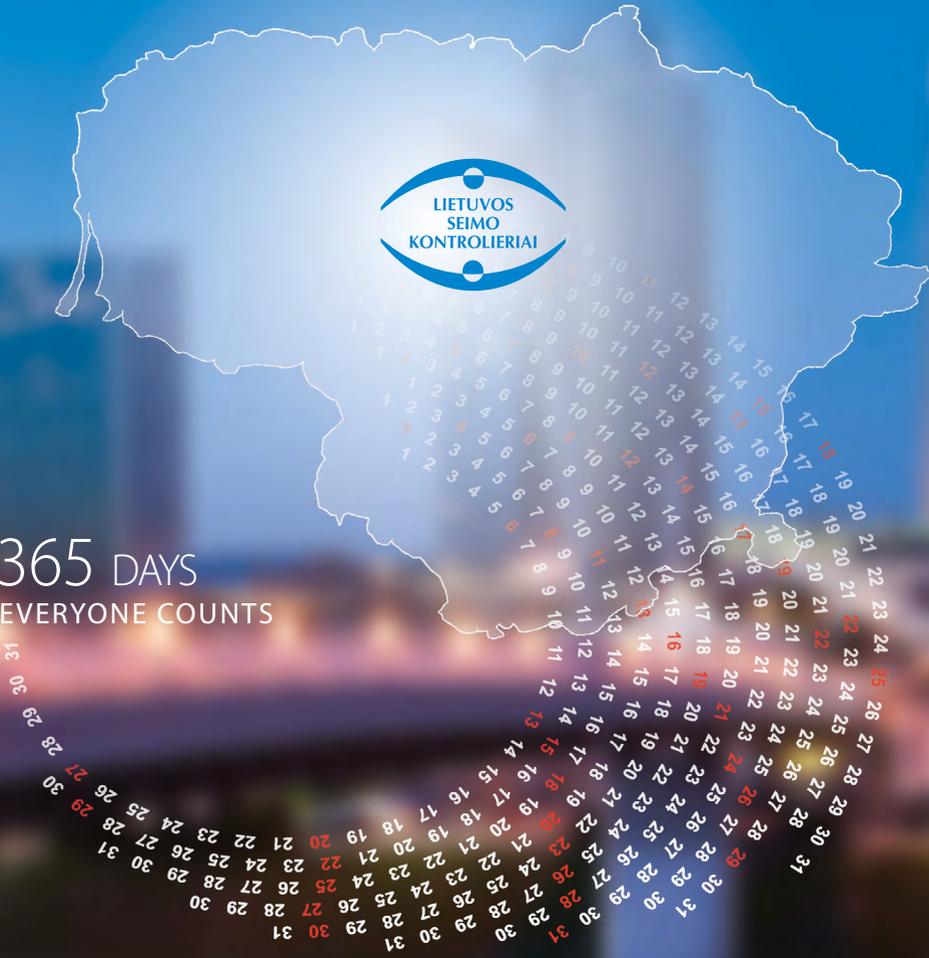




365 DAYS
EVERYONE COUNTS



THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA

**ANNUAL REPORT OF 2020 ON THE ACTIVITIES OF
THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA –
*THE NATIONAL HUMAN RIGHTS INSTITUTION***

15 March 2021 No
Vilnius

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INTRODUCTORY WORD BY THE SEIMAS OMBUDSMEN

When reviewing the activities of the Seimas Ombudsmen's Office in 2020, first of all it is necessary to emphasize that activities of the institution as well as the existence of legal and natural persons of Lithuania, likewise of other countries, were influenced by the COVID-19 pandemic, when, already in December 2019, the world became aware of the coronavirus infection causing COVID-19 disease. In order to stop the spread of this disease, Lithuania, like many other countries, has introduced extensive restrictions on social and personal life of residents leading to fundamental changes in both the development of the state at large and the daily life of each individual.

All of these mentioned phenomena, on the one hand, have led, among other things, to the limitation and restriction of the Seimas Ombudsmen's activities, whose main mission is to protect human rights, freedoms and legitimate interests, because planned strategic objectives and tasks had to be substantially adjusted or changed. On the other hand, as a result of the changing situation, the Seimas Ombudsmen also had to address complaints reflecting the realities and topics arising from the situation due to certain restrictions of human rights, and, in addition, it was necessary to adjust already planned activities or other types of work. For instance, in one of the letters in response to the received complaint the Seimas Ombudsman emphasized that during the COVID-19 pandemic it was particularly important to ensure that the convicted are provided with the opportunity to maintain contact with their family members¹. In other cases, when it was found that certain human rights were violated in the context



of the pandemic, own-initiative investigations were launched², etc. In addition, today's challenges have dictated the direction of relevant training: the virtual information-consultation workshop was organised for employees of social care institutions to discuss the ways and means of ensuring the rights and safety of residents and employees of institutions during the COVID-19 pandemic³.

² The investigation carried out into activities of the officials of Vilnius City Administration in performing the assigned functions related to the implementation of legal acts regulating the carriage of passengers on local routes in the territory of the municipality, supervision and control of activities of companies providing public passenger transport services, where, as a result of the COVID-19 pandemic, the sale of paper tickets was banned leading to the infringement of passenger rights, because the Director of Vilnius City Administration abusing his competence, acting ultra vires, instructed the Company in writing not to sell paper tickets in vehicles, should be mentioned here. More information at <https://www.lrski.lt/naujienos/sprendimas-neprekiauti-viesojo-transporto-popieriniai-bilietais-vilniaus-mieste-priimtas-virsijant-igaliojimus-juopazeista-keleiviu-teise-laisvai-pasirinkti/>

³ More information at <https://www.lrski.lt/naujienos/surengtas-virtualus-seminaras-socialines-globos-istaigudarbuotojams-apie-zmogaus-teisiu-uztikrinima-covid-19-pandemijos-metu/>

¹ More information at <https://www.lrski.lt/naujienos/seimo-kontrolierius-per-koronaviruso-pandemija-ypac-svarbu-uztikrinti-alternatyvius-budus-nuteistiesiems-palaikyti-risyms-su-seimos-nariais/>

In this context, it should be noted that in 2020 the Seimas Ombudsmen's Office not only examined complaints and conducted investigations related to the declared pandemic, but also carried out extensive analytical work focused on preventing possible unjustified and disproportionate restrictions on human rights. And above all, the investigation presented on 12 November 2020⁴, which was carried out after the Government reinstated the quarantine regime and imposed more intense restrictions on human rights and freedoms on the territory of the Republic of Lithuania, should be mentioned here. This investigation report included an assessment of the compliance of emergency management measures in the field of human rights and freedoms introduced in March 2020. The report stressed, inter alia, that the main concerns were the forced isolation of persons returning from abroad in the premises provided by municipal administrations. Aspects related to the declared pandemic are also reflected in the report "On the fundamental human rights issues arising in the field of ensuring assistance for victims of domestic violence" of 31 December 2020, which addressed, inter alia, the issue of the need for and availability of services for victims of domestic violence in the context of combating COVID-19 disease⁵.

Inspections carried out by the Seimas Ombudsmen's Office at Aknysta and Skemai Social Care Homes

have also received a great response in the country⁶. The results of these visits were also discussed by the Seimas Committee on Human Rights, paying particular attention to the fact that residents of social care homes have all natural human rights which must be fully observed and the dignity of these people must be unconditionally respected⁷. In this context, another significant investigation was conducted "Access to social services by the disabled and elderly persons in municipalities". The report of this investigation specified, inter alia, certain issues in this field of investigation related to legal regulation and its application in practice, identified the implementation of the social services' provision principles, access to and extent of community social services for the disabled and elderly persons in municipalities, provided significant recommendations to both the Government of the Republic of Lithuania and municipalities⁸. In February last year, the report was submitted on one more conducted investigation "On the fundamental human rights problems arising from the application of physical coercion by law enforcement officers in their activities"⁹ the main purpose of which was to evaluate compliance with provisions of legal acts of the Republic of Lithuania regulating the conditions and procedure of use of physical coercion by officers and their application in practice with the international obligations of the State in the field of human rights. Importantly, these and other key investigations were presented on 10 December

⁴ Report on compliance of legal acts of the Republic of Lithuania regulating emergency management and certain emergency management measures applied during the period of quarantine in the territory of the Republic of Lithuania with international obligations of the Republic of Lithuania in the field of human rights and freedoms. More information <https://www.lrski.lt/ataskaitos-del-esminiuzmogaus-teisiu-problemu/>

⁵ More information at <https://www.lrski.lt/ataskaitos-del-esminiuzmogaus-teisiu-problemu/>

⁶ More information at <https://www.lrski.lt/naujienos/po-seimo-kontrolieriu-patikrinimo-skemu-socialines-globos-namuose-pradetas-ikiteisminis-tyrimas-nusalintas-globos-namu-direktorius-2/>

⁷ More information at <https://www.lrski.lt/naujienos/seimo-zmogaus-teisiu-komite-aptarti-zmogaus-teisiu-pazeidimai-socialines-globos-namuose-2/>

⁸ More information at <https://www.lrski.lt/ataskaitos-del-esminiuzmogaus-teisiu-problemu/>

⁹ More information at <https://www.lrski.lt/ataskaitos-del-esminiuzmogaus-teisiu-problemu/>

last year at the National Forum on Human Rights¹⁰ dedicated to the 70th anniversary of the European Convention on Human Rights and Fundamental Freedoms.

During the reporting period, similarly to other years of activities of the Seimas Ombudsmen's Office, complainants' complaints regarding abuse, bureaucracy or other infringements of human rights and freedoms in the sphere of public administration were investigated.

Thus, during 2020, the Seimas Ombudsmen, within the scope of their competence, examined a total of 1,643 complaints¹¹ (regarding officials of state institutions – 1,273¹²; regarding officials of municipal institutions – 364¹³). In this context, it should be noted that the complaints referred, inter alia, to circumstances concerning measures taken by state institutions that might have disproportionately restricted or even denied certain human rights. Therefore, in response to such complaints, in the light of the doctrine formulated by the Constitutional Court of the Republic of Lithuania, it was stressed that it was essential that certain measures taken by the State respect the principle of proportionality, which means that the measures provided for by legal acts must meet legitimate and public objectives, that these measures must be necessary to achieve those objectives and must not restrict the human rights and freedoms apparently more than is necessary to achieve those objectives, which presupposes, inter alia, that the legislator should establish such legal regulation that would allow sufficient

individualisation of restrictions on the individual's rights and freedoms.¹⁴

Another more important aspect in examining received complaints was the fact that the issues already described by the Seimas Ombudsmen in their activity report of 2019 were discussed, that, having established the social focus of the State in the Constitution of the Republic of Lithuania and the obligation of the State to ensure the defence and protection of human dignity presupposed by it, it is undoubtedly very important to guarantee one of the basic conditions – securing of social and economic rights. Unfortunately, it has to be acknowledged 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 vulnerable members of society: the elderly people and people with disabilities, etc. As a result, the Seimas Ombudsmen, who are primarily perceived as human rights defenders, mediators between individuals and state institutions, continue to help ensure that public authorities do not infringe human rights and freedoms in the spheres of social and economic life and that the State fulfils one of its most important missions: the proper allocation of available resources to all members of society.

In order to enable the country's residents to report the cases of abuse and bureaucracy of the officials directly to the Seimas Ombudsmen, complainants, normally, can visit the institution once a month according to pre-agreed schedules. Unfortunately, this mode of communication had to be abandoned already since March 2020, thus, at the beginning of last year, the institution received 30 residents¹⁵. Besides, the Office had to stop visits to municipalities and, accordingly, only three such visits were organised in 2020: to the municipality of Širvintos

¹⁰ More information at <https://www.lrski.lt/naujienos/nacionaliniame-zmogaus-teisiu-forume-seimo-kontrolieriaus-demesys-atliktiems-tyrimams-del-esminiuzmogaus-teisiu-pazeidimu/>

¹¹ 2019 – 1,617; 2018 – 1,805; 2017 – 1,749

¹² 2019 – 1,220; 2018 – 1,328; 2017 – 1,389.

¹³ 2019 – 387; 2018 – 464; 2017 – 568.

¹⁴ Ruling of the Constitutional Court of the Republic of Lithuania of 17 February 2016

¹⁵ 2019 – 53; 2018 – 37; 2017 – 62.

district – in January¹⁶, to Zarasai – in February¹⁷, and to Rokiškis – in March¹⁸.

Despite the fact that direct contact not only with the country's residents, but also with the heads and officials of other institutions and bodies, in order to ascertain the reasons for violations and other related causes, has been restricted or completely discontinued, however, significant attention has been paid to human rights at the events organised during the reference period. For example, on 4 June 2020, the meeting of the Seimas Committee on Human Rights discussed the issue of ensuring human rights in institutions subordinate to the Prisons Department during the emergency¹⁹.

As is known, under the current legal regulation, in the cases when the Seimas Ombudsmen identifies the elements of abuse, bureaucracy or other infringements of human rights and freedoms from mass media and other sources, he may open an investigation on own initiative. In compliance with this provision, for example, and in view of the increasing importance of municipal control and supervision of the activities of managers of shared facilities of multi-apartment buildings, the investigation was carried out to determine whether the approval of the respective rules of municipalities has been initiated in accordance with the recast Model regulations approved by the Minister of

Environment of the Republic of Lithuania, which entered into force on 1 January 2020, because a potential infringement of rights and legitimate interests of managers and other interested persons depends on that²⁰. In addition, it's worth mentioning other significant own-initiative investigations conducted to ascertain whether municipalities in certain cities (such as Vilnius, Kaunas, Alytus, Palanga) were properly addressing the issues related to the formation of new land plots for the restoration of ownership rights.²¹

Further, in line with requirements of the Law on the Seimas Ombudsmen, detailed and systematic information about the activities of the Seimas Ombudsmen in 2020 calendar year is presented in the sections of the report. In this context, it should be noted that, looking at the perspective of 2021, the observations and calls made by the Seimas Ombudsmen at the beginning of 2020 continue to be relevant²², that in all cases human rights are of the highest value in a democratic and legal state, the protection of which must, under all conditions, not only be but also remain the priority of the State, so that human rights restrictions, if they are unavoidable, are enforced in accordance with the principle of the rule of law, the Constitution, applicable laws of Lithuania and in compliance with the international obligations in the field of human rights.

¹⁶ More information at <https://www.lrski.lt/naujienos/seimo-kontroliere-m-vainiute-apsilanke-sirvintu-r-savivaldybeje/>

¹⁷ More information at <https://www.lrski.lt/naujienos/lietuvos-respublikos-seimo-kontroliere-milda-vainiute-konsultavo-zarasu-gyventojus/>

¹⁸ More information at <https://www.lrski.lt/naujienos/lietuvos-respublikos-seimo-kontroliere-milda-vainiute-rokiskyje-gyventojai-pagalbos-kreipesi-del-isisenėjusių-problemu/>

¹⁹ <https://www.lrski.lt/naujienos/zmogaus-teisiu-komiteto-posedyje-demesys-nuteistuju-teisiu-uztikrinimui-karantino-metu-bei-padeka-seimo-kontrolieriu-istaigai-uzbendradarbiavima/>

²⁰ More information at <https://www.lrski.lt/naujienos/16-lietuvos-savivaldybiu-vis-dar-nera-pasirengusios-tinkamai-daugiabuciu-namu-bendrojo-naudojimo-objektu-valdytoju-veiklos-kontrolei-ir-prieziurai/>

²¹ More information at <https://www.lrski.lt/naujienos/vilniaus-mieste-iki-siol-nera-igyvendintas-lietuvos-valstybes-prioritetiniu-pripazintas-pilieciu-nuosavybes-teisiu-i-islikusi-nekilnojamaji-turta-atkurimo-uzdaviny/>

²² See <https://www.lrski.lt/naujienos/seimo-kontrolierius-primena-kad-zmogaus-teisiu-apsauga-net-ir-ekstremalios-padeties-metu-turi-islikti-valstybes-prioritetu/>

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, stipulates 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 tasked with performing the national prevention of torture, and from 1 January 2018 onwards – the functions of the national human rights institution.

Investigation of complaints

The powers of the Seimas Ombudsmen to investigate the citizens' complaints regarding the abuse of office 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 individual's right to the proper public administration becomes real, the Seimas Ombudsmen, by exercising

all the rights provided by the Law, investigate complaints having objectively assessed the circumstances complained about, adopt 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 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 the 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 officials' attention to the shortcomings in their work and violations of 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 complainants within 1–1.5 months and to pay greater attention to the pressing problems relevant to a large part of the society.

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

investigations, mediating between individuals and the State, collaborating with NGOs, etc. It should be emphasized that human rights are effectively protected only when all envisaged human rights remedies are implemented, without prejudice to any of them.

National prevention of torture

Since 2014, the Seimas Ombudsmen have been carrying out the national prevention of torture (NPT) 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 implementing the NPT, the Seimas Ombudsmen exercise broad powers, i.e. the right to choose which places of detention should be visited and who should be interrogated, to enter all places of detention and all their premises, to familiarize themselves with their facilities and infrastructure, to speak without witnesses with detainees and to question any other person who may provide the relevant information. In addition, the Seimas Ombudsmen have the right to conduct inspections at 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 over compliance with recommendations of the Seimas Ombudsmen is carried out.

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 the institutions' attention to the problems and aspects that are likely to give rise to the violation of rights of detainees, 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 recommendations issued to Lithuania by the Human Rights Council of the United Nations (hereinafter also – the UN) 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's Resolution No 48/134 in 1993, 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 19-1 of the Law No. VIII-950 on the Seimas Ombudsmen and adding Article 19-2, 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;
- ▢ to 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 has 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.

MONITORING OF HUMAN RIGHTS

Activities of the Seimas Ombudsmen's Office as the National Human Rights Institution

In 2020, 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 accessibility of social services to persons with disabilities and elderly persons, as well as to victims of domestic violence. Moreover, it drew attention to ensuring the rights of persons living in social care institutions during the period of the coronavirus infection (COVID-19 disease) by providing information and reporting to international organisations.

The Seimas Ombudsmen's Office also analysed the proposed amendments to the Law on Intelligence of the Republic of Lithuania, organised training for employees of social care institutions, during which it presented a model of organisation of employment based on human rights principles, especially relevant during the quarantine declared in the country, as well as contributed for the third year in a row to the organisation of the National Forum on Human Rights to celebrate the International Day of Human Rights.

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

On 17 January 2020, representatives of the Seimas Ombudsmen's Office participated in the meeting

in the Seimas with members of the Commission for the Monitoring of the Rights of Persons with Disabilities, during which possible joint activities of the Seimas Ombudsmen and the Commission for the Monitoring of the Rights of Persons with Disabilities and possibilities for cooperation to ensure the rights and freedoms of persons with disabilities were discussed.

- On April 2020, closed consultation groups were set up on Facebook for employees of adult and child social care institutions, where employees of the Seimas Ombudsmen's Office advised social care institutions on the issues of ensuring human rights and freedoms during the pandemic, shared relevant information provided by international organisations and national institutions.
- On 16 April 2020, representatives of the Seimas Ombudsmen's Office participated in the presentation of the Annual Report on the Monitoring of Reception Conditions of 2019 of the Lithuanian Red Cross, where together with social partners they discussed the legal situation and living conditions of migrants and asylum seekers in the Foreigners Registration and Refugee Reception Centres.
- On 17 December 2020 representatives of the Seimas Ombudsmen's Office participated in the presentation of the Lithuanian Red Cross's 2020 Annual Report on Admission Conditions, where they discussed with social partners the legal situation of migrants and asylum seekers, changing legal regulation and living conditions in the Foreigners Registration and Refugee Reception Centres.
- In December 2020, the Seimas Ombudsmen's Office prepared and submitted to the President of the Republic of Lithuania, the Speaker of the Seimas, the Prime Minister, and the Seimas Committee on Human Rights the overview of the protection of human rights and freedoms in the country.

Disseminated information on human rights and raised the awareness of the society on the human rights issues (Article 19²(2)(2))

- ▣ On 8 May 2020, employees of the Human Rights Division of the Seimas Ombudsmen's Office organised training (information-consultation seminar) aimed at employees of social care institutions. During the training, international standards on ensuring human rights and freedoms in social care institutions during the quarantine were presented, the model of organisation of employment for residents of these institutions based on the principles of human rights was introduced, and the provision of emotional and psychological assistance during this period was discussed. Representatives of the Institute of Hygiene and the National Public Health Centre under the Ministry of Health (hereinafter – the NPHC), who attended the event, told about the epidemiological situation in Lithuania and familiarised the participants with the infection control measures to be applied during the pandemic caused by the coronavirus infection (COVID-19 disease). Over two hundred participants took part in the distance training, and the record of this training has been viewed more than eight hundred times on Facebook account of the Seimas Ombudsmen's Office.
- ▣ In March–December 2020, representatives of the Seimas Ombudsmen's Office, responsible state institutions and human rights experts discussed various human rights issues on the “News Radio” station:

 - On 4 March 2020, during the first broadcast, the proportionality of excessive physical abuse used by law enforcement officers was discussed with Paulius Gričiūnas, Secretary General from the Lithuanian Bar Association;
 - On 18 March 2020, the results of the investigation into the procedure of legal incapacity review conducted by the Seimas Ombudsman and problems found during the investigation in the country were discussed with Dovilė Juodkaitė, President of the Lithuanian Disability Forum;
 - On 15 April 2020, during the broadcast, the restrictions on human rights and freedoms imposed during the quarantine, their validity, the actual boundary between necessity and proportionality were discussed with Birutė Sabatauskaitė, Head of Centre for Human Rights;
 - On 13 May 2020, the impact of the pandemic on people with disabilities and other groups of socially vulnerable people was discussed with Prof. Dr. Dainius Pūras, UN Special Rapporteur on the right to health;
 - On 27 May 2020, possible violations of human rights of older people during the quarantine period, the actual dividing line between the necessary health care and discrimination and whether that line has not been crossed yet were discussed with Toma Birmontienė, professor at Mykolas Romeris University, former judge at the Constitutional Court;
 - On 30 September 2020, the problematic aspects of institutional social care, the country's international commitment in the field of ensuring the rights of persons with disabilities and the rate of deinstitutionalisation of social care institutions were discussed with Jonas Ruškus, member of the UN Committee on the Rights of Persons with Disabilities, professor of VMU;
 - On 28 October 2020, the demarcation line between freedom of expression and incitement of hatred was discussed with Birutė Sabatauskaitė, Head of Centre for Human Rights;
 - On 9 December 2020, restrictions on the right to health care during the quarantine period and problematic aspects of legal acts of the Republic of Lithuania regulating

emergency management and certain emergency management measures applied during the quarantine were discussed with Jurgita Sejonienė, member of the Seimas and Lithuanian Medical Movement;

- On 16 December 2020, the main human rights issues in the area of safeguarding the rights and freedoms of LGBT+ individuals were discussed with Vladimir Simonko, head of National LGBT+ Association LGL;
- On 30 December 2020, representatives of the Seimas Ombudsmen's Office discussed aspects of the problem of domestic violence, which was particularly pronounced during the quarantine period, related to loopholes in the organisation of services to victims of domestic violence, and presented the main conclusions of the investigation conducted by the Seimas Ombudsman on this subject.
- For the third year in a row, the Seimas Ombudsmen's Office has contributed to the organisation of the National Forum on Human Rights to celebrate the International Human Rights Day. In 2020, representatives of the United Nations, the Organization for Security and Cooperation in Europe and other international organisations, ministers, foreign ambassadors, members of the Seimas, ombudsmen, academic community, NGOs, human rights activists and business representatives participated in the celebration of the 70th anniversary of the European Convention for the Protection of Human Rights and Fundamental Freedoms in a remote manner. During the National Human Rights Forum Vytautas Valentinavičius, Head of Human Rights Division of the Seimas Ombudsmen's Office, participated in the discussion "What is the Place of Human Rights in Lithuanian Politics?" in which the thoughts were also shared by sociologist, researcher of religion Dr. Milda Ališauskienė, professor at

Vytautas Magnus University, Tomas Vytautas Raskevičius, member of the Seimas, Chair of the Seimas Committee on Human Rights, LGBT activist, Dr. Liutauras Gudžinskas, associate professor at the Institute of International Relations and Political Science of Vilnius University, and Monika Navickienė, member of the Seimas.

- ▢ On 14 December 2020, representatives of the Human Rights Division of the Seimas Ombudsmen's Office participated in the conference "Solutions of COVID-19 pandemic from legal, managerial and economic point of view" organised by Mykolas Romeris University, where V. Valentinavičius, Head of Human Rights Division, presented the results of complaints received at the Seimas Ombudsmen's Office regarding restrictions on human rights during the pandemic and the investigation carried out on the subject. Participants of the conference discussed the issues of the proportionality of the rule of law and restrictions on the individual's rights and freedoms.

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))

- ▢ For the entire period of quarantine on the territory of the Republic of Lithuania, the Seimas Ombudsmen's Office provided to international organisations operating in the field of human rights and freedoms (European Network of National Human Rights Institutions, United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Association for the Prevention of Torture (APT), etc.) comprehensive information

on restrictions on human rights and freedoms applicable in the country, provided detailed information on restrictions on the rights and freedoms of individuals in the country, prevention of violations of human rights and freedoms, changes in national legislation and compliance with international obligations.

- ▣ In 2020, representatives of the Seimas Ombudsmen's Office regularly participated in the European Network of National Human Rights Institutions, the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, discussions and training organised by the Association for the Prevention of Torture and other international organisations on the implementation of rights of persons with disabilities, the elderly, inmates of places of imprisonment, as well as challenges and opportunities of ensuring the rights of various vulnerable groups in society during the COVID-19 pandemic caused by the coronavirus infection.
- ▣ Representatives of the Seimas Ombudsmen's Office provided information and contributed to the preparation of the report of the European Union Agency for Fundamental Rights "Strong and Effective National Human Rights Institutions: Challenges, Promising Practices and Opportunities", which discusses the competences, role of national human rights institutions in the European Union, compliance with the UN Paris Principles, institutional protection, independence, diversity and other aspects of activities.

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

- ▣ By Letter on ensuring human rights and freedoms of residents of social care institutions as of 27 March 2020, the Head of the Seimas Ombudsmen's Office, the Seimas Ombudsman

Augustinas Normantas addressed the Ministry of Social Security and Labour of the Republic of Lithuania and all municipalities of the country with a request to forward recommendations on the treatment of persons subject to restrictions of liberty during the pandemic prepared by international organisations and translated into the Lithuanian language on the initiative of the Seimas Ombudsman to all subordinate social care institutions operating in their territories and to cooperate in the field of ensuring the human rights and freedoms.

- ▣ On 3 April 2020, by Letter on ensuring human rights and freedoms of inmates of the places of imprisonment during the pandemic, the Head of the Seimas Ombudsmen's Office the Seimas Ombudsman Augustinas Normantas provided to the Ministry of Justice of the Republic of Lithuania and the Prison Department under the Ministry of Justice of the Republic of Lithuania (hereinafter – the Prison Department), relevant recommendations of international organisations regarding measures to be taken to ensure the protection of human rights and freedoms in detention facilities during the COVID-19 pandemic period.
- ▣ On 14 April 2020, by Letter on ensuring human rights and freedoms during the quarantine, the Seimas Ombudsman A. Normantas addressed the Minister of the Interior of the Republic of Lithuania, the Lithuanian Police Commissioner General and municipal administrations inviting all institutions to comply with international obligations in the field of protection of human rights and freedoms, to follow the recommendations of the United Nations, the World Health Organisation and other international organizations, experts and epidemiologists, and to ensure that persons held in places of detention are properly informed about the right to complain about possible improper conduct (inaction) in violation of human rights.

- On 27 April 2020, by Letter on ensuring human rights in Prienai care home, the Seimas Ombudsman A. Normantas, in response to the received information about potential infringements of human rights in Prienai care home, applied to the Department of Social Services and Care under the Ministry of Social Security and Labour, the Administration of Prienai District Municipality and the National Public Health Center (Hereinafter – NPHC) requesting to examine the received information and conduct urgent inspections in Prienai care home within the competence of the institutions.
 - On 4 May 2020, by Letter on ensuring human rights in the public institution Antavilčiai boarding-house addressed to the Director of the NPHC, the Seimas Ombudsman A. Normantas, in response to the information published in the public domain regarding violations of legal acts identified during inspection of VšĮ Antavilčiai boarding-house and possibly improperly ensured rights of its residents, asked to provide all information related to these violations as soon as possible.
 - By Letter on ensuring human rights during the emergency and quarantine period of 8 May 2020, the Head of the Seimas Ombudsmen's Office A. Normantas notified the Seimas Committee on Human Rights about the information received and collected at the Seimas Ombudsmen's Office regarding possible infringements of human rights in various areas of the protection of human rights and freedoms during the emergency and quarantine and preventive and educational actions taken by the Seimas Ombudsmen's Office in order to prevent these infringements.
 - By Letter on ensuring human rights in St. Joseph's (Šv. Juozapo) care home of 21 May 2020, acting in response to the received information about possible infringements of human rights in St. Joseph's (Šv. Juozapo) care home, the Seimas Ombudsman A. Normantas applied to the Municipal Administration of Panevėžys District and to the NPHC asking to examine the received information and conduct urgent inspections at St. Joseph's (Šv. Juozapo) care home within each institution's competence.
 - On 3 June 2020, the Seimas Ombudsman A. Normantas attended the meeting of the Seimas Committee on Human Rights to discuss ensuring of the rights of convicts during the quarantine.
 - On 16 September 2020, representatives of the Seimas Ombudsmen's Office attended the meeting of the Seimas Commission for the Rights of People with Disabilities to discuss with members of the Commission, NGOs and human rights experts the issues related to the regulation of review of the condition of the incapacitated persons, and presented the results of the investigation carried out by the Seimas Ombudsman on the review of decisions by which persons had been declared legally incapable before 1 January 2016 and possible undue restriction of rights of such persons.
 - On 30 September 2020, the Seimas Ombudsman A. Normantas and the Head of the Human Rights Division of the Seimas Ombudsmen's Office V. Valentinavičius presented to the Seimas Committee on Human Rights the material of investigations carried out by the Seimas Ombudsmen's Office in social care homes of Aknysta and Skemai and familiarized members of the Committee with the main problems of ensuring the rights and freedoms of the residents of these social care institutions.
- 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))**
- The Seimas Ombudsmen's Office carried out, within their remit, legal assessment of the provisions of the Law of the Republic of Lithuania on Mediation relating to the application of

compulsory mediation in family disputes from the point of view of ensuring human rights and freedoms and, in this regard, submitted its position by Letter No 1/3D-290 of 3 February 2020 on the resolution of the conference "Women's Human Rights in Lithuania 2019" to the Government of the Republic of Lithuania, the Seimas Committee on Human Rights and the association "Vilnius Women's House".

- ▢ The Seimas Ombudsmen's Office carried out, within its remit, legal assessment of the Draft Law No 20-15061, Amending Law No XI-1425 of the Republic of Lithuania on Protection against Domestic Violence, the Draft Law No 20-15062, Amending Articles 489, 589 of the Code of Administrative Offences of the Republic of Lithuania and Supplementing the Code with Article 4891, and the Draft Law No 20-15064, Amending Article 23 of the Law No I-1234 on the Protection of the Rights of the Child, and Draft Law No 20-15061, Amending Law No XI-1425 of the Republic of Lithuania on Protection against Domestic Violence in respect of ensuring human rights and freedoms and, by Letter on the Draft Law, Amending Law No XI-1425 of the Republic of Lithuania on Protection against Domestic Violence of 23 November 2020, presented its position on these draft legal acts to the Seimas Committees on Human Rights, Social Affairs and Labour and Legal Affairs, the Government and the Ministry of Social Security and Labour.
- ▢ The Seimas Ombudsmen's Office, carried out, within its remit, legal assessment of the Draft Law No 20-15612, Amending Articles 3, 6, 7, 9 and 11 of the Law of the Republic of Lithuania on Seimas Ombudsmen and the Draft Law, Amending Articles 5, 12, 16 and 24 of the Law of the Republic of Lithuania on the Law No 20-15613, Amending Articles 5, 12, 16 and 24 of the Law, Amending Law No VIII-1861 of the Republic of Lithuania on Intelligence, on the Law of the Republic of Lithuania on Human Rights and the National Defence Committee of the Republic of

Lithuania, and by Letter No 1/3D-3093 on the Draft Laws Amending the Law of the Republic of Lithuania on the Seimas Ombudsmen and the Law of the Republic of Lithuania on Intelligence of 1 December 2020, presented its position on these draft legal acts to the H. E. President of the Republic of Lithuania, the Seimas Committee on Human Rights, National Security and Defence and the Committee on Legal Affairs and the Ministry of National Defence of the Republic of Lithuania.

- ▢ The Seimas Ombudsmen's Office, carried out, within its remit, legal assessment of the Draft Law No XIIIIP-4394, Amending Articles 2, 5, 9, 13, 15, 18, 26, 28, 29, 31, 32, 40, 41, 43, 44, 45, 46, 47, 49, 50, 53, 54, 58, 59, 60, 62, 63, 64, 65 and 68 of Law No VIII-1861, of the Republic of Lithuania on Intelligence and Supplementing the Law with Article 91, the Draft Law No XIIIIP-4396, Amending Articles 393, 5571, 589 and 597 the Code of Administrative Offences of the Republic of Lithuania and the Draft Law No XIIIIP-4408, Amending Article 1 and Repealing Article 23 of Law No VIII-1861 of the Republic of Lithuania on Intelligence and Supplementing the Law with Section Fourteen in respect of ensuring human rights and freedoms and, by Letter No 1/3D-3128 on the Draft Laws of 3 December 2020, presented its position on these draft legal acts to the H. E. President of the Republic of Lithuania, the Seimas Committee on National Security and Defence and the Committee on Legal Affairs and the Government.

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

- ▢ The Seimas Ombudsman A. Normantas carried out the investigation into the fundamental human rights problems arising from access to social services for persons with disabilities and elderly persons in municipalities, during which he assessed the control and planning of international obligations of the country in the field of provision

- of social services to persons with disabilities and elderly persons, the quality of social services, as well as the accessibility and development of community social services (for more information about the investigation see page 43).
- ▢ The Seimas Ombudsman A. Normantas conducted the investigation into the fundamental human rights issues arising from the measures restricting human rights and freedoms during the COVID pandemic caused by coronavirus infection in Lithuania, during which issues related to ensuring human rights and freedoms in the application of measures to curb the spread of the coronavirus infection (COVID-19 disease), the legitimacy of the declaration of the emergency state in Lithuania and of the restrictions on human rights and freedoms, the Government's powers to take decisions in emergency; certain restrictions on human rights and freedoms imposed during the period of the quarantine regime in Lithuania: restrictions imposed during the period of validity of the quarantine regime in Lithuania: self-isolation of persons in premises provided by municipal administrations, necessary hospitalisation and/or self-isolation of persons by a doctor's decision and ensuring the human right to health in emergency (for more information about the investigation see page 44).
 - ▢ The Seimas Ombudsman A. Normantas carried out the investigation into the fundamental human rights problems arising from the provision of assistance to victims of domestic violence, which assessed issues related to the procedure for providing assistance to victims of domestic violence in Lithuania, the availability, efficiency, adequacy and development possibilities of services for these persons, the impact of measures restricting human freedoms to curb the spread of the coronavirus infection (COVID-19 disease) in the country, and the need for and effectiveness of providing assistance to victims of domestic violence (for more information about the investigation see page 46).
 - ▢ The Seimas Ombudsman A. Normantas conducted the investigation into the fundamental human rights issues in the field of provision of psychological services to persons placed in social care institutions, which assessed the need for supply and accessibility of psychological services in social care institutions of elderly persons and adults with disabilities, as well as prepared conclusions and proposals (recommendations) regarding improvement of the accessibility of these services and improvement of the procedure of provision of these services from the point of view of ensuring human rights and freedoms (for more information about the investigation see page 48).
 - ▢ The Seimas Ombudsman A. Normantas, taking into account the international obligations of the Republic of Lithuania to ensure the right of all persons to apply to the courts on environmental matters in accordance with Articles 1, 3 and 9 of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in the Environmental Matters, initiated the investigation into the fundamental human rights issues in the field of access to justice in Lithuania, to determine whether the provisions of the existing national legal acts providing for the right of persons to apply to the courts are sufficient to ensure the implementation of Lithuania's international obligations in the field of environmental protection, how the right of the public access to justice in Lithuania is realised and what possible major problems arise in this field.
 - ▢ The Seimas Ombudsman A. Normantas carried out the investigation into ensuring the rights of persons living in social care institutions during the quarantine period announced in the country, to identify problems arising in social care institutions during the quarantine period and to prevent possible violations of human rights and freedoms of the residents of these institutions (for more information about the investigation see page 50).

□ The Seimas Ombudsman A. Normantas, taking into consideration the provisions and principles of legal acts of the European Union, initiated the investigation into the implementation of the right of permanent residence in Lithuania by citizens of the European Union, family members of the citizens of the Republic of Lithuania, noting that family members of the citizen of the Republic of Lithuania, who has exercised the right of free movement of persons, have much broader possibilities to enter Lithuania than family members of the citizen of the Republic of Lithuania, who has not exercised the right of free movement of persons.

MONITORING THE HUMAN RIGHTS SITUATION IN LITHUANIA

In compliance with Article 19²(2)(1) of the Law, the Seimas Ombudsmen regularly monitor the situation of human rights and freedoms in the country. Having analysed the situation in the field of protection of human rights and freedoms in 2019–2020 and having regard to the investigations conducted by the Seimas Ombudsmen, the insights, opinions and recommendations of the Seimas Ombudsmen submitted to state and municipal bodies and institutions on various issues of ensuring human rights and freedoms, the Seimas Ombudsmen's Office carried out the assessment of the human rights situation in the country in 2019–2020.

Regarding protection of personal data and private life

The State Data Protection Inspectorate, commenting on the general principles of data protection in accordance with Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons

in the context of the processing of personal data and the free movement of such data and repealing the 95/46/EB Directive (hereinafter – the General Data Protection Regulation)²³, noted that “only the personal data necessary to achieve the objective pursued should be processed, and the purpose of processing of personal data must be specific and unambiguous, so that it is understood equally by all parties concerned, in particular by data subjects”; that “in order to ensure that personal data is not disclosed to persons, who are not entitled to it, it is important to comply with appropriate security measures” and, finally, that “the measures taken to manage the emergency situation and the decision-making process should be adequately documented in accordance with the principle of accountability”, as this is the only way of ensuring transparent processing of personal data as required by the General Data Protection Regulation²⁴.

The Seimas Ombudsmen's Office prepared and, on 27 June 2019, submitted to the Ministry of Justice the Comments on the ratification of the Protocol amending the Convention for the Protection of Individuals with regard to Automated Processing of Personal Data and, during the quarantine announced in spring 2020, drew the attention of the competent authorities to the strict observance of the principles of respect for human rights, the Law of the Republic of Lithuania on the Rights of Patients and Compensation of the Damage to Their Health and other legal acts when providing

²³ FAQ. Relevant aspects of processing of personal data due TO COVID-19 disease (coronavirus infection), link: https://vdai.lrv.lt/uploads/vdai/documents/files/15_%20COVID-19%202020-04-22.pdf.

²⁴ Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in the context of the processing of personal data and the free movement of such data and repealing the 95/46/EB Directive, link: <https://eur-lex.europa.eu/legal-content/LT/TXT/?uri=CELEX%3A32016R0679>.

information on potentially infected persons²⁵. The Seimas Ombudsman reminded that personal health information is confidential and may be provided only with the written consent of the person, and urged to respect the patients' right to privacy by providing residents with only generalised information about persons who may have been infected with the COVID-19 disease (coronavirus infection), thus violating the person's rights and not disclosing the information about his personal life.

Furthermore, in 2018 the Seimas Ombudsman initiated the investigation into the fundamental human rights issues related to the activities of the officials of the State Security Department of the Republic of Lithuania (hereinafter – the SSD)²⁶, in which he noted, inter alia, that both the legal regulation in force prior to 1 January 2013 and the legal regulation currently in force do not establish a clearly defined maximum term for the application of measures restricting the person's private life but not sanctioned by the court. This may lead to situations where measures that intervene in a person's private life could take an unreasonably long time and the necessity (proportionality) and/or timing of their application would not be reviewed by an independent competent entity. The Seimas Ombudsman noted that the control should include not only ensuring the legality of activities, evaluation of the work performed by the employees, but also ensuring compliance with human rights protection standards in the activities of the SSD. Moreover, the nature and special status of activities carried out by the SSD (due to the high risk of infringement of human rights) prevent the entity of these activities from retaining the full right of self-government, and,

accordingly, an effective external control mechanism of the activities of the SSD should also be established. The Seimas Ombudsman stated that the provisions of the Law on Intelligence in force during the investigation regarding guarantees of protection of personal rights are not sufficient, and that such regulation, when the person's right of appeal is not guaranteed, is inappropriate and raises doubts as to whether the mechanism of control of the activities of the SSD established in the legal system of the country complies with the essential principles of extrajudicial 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 this context, the Seimas Ombudsman recommended that the Prime Minister initiate the amendment/supplement to the Law of the Republic of Lithuania on Intelligence, 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 that control of activities of the SSD officials should also include the control over compliance with the standards of protection of human rights and freedoms in the activities of this Department. Amendments to the Law of the Republic of Lithuania on Intelligence are currently being prepared taking into account the recommendations of the Seimas Ombudsman.

Regarding the rights of victims of domestic violence

Domestic violence causes serious and most often long-term physical, emotional, psychological, social and/or economic harm to victims of such violence, regardless of their gender, age, sexual orientation, nationality, religion, education, income or social position. The UN Special Rapporteur on Torture and

²⁵ Letter No 1/3D-968 of the Seimas Ombudsman of the Republic of Lithuania of 14 April 2020 on the ensuring of human rights during the quarantine.

²⁶ 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.

Other Violent or Degrading Treatment noted²⁷ the need for States to take effective measures, both individualised and general, to prevent domestic violence and to provide all victims of violence with the protection they need, to respond appropriately to domestic violence and to ensure targeted services and legal remedies. States should provide sufficient resources: for the establishment and maintenance of accessible help lines, data collection and processing, as well as setting up of the effective and expeditious intervention services to protect victims of domestic violence or potential victims and persons maintained by them from actual threat of domestic violence.

Official statistics reveal that domestic violence is still a widespread phenomenon in Lithuania²⁸ and this problem has become even more acute in the context of the coronavirus infection (COVID-19 disease) pandemic. On the basis of data on the monitoring of the situation of criminal offenses carried out during the quarantine period, the Police Department informed the Seimas Ombudsman that the average number of domestic violence reports between 16 March and 17 June 2019 was 151 reports per day, while during the same period in 2020 the average number of reported cases of domestic violence was 170, i.e. exceeded the comparable figure of 2019 on average by 19 reports per day. The average number of pre-trial investigations into cases of domestic violence

opened during the specified period of 2019 was 30 pre-trial investigations per day and 27 in 2020, i.e. by three (3) pre-trial investigations fewer per day. During the quarantine declared in Lithuania on 16 March 2020, there was also an increase in appeals from victims of domestic violence in social services institutions. The increased demand for services to victims of violence has led to additional obstacles in municipalities. Some municipalities informed the Seimas Ombudsman that the increase in domestic violence has led to an increase in the workload of social workers, a lack of specialist assistance, difficulties in accommodating victims in crisis centres, as family doctors have been unable to remotely issue certificates confirming that the person intending to reside in a crisis centre is healthy and does not suffer from contagious diseases; moreover, it is not always possible to assess objectively the health condition of the victim of domestic violence and the existing situation in a remote manner (e.g., when the consultation takes place by phone or via the internet, the perpetrator living together with the victim can have a direct influence on the victim; the consulting person does not see the client, therefore, the confidentiality is not ensured). As a result of the quarantine, perpetrators were often allowed to remain at home, leading to repeated acts of violence and fear among victims to report the violence they faced. For these reasons, domestic violence has become an even more latent crime and there is no doubt that official statistics does not reflect its actual extent.

The UN Committee on Economic, Social and Cultural Rights recommended our country to take more effective measures to implement the Law of the Republic of Lithuania on Protection against Domestic Violence, including education of law enforcement officers on the issues of domestic violence, proper investigation of all cases of domestic violence against women in order to hold perpetrators accountable, the actual possibilities of victims of violence to get all necessary assistance and protection, as well as the allocation of adequate human and financial

²⁷ United Nations General Assembly, Relevance of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment to the context of domestic violence, 12 July 2019, Seventy-fourth session (A/74/50), p. 23, 77, link: <https://undocs.org/pdf?symbol=en/A/74/148>.

²⁸ Data source: <https://osp.stat.gov.lt/infografikas112>; [https://www.ird.lt/lt/paslaugos/tvarkomu-valdomu-registru-ir-informaciniu-sistemu-paslaugos/nusikalstamu-veiku-zinybinio-registiro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteisminiui-tyrimu-statistika-1/view_item_datasource?id=8194&datasource=41237](https://www.ird.lt/lt/paslaugos/tvarkomu-valdomu-registru-ir-informaciniu-sistemu-paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteisminiui-tyrimu-statistika-1/view_item_datasource?id=8194&datasource=41237).

resources to ensure the implementation of the goals set out in this Law²⁹.

In this context, we believe that every possible measure must be taken to strengthen inter-institutional cooperation in this area, both at municipal and national level, to pay due attention to the prevention of domestic violence and the protection of victims of domestic violence, and to the continued education of the officials and professionals on domestic violence. However, it is equally important to ensure adequate, high-quality, timely services and their availability to those who have experienced domestic violence.

Taking into account the relevance of this problem and the large extent of domestic violence, by Decision No NŽTI-2020/1-1 of 28 February 2020, the Seimas Ombudsman initiated the investigation into the fundamental human rights problems by assessing the availability of services for victims of domestic violence in Lithuania (see page 46 for more information on the results of this investigation).

Regarding the rights of persons belonging to minorities

Regarding ensuring of the LGBT+ rights

In the area of ensuring the LGBT+ rights, the following problems remain: there is still no possibility of partnership between couples of different sexes or same sex in the country and the Government is not taking any concrete measures to address this matter. Thus, Lithuania violates the European Convention on Human Rights and Fundamental Freedoms, as well as the Constitution of the Republic of Lithuania (hereinafter – the Constitution), because back in 2011 the

Constitutional Court found that Article 38 of the Constitution protects not only marital families but also family life arising on another basis³⁰.

Besides, it should also be noted that following the adoption of the amendment to Article 3.3 of the Civil Code of the Republic of Lithuania (hereinafter – the Civil Code) by the Seimas on 26 June 2018³¹ the principle of “additionality of paternity and maternity” was added to the list of principles underpinning legal regulation of family relations, which is of a discriminatory nature, since it discriminates same-sex families with children.

Although, according to the 2019 Report of the Equal Opportunities Ombudsperson of the Republic of Lithuania, only 4 men applied to the Equal Opportunities Ombudsperson for possible discrimination on the basis of sexual orientation in 2019, and the number of complaints received for possible discrimination on the basis of sexual orientation (3–5 per year) has remained unchanged since 2009, the relatively low number of complaints and appeals for possible discrimination on the basis of sexual orientation shows that speaking in the public about non-traditional sexual orientations and the resulting inequalities to which people are exposed and disregarded for certain rights of individuals is still avoided³².

It should be noted that the “Eurobarometer” survey conducted by the European Commission in 2019 showed that only 53 % residents of Lithuania agree

³⁰ Ruling of the Constitutional Court of 28 September 2011

³¹ Republic of Lithuania Law on amendment to Law No XII645 amending Articles 3.3, 3.153, 3.212, 3.217, 3.219, 3.224, 3.253, 3.254, 3.259, 3.260, 3.261, 3.269, repealing Article 3.220, and supplementing with Article 3.254-1 the Civil Code of the Republic of Lithuania.

³² Equal Opportunities Ombudsperson of the Republic of Lithuania, activity report 2019, 13 03 2020, No BR-40, link: https://www.lygybe.lt/data/public/uploads/2020/03/Lr_lygiu_galimybui_kontrolieriaus_2019_m_veiklos_ataskaita.pdf.

²⁹ United Nations Committee on Economic, Social and Cultural Rights Concluding observations on the second periodic report of Lithuania, link: <https://undocs.org/E/C.12/LTU/CO/2>.

that homosexual and bisexual persons should have the same rights as heterosexuals (as much as 40 % of the population disagree with this statement)³³.

According to the data of the European LGBT+ rights index "ILGA-EUROPE RAINBOW MAP 2020"³⁴, Lithuania ranks 34th among 49 countries of Europe in terms of positive developments in the sphere of ensuring the LGBT+ rights (ranked 37th in 2018 and 32nd in 2019). Lithuania, like other countries, is assessed on the basis of criteria such as equality and non-discrimination, protection of same-sex families, the fight against hate crimes and hate speech, legal recognition of gender change, freedom of assembly and expression, and asylum policy in the country.

The international organisation "ILGA-Europe" rated total protection of the LGBT+ rights in Lithuania at 23 % (also 23 % in 2019 and 21 % in 2018): the freedom of assembly and expression was given the best rating (even 83 %), but the fight against hate crime and hate speech was rated at only 26 %, equality and non-discrimination at 24 %, legal recognition of gender change at 22 % and asylum policy at 17 %. In the area of protection of same-sex families Lithuania's rating was the lowest, i.e. 0 %.³⁵

In order to improve the legal and political situation of LGBT+ persons in Lithuania, "ILGA-Europe" recommends: to adopt and effectively implement the draft legislation on registered partnerships in order to recognise and protect same-sex couples;

to include in the policy to combat hate crimes the foundations of all sexual orientation, gender identity, sexual characteristics; to establish a fair, transparent legal framework for gender legal recognition based on free self-determination and without abusive requirements such as sterilization, GID/medical diagnosis or surgical/medical intervention.

In the area of LGBT+ rights enforcement, it is also important to pay attention to the protection of the rights of transgender people. It should be noted that in our country transgender persons may change identity documents only by a court decision, and the conditions for obtaining the necessary health care services are not regulated.

The situation could essentially change upon adoption of the Law on the Recognition of the Gender Identity. Although such a law was drafted in the Ministry of Justice back in 2017³⁶, it has never been submitted to the Seimas for consideration. Based on the National Review of the Situation of Transgender Persons in Lithuania³⁷ drawn up by the Office of the Equal Opportunities Ombudsperson in 2019, it can be argued that, having implemented the right to recognition of gender identity through court (i.e. by changing personal identity documents), transgender persons face various practical obstacles in different spheres of life (e.g. receiving healthcare, ensuring protection of personal data, changing documents certifying acquired education, etc.). For this reason, it is necessary to adopt the required legal acts without delay and to establish a horizontal prohibition on discrimination based on gender identity.

³³ Special Eurobarometer 493. Discrimination in the European Union. European Commission, link: <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveyky/2251> (Factsheets in national language / Lithuania).

³⁴ LGBTI equality and human rights in Europe and Central Asia, Rainbow Europe 2020, link: <https://www.ilga-europe.org/rainboweurope/2020>.

³⁵ ILGA-Europe - the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association. Rainbow Map, Lithuania, link: <https://www.rainbow-europe.org/#8644/0/0>.

³⁶ Draft Law of the Republic of Lithuania on the Recognition of the Gender Identity, link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/bc2a5010c0911e7af36e75c0ac79247>.

³⁷ Situation of Transgender Persons in Lithuania: National Review, link: https://www.lygybe.lt/data/public/uploads/2019/06/translyciu-asmenu-padetis-lietuvoje_nacionaline-apzvalga.pdf.

Regarding the Law of the Republic of Lithuania on National Minorities

The Seimas ratified the Council of Europe Framework Convention on the Protection of National Minorities in 2000. International treaties ratified by the Seimas, in accordance with Article 138(3) of the Constitution, are part of the legal system of the State. However, the Framework Convention for the Protection of National Minorities is a document of a political and programme nature and not of a regulatory nature. There is currently no special law in Lithuania regulating the rights of persons belonging to national minorities. The Law on National Minorities adopted in 1989 pursuant to Article 1 (10) of the Law on Temporary Extension of the Laws in Force in the Territory of the Republic of Lithuania adopted before 11 March 1990, expired on 1 January 2010.

The draft new Law on National Minorities³⁸ was registered on 15 February 2018. On 28 February 2018, the European Law Department under the Ministry of Justice of the Republic of Lithuania presented their conclusion³⁹ on the harmonisation of this draft law, proposing to assess the wording of the questioned project provisions, expediency and feasibility of the draft Law. On 5 March 2018, the Legal Department of the Office of the Seimas also presented the conclusion⁴⁰ on this draft Law and, on the basis of the provision provided for in Article 2(2) of the Law of the Republic of Lithuania on the Ratification of the Framework Convention of the Council of Europe for the Protection of National

Minorities that the Government establishes the procedure for implementing the provisions of the Framework Convention for the Protection of National Minorities that are not provided for in the laws of the Republic of Lithuania, proposed to refer to the Government for the submission of the conclusion. It should be noted that after the conclusion of the Legal Department of the Office of the Seimas, the aforementioned draft Law was no longer considered or amended.

Regarding ensuring of social and economic rights of persons belonging to the Roma minority

The first Programme of Roma Integration into the Society of Lithuania 2000–2004, approved on 1 July 2000, for the first time at national level provided the targeted measures of integration of the ethnic group of Roma and assessed social problems faced by members of this group. The started work, however, has not been consistently pursued – the new integration programme was adopted only after four years (Programme of Roma Integration into the Society of Lithuania 2008–2010), and due to the economic crisis, which has begun, sufficient funds have not been allocated for the Programme. As part of the implementation of the Communication from the European Commission of 5 April 2011 on the EU Framework for National Roma Integration Strategies up to 2020, the Action Plan for the Integration of Roma into Lithuanian Society 2012–2014 was approved in Lithuania in 2012. The integration plan for this period focused mainly on the issues of education, employment and cultural development of Roma, while no measures were provided to address housing and health. By Order No IV-48 of the Minister of Culture of the Republic of Lithuania of 29 January 2015, the Action Plan for the Integration of Roma

³⁸ Draft Law on National Minorities, No XIII P-1696, link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/4c2a4650125111e88a05839ea3846d8e?jfwid=-fa58i4kyk>.

³⁹ Conclusion of the European Law Department regarding the Draft Law on National Minorities, link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAK/cb8920001c6b11e88a05839ea3846d8e?jfwid=-fa58i4kyk>.

⁴⁰ Conclusion of the Legal Department of the Office of the Seimas regarding the Draft Law on National Minorities, link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAK/1ffbca10206911e88a05839ea3846d8e?jfwid=-fa58i4kyk>.

into Lithuanian Society 2015–2020 was approved⁴¹. The implementation of the measures of the Action Plan is coordinated by the Department of National Minorities under the Government of the Republic of Lithuania (hereinafter – the Department of National Minorities). Monitoring of measures of the action plan is performed by a permanent inter-institutional working group set up by order of the Director of the Department of National Minorities. It should be noted that the adoption of the plan for the integration of the entire Roma minority into society by decision of the heads of one of the ministries cannot ensure the proper and effective implementation of this plan in all key areas of public life. It should also be noted that the Action Plan provided for a very limited number of measures and, for some, no funds at all. Although investigations conducted by the Ombudsman for Children and the Equal Opportunities Ombudsperson revealed that the number of Roma children in pre-primary and pre-school education institutions is extremely low, no funds have been allocated for the measure “Organising pre-school and pre-primary education for Roma children in Roma Community Centre”, “Organising qualification seminars for general education teachers working with Roma children”. It should be noted that for most of the measures for 2019–2020, no funds have been allocated at all.

Roma education indicators still significantly differ from the national average, and as the overall education of the country's population grows, Lithuania's Roma education has improved only at the lowest level – primary and basic. With an increasing proportion of our country's population gaining secondary and higher education, these rates fall in the Roma population between 2001

and 2011⁴². Pre-primary and pre-school education is not compulsory in Lithuania. Statistics shows that in 2013, 66.1% of children aged 1–6 years were educated in education institutions under pre-school and pre-primary education programmes and 89.5% of the country's six-year-olds participated in pre-primary education in the country.⁴³ In 2014, the Equal Opportunities Ombudsperson conducted the study gathering information on Roma children attending pre-primary and pre-school education institutions in different municipalities. The study found that a very small number of Roma children attended pre-school and pre-primary education institutions in Lithuania. Between 2013 and 2014, 18 Roma pupils were educated under pre-school curriculum (including 10 at the Roma Community Centre (hereinafter –RCC), in Vilnius) and 33 – under pre-primary education curriculum (including 22 in RCC).⁴⁴ This information shows that the participation of Roma children in pre-primary and pre-school education differs significantly from the national average, while only about 20 % of Roma children aged 1–6 years are educated under pre-primary and pre-school education programmes⁴⁵. The 2014 study by the Ombudsman for Children revealed that Roma children are enrolled in 11 special schools, a total of 50 children⁴⁶. Comparison of the number of Roma

⁴² Petrušauskaitė V. 2014. (Un)Equal opportunities in education: Analysis of early exit of Roma children from education in Vilnius City.// *Ethnicity Studies 2014/1*, Vilnius: Lithuanian Centre for Social Research.

⁴³ Ministry of Education and Science of the Republic of Lithuania (2014). *Lithuania. Education in regions 2014. Equal opportunities*. Vilnius: Education Supply Centre.

⁴⁴ Equal Opportunities Ombudsperson's Certificate No 14-SN-65 of 18 June 2014.

⁴⁵ Calculated on the basis of the 2011 census data (number of Roma children in Lithuania aged 1-6) and information collected in the 2014 OEEO survey.

⁴⁶ Children's Rights Ombudsman's Certificate No (6.1-2013-329) PR-156 on ensuring rights to education for children of Roma nationality of 19 August 2014.

⁴¹ Action Plan for the Integration of Roma into Lithuanian Society 2015–2020 approved by Order No JV-48 of the Minister of Culture of the Republic of Lithuania of 29 January 2015, link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/6caa6010a8cb11e4a854e1c2026e476c/asr>.

children enrolled in special schools with the total number of Roma pupils in the country shows that about 8.7 % children of this nationality are enrolled in special schools. However, the Ombudsman for Children observes that the special education system partly encourages Roma parents to enrol children in special schools, but that, if social assistance needs were to be met in other ways, at least some of the pupils currently attending special schools could be integrated into the general education system.

Since 2013, the European Commission has been carrying out an assessment of progress in the implementation of the National Roma Integration Strategy in four areas: education, employment, healthcare and housing, and analysing the implementation of measures to combat discrimination and the use of funding⁴⁷.

In line with the recommendations of the European Commission, Lithuania needs to strengthen the involvement of local authorities in the preparation, implementation, evaluation and review of Roma integration policies; strengthen civil organisations representing the interests of Roma; ensure adequate funding for implementation of measures and use the EU resources for social investment; intensify the fight against discrimination by raising Roma's own awareness of their rights, responsibilities and opportunities to defend their rights. Recommendations for improving the Roma integration measures were also presented

in reports and evaluations by other international organisations⁴⁸.

In assessing and analysing the protection of the rights of the Roma minority, the Seimas Ombudsmen's Office, as a national human rights institution, in spring 2019 applied to Vilnius City, the Police Department under the Ministry of the Interior of the Republic of Lithuania, the Department of National Minorities for information on problems related to the integration of the Roma national minority into society.

The analysis of the information provided shows that there are still factors hampering the integration of Roma people, linked to the previous lack of effective policies to reduce Roma exclusion over the years: the reluctance of Roma children to learn and the passive behaviour of their parents regarding their children's education; the absence or lack of education, which hampers access to employment; and the country lacks a systematic and continuous concept of Roma integration, which includes various measures to integrate Roma. Public surveys show that, although there are only 2,011 Roma living in the country⁴⁹, there is a particularly strong negative attitude towards Roma people in society, which hampers the employment of the Roma minority, the renting of housing, etc. It should be noted that these problems of Roma integration into society are also highlighted in the Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy in Lithuania published in December 2019 by the Roma Integration Centre. The document states that discrimination in the search for housing and the informal economy on the Lithuanian real estate market makes it difficult

⁴⁷ European Commission. 2013. Commission communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. *Further implementation of the national Roma integration strategies*. Brussels, 26 06 2013 COM (2013) 454 final. European Commission. 2014. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. *Report on the implementation of the EU framework for National Roma Integration Strategies*. Brussels 2.4.2014 COM(2014) 209 final.

⁴⁸ United Nations Human Rights Committee. 2014. Lithuania. Mid-term Assessment / Universal Periodic Review. 2014, link: <https://www.upr-info.org/followup/assessments/session26/lithuania/MIA-Lithuania.pdf>.

⁴⁹ Department of National Minorities under the Government of the Republic of Lithuania, link: <https://tmde.lrv.lt/lt/tautines-bendrijos/tautiniu-mazumu-organizacijos/romai>.

for many Roma families to find alternative housing outside the settlement of Kirtimai, incitement to hatred against Roma is increasing on the internet, and there is no solution to the problem of the use of psychoactive substances and drug trafficking besides punitive measures⁵⁰.

Tangible results require cooperation between the responsible authorities and effective measures to combat anti-Roma hostility, increase the integration of Roma into the labour market and focus on the education of Roma children, in particular pre-primary and pre-school children. It is necessary to develop a comprehensive and continuous concept of Roma integration covering various measures for Romą integration, involving state and municipal institutions in the implementation of measures.

Regarding hate crimes and hate speech

In Lithuania, other races or nationalities (dark-skinned, Jewish, Roma, Polish, Russian), other faiths (Muslims, Jews, Jehovah's Witnesses), homosexuals and transgender persons are the most frequent victims of hate speech.⁵¹

Acts related to incitement to hatred are regulated by Chapter XXV "Crimes and criminal offences against equal treatment and freedom of conscience of a person" of the Criminal Code of the Republic of Lithuania (hereinafter – the Criminal Code). Most pre-trial investigations into acts directed against a person's equality and freedom of conscience are initiated and conducted in accordance with Article 170 of the Criminal Code – "for incitement against another nation, race, ethnic, religious or other group

of people". However, although these crimes are clearly regulated, the country's non-governmental organisations stress that there are still very many such crimes and official statistics of institutions does not reflect the true extent of the crimes and people are afraid or unwilling to contact the institutions⁵².

According to available statistics, in 2019, only 29 cases of hate speech crimes were reported (in 2015 – 138)⁵³, but only four cases were brought to court in 2019⁵⁴. According to data provided by the Human Rights Monitoring Institute, pre-trial investigations in these cases are usually terminated without establishing that the committed act has elements of a crime or misdemeanour, and investigations are suspended without the identification of the offender. It should be noted that according to representatives of the Police Department, investigations into incitement to hatred are often not launched because investigators anticipate that the outcome of the case will not be successful, and the investigation into such cases would be just "a waste of resources".

In 2013, the Human Rights Monitoring Institute conducted a survey of the authorities responsible for conducting pre-trial investigations, the results of which showed that the surveyed institutions assess more seriously only violent hate-motivated crimes⁵⁵. It is likely that such an approach by the institutions

⁵⁰ PI Roma Integration Centre, "Civil Society Monitoring Report on Implementation of National Roma Integration Strategy in Lithuania", p. 6.

⁵¹ Incitement to hatred in Lithuania. Frequently asked questions. Information Guide p. 9, link: <https://hrmi.lt/wpcontent/uploads/2016/08/Neapykantos-kurstymas-Lietuvoje-DUK.pdf> 9 psl.

⁵² Alternative (Shadow) Report of the Seimas Ombudsmen's Office of the Republic of Lithuania on the implementation of the International Covenant on Civil and Political Rights in Lithuania, p. 8., link: <https://www.lrski.lt/wp-content/uploads/2020/12/Civil-and-political-rights.pdf>.

⁵³ Informatics and Communications Department under the Ministry of the Interior, link: <http://old.ird.lt/statistines-ataskaitos/?lang=lt&rt=1>.

⁵⁴ Statistics on crimes recorded and transferred to court provided for in Article 170 of the Criminal Code of the Republic of Lithuania, link: https://www.ird.lt/reports/view_item_datasource?id=8730&datasource=51752.

⁵⁵ Human Rights Monitoring Institute, "Protection of Hate Crime Victims' Rights: the case of Lithuania", 2013 m., link: <https://hrmi.lt/uploaded/Apzvalgos/Hate%20Crimes%20Victims%20Rights%20Study%20EN%202013.pdf>.

does not create the necessary trust among the victims of hatred to report these crimes.

It should be noted that in view of the problems raised by NGOs: high latency of hate crimes, frequent cases of failure to report incitement to hatred and insufficient capacity of police officers, prosecutors and judges to recognize the motive for hostility or hatred and properly apply criminal liability, the Ministry of the Interior of the Republic of Lithuania, together with the Prosecutor General's Office and the Office of the Inspector of Journalist Ethics, initiated a project "Promoting Effective Response to Hate Crimes and Hate Speech in Lithuania" aimed at ensuring the effective application of the responsibility for hate crime and hate speech; improving the understanding and knowledge of competent authorities about communities affected by hate crime and hate speech, as well as raising awareness of the needs and expectations of vulnerable communities; addressing the problems of non-reporting of hate crime and hate speech and stepping up the fight against incitement to hatred on the internet⁵⁶. Given that the number of hate crimes registered in 2019, compared with 2015, was disproportionately small, and particularly frequent manifestations of hate crimes in the public domain, it is necessary to initiate the development of a list of criteria for crimes attributable to hate crimes in order to facilitate the identification and registration of these crimes, to provide training on hate crimes for pre-trial investigative officers, and prosecutors organising pre-trial investigations.

In view of the fact that investigations in the country are terminated without establishing that there is an offence or misdemeanour with elements of crime, it is necessary to consider the possibility to establish administrative responsibility for public speeches

or topics of an offensive, insulting or despicable nature, but not inciting hatred or violence, directed against a group of persons or a person belonging to it on grounds of sex, race, nationality, language, origin, social position, religion beliefs, views or other grounds. Administrative liability for such offences could only be established as an additional measure to combat criminal acts of racism and xenophobia, while maintaining national law provisions establishing criminal liability for offences listed in European Union Framework Decision 2008/913/JHA relating to incitement to hatred or violence.

It should be noted that the European Union Framework Decision 2008/913/JHA⁵⁷ is a tool for harmonisation of the criminal laws of the Member States. Its preparatory documents lay down the minimum rules necessary to ensure that national legislation provides sufficient protection against such offences and to establish effective judicial cooperation between Member States, but the adoption of this Framework Decision does not prevent Member States from maintaining or introducing a higher level of protection for persons. Thus, Member States have the discretion to adopt additional measures (including administrative liability) to prevent racism and xenophobia and to combat criminal acts of racism and xenophobia.

Regarding the freedom of expression, assembly and religion

As early as 30 November 2018, the Seimas Ombudsmen's Office submitted their position to the Seimas on the matter of the freedom of expression while ensuring the independence of the public broadcaster. Without assessing the specific proposals of the Seimas Temporary Investigation Commission, the Seimas Ombudsman spoke

⁵⁶ For more details about the project "Promoting Effective Response to Hate Crimes and Hate Speech in Lithuania" see the information provided by the Ministry of the Interior; link: <https://vrm.lrv.lt/veiklos-sritys/viesasis-saugumas-1>.

⁵⁷ European Union Framework Decision 2008/913/TVR, link: <https://eur-lex.europa.eu/legal-content/LT/TXT/HTML/?uri=CELEX:32008F0913&from=en>.

about the need to protect freedom of speech and expression guaranteed by the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the ECHRFF) in ensuring the independence of the national broadcaster. In his opinion, the Seimas Ombudsman noted that Article 10 of the ECHR, which enshrines the right to freedom of expression, includes, inter alia, the freedom of the press, radio and television, since there is no democratic society without a free and abundant press. The Seimas Ombudsman also pointed out that in the case of the European Court of Human Rights (hereinafter also the ECHR) *Manole et al. vs Moldova* stressed the importance of the independence of public service broadcaster's supervisory authorities established by law from political and economic impact⁵⁸.

In its Ruling of 23 October 2002, the Constitutional Court of the Republic of Lithuania stated that constitutional freedom of unhindered searching for, receiving and disseminating information and ideas is one of the foundations of an open, just, harmonious civil society and a democratic state. This freedom is an important prerequisite for the exercise of the various rights and freedoms of a person enshrined in the Constitution, as a person can fully exercise many of his constitutional rights and freedoms only with the freedom to search, receive and disseminate information unhindered. The Constitutional Court also noted that the values enshrined in the Constitution form a harmonious system and are well-balanced. According to the Constitution, it is not possible to establish a balance between constitutional values of legal regulation which, by establishing guarantees for the exercise of freedom of information by law, would create conditions for violating other constitutional values.

⁵⁸ Letter No 1/3D-3220 of the Seimas Ombudsman of 3 December 2018 on freedom of expression, ensuring the independence of the public broadcaster.

Regarding human rights issues in the field of mental health

It should be noted that on 5 March 2019 representatives of the Seimas Ombudsmen's Office participated in a meeting with representatives of the Association for the Prevention of Torture (hereinafter – the APT) and discussed the specifics of health care of inmates with tuberculosis in imprisonment and mental health institutions. The representatives of the APT stressed that the care of tuberculosis patients should not differ from that of other inmates of those institutions, and that the automatic isolation of convicts 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.

In compliance with Article 19¹ of the Law and seeking to prevent torture and other cruel, inhuman or degrading treatment or punishment, the Seimas Ombudsmen regularly visit places of detention for prevention purposes. In the exercise of the functions of national prevention of torture, six visits to mental health facilities were organised in 2019. During these inspections, the structure of personnel of mental health care institutions, the staff members' conduct in respect of patients, the patients' awareness of their rights and obligations, the access to information, ensuring of the right to submit requests and their examination; the adaptation of the environment to persons with reduced mobility, the ensuring of compliance with the ban on smoking in mental health care facilities, the access to services of a psychologist, psychosocial rehabilitation services, the ensuring of leisure and engagement of patients, as well as ensuring of the patient's consent to receive health care services and the right to refuse medical treatment.

In summarising the circumstances identified during these inspections regarding the rights of patients in mental health care facilities and the conditions under which they are kept, and taking into account

the legal regulation referred to in Sections II and III of the Report on these inspections⁵⁹, international standards in the field of human rights, the ECHR case-law, it has been established that the visited facilities might lead to violations of rights of their staff and the failure to ensure the quality of health care services and the proper access to information about the rights and responsibilities of patients, ethics commissions operating in institutions and exercising supervision and control over the behaviour of employees, organisations protecting patients' rights; and the patient's right to submit referrals to the institution where the patient receives personal health care services is not adequately guaranteed; the provisions of the Description of procedure for monitoring of the use of physical restraint measures for patients with mental and behavioural disorders and the monitoring of the use of physical restraint measures⁶⁰ do not provide for the registration of physical restraint measures in a special journal; the monitoring of the patient subject to restraint does not ensure direct contact with the fixed patient; and it is necessary to improve material conditions for the provision of health care services, access to buildings and infrastructure for persons with disabilities. In addition, smoking addiction problems in mental health care institutions by using smoking addiction prevention measures and applying other advanced smoking prevention measures must be addressed; sufficient availability of psychological and psychosocial rehabilitation

services and the statutory requirement of patient consent for healthcare provision and the right of patients to refuse treatment should be insured.

It should be noted that in 2020, inspections carried out at Aknysta, Macikai and Skemai social care homes, hosting persons with mental disabilities and/or mental disorders, found serious violations of human rights, including illegal imprisonment, violations of use of physical restraint measures, provision of medical and social care services (see more about the results of these checks on page 54).

Regarding ensuring of women's human rights

It should be noted that the Seimas Ombudsmen's Office prepared and presented the Alternative Report on the Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women in Lithuania on 28–29 October 2019 in the United Nations Committee on the Elimination of Discrimination against Women.

According to the index published by the European Institute for Gender Equality in 2020, Lithuania ranks only 22nd in the EU in terms of gender equality⁶¹. It should be noted that in our country, stereotypes and gender discrimination against women still exist.

The discriminatory gender stereotypes that exist in society are primarily due to loopholes in Lithuania's education system, as children encounter them already in the early and primary stages of education. According to the Office of the Equal Opportunities Ombudsperson, the social roles of women and men are presented very differently in textbooks of students in the sixth to seventh grades. It should be noted that the Ministry of Education, Science and Sport of the Republic of Lithuania is engaged

⁵⁹ Report No NKP-2019/1-6 of 8 May 2020 of the Seimas Ombudsman on the Human Rights Situation in the Psychiatry Branch of the National Hospital of Klaipėda, the Psychiatry Department of PI National Hospital of Panevėžys, the Child Psychiatry Department of Woman and Child Clinic of the National Hospital of Šiauliai, link: NKP-2019_1-6_3D-1263.pdf (lrski.lt).

⁶⁰ Description of procedure for monitoring of the use of physical restraint measures for patients with mental and behavioural disorders and the monitoring of the use of physical restraint measures approved by Order No V-64316 of the Minister of Health of 29 May 2019.

⁶¹ Progress on gender equality in Lithuania since 2010, link: <https://eige.europa.eu/gender-equality-index/2020/country/LT>.

in the process of updating general curriculum, but the guidelines for the renewal of general education do not contain specific instructions on human rights issues.

According to the information provided by the Lithuanian Disability Organisations Forum, 43% of women with disabilities do not have work experience and half of those with experience do not have the freedom to choose what they would like to do. In addition, the Gender Equality Index shows that women earn 16 % less than men. Due to existing stereotypes and social pressures, women often opt for a more "appropriate" education, which subsequently leads to lower paid positions in the labour market. In addition, far more women than men take responsibility for caring for children (as much as 68%), so the pay gap is only widening.

In addition, women are also the main caregivers of elderly people and family members with disabilities and this leads not only to their less favourable position in the labour market, but also to a significant impact on the reconciliation of their work and private life⁶².

In the conclusion of 11 November 2019 on the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women in Lithuania, the UN Committee on the Elimination of Discrimination against Women welcomed the progress made and the legal and institutional measures taken by Lithuania to accelerate the elimination of discrimination against women and promote gender equality, but recommended to our country to put more efforts to combat gender-based violence, trafficking in human beings, discrimination against women in

the labour market, gender stereotypes, implement measures to increase women's participation in political and public life and economic influence, improve the rights of women with disabilities, and to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence, signed by Lithuania in 2013⁶³. It should be noted in particular that the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment also called on States to adopt and/or ratify without reservation all international and regional legal instruments, including the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), with a view to fully implementing the provisions on the prohibition of violence against women and children⁶⁴. It is therefore important to emphasise that, although Lithuania signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) on 7 June 2013, it has still not been ratified. It also should be noted that following an investigation into the fundamental human rights problems in assessing the availability of services intended for victims of domestic violence in Lithuania, the Seimas Ombudsman recommended that the Seimas take measures to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) (see also page 46).

⁶² Alternative (Shadow) Report of the Seimas Ombudsmen's Office on the Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women in Lithuania, link: <https://www.lrski.lt/wp-content/uploads/2020/12/Shadow-report-CEDAW.pdf>.

⁶³ Report of the Ministry of Foreign Affairs on the Convention of the Council of Europe on Prevention and Combating Violence against Women and Domestic Violence signed by Lithuania, link: <https://www.urm.lt/default/en/news/cedaw-committee-publishes-concluding-observations-following-presentation-of-lithuanias-report>.

⁶⁴ United Nations General Assembly, Relevance of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment to the context of domestic violence, 12 July 2019, Seventy-fourth session (A/74/50), p. 71, link: <https://undocs.org/A/74/148>.

Regarding ensuring of the rights of persons with disabilities

The Seimas Ombudsmen meet annually with representatives of the Ministry of Health, the Ministry of Justice, the Department for the Affairs of Disabled under the Ministry of Social Security and Labour and non-governmental organisations and discuss the implementation of recommendations of the UN Committee on the Rights of Persons with Disabilities to Lithuania. The main shortcomings in the implementation of the Convention on the Rights of Persons with Disabilities in the country remain: the participation of persons with disabilities in political and social life, the difficulty of access to health care facilities for persons with disabilities and the inaccessibility of some of them (in rural areas) at all.

When assessing the implementation of the Convention on the Rights of Persons with Disabilities in the country, it is noted that residents of adult social care institutions do not receive meals in time, sufficient individualised employment is not organised for the residents who are unable to get out of bed due to their health condition, these persons are not taken outside, thus violating Article 30 of the Convention on the Rights of Persons with Disabilities. These institutions also do not promote the independence of their residents in teaching them how to independently take care of their household, to cook, personalize their rooms, thereby violating the principles of respect for individual autonomy, inclusion, with freedom of choice, full effective participation and inclusion in society as laid down in Article 3 of the Convention on the Rights of Persons with Disabilities. Not all premises of the care homes and information provided to their residents are adapted to the needs of persons with disabilities (these violations have also been found in mental health institutions), therefore the principle of equality of persons with disabilities with other persons in the field of physical environment, other objects accessible to the public or accessibility of services provided, which is enshrined in Article 9(1) of the Convention on the Rights of Persons with

Disabilities, is violated. The Seimas Ombudsman has also stated that the privacy of residents is not adequately guaranteed in social care homes: the discussion of privacy with residents of social care institutions is not given sufficient attention, thus violating the fundamental principle of respect for the inherent dignity of the person with disabilities, enshrined in Article 3 of the Convention.

Moreover, during the inspections carried out by the employees of the Seimas Ombudsmen's Office in social care institutions, it was established that "the procedure for organising work in care homes, including the erroneous distribution of workload of employees performing social work without complying with the requirements of legal acts, failure to pay employees performing social work for additional workload during other employees' leave in accordance with the procedure laid down by the Labour Code of the Republic of Lithuania and other problems related to organisation of work resulted in serious violations of human rights in connection to the inadequate provision of statutory services to persons with (severe) disabilities that have special protection under the Convention on the Rights of Persons with Disabilities".

On the basis of the Alternative Report submitted by the Seimas Ombudsmen's Office to the United Nations on the implementation of the International Covenant on Civil and Political Rights in Lithuania⁶⁵, it should be noted that the country has nearly 300 adult and childcare institutions with more than 16,000 beds. When accommodating persons with disabilities in these institutions, their right enshrined in the Convention on the Rights of Persons with Disabilities to choose the place where they wish to live and with whom and the right not

⁶⁵ Alternative (Shadow) Report of the Seimas Ombudsmen's Office on the implementation of the International Covenant on Civil and Political Rights in Lithuania, p. 14, link: <https://www.Irski.lt/wp-content/uploads/2020/12/Civil-and-political-rights.pdf>.

to be accommodated in a particular residential environment is violated. In order to implement the provisions of the Convention on the Rights of Persons with Disabilities, deinstitutionalisation is taking place in Lithuania, however, as stated in the investigation conducted by the Seimas Ombudsman on access to social services for persons with disabilities and elderly persons in municipalities (see more about this investigation on page 39), the process of deinstitutionalisation in the country is slow.

It is also important to note that only about 10 % of schools are adapted to people with reduced mobility (wheelchairs), and only 0.3 % of schools, or 3 schools, are fully adapted to the blind (two of which are schools for children with visual impairments)⁶⁶.

It is also important to mention that in 2019 the Seimas Ombudsman initiated an investigation into the fundamental problems of human rights – regarding the review of the decisions by which persons were declared legally incapable by 1 January 2016 and the possible unjustified restriction of the rights of these persons, and on 23 December 2019 submitted the investigation report⁶⁷, assessing the proper implementation of the provisions of Article 72(2) of the Law Amending the Civil Code of the Republic of Lithuania (hereinafter – the Civil Code), which provides that the decisions of courts that declared persons legally incapable by 1 January 2016 must be reviewed within two years from the date of the entry into force of this Law.

⁶⁶ Alternative (Shadow) Report of the Seimas Ombudsmen's Office on the Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women in Lithuania, link: <https://www.lrski.lt/wp-content/uploads/2020/12/Civil-and-political-rights.pdf>, p. 3.

⁶⁷ Report of the Seimas Ombudsman of 10 December 2019 No NZTI-2018/1-1 on the fundamental problems of human rights regarding the decisions by which persons were declared legally incapable by 1 January 2016 and possible unjustified restrictions on the rights of these persons, link: Reports on fundamental human rights issues – LRSKJ (lrski.lt).

The investigation found that while the proper implementation of the provisions of Article 72(2) of the Law Amending the Civil Code is one of the essential preconditions for reducing violations of personal rights due to gross interference in the person's right to private life, less than half of the court decisions taken before 1 January 2016, in which persons were declared legally incapable, were reviewed within the time limit provided for by law, i.e. by 1 January 2018. Considering that the new legal regulation changed the institute of full incapacity to allow a person to be recognised as incapacitated only in certain areas, the change in the legal status (capacity) of persons not only failed to ensure effective protection of the rights and freedoms of these persons, but also led to excessive restrictions on 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 1,600 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 incapacitated, *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.

Taking into account the circumstances established during the investigation, the Seimas Ombudsman recommended to the Government that all pending court decisions adopted before 1 January 2016 and recognising persons as incapacitated be revised as soon as possible, that measures be taken to ensure

smooth and timely transmission of data about persons (who have been found incapacitated), which may restrict their rights to other competent institutions and consider improving legal regulation in order to ensure an appropriate, unified and effective data processing methodology for persons who have been found 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 an adequate and proper workload of social workers, assessing the ability of individuals to take care of themselves and make day-to-day decisions.

Regarding access to social services

Across Europe, hundreds of thousands of people with disabilities, mental disorders, elderly people and children live in large segregated institutions⁶⁸. These institutions have been set up to provide assistance, meals and accommodation, but studies show that they cannot provide human-centred services and adequate assistance for the full integration of individuals⁶⁹. In recent decades, there has been a marked shift in attitudes towards people with disabilities, based on the prospect of human rights, which means looking at people with disabilities as rights holders with their problems. A human rights-based approach to disability is not based on the granting of specific rights, but on ensuring equal enjoyment of all human rights (without discrimination). The fundamental values of this paradigm are: the priceless dignity, autonomy and freedom of self-determination of each individual, the innate equality of all persons, regardless of

⁶⁸ The Common European Guidelines on the Transition from Institutional to Community-based Care, 2012, p. 7, link: <http://enil.eu/wp-content/uploads/2016/09/Guidelines-01-16-2013-printer.pdf>.

⁶⁹ Ibid.

differences, and solidarity⁷⁰, which international experts believe cannot be adequately guaranteed in large, segregated institutions.

In Lithuania, the process of transition from institutional care to family and community services started at the end of 2012, after the adoption of the Strategic Guidelines by the Minister of Social Security and Labour. These guidelines set out the objective of the deinstitutionalisation process to develop a coherent and coordinated system of assistance and services by 2030 to enable every disabled child, a child left without parental care, a disabled person to receive personalised services and the necessary assistance, to become involved and participate in community life without suffering social exclusion. According to the information posted on the official reorganisation website⁷¹ this process is envisaged in two phases: the first phase (by 2020) should have created the conditions and services needed for restructuring, increased availability of existing services, and the second phase was aimed at the development of services in the regions and the launch of new forms of services for target groups.

However, although almost eight years have passed since the start of the reorganisation, according to the Statistics Lithuania, at the end of 2019, there were 39 care facilities for adults with disabilities hosting 6,267 residents, which is just by 18 individuals (0.3 %) less than in 2018. At the end of 2019, the number of people placed in 127 care facilities for the elderly increased by as many as 316 (5.2 %) compared to 2018 data, reaching 6,387. Therefore, in view of the duration of the previous reorganisation phase and changes in the residents of social care institutions,

it is questionable whether and when substantial changes can be expected to be made to the system of providing social services to persons with disabilities and the elderly. It should be additionally pointed out that care facilities for elderly people were excluded from the reorganisation process.

Having regard to the above and the data collected by the Seimas Ombudsmen during the implementation of the prevention of torture, the information which appeared in the public domain about problems related to the provision of community social services and seeking to assess the accessibility of these services (their diversity, choice) for persons with disabilities and elderly persons, on 23 March 2020 the Seimas Ombudsman adopted Decision No NZTI-2020/1-2 on initiating *the investigation into the accessibility of social services for persons with disabilities and elderly persons in municipalities* (for more information on the investigation, see page 43).

The Seimas Ombudsman regrets that failure to ensure effective and responsive access to community social services is likely to be one of the main reasons why there are significantly more households with persons with disabilities that live in poverty and face greater difficulties than people without disabilities⁷². Without adequate community social services, families caring for disabled people are forced to choose between giving up the income of one of the family members and staying at home in order to take care of a disabled person or placing their family members in social care facilities. In addition, due to the stereotypes that still exist in our society, most often children and adults with disabilities are continually cared for by women, which not only leads to a deterioration in their position on the labour market, a greater gap between women and men in

⁷⁰ European Centre for the Development of Vocational Training "Quality assurance in the social care sector", 2010, p. 43, link: <https://www.cedefop.europa.eu/en/publications-and-resources/publications/5507>.

⁷¹ Official website for reorganisation of institutional care, link: <http://www.pertvarka.lt/apie-institucines-globos-pertvarka/pertvarka-bus-vykdoma-dviem-etapais/>.

⁷² The World Health Organisation "World Report on Disability Report: Summary" published in 2011, link: https://apps.who.int/iris/bitstream/handle/10665/70670/WHO_NMH_VIP_11.01_lit.pdf;jsessionid=8250E4ABCA6494BA7FA627F3A3DC93D5?sequence=64.

the labour market, but also has a significant impact on their ability to reconcile work and personal life⁷³.

Regarding the human rights issues in social care homes

In 2019, the Seimas Ombudsman conducted the *investigation in the field of 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*⁷⁴ and found that the Description of the field of nursing studies,⁷⁵ 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.

On 13 June 2019, the Seimas Ombudsman opened the investigation into the fundamental human rights problems in assessing the availability of psychological services to persons living in social care institutions 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. Looking at the information obtained during this investigation is clear that psychological services in social care homes are not adequately guaranteed, as there is still a noticeable shortage of psychological services and specialists in this area in social care facilities (see page 48 for more information on the investigation).

As already mentioned, in 2020, in performing the functions of national prevention of torture inspections/monitoring visits were carried out in social care homes of Aknysta, Macikai and Skemai. The inspections/monitoring visits assessed issues related to the staffing and professional qualifications of these institutions, the adaptation of the environment and information to persons with disabilities and the setting up of an emergency call system, the protection of privacy, the freedom of movement of residents, the promotion of their independence, access to activities, the application of restraint measures and the provision of mental health care services, and other issues related to the human rights situation in care homes (see page 50 for more about the systemic problems identified in social care institutions during these inspections).

⁷³ Alternative (Shadow) Report of the Seimas Ombudsmen's Office on the Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women in Lithuania, link: <https://www.lrski.lt/wp-content/uploads/2020/12/Civil-and-political-rights.pdf>.

⁷⁴ 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, link: Reports on fundamental human rights issues – LRSKJ (lrski.lt).

⁷⁵ Description of the field of nursing studies approved by Order No V-803 of the Minister of Science and Education of the Republic of Lithuania of 23 July 2015 on approval of the description of the field of nursing studies.

Regarding conditions of institutional care for children

In performing the functions of national prevention of torture in child care institutions, the Seimas Ombudsmen have repeatedly found the most common violations of human rights related to staff, disciplinary measures, children's behaviour, adverse events, living conditions, childcare, children's awareness of their rights and obligations, children's social skills, tobacco and alcohol consumption.

When assessing the staff of childcare institutions, the following problem areas can be identified: composition, number, workload, salary and professional competence. A common problem is that when a staff member becomes ill, is on leave and in similar situations, there is no possibility of temporarily replacement of the staff member. It is also important to note that the workload of social workers and their assistants is very large and wages are low, leading to frequent changes in these workers. It is important for staff to improve their professional competence, but there are still situations where social workers lack practical training in preparedness for and management of emergencies, the specificities of education and communication with adolescents, as well as children with special needs, and those responsible for improving staff qualifications are unaware of the wishes of some staff to improve their qualifications. There is also a lack of funds for paid-in-service training, ensuring only a mandatory duration of professional development.

There have been cases of mistreatment of children by staff members: shouting, angry speech, preconceptions towards children, paying no attention to the proper conduct of children. Child care institutions have different perceptions of what are considered to be events of a negative nature, and, therefore such events are not registered in a register or not all negative events are registered. In some cases decent living conditions are not granted to the children and the staff members do not see this as a violation of human rights and freedoms.

Violations that could be mentioned here include a lack of proper conditions for preparing homework, children are accommodated in rooms of very poor condition, the privacy of the child is not ensured and children are not allowed to freely dispose of their bank payment cards.

A very frequent problem in childcare facilities is the purchase of hygiene articles without ensuring individual needs of children at all and without providing them with the opportunity to express their views. In addition, there have been cases where children purchase hygiene articles for their personal pocket money. Also there is a problem of stigmatisation of the institutional care of children when employees mark children's inventory (cups, towel holder, etc.) in hygiene premises with numbers (rather than by the child's name or by a symbol agreed with the guardian).

Moreover, there is a lack of awareness in child care facilities about the importance of disseminating information to children, which does not ensure full access to information, nor does it allow for anonymous access to child-relevant issues.

It should be concluded that insufficient efforts are being made to address the use of psychoactive substances, to establish the fact that these substances are used and to provide assistance to the child, although the use of tobacco products is widespread in childcare facilities⁷⁶.

As already mentioned, at the end of 2012, when the Minister of Social Security and Labour approved the Strategic Guidelines the process of transition from institutional care to services provided in the

⁷⁶ Alternative (Shadow) Report of the Seimas Ombudsmen's Office of the Republic of Lithuania on the implementation of the International Covenant on Civil and Political Rights in Lithuania, link: <https://www.lrski.lt/wp-content/uploads/2020/12/Civil-and-political-rights.pdf>.

family and community was started in Lithuania⁷⁷. These Guidelines set out the objective of the deinstitutionalisation process to develop a coherent and coordinated system of assistance and services by 2030, to enable every disabled child, a child left without parental care, a disabled person to receive personalised services and the necessary assistance, to be involved and participate in community life without suffering social exclusion. According to the information posted on the official reorganisation website, this process is envisaged in two phases: the first phase (by 2020) should have created the conditions and services needed for reorganisation, increased availability of existing services, the second phase was designated for the development of services in the regions and the launch of new forms of services for target groups.

Still, although it has been eight years since the beginning of the reorganisation, according to the Statistics Lithuania, at the end of 2019, 1.2 thousand children under the age of 18 lived in the infant and child care homes, 770 children lived in community nursing homes, and another 338 children lived in 48 foster families.

Regarding problems arising in the sphere of serving sentences

In 2019, the Seimas Ombudsmen participated in meetings with representatives of the Seimas Committees on Human Rights and Legal Affairs, the Ministry of Justice, the Prison Department, the Police Department and other institutions with a view to discussing the comments of the Seimas Ombudsmen's Office and other institutions on the Draft Law Amending the Penal Enforcement

Code of the Republic of Lithuania (hereinafter – the Penal Enforcement Code) and the Draft Law Amending the Law of the Republic of Lithuania on the Enforcement of Arrest. It should be noted that the draft amendment to the Penal Enforcement Code prepared in 2019 provided a possibility for persons in prison facilities to pursue higher education in accordance with the procedure established by the Prison Department Director⁷⁸.

One of the most pressing problems in correctional institutions is the lack of employment of the convicted, the social rehabilitation of life sentenced persons when transferred to various prison institutions in the country; as well as issues related to isolated detention, housing of the convicted, hygiene conditions, natural lighting of cell-type premises, access to education for individuals (not only primary, basic, secondary or vocational education, but also higher education), access to limited internet access, and the right to see family members.

It should be noted that the ECHR has emphasised that a very important part of the right of prisoners to respect for family life is the possibility of communicating with relatives, including dating, which is considered a particularly important form of communication in the process of re-socialisation of prisoners. The link with the outside world is vital to counteract the potential harmful effects of imprisonment. The European Prison Rules⁷⁹ stipulate that public authorities must provide an opportunity or, where appropriate, help them to stay in contact with their relatives in the process of serving of sentences, also with a view to proper rehabilitation of those imprisoned. Any restrictions on the right to communicate must comply with the law, pursue a legitimate aim and be proportionate. Moreover, even in the event of a threat, visits by family members

⁷⁷ Order No A1-517 of the Minister of Health of the Republic of Lithuania of 16 November 2012 on approval of the strategic guidelines for deinstitutionalisation of social care homes for the disabled children, children left without parental care, adults with disabilities.

⁷⁸ Certificate No 4D-2017/1-813 of the Seimas Ombudsman of 20 August 2019; 152.

⁷⁹ European Prison Rules, link: <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>

should not be prohibited, but their supervision increased proportionately. When investigating the applicant's complaint regarding the right to long-term dates (the investigation found that the right to long-term dates for inmates receiving treatment for tuberculosis was restricted by order of the Central Prison Hospital Director), the Seimas Ombudsman found, among other things, that restrictions on the rights of inmates can be imposed only by law and that legal acts of lower legal force may not contradict the Penal Enforcement Code⁸⁰.

Another relevant problem is the modernisation of prison facilities. The reduction in the number of arrested persons and the convicts held in prison facilities reflects the positive efforts made by the State to address detention problems, but inadequate detention conditions and insufficient efforts to modernise prison facilities remain a serious problem for the country. The Seimas Ombudsmen have repeatedly drawn the attention of state institutions to poor conditions of imprisonment in the country by recognizing that in many institutions the accommodation and hygiene conditions do not meet the requirements of legal acts, premises are insufficiently maintained, heated and ventilated, humidity accumulates in cells, walls are covered with mould, and minimum space is not always ensured. Šiauliai prison is in extremely poor condition⁸¹.

In 2019, the Seimas Ombudsman examined the complaint in which the applicant claimed that Šiauliai Remand Prison (hereinafter – Šiauliai RP) failed to ensure adequate accommodation conditions, after inspections carried out by the NPHC the detected shortcomings have not been

rectified. During the investigation of the complaint, the Seimas Ombudsman concluded that numerous infringements of legal acts regulating public health safety were identified in Šiauliai RP: 28 cases of infringements indicated by the applicant were confirmed after 28 inspections carried out following the complaints filed by the complainant. This shows that the Šiauliai RP does not adequately guarantee the rights of arrested/convicted persons to be held in decent and dignified conditions. It should be noted that the Seimas Ombudsman is concerned about the number of infringements found in Šiauliai RP.

It should be emphasised that the Seimas Ombudsman received a very large number of complaints also after an urgent procedure of relocation of the convicted from Lukiškės Prison to other prison facilities. The constant flow of information about the allegedly infringed rights of the relocated prisoners has raised concerns about the current situation. The Seimas Ombudsman's report⁸² after visits to prison facilities, to which the convicted were relocated from Lukiškės Prison, assesses the quality of segregated detention of prisoners, the conditions of keeping, hygiene, as well as ensuring material and household maintenance.

The Seimas Ombudsman noted, however, that one of the most pressing problems assessed during the investigation was the successful procedure of relocation of the convicted. The report points out that “when sentenced persons were transferred to other prison facilities, most of them were warned less than one day before the transfer procedure. There have been cases where the inmates have not been informed of the transfer at all and only had one hour

⁸⁰ Certificate No 4D-2018/1-133 of the Seimas Ombudsman of 30 September 2019

⁸¹ Alternative (Shadow) Report of the Seimas Ombudsmen's Office of the Republic of Lithuania on the implementation of the International Covenant on Civil and Political Rights in Lithuania, par. 3.2, link: <https://www.lrski.lt/wp-content/uploads/2020/12/Civil-and-political-rights.pdf>

⁸² Report No NKP-2019/1-1 of the Seimas Ombudsman of 21 October 2019 on the human rights situation in Alytus Correction House, Marijampolė Correction House, Vilnius Correction House, Pravieniškės Correction House-Open Colony and Šiauliai Remand Prison, link: [NKP-2019-1-1.pdf](https://www.lrski.lt/wp-content/uploads/2019/10/NKP-2019-1-1.pdf) (lrski.lt).

to prepare for it. Accordingly, the convicted persons were not given the opportunity either to appeal against such decisions or to inform their relatives of the change of the place of serving sentence.”

The report also notes that when allocating the relocated convicted persons to new prison facilities the place of residence of the convicted or their relatives has not been taken into account.

During the investigation, the inmates explained to the Seimas Ombudsman that the Prison Department formally responded to expectations and requests to allow the serving of sentence to continue in correctional institutions selected according to the place of residence of their relatives by providing an opinion that no legal acts oblige them to take into account the possibility of relatives to visit them and distance from home or other wishes when allocating the inmates. In addition, the prison institutions that accepted the transferred convicts were not prepared to ensure that the convicted persons were able to continue their studies already started or create conditions for work, and some prison institutions explained to the Seimas Ombudsman that they did not have the possibility to apply employment programmes to the relocated convicts due to their different detention regimes.

In view of this, the Seimas Ombudsman concluded that the transferred convicts lost their right to serve the sentence under conditions aimed at the rehabilitation of the person who committed the crime. After carrying out the assessment of the human rights situation in prison facilities and summing up the conclusions of the investigation, the Seimas Ombudsman presented in the report recommendations to the Prison Department, obliging them to take measures to ensure adequate accommodation, hygiene, material and household provisioning conditions for the convicted, and recommended ensuring that all relocated convicts are provided with an opportunity to continue their studies and work, thus ensuring proper social rehabilitation of convicts.

For several years now, there has been a possible excessive demonstration of power by officials (a problem that was discussed back in 2018 submitting the alternative report to the CERD)⁸³, when physical abuse is used against those who do not resist officials and the special measures against them are shown in public. This prompted the Seimas Ombudsman to initiate an investigation into fundamental human rights issues in 2019 for assessing possible infringements of human rights and freedoms by officers using physical abuse. The seriousness of the situation was revealed by data from the Prosecutor General's Office about the fact that although there are extremely large numbers of complaints about the possible physical abuse by the officers, the cases are difficult to investigate due to the misuse or non-use of technical video recording devices by officers.

The European Committee against torture and other cruel, inhuman or degrading treatment or punishment pointed out that officials must respect the principles of necessity, proportionality, early warning of intended use of physical impact measures and precaution when using special measures against persons whose freedom is restricted. In addition, physical impact measures should only be used where other less coercive measures, such as verbal warning, talking or persuading appear to be ineffective or where the officer has to respond immediately and is objectively unable to use less coercive measures.

Another particularly sensitive problem identified in the Seimas Ombudsman's report was the emerging practice of denying the presumption of innocence, whereby suspects or accused persons are presented to the court or the public as guilty persons, using disproportionate measures of physical restraint. The Seimas Ombudsman noted in his report that

⁸³ Alternative (Shadow) Report of the Seimas Ombudsmen's Office of the Republic of Lithuania on the implementation of the International Covenant on Civil and Political Rights in Lithuania, par. 3.2, link: <https://www.lrski.lt/wp-content/uploads/2020/12/Civil-and-political-rights.pdf>.

the Constitutional Court has emphasised that the presumption of innocence is one of the most important guarantees of the administration of justice in a democratic rule of law, while also being an integral guarantee of human rights and freedoms.

The report also points out that international human rights standards recommend that the officers record and account for coercive measures used in their activities, but the data obtained during the investigation reveals that there is still a problem with the non-use, misuse, absence of technical video recording devices at the time when officers use coercion against individuals. According to the Seimas Ombudsman, this practice of law enforcement officers creates preconditions for the risk of infringements of human rights.

The Seimas Ombudsman drew the attention of the Minister of Justice to the exceptional need to ensure that legal acts provide safeguards in order to ensure that suspects and accused persons are not presented to the court or the public as guilty by publicly using against them physical restraint measures. For more information on the investigation into physical abuse by law enforcement officers see Report No NJTI-2019/1-1 of 21 February 2020⁸⁴.

It should also be noted that in 2019 the Seimas Ombudsman initiated the investigation into the fundamental human rights problems in the field of regulation of state social insurance of the convicts employed in prison facilities and on 21 February 2020 presented the report on the said investigation⁸⁵

assessing whether the applicable legal regulation, when the time spent by the convicted serving imprisonment sentences working in prison facilities 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

⁸⁴ Report No NTI-2019/1-1 of the Seimas Ombudsmen's Office of 21 February 2020 on fundamental human rights issues arising from the use of physical violence by law enforcement officers in their activities, link: fundamental human rights issues – LRSKJ (lrski.lt).

⁸⁵ Report No NŽTI-2018/1-2 of the Seimas Ombudsmen's Office of 21 February 2020 on fundamental human rights issues arising in the field of regulation of the state social insurance of the employed convicts, link: Reports on fundamental human rights issues - LRSKJ (lrski.lt).

the particular state social insurance benefit while working in good faith and thus become eligible for social guarantees.

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.

As regards the circumstances identified during the investigation, the Seimas Ombudsman recommended the Government to consider the possibility of including all persons serving imprisonment sentences (including those employed in imprisonment facilities and in the State Enterprise "Mūsų amatai") in the state social insurance system by insuring them with pension social insurance and unemployment social insurance.

Regarding the fundamental human rights problems in the area of homelessness

In 2019, the Seimas Ombudsman conducted the investigation⁸⁶ 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, the documents regulating the allocation of resources to addressing the problem 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 transitional accommodation, in 2013 and 2014 – 2,601, in 2015 – 2,487, and in 2016, their number reached already 2,968. The Statistics Lithuania explains that the above mentioned data show how many persons were accommodated in transitional accommodation 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, the exact number of the homeless is not known because some homeless people do not use transitional accommodation services for various reasons (lifestyle, addictions, etc.). The Ministry of Social Security and Labour informed the Seimas Ombudsman that the country's strategic documents do not state that

⁸⁶ Investigation results are presented in Letter 1/3D-694 of the Seimas Ombudsman of 20 March 2019 on the provision of information about the problem of homelessness in Lithuania

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 organises social work with beggars and persons without permanent residence. Persons (the homeless), who wish to rent social housing are entered into 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.

Regarding rights of migrants, refugees and asylum seekers

In carrying out the national prevention of torture, employees of the Seimas Ombudsmen's Office regularly inspect places of detention of foreigners where a number of violations are detected. During inspections carried out in 2019 at the Foreigners Registration Centre⁸⁷ of the State Border Guard Service under the Ministry of the Interior, it was found that persons with

disabilities are kept in premises which are not adapted to them, cleanliness and order are not adequately ensured in the premises of the Centre; the standards of provision of hygiene facilities for the persons held are not sufficient to ensure personal hygiene and therefore the human dignity of such persons is degraded. Violations of the right to adequate food, including those corresponding to religious beliefs, were also found; violations of the right to freedom of religion were found; high quality and timely access to health services was found; the vulnerability of asylum seekers and their special needs were not fully and effectively identified; insufficient attention was paid to the protection of children's rights and legitimate needs; and possible violations of the mistreatment of children and their right to freedom and security were also identified. Moreover, in the opinion of the Seimas Ombudsman, the right of detained foreigners and asylum seekers to access decent quality services and information was infringed due to insufficient knowledge of foreign languages of employees, lack of opportunities to improve the qualification of employees, problems of organisation of work (including distribution of workload of personnel carrying out the assessment of persons, proper filling in and storage of the evaluation documents), and lack of mobilisation of competent external institutions and specialists.

Inspections carried out at the border inspection posts and border control posts⁸⁸ revealed the failure

⁸⁷ Report No NKP-2019/1-2 of the Seimas Ombudsman of 3 September 2019 on the situation of human rights at the Foreigners Registration Centre of the State Border Guard Service under the Ministry of the Interior.

⁸⁸ Report No PRJ2018/1-60 of the Seimas Ombudsman of 15 June 2018 on the human rights situation at Vištytis, Kudirkos Naumištis, Šilgailiai, Viešvilė, Kybartai and Rociškės border crossing stations of Pagėgiai Border Guard Unit of the State Border Guard Service and Kybartai road and railway border control posts of Kybartai border crossing station, Report No NKP-2020/1-1 of the Seimas Ombudsman of 1 July 2020 on the human rights situation at Pagėgiai Border Guard Unit Command of the State Border Guard Service, Plaškiai border crossing station of Pagėgiai Border Guard Unit, Bardinai border crossing station of Pagėgiai Border Guard Unit, Panemunė border control post of Bardinai border crossing station and Rambynas border control post, link: National prevention of torture (NPT) – LRSKJ (lrski.lt).

to ensure the smooth functioning of the electronic register system, making it more difficult for officials to process the delivered personal data, the failure to adapt the administrative, temporary detention and asylum seekers' premises to persons with disabilities, and the failure to guarantee minimum natural and/or artificial lighting.

It is important to mention that inspections carried out by the staff of the Seimas Ombudsmen's Office regarding the human rights situation at the Foreigners Registration Centre have already produced positive results – the rates of catering expenses allocated to the residents of the Centre are being increased, persons with special needs will have access to food according to an individually balanced menu.

INVESTIGATIONS INTO THE FUNDAMENTAL HUMAN RIGHTS ISSUES

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) of the Law). Given the current human rights situation in the country and acknowledging that the country has many other fundamental human rights problems, in 2020, the Seimas Ombudsmen's Office conducted 5 (five) investigations into the fundamental human rights problems.

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, the ECHR and other documents.

Regarding the fundamental human rights issues arising from the availability of social services for the disabled and elderly persons in municipalities

The Seimas Ombudsman conducted an investigation into the fundamental human rights problems arising from the accessibility of social services to persons with disabilities and elderly persons in municipalities⁸⁹, during which the country's international obligations in the field of provision of social services to persons with disabilities and elderly persons, control and planning of the quality of these services and the accessibility and development of community social services were assessed.

The investigation revealed that due to shortcomings in the existing legislation and the lack of an abstract nature of the recommendations on the quality of social care control issued by the Social Services Supervision Department (hereinafter – the SSSD) and the lack of a uniform methodology for assessing the quality of social services methodology for assessing the quality of social services supervision in the country each municipality has different methods of assessing the quality of social services; the information, geographic or economic accessibility of social services in municipalities for persons with disabilities and elderly persons is very unique and depends on the social services policy pursued by the municipality where the recipient of the services resides, the allocated funds and efforts made to ensure such services.

The data collected during the investigation revealed that information on access to social

⁸⁹ Report of the Seimas Ombudsman of 31 December 2020 on access to social services of the disabled and elderly persons in municipalities No NŽTI-2020/1-2

services is not collected in the country, the elderly and/or disabled people living in municipalities are not visited preventively and, therefore, there is no uniform information on the need for social services of the elderly and/or disabled residents of municipalities.

It has also been established that there is no single package of community social services in Lithuania, therefore, in implementing their functions municipalities adopt different standards of social services, which differ not only in the supply of social services, but also in scope and possibly not always ensures the needs of persons with disabilities and/or elderly persons, while due to the ageing of the country's population, limited availability of social services, slow development of social services and sources of funding that do not ensure the continuity of these services, in the process of reorganisation of social services, it is not possible to respond to the needs of the changing society and to adequately ensure the rights of persons with disabilities and elderly persons.

Taking into account the circumstances identified during the investigation, the Seimas Ombudsman recommended to the Government that measures be taken to develop a common and consistent standard of quality of social services for persons with disabilities / elderly persons at national level, a unified methodology of quality assessment of social services and a comprehensive and unified system of collection and accumulation of data on the elderly and/or disabled persons residing in municipal territories, ensuring the provision of accurate and timely data to state institutions and facilitating the process of planning of social services; to establish common standards of access to social services and broadening the list of target groups of ongoing deinstitutionalisation, involving the elderly persons. Also, to introduce a common mandatory minimum package of community social services for the disabled and/or the elderly persons, to accelerate the development of social services provided in the community and ensure the continuity and

sustainability of the financing of these social services, and take steps to ratify Article 23 of the European Social Charter, in line with the calls of international organisations and with a view to ensuring adequate standards of human rights and freedoms in the country.

The Seimas Ombudsman also recommended to municipalities of the Republic of Lithuania to develop the decent quality control procedures for the social services provided/purchased, ensure proper implementation thereof and ensure that the elderly and/or disabled persons residing in municipal territories are regularly visited and information about the needs of social services of these persons is collected and accumulated. It was also recommended to ensure the information, geographical and economic accessibility of social services to the disabled and/or the elderly residents, and to take measures to expand the supply and scope of social services provided to the disabled and/or the elderly in the community.

Regarding the fundamental human rights issues arising from certain measures restricting human rights and freedoms taken during the pandemic caused by the Coronavirus infection (COVID-19 disease) in Lithuania

The Seimas Ombudsman conducted the investigation into the compliance of certain measures restricting human rights and freedoms with the country's international obligations in the field of human rights and freedoms during the quarantine regime declared in Lithuania, which lasted from 16 March to 16 June 2020⁹⁰. The investigation aimed to identify problems

⁹⁰ Report No NŽTI-2020/1-3 of 5 November 2020 on the compliance of the legal acts of the Republic of Lithuania regulating emergency management and certain emergency management measures applied during the period of quarantine in the territory of the Republic of Lithuania with the international obligations of the Republic of Lithuania in the field of human rights and freedoms.

related to restrictions on the provision of personal health care services imposed by decisions of the Minister of Health of the Republic of Lithuania – the head of state operations of a state-level emergency. The investigation looked at issues related to ensuring human rights and freedoms by applying measures to curb the spread of the Coronavirus infection (COVID-19 disease), the legality of the declaration of the state of emergency in Lithuania and the restrictions on human rights and freedoms applied during it, the Government's powers to take decisions in the situation of emergency and certain restrictions on human rights and freedoms imposed during the period of the quarantine regime in Lithuania: the isolation of persons in the premises provided by municipal administrations, the necessary hospitalisation of persons and/or the necessary isolation by a doctor's decision and ensuring the human right to health under emergency conditions.

Having assessed the circumstances of self-isolation of persons arriving from foreign countries in the premises provided by Vilnius City Administration on 24–25 March 2020, the Seimas Ombudsman concluded that these persons were isolated in the premises not suited to their needs and possibly not satisfying public health safety requirements, before isolation of the persons their age, gender, state of health and special needs had not been taken into consideration, the persons were denied alternative possibilities of self-isolation at home or another place of residence, were not appropriately informed on what grounds they had to self-isolate in the premises provided by the municipal administration, and therefore, in the Ombudsman's assessment, the persons suffered significant inconveniences, stress and were exposed to the increased risk of catching the Coronavirus infection (COVID-19 disease), the isolation of persons without any selection and in the premises not adapted to this purpose was a restricting measure disproportionate to the legitimate purpose sought by its application and could amount to degrading treatment prohibited under the international law.

In his investigation report, the Seimas Ombudsman also submitted an assessment of the necessary hospitalisation and isolation of persons by decision of a doctor, concluding that the Law on the Prevention and Control of Communicable Diseases of the Republic of Lithuania authorises a doctor to impose necessary hospitalisation and/or isolation by unilateral decision, without a court decision, even up to one month, raises reasonable doubts as to the possible abuse of powers by doctors under this provision and the possible infringements of human rights and freedoms by such a risk management measure.

The Seimas Ombudsman also raised doubts as to whether certain measures taken during the quarantine period to combat the spread of coronavirus infection (COVID-19 disease) in the field of personal health met the criteria of reasonableness, necessity and proportionality and Lithuania's international obligations, as well as whether the goal of protecting public health set during quarantine could not be achieved by less coercive, lower in scale restrictions, avoiding the risk of infringements of human rights and freedoms.

After assessing all circumstances, the Seimas Ombudsman stated that during the period of quarantine in the Republic of Lithuania, after suspending the implementation of preventive examinations and preventive programmes for more than one month, postponement of scheduled operations and hospitalisations, provision of routine consultations, diagnostic, prophylactic, preventive and therapeutic services (except for assistance and services which, if not provided to the patient, would create a need for necessary medical assistance or significantly deteriorate the condition of the patient), failure to ensure the clarity and systematic nature of the legislation adopted on the control of measures to control coronavirus infection (COVID-19 disease), the right of each individual to accessible health care services and the highest possible level of health care protection may not have been adequately guaranteed.

Having assessed the aforementioned circumstances, the Seimas Ombudsman recommended to the Government to ensure that in all situations, even in the state of emergency, extreme situation or other special management regime in the country, decisions restricting certain rights of persons are taken in accordance with the highest human rights standards, that measures restricting human rights and freedoms are justified, necessary and do not restrict the rights and freedoms of the individual beyond what is necessary to achieve the legitimate and socially important objectives; to take measures to ensure that in future, in situations where there is an urgent need for restrictive human rights measures to manage the country's difficult crisis, a smooth and timely cooperation with the public is ensured, including experts in the human rights protection area; take measures to improve Article 9 2¹ of the Law on the Prevention and Control of Communicable Diseases of the Republic of Lithuania as to maintain the balance of individual rights and public interests and the necessary hospitalisation and/or isolation of the persons listed in this provision would be carried out by means of measures to protect the rights of the individual from disproportionate restriction of these rights in cases of application of involuntary hospitalisation and involuntary treatment.

Regarding the fundamental human rights issues arising in the field of provision of services for victims of domestic violence

Taking into account the recommendations of international organisations active in the field of human rights regarding ensuring the provision of assistance to victims of domestic violence, the extent of prevalence of domestic violence in the country, the problems raised in the complaints received by the Seimas Ombudsmen's Office, as well as the fact that when the coronavirus infection (COVID-19 disease) outbreak has reached the level of pandemic in many countries and has resulted in strict quarantine, leading to a trend towards an increase in domestic

violence worldwide, the Seimas Ombudsman has initiated an investigation⁹¹ into the fundamental human rights issues arising in the field of provision of assistance to victims of domestic violence in order to determine whether the procedure for providing assistance to victims of domestic violence established by provisions of legal acts of the Republic of Lithuania and its practical implementation comply with international obligations of the Republic of Lithuania to ensure the human rights and freedoms of these persons, whether these services can be accessed by all persons who have experienced domestic violence, are effective and sufficient, what are the possibilities for developing such assistance, as well as the impact on the need and effectiveness of providing assistance to victims of domestic violence in the country of measures taken to restrict personal liberty during the spread of the coronavirus infection (COVID-19 disease).

As provided for in Article 8 of the Law of the Republic of Lithuania on Protection against Domestic Violence, persons who have suffered domestic violence shall be granted access in accordance with the procedure laid down by legal acts to free psychological assistance, temporary accommodation services, specialised complex assistance provided by specialised assistance centres, assistance provided by municipal institutions and non-governmental organisations, including long-term assistance services. Also, in accordance with the provisions of the said Law, police officers are authorised to perform the statutory functions related to the organisation of protection and assistance to persons, who have experienced domestic violence. However, it is still noticeable in the society that the protection of victims of domestic violence is not always adequately guaranteed in practice and that not all of their needs for assistance are met, and that reports of physical,

⁹¹ Report No NŽTI-2020/1-1 of the Seimas Ombudsman of 31 December 2020 on the fundamental human rights issues arising in the field of ensuring assistance to victims of domestic violence

mental, sexual, economic or other intentional effects experienced by individuals in domestic environment are still relatively high.

The investigation found weaknesses in the mechanism for providing assistance to victims of domestic violence in Lithuania: police officers not in all cases identify the signs of violence, and especially psychological violence in domestic environment, which leads to gaps in the organisation of services for victims of domestic violence, the number of specialised assistance centres and specialists working there, especially lawyers and psychologists, who can offer specialised assistance, is not sufficient in Lithuania to meet the needs of all victims of domestic violence, and does not ensure more active involvement of non-governmental organisations in this system of provision of services.

The Seimas Ombudsman also stated that the dissemination of information on assistance to victims of domestic violence is not sufficient, inter-institutional cooperation between entities organising and providing assistance to victims of domestic violence is not smooth at both municipal and national level, there is a lack of safe accommodation for victims of domestic violence, due to the lack of specialised assistance centres in remote areas not all specialized services are financially and geographically accessible to victims of domestic violence.

Violence against women, including domestic violence, is one of the most serious gender-based violations of human rights in Europe; the Seimas Ombudsman drew the public's attention to the fact that domestic violence causes serious and, most often, long-term physical, emotional, mental, social and/or economic harm to victims of such violence, regardless of their gender, age, sexual orientation, nationality, religion, education, income or social status. In this context, in the report of his investigation, the Seimas Ombudsman looked not only at the need of women, but also at the needs of other target groups of persons exposed to domestic

violence – children, persons with disabilities, persons belonging to sexual minorities, as well as men – the need and possibilities to access specialised complex assistance in the country.

The data of the investigation on accessibility of targeted services for individual groups of persons revealed that the infrastructure of services in Lithuania is underdeveloped: there is a lack of victimology statistics data on the extent of domestic violence experienced by disabled persons, differentiation of services by target groups, human and financial resources ensuring access to quality and efficient services for all who need them. Moreover, as an example of the fight against all forms of violence against women provided for in the Istanbul Convention, Lithuania still does not have in place an appropriate and effective mechanism for preventing violence against women, protecting women, who have suffered violence and organising, supervising and controlling services for them, adapted to the specific needs of this social group. Having assessed this, the Seimas Ombudsman noted that all services must be provided in such a way as to meet the individual needs of the victim and to ensure that in the system of providing assistance the individual does not suffer discrimination on the grounds of disability, place of residence, age, gender, sexual orientation, gender identity, ethnic origin, social status and other characteristics.

The Seimas Ombudsman welcomed the efforts of the State, to ensure, during the quarantine period, the assistance to victims of domestic violence, to respond promptly to reports of domestic violence and to increase publicity of information on the ways of obtaining assistance, while also emphasising the need to further strengthen interinstitutional cooperation in the field of prevention of domestic violence and assistance to victims of domestic violence, to actively support information campaigns on domestic violence issues, and to seek innovative ways to provide all services necessary for victims of domestic violence in such a way that they can be accessed by individuals in a remote manner and/

or in compliance with the safety recommendations of the Ministry of Health not only in their home environment.

Taking into account the circumstances established during the investigation, the Seimas Ombudsman recommended to the Seimas to take measures to ratify the Council of Europe Convention on the preventing and combating violence against women and domestic violence (Istanbul Convention) with a view to fully implementing the ban on violence against women and girls.

The Seimas Ombudsman recommended to the Government, inter alia, to ensure the creation and implementation of the system-based mechanism of the provision of assistance to victims of domestic violence, to develop a smooth interdepartmental network of actors providing assistance to victims of domestic violence, to ensure a continuous information campaign at national level on the provision of assistance to victims of domestic violence, to address the issue of the development of a specialised network of assistance centres in Lithuania and the provision of free transportation service to persons, who are not able to travel to the place of provision of services on their own, as well as the issue of inclusion of children, men, persons with disabilities and elderly persons as well as organisations representing the interests of LGBTIQ in a specialised system for the provision of a complex assistance to victims of domestic violence, ensuring that specialised complex assistance is accessible to all these target groups, organising the dissemination of more information on domestic violence and ensuring that victims of domestic violence receive all the necessary services not only remotely, but also, where necessary, in live manner, so that the individuals can also access such services outside their home environment.

The Seimas Ombudsman also recommended to the Police Commissioner-General to take measures to ensure that police officers respond appropriately to reports on domestic violence by all persons,

regardless of their age, gender, disability, sexual orientation, social or other position, including reports on psychological and sexual violence experienced. Moreover, he recommended that all persons, who have reported on domestic violence to which they were or are exposed (regardless of whether they have been identified as victims during the investigation) are properly informed by police officers of the specialised assistance centres and other institutions operating in the respective county providing assistance, including provisional accommodation services according to provisions of the Law of the Republic of Lithuania on Protection against Domestic Violence.

Regarding the fundamental human rights issues arising in the field of provision of psychological services to residents of social care institutions

The Seimas Ombudsman conducted an investigation into the fundamental human rights problems arising from the organisation and accessibility of psychological services to inmates of adult social care institutions, during which examined issues related to the assessment of the need for psychological services of the residents of social care institutions, the availability of psychological services to residents of social care institutions and the improvement of qualification of employees of social care institutions in the field of provision of psychological services.

The investigation revealed that most social care institutions use only one method of determining the need for psychological assistance, do not in all cases involve psychologists in the process of determining the psychological needs of a person, do not develop a methodology or provide for other instruments to help professionals properly identify the need for psychological assistance to the residents of social care institutions, therefore, in most social care institutions of the country, the quality and timely assessment of the needs of psychological assistance to residents is not ensured.

The data collected during the investigation revealed that in some social care institutions, due to the lack of specialists, financial resources and for other reasons, the psychologist's position is vacant, filled only partially or does not exist at all. Some institutions identify pastoral services as psychological services, there is a lack of smoother inter-institutional cooperation on the matters of organisation and provision of psychological services to the residents of institutions, and the applicable legal acts do not define the concepts of "psychologist", "psychosocial assistance", "pastoral specialist" and other related concepts and conditions of practical activities of the psychologist and the procedure for providing psychological services to residents of social care institutions and, therefore, they are not provided with adequate access to psychological services.

The Seimas Ombudsman also concluded that while sufficient attention has been paid to deepening the psychological knowledge of employees of social care institutions in recent years, the very wide range of psychological needs of social care institution residents requires not only to ensure access to psychological services for such persons, but also to constantly improve the qualification of employees of social care institutions in the areas of conflicts, bullying, violence or other ill-treatment and suicide prevention, and to develop skills to professionally manage aggressive (violent) behaviour of a person, to provide him/her with emotional assistance.

In order to improve the accessibility of psychological services to persons living in social care institutions, the Seimas Ombudsman recommended to the Minister of Social Affairs and Labour of the Republic of Lithuania to approve the procedure for assessing the psychological needs of psychologists providing assistance to residents of adult social care institutions, evaluation of practical activities and provision of psychological services, and to ensure that the assessment of psychological needs of residents with disabilities and elderly persons is carried out only with the participation of specialists

(psychologists) with appropriate educational background in psychology. In addition, it was recommended to amend paragraph 11.3 of the Social Services Catalogue approved by Order No A1-93 of the Minister of Social Security and Labour of the Republic of Lithuania of 5 April 2006 on the approval of the social services catalogue and to provide that psychological services are an integral part of social services and that psychologists are included in the list of specialists providing services, and to amend the provisions of the labour-time standards of employees providing social care approved by Order No A1-317 of the Minister of Social Security and Labour of the Republic of Lithuania of 30 November 2006 on the approval of standards of working time costs of social care employees and define the concepts of "psychologist", "psychological assistance", "psychosocial assistance", "pastoral specialist" and "pastoral care", identify the availability of and need for psychological services for elderly persons and the disabled in social care institutions, the founder of which is the Ministry of Social Security and Labour, and contribute to the planning, organisation and provision of psychological services to the residents of these social care institutions and promote the education of the staff of these institutions on the subject of provision of psychological assistance.

The Seimas Ombudsman recommended to the Minister of Health of the Republic of Lithuania to take measures to familiarise the social care institutions for adults with disabilities and elderly persons with Order No V-1733 of the Minister of Health of 31 July 2020 on the approval of the procedure for providing psychological wellbeing and mental health promotion services and the possibilities of their residents to receive psychological wellbeing and mental health promotion services in accordance with this Order, and the municipalities – to take measures to establish the availability of psychological services in social care institutions for adults with disabilities and the elderly persons set up in the territory of their municipality and the

need for such services and contribute to ensuring the planning, organisation and provision of psychological services to inmates of such social care institutions.

In addition, the Seimas Ombudsman recommended social care institutions for adults with disabilities and the elderly persons to ensure that the psychologist of the institution or other psychologist always participate in the residents' psychological needs assessment process and that psychological services are made available to these persons on a regular basis according to their individual needs (by employing a psychologist in the institution under an employment contract or by organising the psychologist's services in other ways); a system of systematic psychological and emotional support for residents is developed and implemented and smooth inter-institutional cooperation (with municipalities, primary personal health care centres, public health office, other social care institutions, etc.) and cooperation between staff within the institution is ensured to discuss common problems, to find coordinated solutions so that the persons on a case-by-case basis are properly referred to the providers of assistance, who are able to provide psychological services to them, and to provide ongoing education to staff of institutions on the provision of psychological assistance to the residents of social care institutions.

Regarding the fundamental human rights issues arising in the field of ensuring human rights and freedoms of residents of social care institutions during the quarantine period

The Seimas Ombudsman conducted the investigation into the fundamental human rights problems arising in the field of ensuring human rights and freedoms of persons living in social care institutions during the quarantine period, in the course of which he took preventive actions to prevent possible violations of human rights and freedoms, assessed compliance of legal acts applicable during the period of quarantine

declared due to the spread of coronavirus infection (COVID-19 disease) with international standards of human rights and freedoms, and investigated possible infringements of rights and freedoms of persons in social care institutions.

During the investigation, in order to obtain relevant information as expeditiously as possible, to learn about the actual situation of human rights and freedoms in social care institutions and to ensure that measures taken during the pandemic of coronavirus infection (COVID-19 disease) in Lithuania do not disproportionately restrict or violate human rights, closed consultation-information gathering groups for adult and children's social care institutions were established on Facebook, where the staff of the Seimas Ombudsmen's Office advised the employees of social care institutions on issues related to protection of human rights and freedoms of the residents of social care institutions and shared relevant information of international organisations and national institutions, while social care institutions shared their experience, good practices and challenges encountered in their activities during the quarantine.

Taking into account the situation in the country and the world and repeated consultations with international organisations operating in the field of human rights, the Seimas Ombudsman drew up a summary of relevant international recommendations on how to properly ensure the rights of persons in social care institutions during the pandemic, the principles and methods to be followed by staff of institutions and requested the Ministry of Social Security and Labour and municipalities to forward these recommendations to all subordinate social care institutions operating in their territories and to actively cooperate in the field of ensuring human rights and freedoms.

In addition, in order to ensure a safe and healthy environment in social care institutions during the quarantine period and to curb the risk of violations of human rights and freedoms, the

Seimas Ombudsman recommended to the Ministry of Social Security and Labour and all municipal administrations that measures be taken to guarantee that social care institutions established by them and the Refugee Reception Centre ensure the requirements of legal acts regulating the prevention and control of communicable diseases – to update emergency plans, keep informing the staff about the changing situation, contiguously remind of the actions they should take to prevent the spread of the virus, ensure compliance with common hygiene requirements, avoid overcrowding of the resident's rooms, provide for and equip the premises for self-isolation, supply the residents and the staff with the necessary hygiene and protective equipment as needed and keep their reserve supplemented. The Seimas Ombudsman also recommended that in ensuring measures for the prevention and control of the virus, the dignity of the residents of social care institutions be respected, their rights guaranteed, and the restrictions applied in accordance with the principles of legality, reasonableness and proportionality and *only to the extent necessary*; to keep the residents informed on the situation, preventive measures and their causes, as well as how to protect their own and others' health, in a language / manner they understand, to maintain regular contact with family and relatives by phone and other means of telecommunication free of charge, if necessary, providing them with appropriate assistance; possibility to receive parcels from relatives; to address the issue of receiving pensions, for example, by temporarily storing the residents' pensions in cash in a safe-deposit box; to find ways to periodically ensure residents with a possibility of shopping; if the institution has an enclosed yard – to allowing the residents to stay in the fresh air from time to time, to continue organising employment individually or in small groups, etc., as well as to provide the residents with additional psychological assistance by staff and regular information to their relatives about the situation in institutions, applied preventive measures and temporary restrictions.

The data collected during the investigation revealed that residents of social care institutions were extremely concerned about limited contact with relatives (only by phone or other means of communication were allowed), there was a significant decrease in normal employment activities (especially for the nursed residents); institutions did not have the information and guidance on the organisation of work in order to ensure the safety of both the staff and residents; those institutions that bought protective equipment themselves faced the challenge of acquiring them at affordable prices. Employees of children's care institutions noted the increased workload of social workers due to the need to organise additional activities for children, to help them learn the teaching material and do their homework; when ensuring the possibility for each resident to connect to remote education activities at the fixed time the institutions faced the problem of computer shortage, and although some institutions were provided with computers by schools, others had to buy computers themselves; not all institutions (especially in rural areas) had the proper internet connection; the remote education process lacked integrity as different schools and teachers organised classes using different programmes, which created additional difficulties for children, especially for younger ones.

In response to information provided by social care institutions on the challenges of work organisation and prevention of the virus and the NPHC data about certain violations of the quarantine requirements and the rules on control and prevention of communicable diseases found in some social care institutions, the staff of the Human Rights Division of the Seimas Ombudsmen's Office with the help of specialists of the NPHC and the Hygiene Institute organised the information-consultation workshop for social care institutions on 8 May 2020. During the event, international standards on ensuring human rights and freedoms in social care institutions during quarantine and the model of organisation of employment during quarantine based on human

rights principles were presented. In addition, there was a discussion on ensuring of emotional and psychological assistance during the pandemic. Social partners from the Institute of Hygiene and NPHC presented the epidemiological situation in Lithuania and introduced participants to the infection control measures to be applied during the COVID-19 disease pandemic. Participants of the event shared information about practical situations and discussed issues of concern, highlighting the most troubling aspects of the current situation. Over two hundred participants attended the workshop remotely, and the record of this training was viewed more than eight hundred times on Facebook account of the Seimas Ombudsmen's Office.

It should also be noted that upon receiving information about possible violations of human rights in the particular social care institutions, the Seimas Ombudsman immediately requested the Social Services and Supervision Department, the NPHC, administrations of respective municipalities and other competent authorities to carefully examine the specified circumstances and carry out inspections within the scope of competence as well as inform the Seimas Ombudsman of their results.

ISSUES RAISED IN COMPLAINANTS' COMPLAINTS AND INVESTIGATIONS OF THE SEIMAS OMBUDSMEN ON THEIR OWN INITIATIVE

During 2020, the Seimas Ombudsman received numerous complaints in which the convicts and arrested persons complained about the actions of the officers in mishandling their requests and complaints. Having examined complaints of this kind, the Seimas Ombudsman found that often, when examining applications and complaints of the convicted / arrested persons, the provisions of mandatory legal

acts (the Law on Public Administration and Rules on the examination of applications and complaints and the service of persons in entities of public administration) are not complied with.

The requests are not properly registered, the time limits for their examination are not respected, the procedures of the clarification and referral of the application to another institution are not properly applied, the already examined requests are re-examined raising doubts about the bias of such decisions, additional requests and documents are required which are not always provided for by legal acts, and the provided answers do not correspond to the content of the request. Complaints are handled not objectively, without taking into account all the circumstances to be determined, without using video records, which are obligatory in correctional institutions. Individual administrative decisions taken in correctional institutions do not meet the requirements of legal acts; copies of decisions are not issued and the appeals procedure is not specified, the possibility of appealing against them is restricted.

The particular attention in the Seimas Ombudsman's statements was drawn to the fact that officers, including when dealing with applications and complaints of imprisoned persons, should always follow ethical provisions which oblige them to treat prisoners humanely and with due respect to the natural human right to dignity. The resolution of each dispute situation (process) must take place by combining efficiency, functionality, rationality and protection of human rights. Moreover, quite often it is also important to take due account of the requirement to follow the principle of reasonableness. This principle is one of the instruments of public authorities in resolving disputes of the arrested persons (convicted persons) arising in the areas of social relationship regulated by the laws. A reasonable combination of the functionality of the applied measures and the scope of the rights of those involved in a particular situation is necessary. The proper handling of requests and complaints

(in compliance with requirements of legal acts and clear rules) creates a relationship based on trust and respect between staff and prisoners, which is a prerequisite not only for a favourable atmosphere in the institution but also for a positive change. Detention conditions must comply with standards that maintain human dignity and guarantee human rights.

Another part of complaints received in 2020 concerned abuses, bureaucracy or other violations of human rights and freedoms in public administration by officials of state, municipal institutions, agencies. The complainants' complaints raised problems regarding state control over the use of land by the National Land Service under the Ministry of Agriculture as a state-owned trustee of land, which improperly, inefficiently carries out control over the lease of state-owned land, fails to take effective measures to vacate the state-owned land; the unjustifiably long process of forming new land parcels in the city for the restoration of ownership rights; renting of suitable municipal social housing; provision of social assistance, rights of socially vulnerable persons during quarantine; problems in activities of commissions set up by the Minister of Health.

REPORT ON THE IMPLEMENTATION OF THE NATIONAL PREVENTION OF TORTURE

The Seimas Ombudsmen are authorised to regularly visit places of detention and to check compliance with the human rights of their inmates (Article 19¹(2) of the Law). However, after the outbreak of coronavirus infection (COVID-19 disease) reached the level of the global pandemic, taking into account the unfavourable epidemic situation of the spread of coronavirus infection (COVID-19 disease) in Lithuania, the WHO call on states to take urgent, targeted and rigorous measures to

stop the spread of this disease, the Government's decisions to introduce quarantine⁹² on the territory of the Republic of Lithuania and to avoid creating an additional risk of the spread of this disease in places of detention, visits by the Seimas Ombudsmen to such places in 2020 have reduced compared with previous years.

In 2020, a total of 24 visits were organised to the places of detention during which fundamental violations of human rights and freedoms and other systemic problems were identified and all responsible authorities were urged to address them ensuring that similar violations do not happen again in other similar facilities. Also, additional functions of prevention of torture in places of imprisonment were carried out remotely: the information and consultation workshop was organised for employees of social care institutions, the employees of these institutions were additionally consulted in groups established on the Facebook for that purpose, recommendations were made in writing on ensuring the human rights of persons in places of imprisonment during the quarantine period in Lithuania, and an investigation was carried out on ensuring the human rights of persons living in places of detention during the state of emergency in the country. The Seimas Ombudsman also conducted the investigation into fundamental human rights issues arising during the period of validity of quarantine in the territory of the Republic of Lithuania by applying certain emergency management measures; the report of this investigation also covered the self-isolation of persons returning from abroad in the premises provided for by municipal administrations on 24 and 25 March 2020, possibly without ensuring human rights and freedoms (more information on the investigation also see page 44).

⁹² Resolution No 207 of the Government of the Republic of Lithuania of 14 March 2020 declaring quarantine on the territory of the Republic of Lithuania and Resolution No 1226 of 4 November 2020 declaring quarantine on the territory of the Republic of Lithuania.



The location of the places of detention visited by the Seimas Ombudsmen during performance of the national prevention of torture in 2014–2020. Colour marks: yellow – adult social care institutions, blue – children's social care institutions, black – police institutions, grey – prison institutions, green – places of detention of foreigners, red – mental health institutions.

KEY OBSERVATIONS, RECOMMENDATIONS AND ACHIEVED DEVELOPMENTS

Inspections in long-term social care institutions for adults

In 2020, inspections were carried out in three (3) social care institutions (Aknysta, Macikai and Skemai social care homes), which accommodate persons with intellectual disabilities and/or mental disorders, as a result of which they have a working capacity level of 0–40 per cent or a high or medium level of special needs, and the corresponding special need for permanent care or special permanent care (assistance).

The issues related to the composition and professional qualifications of the staff of social care institutions, the adaptation of the environment and information to persons with disabilities and the establishment

of an emergency call system, ensuring privacy, the residents' freedom of movement, promoting their independence, drawing up individual social care plans and access to activities, the application of restraint measures and the provision of mental health services, as well as other issues related to the human rights situation in these institutions were assessed during inspections.

The following systemic violations of human rights and freedoms found during the inspections carried out in the aforementioned social care institutions should be noted:

- ▢ The personal alarms in social care institutions have deficiencies and are available not in all rooms and personal hygiene rooms of residents, thus they are not guaranteed the possibility to call for help at any time of the day if necessary. The institutions have steep stairs, thresholds, lifts adapted to help persons unable to get out of bed are provided not everywhere, conditions for independent use of the elevator and lifts are not provided, not all entrances, stairs, lifts and elevators are adapted to the needs of the visually impaired (the facilities are not properly marked), electricity switches are installed at a height inconvenient for persons with movement disability and not all information published on the information boards of social care institutions is accessible to persons with disabilities, thus restricting the independence of the disabled. Having assessed these circumstances, the Seimas Ombudsman concluded that the environment in social care institutions is not suitably adapted to the needs of persons with disabilities, thus violating the principle of equality of persons with disabilities with other persons in the field of physical environment, other objects available to the public or access to services provided in Article 9(1) of the United Nations Convention on the Rights of Persons with Disabilities (hereinafter – the Convention on the Rights of Persons with Disabilities), in violation of the country's other international obligations in the field of protection of human rights and freedoms;

- ▣ Employees in social care institutions do not always knock before entering the rooms of the residents; there are living rooms in the institutions that do not have lockable cupboards or cabinets to store the residents' belongings; screens are not always used during personal hygiene of residents in rooms (changing diapers, washing); in most living rooms and/or sanitary premises, locks are installed without ensuring the safety of residents because the staff would be unable to unlock them from outside in the case of need. Having assessed these circumstances, the Seimas Ombudsman stated that the privacy of residents of social care institutions is not adequately guaranteed, thus violating the fundamental principle of respect for the natural dignity of the person established in Article 3 of the Convention on the Rights of Persons with Disabilities;
- ▣ Social care institutions have permanently lockable units, including administrative premises, some residents are locked in their living rooms, both during the day and at night, and some persons live permanently in self-isolation premises, institutions do not have the approved internal arrangements, which provide for the cases and health conditions in which residents are accommodated in departments where the movement of persons is restricted. People with more severe disabilities are not allowed to take a regular walk, and not all residents are allowed to go to the store, and those who cannot be put in a wheelchair are not taken outside. A particularly serious violation of the restriction of human liberty was found in the Skemai social care home, where one inmate was held behind self-made metal bars for more than two weeks (a pre-trial investigation was opened in respect of this potentially illegal deprivation of liberty of the person). Having assessed these circumstances, the Seimas Ombudsman concluded that freedom of movement of the residents of social care institutions is not adequately guaranteed, thus violating
- the principles of respect for human dignity, independence, Article 3 of the Convention on the Rights of Persons with Disabilities, Article 3 of the ECHR and the provisions of the Convention Against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment;
- ▣ Not all residents of social care institutions are given keys to lock up their living quarters, there is no effort in institutions to ensure that the living room environment of the residents is close to the home environment and cosy, so these facilities resemble hospital wards. When accommodating residents in rooms, their opinions are not considered, and the interests and needs of the persons assigned to live together are not coordinated. Personal belongings (payment cards, money, personal documents) of residents are kept in the offices of social workers, thus not ensuring that residents with better orientation in the environment can access their belongings independently. Moreover, institutions do not adequately ensure that clothes of residents are personalized, residents are not encouraged to wash their clothes and do their rooms or cook on their own, the use of kitchens and all flatware is not encouraged. Having assessed these circumstances, the Seimas Ombudsman concluded that the independence of residents is not sufficiently encouraged in social care institutions, thus violating the principles of respect for the independence, inclusion, freedom of choice, full effective participation and integration into society established in Article 3 of the Convention on the Rights of Persons with Disabilities;
- ▣ Not all residents of social care institutions have the possibility to engage in adequate activities suited to their individual needs, sufficient activities are not organised for those unable to get out of bed due to their health condition and other dependent residents, they are not taken outside or to larger balconies. Institutions lack a wider range of activities suited to the residents'

needs and strengthening their social skills, they do not have enough books, computers, internet access is also provided not everywhere. During the period of the national state of emergency, even after declaration of the end of quarantine, the participation of all residents in various activities, as well as participation in the activities of the council of residents of the institution continued to be severely restricted. Moreover, individual social care plans of the residents (hereinafter – the ISCP) are prepared and filled in not all cases or this is done disregarding legal requirements and recommendations of the Department of Social Services Supervision under the Ministry of Social Security and Labour (SPPD). When preparing the ISCP the residents' needs are assessed not always, the services provided to residents and measures aimed at achieving social care objectives are not regularly detailed in the ISCP, therefore the ISCP are prepared and implemented without taking into account the individual health characteristics of the resident, thus failing to devote the required attention to the development of the person's essential living and social skills, the formation of skills or the restoration of lost skills. Having assessed these circumstances, the Seimas Ombudsman concluded that the aforementioned weaknesses create preconditions for violating the right of the residents to the provision of quality social services, including activity and leisure services, proper encouragement and motivation of the person to become more involved in activities and assistance in developing and maintaining skills lost or missing due to health condition, as well as their right to participate actively in community life, to take decisions on engaging in activities meeting the needs of the person and other social care services, thus violating Article 30 of the of the Convention on the Rights of Persons with Disabilities and other international obligations of Lithuania in the field of human rights;

- ▢ Physical restraint of a person in social care institutions is applied in violation of legal acts: the procedure established by legal acts for application of physical restraint measures is not complied with, the proper registration of application of restraint measures (self-made straitjacket and specialised restraint devices – waist, wrist, ankle fixation belts designed to safely restrain the torment and limbs of a troubled, agitated person) is not ensured, physical restraint measures are prescribed and psychotropic drugs are injected to residents without physical examination of the person by a doctor psychiatrist, thereby violating Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and provisions of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Taking into account the identified weaknesses, the Seimas Ombudsman issued one hundred and seventy-five (175) recommendations to the responsible institutions and authorities (the Ministry of Social Security and Labour, the SPSD) on improving the human rights situation of persons living in Aknysta, Macikai and Skemai social care homes.

Inspections in police facilities

In 2020, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, employees of the Human Rights Division of the Seimas Ombudsmen's Office visited Varėna District Police Station of the Alytus County Police Headquarters (hereinafter – Varėna PS), also Lazdijai District Police Station (hereinafter – Lazdijai PS) and Birštonas Police Station (hereinafter – Birštonas PS) (i.e. three (3) police stations were inspected)⁹³.

⁹³ Report No NKP-2020/1-2 of the Seimas Ombudsman of 21 May 2020 on the human rights situation in Varėna and Lazdijai Districts' and Birštonas Police Stations of Alytus County Police headquarters

During inspections, the following issues were assessed related to: the detention of persons and the length of their stay in a police facility; registration of information about the delivered persons in the electronic register; informing relatives about the delivery of a person to a police facility and/or detention; ensuring the safety of persons (observing them, providing with possibility to seek assistance) and setting up of interrogation rooms; the installation of temporary detention facilities, their cleanliness and tidiness, as well as ventilation and lighting.

During the inspections, it was established that: the inspected police stations comply with statutory periods of detention; the officers of the police facilities properly record data about persons delivered to police stations, the period of their detention in temporary detention facilities and long-term detention facilities; the data registration control is ensured; and family members of detainees are appropriately informed about the fact of detention of their relatives as well as their location. In addition, all inspected police stations ensure the continuous monitoring and safety of persons kept in detention facilities and appropriate conditions in the premises where they are interrogated as well as the minimum period of retention for video surveillance records of detainees.

During the visits, the following drawbacks were identified: in Birštonas PK, due to the specific nature of the premises of the institution, there is no separation between the flows of persons who are brought to the police station and the visitors who apply to the police facility, that may lead to violations of safety of the persons brought to and applying with the police facility; the walls of the temporary detention facilities of Lazdijai PS are decayed, detainees in Varėna PS are not provided with adequate material accommodation conditions of detention – minimum area of the detention facility, ventilation, cleanliness and necessary repairs, thus creating preconditions for violating the right of detainees to adequate detention conditions and human dignity.

Having assessed the circumstances identified during the inspections, the Seimas Ombudsman issued three (3) recommendations to the Head of Alytus County Police Headquarters: to take measures ensuring the separation of flows of visitors and persons who are brought to the police facility; not to use the temporary detention facilities of Varėna PS, the area of which does not comply with requirements of legal acts, to ensure adequate ventilation, cleanliness and necessary repairs in the premises of detention; to carry out repairs in the premises of temporary detention of Lazdijai PS.

In regard to the recommendations of the Seimas Ombudsman, the Head of the Alytus County Police Headquarters informed that decisions have been taken: to transfer Lazdijai PS to new premises where temporary detention facilities, meeting the necessary requirements will be installed; to carry out routine repairs in the detention facilities of Varėna PS, to install air extract fans and stop using premises, the area of which does not meet the requirements of legal acts; to deliver the detainees to temporary detention facilities through a separate entrance of the police station. Having assessed the submitted plan for the implementation of recommendations of the Seimas Ombudsman, it should be concluded that actions have been taken to implement all recommendations issued by the Seimas Ombudsman.

Inspections in the places of detention of foreigners

In 2020, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, the staff of the Human Rights Division of Seimas Ombudsmen's Office visited Pagėgiai Border Guard Unit Command of the State Border Guard Service (hereinafter – SBGS), Plaškiai border crossing station of Pagėgiai Border Guard Unit, Bardinais border crossing station of Pagėgiai Border Guard Unit, Panemunė border control post of Bardinais border crossing station (hereinafter – Panemunė BCP)

and Rambynas border control post (hereinafter – Rambynas BCP)⁹⁴.

The inspections assessed issues related to: the asylum procedure; the registration of data; the adaptation of premises to the disabled; the provision of facilities with inventory, adequate lighting, ventilation and ensuring their cleanliness; the surveillance monitoring of persons and the access to the first medical aid.

During inspections in the visited SBGS facilities it was established that the registers were completed properly, the e-register system was functioning smoothly during visits; the staff was periodically provided with compulsory first aid training, the first aid kits were available at the on-duty posts, the staff possessed valid health knowledge certificates; the officers working with asylum seekers had the required competence; the foreigners wishing to apply for asylum were given access to information about their rights and obligations and applicable procedures for applying for asylum in the language understandable to them. It was also established that in all visited facilities, with the exception of Panemunė BCP, the premises were provided with the required inventory and the natural and artificial lighting requirements were observed, and appropriate conditions for monitoring the persons placed in the premises were ensured.

The visits revealed the following weaknesses: the detention facilities of Panemunė BCP do not provide adequate conditions for observing the persons placed there, the accommodation and temporary detention facilities of asylum seekers were possibly not provided with minimum natural lighting, and

the list of places of accommodation for the detained persons with disabilities in structural subdivisions of Pagėgiai Border Guard Unit during the visits (hereinafter – the List) erroneously stated that the administrative detention facilities of Bardinaĩ Border Guard Unit and Panemunė BCP were adapted to persons with disabilities. At the same time, it should be noted that the rights of persons with disabilities accommodated / detained at the facilities of the Pagėgiai Border Guard Unit of the SBGS were ensured during the visits by Order No K-521 of the SBGS Commander as of 17 February 2020 on the establishment of places of accommodation of persons detained in Pagėgiai Border Guard Unit of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania and the places of accommodation of detained persons with disabilities and asylum seekers, which, contrary to the List, provided that detained persons with disabilities may be placed and asylum seekers with disabilities may be accommodated only at Rambynas BCP – the only facility visited during the inspection.

Having assessed the circumstances identified during the inspections, the Seimas Ombudsman recommended to the Commander of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania to update the List of persons detained in the structural divisions of Pagėgiai Border Guard Unit of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania and places of accommodation of detained persons with disabilities and asylum seekers with disabilities⁹⁵, noting that administrative detention facilities in the Bardinaĩ Border Guard Unit

⁹⁴ Report No NKP-2020/1-1 of the Seimas Ombudsman of 3 July 2020 on the human rights situation at Pagėgiai Border Guard Unit Command of the State Border Guard Service, Plaškiai border crossing station of Pagėgiai Border Guard Unit, Bardinaĩ border crossing station of Pagėgiai Border Guard Unit, Panemunė border control post of Bardinaĩ border crossing station and Rambynas border control post.

⁹⁵ Approved by Order No 4-46 of the Commander of the SBGS of 3 February 2020 on the approval of the lists of persons detained by the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania and of the places of accommodation for detained persons and persons with disabilities and places of accommodation for asylum seekers.

and Panemunė BCP were not adapted to the needs of disabled persons.

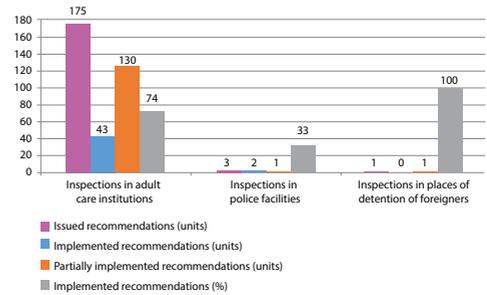
In respect to the recommendations of the Seimas Ombudsman, the Deputy Commander of the SBGS informed that the provisions of the List had been changed to provide that the administrative detention facilities in Bardinai Border Guard Unit and Panemunė BCP were not adapted to the needs of persons with disabilities, therefore it should be concluded that the recommendation of the Seimas Ombudsman has been properly implemented.

Control over implementation of recommendations

In 2020, the global pandemic of the coronavirus infection caused by COVID-19 disease affected not only the extent and methods of prevention of torture carried out by the Seimas Ombudsmen, but also the process of control over the implementation of recommendations. Taking into account the quarantine declared in the country and seeking to ensure the rights and freedoms of persons held in places of detention without exposing them to additional risks, the Seimas Ombudsmen used various methods of control over the implementation of recommendations issued by them. Following the issue of recommendations, the responsible institutions were consulted by phone, email and other means of communication, and after analysing the plans for implementation of recommendations submitted to the Seimas Ombudsman, the institutions were provided with detailed comments regarding the implementation of the plans for implementation of recommendations, and where the information was insufficient, the plans were requested to be revised.

74 % of the recommendations issued as part of the national prevention of torture in 2020 were implemented, and 25 % were implemented partially and/or are still being implemented. As regards the recommendations that have not been implemented, the dialogue is still pending with

the responsible authorities to ensure quick and effective implementation of all recommendations and adequate enforcement of the rights of persons kept in detention facilities.



Implementation of issued recommendations

ANNEX

STATISTICS OF COMPLAINTS: THEMATIC SUMMARY OF COMPLAINTS THE INVESTIGATION OF WHICH WAS COMPLETED IN 2020

Statistics of complaints

The Seimas Ombudsmen's Office received a total of 2,998 applications of natural and legal persons, of which 1,602 became new complaints. Compared to 2019, the number of received complaints has increased (Figure 1).

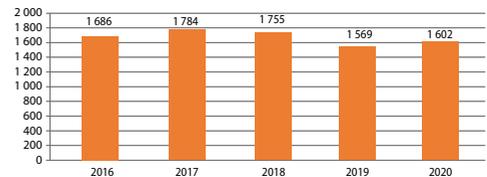


Figure 1. Number of complaints received in 2016–2020

Complaints received /	1 602
Complaint cases opened	
Closed cases of complaints:	1 643
Investigation on the merits	355
Investigation by mediation	627
Investigation refused	661
Problems investigated and decisions made (in the cases investigated on the merits):	507
Complaint recognised to be justified	249
Complaint dismissed	140
Investigation discontinued	118
Investigations carried out on the initiative of the Seimas Ombudsmen	12
Problems investigated and decisions made	20
Fact of violation confirmed	6
Fact of violation not confirmed	3
Investigation discontinued	11
Recommendations issued by the Seimas Ombudsmen	1 672
Responses to the citizens' applications	271
Complaints referred by members of the Seimas	24

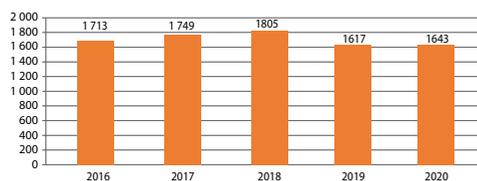


Figure 2. Dynamics of the number of completed cases of complaints in 2016–2020

A case of complaint is closed when the complaint is investigated on the merits, investigated with mediation or when the investigation of the complaint is refused. In 2020, 355 complaints were investigated on the merits, 627 complaints – with

mediation and the investigation of 661 complaints was refused by the Seimas Ombudsmen (Fig. 3).

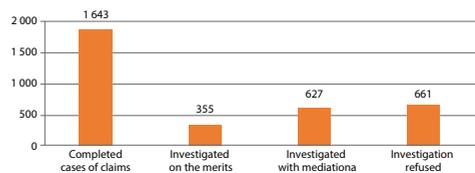


Figure 3. Completed cases of complaints in 2020

1,273 complaints concerned activities of the officials of state institutions and 364 complaints – the activities of the officials of municipal institutions.

In 2020, compared with 2019, the number of cases of complaints initiated against actions of the officials of state institutions increased by 53 and the number of cases of complaints initiated against actions of the officials of municipal institutions reduced by 23 cases of complaints (Fig. 4).

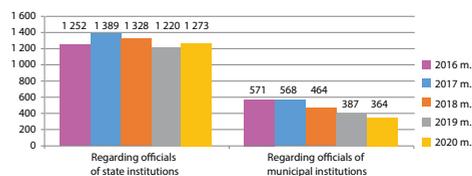
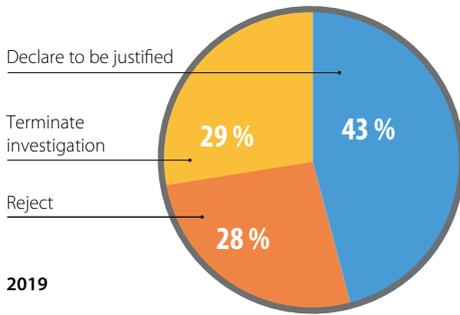
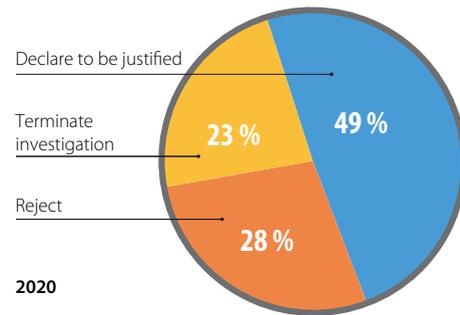


Figure 4. Statistics of complaints regarding state and municipal institutions' officials in 2016–2020

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 recognise 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) (Figure 5).



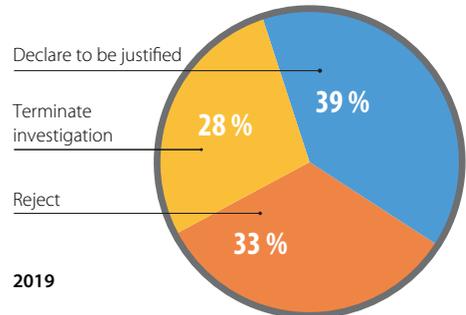
2019



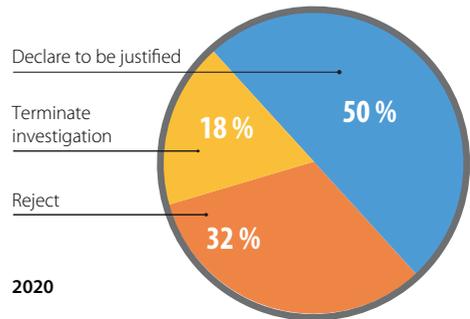
2020

Figure 5. Distribution of all adopted decisions; Comparison of 2019–2020 data

In compliance with Article 22 of the Law on the Seimas Ombudsmen, the Seimas Ombudsmen found 49 % of all complaints justified, rejected 28 % of complaints and terminated investigation of 23 % of complaints. The investigation of a complaint is also terminated when problems raised in the complaint are resolved in good faith with mediation of the Seimas Ombudsman. In 2020, compared with 2019, the number of complaints recognised as justified by the Seimas Ombudsmen's Office increased by 7 %.



2019



2020

Figure 6. Distribution of decisions taken in respect of state institutions and agencies; Comparison of data for 2019–2020

When examining complaints concerning activities of state institutions and agencies, their officials, half of all complaints were found to be justified, 32 % were rejected, and the investigation of 18 % complaints was terminated. Compared to 2019, the number of complaints recognised to be justified in respect of state institutions increased by 11 %, the percentage of rejected complaints remained almost the same and, complaints completed by termination of the investigation respectively increased by 10 % (Figure 6).

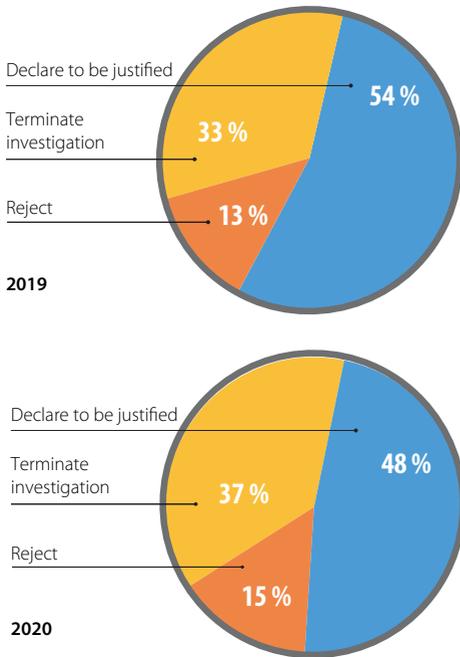


Figure 7. Distribution of decisions made in respect of municipal institutions and agencies; Comparison of data for 2019–2020

48 % of complaints about the activities of municipal institutions and agencies, their officials were found to be justified, 15 % were rejected and 37 % were terminated. Compared to 2019, the percentage of complaints recognised as justified has nevertheless fallen significantly (6 %), the number of rejected complaints increased by 2 %; and the number of cases concerning the activities of institutions and agencies and their officials completed by termination of the investigation increased by 4 % (Figure 7).

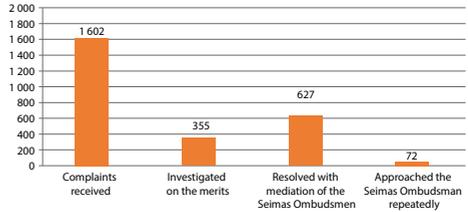


Figure 8. Statistics of investigated complaints

Mediation is used when there are grounds for refusal to investigate a complaint provided for in Article 17(1) of the Law on the Seimas Ombudsmen. Through mediation between the public and public authorities, the Seimas Ombudsmen investigated 627 complaints. In many cases, public authorities resolved the problems identified in the complaints. Out of all (627) cases of mediation regarding the resolution of the problem referred to in the complaint, 11 % of the same complainants repeatedly applied (72 times) to the Seimas Ombudsmen's Office (Figure 8).

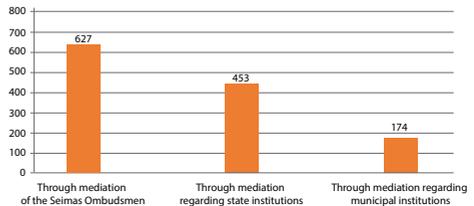


Figure 9. Investigation of complaints regarding activities of state and municipal institutions through mediation

In addressing the problems identified in complaints, the Seimas Ombudsmen mediated in respect of state institutions 453 times and in respect of municipal institutions – 174 times (Figure 9).

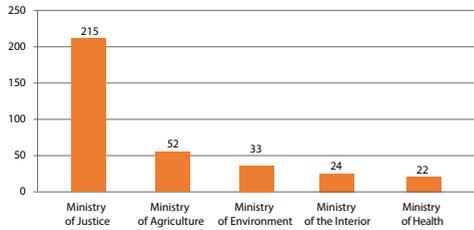


Figure 10. The majority of mediation cases were related to these state institutions and institutions subordinate to them

The Seimas Ombudsman mainly acted as a mediator in resolving complainants' problems related to the Ministry of Justice (215), the Ministry of Agriculture (52), the Ministry of Environment (33), the Ministry of the Interior (24), and the Ministry of Health (22), 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 (208 cases of mediation).

Out of the institutions subordinate to the Ministry of Agriculture, the National Land Service with its territorial units stands out (46 cases of mediation).

Out of institutions subordinate to the Ministry of the Interior, the Police Department and police stations subordinate to it stand out (20 cases of mediation).

Out of the institutions subordinate to the Ministry of Environment, the State Territorial Planning and Construction Inspectorate with its units should be mentioned (16 cases of mediation).

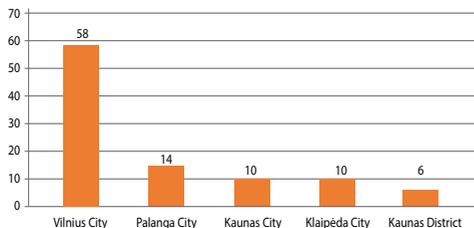


Figure 11. The majority of mediation cases were related to these municipalities and institutions

The Seimas Ombudsmen acted as mediators mainly for municipalities of the cities of Vilnius (58 complaints), Palanga (14), Kaunas (10), Klaipėda (10) and Klaipėda district (6) and institutions subordinate to them (Fig. 11).

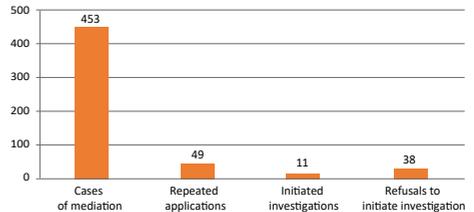


Figure 12. Cases of repeated applications regarding state institutions

Out of 453 cases of mediation regarding state institutions – in 49 cases complainants applied repeatedly; following repeated applications 11 investigations were conducted / initiated and investigation of 38 applications was refused (Fig 12).

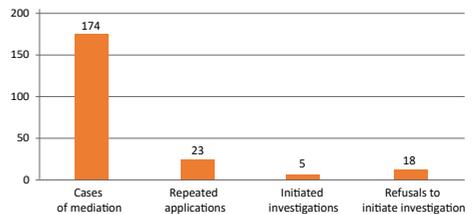


Figure 13. Cases of repeated mediation regarding state institutions

In response to complaints regarding municipal institutions, 174 letters of mediation were drawn up; repeated applications were submitted by complainants 23 times; following receipt of such applications 5 investigations were carried out and in 18 cases the investigation of complaints was refused (Figure 13).

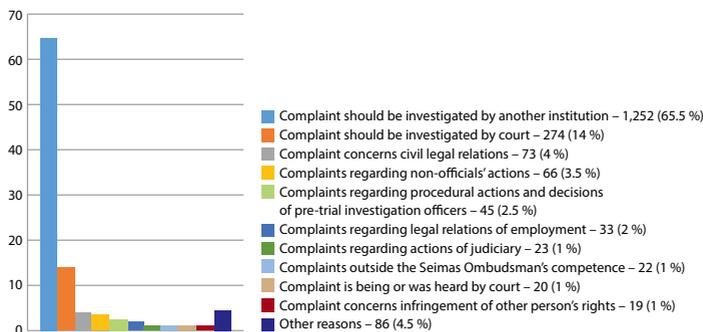


Figure 14. Main reasons for refusal to investigate complaints (indicated in times and %)

As regards the reasons for refusing to investigate complaints, it is important to mention that the largest share of complaints (65.5%) was refused because they had to be investigated in other institutions. Thus, in those cases, the Seimas Ombudsman applied to the relevant institution for mediation in writing, requesting to promptly investigate the circumstances specified in the complaint and to provide a reply to the complainant and the Seimas Ombudsman. In many cases, after such intervention by the Seimas

Ombudsman, the issues raised in complaints were resolved in good faith. Of course, in some cases this method does not work, and a detailed investigation into the complaint has to be carried out. This allows for more effective and quicker protection of the infringed rights of individuals, paying greater attention to systemic issues of human rights which are relevant to a larger part of the society.

Reasons for refusal to investigate complaints are presented in Figure 14.

**Statistics of received and investigated complaints
by ministries and institutions subordinate to them in 2020**

Ministry and institutions within its management area	Received complaints	Investigation refused	Mediated	Investigated on the merits	Decisions made	Justified complaints	Rejected complaints	Terminated investigation	Issued recommendations
Environment	92	32	33	30	35	24	5	6	136
The Economy and Innovation	17	10	4						5
Energy	1	1							
Finance	12	4	3	4	4	2			8
National Defence	5	3	1	2	3	2	1		5
Culture	16	6	8	4	5	2	1	2	19
Social Security and Labour	49	20	19	8	8	2	3	3	56
Transport and Communications	26	11	6	12	12	7	2	3	25
Health	46	9	22	16	17	7	3	7	70
Education, Science and Sport	8	5	1	2	2		1	1	15
Justice	689	217	215	171	203	96	79	28	562
Foreign Affairs	3	1	2	1	1			1	4
The Interior	107	61	24	30	40	27	11	2	81
Agriculture	119	53	52	13	20	13	1	6	112

The largest numbers of complaints were received by the Seimas Ombudsmen concerning the Ministry of Justice (689 complaints), Agriculture (119), the Interior (107) and Environment (92) and institutions subordinate to them.

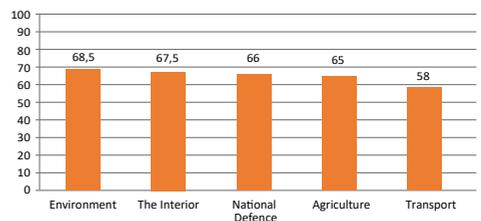


Figure 15. Six ministries and institutions subordinate to them accounting for the largest share of complaints recognised to be justified (%)

The largest number of justified complaints concerned the Ministry of Environment and its subordinate institutions (68.5%), the Ministry of the Interior and its subordinate institutions (67.5%), the Ministry of National Defence and its subordinate institutions (66%), the Ministry of Agriculture and its subordinate institutions (65%) and the Ministry of Transport and Communications and its subordinate institutions (58%) (Fig. 15).

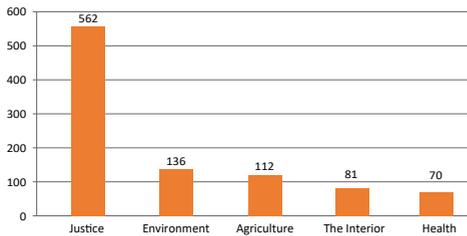


Figure 16. Five ministries and institutions subordinate to them in respect of which the largest number of recommendations was issued

The Seimas Ombudsmen issued the largest number of recommendations regarding the Ministries of Justice (562 recommendations), Environment (136), Agriculture (112), the Interior (81) and Health (70) and their subordinate institutions (Figure 16).

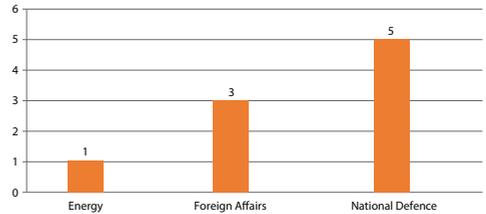


Figure 17. Three ministries and institutions subordinate to them in respect of which the smallest number of complaints was received

It should be noted that the smallest number of complaints regarding actions of the officials of ministries was received with respect to the Ministries of Energy (1 complaint), Foreign Affairs (3) and National Defence (5) and institutions subordinate to them (Fig. 17).

Complaint investigation statistics by municipalities and institutions or agencies subordinate to them

The table shows the municipalities accounting for the largest number of complaints (more than five) submitted regarding them or institutions subordinate to them in 2020.

Municipality	Received complaints	Investigation refused	Mediated	Investigated on the merits	Decisions made	Justified complaints	Rejected complaints	Terminated investigation	Issued recommendations
Vilnius City	113	27	58	33	37	19	4	14	151
Kaunas City	29	7	10	14	19	7	3	9	40
Klaipėda City	22	8	10	2	2	2			22
Ukmergė District	20	10	5	6	6		3	3	10
Palanga City	18	3	14	3	4	1	1	2	18
Šiauliai City	16	8	5	4	5	2	1	2	13
Kaunas District	12	4	6	3	3	3			17
Vilnius District	11		6						5
Panevėžys City	8	2	3	3	4	2	1	1	11
Trakai District	8	3	5	3	3	3			14
Zarasai District	7	1	4	1	1	1			8
Utena District	7	3	3	1	1		1		3
Klaipėda District	6	1	2	3	4	3		1	11
Prienai District	6	3	1	1	1			1	3
Radviškis District	6	1	3	2	2	1	1		9
Šakiai District	6		2	2	3	1		2	11

The majority of complaints came from Vilnius City Municipality and institutions subordinate to it. Almost half of the problems raised were resolved through mediation. In fact, 33 complaints were investigated, 51 % of which were found to be justified.

The municipalities of Klaipėda City, Trakai and Kaunas Districts and the institutions subordinate to them should be mentioned because of the percentage of complaints recognised to be justified – although 2-3

complaints regarding officials of these municipalities were investigated, but all of them have been found to be justified.

Having investigated 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.

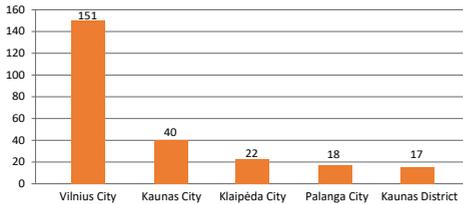


Figure 18. Five municipalities and institutions subordinate to them regarding which the largest numbers of recommendations were issued

The majority of recommendations were issued regarding the municipalities of Vilnius City (151 recommendations), Kaunas City (40), Klaipėda City (22), Palanga City (18) and Kaunas District (17) and institutions subordinate to them (Figure 18).

It should be noted that in 2020 no complaints concerning no complaints were received and investigated regarding actions of the officials of municipalities of Akmenė, Kelmė, Kupiškis, Rietavas, Pakruojis, Plungė, Šilalė, Šilutė, Švenčionys and Vilkaviškis Districts and institutions subordinate to them.

COMPLAINTS THE INVESTIGATION OF WHICH WAS COMPLETED IN 2020 BY AREA

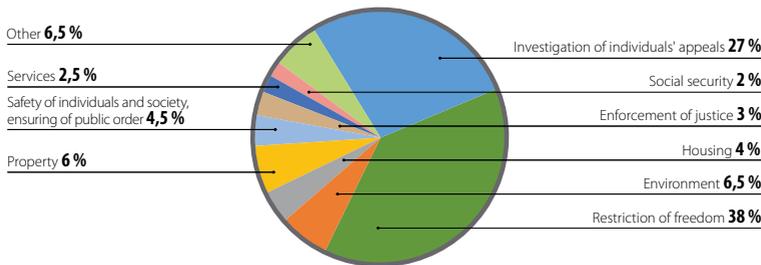


Figure 19. Investigated complaints of individuals by area

The breakdown of investigated complaints by problem area shows that more than one third of all complaints investigated by the Seimas Ombudsmen in 2020 concerned the restriction of liberty (38%), almost one third of complaints – to the examination of appeals of individuals (27%); 6.5% of all complaints investigated by the Seimas Ombudsmen were related to the environmental matters and 6% – to property issues (Figure 19).

In 2020, the number of complaints from detainees and convicts was rising steadily compared to the previous years: in 2016, such complaints accounted

for 21%, in 2017 – 26%, in 2018 – 31%, in 2019 – 36% and in 2020 – 38%.

Complaints of legal persons

Pursuant to Article 2 of the Law on the Seimas Ombudsmen a “complainant” is defined as a natural or legal person addressing the Seimas Ombudsmen’s Office with a complaint regarding abuse of office by or bureaucracy of officials. Natural persons still constitute the majority of complainants approaching the Office.

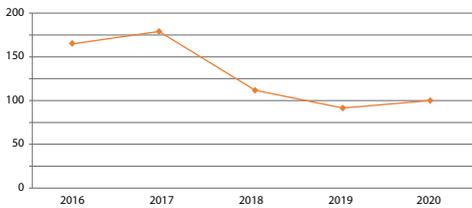


Figure 20. Dynamics of legal persons' complaints; data of 2016–2020

Until 2017, the Seimas Ombudsmen used to receive increasingly more complaints from legal persons each year, but after that, several years in a row, complaints from legal persons kept decreasing: in 2018 - 114 complaints and in 2019 – 85 complaints were received from legal entities. In 2020, an increase in the number of complaints from legal entities was noted again - 101 complaints were received (Figure 20).

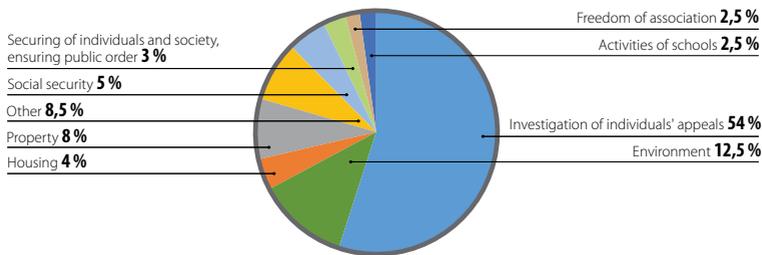


Figure 21. Legal persons' complaints by area

According to the problem area of the investigated complaints in 2020, more than half of all complaints of legal persons investigated by the Seimas Ombudsmen were complaints related to the handling of individuals' appeals (54 %), 12.5% related to environmental matters and 8 % – to property issues (Figure 21).

Investigations initiated by the Seimas Ombudsmen

By virtue of the Law on the Seimas Ombudsmen the Seimas Ombudsmen have the right 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 significant part of the society.

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

In 2020, the Seimas Ombudsmen started 7 investigations on their own initiative and completed 12 investigations dealing with several problems in every case and taking decisions with respect to each of them (20); in 6 cases, the facts of officials' abuse of office, bureaucracy or other public maladministration were confirmed and in 3 cases – appeared to be unjustified, and in 11 cases the investigation was terminated, because during the investigation the circumstances complained about ceased to exist or were resolved in good faith with mediation of the Seimas Ombudsman.

Recommendations issued in 2020

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

The Seimas Ombudsmen issued 1,672 recommendations. The majority of them (1,013) were addressed to institutions and bodies regarding improvement of public administration in order to ensure that human rights and freedoms are not violated.

The Seimas Ombudsmen, by their recommendations (387) 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 (125) 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 bodies (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	1013	763	250
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.	387	269	118
To propose to the 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	125	82	43
To propose to the Seimas, the Government, other state or municipal institutions and agencies to amend laws or other regulatory enactments that restrict human rights and freedoms	73	53	20
To involve the officials and experts from the government bodies, ministries, municipalities, municipal institutions and agencies	28	20	8
To request the immediate provision of information, material and documents necessary for the performance of the functions of the Seimas Ombudsman	26	15	11
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	11	4	7
To propose to the prosecutor to apply to court in accordance with the procedure laid down by laws for the defence of the public interest	4	4	
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	
To propose to the Chief Official Ethics Commission to assess whether an officer has violated the Law on the Adjustment of Public and Private Interests in Public Service	1	1	
Request written or oral explanations from the officials whose activities are under investigation	1		1

At the time of preparation of the Report it was known that 95% of recommendations issued by the Seimas Ombudsmen were taken into account. Answers from the institutions regarding implementation of 7% of the recommendations were 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 forward-looking and apply to everyone.

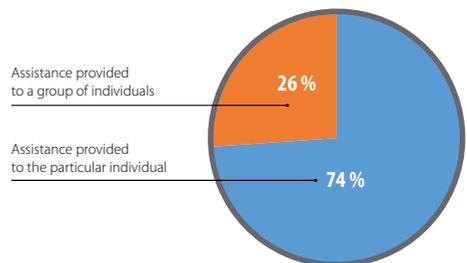


Figure 22. Comparison of recommendations by nature

74% of all recommendations issued by the Seimas Ombudsmen were aimed at providing assistance to

the particular individuals; 26 % of recommendations of the Seimas Ombudsmen influenced the resolution of problems of groups of the society.

Consultations to residents

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

Despite the fact that the State provides free legal aid, there are persons who do not benefit from this assistance, but they are unable to pay the lawyer for the provision of legal aid. In such a case, the Reception Division of the Seimas Ombudsmen's Office remains the last resort for legal assistance for many low-income people. In 2020, 757 persons received legal advice at the Seimas Ombudsmen's Office.

Complainants also apply to the Seimas Ombudsman after receiving answers not satisfactory to them from the appropriate institution. In addition, visitors are often informed about the procedures for appealing

against decisions taken by the institutions. The complainant, who is unable to describe the circumstances complained about is always assisted in writing a complaint at the Reception Desk.

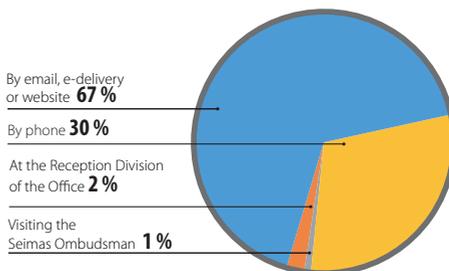
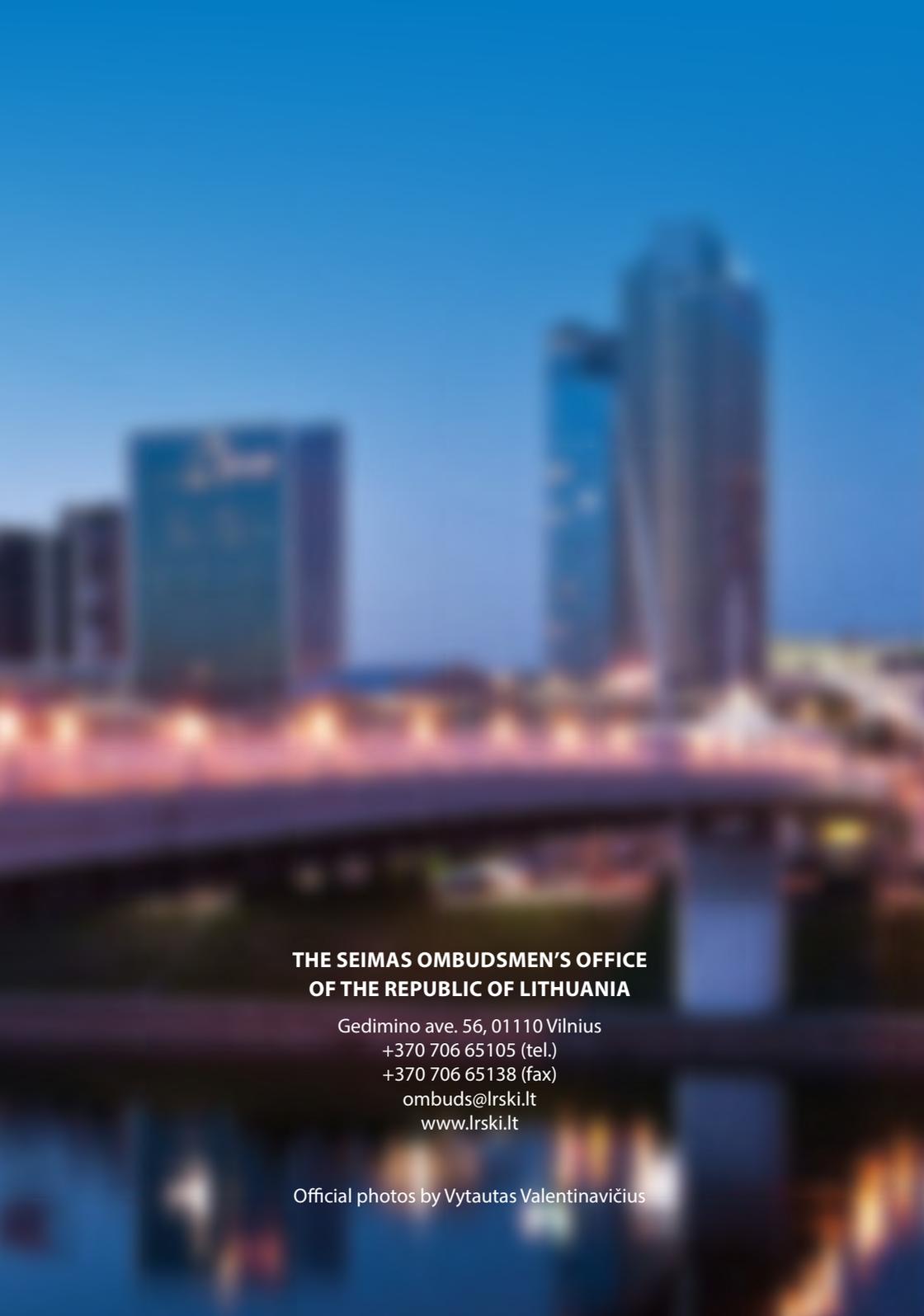


Figure 23. The most popular ways used by persons to contact the Seimas Ombudsmen's Office

Because of the quarantine declared in the country due to the global pandemic, in 2020, the persons contacting the Seimas Ombudsmen by electronic means accounted for the largest share, i.e. 67 % and 30 % of persons called the Seimas Ombudsmen by phone.

Augustinas Normantas

Milda Vainiutė

A blurred night photograph of a city skyline, likely Vilnius, Lithuania. The image shows several tall buildings with lights, and a bridge or overpass in the foreground with warm, glowing lights. The background is a deep blue twilight sky.

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