation No 11 of 11 January 2022 on the procedure for enrolling and discharging students from general education programmes, as well as the minimum requirements for transferring students to the next class, was supplemented by the regulation that a child left without parental care and orphans are admitted as a priority to the general primary education programme of the local government educational institution closest to their declared place of residence, if an examination is not organised and admission criteria are not laid down (sub-section 9.2), and in the general secondary education programme, if an examination is not organised and admission criteria are not laid down (sub-section 9.3). If they show the same result as another student in the enrolment criteria for admission to the general primary or general secondary education programme, they shall be admitted as a priority (sub-section 9.4).

As regards the priority of admission to a pre-school education institution, the Ombudsman's proposal was limited to enrolment in the special pre-school education group of the local government's educational institution nearest to the declared place of residence (sub-section 9.1). For orphans and children left without parental care, priority enrolment in the general pre-school education programme was not determined because, in accordance with Section 26(1) of the General Education Law, students are admitted to general pre-school educational institutions of local governments in accordance with the procedures laid down by the local government, taking into account the provisions of the Education Law and other laws. Therefore, the Ombudsman will address all local governments, calling for such a norm to be included also in the procedure for admission to pre-school educational institutions.

### *On improving the guest family regulation*

The guest family temporarily accepts a child placed in a care institution at its place of residence or establishes contact with a child while they are placed in an institution. So the guest family provides support to a child placed in an institution.

However, the Ombudsman has identified a number of cases in which the status of the guest family is not used in accordance with the objectives set by the legislator. For example, in autumn 2019, it was found that the institution had concluded agreements with a private individual to transfer children to the guest family for several months. Similar practices were also found in 2021. In the opinion of the Ombudsman, the practice that long-term social care and rehabilitation institutions place children in the care of a guest family for a long period of time, i.e., for several months, cannot be accepted.

In January 2020, the Ombudsman [urged the Ministry of Welfare](#) to improve the legal framework of the guest family institute in order to promote children's rights. In 2021, the Ministry of Welfare planned to conduct discussions with industry specialists in order to assess the legal framework of the guest families and agree on the best possible solution, ensuring that children placed in a child care institution visit guest families. Unfortunately, no progress has been made on this issue.

### *On childbirth allowance for foster families*

A verification procedure has been initiated on the basis of a submission of a crisis foster family regarding compensation of the financing used for the purchase of equipment necessary for the needs of the child up to one and a half years of age - stroller, car seat, feeding chair, etc. The foster family had submitted similar applications to the Social Affairs Committee of the Riga City Council, the State Inspectorate for Protection of Children's Rights and the Riga Orphan's and Custody Court.

In previous years, a childbirth allowance was granted to the foster family for other children placed in the foster family by a decision of the Orphan's and Custody Court. The Orphan's and Custody Court refused to take decisions on granting child birth allowance for the children placed in the foster family later on (in 2020). The purpose of the childbirth allowance is to provide essential things for the new-born. It amounts to EUR 421.17. Since 2019, the legal framework for granting the childbirth allowance has not changed.

The State Social Insurance Agency has indicated that the practice of Orphan's and Custody Courts in taking decisions on the payment of childbirth benefit to foster families is not in conformity with the Law on State Social Allowances, as foster families are entitled to receive additional material support

from local governments. The Ministry of Welfare, supporting the opinion expressed by the State Social Insurance Agency, asked the State Inspectorate for Protection of Children's Rights to develop methodological recommendations for the Orphan's and Custody Courts regarding the payment of the childbirth benefit, indicating that the foster family is not entitled to receive childbirth allowance, as it receives a lump-sum benefit for the purchase of clothing and soft equipment, which is paid by the local government. Following the methodological recommendations of the State Inspectorate for Protection of Children's Rights, the Orphan's and Custody Court changed the application of the legal framework in practice.

## Initiatives

Within the framework of a verification procedure, information on the amount of the allowance for the purchase of clothing and soft equipment specified in the binding regulations of Latvian local governments and the procedure for disbursement (see summary [here](#)) was collected. From the analysis of the information gathered, it can be concluded that the approach of local governments in determining the amount of the benefit and the arrangements for payment of this benefit is very different. Only in certain local governments the amount of the benefit is commensurate with the childbirth allowance determined by the state - EUR 421.17, but in most local governments it does not reach the amount of the childbirth allowance. An especially small allowance is set in Vecpiebalga municipality - EUR 7.11 per month; in Tukums, Balvi and Aloja, the lump-sum benefit is EUR 45, furthermore in cases when the child continues to stay in a foster family for a longer period, even for several years, the benefit is not paid repeatedly.

## Implementation of recommendations

Upon the completion of a verification procedure, the Ombudsman found: deficiencies in the regulatory framework for granting childbirth allowance to a foster family and a child placed in a crisis foster family, and application of the legal norm in practice; deficiencies in the local government allowance for the purchase of clothing and soft equipment and the application of the legal norm in practice; violation of the principle of good governance by the Ministry of Welfare, the



State Social Insurance Agency and the State Inspectorate for Protection of Children's Rights regarding the granting of childbirth allowance to a foster family and violation of the principle of good governance by the Riga City Council when rejecting the request of the foster family in full.

In order to promote respect for the rights of the child, recommendations were made to the Ministry of Welfare, the State Inspectorate for Protection of Children's Rights, the Riga City Council and the Riga Orphan's and Custody Court. The local governments which had set an intolerably low allowance for the purchase of clothing and soft equipment were asked to revise it. Local governments were urged to review the adequacy of the support provided for a foster child in meeting the needs of a child placed in a specialised foster family, including in a crisis foster family.

The opinion on verification procedure 2021-03-23DC is available [here](#).

The Ministry of Welfare, the State Inspectorate for Protection of Children's Rights, the Riga Orphan's and Custody Court, the local governments of Aloja municipality, Tukums municipality, Balvi municipality and Ludza municipality took into account the Ombudsman's recommendations.

It should be noted that the findings of the verification procedure in relation to local governments are particularly topical after administrative territorial reform, as they are developing binding regulations for the provision of support to a child placed in a foster family in the new municipalities.

### *On changes in the amount of allowance*

As of 1 January 2021, the amount of money for personal expenses, or so-called pocket money for children living in institutions was increased from 9.60 (in 2020) to EUR 16.35 (2021).

From 1 January 2021, the amount of the State social security benefit was increased from 64.03 to EUR 109, because the Constitutional Court, upon an application of the Ombudsman, declared the amount of the State social security benefit incompatible with the Constitution. The amount of money to be disbursed to a child from the age of seven for personal expenses is 15 per cent of the amount of the State social security benefit. Therefore, as the state social security benefits increases, the amount of children's allowance will increase accordingly.

The Ombudsman sent a letter to long-term social care institutions asking them to make sure that children receive pocket money in the amount specified in regulatory acts.

### *On adoption abroad*

In December 2019, the Ombudsman [addressed the Parliamentary Committee Human Rights and Public Affairs](#) calling for a uniform and unambiguously applicable regulatory framework on adoption abroad. The legislator should make a political decision whether children from Latvia can be transferred for adoption abroad. If the adoption of children abroad is recognised, the laws and regulations must lay down clear criteria, in which cases it is permissible.

On 16 December 2021, the Parliament adopted the law “Amendments to the Law on the Protection of Children’s Rights”, stating that children from Latvia may be transferred for adoption abroad and set clear criteria for the cases in which it is permissible.

### *On the payment of the survivor’s pension to children under guardianship*

In February 2020, the Ombudsman asked the Ministry of Welfare to improve the legal framework on the payment of survivor’s pension to a child under guardianship, pointing out that, in paragraph 3 of Cabinet Regulation No 1643 of 22 December 2009 on “The Procedure for Granting and Paying an Allowance for the Maintenance of a Child Under Guardianship”, the children placed in one of the forms of out-of-family care - under guardianship - were treated differently with regard to the granting of a survivor’s pension, insurance indemnity for the survivor’s loss, and the State social security benefit in the case of survivors.

The Ombudsman asked the Ministry of Welfare to assess the need to improve the legal framework by excluding the abovementioned legal provision from the normative act. In turn, the Ministry of Welfare rejected the Ombudsman’s initiative, stating that there was no need to make changes to the legal framework. However, on 14 December 2021, Cabinet Regulation No 812 “Amendments to Cabinet Regulation No 1643 of 22 December 2009 on the [procedure for granting and paying an allowance for the maintenance of a child under guardianship](#)” was adopted, deleting paragraph 3.

### *On restrictions to being appointed as guardian*

The Ombudsman was appointed as an invited person in case No 2021-05-01 “On Compliance of Section 242(5) of the Civil Law with Article 96 and Article 110 of the Constitution of the Republic of Latvia”. The contested norm was an absolute obstacle for a person who had been punished for criminal offences related to violence or threat of violence to become a guardian.

[The Ombudsman gave an opinion](#) that the contested norm does not comply with Articles 96 and 110 of the Constitution, as the legitimate aim of the restriction on fundamental rights laid down therein may be achieved by other means, less restrictive of the rights of the individual and lawful interests. The state has a duty to prevent any child from domestic violence and to prevent guardianship in case there is a risk that the child might be violently treated by the guardian. However, preventive measures must be necessary and targeted. Consequently, the fact of the criminal record in question cannot in itself constitute grounds for an absolute prohibition on a person from being a guardian, but that fact must be carefully assessed in the light of other circumstances characterising the person after the conviction has been extinguished or removed.

On 4 November 2021, the Constitutional Court adopted a judgment in case No 2021-05-01, by which it decided to recognise the contested norm as being incompatible with Article 110 of the Constitution. The Constitutional Court noted that, when assessing whether a person punished for a violent criminal offence has the right to be a guardian, the contested norm should be applied to this person individually. This means that the institution or court must carry out an individual assessment of circumstances, clarifying the possible risks to the safety of the child and directly applying the Constitution, including the precautionary principle and the principle of the best priority of the child’s best interests, as well as the conclusions included in this judgment.

#### *On the right of the child to receive technical aid*

The Ombudsman received a submission about a family who was not able to provide a specialised car seat recommended by doctors for their child, as its purchase is associated with high costs, but the car seat is not included in the list of state-paid technical aids. A specialised car seat can not only protect the child from possible injuries in the event of an accident, but also provide the child with the correct positioning of the body, which is important for their care and quality of life. The Riga Social Service refused financial support because it was not a low-income family.

According to the Ombudsman, such a technical device must be made available to the child, using State aid. The Ombudsman's [recommendations](#) on the need to include a specialised car seat in the list of State-paid technical aids were sent to the Ministry of Welfare, making amendments to Cabinet Regulation No 1474 of 15 December 2009 on technical aids. The Ombudsman also [asked](#) the Riga City Council to assess the possibilities to improve their binding regulations<sup>17</sup> by determining the right of families who raise a child with disabilities to receive financial support from the local government for the purchase of technical equipment or aids adapted to the needs of the child, that are not provided by the State, without an assessment of the material condition of the family.

#### Implementation of recommendations

The Riga City Council did not take into account the recommendation of the Ombudsman, indicating that it does not intend to extend the list of existing types of local government benefits. However, the Ministry of Welfare drafted amendments to Cabinet Regulation No 1474, adding a specialised car seat for children to the list of State-funded technical aids. The Ministry of Finance raised

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<sup>17</sup> Binding Regulation No 49 of the Riga City Council of 26 May 2021 on the recognition of households as needy or low-income and on social assistance benefits in Riga City Council.

objections against the further progress of the draft amendments, as their implementation required considerable financial resources.

The amendments drawn up by the Ministry of Welfare provided for the allocation of car seats to children aged four years and older who do not control the function of the head and torso if the parents own or possess a vehicle. The Ombudsman considers that the criteria laid down unjustifiably restrict the right of children up to the age of four to receive State-funded technical aids and discriminate against those children whose parents do not own or possess a vehicle. The Ombudsman [asked](#) the Ministry of Welfare to improve the amendments, and urged the Ministry of Finance to take into account children's rights and interests as a priority when deciding on the direction of the draft amendments and the provision of state funding for technical aids.

It should be noted that Cabinet Regulation No 878 of 21 December 2021 on technical aids regulations included a specialised car seat in the list of State-paid technical aids, maintaining the restrictions previously laid down for the receipt of technical aids in relation to the age of the child and the ownership or possession of the vehicle by the parents.

### *On the right of a child with disabilities to education*

According to the law<sup>18</sup>, every child, regardless of their state of health, has the right to receive quality education at the nearest educational establishment as well as the right to receive special State assistance and support. Children with special needs still face barriers to accessing inclusive education.

Parents turn to the Ombudsman when they receive a refusal to admit a child to a general educational institution because the school does not implement an appropriate special education programme, or because the situation with the licensing of the programme is not being properly addressed either in the educational institution or in the municipality.

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<sup>18</sup> Sections 11 and 54 of the Law on the Protection of Children's Rights, Sections 31 and 17(1) of the Education Law, Section 53 of the General Education Law, etc.

For example, a child who had been studying in the Primary School of Aizkraukle Parish in a special education programme for students with severe mental disabilities or several serious developmental disorders for the last three years, was refused to continue to acquire primary education in another general education school after completing the 4th grade. Aizkraukle Secondary School refused to admit the child because there was no licensed special education program at the school. Koknese Primary School-Development Centre was recommended to the family. The child had studied there in grade 1 until the moment when, at the request of the parent to provide the child with inclusive education and the opportunity to study closer to the place of residence, and with the involvement of the Ombudsman in 2018, the Aizkraukle municipal government found a solution to the issue of the licensing of the special educational programme and admission of the child to Primary School of Aizkraukle Parish.

The recommendation for parents to choose Koknese Primary School-Development Centre, where due to the long distance between the educational institution and the child's place of residence, the child would need to use an boarding house, did not meet the best interests of the child. In addition, three years of experience in the Primary School of Aizkraukle Parish, where the child was provided with inclusive education, shows that such an approach had a positive impact on the development of the child and it is not impossible to provide it to the child in another general educational institution.

The [recommendations](#) made by the Ombudsman helped Aizkraukle local government to solve the issue of the licensing of a special education programme in Aizkraukle Secondary School in order to ensure inclusive education for the child in the educational institution nearest to the place of residence.

### *Improvement of Assistant Service in Local Governments*

On 1 July 2021, changes<sup>19</sup> in the provision of an assistant's service in municipalities entered into force. The amount of assistant service provided for children was reduced from 160 to 80 hours per month. At the same time, two new types of additional services were introduced: a support service

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<sup>19</sup> Law of 23 November 2020 "Amendments to the Disability Law" and Cabinet Regulation No 316 of 18 May 2021 on Assistant, Companion and Care Service for Persons with Disabilities.

for children who do not require special care, but who need mobility support outside their home - 60 hours a month; and a local government-funded care service for children needing special care - up to 80 hours per month.

Organisations representing the interests of children with disabilities have pointed out that the new model of assistant service significantly worsens the situation of children who so far were using more than 80 hours of assistant services per month. These are children attending intensive medical or leisure activities or services located far away from their place of residence. It was also pointed out that the remuneration of the assistant and carer and the limited number of working hours were not advantageous for attracting service providers.

## Initiatives

In order to raise public awareness of the new content of the service, as well as to discuss the relevant problems and their solutions, the Ombudsman organised an online [discussion](#).

The Ombudsman found that one of the major problems was difficulties in finding service providers which was related to the low pay. Changes in the assistant's service pay, which entered into force on 1 July 2021 at the same time as the reduction in the number of assistants' hours, do not attract assistant service providers. The remuneration for carers and attendants is similar to that of assistants, so it will also be difficult to attract these service providers.

[The Ombudsman sent a letter](#) to the Ministry of Welfare asking them to seek solutions to promote the attractiveness of the work of the assistant, carer and attendant, by providing a motivational salary and introducing additional qualification requirements. The Ministry of Welfare was also urged to revise the recommendations to local government social services on the care service for children with disabilities from 5 to 18 years of age, informing them about the rights of the local government to establish a more flexible regulation on the organisation of the provision of care services in the binding regulations, so that the service could also be provided by the parent of the child.

The Ombudsman believes that until problems that negatively affect the recruitment of service providers (low pay, hourly limits, lack of social guarantees) are resolved at a national level, it should

be possible for the child to be provided with care services by the parent. Otherwise, the child may not be able to receive the service due to the lack of service providers.

## Implementation of recommendations

After receiving the Ombudsman's recommendations, the Ministry of Welfare reviewed the previously prepared recommendations to local government social services on care services for children with disabilities from 5 to 18 years of age and supplemented them by drawing the attention of local governments to the right to include in their binding regulations also the conditions under which the care service provider may also be one of the parents. The updated recommendations were published on the [website of the Ministry of Welfare](#). In addition, the Ministry of Welfare [informed](#) about the actions taken in order to develop standards for the assistant profession, to establish an assistant's educational programme and to provide the service by professional service providers in the future.

### *On the introduction of a care service for children with disabilities in municipalities*

With the establishment of a care service for children with severe or very severe functional impairments, Latvian local governments had to organise the provision of the new service by laying down the procedure for the provision and receipt of the service in binding regulations.

In order to promote uniform practice in the provision of care services, the Ombudsman sent a letter to all Latvian municipal governments with a request to get acquainted with the recommendations of the Ministry of Welfare for the provision of care services for children with disabilities from 5 to 18 years of age, which were supplemented according to the Ombudsman's recommendation. The Ombudsman called for a more flexible regulation on the organisation of the provision of care services in the binding regulations of the local government so that, in objectively justified situations, the care service could also be provided by one of the parents of a child with disabilities.



### *On the settlement of disputes between a child and a parent*

After assessing an individual's submission and speaking to the Orphan's and Custody Court and the State Inspectorate for the Protection of Children's Rights involved in solving the situation at hand, it was concluded that there is no common practice regarding the examination of disputes between a child and a parent in the Orphan's and Custody Court.

The regulatory acts do not specify exactly how - by adopting an administrative act or reaching an agreement between the child and the parent - a dispute between a child and a parent should be examined. Taking into account the fact that the Orphan's and Custody Court is not an institution belonging to the judicial system, but decisions taken by it are subject to judicial review (also in cases regarding disputes between a child and a parent, especially if the disagreements are regarding determination of the place of residence, education or health of the child), the Ombudsman believes that a decision of the Orphan's and Custody Court should be adopted - an administrative act, which the interested parties (both the child and parents) could appeal in the Administrative District Court. The settlement of disputes between a child and a parent cannot be considered to be a less important decision of the Orphan's and Custody Court, and as such should not be subject to judicial review, for example, in cases where disputes between the parents of the child are being examined regarding the same rights of the child.

At the same time, it is understandable that not all disputes between a child and a parent are to be assessed as significant, but they can be important for the child and could be solved in conversations between an employee of the Orphan's and Custody Court and the child and parent. However, a change of opinion of the child in favour of the views of the parents is not always considered a positive resolution of the situation in dispute, if each situation has not been sufficiently clarified and assessed in the Orphan's and Custody Court, taking into account the best interests of the child.

The State Inspectorate for the Protection of Children's Rights was invited to develop guidelines (methodological recommendations) for the Orphan's and Custody Courts for the implementation of a common practice for the resolution of disputes between a child and a parent.

### *On providing assistance to a child*

The Ombudsman received a submission from a person regarding the detention of a child in accordance with Section 59(1)(3) of the Law on the Protection of Children's Rights.

The applicant indicated that his daughter had been detained by the Riga Municipal Police, which had drawn up a record of detention of the Person, which indicated that the child had been detained in accordance with Section 59(1)(3) of the Law on the Protection of the Rights of the Child.

The Ombudsman drew the attention of the Riga Municipal Police to the fact that the protocol of detention of a child used by it in practice has not been drawn up in accordance with the legal framework. A child who is detained under Sections 59(1)(3) to (7) of that law is not subject to administrative detention, but is offered assistance. It is inappropriate to include information in the protocol on whether the child has exercised their right to legal aid or on the defence counsel invited to assist in the case, since it is the duty of police officers, first, to notify the child's legal representatives and, second, to ask for explanations from the child only when the legal representative has arrived. Similarly, the protocol used by the Riga Municipality Police lacks essential facts that would indicate that police officers are acting in accordance with Sections 59 and 60 of the Law on the Protection of Children's Rights.

The Ombudsman also applied to the State Police for information on how the State Police records the provision of assistance to the child in accordance with Sections 59(1)(3) to (7) and (2) of the Law on the Protection of Children's Rights. The Ombudsman concluded from the reply of the State Police that the procedure for drawing up a protocol on the provision of assistance to the child pursuant to Sections 59 and 60 of the Law on the Protection of Children's Rights is in accordance with the best interests of the child and the meaning of the provisions contained in the Law.

The Ombudsman invited the Riga Municipal Police to familiarise themselves with the practice of the State Police and to draw up a protocol that complies with the law. The Riga Municipal Police confirmed that the recommendations will be taken into account, including when drawing up a new document template.

### *On the extension of disability in the emergency situation*

When examining a submission regarding the extension of disability in circumstances of an emergency situation, the Ombudsman established that the term of disability had not been extended for a child born in 2011. The mother of the child, in cooperation with the general practitioner, submitted an application and the accompanying documents regarding extension of disability for her child to the State Medical Commission for the Assessment of Health Condition and Working Ability. The Commission found that the opinion of two doctors was missing for the adoption of the decision, and therefore extended the deadline for issuing the administrative act. In this situation, in the absence of documents, the child's predetermined disability was not automatically extended until the Commission's decision was taken.

Pursuant to Point 9 of Transitional Provisions of the Disability Law, if the term of validity of the administrative act previously issued by the State Commission expires during the period when an emergency situation due to the spread of COVID-19 has been declared in the country or within three months after the cancellation of the emergency situation or the expiry of the specified time period and the necessary documents for the performance of disability expert-examination have not been submitted, the term of validity of the abovementioned administrative act shall be extended for a period of up to six months, but not longer than until the issue of a new administrative act in the case of the particular person.

The Ministry of Welfare was invited to immediately eliminate the differential treatment of persons with disabilities, ensuring that, also in situations where the documents submitted by the person to the State Medical Commission for the Assessment of Health Condition and Working Ability are incomplete, the disability previously granted to the person is automatically extended.

### *About the use of mouth and nose covers for students*

In response to the submissions received, the Ombudsman assessed the proportionality of the requirement for students, including grades 1 to 4, to use mouth and nose covers during and outside the learning process.

In the opinion of the Ombudsman, the requirement for children to wear masks, including for pupils in grades 1 to 4, during and outside the learning process, is appropriate for achieving the legitimate

objective (reduction of virus spread). In the view of the Ombudsman, that requirement is proportionate in view of the benefits for society as a whole, since the harm suffered by the child has not been proven and established.

Currently, there is no scientific medical evidence that the use of mouth and nose covers affects and harms children's health, confirmed by leading paediatricians and infectologists in Latvia and the world. Studies have been carried out that reliably demonstrate that studying solely in remote learning mode will have a significant impact on children's educational outcomes in the long term. When assessing the intensity of the virus and the situation as a whole, the Ombudsman considers that, as far as possible, in-person learning should be provided, especially for younger students.

More information is available [here](#).

### *On the conduct of entrance examinations in educational institutions*

The Ombudsman received several complaints regarding the conduct of entrance examinations in educational institutions of Riga municipality. In particular, only one date was set for taking the entrance tests, which were scheduled only in person. In the opinion of the Ombudsman, the content of the complaints was also relevant to other local governments of Latvia. To this end, the Ombudsman sent a letter to all Latvian local governments.

According to the Ombudsman, an additional date should be set for all educational establishments in which in-person entrance tests are held, at which all those who were not able to take part on the date originally set, taking into account the COVID-19 restrictions, should be able to take part. Those restrictions - isolation, self-isolation, home quarantine - were imposed on COVID-19 positive persons and contact persons in the country for a long time, and educational institutions, when organising entrance tests, must provide for a procedure to ensure, subject to a non-discriminatory approach, the possibility to take the entrance examinations for all interested persons who, due to the epidemiological security measures laid down in the country, have not been able to pass the entrance examinations on the date originally laid down.

The Ombudsman invited local governments, whose educational institutions are holding entrance examinations, to provide for an additional date when the entrance tests could be taken by all those

interested persons who could not take them on the date originally determined due to the epidemiological security measures established in the country.

Riga municipality set an additional date for attending in-person examinations in its educational institutions if the person was unable to do so on the initial date, taking into account the security measures imposed by COVID-19.

### *On free meals in Rūjiena municipality*

The Rūjiena municipal government had decided to provide free lunch during the remote learning process for children of needy and large families declared in Rūjiena municipality, who are studying in a general educational institution in Rūjiena municipality, who have been granted free lunch by decision of the Social Service of the Rūjiena municipality, and who are undergoing remote learning due to the state of emergency. The free lunch was not intended to be provided to children of large families who are studying in educational establishments established by other municipalities.

Recommendations were given to the Rūjiena municipal government:

- to prevent differences in treatment of children of the most vulnerable groups by providing free lunches and lunch allowances, regardless of the educational establishment the child is enrolled in;
- to examine the possibility of providing support for the provision of free lunch for children of low-income families;
- to publish current information on the support provided by the council in the circumstances of the state-declared emergency situation, the work of the council institutions and the availability of services for the provision of services on the local government website, thereby improving communication with the residents of the district.

The Rūjiena municipal government took into account the Ombudsman's recommendations and eliminated differential treatment of children of the most vulnerable groups of the population, and they have taken note of the recommendation on providing free lunch for children of low-income families.

### *On in-person learning*

In 2021, the Ombudsman received submissions from several parents on the organisation of remote learning during the pandemic caused by the COVID-19 infection.

The right to education is a fundamental human right, especially with regard to children's right and the obligation to obtain primary education. Therefore, legislators need to carefully assess the proportionality of the restrictions imposed to reduce the spread of COVID-19 with the child's right to education and compulsory primary education. The volume of evidence-based research on the specific characteristics of COVID-19 infection and the risks of spreading infection, as well as on the direct and indirect consequences of the restrictions introduced on the well-being of children and society, is increasing.

Schools should be open to in-person learning following epidemiological security measures identified by health experts in educational establishments. Experience in several countries already shows that in-person learning can be successful without significantly affecting the spread of COVID-19 infection.

For more information on the Ombudsman's opinion, see [here](#) and [here](#).

### *On the right of children and families to attend events*

The Ombudsman received complaints from citizens about the possible discriminatory nature of the safety measures to limit the spread of COVID-19 infection against children who have not yet reached the vaccination age. In the opinion of the Ombudsman, there is no sufficient explanation for such precautionary security measure in the annotation of the Cabinet of Ministers regulations. The Ombudsman therefore asked the Ministry of Health to provide clarification on the objective justification from the epidemiological security point of view for preventing children under the age of 12 (with the exception of children having recovered from the COVID-19 virus within the last six months) from attending events or receiving services organised in the first safety level.

The Ombudsman received a letter of reply from the Ministry of Health on the right of children and families to attend public events together. According to the Ministry, in relation to attending public

events, no exceptions for children under 12 years of age whose parents are fully vaccinated or recovered could be supported at that time. Families with children who have not yet reached the age of vaccination can take part in so-called semi-safe events, which are acceptable, subject to a number of epidemiological safety requirements (e.g. use of face masks, social distancing, limit on the number of participants, etc.).

For more information on the topic, see [here](#) and [here](#).

### *On the right of children to receive education without a vaccination certificate*

The Ombudsman received complaints from several students of the Maritime School of the Latvian Maritime Academy that the educational institution requires students undergoing secondary vocational education to present an interoperable COVID-19 vaccination or recovery certificate if they wish to continue the educational process.

The Ombudsman contacted the Maritime School with a request for clarification, taking into account that in accordance with the Cabinet of Ministers regulations, the educational process at the level of secondary education, including vocational education programmes, is ensured in person, providing a routine screening test for learners, without imposing a mandatory requirement to present an interoperable COVID-19 vaccination or recovery certificate.

The Ombudsman received a reply from the Latvian Maritime Academy in which it informed that the Authority had issued an order that from 10 October 2021 the implementation of the training programme was carried out with an interoperable vaccination or recovery certificate. The Ombudsman asked the State Service of Education Quality to assess whether the order of the Latvian Maritime Academy was legal in relation to students who receive secondary vocational education at the Maritime School and whether the right of students to education was not violated.

[The State Service of Education Quality found](#) that the educational institution violated the rights of students who receive secondary vocational education in Maritime School. At present, the infringement of rights has been remedied.

### *On the right of large families to receive public catering services*

The Ombudsman received a submission requesting clarification of the discriminatory restriction on large families, which stipulated that a maximum of four clients can sit at one table and be provided catering services.

The Ombudsman requested the Ministry of Health to remedy this discrimination, pointing out that the restriction on one family to receive catering services at the same table does not affect the gathering of that family in public places, as the family may sit at different tables. However, the situation where a family from one household is placed at different tables directly increases the risks of the spread of COVID-19 infection, rather than reduces it as the family will occupy more space in the premises. The Ombudsman drew the Ministry's attention to the fact that the justification for the restriction, that it would be difficult for service providers to identify family relationships, is not objective for large families - Honorary Family Cards, in which all family members are clearly indicated, have been successfully operating in the country for several years and are issued to each family member.

The Ombudsman called on the Ministry of Health to propose amendments to the restrictions and to ensure that large families receiving services during an emergency are not unduly discriminated against in relation to families with fewer children. The Ombudsperson's proposal was not supported by the Ministry of Health, but the government amended the specific limit to include four adults and up to six children at the same table.



# CULTURAL RIGHTS

## Introduction

In the field of cultural rights, the Ombudsman's attention was brought to an art piece created by artist Kristians Brekte – a mural on the building of Riga Secondary School No 40 “Dedicated to Skulme” - which was hotly debated in the public sphere. The Ombudsman reviewed a submission on a signature collection campaign launched in the participatory portal *Mana Balss (My Voice)*, the aim of which was to remove the mural. He gave an opinion on its compliance with the requirements of the laws and regulations in the field of protection of children's rights (no violations were detected).

In order to raise public awareness of freedom of artistic expression, the Ombudsman held a discussion on this topic on International Human Rights Day.

## Initiatives

During the reporting period, the Ombudsman organised a discussion “Art - freedom or the right to shock?” (*the recording is available [here](#)*), which was dedicated to freedom of artists' creative expression and the public's readiness to accept various forms and expressions of art. The discussion took place on the International Human Rights Day, thus emphasising the importance of cultural rights. The need to draw the Ombudsman's attention to the field of cultural rights law was also highlighted by public discussion about the work of K Brekte – the mural that was placed on the wall of the school.

During the discussion, the practice of international and regional judicial institutions, including the European Court of Human Rights, as well as the practice of the Latvian courts was examined; the issue of the link between freedom of artistic expression and freedom of expression and the permissibility of restricting the freedom of artistic expression was raised.

The discussion was attended by lawyers, art and psychology experts and sociologists who presented their views of artists' freedom, the impact of art on society, including the role of art in the mental development of children, as well as the public's readiness to accept provocative art.

## Case analysis

The Ombudsman reviewed the submission on the signature collection campaign launched in the participatory portal *Mana Balss*, with the aim to remove the ambiguous and erotic mural “Dedicated to Skulme” together with the neon inscription “We are like earthworms that must loosen soil” on the building of Riga Secondary School No 40.

The Ombudsman did not see a threat to the mental development of children in the work of K Brekte as a whole or in any of its elements. In the opinion of the Ombudsman, none of the aspects listed in the Law on the Protection of the Children's Rights had been promoted. Children’s lack of understanding of the drawing as a whole or its individual elements or the inability to perceive the motivation for its creation and the associative connection of the performance is not a sufficient reason to paint over the mural on the school wall.

The Ombudsman’s opinion is available [here](#).

*For information on the accessibility of the environment at venues for cultural events and services, see the chapter on “Rights of People with Disabilities”.*

# FREEDOM OF EXPRESSION

## Introduction

In 2021, 28 submissions were received on various issues related to freedom of expression: freedom to express opinions, to receive and distribute information freely, freedom of the press, hate speech. 24 oral and electronic consultations were also provided on these topics.

In 2021, the issue of individuals' responsibility for spreading disinformation, in particular in the context of COVID-19, remained relevant. Thus, in an opinion given to public authorities, the Ombudsman stressed that large-scale spread of disinformation potentially poses a threat to the human rights of others, specifically right to public safety and health. Regular and targeted action to spread disinformation for economic and political purposes increases the wider impact of statements made by individuals.

Like in 2020, the Ombudsman received several submissions on hate speech during the reporting period. Hate speech was used against persons of different colours and ethnic backgrounds, as well as sexual minorities. Issues related to hate speech and disinformation were discussed in several parliamentary committee sessions. The topic of hate speech was also raised by various media, asking the Ombudsman's opinion on both current events and the definition of hate speech. The Ombudsman observed that many people, even journalists, do not have a clear understanding of the concept of hate speech. In many cases, it was confused with defamation of honour and dignity.

At the beginning of the year, the National Electronic Mass Media Council prohibited the retransmission and distribution of the programme "Rossija RTR" in the territory of Latvia for a period of one year, in connection to significant violations of the Electronic Mass Media Law. It also decided to exclude 16 other TV programmes from broadcasting, as the Council did not have information about the representative for the distribution of these programmes. The decisions could be appealed to the courts. Due to these decisions made by the National Electronic Mass Media Council, a large number of individuals approached the Ombudsman, expressing dissatisfaction that they are no longer able to watch their favourite programmes.

### *Application and development of Section 150 of the Criminal Law*

During the reporting period, the Association of LGBT and their friends “Mozaika” raised the topic of hate crime and hate speech, asking the Ombudsman’s opinion on the application of Article 150 of the Criminal Law. The Ombudsman stressed that it is possible to promote a more active application of criminal law in practice, to establish an effective law enforcement mechanism and to take preventive measures to prevent the spread of hate crime and hate speech. It was also mentioned that, already in 2019, the Ombudsman had organised a discussion on the possible exclusion of the phrase “substantial harm” from Section 150 of the Criminal Law and that discussions on the wording and application of the article should continue.

Representatives of the Ombudsman’s Office met with members of parliament and participated in the meetings of the Legal Affairs Committee of the Parliament, discussing possible proposals for the wording of Section 150 of the Criminal Law that would allow to expand the potential of the state to combat hate crimes against various social groups. Representatives of the Ombudsman’s Office expressed their support for the proposal to abandon the qualifying feature “substantial harm”. In turn, the legislator decided to supplement the list of aggravating circumstances provided in Section 48(1)(14) of the Criminal Law by adding action due to social hatred.

### *On promoting tolerance in society*

Representatives of the Ombudsman participated in the meeting of the Parliamentary Committee on Citizenship, Migration and Social Cohesion, where the issue of promotion of tolerance in society was raised. At the meeting, representatives of the Ombudsman’s Office expressed their views on intolerance in society, hate crimes and their causes, as well as possible solutions to promote tolerance.

### *Discussions in the Parliament on possible administrative liability for public calls to commit administrative violations and for the dissemination of fake news*

During the reporting period, a representative of the Ombudsman's Office participated in meetings of the Criminal Law Policy Subcommittee of the Parliamentary Committee on Legal Affairs on a possible regulation in relation to fake news and public calls not to follow the law. The Ombudsman's representative pointed out that liability could be enforced only if substantial harm to public interest was caused.

### *Participation in a discussion organised by the Society Integration Foundation*

On 21 June 2021, representatives of the Ombudsman participated in a discussion organised by the Society Integration Foundation "How Do We Form Our Perceptions of Persons requesting International Protection in Latvia?", where participants evaluated the prevalence of hate speech in the internet environment.

More information on the discussion can be found [here](#).

## **Case analysis**

### *Hate speech against different groups of society*

During the reporting period, complaints were received regarding both the information published in private social media accounts of individuals and media statements on topics such as the protection of the rights of sexual minorities and hate speech based on race or ethnicity. A submission was also received on hate speech against Christians, which was made after the tragic incident in Tukums (a man suffered significant burns during a fire and later died. Initially, allegations were made in the public space that it had been a homophobic attack).

The Ombudsman stressed that public discussion does not prohibit a sharp criticism of the ruling circles and opinion leaders who may have an impact (including a negative one) on social attitudes, but that such a discussion requires a sufficient factual basis.

### *“LGBT-Free Zone” stickers in public places in Riga*

“Mozaīka” contacted the Ombudsman, drawing attention to the distribution of stickers (“LGBT-Free Zone”) in Riga. The Ombudsman assessed the distribution of stickers in the context of Article 100 of the Constitution, indicating that statements of this kind have certain consequences for society and may affect peaceful coexistence of different groups of society. It was concluded that these stickers violate the limits of freedom of speech and expression, which are enshrined in Article 100 of the Constitution.

### *Abusive treatment of non-vaccinated persons*

The Ombudsman received emails from several individuals about harassment in the media and public space towards those who chose to opt out of vaccination against COVID-19. These e-mails showed that there was a tension in society between the supporters of vaccination and its opponents. In general, such an exchange of views is part of the right to freedom of expression, but in some cases it may disproportionately infringe the rights of others. Every resident of Latvia, including officials, is urged to treat everyone respectfully, even if their opinion is different.

### *Defamation of honour and dignity of officials*

The Ombudsman received a letter from the Orphan’s and Custody Court on protection of honour and dignity of officials in cases when communication of private individuals with employees is cynical and aggressive. The Ombudsman assessed the above situation in accordance with the rights guaranteed by Articles 95, 96, 100 and 104 of the Constitution. It was noted that the level of protection of the privacy of officials is not equivalent to the level of protection of the rights of individuals.

## *Disinformation*

A number of journalists approached the Ombudsman, pointing towards unacceptable behaviour of an individual, threats and unwanted aggressive communication, even physical harassment related to the professional activities of journalists whose job included refuting various forms of disinformation about the COVID-19 pandemic. The Ombudsman stressed that this type of action by private individuals is not covered by the right to freedom of expression, and expressed the view that impunity in relation to individuals who violate laws and regulations and attempt to intimidate journalists is not permissible and may have a deterrent effect on freedom of expression.

## *Opinions for law enforcement authorities*

During the reporting period, upon their request, the Ombudsman provided a number of conclusions to law enforcement authorities on particularly offensive statements by individuals on the Internet, assessing them in the framework of freedom of expression. Most conclusions were related to statements containing signs of hate speech against people of a particular nationality.

In one of those conclusions, the Ombudsman found that, although a criminal case was initiated due to statements made by a person about people of a particular nationality, the person's comments also contained signs of hate speech against the LGBT community. This was brought to the attention of the law enforcement authority. Conclusions were also issued on internet comments that glorified violence and military aggression, even calling for an armed popular uprising.

It can be concluded that, in line with the European Court of Human Rights' approach, expressions that explicitly call for hatred, violence (e.g. denial of the Holocaust, glorification of violence) are not protected by the right to freedom of expression enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms. Accordingly, such comments do not form part of the right to freedom of expression enshrined in Article 100 of the Constitution.

### *Opinion for the Constitutional Court*

The Ombudsman gave an opinion in case No 2021-34-01 of the Constitutional Court on compliance of Section 82(1) of the Criminal Law (the edition in force from 1 April 2013 until 10 May 2016) with Article 1, the second sentence of Article 92 and the first sentence of Article 100 of the Constitution.

The Ombudsman's opinion is available [here](#).



# RIGHT TO PROPERTY

## Introduction

In relation to the right to property, residents mostly contacted the Ombudsman in cases of individual violations, such as regarding the boundaries of property, historical injustice in the recovery of property, the actions of the building authority, the State Land Service and the State Revenue Service, as well as tax issues, in particular regarding the calculation and application of personal income tax and real estate tax.

A large part of the submissions regarding possible violations of property rights concerned the field of private law, therefore the Ombudsman could not assess these situations in substance, however, he could make a recommendation for a possible solution to the problem situation. It could be observed that, in most cases, a lack of knowledge of the law and delays or other irregular actions have led to a loss of property or funds. It is therefore important for citizens to be aware that their own active and timely action, possibly involving legal counsel, can contribute to a successful resolution of the situation.

A significant number of residents complained about the behaviour of residential house administrators. However, the Ombudsman is unable to intervene in such disputes. In general, the process of managing multi-apartment residential houses is difficult to regulate, because it will not ever seem fair to each and every resident of the house, as the house administrator takes into account the decision of the community of apartment owners, rather than the wishes of each individual apartment owner. It is also important for apartment owners to be aware that the condition of their dwelling will depend only on their own active involvement, interests and participation in decision-making.

Like every year, during the autumn and winter period, residents were contacting the Ombudsman regarding the maintenance of territories for public use adjacent to immovable properties, considering it to be a disproportionate burden. It should be recognised that the abovementioned obligation has already been assessed by the Constitutional Court several times, recognising it as legal and correct, however, the local government may not impose the complete fulfilment of its autonomous function on owners. This means that it must play a part in the exercise of the relevant

function, and the Ombudsman has initiated an verification procedure on how and whether the local governments ensure their participation.

During the reporting period, the Ombudsman was actively involved in the work of the legislator regarding the shortcomings in the protection mechanism for people who have acquired property in good faith during criminal proceedings, also providing proposals on possible solutions. Admittedly, the Ombudsman had previously informed the Ministry of Justice about the problems identified, however, he was not heard until the issue had resonated in the wider public.

Despite a number of previous conclusions published, the Ombudsman repeatedly observed an inability of the State administration to cooperate in taking control over property under State jurisdiction and covering the related maintenance costs, as a result of which the rights of private individuals, most often - owners of other apartment buildings - were affected.

The Ombudsman welcomes that, after more than ten years of objections, the legislator was able to adopt a law on eliminating forced joint property in privatised residential houses.

### Submission statistics

Expropriation of property	2
Limitation of the right to property	31
Protection of the right to property when the right is restricted by another person	5
Right to property. Other	54
<b>Total</b>	<b>92</b>

### Initiatives

#### *On the protection of acquirers of property in good faith during criminal proceedings*

The Ombudsman gave an opinion to the Parliamentary Committee on Legal Affairs on the shortcomings in the protection of people who acquire property in good faith during criminal

proceedings, indicating possible solutions and further emphasising that there is no strict preventive law enforcement system in Latvia and that state control over real estate transactions is not effective. As a result, the Parliament adopted amendments to Section 360 of the Criminal Procedure Law, providing that if a criminally acquired property is an immovable property that escheats to the State, it shall be left in the ownership of a third person who acquired such property in good faith and its ownership rights have been corroborated in a public register.

The Ombudsman's opinion is available [here](#).

## Case analysis

### *On the maintenance of territories for public use adjacent to immovable properties*

The Ombudsman concluded that the obligation imposed by the Ventspils City municipal government<sup>20</sup> binding regulations to maintain a territory for public use adjacent to an immovable property, which is twice as large as the person's immovable property itself, is disproportionate. Following the Ombudsman's recommendation, Ventspils City municipal government adopted amendments to the binding regulations, providing for additional relief in such situations.

The Ombudsman's conclusion is available [here](#).

### *On the amount of financial collateral for the permit to carry out waste management activities for the recycling or recovery of end-of-life vehicles*

The regulation on permits for waste management activities, which provides for the recycling or recovery of end-of-life vehicles, the performers of these activities must submit a financial collateral of EUR 100 000 to the State Environmental Service. The Ombudsman found that the abovementioned norms restrict the right of persons to property and do not achieve the two objectives set: 1) in the environmental field - to ensure the reuse and recovery of spare parts of

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<sup>20</sup> The name of the municipality before the administrative territorial reform.

end-of-life vehicles, 2) to ensure, in a proportionate manner, the right of a person to own property. The Ombudsman pointed out that the State had an obligation to ensure the achievement of both of these objectives in equally good quality, and found that the Ministry of Environmental Protection and Regional Development had not drawn up regulations within the deadline set by the legislator, thus allowing a violation of the principle of good governance.

It should be noted that government regulations prevent interference with property rights by differentiating the amount of financial collateral according to the type and extent of waste treatment.

The Ombudsman's conclusion is available [here](#).

### *On the failure of the authorities to act in relation to heirless property in jurisdiction of the State*

Already in 2013 and again in 2017, the Ombudsman had pointed out in several conclusions that it is the responsibility of the Republic of Latvia to pay for the costs of utility payments and management services of heirless property in jurisdiction of the State from the moment the property is recognised as being under the jurisdiction of the State, therefore the obligation to pay for these services lies with those public authorities which, during the relevant period, acted on behalf of the State regarding the property in question.

The Ombudsman found that the local government could not overtake the specific property from the State for a long period of time, because the ministries could not agree which ministry should register the property on behalf of the State. This constitutes both an unjustified interference with a person's right to property and a breach of good governance. According to the Ombudsman's conclusion, the apartment property has been transferred to the local government, and it has ensured it will cover the real estate management costs incurred before the transfer of the immovable property into the ownership of the local government.

The Ombudsman's conclusion is available [here](#).

### *Restriction of property rights and failure to comply with the principle of good governance by the Gulbene municipal government*

The Ombudsman found that the Gulbene municipal government, without taking into account land register entries and other documents confirming property rights, registered a road owned by a private individual as a municipal road in the cadastral information system of the State Land Service and in the road register. The reason of such an action was the ability to receive a road maintenance grant from the state.

The Ombudsman concluded that the municipality unlawfully restricted the property rights of a private individual and called for it to rectify this violation, including by excluding the section of the road section belonging to the applicant from the State Immovable Property Cadastre, and to amend the binding regulations of the local government regarding territorial planning and use. In addition, the Ombudsman argued that the unlawful conduct of the Gulbene municipal government could have been prevented if the State Land Service, when examining the application of the municipality regarding the registration of the road in the Cadastre, had carefully assessed all the documents at its disposal (related to property rights). Instead, the institution had acted formally.

It should be noted that the municipality has since complied with the Ombudsman's recommendation.

### *On the elimination of stationary waste compactors in multi-apartment houses in Riga*

The Ombudsman found that the Riga City Council<sup>21</sup> had violated its powers by imposing an obligation on the owners of multi-apartment houses to eliminate stationary waste compactors. In particular, the municipality does not have the right to decide on matters which, under the Law on Residential Properties, are only to be decided by the community of apartment owners, via a voting procedure. The Ombudsman does not call into question the legitimacy and necessity of the objectives pursued by the municipal regulations, nor the fact that this would promote recycling of

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<sup>21</sup> The name of the municipality before the administrative territorial reform.

waste; however, such decisions cannot be taken *ultra vires*, i.e. by the institution acting outside the scope of its competence.

Such action of the local government does not comply with Articles 1 and 105 of the Constitution and with the principle of good governance enshrined in Section 10 of the State Administration Structure Law. Therefore, the Ombudsman asked the local government to exclude the specific legal norm from the binding regulations, however, the Ombudsman's recommendation has not been implemented.

The Ombudsman's conclusion is available [here](#).

## Opinions for and applications to the Constitutional Court

### *On unfair tax assessment for performers of economic activity*

In 2020, the Ombudsman called on the Parliament to eliminate the unfair provision introduced as part of the tax reform, which obliges performers of economic activity to pay personal income tax on turnover even in cases when they have worked without gaining profit. The only reason why such rules were adopted was a political agreement – to impose a higher tax burden on performers of economic activity, thus balancing out the loss in revenue for the State budget resulting from the implementation of other objectives of the tax reform. The provision was introduced without sufficient and rational considerations.

The legislator did not amend the unfair legal norm, therefore the [Ombudsman appealed to the Constitutional Court](#), which, in turn, initiated case No 2020-26-01. On 7 January 2022, the Constitutional Court [declared](#) that the restriction on the right to property resulting from the respective legal norm was not in compliance with the Constitution.

### *On the public status of bodies of water situated on private property*

The Ombudsman [gave an opinion to the Constitutional Court in case No 2020-63-01](#) “On the Compliance of Section 1(34) of Annex 1 (to Article 1102) “List of Public Lakes and Rivers” to the Civil

Law with Articles 1 and 105 of the Constitution of the Republic of Latvia”. In the opinion provided, the Ombudsman pointed out that the term ‘public waters’ is not synonymous with the concept of ‘public property’ and is expressly mentioned in Article 1104 of the Civil Law. The Ombudsman argued that, in order for the State to gain ownership rights to a body of water, it was not enough to include the relevant body of water in Annex I to the Civil Law. Rather, the body of water should be alienated from the owner, reflecting this action with an entry in the Land Register - given that, in accordance with Article 994 of the Civil Law, only a person who has been registered as an owner of immovable property in the Land Register shall be recognised as such. In order to change the ownership of a body of water, the procedure laid down in Article 1103 of the Civil Code applies. The contested norm establishes a burden on the particular body of water that is compatible with Article 105 of the Constitution.

### *On the obligation for a private individual to cover the costs of moving road engineering structures*

[When providing an opinion to the Constitutional Court in case No 2020-59-01](#), the Ombudsman argued that the legal norm, which provides that the movement of the existing road engineering structures or technical means of traffic organisation upon reasonable request of an owner of immovable property shall be performed at the expense of the owner of immovable property, creates a disproportionate restriction on the right to own property of a private person. The contested norm is not necessary for the achievement of the legitimate aim of the public right to maintenance of public transport infrastructure, and there is at least one alternative solution - agreement of all parties on the allocation of costs for the movement of road engineering structures or technical means of traffic organisation, which creates a smaller restriction of the rights of a private individual, and, prima facie does not require a disproportionate investment from the State.

### *On the limitations on State aid to electricity producers*

The Ombudsman [provided an opinion to the Constitutional Court in case No 2020-52-01](#) “On the Compliance of the Second Sentence of Section 31<sup>4</sup>(1) of the Electricity Market Law with Article 1

and the First Sentence of Article 105 of the Constitution”. He found no restrictions on the right to property of applicants. Although the contested norm provides for a restriction of ownership rights as such, this norm provides, in essence, what procedures should be drawn up and adopted by the Cabinet of Ministers. The Cabinet of Ministers has not adopted the procedures for the application of the contested norm, therefore, in accordance with Paragraph 77 of Transitional Provisions of the Electricity Market Law, the existing procedures must be followed.

The Constitutional Court adopted a decision to terminate the case.

However, [when providing an opinion to the Constitutional Court in case No 2020-53-01](#), the Ombudsman recognised that the contested norms, which determine a premature termination of the disbursement of aid, create an infringement of the applicants’ property rights, which manifests as the creation of such conditions that could jeopardise the economic viability of the applicants. The contested norms are not necessary to achieve the legitimate aim of the law. It is for the legislator to provide for a mechanism that takes into account the individual situation of the beneficiaries and to provide for an appropriate and proportionate compensation mechanism for beneficiaries acting in good faith, for whom an early termination of aid would jeopardise their economic viability.

The Ombudsman recommended to refer the matter to the Court of Justice of the European Union for a preliminary ruling on the compatibility of the contested provisions with Article 6 of Directive 2018/2001 and with the objectives of Directive 2018/2001, and to seek the opinion of the European Commission on the admissibility of the inclusion of the aid received by producers prior to the introduction of the compulsory purchasing system in the overall aid period, given that this results in the shortening of the 20-year aid period for those producers who had received other types of aid.

### *On the procedure for the confiscation of criminally acquired property*

[When providing an opinion to the Constitutional Court in case No 2021-18-01](#), the Ombudsman argued that the contested norms do not restrict the property rights of the applicant (a credit institution), because the ownership rights of the funds deposited in a credit institution remain with the depositor, who, exercising their right to dispose of property, have transferred it to a credit



institution for a certain period of time, granting the institution the right to use the funds and profit from them, but only within the limits laid down in the law and in the contract. Confiscation and satisfaction of creditors' claims within the framework of liquidation proceedings of a credit institution are two different proceedings with substantially different legal bases, and the rights and obligations of the respective right-holders are not comparable.

As regards the confiscation of assets, the role of the State is fundamentally different from that of the creditor. The applicant - a credit institution - cannot be considered an acquirer of criminally acquired property in good faith, who did not know and should not have known about the criminal origin of the funds, since credit institutions are directly obliged to ascertain the origin of the client's funds and, in the event of any doubt as to the origin of the funds, to prevent the funds from entering the financial system.

*For information on the restrictions on large shopping centres in the context of COVID-19, see the chapter on "Human Rights Related to the Spread of COVID-19 Infection".*

## **Implementation of recommendations**

*For information on discriminatory legal norms in the application of real estate tax relief in Sigulda municipality, see the chapter on "Discrimination and Legal Equality".*

# RIGHT TO WORK

## Introduction

Over the reporting period, unjustified restrictions on the right to work were the most popular among citizens' complaints regarding government restrictions due to COVID-19 infection (*For more details, see the chapter on 'Human rights in Relation to the Spread of COVID-19 Infection'*).

Citizens continued to contact the Ombudsman on issues that do not fall within the Ombudsman's competence, such as incorrectly calculated or unpaid wages, overtime pay, leave, justification for suspension or dismissal, etc. In such cases, the Ombudsman could only explain the situation in theory and urge the applicant to contact the State Labour Inspectorate or court for the protection of their rights. The Ombudsman has a greater chance to assess the situation in substance if an employee has complained about employment conditions in public administration or local government.

In the context of the right to work, submissions regarding unequal and unfair treatment in the working environment, possible psychological terror by the employer and colleagues (*for additional information, see the chapter on "Discrimination and Legal Equality"*) are still received.

## Submission statistics

Right to take part in the government of the country	1
Freedom to choose an occupation	6
Right to adequate pay	32
Right to rest and leisure time	9
Right to safe and healthy working conditions	63
Freedom of trade unions	1
Right to strike	1
Right to work. Other	136
<b>Total</b>	<b>249</b>

### *On amendments to the Labour Law*

The Ombudsman opposed certain proposals for a draft law on amendments to the Labour Law, including a proposal that obliges disabled people to inform their employer about their disability before starting the position. The Ombudsman argued that such arrangements may give rise to a differential treatment, since no other group with special rights under the Labour Law is obliged to notify about their specific situation (e.g. a young child or pregnancy) when signing an employment contract.

The second proposal concerned the stationing of transport sector workers in night shifts, specifying that, in the future, a worker with a child under the age of three could be posted in a night shift without their consent. With regard to the best interests of the child, the Ombudsman pointed out that the best interests of the child are indirectly affected in this case, and that a regulation that potentially poses a threat to the safety of the child is not permissible. In the event of a clash between economic interests and the best interests of the child, the best interests of the child shall prevail.

During the meeting of the responsible committee of the Parliament, the first proposal was withdrawn, while the second proposal was unanimously voted against.

*For additional information on the impact of minimum mandatory state social insurance contributions on the employment of people with disabilities, see the chapter on the “Rights of People with Disabilities”.*

### *On protection of the legal interests of employees in the context of the enforcement of a judgment and insolvency proceedings*

In [a verification procedure](#), the Ombudsman found that after a judgment on the recovery of remuneration came into force, it was with a sworn bailiff for almost one and a half years. The sworn bailiff had not performed any enforcement activities for a whole year prior to the issue of the writ of execution to the creditor. This case highlighted significant shortcomings in the workers' rights protection mechanism. By carrying out recovery activities for longer than 12 months after the judgement has come into force, the employee (especially in cases where the debtor does not have the property on which enforcement is sought) may lose the right to receive payments from the employee claims guarantee fund due to late insolvency proceedings.

The Ombudsman asked the Ministry of Justice to consider introducing the term of general civil turnover (10 years) in the abovementioned norm or to determine that the period of time when the enforcement case is with a sworn bailiff shall not be counted within the 12-month period specified in the law, or to improve the forced recovery procedure laid down in the Civil Procedure Law.

The Ombudsman's recommendations have been [taken into account](#).

### *On the right of an employer to obtain information about the health of an employee's child*

The Ombudsman's office addressed the issue of whether the employer is entitled to contact the employee's family doctor in order to find out the state of health of the employee's child in a situation where the employee's child is often ill and the employee is, accordingly, often unavailable.

The Ombudsman drew attention to the fact that the employer does not have such a right. If the employer does not trust the incapacity (for work) notes issued by the family doctor, they have the right to submit an application to the Health Inspectorate, requesting them to assess the validity of the incapacity for work notes.

## Opinions for the Constitutional Court

### *On the restriction of an official with a special service rank to receive premium pay for work on public holidays*

The Ombudsman provided an [opinion to the Constitutional Court in case No 2021-07-01](#) on norms of the Law on Remuneration of Officials and Employees of State and Local Government Authorities that establish a restriction for an official with a special service rank to receive premium pay for work on public holidays. The Ombudsman pointed out that the contested norm unjustifiably restricts the right of officials with special service ranks to an appropriate remuneration guaranteed in Article 107 of the Constitution. However it does not violate Article 91 of the Constitution, since, given the special and important nature of the functions performed by officials of institutions within the Ministry of the Interior system and Prisons Administration, they could not be compared to employees who are employed on the basis of private contracts and other employees who perform work in accordance with the norms of the Law on Remuneration.

The Constitutional Court recognised the contested norm as being incompatible with Article 107 of the Constitution.

### *On the grade assigned to the post of director of a college*

The Ombudsman provided [an opinion to the Constitutional Court in case No 2020-66-03](#) on the requirement that the post of a director of a college may only be held by a person with the highest special service rank. The Ombudsman pointed out that persons in the public service were subject to specific restrictions of rights and duties, including the rank required for the appointment of a post. Institutions employing officials with special service ranks, by their nature, ensure important functions related to national security, public security, order and the performance of rescue operations. To this end, more extensive restrictions may be imposed on officials with special grades in order to ensure their availability and readiness for the performance of their duties. In view of the above, officials with special service ranks cannot be compared with other employees to whom the norms of the Labour Law apply. Consequently, neither infringement of Article 91 nor Article 106 of the Constitution was found.

# RIGHT TO SOCIAL SECURITY

## Introduction

When assessing submissions in the field of social security, an increasing number of submissions were found to be related to social assistance and services provided by local governments. In carrying out the assessment of the situation, the Ombudsman most often identified the problem of unclear communication, as the actions of local governments or the decisions taken by local governments were not sufficiently explained.

According to the applicants, injustice in the calculation of the old-age pension still exists, and there are calls for a need to renew pension supplements for work during the years of the Soviet occupation, and for a need to specifically recognise work in harmful conditions.

As of 2021, as a result of Constitutional Court rulings, the government significantly increased the minimum income level. However, people with low income continued to send in submissions claiming that the amount of minimum income does not allow them to enjoy a nutritious diet, purchase medicines and necessary goods.

### Submission statistics

State social insurance → pension insurance	38
State Social Insurance → Insurance against unemployment	16
State Social Insurance → disability insurance	12
National social insurance → maternity and sickness insurance	17
State social benefits	83
State social support, services	39
Social rehabilitation	1
Local government social support, services	78
Social support, others	55
<b>Total</b>	<b>339</b>

### *On the execution of constitutional court judgments in the field of welfare*

As a result of the Constitutional Court rulings, as of 2021, the government has significantly increased the minimum income levels, which in general has led to an unprecedented improvement in the field of social security. An additional EUR 95.7 million was already allocated to social security in 2021; the level of GMI, poverty and deprivation, as well as minimum pensions and state social security benefits significantly increased; a unified housing benefit has been introduced throughout the country. As a result, for example, the number of needy people alone changed from 37.5 thousand in 2020 to 64,4 thousand in 2021<sup>22</sup>. This means that a much larger number of people (who had previously been denied this opportunity) could gain access to social assistance and services from the State and local government.

However, as the Ombudsman had already previously indicated, by setting a certain amount of a benefit (pension) in the law without objective justification and with a promise to review it at least once every three years, the legislator failed to comply with the conclusions of the rulings of the Constitutional Court.

The Constitutional Court specifically emphasised that it is the legislator's duty to define the basic principles of the method for determining minimum income thresholds, which include a periodic revision of the sufficiency of minimum income thresholds, emphasising that the State's discretion when deciding on a minimum social assistance is limited. The State must duly justify its choice in determining the minimum level of social assistance and the conceptual choices made in this regard.

Currently in the [Plan for the Improvement of the Minimum Income Support System 2022-2024](#), the government has committed to improving the system of minimum income support starting from 2023: to revise the principles for determining minimum income thresholds, linking them to socio-economic indicators and strengthening it in law; to establish an annual revision of the minimum income thresholds. The Ombudsman is constantly monitoring the implementation of the government's commitment in real life.

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<sup>22</sup> Data source: "[Plan for the Improvement of the Minimum Income Support System 2022-2024](#)".

*For information on social security in the context of the COVID-19 crisis, see the chapter on “Human Rights Related to the Spread of COVID-19 Infection”.*

## Opinions for Courts

### *On state family allowance for a young person in higher education*

During the reporting period, the [Ombudsman provided an opinion](#) to the Administrative District Court in the case on compliance of Section 6(2)(2) of the Law on State Social Allowances with the principle of legal equality included in the first sentence of Article 91 of the Constitution and the right to social security included in Article 109 of the Constitution, insofar as it does not provide for granting of a family state allowance for children who are over 15 years of age, have not entered into marriage and are studying in higher education institution.

The Ombudsman argued that the regulation, which provides for the payment of family state allowance to parents until the moment the child reaches the age of 20 (if, until this age, the child continues to acquire general secondary or vocational education), was proportionate and compatible with Article 109 of the Constitution. Parents who are taking care of a child who continues to pursue basic and secondary education are not in the same comparable situation with parents who are taking care of a child who continues to study at a higher education institution, since the process of completing primary and secondary education does not provide opportunities for the child to engage in work, receive various special support mechanisms for higher education (grants, scholarships) or study loans.



# RIGHT TO HOUSING

## Introduction

During the reporting period, residents of residential apartment buildings complained most about the actions of building managers/administrators and their failure to provide a sufficient and detailed explanation of their activities, handing-out of ambiguous and incomprehensible bills, request of renovation costs, failure to explain the differences in water loss etc. In such cases, the Ombudsman can only provide an explanation of the possible conduct, but does not have the right to interfere in the relationship between the owner and building manager, as they are to be assessed as private legal relations. Residents also complained about the refusal of local governments to provide housing assistance or the quality of the housing received as part of the assistance.

At the beginning of the year, the Ombudsman received submissions from several citizens, in which they expressed outrage about the Residential Tenancy Law, which replaced the previous law in May. The Ombudsman assured them that no one would be evicted from their house, due to the new law coming into force. Eviction will still require a court judgment or will be subject uncontested compulsory enforcement of obligations – however, this will only apply to the rental contracts that are registered in the Land Register or that meet certain criteria. The law is designed to bring the rental market into order and establish a uniform procedure, namely by providing for the possibility of registering rental contracts in the Land Register. This is expected to reduce the prevalence of the “shadow economy” and make the rental market more accessible to the public. It should be borne in mind that a person’s rights and obligations must be fulfilled in good faith, thus the Ombudsman advocates a legal order that would regulate the housing sector and contribute to the development of the rental market. This is likely to happen in the long term, but a legal and clear order will benefit society as a whole.

### Submission statistics

Help in solving a housing issue → registration for assistance	8
Help in solving a housing issue → procedure for offering and renting out a living space	7
Help in solving a housing issue → quality of the housing offered	9
Help in solving a housing issue → exclusion from the assistance register	2
Help in solving a housing issue → others	8
Eviction → the legal framework for eviction	7
Eviction → enforcement of a court decision	1
Eviction → other	5
Legal relationship between the landlord and tenant → right of use a specific residential space	4
Legal relationship between the landlord and tenant → tenants of denationalised houses	2
Legal relationship between the landlord and tenant → conditions of the lease agreement	2
Legal relationship between landlord and tenant → provision of services	6
Legal relationship between landlord and tenant → other	12
Legal relationship between the owner and the building manager	24
<b>Total</b>	<b>97</b>

### Initiatives

#### *On improving access to rental housing*

Decent housing in a safe living environment is a basic human need. Given that there is much higher demand for low-cost rental housing than planned in the Recovery and Resilience Facility plan, and

in order to meet the requirements of the National Development Plan of Latvia, the Ombudsman [sent a letter](#) to the Ministry of Finance calling for more financial resources in the Recovery and Resilience Facility plan, planning a larger number of rental housing that would be available to residents with average and low income.

### *On the restoration of the tenant's right to their home*

The Ombudsman found that, in a matter relating to the restoration or restitution of tenant's rights, it was necessary to once again draw the attention of law enforcement authorities to the management task set for the State Police on 2 October 2014 (No 20/26348), which the State Police officials clearly ignored, thereby still failing to ensure effective protection of tenants and violating the tenants' right to the inviolability of their dwelling.

The Ombudsman contacted the Chief of State Police and the Prosecutor General with a request to ensure that officials of the State Police have a proper understanding of their duties in the field of protection of tenants' rights. He also asked the Minister for the Interior to consider whether, taking into account the regular complaints of residents regarding the failure to ensure the right of tenants to the inviolability of their home and the lack of understanding or ignorance of the tasks set by the management of the State Police, it would be necessary to amend the laws and regulations, thus clearly strengthening the duties of the State Police in the restitution of tenants' rights.

The officials pointed out that due to the new Residential Tenancy Law, which entered into force on 1 May 2021, the situation should improve and the State Police will update the guidelines for police officers in the enforcement of rights and obligations in cases of potential conflicts between landlords and tenants.

The Ombudsman's letter is available [here](#).

*For information on the necessary amendments to the Law on Assistance in Solving Apartment Matters in relation to children left without parental care, see the chapter on "Rights of Children and Young People".*

## RIGHT TO HEALTH PROTECTION

### Introduction

During the reporting period, citizens most often complained about national policies aimed at combating the COVID-19 pandemic; they questioned the quality and effectiveness of both vaccines against COVID-19 and face masks, even arguing that the vaccine is harmful to human health (*this is described in more detail in the chapter on “Human Rights Related to the Spread of COVID-19 Infection”*).

Relatively few complaints were received about the lack of access to other healthcare services due to COVID-19 restrictions. Citizens continued to complain about perceived mistakes in medical treatment or the attitude of medical practitioners. In some cases, systemic problems such as inaccessibility of medical services, denial of reimbursement of medicinal products or high co-payments (especially in cases of oncological illnesses) were also mentioned.

### Submission statistics

Quality of treatment	14
Availability and scope of medical services	35
Availability and confidentiality of medical information	11
Right to health protection. Other	242
Right to health protection when rights are restricted by another person	2
<b>Total</b>	<b>304</b>

### *On financial aid for the purchase of specialised nutrition*

When carrying out a study on the necessity and availability of specialised nutrition, the Ombudsman concluded that a legal mechanism should be developed which would provide for diagnostic evaluation and determine which diagnoses and preconditions should entitle a person to receive financial aid for the purchase of specialised nutrition. In the opinion of the Ombudsman, it is primarily necessary to provide support to those persons whose diagnosis and state of health make such nutrition necessary for the improvement of their health or maintenance of life functions, and to those for who the use of specialised nutrition could significantly improve the effectiveness of drug therapy, as confirmed by the opinion of the relevant doctors.

The Ombudsman asked the government to assess what measures could be taken to ensure that persons whose need for specialised nutrition for oral use is medically justified, are able to receive state aid for their purchase, if necessary. The government has promised to provide its assessment by 1 June 2022.

The Ombudsman's opinion is available [here](#).

*For information on the prioritisation of patients during an emergency, see the chapter on "Human Rights Related to the Spread of COVID-19 Infection". For information on the access to dental services for persons with compulsory measures of medical nature, see the chapter on "Rights of People with Disabilities".*

### *On deficiencies in the system of reimbursable medicinal products*

Upon a request of the Administrative District Court, the Ombudsman provided an opinion on whether a person should be reimbursed for the purchase of certain medicinal products, if favourable decisions have been made in three other identical cases.

The principle of legal equality does not give rise to a right to equal treatment where the comparable situation is unlawful. If a person has obtained unlawful advantage, then another person cannot derive from Article 91 of the Constitution the right to also obtain such unlawful benefit, because the legal system is aimed at limiting, rather than expanding, unlawful situations - even if in certain cases a person who is in a comparable situation, on the basis of the principle of legal certainty, may retain the unlawful advantage obtained<sup>23</sup>. It is therefore not apparent from the content of the principle of legal equality that equality may exist in an unlawful manner.

At the same time, the Ombudsman pointed out that healthcare in general should be considered a high-risk sector. Human beings are very complex organisms, so both the symptoms of diseases and reactions to treatment manifest differently. In such circumstances, the system of reimbursable medicinal products established in Latvia causes an infringement of Article 111 of the Constitution, as it does not provide for compensation in cases when a diagnosis has been recognised as eligible for reimbursement and the medicinal products and devices for the treatment of the relevant diagnosis have been included in the list of reimbursable medicinal products, but the doctors' council has decided that these products are not suitable for maintaining the life functions of the person - hence the person needs other medicinal products that are not reimbursable. The Ombudsman asked the court to consider the possibility of applying to the Constitutional Court, because, depending on its judgement, the matter of issuing a favourable administrative act to the applicant would be decided.

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<sup>23</sup> Levits E. *On the principle of legal equality. On equality before the law and the court, and the prohibition of discrimination. On Article 91 of the Constitution.* Latvijas Vēstnesis, 8 May 2003, No 68.

*For information on the inclusion of a ban on compulsory vaccination in the Constitution, amendments to the Law on the Management of the Spread of COVID-19 Infection, as well as the prioritisation of patients during the emergency and the distribution of the vaccination newspaper in minority languages, see the chapter on “Human Rights Related to the Spread of COVID-19 Infection”.*

# RIGHT TO A FAVOURABLE ENVIRONMENT

## Introduction

When assessing submissions in regards to the right to live in a favourable/benevolent environment, it was concluded that citizens are paying increasingly more attention to the surrounding environment and the environment in which they live.

During the reporting year, citizens turned to the Ombudsman in relation to noise disturbances, linked to both domestic noise caused by neighbours and industrial noise from construction work, as well as noise from roads and auto-motto tracks.

The surroundings of their place of residence are important to people, proven by the Ombudsman receiving complaints about planned wind parks, car washes, breweries, as well as about a sports ground in a courtyard. Citizens voiced objections to the movement of transport in the historic centre of the city, the felling of trees and shrubs, the illegal disposal of waste and the like.

The Ombudsman welcomes cases where people report violations in the field of the environment when this affects not only the applicant's own interests but also the wider public interest.

## Case analysis

### *On traffic safety on Granīta Street, Riga*

In a verification procedure, the Ombudsman found that Riga City Council<sup>24</sup> continuously ignored the traffic safety situation on Granīta Street, Riga, which posed a risk to the health and life of pedestrians and cyclists due to heavy traffic and problems with infrastructure. The local government justified the lack of action on the grounds of a lack of funding.

[In his conclusion, the Ombudsman argued](#) that the local government had failed to fulfil the obligation to proactively act in order to ensure the right of residents to a favourable environment provided for in Article 115 of the Constitution, within the scope of its competence. The

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<sup>24</sup>The name of the municipality before the administrative territorial reform.



Ombudsman recommended it to take the necessary measures to verify the risks of traffic safety on Granīta Street and the potential dangers to people's life and health, including to assess the need to order a street security audit, as well as to include Granīta Street in the Action Plan 2021-2027, providing the public with information on the situation on Granīta Street, which follows from the obligation of the local government enshrined in Article 115 of the Constitution - to ensure a person's right to information on environmental conditions and right for the public to participate in decision-making.

The municipality implemented the recommendation by ordering a security audit on Granīta Street, as well as a construction of pedestrian and cyclist infrastructure within the framework of the project "Rail Baltica".

### *On a car-wash in Roja*

In a verification procedure, the Ombudsman concluded that the Roja<sup>25</sup> municipality had fulfilled the obligation to hold a public consultation on the construction of a car-wash before issuing a construction permit, but had prima facie not sufficiently explained to the public the decision on the choice of a site for the construction of a car wash, nor had it taken all the necessary measures for the organisation of traffic in the vicinity of the car wash.

Taking into account the comments made during the public consultation and the concerns expressed by the municipality regarding road safety in the area of the car-wash or adjacent areas, the Ombudsman called on the local government to ensure that coordination with the competent authorities and the necessary adaptation of the road infrastructure is carried out before the start of the construction of the car-wash.

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<sup>25</sup> The name of the municipality before the administrative territorial reform.

# RIGHTS OF PEOPLE WITH DISABILITIES

## Introduction

As a result of Constitutional Court rulings, the government significantly increased the minimum income levels, however more and more submissions are being received from people with disabilities, claiming that insufficient income still prevents them from receiving an adequate diet, purchasing medicines and necessary goods, as well as employing a carers.

During the reporting period, the advantages and disadvantages of the new assistance service model were actively discussed and debated. Overall, the Ombudsman assesses the changes in the model as positive, however the service still needs to be improved so that it becomes available also to people who are not involved in the regular activities defined by the government but still wish to maintain an active lifestyle within the limits of their abilities.

The Ombudsman also welcomes the amendments to the Law on Residential Properties adopted by the legislator, which prevent a situation in which the possibility for people with disabilities to move freely depended on the good faith of their neighbours. Although people often do not have sufficient resources to build a wheelchair ramp on their own and the co-financing provided by local governments is insufficient, the Ombudsman considers that one of the main obstacles to the free movement of persons with disabilities has been removed by the amendments.

Regarding people with mental impairments, the Ombudsman continued to stress the need for the responsible institutions to pay more attention to trusteeship issues and the right of everyone to live in society, achieved by deliberately phasing out institutional care and promoting the diversity and development of community-based services.

## Submission statistics

Attribution of disability status	3
Integration of persons with disabilities, accessibility of the environment	11
Right to medical rehabilitation	4
The rights of persons with disabilities. Other	73

<b>Total</b>	<b>91</b>
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## Initiatives

### *Participation in the Working Group on the Rights of Persons with Disabilities*

On 3 December 2021, on the International Day of People with Disabilities, at the annual meeting of the European Network of National Human Rights Institutions (ENNHRI), the Ombudsman's Office was elected to the Working Group on the Rights of Persons with Disabilities of the Global Alliance of National Human Rights Institutions' (GANHRI).

The working group is comprised of only eight national human rights institutions from around the world, two from each region. Latvia, together with Ireland, will represent Europe in the working group for the next three years. Only institutions with status "A" can be approved to participate in this working group. The Ombudsman's Office has been awarded status "A" since 2015. Since 2010, the Ombudsman has been monitoring compliance with the UN Convention on the Rights of Persons with Disabilities, in Latvia.

Previously, the Working Group has mainly worked on the development of the monitoring mechanisms for the UN Convention on the Rights of Persons with Disabilities. The aim of the Ombudsman's Office is to emphasise the importance of digitalisation and modern technologies, including artificial intelligence, in everyday life, especially with regard to solutions that would enable people with disabilities to participate in society on an equal basis with others.

### *Discussion "People with Disabilities and Digital Solutions. From User to Creator"*

Already in 2018, UNESCO [stressed](#) that the need for digital skills had grown from "optional" to "critical". Moreover, a higher level of digital skills improve opportunities to compete in the labour market. The impact of the COVID-19 pandemic resulted in a rapid digitalisation of many areas of employment, leading to a need to quickly learn how to use different platforms and digital tools in

order to keep working, as well as stay in touch with family and friends, colleagues and acquaintances. New digital tools were also created.

The employment rights under the UN Convention on the Rights of Persons with Disabilities also apply to work in the field of technology. Therefore, the Ombudsman urged people with disabilities to transition from being mere users of digital technologies to becoming creators of them. To this aim, on the International Day of People with Disabilities, the Ombudsman's office organised an [online discussion "People with Disabilities and Digital Solutions. From User to Creator"](#).

A recording of the discussion is available [here](#).

### *Discussion on the new assistant service model*

On 1 July 2021, government regulations introduced a new model for the granting and administration of the assistant service. As the Ombudsman had received information from representatives of several non-governmental organisations that the new arrangements would significantly worsen the situation of people with disabilities, the Ombudsman held an online discussion with the participation of representatives of NGOs and the Ministry of Welfare.

The discussion showed that the new arrangements will significantly improve the situation of persons with disabilities who are actively involved in daily work or studies, engage in Olympic sport, volunteer, visit day centres or specialised workshops. A number of bureaucratic procedures have been eliminated for these people, and service has become easier to administer and use. However, the new arrangements worsen the situation of people with severe or very severe disabilities who are unable to engage in the regular activities prescribed by the government, but who previously actively engaged in other activities, practised sports within the scope of their abilities, attended music and art classes or rehabilitation courses, or participated in other activities that significantly improved their quality of life. Representatives of the responsible ministry acknowledged this problem, promising to evaluate the practical implementation of the new assistant service and provide additional proposals regarding the extension and improvement of the service within six months.

For more information on the discussion, [see here](#).

*A similar discussion was organised on changes to the assistant services for children with disabilities. For more information, see the section on "Children's and Young People's Rights: The Rights of Children with Disabilities".*

### *Other public awareness initiatives*

- On 18 March 2021, a representative of the Ombudsman's Office participated in an online conference "Does Latvia Need Special Intimacy Needs Educators?" organised by NGOs, with a presentation on the UN Convention on the Rights of Persons with Disabilities and on the privacy of persons with disabilities, at an online conference.
- On 14 June 2021, the representative of the Ombudsman's Office participated in the panel "Is there a future for supported decision-making in Latvia?" of the online conference "Providing Support Persons in Decision-Making Processes", organised by the Ministry of Welfare, giving a presentation "Supported decision-making as an alternative to limiting the capacity to act. Article 12 of the UN Convention on the Rights of Persons with Disabilities".
- On 30 July 2021, a representative of the Ombudsman's Office participated in an online discussion organised by NGOs entitled "People with disabilities. Medical rehabilitation".
- On 21 August 2021, a representative of the Ombudsman's Office took part in the seminar cycle "No to Discrimination!" organised by the Latvian Cooperation Organization for People with Special Needs (SUSTENTO), within the framework of the AIF project "Know, Can, Do - Protection of the Rights of Persons with Disabilities". The representative delivered a presentation on "Persons with Disabilities and Discrimination".
- On 24 November 2021, a representative of the Ombudsman's Office gave a presentation on "Promotion of Environmental Accessibility in the Urban Environment, Compliance With General Principles of Law in Local Governments" at the conference "Challenges of Inclusive Design in the Urban Environment" organised by the Ministry of Welfare.

### *On the deinstitutionalisation project*

The Ombudsman followed the deinstitutionalisation project and collected information from clients of State social care centres who were involved in the project during the reporting period. They indicated that they were not kept informed about the progress of the deinstitutionalisation process. Furthermore, their access to the community-based services already established (group house, workshops, day care centre) has not been ensured for a long period of time.

The information obtained unambiguously showed that long-term objective deviations could be observed in the process of establishing and registering community-based services, including regarding the deadlines set and planned by the local government itself. The epidemiological situation in the country has also contributed to it. It should also be stressed that employees of any local government social service are facing and will face major challenges in providing professional support to any person who will start to receive community-based services in the near future, as working with people with mental disorders is often very difficult and time-consuming, as the aim is to achieve long-term goals in their lives by reducing their social exclusion, breaking stereotypes and reducing prejudices towards these people in society as a whole.

The Ombudsman's conclusion is available [here](#).

### *Respect for human rights in the context of the imposition of compulsory measures of a medical nature*

The Ombudsman launched a study on respect for human rights in connection with the determination of compulsory measures of a medical nature by conducting research into court cases from 2019 and 2020 on the determination of compulsory medical measures, as well as setting up consultations and discussions with professionals in the field, such as court psychiatrists, representatives of Orphan's and Custody Courts, judges, etc.

The study focuses on the question of whether a person's right to participate in court proceedings is fully exercised, as well as on the quality of legal counsel provided by the state and the quality of the representative's work. Other potential problems are also addressed. Within the framework of the

study, a cooperation agreement with the Supreme Court was reached. As a result, the Supreme Court prepared and published a [“Summary of Issues Related to the Application of Compulsory Measures of a Medical Nature in Senate Rulings \(2017-2020\)”](#).

*On the availability of dental services for persons to whom compulsory measures of a medical nature have been applied*

The Ombudsman drew attention to the availability of dental services for patients who, on the basis of a court ruling on the application of a compulsory measure of a medical nature, are undergoing medical treatment of a general type in a psychiatric hospital (ward) or medical treatment under guard in a specialised psychiatric hospital (ward). Unfortunately, in Latvia, access of vulnerable people (especially those who are in institutional care and who also suffer from mental disorders) to state-funded dental services is very limited. For these patients, in most cases, dentistry is provided on an equal footing with all residents of Latvia - as a paid service. However, a complaint was received about services not being provided even as a self-paid service.

The normative regulation does not require the establishment of a dental office in psychiatric medical institutions, so the problem with the provision of the service is related to the transfer of patients outside the hospital, as well as to the selection of a dental clinic, since some clinics do not always agree to provide services to patients of psychiatric institutions. Thus, the initiative of certain psychiatric hospitals in creating and providing inpatient dental services in the context of emergency medical care (including their plan to provide services on a larger scale than is currently paid for by the State), is to be welcomed.

It is also essential to keep the patients informed about the order and the extent to which stomatology services are available in and out of hospital.

## *On the impact of minimum mandatory State social insurance contributions on the employment of people with disabilities*

The planned amendments to the law “On State Social Insurance” established the minimum mandatory State social insurance contribution rate for workers as of 1 July 2021. The Ombudsman contacted the legislator, arguing that the new procedure will have a negative impact on the employment of people with the disability group III. The Ombudsman drew attention to the fact that, depending on the degree of functional limitations and the extent of the loss of ability to work, some people with disability group III are unable to work full-time. In addition, these are often people who work low-paid jobs, for the minimum wage. If the reduced working hours cannot be compensated by the performance of work of a higher quality or intensity, the employer is obliged to pay higher social insurance contributions than the amount corresponding to remuneration of the person with disability. Such arrangements may therefore pose a significant risk to the employment of persons with a disability group III, i.e. by reducing the rate of employment of those persons.

According to the Ombudsman, given that people in disability group III have a moderate disability, this is the group with the highest employment potential, and therefore the employment of this group should be maximised. The Ombudsman’s call for amendments to the draft law did not gain support.

The Ombudsman’s opinion is available [here](#).

*For information on a proposal for amendments to the Labour Law that worsen the situation of people with disabilities, see the chapter on the “Right to Work”.*



### *Violation of a person's right to liberty in the process of determining compulsory measures of a medical nature*

During verification procedure No 2020-32-4C, the Ombudsman found that a person had been taken from their place of residence to a psychoneurological hospital accompanied by the police, in compliance with a court ruling on the application of a compulsory medical measure - treatment in a general type psychiatric hospital. In the course of the verification procedure, it was established that the court had not informed the person itself of this decision, in breach of the requirements of the law. Consequently, the original decision was repealed by the court's decision to renew the procedural time-limit and accept the person's appeal. However, despite the fact that the decision was invalid and appeal proceedings were ongoing, the person continued to be involuntarily held in the hospital and continued to receive treatment.

The Ombudsman found that the person's right to liberty was unjustifiably restricted and that more than two months of involuntary treatment had been applied unjustifiably. The person was made aware of their right to claim compensation from the Ministry of Justice for damage caused due to the restriction of liberty determined by the court, in accordance with the Law on Compensation for Damage Caused in Criminal Proceedings and Administrative Offence Proceedings. The person executed this right.

### *On the right to communication of persons placed in a forensic psychiatric expert-examination ward with security*

When examining a case, the Ombudsman raised the issue of access to communication via telephone for people placed in a forensic psychiatric expert-examination ward with security. It was found that the current regulation only allows communication via letters. The Riga Psychiatry and Narcology Centre agreed that the issue of the rights to telephone communication with relatives should be resolved for people placed in guarded wards. The Ombudsman is committed to engaging in the solving of this issue.

### *On car parking at medical institutions for people with disabilities*

Upon receiving a complaint from a private individual regarding the absence of a parking lot for people with disabilities at a medical institution, the Ombudsman found that, in 2020, the medical institution had carried out a renovation of the building and a parking lot had been established near the building, but no parking spaces for persons with disabilities were marked. There have been unsuccessful attempts to motivate the medical institution to create a special parking space for persons with disabilities. After the person contacted the responsible institutions, the medical institution created a temporary parking space for persons with disabilities.

The Ombudsman recommended the medical institution to establish a permanent parking space for persons with disabilities until June 2022, as well as to carry out maintenance in the car park (cleaning of snow). In addition, the Ombudsman recommended the responsible local government authorities to train their employees on environmental accessibility, as it seemed that they were not fully aware of the issue.

### *On environmental accessibility in public buildings*

The Ombudsman gave an opinion on setting up an entrance for persons with reduced mobility along the side door of the building of a municipal museum, despite it being possible to set it up at the main door. The Ombudsman argued that, although the regulatory framework does not expressly state where the entry for persons with reduced mobility should be set up, it should be done, taking into account the principles laid down in the UN Convention on the Rights of Persons with Disabilities. First, venues of cultural events and services must be accessible. Second, when ensuring accessibility, the dignity and personal autonomy of people must be respected. Side entrances are usually associated with waste bins, staff car parks, poor lighting and damaged asphalt, which does not correlate with human dignity.

Third, equality and non-discrimination must be respected. If the entrance of people with reduced mobility is established in the same place as for other people, then equal opportunities are ensured.

Furthermore, the regulatory framework does not prohibit the construction of multiple entrances for persons with reduced mobility - it would facilitate evacuation if necessary, moreover the COVID-19 pandemic highlighted the need for multiple entrances to organise the flow of people.

### **Implementation of Recommendations**

In 2020, the Ombudsman urged the Parliament to make amendments to the Law on Residential Properties, preventing a person with functional impairments from needing the consent of the other apartment owners (if they live in a multi-apartment house) to install a ramp or a lift. In this situation, the freedom of movement of the person depended on the good faith of neighbours. The Ombudsman argued that such regulation contradicted not only Articles 91 and 97 of the Constitution, but also the UN Convention on the Rights of Persons with Disabilities.

During the reporting period, the Law on Residential Properties was amended accordingly and the injustice was corrected.

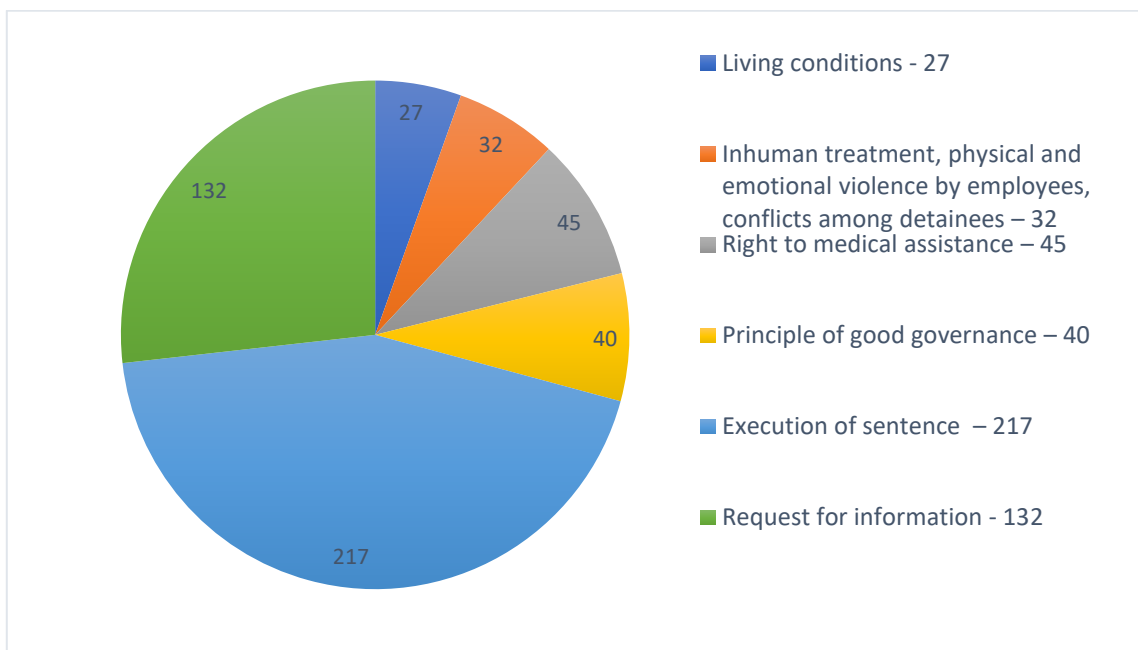
# RIGHTS OF PRISONERS

## Introduction

When a person is deprived of their liberty, their existence and protection of their rights depend on the prison staff, administration, and public officials. Consequently, the Ombudsman's has always paid close attention to the rights of prisoners, the mechanisms protecting these rights and their effectiveness.

In 2021, the Ombudsman continued to receive complaints about inadequate living conditions in prisons, actions of prison staff (such as threats to worsen the conditions of living during the execution of punishment/detention in case of non-compliance with their requirements) misplacement/destruction of enquiries or applications addressed to the prison administration. Submissions were also received regarding the amount of websites available in information kiosks and the availability of medical assistance, for example, limited opportunities to consult specialists outside the prison, denial of requests to access medical documentation.

### Submission statistics



2021 was marked in particular by active involvement in the improvement of the regulatory framework on issues related to the execution of the Constitutional Court judgement of 7 November 2019 in case No 2018-25-01 “On Compliance of Section 50<sup>(4)</sup> of the Sentence Execution Code of Latvia with Article 91 of the Constitution of the Republic of Latvia”. In that regard, submissions were also received concerning a possible mechanism for the protection of rights, in cases when the State has not ensured the rights arising from this judgment. The Ombudsman also received submissions regarding a change in the regime for the execution of the sentence and the interpretation of the judgment.

Five prison inspection visits were carried out in 2021: to the Riga Central Prison, Ilguciems Prison, Jelgava Prison, Jēkabpils Prison and Daugavgrīva Prison. During his visits, the Ombudsman launched a study on the implementation of the rights of convicted persons placed in drug-free zones after the completion of an Addiction Treatment Centre programme. Furthermore, due to the risk of social exclusion of prisoners identified in 2020 and the specific support and assistance they need, the Ombudsman launched a study on the social support available for the inmates immediately after their release from prison. A survey of local governments was carried out within the framework of the study and exploratory talks with social workers were carried out during the visits. The results of the study will be published on the Ombudsman’s website.

## Initiatives

### *On the execution of a constitutional court judgment*

In 2021, the Ombudsman paid significant attention to the execution of the Constitutional Court judgement of 7 November 2019 in case No 2018-25-01 “On the Compliance of Section 50<sup>4</sup> of the Sentence Execution Code of Latvia with Article 91 of the Constitution of the Republic of Latvia”. An opinion on the informative report “On Further Action in Relation to the Constitutional Court Judgement of 7 November 2019 in case No 2018-25-01 “On the Compliance of Section 50<sup>4</sup> of the Sentence Execution Code of Latvia with Article 91 of the Constitution of the Republic of Latvia”” was provided to the Ministry of Justice (see [here](#)).

The Ombudsman expressed objections to the draft law developed by the Ministry of Justice “Amendments to the Sentence Execution Code of Latvia”, which provided that convicted men will serve the sentence in a closed prison from 1 May 2021 to 1 July 2025 in accordance with the procedure laid down in this Code for serving the sentence in a closed prison which was in force until 30 April 2021, if 1) during this period, they have commenced serving a sentence for a serious or especially serious crime; 2) during this period, they have been transferred to the closed prison from a partly-closed prison; 3) they were in a closed prison on 30 April 2021 (see [here](#)).

The Ombudsman also appealed to the Parliament with objections to this draft law, pointing out that Constitutional Court judgments are mandatory to be enforced and this solution - to amend the regulatory framework with the aim of postponing the execution of the Constitutional Court judgment for several years, thus continuing the violations of human rights the judgement has found - is unacceptable.

The Ombudsman’s objections were heard, which led to the adoption of amendments to the transitional provisions of the Sentence Execution Code of Latvia, which provide, inter alia, that, by 1 July 2025, enforcement of the increase in the amount of rights referred to in the judgment, within the existing infrastructure of closed prisons, shall be ensured using a queue system, and, as of 1 January 2022, telephone conversations shall be provided without limitation to the detainees in the highest regime level of the closed prison.

The Ombudsman will continue to monitor the issue of a comprehensive and complete execution of the Constitutional Court judgement.

*On the ban on attending funerals due to the conduct of the person directing the proceedings and the scope of access rights for those convicted for life, included in the draft law “Amendments to the Sentence Execution Code of Latvia”*

[The Ombudsman issued a conclusion](#) to the Ministry of Justice on the draft law “Amendments to the Sentence Execution Code of Latvia”, objecting to the provision that the head of the penitentiary institution can refuse to give permission to the convicted person to temporarily leave the institution in order to say goodbye to a deceased relative if the person directing the proceedings has failed to

give their opinion on the conformity of the temporary leave with the interests of criminal proceedings within a specified time period. Failure to receive a reply within a certain time, resulting from a delayed delivery of the opinion of the person directing the proceedings, cannot be a reason to deny (on the basis of that circumstance) the possibility of attending the funeral of a close relative.

The objection was taken into account and that condition was excluded from the draft law. It was found that the scope of access rights included in the draft law was not increased for those convicted for life and was determined in accordance with the wording of Section 50<sup>(4)</sup> of the edition of Sentence Execution Code of Latvia in force until 1 May 2021. It has been established that the implementation of the increase in the amount of rights referred to in the Constitutional Court judgement in case No 2018-25-01 “On the Compliance of Section 50<sup>4</sup> of the Sentence Execution Code of Latvia with Article 91 of the Constitution of the Republic of Latvia” in closed prisons will be ensured on a first-come, first-served basis until 1 July 2025. However, the intention to repeatedly include the scope of rights that the Constitutional Court declared incompatible with the Constitution, in the normative regulation, should be assessed critically. The Ministry of Justice took note of the recommendations.

### *On the draft law “Amendments to the Law on the Procedures for Holding under Arrest”*

[The Ombudsman issued a conclusion](#) on the updated draft law “Amendments to the Law on the Procedures for Holding under Arrest” in which he stated that, first, he maintained the statements made already in 2020: it is necessary to review the provisions of the draft law on the mandatory presence of a prison representative, when exercising the right to video communication with relatives. The Ministry of Justice disagreed with the Ombudsman’s opinion.

Second, regarding the provision of the draft law that the head of the remand prison could, in certain cases, prevent the arrested person from meeting with the defence counsel and such a decision could not be contested and appealed. The Ministry of Justice took note of this objection and included a provision in the draft law stating that the decision is open to contesting and appeal.

In response to the repeated request of the Ministry of Justice to provide an opinion on the draft law, the [Ombudsman indicated](#) that he had no conceptual objections to further progress of the draft law. However, the opinion regarding the mandatory presence of a prison representative, when exercising the right to video communication with relatives, remains unchanged.

### *On improving the regulatory framework on requirements for vehicles transporting prisoners*

In 2021, the Ombudsman repeatedly appealed to the Ministry of Justice, pointing out that the regulatory acts still do not specify the requirements for vehicles transporting prisoners. The reply indicated that draft regulations “Amendments to the Cabinet of Ministers Regulation No 497 (25 August 2015) “Procedure for the transfer and security of a convicted or imprisoned person during receipt of a health care service in a medical institution outside the prison”” have been prepared and its examination by the Cabinet of Ministers will be ensured.

## **Case analysis**

### *On substituting in-person meetings with video communication during the spread of COVID-19 infection*

In 2021, the issue of ensuring prisoners’ access rights (the right to a meeting with their relatives) in the context of the restrictions imposed in prisons during the spread of COVID-19 infection was raised. The Ombudsman concluded: although the ban on in-person meetings significantly affects prisoners’ right to private life, the restrictions aim to minimise third parties’ contact with prisoners and had a legitimate aim in the specific epidemiological situation.

Already in the first half of the year, the Ombudsman pointed out to the Prison Administration that an alternative solution for ensuring access rights would be an opportunity to replace short-term meetings with video messaging. He also argued that the existence of a vast array of different video-call allocation practices in different prisons, found during visits, should not be supported. It is



unacceptable that some detainees are given a possibility to make video-calls, while others are denied it, without reasonable and objective criteria (see [here](#)).

The in-person meeting restrictions caused by the COVID-19 pandemic are already running long-term, and their duration cannot be predicted. The Ombudsman repeatedly appealed to the Prison Administration as well as to the Ministry of Justice, pointing out that the State is obliged to take alternative measures in order to restrict the rights of individuals as little as possible. When detainees are prohibited from exercising the right to meet in person, they must be able to substitute them with video-communication ( [see here](#)).

The Ministry of Justice conceptually agreed with the Ombudsman's recommendation and indicated that it will assess the possibility to advance relevant amendments to the Law on the Management of the Spread of COVID-19 Infection.

### *On the epidemiological situation in relation to the spread of COVID-19 infection*

During the reporting period, submissions were received with requests to clarify the epidemiological requirements that prison staff and prisoners must comply with in order to limit the spread of COVID-19 infection in prisons, as well as the right of prison staff to apply disciplinary punishment to prisoners who refuse to carry out COVID-19 antigen tests.

The Ombudsman urged prisoners to comply with the legitimate requirements of staff, but, in case of objections, to exercise the right to appeal against decisions and actions of institutions using administrative procedure. At the end of the year, submissions were also received on the provision of booster vaccines. The Ombudsman asked the Prison Administration for information about the vaccination and booster vaccination process, as well as the available vaccines. The information will then be evaluated.

The submissions also pointed towards several possible violations of epidemiological requirements, such as inappropriate use of face covers. In order to clarify the situation, the Ombudsman contacted the Prison Administration with a request for information on compliance with epidemiological requirements. The reply indicated that officials/staff use face masks in contact with

prisoners, and that masks are also used by advocates, notaries, persons directing the proceedings, other representatives of state and local government institutions.

### *On the cost of telephone conversations*

In 2021, the issue of the cost of telephone conversations was raised. Prisoners pointed out that the telephone conversations are subject to increased rates and the telephone operator does not provide the possibility to call certain toll-free numbers free of charge, for example, the Legal Aid Administration.

The Prison Administration indicated that the Electronic Procurement System announced a procurement, to which only one bidder had submitted a tender – LLC “CSC Telecom”, with which the contract was signed. The prices of the service are determined according to the offer submitted by LLC “CSC Telecom”. The operator provides a call-back facility, as well as three toll-free phone numbers: Legal Aid Administration, State Revenue Service and CSC Telecom Technical Support Turbo.

The Ombudsman found that there is no external mechanism in Latvia to assess the costs of the products of the telecommunications service provider in this situation.

### *On using bathroom amenities during walks*

A submission was received regarding the denial of opportunity to use the bathroom amenities during walks. According to the Ombudsman, it is not permissible for a prisoner, irrespective of where they are located, to be prevented from using the bathroom.

The Ombudsman contacted the Prison Administration with a recommendation to find a solution in order to avoid such situations. It was indicated in the reply that the legislation does not require detainees to be taken for a walk in an area equipped with such amenities. In the opinion of the Ombudsman, such situations should be solved individually with the understanding and support of prison staff.

## Opinions for the Court

The Constitutional Court was [provided an opinion in case No 2021-32-0103](#) “On the Compliance of Section 13(1)(10) of the Law on the Procedures for Holding under Arrest and Section 10 of Annex 4 to the Cabinet of Ministers Regulation No 800 (27 November 2007) “Internal Regulations of Remand Prisons” with the First Sentence of Article 101 and the First Sentence of Article 106 of the Constitution of the Republic of Latvia”. The Ombudsman concluded that the restriction to perform the duties of a member of a local council stems from the nature of the detention and its execution regime, and considered it proportionate.

# TRAFFICKING IN HUMAN BEINGS

## Introduction

The year 2021 was focused on raising awareness to the area of trafficking in human beings. During the reporting period, employees of the Ombudsman's Office continued to actively participate in the school programme "Ready for Life", during which they conducted guest lectures on human trafficking issues. The aim of the lectures was to strengthen students' knowledge of the various forms of trafficking in human beings, to develop their ability to recognise the possible risks and to improve their knowledge about the redress mechanisms available to them. A total of 32 lectures were conducted.

Representatives of the Office also accepted an invitation from the Latvian Municipal Training Centre to deliver lectures to State Police staff, prosecutors, judges and sworn bailiffs on the topic "Children - Victims of Trafficking in Human Beings". During the lectures, officials were educated about the regulatory framework on trafficking in human beings, the concept of trafficking in human beings (types of human trafficking, means and types of actions), the characteristics (indicators) of trafficking in human beings, risk factors for becoming a victim or offender in trafficking in human beings, and inter-institutional cooperation and social services, which are provided for victims of trafficking in human beings. A total of 23 lessons were taught in 2021, significantly improving the capacity of judicial and law enforcement staff to identify cases of trafficking in human beings in a timely manner so that perpetrators are prosecuted and victims receive the necessary assistance and support from the state.

In addition, considering the importance of further improving the understanding of the relevant institutions on trafficking in human beings and the recognition of victims in the forced return process, the Ombudsman organised another training on 27 May 2021, after the conclusion of the [project](#) "The Implementation of an Effective Monitoring and Forced Return Process (Phase 1)" (No TSB/PMIF/2018/1). 25 participants took part.

Apart from raising public awareness, the Ombudsman was also actively involved in drafting various policy documents in 2021, [providing both opinions and recommendations](#).

### *National Rapporteur on trafficking in human beings*

During the reporting period, the Ombudsman prepared [a summary report](#) on the institute of the national rapporteur on trafficking in human beings and its regulatory framework and on Latvia's experience in its implementation, and provided a comparison of the practices in different European countries regarding the regulation of the national rapporteur. On 19 March 2021, the Ombudsman organised a discussion with the Latvian National Coordinator for the Prevention of Trafficking in Human Beings to discuss the role and position of the national rapporteur in the legal field of the Republic of Latvia.

On 9 November 2021, during a meeting of the Working Group on the Prevention of Trafficking in Human Beings, a representative of the Ombudsman's Office gave a presentation on the role and functions of the national rapporteur in Latvia and Europe, in order to coordinate the implementation of the Guidelines for the Prevention of Trafficking in Human Beings 2014-2020.

## Implementation of recommendations

### *On improving the regulatory framework in the field of prevention of trafficking in human beings*

On 30 April 2020, the Ombudsman sent a [request to the Prime Minister](#), asking him to ensure the improvement of the regulatory framework in the field of prevention of trafficking in human beings, including by considering the development of a new comprehensive law.

In the [reply](#) of the Prime Minister of 25 August 2020, the Ombudsman was informed that work will soon begin on the development of the necessary regulatory framework to improve the national cooperation and coordination mechanism for the prevention of trafficking in human beings.

On 28 September 2021, the Cabinet approved the Plan for Prevention of Trafficking in Human Beings 2021-2023, which identifies the following measures to be taken:

- the preparation of a draft law on the National Referral Mechanism – a national mechanism for cooperation and coordination in prevention of trafficking in human beings;
- the drawing up of a draft Cabinet Regulation on the procedures for: the implementation of cooperation and information exchange in the recognition of victims of trafficking in human beings; the provision of assistance and support; the provision of protection and redirection to social service providers.

# RIGHTS OF FOREIGNERS AND PERSONS WITHOUT LEGAL STATUS, ACQUISITION AND REVOCATION OF CITIZENSHIP

## Introduction

During the reporting period, the number of submissions received in the Ombudsman's Office from foreigners and persons without legal status did not increase, although 2021 will remain in history due to the hybrid attack carried out by Belarus that led to the declaration of a state of emergency in the administrative territories of Ludza municipality, Krāslava municipality, Augšdaugava municipality and city of Daugavpils.

## Submission topics

Topic	2017	2018	2019	2020	2021
Granting and revocation of citizenship	1	1	17	4	2
Legalisation or revocation of non-citizen status	1	-	-	1	4
Rights of foreigners	8	8	13	10	10
Rights of stateless persons	1	1	4	-	-
Status of refugees or asylum seekers	-	-	4	2	4
Legalisation of a person without legal status	-	3	4	-	-
Rights of asylum seekers and beneficiaries	-	2	12	2	1

## Initiatives

### *On the provision of examinations for foreigners of the proficiency in the official language*

In January 2021, the Ombudsman contacted the Ministry of Education and Science and the State Centre for Education, pointing out that he has received complaints regarding the suspension of examinations of the proficiency in the official language for the performance of professional duties, for the receipt of a permanent residence permit or the acquisition of the status of long-term

resident of the European Union. In the reply, the Centre notified the Ombudsman of their commitment to resume the provision of the examinations as of 22 February 2021, and to announce this on the Centre's website and to applicants who have already submitted applications for the examination of the proficiency in the official language.

### *On the Cabinet draft regulation "Regulations on the Temporary Holding Rooms and Specially Equipped Vehicles of the State Border Guard"*

In 2021, the Ombudsman provided the Ministry of the Interior with an opinion on the draft Cabinet Regulation "Regulations on the Temporary Holding Rooms and Specially Equipped Vehicles of the State Border Guard" (VSS-582). The Ombudsman made recommendations to the State Border Guard regarding the minimum human rights requirements for premises where persons may be detained, and urged them to indicate in the draft regulation that the conditions in vehicles for the transfer of detainees must comply as far as possible with the minimum or highest requirements of the CPT. Additionally, taking into account that the project envisaged the introduction of video surveillance in temporary holding rooms and specially equipped vehicles, the Ombudsman called for an assessment of the compliance of the regulation with the requirements of the General Data Protection Regulation.

### *On the training of mentors of the association "Latvian Red Cross"*

On 6 May 2021, in order to improve the knowledge of the Latvian Red Cross mentors on the rights of foreigners and beneficiaries of international protection in the Republic of Latvia, the specialists of the Ombudsman's Office gave a lecture to mentors on the competence of the Ombudsman in the field of immigration and monitoring of forced return, as well as on the legal framework in the field of asylum.



### *On ensuring the right to a fair trial in asylum procedures*

On 21 May 2021, the Ombudsman organised an online discussion with industry experts on whether the current regulatory framework in asylum matters complies with the right to a fair trial guaranteed by Article 92 of the Constitution ([see here](#)).

### *On the elimination of unequal treatment in the field of State benefits*

In 2021, the [Ombudsman sent a letter](#) to the Cabinet of Ministers requesting them to eliminate the unequal treatment of seniors, persons with disabilities and families with minor children who have received alternative status, and to find a way to grant them the same one-off benefits that are available to beneficiaries of refugee status, according to the Law on the Suppression of Consequences of the Spread of COVID-19 Infection. The Cabinet of Ministers supported the Ombudsman's proposal and the necessary amendments to the law were made.

The Ombudsman also [urged the Parliament](#) to make amendments to the Law on State Social Allowances, that would provide that persons with alternative status would receive the same State social benefits that are available to persons with refugee status. The Parliament will decide on the proposal submitted by the Ombudsman in 2022.

### *On the situation on the Latvian-Belarusian border*

Due to the declaration of a state of emergency in the regions at the Latvian-Belarusian border, the Ombudsman provided his assessment of various legal aspects regarding the government order to the Parliament, Cabinet of Ministers and Ministry of the Interior several times. In his letters, the Ombudsman stressed the need to ensure national security while finding proportionality with the need to respect human rights, and argued that the use of force should only be treated as a measure of last resort ([see here](#)). The Ombudsman also highlighted the need to provide food, medical assistance and shelter to persons who are on the Latvian-Belarusian border for a long period of time, without being admitted to the territory of the country ([see here](#)). Additionally, the

Ombudsman stressed that access to the asylum procedure had to be ensured for those persons who had been admitted to Latvia on humanitarian grounds.

Following the declaration of the state of emergency, the Ombudsman met with the Minister of Interior Marija Golubeva and representatives of the UNHCR ([see here](#)) to discuss issues related to the protection of human rights, following the declaration of a state of emergency in the regions along the Belarusian border. On 2 September 2021, the staff of the Ombudsperson's Office visited the Daugavpils Administration of the State Border Guard, where they met with officials and visited certain sections of the state border in order to assess the situation in practice ([see here](#)).

### Monitoring of forced return procedures

In 2021, a total of 48 forced return decisions were taken and 19 forced return operations were carried out, during which 21 persons were returned to their country of origin.

Topic	2018	2019	2020	2021
Decisions taken to return a foreigner	184	86	40	48
Persons interviewed	30	49	5	4
Participation in return operations	1	3	1	1

During the reporting period, observers of the Ombudsman's Office interviewed four foreigners to be returned and participated in one return operation (up to the border crossing point between the Republic of Latvia and the Russian Federation), in which two foreigners who belonged to the group of vulnerable persons were returned. After the return operation, the observers recommended the State Border Guard to take into account the interests of vulnerable persons in determining the type of removal (return) and to provide support in determining the destination and covering travel expenses for persons with disabilities and/or seniors with serious health problems.

During the monitoring of forced return operation within the reporting period, no intolerant or ill-treatment of the returnees was detected.

# GOOD GOVERNANCE

## Introduction

In regards to good governance, complaints were mostly received about decisions taken by the institutions, correctness or legality of a particular course of action, failure to provide answers or information. In some cases, it could be seen that the authorities had not sufficiently communicated or explained their actions or decisions to the citizen. In several cases, the Ombudsman detected an exceeding of authority by institutions and inaction or late action by institutions, which had caused negative consequences for citizens.

In the context of the spread of COVID-19 infection, the Ombudsman paid particular attention to whether citizens were able to access public services.

## Submission statistics

Courtesy	2
Obligation to simplify procedures	7
Accessibility	15
Principle of legal certainty	5
Objectivity	18
Examination of the case within a reasonable time	9
Right to be heard	2
Right to consult the case materials	10
Justification of the decision	21
Other procedural irregularities	11
Infringement on substantive law	11
Other breaches of the principle of good governance	58
Right to receive a substantive reply	9
Actions and decisions of law enforcement authorities	39
<b>Total</b>	<b>217</b>

### *On access to institutions for persons without digital skills*

The Ombudsman repeatedly called on the State Revenue Service to find reasonable and epidemiological security solutions to ensure taxpayers' right to submit an annual income declaration in paper form, as well as to provide clear information about this service to the public. It was stressed that there are still many people in Latvia without or with low digital skills, and they do not have the means to submit an annual income declaration electronically via the Electronic Declaration System, in accordance with the request of the State Revenue Service. Unfortunately, the Authority did not manage to provide proportionate solutions.

The Ombudsman's [letter](#) and opinion are available [here](#).

### *On progress of draft laws in the Parliament (good legislation)*

During a detailed examination of the legislative data base available on the website of the Parliament, on 6 April 2021, the Ombudsman found 43 draft laws which had been submitted to the Parliament more than a year ago and which the Parliament had decided to transfer to the responsible committees, but which had progressed no further than that. This included draft laws for which the responsible committees had sent requests for information to the competent authorities, but no further action had been taken. There were also draft laws, for which the responsible committee had not taken any action, following the decision of the Parliament to transfer it to the committees.

In view of the above, the Ombudsman sent a letter to the Parliament, drawing their attention to these findings, as well as urging them to draw up amendments to the Rules of Procedure (kārtības rullis) of the Parliament, setting a deadline for the committees to initiate an examination of draft laws. The Parliament did not provide a reply.

The Ombudsman's opinion is available [here](#).

### *On the transparency of council meetings*

The Ombudsman pointed out to Jelgava City<sup>26</sup> Council that the practice of not hearing out reports prior to decision-making that was introduced during remote meetings of the City Council, was contrary to the principle of good governance, reducing the transparency of the work of the council, turning the council meetings (which decide on subjects important to their residents) into a mere formality. The audio recordings of the council meetings had become generalised and did not reflect the assessment and justification of the decisions taken. In a situation where council meetings are held remotely, there is no legitimate purpose for not hearing out reports before making decisions.

### *On violations in the work of the State Police in connection with whistleblowing*

The Ombudsman found that the State Police did not act within the principles of good governance when reviewing a whistleblowing report as a collective submission and transferring the whistleblower (who reported possible violations in the actions of management), to the same station as the official, whose actions were the subject of the report.

Following the receipt of the conclusion of the verification procedure, the transfer order was cancelled.

### *On the actions of the Varakļāni municipal government in the examination of an administrative violation case*

During a verification procedure, the Ombudsman found that the Varakļāni municipal government unlawfully issued an enforcement order to a sworn bailiff regarding the recovery of a fine, even before the final ruling in the case had come into effect. The Law on Administrative Liability explicitly provides that the justification for the execution of a penalty imposed in an administrative violation

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<sup>26</sup> The name of the municipality before the administrative territorial reform.

case comes into effect only at the moment the ruling on the penalty has entered into force. Instead of withdrawing the unjustifiably issued enforcement order, the municipal government asked the bailiff to postpone the enforcement activities, which would facilitate the right of the municipal government to recover the debt from the applicant in the event of a favourable (for the municipal government) outcome of the administrative violation case. In the opinion of the Ombudsman, such an approach is not compatible with the law nor with the principle of good governance.

Furthermore, the Varakļāni municipal government repeatedly ignored the provision in the law that states that administrative commissions of local governments (within the meaning of the Law on Administrative Liability) do not have a higher official and its decisions can be appealed to the court immediately. The Executive Director of Varakļāni municipal government adopted a decision by which the decision of the Administrative Commission of Varakļāni municipal government remained unchanged and the applicant's complaint was rejected, although Section 61(4) of the law "On Local Governments" provides that the decision of an administrative commission of a local government may be appealed to the district (city) court. However, despite all of the above, the Administrative Commission of Varakļāni municipal government already adopted a new decision as a higher official, by which it annulled its previous decision and terminated the administrative infringement proceedings in the case. In this situation, it was not clear what exactly the Administrative Commission of Varakļāni municipal government had ruled on, since the court had previously delivered its judgment annulling the decision and terminating the case. A higher official of the institution cannot exercise ex-post control over rulings made by the court, as this disrupts the structure of the Law on Administrative Liability and the division of competences.

The Ombudsman's conclusion is available [here](#).

*For information on a breach of the principle of good administration in the actions of Riga municipality in relation to the elimination of stationary waste compactors in multi-apartment houses, see the chapter on the 'Right to Property'.*

*For information on the restriction of the right to property and failure to comply with the principle of good governance by the Gulbene municipality, see the chapter on the 'Right to Property'.*

### *Inaction of institutions*

*For information on a breach of the principle of good governance in the conduct of a municipality by way of failing to react to citizens' complaints concerning road safety for an extended period of time, see the chapter on "Right to a Favourable Environment".*

*For information on the failure of the authorities to act in relation to heirless property in jurisdiction of the State, see the chapter on the "Right to Property".*

### *On addressing a submission to several public authorities and officials simultaneously*

Relatively often, the Ombudsman receives complaints from a citizen claiming that, after sending the same submission to several public authorities and officials at the same time, no substantive reply was received from all the addressees. The Ombudsman draws attention to the fact that, in a democratic state governed by the rule of law, such as Latvia, there is a principle of separation of state powers, including separation of competences. This means that no one institution hold all power, competences and responsibilities. Consequently, each public authority and official can act and answer only within the limits of their competence and professional mandate.

The right to send a State authority a submission, drawn up in accordance with the procedures laid down in the Law on Submissions and addressed in accordance with the division of competencies of authorities, is a constitutional right. However, the right of a person to receive a substantive reply to their submission to an institution does not mean that the reply provided to the person will correspond to their desired answer or their perception of the internal procedures of the relevant institution. A person has the right to disagree with the answer provided, but does not have the right to request a reply of a certain content or a certain course of internal proceedings in the institution. Consequently, the fact that a person's question is not resolved or answered as they wished does not mean that the institution has not responded in substance and therefore does not constitute a breach of human rights or the principle of good governance. The same applies if, for example, a person simultaneously addresses their submission also to a Member of the Parliament, the

President, the Prosecutor General or the Ombudsman who do not have competencies in the matter at hand, but the submission is also addressed to the competent authorities. If, in such a case, the submission is taken into account for the purposes of information and no reply is given to the applicant, it shall not constitute an irregularity vis-à-vis the applicant from the authority that does not have competence in the matter.

### *Respect for the principle of good administration in the work of Orphan's and Custody Courts*

When examining submissions, various shortcomings in the work of several Orphan's and Custody Courts were identified. The Ombudsman found a failure to comply with the deadline for providing a reply, laid down in Section 5(3) of the Law on Submissions, and failure to inform the submitter about the extension of the deadline for the examination of the part of the submission concerning custody rights of the other parent. Furthermore, when providing information to parents and the social services, the Orphan's and Custody Court failed to clearly indicate what are the conditions unfavourable to the development of the child that should be eliminated by the parents (the risks which have been determined by the Orphan's and Custody Courts when carrying out the assessment), nor has it indicated the deadline by which parents must eliminate these conditions, as provided for in Section (22) (1<sup>1</sup>) of the Law on Orphan's and Custody Courts. Similarly, within the framework of an administrative case, the Orphan's and Custody Court provided different information to each of the parents regarding the progress of the case during mediation. In another case, the Orphan's and Custody Court failed to immediately provide the State Police with information on possible violence against children, rather doing it only 10 days after the receipt of the submission. The Ombudsman also found delays in the examination of an administrative case regarding parental custody rights and the taking of a decision.

In all cases, recommendations were made to the relevant Orphan's and Custody Court, and the State Inspectorate for Protection of Children's Rights was informed about repeated cases.

*For information on the restriction of the right to property and failure to comply with the principle of good administration by the Gulbene municipality, see the chapter on the "Right to Property".*



### *The Ombudsman as mediator in disputes between politicians and senior officials*

The Ombudsman gave an opinion and organised a discussion on the draft law “Amendments to the State Civil Service Law” (available [here](#)). The State Chancellery raised awareness to the issue of mechanisms for the protection of senior civil servants against retaliation on the part of political officials, suggesting a potential solution - that conflicts between senior officials and political officials could be examined by the Ombudsman as guardian of the principle of good governance.

In September 2021, the Ombudsman held a discussion entitled “The Ombudsman as Mediator in Disagreements Between Politicians and Senior Officials”. It was concluded that the framework provided for in the draft law should be improved by providing an additional mechanism where, without the involvement of the Ombudsman, the respective disputes would ultimately be dealt with within the public administration, as this is primarily an internal matter of public administration. The Ombudsman proposed the following provisions for the State Civil Service Law:

1. before turning to the Ombudsman, a person should first address their complaint to the head of the State Chancellery. They should then address it to the Ombudsman only if necessary;
2. The opinions of the head of the State Chancellery and the Ombudsman shall be examined and the decision on the dispute shall be made by the Cabinet of Ministers.

More detailed information is available [here](#).

# PREVENTIVE MECHANISM

## Introduction

The function of the preventive mechanism, or regular visits, is performed by the Ombudsman's Office as a whole, however most of the work is concentrated in the Prevention Unit, specifically.

Due to pandemic-related restrictions, colleagues were particularly careful when choosing both the timing of the visits and the institutions to visit. One of the main challenges of the visits was a strict adherence to epidemiological safety measures in order to prevent causing harm to the inhabitants of the institutions visited.

In spring 2021, following the lifting of the emergency situation, in-person inspection visits to institutions where individual freedom is or could be restricted were resumed. A total of 32 visits were carried out in 2021, as part of the preventive mechanism.

Despite the temporary suspension of inspection visits, the Ombudsman continued to monitor the impact of COVID-19 containment measures on vulnerable groups very carefully, both by requesting information from the responsible authorities and by making recommendations for the protection of human rights.

Also in 2021, colleagues responsible for the national preventive mechanism in other countries reached out a number of times to ask the Ombudsman's Office to share their experience, including on the following topics:

- information for the Estonian national preventive mechanism on the mandatory involvement of prisoners in work, consequences of refusal to work and strategies to motivate prisoners to work;
- information for the German national preventive mechanism on 'locked doors at night-time' in premises housing persons who have committed criminal offences, but have been recognised to have been in a state of mental incapacity or diminished mental capacity at the time of committing the offence.

### *Long-term social care and social rehabilitation institutions for children*

In 2021, visits to long-term social care and social rehabilitation institutions for children continued. The purpose of the visits was to evaluate their compliance with children's rights, paying special attention to ensuring children's contact with their relatives, the procedure for issuing an allowance (pocket money), the availability of technical equipment for the comprehensive participation in remote learning, as well as the development and implementation of individual social rehabilitation plans.

In total, seven long-term social care and social rehabilitation institutions for children were visited.

<b>Date of visit</b>	<b>Location</b>
22.04.2021., 10.06.2021.	Rīga municipal children and youth center "Ezermala"
22.06.2021.	Rēzekne City Council Social Care and Children's Social Services Centre
29.06.2021.	Liepāja City Council Social Services Orphanage
29.07.2021.	"Teika" branch of the state social care centre "Rīga"
25.08.2021.	Tiskādu Orphanage
23.09.2021.	Smiltene Municipality Children's and Family Support Centre
20.10.2021.	Social support and care centre "Avots"

During the visits, it was concluded that, in most cases, the shortcomings identified in the functioning of institutions are not unique to only one institution, which indicates systemic problems with respect to children's rights in out-of-family care.

Problems identified:

- insufficient involvement in the promotion of children’s access rights (to parents, siblings and other relatives);
- withholding of children’s pocket money due to various violations of internal rules;
- lack of proper representation of the child’s interests in various state and local government institutions, including administrative commissions in local governments;
- lack of an individualised approach to documenting and implementing plans for social rehabilitation of children;
- limited possibilities for solving children’s behavioural and addiction problems.

At the end of the visits, any inconsistencies with the requirements of regulatory acts were discussed with the management of each institution, and immediate recommendations for the improvement of the situation were provided.

The practice started in 2021 will be continued. In 2022, educational discussions on relevant children’s rights issues will be organised for employees of long-term social care and social rehabilitation institutions. Special attention will be paid to the shortcomings identified during visits.

Find the letters to Rēzekne City Council and Rēzekne City Council Social Care and Children’s Social Services Centre [here](#).

Find the report for the Smiltene Municipality Children and Family Support Centre and Smiltene Municipal Government [here](#).

### *Education institutions of social correction for minors*

On 11 November 2021, a visit to the education institution of social correction “Naukšēni” was conducted. The aim of the visit was to find out what support was provided to children and employees, after the State Inspectorate for the Protection of Children’s Rights had found significant violations of children’s rights at the end of September. *(For additional information, see the chapter on “Rights of Children and Young People”.)*

### *Long-term social care and social rehabilitation institutions for adults*

In 2021, nine visits were made to long-term social care and social rehabilitation institutions for adults. The purpose of the visits was to verify the information received by the Ombudsman's Office on alleged human rights violations in those institutions, as well as to verify the general conditions following the introduction of COVID-19-related restrictions in the country.

<b>Date of visit</b>	<b>Location</b>
07.05.2021.	Jelgava municipal government social care centre "Zemgale"
20.05.2021.	Dobele municipal government institution "Social Care Centre "Tērvete""
13.06.2021.	State LLC "Daugavpils Psychoneurological Hospital" long-term social care and social rehabilitation institution
15.07.2021.	Municipal agency "Ķekava Social Care Centre"
23.07.2021.	Branch "Pīlcene" of nursing home "Stružāni" in Rēzekne municipality
02.09.2021.	Riga City social care centre "Stella Maris"
08.09.2021.	General nursing home "Madliena"
01.10.2021.	Social care centre - nursing home "Pērle"
09.10.2021.	Branch "Kalkūni" of the State social care centre "Latgale"

Several aspects that do not meet the general human rights standards were identified in these institutions, for example:

- a restriction of clients' rights in relation to opportunities to meet and communicate with their relatives;
- a lack of meaningful leisure activities offered to the clients, as well as failure to provide regular outdoor walks;
- a lack of an individualised approach to documenting and implementing plans for social care and social rehabilitation of clients;
- a failure to ensure the accessibility of the environment, according to the needs of clients;
- the number of employees present in the institutions and the division of responsibilities were not appropriate for the number of clients and for the provision of social care and social rehabilitation services necessary for clients' objective needs in the long term;
- employees of the institutions were not provided with regular additional training on the issues related to filling out documentation on the social care and social rehabilitation provided to clients, resulting in incorrect entries in clients' documents.

Reports on findings in the adult care institutions are available [here](#).

### *Psychoneurological hospitals*

Without any doubt, over the last two years, overcoming the COVID-19 infection has been a major challenge for various institutions, including psychiatric medical institutions, as there is a large number of people with mental disorders staying there in the long term. These people may experience this time much more intensely due to the state of their health. In addition, overcrowding in these institutions often poses disproportionately higher risks for the spread of the COVID-19 infection, as a result of which national restrictions may have a lasting impact on these institutions and the people living there.

On 2 June 2021, due to a submission regarding problems with the accessibility of the environment for people with functional impairments, a visit was conducted to the State LLC Riga Psychiatry and Narcology Centre. During the visit, it was found that the hallway, wards, shower room and catering

area of the 5th department of the centre are suitable for persons with functional impairments. However, toilet rooms and stairs were not adapted, thus the department as a whole could not be considered to be adapted for persons with functional impairments, i.e. it did not meet environmental accessibility requirements.

Following the visit, a reply was sent to the applicant, and the redress mechanism available to him was explained.

On 3 and 4 August, a visit was conducted to the branch "Aknīste" of the state LLC "Daugavpils Psychoneurological Hospital". During the visit, information on specific human rights aspects that had already come to the Ombudsman's attention while visiting other psychiatric treatment institutions in the recent years, was obtained and analysed.

The recommendations made to the institution were related to the following issues:

- formally securing the informed consent of the patient;
- not supporting the practice of transfer to a hospital, without adequate medical justification, for patients who should receive community-based social care and rehabilitation services for further treatment;
- presentation of the patients' actual condition in the records of their individual treatment plans;
- providing the patients with written information on their rights;
- the availability of a complaint/submission box in every department;
- incomplete internal regulations regarding indicators and methodology used to assess the use of a restrictive measure - medications against the patient's will; obtaining a repeated consent for treatment from the patient;
- recording of all cases of use of restrictive measures;
- discontinuing the administration of diluted medicinal products to patients unless it is necessary for medical reasons;
- collecting centralised information on the frequency and duration of the application of restrictive measures;

- provision of equal rehabilitation services for all patients;
- availability of a multifunctional rehabilitation specialists' team for patient treatment;
- updating of patient treatment and rehabilitation plans;
- the right of every patient to meet and communicate with their relatives;
- every patient's right to have outdoor walks.

The report on human rights at the branch "Aknīste" of the state LLC "Daugavpils Psychoneurological Hospital" is available [here](#).

### *Institutions providing sobering-up services*

In 2021, the on-going case study of the placement of intoxicated persons in sobering-up facilities without their consent was resumed. During visits to institutions providing sobering-up services, it was established that certain facilities were not only non-compliant with the requirements of Cabinet Regulation No 570 (8 September 2020) on Hygiene Requirements for the Provision of Sobering-Up Services, but may also pose a threat to the safety of residents.

<b>Date of visit</b>	<b>Location</b>
13.07.2021.	Sobering-up centre of the Daugavpils Regional Hospital
23.07.2021.	Sobering-up centre of the association "Latvian Red Cross" in Ludza
23.07.2021.	Sobering-up centre of the association "Latvian Red Cross" in Preiļi
16.09.2021.	Sobering-up centre of the "Agape" foundation

See the letter about the conditions in the Preiļi sobering-up centre [here](#).

See the letter about the conditions in the Ludza sobering-up centre [here](#).



See the letter to the foundation “Fonds AGAPE” about conditions in the Liepāja sobering-up centre [here](#).

### *Police temporary detention facilities*

On 19 May 2021, a visit to the Temporary Detention Office of the Civil Police Department of Riga Regional Administration was conducted. The purpose of the visit was to gather information and evaluate the Office’s activities in the context of the COVID-19 pandemic.

This visit was marked by the worrying fact that the number of suicide attempts by persons placed there had increased over the past year.

Recommendations were made on:

- the availability of up-to-date information that governs or affects the functioning of the institution and the rights of the persons placed there;
- paying due attention to the state of health of each person placed there;
- informing each person of their rights;
- ensuring accessibility of the environment for persons with disabilities;
- providing psychosocial support for both officials and people placed there, to reduce suicide risks.

Report on the visit available [here](#).

### *Accommodation centres for asylum seekers*

<b>Date of visit</b>	<b>Location</b>
18.08.2021.	Accommodation centre for asylum seekers “Mucenieki”
20.08.2021.	Ministry of Interior’s Department of Health and Sports Centre “Dzintari”, Women’s department of the Riga Shelter

## Prisons

Detained persons are in a social risk group, and long-term imprisonment has negative consequences on their lives. While being in prison, people often lose their social status, sometimes also in their family or their workplace, which makes it considerably more difficult for them to participate in society and earn official income after being released. Prisoners are at risk of social exclusion and need special support and assistance to successfully integrate into society and the labour market after having served their sentence.

Given the importance of social work for the integration of prisoners into society and, consequently, for reducing a relapse into criminal behaviour, a study on this issue was launched in 2021.

Five prisons were visited in 2021.

<b>Date of visit</b>	<b>Location</b>
21.05.2021.	Riga Central Prison
16.06.2021.	Iļģuciems Prison
20.07.2021.	Jelgava Prison
22.09.2021.	Daugavgrīva Prison
07.10.2021.	Jēkabpils Prison

*For additional information, see the chapter on “Rights of Prisoners”.*

## Results and implementation of recommendations

As pointed out above, due to pandemic-related restrictions, colleagues were particularly careful when choosing both the timing of visits and the institutions to visit. Consequently, no follow-up

visits were carried out on the implementation of recommendations. Nevertheless, the replies given by the institutions on the implementation of recommendations were carefully monitored, and the planning of follow-up visits will begin soon.

Reports and replies from the responsible bodies available [here](#).

### *Ratification of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

On 11 November 2021, the Parliament adopted a law, which entered into force on 8 December 2021, to accede to the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. By doing so, the Latvian State, both internationally and nationally, reconfirmed that torture and other cruel, inhuman and degrading treatment or punishment are prohibited and constitute a serious violation of human rights.

The Optional Protocol determines that the State must establish a national preventive mechanism or a system of regular visits to institutions where people are or might be deprived of liberty, with the aim to prevent the risks of ill-treatment in these institutions.

In comparison to other countries around the world that have ratified the Optional Protocol, Latvia is in a unique position. The state had laid the foundations for the establishment of the national preventive mechanism already before the ratification of the Optional Protocol, in 2017. Usually, countries ratify the Optional Protocol and only then consider how to set up a system of regular visits. However, since 2018, the function of the preventive mechanism has been carried out by the Ombudsman's Office as a whole, with most of the work concentrated within the Prevention Unit.

With the ratification of the Optional Protocol, inspection visits to places of deprivation of liberty in Latvia with the aim of preventing the risk of ill-treatment will take place in three levels:

1. at a national level (Ombudsman's Office);
2. at a European level (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT));

3. at a global level (The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)).

By ratifying the Optional Protocol, the Latvian state also agreed with the broader understanding that “places of deprivation of liberty” include all places where a person’s liberty has or could be restricted, including institutions a person has admitted themselves to voluntarily, but later are unable to leave freely. For example, places of deprivation of liberty include not only prisons, police isolation cells and detention centres for detained foreigners, but also orphanages, nursing homes and psychiatric hospitals. With this understanding, there is an opportunity to visit places that may have not yet been identified or come to the attention of the institutions. In addition, the State offers support for regular visits to these places and respect for the rights of those placed there.

### *Additional activities to prevent the risks of ill-treatment*

#### **Six discussions for long-term social care and social rehabilitation institutions were organised.**

On 15 and 21 April 2021, an online discussion was organised for employees of nine long-term social care and social rehabilitation institutions on ensuring the rights of children living in out-of-family care. During the discussion, information was provided to employees of child care institutions about the most frequent shortcomings in the protection of children’s rights, and recommendations for preventing further violations were made.

Four online discussions were also organised regarding the Ombudsman’s recommendations on the protection of human rights in direct administration institutions under the Ministry of Welfare - state social care centres. Participants included employees of both the administration and the social care and social rehabilitation sectors of these institutions (approximately 70 participants in total).

#### **Date of discussion**

#### **Location**

18.06.2021.

State social care centre “Rīga”

05.07.2021.

State social care centre “Kurzeme”

06.07.2021. State social care centre "Zemgale"

07.07.2021. State social care centre "Latgale"

During the discussions, an explanation was given on: the Ombudsman's tasks, basic functions and the objectives of visits; recommendations made by the Ombudsman in previous years to the management of state social care centres, in order to improve the general living conditions in the centres, the quality of services provided to residents and respect for human rights; issues regarding the preparation of social rehabilitation plans for clients of the state social care centres. In addition, the latest information on the following issues was provided: the mandate of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; visits to institutions in Latvia; recommendations given to the Latvian government in previous years regarding the improvement of the work of the state social care centres in the long term.

**Participation in five discussions, working groups and awareness events.**

<b>Date of the event</b>	<b>Theme and form of participation</b>
14.01.2021.	Participation in a meeting on the situation in social care centres organised by the Latvian Association of Local Governments
17.03.2021.	Participation in a meeting of the Permanent Working Group on the Implementation Policy of Criminal Sentences about the Cēsis Juvenile Correctional Institution and the Ombudsman's recommendations
25.03.2021.	Meeting with the Kurzeme Planning Region and its partners on deinstitutionalisation
13.05.2021.	Participation in a discussion "An adult with mental disorders. Independent life", organised by "Apeirons"

16.11.2021.

Participation in a meeting organised by the Ministry of Welfare for social care centres on COVID-19-related issues

**27 guest lectures on the topic of human trafficking were conducted in schools, as part of the project “Ready for Life”.**

**An informational material-brochure “Important Aspects to Know About Life in a Social Care Centre” was prepared.**

**A survey on the preparedness of long-term social care and social rehabilitation institutions to tackle the COVID-19 crisis was carried out.** A survey of social care institutions was carried out in September 2021, where institutions were asked for information (for the period 14.09.2021 to 06.10.2021) on: the coverage of vaccinations against COVID-19; implementation of visiting rights and adherence to epidemiological safety measures in the relevant period; planning of isolation measures; cooperation with the responsible state institutions; the guidelines and recommendations available to them, and other issues.

In total, the Ombudsman’s Office received replies from 94 local governments, non-governmental organisations and private social care centres, as well as from all four state social care centres. By analysing the replies, it could be concluded that the institutions interpret and apply the same Cabinet Regulation, guidelines provided by the Ministry of Welfare and other available information in a wide variety of ways.

For example, some institutions allowed visitations only for vaccinated clients with vaccinated relatives, while others allowed everyone to meet without restrictions. There were also institutions that asked all visitors to present a working certificate, while other institutions also required oral declarations that the person was healthy and had had no contact with a sick person.

The varied interpretations of the rules was also reflected when analysing compliance with the rules on self-isolation. Some institutions imposed self-isolation on all customers who returned, for example, from the hospital, while others did not isolate anyone, vaccinated or unvaccinated. The

isolation time also varied - 14, 10, 7 or even less days. Some institutions provided outdoor walks during isolation, while others forced people to spend all 14 days in an enclosed space.

The questions included in the survey were discussed with the Ministry of Welfare, and social care institutions were introduced to the results of the survey at a seminar organised by the Ministry of Welfare on 16 November 2021.

## INTERNATIONAL COOPERATION

During the reporting year, the Ombudsman wrote a report to the UN Human Rights Council on the situation of human rights in Latvia within the framework of the 3rd cycle of the Universal Periodic Review of the United Nations. Furthermore, representatives of the Office participated in the 48th session of the Human Rights Council, in which the report of the Republic of Latvia was reviewed.

From 27 to 29 September, representatives of the Ombudsman's Office participated in the annual conference of the European Network of Ombudspersons for Children (ENOC) on "COVID-19 and Children's Rights: Learning for the Future", in Athens. During the conference, the effects of the COVID-19 pandemic on children's rights were discussed, focusing on areas such as education, health, protection from violence, poverty and children's right to participate in decision-making. Special attention was paid to problems regarding children's mental health during the pandemic (*find more information [here.](#)*)

A report was prepared for the European Network of Ombudspersons for Children on the situation in Latvia and the impact of the COVID-19 pandemic on children's rights, on the basis of which ENOC prepared and published a report on the impact of COVID-19 on the rights of the child. Replies were also prepared to requests for information from ENOC members, including answers on the role of children's opinion in the Ombudsman's work, on the mechanism for collecting data on cases of child abuse, on euthanasia of children and on the statutory age limit under which a child can give consent to enter into sexual relations.

On 3 December 2021, at the annual meeting of the European Network of National Human Rights Institutions (ENNHRI), the Ombudsman's Office was elected to the Global Alliance of National Human Rights Institutions' (GANHRI) Working Group on the Rights of Persons with Disabilities, where Latvia together with Ireland will represent Europe for the next three years.

The Ombudsman's Office was also represented in various international working groups, such as:

- European Network of Ombudspersons for Children - working groups on establishing regulation on common standards and values for all members of the network;
- European Network of Equality Bodies (EQUINET) - Working Group on Gender equality;



- European Network of National Human Rights Institutions (ENNHRI) - Working Group on Asylum and Migration and Working Group on the Rights of Persons with Disabilities. In 2021, the Ombudsman continued to participate in it, reporting on his activities at the international level as well as engaging in various activities of the working group. The Ombudsman's findings on access to the asylum procedure were also used in the ENNHRI public statement on the human rights situation at the eastern border of the European Union ([see here](#)).

During the reporting period, the Ombudsman's Office also continued to participate in the planning of the establishment of a unified forced-return monitoring system in the European Union (FReM III), carried out by the International Centre for Migration Policy Development. It aims to build a return system in line with European Union legislation, as well as to ensure the participation of national experts in the pool of observers of the European Border and Coast Guard Agency (Frontex) removal operations. The project ended in December 2021 and included various training sessions, as well as preparation of materials on the forced-return process and regulatory framework of the participating Member States.

## FINANCIAL RESOURCES AND PERFORMANCE OF THE INSTITUTION

### Funding from the State

The field of activity of the Ombudsman's Office - the protection of the human rights of individuals - is financed from the state budget programme 01.00.00 "The Ombudsman's Office". The aim of the programme is to promote the protection of human rights and a lawful and effective implementation of State's authority, done in accordance with the principles of good governance and the international treaties binding on the Constitution and on Latvia.

#### Main tasks of 2021:

- resolve human rights disputes, provide conclusions to individuals and recommendations for institutions, in addressing human rights violations;
- continue to raise the awareness of Latvian citizens on human rights and the importance of these rights in their lives;
- prevent violations of human rights and the principles of good governance, raise the awareness of employees of state and local government institutions on the principles of good governance;
- inform the public about the Ombudsman's verification procedures, which are of major importance for society as a whole;
- conduct studies and analyse the human rights situation, as well as provide conclusions on topical human rights issues;
- improve the capacity of the Ombudsman's Office to deal with complaints more effectively, reduce the time taken to deal with verification procedures;
- provide recommendations to the Parliament, the Cabinet of Ministers, local governments and other institutions regarding the issuing or amendment of legal acts;
- ensure effective observation of forcibly expelled persons;
- continue to establish the Ombudsperson's Office as an information centre on human rights issues;

- monitor the implementation of the UN Convention on the Rights of Persons with Disabilities;
- continue cooperation with ombudsmen from other countries and international human rights organisations;
- perform the function of the national preventive mechanism.

### Overview of financial indicators

2021 (in euros)

No.	Financial indicators	Previous year (actual expenses)	Reporting year	
			Approved by law	Actual expenses
1.	<b>Financial resources for expenses (total):</b>	1 541 111	1 777 776	1 749 616
1.1.	grants	1 541 079	1 772 512	1 746 845
1.2.	paid services and other sources of own revenue	32	5264	2771
1.3.	foreign financial assistance	0	0	0
1.4.	donations and gifts	0	0	0
2.	<b>Expenses (total):</b>	1 541 103	1 777 776	1 748 923
2.1.	total maintenance expenses	1 503 416	1 777 776	1 714 522
2.1.1.	current expenses	1 491 245	1 765 739	1 702 485
2.1.2.	interest expenses	0	0	0
2.1.3.	subsidies, grants and social benefits	0	0	0
2.1.4.	current payments to the European Community budget and international cooperation	12 171	12 037	12 037
2.1.5.	transfer for maintenance expenses	0	0	0
2.2.	capital investments expenses	37 687	0	34 401

In 2021, the planned state budget funding was 1.78 million euros and the actual expenses of the reporting period amounted to 1.75 million euros. Additional funding of 209.7 thousand euros was allocated to the priority actions for 2021, including 97.5 % for strengthening the capacity of the Ombudsman's Office.

Due to the spread of COVID-19 infection and restrictions imposed during the emergency situation, expenditure on goods and services, including business trips, as well as expenditure on public activities was reduced by 34.4 thousand euros. Correspondingly, an increase in expenditure on fixed capital formation was made for the purchase of computer equipment, server equipment, communication tools and disinfection equipment.

At the end of the year, base allocations of 28,2 thousand euros were closed.

### Performance indicators of the Ombudsman's Office in 2021

Performance indicator	Plan for the reporting period	Implementation of the plan for the reporting period
<b>Result: an informed public and a timely prevention of violations</b>		
Organised inspections in state and local government institutions (in institutions of closed and semi-closed type, orphan's courts, educational institutions, etc.)	80	45
Educational seminars, discussions and other events organised	45	181
Participation in events organised by other institutions — lectures on issues of competence of the Ombudsman	50	322
Media publications prepared	4500	6717
<b>Result: compliance with the principles of good administration</b>		
Conclusions provided to the Constitutional Court	15	19
Conclusions provided to public authorities on draft legislation	45	45
Participation in working groups and commissions	90	187
<b>Result: implementation of the Ombudsman's policies</b>		
Submissions received (reviewed)	1900	1945
Replies to submissions prepared	2000	1523
Replies to submissions without initiating verification procedures	500	964

Performance indicator	Plan for the reporting period	Implementation of the plan for the reporting period
Verification procedures initiated on the basis of an submission	50	65
Answers prepared via e-mail, on issues related to the competency of the Ombudsman's Office	700	1778
Oral consultations provided:	7000	3317
➤ face-to-face	2000	13
➤ telephone	5000	3304
Verification procedures initiated by the Ombudsman	10	6
Surveys of foreigners to be expelled	70	4

### *Additional funding allocated to priority actions*

1. **Severance payment of EUR 5152 to the Ombudsman** - a severance payment equal to one month's salary when leaving office at the end of its term, applicable to the Ombudsman as an official confirmed by the Parliament, in accordance with Section 17(9)(1) of the Law on Remuneration of Officials and Employees of State and Local Government Authorities (Protocol No 55, 38§ paragraph 3, Cabinet of Ministers meeting of 22 September 2020). The additional funding was not used because the Ombudsman was appointed for a third term.
2. **EUR 204 505 for the strengthening of the capacity of the Ombudsman's Office** - in order to improve the Ombudsman's Office's capacity to protect the human rights of individuals more effectively and qualitatively by attracting highly qualified specialists with the offer of competitive remuneration (Protocol No 55, 38§ paragraph 3, Cabinet of Ministers meeting of 22 September 2020).

In the first quarter of 2021, the Ombudsman's Office together with the cooperation partner - the State Border Guard - completed the implementation of project No TSB/PMIF/2018/1 "Implementation of an effective surveillance process (Stage 1)".

In 2021, the budget programme 70.18.00 "Implementation of Internal Security and Asylum, Migration and Integration Funds Projects and Measures (2014-2020)" granted funding to the Ombudsman's Office in the amount of EUR 3654 for the activities of the project. EUR 3642 or 99.7 per cent of the funding planned for the year was used.

In the framework of the project “Implementation of an effective surveillance and expulsion process (Stage 1)”, a number of measures were implemented in the following areas:

- 1) strengthening the knowledge of forced expulsion observers and officials of the State Border Guard on the most topical human rights standards in the field of forced expulsion of foreigners;
- 2) improvement of procedures for the recognition of victims of trafficking in human beings in the expulsion process;
- 3) ensuring the rights of unaccompanied minor children in the process of expulsion;
- 4) improvement of the database of the Ombudsman’s Office.

### Analysis of policy and performance

<b>Policy objective: protection of human rights, reduction of discrimination, promotion of a lawful and effective implementation of State’s authority, done in accordance with the principles of good governance (Ombudsman Law)</b>			
<b>Policy performance indicators</b>	<b>Development planning documents, or laws and regulations</b>	<b>Actual value (2021)</b>	<b>Planned value (2024)</b>
Assessment of <b>the Ombudsman’s Office in the International Coordinating Committee of National Human Rights Institutions (ICC)</b> , status according to the Paris Principles <sup>1</sup>	The strategy of the Ombudsman’s Office	1	1

<sup>1</sup>The status according to the Paris Principles, where 1 = A (the national body fully meets the criteria of the Paris Principles), 2 = B (partly meets the criteria of the Paris Principles), 3 = C (complies with certain criteria of the Paris Principles), 4 = no status awarded because it does not meet the criteria of the Paris Principles.

	2020 Actual value	2021 Actual value	2022 Plan	2023 Forecast	2024 Forecast
<b>Most characteristic performance indicators</b>					
<b>Fulfilment of Ombudsman’s recommendations, %</b>	82,9	<b>69,3</b>	72	72	72

<b>Customer dynamics index</b> <i>(base value 1.0 with 8727 clients, achievable value 1.1 with 9600 clients)</i>	1,0	<b>1,0</b>	1,1	1,1	1,1
<b>Quality indicators</b>					
<b>Public Trust Rating, Points</b> <i>("+" denotes a positive rating, "-" a negative rating, in a population survey) SKDS/ independent study data</i>	35,9	<b>29,1</b>	25	25	25
<b>Claims satisfied by the Constitutional Court, %</b>	100	<b>100</b>	94	94	94

## PERSONNEL

Number of employees on 31 December 2021	54
Average number of employees in 2021	55
Hired	5
Dismissed	6
Staff turnover coefficient	0,2

### Breakdown by gender

Men	7
Women	47

### Breakdown by age group

20-29	6
30-39	19
40-49	22
50-59	3
60-69	2
70-79	2



## Areas of employment

Legal analysis and consulting	39 (including the Prevention Unit)
Communication and international cooperation	6
Administration, document management, personnel and financial management	7
Maintenance and management	2

## Education level

Higher vocational education	2
Studying for a bachelor's degree	1
Bachelor's degrees	2
Master's degrees	49 (2 of which are doctoral candidates)

## SUMMARY

For the second year in a row, the COVID-19 pandemic and the issues related to its management, which created a series of human rights restrictions, were at the forefront of the Ombudsman's agenda. Citizens asked for clarifications and justifications of the various decisions already taken by the government, as well as government's plans and even individual statements or statements made by politicians. The Ombudsman acknowledges that the COVID-19 crisis has led to divisions within society and even raised doubts about the rule of law and democracy in Latvia in part of the population.

According to the Ombudsman, the worsening epidemiological situation in the country as a whole and the overburdened healthcare system in the autumn of 2021, reflected the consequences of the government's indecisive stance – the government avoided adapting epidemiological security measures to the increasing level of threat and to epidemiologists' predictions, and did not pay sufficient attention to increasing the vaccination coverage. The government's difficulties in making unified decisions and the disagreements between ministries of different sectors led to a situation where unpopular government decisions were no longer reversible and citizens had to face particularly serious restrictions on human rights. This took place in many areas, with 258 written submissions and a further 596 e-mail enquiries received by the Ombudsman's Office in 2021, in relation to the topic of COVID-19.

For example, in the area of healthcare, citizens most often complained about national policies aimed at combating the COVID-19 pandemic; they questioned the quality and effectiveness of both vaccines against COVID-19 and face masks, even arguing that the vaccine is harmful to human health. On the other hand, relatively few complaints were received about the lack of access to other healthcare services due to COVID-19 restrictions. At the same time, residents continued to complain about perceived mistakes in medical treatment or the attitude of medical practitioners. In some cases, systemic problems such as inaccessibility of medical services, denial of reimbursement of medicinal products or high co-payments were also mentioned.

On the issue of non-discrimination violations and possible unjustified differences of treatment during the reporting period, citizens also mostly complained about certain government restrictions

due to the COVID-19 pandemic. The complaints mainly involved the rights to work, education, access to goods and services.

The Ombudsman regularly provided his assessment of the acceptability of certain restrictions, as well as explained to people what legal instruments were available to protect their rights. However, as is customary every year, complaints were also received for violations unrelated to COVID-19. In particular, the Ombudsman consistently received complaints from people with disabilities about the treatment they receive in the working environment, environmental or housing modifications, and insufficient income. Regarding people with mental impairments, the Ombudsman continued to stress the need for the responsible institutions to pay more attention to trusteeship issues and the right of everyone to live in society, achieved by deliberately phasing out institutional care and promoting the diversity and development of community-based services.

Complaints were still received last year about possible unequal treatment in the working environment due to possible mobbing or bossing. The Ombudsman welcomes the improvement of employees' understanding of their rights. There are also employers who recognise long-term conflicts and differences in the working environment as a major risk factor for the working environment and take action to eradicate them.

During the reporting period, the Ombudsman's Office received a total of more than 240 submissions on the right to a fair trial, showing lower activity than in the previous year (328). Statistical data show that the number of submissions regarding unethical actions of persons in charge of pre-trial proceedings and judges has increased. Several complaints were also received regarding the attitude of state-provided counsel in legal proceedings and the legal assistance they provide. Citizens also continued to express their dissatisfaction regarding the execution of investigative actions and unjustified procedural decisions, delaying cases both in pre-trial proceedings and in court and thus failing to ensure that the case is heard within reasonable time. There was a relatively large number of complaints about issues regarding the enforcement of court judgements, as well as about the actions of sworn bailiffs and decisions taken during the enforcement of judgements.

During the reporting period, the Ombudsman also examined submissions from more than 70 private individuals regarding the right to private and family life, the most common topics of which were the protection of personal data, enforcement of access rights and respect for private life.

The Ombudsman received submissions from both victims of violence and persons whose rights have been restricted due to a court decision on temporary protection against violence. In 2021, 28 submissions were also received on various issues related to the freedom of expression: freedom to express opinions, receive and disseminate information, freedom of the press, hate speech. Hate speech against persons of different skin colours and ethnic backgrounds, as well as sexual minorities was observed. Issues related to hate speech and disinformation were discussed in several sessions of the Parliament's (Saeima's) committees, and the issue of personal responsibility for spreading disinformation, especially in the context of COVID-19, remained on the agenda.

An assessment of the submissions in the field of social security revealed a large number of submissions related to social assistance and services provided by local governments. The Ombudsman most often observed problems related to unclear communication, with the local government failing to provide sufficient explanations of the actions or decisions they have taken. Citizens also continued to complain about income that is insufficient to meet basic needs. Although as a result of Constitutional Court (Satversmes tiesa) rulings, the government had significantly increased the minimum income levels in 2021, people with the lowest income still reported that insufficient income still prevents them from receiving an adequate diet, purchasing medicines and necessary goods. Regarding the amount of minimum income, the Ombudsman has previously indicated that the legislator has failed to comply with the conclusions of the Constitutional Court rulings by including a specific amount of benefit (pension) into the law without an objective justification, with a promise to review it at least once every three years. The Constitutional Court has specifically emphasised that it is the legislator's duty to define the basic principles of the method for determining minimum income thresholds, including mechanisms to ensure the sufficiency of these thresholds and their periodic review. The Constitutional Court has stressed that the power of the State in deciding on a minimum level of social assistance is limited. The State must justify its decision in determining the minimum level of social assistance and the conceptual choices made in this regard. Currently, in its Plan to Improve the Minimum Income Support System in 2022–2024, the government foresees an improvement of the existing system, starting from 2023: a change in the principles for determining minimum income thresholds by linking them to a socio-

economic indicator and making them into the law; an establishment of an annual revision of the minimum income thresholds. The Ombudsman is constantly monitoring the government's actions and its commitment to carry out these plans.

Additionally, in the context of the spread of COVID-19 infection, the Ombudsman pays particular attention to whether citizens are able to access public services. In this context, it is important to note that an administrative territorial reform entered into force in 2021, which led to the formation of 43 new municipalities. These municipalities were required to consolidate or issue new binding rules, and set up new institutions. While local governments have the right to autonomously determine the scope of social assistance they provide to people in their administrative territory, this assistance should prioritise children. Local governments must ensure that, in cases where several municipalities have been merged into one as a result of the reform, the support available to families with children does not decrease to a level below what was available to them before the reform. The Ombudsman has therefore called on local governments to avoid taking decisions that worsen the situation of children living within their territory, rather than improving it. This is also important because there is already no shortage of problems in the area of children's and young people's rights — within the last year, the number of submissions regarding this subject has increased. Admittedly, the increase in the number of these submissions is also mainly due to the restrictions imposed to combat the spread of COVID-19. In addition to COVID-19, similarly as in the past, applicants most frequently reached out to the Ombudsman on topics such as the enforcement of access rights, the suspension/renewal of custody rights and the right to education. The largest number of submissions in the field of children's rights concerns difficulties in implementing access rights and enforcing court rulings in cases regarding access rights.

It should be stressed that in 2021, there have been a number of important developments in the area of children's rights. First, amendments to the Law on the Protection of the Children's Rights further defined the principle of protection of the rights of the child and laid down the criteria for determining the best interests of the child. This will improve the assessment of the best interests of the child and reduce the number of cases when a decision is claimed to be based on the best interests of the child, without an actual evaluation. The Ombudsman was actively involved in the discussion and development of these criteria. Second, on 16 June 2021, amendments to the Law on Orphan's and Custody Courts laid down higher qualification requirements for the members of the Orphan's and Custody Court, thus improving the quality of their work. Third, on 1 July 2021, a new

model for the assignment and administration of the assistant service was introduced, which affects children's rights and interests. During the reporting period, the advantages and disadvantages of the new model were actively discussed and debated. Overall, the Ombudsman assesses the changes as positive, however the service still needs to be improved.

Fourth, in 2021, the Ombudsman launched a verification procedure on systemic problems related to crimes against child morality and sexual inviolability. As part of the verification procedure, the Ombudsman assessed the duration of the pre-trial investigation and the issues that delay it, the potential solutions to increase the effectiveness of the pre-trial investigation, the role of prosecutors in the pre-trial investigation and issues related to examinations conducted by the State Police before a criminal investigation has begun. Unfortunately, the Ombudsman's investigation concluded that, in almost a third of cases, the criminal investigation lasts two or more years. The State Police lacks investigators that are specialised in investigating crimes against child morality and sexual inviolability. In his conclusion, the Ombudsman drew attention to the fact that the investigation of sexual crimes against children is a complex issue, which requires a continuous improvement of the system and mobilisation of resources. He also made recommendations to the relevant institutions.

When a person is deprived of their liberty, their existence and protection of their rights depend on the prison staff, administration, and public officials. Consequently, the Ombudsman's has always paid close attention to the rights of detainees, the mechanisms protecting these rights and their effectiveness. In 2021, the Ombudsman continued to receive complaints about inadequate living conditions in prisons, actions of prison staff, misplacement/destruction of enquiries or submissions addressed to the prison administration, limited opportunities to consult specialists outside the prison, denial of requests to access medical documentation, etc.

2021 will remain in history with the hybrid attack carried out by Belarus and the resulting refugee crisis, due to which an emergency was declared in the Latvian-Belarusian border area. However, the number of submissions received by the Ombudsman's Office from foreign nationals and persons without legal status did not increase during the reporting period. At the same time, on several occasions, the Ombudsman provided an assessment of various legal aspects of this crisis situation to the Parliament, the Cabinet of Ministers and the Ministry of the Interior. He stressed the need to

ensure the security of the state, balancing it with the need to respect human rights, and argued that the use of force should be used as a last resort.

In the area of trafficking in human beings, the focus in 2021 was certainly on increasing public awareness. During the reporting period, staff of the Ombudsman's Office continued to actively participate in the school programme "Ready for Life" and delivered 32 guest lectures, including on trafficking in human beings. Representatives of the Office also accepted an invitation from the Latvian Municipal Training Centre to deliver lectures to State Police staff, prosecutors, judges and sworn bailiffs on the topic "Children — Victims of Trafficking in Human Beings". A total of 23 lessons were taught in 2021, significantly improving the capacity of judicial and law enforcement staff to identify cases of trafficking in human beings in a timely manner so that perpetrators are prosecuted and victims receive the necessary assistance and support from the state.

Apart from awareness initiatives, the Ombudsman also actively participated in the development of various policy documents by conducting studies, as well as providing his opinions and recommendations in many areas. For example, during the reporting period, the Ombudsman was actively involved in the work of the legislator in relation to shortcomings in the protection mechanism of acquisition of property in good faith in criminal proceedings, by providing his proposals on possible solutions. The Ombudsman also made several proposals to the relevant ministries and the legislator regarding the right to a fair trial. However, despite a number of previous conclusions provided, the Ombudsman repeatedly observed an inability of the State administration to cooperate in taking control over property under State jurisdiction and covering the related maintenance costs. On the other hand, the Ombudsman welcomes the fact that the legislator has finally been able to establish a legal solution to the problem that has existed for so many years regarding forced co-ownership in privatised apartment buildings.

In addition, it is important to note that on 11 November 2021, the Parliament adopted a law on the accession to the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The law entered into force on 8 December 2021. By doing so, the Latvian State, confirmed both internationally and nationally that torture and other cruel, inhuman and degrading treatment or punishment are prohibited and constitute a serious violation of human rights. The Optional Protocol provides for the establishment of a national preventive mechanism, or a system of regular visits, aimed at preventing risks of ill-treatment in places where

personal liberty is or could be restricted. In comparison to other countries around the world that have ratified the Optional Protocol, Latvia is in a unique position, i.e. the country laid the foundations for the establishment and practical implementation of the national preventive mechanism before ratifying the Optional Protocol. The Ombudsman's Office has been carrying out the function of the preventive mechanism since 2018, with most of the work being carried out by the Prevention division of the Office. A total of 32 site visits were carried out in 2021 as part of the preventive mechanism.

It should also be noted that at the annual meeting of the European Network of National Human Rights Institutions (ENNHRI) at the end of 2021, the Ombudsman's Office was elected to the Working Group on the Rights of Persons with Disabilities of the Global Alliance of National Human Rights Institutions' (GANHRI). The working group is comprised of only eight national human rights institutions from around the world, two from each region. Latvia, together with Ireland, will represent Europe in the working group for the next three years. Only institutions with status "A" can be approved to participate in this working group. The Ombudsman's Office has been awarded status "A" since 2015.