



OMBUDSMAN OF THE REPUBLIC OF LATVIA

ANNUAL REPORT 2021

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 agenda¹. 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

¹ This is a chapter of The Annual Report 2021 of the Ombudsman of the Republic of Latvia. Find more information [here](#).

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.