



365 DAYS
EVERYONE COUNTS



THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA

**ANNUAL REPORT OF 2019
ON THE ACTIVITIES
OF THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA –
*THE NATIONAL HUMAN RIGHTS INSTITUTION***

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CONTENTS

- 4** Introductory word by the Seimas Ombudsmen
- 6** Mandates of the Seimas Ombudsmen
- 9** Activities of the Seimas Ombudsmen's Office as the National Human Rights Institution
- 16** Investigations into the fundamental human rights problems
- 26** Analysis of the main issues raised in applicants' complaints and own initiative investigations of the Seimas Ombudsmen
- 28** Report on the implementation of the national prevention of torture
- 37** Cooperation with social partners
- 41** Annex
 - Statistics of complaints: thematic summary of complaints completed in 2019

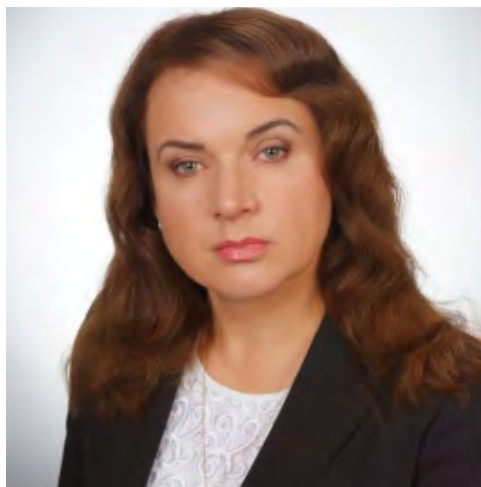
INTRODUCTORY WORD BY THE SEIMAS OMBUDSMEN

In addition to other constitutional principles enshrined in the applicable version of the Constitution of the Republic of Lithuania adopted in the referendum of 25 October 1992, such as the principle of the supremacy of the Constitution, the integrity of the Constitution, the rule of law, the secular state, the separation of powers, etc., the crucial principle is the principle of social orientation. Although there is no definition of a social state in the modern Constitution of Lithuania, the totality of the constitutional rules reflects the social orientation of the state. A socially oriented state is not identified with social state, especially a welfare state, nor opposed to the rule of law, but in the doctrine of a modern constitutional law it forms an indivisible whole which characterizes the construction of a democratic state.

Given that the particular rules and principles reflecting the social orientation of the State are enshrined in the Constitution, not only their declaration, but also their actual implementation is undoubtedly important, the Constitution enshrines



the duty of the State to ensure the security and protection of human dignity. It is important to note that the Constitutional Court of the Republic of Lithuania has repeatedly stated in its rulings that dignity is an inalienable characteristic of the individual as the greatest social value; every member of the society has natural dignity; natural human rights are the natural possibilities of the individual, which ensure his human dignity in the fields of social life. The fact that the legislator, when regulating relationships concerning the exercise of human rights and freedoms, must guarantee their proper protection is one of the preconditions for ensuring human dignity as the constitutional value. State institutions and officials have a duty to respect human dignity as a special value; violations of human rights and freedoms can also undermine human dignity. The State must establish the system of social security which would help maintain the living conditions which correspond to the dignity of the person and, if necessary, provide the person with the necessary social protection¹.



¹ For example, the ruling of the Constitutional Court of the Republic of Lithuania of 9 December 1998, the ruling of 9 December 2004, the ruling of 2 September 2009.

Those who are interested in the activities of the Seimas Ombudsmen's Office may naturally wonder why, when reviewing activities of this institution in 2019, the emphasis is placed on the human dignity and one of its essential conditions – ensuring social and economic rights. In response, it has to be admitted that the proper implementation of these rights remains a major challenge for the State, and neglecting them can have negative consequences, particularly for the most socially sensitive and most vulnerable members of society: the elderly, the disabled, etc. Accordingly, the Seimas Ombudsmen, who are primarily perceived as the defenders of human rights – the intermediaries between the individual and public authorities – must help ensure that the public authorities do not violate the individual's rights and freedoms in the areas of social and economic life and that the State identifies as one of its most important missions the proper allocation of the available resources to all members of society.

According to the constitutional principle of the separation of powers, each institution exercising the state power has a role to play in ensuring social and economic rights. While in the framework of public authorities the Seimas Ombudsmen's Office is not classified as a legislative or executive body, according to its mandate in the field of protection of human rights and freedoms – dealing with complaints from individuals, initiating investigations into the fundamental violations of human rights and freedoms, preventing torture, monitoring human rights throughout the life of this institution since 1995 and thus in 2019, attempted and is attempting to draw attention to the respect for human dignity, the proper exercise of economic and social rights and aims at preventing violations of law and ensuring that personal dignity is respected in the future.

Poverty and social exclusion are one of the most urgent issues in the country, making the overcoming of poverty one of the most pressing areas of human rights' protection. One of the preconditions for the individual to become a full member of civil society, to exercise freely and actively political and

civil rights is to free himself from poverty. One of the manifestations of poverty which should be mentioned here is homelessness. In order to find out the extent of this problem in Lithuania, in 2019, the Seimas Ombudsmen analyzed the country's strategic documents, and studied thoroughly the documents regulating the allocation of resources to address the problem of homelessness. On the basis of this analysis, in 2020, the Seimas Ombudsmen will initiate the study to reveal the problems of providing social housing for low-income individuals and individuals incapable of independently finding housing.

In the exercise of the functions of national prevention of torture, the Seimas Ombudsmen regularly visit various places of detention, including care homes and mental institutions, and monitor how they ensure human rights, and as the national human rights institution, the Seimas Ombudsmen carry out the monitoring of human rights, initiate investigations into the fundamental human rights problems. In 2019, one of the most important works carried out by the Seimas Ombudsmen was the investigation² which revealed violations of human rights related, *inter alia*, to the lack of knowledge of employees of care homes about the effective ensuring of human rights, as well as the investigation³ during which the effectiveness of the process of reviewing court decisions following which persons were declared to be legally incapacitated in the country was analysed.

The importance of ensuring social and economic rights was also discussed at the Nordic-Baltic

² Report on access of employees in adult social care institutions (social employees, nurses and their assistants) to vocational training and professional competence improvement in human rights issues, 30 September 2019, No PRJ2018/1-3.

³ Investigation into the fundamental human rights problems concerning decisions following which persons, before 1 January 2016, were declared to be legally incapacitated and possibly unjustified restriction of such persons' rights, No NJTI-2018/1-1, 10 December 2019.

Ombudsmen's Conference⁴ organised by the Seimas Ombudsmen's Office on 26 September 2019, which provided an opportunity not only to share and exchange experience, but also to assess the progress of neighbouring countries in the area of ensuring social and economic rights.

It should be noted that the proper implementation of social and economic rights is necessary not only from the central point of view, i.e. from the state-wide perspective, but also at the municipal level, because self-government institutions, being closest to the individual and having better understanding of the actual needs of the individual, can make optimal decisions in this area and, accordingly, there is a need for the educational work in order to emphasise that social and economic rights are a safeguard of human dignity⁵. It is necessary to emphasise that the State must take the required measures to ensure that economic and social rights are fully implemented. In many cases, the protection and enforcement of these rights requires large resources that States may not have. However, their lack does not give the State the right not to take the necessary actions or to keep them postponed and delayed. The State must provide the maximum possible protection and ensure these rights within the limits of its own resources, and must demonstrate its commitment to make progress towards their better protection.

In accordance with these imperatives, in the near future, i.e. in 2020-2022, the Seimas Ombudsmen will also pay due attention to ensuring social and economic rights of socially vulnerable persons, investigating complaints, performing the functions of the Institution of the National Prevention of Torture and the National Human Rights Institution.

MANDATES OF THE SEIMAS OMBUDSMEN

Article 73 of the Constitution of the Republic of Lithuania (hereinafter – the Constitution) establishes that the Seimas Ombudsmen have the duty to investigate the citizens' complaints about the abuse of office by or bureaucracy of state and municipal officials (except judges). The second part of the same article provides that the powers of the Seimas Ombudsmen shall be established by the Law of the Republic of Lithuania on the Seimas Ombudsmen (hereinafter – the Law on the Seimas Ombudsmen, the Law). Article 3 of the Law, which was amended to take account of the new obligations of the Republic of Lithuania as a member of the international community, states that there are three main objectives (mandates) of the activities of the Seimas Ombudsmen.

It should be noted that in addition to the handling of complaints provided for in the Constitution, following the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the Republic of Lithuania at the end of 2013, the Seimas Ombudsmen were empowered to perform the national prevention of torture, and from 1 January 2018 onwards – were assigned the functions of the national human rights institution.

Investigation of complaints

The powers of the Seimas Ombudsmen to investigate the citizens' complaints about the abuse of office by and bureaucracy of officials arise from Article 73 of the Constitution and are enshrined in the Law on the Seimas Ombudsmen. The investigation of complaints accounts for the bigger part of the Seimas Ombudsmen's activities to which the particular attention is devoted. With a view to achieving that the person's right to the proper public administration becomes real, the Seimas Ombudsmen, by exercising

⁴ <http://www.lrski.lt/naujienos/732-siaures-bei-baltijos-sali-konferencijoje-lietuvos-demesys-ekonomini-bei-socialini-teisi-uztikrinimo-svarbai.html>.

⁵ E.g., Vainiūtė, Milda. *Konstitucija – orumo garantas*. Savivaldybių žinios, 30 November 2019, No 19(879), p. 32.

all the rights provided by the Law, investigate complaints having objectively assessed the circumstances complained about, make decisions, issue recommendations to institutions, analyse the follow-up information on the implementation of recommendations, and, if necessary, take other measures to ensure the effective implementation of the recommendations. The Seimas Ombudsmen actively respond to the information received from media or by other means about possible abuse of office by officials, bureaucracy or other violations of human rights and freedoms. In such cases, the Seimas Ombudsman conducts investigations on his own initiative.

The right of the Seimas Ombudsmen to mediate between the individual and the official who refuses to address the individual's problem is the traditional right of ombudsmen exercised all around the globe. This right is also provided for in the Law on the Seimas Ombudsmen, according to which the Seimas Ombudsmen can mediate to have the individual's problem resolved in good faith. By mediating between individuals and state or municipal institutions and issuing recommendations, the Seimas Ombudsman draws the attention of the officials to the shortcomings of their work and violated human rights in the sphere of public administration. If the mediation procedure does not resolve the problem and the recommendations are not followed, the complaint is examined on the merits. It should be noted that the mediation procedure makes it possible to significantly shorten the time of investigation of complaints and to resolve issues relevant to the complainants within 1-1.5 months and to pay greater attention to the pressing problems relevant to a large part of the society.

Only when people are confident that their rights and freedoms are protected and are effectively defended in the event of their violation the confidence in the State and its institutions will increase. The effective protection of human rights and freedoms is ensured by a variety of means: by investigating complaints,

conducting investigations on own initiative, mediating between individuals and the State, collaborating with non-governmental organizations, etc. It should be emphasized that human rights are effectively protected only when all envisaged human rights remedies are implemented, without prejudice to the application of any of them.

National Prevention of Torture

Since 2014, the Seimas Ombudsmen have been carrying out the national prevention of torture by regularly visiting places of detention. According to Article 19¹(2) of the Law on the Seimas Ombudsmen, the place of detention is any place under the jurisdiction or control of the Republic of Lithuania, where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence, i. e. arrest houses, imprisonment institutions, social care homes, mental health facilities, communicable disease treatment facilities, places of detention of foreigners and other institutions. According to the data available to the Seimas Ombudsmen's Office, there are more than 400 places of detention in Lithuania.

In carrying out the national prevention of torture, the Seimas Ombudsmen exercise broad powers, i.e. the right to choose which places of detention to visit and who to interview, to enter all places of detention and all the premises therein, to familiarize themselves with their facilities and infrastructure, to speak without witnesses with persons deprived of liberty, as well as to question any other person who may provide the relevant information. In addition, the Seimas Ombudsmen have the right to conduct inspections of the places of detention together with selected experts. In performing this function, the places of detention are regularly visited and inspected to determine whether there are any manifestations of torture, other cruel, inhuman or degrading treatment, or any other forms of violation of human rights; furthermore, the supervision is

carried out of the implementation of the Seimas Ombudsmen's recommendations.

There are about 50 visits per year to places of detention.

In performing the national prevention of torture, it was ascertained that the prevention of torture and other violations of human rights is important and has positive effects such as: detection of various types of human rights violations that were not known during the investigation of complaints, drawing attention of the institutions to the problems and aspects that are likely to give rise to the violation of rights of individuals in places of detention, the promotion of a progressive, respectful approach to attain the long-term goal of ensuring that the rights of persons in places of detention are not violated.

The ongoing national prevention of torture is an important contribution to the improvement of the human rights situation in the country through the implementation of the recommendations made to Lithuania by the United Nations (hereinafter also – the UN) Human Rights Council and various other international institutions.

National Human Rights Institution

The origin and scope of activities of national human rights institutions (hereinafter also – the NHRI) are closely linked to the international mechanism of the protection of human rights. The concept of the NHRI activities was formulated by the UN General Assembly in 1993 in Resolution No 48/134, which encourages Member States to set up NHRIs, emphasizes the need for such institutions to adhere to the principles defining their status, the operational guidelines and the main requirements (designated as the Paris Principles). The adopted document foresees that the status of the NHRI is assigned to the country's institutions if they are independent and able to ensure that international human rights organizations will be provided with the objective insights (opinion) on the progress of

human rights in the country, they shall be able to, independently of the executive power of the State, participate in the discussion of the reports generated by the State in implementing requirements of the provisions of the UN Convention for the Protection of Human Rights.

On 23 March 2017, the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights accredited the Seimas Ombudsmen's Office as an NHRI (Status 'A') in line with the Paris Principles. On 7 December 2017, the Seimas of the Republic of Lithuania (hereinafter also – the Seimas) passed the Law (entered into force on 1 January 2018) amending Articles 3, 19 and 19¹ of the Law No. VIII-950 on the Seimas Ombudsmen and adding Article 19² which defined new areas of competence of the Seimas Ombudsmen in the exercise of the following functions attributable to the National Human Rights Institution:

- ▢ to carry out human rights monitoring in Lithuania and to prepare reports on the human rights situation;
- ▢ to carry out the dissemination of information on human rights and public education on human rights;
- ▢ to present assessment of the human rights situation in Lithuania to international organizations and to provide them with information in accordance with the obligations established in the international treaties of the Republic of Lithuania;
- ▢ to make proposals to state and municipal institutions and bodies on human rights problems;
- ▢ to seek harmonization of national legislation with the international obligations of the Republic of Lithuania in the field of human rights;
- ▢ initiate investigations into the fundamental human rights problems.

It is necessary to emphasize the particular importance of the role of the NHRI in systematically analysing and summarizing the information for continuous reporting on the fundamental human rights issues, assessing the conformity of national legal acts with the universally recognized human rights principles and standards, proposing conditions for the elimination of potential violations of human rights, etc. In pursuit of more effective implementation of decisions and recommendations, the NHRI relies on international, regional and national human rights mechanisms, national courts and the European Court of Human Rights (hereinafter the ECHR), cooperates with public authorities and non-governmental organizations, involves experts and representatives of the academic community working in various fields of human rights.

Investigation and examination of actions of intelligence officials engaged in intelligence and counterintelligence

Complaints concerning actions of intelligence officials violating human rights or freedoms, carrying out intelligence and counterintelligence are investigated and handled by the Seimas Ombudsmen in accordance with the procedure laid down by the Law on the Seimas Ombudsmen. The Extended Chamber of the Supreme Court of Lithuania (ruling of 12 December 2018 of the Supreme Court of Lithuania in civil case No e3K-7-471-403/2018) noted that in observance of Article 19 of the Law on the Seimas Ombudsmen, while conducting investigations of actions of intelligence officials violating human rights or freedoms, carrying out intelligence and counterintelligence activities, the Seimas Ombudsman have the right to propose the intelligence institution to suspend the officials from their office or apply himself to court for dismissal of the officials guilty of abuse or bureaucracy, to propose to compensate for the property and non-property damage incurred by the complainant as a result of violations committed by officials, to refer

the material to a pre-trial investigation body or prosecutor, to propose the imposition of penalties on the officials, to propose a collegiate institution or official to cancel, suspend or change decisions that contradict laws in accordance with the procedure set forth by laws, or propose to take decisions which were not taken because of abuse or bureaucracy, etc. However, the Seimas Ombudsman does not have the competence to adopt a decision with positive consequences for the complainant, the enforcement of which would be mandatory and which could protect his violated rights and legitimate interests.

ACTIVITIES OF THE SEIMAS OMBUDSMEN'S OFFICE AS THE NATIONAL HUMAN RIGHTS INSTITUTION

In 2019, while performing the functions of the National Human Rights Institution the Seimas Ombudsmen's Office paid great attention to ensuring the rights of persons with disabilities, thus looking into the aspects of the enforcement of social and economic rights of these persons, the process of monitoring legal incapacity, drawing attention to the rights of persons with disabilities when providing alternative reports to international organisations. The Seimas Ombudsmen's Office also analysed the reform of the penal enforcement system, organised training for officials of correctional institutions on the implementation of human rights-based supervision of life sentences, as well as contributed to the organisation of the National Forum on Human Rights to celebrate the International Human Rights Day for the second year in a row. In addition, the Seimas Ombudsmen's Office presented the alternative report to the United Nations on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination in Lithuania and to the UN Committee on Elimination of All Forms of

Discrimination against Women – the alternative report on the implementation of the UN Convention on the Elimination of Discrimination against Women.

• **Carried out the monitoring of human rights in Lithuania and prepared reports on the human rights situation (Article 19²(2)(1))**

- ▢ On 5 February 2019, the Seimas held a meeting with the Ombudsman for Children Edita Žiobiene, representatives of the Lithuanian Trade Union 'Solidarity', the Ministry of Justice of the Republic of Lithuania (hereinafter – the Ministry of Justice) and the Prison Department under the Ministry of Justice (hereinafter – the Prison Department) to discuss the problems of reorganisation at the places of detention. The meeting focused on the availability of high-quality health care services in prison, emphasised that while convicted are persons whose freedom is restricted, this should not be the reason for restricting their access to health care and services.
- ▢ On 21 March 2019, representatives of the Seimas Ombudsmen's Office attended the meeting in the Ministry of Foreign Affairs of the Republic of Lithuania (hereinafter – the Ministry of Foreign Affairs) with representatives of ministries, other responsible executive bodies and non-governmental organisations to discuss the issues of the Ninth and Tenth Periodic Report under the UN Convention on the Elimination of All Forms of Racial Discrimination.
- ▢ On 19 April 2019, the meeting with representatives of the Human Rights Monitoring Institute was held at the Seimas Ombudsmen's Office to discuss the possibilities of cooperation in addressing the human rights problems.
- ▢ On 12 June 2019, the meeting with representatives of the Lithuanian Disability Forum was held at the Seimas Ombudsmen's Office to discuss possibilities for cooperation in addressing the

issues of ensuring the rights of persons with disabilities, and the activities carried out and planned.

- ▢ On 5 November 2019, representatives of the Seimas Ombudsmen's Office met with representatives of the Lithuanian Gay League association. During the meeting, the projects currently being implemented by the LGBT in the field of human rights and possible opportunities for cooperation were discussed.
- **Disseminated information on human rights and raised the awareness of the society on the human rights issues (Article 19²(2)(2))**
 - ▢ On 11 February 2019, representatives of the Seimas Ombudsmen's Office participated in the discussion 'Right to freedom of expression: Challenges and a constructive response' organised by the Seimas Committee on Human Rights.
 - ▢ From 12 April to 7 June 2019, the Seimas Ombudsmen's Office conducted a weekly Human Rights Training Programme for students, during which students of M. Romeris University and Vilnius University were familiarised with the main international documents regulating human rights, were taught to understand the goals and challenges of preventing torture, manifestations of discrimination, and participated in meetings with various NGOs active in the field of human rights.
 - ▢ On 20 September 2019, representatives of the Seimas Ombudsmen's Office participated in the conference 'European education on Values and Humanity' in the European Humanities University, which created the framework for dialogue between academic community and public institutions. In his speech, Vytautas Valentinavičius, the Head of the Human Rights Division of the Seimas Ombudsmen's Office, emphasised the need to pay greater attention to human rights when training specialists.

- On 27 September 2019, the Seimas Ombudsmen's Office organised the conference of ombudsmen from the Nordic and Baltic countries 'Ensuring social and economic rights is a safeguard of a dignified life'. At the conference, speakers and participants from Lithuania, Latvia, Estonia, Sweden, Denmark, Finland and Norway shared their experience and assessed the progress of neighbouring countries in the area of social and economic rights. The conference revealed that despite differences between countries, they have very similar problems and, accordingly, a sustainable cooperation between neighbouring countries can help find common solutions of problems.
- On 22 October 2019, the staff of social care institutions in Telšiai County received training 'Human rights-based care of persons in social care homes'. The training covered one of the most important problems in social care institutions related to the proper enforcement of the rights of older people. Theoretical training was intertwined with a realistic solution to practical tasks in order to draw the attention of social care employees to challenges arising in practice. Social care staff who attended the training was familiarised with human rights-based methods of providing social care services, whereby all aspects of service planning, policy-making and practical activities are based on human rights principles and standards. The Head of the Seimas Ombudsmen's Office noted that it is important to be able to identify problems in social care institutions, but it is even more important to be able to ascertain the causes of problems and help find solutions to these problems.
- On 11 December 2019, the training 'Supervision of life sentences based on human rights: areas for improvement' was organised at the Seimas Ombudsmen's Office for staff of correctional institutions. During the training, the objectives and principles of prevention checks were presented, the importance of a preventive approach was stressed, and the underlying provisions of the Universal Declaration of Human Rights were analysed. Representatives of the Seimas Ombudsmen's Office reminded the staff of correctional institutions that the main objective of the implementation of human rights in the process of execution of sentences is to ensure proper detention conditions for convicted, protection against torture and other cruel, inhuman or degrading treatment or punishment and to provide opportunities for the convicted to change their lives and have a positive impact on their own future. During the training, the staff of correctional institutions could check their knowledge by performing practical exercises during which they had difficulty in identifying hidden potential violations of human rights and risks in terms of human rights.
- For a second year in a row, the Seimas Ombudsmen's Office has contributed to the organisation of the National Forum on Human Rights to celebrate International Human Rights Day. In 2019, the event in commemoration of the 30th anniversary of the United Nations Convention on the Rights of the Child gathered a large group of human rights activists, scientists, diplomats, ombudsmen, schoolchildren and students, business representatives, public servants, and politicians. During the National Human Rights Forum, the Seimas Ombudsmen's Office and the Human Rights Monitoring institute joined forces to touch on the particularly relevant topic and answer the question 'Are Lithuanian prisons capable of achieving the goals of punishment?' Gintautas Sakalauskas, the Head of the Criminalists' Association of Lithuania, Virginijus Kulikauskas, the Director of the Prisons Department, and Raimonda Čižauskaitė, the Head of the Consulting Centre for the Convicted of Vilnius Archdiocese Caritas, also shared their views. Discussions of the National Forum on Human Rights were attended by representatives of

the UNICEF, the United Nations, the Council of Europe and other international organisations, ministers, foreign ambassadors, members of the Parliament (Seimas), ombudsmen, academics and non-governmental organisations.

- **Presented the assessment of the human rights situation in Lithuania to international organizations and provided them with information in accordance with the obligations established in the international treaties of the Republic of Lithuania (19²(2)(3))**

On 5 March 2019, representatives of the Seimas Ombudsmen's Office attended the meeting with representatives of the Association for the Prevention of Torture (APT) to discuss the peculiarities of the care of persons suffering from tuberculosis in prison and mental health institutions. The APT representatives emphasised that the care of persons suffering from tuberculosis should not differ from that of other inmates of those institutions, and that automatic isolation of the convicted or persons suffering from mental and behavioural disorders is not acceptable and does not comply with the principles of protection against torture laid down in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Seimas Ombudsmen's Office drafted and, on 2 April 2019, submitted to the UN Committee on the Elimination of Racial Discrimination the alternative (shadow) Report on the Implementation of the Convention on the Elimination of All Forms of Racial Discrimination in Lithuania.

The Seimas Ombudsmen's Office drafted and, on 28 October 2019, submitted to the UN Committee on the Elimination of Discrimination against Women the alternative (shadow) Report on the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women in Lithuania.

On 28 October 2019, representatives of the Seimas Ombudsmen's Office attended the meeting with the member of the Secretariat of the UN Committee on the Elimination of Discrimination against Women, who was the principal speaker for the current report of the Republic of Lithuania under the UN Convention on the Elimination of All Forms of Discrimination against Women. During the meeting, the situation of women's rights in Lithuania was presented more widely and the questions asked by the speaker were answered.

On 28 October 2019, representatives of the Seimas Ombudsmen's Office attended the meeting with the contact person of the National Human Rights Institutions in the UN Committee on the Elimination of Discrimination against Women. During the meeting, the mandate of the Seimas Ombudsmen's Office as a national human rights institution, the activities carried out and the country's human rights problems were presented.

- **Provided suggestions to state and municipal institutions and institutions on human rights problems (Article 19²(2)(4))**

The Seimas Ombudsmen's Office drafted and, on 7 May 2019, submitted to the Seimas Committee on Human Rights and Committee on legal Affairs the position on the Draft Law Amending the Code of Criminal Procedure of the Republic of Lithuania.

On 9 May 2019, representatives of the Seimas Ombudsmen's Office attended the meeting with representatives of the Ministry of Justice to discuss the comments of the Seimas Ombudsmen's Office on the Draft Law Amending the Penal Enforcement Code of the Republic of Lithuania.

The Seimas Ombudsmen's Office drafted and, on 24 May 2019, submitted to the Ministry of Health of the Republic of Lithuania (hereinafter – the Ministry of Health, MoH) the position on the Draft

Lithuanian Hygiene Standard HN 125:2019 'Social Care Institutions for Adults: General Health Care Requirements'.

- ▢ The Seimas Ombudsmen's Office drafted and, on 17 July 2019, submitted to the Ministry of Justice the position on the Law Amending Article 6 of Law No I-1343 of the Republic of Lithuania on Health Insurance.
- ▢ The Seimas Ombudsmen's Office drafted and, on 23 August 2019, submitted to the Ministry of Justice the position on the Draft Law Amending the Penal Enforcement Code of the Republic of Lithuania and the draft Law of the Republic of Lithuania on the Enforcement of Arrests.
- ▢ On 4 October 2019, the meeting with representatives of the State Consumer Rights Protection Authority and the Ministry of Justice was held at the Seimas Ombudsmen's Office. During the meeting, the Head of the Seimas Ombudsmen's Office noted that the quality of functions performed by officials of the State Consumer Rights Protection Authority (hereinafter also – the SCRPA) raises an increasing concern to the Seimas Ombudsman. Other relevant issues related to the implementation of the provisions laid down in the Law on Public Administration, the Law on Consumer Protection and other legal acts related to the examination of complaints, reports and other functions of the SCRPA were also discussed during the meeting.
- ▢ The Seimas Ombudsmen's Office prepared and, on 21 October 2019, submitted to the the Seimas Committee on Legal Affairs and Committee on Human Rights the position on the Draft Law No XIIP-3868 Amending the Penal Enforcement Code of the Republic of Lithuania Law and the Draft Law No XIIP-3870 Amending the Law of the Republic of Lithuania on the enforcement of arrest.
- ▢ On 24 October 2019, the meeting with the Director of the Prison Department took place at the Seimas Ombudsmen's Office. In the meeting, the specifics of complaints received by the Seimas Ombudsmen's Office from the convicted and the need to pay more attention to improving the qualifications of officials were considered. In addition, the employment problems of the convicted were discussed.
- ▢ The Seimas Ombudsmen's Office drafted and, on 20 November 2019, submitted to the Seimas Committee on Legal Affairs the position on the Law Amending Article 6 of the Law No I-1343 of the Republic of Lithuania on Health Insurance.
- ▢ On 22 November 2019, representatives of the Seimas Ombudsmen's Office met with representatives of the Ministry of Justice, the Prisons Department, the Police Department and other institutions to discuss observations of the Seimas Ombudsmen's Office and other institutions on the Draft Law Amending the Penal Enforcement Code of the Republic of Lithuania and the Draft Law Amending the Law of the Republic of Lithuania on the Enforcement of Arrest.
- **Sought to bring national legislation in line with the international obligations of the Republic of Lithuania in the area of human rights (Article 19²(2)(5))**
 - ▢ On 31 January 2019, representatives of the Seimas Ombudsmen's Office participated at the meetings of the Seimas Committee on Legal Affairs and on 24 January and 6 February 2019 – at the meetings of the Seimas Committee on Social Affairs for discussion of the Draft Law on Fundamentals of Protection of the Rights of the Child.
 - ▢ On 15 February 2019, the Seimas Ombudsman applied to the APT for an expert opinion on the care of individuals suffering from tuberculosis held in imprisonment and mental health institutions.
 - ▢ On 30 April 2019, the presentation of the draft report on the monitoring of the

Convention on the Rights of Persons with Disabilities, attended by representatives of the Department for the Affairs of the Disabled and non-governmental organisations was held at the Seimas Ombudsmen's Office. During the meeting organised on the initiative of the Seimas Ombudsman, representatives of state institutions and non-governmental organisations were familiarised with the Report of 2018 on monitoring the results of activities of social integration of the disabled and the implementation of the UN Convention on the Rights of Persons with Disabilities, in which the Department for the Affairs of the Disabled and non-governmental organisations highlighted the major shortcomings in the implementation of the Convention on the Rights of Persons with Disabilities in the country.

- ▢ The Seimas Ombudsmen's Office drafted and, on 27 June 2019, submitted to the Ministry of Justice the position on the ratification of the Protocol amending the Convention on the Protection of Persons in connection with Automated Processing of Personal Data.
- ▢ On 13 November 2019, representatives of the Seimas Ombudsmen's Office attended the meeting of the Seimas Committee on Human Rights to discuss the drafts of the Law Amending the Penal Enforcement Code of the Republic of Lithuania and the Law Amending the Law of the Republic of Lithuania on the Enforcement of Arrest.
- ▢ On 13 November 2019, representatives of the Seimas Ombudsmen's Office participated in hearings of the Seimas Committee on Legal Affairs on the issues of the adoption and implementation of drafts of the Law Amending the Penal Enforcement Code of the Republic of Lithuania and the Law Amending the Law of the Republic of Lithuania on the Enforcement of Arrest.

- **Initiated the investigation into the fundamental human rights problems (Article 19²(2)(6))**

- ▢ The Seimas Ombudsman conducted the investigation into the fundamental human rights problems in the area of homelessness, during which the country's strategic documents and the concept of homelessness in them, documents regulating the allocation of resources to address the problem of homelessness, the accounting for homeless people at national and regional level were assessed (for more information on the investigation see page 16).
- ▢ The Seimas Ombudsman carried out the investigation into the access of employees of adult social care institutions (social employees, nurses and their assistants) to vocational training and improvement of their professional competences on human rights problems and assessed how many subjects (themes) related to the concept of human rights, various aspects of the implementation of human rights and the mechanism for ensuring these rights are incorporated in vocational training and professional competence improvement programmes for employees of adult social care institutions (social employees, nurses and their assistants) and whether these training programmes include relevant topics related to the highest standards of protection of human rights (see more on page 17).
- ▢ The Seimas Ombudsman initiated the investigation into the fundamental human rights problems, such as the review of decisions on recognising persons as incapacitated by 1 January 2016 and potentially unjustified restriction of the rights of these persons; the Ombudsman assessed whether the provisions of Article 72(2) of the Law Amending the Civil Code of the Republic of Lithuania (hereinafter – the CC) which provide that court decisions on declaring persons to be legally incapacitated taken before 1 January 2016 must be revised

within two years after the date of entry into force of this Law were properly implemented and investigated possible reasons for the improper implementation of the above referred provisions (for more information about the investigation see page 19).

- ▢ The Seimas Ombudsman conducted the investigation into the fundamental human rights problems arising from use of physical abuse by law enforcement officials in their activities. The investigation established that provisions of legal acts of the Republic of Lithuania broadly reflect the principles of legality, necessity, proportionality, adequacy, early warning of measures of physical impact intended to be used, respect for human rights emphasised in the international standards of human rights regarding the use of physical violence. However, it was noted that the different interpretation of paragraph 223 of the Convoy Rules revealed during the investigation suggests not only the problem of application of the law, but also the need to improve potentially contradictory legal regulation. The data collected during the investigation revealed that officials do not always use video recording devices when performing their tasks, and, accordingly, the cases of physical abuse often are not recorded. During the investigation, it was also established that the use of excessive physical abuse in practice is still a problem (for more information about the investigation see page 21).
- ▢ The Seimas Ombudsman initiated the investigation into the fundamental human rights problems in the State Security Department of the Republic of Lithuania (hereinafter – the SSD) and, inter alia, assessed the compliance of legal acts regulating the activities of the SSD and internal control with the standards of protection of human rights and freedoms (for more information about the investigation see page 22).

- ▢ The Seimas Ombudsman initiated the investigation into the fundamental human rights problems in the area of state social insurance regulation of the working convicts and assessed whether the current legal regulation, when the time spent by the convicted serving imprisonment sentences working in prison institutions is not included in the length of service necessary in order to receive benefits in these types of social insurance provided for in the Law on Unemployment Social Insurance and the Law on Social Insurance Pensions, proportionately restricts the right of the convicted to accumulate the length of service and whether such restriction is in compliance with the country's penal enforcement policy objectives (for more information about the investigation see page 24).
- ▢ The Seimas Ombudsman conducted the investigation into the fundamental human rights problems related to the smoking ban in the territory of the Central Prison Hospital (hereinafter also referred to as CPH) and assessed the applicable legal regulation and other information collected during the investigation (for more information about the investigation see page 25).
- ▢ On 13 June 2019, the Seimas Ombudsman passed the Decision on opening the investigation into the fundamental human rights problems in assessing the availability of psychological services to persons living in social care institutions. The purpose of this investigation was to assess the need for psychological services, their supply and availability in adult social care institutions and, where necessary, to draw up conclusions and proposals (recommendations) regarding the access to these services and the improvement of the procedure for the provision of these services in terms of ensuring human rights and freedoms. During the investigation, requests for information were prepared and sent to all municipalities and care institutions of the country.

INVESTIGATIONS INTO THE FUNDAMENTAL HUMAN RIGHTS PROBLEMS

The Seimas Ombudsman, as the Head of the National Human Rights Institution, in performing the functions assigned to the institution has the right to initiate investigations into the fundamental human rights problems (Article 19²(2)(6)). Given the current human rights situation in the country and acknowledging that the country has many other fundamental human rights problems, in 2019, the Ombudsmen's Office conducted 7 (seven) investigations into the fundamental human rights problems. These investigations were initiated taking account of the scale and systemic nature of the human rights problems, the relevance of problems and whether the problem affects vulnerable groups of the society.

The assessment of human rights problems takes into account the main international instruments governing the protection of human rights to which Lithuania is a party: the Universal Declaration of Human Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other documents.

Investigation into the fundamental human rights problems in the area of homelessness

The Seimas Ombudsman conducted the investigation into the fundamental human rights problems in the area of homelessness and assessed the country's strategic documents and the concept of homelessness in them, documents regulating the allocation of resources to address the issue of homelessness, as well as the accounting of the homeless at the national and regional levels.

The investigation revealed that, in accordance with Article 2(1) of the Law of the Republic of Lithuania on Declaration of the Place of Residence, a person who does not have any premises or building by right of ownership or by other right to use such premises or building and who lives in temporary accommodation establishments or public places is considered homeless. According to the Statistics Lithuania, in 2011 there were 857 and in 2001 – 1,250 homeless people in the country. For the purposes of this census, people who had no permanent residence and no means to rent at least a minimum home were considered homeless. At the time of the census, they were living in sewers, landfills or heating systems. Data on the homeless were collected during the census of the Lithuanian residents (2001 and 2011) conducted every ten years, at the beginning of each decade according to recommendations of the United Nations Organisation. Taking into account the requirements of the European Union, the next census in Lithuania is planned for 2021.

According to the data of the Statistics Lithuania, in 2012, 2,447 people were accommodated in the country's hostels, in 2013 and 2014 – 2,601, in 2015 – 2,487, and in 2016, their number reached already 2 968⁶. The Statistics Lithuania explains that the above mentioned data show how many persons were accommodated in hostels for various reasons, including homelessness. The number of such people may include some of those who were recorded as homeless at the time of the census according to the definition of the homeless used in the census.

According to representatives of the Ministry of Social Security and Labour of the Republic of Lithuania (hereinafter also referred to as the MSSL), the exact number of the homeless people is not known because some homeless people

⁶ Data of the Statistics Lithuania. Residents in hostels by reason and duration of the accommodation, 2016.

do not use hostel services for various reasons (lifestyle, addictions, etc.). The MSSL informed the Seimas Ombudsman that the country's strategic documents do not state that providing housing to the homeless is the most effective measure, but emphasise the importance of complex assistance (provision of public services, access to housing, etc.) for every person in difficulty (including the homeless).

According to the Law on Social Services, a municipality is responsible for providing social services to residents of its territory, planning and organizing social services because it is best aware of the needs of local residents. The municipality shall organise social work with beggars and persons without permanent residence. Persons (the homeless) who wish to rent social housing are entered on the list of persons waiting to rent social housing. The period of waiting for social housing should be from 3 to 12 years depending on the municipality in which the person wants to rent social housing. According to the data of the Association of Local Authorities in Lithuania, the problem of homelessness is most acute in urban municipalities. Municipal social employees and non-governmental organisations work with homeless people in municipalities. With their help, the homeless are provided with temporary accommodation services in hostels, crisis centres. Municipal strategic action plans and the annual social services plan are used in addressing the problem of homelessness.

Investigation into access of employees of adult social care institutions (social employees, nurses and their assistants) to vocational training and professional competence improvement in human rights issues

The Seimas Ombudsman investigated the access of employees in adult social care institutions (social employees, nurses and their assistants) to vocational training and professional competence improvement

in human rights issues⁷, during which the Seimas Ombudsman assessed the number of subjects (topics) related to the concept of human rights, various aspects of the implementation of human rights and the mechanism of ensuring them covered by vocational training and professional competence improvement programmes for employees of adult social care institutions (social workers, nurses and their assistants) and whether the above training programmes included relevant topics related to the highest standards of protection of human rights.

The investigation showed that the Description of the field of nursing studies on which higher education institutions rely when designing new or improving the existing programmes in the field of nursing studies does not require graduates who have completed nursing studies to have knowledge and competences in the field of ensuring of human rights, nor does this requirement apply to all persons who have completed vocational training programmes in the social services and health care sectors. According to the Description of the procedure for improvement of professional competence, the knowledge and competence in the field of ensuring human rights are not included in the list of criteria for self-assessment of the needs for improvement of professional competence of a social worker. Accordingly, although more than 170 programmes for improving the professional competence of workers of the social services area approved by order of the Director of the Department of Supervision of Social Services are currently in force and ongoing, training on the subject of ensuring of human rights is carried out only under a few programmes.

Most of the educational institutions, which provide the social work study programme pay due attention

⁷ The Seimas Ombudsman's Report on access of employees in adult social care institutions (social employees, nurses and their assistants) to vocational training and professional competence improvement in human rights issues, 30 September 2019, No PRJ2018/1-3.

to human rights matters, i.e. the human rights issues are considered as a separate subject of studies, various topics relating to the protection of human rights are discussed and the sufficient number of hours is devoted for this purpose.

It should be noted that institutions providing nursing programmes pay less attention to human rights: there is no separate subject devoted for the human rights matters, only a few hours are dedicated for general subjects on human rights, the individual human rights topics such as the prohibition of torture and other ill-treatment, the United Nations Convention on the Rights of Persons with Disabilities and the protection of the rights of persons with disabilities, the recognition of violence and bullying, the management of the cases of violence are not addressed during lectures taught subjects. Meanwhile, training establishments implementing programmes for the vocational training and improvement of professional competence of social individual assistance care staff discuss a wide range of significant human rights issues and allocate sufficient hours for this purpose.

Having regard to the circumstances established during the investigation, the Seimas Ombudsman recommended to the Minister of Education, Science and Sport of the Republic of Lithuania, the Minister of Health of the Republic of Lithuania and the Minister of Social Security and Labour of the Republic of Lithuania to take measures to ensure that all persons who have completed vocational training programmes in the social services and health care sectors, who will be able to work in providing social services, have knowledge and competences in the sphere of ensuring human rights.

Besides, the Seimas Ombudsman separately recommended to the Minister of Education, Science and Sport to initiate the amendment to the Description of nursing studies on which higher education institutions rely when developing new or improving existing programmes in the field of

nursing studies supplementing by the requirement that graduates who have completed nursing studies have knowledge and competences in the field of ensurance of human rights. The Minister for Social Security and Labour was additionally recommended to take measures to ensure that the criterion of knowledge and competence in the field of ensuring human rights is included in the list of criteria for assessing the needs of the social worker for improving professional competence.

In addition, the Seimas Ombudsman recommended to the Director of the Department for Supervision of Social Services to ensure that training institutions carrying out vocational training and professional qualification improvement programmes for individual care staff include all human rights topics specified in the report as mandatory in the training process, allocating an appropriate number of academic hours, and in future initiate the development of new professional competence development programmes and/or integrate the subject of human rights and freedoms into the descriptions of existing professional competence improvement programmes; to the Director of the Centre for Quality Assessment in Higher Education – to take measures to ensure that the evaluation of the programmes of the field of social work and nursing studies, inter alia, also covers the analysis whether they include the aim that all graduates who have completed the studies under these programmes have knowledge and competences in the field of human rights; to educational institutions carrying out the first level programme of social work – to update their curricula accordingly; and to training institutions carrying out the first level nursing programme – to devote greater attention to the human rights topics.

In regard to the recommendations of the Seimas Ombudsmen, the Ministry of Education, Science and Sport of the Republic of Lithuania (hereinafter also referred to as MESS) noted that on instruction of the Ministry, the recommendations were analysed and are being implemented by the Qualifications

and Vocational Training Development Centre and the Centre for Quality Assessment in Higher Education, which when organising the preparation of professional standards and modular vocational training programmes and expert examination of preparation for the implementation of formal vocational training programmes and implementation of relevant projects will take into account the recommendations made by the Seimas Ombudsman.

The Ministry of Health informed the Seimas Ombudsman about the launch of two new qualification improvement programmes covering topics related to the protection of the rights of a patient with mental and behavioural disorders, and covered the legal bases for the management of aggressive and violent behaviour in health care. In addition to physicians and nurses working in psychiatry, nurse assistants also have access to knowledge under these programmes.

The MSSL stated in its response to the Seimas Ombudsman that, taking into account the recommendations of the Seimas Ombudsmen, the MSSL will organise the meeting of representatives of the institutions concerned to discuss the amendments to legal acts regulating the improvement of professional competence of social services workers and the drawing up of programmes including in them the topics related to the protection of human rights.

Accordingly, the Department of Social Services Supervision informed that it would submit proposals to the Ministry of Social Security and Labour to supplement the description of the procedure for improving the professional competence of employees in the field of social services, providing for the mandatory inclusion of subjects related to human rights in the introductory programmes. During the transitional period pending the amendment of that legislation, the Department will also recommend that institutions include human rights topics in those programmes.

Investigation into the fundamental human rights problems concerning the review of decisions following which persons, before 1 January 2016, were declared to be legally incapacitated and possibly unjustified restriction of such persons' rights

The Seimas Ombudsman launched the investigation into the fundamental human rights problems concerning the review of decisions following which persons, before 1 January 2016, were declared to be legally incapacitated and possibly unjustified restriction of such persons' rights⁸. During the investigation the Seimas Ombudsman considered whether provisions of Article 72(2) of the Law Amending the Civil Code stipulating that court rulings following which persons were declared to be legally incapacitated passed by 1 January 2016 must be reviewed within two years from the date of entry into force of this Law, i.e. by 1 January 2018, were properly implemented and clarified the possible reasons for the misapplication of the above referred provisions.

The investigation found that although the proper implementation of the provisions of Article 72(2) of the Law Amending the Civil Code was one of the key preconditions for reducing the suffering of a person as a result of severe interference with the person's right to private life, only less than half of the court rulings passed before 1 January 2016 following which persons were declared to be legally incapacitated were revised within the time limit provided for by law, i.e. by 1 January 2018. In view of the fact that, under the new legal regulation, the institute of complete legal incapacity has been amended to allow a person to be declared to be

⁸ The Seimas Ombudsman's Report on the investigation into the fundamental human rights problems concerning the review of decisions following which persons, before 1 January 2016, were declared to be legally incapacitated and possibly unjustified restriction of such persons' rights, No NZTI-2018/1-1, 23 December 2019

legally incapacitated only in certain areas, in the event of a change in the legal status (capacity) of persons, not only the rights and freedoms of these persons have not been effectively protected, but this also has led to excessive restrictions of the rights and freedoms of these persons.

It should be noted that the guardians of legally incapacitated persons, in performing their functions provided for in the Civil Code and acting unselfishly in the interests of the legally incapacitated persons placed in their care, had to immediately apply for review of the court rulings passed before 1 January 2016 following which the persons were declared to be legally incapacitated, and that the country's municipalities in exercising the supervision and control of guardians and caretakers had to take all measures to properly inform the guardians of persons who were declared to be legally incapacitated by court rulings passed before 1 January 2016. Furthermore, it should be concluded that the guardians of persons who were declared to be legally incapacitated by court rulings passed before 1 January 2016 were not properly familiarised with the process and objectives of the ongoing review of legal incapacity and that the country's municipalities were not prepared to organise the provision of information and assistance to the guardians of those persons, which has led to an unjustified restriction on the rights and freedoms of the persons who were declared to be legally incapacitated before 1 January 2016.

It was also established that the country's municipalities do not have uniform practices of collecting, accumulating and systematizing data on persons declared to be legally incapacitated, and some municipalities do not collect such data at all. Under the applicable legal regulation, municipalities are responsible for the supervision and control of guardians of the persons; consequently, such processing raises doubts not only about the proper performance of the functions of municipalities, but also about the proper ensuring of the protection of the rights and freedoms of persons who were

declared to be legally incapacitated by court rulings passed before 1 January 2016.

Misapplication of the provisions of Article 72(2) of the Law Amending the Civil Code was also influenced by the quality of forensic psychiatric examinations and excessive time limit for their performance.

In the course of the investigation it was concluded that no proper preparations have been made for the implementation of the provisions of Article 72(2) of the Law Amending the Civil Code, thus creating preconditions for unjustified restriction of rights and freedoms of persons, who were declared to be legally incapable before 1 January 2016, and that the country may still have over 1,605 persons, who had been declared to be legally incapable by court rulings passed before 1 January 2016, which have not been revised until now, i.e. almost two years after the expiry of the review period. Thus, while the current legal framework *de jure* provides greater protection for the rights of persons declared to be legally incapable, *de facto* approximately half of such persons are still declared to be legally incapable in all recommended areas, which severely restricts their access to rights and freedoms and is incompatible with the provisions of Article 12 of the Convention.

In regard to the circumstances established during the investigation, the Seimas Ombudsman recommended to the Government of the Republic of Lithuania (hereinafter also – the Government) to ensure that all court decisions following which persons were declared to be legally incapacitated adopted before 1 January 2016 are revised, take measures to ensure smooth and timely transfer of data on persons (to be legally incapacitated), which may restrict the rights of these persons, to other authorities in charge and to consider improving legal regulation in order to ensure the appropriate, unified and effective methodology for processing of the data on persons who were declared to be legally incapacitated. The Seimas Ombudsman also recommended to the Minister of Social Security and Labour that consideration be given to improving

legal regulation in order to ensure the adequate and appropriate workload of social workers assessing the ability of individuals to take care of themselves and make day-to-day decisions.

On instruction of the Government, the Ministry of Justice indicated in its position on the implementation of recommendations that it had applied to the Association of Local Authorities of Lithuania requesting municipalities to reassess whether there were legally incapacitated individuals with their place of residence in the particular municipalities, in whose regard court decisions declaring the persons to be legally incapable had been taken before 1 January 2016, and their review has not been requested yet and, in the event of such decisions, to initiate their referrals to court as soon as possible. The Ministry of Justice also informed that municipal administrations are not prevented from obtaining the data from the Register of Legally Incapable Persons and Persons of Limited Legal Capacity managed by the Centre of Registers necessary for the performance of their direct functions, and that the legal acts already regulate in detail the procedure for processing, supplying and using the data of persons who were declared to be legally incapable by court.

The Ministry of Social Security and Labour has informed that it plans to set a maximum number of persons per social worker assigned the function of assessing the persons' ability to take care of themselves and make daily decisions independently or using assistance in a specific area. It is planned to establish this provision in the Description of the procedure for determining the ability of the person to take care of himself and make daily decisions.

On the fundamental human rights problems arising from physical abuse used by the law enforcement officers in their activities

The Seimas Ombudsman conducted the investigation into the fundamental human rights problems arising from the application of physical

abuse by the law enforcement officers in their activities. This investigation assessed the compliance with the provisions of legal acts of the Republic of Lithuania regulating the conditions and procedure for the use of physical abuse by officers and their implementation in practice with the international obligations of the State in the field of human rights.

The investigation found that provisions of Lithuanian legal acts broadly reflect the principles of legality, necessity, proportionality, adequacy, early warning of the intended use of measures of physical exposure, respect for human rights emphasised in international human rights standards regarding the use of physical violence.

However, it was noticed during the investigation that different interpretation of provisions of paragraph 223 of the Convoy rules approved by Order No 1R-240/1V-246 of the Minister of Justice of the Republic of Lithuania and the Minister of the Interior of the Republic of Lithuania of 29 July 2005 on the approval of the Convoy Rules (hereinafter – the Convoy Rules) suggests not only the problem of application of the law, but also the need to improve potentially contradictory legal regulation, as the formulation '*convoyers also apply handcuffs or binding devices*' may adversely affect the convoyed person's legal position, infringe human rights and create conditions for abuse by officers. According to the assessment of the Seimas Ombudsman, officers shall have the right to use special measures against persons in the cases specified in paragraph 223 of the Convoy Rules only when this is an inevitably necessary and proportionate measure for officers in performing their functions and if other (psychological) measures are ineffective.

Moreover, during the investigation it was also noted that Article 5 ('Presentation of suspects and accused persons') of Directive 2016/343 of 9 March 2016 of the European Parliament and of the Council on certain aspects of the presumption of innocence and the right to participate in criminal proceedings (hereinafter – the Directive), paragraph 1 of which

provides that Member States shall take appropriate measures to ensure that suspects and accused persons are not presented guilty in court or in public by means of physical restraint, has not been properly transposed into national law and Lithuania does not take all measures to ensure that suspects and accused persons are not presented guilty in court or in public by means of physical restraint.

Data collected during the investigation revealed that officers do not always use video recording devices to perform their tasks, so cases of physical abuse are often unrecorded. In the opinion of the Seimas Ombudsman, such practice of law enforcement officers creates preconditions for the risk of violations of human rights.

The investigation also found that the problem of use of excessive physical abuse in practice still existed. It is therefore necessary to take measures to ensure that officials comply strictly with legal acts regulating their activities, assess and take into account the particular situation, the nature of the legal offence, the individual characteristics of the offender, the level of resistance, and the consequences of the use of a specific coercive measure in order to ensure that suspects and accused persons, who do not resist and pose no danger to officers, are not subjected to disproportionate use of violence towards them and are not presented guilty in court or in public.

Taking into account the circumstances established during the investigation, the Seimas Ombudsman recommended to the Minister of Justice to ensure proper transposition of provisions of Directive 2016/343 of the European Parliament and the Council of 9 March 2016 (EU) into national law, in order to ensure that suspects and accused persons are not presented in court or in public as guilty by means of physical restraint, to the Minister of Justice and the Minister of the Interior of the Republic of Lithuania – to amend the Convoy Rules so as to ensure that officers exercising their right to apply special measures in the cases specified in this

paragraph, do not exceed the powers conferred on them by laws regulating their activities, and law enforcement agencies – to take measures to ensure that officers use physical coercion in compliance with the conditions for use of physical coercion laid down by legal acts and only in exceptional cases, when less severe sanctions are (may be) ineffective, all instances of physical coercion are recorded and evaluated in accordance with the procedure laid down by legal acts, ensuring timely, appropriate, effective use of video recording devices when officers perform the tasks related to the potential need to apply coercive measures.

***Investigation into the fundamental
human rights problems arising from
activities of the officers of the
State Security Department (SSD)
of the Republic of Lithuania***

The Seimas Ombudsman initiated the investigation into the fundamental human rights problems at the State Security Department of the Republic of Lithuania⁹, during which the compliance of the legal acts regulating the activities of the SSD and internal control with the standards of protection of human rights and freedoms was also assessed.

During the investigation it was established that decisions taken by the SSD officers to sanction the use of technical means according to the general procedure (i.e. without sanctioning by court), neither before nor after their adoption, are not assessed by an independent competent authority, such assessment is not established in legal acts, and, accordingly, the question of the risk of abuse of power by officers using technical means according to the general procedure should be raised. It has

⁹ Certificate-Report No 4D-2018/1-897 of the Seimas Ombudsman of 20 December 2019 on human rights problems at the State Security Department of the Republic of Lithuania.

also been established that the purpose of the Immunity Board subordinate and accountable to the Director set up in the SSD is related solely to ensuring the safety and protection of the institution and it does not carry out an assessment of the activities of the institution (officers) in respect of ensuring the protection of human rights.

During the investigation, the Seimas Ombudsman noticed that both the legal regulation in force before 1 January 2013 and the applicable legal regulation do not clearly specify the maximum time limit for the application of measures restricting the private life of persons but not sanctioned by the court. This could lead to situations where measures of intervention into the person's private life could take an unreasonably long time and the necessity (proportionality) and/or timing of their application would not be revised by an independent competent entity. The Seimas Ombudsman noted that the control should include ensuring not only the legality of activities, the assessment of work performed by employees, but also compliance with the standards of protection of human rights in the activities of the SSD. Moreover, the nature and special status of activities carried out by the SSD (due to a high risk of violation of human rights) prevent from leaving the entity engaged in such activities from retaining the full right of self-governance; therefore, an effective external control mechanism of the activities of the SSD should also be established.

Upon completion of the investigation, it was emphasized that under the applicable legal regulation, the Republic of Lithuania Seimas Committee on National Security and Defence (hereinafter – the CNSD) must control the compliance of intelligence institutions and intelligence officers with laws and other legal acts of the Republic of Lithuania in implementing the assigned tasks. Among other functions, when exercising parliamentary control over activities of intelligence institutions, the NSGC has the right to investigate complaints about actions of intelligence institutions and intelligence

officers. Besides, the Seimas Ombudsmen have the right to hear complaints about actions of intelligence officers who violate human rights and freedoms in carrying out intelligence and counterintelligence. A person's complaint is the application to a competent entity for the protection of infringed rights or legitimate interests. A person submitting a complaint concerning violations of his rights has reasonable grounds to expect that his complaint will be thoroughly investigated and the violated rights will be defended, but the decisions taken both by the CNSD and the Seimas Ombudsmen are of a recommendatory, non-binding nature and, accordingly, cannot be considered to be an effective and efficient measure of defence of the individual's rights.

It should therefore be concluded that the existing guarantee for the protection of personal rights laid down in the Law on Intelligence is not sufficient, and that such regulation, which does not guarantee a person's right of access to justice, is inadequate and raises doubts as to whether the mechanism of control of the activities of the SSD enshrined in the legal system of the country complies with the essential principles of non-judicial control and ensures the protection of the values enshrined in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

In regard to the circumstances established during the investigation, the Seimas Ombudsman recommended to the Prime Minister to initiate the amendment/supplement of the Law on Intelligence currently in force, setting maximum time limits for the application of intelligence methods, conditions for the destruction of information collected by the SSD and the possibility for individuals to effectively defend their rights in court. The Seimas Ombudsman also recommended to the Director of the SSD to ensure that control of activities of the SSD officers should also include control of compliance with human rights protection standards in the activities of this Department.

Investigation into the fundamental human rights problems in the sphere of regulation of social insurance of the employed convicts

The Seimas Ombudsman initiated the investigation into the fundamental human rights problems in the field of regulation of state social insurance¹⁰ of the employed convicts during which it was assessed whether the current legal regulation when the time spent by the convicted serving imprisonment sentences working in prison institutions is not included in the length of service of these types of social insurance required under the Law on Unemployment Social Insurance and the Law on Social Insurance Pensions for receiving benefits, proportionately restricts the right of the convicted to accumulate the length of service and whether such restriction is in compliance with the national penal enforcement policy objectives.

The investigation found that under the legal regulation currently in force in the country, persons, who work outside the places of imprisonment and are linked to the policyholder by employment legal relationships (work under employment contracts) or relationships corresponding to the essence of employment relations are covered by social insurance for pensions, sickness, maternity, unemployment, accidents at work and occupational diseases, thus increasing the length of their state social insurance to receive appropriate social insurance types of benefits in a proportionate manner during this period of insurance, as well as social guarantees available to the person if necessary. After analysing the case-law formulated by the courts and the arguments presented by scientists, it can be assumed that

the employment (work activities) of the convicted employed in places of imprisonment and in the State Enterprise 'Mūsų amatai' has specific characteristics of the employment relationships when the products or services produced by the inmates during their employment (working activities) can/are provided to other persons for commercial purposes (for generating income); therefore it should be assumed that persons serving imprisonment sentences in correctional institutions and/or in the State Enterprise 'Mūsų amatai' are not covered by the state social insurance for unemployment and pensions. In view of the above, it should be concluded that the existing legal regulation disproportionately and unjustifiably restricts the possibilities of the employed convicts to accumulate the length of service required for the particular state social insurance benefit while working in good faith and thus become eligible for social guarantee.

During the investigation, it was also established that while Article 129 of the Code of Civil Procedure *de jure* leaves the possibility for persons serving prison sentences to obtain voluntary state social insurance thereby shifting to them the responsibility for their future social guarantees, the persons *de facto* serving prison sentences can voluntarily be covered only by sickness social insurance and maternity social insurance, but such legal regulation does not contribute to ensuring social security after sentenced persons leave prison, thus creating preconditions for social exclusion of persons after their release from imprisonment.

In regard to the circumstances established during the investigation, the Seimas Ombudsman recommended to the Government to consider the possibility of including all persons serving imprisonment sentences (including those employed in prison institutions and in the State Enterprise 'Mūsų amatai') in the state social insurance system by insuring them with pension social insurance and unemployment social insurance.

¹⁰ Report No NZTI-2018/1-2 of the Seimas Ombudsman on fundamental human rights problems in the area of the regulation of state social insurance of the working convicted.

Investigation into the fundamental human rights problems relating to the smoking ban in the territory of the Central Prison Hospital

The Seimas Ombudsman conducted the investigation into the fundamental human rights problems related to the smoking ban in the territory of the Central Prison Hospital (hereinafter also referred to as the CPH), during which he assessed the applicable legal regulation and other information collected during the investigation.

In the course of the investigation, two groups of persons held in the hospital, namely (1) patients and (2) the convicted serving the imprisonment sentence in the CPH were identified in accordance with the regulations of the CPH and the internal rules of CPH. Hence, at present the CPH is both a penal enforcement institution and a medical institution. In this context, persons held in the hospital and the staff working in it must comply not only with the provisions of the legal acts regulating activities of prison institutions but also with the provisions governing the activities of medical institutions.

Under the current legal regulation, trade in tobacco products and smoking (consuming tobacco products and e-cigarettes) is prohibited without exception in all health care institutions, while the convicted serving the imprisonment sentence are prohibited from keeping tobacco products in the in-patient departments of the hospitals in places of imprisonment and in secondary outpatient personal health care units of health care services of correctional institutions. In this context, those prohibitions must apply both to the patients of the CPH and to the convicted serving imprisonment sentence in that institution.

The ban on the sale and smoking of tobacco products in hospitals of the places of imprisonment and their territories is enshrined in law and is absolute, regardless of the status of the persons there, although, under both the Penal Enforcement Code and Internal Rules of Correctional Institutions,

adult convicts serving a sentence in other correctional institutions have the right to purchase tobacco products and supplies and smoke. In this context, the Seimas Ombudsman acknowledged that those convicts, who were transferred to continue serving their sentence to the CPH and had the right to purchase tobacco products and supplies and to smoke before their transfer were placed in a worse position than those convicts, who were transferred to other correctional institutions.

In order to ensure that the principle of equal treatment of persons, who have been transferred to the CPH to serve the imprisonment sentence and who are not the CPH patients is not violated, the Seimas Ombudsman applied to the Ministries of Justice, Health Care, the Prisons Department and the Department of Drugs, Tobacco and Alcohol Control for clarifications and expert opinion.

Having assessed the request of the Seimas Ombudsman within their remit, the said institutions informed that in order to balance the interests of smokers and non-smokers in the matter under consideration, representatives of the Department of Drugs, Tobacco and Alcohol Control, the Prisons Department, the Ministry of Justice and Health organised the inter-institutional meeting in which it was recognised by consensus that the use of tobacco products and related products is not prohibited in the Republic of Lithuania, and that the specific status of the arrested and convicted persons does not create conditions for these persons to purchase and use these products in other places. During the meeting it was also noted that the convicted (detainees) living and treated in prison hospitals and in their territories cannot purchase and consume tobacco products. Participants of the meeting decided to initiate an amendment to the Law on the Control of Tobacco, Tobacco Products and Products Related to Tobacco Products, providing for an exception from the absolute prohibition to sell tobacco products by distance selling in institutions and to use tobacco products and e-cigarettes in prison hospitals and their territory.

The Seimas Ombudsman was subsequently informed by the Ministry of Justice on the drafted laws aimed at depriving the Central Prison Hospital of the status of a correctional institution. According to the Ministry of Justice, if the proposed draft laws were approved, the convicted persons who do not need inpatient health care services would not be placed at the CPH; the planned changes are expected to take effect from 1 January 2020.

ANALYSIS OF THE MAIN ISSUES RAISED IN APPLICANTS' COMPLAINTS AND OWN INITIATIVE INVESTIGATIONS OF THE SEIMAS OMBUDSMEN

Problems raised in the complaints of prisoners.

In 2019, more than 1/3 of complaints filed with the Seimas Ombudsmen's Office were submitted by prisoners, who complained about the restricted or even denied right to see relatives (for persons suffering from tuberculosis), unguaranteed or poorly guaranteed access to religious services or services of a priest, access to sports and various other activities, participation in social rehabilitation programmes, and restricted access to higher education, improper living conditions (material household provision) degrading human dignity. There were also complaints relating to the abuse of powers by officials of correctional institutions, such as ordering the prisoner suffering from tuberculosis to carry out disinfection of the ward and all cleaning/maintenance works or the failure to deal with complaints (regarding improper meals, excessively high product prices and insufficient range of essential goods at the store of the correctional institution) by simply forwarding them to the relevant private legal entity that organises food and its sale.

Installation and maintenance of technical traffic regulation measures. The investigation carried out by the Seimas Ombudsman showed that failure to

impose on municipalities the obligation to regulate the installation and operation of technical traffic regulation measures creates uncertainty about the procedure for the installation of such measures, facilitates the delaying of the removal of arbitrarily constructed partitions, lockable metal locks, wire fences and other similar facilities not considered as structures, creates conditions for the conflict situations among residents, inefficient use of working time of institutions' officers and budget funds. For these reasons, the principles of clarity, efficiency of legislation and responsible governance are undermined. In addition, the Seimas Ombudsman emphasized that the lack of proper regulation of the installation of technical measures restricting traffic also leads to lengthy court hearings.

Municipal waste management. During the reporting year, the Seimas Ombudsman received a number of complaints concerning the management of municipal waste. The nature of these complaints varied considerably, notably due to the lack of coordination between the location of the semi-underground container sites in the vicinity of multi-apartment dwellings and the population, without the possibility to exercise the right to dispose of municipal waste generated by municipal waste management rules autonomously, due to double taxation of the local toll (where the local toll is calculated both for the person operating on the basis of a business certificate and for the owner of the facility paying for construction waste), etc.

Non-compliance with requirements of legal acts regulating the handling of requests by the Ministry of Environment. During the accounting year, the Seimas Ombudsman received a number of complaints concerning the failure of the officials of the Ministry of Environment to provide answers to requests thus infringing requirements of legal acts regulating the examination of requests. Under the legal regulation, each entity of public administration has the obligation to accept and examine requests within the limits of its powers; the handling of a request includes the acceptance of the person's

request, its registration, determination of the subject matter of the request and the preparation of the answer to the person. The legislator obligates public administration entities to respond to requests of individuals according to their content within the time limit set by legal acts.

Lack of clarity of legal regulation. When examining complaints the Seimas Ombudsmen often draw attention of responsible institutions and agencies to the fact that activities of entities of public administration must be clear and unambiguous. The reason for complaints lodged with the Seimas Ombudsmen regarding potentially inappropriate activities of an institution or agency often is the lack of clarity of legal regulation, which in individual cases creates preconditions for violations of the rights and legitimate interests of individuals, therefore the Seimas Ombudsmen emphasize in their statements the need to ensure clarity and coherence of legal regulation. In 2019, the Seimas Ombudsman received the applicant's complaint concerning the acts (omission) of the officials of the State Control Commission for Prices and Energy, who delayed the adoption of the decision on the application of the method of distributing heat according to the readings of one introductory heat meter to the complainant's multi-apartment building and kept applying new requirements to the coordination of the selected method.

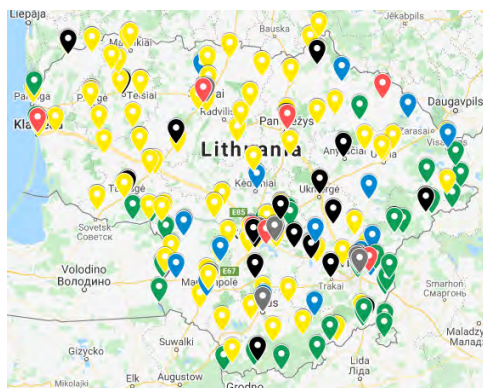
Investigations initiated by the Seimas Ombudsman regarding delays in the improvement of legal regulation. When, during investigation of received complaints, the Seimas Ombudsmen identify weaknesses in legal regulation, they submit recommendations to the competent institutions to eliminate such weaknesses. Being aware that the drafting of legal acts is a complex and often lengthy process, the Seimas Ombudsmen carefully assess whether the recommendations submitted to the institutions regarding the improvement of legal regulation have been implemented. However, particularly in cases where weaknesses in legal

regulation are identified in areas for which different ministries are responsible, when the area concerned is regulated by a number of different legal acts, there are delays in the activities of the authorities in charge, which raise suspicions of potentially unjustified failure to act. In observance of Article 73 of the Constitution and in compliance with Article 3 and Article 13(3) of the Law on the Seimas Ombudsmen, the Seimas Ombudsmen may, in such cases, initiate an investigation on their own initiative. In 2019, the Seimas Ombudsman conducted an own-initiative investigation into the acts (omissions) of the officials of the Ministry of Education, Science and Sport and opened (later terminated) the investigation into the failure of the officials of the Ministry of Environment to act on the activities of managers of shared objects of multi-apartment buildings, improvement of legal regulation of control and supervision of these activities.

Poor control of economic activities, delays in decision-making (noise). Applicants complain to the Seimas Ombudsmen that responsible institutions fail to address the issues relevant to them. When examining received complaints, the Seimas Ombudsmen observe that problems raised by complainants are largely unsolved for a long time due to the delays by competent authorities to take the necessary decisions or measures to resolve the specified problems or due to inefficiency of the measures taken because of the lack of integrity and intolerance of the officials to violations. There were cases when, instead of addressing the issues, i.e. eliminating an infringement recorded by another institution, the responsible officials look for different ways to avoid addressing the issues falling within their competence, or are negligent in carrying out control actions. The consequences of this are that offenders do not take measures to stop harmful activities, violations continue and those affected by the violation suffer inconvenience and the worsening of their life quality. The Seimas Ombudsmen note that such situations are common in (not) addressing noise problems.

REPORT ON THE IMPLEMENTATION OF THE NATIONAL PREVENTION OF TORTURE

This part of the Annual Report of the Seimas Ombudsmen presents the activities of the National Prevention of Torture carried out in 2019: the inspections at places of detention; systemic, main issues identified during inspections; issued recommendations on improving the human rights situation and training organised for staff of the places of detention, etc.



Adult care institutions are marked in yellow, child care institutions – in blue, police institutions – in black, prison institutions – in grey, places of detention of foreigners – in green, and mental care institutions – in red.

I. NATIONAL PREVENTION OF TORTURE AND THE SEIMAS OMBUDSMEN'S MANDATE

On 3 December 2013, further to the ratification by the Seimas of the Optional Protocol to the United Nations Convention against Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment, the Seimas Ombudsmen were assigned the task of performing the national prevention of torture at the places of detention and inspecting them on a regular basis, while the Seimas Ombudsmen's Office was designated as the Institution for the National Prevention of Torture.

The year 2019 was the sixth year when the Seimas Ombudsmen have been performing the national prevention of torture, regularly visiting various places of detention and observing how human rights are enforced in them. The performance of the national prevention of torture requires a comprehensive approach, where instead of addressing individual situations, the aim is to identify possible causes of misconduct through systematic analysis of situations of restriction of liberty. These activities are aimed at positive changes to prevent torture, reduce the risk of torture and ill-treatment and improve the treatment of persons whose liberty is restricted.

The report below outlines the positive developments achieved in performing activities of the national prevention of torture.

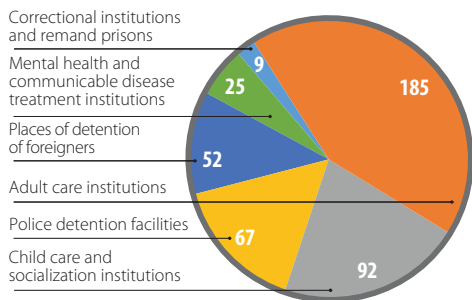
II. ACTIVITIES OF THE NATIONAL PREVENTION OF TORTURE

1. Visits to places of detention

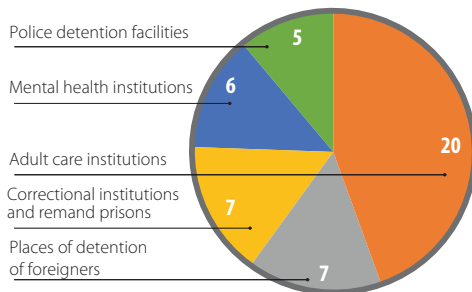
In performing the national prevention of torture, visits were made to various places of detention: social care, mental health, imprisonment, police and other institutions. The number of visits to institutions in a particular area is planned in proportion to their number. For example, the largest number of visits was made to adult social care homes as their number is the largest (over 180 units).

In 2019, a total of 45 (forty-five) visits were made (several inspected institutions were visited two and more times). According to the proportion of

places of detention, the distribution of visits was as follows: adult care institutions were visited 20 (twenty) times (twenty adult care institutions were inspected), mental health care institutions – 6 (six) times (mental health departments of three hospitals were inspected arranging from one to three visits to them); places of detention (housing) of foreigners – 7 (seven) times (three units of the State Border Guard Service (SBGS) under the Ministry of the Interior – the Foreigners Registration Centre (FRC), which was visited five times and two Border Inspection Posts); prisons – 7 (seven) times (seven prisons were inspected) and temporary detention facilities of police headquarters – 5 (five) times (five temporary detention facilities of police stations were inspected).



Number of places of detention in Lithuania



Number of visits to places of detention in 2019

2. Information activities

In the context of national prevention of torture and other activities of the NHRI, it is also important to ensure the proper dissemination of information on human rights implementation and inter-institutional cooperation; therefore, the functions of the national prevention of torture and the results of their implementation are presented in different counties of Lithuania every year. These meetings are used to present the national prevention of torture performed by the Seimas Ombudsmen in social care institutions, identify the most urgent issues of ensuring human rights, analyse their potential solutions and discuss the organisation of adult care in municipalities and the problems encountered.

In 2019, such presentation was hosted in Telšiai District Municipality for representatives of social service management units and care institutions responsible for the provision of long-term social care services to adults in Telšiai District Municipality.

3. Cooperation

With a view to ensuring inter-institutional cooperation, in 2019, the Seimas Ombudsmen repeatedly met with representatives of public groups, public authorities, international human rights organisations representatives of the staff of the places of detention, other responsible authorities, such as the Ombudsman for Children, E. Žiobienė, representatives of the Lithuanian Trade Union 'Solidarumas', representatives of the Ministry of Justice and the Prisons Department, public authorities and non-governmental organisations on the implementation of recommendations issued by the United Nations Committee on the Rights of Persons with Disabilities, representatives of the International Organisation for Migration, representatives of the UN Refugee Agency, the National LGBT Rights Organisation, and representatives of the State Border Guard Service.

During the meetings such issues as draft legal acts, regulating enforcement of sentences and arrests assessing their compliance with human rights standards, the situation in prisons as well as other issues were discussed. It should be noted that the shortcomings of the penal enforcement system were also discussed by the Seimas Ombudsmen at the meeting of the Seimas Committee on Human Rights.

Employees of the Human Rights Division of the Seimas Ombudsmen Office participate in various international cooperation events hosted for staff of the national mechanisms for the prevention of torture. In 2019, the employees participated, *inter alia*, in an expert meeting on the topic of 'Treatment of vulnerable groups of prisoners' organised by the European Union-funded project 'Working towards harmonised detention standards in the EU – the role of the NPM', in Sofia (Bulgaria). The meeting was organised by the Bulgarian Helsinki Committee along with its partners (Hungarian Helsinki Committee, Ludwig Boltzmann Institute for Human Rights and the Association 'Antigonè'). The purpose of the meeting was to help the authorities and individuals performing the NPM functions improve the monitoring of the protection of human rights of vulnerable groups of the convicted (women, children, persons with disabilities, foreigners, homosexuals), motivating them to regularly share their knowledge and experience with foreign partners in the internet system (platform) and to develop the joint document/handbook for monitoring human rights. During the event, the organisers presented the joint document (guide) and the internet system (platform) designed for the implementation of the functions of the national prevention of torture as well as other objectives mentioned above. More than four working groups were formed and participant, following practical tasks provided to them, could share their experience acquired in performing the NPM functions and could receive advice on arising challenges and their possible solutions.

4. Training

In regard to the recommendations made by the European Committee against Torture and Other Violent, Inhuman or Degrading Treatment or Punishment (CPT) to Lithuania on the need to increase the competences of persons working in places of detention in the fields of ensuring human rights, as well as prevention of torture and other ill-treatment, by improving their skills and expanding their knowledge, the Seimas Ombudsmen seek to contribute to the development of the staff competences by organising training for employees of places of detention on the topics of restriction of human rights and freedoms in places of detention.

On 22 October 2019, the Human Rights Division of the Seimas Ombudsmen's Office organised training for employees of social care institutions. During the training, employees of social institutions were familiarised with the care of persons in social care homes based on the principles of human rights, thereby increasing and ensuring the quality of social services and respect for the human rights of the users of these services.

On 11 December 2019, the Human Rights Division of the Seimas Ombudsmen's Office organised training for the officers of correctional institutions to familiarise them with the supervision of life sentences based on human rights principles. During the training, areas for improvement were presented and analysed.

III. KEY COMMENTS, RECOMMENDATIONS AND ACHIEVED DEVELOPMENTS

1. LONG-TERM SOCIAL CARE INSTITUTIONS FOR ADULTS

In 2019, inspections were carried out in 20 (twenty) social care institutions (for adults with disabilities and elderly people):

- ▣ 11 (eleven) care institutions in Telšiai county: Plungė Parish Retirement Home, Public Institution Plungė District Municipal Hospital, Care Home of Žemaičių Kalvarija 'Caritas' Division, Public Institution Rietavas Parish Retirement Home, Public institution Rietavas Primary Health Care Centre, Telšiai District Retirement Home, Public Institution Varniai Primary Health Care Centre, Public Institution 'Vilties erdvė', JV Plinkšiai Care Home, Mažeikiai District Orphanage and Retirement Home and Public Institution Seda Primary Health Care Centre;
- ▣ 9 (nine) care institutions in Telšiai, Tauragė and Marijampolė counties¹¹: Care Division of the Public Institution Kaltinėnai Primary Health Care Centre, Kukarskė Care Home, JV Lauksargiai Care Home of Tauragė District Municipality, Marijampolė Special Social Care Home, Public Institution Marijampolė Primary Health Care Centre, Pagėgiai Palliative Treatment, Nursing and Retirement Home, Seredžius Retirement Home, Care Division of Public Institution Skaudvilė Palliative Treatment and Nursing Hospital and Dūseikiai Social Care Home.

The following main shortcomings identified during the inspections should be mentioned:

- ▣ Not all territories and premises of care institutions as well as information provided by them are adapted to the needs of persons with disabilities; people with disabilities are accommodated in premises not adapted to their needs; in many institutions, the system of calling for assistance was flawed;
- ▣ The locking of the resident in his/her room is applied; the right of the residents to privacy (i.e. private, individual space, privacy of personal hygiene or confidentiality of information, etc.)

is not adequately guaranteed)¹²; insufficient attention is paid to discussing privacy issues with the residents;

- ▣ The relevant information about menus is not provided in a proper and timely manner, adequate conditions for submitting requests for a range of foods and meals are not created; there is no possibility for residents to make food themselves, nor eat in shared spaces; the residents receive only some cutlery during meals, they have no possibility to use all cutlery and no efforts are made to encourage them to use it;
- ▣ Unfit for use medicinal products are still kept (expired, not in original packaging of the producer); the contents of first-aid cases do not meet the requirements of their composition laid down by the Minister of Health for such cases; there is no control over how residents independently keep and consume various medicinal products in their living rooms; the residents have to purchase medicinal products prescribed to them by the doctor also for their own account; and the accounting of medicinal products is kept negligently;
- ▣ There is lack of appropriate activities for residents: no plans for individual social care, no personalised organisation of appropriate activities for residents, who are unable to get out of bed due to health reasons; lack of books and a wider range of activities focused on the needs of residents and enhancement of their social skills.

Following inspections of care institutions in Telšiai county, a total of 171 (one hundred and seventy-one)

¹¹ Repeated inspections to ascertain how recommendations of the Seimas Ombudsman are implemented.

¹² There is a particular lack of privacy in personal health care institutions providing care services, where a cosy home environment, privacy of medical examination, individualised supply of residents with underwear and upper clothing are not guaranteed, and there is a lack of facilities for private communication.

recommendations were provided¹³: 165 (one hundred and sixty-five) – to heads of the inspected care institutions, 3 (three) – to county municipal administrations, 2 (two) – to the Department of Supervision of Social Services under the Ministry of Social Security and Labour and 1 (one) – to the Minister of Social Security and Labour.

During the reporting period, follow-up inspections of care institutions, which were inspected in 2015 and 2018, revealed that out of 177 (one hundred and seventy-seven) recommendations repeatedly submitted to them, 114 (one hundred and fourteen) recommendations were implemented by the institutions, 40 (forty) were partially implemented and 23 (twenty-three) recommendations were not implemented, i.e. eighty-seven (87%) percent of the recommendations were implemented or partially implemented. In regard to the circumstances established during the follow-up inspections (partly implemented and/or unimplemented recommendations, as well as additionally identified shortcomings), the Seimas Ombudsman submitted recommendations to each care institution and its founder, the institution purchasing social care services (respective municipal administration)¹⁴ in order to take the necessary measures to address the identified shortcomings (for the proper implementation of the recommendations). In addition, 39 (thirty-nine) recommendations were submitted. According to the data provided by the institutions in respect to follow-up inspection, all

repeatedly submitted recommendations were implemented immediately after the follow-up inspection.

2. CORRECTIONAL INSTITUTIONS

In 2019, checks on the human rights situation were carried out in 7 (seven) correction institutions: Lukiškės Remand Prison (Lukiškės RP), Alytus Correction House (Alytaus CH), Marijampolė Correction House (Marijampolė CH), Vilnius Correction House (Vilnius CH), Pravieniškės Correction House – Open Colony (Pravieniškės CH-OC), Panevėžys Correction House (Panevėžys CH) and Šiauliai Remand Prison (Šiauliai RP).

The following main shortcomings identified during inspections should be mentioned:

- ▢ No measures are taken to maintain social skills of the convicted transferred from Lukiškės RP to other correction institutions;
- ▢ The right of the convicted to be informed of a specific transfer decision taken in respect of the convicted person is restricted, family members and relatives are not informed about the transfer in advance and conditions are not created for appeal against such a decision in accordance with the procedure laid down by legal acts;
- ▢ When relocating persons to other correction institutions, the place of residence of the convicted and their spouses, family members and other relatives has not been taken into account, thus preventing the convicted from effectively maintaining social relationships with the external world; for this reason, relocation to other correctional institutions was favourable for maintaining social relationships with relatives only to one third of inmates; the number of living rooms for long-term visits is smaller than provided for by legal acts;
- ▢ Material housing conditions are not adequately guaranteed, the lighting of cell-type premises

¹³ Given the Seimas Ombudsman's instruction to report on the results of implementation of recommendations by 27 March 2020, competent authorities have not yet provided information on possible implementing measures of recommendations of the Seimas Ombudsman.

¹⁴ An individual's need for social care is established, a decision on the allocation of social services and social care is organised and the quality of social services allocated in the municipality is ensured by the municipal administration; accordingly, the latter must take all necessary measures to ensure proper implementation of recommendations submitted to care institutions.

in correction institutions, where life prisoners and persons sentenced by the court to serve a prison sentence are placed, does not meet the minimum requirements of natural light coefficients, accordingly, conditions are not created for ensuring minimum natural lighting¹⁵;

- ▢ Possibilities to continue studying at schools of general education and to work are not provided, thus violating their right to engage in all kinds of meaningful activities, social rehabilitation documents of the relocated prisoners are handled only partially, their social skills development and healthy lifestyle programmes are not implemented; the convicted have no access to literature adapted to their needs, activities with public organisations focused on moral education do not include other forms of positive activities for the convicted or such meetings do not take place; there are no risk assessments of criminal behaviour of relocated inmates, the number of websites available to relocated inmates in different correction institutions ranges from 1 to 107, and in some institutions computer equipment is very outdated.

60 (sixty) recommendations were issued to competent authorities: 1 (one) recommendation was issued to the Minister of Health (for improving legal regulation – the hygiene standard should include the requirement to ensure natural lighting measured according to the natural lighting coefficient), 2 (two) – to the Director of the Prison Department; in addition, control of recommendations submitted to subordinate institutions: Alytus Correction House – 9 (nine), Marijampolė Correction House – 10 (ten), Vilnius Correction House – 8 (eight), Pravieniškės Correction House-Remand Prison – 10 (ten), Panevėžys Correction House – 9 (nine) and Šiauliai Remand Prison – 11 (eleven).

¹⁵ Natural lighting coefficients do not correspond to even the minimum established analogue natural lighting coefficient, which must be at least 0.5%.

Data provided by the competent authorities on the results of the implementation of the recommendations showed that the Prison Department implemented 2 (two) recommendations, Alytaus Correction House – 9 (nine), Marijampolė Correction House – 7 (seven) (three recommendations not implemented or implemented improperly), Vilnius Correction House – 7 (seven) and 1 (one) recommendation was not implemented or implemented improperly, Pravieniškės Correction House-Remand Prison – 8 (eight), 1 (one) recommendation was not implemented or implemented improperly; moreover, Pravieniškės Correction House-Remand Prison failed to provide implementation information in respect of 1 (one) recommendation, Panevėžys Correction House – 9 (nine), and Šiauliai Remand Prison – 9 (nine) and 2 (two) recommendations were not implemented or were implemented improperly. Measures for implementing the submitted recommendation are being revised with the Ministry of Health.

3. POLICE FACILITIES

During the reporting period, the assessment of the human rights situation at temporary detention facilities of police stations (PS) included a total of 5 (five) police stations: Švenčionys District Police Station of Vilnius County Police Headquarters and Ukmergė District Police Station, Anykščiai District Police Station of Utena County Police Headquarters, Jonava District Police Station of Kaunas County Police Headquarters and Prienai District Police Station of Alytus County Police Headquarters.

During inspections the following main shortcomings were identified:

- ▢ Legal acts are not published and/or their applicable version is not available in the Register of Legal Acts and on the website of the Police Department;
- ▢ There are cases when not all data is recorded in the Register of Police-Registered Events;

- ❑ Not all PS premises for interrogation of adults have video surveillance systems; the minimum retention period of video surveillance records concerning the imprisoned is not guaranteed;
- ❑ Adequate material housing conditions for detainees are not guaranteed.

Following the inspections, the responsible authorities – the Ministry of the Interior (MoU) and the Police Department (PD) under the Ministry of the Interior were issued 8 (eight) recommendations: 1 (one) recommendation was issued to the MoU (on improving the legal regulation of police activities – to ensure that all legal acts adopted by the Lithuanian Police Commissioner General and their amendments are published in the Register of Legal Acts and on the PD website) and 7 (seven) recommendations – to the PD. The results of the implementation of the recommendations reported by the competent authorities show that all recommendations are being implemented – prepared plan of measures for implementing the recommendations is fulfilled within the established time limits.

4. PLACES OF DETENTION OF FOREIGNERS

In 2019, the Seimas Ombudsmen assessed the human rights situation in 3 (three) State Border Guard Service (SBGS) facilities: SBGS Foreigners' Registration Centre (FRC) (five inspection visits carried out), the Coast Border Guard at the Port Border Inspection Post (Port Border Inspection Post) and Palanga Border Control Post of Palanga Airport (Airport BCP).

During the inspections the following main shortcomings were identified:

- ❑ Part of the premises of the FRC, including its administrative premises are not adapted for the disabled; accommodation for persons with disabilities does not always take due account of their physical abilities to live in the respective premises;
- ❑ The cleanliness and order in the premises is not properly ensured; the standards of supplying inmates with hygiene articles, in terms of quantity and frequency of supply (including diapers for babies under one year of age only) are insufficient to ensure personal hygiene;
- ❑ The offered alternative menu is not adapted to foreigners confessing to Islam, conditions are not created for foreigners to perform ceremonies according to their professed religion in a separate facility adapted for that purpose within the territory of the FCR, not all persons with special nutritional needs are provided with separate menus; it is not ensured that all children attending school can have breakfast in the canteen before school starts;
- ❑ There is no clear procedure for submitting and handling requests, complaints concerning food supplied in the canteen;
- ❑ Quality healthcare services and timely access to them is not guaranteed;
- ❑ In the case of applying detention when a family (a mother with minors) is placed in cell-type premises, the proportionality of the extreme measure (detention) taken to achieve the objectives and its compliance with children's best interests is not assessed;
- ❑ The vulnerability of asylum seekers is assessed ineffectively and inefficiently because of: the lack of knowledge of foreign languages by the staff, lack of opportunities to improve the staff qualifications, problems of the organisation of work (including the allocation of the workload of staff performing assessment, proper filling in and storage of assessment documents), lack of mobilisation of competent external authorities and specialists; lack of cooperation with specialists of the State Child Rights Protection and Adoption Service in order to adequately ensure the rights and legitimate interests of the child; failure to ensure the interpreter's services; failure

to ensure the smooth operation of the electronic registry system of the Port Border Inspection Post and Airport BCP, which makes it more difficult for officials to work on the processing of the provided personal data; administrative, temporary detention and asylum seekers' facilities are not adapted for the disabled; minimum natural and/or artificial lighting is not ensured.

Following the inspections carried out in the Foreigners Registration Centre (FRC), 24 (twenty-four) recommendations were issued to the responsible authorities – the Ministry of Health (MoH), Mol, SBGS, FCR and the State Health Care Accreditation Agency under the Ministry of Health (Accreditation Agency): 1 (one) recommendation was submitted to the MoH (for the improvement of legal regulation – providing in the hygiene standard for larger rates (quantities) and wider range of hygiene articles provided to one person); 2 (two) recommendations – to the Mol (for the improvement of legal regulation – to recalculate and change daily rates of costs for meals established for adults and minors placed in the FRC, taking into account the current average market prices for agricultural and food products, also to establish a third option of meals, i.e. to include in the menu dishes from meat other than pork; to ensure the right to adequate food according to religious beliefs; 5 (five) recommendations were submitted to the SBGS (of which 1 (one) – for the improvement of legal regulation of the SBGS activities – to supplement the questionnaire form of the arriving alien in order to ensure that his/her special nutritional needs are identified immediately), 15 (fifteen) recommendations were submitted to the FRC and one (1) – to the Accreditation Agency. All recommendations were implemented except for the recommendation submitted to the MoH (no information about the implementation of the submitted recommendation has been received yet).

Inspections carried out at the border inspection posts and border control posts resulted in 6 (six) recommendations: 5 (five) recommendations

were issued to the SBGS and 1 (one) – to Klaipėda Department of the National Public Health Centre under the Ministry of Health. According to the information provided by the institutions about the results of implementation of the recommendations, all recommendations were implemented: the plan of measures drawn up for the implementation of the submitted recommendations was implemented within the time limits set out in the plan.

5. MENTAL HEALTH INSTITUTIONS

In 2019, inspections were carried out in three (3) mental health institutions – the Mental Health Branch of the Public Institution 'Respublikinė Klaipėdos ligoninė' (hereinafter – Klaipėda Hospital), the Psychiatry Department of the Public Institution 'Respublikinė Panevėžio ligoninė' (hereinafter – Panevėžys Hospital) and the Child Psychiatry Department of the Woman and Child Clinic of the Public Institution 'Respublikinė Šiaulių ligoninė' (the report is being prepared). The President of the Lithuanian Disability Forum, Dovilė Juodkaitė, was involved in the inspections as the expert of mental health and rights of the disabled.

The following main shortcomings identified during the inspections should be mentioned:

- ❑ No approved workloads for doctors and other health care specialists; staff complained about high emotional pressure, lack of incentives, costs of refresher courses not always covered by the administration of the institution;
- ❑ The provisions of the internal rules defining the procedures for involuntary hospitalisation of patients do not comply with the existing legal regulation; not all patients know about their right to refuse to continuing their hospitalisation and treatment at the institution and are not properly informed about the treatment regime;
- ❑ The access to information on internal rules of the institutions, patients' rights and responsibilities,

possibilities to apply to the institutions' ethics commissions is not ensured; patients lack information on the procedure for submitting written requests, the ethics commissions and their functions, oral requests of patients are not registered, the possibility of anonymous referral is not adequately guaranteed in most of the visited departments;

- ❑ The applicable procedure of physical restraint arrangements are not in line with the existing legal regulation, no attention is paid to improving staff qualifications in the light of new legal regulation, the privacy of patients, subject to physical restraint measures, is not ensured; the monitoring of the state of intended periodicity and the proper registration of the application of restraint measures is not guaranteed;
- ❑ Not all facilities are adapted to the needs of persons with reduced mobility; equipment in hygiene facilities are disorderly, there is a lack of cleanliness, no curtains in wards, inadequate ventilation of premises, premises for meetings with visitors are not installed, thus failing to ensure the privacy of patients and people visiting them;
- ❑ Provisions of national legal acts prohibiting the use of tobacco products and e-cigarettes in all health care establishments and their territories are infringed, smoking of patients is tolerated both by passive and active actions of administrations and staff, and smoking addiction prevention programmes are not applied;
- ❑ Access to the psychologist's services, psychosocial rehabilitation and leisure activities is not properly ensured (the majority of departments have no separate rooms for recreation / activities, patients are rarely taken out for walks).

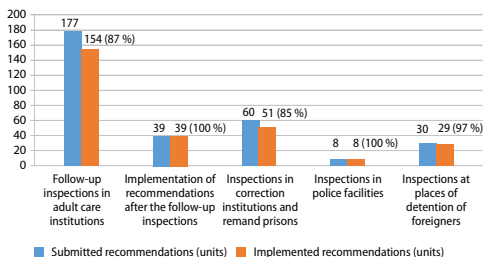
In the light of the identified shortcomings recommendations will be issued to the responsible authorities to address these shortcomings and the implementation of the recommendations will be monitored.

IV. FOLLOW-UP OF THE IMPLEMENTATION OF RECOMMENDATIONS

The follow-up of the implementation of recommendations provided to the responsible institutions is a very important measure of ensuring the national prevention of torture. In implementing the submitted recommendations competent institutions must take certain actions, if necessary, provide for the action plan, and the Seimas Ombudsmen monitor the implementation of these recommendations. The follow-up of the implementation of recommendations is a process in which the institution responsible for preventing torture monitors and gathers information on the actions and measures taken by the responsible institutions in accordance with the recommendations provided to them, promotes the proper implementation of recommendations in different ways, and consults on the effectiveness of the selected measures.

The follow-up of the implementation of recommendations provided to the responsible institutions is carried out by assessing the information received from the responsible institutions, adjusting such information and conducting follow-up inspections to determine the results of implementation of recommendations of the Seimas Ombudsmen through the on-site assessment of the information submitted by the institution (as already mentioned, in 2019, nine (9) follow-up inspections were carried out in the adult care institutions).

A high average (94%) of the number of implemented recommendations is encouraging. Recommendations that remain not implemented are the subject of the continuous dialogue seeking to have all of them implemented; the relevant information will be included in other reports of the Seimas Ombudsmen's activities.



Implementation of submitted recommendations

COOPERATION WITH SOCIAL PARTNERS

On 10 January 2019, the Head of the Seimas Ombudsmen's Office Augustinas Normantas met with the Chairman of the Seimas Viktoras Pranckietis to discuss human rights issues in the country, the current human rights situation and challenges. During the meeting, A. Normantas noted the lack of education on the topics of human rights in Lithuania, drew attention to the problems of implementation of recommendations made by the United Nations Committee on the Rights of Persons with Disabilities, discussed problems of activities of the National Land Service, importance and principles of deinstitutionalisation of care, as well as the availability of social services at home. Besides, the issues of access to information from state and municipal institutions and problems of reform of the penal enforcement system were discussed.



On 4-6 March 2019, the Seimas Ombudsman A. Normantas participated in the annual meeting of the Global Alliance of National Human Rights Institutions (GANHRI) in Geneva, Switzerland. During the visit to Geneva, representatives of the



Seimas Ombudsmen's Office also met with Jean-Sébastien Blanc, the Head of Thematic Projects at the Association for the Prevention of Torture (APT).

On 28-29 March 2019, in Kiev, the Seimas Ombudsman A. Normantas met with the High Commissioner for Human Rights of the Verkhovna Rada of Ukraine Liudmila Denisova to discuss and sign the final report of the EU Twinning Project 'Implementation of the best European practices with the aim of strengthening the institutional capacity of the Apparatus of the Ukrainian Parliament Commissioner for Human Rights to Protect Human Rights and Freedoms (Apparatus)' and documents related to the report.

On 16 April 2019, The Seimas Ombudsmen's Office hosted the meeting with the Director of the National Land Service under the Ministry of Agriculture Laimonas Čiakas and other representatives of the Service. During the meeting, the content of received complaints concerning unlawful acts or omissions of the officials of the National Land Service and the issue of systemic complaints reaching the institution of the Seimas Ombudsmen were thoroughly analysed. The Seimas Ombudsmen noted that procedure of restoration of the property rights, which is particularly sensitive and delicate, in principle coming to end, must be carried out in accordance

with legal acts and the principles of good public administration.

During the meeting, the Director was also asked to draw his attention to the recommendations provided by the Seimas Ombudsman and to ensure their implementation to the full extent. The Seimas Ombudsmen emphasized that the officials of the National Land Service should ensure that requests and complaints of persons are handled in compliance with requirements of legal acts and constitutional duty to properly serve the people is guaranteed.

On 30 April 2019, during the meeting organised on the initiative of the Seimas Ombudsman, representatives of state institutions and NGOs listened to the Report on Monitoring the Results of Social Integration of the Disabled and the Implementation of the United Nations Convention on the Rights of Persons with Disabilities in 2018, in which the Department for the Affairs of the Disabled identified the major shortcomings in the implementation of the UN Convention on the Rights of Persons with Disabilities in the country: access to schools for children with physical disabilities, awareness of persons with disabilities, and their involvement in decision-making processes. When assessing the implementation of the Convention on Persons with Disabilities in the country, it is noted that timely meals are not provided and activities are not organised for residents in adult care institutions. Residents of care institutions are dependent on the staff of care institution.

As the national human rights institution, the Seimas Ombudsmen's Office monitors and evaluates the country's actions in implementing international obligations. Monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities is one of the key tools to make a critical self-assessment of the implementation of international commitments in Lithuania and to provide tools to address the shortcomings identified in the draft monitoring report. In 2020, Lithuania will be required to submit to the United Nations

Disability Committee the second report on the progress of implementation of the provisions of the UN Convention on the Rights of Persons with Disabilities.

On 15 May 2019, the Seimas Ombudsmen's Office was visited by the delegation of the National Assembly of Armenia. At the beginning of the meeting, the Head of the Seimas Ombudsmen's Office A. Normantas provided the guests with comprehensive information about the functions performed by the Seimas Ombudsmen's Office and its mandates and noted the particular sensitivity



of the human rights issues. The guests expressed concern about the attitude towards human rights in Armenia, which started to change only after the revolution. The staff of the Human Rights Division of the Seimas Ombudsmen's Office noted that problems of failure to guarantee human rights are also frequent in Lithuania; however, some essential steps have already been made and attitude towards a human being and human rights is changing for the better: the human dignity is being ensured and the feeling of security is developing.

On 17 May 2019, representatives of the Organisation for Security and Cooperation in Europe (OSCE) visited the Seimas Ombudsmen's Office. The main purpose of their visit was to observe the elections of the President of the Republic of Lithuania in 2019. During the meeting, the OSCE representatives took an interest in the competence and activities of the Seimas Ombudsmen in the context of the

presidential elections in the Republic of Lithuania, while representatives of the Seimas Ombudsmen's Office shared information related to human rights and elections (in particular – the presidential elections).

On 31 May 2019, the Seimas Ombudsman A. Normantas and M. Vainiutė introduced to the public the 2018 report of the Seimas Ombudsmen, the National Human Rights Institution. The Seimas Ombudsman, the Head of the Office A. Normantas familiarised the guests with mandates of the Seimas Ombudsmen and discussed the essential problems of human rights in the country.

In supervising how the State cares about and guarantees human rights, the Seimas Ombudsmen submitted a total of 2,300 recommendations to state and municipal institutions. Institutions that receive recommendations of the Seimas Ombudsmen

of the organisations appreciated the possibility to contribute to the monitoring of human rights carried out by the Seimas Ombudsmen's Office and closely observe how the national prevention institution performs its functions in the field of human rights. The Seimas Ombudsman drew the



attention of the representatives of UNHCR and IOM to the fact that the Seimas Ombudsmen's Office expects to get the feedback – constructive useful insights that would contribute to the ensuring of protection of human rights in the Foreigners Registration Centre.



must thoroughly assess them and take effective measures to implement the recommendations. Last year, 93% of the recommendations were implemented.

On 21 June 2019, the Head of the Seimas Ombudsmen's Office A. Normantas and the staff of the Human Rights Division visited the Foreigners Registration Centre where they performed monitoring of the human rights situation together with representatives of the International Organisation for Migration (IOM) Vilnius Office and the UN Refugee Agency (UNHCR). Representatives

On 27 September 2019, Martynas Mažvydas Library hosted the Nordic-Baltic Ombudsmen's Conference organised by the Seimas Ombudsmen's Office 'Ensuring social and economic rights is a safeguard of a dignified life'. For the first time, the Ombudsmen's meeting was also attended by Ambassadors from the Nordic and Baltic countries residing in the country, who had an excellent opportunity not only to get acquainted with the Ombudsmen from neighbouring countries, but also to look into activities and challenges the Ombudsmen face. The conference organised by the Seimas Ombudsmen's Office, which lasted the whole day allowed the speakers and participants from Latvia, Estonia, Sweden, Denmark, Finland and Norway to create an environment not only for sharing and exchanging experience, but also for assessing the progress of neighbouring

countries in the area of social and economic rights. The conference revealed that despite differences among countries, they deal with similar problems and, therefore, sustainable cooperation between



the countries can help to find common solutions to the problems. The topics of three sessions of the conference, chosen in response to the most sensitive areas in terms of the need for ensuring social and economic rights, stimulated constructive discussions among participating Ombudsmen. The first session dealt with regulatory aspects of ensuring the economic and social rights. However, most of the discussions and opinions at the conference were generated during the second session in which ombudsmen discussed the issue of ensuring the rights of people with disabilities. The third session, which concluded the conference, allowed the participants to share real practices and recommendations aimed at implementing the provision of quality social services.

On 7 October 2019, due to the increasing number of complaints against the State Consumer Rights Protection Authority (SCRPA) on the initiative of the Seimas Ombudsmen's Office a meeting was organised with its representatives. During the meeting, the Seimas Ombudsman welcomed SCRPA's interest in cooperation as well as identification of reasons and possible solutions to the increased number of complaints and requests concerning the allegedly improper activities of the SCRPA. Moreover, the Seimas Ombudsman noted that the meeting was

a major step towards ensuring a better performance of public administration functions.

The meeting also addressed other topical issues regarding provisions enshrined in the Law on Public Administration, the Law on Consumer Protection and other legal acts related to the examination of the applicants' complaints, reports and the performance of other functions of the Authority.

On 18–19 November, The Head of the Seimas Ombudsmen's Office A. Normantas attended the 2nd Istanbul International Ombudsman Conference 'Principles of Good Administration and Ombudsmen' hosted by the Turkish Ombudsmen's Office. The Head of the Seimas Ombudsmen's Office presented the report 'Role of the Ombudsman in strengthening good public governance' during the second session 'Main principles regarding the recommendations of Ombudsman:



equality, justice, impartiality, non-discrimination and absence of abuse of power' of the conference.

On 11 December 2019, the Seimas Committee on Human Rights, the Seimas Ombudsman A. Normantas, the Ombudsman for Children E. Žiobienė and the Inspector of Journalist Ethics Gražina Ramanauskaitė discussed human rights and freedoms with Guillermo Fariñas, the Cuban dissident, Sakharov Prize laureate, and Omar López, the Director of the Cuban–American National Foundation for Human Rights. During the meeting, Fariñas spoke about human rights violations and restrictions on freedom of expression in Cuba and called for international political sanctions against the Cuban regime.

ANNEX

STATISTICS OF COMPLAINTS: THEMATIC SUMMARY OF COMPLAINTS COMPLETED IN 2019

Statistics of complaints

In 2019, the Seimas Ombudsmen's Office received in total 2,656 applications from natural and legal persons, of which 1,569 became new complaints. Compared with the year before, the number of received complaints was smaller (Fig. 1).

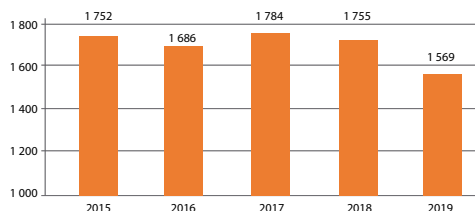


Figure 1. Number of complaints received in 2015–2019

Complaints received / complaint cases opened	1 569
Closed cases of complaints:	1 617
Investigation on the merits	380
Investigation by mediation	651
Investigation refused	586
Problems investigated and decisions made (in the cases investigated on the merits):	533
Complaint recognised to be justified	230
Complaint dismissed	147
Investigation discontinued	156
Investigations carried out on the initiative of the Seimas Ombudsmen	10
Problems investigated and decisions made	11
Fact of violation confirmed	2
Fact of violation not confirmed	0
Investigation discontinued	9
Recommendations provided by the Seimas Ombudsmen	1 697
Responses to the citizens' applications	145
Complaints referred by members of the Seimas	34

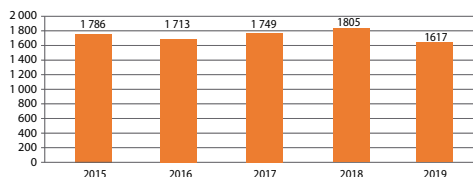


Figure 2. Dynamics of the number of completed cases of complaints in 2015–2019

A case of complaint is closed once the complaint has been investigated on the merits, investigated by mediation and when the investigation is refused. In 2019, 380 complaints were investigated on the merits, 651 complaints – by mediation and the investigation of 586 complaints was refused by the Seimas Ombudsmen (Fig. 3).

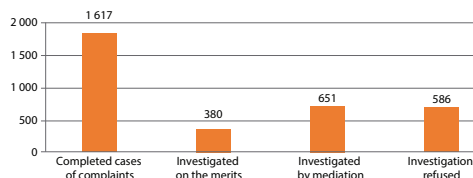


Figure 3. Cases of complaints completed in 2019

1,220 complaints were related to activities of the officials of state institutions and 387 complaints – to activities of the officials of municipal institutions (28 of the complaints concerned activities of both the officials of state and municipal institutions).

In 2019, compared to 2018, the number of cases of complaints initiated against actions of officials of the state institutions decreased by 108 and in respect of officials of municipal institutions decreased by 77 (Fig. 4).

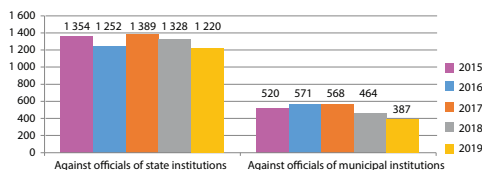
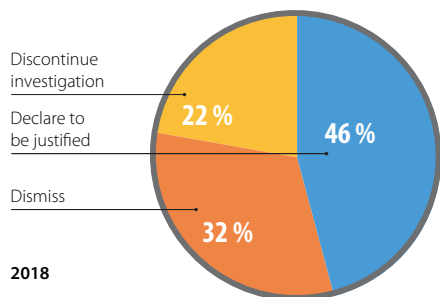
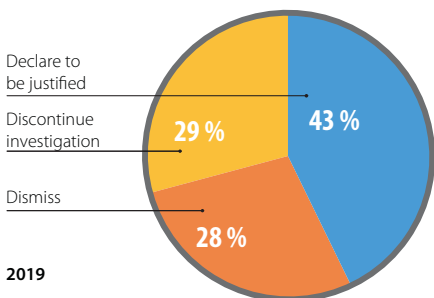


Figure 4. Statistics of complaints against officials of state and municipal institutions in 2015–2019

After the investigation of a complaint on the merits, the Seimas Ombudsmen, acting in observance of Article 22 of the Law on the Seimas Ombudsmen, make one of the following three decisions: 1) to declare a complaint (or its part) justified; 2) to dismiss (recognize as unjustified) a complaint (or its part); 3) to discontinue the investigation of a complaint (or its part) (Fig.5).



2018

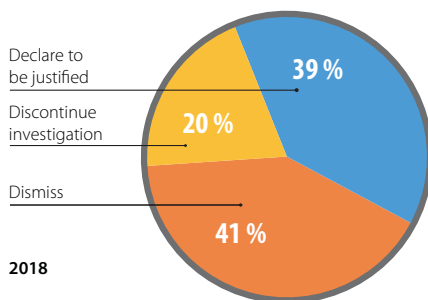


2019

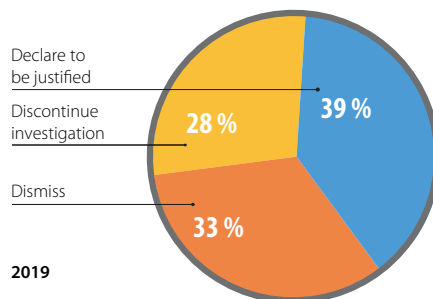
Figure 5. Distribution of all decisions made; Comparison of data for 2018–2019

Acting in observance of Article 22 of the Law on the Seimas Ombudsmen, the Seimas Ombudsmen declared 43% of all complaints to be justified, dismissed 28% of complaints, while the investigation of 29% of complaints was discontinued. The investigation is also discontinued when the issues raised in a complaint are resolved in good will through the mediation of the Seimas Ombudsman. In 2019, compared to 2018, the number of complaints

declared to be justified by the Seimas Ombudsmen decreased by 3%.



2018



2019

Figure 6. Distribution of decisions made in the cases related to state institutions and agencies; Comparison of data for 2018–2019

The results of the investigation of complaints against activities of state institutions and agencies as well as their officials were as follows: 39% of the complaints were declared to be justified, 33% of the complaints were dismissed and the investigation of 28% of the complaints was discontinued. Compared with 2018, the percentage of justified complaints against state institutions remained the same, the percentage of dismissed complaints – decreased by 8%, and the number of complaints cases terminated by discontinuing the investigation increased by 8%, respectively (Fig. 6).

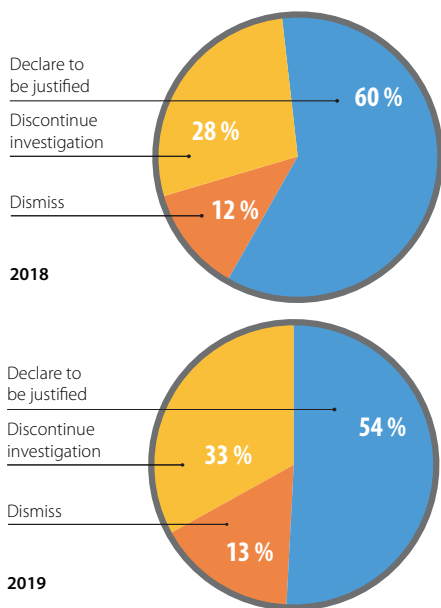


Figure 7. Distribution of decisions made in respect of municipal institutions and agencies; Comparison of data for 2018–2019

More than a half (54%) of complaints against activities of municipal institutions and agencies and of their officials were declared to be justified, 13% of such complaints were dismissed, while in 33% of cases the investigation was discontinued. Nevertheless, compared with 2018, the percentage of complaints declared to be justified has significantly decreased (6%), and the number of dismissed complaints increased by 1% (one percent); the number of cases of complaints against activities of municipal institutions and agencies and their officials, the investigation of which was discontinued, increased by 5% (Fig. 7).

The Seimas Ombudsmen mediate when there exist the grounds for refusal to investigate a complaint provided for in Article 17(1) of the Law on the Seimas Ombudsmen. Acting as mediators between the general public and the authorities the Seimas Ombudsmen investigated 651 complaints. In the majority of cases, the authorities resolved the problems identified in

the complaints. Out of all (651) cases of mediation regarding the resolution of a problem indicated in the complaint, the Seimas Ombudsmen's Office was approached repeatedly only by less than one tenth of the complainants (in 63 cases) (Fig. 8).

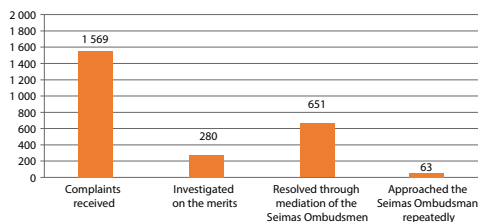


Figure 8. Statistics of investigated complaints

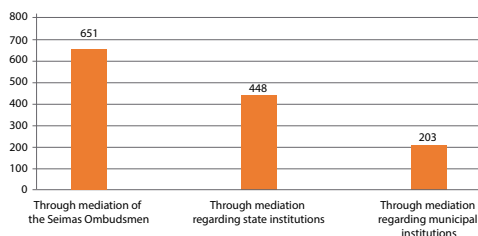


Figure 9. Investigation of complaints regarding the activities of state and municipal institutions through mediation

While resolving problems raised in the complaints through mediation, the Seimas Ombudsmen addressed state institutions 448 times and municipal institutions 203 times (Fig. 9).

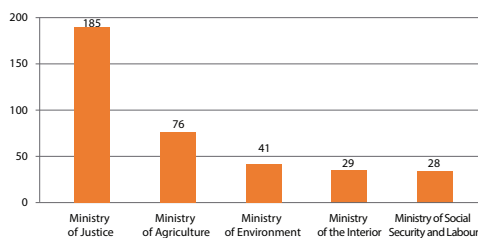


Figure 10. The majority of cases of mediation were related to these state institutions and institutions subordinate to them

The Seimas Ombudsman mostly acted as a mediator in resolving applicants' problems related to the Ministry of Justice (185), the Ministry of Agriculture (76), the Ministry of Environment (41), the Ministry of the Interior (29), and the Ministry of Social Security and Labour (28), as well as institutions subordinate to them (Fig. 10).

Out of the institutions subordinate to the Ministry of Justice, the Prison Department and imprisonment institutions attributed to its management sphere should be mentioned (173 cases of mediation). Out of the institutions subordinate to the Ministry of Agriculture, the National Land Service with its territorial units stands out (73 cases of mediation).

Out of institutions subordinate to the Ministry of the Interior, the Police Department and police stations subordinate to it stands out (22 cases of mediation).

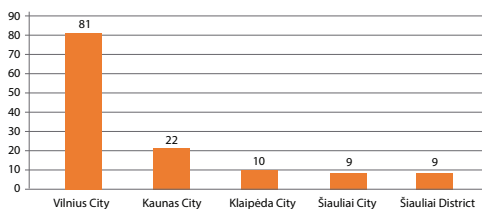


Figure 11. The majority of cases of mediation were related to these municipalities and institutions subordinate to them

Out of the institutions subordinate to the Ministry of Environment, the State Territorial Planning and Construction Inspectorate with its units should be mentioned (22 cases of mediation).

Out of the institutions subordinate to the Ministry of Social Security and Labour, the State Social Insurance Fund Board with its divisions (13 cases of mediation) and the State Child Rights protection and Adoption Service (6 cases of mediation) should be mentioned.

In 2019, the Seimas Ombudsmen acted as mediators mainly for the municipalities of the cities of Vilnius

(81), Kaunas (22), Klaipėda (10), Šiauliai (9) and Šiauliai district (9) and institutions subordinate to them (Fig. 11).

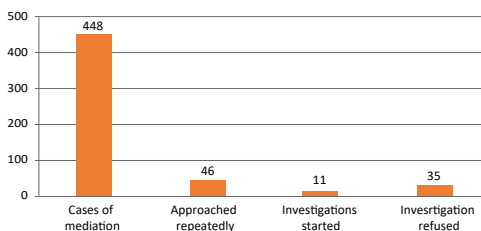


Figure 12. Cases when the Seimas Ombudsmen's Office was approached repeatedly regarding state institutions

Out of 448 cases of mediation regarding activities of state institutions in 46 cases complainants approached the Seimas Ombudsmen's Office repeatedly; upon receipt of follow-up complaints 11 investigations were completed / started, while in 35 cases investigations were refused (Fig. 12).

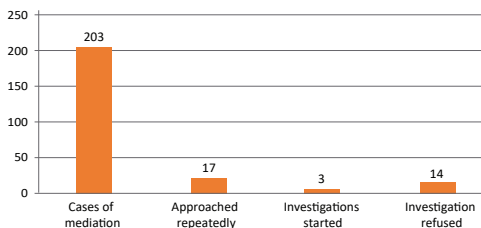


Figure 13. Cases when the Seimas Ombudsmen's Office was approached repeatedly regarding municipal institutions

In response to complaints received in respect of municipal institutions, 203 letters of mediation were drawn up; in 17 cases the complainants approached the Seimas Ombudsmen's Office repeatedly; following receipt of follow-up complaints 3 investigations were carried out, while in 14 cases investigations were refused (Fig. 13).

Complaints refused to be investigated

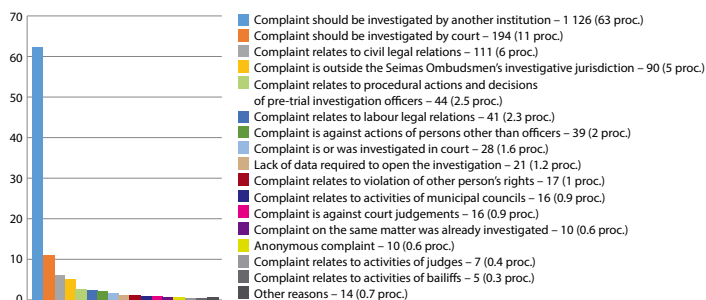


Figure 14. The main reasons for refusal to investigate complaints (in per cent)

Considering the reasons for refusal to investigate complaints it is important to mention that the investigation of the majority of complaints (63%) was refused because they were supposed to be investigated by other institutions. Therefore, in such cases, the Seimas Ombudsman addressed the respective institution with the letter of mediation asking it to investigate, without delay, the circumstances identified in the complaint and submit a reply to the complainant and the Seimas Ombudsman. In the majority of cases, following such an intervention by the Seimas Ombudsman,

the issues raised in the complaints are resolved in good will. Certainly, in some cases this method does not help and a detailed investigation of the complaint is required.

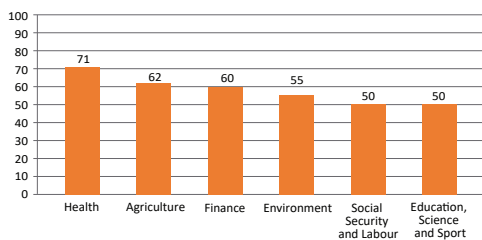
The mediation procedure allows defending the infringed rights of individuals more efficiently and more rapidly, by focusing on systemic human rights problems, which are relevant to a major part of society.

All reasons of refusal to investigate complaints are specified in Figure 14.

**Statistics of received and investigated complaints
by ministries and institutions subordinate to them in 2019**

Ministry and institutions and agencies attributed to its management sphere	Com- plaints received	Investi- gation refused	Media- ted	Investi- gated on the merits	Decisions made	Justified comp- laints	Dismissed comp- laints	Investi- gation discon- tinued	Recom- mendations provided
Environment	95	33	41	27	29	16	4	9	142
The Economy and innovation	11	6	3	3	3			3	14
Energy	3	1	1	1	1			1	4
Finance	12	5	5	5	5	3	1	1	11
National defence	5	1	1	1	1			1	1
Culture	15	4	5	2	2	2			13
Social Security and Labour	59	20	28	10	10	5	4	1	58
Transport and Communications	22	10	3	8	8	3	2	3	18
Health	19	7	3	7	7	5	1	1	20
Education, Science and Sport	17	1	12	6	6	3	2	1	29
Justice	605	265	185	162	200	75	71	54	506
Foreign Affairs	7	2	4						4
The Interior	107	55	29	26	27	10	14	3	71
Agriculture	159	61	76	23	29	18	4	7	172

The Seimas Ombudsmen received the largest number of complaints regarding the Ministry of Justice (605), the Ministry of Agriculture (159), the Ministry of the Interior (107) and the Ministry of Environment (95) and institutions subordinate to them.



The largest number of justified complaints were related to the Ministry of Health and institutions subordinate to it (71%), the Ministry of Agriculture and institutions subordinate to it (62%), the Ministry of Finance and institutions subordinate to it (60%), the Ministry of Environment and institutions subordinate to it (55%), the Ministry of Social Security and Labour and the Ministry of Education, Science and Sport and institutions subordinate to them (50%) (Fig. 15).

Figure 15. Six ministries and institutions subordinate to them accounting for the largest share (%) of complaints declared to be justified

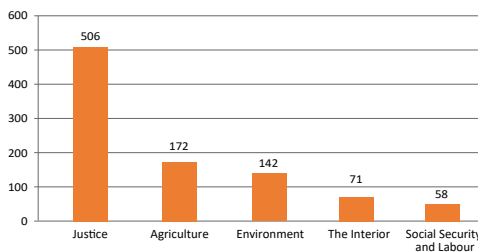


Figure 16. Five ministries and institutions subordinate to them accounting for the largest numbers of issued recommendations

The largest number of recommendations issued by the Seimas Ombudsmen related to the Ministry of Justice (506), the Ministry of Agriculture (172), the Ministry of Environment (142), the Ministry of the Interior (71) and the Ministry of Social Security and Labour (58) and institutions subordinate to them (Fig. 16).

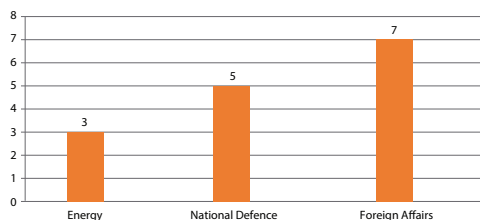


Figure 17. Three ministries and institutions subordinate to them accounting for the smallest numbers of received complaints

It should be noted that in 2019 the smallest numbers of complaints were received against actions of the officials of the Ministry of Energy (3), the Ministry of National Defence (5) and the Ministry of Foreign Affairs (7) and institutions subordinate to them (Fig. 17).

Review of investigated complaints by municipalities and institutions or agencies subordinate to them

The table shows municipalities and institutions subordinate to them accounting for the largest (ten or more) numbers of complaints received in 2019.

Municipality	Com-plaints received	Investi-gation refused	Medi-ated	Investi-gated on the merits	Deci-sions made	Justified comp-laints	Dismissed comp-laints	Investiga-tion discon-tinued	Recommen-dations provided
Vilnius City	134	30	81	28	35	19	4	12	211
Kaunas City	49	13	22	13	16	6	5	5	92
Šiauliai City	19	14		10	11	5	1	5	39
Klaipėda City	15	4	10	2	2	1	1		21
Šiauliai District	13	3	9	5	6			6	16
Panevėžys City	11	5	3	8	10	7	1	2	28
Alytus City	11	3	4	3	3	3			13
Trakai District	11	5	3	8	10	7	1	2	11
Vilnius District	11	4	6	1	1			1	16
Ukmergė District	10	3	5	1	1	1			9

The majority of complaints were received in relation to municipalities of Vilnius City and Kaunas City as well as institutions subordinate to them. The problems raised in such complaints were mainly addressed through mediation. Complaints investigated on the merits included 28 complaints (of which 54% declared to be justified) with respect to actions of the officials of Vilnius City municipalities and institutions subordinate to them, 13 complaints (of which 37.5% declared to be justified) with respect to actions of the officials of Kaunas City and 10 complaints (of which 45% declared to be justified) with respect to actions of the officials of Šiauliai City. The municipalities of Trakai District (70%) and Panevėžys City (70%) and institutions subordinate to them also stood out with a high percentage of complaints declared to be justified (Fig. 18).

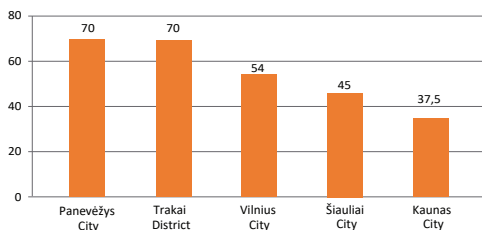


Figure 18. Five municipalities or institutions subordinate to them accounting for the largest share (%) of complaints declared to be justified

Having investigated the complaints, the Seimas Ombudsmen issue recommendations to heads of

respective municipalities or institutions subordinate to them drawing the attention of the officials to such issues as negligence at work, non-compliance with laws or other legal acts, infringement of professional ethics, abuse, bureaucracy or violations of human rights and freedoms as well as suggesting taking measures to eliminate the violations of laws or other legal acts, their causes and conditions.

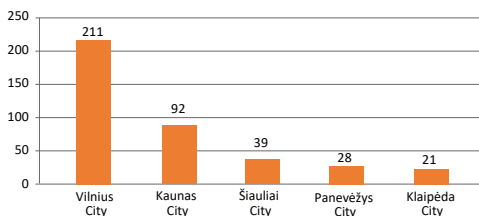
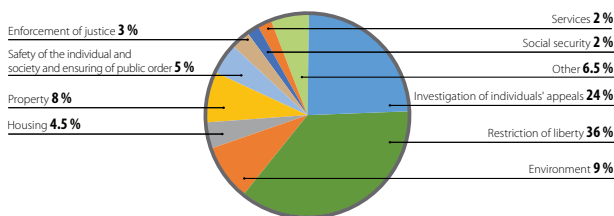


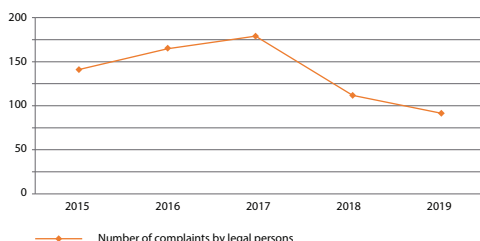
Figure 19. Five municipalities or institutions subordinate to them accounting for the largest numbers of issued recommendations

The majority of recommendations were provided with regard to municipalities of Vilnius City (211), Kaunas City (92), Šiauliai City (39), Panevėžys City (28) and Klaipėda City (21) as well as institutions subordinate to them (Fig. 19). It should be noted that in 2019, the Seimas Ombudsmen did not receive (and investigate) a single complaint with regard to actions of officials of the municipalities of Ignalina, Molėtai, Pakruojis, Pagėgiai, Šilalė and Vilkaviškis and institutions subordinate to them.

COMPLETED COMPLAINTS BY AREA IN 2019**Figure 20.** Completed complaints of natural persons by area

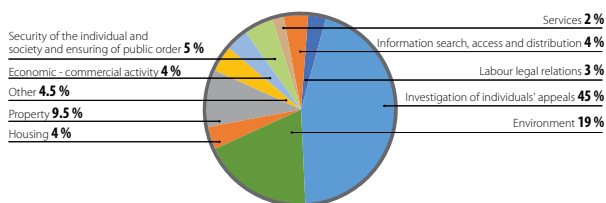
The breakdown of investigated complaints by problem area shows that one third of all complaints investigated by the Seimas Ombudsmen in 2019 concerned the restriction of liberty (36%), a somewhat smaller percentage of all investigated complaints were related to the investigation of the individuals' appeals (24%); 9% of all complaints investigated by the Seimas Ombudsmen were related to environmental and 8% – to property issues (Fig. 20). In 2019, compared with the previous year, the number of complaints from the detained and convicted persons increased: in 2016 such complaints accounted for 21%, in 2017 – 26%, and in 2018 – 31%, and in 2019 – 36%.

Office with a complaint regarding abuse of office by or bureaucracy of officials. Natural persons still constitute the majority of complainants approaching the Office.

**Figure 21.** Dynamics of complaints by legal persons; data for 2015–2019**Complaints by legal persons**

In accordance with Article 2 of the Law on the Seimas Ombudsmen “a complainant” is defined as a natural or legal person addressing the Seimas Ombudsmen’s

Every year the Seimas Ombudsmen used to receive increasingly more complaints from legal persons; however, in 2019 the number of such complaints decreased: in 2018 was 114, and in 2019 – 85 (Fig. 21).

**Figure 22.** Complaints from legal persons by area

The breakdown of investigated complaints demonstrates that almost half of all complaints from legal persons investigated by the Seimas Ombudsmen in 2019 were complaints related to the investigation of individuals' appeals (45%), 19% were related to environmental issues and 9.5% – to property issues (Fig. 22).

Investigations initiated by the Seimas Ombudsmen

The Law on the Seimas Ombudsmen entitles the Seimas Ombudsmen to open investigations on their own initiative when the signs of the abuse of office, bureaucracy or other violations of human rights and freedoms by the officials are established from reports of mass media or other sources.

Investigations initiated by the Seimas Ombudsmen are of a special preventive type, because the Seimas Ombudsman may initiate the investigation even without having received a complaint about a particular problem if he believes that human rights might have been violated in a certain case. These investigations enable to promptly and effectively respond to potential violations of human rights and, furthermore, they are usually related not to a single individual, but to a large group of individuals, or even to a big part of the society.

As a rule, such investigations are particularly detailed and involve thorough analysis of a given problem. This enables the Seimas Ombudsmen to reveal gaps or imperfections in the regulatory framework and to propose the respective regulatory improvements.

In 2019, the Seimas Ombudsmen started 9 investigations on their own initiative and completed 10 investigations dealing with several problems in every case and adopting decisions with respect to each of them (11); in two cases, the facts of

officials' abuse of office, bureaucracy or other public maladministration were confirmed, no cases of maladministration were declared unjustified and in 9 cases the investigation was discontinued, because during the investigation the circumstances under appeal disappeared or through the mediation of the Seimas Ombudsman were solved in good faith.

Recommendations issued in 2019

The provisions of the Law on the Seimas Ombudsmen entitle the Seimas Ombudsmen to issue proposals (recommendations), which must be examined by the institution and agency, or the official to whom such proposal (recommendation) is addressed; the results of such examination must be communicated to the Seimas Ombudsman.

In 2019, the Seimas Ombudsmen issued 1,697 recommendations. The majority of them (1,121) were addressed to institutions and agencies regarding improvement of public administration in order to ensure that human rights and freedoms are not violated.

The Seimas Ombudsmen, by their recommendations (316), drew the attention of the officials to negligence at work, non-compliance with laws or other legal acts, violation of professional ethics, abuse, bureaucracy or violations of human rights and freedoms. They also suggested taking measures to eliminate violations of laws or other legal acts as well as their causes and conditions.

A large part of the recommendations (142) comprised proposals to a collegial institution or officials to revoke, suspend or amend, in accordance with the procedure established by laws, decisions incompatible with laws or other legal acts, or to take decisions which have not been adopted due to abuse of office and/or bureaucracy.

Recommendation	Number of recommendations	To state institutions	To municipal institutions
Provide to the respective institutions and agencies (without investigating the complaint on the merits) proposals or observations on the improvement of public administration to prevent the violations of human rights and freedoms.	1121	793	328
To draw attention of the officials to negligence at work, noncompliance with laws or other legal acts, violation of professional ethics, abuse, bureaucracy or violations of human rights and freedoms, and propose to take measures to eliminate the violations of laws or other legal acts, their causes and conditions.	316	192	124
To propose to a collegial institution or official to repeal, suspend or amend, in accordance with the procedure set by laws, the decisions incompatible with laws or other legal acts, or propose to adopt decisions that had not been adopted due to abuse or bureaucracy.	142	69	73
To propose to the Seimas, the Government, other state or municipal institutions and agencies to amend laws or other regulatory enactments, which restrict human rights and freedoms.	48	32	16
To request the immediate provision of information, material and documents necessary for the performance of the functions of the Seimas Ombudsman.	41	13	28
To involve the officials and experts from the government bodies, ministries, municipalities, municipal institutions and agencies.	14	14	
To propose to a collegial body, the head of an institution and/or a body or institution of a higher level of subordination to impose official (disciplinary) penalties on the officials, who commit offences.	12	5	7
To inform the Seimas, the Government and other state institutions and agencies or the appropriate municipal council of the gross violations of law or deficiencies, contradictions or gaps in laws or other legal acts.	3	3	

At the time of preparation of the Report it was known that 94% of recommendations issued by the Seimas Ombudsmen were taken into account. Answers from the institutions regarding implementation of 6% of the recommendations are still pending.

It should be noted that usually, once the recommendations provided by the Seimas Ombudsmen are implemented, not only the problems of a particular complainant, but also the problems of a certain group of the society (members of gardeners' associations, members of apartment-block owners' associations, etc.) are resolved since amendments of human-rights related legal regulation are effective forward and with respect to everyone.

In 2019, 67% of all recommendations provided by the Seimas Ombudsmen were aimed at providing assistance to individuals; 33% of the Seimas Ombudsmen's recommendations addressed the problems of groups of the society.

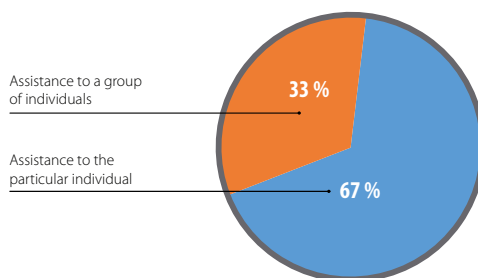


Figure 23. Comparison of recommendations by nature

Consultations to residents

Every day, the Reception Division of the Seimas Ombudsmen's Office is visited by people, who do not receive answers to their queries from other institutions. The main function of the Reception Division is to promptly provide the applicants with the information and assistance they need.

Although the State provides free legal aid, there are persons who are not eligible to such assistance and who are unable to pay a lawyer for the provision of legal aid. In that case, the Reception Division of the Seimas Ombudsmen's Office remains the only place where many low-income people can apply for legal assistance.

In 2019, the Seimas Ombudsmen's Office provided legal consultations to 857 individuals.

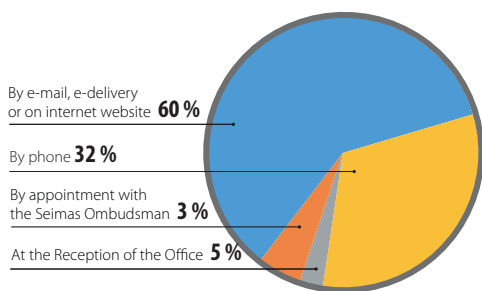


Figure 24. Most common ways used by individuals to apply to the Seimas Ombudsmen's Office

Applicants also approach the Seimas Ombudsman after receiving answers not satisfactory to them from an appropriate institution. Visitors often receive information also on the procedure of appealing decisions taken by institutions. Applicants, who

are not capable of describing the circumstances they are to complain about always get assistance from the reception team in drawing up a complaint.

In previous years, the most popular way used by individuals to contact the Seimas Ombudsmen's Office was by phone; however, in 2019, more than half of persons (60%) applied electronically. Phone calls to the Seimas Ombudsmen's Office accounted for 32% of all applications.

Visits of Seimas Ombudsmen to regions

In 2019, the Seimas Ombudsman and the Head of the Seimas Ombudsmen's Office Augustinas Normantas visited Telšiai County where he showed interest in the organisation of social care for children and adults and discussed the human rights problems encountered by the institutions.

In 2019, the Seimas Ombudsman M. Vainiutė visited the municipalities of Jonava and Utena districts, received and consulted residents, met with heads of municipal administrations, discussed the objectives of the activities of the Seimas Ombudsmen's Office, complaints handled by the Seimas Ombudsmen concerning possible violations of human rights to good public administration and the issues related to the activities of municipal officials.

Augustinas Normantas

Milda Vainiutė

**THE SEIMAS OMBUDSMEN'S OFFICE
OF THE REPUBLIC OF LITHUANIA**

Gedimino ave. 56, 01110 Vilnius
+370 706 65105 (tel.)
+370 706 65138 (fax)
ombuds@lrski.lt
www.lrski.lt

Official photos by Vytautas Valentinavičius