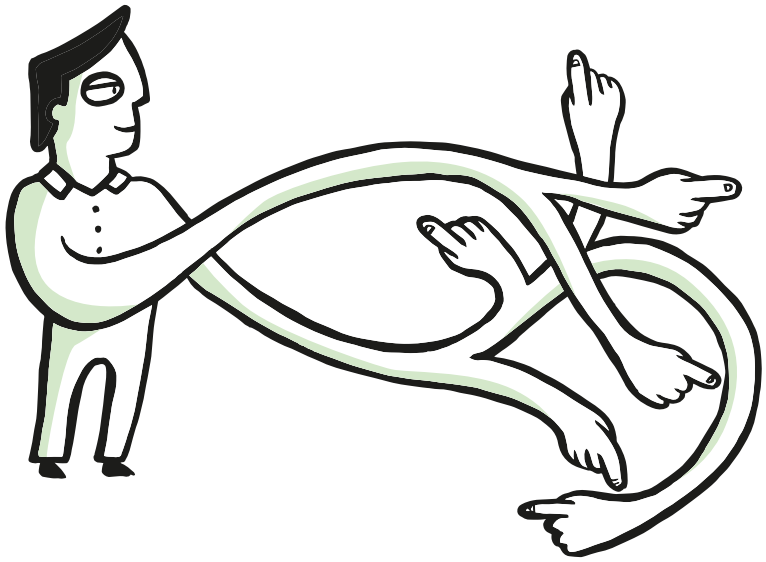
ANNUAL REPORT OF THE HUMAN RIGHTS OMBUDSMAN OF THE REPUBLIC OF SLOVENIA FOR 2016

ABBREVIATED VERSION

REPUBLIC OF SLOVENIA

HUMAN RIGHTS OMBUDSMAN



22nd Annual Report of the Human Rights Ombudsman of the Republic of Slovenia

for 2016

Abbreviated version

Ljubljana, September 2017

CONTENTS

1

INTRODUCTION BY THE OMBUDSMAN AND PRESENTATION OF THE OMBUDSMAN'S WORK IN 2016

Whoever commits wrongdoing, forgets it quickly.
Whoever suffers wrongdoing, remembers this for a long time.

German proverb

REPUBLIKA SLOVENIJA

VARUH ČLOVEKOVIH PRAVIC

NATIONAL ASSEMBLY OF THE REPUBLIC OF SLOVENIA

Dr Milan Brglez, President

Šubičeva 4
1102 Ljubljana

Dear President of the National Assembly, Dr Milan Brglez,

pursuant to Article 43 of the Human Rights Ombudsman Act (hereinafter: ZVarCP), I hereby submit to you the twenty-second regular annual report on the work of the Human Rights Ombudsman of the Republic of Slovenia in 2016. The report on the implementation of tasks and powers of the National Prevention Mechanism according to the Act Ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which is printed in a separate publication, is also a part of this Report.
On the basis of Article 44 of the Human Rights Ombudsman Act, I wish to present the summary of the Report and the findings concerning the level of the observance of human rights and basic freedoms and the legal certainty of citizens of the Republic of Slovenia at a session of the National Assembly of the Republic of Slovenia.

Yours sincerely,

Vlasta Nussdorfer
Human Rights Ombudsman

REPUBLIKA SLOVENIJA
VARUH ČLOVEKOVIH PRAVIC

No: 0106-3/2017-18
Date: 19 April 2017

VARUH ČLOVEKOVIH PRAVIC RS
Dunajska 56, 1109 Ljubljana Telefon: +386 1 475 00 50 Faks: + 386 1 475 00 40
brezplačni telefonski klic in informacije: 080 15 30 E-pošta: info@varuh-rs.si
WWW.VARUH-RS.SI

ASSESSMENT OF THE OBSERVANCE OF HUMAN RIGHTS AND LEGAL CERTAINTY IN THE COUNTRY

Vlasta Nussdorfer,
Human Rights Ombudsman

Dear Ladies and Gentlemen,

the assessment of the observance of human rights and of legal certainty in the country included in this Report refers to the operation of individual independent branches of government, bearers of public authority, and local communities in 2016. In the Report, the Ombudsman assesses the level of the observance and enforcement of basic human rights and freedoms in the legislative, executive, and judicial branches of government, as well as in institutions in which people's freedom of movement has been removed or limited.

The Ombudsman is a unique form of supervising relations between the people and the state. We work in numerous ways, mainly by separately analysing each case in which it is claimed that human rights have been violated. We evaluate the effectiveness and quality of the operation of bodies and ascertain whether legislation is suitable, whether it can be implemented in practice, whether acts and implementing regulations need to be amended, and whether new and more appropriate provisions are required. At times, we criticise the slowness with which systemic solutions are adopted, and at other times we criticise swift changes that are often insufficiently deliberated or sometimes even prove not to be compliant with the Constitution of the Republic of Slovenia or international human rights standards.

Too often, we receive a response from a body stating that it is aware of its shortcomings and is therefore forming more suitable solutions. However, the search for unanimous solutions among competent state authorities in particular cases can take years or even decades. According to the responsible bodies, proposals for solutions get lost somewhere at ministries, in political parties, the Government, and Parliament.

In the event of human rights violations that must be urgently eliminated, which has even been confirmed by Parliament in many instances by adopting the Ombudsman's recommendations, these excuses made by bodies and ministries are entirely unacceptable. Delaying the elimination of irregularities, discrimination, or inequality shows the complete rigidity of the bureaucratic system and an unwillingness to see and hear people who are sent from one office to another, go to great lengths, and take long, expensive, and difficult paths in their search for a just solution.

Can a callous and deaf bureaucracy really prevail over everything, even common sense, and be stopped only by a judgment by the European Court of Human Rights? In many cases, such judgments would not be necessary if the findings and recommendations arising from the history of the work of the Ombudsman spanning more than twenty years were treated in a fully responsible manner. The effectiveness of the Ombudsman does not only depend on the number of petitions received, irregularities discovered, or recommendations adopted by the National Assembly. It also depends on the level of development of democratic relationships in society, the observance of constitutional principles in a state governed by the rule of law, and the responsibility of bearers of public functions. The Ombudsman can only operate effectively in a democratic setting in which a responsible government and progressive bureaucracy are truly willing to eliminate "inadvertently" caused violations and shortcomings.

I find that there is a strong will to eliminate violations in some sectors of the state, but there is still too much callousness and too many excuses in others, with no one taking responsibility. This Report also warns of such cases. Undoubtedly, most violations and other irregularities are also the result of the poor operation of the state in some areas. At the level of institutions with regard to which the Ombudsman holds statutory competency, many petitions and subsequently discovered irregularities refer to improper decision-making, unresponsiveness, or slow work. The most important issue for people is not who is to blame or why the legislation is insufficient, why supervisory mechanisms and officials working in them failed, or whether poor organisation or negligent work are to blame. Their only concern is that these irregularities be eliminated as soon as possible.

How do we enforce the principles of the rule of law and the welfare state in Slovenia?

Unfortunately, the 2016 Report must also warn of numerous violations of basic human rights and freedoms. Justice should be blind, and should not discriminate between rich and poor, between a powerful and a homeless person. Justice should follow the principle of equality before the law, and it should not spare anyone, forgive anything, or overlook anything merely due to a person's social standing. With regard to this very point, many people warn that they feel quite powerless unless they are aided by the excellent help of attorneys, whom they cannot afford and are therefore in a worse position. The injustice that is daily reported by the media is remembered by people more than we are willing to admit. Such actions also tarnish the reputation of a state governed by the rule of law and cause people to lose trust in it.

With regard to court proceedings, problems related to the length of some court proceedings (mainly enforcement proceedings) and to the quality of court trials were again noted in 2016. Within the petitions addressed, the main focus of the complaints that claimed (and frequently with good reason) the existence of human rights violations were the right to judicial protection, equal protection of rights, right to a legal remedy, legal guarantees in criminal proceedings etc. It is commendable that we often also achieve a quick response to an irregularity related to judges, prosecutors, state attorneys, attorneys, and notaries. However, irregularities are certainly noted in our Report. For example, there is still the question of an effective legal remedy if a criminal complaint is dismissed by a prosecutor or if it is decided not to prosecute. The Ombudsman supports all efforts to improve legislation that, to the best possible extent, should enable individuals who find themselves involved in court proceedings to receive a just solution as soon as possible, or make it possible for their proceedings to conclude. Late justice is no longer true justice.

For a number of years, the Ombudsman has been warning that it is not in accordance with the principle of the rule of law to unacceptably delay decision-making on rights at both levels of administrative decision-making. Social work centres generally observe the time limits laid down by law. Unfortunately, individuals who are not satisfied with a decision of a social work centre and request that a decision be changed by means of an appeal

are in a worse position. At the second level, i.e. at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, officials have not been able to keep up with the increasing volumes of work for years, so the number of unresolved claims has been increasing year by year. In some cases, unresolved appeals related to exemption from payment for social security services date back to 2014, or to 2013 with regard to rental grants, and to 2014 with regard to child benefits, nursery school grants, and government scholarships. The backlogs not only violate the General Administrative Procedure Act, which lays down a maximum limit of two months for making a decision on an appeal, but Article 2 of the Constitution of the Republic of Slovenia as well, which stipulates that Slovenia is governed by the rule of law and is a social welfare state. Furthermore, they are in conflict with the principle of good governance.

Another fact that is in conflict with the rule of law is that Roma settlements, which are not properly supplied with municipal utility services and do not have a proper legal arrangement, endanger the fulfilment of human rights and special rights of the Roma community on the one hand and the fulfilment of human rights and fundamental freedoms of citizens living in the vicinity of illegal Roma settlements on the other.

Free legal aid is an additional form of enforcing the right to judicial protection for persons unable to pay their legal fees. The Ombudsman has discovered that many people are dissatisfied because their application to receive free legal aid is not approved, sometimes merely because their income is a few euros too high, even though the person may have various loans or owns real estate that does not provide the person with any income. The Ombudsman is particularly pleased that gaps in this field are being filled by non-governmental and humanitarian organisations and some municipalities. However, the state should be the first to help.

And if Slovenia is a state governed by the rule of law, we should not allow the execution of decisions reached by inspection services to take too long or decisions not to be enforced at all. It is not permissible to merely expect that persons or entities subject to inspection will voluntarily execute the decision of the inspection service, so this issue should be systemically regulated.

In 2016, we were successful in requesting a constitutional review of the Exercise of Rights from Public Funds Act, which assigned a fictitious income to the most socially vulnerable sole traders employed in culture and those with other forms of self-employment if they failed to reach 75% of the gross minimum wage, or even prevented them from having access to social transfers. It was our opinion that when persons earning their income by performing activities apply for a right from public funds, there are no grounds for not determining their actual income.

The Constitutional Court of the Republic of Slovenia agreed with our arguments and assessments in our request for a constitutional review of Article 25 of the Act Regulating Measures Aimed at the Fiscal Balance of Municipalities in conjunction with Article 8 of the Exercise of Rights from Public Funds Act, as the court found that the treatment of tenants in commercial and caretaker's apartments is discriminatory compared to tenants in non-profit apartments and caretaker's apartments if the former also have a right to a non-profit rental grant.

In the constitutional review procedure initiated by means of requests submitted by the National Assembly, the Human Rights Ombudsman, and the District Court, and at the initiative of a large number of initiators, the Constitutional Court of the Republic of Slovenia decided that Article 350.a of the Banking Act was also in conflict with the Constitution of the Republic of Slovenia, as it failed to regulate effective judicial protection for holders of deleted or converted rights in banks. The request was partially approved, and the National Assembly was ordered to eliminate the unconstitutionality within six months.

In early February 2016, we submitted a request for a constitutional review of paragraphs one, two, and three of Article 37.1 of the Defence Act, which granted special (police) powers to members of the Slovenian Armed Forces in heightened security circumstances, especially in order to handle the migrant and refugee crisis. The court found that, by means of well-established interpretative methods, the content of the powers can be determined and that the challenged provisions are not in conflict with the principles of transparency and legality referred to in Article 2 of the Constitution.

The principle of equity is sometimes forgotten

People have informed us that some systemic solutions or decisions made by bodies are in conflict with the principle of equity, which the Ombudsman has confirmed in some cases and requested that they be eliminated or arranged differently, which is the subject of this Report. This also includes the need to regulate the right to special relief for maintaining family members, irrespective of whether they live in a common household or in institutional care (and the taxpayers pay the costs of the services). The arrangement whereby public officials must return salaries that they received without just reason even though they are not to blame is unjust. It would be in accordance with the principle of a social welfare state and equity if the state defined a sliding scale according to which individuals would not lose the full amount of their annual grant if they exceeded a particular limit of their pension amount, but only a part thereof. We found that it was not in accordance with the principle of equity to calculate wage compensation during temporary absence from work when the Health Insurance Institute of Slovenia took into account the guaranteed wage, but not the minimum wage, as the basis for almost three years. Because the time limit for resorting to extraordinary legal remedies has expired, it is essential that retroactive payment is regulated for the injured parties by law. It is in conflict with the principle of equity that blood donors and donors of haematopoietic stem cells are treated differently with regard to the amount of their compensation due to absence from work. It is unjust that young mothers are unable to find employment within community work placements after their parental leave ends because they no longer meet the condition of a minimum one-year uninterrupted period of being registered as unemployed. The Ministry of Labour, Family, Social Affairs and Equal Opportunities responded positively to the Ombudsman's recommendations and will adjust the Rules on the Selection and Co-Funding of Community Work by not considering parental leave as an interruption of the period required to be included in active employment policy programmes. Furthermore, we also found the arrangement of cash benefits arising from vocational rehabilitation unjust. These are only a few cases of when our assessment also referred to the principle of equity afforded to us by Article 3 of the Human Rights Ombudsman Act (ZVarCP).

In particular, we have highlighted a number of wills misplaced in courts and undeclared, which is a simultaneous violation of two principles: the principle of good governance and the principle of equity.

It is also unjust to all future generations that our generation excessively burdens and pollutes the environment, destroys water sources, biological diversity and the quality of arable land, reduces air quality, and allows the emission of unpleasant odours. The Ombudsman devotes much attention to these issues, as she is aware that a clean and safe environment that is not a health hazard is becoming a fundamental human right deriving from the right to human dignity and is also a basis for fulfilling all other human rights. Therefore, all assessments and guidelines must be focused on sustainable development and the common goal of achieving balanced economic and social development, which must be interdependent. The European Court of Human Rights has decided on numerous occasions that if the state fails to protect the right of its citizens to live in a healthy environment, it is in violation of Article 8 of the European Convention on Human Rights.

The Ombudsman finds that people are especially bothered by the non-inclusion of the public in the process of making various decisions concerning the environment and space. Civil society organisations do not trust the supervision and measurements implemented and paid for by polluters, and transparency and impartiality are also still questionable, as is the promptness of the work of inspection services. The excuse that there is a lack of personnel, which has been made for years, is unacceptable. There are still areas in Slovenia that are significant health hazards, and their rehabilitation is most certainly too slow. All future generations will pay a high price, which will include poorer health. The Ombudsman meets the civil society organisations working in this field on a monthly basis and listens to what they have to say; sometimes we meet at the seat of our institution, other times in the field. Their findings and recommendations are often included in our work in this field.

The principle of good governance leading to greater effectiveness, transparency, and responsibility

In 2016, we once again treated many petitions that were concluded with the finding that among other violations the principle of good governance is also being violated.

I would like to reiterate my dissatisfaction with the fact that certain state authorities, local authorities and holders of public authorisations (institutions, social work centres and others) function too slowly, take too long to resolve applications and exceed all reasonable time limits when making their decisions. The reasons for late responses (exceeded deadline) are usually unconvincing.

We also face constant reorganisations of state and local self-government (founding, dissolving, merging bodies, etc.) which often lead to reassigning and (re)sending applications and letters, missed deadlines, and lack of responsiveness, which is also a violation of the principle of good governance. Therefore, in the event of any reorganisation, the persons who will process applications, initiatives, or questions, and where this should be done, must be clearly defined; furthermore, it should be ensured that these may not be misplaced or lost.

In 2016, I performed 12 tasks outside of the seat of our institution with the help of my co-workers, namely in the municipalities of Šentjur pri Celju, Brežice, Škofja Loka, Jesenice, Črnomelj, Murska Sobota, Slovenj Gradec, Celje, Nova Gorica, Piran, Maribor, and Ptuj. In all of these places, I enquired about the situation in the municipalities and administrative units. Do they genuinely serve their residents and do they function in the interest of the people? Mayors often say that there are simply not enough funds for all of the plans, needs, and interests of the people, including those living in remote places. They have a hard time ensuring the normal operation of all municipal services and providing suitable funds for the necessary infrastructure. Many funds are intended for groups of people living on the edge of society (living units, homeless shelters, public kitchens, transport for children, free clinics, and monetary aid for the most endangered groups). These groups feel that the state does not see or hear them enough and that some areas are almost completely cut off from central Slovenia, also because of road connections. In order to ensure that the principle of good governance is observed, sufficient material, financial, and personnel-related conditions must be provided first and foremost, so that all parts of the country can develop cohesively and equally.

Irregularities and actions that are not in accordance with the principle of good governance were also detected with regard to the work of certain courts. We warned one of the courts that it could function pursuant to the principle of good governance if it notified the petitioner on how their appeal had been treated. The court informed us that, after it received our letter, it had indeed notified the petitioner, and also apologised for not providing a response, which is truly commendable. There is, namely, a real lack of apologies and compensation.

In 2016, the Ombudsman dealt with 81 petitions that referred to police procedures, and found that violations by police officers include the non-observance of the principle of good governance and violations of the protection of personal freedom, inviolability of dwelling, failure to observe legal guarantees in pre-trial investigations and criminal proceedings, etc.

Numerous shortcomings were also discovered in the operation of the inspection services. The effectiveness of the currently established system for prioritising reports, inspection and execution procedures depending on the gravity of the violation and determining the level of importance proved to be questionable, as it opens the door too wide for non-transparency, non-objectivity, and arbitrary decision-making. We insist that the criteria for prioritising reports, inspection and execution procedures be defined by means of a regulation and that they should also be published. This is the only way to suitably ensure the important principles of objectivity, publicity, and transparency of the work of the inspection services, and consequently to better fulfil the rights to equality before the law and equal protection of rights, which are protected by the Constitution. All cases of lengthy procedures led by inspection services are considered unwarranted from the aspect of violating the principle of good governance and decision making within a reasonable time. The failure of the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning to fulfil its duty to respond to correspondence from applicants in a timely and proper manner is a violation of the principle of good governance. The Ombudsman is aware that, due to the small number of inspectors, it makes sense to ask how applicants can be notified on the receipt of their petition within 15 days of the receipt of a petition; however, the Ombudsman requires this from all inspection services in accordance with the principle of good governance.

In some fields, we monitor delays in issuing implementing regulations, which makes it impossible to comprehensively perform the new arrangement of a particular field, thus constituting a violation of the principle of the rule of law; therefore, the competent administrative bodies are not meeting their obligations regarding good governance.

Furthermore, health-care institutions often do not respond to various petitions by non-governmental organisations, patient associations and societies, as they do not consider them to be partners in resolving individual open issues, but an interference in the system, and this is definitely not in accordance with the principle of good governance.

In the field of administrative matters, the Ministry of the Interior is to be commended, as it observed the numerous recommendations made by the Ombudsman for the preparation of amendments to the Residence Registration Act and the new regulation of the field of legal residence to prevent individuals who have lost their dwellings from also losing their registration of residence and all other related rights. Homelessness is a grave problem of modern society, especially when entire families find themselves living on the street.

It is not in accordance with the principle of good governance that, when inquiring and obtaining information needed for the Ombudsman's work when processing petitions, certain authorities respond only after several requests, although the Ombudsman clearly provides the expected deadline for a reply. This hinders the Ombudsman's work and is discussed in this Report with regard to multiple fields.

Let us respect human dignity and eliminate all forms of discrimination

In particular, I would like to stress that, as a society and as individuals, we have lost much of our sense of respect for the dignity of every human being. According to the Universal Declaration of Human Rights (1948) all human beings are born free and equal in dignity and rights. In quite a few cases that we have dealt with, a violation of this fundamental civilisation principle, which is the basis for many other human rights, was discovered.

We would like to warn of the unacceptable practice, which has been continuing for years, of employers paying their employees insufficient salaries, not paying salaries at all, or 'forgetting' to pay social security contributions. In a state governed by the rule of law and a social welfare state, they should be properly sanctioned, so that such actions and abuses do not benefit them and so that they do not fraudulently deceive workers, cheating them of their earnings endless times, and completely trampling on their human dignity. Therefore, I insist that state bodies immediately take measures to ensure a transparent, efficient and fast supervisory system for the payment of salaries, i.e. for net amounts and all withheld taxes related to salaries.

The worst that can happen to a person's dignity is when they fail to find suitable work for years and years. Taking into consideration national and international legislation, the state, through its policies and specific measures, should ensure proper conditions for the fulfilment of the right to work.

I would like to express my dissatisfaction because the state has not ensured any conditions for access to water or appropriate toilet facilities in some settlements in Slovenia. This is not only a violation of human rights, but is also unethical, in conflict with the principles of equity and constitutes a lack of respect for the dignity of people who must live in such conditions, which are unsuitable for humans and extremely harmful to their health. It would be necessary to define in greater detail the obligations of municipalities, ensure funds, plan deadlines for implementation, determine supervisory bodies, and in the event of non-performance, assign the implementation of obligations to the state. Local and state authorities continue to pass around the problem of regulating the living conditions of the Roma people like a hot potato. How long will this continue? Until the European Court of Human Rights quite probably finds that Slovenia is violating human rights? After such a finding, water tanks, which often freeze during winter, will no longer suffice. If the state had taken to the Ombudsman's findings more seriously and studied the Special Report on the Living Conditions of the Roma in the Area of South-East Slovenia which was sent to Parliament in 2012, and if the recommendations continually provided by the Ombudsman for a number of years and confirmed by Parliament in relation to this issue were fulfilled, it would be able to avoid embarrassment in the international arena, which a conviction of the state before the European Court of Human Rights certainly would be. In addition to the moral and political dimension of a possible conviction, funds for fair compensation will also have to be ensured, which would once again mean that there would not be sufficient funds for a more comprehensive solution to old problems.

In October 2016, the official funeral service for 700 victims whose remains were removed from Barbara's Pit in Huda Jama near Laško was held at the memorial part of Maribor's Dobrava Cemetery, which was an important act showing respect for the dignity of victims of the massacre following World War II. I find that the memorial burial was a symbolic act of the state, which also indicates that no government may wantonly violate absolute rights, namely the right to life, or the prohibition of torture and inhuman or degrading treatment. I would like to stress that the state must continue to regulate all outstanding questions in this field.

In society, we must together find an answer to the unique issue of respecting the dignity of all family members whose deceased relatives are buried in graves to which they do not have access. The lessee of a grave can only be one person who has the grave at their full disposal, and this person is the only person to manage it. Therefore, in cases of disagreements among family members with regard to family graves, we have no suitable legal solutions. This should be arranged in a regulatory manner, by law, thus enabling family members to equally show respect to their deceased relatives in the territory of the entire country.

How little some people think of the respect for human dignity or not at all is evident from the objectionable attitude of some physicians who draft expert assessments on reduced working capacity in disability insurance procedures. In certain case, their communication with insured persons is inappropriate and is based on their position of power in the procedure. For example, a physician examined an insured person during their lunch break and asked completely inappropriate questions in the company of other residents of a retirement home (specifically: how much is 100 minus 7) in order to diagnose dementia. He later apologised for his actions.

The worst form of encroaching on human dignity is without doubt destitution, poverty, and a lack of basic goods, which is especially felt by innocent children. If people do not have sufficient funds to survive, unpaid bills accumulate and water and electrical supplies are cut off, regardless of the fact that children, the elderly, or disabled people are affected. In our opinion, the right to water must have a uniform legislative framework at a state level, and not as it is now, when each municipality individually determines the conditions for disconnecting the drinking water supply. Poverty not only threatens the physical survival of individuals, but also always affects their confidence and dignity.

Legislation primarily founded on the fear that funds would not be used pursuant to strictly restricted intentions has the wrong basis, namely that all applicants for social aid are potential fraudsters and criminals, so they should be treated as such. People who suffer material hardship and seek the help of social work centres have just grounds to expect they will be understood and supported, and if they are disappointed in how they are treated, they sometimes turn to the Ombudsman. An example of a female petitioner who turned to a social work centre due to her material hardship speaks volumes. A special social assistance benefit in cash was approved in the amount of EUR 180 to purchase a large amount of basic and specifically defined food products that she may purchase; the purchase of other products would incur sanctions. Such autocratic action is a direct violation of human dignity. Those eligible to receive such benefits should have the right within the purpose of the benefit to freely decide on their nutrition.

Unfortunately, the feeling of humiliation and infringement of personal human dignity also occurs within the walls of some retirement homes and social care institutions, where the performance of personal hygiene and answering nature's call, which is an incredibly intimate act, is particularly sensitive. Weekends are especially problematic, because there are fewer workers in such institutions, so they are unable to provide assistance when disabled people wish to get from their wheelchair to the toilet. In the Ombudsman's opinion, special attention and a sensitive approach are required with regard to residents who require assistance with personal hygiene.

We found that even teachers can violate the dignity of pupils by bullying, ill-treatment and unsuitable and rude behaviour, thus violating numerous rights, including the Convention on the Rights of the Child. We have regularly warned of another unregulated field since 2013, namely of the discrimination of disabled students with regard to their transport from their place of residence to place of education.

By adopting the new Protection Against Discrimination Act, Slovenia strengthened the role of the advocate of the principle of equality, which became an independent state body. This is in accordance with the Ombudsman's repeated recommendations made since 2007. Unfortunately, the establishment of this new body took place without guaranteeing specific conditions for how it would function.

In the past two years, victims of hatred, discrimination, and rejection have certainly included foreigners, refugees and migrants. The Ombudsman constantly faces questions of how to ensure that they are treated in accordance with local and international standards for human rights protection, how to accept them and integrate them without unnecessarily lengthy procedures to approve international protection. We stood together when the Slovenian nation faced its greatest test, but now there is an increasing trend of intolerance and lack of understanding of people suffering hardships in life who flee their homes to foreign lands due to war. The fear of terrorist acts has blurred our compassion and humanity. We concede that security issues are important, but our decisions must be subject to the observance of human rights.

Equality before the law

For a few years (since 2010), we have warned of the systemic problem of regulating the issue of disabled students. A student with special needs should have equal opportunities to study, so suitable adjustments to the study process should be ensured. Since the Equalisation of Opportunities for Persons with Disabilities Act (ZIMI) entered into force, the part of the Higher Education Act referring to the rights of disabled students has not been amended or modified. The Act does not even mention this group of students, let alone provide them with the right to the adjustments of the study process to the individual needs of a disabled person, as directed by the Convention on the Rights of Persons with Disabilities and the ZIMI.

The Ombudsman also encountered cases of different treatment of similar relationships, which was (also) the result of the unequal social power of some population groups. These cases are violations of Articles 14 (equality before the law) and 26 (right to compensation) of the Constitution of the Republic of Slovenia. There is no sensible reason for beneficiaries to be entitled to interest on some types of compensations or reimbursements, but not others. It is also unfounded and unjust to refuse to pay interest due to the balance of government finances only to some beneficiaries and to justify various statutory solutions.

On the prohibition of torture and inhuman treatment

I am glad to find that the Ombudsman has gained sufficient trust to carry out the tasks and powers of the National Preventive Mechanism (NPM) entrusted to him by the Parliament in 2006 by means of the Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. By being entrusted with the tasks and powers of the NPM, the Ombudsman became an integral part of a generally applicable system under the auspices of the United Nations (UN), which enforces an (additional) mechanism for the prevention of torture and other forms of ill-treatment of people deprived of liberty at the international and national level. This system is particularly based on regular visits to places of deprivation of liberty. In 2016, the NPM performed 80 visits to various locations where people are deprived of liberty: 34 locations for police detention or custody, 24 social care institutions, 7 prisons, 3 special social care institutions, 4 educational institutions treating children and adolescents with emotional and behavioural disorders, 5 psychiatric hospitals, and 3 locations of deprivation of the liberty of aliens. More details on the findings of the NPM and the level of fulfilment of recommendations made following each visit can be read in a special Report of the Human Rights Ombudsman on the Implementation of NPM Duties in 2016.

Through its rulings against Slovenia due to violations of the rights of imprisoned people, the European Court of Human Rights has also warned of the need to observe the rules and standards on the basis of which the state, both by means of the Constitution of the Republic of Slovenia and by means of international conventions, undertook to respect human rights upon the deprivation of liberty, especially personal rights and dignity. The Ombudsman is satisfied that after years of constant warning and providing recommendations, the Ministry of Justice notified her that it plans to construct new accommodation facilities for prisoners and that it has established a probation service.

You can read more on issues related to the prohibition of torture in the chapter on justice. The Ombudsman took advantage of the opportunity provided to her according to Article 25 of the ZVarCP and, as a so-called friend of the court (*amicus curiae*), addressed a proposal related to the prohibition of torture in the context of the European warrant for arrest and surrender. In her proposal, the Ombudsman suggested that the court,

among other things, perform all investigative actions by means of which it would be possible to determine whether the conditions for the surrender of a requested person are also met from the perspective of the prohibition of torture or inhuman and degrading treatment. In 2016, the Court of Justice of the European Union then confirmed, in a way that was substantively relevant to our issue, that the Ombudsman's point of view in the proposal submitted to the national court was reasonable.

In the field of deprivation and limitation of personal liberty, the situation in prison and other institutions is slowly improving; an increasing number of violations discovered by the National Preventive Mechanism are being eliminated. I would like to stress again that the placement of people declared legally incapable in secure wards of social care institutions is still not regulated.

The Ombudsman requests that the procedures of repressive bodies that limit or deprive people of their freedom of movement or even their liberty be transparent and always legal and that they observe the rights and dignity of individuals.

The interests of the child should be the main consideration in decision-making

The pilot project Advocate – A Child's Voice that has been carried out under the auspices of the Ombudsman since 2007 is in its concluding phase. I hope that legal solutions by means of which we intend to amend the Human Rights Ombudsman Act will provide the project with the suitable legal grounds for further work. The intention of the project is to help children in procedures before official bodies, so that their voice is heard, and to provide opportunities for them to cooperate in decision-making processes concerning their fate, to provide them with all information, options, and choices. Children who were not left alone at significant moments when making decisions on their fate can confirm the incredible significance of having advocates to strengthen the voice of the child. The worst problem for the healthy psychological and physical development of children is caused by lack of communication between parents (after divorce or separation). In interpersonal wars that can last for years, very few parents are able to hear children's opinions, and even more rarely are parents able to put an end to their battles, which have become a way of life for many. It is very important to develop additional and new forms of assistance for parents who are unable to provide positive parenthood.

I am concerned that in 2016 we treated more petitions concerning foster care, guardianship, and institutional care. Much attention was paid to the placement of boys in a foster family that many people found controversial. It is our opinion that questions that are fundamental to children's development cannot be resolved in the street or in various sessions (closed to the public) of state bodies. We find that extorting decisions from competent bodies by organising public rallies is an abuse of freedom of expression and constitutes unacceptable pressure on the objective decision-making of those competent to make such decisions. We expect that many questions opened by this case will be resolved by introducing a new Family Code, which will transfer all decisions related to the rights of children within their family relationships to the courts, thus fulfilling the decade-long efforts and recommendations of the Ombudsman in this field.

With regard to the controversial placement of the boys in a foster family, the Ombudsman was sued for the first time in the history of the institution due to her publicly published opinion on human rights violations. I would like to summarise the decision of the Supreme Court (1 February 2017): "However, even if the Ombudsman finds that there are no human rights violations due to such actions by the authorities, this cannot constitute a violation of the legal position of those who do not agree with the opinion of the Ombudsman."

We are particularly concerned that the proportion of well-founded petitions related to the rights of children with special needs is growing. In the past few years, legislation in this field has not changed, but the Ministry of Education, Science and Sport has been promising for quite some time that most of the open questions will be resolved by an Act Amending the Placement of Children with Special Needs Act.

We were glad to see the opening of the Dr Ljudevit Pivko School for Children With Special Needs in Ptuj last year, which was achieved after many years and due to the Ombudsman's strong efforts. This was one of my first promises when I took on the role of Ombudsman in 2013. My second promise in this field is realised every

year, when at least one person with special needs becomes our intern. We have had five such interns thus far, and many people with special needs are also always among the performers at the commemoration of International Human Rights Day. Once invisible, they are now becoming highly visible. We are learning about the many abilities that these children have. Therefore, let us give them a real chance.

If I may just give an example of some issues encountered by blind and visually impaired children: lack of access to learning materials, the problem of a person constantly assisting them, the reduction in the number of hours of additional expert assistance in pre-school and secondary-school education, problems when competing in knowledge, and the problem of obtaining technical aids. We are glad that the Ministry of Education, Science and Sport processes the applications of schools for the approval of funds for a person accompanying a child with emotional and behavioural disorders on an individual basis and that it resolves most of them positively.

In 2016, more attention was paid to preventing violence in the family and convincing opponents of the Act Amending the Family Violence Prevention Act prohibiting the physical punishment of children, as they are of the opinion that physical punishment is only a disciplinary method. The Ombudsman is very satisfied that the amendments were adopted and that the physical punishment of children has finally been prohibited in Slovenia.

It is not quite clear to the Ombudsman why Slovenia has not yet ratified the Third Optional Protocol to the Convention on the Rights of the Child, which it signed on 28 February 2012 and which entered into force in the countries that ratified it in 2014. This international treaty enables children, groups of children and their representatives who claim that the state has violated the rights of a child to file a complaint to the UN Committee on the Rights of the Child after all local legal remedies have been exhausted. I would like to call on the Government once again to draft an analysis of any possible results of the ratification of the Protocol without delay, and to draft a proposal for an act on the ratification and any necessary statutory changes that will enable the ratification and implementation of the Protocol.

On the effective fulfilment of the right to health care

No less than one quarter of the petitions processed by the Ombudsman concerning health care and health insurance were well-founded. In order to eliminate some irregularities, systemic changes anticipated through health care reform would also be necessary, but the procedures for adopting it are incomprehensibly long. The Ombudsman is aware of the difficulty of finding a political agreement on the direction of the development of public and private health care, but decision-makers should reach a consensus on systemic solutions as soon as possible, at the same time performing inter-ministerial coordination. These solutions should ensure accessible, high-quality, and safe disease prevention, treatment, and rehabilitation programmes, while also reducing inequalities and ensuring accessible health care to vulnerable groups of people. They should contribute to reducing waiting lists, the suitable regulation of concessions, health care services in care homes, rights to group rehabilitation, and eliminate the dissatisfaction of health care workers over conditions in health care. The health reform should also regulate emergency paedo-psychiatric services and statutorily regulate the performance of psychotherapy services.

I would also like to warn of violations of patients' rights, which are still often treated in procedures not foreseen in the Patient Rights Act. The patient has no guaranteed procedural rights, particularly in any further procedures for proving violations.

For a number of years, the Ombudsman has persistently warned of the insufficient regulation of treatment abroad and the related decision-making. Virtually every week, we hear about the 'public' tackling of the issue of treatment abroad. It is unacceptable that attempts are made to find solutions to individual cases through the media by means of unilateral encouragement to take advantage of a particular expert solution, as this puts pressure on everyone participating in the decision-making procedure. Any treatment of children in free clinics is in conflict with the Convention on the Rights of the Child, as the health-care system should provide children with all of the necessary health-care services.

The Ombudsman also encounters many problems related to the regulation of the status of people with mental illnesses and the enforcement of their rights. How is it possible that there are no legal solutions for the

placement of people with mental health issues in secure wards in social care institutions? The Ombudsman warns of the overheard? warnings issued by courts, which encounter many problems related to this issue. In 2017, the Ombudsman plans to issue a special report intended for the National Assembly which will sufficiently illuminate the entire issue of seeking suitable facilities and treating people with mental health issues, so that their acceptance would no longer be rejected?? and so that such people would not have to live in conditions that significantly diminish their dignity.

Unfortunately, we find that there is still no act regulating social inclusion and no act on long-term care, and amendments to the Act Concerning the Social Care of Mentally and Physically Handicapped Persons, which was passed in 1983, also seem unlikely.

* * *

It is impossible to include the many findings, discoveries, and recommendations of the Ombudsman in the introduction, and in particular to objectively evaluate progress in the fulfilment of all the Ombudsman's recommendations. Unfortunately, we find that some recommendations in particular fields are repeated year after year, even for an entire decade. This is completely unacceptable. We are satisfied that the Government drafts an Informative Report on the Realisation of the Recommendations of the National Assembly of the Republic of Slovenia every year, as well as a response report to the Ombudsman's report.

We were pleasantly surprised to receive the Interim Overview of the Fulfilment by Particular Bodies of the Recommendations of the Human Rights Ombudsman Arising from the 2015 Report of the Human Rights Ombudsman from the Ministry of Justice on behalf of the Government of the Republic of Slovenia, which indicates that the Government has a strong intention? to systematically monitor the fulfilment of the recommendations, and that by means of interim overviews and measures it will accelerate their implementation. The responses were carefully studied, and it was found that six months after receiving the 2015 Report, 20 recommendations were fulfilled in the National Assembly, 30 remain partially fulfilled, and there are many for which additional efforts will have to be made in order to fulfil them as well. There was a total of 83 recommendations last year, all of which were endorsed by Parliament.

We are satisfied that the Ministry of Justice is making efforts to establish a fully-fledged national institution for human rights based on the Paris Principles, also by means of expanding the jurisdictions to be included in the amended Human Rights Ombudsman Act. The Ombudsman wishes to express her willingness to actively cooperate and perform new tasks, which could lead to Slovenia obtaining status A based on the Paris Principles.

Therefore, the Ombudsman's 2016 Report is before you; this is the result of extensive and hard work, constant assessments, evaluations, and the satisfaction that we can directly help people who had perhaps given up their efforts to enforce their rights.

I would like to thank all of the co-workers of the Ombudsman who undoubtedly contributed to the content and the final version of the Report.

After the official submission to the National Assembly, we would like to use this Report as a mirror for anyone who cares about the condition of human rights and freedoms in Slovenia, or those who should care. If we are heard, this will be a major contribution to a more just Slovenia, to a country that respects the rights of all, regardless of their gender, race, creed, material status or other personal differences, which actually enrich us.

And to conclude, I would like to answer the question that is asked most frequently by many people: what can the Ombudsman really do, is she merely a toothless tiger, and how can she help people who turn to her for help? Although the Ombudsman cannot make substantive decisions, she cannot complete or change the work of others who are called to do so and are responsible for such work; she has great power to see and hear everything that is wrong, to issue warnings and demand changes. She is a moral authority that changes the work of the state for the better through the power of argument. When she meets numerous representatives of government, she holds a mirror before them and asks them to look at themselves. The path forward for these representatives always depends on people who will ascribe value to them and put a price on? them at elections. Another source of the Ombudsman's strength is the media, as the media report on violations; however, it would be good to hear also about positive changes if and when they occur. They should not be allowed to ignore them. They should also not be allowed to ignore the hatred that is usually spread online, where users can be invisible, but still very offensive.

People want to hear good news, and although bad news spreads faster and sells more easily, hope and solutions should be offered to those who are desperate, who feel cheated and forgotten. Therefore, the Ombudsman's Report also focuses on the progress and changes we have noted, and which are also commended. May there be even more of them in the future.

Vlasta Nussdorfer, Human Rights Ombudsman

THE HEAD OFFICE OF THE HUMAN RIGHTS OMBUDSMAN OF THE REPUBLIC OF SLOVENIA

Address:

Human Rights Ombudsman of the Republic of Slovenia
Dunajska 56, 1109 Ljubljana
Telephone no: +386 1 475 00 50
Free telephone number: 080 15 30
E-mail: info@varuh-rs.si
Website: www.varuh-rs.si

THE LEGAL FRAMEWORK FOR THE WORK OF THE OMBUDSMAN

The Constitution of the Republic of Slovenia

Article 159

(Ombudsman for Human Rights and Fundamental Freedoms)

In order to protect human rights and fundamental freedoms in relation to state authorities, local self-government authorities, and bearers of public authority, the office of an Ombudsman for the rights of citizens shall be established by law.

Special ombudsmen for citizens' rights for individual fields may be appointed by law.

Human Rights Ombudsman Act (ZVarCP)

Article 1

To protect human rights and fundamental freedoms against state bodies, local self-government bodies, and bodies entrusted with public authority, the Human Rights Ombudsman and its jurisdiction and powers shall be established by this Act.

Comment on Article 1

The foregoing text is summarised from paragraph one of Article 159 of the Constitution of the Republic of Slovenia. The word "državljanov" (i.e. male citizens) in Slovenian version of the Constitution appearing next to the name of the institution has been deleted, as it would be discriminatory if the Ombudsman protected only the rights of male citizens.

In their work, the Ombudsman shall be independent and autonomous. In their work, the Ombudsman shall comply with the provisions of the Constitution of the Republic of Slovenia and international legal acts on human rights and fundamental freedoms. When intervening, the Ombudsman may **invoke the principles of equity and good administration** (Articles 3 and 4 of the ZVarCP).

The Human Rights Ombudsman Act was the first act to appoint bearers of this function using male and female versions in the text of the act itself.

What else does the law define?

In addition to general provisions, the Human Rights Ombudsman Act also defines the election and position of the Ombudsman, the jurisdiction of the Ombudsman and their deputies, the procedure for processing petitions, the rights of the Ombudsman, and its their duties.

Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

The Act entered into force on 1 January 2007.

On the basis of this Act, the Ombudsman carries out the tasks of the National Preventive Mechanism against torture and other cruel, inhuman or degrading treatment or punishment (NPM).

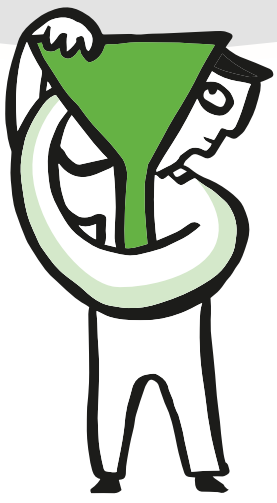
The Ombudsman carries out these tasks in cooperation with non-governmental organisations selected on the basis of a tender

Rules of Procedure of the Human Rights Ombudsman

The Rules were published on 6 November 1995 (*Official Gazette of the Republic of Slovenia* [*Uradni list RS*], No. 63/95), and its amendments were adopted at a later date (*Official Gazette of the Republic of Slovenia* [*Uradni list RS*], Nos. 54/98, 101/01, 58/05). The Rules govern the organisation and method of work of the Human Rights Ombudsman, determines the division of work areas, and the procedure for processing petitions.

The powers and duties of the Human Rights Ombudsman are also defined by other acts and implementing regulations:

State Prosecutor Act,
Equal Opportunities for Women and Men Act,
Integrity and Prevention of Corruption Act,
Enforcement of Criminal Sanctions Act,
Civil Servants Act,
Criminal Procedure Act,
Police Tasks and Powers Act,
Defence Act,
Attorneys Act,
Patient Rights Act,
Passports Act,
Public Sector Salary System Act,
Courts Act,
Judicial Service Act,
Classified Information Act,
Administrative Fees Act,
Environmental Protection Act,
Personal Data Protection Act,
Consumer Protection Act,
Infertility Treatment and Procedures for Biomedically-Assisted Procreation Act,
Rules Regulations? on Police Powers,
Rules on Service in the Slovenian Armed Forces



Constitutional Court Act

The Ombudsman may file:

a request for a constitutional review

On the basis of Article 23a of the Constitutional Court Act, if the Ombudsman deems that a regulation or general legal act issued for the exercise of public authority unacceptably interferes with human rights or fundamental freedoms, she can initiate a procedure for a **review of the constitutionality or legality of regulations or general legal acts.**

Throughout the years of its work, the Ombudsman's office has filed **28 requests** for a review of the constitutionality or legality of a regulation or a general legal act (more information is available at www.varuh-rs.si).

In 2016, the Ombudsman **filed one** request for a review of constitutionality and **received three** decisions from the Constitutional Court of the Republic of Slovenia.

The Ombudsman has still not received the court's decision on the purchasing of pensionable service.

a constitutional complaint

On the basis of Articles 50 and 52 of the Constitutional Court Act, the Ombudsman may file a **constitutional complaint concerning a particular matter** that she is treating; however, this must always be done with the consent of the person whose human rights or fundamental freedoms are protected in a particular matter.

During her tenure, the Ombudsman has **filed 3 constitutional complaints.**

Paragraph two of Article 50 of the Constitutional Court Act (ZUstS) enables the Ombudsman to file a constitutional complaint **due to a violation of human rights or fundamental freedoms of a person or legal entity** by an act of a state authority, local self-government body or holder of public authority.

A constitutional complaint may be filed after all ordinary and extraordinary legal remedies have been exhausted within 60 days from when the final document is issued. **The Ombudsman rarely uses this option,** since she does not wish to act as an additional legal remedy when all possibilities of appeal have been exhausted.

The Ombudsman more frequently provides her opinions from the perspective of the protection of human rights and freedoms in **the role of amicus curiae,** which is provided to us by Article 25 of the Human Rights Ombudsman Act: "The Ombudsman may submit his/her opinion from the perspective of a Human Rights Ombudsman on the protection of human rights and fundamental freedoms to any authority in a case under consideration, regardless of the type or level of procedure before these authorities.

In 2015, **one constitutional complaint was filed** with the consent of the affected party; it was filed **against a decision of the Supreme Court of the Republic of Slovenia.** The Constitutional Court notified us that the senate of this Court had adopted a decision (No Up-563/15-7) at its meeting on 12 July 2016 in the procedure for testing a constitutional complaint; the decision stated that the constitutional complaint would be accepted for consideration. The court has not yet made a decision on the constitutional complaint.

Defence Act

In early February 2016, the Ombudsman filed a request to review the constitutionality of paragraphs one, two, and three of Article 37.a of the **Defence Act**. By means of decision no **U-I-28/16** of 12 May 2016 (Official Gazette of the Republic of Slovenia [Uradni list RS], No 42/16), the Constitutional Court reviewed, within a procedure initiated by the Ombudsman, the constitutionality of the above-mentioned provisions of the Defence Act, which granted special (police) powers to members of the Slovenian Armed Forces in heightened security circumstances, especially in order to manage the migrant and refugee crisis. The Ombudsman welcomed the decision, as it eliminates the doubts that were highlighted about the constitutionality of the police powers granted to the Armed Forces, even though a separate opinion of two constitutional judges warns that the provisions are significantly inadequate and that they even deepen the doubts expressed about the most

The principle of equality and subsidised housing when subsidising rents

In July 2015, the Ombudsman filed a request to review the constitutionality of Article 25 of the Act Regulating Measures Aimed at the Fiscal Balance of Municipalities in conjunction with Article 28 of the Exercise of Rights from Public Funds Act.

On 25 May 2016, the **Constitutional Court** ruled in favour of the **Ombudsman**, stating that Article 28 of the Exercise of Rights from Public Funds Act (ZUPJS) governing the arrangement of the right to subsidised rent is not compliant with the Constitution of the Republic of Slovenia. The Ombudsman considers this decision a success, as its request also claimed that tenants in commercial and caretaker's apartments meeting income-related and other conditions for obtaining a non-profit apartment are in an unequal position with regard to obtaining the right to subsidised

Exercise of rights from public funds

In case no U-I-73/15 (Decision of 7 July 2016, Official Gazette of the Republic of Slovenia [Uradni list RS], No 51/16), on the basis of a request submitted by the Human Rights Ombudsman, the Constitutional Court reviewed the constitutionality of multiple provisions of the Exercise of Rights from Public Funds Act and the constitutionality of paragraph two of Article 7 of the Rules regarding the method of determining assets and their value in allocating rights from public funds and on the reasons for reducing amounts in the procedure for allocating monetary social relief. The Constitutional Court decided that paragraph one of Article 14 of the Act and paragraph two of Article 7 of the Rules, specifically the part that stipulates that the value of an equity share in corporations or cooperatives can be determined only from an extract from a court register of companies, is not in compliance with the Constitution of the Republic of Slovenia. The Constitutional Court decided that paragraph five of Article 10 and point four of paragraph one of Article 12 of the Act are not in conflict with the Constitution of the Republic of Slovenia.

Banking Act

By means of Decision No U-I-295/13 of 19 October 2016 (Official Gazette of the Republic of Slovenia [Uradni list RS], No 71/16), in the constitutional review procedure initiated through requests submitted by the National Council, the Human Rights Ombudsman, and the district court, and upon the initiative of a large number of petitioners, the Constitutional Court decided, among other things, that Article 350.a of the **Banking Act** was **in conflict with the Constitution of the Republic of Slovenia** and that Article 265 of the Resolution and Compulsory Dissolution of Credit Institutions Act was also in conflict with the Constitution of the Republic of Slovenia. It ordered legislators to eliminate the established discrepancy within six months after the publication of the decision in the Official Gazette of the Republic of Slovenia.

Purchasing pensionable service

For this reason, the Ombudsman filed a request for a review of the constitutionality of paragraph four of Article 27, paragraphs one and two of Article 38 and paragraphs one and two of Article 391 of the **Pension and Disability Insurance Act** (ZPIZ-2) in July 2015.

The Constitutional Court has not yet decided on this matter.

HISTORY OF THE WORK OF THE OMBUDSMAN

The history of the formation and the work of the Human Rights Ombudsman (the Ombudsman) were presented in greater detail in two publications issued to commemorate the twentieth anniversary of the Human Rights Ombudsman and the twentieth anniversary of the work of this institution. The publications are available in hard copy at the head office of the Ombudsman and on the following website: www.varuh-rs.si.
The year 2016 marked the 21st year of the functioning of this institution.

20 years of the Human Rights Ombudsman Act
1993–2013,
Ljubljana 2013

20 years of the work of the Human Rights Ombudsman
1994–2014,
Ljubljana 2014

Free Human Rights Ombudsman bulletin
1994–2014,
Ljubljana 2015

In 2015, on the occasion of Human Rights Day, we organised a round table with the Slovene Ethnographic Museum on the topic of the employment and employment relationships of young people. We revealed the problems of young people when venturing into the labour market after completing their education.

On this occasion, we published the 18th edition of the Ombudsman's bulletin, titled Enforcing the Rights Arising from Labour, by means of which we warned of many employment issues and issues of employees, and recommended necessary changes.

Past Ombudsmen

Article 12 of the Human Rights Ombudsman (ZVarCP) provides that the Ombudsman is elected by the National Assembly by means of a two-thirds majority of the votes of all members for a period of six years, and that after the expiry of this term of office, he/she may be re-elected only once.
Since the institution began operating in 1994, the position of the Human Rights Ombudsman – the official managing the work of the institution – has been held by two men and two women.

Ivan Bizjak,
MS in Political Science, BS Mathematics

Ombudsman from 29 September 1994 to 29 September 2000
His six-year term expired on 29 September 2000.

Until a new Ombudsman was elected, the Ombudsman's work was performed by Deputy Ombudsman Aleš Butala (from 29 September 2000 to 21 February 2001).

Matjaž Hanžek,
BA Sociology

Ombudsman from 21 February 2001 to 21 February 2007

Dr Zdenka Čebašek-Travnik,
MD, specialist in psychiatry

Ombudsman from 22 February 2007 to 22 February 2013

Vlasta Nussdorfer
LL.B.

Ombudsman from 23 February 2013 to 23 February 2019, when her six-year term expires

THE OMBUDSMAN AND HER DEPUTIES

Vlasta Nussdorfer, Human Rights Ombudsman
LL.B.

Deputy

Tone Dolčič,
LL.B.

Deputy

dr. Kornelija Marzel,
LL.B.

Deputy

Ivan Šelih,
LL.B.

Deputy

Miha Horvat,
B.A. (political science)
(since 29 March 2016)

Deputy

Jernej Rovšek,
LL.B.
(until retirement on 29 February 2016)

Responsible for the following fields of the Ombudsman's work

protection of the rights of the child, social security, social activities, health care and health insurance, pension insurance, the Advocate – A Child's Voice project,

the environment and spatial planning, administrative procedures and legal property matters, labour law matters, unemployment, housing matters, public utility services

restriction of personal freedom (persons with limited movement), justice, police procedures, National Preventive Mechanism

constitutional rights, discrimination, national and ethnic minorities, personal data protection, citizenship, aliens and applicants for international protection, correcting injustices, international cooperation

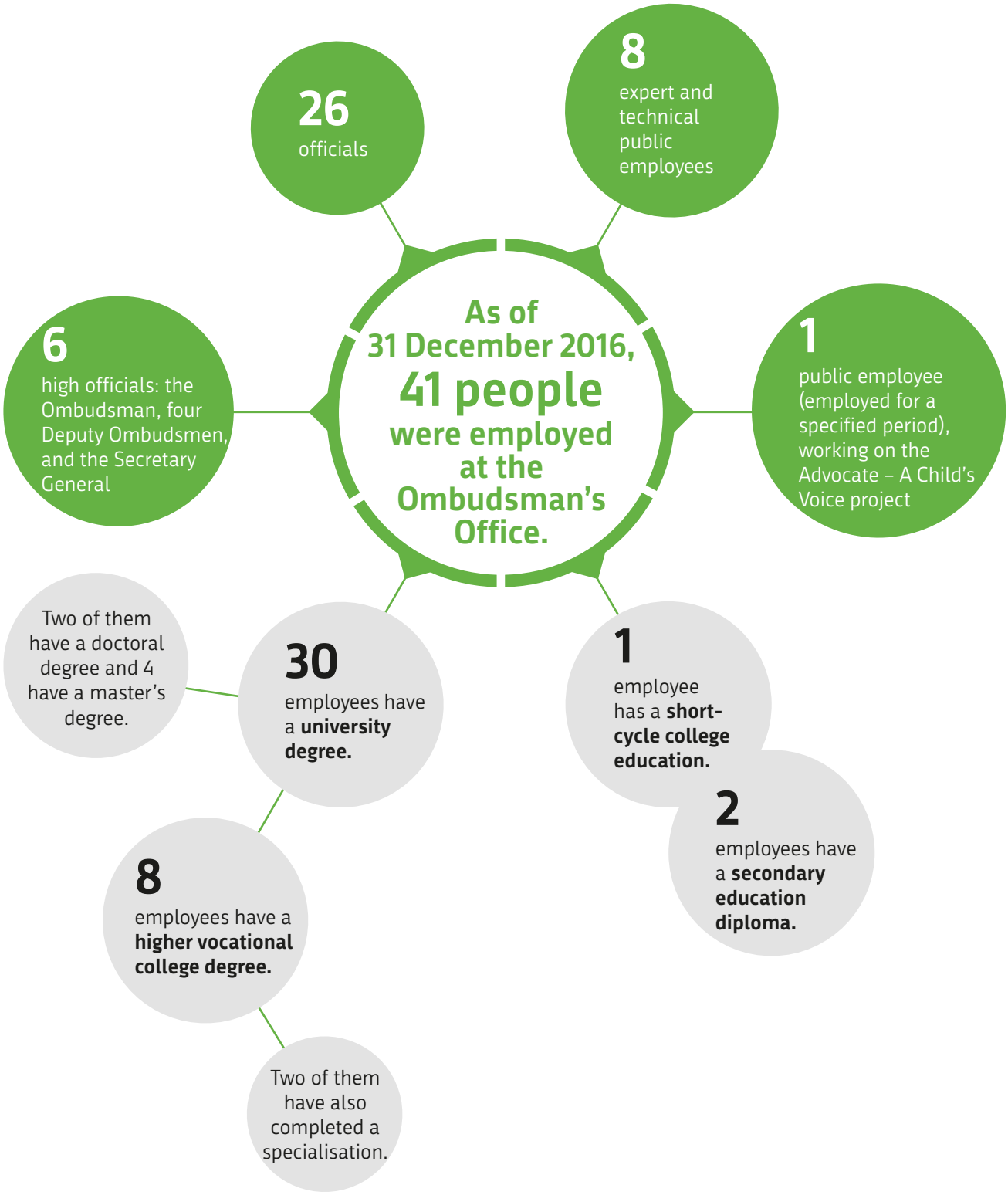
Every field of work is divided into multiple sub-fields. Deputies have all the powers provided to the Ombudsman by the law in the fields under their responsibility.

Pursuant to Article 17 of the Human Rights Ombudsman Act, **the Ombudsman laid down the hierarchy of her deputies,** namely according to how long their full period of working as a deputy Ombudsman has lasted. The first deputy is the deputy with the longest total period of working in their position (the Ombudsman's deputies are presented on page 30, from left to right).

The Ombudsman's Board (April 2017)

From left to right: **Tone Dolčič,** Deputy Ombudsman; **Martina Ocepek,** Director of the Ombudsman's Expert Service; **Bojana Kvas,** Secretary General; **Vlasta Nussdorfer,** Ombudsman; **Dr Kornelija Marzel,** Deputy Ombudsman; **Miha Horvat,** Deputy Ombudsman; **Ivan Šelih,** Deputy Ombudsman

EMPLOYEES AT THE OMBUDSMAN'S OFFICE



Sick leave in 2016 amounted to 538 days; maternity and parental leave amounted to 454 days.

Taking into account both types of leave, only 36 employees actually worked for the Ombudsman in 2016.

The high officials took 372 business trips in 2016, 43 of which were business trips abroad.

On the basis of trilateral agreements, an **internship of 150 hours was enabled** in 2016 to **one student** in the third year of the Faculty of Social Sciences in Ljubljana, and a two-week internship was enabled to **one secondary school student (with special needs)**, who performed this internship at the Ombudsman's head office.

In cooperation with the Faculty of Social Sciences in Ljubljana, the Ombudsman participated in interactive workshops focusing on the topic of the rights of European citizens and employment opportunities in the EU. Events took place in various places around Slovenia. The entertaining introduction to these events was provided by the stand-up comedian Boštjan Gorenc-Pižama, which was then followed by a round table with the Ombudsman, who presented violations of rights in the field of labour law legislation in Slovenia, and with a representative of Eures, who discussed aid that is available to young people wishing to work abroad. The events took place in Nova Gorica, Koper, Maribor, Ptuj, Lendava, Novo Mesto, Ljubljana, and Kranj.

Under the mentorship of the **Director of the Expert Service, Martina Ocepek**, Aljaž Malek analysed the situation in the field of discharging and treating urban wastewater and rain water in locations above an elevation of 1500 metres within the project Ambassadors of Knowledge, which is carried out under the auspices of the Life Learning academy. On 8 June 2016, **the Human Rights Ombudsman, Vlasta Nussdorfer,** as one of the ambassadors of knowledge within the Life Learning Academia project, gave the Reference 2016 award to Aljaž Malek, the author of the analysis. The analysis was published on the Ombudsman's website. At an event within the Academic and Economic Congress at the Brdo Congress Centre, the mentor Martina Ocepek also received an award from Dr Stojan Sorčan, the Director-General of the Higher Education Directorate of the Ministry of Education, Science and Sport.

In 2016, the Ombudsman also worked with the Faculty of Law of the University of Ljubljana on a project focusing on a legal clinic for refugees and foreigners. The team from this Faculty won the international competition in familiarity with asylum law, the International Asylum Law Moot Court Competition, which took place on 25 and 26 April in Trnava in Slovakia. The Faculty was represented in this competition by three post-graduate students, Neja Sterle and Aleša Mercina – under the mentorship of Dr Sašo Zagorc – and Manja Hubman, and **Mojca Valjavec, the Ombudsman's adviser**. From mid-February to mid-March 2016, they wrote two memorandums for the complainant and for the state, and after submitting these memorandums, they prepared for an oral presentation. Their excellent performance in the finals convinced the senate of asylum law judges, attorneys, and professors, winning them the well-deserved first place. This victory confirms the high-quality work, especially of the Legal Clinic for Refugees and Foreigners, as our competitors have won top places in the past few years already (two victories and two second places).

Commemorating the International Volunteer Day on 5 December 2016, the National Council of the Republic of Slovenia gave plaques to the most deserving volunteers. A plaque for exceptional achievements in voluntary work was also awarded by the President of the National Council, Mitja Brvar, to the **Ombudsman's adviser, Liana Kalčina**, for her many years of service in the field of children's rights and gender equality. She has been active in non-governmental organisations, especially the Slovenian Association of Friends of Youth (ZPMS), which also nominated her for this award. She developed the Children's Parliament and Europe at School, was a co-author of the Code of Ethics for organised volunteering, and co-founded the free telephone line for children and youth "TOM TELEFON." She co-coordinated (together with Violeta Neubauer) the Coalition for the Assertion of Balanced Gender Representation in Public Life and she co-founded and acted as the first President of the Women's Lobby Slovenia; she was also a founding member of UNICEF Slovenia, and a member of the board of Slovenian Philanthropy. Currently, she is a member of the independent Anti-Hate Speech Council.

The Human Rights Ombudsman Office

The Human Rights Ombudsman Office is managed by
Bojana Kvas,
LL.B.

The Ombudsman's Expert Service

The Expert Service is managed by the Director of Expert Services
Martina Ocepek,
LL.B.

The Director organises and manages the work of officials according to the instructions of the Ombudsman and the Ombudsman's deputies. The Director acts on behalf of the Secretary General in their absence, unless the Ombudsman authorises another employee to do this task. Furthermore, the Director prepares all meetings with ministers and other heads of state authorities and also manages the preparations for any meetings outside the head office and meetings with non-governmental organisations.
The Bureau carries out expert tasks for the Ombudsman and their deputies in individual fields within the Ombudsman's remit, classifies petitions, manages the handling of petitions, discusses petitions and prepares opinions, proposals and recommendations, carries out investigations and prepares reports on their findings regarding petitions, and provides information to petitioners on their petitions. By means of weekly board meetings of the Expert Service, it ensures the proper flow of information, resolves expert issues, and provides team work in resolving complex cases.

As of 31 December, **22** public officials were employed in the Expert Service, of whom 21 are permanently employed. Sick leave in 2016 amounted to 292 days; maternity and parental leave amounted to 252 days. Two experts perform only tasks of the National Preventive Mechanism, one of them only partially. One expert (employed for a specified period) performs expert tasks and tasks within the Advocate – A Child's Voice project. All employees at the Expert Service have a university degree; one public official has a doctoral degree, and three public officials have a master's degree; one employee obtained a specialisation following his higher vocational college education.

A more detailed division of individual fields is determined by the Ombudsman by taking into account substantive connections between problems, the organisation and type of procedures of state and other authorities which are under the Ombudsman's jurisdiction, and the cohesion of professional fields. The Ombudsman's fields of work are divided into four areas. A competent deputy is responsible for each area. Sub-fields of work are formed in each area. Each official usually resolves petitions in only one field of work.

The Office of the Secretary General of the Ombudsman

The Bureau is managed directly by the Secretary General.

Article 10 of the Rules of Procedure of the Human Rights Ombudsman:
In managing the work of the Bureau and handling labour relations, the Secretary General shall have the powers and duties of a head of administration in accordance with the law, except when such powers are explicitly entrusted to the Ombudsman by the Ombudsman Act or other general acts.

The **Expert Service** performs tasks in the following areas in an independent manner or in cooperation with external associates: organisational, legal, administrative, material, financial, personnel, administrative and technical, information, publishing, and analytical areas and within international collaboration and public relations. It also performs other tasks required for the operation of the Ombudsman's Office.
At the Office of the Secretary General, sick leave in 2016 amounted to 246 business days; maternity and parental leave amounted to 202 business days.

On 31 December 2016, the service of the Secretary General employed **13** persons, including five clerks and eight technical civil servants. Three public officials have a university degree, seven completed a higher vocational college, of whom one public official obtained a specialisation thereafter; one public official has a short-cycle college degree and two have a secondary school degree.

ACCESSIBILITY OF THE HUMAN RIGHTS OMBUDSMAN IN 2016

V The Ombudsman is accessible to all groups of the population, both at the head office of the institution or through meetings outside the head office and on various other occasions: sign language communication is provided to the movement-impaired, the deaf and hard of hearing; they may receive basic information on the work of the Ombudsman on the Ombudsman's website; basic information on the work of the Ombudsman is provided to both constitutionally recognised national minorities and the Roma people throughout over Slovenia in the form of informational leaflets in their language.

9.645
phone calls were received by information providers in 2016 (enquiries on received petitions and questions related to alleged human rights violations).

16.124
incoming documents received by mail and e-mail.

discussion with expert associates

At the Ombudsman's head office
Dunajska 56, Ljubljana
from Monday to Thursday
from 8 a.m. to 4 p.m. and on Friday
from 8 a.m. to 2:30 p.m.

Based on their field of work, expert associates receive everyone that visits the Ombudsman's head office unannounced.

8.146
outgoing documents

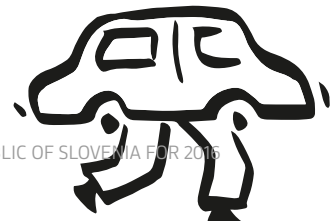
Expert associates performed **943** discussions with callers who had not (yet) filed petitions. These calls are recorded in the form of official notes and not as petitions.

Sometimes, problems with which petitioners turn to the Ombudsman do not require immediate action, but callers receive suitable clarifications and guidelines. This type of work serves to make the Ombudsman's work more efficient.

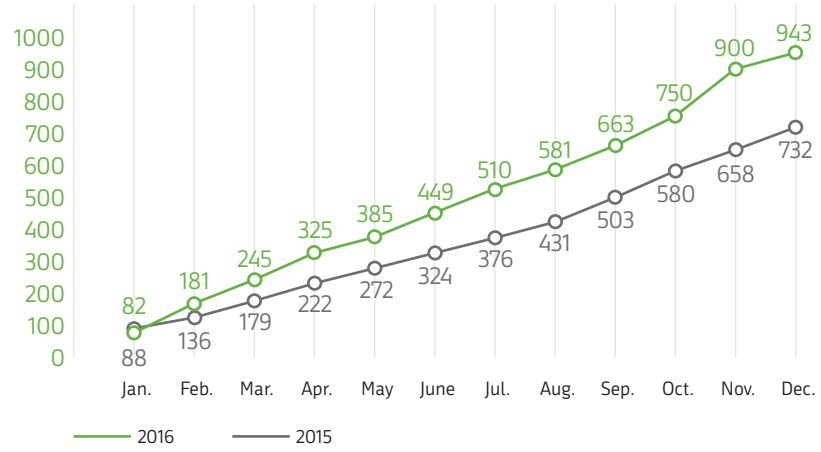
22
personal discussions with the Ombudsman arranged in advance in 2016

By the end of 2016, the Ombudsman had had **283** personal discussions at the head office of the institution during her term.

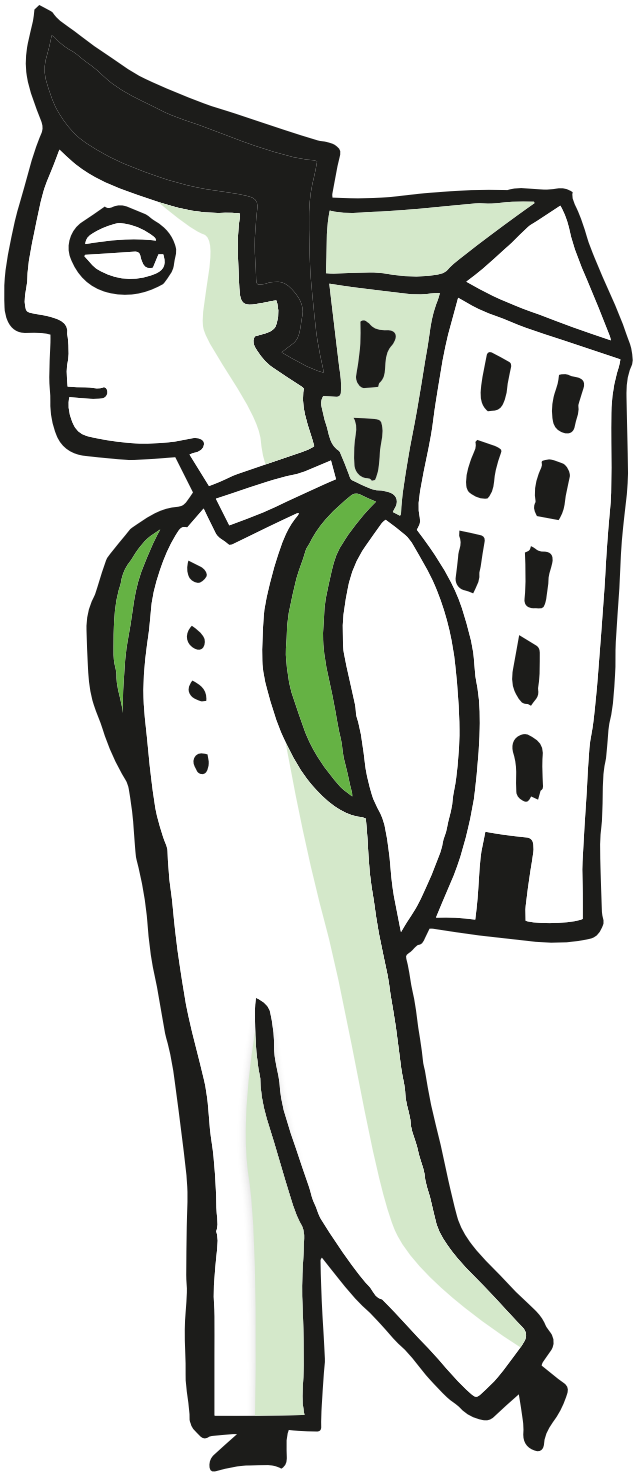
Outside the Ombudsman's office
12 meetings outside the head office with **369** personal discussions (more on this can be found below)



Comparison of the number of calls received by expert associates in 2015 and 2016.



In addition to the monthly monitoring of calls received according to fields of work and individual expert associates, the Director of the Expert Service also monitors monthly incoming petitions according to fields and expert associates, the time schedule for resolving petitions, allocation of cases and other activities of expert associates, ensuring that individual employees have an equal case load and that the work of the Expert Service is optimised.



MEETINGS OUTSIDE THE HEAD OFFICE

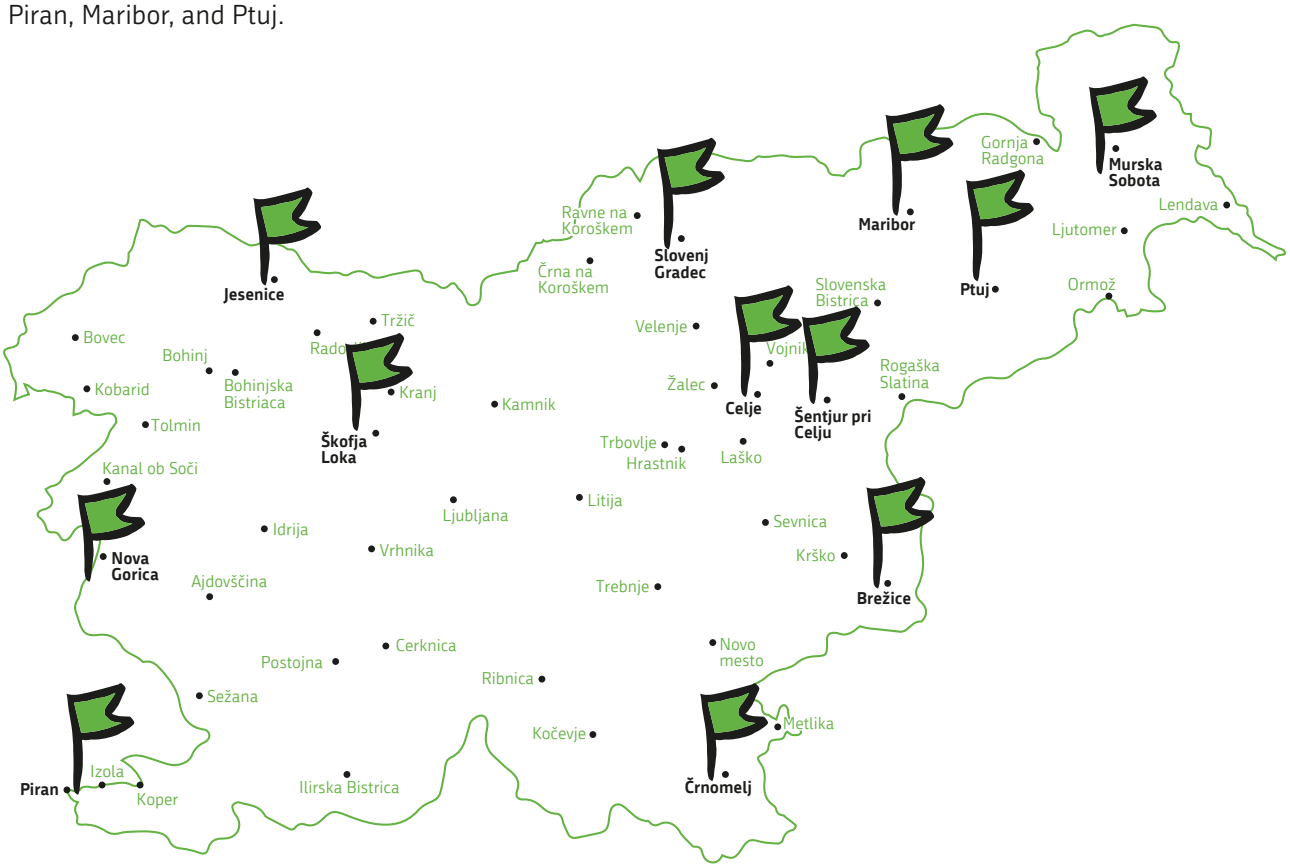
Meetings outside the head office of the Ombudsman fall within the framework of efforts to make the Human Rights Ombudsman of the Republic of Slovenia as accessible as possible to individuals who are unable to attend a meeting in Ljubljana due to distance or for some other reason. This allowed us to make it more possible to talk to the Ombudsman or their deputies, thus making our work more accessible to people. The nature of the institution of the Ombudsman does not facilitate the establishment of organisational units in other towns. Therefore, this form of work enables us to operate throughout the country. The response of the people attending meetings shows that this way of working is very welcome.

Due to meetings outside the head office and discussions with people, we are even able to eliminate some of the problems that led people to seek the Ombudsman's help. In this way, we are able to immediately intervene with a state authority or local self-government body in the place we visit. The visits are also important because people become more familiar with the Ombudsman's competences.

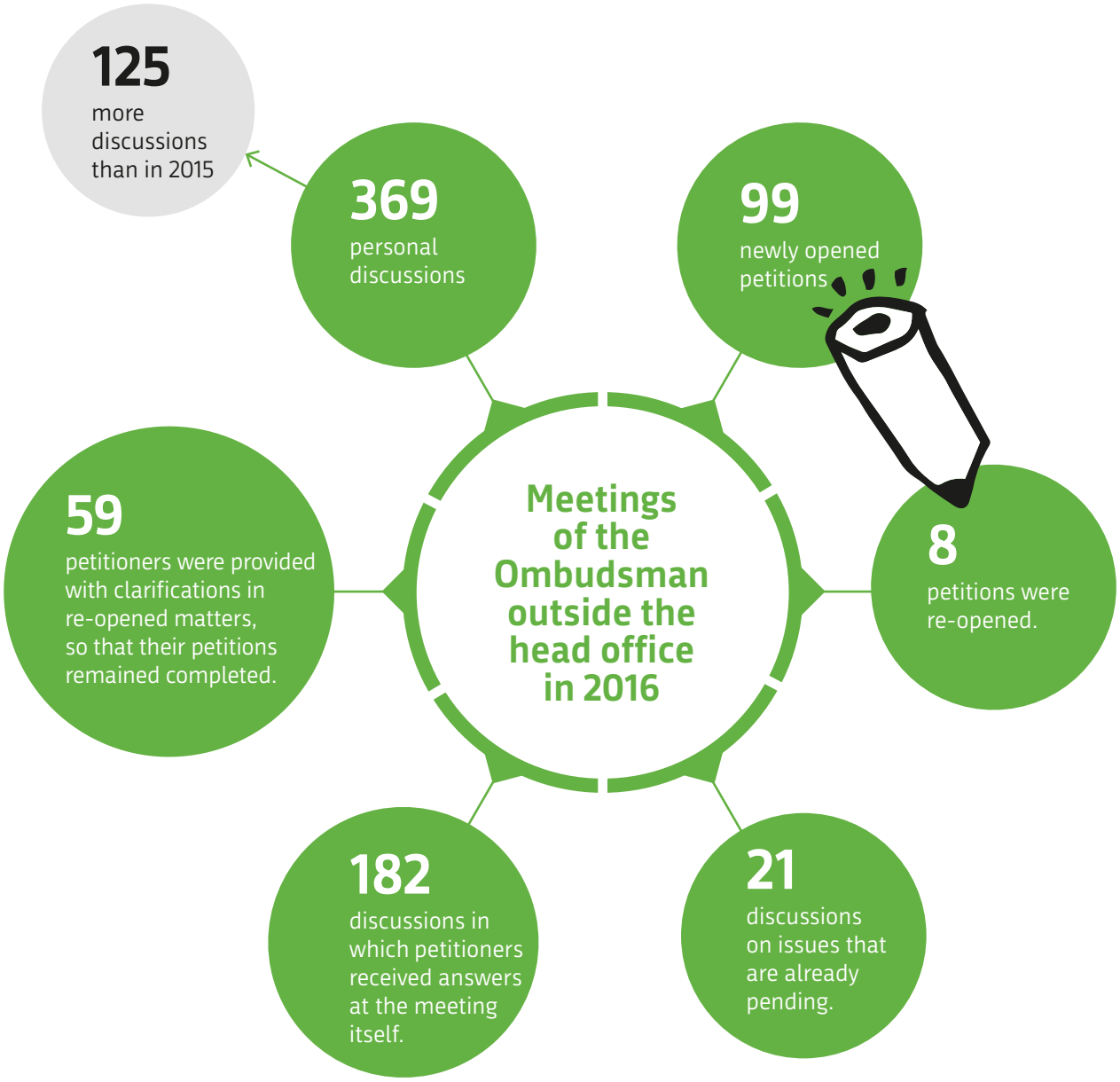
Meetings outside the head office are carefully planned. In December, the Director of the Expert Service prepares a plan for meetings outside of the head office for the following year. Places are selected so that the entire territory of Slovenia is covered and that visits are made to municipalities where the Ombudsman has not yet gone or where a number of years has passed since the Ombudsman has visited. We hold meetings in the City of Maribor and the Municipality of Celje at least once a year. Furthermore, we also hold meetings every year in places where members of national minorities live or near those places.

In 2016, we held 12 meetings outside our head office, namely in the following municipalities:

Šentjur Pri Celju, Brežice, Škofja Loka, Jesenice, Černomelj, Murska Sobota, Slovenj Gradec, Celje, Nova Gorica, Piran, Maribor, and Ptuj.



All of the meetings outside the head office were enabled free of charge by mayors at the head offices of municipalities. When organising meetings, we pay special attention to vulnerable groups and make sure that access and discussion are also enabled for disabled persons in a suitable manner. We provide sign language communication to the deaf and hard of hearing.



Prior to our visits, they were announced in local newsletters, especially in free municipal publications, and on the Ombudsman's website, so that interested persons could sign up for a meeting in time.

We invited anyone who wished to speak to the Ombudsman to inform us of their intention. Thus we could set the time for meetings and avoid unnecessary overcrowding and waiting.

A special phone number was introduced to be used by the head of the office to receive applications for meetings outside the head office during the hours for receiving applications (14 days prior to such meetings). We later returned calls to all callers who called outside of such hours. In this way, we ensured optimum responsiveness, as in the past petitioners applied for meetings by calling a free number which was intended for all callers and was

An example of a poster for meetings held in Maribor

therefore not easily accessible; however, the new system makes it possible for every caller to apply for a meeting.

In order for meetings to take place without interruptions, the location must be visited beforehand, the premises inspected, the technical capacities for the meetings and the placement of posters in the place where the meetings are held must be checked.

The greatest response was in Maribor, where we held interviews with 70 petitioners. On the basis of the discussions, we opened 15 new petitions, which means that these petitioners pointed out problems that required the Ombudsman's consideration. We were able to provide suitable clarifications and instructions to fifty petitioners, so that further discussion of these issues was not necessary.

Any meetings held outside the head office take place in three parts; additional activities are planned only as an exception.

Private discussions with petitioners

Only half an hour is given to each petitioner. Meetings may be attended by individuals who have already filed a petition and wish to clarify it in greater detail at the meeting, or by people who are interested only in obtaining information on how a petition is being addressed; some people require legal advice, and many people attending a meeting have not yet filed a petition.

Many problems are clarified together or even resolved at the meeting or later through a discussion with mayors.

Interviews with mayors

During meetings outside the head office, the Ombudsman exceptionally also **visits petitioners at their homes**.

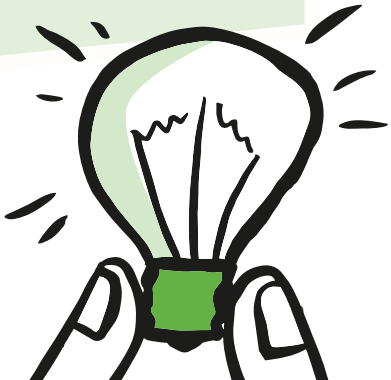
For example, this was the case when meetings were held in **Slovenj Gradec,** where the Ombudsman made an unannounced visit to the Koroška Elderly Care Home in Črneče, where dementia patients are accommodated. She discussed the general problems of this home with its management.

Press conference

The following issues stand out in particular:

poverty, which violates human dignity and leads to consequences in multiple areas of life; **housing issues** and poor living conditions; the **medical condition of petitioners**; the openness and **accessibility of the health-care system**; violation of **workers' rights**; personal and various issues which have no special common denominator; accessibility to **free legal aid**; **rights arising from social transfers**; the cooperation of the public in environmental matters; **environmental issues**; the **ineffective supervisory system** in all fields; and the **inappropriate attitude** of public officials.

Most frequently, petitioners need **legal advice** on how to initiate proceedings and conclude them successfully.



Year 2016	1	2	3	4	5	6	7	8	9	10	11	12	Total
Meetings outside the Ombudsman's Office in:	**Šentjur pri Celju**	**Brežice**	**Škofja Loka**	**Jesenice**	**Črnomelj**	**Murska Sobota**	**Slovenj Gradec**	**Celje**	**Nova Gorica**	**Piran**	**Maribor**	**Ptuj**	
New petition	1	1	9	7	2	17	3	9	23	4	15	8	99
Re-opened petition	0	0	0	0	0	2	1	1	2	1	1		8
Petition already resolved in the past (status remains unchanged)	2	2	2	2	2	6	4	6	6	3	15	9	59
Petition already pending	1	1	0	4	0	3	0	0	3	2	4	3	21
Collection of official notes	8	12	11	9	9	25	3	13	10	11	35	36	182
Discussions held in total	12	16	22	22	13	53	11	29	44	21	70	56	369

An important part of holding meetings outside of the head office is

the discussion of the Ombudsman and their co-workers with the mayors of municipalities where the meetings are held. During discussions, the Ombudsman highlights the problems arising from the interviews with residents of the municipalities and the treatment of specific petitions regarding the work of the municipality.

These discussions are extremely important, since they may clarify or even resolve issues arising from specific petitions.

Furthermore, the Ombudsman always highlights topics such as: housing issues, residential units; assistance for homeless residents; social distress; municipal aid; unemployment; community work (also in companies where the municipality is the (co)founder); care for socially endangered persons; care for disabled persons (including architectural barriers); property law matters; problems in the field of pre-school and elementary school education; availability of the mayor (conversations with residents); public health-care services; social security; friendliness of the municipality to elderly persons and children; spatial planning; environmental issues; ownership relations connected with the categorisation of roads (the manner of resolution, purchases, expropriations, disputes, etc.); municipal inspection services; free legal aid and mediation. Mayors present the general situation in their municipality to the Ombudsman, as well as their efforts, issues, and systemic problems encountered by the local community and its residents.

Representatives of other authorities or organisations who could present the situation in their own local communities also joined some discussions. In 2016, some municipalities dealt with the refugee issue (Črnomelj, Jesenice, Maribor). The Municipality of Nova Gorica has a pro bono clinic and ten beds for the homeless. The cancellation of debt has not shown true results. The Municipalities of Piran and Šentjur Pri Celju do not perform forced evictions. Accessibility to mayors varies; the mayor of the Municipality of Šentjur Pri Celju stated that he is available 24 hours a day, especially on Thursday. Many of the municipalities that we visited offer free legal assistance for their residents. The categorisation of roads poses a big problem in most municipalities. Many mayors mentioned that they had problems communicating with ministries, in particular with the Ministry of the Environment and Spatial Planning and the Ministry of Health..

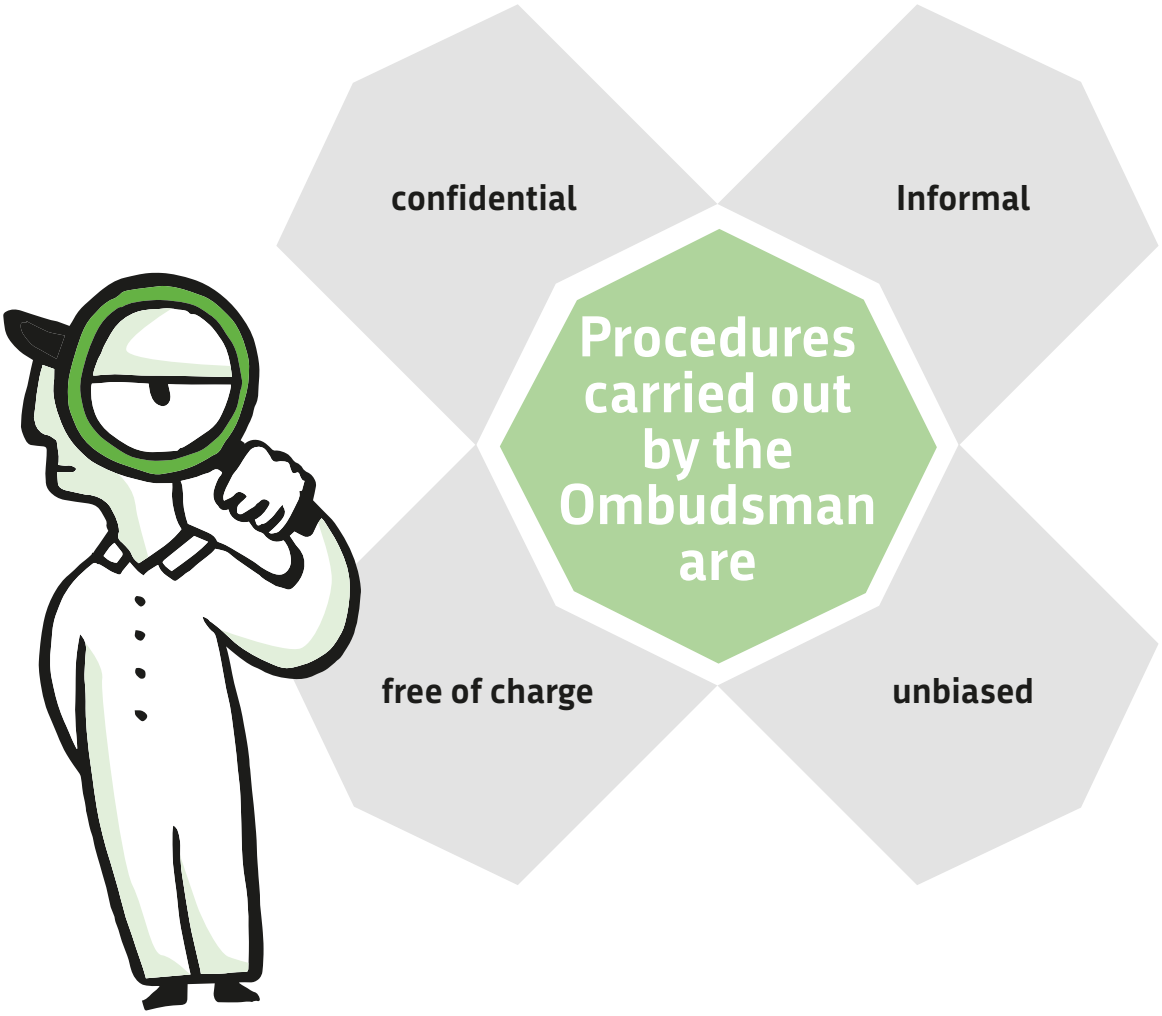
We also dedicate special attention to public relations during meetings outside the head office.

We always organise a press conference in the towns we visit in order to point out cases of violations which arise from the petitions we received as part of our work.

Furthermore, the Ombudsman usually issues several statements and also gives interviews to the local and national media.

After every meeting outside the head office, we publish news of the visit on the Ombudsman's website.

PROCESSING PETITIONS



Who may turn to the Human Rights Ombudsman?

Anyone who believes that their human rights or fundamental freedoms have been violated by an act or action of an authority may initiate a procedure with the Ombudsman.

The Ombudsman may also address **wider issues** relevant to the protection of human rights and fundamental freedoms, and to the legal security of citizens in the Republic of Slovenia (paragraph two of Article 9 of the Human Rights Ombudsman Act).

When does the Human Rights Ombudsman intervene?

The Ombudsman intervenes in cases of improper or incorrect work by state authorities, local self-government authorities and holders of public authority.

Initiation of the procedure for processing a petition

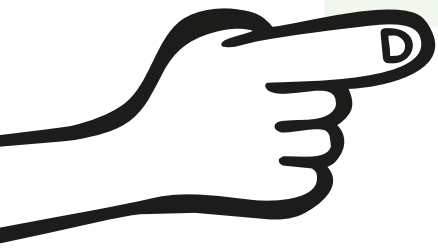
The Ombudsman notifies petitioners as soon as possible on the status of their petition.

When the facts of the petition are evident from the documentation, **the Ombudsman decides on a petition in a summary procedure**.

If a petition is anonymous, received too late, is offensive, or constitutes an abuse of the right to appeal, **the Ombudsman does not address it**.

The Ombudsman **decides to investigate in greater detail any claims** concerning violations of human rights and freedoms.

If necessary, the Ombudsman **advises a petitioner to take another route** to resolve their problem.



An **enquiry** is sent to an authority.

The Ombudsman requests information (clarifications and additional information) that is within the competency of state authorities, local community bodies, and bodies exercising public powers, regardless of the level of confidentiality.

With regard to their work, the Ombudsman has the **right to review data and documents** which are in the jurisdiction of other state authorities.

The Ombudsman determines the **time limit** within which the authority must provide clarifications and information. This period may not be less than eight days.

The Ombudsman may enter the premises of an authority.

If the authority fails to provide the Ombudsman with information within the required time limit, it must immediately **notify** the Ombudsman of the reasons why the request has not been granted.

A refusal or disrespect for the Ombudsman's request is considered an **obstruction of the Ombudsman's work**.

The Ombudsman may address **proposals, opinions, criticisms or recommendations** to the authorities, and the authorities must address them and reply within the deadline set by the Ombudsman.

The Ombudsman drafts a report on the case and states the following:

- her opinion on the basis of the facts and circumstances of individual cases,
- a finding on whether the case in question constitutes a violation of human rights and fundamental freedoms,
- how human rights and freedoms were violated, or whether this was a different type of irregularity,
- a proposal, opinion, criticism, or recommendations,
- a way in which any irregularity may be eliminated.

On the basis of proposals, opinions, criticisms, or recommendations provided by the Ombudsman, the authority must notify the Ombudsman at the latest with 30 days of any measures taken.

If the authority fails to submit a report on the observance of the Ombudsman's recommendation or if it only partially takes them into account, the **Ombudsman may notify the directly superior authority**, the competent ministry, she may issue a special report to the National Assembly of the Republic of Slovenia, or publicly publish the matter.

The Ombudsman may, at the expense of the authority, publish her report and recommendation via public outlets if the authority fails to respond appropriately to her proposals or recommendations following a repeated request.

Employees of the Ombudsman's Expert Service.

Submitting a petition

Formality or the assistance of a lawyer are not needed to submit an petition.

A special form is available on the Ombudsman's website and in her head office.

Generally, petitions are filed **in writing** via mail or sent to the e-mail address **info@varuh-rs.si.**

Persons deprived of freedom have the right to submit a petition to the Ombudsman in a closed envelope. The members of the NPM also receive petitions by holding conversations with prisoners.

In emergencies, a petition may also be submitted by telephone. A petitioner must later file such petition in writing as well.

A petition should:

· be signed and include personal information concerning the petitioner;
· contain the circumstances, facts and evidence on which the petition for initiating a procedure is based.
· state whether and which legal remedies have been used in the matter;
· contain a written consent or authorisation if the petition is filed by another person on behalf of the injured party.

The Ombudsman rejects a petition:

· if it does not concern a violation of human rights and fundamental freedoms;
· if the petitioner fails to revise and complete it following a prior reminder;
· if the matter is subject to a procedure before judicial authorities;
· if the matter falls under the competency of the investigative committees of the National Assembly in relation to holders of public functions;
· if not all ordinary or extraordinary legal remedies have been exhausted, unless it is assessed that it would be excessive to start or continue such proceedings for an individual, or if it is assessed that individuals would suffer great damage or damage difficult to repair;
· if it is clear from the petition that this is a less important matter which could not yield a suitable result, even following an investigation;
· if it is a less important matter.

THE YEAR 2016

The Ombudsman addressed
4.308 petitions.

943 discussions
with callers who had not (yet) filed their petitions.

3.183 petitions

182 discussions
in meetings held outside the head office, which remained only noted through official notes, as the petitioners received clarifications at the meetings and the issue did not require further treatment by the Ombudsman.

2.706
newly opened petitions

410
petitions carried forward from 2015

67
re-opened matters

2.722 concluded matters

357
(13.1%) well-founded matters

The Ombudsman found that the claims concerning the violations of human rights and fundamental freedoms were well-founded in **357 petitions**, and that at least one (or more) fundamental human right or freedom (according to the Constitution of the Republic of Slovenia) had been violated, or that the principles of equity and good governance had not been observed.

499
(18.3%) unfounded matters

1.450
(53.3%) matters that did not meet the conditions for further treatment

Legal proceedings are in progress in relation to a case in which no delay or greater irregularities have been noted. This group also includes tardy, anonymous and insulting complaints, and complaints for which procedures were suspended due to the complainant's non-cooperation or the withdrawal of the complaint.

416
(15.3%) matters that do not fall within the competence of the Ombudsman

We must also emphasise that **the number of justified petitions and the percentage of justified petitions among the resolved complaints are not real indicators of the situation of human rights protection** in Slovenia. Firstly, because not every person whose human rights are violated by state authorities necessarily turns to the Ombudsman. Secondly, because a single justified petition in which the Ombudsman finds a systemic irregularity may constitute a violation of the rights of several hundred, or even thousands, of people. Therefore, the Ombudsman acts on petitions based on information acquired from publicly accessible information in individual areas.

MEETINGS WITH CIVIL SOCIETY

Under the leadership of the Director, the Expert Service also organises **meetings with civil society from various fields**. **In particular, meetings with NGOs in the field of the environment and spatial planning have become common practice.** These meetings have taken place on a monthly basis since 2014, and have been upgraded during the term of Ombudsman Vlasta Nussdorfer, so that one meeting is held at the head office of the Ombudsman and another outside the head office.

Non-governmental organisations are important for the work of the Human Rights Ombudsman, as they do an excellent job of investigating the actual situation regarding people and their needs, and they are the quickest to respond to changed social circumstances. They discover individual and systemic forms of human rights violations and strive to eliminate them. In 2016, the Ombudsman again had meetings with NGOs or attended their events in order to exchange information in a direct dialogue on achievements and more particularly problems with enforcing human rights, democracy and the rule of law. Non-governmental organisations warned that state authorities do not observe their commitment to draft regulation proposals with the cooperation of the public, including civil society.

9 meetings

were organised by the Ombudsman in 2016 with the **non-governmental organisations working in the field of the environment and spatial planning** (more on these meetings in the Overview of the Activities in the Field 2.7 The Environment and Spatial Planning).

A total of **30 meetings** with non-governmental organisations and civil society

20 meetings

In 2016, the Ombudsman held discussions in her head office and also participated in another 20 meetings with non-governmental organisations.

Furthermore, in 2016, the Ombudsman organised the **second meeting with representatives of civil society dealing with the issue of aliens, refugees, and those seeking international protection.**

The overview of the meetings with NGO's is published as an appendix on page 236 of the latter part of this Report.

THE HUMAN RIGHTS OMBUDSMAN'S REPORTS

The Ombudsman reports on her work to the National Assembly by means of regular annual or special reports.

By 2016, the Ombudsman had issued **9 special reports.**

1. On the Advocate – A Child's Voice project (February 2013)
2. On the housing conditions of the Roma people in south-eastern Slovenia (May 2012)
3. Violence in the family – paths to a solution (July 2004)
4. On the Erased in the annual reports of the Ombudsman (July 2004)
5. On the issue of implementing regulations (January 2002)
6. On tenants in denationalised apartments (January 2002)
7. On the treatment of imprisoned persons (February 1999)
8. On the treatment of the mentally ill (January 1999)
9. On the fulfilment of the rights of the families of those who lost their lives in the 1991 War for Slovenia (April 1998)

In 2017, the Ombudsman issued her **22nd regular annual report.**

In 2017, the Ombudsman issued his **9th NPM Annual Report.**

The discussion on the 21st Annual Report

of the Human Rights Ombudsman of the Republic of Slovenia for 2015 and the report on the implementation of NPM duties in 2015

The Ombudsman submitted both reports to representatives of the legislative, executive, and judicial branches of government, i.e. to

Dr Milan Berglez,
the President of the National Assembly of the Republic of Slovenia, 31 May 2016

31 May 2016:
press conference on the premises of the Ombudsman, at which the Ombudsman and her deputies presented the main points of the annual report.

26 July 2016:
press conference on the premises of the Ombudsman, at which the Ombudsman, Deputy Ivan Šelih (head of the NPM) and their co-workers and representatives of NGO's presented the key points from the report on the implementation of NPM duties in 2015.

Borut Pahor,
the President of the Republic of Slovenia, 2 June 2016

Dr Miro Cerar,
the Prime Minister of the Republic of Slovenia, 6 June 2016

The Report was received by all ministers of the Government of the Republic of Slovenia and the heads of bodies within ministries.

In September 2016, the Government of the Republic of Slovenia drafted and sent to the National Assembly of the Republic of Slovenia and the Ombudsman the **Informative Report on the Realisation of the Recommendations** of the National Assembly of the Republic of Slovenia as the twentieth regular Annual Report of the Human Rights Ombudsman for 2014, and the Response Report of the Government of the Republic of Slovenia to the 21st regular Annual Report of the Human Rights Ombudsman for 2015 and the Report on the Implementation of NPM Duties in 2015 were discussed.

15 September 2016:
101st session of the Government of the Republic of Slovenia, at which both reports were discussed.

National Assembly of the Republic of Slovenia.
The Report was received by **Mitja Bervar** and councillors of the National Council of the Republic of Slovenia.

14 September 2016:
43rd regular session of the National Council of the Republic of Slovenia.

National Assembly of the Republic of Slovenia. The report was received by members of the National Assembly of the Republic of Slovenia.

31 August 2016:
the joint session of the Commission for State Organisation of the National Assembly of the Republic of Slovenia and the Commission for Social Care, Labour, Health and Disabled of the National Assembly of the Republic of Slovenia

8 September 2016:
26th session of the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia

4 October 2016:
session of the Commission of the National Assembly of the Republic of Slovenia for Petitions and Equal Opportunities

12 October 2016:
6th session of the Commission for National Communities

The Ombudsman and her deputies participated in the **23rd session of the National Assembly of the Republic of Slovenia**, at which both reports were discussed. On 25 October 2016, the National Assembly of the Republic of Slovenia adopted all of the Ombudsman's recommendations, with 74 votes in favour and no votes against.

6
discussions with ministers at the Ombudsman's office

13
discussions with the directors of directorates or heads of bodies within ministries

6
coordination meetings on drafting legislation

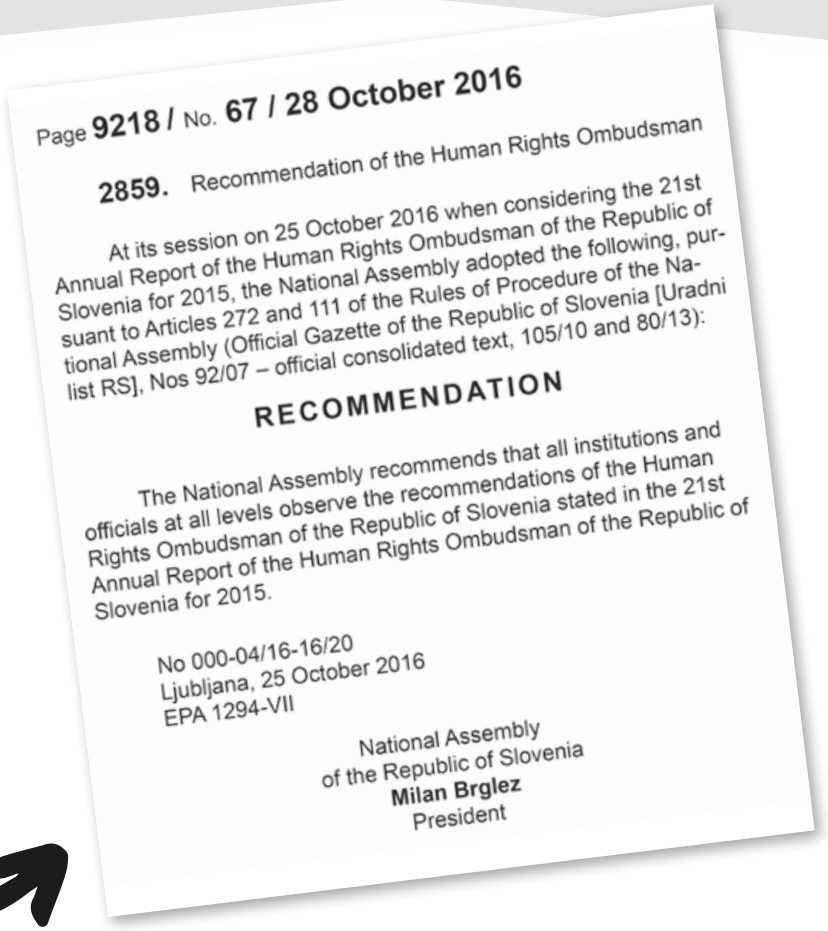
27
participations in sessions of commissions and committees of the National Assembly of the Republic of Slovenia

15
conversations with mayors

Issues concerning the implementation of the recommendations of the Ombudsman, systemic issues, and measures to eliminate violations of human rights discovered in the cases in question were examined by the Ombudsman and her deputies and advisers **in numerous meetings and sessions** with ministers and heads of national institutions, or at sessions of the bodies of the National Assembly of the Republic of Slovenia and the National Council. The reviews are enclosed as appendices in the latter part of this Report.

The level of implementation of the 83 recommendations adopted,

at the session of the National Assembly of the Republic of Slovenia dated 25 October 2016 is presented in the introductory part and in other parts of each chapter of this Report.



Page **9218** / No. **67 / 28 October 2016**

2859. Recommendation of the Human Rights Ombudsman

At its session on 25 October 2016 when considering the 21st Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015, the National Assembly adopted the following, pursuant to Articles 272 and 111 of the Rules of Procedure of the National Assembly (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos 92/07 – official consolidated text, 105/10 and 80/13):

RECOMMENDATION

The National Assembly recommends that all institutions and officials at all levels observe the recommendations of the Human Rights Ombudsman of the Republic of Slovenia stated in the 21st Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015.

No 000-04/16-16/20
Ljubljana, 25 October 2016
EPA 1294-VII

National Assembly
of the Republic of Slovenia
Milan Brglez
President

THE OMBUDSMAN AS THE NATIONAL PREVENTIVE MECHANISM

The Ombudsman has undertaken the duties of the National Preventive Mechanism (NPM) since the spring of 2008. When carrying out the tasks and exercising the powers of the NPM, the Ombudsman visits all premises in Slovenia where persons deprived of liberty have been placed on the basis of an act issued by the authorities.

The purpose of performing the tasks of the NPM

is to enhance the protection of persons with limited freedom of movement against torture and other cruel, inhuman or degrading treatment or punishment.

The NPM as a special organisational unit within the scope of the Ombudsman's office

The work of the Ombudsman in the role of the NPM is carried out by expert associates in an organisational unit that does not treat individual petitions, but only inspects facilities accommodating individuals whose liberty has been, or would be, deprived based on an act issued by authorities. The two activities of the Ombudsman have been separated: the preventive, which encompasses the duties of the NPM, and the reactive, which encompasses the treatment of petitions received. This division is also expressly emphasised by point 32 of the UN Guidelines on National Preventive Mechanisms issued by the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted in Geneva in November 2010. The Guidelines stipulate that NPM duties are to be carried out by a separate unit or department with its own staff and budget.

The unit is led by **Deputy Ombudsman Ivan Šelih.** In addition to Mr. Šelih, the unit also has three other officials: **a graduate in criminal justice and security specialising in criminal investigation** who is responsible for visiting prisons, remand prisons, police stations, aliens and asylum centres; **a law M.A.** responsible for visiting social care institutions and psychiatric hospitals; and **a professor of defectology for behavioural and personality disorders and institutional education science,** who is responsible for visiting juvenile institutions and partly for visiting social care institutions.

The Ombudsman carries out the tasks of the NPM in cooperation with non-governmental organisations selected on the basis of a tender. **In 2016, these tasks were carried out in cooperation with the following non-governmental organisations:** SKUP – Community of Private Institutes, the Pravo Za Vse Humanitarian Society, Novi Paradoks, the Association for Developing Voluntary Work Novo Mesto, the Peace Institute, the Slovenian Federation of Pensioners' Associations, Caritas Slovenia, and Legal-Informational Centre for NGOs – PIC.

Since the selected NGOs cannot provide certain other suitable experts and because the Ombudsman does not dispose of an expert in the field of medical care, certain experts with such knowledge had to be engaged externally based on a call for applications.

The National Preventive Mechanism drafts a report on its work every year

The report for 2016 is the ninth since the adoption of the Act. It is printed in a separate publication, but is an integral part of the regular Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2016. Both reports are published on the Ombudsman's website.

Robert Gačnik, Lili Jazbec, Ivan Šelih (Head of the NPM), and **Jure Markič**

In 2016, the NPM visited 80 locations in Slovenia

where persons deprived of liberty have been placed on the basis of an act issued by the authorities.

34 police stations	**5** psychiatric hospitals	**24** social care institutions (elderly homes)	**3** special social care institutions	**7** prisons	**4** residential treatment institutions	**3** visits to locations of deprivation of liberty of aliens

After the visits, the NPM drafts reports and develops recommendations for competent authorities, so that they will improve the conditions and treatment of people and eliminate any improper activities. Therefore, a total of 674 recommendations were submitted in 2016. Most were observed, some were not adopted by institutions, while no information on others has been received by the NPM thus far.

INSTITUTIONS VISITED	No. of locations	Realised	Accepted	Rejected	No data	TOTAL
Police stations	**34**	107	66	27	4	**204**
Aliens Centre	**1**	4	2	8	0	**14**
Psychiatric hospitals	**5**	21	26	7	12	**66**
Social care institutions	**24**	84	59	3	40	**186**
Special social care institutions	**3**	0	5	1	17	**23**
Prisons	**7**	56	44	8	0	**108**
Residential treatment institutions	**4**	11	36	6	6	**59**
Entry and reception centre for refugees/migrants	**2**	4	2	5	3	**14**
TOTAL	**80**	**287**	**240**	**65**	**82**	**674**

ADVOCATE – A CHILD'S VOICE PROJECT

The Advocate – A Child's Voice project has been carried out under the auspices of the Ombudsman since 2007.

The aim of the project is to develop a model programme for an advocate for the rights of the child that could be included in the formal legal system, both on a substantive and an organisational basis, thus ensuring its implementation at the national level.

Slovenia also committed to paying special attention to the care of children by signing the Convention on the Rights of the Child and the European Convention on the Exercise of Children's Rights. The Convention on the Rights of the Child places the interest of the child in the forefront and treats the child as an independent holder of rights, and demands that children's position be strengthened in all procedures before state authorities. The advantage of such a regime is that it originates from the rights of the child, not from the rights of parents, thus enabling the child to be treated as an entity in various legal relations. Advocates strengthen the voice of the child in such procedures.

The project was designed in 2006, and was supposed to be carried out in 2007 and 2008. Due to the ineffective response of the state and because the family code was not confirmed at the referendum, the implementation of the project was extended for another few years.

At its 68th regular session on 23 December 2015, the Government of the Republic of Slovenia adopted a decision stating that the Advocate – A Child's Voice pilot project be extended in the period from 2016 to the end of 2017 and that the uninterrupted implementation of the project be ensured by means of funds within the financial plan of the Ministry of Labour, Family, Social Affairs and Equal Opportunities for 2016 and 2017 (Decision No 07003-1/2015/5 of 23 December 2015), in accordance with the adopted Special Report of the Human Rights Ombudsman on the Advocate – A Child's Voice Project adopted by the National Assembly of the Republic of Slovenia on 23 May 2013.

The group implementing the project that works within the Ombudsman's office consists of representatives of the Ombudsman and of governmental and non-governmental organisations. The project is coordinated by the Human Rights Ombudsman of the Republic of Slovenia; work in specific areas is managed by coordinators.

In ten years, the Advocate – A Child's Voice project has helped **more than 550 children** to exercise their right to freely express their wishes in procedures in which they were involved in various roles.

In 2016, 56 active advocates participated in the project, holding 429 meetings with children. Fifteen advocates were inactive for various reasons (maternity leave, long-term medical treatment, longer absence, etc.).

In 2016, the Ombudsman received 78 petitions to appoint an advocate for 62 children. Advocates were appointed by parents or guardians 33 times, 5 times by means of a court decision, and twice by means of a decision issued by a social work centre.

Based on the experience acquired, we found that the pilot project must also have a suitable legal basis, so in her 2015 Annual Report the Ombudsman proposed to the National Assembly of the Republic of Slovenia (Recommendation No 79 (2015)) that the role and duties of the advocate for the rights of the child be determined in greater detail by an amendment to the Human Rights Ombudsman Act. The National Assembly accepted the Ombudsman's recommendation, so we began to prepare expert bases that will enable the adoption of optimum legal solutions.

Undoubtedly, one of the most significant expert bases for preparing legislative solutions is the expert evaluation of the project, which was entrusted to the Social Protection Institute of the Republic of Slovenia based on a call for tenders in 2016. Within the evaluation, the first phase of which was carried out in 2016, and phase two of which is to be completed by March 2017, we wish to discover whether the project achieved its goals and how it could be improved with regard to quality and effectiveness.


VSAK OTROK IMA
PRAVICO SODELOVATI
PRI ODLOČANJU O SVOJI
PRIHODNOSTI
ZAGOVORNIK
OKREPI
GLAS OTROKA
zagovornik glasu otroka
080 15 30
www.pravice-otrok.si
info@varuh-rs.si
REPUBLIKA SLOVENIJA
VARUH ČLOVEKOVIH PRAVIC
PROJEKT ZAGOVORNIK - GLAS OTROKA VODI VARUH ČLOVEKOVIH PRAVIC RS.

PUBLICATIONS ISSUED IN 2016

The main publication prepared was undoubtedly **the 21st Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015.** It was published in May 2016, and comprised 432 pages.

The Report of the Ombudsman on the Implementation of the Tasks of the National Preventive Mechanism (NPM) under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is an integral part of the Ombudsman's Report, but is printed in a separate publication. It was drafted in Slovenian and published in May 2016; it has 224 pages. A new feature of the Report is an extensive table showing the levels of implementation of recommendations made by the National Preventive Mechanism.

We also prepared **a shorter version in English of the Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015 and the Report on the Implementation of the Tasks of the National Preventive Mechanism for 2015.nalog DPM za leto 2015 v angleškem jeziku.**

INTERNATIONAL COOPERATION

The Ombudsman collaborates primarily with the UN, the Council of Europe, and international associations of ombudsmen.

Within the UN, the Ombudsman works primarily with the **United Nations High Commission for Refugees** (UNHCR) and the **Committee against Torture:**

Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Within the EU, the Ombudsman collaborates primarily with the **Fundamental Rights Agency** (FRA).

Within the Council of Europe, we mainly cooperate with the **European Commission against Racism and Intolerance** (ECRI), the **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** (CPT), the **Advisory Committee on the Framework Convention for the Protection of National Minorities**, the **Commissioner for Human Rights**, and other bodies of the Council of Europe.

The South-East Europe NPM Network (SEE NPM Network) and the **Children's Rights Ombudspersons' Network in South and Eastern Europe** (CRONSEE).

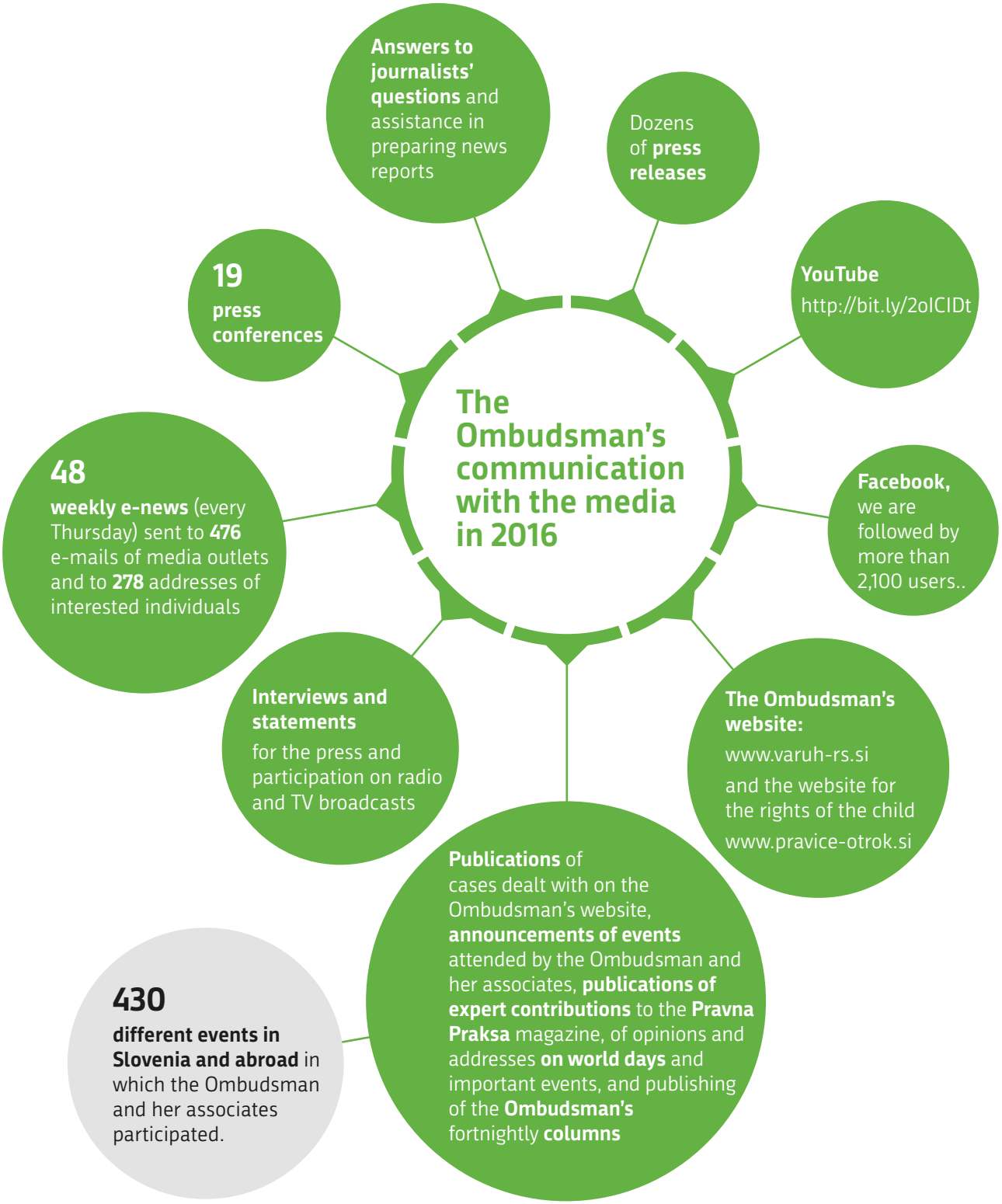
The International Ombudsman Institute (IOI). The **European Network of National Human Rights Institutions** (ENNHRI) and the **European Network of Ombudspersons for Children** (ENOC).

In international relations, the Ombudsman strives for the active exchange of experience and best practices in the operations of ombudsmen as supervisory mechanisms for exercising human rights and fundamental freedoms.

In 2016, the Ombudsman worked on 40 international events. Our mode of operation in the field of tasks and powers held by the Ombudsman as the National Preventive Mechanism (NPM) is particularly interesting. Our findings, experience, operation, and achievements are often presented abroad, at international conferences, workshops, and meetings organised by ombudsmen and international human rights organisations.

An overview of individual forms of international cooperation is presented in the Overview of the Activities of Each Substantive Sub-Chapter.

RELATIONS WITH THE MEDIA IN 2016



The Ombudsman ensures a high-quality, professionally justified, fair and prompt response to complaints from the media and their questions. The Ombudsman responds publicly when this is deemed necessary in the light of its role and powers. The Ombudsman responds to individual cases when all the relevant information from the competent authorities has been collected and when an opinion has been formed on the basis of the information. Due to the principle of confidentiality in this process, the Ombudsman always acquires the consent of complainants prior to disclosing any details about individual cases. Without such consent, only general opinions are provided about a certain problem.

For years, the Ombudsman has been aware of the importance of working with the media **to raise people's awareness** of their rights, **to raise important questions for society** about human rights, and **to make sure that what has been achieved as well as new standards** for protecting human rights and fundamental freedoms are maintained.

The Ombudsman also watches over freedom of expression and its limitations, the ethics of public speech, privacy and publicity, and protects the rights of the journalists at the national television station in relation to the state and its bodies (more on this is available in another chapter). She understands the forms and methods of work of the media; her work attempts to address their needs, and she ensures transparent operations and the fulfilment of the public's right to being informed. By forwarding information to the media, we also implement the right of the public to obtain information of a public nature. Authorities must provide information about their work to the media and journalists without discrimination, so that the public are informed about all matters of public significance, which is a standard in democratic societies.

When informing the public on its work, the Ombudsman observes the regulation on the protection of data confidentiality and the confidential nature of the procedure in accordance with the law.

Cooperation with the media

The Ombudsman and her deputies are **available to representatives of the fourth estate on various occasions,** at conferences, meetings, round tables, symposiums, and at other events. Therefore, it is impossible to record all statements, interviews, and other forms of communication with the media with statistical precision. The Ombudsman responded to many invitations from media organisations; she spoke at **Radio Europa05** regularly every month about current issues. We published cases which we encountered in our work in the **Pravna Praksa** magazine, and the Ombudsman contributed her thoughts in editorial articles, while her deputies and expert associates wrote in-depth articles on relevant topics in the field of human rights. The Ombudsman regularly published a **column every two weeks at the IUS INFO legal portal.** In the column, the Ombudsman responds to current topics; the column is well read and often quoted in the media.

We also collaborate with journalists informally and often assist them in **preparing reports** or when they are researching a human rights topic that they wish to address.

Press conferences

19 press conferences were held in 2016. Four press conferences were held at the head office of the Ombudsman (issue concerning refugees, the boys from the Koroška region, presentation of the 2015 Annual Report and the work of the NPM in 2015), in two locations outside the head office of the institutions (placement in social care centres (Lokavci), self-employed in culture), and 13 press conferences were held when meetings outside the head office were held in various places around Slovenia. The Ombudsman also attended a press conference on opportunities for the additional education of those older than 45. As the company Peko went bankrupt, the Ombudsman held a press conference following a meeting with the management of Peko in early 2016 and warned of the importance of protecting the rights of the workers and their families.

After most meetings with the highest representatives of bodies, mainly ministers, at the head office of the Ombudsman, journalists were invited to ask the Ombudsman and her guests additional questions about these meetings, if they wished, after hearing **the joint press release**. There were four such occasions; the meetings were reported on by means of press releases.

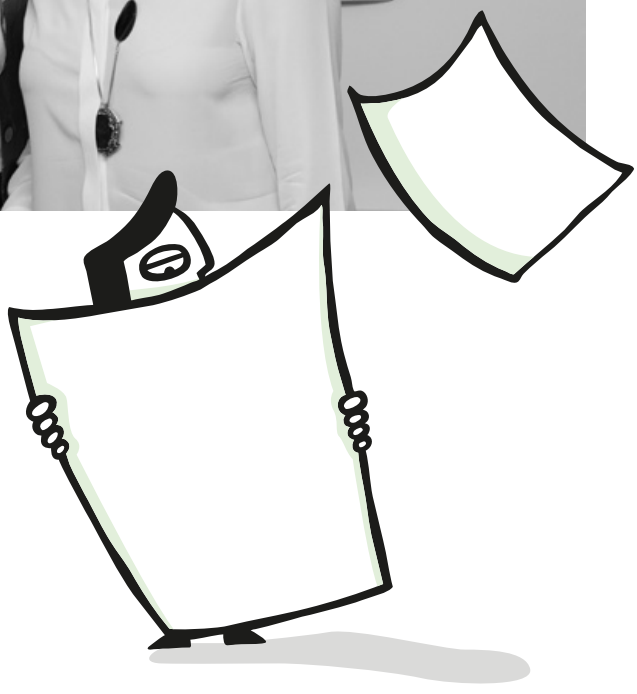
Websites

Information on the work of the institution can be monitored on two websites, one for children and the adults taking care of them (www.pravice-otrok.si), and one that is used to provide information on the Ombudsman's multi-layered work (www.varuh-rs.si). On the website concerning the rights of the child, interested individuals can most frequently find a simplified version of the Convention on the Rights of the Child; furthermore, individuals are also interested in the Advocate – A Child's Voice project. On the Ombudsman's website, visitors seek international documents on human rights; they are interested in employment with the Ombudsman; they learn how to find help; they are interested in specific cases dealt with by the Ombudsman, and they also scroll through the annual reports and response reports of the Government of the Republic of Slovenia.

Monitoring the media

The employees of the Ombudsman are informed of reporting by the media and the cases related to violations of rights found by the media by means of a **service for monitoring media content (clipping service),** and we also actively monitor other sources of information online that can also be a source of alleged violations of human rights. The media and other sources are only one of the informational bases for the Ombudsman's actions. Many people do not trust in institutions, so resort to representatives of the fourth branch of government to trust with their story. The Ombudsman studies the information found in the media and assesses whether this information could form the basis for opening a petition on her own initiative, whether it is a broader issue, or whether it meets the conditions for taking action.

Nataša Kuzmič, Ombudsman's Adviser for Public Relations, **Liana Kalčina,** Ombudsman's Adviser for International Relations, Publishing, Analysis and Surveys, and **Bojana Kvas**, Secretary General of the Ombudsman



PROCESSING REQUESTS TO ACCESS PUBLIC INFORMATION

In order to provide public information, the Ombudsman authorised three officials, namely two officials to provide the public with information that refers to the substantive work of the Ombudsman (processing of petitions), and one official who is responsible for providing public information referring to all of the remaining work of the Ombudsman.

In 2016, we received and processed four requests to access public information.

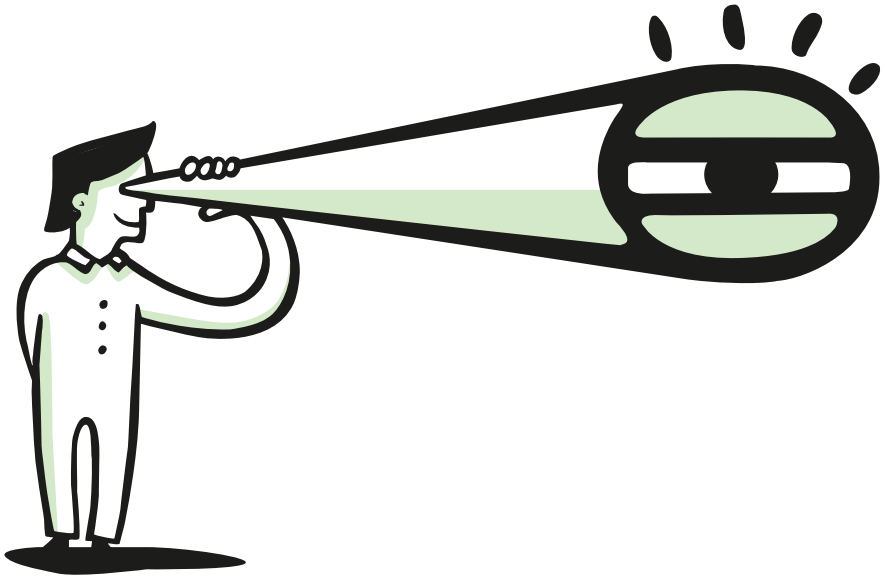
In three cases, the applicants' requests were fully approved, and in one case the request was partly rejected, but the remaining information was provided to the applicant.

Case No 0106-12/2016

The applicant asked the Ombudsman "to provide a part of the act on job classification that will show the data on the starting salary grade and the job and task description for the position Secretary-General of the Ombudsman." The requested data was provided to the applicant, together with the appendix to the Rules on Job Classification and Employment Relationships of the Human Rights Ombudsman..

Case No 0106-22/2016

The applicant requested scanned invoices or delivery notes which show the supplier, products, prices, and quantities for the purchase of original and non-original toners and ink for printers, faxes, photocopying machines, and multi-functioning devices in the period from 1 April to 1 July 2016, and delivery notes or invoices for renting printers, faxes, photocopying machines, and multi-functional devices from the past month. The applicant also requested the last pro-forma invoice of the selected tenderer. The Ombudsman provided all of the requested documents to the applicant and clarified that three orders for the purchase of toners had been issued; copies of orders, delivery notes, invoices, and a scan of the pro-forma invoice were enclosed. We further clarified to the applicant that the Ombudsman has no rented printers, faxes, photocopying machines, or multi-functioning devices.



Case No 0106-24/2016

The applicant asked for the Ombudsman's document on job classification. We provided the applicant with the Rules on Job Classification and the Employment Relationships of the Human Rights Ombudsman of the Republic of Slovenia, together with all amendments and the latest valid appendices.

Case No 0106-21/2016 (partially rejected)

The applicant sent a request to the Ombudsman to provide public information; he requested photocopies of all documents and correspondence related to the issue of the blessing of a public school and municipality that the Ombudsman had presented in her 2015 Annual Report in the chapter Freedom of Conscience, on page 33.

In their response, the person authorised to access this information clarified that in 2015 the Ombudsman had treated only one petition dealing with this issue, not two, as was evident from the applicant's request, and the person then provided photocopies of some documents related to this petition. The applicant was not satisfied with the above clarification and requested the provision of all documents and correspondence related to the matter in question.

The applicant's requests for photocopies of all documents and correspondence related to petitions concerning the blessing of a public school and municipality was partly rejected by the person authorised to provide public information, namely in accordance with point 11 of paragraph one of Article 6 of the Public Information Access Act (ZDIJZ). The disclosure of these documents would disrupt the operation and activities of the body. In the relevant legislation, the legislator laid down that the procedure with the Ombudsman is to be confidential; this was undoubtedly in order to protect petitioners from being ill-treated or being subject to other pressures. **The disclosure of this information would destroy petitioners' trust in the institution and deter them from using this informal method of protecting their rights. This would rob the institution of its sense and meaning as a constitutionally provided institution.** The content of the documents requested by the applicant does not comprise facts on the operation of the institution, but is studied by the institution from the perspective of the violation of human rights and freedoms.

Employees of the Office of the Ombudsman's Secretary-General

FINANCES

Paragraph two of Article 5 of the Human Rights Ombudsman Act (ZVarCP) stipulates

that the funds for the Ombudsman's work are to be allocated by the National Assembly of the Republic of Slovenia from the national budget.

The National Assembly of the Republic of Slovenia allocated funds for the work of the institution from the national budget for 2016 at

EUR 2,044.833.

On three sub-programmes, the Ombudsman spent

EUR 2,042.767:

Protection of human rights and fundamental freedoms:	Implementation of the tasks and powers of the NPM:	Advocate - A Child's Voice Project:
EUR 1,804.898	**EUR 130.095**	**EUR 107.774**

Funds spent on the sub-programme Protection of human rights and fundamental freedoms

In 2016, EUR 1,352.089 were spent on wages and other staff expenses. Wages and benefits amounted to EUR 1,063,376, the annual leave allowance to EUR 19,600, and reimbursement and compensation to EUR 56,141; bonus payments for work performance for increased workload amounted to EUR 19,666 (due to lengthier absence due to illness); funds for overtime work to EUR 2,924; other expenses for employees to EUR 12,734, while employer's social security contributions amounted to EUR 175,479. Some EUR 2,169 were spent on premiums for collective supplementary pension insurance as per the Collective Supplementary Pension Insurance for Public Employees Act.

In 2016, EUR 398,138 were spent on material costs. EUR 156,751 were spent on office and general material and services (the largest amount was earmarked for the design and printing of the Ombudsman's Annual Report, which was published in Slovenian and English; the costs of translation of the Annual Report, various correspondence and complaints submitted to the Ombudsman by complainants in foreign languages, studies, contributions and articles). We spent EUR 8,644 on special material and services; EUR 8,243 on transportation; EUR 49,600 on electricity, water, municipal services and communications; EUR 14,119 on business trips; EUR 18,128 on routine maintenance; EUR 114,440 on business rents and leases, and EUR 28,213 on other operating costs (EUR 7,011 were spent within other operating costs for student work – substituting for a worker who was absent for a long time due to illness).

In 2016, EUR 54,671 were spent on investment expenses.

EUR 17,708 were spent on the purchase of a work vehicle of the Ombudsman; EUR 32,644 were spent on the purchase of computer and communication equipment and office furniture, and EUR 4,319 were spent on major maintenance (renovation of lavatories on the fourth floor).

Funds spent on the sub-programme Implementation of tasks and powers of the NPM

In 2016, EUR 113,030 were spent on wages and other staff expenses. Wages and benefits amounted to EUR 9,093, the annual leave allowance to EUR 1,125, reimbursement and compensations to EUR 4,203, and bonus payments for work performance for increased workload to EUR 1,158 (because of absence due to illness);

other expenses paid to employees amounted to EUR 433, while employer's social security contributions amounted to EUR 14.851. EUR 167 were spent on premiums of collective supplementary pension insurance as per the Collective Supplementary Pension Insurance for Public Employees Act.

In 2016, EUR 5,630 were spent on material costs within the scope of the Optional Protocol, i.e. EUR 813 on office and general material and services, EUR 410 on communication services, EUR 2,687 on business trips and EUR 1,720 on other operating costs.

From the funds earmarked for cooperation with NGOs, EUR 11,435 were spent in 2016, of which EUR 7,486 on other operating costs and EUR 3,949 on current transfers to NGOs and institutions..

Funds used for the sub-programme Advocate – A Child's Voice Project

In 2016, EUR 107,774 were spent on the Advocate – A Child's Voice Project. EUR 18,290 were spent on wages and other staff expenses. Wages and benefits amounted to EUR 11,695, the annual leave allowance to EUR 696, reimbursement and compensations to EUR 723, and payments for work performance for increased workload to EUR 2,854 (because of sick leaves), while employer's social security contributions amounted to EUR 2.360. EUR 32 were spent on premiums of collective supplementary pension insurance as per the Collective Supplementary Pension Insurance for Public Employees Act.

EUR 89,484 were spent on material costs. EUR 367 of this money were spent on communication services, transport costs, and business trips, and EUR 89,117 on other operating costs (advocates' expenses, supervisions, consultation sessions).

We received EUR 20,000 from the Ministry of Labour, Family, Social Affairs and Equal Opportunities to smoothly carry out the Advocate – A Child's Voice Project.

The Ombudsman's finances for 2016

	Funds allocated (in EUR)	**Current budget (CB)** (in EUR)	**Funds spent** (in EUR)	**Remaining funds according to CB** (in EUR)
Human Rights Ombudsman of the Republic of Slovenia	**2.044.833**	**2.050.909**	**2.042.767**	**8.142**
SUBPROGRAMMES				
Protection of human rights and fundamental freedoms	**1.832.669**	**1.806.972**	**1.804.898**	**2.074**
Wages and salaries	1.384.570	1.353.190	1.352.089	1.101
Material costs	393.599	399.111	398.138	973
Investments	54.500	54.671	54.671	0
Implementation of the tasks and powers of the NPM	**132.164**	**130.573**	**130.095**	**478**
Wages and salaries	111.164	113.030	113.030	0
Material costs	11.000	6.043	5.630	413
Cooperation with non-governmental organisations	10.000	11.500	11.435	65
Advocate - A Child's Voice Project	**80.000**	**107.774**	**107.774**	**0**
Wages and salaries	3.133	18.290	18.290	0
Material costs	76.867	89.484	89.484	0
Earmarked funds*	**0**	**5.590**	**0**	**5.590**
Compensation funds	0	290	0	290
Funds from the sale of state assets	0	5.300	0	5.300

* Earmarked funds were carried over into the 2017 budget

2

CONTENT OF WORK AND REVIEW OF CASES HANDLED

2.1
CONSTITUTIONAL RIGHTS

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
1. Constitutional rights	**190**	**135**	**71.1**	**127**	**16**	**12.6**
1.1 Freedom of conscience	6	7	116.7	6	1	16.7
1.2 Ethics of public discourse	87	42	48.3	42	7	16.7
1.3 Assembly and association	8	11	137.5	11	2	18.2
1.4 Security services	1	0	0	0	0	-
1.5 Right to vote	4	8	200	8	4	50
1.6 Personal data protection	61	50	82	46	2	4.3
1.7 Access to public information	3	5	166.7	4	0	-
1.8 Other	20	12	60	10	0	-

2.1.1 Freedom of conscience

Last year, we reported on a case concerning the blessing of a state school and the blessing of a municipality at an event celebrating a municipal holiday. Such a practice can be regarded as problematic from the perspective of Article 7 of the Constitution of the Republic of Slovenia, according to which the state and religious communities are separate, and religious communities are equal under the law; this is also problematic from the perspective of Article 41 of the Constitution, which protects individuals from being subject to religious rituals against their will; with regard to state schools, this is also problematic from the perspective of Article 72 of the Organization and Financing of Education Act (hereinafter: the ZOFVI) which prohibits non-secular activities in state nursery schools and schools. Considering the existing regulatory framework, the violation of the mayor's responsibility could only be regarded as a political violation, and the ZOFVI also does not foresee any sanctions for the performance of non-secular activities in state schools. Therefore, this Act prohibits specific actions, but does not foresee sanctions for such actions; for this reason, the prohibited actions can spread without sanction. We warned the Ministry of Education, Science and Sport (hereinafter: the MIZŠ), which had not been inclined to make such changes at first, as they felt that the prohibition could be implemented through informal talks, guidelines, and the training of headteachers; however, it finally gave assurances that, as it drafts amendments to the ZOFVI, it would consider sanctioning the violation of the prohibition referred to in Article 72 and would also focus on this topic during headteachers' training. **However, this did not happen in 2016.** Upon enquiring at which specific headteachers' training courses and in what way attention has been paid to the ban on performing non-secular activities in state schools since the assurance given by the State Secretary at the meeting with the Ombudsman on 24 September 2015, namely that the MIZŠ would empower headteachers on this issue, because the Ministry had found it had been neglected in training courses in recent years, we finally received an explanation (letter no. 070-8/2015/17) stating that a project titled Strengthening the Competences of Professional Workers in the Field of Managing Educational Institutions in the 2016–2018 Period had been

confirmed only at the end of 2016. **However, there was nothing in this letter from the MIZŠ to indicate how the prohibition of performing non-secular activities would be treated within this project. Therefore, the Ombudsman expects the MIZŠ to clarify specifically how the performance of the assured changes has actually been approached, at the latest in the response report of the Government of the Republic of Slovenia to this Annual Report of the Human Rights Ombudsman, at which point the aforementioned project will have been implemented for some time.**

In particular, it is worth noting that we attended a meeting with representatives of the MIZŠ at the Ombudsman's offices on 13 December 2016, at which they clarified that the Act Amending the ZOFVI would not introduce sanctions for violating the prohibition of performing non-secular activities in state nursery schools and schools because the Ministry has not found such cases and also because even now there are other prohibitions that also do not result in any sanctions.

In the context of the ZOFVI, it should be added that, when dealing with one such case (1.1-2/2016) in early September, we turned to the MIZŠ, also emphasising that the Constitutional Court of the Republic of Slovenia issued Decision No. U-I-269/12-24 of 4 December 2014 by means of which it provided that the part of sentence one of paragraph two of Article 86 of the ZOFVI referring to state-approved primary school education is in conflict with the Constitution, and that the National Assembly must eliminate this unconstitutionality within one year of the publication of the Decision in the Official Gazette of the Republic of Slovenia; the Decision was then published on 9 January 2015, so the deadline for eliminating the unconstitutionality expired quite some time ago. Amendments to the ZOFVI were actually adopted in 2016, but they did not eliminate the unconstitutionality. **Such failures to observe the obligation to meet a deadline provided by a decision issued by the highest judiciary body are unacceptable and also very alarming, and thus, in and of themselves, provoke severe criticism.** In letter no. 060-115/2016/2, the MIZŠ explained to the Ombudsman that the proposal for an amendment to the ZOFVI by means of which the discovered conflict with the Constitution arising from paragraph one of Article 86 would be eliminated had been published on the website e-demokracija in April, and that, after studying all of the recommendations received, it would draft a proposal for the wording of the Act and submit it for inter-ministerial coordination as soon as possible; **however, even after missing the deadline by one year, this amending act has still not been adopted.**

Three cases related to baptism were treated. The Coalition for the Separation of Church and State turned to us regarding their petition to ban the baptism of babies, which was also addressed to the Government of the Republic of Slovenia and the National Assembly. The grounds for a ban on baptising babies were based on Article 41 of the Constitution, which deals with freedom of conscience, and Article 56 in accordance with which children are entitled to special protection from physical, mental, or other forms of exploitation and abuse. Furthermore, the Coalition stated that there are some specific consequences caused by baptism which allegedly violate the baby's rights, e.g. taking away the baby's religious freedom, as the Catholic Church does not enable complete exit, because it believes that, through baptism, the child becomes a member of the Church and that it loses its autonomy, that the baptism is an indelible mark, that the baptised person must participate in the mission of the Church, and that they must be obedient to Church leaders and support the Church materially. The Ombudsman's principled view on this matter is that adopting a statutory provision advocated by the Coalition would require legislators to carefully deliberate constitutionally protected rights. Currently, the baptism of babies is within the scope of the freedom of choice of the child's parents, based on Article 54 of the Constitution. In accordance with this Article, parents have the right and duty to maintain, educate, and raise their children, which can be restricted or revoked only on the basis of the law or if this is required in order to protect the child's best interests. The decision on a child's baptism is also based on the general freedom of parents' actions (Article 35 of the Constitution). A potential ban on baby baptism would also constitute a violation of the parents' right referred to in Article 54 in conjunction with their freedom of conscience referred to in Article 41. Therefore, in this case, legislators would have to decide whether there are well-founded grounds for banning baby baptism that would affect the aforementioned parents' rights in an acceptable way.

We were also forwarded an e-mail in which a person responded to a letter from the Diocese of Koper requesting that a ceremonial ritual to annul baptism be performed, that it be registered in the book of baptisms and that a note be made that the baptism had been rendered null and void. In the event that the Diocese refused to do so, the person requested assistance from the Ombudsman in annulling the baptism. We had to explain that, in

accordance with Article 6 of the Freedom of Religion Act, registered churches and other religious communities are legal persons governed by private law that function separate from the state. Therefore, in this case, the Ombudsman cannot intervene in accordance with the Human Rights Ombudsman Act (hereinafter: the ZVarCP). However, we were able to provide a general clarification that the freedom to profess faith is defined in Article 41 of the Constitution, and no one may be forced to become or remain a member of a church or other religious community or to participate or not participate in a church service, religious rituals, or other forms of expressing faith in accordance with the provision of paragraph three of Article 2 of the Freedom of Religion Act. The Catholic Church allows a person to exit its religious community, but also claims in accordance with its theology that, despite the official exit from the Catholic Church, the baptism remains an "indelible spiritual mark". In our opinion, the person who feels that this is an inadmissible violation of their personal right has the right in accordance with Article 134 of the Code of Obligations to request that the court or any other competent authority order that an action that infringes the inviolability of the human person, personal and family life, or any other personal right be stopped, that such action be prevented, or that the consequences of such action be eliminated. In Decision No. U-I-92/07, the Constitutional Court stated that the freedom of conscience referred to in Article 41 of the Constitution is also connected to the right to privacy and other personal rights referred to in Article 35 of the Constitution.

It should also be noted that we found a protest published in a newspaper concerning the attendance at mass of state officials. It referred to a mass at St Nicholas' Cathedral held on 24 June 2016 to commemorate Statehood Day (*dan državnosti*). The Ombudsman responds to the invitations of all churches and creeds in Slovenia if her work permits. Therefore, she also responded to the invitation of the President of the Slovenian Bishops' Conference, who invited her to attend a holy mass for the homeland. For example, in 2013, she attended the ceremonial laying of the foundation stone for the Islamic Cultural Centre in Ljubljana. In our opinion, the freedom to express faith and religious feelings convictions of all individuals and members of religious communities must be observed, regardless of whether this is Islam, Christianity, Judaism, or any other faith. The respect for of all creeds in Slovenia also encompasses someone like the Ombudsman respectfully accepting the invitation of church dignitaries, thus also contributing to enhancing inter-cultural and inter-faith dialogue and progress in mutual understanding and respect. According to Article 7 of the Constitution, the state and religious communities are separate, and religious communities are treated as equal, and their operation is free. Accepting an invitation from a religious community does not constitute an action in conflict with the Constitution, but symbolically contributes to the observance of the freedom of religion.

2.1.2 Ethics of public discourse

In 2016, we intervened only once in this field after receiving a complaint; we intervened with the Government Communication Office of the Republic of Slovenia. The Office responded with a satisfactory clarification within the deadline, the day after we sent our enquiry.

Example**:**

A comment with elements of hate speech on the Government website predlagam.vladi.si
The Ombudsman treated a complaint related to a comment posted on the Government website predlagam.vladi.si, which the complainant felt was offensive, hateful, and generally inappropriate. The controversial comment was posted on 26 January 2016 as a part of a proposal for regulating the issue of illegal refugees. On 24 February 2016, we visited the website in question and discovered that the comment, to which attention had been brought by the complainant, was still there. We also assessed that the comment was unacceptable as it contained elements of hate speech (directed against Muslims) and should therefore have been removed.

We turned to the Government Communication Office of the Republic of Slovenia, whereby we first warned that a similar complaint had already been received in 2015. With regard to our enquiry at that time, we received the clarification that the moderator verifies the compliance of a suggestion with the Rules of the Web Tool 'predlagam.vladi.si' prior to posting every suggestion, and if the content constitutes such a violation, the moderator refuses to post such a suggestion and provides grounds for this; however, user comments are posted in real time without the prior approval of the moderator. Furthermore, we were informed at the time that a system for controlling whether comments are inappropriate or illegal exists, but was inadequate, so upgrades

were planned and suitable technical solutions were to be introduced in the first quarter of 2016. Considering all of this, this time we asked the Office to inform us how the system for controlling whether comments are inappropriate or illegal functions and to clarify how the Office intends to upgrade it. Moreover, we suggested that the Office remove the controversial comment and inform the complainant thereof.

The Government Communication Office of the Republic of Slovenia reiterated some clarifications that we had received the first time, and added that, in February 2016, it began technically upgrading the system for controlling whether comments are inappropriate or illegal. Supposedly, the technical solution had already been implemented at the time, and the Office assured us that a moderator monitors newly posted comments daily and acts accordingly in the event of inappropriate comments. With regard to this specific case, it clarified that the comment had been deleted on 25 February 2016 at the request of the author of the comment.

The Ombudsman considered the complaint well-founded, as the comment in the specific case was inappropriate and contained elements of hate speech; it was posted on the Government website for just under a month; above all, it was unacceptable that the complainant had himself warned the Government Communication Office of the Republic of Slovenia on 11 February 2016 of the comment in question, but the comment had been only removed fourteen days later, at the request of the author. However, we welcomed the introduction of the new technical solution and the daily moderation of newly posted comments; furthermore, we expressed the hope that this would be a development in the right direction, ensuring that such cases do not recur. We also emphasised that this is a Government website, and as such, should set an example to all other websites, mainly in preventing comments containing elements of hate speech. **(1.2-5/2016)**

The Ombudsman has frequently stressed its conviction on the importance of self-regulating mechanisms for responding to hate speech, mainly because the prescribed conditions for prosecuting so-called hate speech are difficult to meet, and there is also a broad 'grey' area relating to inappropriate public speech that does not meet the conditions for prosecution. On a related matter, **the Ombudsman already proposed in its last year's report (p. 37) that members of Parliament and other politicians adopt an ethics code and form a tribunal to respond to individual cases of hate speech in politics**. **The opinions of those for whom this recommendation was intended have not yet been received.** However, expressions of support have been received, e.g. from the Ministry of Culture (hereinafter: MK) stating that it fully supports the Ombudsman's recommendation for anyone participating in public discussions to avoid inciting hate or intolerance based on any personal circumstance in their statements and texts; if such cases occur, there should be an immediate response and a condemnation (see pp. 11–12 of the response report of the Government of the Republic of Slovenia to the 20th Regular Annual Report of the Human Rights Ombudsman for 2014); the MK also stated that it agreed with the Ombudsman's opinion that self-regulating mechanisms for responding to hate speech should be established and supported, i.e. other forms of responding to hate speech and initiating discussions on the topic should be supported (see p. 44 of the response report of the Government of the Republic of Slovenia to the 21st Regular Annual Report of the Human Rights Ombudsman for 2015).

A welcome shift occurred when the Government of the Republic of Slovenia brought forward a proposal for an Act Amending the Media Act (ZMed-C), which was then also passed by the National Assembly of the Republic of Slovenia on 1 March 2016 – the Amending Act added a new (third) paragraph following paragraph two of Article 9 of the Media Act (ZMed), which is as follows: "(3) A broadcaster that allows public comments within the medium shall form rules for commenting and publicly publish them in a suitable place within the medium. Any comment that is not in accordance with the published rules shall be removed as soon as possible after it is reported or at the latest within one business day after it is reported." The new stipulation makes this an express statutory requirement. We would also like to see broadcasters' assurances stating that this will constitute more effective self-regulation of hate speech or offensive speech online, and a consequent reduction in it, fulfilled.

Developments with regard to the Act Amending the Minor Offences Act (ZP-1J) were also significant. In 2016, the Ministry of Justice (hereinafter: the MP) drafted a proposal for this Amending Act (EPA 1067-VII), Article 24 of which also affected the human right to correspondence and other means of communication referred to in Article 37 of the Constitution for the purpose of discovering perpetrators of offences in the field of so-called

hate speech (acquiring data on holders of IP addresses). However, this provision was unanimously removed at the National Assembly at a session of the Committee on Justice on 6 April 2016 by means of an amendment by members of Parliament, as they felt that the provision excessively interfered with the right to communication and freedom of expression; there were even some allegations that censorship was being introduced. In the response report of the Government of the Republic of Slovenia to the 21st Regular Annual Report of the Human Rights Ombudsman for 2015 (p. 40), the Ministry of Justice clearly wrote that "the work on this issue is concluded and the Ministry deems that all arguments have been verified; in this case, where the limit lies regarding interference with the human right to communication privacy through legislation in a state governed by the rule of law has been determined."

In 2016, we also received a number of complaints, i.e. 7 complaints, in which the severe results of slander in the media were highlighted. The allegations of the complainants in these cases varied, but their common denominator was the claim that personal rights had been violated and the innocence of the media had been assumed; they consider this to be media assassination, media lynching, trial by media, etc. These complainants allege that their identity had been revealed to the public already during police proceedings and investigation, and in some cases the media had reported on the proceedings against them even before they had discovered that they were subject to proceedings; furthermore, they allege that had been put on trial in the public before their guilt was decided on by the court. They state that, due to media reports, their dignity and reputation were tarnished and their future career and future in general were permanently stigmatised; moreover, their family members were also affected, including minor children.

The Ombudsman cannot treat such violations on the basis of its powers and competencies, as the alleged perpetrators of the violations are legal persons governed by private law without powers conferred by public law. We would like to warn of this issue from a systemic perspective – which we have been doing for many years; therefore, we recommend that the Government study the option of introducing a civil penalty due to unjustified infringement on one's honour, reputation, and privacy through public publications. Media lynching can immediately remove a person's dignity and reputation, but it is much harder to restore them, even if later reports written within court proceedings prove to be untrue. On page 28 of the 2013 Annual Report, the Ombudsman warned that the compensation ordered by courts for violations of personal rights were too low to have a deterrent effect on media that produce sensational news. Even if such media lose lawsuits filed by individuals against their reports, sensational reporting is still profitable, as it usually increases sales and outweighs the costs of paying low damages.

Despite the Government's opinion that, within the current regulatory arrangement, it already to some extent implements the punitive function of compensation for damages (see page 37 of the 2014 Report), it insists that it would be appropriate, especially when a person's honour and reputation are violated by way of public publications, to also stipulate provisions by law. On this occasion, we would also like to underscore the recommendation that we have been reiterating since 1997, namely that law enforcement authorities should protect the personal data of those involved in criminal proceedings at least until the public trial.

In particular, we must also emphasise a case regarding press reporting on the sexual abuse of minor girls. We hope that the judgment described below would prevent to the greatest possible extent any similar publications in the future.

Example:

The Journalists' Ethics Council found that in the case related to the publication of a report on the sexual abuse of minor girls, the Code of Ethics of Slovene Journalists had been violated

The Ombudsman received a complaint regarding press reporting on the sexual abuse of minor girls. Footage revealed the identity of the victims, thereby wrongfully exposing them to the public.

Upon examining the case, we decided that we needed to intervene. In making such a decision, we took into consideration the gravity of the violations and their consequences, as well as the ability of the persons affected to effectively protect their rights. In annual reports, the Ombudsman always warns that the effectiveness of legal and other remedies against the actions of the media are often questionable for the person affected, especially from the perspective of the options for eliminating the consequences of violations. In cases when

the privacy of children, who are particularly vulnerable in proceedings for seeking legal remedies against those violating their rights is at risk, journalists need to be aware of their ethical and moral responsibility for their actions. Because, at present, the legal system does not provide children in such and similar situations the right to immediate aid of a suitably qualified advocate of their rights, the Ombudsman deemed it necessary to use all of the available paths to ensure their protection herself. In particular, she deemed this significant in this specific case, as the mother, who was the legal representative of the girls, was a potential accomplice in these crimes. In this case, the Ombudsman assessed that the case was significant from the perspective of protecting specific rights and benefits of the children and due to the broader question of the general legal certainty of children's personal rights.

On the basis thereof, in 2014, the Ombudsman initiated a procedure for discovering a violation of the Code of Ethics of Slovenian Journalists before the Journalists' Ethics Council with regard to the controversial press report. At its session in April 2015, the Council found that the reporter and the senior producer of the POP TV media company had violated the Code by broadcasting the report. The Council published its opinion at the end of January 2016 after the criminal proceedings had been stayed, so the Council suspended the publication of its opinion.

In the complaint, we considered the news report broadcast by POP TV; according to our sources, POP TV disseminated controversial information on the circumstances of the abuse of minor children. In the complaint, the Ombudsman found that the reporter and the senior producer had violated Articles 17, 18, and 19 of the Code of Ethics of Slovenian Journalists by broadcasting the controversial report. The controversial report clearly stated the residence of the victims, their age, and showed footage of their residence. In this specific case, we found that the broadcasting of the report definitely violated these girls' the right to privacy of these girls. In our opinion, public exposure causes a stigma that, in addition to the sexual abuse, further threatens the children's personal development. Considering all of the circumstances and the context, the Ombudsman found the news report to be an example of severely sensational reporting intended to attract attention and achieve greater ratings for financial gain. Furthermore, the Ombudsman assessed that, in this specific case, the required sensitivity towards victims concerning a matter that is the subject of a pre-trial investigation was not observed. When journalists exercise sensitivity when deciding whether to publish a news report, this means that they must independently assess all of the relevant circumstances, which is a part of their professional responsibility. Because, in the Ombudsman's opinion, the girls were exposed to the public as victims of severe abuse without any special sensitivity for the victims, who were unable to protect their rights themselves in this specific case, namely for the purpose of sensational reporting, this constituted a grave violation of the required sensitivity; therefore, this was a grave violation of professional responsibility. Moreover, we also warned that special sensitivity when reporting on persons participating in pre-trial investigation is relevant in order to provide the uninterrupted course of later criminal proceedings. The Ombudsman also assessed that, when the news report was prepared, there was no special sensitivity expressed when collecting information, reporting or publishing photographs, broadcasting statements concerning children and minors, on persons who suffered an accident or a family tragedy, on persons with physical and mental development disorders, and on other severely affected or sick persons. It was undisputed in this specific case that the victims were children who had suffered a family tragedy; for that reason, the Ombudsman deemed that considerable discretion should have been exercised. In the Ombudsman's opinion, in these circumstances, the reporter could have decided to report on the event merely on the basis of extremely careful weighing of the public interest and the children's interests and rights. It is evident in multiple parts of the report that reporters talked to local residents not only about the circumstances of the crime, but also about the victims' age and the culprit's identity. Furthermore, we found that, in these specific circumstances, every piece of information that spread the news on the alleged sexual abuse of minors among the local residents caused irreparable damage to the victims. The Ombudsman assessed that the news could have also been broadcast without enquiring from local residents about the circumstances of the crime and without broadcasting footage of the surroundings of the victims' residence and the alleged crime scenes. This revealed the victims' identity in their living environment, which undoubtedly had a stigmatising effect on the minors, who had already suffered irreparable damage due to sexual abuse. It could be concluded that the prevailing purpose of broadcasting shocking news was merely in the interests of the reporter and the editor or the media company for financial gain to create a sensation by broadcasting a shocking story or through sensational reporting. Therefore, the report can be characterised as ruthless exploitation of children and even violence against children, i.e. an example of a severe violation of the Code.

The reporter rejected all the objections stated in the complaint. She explained that the report on the abuse of minor girls had been recorded following careful deliberation. Allegedly, most of the information on the event had been provided by local residents prior to the filming on location; allegedly, the first media outlet to report on the event was a website. The report did not state where the girls lived, and the victims' family home was also not broadcast. The name of the village where the girls actually live was not disclosed and no filming took place in the village. Furthermore, the victims' identity, their school, surrounding area, statements of locals, and one of the scenes where the abuse took place were not broadcast. Therefore, in the reporter's opinion, the right of the individual to privacy was taken into consideration when the report was filmed, and the victims' personal circumstances were not revealed by way of broadcasting the report.

In this specific case, the Journalists' Ethics Council finally reached a decision, namely that the reporter and the senior producer of the POP TV media company had violated Articles 17, 18, and 19 of the Code of Ethics of Slovenian Journalists. The Council found that the reporter had violated Article 17 because numerous parts of the report defined the victims' personal circumstances through sound and image to a degree sufficient to make them identifiable, thus wrongfully exposing the victims to the public. The senior producer had violated Article 17 by broadcasting the report, which exposed the victims' age and gender already in its sensational title, and in the additional information enumerated by the host based on which the victims could easily be recognised in a small area. The Council also discovered that the controversial information had actually been first disseminated by POP TV. The reporter indeed claimed that the news had first broken through a website, but the Council discovered that the website had observed the stipulations of the Code, as it did not state any circumstances that would enable the victims to be identified. The website did not state the victims' age or gender, and the area in which they located the events was sufficiently large, preventing the scene of the crime to be recognisable.

Furthermore, the Journalists' Ethics Council discovered that the reporter had violated Article 18 of the Code because she was not sufficiently sensitive towards victims involved in a case concerning which a pre-trial investigation is under way. She had stated enough circumstances in her report to reveal the identity of the minor victims, whereby she had failed to take into account the fact that the affected persons could not protect their own rights in this case. By broadcasting the report, the senior producer had also violated Article 18.

The reporter had also violated Article 19 of the Code because, in this case of family tragedy in which two minors were involved, she had failed to exercise due sensitivity laid down in the Code. The Journalists' Ethics Council agreed with the Ombudsman that, in specific circumstances, every piece of information spread among the local population about the sexual abuse of minors causes irreparable damage to the affected victims. By broadcasting the report, the senior producer had also violated Article 19.

On the basis of the above, the Ombudsman concluded that the complaint was well-founded and that the controversial report violated the personal rights of the girls who were victims of sexual abuse. It is our wish that the opinions expressed through the judgment of the Journalists' Ethics Council will serve as a significant mechanism to prevent similar violations in the future. **(1.2-59/2014)**

2.1.3 Assembly and association

Example:

Organising a public assembly in a public area without the consent of the owner
An organiser of a public assembly turned to the Ombudsman with an allegation that the Ordinance on the Public Use of Public Areas in the Municipality of Celje is unconstitutional. He further clarified that he wished to organise a public assembly in a public area, but was then informed by the Municipality of Celje, first by letter and then in person, that he had to *"acquire a permit in a separate procedure to occupy a public area"* in accordance with Article 3 of the Ordinance and that, in order to perform a public assembly, he must pay a fee in the amount of EUR 20.00, otherwise he would be fined by city security wardens. The actions of the Municipality caused the complainant to abandon his intention to organise an assembly.

The exercising of the right to peaceful assembly and public meeting referred to in Article 42 of the Constitution is governed by the Public Assembly Act. In the past, the Ombudsman treated a case (see p. 41 of the Annual Report of the Human Rights Ombudsman for 2010) in which complications arose due to consent being granted by an owner of public land where a public assembly was to take place and the stated constitutional right was thus excessively encroached upon. On 13 July 2010, the Act Amending the Public Assembly Act (ZJZ-D) was adopted, also due to the Ombudsman's warning. The principal objective of the Act, as evident from the explanation of the proposal for this Amending Act, is to abolish the requirement to obtain the consent of the owner of public land when organising public assemblies if this is publicly accessible land and if the assembly does not affect the normal course of activities that take place on such land, and if it does not damage the land. Paragraph three of Article 14 of the Public Assembly Act now provides that the consent of an owner or manager of land or building is not required if an assembly is organised on public land that is characterised as a constructed public amenity and is intended for people to gather and for the land to be freely used; the assembly may not be in conflict with the purpose of such land. Therefore, it is not required to obtain the owner's consent or pay a fee for use when organising a public assembly on such land.

When treating this specific complaint, we found that Article 3 of the Ordinance on the Public Use of Public Areas in the Municipality of Celje provides that the use of public land can be approved for special purposes, which also includes holding a public assembly, based on a permit issued by a competent authority within municipal administration. Article 23 of the Ordinance fixes the fee for the use of public land for the purpose of holding a public assembly at EUR 20.00 per day. It was evident from these allegations and from the explanations obtained by the complainant from the city municipality that an organiser of a public assembly on public land must obtain a permit for the use of public land and also pay a fee for such use. Therefore, the Ombudsman provided the Municipality of Celje with the opinion that such an arrangement is not in accordance with the provision of paragraph three of Article 14 of the Public Assembly Act, which consequently constitutes a violation of the right to assembly and association referred to in Article 42 of the Constitution.

The Municipality of Celje accepted the findings of the Ombudsman and undertook to recommend at the next session of the City Council that an amendment to the objectionable Ordinance be adopted, by means of which the Ordinance would be harmonised with the provisions of the Public Assembly Act. Until then, in all cases of public assemblies, the city municipality will take into consideration the applicable legislation, and the objectionable provision of the Ordinance will not be applied based on the reasonable observance of the *exceptio illegalis* principle. **(1.3-8/2016)**

In one of the cases treated by the Ombudsman, we were asked to provide an opinion on the stipulation included in the statutes of a society which referred to the cooperation of persons with special needs (with or without the capacity to contract) in managing the society and on the related voting right of persons with special needs. Not long before this request for an opinion, the Ombudsman had already stated its opinion on the issue, and on 17 March 2016, also posted a case on its website titled 'Discriminatory stipulation included in the statutes of a society.' In principle, we find that a stipulation included in a founding act of a society that provides that only those members of the society with the capacity to contract have passive or active voting rights would be discriminatory, as it would constitute unequal treatment of society members in exercising their voting rights, namely based on disability. Through analogy, we also rely on the Decision of the Constitutional Court of the Republic of Slovenia, No. U-I-346/02-13 of 10 July 2003, which shows that persons without the capacity to contract cannot be automatically deprived of voting rights, but these rights can be abrogated only under special conditions and after consideration of the specific case. Furthermore, the opinion of the Committee for the Rights of Persons with Disabilities (points 48 and 49 of the General Comment of this Committee no. 1 from 2014) should also be noted, namely that the voting rights of persons without the capacity to contract cannot be taken away at all, but these persons should be provided assistance in exercising their right to vote, thus making an effort to allow them to fully and effectively participate and be involved in society. We find that such assistance and efforts are to be expected that much more from a society that brings persons with disabilities together and the purpose of which is to advocate for, and meet the special needs of, persons with disabilities.

A complainant also turned to us who had an issue with the rejection of his application to be accepted into a hunting association; in his opinion, the reason for this was the fact that he was Romani. The Ombudsman

could not intervene, but we were able to at least provide the complainant with clarification concerning Article 14 of the Societies Act (ZDru-1) which provides the option of judicial protection against the final decisions of the assembly of society members if an application of a person to be accepted as a member is rejected; furthermore, we expressed our opinion that the claimed reason for being denied membership of the society was illegal, namely it was in conflict with the right to association in a society arising from Article 2 of the Societies Act (ZDru-1) and with equal treatment regardless of ethnic origin when joining a society arising from Article 2 of the Implementation of the Principle of Equal Treatment Act (ZUNEO). In our opinion, such actions would constitute a violation of the prohibition of direct discrimination referred to in Article 3 of the Implementation of the Principle of Equal Treatment Act, and at a the constitutional level it would also be in conflict with the principle of equal treatment referred to in Article 14 of the Constitution and the right to assembly and association referred to in Article 42 of the Constitution. (1.3-4/2016) In general, we are often required to provide clarifications, mainly concerning the courses of action foreseen by Articles 13 and 14 of the ZDru-1 (1.3-9/2016, 1.3-10/2016). However, some people are already critical of the judicial branch of government and therefore reject any options involving this branch.

2.1.4 Right to vote

In one case, a complainant turned to us for assistance, as he claimed that he had been hospitalised on 17 December in the closed ward of the Begunje Psychiatric Hospital, and that on Sunday, 20 December, when he wished to vote in the referendum on the Act Amending the Marriage and Family Relations Act, his doctor called the National Electoral Commission at his request to ask them to enable the patient to vote in the closed ward of the psychiatric hospital; however, the Commission explained that the deadline for reporting this form of voting had expired. After studying this case, the Ombudsman discovered that the complainant's active voting right had been violated without suitable legal grounds. **Although his right to vote right had not been denied, he was still unable to vote in the referendum, which was a violation of this right. We concluded that the reason for the violation was systemic in nature.** In accordance with the applicable legislation, the voter should have expressed his intention to vote by mail at least 10 days prior to voting. In this way, particular categories of people were de facto and without legal grounds deprived of their voting right, i.e. voting legislation failed to enable them to effectively exercise their right. These are persons whose personal liberty had been deprived in the 10-day period prior to voting (e.g. remand prisoners, persons under special surveillance, persons in secure wards) and persons admitted for hospital treatment for medical reasons in the 10-day period prior to voting.

In the Ombudsman's opinion, voting legislation should enable such persons to exercise their voting right effectively, and suitable legislative amendments should be drafted. We find that by using modern means of communication and mobile polling stations (or some other suitable method) without a disproportionate increase in the costs of holding elections or referendums, the 10-day deadline for expressing the intention to vote by mail in the case of persons placed in remand prisons, hospitals, psychiatric hospitals, or social care institutions within the 10-day period prior to voting can be abolished.

The Ombudsman forwarded its opinion, including the recommendations to eliminate any irregularities, to the Ministry of Public Administration (hereinafter: the MJU), which is responsible for drafting the National Assembly Election Act (hereinafter: the ZVDZ). The MJU responded by agreeing with our assessment, stating that the applicable legislation does not foresee postal voting for persons who had not expressed such an intention at least 10 days prior to voting, whereby persons who were unexpectedly hospitalised or admitted to a social care institution after the expiry of this deadline were wrongfully denied the right to vote in elections or referendums. In its response, the Ministry also clarified that the National Assembly is already treating a proposal for an Act Amending the ZVDZ, which also regulates issues that the Ombudsman warned about, among other things. The Amending Act including the amendment to Article 79a of the ZVDZ enables voting for persons in police custody, persons whose liberty has been deprived based on a court order, persons in prisons, hospitals, or social care institutions, or persons who have been placed in such facilities after the deadline by which postal voting may be requested, namely by means of a visit by a commission from the OMNIA polling station (this is a polling station at which voters without a permanent residence in their voting district can vote) on the date of the election. In such cases, following the adoption of the Act Amending the ZVDZ, the voting commission would visit a voter in the facilities in which the voter was located if, on the day before the voting, they inform the voting commission in the area in which they will be registered in the voting directory of their intention to vote.

The MJU foresaw the adoption of the Amending Act in 2016, but this did not occur. The Ombudsman deems the situation as very worrying, as the inadmissible situation described above continues.

2.1.5 Personal data protection

The Ombudsman can carry out its duties in the field of personal data protection only in relation to state authorities, authorities of self-governing local communities, authorities exercising public powers, and in accordance with the Human Rights Ombudsman Act (ZVarCP). This is also expressly laid down in paragraph one of Article 59 of the Personal Data Protection Act (hereinafter: the ZVOP-1).

Example:

Protecting the personal data of newly retired persons
A complainant turned to the Ombudsman stating that, on the second day after their retirement, they received an invitation to join the Pensioners' Union of Slovenia and the Democratic Party of Pensioners of Slovenia (hereinafter: DeSUS) as a member. The complainant was most bothered by the claims introducing the letter from DeSUS: "We received data concerning your retirement from the records of the Institute of the Republic of Slovenia ..." The complainant asked the Ombudsman whether the data concerning their retirement from the records of the Pension and Disability Insurance Institute of Slovenia (hereinafter: ZPIZS) was publicly accessible and whether they have the right to demand that the data on the status of a pensioner not be accessible for such and similar purposes.

We first made enquiries about the case at the Pension and Disability Insurance Institute of Slovenia. The case was treated by the Security Forum of the ZPIZS, which found that the list with the personal data of new pensioners is forwarded in two ways, namely to an external contractor producing pensioners' cards, in an encoded form via e-mail, and to the logistics centre of the Post of Slovenia in the form of stickers for shipping the free magazine Vzajemnost. Data on new pensioners is also available to authorised officials of the ZPIZS. The Security Forum of the ZPIZS held a meeting at which it took some additional measures to ensure improved security of the personal data of new pensioners concerning all critical points; furthermore, it suggested that the Ombudsman ask DeSUS specifically which institute (as the above quote shows, this was not entirely clear from DeSUS' letter) provided it with the information on the new pensioner and in what manner.

From the perspective of the Ombudsman's competencies, further treatment of the case in the form of enquiries with the political party DeSUS was not possible. Based on its powers, the Ombudsman can only examine cases related to violations of human rights and fundamental freedoms by state authorities, authorities of local self-government, and authorities exercising public powers by way of their actions; political parties are not considered to be this type of entity. Therefore, we provided the complainant with the clarification that, within their right to be informed of their own personal data (Article 30 of the ZVOP-1), they may ask for information on which institution sent the information on their retirement and how, and we also informed the complainant that they have the option of resorting to the Information Commissioner. Unfortunately, the complainant never informed us how they decided to proceed.

Among other things, we also received a question from a mother concerning the actions of her daughter's class teacher working at a grammar school; at the end of the first semester, this teacher e-mailed a class report to all parents containing a list of names of all pupils who received a failing grade and the name of the subject in which they received a failing grade. We referred the complainant to the Information Commissioner and provided the clarification that the actions of the class teacher seem not only improper, but also illegal. Paragraph one of Article 9 of the ZVOP-1 provides that personal data in the public sector, which includes secondary schools, may be processed only if the processing of personal data and the personal data being processed are laid down by law. Grades received in particular subjects are personal data, and disclosing such grades by e-mail is considered processing personal data, for which legal grounds should exist. The Grammar School (*Gimnazije)* Act (ZGim) also contains a special chapter on collecting and protecting pupils' personal data, and no legal grounds can be found in its provisions that enable a class teacher to provide the information on a pupil's failing

grade to other parents. **Therefore, in the Ombudsman's opinion, the class teacher's disclosure of the pupils' grades via e-mail has no legal grounds and is illegal.**

We also received a question from a father, namely whether he could obtain data from a faculty in which his daughter was enrolled, based on which it could be determined whether the legal standard of full-time schooling had been met, which is a condition for receiving child maintenance following the age of majority (see the opinion of the Information Commissioner regarding this case; opinion no. 0712-499/2007/2).

Article 6 of the ZVOP-1 provides that data on one's medical condition is also considered sensitive personal data; even stricter conditions for processing apply to such data; the conditions are defined in Article 13 of the said Act. For example, Article 44 of the Patient Rights Act (hereinafter: the ZPacP) also provides that a patient has the right to the confidentiality of their personal data, including data concerning visits to their doctor and other treatment details. Four cases pertained to the issue of protecting such data in one way or another. In one specific case, the issue was the fact that a family member, who had undergone a surgical procedure at the Ljubljana University Medical Centre just a few days beforehand, had received a call on their mobile phone, even though they had not publicly published their phone number anywhere, from a company offering them special insurance for a second opinion for a similar diagnosis to the one that they had received (according to Article 46 of the ZPacP, providers of medical services must investigate any discovered or reported case of wrongful data provision or other form of wrongful patients' personal data processing, regardless of the patients' wishes, and determine whether medical workers, associates, or other persons are liable, and they must document such cases in writing and inform the patient, the competent representative of the patient's rights and the Information Commissioner).

From the perspective of personal data protection, marketing was also an issue in three other cases. In the first case, a complainant, similarly to the case described above, stated that, even though their phone number had not been published in a directory, they still frequently receives calls related to offers for services and to participation in studies (according to Article 73 of the ZVOP-1, an individual may at any time in writing or in another agreed manner request that the data controller permanently or temporarily cease to use his personal data for the purpose of direct marketing. The data controller is obliged within 15 days to prevent as appropriate the use of personal data for the purpose of direct marketing, and within the subsequent 5 days to inform in writing or another agreed manner the individual who so requested; in accordance with Article 94, a fine may be imposed by the Information Commissioner for a minor offence on a legal person or sole trader if, in accordance with this Act, he processes personal data for the purposes of direct marketing and does not act in accordance with Article 73; furthermore, based on Article 45a of the Consumer Protection Act (hereinafter: the ZVPot), a person who makes a commercial call must introduce themselves by stating the name and address of the company; if the caller fails to do so, an individual may refer to the provision of Article 155 of the Electronic Communications Act (hereinafter: the ZEKom) and request (in writing) that the operator track down the bothersome caller); in the second case, a complainant complained about receiving spam and unsolicited offers in their e-mail inbox (a special chapter of the ZVOP-1 regulates personal data protection in the event of direct marketing – according to Article 73, an individual may at any time in writing or in another agreed manner request that the data controller permanently or temporarily cease to use his personal data for the purpose of direct marketing); in the third case, a complainant was convinced that, due to the publication of providers of solidarity aid, companies force themselves on people by delivering unaddressed messages to their mail boxes, even though their mail boxes contain a sticker prohibiting the delivery of unaddressed messages (the complainant did not clarify specifically by whom or where such personal data were published, so we can only clarify that if unaddressed messages still appear in mail boxes, the first step can be to report this to the Market Inspectorate of the Republic of Slovenia).

A complainant also turned to us who was of the opinion that the Google Maps – Street View service can be a tool for burglars and thieves, who can inspect houses, window types, alarm system sensors, etc. beforehand. Google began introducing the Street View function in Slovenia in 2013. This is a service that helps users to plan trips, view various locations in advance, with education, tourist promotion, etc. As Google introduced the service in Slovenia, it cooperated with the Information Commissioner. Google undertook to take measures to reduce invasions of privacy. When the Street View service was being introduced, a balance was sought between meeting the legitimate interests of the private sector, i.e. free business initiatives, on the one hand, and the rights of individuals on the other, mainly the right to privacy. On its website, Google explains that it protects

the privacy of individuals in multiple ways – e.g. by blurring the face of random passers-by, which makes it difficult or even impossible to identify a person. The Street View service also offers tools that can be used to request additional blurring of photographs on which a user, their family members, car, or home appear. If a user requests additional blurring, Google blurs an entire car, house of person. Users can also request images with inappropriate content to be deleted (e.g. nudity or violence). When a user finds a photograph that they find inappropriate, they may report this photograph by clicking on the 'Report a problem' button located in the bottom right corner of the image. In general, however, the Ombudsman is not competent to intervene with regard to Google, as this company is a legal entity governed by private law, not a government authority.

The Chairwoman of the Inter-ministerial Commission on Human Rights, which was founded by the Government of the Republic of Slovenia in 2013 in order to coordinate reporting in accordance with ratified international instruments for the protection of human rights and freedoms, reporting on the basis of other mechanisms, and to monitor the implementation of adopted obligations related to human rights, also turned to the Ombudsman. According to her, Slovenia regularly reports at the UN in accordance with international treaties **(however, the Ombudsman notes that this cannot actually be legitimately claimed, as it was said at the same session that the Republic of Slovenia is late submitting reports in accordance with two international instruments, specifically according to the Council of Europe's Framework Convention for the Protection of National Minorities and the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, with regard to which there was a full one-year delay in submitting the fourth periodical report**) and it presents reports to contractual supervisory mechanisms that, based on this, draft final findings and recommendations for the future work and activities of the state. On the basis of a review of the conclusions for Slovenia, it has been found in recent years that the state has received a number of related recommendations concerning the lack of indicators on the population's ethnic affiliation or structure; even though, at presentations of reports, delegations are usually supposed to present Slovenian legislation on personal data protection and the category of sensitive personal data, which also includes data on racial, national, or ethnic origin, international supervisory mechanisms persistently continue to make recommendations on this issue; with regard to this, see the conclusions of the Committee Against Torture (document CAT/C/SVN/CO/3 of 20 June 2011), the conclusions of the Committee on the Rights of the Child (document CRC/C/SVN/CO/3-4 of 8 July 2013), the conclusions of the Committee on Economic, Social and Cultural Rights (document E/C.12/SVN/CO/2 of 15 December 2014) and the conclusions of the Committee on the Elimination of Racial Discrimination (document CERD/C/SVN/CO/8-11 of 11 January 2016).

For the purpose of forming a suitable and unified reply to such recommendations, the Commission conducted a discussion on this topic in June. Among other participants, an expert on the protection of human rights and minorities in international law, the head of the Population Statistics and Living Standard Department of the Statistical Office of the Republic of Slovenia, and the Deputy Information Commissioner also participated in the discussion. The first of the aforementioned people stressed that international supervisory authorities expect data to be collected systematically, which is also indicated in their recommendations, including in the recommendation on ethnically motivated crimes, and that such data are needed to formulate how to protect such groups from discrimination. In her opinion, **problems encountered by particular groups in practice should be deduced from the practical work of individual ministries** in order to form positive measures for such communities on the one hand, and to recognise discrimination processes on the other – it is difficult to identify the most sensitive areas without collecting data. She also stated that the state already has data on some fields, where positive measures for target groups have been formed (e.g. the employment and education of Roma people; for example, a representative of the Ministry of Labour, Family, Social Affairs and Equal Opportunities (hereinafter: MDDSZEM) also stated that Article 16 of the Protection Against Discrimination Act (ZVarD) defines the collection of data on discrimination anonymously and that additional data will also be available based on this). The second person stated that, in 2011 and 2015, a registry-based census had been conducted, and the census proved to have advantages, even financial ones, so general collection will no longer be conducted. Actual data on ethnic affiliation could only be collected by means of a full census, which would show data based on self-determination. He also stated that, in accordance with a proposal for a new European framework regulation on statistical studies, data on the country of parents' birth would be collected in all sample surveys (this regulation is to enter into force for sample surveys in 2019). The third person did not agree with the assessment that the legislation on personal data protection in its current form prevents the collection of data on ethnic affiliation; this is not the case **because competent ministries can ensure that the legislation determines that personal data is processed with the consent of individuals in accordance with the Personal**

Data Protection Act; furthermore, the indicators that are to be collected with the consent of individuals will have to be defined, or new ways will have to be found to enable their collection anonymously. This person also gave assurances that the Information Commissioner was willing to provide advice on the matter.

It is also the Ombudsman's opinion that, with regard to collecting data on ethnic affiliation, the problem lies mainly in positive legislation, which could be suitably adjusted. As is evident above, the role of ministries in resolving the described issues was emphasised at a session of the Inter-ministerial Commission on Human Rights on at least two occasions. For the present, the Ombudsman would also like to recommend to the Government of the Republic of Slovenia that it ensure that the necessary regulatory changes are made as soon as possible.

2.1.6 Access to information of public character

In this sub-field, we intervened in only one case (1.7-2/2016) at the District State Prosecutor's Office in Ljubljana; the response was received within the deadline. Therefore, there are no special comments on the responsiveness of the competent authorities.

In this case, the complainant stated that, as the injured party, his request to be provided with a report of the Ljubljana Police Directorate and to inspect the entire case file of the state prosecutor had been denied because there was allegedly no 'legal interest' for such inspection. He then asked to inspect the state prosecutor's case file based on the provisions of the Public Information Access Act (hereinafter: ZDIJZ). Ultimately, the official responsible for public information at the Office of the State Prosecutor General of the Republic of Slovenia forwarded the said report of the Ljubljana Police Directorate, and as agreed with the head of the District State Prosecutor's Office in Ljubljana, he was able to inspect the case file. Therefore, this meant that there were no reasons for the Ombudsman's to intervene further. On this occasion, it should only be reiterated that there should be a distinction between the right to inspect or transcribe case files and the right to obtain public information. The latter is available to everyone on the basis of paragraph two of Article 39 of the Constitution of the Republic of Slovenia and in accordance with the ZDIJZ; and even those persons who have a justified interest in inspecting or transcribing a particular case file in accordance with relevant procedural legislation have no additional privileges when obtaining public information.

In other cases classified in this field, issues were mainly related to dissatisfaction with the decision of a first-instance body (Pension and Disability Insurance Institute of Slovenia – request denied, Ministry of the Environment and Spatial Planning – request partially accepted, City of Ljubljana – request dismissed) concerning access to public information; in most cases, we provided clarification regarding the future course of the procedure – appeal to the Information Commissioner With regard to the latter, one complainant claimed that he had not received a response within two months of submitting his application; however, on the very next day, the response of this body to the complainant was forwarded for our attention, stating that it had received the application, that it was being processed pursuant to its competencies, and that the complainant would be informed on the future course of the procedure.

2.1.7 Other

We would like to begin with something encouraging. On page 49 of the Annual Report of the Human Rights Ombudsman for 2014, we warned of the issue of observing human rights when handling dead foetuses. In our opinion, the right to personal dignity (Article 34 of the Constitution) and the protection of personal rights (Article 35 of the Constitution) also encompass the right of parents to decide how a dead foetus is to be handled and their right to express mourning upon losing a foetus, including the possibility of burying a dead foetus, regardless of its gestational age. For this reason, we felt at the time that the fulfilment of these rights of parents is not fully provided, or in some cases it can be unconstitutionally restricted due to the unclear legal regulation of how a dead foetus may be handled. Therefore, in conclusion, the Ombudsman also expressed its expectation in the said report that the adoption of the new Funeral and Cemetery Services Act would eliminate legal impediments to burying a dead foetus.

Therefore, we were glad to see that, on 20 September 2016, the Funeral and Cemetery Services Act (hereinafter: the ZPPDej) had been adopted, Article 23 of which regulates the burial of a dead foetus. The said Article now provides the following: "A dead foetus may be buried or cremated based on an express with of the parents, regardless of its gestational age. The burial or cremation shall be performed based on a medical report on the cause of death, as the provisions of this Act are applied *mutatis mutandis*." The clarification of the proposal for this provision explained that a medical report on the cause of death is not an autopsy report, but that a report by an obstetrician/gynaecologist suffices. We find that, **by implementing the said statutory provision, the systematic violation, of which we had warned, was neutralised**.

We also dealt with the right to freedom of choice concerning a matter directly related to the birth of children. The matter was brought to our attention through a complaint stating that the Ombudsman should step down due to bias and a human rights violation. This was a response to the part of the Ombudsman's address on International Women's Day in which it highlighted the rights women have already attained in light of the activities carried out at the time by the God's Children Institute (*Zavod Božji otroci*) in front of the Gynaecological Clinic in Ljubljana. As was explained to the complainant, it is the Ombudsman's opinion that the right to artificially terminate a pregnancy is among the most important of women's rights, as it enables freedom of choice concerning the number of children women have, and provides them with the right to do what they wish with their own bodies and to make their own decisions about it. This is a right that arises from a constitutional freedom, i.e. Article 55 of the Constitution. This freedom is not absolute; even merely from a temporal perspective, the Health Measures in Exercising Freedom of Choice in Childbearing Act (hereinafter: the ZZUUP) defines artificial termination of pregnancy (abortion) as a medical procedure carried out upon the request of a pregnant woman, provided that the pregnancy has not lasted longer than ten weeks; if it has lasted longer than ten weeks, there is an additional condition, namely a lesser risk caused by the procedure to the life and health of a pregnant women and her future childbearing capacity compared to the danger posed to a pregnant woman or the child by continuing the pregnancy or by delivery; in certain cases, protection under criminal law may also be taken into consideration, e.g. pursuant to paragraph one of Article 121 of the Criminal Code (KZ-1), a prison sentence is to be imposed on a person who, contrary to medical conditions and the manner of artificially terminating pregnancy laid down by law, terminates the pregnancy of a woman, begins to terminate it, or assists her in terminating her pregnancy, even if the woman consents. Whatever the case may be, with regard to those praying in front of the Gynaecological Clinic, the Ombudsman found that their actions could even constitute harassment of women, which was defined (at the time) by the Implementation of the Principle of Equal Treatment Act (ZUNEO) as discrimination. Of course, artificial termination of pregnancy is inherently a contentious issue that always leaves room for debate. This is also the case elsewhere in the world (compare with everything that has been happening surrounding the Roe vs. Wade case, which was decided on by the Supreme Court of the United States, ever since the Court ruled in the early 1970's until today).

Example:

The unresponsiveness of the Ministry with regard to compensation for property damages incurred in World War II

The Ombudsman received a complaint in which the complainant stated that, in April 2015, the Ministry of Labour, Family, Social Affairs and Equal Opportunities (hereinafter: MDDSZEM), had sent a letter in which it transferred the complainant's claim regarding the payment of war damages incurred by their deceased father, who was conscripted into the German army, to the Ministry of Justice. The complainant stated that they had not received any response by that time, and they asked us to intervene. We decided to intervene on the complainant's behalf.

We warned the Ministry of Justice of the provisions of the Decree on Administrative Operations with regard to replying to letters, and urged it to respond to the complainant's objections. The Ministry of Justice responded within the deadline; it informed us of a new letter to the complainant, in which it clarified that the MDDSZEM had transferred to the Ministry of Justice and asked it to resolve the complainant's claim concerning the issue as to why, thus far, the Slovenian Government had not sent a claim for the payment of war damages caused by the German army. Furthermore, the Ministry stated that the issue of any regulatory management of the field of paying for property damages incurred in World War II is under the purview of numerous ministries. The Ministry apologised to the complainant for its late response, and stated that the reason was the drafting and coordination of **positions adopted by the Government of the Republic of Slovenia as it processed material**

related to an initiative by Members of Parliament to adopt an Act that would serve as the groundwork for paying property damages to injured parties who had incurred such damages in World War II. The material had already been adopted by the Government in March 2016, and supposedly reflected its full position on the issue of property damages incurred in World War II. In particular, the Ministry of Justice warned of a part of the material concerning which the Ministry of Foreign Affairs finds that there are no other elements of international law, as no international treaty (multilateral or bilateral) ratified (or succeeded) by the Republic of Slovenia contains any provisions imposing an obligation to make payments to war victims concerning this category. The said material was enclosed with the response.

The Ombudsman concluded that the complaint had been justified, as the Ministry had not responded to the complainant's letter until we intervened. Furthermore, we were able to discover that, when providing a reason for a late response, the Ministry of Justice referred to the legislative initiative by Members of Parliament of February 2016, while the MDDSZEM forwarded the complainant's letter in April 2015. According to the Ombudsman, in this specific case, the Ministry of Justice had violated the principle of good governance, as it had ultimately missed the deadline for a response as laid down in the Decree on Administrative Operations, and it had failed to notify the complainant about future measures and actions and on a realistic deadline by which the complainant would receive a response. **(0.2-1/2016)**

Within one of the aforementioned cases, we treated a complaint by the Society of War-Disabled Civilians from the Wars in Primorska (*Društvo civilnih invalidov vojn Primorske*), which stressed that war-disabled civilians who had "suffered physical injuries inflicted by ordnances as Italian citizens (i.e. until 15 September 1947 – annexation of the Primorska region to its motherland)" are entitled to damages for unpaid Italian disability benefits based on international treaties signed between the former Yugoslavia and the Republic of Italy (they added that the Republic of Italy had finally fulfilled its financial obligations to the Federal People's Republic of Yugoslavia, which was established by both sides in an Agreement signed in Belgrade on 18 December 1954 and ratified by both parliaments, and the Republic of Slovenia had transposed this Agreement and Slovenia's obligations arising therefrom into its legal system by means of the Act Notifying Succession to Agreements Between the Former Yugoslavia and the Italian Republic adopted in 1992) and that, despite intensive efforts in the past, the complainant had been unable to make the state adopt a legal act "to resolve this major problem pertaining to people's lives by paying compensation for damages to the 110 still living disabled civilians compared to the approx. 3,000 living in 1946". We were also provided with a written statement of the (then still) Ministry of Labour, Family and Social Affairs (letter no. 130-5/2008 of 7 September 2010) and the Ministry of Foreign Affairs (letter no. ZMP-596/08 of 22 August 2008), **based on which the Ministry found and agreed that the Agreement between the Federative People's Republic of Yugoslavia and the Republic of Italy on the final settlement of all mutual economic and financial obligations that arose from the Treaty of Peace and subsequent agreements signed in Belgrade on 18 December 1954 was one of the agreements succeeded to by Slovenia from the former Yugoslavia based on the Act Notifying Succession to Agreements Between the Former Yugoslavia and the Italian Republic (which entered into force on 15 August 1992) – and that, for this reason, the obligations arising from the said Agreement that had not been fulfilled by the former Yugoslavia had also been succeeded to, and that the Republic of Slovenia should finally regulate by law the right to compensation for damages to be received by this specific group of war victims. This issue was already discussed at a meeting with the Minister and her team on 20 December 2016; however, it is (was) not evident that this matter would be regulated in a reasonable period.**

We also received a complaint from the Committee on the Protection of the Rights of Relatives of those Killed in the National Liberation Movement (*Odbor za zaščito pravic sorodnikov ubitih v NOB*) in which the Committee asked us to assist in arranging a memorial to those fallen in the National Liberation Movement and to the Partisan Karel Šali, which was supposedly removed during the renovation of the Karlovica Affiliate to the Primož Trubar Primary School in Velike Lašče, but was not restored (a new memorial was unveiled on which memorial plaques for the National Liberation Movement were placed that had been on the building of the Karlovica Affiliate School prior to the energy-saving renovation; next to them were plaques commemorating members of the Slovenian Home Guard who fell as casualties of war and victims of post-war massacres). We were unable to see how the Ombudsman's could refer to any human rights or fundamental freedoms to yield a suitable result. However, the complainants claimed that they were severely affected by the events described,

so we stressed that they could file a lawsuit on the basis of Article 134 of the Code of Obligations, which lays down the right to demand that violations of personal rights cease; of course, we are unable to predict with any kind of certainty what decision would be reached in such a case. We are unaware of whether they resorted to such action.

Two of the complaints we received referred to the issue of post-war mass graves. The Cultural and Historical Society Lonka Stara Loka (*Kulturno-zgodovinsko društvo Lonka Stara Loka*) forwarded to us the Škofja Loka Declaration commemorating the 70th anniversary of the end of World War II, which states that, despite the time that has passed since the war, "the right to a grave and memory has still not been acknowledged to all those who died" in Slovenia marred by mass extrajudicial executions; we received a letter from the Coordination Committee of the New Slovenian Covenant (*Nova slovenska zaveza*) concerning the burial of those executed after the end of World War II; by means of the letter, the Committee wished, as it stated, to warn of the pain and doubts that overwhelm them upon the commencement of exhuming and burying victims of post-war executions. The Ombudsman has repeatedly given public warnings about the issue of regulating war and post-war mass graves. During the term of the current Ombudsman, this issue has been emphasised in every Ombudsman's Annual Report. In the 2013 Report, we emphasised respect for the human dignity of victims (and their relatives) of post-war extra-judicial proceedings and the obligation of the state to reveal the known locations of mass graves in Slovenia. We stated that the state must finally arrange a symbolic burial of the victims' remains and erect a suitable monument to enable a decent farewell for their relatives. Furthermore, we reiterated that, "The Ombudsman requires the Government to provide suitable funds for locating hidden war and post-war mass graves and, where graves are discovered, to ensure a symbolic burial of victims, memorial plaques and access to the burial site for relatives of the dead." (pp. 15, 193, and 376) This was also presented at a press conference that we held after this Annual Report was submitted on 2 July 2014 to the President of the National Assembly serving at the time. Our position on this issue was also similarly presented at the ceremony for the entry into Huda Jama, as well as in the said Annual Report (Annual Report of the Human Rights Ombudsman for 2013, p. 38). Furthermore, we wrote in the Annual Report of the Human Rights Ombudsman for 2014 that a final solution is also required for post-war executions and a decent burial of all victims; we also made an appeal for us to admit our mistakes and ask for forgiveness. We also clearly stated in the said Annual Report that there is an unfulfilled recommendation of the National Assembly to the Government of the Republic of Slovenia to ensure a decent burial for casualties of war and victims of post-war executions even before a memorial is erected (pp. 22, 388, and 400). This issue was particularly stressed in the introduction to the 2015 Annual Report. In 2015, at the session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly held on 30 June 2015, we reported that the recommendation from the Annual Report for 2013 adopted in the National Assembly is being implemented too slowly, whereby at least the consecration of a place for the construction of a monument to all victims, which was ceremoniously opened on 23 June 2015, and a discussion on an act on post-war mass graves, which was intensively under way in the National Assembly at the time, constituted a step forward. In 2016, for example on 27 October 2016, the Ombudsman attended a funeral ceremony for the victims of post-war executions in Huda Jama (Dobrava pri Mariboru Memorial Park), and she also warned of this issue at the international panel discussion Human Rights and Fundamental Freedoms: For All Times! held in Škofja Loka on 7 December 2016, organised by the Study Centre for National Reconciliation in cooperation with some other organisations. Furthermore, on 20 December 2016, we published on our website an example of our work under the title '*Police Also Active in Hidden Mass Graves*', which describes the Ombudsman's findings on police activities in the case of the recent discovery of human skeletons in Košnica pri Celju.

To many people, national symbols hold a great deal of significance; to some people, so much so that they decide to turn to the Ombudsman with regard to them. For example, in the 2014 Annual Report (pp. 52–53), we already reported on a complainant who stated that the flags hanging in front of the Kranj Local Court were not in compliance with regulations, and that they were flown in a manner that is also not in compliance with regulations. In the year reported herein, we received a letter from a complainant who warned of a modified coat-of-arms of the Republic of Slovenia (the upper wavy line under the image of Mt Triglav was encircled by barbed wire) that was supposedly used on the website of a Member of the National Assembly of the Republic of Slovenia. National symbols are regulated by Article 6 of the Constitution, which is not in its catalogue of human rights and fundamental freedoms. The coat-of-arms is regulated in greater detail by the Act Regulating the Coat-of-Arms, Flag and Anthem of the Republic of Slovenia and the Flag of the Slovenian Nation (the ZGZH). According to paragraph two of Article 2 of this Act, the coat-of-arms is to be used in the form and with the

elements laid down in the Constitution and in this Act, in a manner prescribed by this Act. The latter provides that the use of the coat-of-arms in the form and with the elements that are in conflict with the Constitution and the Act itself as a minor offence, and it also lays down a fine for such minor offence (however, this is not the only regulation imposing a sanction for a particular handling of the coat-of-arms – according to Article 15 of the Protection of Public Order Act (ZJRM-1), the destruction of national symbols is defined as a minor offence against public order and peace, and according to Article 163 of the Criminal Code (KZ-1), in some cases this even constitutes a crime defined as defamation of the Republic of Slovenia). We do not know if the complainant then reported the minor offence or crime; of course, in such civil proceedings against him, the member of the National Assembly could refer to excessive encroachment on freedom of expression provided to him by the Constitution and the Convention. We can only guess what the decision at the national level would have been.

The Ombudsman cannot be involved in assembling commissions in procedures that it is also able to supervise through its constitutional role and which it could later deal with on the basis of a filed complaint

In 2016, the Ministry of Justice forwarded to us, within the scope of professional coordination, a proposal for the Act Amending the Integrity and Prevention of Corruption Act (ZIntPK-C). We noticed that, according to the proposed Article 20, a new (fourth) paragraph would be added after paragraph three, according to which the 'Human Rights Ombudsman' would also be a member of a four-member commission appointed by the President of the Republic of Slovenia, at his own initiative or upon the initiative of at least thirty Members of the National Assembly, for the purpose of establishing non-fulfilment of the condition of suitable personal qualities of high officials within the Commission for the Prevention of Corruption. The Ombudsman considers it an honour that the Ministry of Justice, as it was forming the described arrangement, considered it to be one of the institutional building blocks worthy of being included in evaluating the (un)suitable personal qualities of high officials serving on the Commission for the Prevention of Corruption; however, it could not ignore the fact that the constitutional role of the Ombudsman, as defined in Article 159 of the Constitution, was to protect the human rights and fundamental freedoms of individuals in their relations with state authorities, local community bodies, and bodies exercising public powers – and that the described arrangement would not be in compliance with the Ombudsman's independence (mainly Article 4 of the Human Rights Ombudsman Act) or impartiality (mainly paragraph four of Article 9 of the Human Rights Ombudsman Act). In this case, it would have been involved with a procedure which it can also supervise in accordance with its constitutional role, and it could later address this procedure on the basis of a complaint filed by an affected individual. With regard to this, it should not be overlooked that, in all other legal procedures, cooperating in decision-making at a lower instance constitutes a reason for exclusion, as there are grounds to doubt objectivity, which is of particular importance for the Ombudsman. For these reasons, the Ombudsman was unable to agree to the proposed Article 20 of the proposed Act Amending the Integrity and Prevention of Corruption Act (ZIntPK-C) and the proposed amendment to Article 22 of the same Act.

It should also be noted that we encountered similar ideas of legislators in the past and since. In 2009, for example, within inter-ministerial coordination, we were forwarded a proposal for the Act Amending the Police Act (EVA 2009-1711-0030), Article 3 of which provided that a three-member committee be established that would give its opinion if the Director General of the Police were to be relieved of office, and the Ombudsman would also appoint its own member to this committee; similarly, in February 2017, the Ministry of Defence (MO) sent us a proposal for the Defence Act (EVA 2016-1911-0001) and asked us for our opinion; according to Article 32 of this Act, a representative of the public, nominated by the Human Rights Ombudsman, would also be included on a committee to resolve complaints filed by natural persons who find that their human rights or fundamental freedoms have been violated by the performance of exceptional authorisations of the Slovenian Armed Forces when protecting the state border.

2.2 DISCRIMINATION AND INTOLERANCE

	Cases Considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
2. Discrimination	**76**	**65**	**85.5**	**57**	**17**	**29.8**
2.1 National and ethnic minorities	24	29	120.8	22	9	40.9
2.2 Equal opportunities by gender	1	2	200	2	1	50
2.3 In employment	5	2	40	2	0	-
2.4 Equal opportunities relating to sexual orientation	6	3	50	3	1	33.3
2.5 Equal opportunities relating to physical or mental disability (invalidity)	22	14	63.6	14	5	35.7
2.6 Other	18	15	83.3	14	1	7.1

2.2.1 General observations

In 2016, a total of 11 fewer cases were handled than the year before in the field of discrimination and intolerance. Compared to last year, the greatest decrease in discrimination was recorded in the sub-field of employment (more than half fewer cases in this area) and equal opportunities depending on sexual orientation (half fewer cases in this sub-field) – however, from an absolute perspective, these are very small figures for both years, so the described change in itself does not indicate any really far-reaching effects (e.g. six cases last year compared to three in the entire year of 2016). The same applies vice versa – e.g. in the sub-field of equal opportunities according to gender, the number of cases doubled compared to last year, but in reality this is only one case more (one case last year, and two cases in 2016).

In this field, the percentage of well-founded cases that were resolved in 2016 increased to 28.1 per cent (from 27.9 per cent). This applies, to more or less same extent, to most individual sub-fields (in equal opportunities according to gender 50 per cent, previously 0 per cent; in equal opportunities according to sexual orientation 33.3 per cent, previously 0 per cent; in national and ethnic minorities 36.4 per cent, previously 23.8 per cent; in equal opportunities according to physical or mental incapacity 35.7 per cent, previously 35 per cent).

2.2.2 In general on the issue of discrimination

In 2016, the most significant development for protection against discrimination was the adoption and entry into force of the Protection Against Discrimination Act (hereinafter: ZVarD). This Act established the Advocate of the Principle of Equality as an independent state authority in the field of protection against discrimination, including the Advocate's tasks and powers. We positively assessed the enhanced role of the Advocate of the Principle of Equality, who became an independent state authority. This is in accordance with the recommendations that

the Ombudsman has shared for many years – as early as the 2007 Annual Report (p. 41), the Ombudsman reported on the issue of the dependence of the Advocate on the Government and other highest authorities of the executive branch. Since then, the Ombudsman has reiterated its recommendation for the adoption of regulatory solutions that should (also in accordance with the EU acquis) ensure the independence, impartiality, and sovereignty of a special authority for protection against discrimination. In last year's Annual Report, the Ombudsman recommended "the prompt adoption of legislative solutions to ensure impartial, independent and effective discussion of violations of the prohibition of discrimination and establish an independent Advocate of the Principle of Equality" (p. 415) With regard to this, a response was provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities (hereinafter: MDDSZEM) in the 'response report of the Government of the Republic of Slovenia to the 21st Regular Annual Report of the Human Rights Ombudsman for 2015' (p. 48) stating that "on 21 April 2016, the Protection Against Discrimination Act, which replaces and updates the Implementation of the Principle of Equal Treatment Act of 2004 was adopted. The Act entered into force on 24 May 2016, and it defines an Advocate of the Principle of Equality in the field of protection against discrimination, as an independent state authority appointed by the National Assembly upon the proposal of the President of the Republic of Slovenia. The duties of the Advocate of the Principle of Equality include: ensuring independent assistance to victims of discrimination by raising awareness, providing inspection control, cooperating in court proceedings; carrying out independent studies, analyses, monitoring the situation; publishing independent reports and drafting recommendations; and exchanging available information with the relevant EU authorities. Thereby, the Ministry fully fulfilled the 8th recommendation of the Human Rights Ombudsman." The Ministry of Justice made a similar statement (p. 50), namely "that, in 2015, the Ministry of Labour, Family, Social Affairs and Equal Opportunities in cooperation with the Ministry of Justice drafted a proposal for the Protection Against Discrimination Act, which was adopted by the National Assembly of the Republic of Slovenia on 21 April 2016 and published in the Official Gazette of the Republic of Slovenia [*Uradni list RS*] No. 33/16. The new Act governs, in an impartial, independent, and effective manner, the treatment of cases related to the prohibition of discrimination; furthermore, it establishes an independent state authority – the Advocate of the Principle of Equality."

The President of the Republic of Slovenia published a public call for candidates to stand for the office of the Advocate of the Principle of Equality in the Official Gazette of the Republic of Slovenia [*Uradni list RS*] No. 55/16 of 19 August 2016, and finally, on the basis of Article 23 of the Protection Against Discrimination Act and Article 112 of the Rules of Procedure of the National Assembly, the National Assembly issued a decision on 25 October 2016 appointing an Advocate of the Principle of Equality for a term of five years.

However, following all this, the Ombudsman received numerous items of information concerning the actual (non-)operation of the Advocate of the Principle of Equality. For example, a complainant provided us with correspondence from the Advocate that, among other things, stated the following: "the Office of the Advocate of the Principle of Equality is a new body and is therefore still undergoing the process of establishing its operations." On another occasion, after turning to the Advocate himself and asking him to respond to the complainant's objections related to non-responsiveness, we received clarification that the Advocate "is making efforts to appoint expert services as soon as possible using the available funds, so that the body will at least be partially operational and, as such, able to resolve the issue of discrimination." All of the aforementioned raised the question of whether the state authority appointed by law to protect against discrimination in the country has even operated or performed its duties. **On the one hand, we were able to determine that the ministries deem that the recommendation of the Ombudsman regarding the adoption of statutory solutions to ensure the impartial, independent, and effective treatment of cases related to the prohibition of discrimination, and establish an independent Advocate of the Principle of Equality was fulfilled entirely; on the other hand, the Advocate himself found that he is actually not (not even partially) operational.**

The Ombudsman turned to the Ministry of Labour, Family, Social Affairs and Equal Opportunities and the Advocate himself. In the first case, we stressed that Article 50 of the Protection Against Discrimination Act provides that "the Ministry of Labour, Family, Social Affairs and Equal Opportunities is still carrying out administrative and technical duties necessary for the operation of the Advocate for two years following the entry into force of this Act" (in the explanation of the proposal for the Protection Against Discrimination Act EVA: 2015-2611-0046, there was a similar statement namely that "this defines the duty of the Ministry of Labour, Family, Social Affairs and Equal Opportunities to ensure technical and administrative support to the new body for another two years"). We were interested in what the Ministry considers to be 'administrative and technical duties necessary for the operation of the Advocate' that it must carry out for another two years following the

entry into force of the Protection Against Discrimination Act in accordance with Article 50 of the said Act; how the Ministry has actually performed its duty referred to in Article 50 of the Protection Against Discrimination Act thus far; and whether the Ministry has thus far detected any issues related to the performance of its duty referred to in Article 50 of the Protection Against Discrimination Act.

In its response, the Ministry of Labour, Family, Social Affairs and Equal Opportunities admitted that, when carrying out relevant activities, it had encountered a number of problems, as there is no established protocol clearly defining how to proceed in the event of founding an independent state authority. As a result, much effort has to be invested in the proper and timely performance of the procedure and in seeking proper solutions (e.g. government materials have been drafted in order to inform the Government of the Republic of Slovenia of the Act on Internal Organisation and Systematisation of Workplaces at the Office of the Advocate of the Principle of Equality, whereby it was later discovered that consent to the Act is not required). We discovered quite a few administrative obstacles that are mainly connected to the lack of familiarity with procedures for establishing a state authority. According to the Ministry's opinion, authorities such as the Ministry of Public Administration and the Ministry of Finance should develop a protocol on the basis of which all of the necessary activities could be carried out more easily and quickly. Moreover, **considering the problems encountered in the first month following the Advocate's appointment, the Ministry stated that the practice of appointing a high official of a new non-governmental state authority so expeditiously without any prior communication with the body that is to manage the administrative and technical support should not be repeated. The Advocate himself, in his response to the Ombudsman, stressed that "establishing a new authority was foreseen in the Act without any transitional period necessary for establishing the primary conditions for its operation."**

The second issue, as emphasised by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, are the conditions for the Advocate's operation. The Advocate still does not dispose of a sufficient area for offices. The Ministry was able to provide him with only two offices, in which he performs his activities and communicates with the public. The Ministry of Public Administration declared that it was not competent to find suitable premises for the operation of the Advocate of the Principle of Equality. The Advocate himself does not have sufficient funds to rent suitable premises. Supposedly, it is the Ministry of Finance's position that the Advocate of the Principle of Equality should rent premises within his needs and also obtain funds that are then available for his use. Similarly, in his response to the Ombudsman, the Advocate stated that he was still operating in entirely improper conditions; since late January, he has occupied a total of two ground-floor offices. The premises provided to him by the Ministry of Labour, Family, Social Affairs and Equal Opportunities had supposedly already caused relocation in the past due to health problems experienced by employees, and the current Advocate and employees (temporary employees on the basis of student work and agreements on the performance of services) are also allegedly experiencing health problems due to the unsuitable air in these premises which were been polluted by activities in the past. Furthermore, the Advocate stated that he had asked the Ministry of Labour, Family, Social Affairs and Equal Opportunities many times to allocate more suitable premises, but the request had been denied with the clarification that no other premises were available. Also, the Advocate pointed out this problem at two meetings at the Secretariat-General of the Government of the Republic of Slovenia (22 December 2016 and 17 January 2017), and he was then provided with premises that had not been suitably renovated, which was also confirmed by the Ministry of Labour, Family, Social Affairs and Equal Opportunities. The Office of the Prime Minister of the Republic of Slovenia then apparently informed the Advocate of the possibility of hiring premises in other locations, but no suitable funds had been provided for the Advocate in the budget for the hiring of his own premises. Moreover, the Advocate stressed that he was unable to participate in the discussion on the amount of budgetary funds allocated for his office, as he had not been appointed during the formation of the budget for 2017 and 2018. Therefore, the funds for the operation of the new authority were determined by the Government, without allowing the Advocate to participate in the process in any way, which means that the Advocate had no opportunity to request the amount of funds needed to establish and develop the operation of the new authority.

In conclusion, the Advocate asked the Ombudsman to do everything in its power to enable the establishment of suitable conditions for the normal work and development of the new authority and to make it possible for the Advocate to obtain additional funds from the Government to be used for suitable independent premises and for the urgently needed greater capacity of human resources.

We find that this situation speaks for itself. The Ombudsman expects the Government to provide all the conditions needed for the effective operation of the formally established authority.

2.2.3 National and ethnic minorities

On the Roma in the Dolenjska region

Members of both the Roma community and members of the majority population living in the vicinity of Roma settlements turned to the Ombudsman due to a problem that, directly or indirectly, relates to the issues of the rights of members of the Roma community. The complainants warned the Ombudsman of the vicious circle of poor living conditions (in some cases even without access to drinking water), exclusion, lack of education, unemployability, violence, violent attacks on foreign property, and lack of action on the part of the authorities, giving rise to doubts about the efficacy of the law.

The Ombudsman found that the conditions in Roma settlements, which are not arranged legally and in terms of municipal infrastructure, are poorer than in places where settlements are legalised. We also discovered that Roma settlements which are not properly supplied with municipal utility services and do not have a proper legal arrangement endanger the fulfilment of human rights and special rights of the Roma community on the one hand and the fulfilment of human rights and fundamental freedoms of citizens living in the vicinity of illegal Roma settlements on the other. The dignity, personal rights, property rights, equality before the law, and, finally, trust in a state governed by the rule of law of both groups have been affected.

In May 2012, the Ombudsman reported on this issue to the National Assembly by means of the Special Report on the Living Conditions of the Roma in the Area of South-East Slovenia.

Page 28 of the Special Report also includes recommendations that were based on the finding that the prerequisite for successfully including members of the Roma community into Slovenian society is the improvement of their unbearable living conditions. Only if living conditions allowing access to water, sewage, and electricity are met can individuals begin to be included in the education system. Within its recommendations, the Ombudsman urged the enhancement of the state's role in implementing the National Programme of Measures for Roma. We suggested that, due to the ineffectiveness of municipalities, the increasing number of disturbances to public law and order, and severe threats to health in the affected areas, the Government should be actively and directly involved in the regulation of Roma settlements. The basis for this is the Constitution of the Republic of Slovenia, which provides that a state must protect human rights and fundamental freedoms in its territory; furthermore, the Republic of Slovenia is a signatory to numerous international documents on the observance of human rights and fundamental freedoms; finally, the Government of the Republic of Slovenia can (and must) intervene in such a manner based on paragraph three of Article 5 of the Roma Community Act (ZRomS-1). The National Assembly did not adopt the recommendations of the Ombudsman referred to in the Special Report.

The Ombudsman reiterated the recommendations referred to in the Special Report in its Annual Reports for 2012 and 2013, and the National Assembly then adopted them after it had considered the Report. However, these recommendations have still not been implemented, which the National Assembly is also regularly warned of in our Annual Reports.

When considering a complaint referring to the right to drinking water, we also exchanged views with the Government in 2015 concerning the regulation of Roma settlements. In the Government's opinion, the Roma Community Act (ZRomS-1) does not constitute legal grounds allowing the state to interfere with municipal jurisdiction related to the construction of community infrastructure or the organisation of various water supply methods. The Ombudsman cannot agree with such assessment. Pursuant to paragraph one of Article 15 of the Constitution, human rights, including the right to drinking water, are exercised directly on the basis of the Constitution. Pursuant to Article 5 of the Constitution, the state is responsible for protecting human rights in the territory of the Republic of Slovenia.

Furthermore, the Government's arguments concerning the alleged inadequacy of the provisions of the Roma Community Act (ZRomS-1) cannot be accepted also because, in its response to the Ombudsman, the Government already resorted to similar arguments five years ago. If the Government believes that its actions are prevented due to inadequate legislation, as the body proposing laws, it could have proposed suitable amendments to

the ZRomS-1 long ago. The Government has been warned of this many times, both in Annual Reports and in letters, e.g. in a letter dated November 2014: "In its opinion, the Ombudsman has stressed (as it has done many times in the past) that in cases in which human rights of members of the Roma community are violated, and when it is obvious from the conduct of a municipality that it would not eliminate the violation, the Government of the Republic of Slovenia must ensure the protection of human rights. We would like to reiterate that this option (and duty) of the Government of the Republic of Slovenia is defined in paragraph three of Article 5 of the Roma Community Act. However, if it believes, as we have heard many times, that this groundwork is not suitable, it is competent to develop and propose a suitable legislative basis that would enable it to fulfil its duty referred to in Article 5 of the Constitution of the Republic of Slovenia: "In its own territory, the state shall protect human rights and fundamental freedoms."

We find that the state is not effective enough in protecting and exercising the human rights and fundamental freedoms of the residents of legally unregulated Roma settlements and, as a result, in the surrounding area of these settlements. Therefore, we continue to recommend to the Government that it develop a programme that pays greater attention to the legal and municipal arrangement of Roma settlements, especially in the wider Dolenjska area, define the obligations of municipalities, set deadlines for their implementation, and determine supervisory authorities. The Programme should also define sanctions and the replacement implementation of tasks by the competent state authorities for municipalities that do not carry out the measures set out in the Programme within the set deadlines.

Visit to the Romani Union for the Dolenjska Region

The President of the Romani Union for the Dolenjska Region (hereinafter: the Union) invited the Ombudsman to visit and discuss the position of the Roma community in the area around Novo Mesto.

The President first warned of the problem of relocating children from the Uršljin school district to other school districts. He stated that the Union had opposed this since the first relocation attempts in 2014. He also explained that the municipality supposedly officially adopted this measure because there were too many Roma children in the classrooms at Uršljin Primary School. To his knowledge, the actual reason for this was an incident in 2014, when a Roma child physically attacked a 'civilian.'

The Union opposes the relocation of children, as the experts and children at the Uršljin Primary School are already used to Roma children and are thus somewhat more tolerant of their habits and are also more understanding of the problems that Roma children have with regard to personal hygiene. According to the President, expert employees at the Uršljin Primary School were still washing Roma children before classes in the last school year. Other schools do not have the kind of experience with Roma children that would lead to ridiculing, bullying, and discrimination of relocated Roma children, which would cause them severe distress. The President also stated that Roma children come to school muddy, even if they are washed at home, because the path from their homes to an asphalt road can be quite long and completely muddy, as not even sand has been placed on roads in some settlements.

In answer to your question as to whether the relocation of children is carried our based on the parents' consent and whether bus transport is provided to the relocated children, the President said he did not know. However, he warned that if transport is not provided, relocation of a child in this way can affect the social situation of the entire family, as eligibility for social relief also depends on the regular school attendance of school children. If the new school is very far from their home and if the parents do not have a car, which is frequently the case, it is virtually impossible for a child from such a family to go to school.

With regard to schooling, the President and his deputy continued the discussion by warning of the problem of poor performance in concluding primary school. Only 1 per cent of the children enrolled successfully complete their schooling. They also stressed that the majority of Roma children in the upper classes of primary school do not even know the alphabet or the multiplication table, which indicates that teachers do not teach the children the required materials, but allow them to progress to higher classes without the required knowledge, just to get rid of them as soon as possible.

Residential container homes for Roma families most at risk

A Roma councillor from the Municipality of Novo Mesto (hereinafter: the Municipality) also turned to the Ombudsman and warned of the issue of the difficult living conditions of families living in the Brezje-Žabjak Roma settlement. He stated that, in June 2016, he and some other representatives of the Roma community and a councillor for the Roma issue at the Municipality visited some Roma settlements in the Municipality and, based on the visit, drafted a list of families living in severe conditions, to whom the Municipality is supposed to provide suitable residential container homes as a temporary solution as soon as possible. According to the Roma councillor's understanding, the affected families would receive residential container homes within a few months, in any case before the coming cold weather and winter. However, when he later turned to the Municipality with questions regarding the timeline for setting up container homes, the Roma councillor was only given vague answers, so he asked the Ombudsman to intervene.

In September, the Ombudsman's representatives visited the Roma settlements Brezje and Žabjak and learned the details of the living conditions of these families, which truly lived in severe conditions. In all three cases, mothers were living alone with many children (4–6) in living conditions that already seemed unsuitable at first glance (two decrepit holiday caravans and a wooden shed); their partners had been imprisoned. Allegedly, access to water supply was provided to these families with the help of their neighbours; they had no access to toilet facilities or electrical power.

With regard to this case, the Ombudsman sent an enquiry to the Municipality, in which we asked about the short- and long-term plans of the Municipality to improve the living conditions of the affected families. In particular, we were also interested in whether the Municipality plans to take any measures to provide toilet facilities in the Brezje-Žabjak Roma settlements for those residents who do not have access to such facilities.

In October, the Municipality answered that it was making efforts "to provide residential container homes to the families most at risk before the severe cold of winter." The Municipality found that all three families visited by the Ombudsman belong to this group of families at risk. In early December, we were informed by the Municipality that it had provided residential container homes to the families most at risk, and it stressed the incredible contribution of the Roma councillor in implementing this project, which the Ombudsman also witnessed. According to the complainant, the families, in agreement with the Municipality, will pay a monthly rent for the use of residential container homes. The Ombudsman assesses such actions of the Municipality as positive and welcomes them.

We are more critical of the answer of the Municipality with regard to the long-term vision for governing the Brezje-Žabjak settlements. In its response, the Municipality warned of the poor cooperation between the local and state governments, which prevents any "coordinated preparation of plans for development programmes led by the Government and the Municipality." Therefore, the Municipality is giving priority to drafting a spatial plan for the Žabjak Roma settlement. The Ombudsman has been monitoring the Municipality's long-term plans for regulating this settlement since 2002; however, we are critical of the fact that, in all these years, there has been no visible progress.

One of the direct and severe results of the ineffective legal and infrastructural regulation is the absence of toilet facilities. With regard to providing toilet facilities, the Municipality believes that containers with toilet facilities must be able to be connected to infrastructure (water supply, power, and sewage networks) and there must be a suitable legal basis for such an action. Because in the specific cases of families visited by the Ombudsman, these conditions have not been met, the Municipality will not provide toilet facilities to the affected families.

However, the Ombudsman's opinion is based on the notion that access to drinking water and toilet facilities is a human right, mentioned at the national (Article 34 of the Constitution of the Republic of Slovenia) and international level (e.g. UN General Assembly Resolution A/64/292). Because the municipality failed to respond to the proposal to install toilet facilities for affected families, the Ombudsman took this proposal to the Government of the Republic of Slovenia (hereinafter: the Government), as human rights are exercised directly on the basis of the Constitution (Article 15 of the Constitution), and their protection in the territory of the Republic of Slovenia is ensured by the state (Article 5 of the Constitution); therefore, the Government is (also) responsible for enforcing human rights.

We specifically emphasised in our letter to the Government that, in the case under consideration, the victims of human rights violations were numerous children (a total of no fewer than 15 in these families) who found themselves in such living conditions through no fault of their own. Due to the violation of the right to toilet facilities, the children's health and the health of the people with whom they are in daily contact (e.g. at school) are at high risk, and they also encounter a major obstacle to their upbringing and education that will permanently affect their personality and course of their future life. In the Ombudsman's opinion, the absence of toilet facilities for these children, in addition to the aforementioned violation, also constitutes a violation of Article 56 of the Constitution, in accordance with which children enjoy special protection and care, and a violation of point e) of paragraph two of Article 24 of the Convention on the Rights of the Child, in accordance with which States Parties must provide support in hygiene for children.

We asked the Government to study the matter and, just as it already took measures to provide drinking water in illegal Roma settlements, to also take measures to provide toilet facilities for the Roma families in question. The Government reiterated its established opinion that these is no legal basis for it to interfere with the competencies of the local community, but that it would focus its efforts on enhancing dialogue between the state and local levels, whereby a permanent solution to the problem of regulating space and community infrastructure in Roma settlements would be ensured.

As was reiterated many times in Ombudsman's previous Annual Reports (e.g. p 62 of the Annual Report for 2015, p. 66 of the Annual Report for 2014, and others, and in particular on p. 28 of the Special Report on the Living Conditions of the Roma in the Area of South-East Slovenia (May 2012), the state is responsible for ensuring that human rights are exercised, including the supply of drinking water and toilet facilities. In the case in question, we are particularly critical of the fact that the Government has not stated its opinion of the violation of the human rights of the children.

Many years of effort invested by the Ombudsman and appeals to the Government to observe the human rights of the members of the Roma community in illegal Roma settlements have thus far not been fulfilled. As governments change, none of them take into account the Ombudsman's requests in this field; as a result, the Republic of Slovenia might be convicted once again before the European Court of Human Rights in the case *Hudorovič and Novak and Others v. Slovenia*. Even more troubling is the fact that, due to the state's indecisiveness in this field, generations of members of the Roma community are moving away from the objective referred to in the Roma Community Act (ZRomS-1), i.e. to be successfully included in Slovenian society.

Access to toilet facilities in the Roma village of Šmihel

The Ombudsman received information that in the Roma village of Šmihel an elderly lady and her severely ill son and school-age granddaughter were living in poor conditions. We wished to witness the situation ourselves, so we visited the complainant.

The most obvious and burning issue faced by the complainant and the members of her family on a daily basis was the absence of toilet facilities. The complainant, her son, and granddaughter used the nearby forest as a toilet, and personal hygiene was taken care of by using water from her other son's tap, located a few metres away; however, this tap was useless in winter time during frost.

With regard to this issue, the Ombudsman enquired with the Municipality of Novo Mesto, and based on the answers received from the Municipality, we provided it with our conclusions and a proposal for eliminating the discovered violations of human rights and fundamental freedoms. In our opinion, we warned that **access to drinking water and toilet facilities is an internationally recognised human right which is essential to the lives of individuals and for the full enjoyment of all other human rights; furthermore, in the case under consideration, the fact that all three affected persons are members of particularly vulnerable groups is particularly significant – in addition to the affiliation with the Roma community of every person affected, there is at least one more noteworthy personal circumstance (old age, severe illness, a child). Moreover, we warned that denying individuals the foundations for human dignity, such as access to toilet facilities, not only constitutes a violation of human rights, but is also unethical and in conflict with the principles of equity.** On the basis of this, the Ombudsman recommended that the Municipality enable the use of toilet

facilities to the complainant and her family, for the purpose of eliminating the discovered violations of human rights and fundamental freedoms.

In its response, the Municipality rejected the fulfilment of the Ombudsman's recommendation. It stated that, in the past, it had already provided a residential container home to the complainant, whereby her living conditions had improved significantly. It suggested that the complainant use the toilet facilities of her (third) son, to which he was entitled due to the demolition of the municipal multi-dwelling building, where he had previously resided.

Even though setting up a residential container home for the complainant was an instance of an exemplary action taken by the Municipality, from the perspective of human dignity, its passive attitude in denying toilet facilities to the complainant and her family was unacceptable. The fulfilment of the human right to toilet facilities cannot and must not depend on the will individuals, in this case the complainant's son, who has at his disposal a container with toilet facilities. In the case under consideration, it is worth noting that the victim of this violation of human rights was also the complainant's school-age granddaughter, who found herself in such living conditions through no fault of her own. Due to this violation, she encountered a severe obstacle to her upbringing and education, which will permanently affect her personality and future path in life.

Because the Municipality failed to respond to the Ombudsman's recommendation, we recommended that toilet facilities be provided to the complainant and her family by the Government of the Republic of Slovenia. Our recommendation was argued as follows: (1.) access to drinking water and toilet facilities is a human right arising from national (Article 34 of the Constitution of the Republic of Slovenia) and international legal order (e.g. UN General Assembly Resolution A/64/292), and (2.) human rights are exercised directly based on the Constitution (Article 15 of the Constitution), and their protection in the territory of the Republic of Slovenia is provided by the state (Article 5 of the constitution); therefore, the Government is (also) responsible for enforcing human rights. In particular, we stressed that the persons affected in the case under consideration are members of particularly vulnerable groups, including the complainant's school-age granddaughter, who found herself in these living conditions through no fault of her own. Due to this violation, she encounters a high risk to her health and a severe obstacle to her upbringing and education, which will permanently affect her personality and future path in life. In the Ombudsman's opinion, the absence of toilet facilities for the complainant's granddaughter, in addition to the aforementioned violation, also constitutes a violation of Article 56 of the Constitution, in accordance with which children enjoy special protection and care, and a violation of point e) of paragraph two of Article 24 of the Convention on the Rights of the Child, in accordance with which States Parties must provide support in hygiene to children.

The Government responded that, in the case under consideration, measures are not necessary, because the complainant was hospitalised due to severe medical issues during the process of resolving the issue. According to information that the Government obtained from the Social Work Centre and the Romani Union for the Dolenjska Region, the complainant's granddaughter was returned to her father, and her ill son is staying with his brother. After being discharged from hospital, the complainant had numerous choices with regard to solving her poor living situation – e.g. institutional care or living with one of her two sons whose living conditions are suitable. As the case was concluded, the Social Work Centre informed us that the complainant wanted to return home despite everything, and due to her medical condition, she is entitled to a bedside commode. Considering this, conditions for considering the case further were not met.

Drinking water from a tank only as a temporary measure

We were informed through the media (e.g. Dnevnik, 16 November 2016: "Physical 'Miracle': In Low Temperatures, Water Also Freezes in Roma Settlements!") that the water in plastic water tanks installed by the Government in the Roma settlements of Dobruška Vas and Goriča Vas froze in mid-November 2016.

The Ombudsman has been making proposals to the competent authorities, including the Government, to provide access to drinking water in the Roma settlement of Dobruška Vas since 2011, and access to drinking water in the Roma settlement of Goriča Vas since 2014. Access to drinking water and toilet facilities is a human right arising from national (Article 34 of the Constitution of the Republic of Slovenia) and international

legal order (e.g. UN General Assembly Resolution A/64/292). Human rights are exercised directly on the basis of the Constitution (Article 15 of the Constitution), and their protection in the territory of the Republic of Slovenia is ensured by the Government.

The last time that the Ombudsman warned the Government of the Republic of Slovenia that supplying water through water tanks could only be a temporary measure when implementing the right to drinking water was on 11 January 2016, when we emphasised that in some weather conditions the supply of drinking water through water tanks is completely unsuitable (frost, heat).

In the Ombudsman's opinion, providing drinking water through a water tank is a step backwards with regard to the opinion of the Government of the Republic of Slovenia dating back to 2011, stating that, "the observance of the right to drinking water arising from Slovenian and international legislation constitutes the provision of public access or access through a public connection /.../" At the time, the Government of the Republic of Slovenia committed to finding a solution for installing a water supply connection itself (if the local community in the Roma settlement failed to provide access to drinking water).

Direct targeting of social transfers for the purpose of improving conditions in Roma settlements

The Ombudsman visited Roma settlements and learned about the plans of the Municipality of Novo Mesto and the Government to ensure better living conditions for residents of Roma settlements (suitable residential container homes, supply of electrical power), provided that the costs related to this are deducted from their social relief.

In discussions with representatives of the Roma community (municipal councillor of the Municipality of Novo Mesto, President of the Roma Union of Slovenia), we found that members of the Roma community are receptive to such plans, as they feel themselves that, based on their means, everyone should contribute for any goods received. Furthermore, we found that in this way we could successfully prevent some poor practices, e.g. when Roma people obtain electrical power illegally through their neighbours, who, in turn, charge them an unreasonably high amount for this. The stakeholders agreed that for such an allocation of social funds the consent of the users is required, but they did not agree on the issue concerning the technical implementation of directly targeting social transfers. For this reason, particular delays occurred in adopting measures that we find urgent to improve the conditions in the Roma settlement of Brezje-Žabjak. The Ombudsman considered this issue from the perspective of the principle of good governance. Therefore, for the purpose of expediting the search for a solution, we organised a meeting at our office with the Director of the Government Office for National Minorities, the Director-General of the Directorate for Social Affairs at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the Director of the Novo Mesto Social Work Centre, and a representative of the Municipality of Novo Mesto to discuss this topic.

The view on the issues at the meeting varied; however, we later received clarification from the Government Office for National Minorities that an agreement on the topic had, in principle, been reached. A three-party agreement among electrical supply grid users, the Municipality of Novo Mesto, and the Social Work Centre was to be signed for this purpose. The agreement was supposed to regulate the relationship among the parties on connecting to the grid, and supplying and charging for the use of electrical energy. Individuals who have a right to receive social relief will have an opportunity to connect to the power supply grid. By signing the agreement, users will agree to have the Social Work Centre deduct the monthly cost of power used and the monthly cost of the Centre's role in preparing the calculation of the cost from disbursed social relief. **(10.1-13/2016)**

Special rights of national communities

On page 59 of the 2015 Annual Report, the Ombudsman announced that it would continue its work on the use of the languages of nationalities in bilingual areas in 2016.

In January and February 2016, the Ombudsman's authorised deputy and expert employee visited some state and local institutions in bilingual areas unannounced and verified access to forms in the languages of nationalities

in the field. The first findings on the basis of these unannounced visits and discussions with the competent officials at the administrative units in Koper, Piran, and Lendava, in the Municipalities of Koper and Lendava, and in the social work centres in Koper and Lendava were presented on page 59 of the 2015 Annual Report.

After the visits, we enquired with the Inspectorate of the Republic of Slovenia for Public Administration concerning the monitoring the use of Italian or Hungarian in administrative procedures and in administrative operations in areas where the languages of the national communities are also official languages. The Inspectorate of the Republic of Slovenia for Public Administration informed us of the findings arising from the first ten inspections carried out in entities subject to control in 2015. In general, these findings show that very few applications are filed by clients in the languages of national communities, and no violations of the right to use the language of national communities were found. With regard to bilingual operations (the use of forms, stamps, seals, brochures, and other prescribed elements), certain violations of the stipulations of the Decree on Administrative Operations were found, and the entities concerned were ordered to eliminate these irregularities. The Administrative Inspectorate ordered the heads of bodies that failed to provide a catalogue of public information in the language of a national community to publish these catalogues.

The responses of the Inspectorate of the Republic of Slovenia for Public Administration show that, after the Plan of Measures of the Government of the Republic of Slovenia for the Implementation of the Regulations in the Field of Bilingualism 2015–2018 (hereinafter: the Plan) was adopted on 23 July 2015, activities of supervisory bodies concerning the guaranteeing of bilingualism increased. In our opinion, the measures that the Administrative Inspection imposed on those entities that were inspected will help the rights of the members of national communities be fulfilled fully.

A key document related to the exercise of the special rights of national communities is the aforementioned Plan. The implementation of the plan, which foresees specific measures to improve the situation related to fulfilling bilingualism, is monitored by the Working Sub-Group for Drafting the Plan of Measures for the Implementation of the Regulations in the Field of Bilingualism (hereinafter: the Working Sub-Group), the members of which are also representatives of both national communities. The Ombudsman enquired with the Working Sub-Group and discovered that certain ministries are not reporting on implementing measures, even though they should be according to the Plan. It seems that the Working Sub-Group does not have suitable mechanisms to obtain responses from ministries, so it would make sense to enhance its competencies in this regard.

We also discovered that there are problems with implementing point 5.6 of the Plan, which provides that funds for the translations of forms should be provided by the relevant ministries. It is evident from the responses that we received from the Working Sub-Group that, in 2016, the Ministry of Public Administration was using its own funds for the translations "because the competent authorities do not provide translations."

Although the number of forms in individual official languages can be very easily measured and is also an objective indicator of performance when enabling bilingualism, we were unable to obtain information by enquiring with the Working Sub-Group on how many forms were newly available in Hungarian and Italian in 2015. In our opinion, such information could be of great assistance when making an assessment of what progress has been made in realising the rights of national communities in individual years; therefore, we encourage those who are competent to collect and analyse these data.

We also discovered problems in implementing the provision of Article 223 of the Decree on Administrative Operations (hereinafter: the UUP), which governs administrative operations in the languages of the Italian and Hungarian national communities. Paragraph three of this Article of the UUP provides that all life events listed on the e-uprava state website must also be available in Italian and Hungarian; the same applies to the basic information on the website. However, the data on life events in all three official languages showed some discrepancies; on the e-uprava website at the end of 2016, 145 items were available in Hungarian, 150 in Italian, and as many as 300 in Slovenian.

Paragraph four of Article 223 of the UUP provides that electronic forms for submitting applications online and online data to the administrative services of an authority must also be available in Italian and Hungarian. With regard to the latter, we discovered in early December 2016 that the websites of the administrative units in bilingual areas (Lendava, Murska Sobota, Izola, Koper, and Piran) are still not available in Italian or Hungarian.

Concerning this issue, the Ministry of Public Administration clarified that activities for the publication of contents in the languages of national communities are under way.

On the state website e-uprava, there is also a clear discrepancy between the number of applications in Slovenian (322), Italian (89), and Hungarian (93). With regard to this, the Ministry of Public Administration clarifies that "the number for the Slovenian, Italian, and Hungarian version cannot be the same." According to the Ministry, the number of applications in various languages differs because (1) some application forms are filled out beforehand with data from the central population register or from other national registers and records, and these data will "always only be available in Slovenian because translating such data would constitute the creation and management of another two separate back-end systems for submitting applications." There are approximately 60 such applications; (2) some applications are submitted to authorities that do not operate in ethnically mixed areas. There are approximately 40 such applications; (3) some applications are not submitted through the e-uprava website, but users are merely re-directed to another dedicated website. There are approximately 10 such applications; (4) some applications are submitted to a central location that ensures that they are distributed to the competent authorities (anonymous reports submitted to the police and inspection services). There are approximately 60 such applications; and (5) due to the specific nature of some applications (e.g. application for obtaining citizenship, where there is a condition of speaking Slovenian, extension of a vehicle registration certificate, voucher). The Ministry enumerated three such applications.

On the basis of this, the following can be determined; firstly, even if we add the number of applications that, according to the Ministry, cannot be translated, there are still approximately 60 applications fewer in each of the languages of national communities compared to Slovenian. Secondly, the provision of paragraph four of Article 223 of the UPP is very clear with regard to providing electronic forms for submitting applications online, and it does not allow any exceptions, particularly such that would refer to the technical capabilities of "back-end systems for submitting applications" and similar. **Therefore, it is reasonable to recommend that the competent ministries ensure electronic forms for submitting applications as soon as possible, in accordance with paragraph four of Article 223 of the Decree on Administrative Operations.**

The Ombudsman also visited members of the Italian and Hungarian national communities

The Ombudsman did not receive very many complaints claiming a direct violation of any of the rights guaranteed to members of the two self-governing national communities (Italian and Hungarian) in the Republic of Slovenia through the Constitution and other laws. Because representatives of the national communities stated that one of the possible reasons for this was the fear of the individuals affected, the Ombudsman announced at the meeting discussing the Annual Report of the Human Rights Ombudsman for 2015 at the National Assembly's Commission for the National Communities in October 2016 that we would visit these communities in the field.

The visits were made in late November 2016 in two stages: the first was intended for discussions with representatives of self-governing national communities, and the second discussions with complainants. Although our meeting outside of our head offices was advertised in the media (Népújság – newspaper of the Hungarian national community, news on the MMR radio of the national community broadcast four times a day, an advertisement in the La voce del Popolo newspaper of the Italian national community, and news broadcast on Radio Koper/Capodistria), complainants failed to respond, so the meeting focused on discussions with representatives of national communities.

Regardless of the poor response of members of national communities, the meeting outside of our head offices was of great importance for the work of the Ombudsman. For the purpose of improved awareness raising on the rights of individuals and the related role of the Ombudsman, promotional activities before the visit and during the visit were undertaken – promotional brochures in Italian and Hungarian were distributed, and when speaking to the media, the Human Rights Ombudsman emphasised the confidentiality of the procedure led by the Ombudsman, protecting affected persons from their identity being revealed.

In discussions with representatives of national communities, some problems with regard to the use of Italian and Hungarian with providers of public services and in the education system were evident; these problems could constitute violations of the rights of the representatives of national communities. Personnel employed

in a nursing home for the elderly in the Pomurje region and personnel employed in community health-care centres in bilingual areas allegedly had problems communicating with users in languages of the national communities, and memos from the ministry competent for education and promotional materials (e.g. of the National Institute of Public Health) intended for students and parents were allegedly available only in Slovenian. We did not consider specific cases, but it should be noted on this occasion that, based on Article 11 of the Constitution of the Republic of Slovenia, state authorities and other authorities performing public services as well as bodies of local communities have the duty to operate and provide services in Italian and Hungarian in the area of municipalities where the Italian and Hungarian national communities live. This provision also indirectly stipulates the right of members of these national communities to use Italian or Hungarian in these areas (also see Decision of the Constitutional Court No. U-I218/04-31 of 20 April 2006, point 9).

On the basis of the discussions, we expect our partners in dialogue, in accordance with out agreement, to provide us with the relevant documentation referring to violations that are claimed, so that they can be considered by the Ombudsman. We received some documentation in early December, which is now being studied.

2.2.4 Equal opportunities by gender

Change of data on school report card upon sex change

A complainant who turned to the Ombudsman, changed their sex and name upon completing their secondary education and then wished to acquire a school report card expressing their actual identity. The secondary school turned to the Ministry of Education, Science and Sport, which clarified that, due to the provisions of the Rules on School Documentation, a new public document certifying educational performance cannot be issued, and that the person should prove the authenticity of their school report card by enclosing the decisions of the administrative unit on their sex change and name change. The complainant stated that, due to this opinion of the Ministry of Education, Science and Sport, their rights had been violated. They warned that, formally, they do not have an education, as their valid name and surname is not recorded in any school. This poses a problem when looking for a job, as the certificates on their acquired education do not match their name and surname. The complainant finds it degrading that, for this reason, they must explain the intimate details of their life. Furthermore, the complainant found that, due to their personal circumstance, which is disclosed when proving their identity, they may be rejected when applying for a job.

In a letter sent to the Ministry of Education, Science and Sport, we shared our opinion that the statements of the complainant seem to be justified. Our opinion was based on the fact that the provision of paragraph three of Article 19 of the Rules on School Documentation in Secondary Education (hereinafter: the Rules) has a discriminatory effect on persons who have changed their sex after receiving public documents certifying their acquired education, as it stipulates that data cannot be corrected, changed, or supplemented in documents issued before a change of a piece of information in certain records (even in the civil register). We found that the provision of paragraph three of Article 19 of the Rules constitutes a form of indirect discrimination, as it is a virtually neutral rule, but places transsexual persons in a less favourable position. When these persons are required to prove the authenticity of public documents certifying their education, e.g. when seeking employment, they are also obliged to disclose intimate details of their lives, and due to the general prejudice in society against transsexual persons, they may be treated less favourably due to this fact, even in the procedure for selecting job applicants. If a job applicant is able to obtain employment, they might suffer discrimination due to their transsexuality, or even be harassed during the term of their employment, either by their superiors or co-workers.

We particularly emphasised the contradictory position of a job seeker whose privacy when entering into an employment agreement is protected by means of the provision of paragraph two of Article 28 of the Employment Relationship Act (hereinafter: ZDR-1), pursuant to which an employer is unable to request a job applicant to disclose information on their family or marital status or any other information, unless directly related to the job. According to the Ombudsman, a sex change is (usually) not directly related to employment, so an employer has no grounds on the basis of which they would need to be informed of it. However, pursuant to the provision of paragraph one of Article 29 of the ZDR-1, a job applicant is obliged to submit to an employer any supporting documentation proving that they meet the conditions for doing a job, so informing the employer on

the sex change of transsexual persons is virtually unavoidable if this person, as a job seeker, wishes to prove that they meet the conditions to do a job.

Furthermore, we warned the Ministry of Education, Science and Sport that a sex change, as a sensitive piece of personal information concerning the most intimate part of a person's privacy, is protected by the provision of Article 35 of the Constitution of the Republic of Slovenia. Conditions for obtaining such information are extremely strict and justified only in exceptional cases. When judging whether such an intrusion into a person's privacy is justified, the question as to whether the purpose for which such an intrusion of privacy is requested could be achieved in a manner that is less invasive for an individual should also always be answered. According to the Ombudsman, in the case considered, this purpose could be fulfilled in a manner preventing the employer from being informed about the sex change of a job applicant, namely by issuing a public document to the job applicant certifying their education and reflecting their actual sex and name.

Moreover, we also stressed the provision of Article 170 of the General Administrative Procedure Act (hereinafter: the ZUP), which stipulates that if legal facts (events, legal transactions, etc.) may affect the change of a fact confirmed in a public document, a new public document must be provided for the needs of providing evidence. A sex change is (also) a legal fact that affects a change of a fact confirmed in a public document – i.e. the identity of a secondary-school student has been changed, so this should also be reflected in the public document. We found that the provision of paragraph three of Article 19 of the Rules, which prevents in advance a public document from being changed, could be in conflict with the provision of Article 170 of the ZUP.

We also emphasised the symbolic perspective of the case considered – by declining to harmonise the public document with the actual situation, the authority that issued the public document is making a moral judgment concerning sex change. It does not recognise it at a symbolic level, which could have negative emotional consequences for a person who underwent a sex change.

We asked the Ministry of Education, Science and Sport to respond to the Ombudsman's opinion, especially from the perspective of discrimination, the protection of transsexual persons' privacy, and the (non)conformity of the Rules with the provision of Article 170 the ZUP.

In its response, the Ministry of Education, Science and Sport stated that, indeed, the Rules do not regulate the specific situation, but that it does not agree with the Ombudsman's opinion that, for this reason, the Rules were discriminatory, as each person has the right to request that a new public document be issued already on the basis of Article 170 of the ZUP. According to the Ministry of Education, Science and Sport, an educational institution may issue a new original report card on this basis, containing amended personal information to a person who changes their sex and name after completing their education. Furthermore, the Ministry of Education, Science and Sport finds that the provisions of the Rules do not need to be amended "because an implementing regulation cannot serve as a suitable legal basis for regulating such sensitive personal information."

The complaint was justified. It is evident from the response of the Ministry of Education, Science and Sport that it changed its opinion on the possibilities of amending a school report card compared to the opinion sent to the complainant's secondary school; as a result, we instructed the complainant to again file a request for a new document to be issued by their secondary school. The violation of privacy and personal rights (Article 35 of the Constitution) and of the right to equality before the law (Article 14 of the Constitution) which arose from the interpretation of the Ministry of Education, Science and Sport of the inability to change a school report card due to a sex change was eliminated by way of a new opinion of the Ministry of Education, Science and Sport. The complainant informed us that, with the Ombudsman's assistance and support, the secondary school had issued a new school report card with suitably amended information. **(10.2-1/2016)**

2.2.5 Equal opportunities relating to sexual orientation

Eliminating discrimination against persons with same-sex orientation

On page 53 of the Annual Report of the Human Rights Ombudsman for 2015, we reported that, after the Act Amending the Marriage and Family Relations Act was rejected in a referendum in December 2015, many complainants began turning to the Ombudsman stating that, due to their sexual orientation, same-sex couples in the Republic of Slovenia do not have the same rights as heterosexual couples. With regard to this issue, in January 2016, the Ombudsman held a discussion with representatives of LGBT groups fighting for same-sex couples to have equal rights. They told us that in their past efforts, they had focused mainly on the political process (adoption of acts), but that they intended thenceforward to focus on legal procedures. For this reason, they turned to the Ombudsman, who is among those authorised to file a request for a review of the constitutionality and lawfulness of regulations.

The Ombudsman agreed that political efforts to achieve equal rights of same-sex couples had proved ineffective and that the situation of same-sex couples with regard to exercising their human rights is clearly unconstitutional; therefore, in cooperation with the complainants, we established a working group of experts dealing with the rights of same-sex couples. With the help of a review titled "The Legal Status of Same-Sex Partnerships and Parenthood in Slovenia" (Open Institute of the Culture of Diversity, 2015, editor: Barbara Rajgelj), the working group formed a proposal for a list of legal regulations that would, to the maximum extent possible, affect the lives of same-sex couples and concerning which the Ombudsman would file a request for a constitutionality review already in 2016. On the basis of this list, the Ombudsman's collegium formed a definitive list of allegedly unconstitutional laws and decided that requests should be suspended until the National Assembly reached a decision on the proposal for the Marriage and Family Relations Act (hereinafter: the ZPZ).

The ZPZ was passed on 21 April 2016 and entered into force on 24 May 2016; it will become applicable on 24 February 2017. By passing the ZPZ, the National Assembly contributed to milestone shifts in achieving the equality of rights of same-sex couples. By means of this new act, the equality of the rights of same-sex couples compared to the rights of heterosexual couples was largely achieved; it was achieved completely with regard to the rights governed in acts concerning which the Ombudsman had intended to file requests for constitutionality reviews. Regardless of this, the Ombudsman will continue to carefully monitor the issue in this field, also because, even though the ZPZ was enacted, some issues remain open, e.g. the legal regulation of joint adoptions by same-sex couples and their options for biomedically-assisted procreation. **(10.4-5/2015)**

2.2.6 Equal opportunities relating to physical or mental disability

Discrimination regarding the transport of persons with mental disorders

The Ombudsman already reported in the Annual Reports of the Human Rights Ombudsman for 2014 and 2015 on discrimination related to the regulation of the right to free transport for students with mental disorders who participate in special education programmes between the ages of 18 and 26.

Pursuant to the provision of paragraph two of Article 75 of the Elementary School Act (hereinafter: the ZOsn), students with special needs may participate in educational programmes until the age of 26. If the Act enables these persons to obtain an education, the Ombudsman finds that it should also provide all other rights to which persons included in the education system who are in a comparable position are entitled.

Our expectations for the competent ministries to immediately draft a proposal for amendments to the controversial regulations (paragraph ten of Article 56 of the ZOsn and point a) of paragraph eleven of Article 8 of the Rules on the Standards and Norms of Social Services) have unfortunately still not been met.

However, we are glad to report that the Administrative Court of the Republic of Slovenia issued a judgment and Decision No. U 1572/2015 of 18 November 2015 (available on the website sodnapraksa.si) annulling the decision

of the municipal administration and the decision on the appeal against it by means of which the application to establish the right to free transport of children with special needs who are over the age of maturity was rejected. In its judgment, the court found that the administrative bodies of first and second instance interpreted the controversial paragraph ten of Article 56 of the Elementary School Act restrictively, overlooking the provisions of Articles 8 and 57 and paragraph two of Article 52 of the Constitution of the Republic of Slovenia, as well as the provisions of ratified and published international treaties. This is particularly significant considering that a decision on placement was issued to the child of the claimant based on the Placement of Children with Special Needs Act. The court found that the complainants had grounds to refer to the provisions of the Principle of Equal Treatment Act and the Equalisation of Opportunities for Persons with Disabilities Act prohibiting discrimination due to disability.

On the basis of this judgment, during the new hearing in January 2016, the municipality acceded to the request of the complainants and acknowledged their right to the reimbursement of costs related to the transport of children with special needs from their place of residence to their place of education and back.

Therefore, it is reasonable for individuals to resort to legal remedies against a decision on the basis of which a municipality refuses to pay transport costs for any of children with special needs who are over the age of maturity and attending an educational programme, and, if necessary, to also file a lawsuit at the Administrative Court against the decision of the court of second instance, whereby they should refer to the principal reasons included in the judgment of the Administrative Court presented above.

In addition to the careful and, from the Human Rights Ombudsman's perspective, significant explanatory note of this judgment, the speed of the decision-making of the Administrative Court, which reached its decision in approximately two weeks, should be particularly commended and emphasised as an example of good practice.

Eliminating discrimination related to the transport of disabled students

The Ombudsman has for years been making efforts to make the competent ministries eliminate discrimination related to the transport of disabled students with impaired movement from their place of residence to the place of education. We have already reported on discrimination in this field in the Annual Reports of the Human Rights Ombudsman for 2013 and 2014, and the last time we reiterated our warnings was on page 55 of the Annual Report of the Human Rights Ombudsman for 2015.

In 2016, due to the inactivity of the competent ministries with regard to resolving this issue (Ministry of Labour, Family, Social Affairs and Equal Opportunities – hereinafter: MDDZS, Ministry of Infrastructure – hereinafter: MzI, and the Ministry of Education, Science and Sport), the Ombudsman contacted the Office of the Prime Minister of the Republic of Slovenia no fewer than four times, and once time even contacted the Prime Minister directly.

In our letter to the Prime Minister, we warned of the extremely lengthy procedure for drafting regulations eliminating discrimination and of the related and, in our opinion, severe violation of the human rights of one of the most vulnerable groups in our country. We found that there was no (sufficient) real will or interest in achieving a specific shift, whereby this constant postponing of urgent changes affects the vulnerable group – the disabled – the most. We provided our assessment that the reason for this situation may also lie in the fact that three ministries are competent to draft such amendments, but they are obviously not sufficiently coordinated, and no timelines or responsible persons are determined for resolving this issue. We found that the most worrying fact was that, after so many years, such evident discrimination has also still not been eliminated at a systemic level, as in the case of a specific issue encountered by a disabled student which has been considered by the Ombudsman since 2014.

The Human Rights Ombudsman suggested to the Prime Minister of the Republic of Slovenia that he stand up for disabled students and, for this purpose (1) appoint a specific responsible person for drafting amendments at the competent authorities (2) determine clear timelines for drafting them, and (3) to his the best of his ability also contribute to implementing the transport of a specific disabled student, as already proposed by the Ombudsman to competent ministries, at the latest as of the new 2016/2017 academic year.

The Ombudsman has not received a response to its proposals from the Prime Minister. The MzI sent a letter informing us that a meeting had been held in October to discuss a solution for the specific problem of the student in question; the complainant was also invited to attend this meeting. At the meeting, it was discovered that the Disabled Students of Slovenia Society (hereinafter: the DŠI) could not transport the student due to terrain with difficult access. Therefore, the transport would continue to be carried out by the student's family, whereby the DŠI would provide her with a monthly allowance on the basis of a suitable agreement.

With regard to systemic solutions in the field, the MzI answered that competent ministries would propose amendments to the legislation, presumably within the framework of a new Higher Education Act. Because no specific proposals have been drafted in this regard, and no timelines have been set for introducing the planned amendments to the legislation, we reiterate the Ombudsman's long-standing recommendation stating that the competent ministries should draft amendments to the regulations as soon as possible in order to eliminate discrimination in the transport of students with impaired movement from their place of residence to the place of their education.

Example:

Discrimination against disabled students
A disabled student turned to the Ombudsman for assistance because her faculty failed to extend her student status, and it justified its decision on the basis of the provisions of the Higher Education Act (ZVis). The student appealed the faculty's decision. In her opinion, the faculty should have recognised the extension of her student status as a special form of reasonable accommodation, as she was unable to finish her studies within the expected deadline due to her disability. However, even the senate of the faculty, as a body of second instance, did not grant her appeal. The explanatory note of the decision stated, among other things, that the student "has taken advantage of all possibilities for enrolment laid down by law, and no further enrolment option and the resulting student status are possible."

The Ombudsman suggested to the complainant that she institute an administrative challenge to the faculty's controversial decision. Furthermore, on the basis of her case, the Ombudsman decided to consider the issue of the (statutory) regulation of disabled students' status from a systemic perspective. As the Ombudsman considered the case, we made an enquiry with the Ministry of Education, Science and Sport (hereinafter: the MIZŠ). After the enquiry, the Ombudsman formed the opinion that disabled students are discriminated against when becoming involved in the study process.

The Ombudsman had already warned of the systemic problem of regulating the issue of disabled students on page 162 of the Annual Report of the Human Rights Ombudsman for 2010. Among other things, the 2010 Annual Report warned that a student with special needs must have equal opportunities for studying, so they should be provided with reasonable accommodations of the study process. We have regularly warned of another unregulated field since 2013, namely of the discrimination of disabled students with regard to their transport from their place of residence to place of education (the last time we warned of this was on p. 56 of the Annual Report of the Human Rights Ombudsman for 2015).

Pursuant to paragraph two of Article 52 of the Constitution of the Republic of Slovenia, disabled persons have the right to education and training for an active life in society, and Article 14 of the Constitution provides disabled persons with equality before law. Pursuant to paragraph five of Article 24 of the Convention on the Rights of Persons with Disabilities, "States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities." At a statutory level, the protection of individuals from discrimination based on disability is provided by the Protection Against Discrimination Act (hereinafter: the ZVarD) and the Equalisation of Opportunities for Persons with Disabilities Act (hereinafter: the ZIMI). Paragraph two of Article 11 of the latter expressly provides that disabled persons "have the right to reasonable accommodations when included in the educational, schooling, or study process, and a right to reasonable accommodations of the schooling or study process related to the individual needs of a disabled person." Paragraph three of Article 38 of the ZIMI provides that the deadline for a reasonable accommodation of the schooling and study process

referred to in Article 11 of the said Act is a maximum of five years after this Act entered into force. This deadline expired on 11 December 2015.

Since the Equalisation of Opportunities for Persons with Disabilities Act (ZIMI) entered into force, the part of the Higher Education Act (ZVis) referring to the rights of disabled students has not been amended or modified. The Act does not even mention this group of students, let alone provide them with the right to the accommodation of the study process to the individual needs of a disabled person, as directed by the Convention on the Rights of Persons with Disabilities and the ZIMI.

The status of disabled students is partly regulated by the rules of universities on students with special needs, which also define their rights and obligations. The Rules on the Study Process of Disabled Students of the University of Maribor of 25 February 2008 was adopted before the ZIMI entered into force, but two such documents were adopted after its entry into force: the Rules on Students with Special Needs at the University of Primorska (of 18 September 2013) and the Rules on Students with Special Needs at the University of Ljubljana (of 16 September 2014).

We estimate that these rules offer significant support to students with special needs during the inclusion and participation in the study process; however, they do not govern their status comprehensively. Firstly, from a formal point of view, because the manner of exercising human rights and fundamental freedoms can be prescribed only by law (paragraph two of Article 15 of the Constitution) and not also by means of an implementing regulation, such as e.g. university rules. Secondly, we find that the issue is not governed comprehensively because these rules do not resolve sets of significant issues – e.g. extending the student status (with regard to this, the last indent of paragraph three of Article 3 of the Rules on Students with Special Needs of the University of Ljubljana even expressly refers to the restrictions arising from the ZVis) and arranging the transport of disabled students. An additional argument supporting the prompt regulatory arrangement of this field is that it is not clear whether all higher education institutions even have such rules.

In the Ombudsman's opinion, the actual result of the situation described is systemic discrimination of disabled students with regard to accessing study programmes and fulfilling their study obligations (e.g. the possibility of extending their student status, transport of students with impaired mobility, etc.), and therefore a systemic violation of paragraph two of Article 52 and of Article 14 in conjunction with Article 57 of the Constitution, and also a violation of the provisions of the Convention on the Rights of Persons with Disabilities (paragraph five of Article 24) and the ZIMI (paragraph two of Article 11).

It is evident from the answer of the MIZŠ to the Ombudsman's enquiry that it is aware of the issue and that it intends to eliminate the systemic violation of disabled students' rights. It also thanked the Ombudsman for the admonition concerning the regulation of this issue. Furthermore, it clarified that the basic premises for a new and comprehensive ZVis which would systemically regulate disabled students' rights regarding their studies would be ready by late January 2017 and, according to the Ministry, the Act would be also ready for governmental and parliamentary readings in 2017. **The Ombudsman hopes that this is actually the case. (10.5-8/2016)**

Example:

Exercising the right to a sign-language interpreter

A deaf complainant who communicates by way of sign language and lipreading, written alphabet, and fingerspelling turned to the Ombudsman for assistance. In March 2015, the complainant had to have surgery due to illness, so they turned to the Ombudsman because, during treatment at a medical resort, they wanted to exercise their right to have an accompanying person. The complainant clarified that they would require someone to accompany them during treatment because they are unable to communicate with other people. The complainant has the right to an interpreter into Slovenian sign language, but only 30 hours per year are available, and 10 hours had already been spent during rehabilitation.

The Ombudsman shared its opinion with the Health Insurance Institute of Slovenia (the ZZZS) with regard to paragraph two of Article 63 of the Rules on Compulsory Health Insurance (hereinafter: the Rules) which states that an accompanying person is exceptionally provided to a blind insured person during treatment at a health resort. The Ombudsman found that this provision wrongfully places other persons with sensory or mobility impairment in an unequal position, and is in conflict with the provisions of the Equalisation of Opportunities for Persons with Disabilities Act, which prohibits any discrimination based on disability in procedures before state authorities, bodies of self-governing local communities, holders of public powers and public service contractors. We proposed that the Rules be amended to make the right to an accompanying person during treatment in a medical resort also accessible to other persons with sensory or mobility impairment. This would eliminate the wrongful unequal treatment of these persons, and provide them with the right to dignity during treatment at a health resort.

The ZZZS explained to us that the Act on the Use of Slovenian Sign Language (hereinafter: the ZUJS) provides that a deaf person has the right to use sign language in procedures before state authorities, bodies of self-governing local communities, holders of public powers, and public service contractors. The ZZZS stated that, based on the content of the provisions of the ZUJS, an insured person, when exercising all of the rights arising from compulsory health insurance, i.e. also when exercising the right to treatment in a health resort, can exercise their right to an interpreter. In our opinion, this right is not restricted in scope, as the provision on the determined number of hours during which a deaf person may use an interpreter does not refer to exercising rights before state authorities, bodies of self-governing local communities, holders of public powers, or public service contractors, but to other procedures. In its response, the ZZZS did not address the Ombudsman's opinion concerning the wrongful unequal treatment of persons with sensory or mobility impairment, but clarified that, with regard to regulating treatment in health resorts, a proposal for amendments to the Health Care and Health Insurance Act is in preparation which foresees the extension of the right to cohabiting with a sick child who is five years of age or younger in the event of the child's hospitalisation, so that the cohabitation also includes the child's treatment while staying in a health resort, and widening the circle of people who are allowed to cohabitate with the child.

We notified the complainant concerning the answer of the ZZZS and suggested that before rehabilitation commences, they request that the public service contractor guarantee that their right to a sign language interpreter be realised. The complainant informed us that the public service contractor had notified them that they had never treated a deaf person before and that they were unaware of the duty to provide a sign language interpreter. For this reason, the Ombudsman wrote to the public service contractor, indicating that it had the duty to provide a sign language interpreter. We made arrangements with the complainant to inform us if any problems arose during rehabilitation. The complainant did not do this, but notified us after the rehabilitation that the public service contractor had only partially provided an interpreter, namely upon doctor's visits, when therapies were presented, during ultrasound and some therapies. During other therapies, when an interpreter was not present, the complainant's mother served as an interpreter.

We found the complaint justified, as the right to a sign language interpreter was not fully provided to the complainant in this specific case, despite our warning. This case indicates that public service contractors are unaware of the duties prescribed by the ZUSJ for procedures before public service contractors, which is consequently a violation of the complainant's right to dignity.

2.3 RESTRICTION OF PERSONAL LIBERTY

	Obravnavane zadeve			Rešene in utemeljene		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
3. Restriction of personal liberty	**176**	**182**	**103.4**	**135**	**28**	**20.7**
3.1 Remand prisoners	22	23	104.5	17	1	**5.9**
3.2 Prisoners	101	88	87.1	60	10	**16.7**
3.3 Psychiatric patients	21	27	128.6	22	0	**0**
3.4 Persons in social care institutions	12	29	241.7	23	12	**52.2**
3.5 Youth homes	2	3	150	2	0	**0**
3.6 Illegal aliens and asylum seekers	1	5	500	4	3	**75**
3.7 Persons in police custody	1	0	0	0	0	**-**
3.8 Forensic psychiatry	13	5	38.5	5	2	**40**
3.9 Other	3	2	66.7	2	0	**-**

This chapter contains **findings established from complaints concerning the restriction of personal liberty**. and concerns of individuals deprived of liberty, or whose freedom of movement was restricted for different reasons. These include remand prisoners, convicted persons serving sentences in (home) confinement, persons in the unit for forensic psychiatry, minors in youth homes, minors in correctional and residential treatment institutions and special education institutions, people with mental disorders or diseases in social and health-care institutions, and aliens at the Aliens Centre. In the introduction, we present the treatment of persons whose liberty has been deprived (remand prisoners and convicts serving sentences in prison), and the remaining complaints in this field will be presented below according to individual topical sub-fields.

2.3.1 General observations – complaints by remand prisoners and convicts

In 2016, we considered **one more complaint filed by remand prisoners than in 2015, i.e. 23 cases** (compared to 22 in 2015) and slightly fewer complaints by convicted persons serving prison sentences (88 compared to 101 the year before). Quite a few issues were resolved by our expert employees through phone conversations. In addition to handling individual complaints, we also continued to visit prisons **for the purpose of implementing the tasks and powers under the National Prevention Mechanism (NPM),** which is presented in a special report.

As in all of the previous years, our work in this field was aimed at establishing **whether the state consistently observes the rules and standards to which it is bound by the Constitution and international conventions to respect human rights when depriving people of their liberty, particularly regarding the human personality and dignity.** When convicted persons are subject to penal sanctions, they must be ensured all fundamental human rights, except those explicitly taken away or restricted by law. This is also indicated by the European Court of Human Rights in its convictions of our state due to violations of the rights of imprisoned persons.

The complaints of remand prisoners and convicted persons were verified (in some cases with visits) by the relevant bodies (e.g. courts), particularly the Prison Administration of the Republic of Slovenia, prisons or the Ministry of Justice. Individual topics in this field were also discussed at meetings with representatives of the Ministry of Justice and other representatives of the Prison Administration of the Republic of Slovenia. If an procedure was initiated in this case (e.g. in the event of major irregularities or obvious arbitrariness), prisoners were informed of the replies to our inquiries at the relevant authorities and of our findings and possible other measures, e.g. recommendations to the relevant authorities. To establish a basis for further action by the Ombudsman, we asked complainants, if necessary, to let us know whether the clarifications they had received were suitable or perhaps inaccurate and insufficient. If complainants did not respond, we were unable to continue our enquiries. **Considering the aforementioned and the fact that we intervened only if the responsible bodies failed to present their position on a matter or did not consider it, this is reflected in the share of closed cases as per justification in the field of handling the complaints of imprisoned persons.**

Although the problem of overcrowding cannot only be resolved by building new prisons, the statement of the Ministry of Justice in which it states that it was aware of the problems related to overcrowded prisons and that it plans to build new facilities for placing imprisoned persons was significant. Therefore, we are glad to hear that a working group operating within the Ministry of Justice that is planning, in cooperation with the Prison Administration of the Republic of Slovenia (hereinafter: the UIKS), to build two new prisons (new buildings of Ljubljana Prison and Ig Prison). Even more encouraging is the information that, in June 2016, the Ministry of Justice had drafted the **Action Plan for Establishing a Probation Service in Slovenia**, which will contribute to the more frequent use of alternative sanctions.

We also had the opportunity to become familiarised in greater detail with the terms of reference of the replacement construction of Ljubljana Prison and Ig Prison. As was evident from the terms of reference, the new construction foresees some joint infrastructural solutions for both prisons, which could have some advantages, but also some disadvantages. Therefore, in addition to some other comments, we stressed that, in order to prevent future problems, additional attention should be paid to this aspect, as **the treatment of imprisoned women must be carried out separately and independently from the male imprisoned population.** These and some other comments were presented at a panel discussion organised on 2 June 2016 by the Institute of Criminology of the Faculty of Law in Ljubljana on the topic of **"Building a New Prison: Proposals and Considerations."** Although the greater use of alternative penal sanctions in case law would also significantly contribute to reducing and eliminating overcrowding in prisons, the planned construction is necessary in order to improve the situation of persons imprisoned in Slovenia (which is ultimately indicated in the judgments by the European Court of Human Rights); all participants of the panel and the round table agreed with this. The Ombudsman expects that, as the preparation process for the new construction continues, in addition to the comments it has already made, the comments and considerations presented at this event by (external) experts would also be studied and taken into account.

In 2016, the Minister of Justice issued new **Rules on the Implementation of Prison Sentences** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 42/2016) which replaced the former Rules.

The Rules regulate in greater detail the implementation of prison sentences, juvenile prison sentences, and prison sentences imposed on the basis of other regulations which are carried out in accordance with the Act governing the implementation of penal sanctions in prisons. **It is our pleasure to discover that many of the comments we made concerning the proposal for the Rules had been taken into account as the Rules were being drafted (e.g. with regard to the regulation of the health care of convicts).**

We also commented on the new **Rules on Payment for the Work of Persons Sentenced to Prison** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 27/2016), which was also published by the Minister of

Justice in 2016. Furthermore, we also commented during the procedure for adopting the **Rules on the Exercise of the Powers and Duties of Prison Guards** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 73/2016). Therefore, concerning the regulation of the **placement of a convicted person in special premises,** we emphasised that it was important to take other measures also, and find other solutions before applying this power (such as discussions led by experts and other attempts to pacify convicts). We warned that even the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), on the occasion of its visit to Slovenia in 2012, recommended that a prisoner placed in a special room for isolation should always and as soon as possible be examined by a member of the medical staff, i.e. a doctor or a nurse, who then reports to the doctor. Therefore, the Ombudsman commented that the Rules should also provide consistent implementation of this CPT recommendation and of the obligation arising from Article 236 of the ZIKS-1, according to which a prisoner placed in a special room for isolation should always and as soon as possible be examined by a member of the medical staff, thus contributing to the prevention of extending placement of this kind. **This comment was also taken into account, as Article 52 of the Rules requires that the responsible person of the prison and the medical staff who order the necessary measures to protect the life and health of a convicted person are informed concerning the placement of a convicted person in a special room.**

It was also our opinion that it would be correct if a **medical examination** (both in the interests of convicted persons as well as of prison officers who use means of restraint) following each use of a means of restraint (with the exception of preventive handcuffing) were mandatory. Only a medical examination can provide expert findings about possible physical injuries and their occurrence when measures of restraint are used against prisoners. Such an examination enables the discovery of potential injuries and the cause of these injuries, which has an important role in verifying allegations of ill-treatment. **Therefore, it would be correct if each such medical examination also contained an extensive record of the statements of the prisoner, including their claims about how their injuries were incurred.** We commented that the CPT, when it visited Slovenia in 2006, warned that doctors generally did not record their findings on the level of conformity between the description of a discovered injury and the possible claims of an imprisoned person concerning ill-treatment; therefore, it recommended that this shortcoming be eliminated. The CPT (not only during the visit to Slovenia, but also to other members of the Council of Europe) recommends that the medical examination of prisoners when measures of restraint are taken contain a record of objective medical findings based on a precise examination (including the type, location, size and special features of individual injuries that are recorded). Another important part of the doctor's record is to assess the extent to which claimed ill-treatment is supported by the findings of the objective medical examination. If medical findings indicate wrongful or improper use of measures of restraint, it was our opinion that the obligation to inform the director of the prison or the Director General of the UIKS should also be laid down, as this is an essential circumstance affecting the assessment of the proper use and legality of the use of measures of restraint.

In the 2015 Annual Report, we additionally warned that, in practice, the medical documentation of prisoners still contains only **modest records of information on alleged occurrences of injuries or ill-treatment; in particular, we notice the absence of records on findings indicating to what extent a description of a discovered injury is supported by any claims by the person in question concerning ill-treatment.** Therefore, the Ombudsman recommended to the Ministry of Health that it also prepare a suitable form for a medical report, taking into consideration the guidelines of the Istanbul Protocol, and to send it to all competent institutions, which then require doctors to consistently complete them.

When the Rules were being drafted, the Minister of Justice took into consideration (among other things) our comments and ensured that there had been improvements in this field by means of providing a stipulation stating that, when examining a convicted person, a doctor must also discover the type and location of injuries and their cause. The doctor must also describe the injuries and, if necessary, document them. The doctor records the statements of the convicted person concerning how these injuries were sustained and an assessment of agreement between the claims and the findings of the medical examination. The doctor must inform the director of the prison concerning any signs of improper use of measures of restraint (paragraph three of Article 91 of the Rules).

Unfortunately, the Minister failed to consider our comment stating that a medical examination of an imprisoned person must always be performed out of sight and hearing of all prison officers, not only those

who may have used measures of restraint against the person. Only when a confidential relationship between doctor and patient is established can an imprisoned person trust the doctor with their physical and mental condition without obstacles and without fear. If the doctor requests that prison officers be present (e.g. due to security reasons), these officers may be in the room in which a medical examination is carried out or in which a discussion concerning such an examination is carried out with an imprisoned person. However, it should also be ensured at that time that the prison officers are out of hearing, so that they cannot hear the conversation between the doctor and the imprisoned person. This is also the opinion of CPT, which requires that all medical examinations of prisoners (upon arrival or at any later point) should be performed out of hearing of prison staff and, unless the doctor requests otherwise, out of their sight. According to **paragraph two of Article 91 of the Rules, it is now required that a medical examination be performed out of sight and hearing of prison staff; however, the presence of a prison worker is allowed if such presence is necessary to maintain safety, order, and discipline, even if such a request is not also filed by a doctor.**

2.3.2 Remand prisoners

Similarly to past years, the complaints of remand prisoners in 2016 also mainly referred to **ordering and implementing remand**, which can usually (only) be done in court proceedings with ordinary legal remedies and extraordinary legal remedies (appeals to the highest instance). The complainants (mostly female remand prisoners at Ljubljana Prison) also complained **about poor living conditions in detention, problems with fellow remand prisoners, the conduct of detention staff, limitations on contact with families and unsuitable health care, and the limitation on contacts with relatives** (see the example below) **as well as other irregularities.**

Example:

Visiting a remand prisoner
With the permission of an investigating judge performing an investigation, and under his supervision or under the supervision of a person appointed by this judge, a remand prisoner may be visited within the limits of the house rules of the prison by their relatives and, upon the remand prisoner's request, by their doctor and others. Individual visits may be prohibited if they may influence proceedings (paragraph one of Article 213b of the Criminal Procedure Act – hereinafter: the ZKP). One of the female complainants submitted to the Ombudsman a letter from an investigating judge in which (only) the following was stated concerning the receipt of the complainant's request for the issuing of a visitation permit to visit the remand prisoner: "We hereby inform you that your request has been denied and that a permit for the visitation of remand prisoner [XY] will not be issued."

In this specific case, it was not evident from the statements of the investigating judge why the judge decided not to allow the complainant to visit the remand prisoner. For this reason, the Ombudsman decided to send a recommendation to the President of the Kranj District Court stating that they should ensure that the decisions of investigating judges (after a written charge is filed by the presidents of panels of judges) on whether a request to issue a visitation permit for visiting a remand prisoner should be denied, and that such a permit should not be issued, also include the statement of grounds for the decision.

The President of the court notified us that the recommendation had been discussed at the Department for Criminal Investigation by all five judges working in the Department. All of the judges clarified that, in practice, such cases are very rare. **The practice of denying the issuing of a permit by means of a written statement vary.** Some judges state the grounds, some do not. If a person who requests a permit to visit a remand prisoner appears in court in person, the registrar verbally clarifies the grounds for denying a visitation permit immediately after receiving the judge's decision in such a case. **At the same time, the President of the Court notified us that all judges support the recommendation that the grounds for denying a request should be stated immediately upon denying a visitation permit.** She assured us that all judges at the Criminal Investigation Department had been informed of our intervention and that, in future, they would always provide an applicant with a written clarification concerning the grounds for denying a visitation permit.

Therefore, our intervention in this case was successful. We also warned the Ministry of Justice, as the body drafting the Act Amending the ZKP (**ZKP-N**), of the issue concerning the issuing of permits for visiting remand

prisoners, and we proposed that the Act clearly lay down the form in which a decision on this should be issued (decision, decree, or merely a letter), that these decisions be clarified, and how to proceed when such a decision is challenged. **2.1-4/2016**

In certain cases, we also encouraged remand prisoners to use internal complaint channels as enabled by **Article 70 of the Rules on the Implementation of Remand,** which stipulate that remand prisoners may complain to the president of the relevant district court or the Director-General of the Prison Administration of the Republic of Slovenia if they believe that prison staff are not treating them correctly.

Remand prisoners' limited showering options

A group of remand prisoners from Celje Juvenile Prison (ZPMZ KZ Celje) turned to the Ombudsman with a request to have **the option for remand prisoners to shower daily throughout the year.** This request was based on the fact that they do sports and use the gym (often immediately after showering), which results in the need to shower more frequently, not just twice a week; furthermore, most prisons enable daily showering. They also noted that the results of irregular showering is evident in various rashes and other skin diseases. Moreover, some religious reasons require cleanliness and regular ablutions.

The Ombudsman has emphasised many times (also when visiting the ZPMZ KZ Celje) that it would be desirable to enable daily showering for all remand prisoners, as this is the basis of personal hygiene.

Even point 19.4 of Recommendation No. R (2006) 2 of the Committee of Ministers recommends that, if possible, prisoners have the option to bathe or shower daily. The CPT also finds that imprisoned persons should have suitable possibilities for showering or washing. Therefore, we supported the request of the group of remand prisoners from the ZPMZ KZ and, by referring to Article 7 of the Human Rights Ombudsman Act, **we suggested to the Director General of the Prison Administration of the Republic of Slovenia (hereinafter: UIKS) that he consider the request together with the ZPMZ KZ and other prisons and once again verify the possibilities for implementing it. If there are no opportunities for this, we suggested that at least such changes be introduced to allow remand prisoners who cannot shower daily to have a shower available after being outdoors or after using the gym.**

The UIKS agrees that personal hygiene is important for every individual and that daily showering is the foundation of personal hygiene. However, it clarified that the ZPMZ KZ Celje defines personal hygiene maintenance in Article 12 of the juvenile prison's house rules. This provision allows remand prisoners to bathe twice a week (on Mondays and Thursdays from 7:30 a.m. to 3 p.m., according to the schedule) in the prison bathroom (on the ground floor of the juvenile prison), which is in accordance with the juvenile prison's house rules. Prisoners are also allowed to additionally shower prior to undergoing medical examinations or going to court. In July and August, remand prisoners may shower every day, and female remand prisoners may shower every day throughout the year. The juvenile prison allows daily showering for remand prisoners who work. If any remand prisoners have medical issues and are therefore given a certificate from the prison doctor or a specialist, showering at the prison is also allowed more frequently in accordance with the recommendation of the prison doctor or a specialist. Therefore, remand prisoners at ZPMZ KZ Celje shower twice a week in the prison bathroom. Furthermore, remand prisoners have a sink with running water (hot and cold) in their rooms, so they can wash whenever they wish. Unfortunately, the juvenile prison has limited spatial capacities for prisoners to shower, as it has one only bathroom, which, in addition to remand prisoners, is also used by convicts who do not have bathrooms in their wards or rooms. The time slots for using the prison bathroom are full, so there is no spare capacity. It should also be taken into consideration that these facilities must be regularly cleaned and maintained, which is the task of two convicts responsible for house work in the prison. As the number of prisoners increases, so the time intended for cleaning and maintaining the bathroom also increases. It is true that in summer months, remand prisoners can shower every day, but this is because convicts mainly shower in the prison yard or in later afternoon, which is not possible in winter, because a sufficient amount of heated water must be provided in the prison boiler room (heating of the prison). Any additional time slots for remand prisoners to shower would additionally burden prison officers at the Security Department, as the remand prison is located on the first, second, and third floors of Celje Prison, and the joint, i.e. the only, bathroom for prisoners is on the ground floor. **Nonetheless, the UIKS announced**

that showering after spending time outdoors would be enabled for remand prisoners at the ZPMZ KZ Celje by changing the organisation of prison officers' work at the Remand Prison Department. Furthermore, the UIKS added that remand prisoners and convicted persons in most of the other prisons and their wards can take showers daily; the only exceptions are Maribor Prison, Murska Sobota Unit, where remand prisoners can shower three times a week and convicts can shower every day, and Ljubljana Prison, Novo Mesto Unit, where remand prisoners can shower four times a week. In these two units, the reason remand prisoners cannot shower daily is the same as at the Celje Prison, i.e. limited spatial capacities and human resources.

Therefore, the UIKS accepted out proposal, but evidently the limited spatial capacities and human resources (still) do not provide remand prisoners at the ZPMZ KZ Celje with the option to shower daily. Despite this, the announcement of the UIKS stating that, by changing the organisation of the work of prison officers at the Remand Prison Department, showering would be enabled for remand prisoners after spending time outdoors and not before spending time outdoors, as was the case until now, should not be ignored.

2.3.3 Prisoners

In 2016, we also received complaints from prisoners referring to almost all aspects of imprisonment, such as the summons to serve their sentence, the commencement of sentences, poor living conditions, the regime of incarceration or relocation from a more liberal to a stricter regime, relocations to other prisons or departments (or premises), interruptions or suspensions of incarceration, endangerment by, or the violence of, fellow prisoners, possibilities for work, granting (or withdrawing) various privileges, visits and other communication with the outside world (e.g. writing), confiscation of personal belongings, health care, inclusion in addiction treatment programmes, urine testing, diet, escort by judicial police officers, parole and others. Some complaints also referred to the possibility of doing community service instead of serving a custodial service.

As in the case of complaints by remand prisoners, convicts' complaints were, as is customary, also verified if necessary (in some cases by visits) at the relevant authorities, particularly at the Prison Administration of the Republic of Slovenia, the Ministry of Justice or the relevant prison. Prisoners serving their sentences were further encouraged to complain about violations of rights and other irregularities which are not subject to judicial protection as per Article 85 of the ZIKS-1 with a complaint to the Director-General of the Prison Administration of the Republic of Slovenia. According to the above Article of the ZIKS-1, a convicted person has in the case of "other violations of rights or other irregularities which are not subject to judicial protection" also "the right to complain to the Director-General of the Prison Administration", and if they do not receive a reply to their complaint within 30 days after its submission or if they are not satisfied with the decision of the Director-General, they also have the **"right to file a complaint with the ministry responsible for justice."**

Still no Improvement of the situation of the elderly, sick or other disabled persons in prisons

For quite some time, we have been warning of the unsuitable position of convicted persons who, due to their old age, sickness, or disability, require additional assistance while imprisoned to meet their basic needs in the form of nursing or social care and must live in adapted facilities (this issued was also emphasised in the article 'Is everything really OK with decision-making concerning the request to postpone a prison sentence on medical grounds published in the magazine Pravna Praksa, No. 38/2016).

Therefore, thus far, we have had to warn several times of the obligation to respect the special needs of convicts with mobility issues and those with serious health issues, and proposed that they must be appropriately accommodated to provide them with the conditions to serve their sentences appropriately. **If a state deprives an individual of their freedom, it must also ensure that the deprivation of liberty and enforcement of penalties are conducted in a way that respects human personality and dignity.** It is even more critical to observe the situation of persons who may be affected due to health problems and/or disability. When imprisoned, appropriate placement and living conditions where such persons can serve their sentences decently must be ensured; otherwise, this may be considered **inhuman or degrading treatment and could be understood as a violation of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 18 of the Constitution of the Republic of Slovenia**.

Recommendation of the Council of Europe no. Rec(2006)2 of the Committee of Ministers to member states on European Prison Rules (see points 40.3 and 46.1) also determines that prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation and also that sick prisoners who require specialist treatment must be transferred to specialised institutions or to civil hospitals when such treatment is not available in prison.

Nonetheless, the Ombudsman still finds that **most prisons (ZPKZ) in Slovenia (still) do not (even) have suitable residential or toilet facilities for use by convicted persons (remand prisoners) with impaired mobility.** Since prisoners who are unable to use regular toilet facilities due to disability cannot even sustain suitable personal hygiene, for example. Not only does the Prison Administration of the Republic of Slovenia fail to provide suitable facilities for maintaining personal hygiene and care for such persons, but it also lacks suitably qualified staff to offer assistance to such persons when maintaining their personal hygiene.

We would like to note that, **in *Grimailovs v. Latvia*, the European Court of Human Rights** once again stressed that Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms requires that the state provide for the accommodation of prisoners in conditions in keeping with their human dignity. Furthermore, the form and manner of implementing the measure must not cause distress or pain which exceeds the inevitable level of suffering in prison. Their health and well-being must be protected accordingly within the practical limitations of prison life. Furthermore, the Court also warns that when the authorities incarcerate a disabled person in prison and keep them there for an extended period, they must dedicate special attention to providing the conditions suitable for the special needs arising from the disability. It also established that the fact that a person with severe disability had to rely on the assistance of fellow prisoners when using a toilet, bathing and changing clothes also contributed to the assessment of living conditions as degrading treatment (e.g. in ***Engel v. Hungary***, no. 46857/06, 20 May 2010, points 27 and 30).

Already in previous reports and in the 2014 (pp. 102–104) and 2015 (p. 86) Report, we discussed problems encountered by elderly, sick, physically disabled and other disabled prisoners (disabled persons in prisons) while serving their sentence. However, in 2016, we handled complaints from two convicted persons who, due to medical problems, were using a wheelchair while imprisoned in Slovenia's largest prison. One of them is a 90 per cent invalid who has no legs, but the living conditions on the ward where he was staying were not adapted for disabled people in wheelchairs. He stressed that, due to his disability, he cannot, for example, go shopping at the store, to the library, or be outside in the fresh air and participate in other activities like other convicted persons. The other complainant, who also uses a wheelchair, is unable to go outside or visits due to architectural obstacles. He is not even able to use the toilet himself (because it is too low and does not have grab bars) or shower. **We inspected the living conditions of both convicted persons in person and, on this occasion, we warned the management of the prison that they are unsuitable for these two convicted persons.** It is especially unacceptable that they have to ask for the assistance of other convicted person to help them meet their basic needs. For this reason, we recommended that the UIKS take immediate measures to improve their situation while imprisoned and to ensure that they serve their prison sentence decently.

By means of the new paragraph two of Article 60 of the Act Amending the Enforcement of Criminal Sanctions Act (ZIKS-1F), the state made it mandatory for convicts who need additional assistance with carrying out their basic needs due to age, illness or disability, i.e. in the form of nursing or social care, to be able **to reside in adapted premises or a section of one of the institutions.** The financial, human resource, and spatial conditions for this should have been met by 1 June 2016 (Article 91 of the ZIKS-1F), but **this obligation has still not been fulfilled.** As we already stated above when we listed the findings related to the implementation of recommendation no. 19, the UIKS and Dob pri Mirni Prison carried out some improvements (in November 2016, a platform lift was installed at Dob pri Mirni Prison enabling convicts with impaired mobility to have better access to living quarters, and living quarters for disabled convicts were beginning to be adapted); however, the situation in this field is still not satisfactory.

Furthermore, the Minister of Health failed to fulfil the obligation referred to in Article 92 of the ZIKS-1F, as she failed to appoint **the special medical board referred to in paragraph three of Article 25** (which stipulates, among other things, the provision of suitable medical care at prisons) by 31 December 2015, and she clarified that the Ministry had problems finding suitable candidates to sit on this board. **Not even a protocol between the Ministry of Justice (or the UIKS) and the Ministry of Labour, Family, Social Affairs with regard to the**

placement of those convicts that require more intensive and demanding nursing and care in elderly nursing homes has been adopted. All of this indicates that the situation of convicts who, due to age, illness, or disability, require additional assistance while imprisoned to meet their basis needs in the form of nursing or social care and whose need to live in adapted facilities has not been met is not regulated.

Prisoners must be able to have access to a doctor.

Paragraph one of Article 48 of the formerly valid Rules on the Implementation of Prison Sentences (hereinafter: PIKZ) stipulated that, **in emergencies, a prison must immediately provide convicts with medical assistance.** The PIKZ does not specifically define 'emergencies' or who decides whether something is an emergency or not.

In its work, mostly when carrying out its powers as the National Preventive Mechanism, the Ombudsman has frequently received encountered many times **complaints from imprisoned persons who were not taken to a doctor, even though they asked for one**; often, however, these claims can be neither confirmed nor denied.

When visiting prisons and on other occasions, the Ombudsman warns of the duty to provide medical care to imprisoned persons even when medical staff are not present in prisons. We also addressed this issue in our comments on the draft of the now valid PIKZ, which was sent to the Minister of Justice: "We find that it would be necessary for the Rules in question to stress the right of convicts to access to a doctor. We would like to emphasise that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the CPT) requires that, while imprisoned, convicts must be allowed access to a doctor at any time, regardless of how a specific person is serving their sentence. The health-care system should be organised so as to enable the prisoner's request for a doctor's meeting to be approved without undue delay. Prisoners should also be able to have confidential access to a medical service, i.e. by means of a message in a closed or sealed envelope. Prison guards should not inspect such requests for consultations with a doctor. We recommend that the Rules in question also emphasise these matters."

More specifically, we also encountered the issue of providing medical care in a prison when we handled a complaint by a female convict who turned to the Ombudsman because the prison had failed to let her to have a medical examination following an altercation with fellow convicts, even though this was requested by her and her mother. The UIKS notified us that the prison had been informed of the conflict among the convicts and the complainant's later statements that she had multiple medical issues: "/.../ bumps on her head caused by alleged blows by convicts, concussion caused by falling the previous day, nausea, vertigo, and similar; however, there were actually no evident indicators to support these claims." Therefore, "the competent person at the prison" did not find that there was a need to provide the convict with emergency medical assistance. After verifying who "the competent person at the prison" was, we found that the UIKS had not referred to a doctor, as he had not been present at the prison at the time; we also found that the convict (complainant) had not been taken to a doctor.

The Ombudsman criticised such actions by the prison, as an immediate visit to a doctor is that much more necessary in a case when an imprisoned person claims that they have sustained injuries. Only a doctor can confirm or verify whether injuries have been sustained, and assess whether these injuries could have been caused in the manner claimed. Injuries do not necessarily need to be visible, as they can also be hidden and not visible (especially to a lay person). In most cases, the fact that an imprisoned person is examined as soon as possible by a doctor is ultimately to the benefit of the prison and its responsible persons, as this allows them to be relieved of their responsibility more easily, especially if there are any later objections claiming improper actions.

Although the PIKZ does not specifically stipulate what is considered an 'emergency' and who can even assess whether something is an emergency or not, **the Ombudsman finds that an emergency is any expressed need of an imprisoned person for medical assistance, especially if the person claims to have sustained some injuries.** In no case can a person who is not a doctor, not even a prison officer trained (only) to provide first aid, assess whether something is an emergency or not. Therefore, prisons should consistently observe the above requirement of the CPT, namely that prisoners should be enabled access to a doctor at any time during imprisonment.

2.3.4 Forensic Psychiatry Unit

General findings

The Unit for Forensic Psychiatry of the Department of Psychiatry at Maribor University Medical Centre (hereinafter: the Unit) is responsible for implementing **obligatory psychiatric treatment and custody in a health institution** and the **hospitalisation of remand prisoners and convicts** if they require psychiatric treatment, and, if necessary, it also performs **observations for the purposes of drafting psychiatric expert opinions** on a person's sanity or ability to participate in a procedure. **We visited the Unit in 2016 in our role as the NPM**, and the main purpose of our visit was to verify whether the recommendations that the NPM had made during the previous visit had been observed, and to once again inspect the living conditions at the Unit (more details on this visit in the report on the implementation of the tasks and powers of the NPM).

The Criminal Code (hereinafter: KZ-1) provides that, if conditions are met, obligatory psychiatric treatment and custody in a health institution and hospitalisation of remand prisoners and convicts may be imposed as a medical measure on perpetrators of crimes. Until operators referred to in Article 2 of the Rules on the Implementation of Security Measures of Compulsory Psychiatric Treatment and Care in a Health Establishment of Compulsory Psychiatric Treatment at Liberty (the Rules) are appointed, **obligatory psychiatric treatment and custody in a health institution** is carried out only by the Unit, and **compulsory psychiatric treatment at liberty** is carried out by public health-care institutions and other legal entities and natural persons providing psychiatric services on the basis of a concession.

Despite this, we once again encountered a decision by a court stating that **obligatory psychiatric treatment and custody in a health institution is carried out in a social care institution and not in a health-care institution** (we already warned of the need to separate health-care and social care institutions and of the fact that these safety measures can be taken only in health-care institutions in our Annual Reports for 2011 (p. 109) and 2013 (pp. 122–124)). In the second case, a court referred a convict who was ordered to undergo obligatory psychiatric treatment at liberty **to be treated at the Dob pri Mirni Prison (!)**.

The complaints handled in this field were mainly connected with **the implementation of obligatory psychiatric treatment in a health establishment.** In practice, when courts decide whether the implementation of obligatory psychiatric treatment and custody in a health institution is still required, they find that, within the provisions of criminal law, which governs only two forms of psychiatric treatment (i.e. at liberty or in an institution), **it is not possible to replace the current safety measure by placing a convict in a social care institution.** This finding most certainly requires us to consider the suitability of the current arrangement. Persons for whom mandatory treatment and care in a health-care institution are ordered solely because there are no other options should not be deprived of milder measures and should not be condemned to having the measure extended in a health-care institution if the same goal could be achieved by other measures.

Terminating the implementation of obligatory psychiatric treatment and custody in a health institution

Based on paragraph two of Article 70a of the KZ-1, the court is obliged to terminate involuntary treatment and protection in a health-care institution when it finds that such institutionalisation is no longer necessary. In six months, the court must decide again whether continued treatment and care in the health-care institution are still required. In this regard, we handled the following case.

Case (already presented in the magazine Pravna Praksa No. 41-42/2016):

Terminating the implementation of obligatory psychiatric treatment and custody in a health institution without ensuring that a person is placed in a different suitable institution
One of the complaints we considered was from a Social Work Centre. The Centre stressed that, as the guardian of a person placed in the Forensic Psychiatry Unit, it had received a court decision terminating obligatory psychiatric treatment and custody in a health institution only after making this request; furthermore, it was not

invited to participate in this procedure. **Although the court terminated this measure by way of a decision, the placement of the person in another suitable institution was not ensured, although an expert witness had found that the person should be placed in a secure ward of a social care institution.** Therefore, the person was left without suitable placement over- night, without even having the possibility of defending themselves (through their guardian) and without notifying the person's guardian during the procedure, prior to the termination; not even the guardian's opinion was obtained. Because the court failed to invite it to participate, the Centre as the guardian did not even have the opportunity to find a suitable place for the person or carry out suitable procedures in a timely manner.

The report obtained by the reporting judge in this case of the Celje District Court No. I Ks 19267/2014 contained the opinion that the court had handled the case in question correctly and by consistently observing statutory provisions (Criminal Code (KZ-1), the Criminal Procedure Act (ZKP), and the Mental Health Act (ZDZdr)). In our assessment, this opinion neglects the fact that, with regard to the person, whose legal capacity was fully revoked, the person's guardian who had the right to take care of the person, their rights and benefits was not included in decision-making on the duration and modification of compulsory psychiatric treatment and custody in a health institution of this person. The court clarified that it had not been informed that the Celje Local Court had revoked the person's legal capacity by way of Decision No. N 74/2014 of 17 April 2015, and that it had been notified only by way of a letter from the Social Work Centre on 30 September 2015 that the Centre was performing the duty of the guardian of the person in question. **We warned the court that this information was clearly not true**, as the contrary is evident from point 3 of the Decision Terminating the Performance of Safety Measure No. I Ks 19276/2014 of 21 September 2015 issued by Celje District Court, i.e. that the court had been informed of the fact that a guardian had already been appointed for the person on 21 September 2015. **In our opinion, the court should have, at the latest at that time, informed the Centre and included it the procedure, as the court had also been informed of the expert opinion stating that the placement of the person in a secure ward of a social care institution was necessary.**

Article 425 of the Criminal Procedure Act provides that a final decision by means of which compulsory psychiatric treatment and custody in a health institution or compulsory psychiatric treatment at liberty (Articles 429 and 494) is imposed must be sent to the court, which is competent to reach a decision on revoking legal capacity. The social care authority is also notified of the decision. This is how the court acted in this case, as it sent the decision on the imposed safety measure for this purpose (as is evident from the received judge's report) to the Šentjur Local Court after the decision became final. **For this reason, the court should have also (at least) assumed that a procedure to revoke legal capacity had been initiated or that a guardian had perhaps been assigned to the person, and acted accordingly.**

We warned the court that, if other eligible petitioners do not propose that the person be admitted to a social care institution according to the provisions of the ZDZdr, the guardian should be given the opportunity to do all that is necessary (in a timely manner) to ensure the proper placement and treatment of the person if the imposed safety measure is terminated; this is to be done by including the guardian in the case in question in the decision-making procedure concerning the duration and change of the safety measure. **Because the court failed to do so, we find that this was a violation of the right to equal protection of rights (Article 22 of the Constitution of the Republic of Slovenia), as the court failed to treat the person or their guardian as an active participant in the procedure with regard to this particular issue (however, the person was granted legal counsel), and it failed to enable the guardian to effectively exercise its rights and benefits.** The result of such actions by the court was the termination of compulsory psychiatric treatment and custody in a health institution without providing the person any other suitable placement or treatment. **It is true that the termination of the implementation of compulsory psychiatric treatment and custody at a health institution is not expressly related to any condition or other form of treatment, including placement in a suitable social care institution, but providing such reasons is inflexible and insensitive; moreover, it entirely neglects the care for the individual if they require further treatment or institutional care, and this means that, in this case, the individual could also be put on the street.** After all, the (at least reasonable) application of paragraph two of Article 495 of the Criminal Procedure Act indicates the opposite, i.e. that competent persons must be notified in a timely manner – naturally, so that they can take suitable measures if the implementation of a safety measure is terminated. For an individual who requires further treatment if the implementation of a safety measure is terminated because the statutory deadline expired, this is the same as if the implementation is terminated on the basis of the court's finding that the measure is no longer required.

The Celje District Court confirmed that, from a practical perspective, it agrees with our opinion (based on the judge's standpoint) that the Social Work Centre should have been notified concerning the termination of the measure before the decision became final; the senior judicial adviser who actually managed the case was also ordered to do so. Furthermore, it confirmed that the judge, as the reporting judge in this criminal case, should have verified more carefully who had been notified concerning the termination of the safety measure, as she personally signed the Decision of 21 December 2015. However, the court does not agree that the person charged was not treated as an active participant in the procedure or that he was not allowed to effectively exercise his rights and benefits, as legal counsel was appointed to him *ex officio* for this purpose. Moreover, the Celje District State Prosecutor's Office and the Maribor University Medical Centre, which had also been in contact with the Social Work Centre, were informed of the course of the procedure the entire time, and all three of these institutions were eligible to institute a procedure to admit the person to a secure ward without their consent on the basis of the court's decision in accordance with paragraph one of Article 40 of the Mental Health Act; however, they did not request that this procedure be instituted. The court also commented that the criminal court is in no respect the initiator of this procedure.

The complaint of the Social Work Centre was considered justified. Although the duties of the guardian were carefully carried out, this case indicates that there is a need for all stakeholders to cooperate even in a procedure to terminate the implementation of compulsory treatment, so that the affected person is not left without the necessary protection and care. We also expect that the proposed statutory amendment will contribute to this. **2.8-9/2015**

In the procedure for drafting the Act Amending the Criminal Procedure Act (hereinafter: the ZKP-N), on the basis of this case, we proposed to the Ministry of Justice (as the institution drafting amendments) that it stipulate, even in the case of periodic decision-making concerning the duration of obligatory psychiatric treatment and custody in a health institution or at liberty if the reports received on the implementation of this measure indicate that the measure will be terminated before the expiry of the longest possible duration and that the placement of the person in a social care institution is required in accordance with the Act governing mental health, to notify the social care authority and next of kin beforehand (as is provided, for example, by paragraph two of Article 495 of the ZKP in the event of the expiry of the duration of a measure). **We were glad to discover that the Ministry of Justice had taken our recommendation into account, as the proposal for this amending act now also provides that the following second sentence be added to paragraph one of Article 496: "When terminating a measure, paragraph two of the preceding Article shall apply *mutatis mutandis* if circumstances permit."**

2.3.5 Persons with restricted movement in psychiatric hospitals and social care institutions

General findings

Regarding **deprivation of liberty due to a mental disorder or illness**, we discussed **27 complaints** in 2016 involving restriction of movement in **psychiatric hospitals** (quite a few more than the preceding year – 21) and 29 complaints involving persons in **social care institutions** (only 12 in 2015). We continued to visit these institutions in the capacity of the National Preventive Mechanism (more is provided on this in a special NPM report).

In 2016, the complaints also referred to **admission for treatment without consent at the department under special supervision** of psychiatric hospitals or the **admission and discharge of persons from secure wards of social care institutions** and requests for relocation to other institutions, the possibilities of going outdoors, exits etc. Some of the complaints also referred to living conditions, treatment, care and the attitude of medical and other staff to patients or people in care in these cases, and to payment for accommodation costs related to secure wards of social care institutions.

The proportion of justified complaints remains high in the field of people in social care institutions. Most of these complaints were related to the Mental Health Act (ZDZdr) and unresolved systemic problems, such as

the placement of persons in secure wards of social care institutions on the basis of court decisions (a special record is devoted to this topic). We continued to resolve open systemic problems in direct cooperation with representatives of the competent ministries (e.g. we met with the Ministry of Labour, Family, Social Affairs and Equal Opportunities in January and then in December 2016).

Advocates of rights of persons in the field of mental health play a significant role in this area. They are able to inform people in a suitable manner of the content of their rights, methods, and ways to exercise their rights, they can provide specific guidelines for exercising rights, and propose possible solutions, advise a person on exercising their rights, and make efforts to have these rights observed. To this end, we also advised complainants to seek their assistance. Complainants' claims were further verified by making inquiries at the competent authorities, and complainants were then informed about the Ombudsman's findings and explanations regarding procedures for admission to treatment and accommodation in social care institutions. We also answered their questions.

There is still no constitutionally compliant procedure for admitting persons without legal capacity to secure wards of social care institutions

It has been more than a year since the Constitutional Court of the Republic of Slovenia issued Decision No. U-I-294/12-20 of 10 June 2015 within a constitutional review procedure rescinding sentence three of paragraph two and sentence three of paragraph three of Article 74 of the Mental Health Act (hereinafter: ZDZdr). Thereby, it decided that this rescission was to enter into force one year following the publication of the Decision in the Official Gazette of the Republic of Slovenia (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 46/2015 of 26 June 2015). It reached this solution because the complexity of the regulated areas makes it impossible to immediately rescind the part of the ZDZdr in question. In order to provide legislators sufficient time in which the procedure for admitting persons without legal capacity to secure wards of social care institutions must be regulated in compliance with the Constitution, taking into account the reasons provided by the Decision, the Constitutional Court of the Republic of Slovenia suspended the effect of the rescission for the maximum possible period, i.e. one year. The fact that the Court places great significance on this Decision from the perspective of the protection of human rights and fundamental freedoms is also evident from the fact that this Decision was classified as one of the most important decisions of this Court in 2015. Nonetheless, there was a delay in the drafting of the required Act Amending the ZDZdr. It was not until October 2016 that an inter-ministerial working group was appointed, which was then to draft a proposal for the amendments to the Act by the end of June 2017, so that the Act could be submitted for public and inter-ministerial discussion.

The Ombudsman warns that it is unacceptable for legislators not to ensure the arrangement of a constitutionally compliant procedure for admitting persons without legal capacity to secure wards of social care institutions within the set deadline. The urgency of timely amendments to the ZDZdr is also evident from the warnings received by the Ombudsman from judges who reach decisions on such detention. They question (with good reason) whether the Decision of the Constitutional Court is even binding on legislators.

2.3.6 Minors in residential treatment institutions and special education institutions

Minors are admitted to residential treatment institutions on the basis of decisions of social work centres, court decisions (as educational measures) and also on the basis of placement decisions concerning educational programmes in certain institutions. **Ten institutions** continue to operate within the scope of **the Ministry of Education, Science and Sport (hereinafter: the MIZŠ):** Maribor Youth Home, Jarše Youth Home, Kranj Residential Treatment Institution, Malči Belič Youth Care Centre, Fran Milčinski Smlednik Educational Institution, Slivnica pri Mariboru Residential Treatment Institution, Višnja Gora Educational Institution, Planina Residential Treatment Institution, Logatec Education and Training Institution, and Veržej Primary School – Dom Unit. **One institution** (Črna na Koroškem Special Education, Work and Care Centre) works within the framework of **the Ministry of Labour, Family, Social Affairs and Equal Opportunities.**

(Only) six institutions accept minors on the basis of court decisions (as an **educational measure**): Slivnica pri Mariboru Residential Treatment Institution, Višnja Gora Educational Institution, Planina Residential Treatment Institution, Logatec Education and Training Institution, Veržej Primary School – Dom Unit and Črna na Koroškem Special Education, Work and Care Centre, which accepts only adolescents with moderate, serious and severe mental disorders whose admission is ordered by a court decision. This institution implements a special education and training programme, and a decision is required to place adolescents there **(paragraph two of Article 199 of the Enforcement of Criminal Sanctions Act – ZIKS-1)**.

In 2016, the Ombudsman continued to visit residential treatment institutions while implementing the duties and powers of the National Preventive Mechanism (more is provided on this subject in a special report); otherwise, only two matters were considered in this field, but our intervention was not required. Individual matters (e.g. the planned merging of some residential treatment institutions and some complications that arose with regard to this) in this were also handled in direct discussions with the Minister of Education, Science and Sport.

Otherwise, no special progress was made in this field. Unfortunately, we established that the Ombudsman's recommendation to adopt a special act to comprehensively regulate the organisation, operation and other special features of residential treatment institutions, whereby the text of the act should be coordinated with all ministries directly or indirectly responsible for making decisions on the admission of children and adolescents to residential treatment institutions, still has not been realised **(recommendation no. 34 from the 2014 Annual Report). We would like to once again warn that we have been dealing for decades in Slovenia with issues related to insufficient and frequently completely absent paedo-psychiatric assistance for particularly vulnerable children and adolescents and problems with their placement in (in)appropriate institutions.** Children's and adolescents' aggressive behaviour in residential treatment institutions and other institutions continues to be a very big problem, since it is occurring more frequently and is seriously endangering children and adolescents, as well as their environment. The Ombudsman also points out a substantive aspect of an **educational programme which is insufficient with respect to work with juvenile offenders. As we have already noted, the Ombudsman finds that the option should be examined of separating institutions which admit children and adolescents who are offenders from those accommodating children and adolescents because of the poor conditions in their families, parental neglect, the death of their parents or severe emotional, behavioural disorders, and also psychiatric disorders (which are increasingly common).**

2.3.7 Aliens and applicants for international protection

General findings

In this sub-field, we discuss possible complaints by aliens dealing with restrictions of movement or deprivation of liberty. Other aspects of complaints made by aliens (i.e. those that do not refer to the restriction of movement or deprivation of liberty) are once again included in the chapter on administrative matters; issues concerning citizenship and foreign citizens, the visit of the NPM to the Aliens Centre (hereinafter: the Centre) and the visit to the location for receiving and placing migrants/refugees is subject to a special report on the implementation of the duties and powers of the NPM.

In this sub-field, we **received two complaints, and one was initiated by us as a more general issue** relevant for the protection of human rights and fundamental freedoms and for legal security. Together with the cases carried forward from 2015, we therefore handled five cases in this sub-field. They also included the issue of restricting the movement or deprivation of liberty of aliens; however, this case was not concluded in 2016.

In 2016, we once again encountered the consequences of the 2015 refugee/migrant crisis. In early 2016, a meeting was convened with representatives of civil society (non-governmental organisations) who were significantly involved in working in admission and accommodation centres as the refugee/migrant crisis broke out. Individual issues were then also handled in cooperation with representatives of the police and the Ministry of the Interior.

In terms of the type of activity (the Ombudsman or NPM), changes were introduced in Slovenia regarding the so-called entry of refugees/migrants – **one point of entry and two points of exit to the Republic of Austria were determined**. The organisation and conditions for refugees/migrants improved, after the centres were equipped with heated tents, mobile sanitary containers, beds, blankets; food was provided (hot meals), a possibility to change clothes and footwear, health care (also foreign services – e.g. the Czech military health-care service). Cooperation with representatives of the police and non-governmental organisations, which also offered assistance with family reunions, also improved. More interpreters for many languages who spoke with refugees/migrants were also present at the locations.

Representatives of the police started to manage an entry centre, while exit centres were run by representatives of the Civil Protection Service, which significantly facilitated the organisation of work. By means of international cooperation, police officers from other European countries (e.g. the Czech Republic, Hungary, etc.) also operated in the entry centre and provided assistance to Slovenian officers.

In 2016, the refugee/migrant influx to Slovenia initially significantly reduced, before stopping completely. Nonetheless, the Ombudsman, in its role as the NPM, visited Šentilj Accommodation Centre in January 2016, and in February, we made a control visit to Dobova Migrant Reception Centre, which will be reported on in greater detail (as already stated) in the report concerning the implementation of the duties and powers of the NPM.

Activities in this field also took place at an international level. For example, we attended a conference in Thessaloniki, Greece, in February 2016, titled Refugee/Migrant Crisis and Human Rights. At the conference, ombudsmen or representatives of national institutions for human rights from Albania, Austria, Croatia, Greece, Kosovo, the Former Yugoslav Republic of Macedonia, Serbia, Slovenia and Turkey adopted the **Regional Joint Action Plan of Ombudsman Institutions**. The fundamental principles arise from the 2015 Belgrade Declaration, and the provide that:

- all states are obliged to ensure full observance of international and regional human rights instruments, including the UN 1951 Geneva Convention relating to the status of refugees; the European Convention on Human Rights; UN Convention on the Rights of the Child; and the relevant OSCE Human Dimension Commitments.
- refugees and migrants are entitled to protection against any discrimination and any incitement to discrimination, and
- each state has a duty to carry out its respective national commitments in accordance with international law.

This Action Plan is mainly focused in joint activities performed by ombudsman institutions on the so-called Balkan Route in the field of protecting and encouraging the rights of refugees/migrants. Within this plan each participating institution also undertook to plan suitable activities to fulfil the agreed upon goals, mission, and duties within the Belgrade Declaration, whereby the available funds and powers within each national framework are to be taken into consideration.

Accommodation of unaccompanied minors who reside in the Republic of Slovenia illegally or have the status of an applicant for international protection or the status of an internationally protected person

The handling of this issue has already been presented extensively in the 2015 Annual Report (pp. 115–117). **We recommended** that the Government of the Republic of Slovenia **adopt measures to enhance respect for the best interests of alien minors by improving their accommodation possibilities in institutions suitable for the accommodation of minors, instead of the Aliens Centre**. We proposed that, for this purpose, **the Government of the Republic of Slovenia appoint a ministry to be responsible for preparing better accommodation and care options for this population, and thus ensure that their accommodation in the Aliens Centre would actually be a last resort and for the shortest time possible, and not a rule.** It took the Government of the Republic of Slovenia almost one year to discuss the issue, which it did at its session on 28 July 2016, and adopt a decision that unaccompanied minors who reside in the Republic of Slovenia illegally or have the status of an applicant for international protection or the status of an internationally protected person should be accommodated in public residence halls for secondary-school students in the form of a pilot project between 1 August 2016 and 31 July 2017, i.e. in residence halls in Postojna and Nova Gorica.

The pilot project is being coordinated by the MNZ. A comprehensive evaluation of the pilot project will be prepared after one year's implementation, which will contribute to the development of better systemic solutions for suitably accommodating relevant categories of unaccompanied minors in the Republic of Slovenia. The Government of the Republic of Slovenia appointed the Ministry of Education, Science and Sport, the Ministry of Labour, Family, Social Affairs and Equal Opportunities, and the Ministry of the Interior to prepare the forms and content of expert work with unaccompanied minors. It also determined that the forms and content of expert work with unaccompanied minors, the rules on the residence of unaccompanied minors in residence halls and the cost estimate of accommodation and expert work should be adopted within one month of adopting the decisions. The residence halls were permitted to employ expert, administrative and technical staff to do expert work.

The relevant measure of the Government of the Republic of Slovenia is the first step towards providing more suitable accommodation or treatment of unaccompanied minors who reside in the Republic of Slovenia illegally or have the status of an applicant for international protection or the status of an internationally protected person. Further systemic and more permanent solutions in this field are still expected.

A request to file for a review of constitutionality of the Act Amending the Defence Act

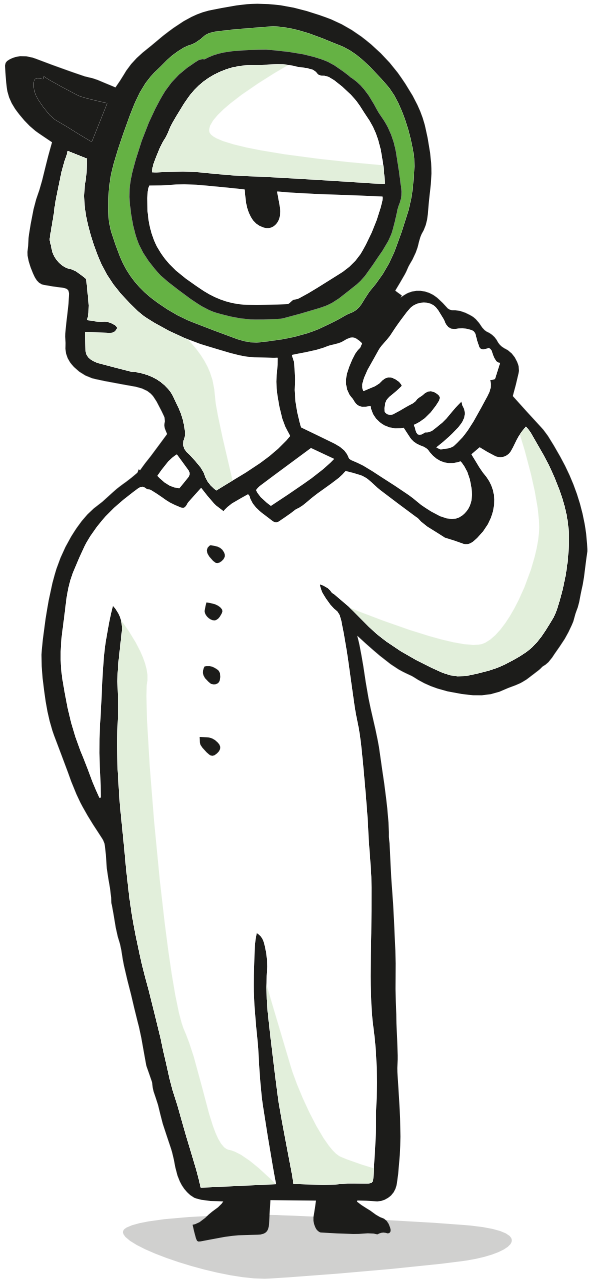
The Ombudsman also received several complaints which in particular highlighted the controversy of the Act Amending the Defence Act (ZObr-E) – Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 95/15. **The Ombudsman is also of the opinion** that paragraphs one, two and three of Article 37a of the ZObr regarding the implementation of exceptional authorisations of the Slovenian Armed Forces do not comply with the Constitution of the Republic of Slovenia, since it is contrary to the requirements of clarity and precision of regulations as one of the principles of the rule of law referred to in Article 2 of the Constitution of the Republic of Slovenia. **The Ombudsman is also of the opinion that paragraphs one, two and three of Article 37a of ZObr regarding the implementation of exceptional authorisations of the Slovenian Armed Forces do not comply with Articles 2, 19, 32 and 35 of the Constitution of the Republic of Slovenia, since it is contrary to the requirements of clarity and precision of regulations as one of the principles of the rule of law referred to in Article 2 of the Constitution of the Republic of Slovenia.** Thus, in the request for a constitutionality review, the Ombudsman proposed that the Constitutional Court of the Republic of Slovenia annul the provision of the contested section of Article 37a of ZObr.

By means of Decision No. U-I28/16-27 of 12 May, in the constitutionality review procedure initiated on the Ombudsman's request, the Constitutional Court of the Republic of Slovenia decided that paragraphs one, two and three of Article 37a of the Defence Act are not contrary to the Constitution of the Republic of Slovenia.

Thus, the Constitutional Court of the Republic of Slovenia did not agree with our position on the non-compliance of the contested provisions with the principle of clarity and precision of regulations as one of the principles of the rule of law (Article 2 of the Constitution of the Republic of Slovenia), since it assessed that the content of the indefinite legal expressions of the contested regulation may be established with standard methods of interpreting legal norms (e.g. linguistic and teleological)

Nonetheless, the Decision of the Constitutional Court of the Republic of Slovenia was welcomed, as it eliminates the doubts that were highlighted about the constitutionality of the police powers granted to the Armed Forces, although the dissenting opinion of two constitutional judges warns that the Decision is significantly inadequate, and that it even deepens the doubts expressed about the most important points.

It was our intention to use the request for a constitutionality review as a warning that legislators should regulate the use of police powers granted to the Armed Forces against civilians without a shadow of a doubt with regard to the clarity and precision of such a significant regulation for the protection of human rights and fundamental freedoms, as possible differing interpretations may lead to arbitrariness in the application of the powers, which may severely violate human rights.



2.4 JUSTICE

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
4. Judicial proceedings	**596**	**497**	**83.4**	**419**	**26**	**6.2**
4.1 Pre-trial proceedings	31	26	83.9	22	5	**22.7**
4.2 Criminal proceedings	95	82	86.3	72	6	**8.3**
4.3 Civil proceedings and relations	283	212	74.9	176	8	**4.5**
4.4 Proceedings before labour and social courts	28	29	103.6	27	0	**-**
4.5 Minor offence proceedings	61	55	90.2	42	4	**9.5**
4.6 Administrative judicial proceedings	4	4	100	4	0	**-**
4.7 Attorneys and notaries	23	15	65.2	12	3	**25**
4.8 Other	71	74	104.2	64	0	**0**

2.4.1 General observations

In the general justice field, we handled 487 cases, and in 2016 we handled 382 cases in the field of court proceedings (in 2015: 401 cases). 82 of these were complaints related to criminal proceedings (in 2015: 95), 212 to civil proceedings and relationships (in 2015: 283), 29 to proceedings before labour and social courts (in 2015: 28), 55 to minor offence proceedings (in 2015: 61), and four cases were related to administrative judicial proceedings (same as in 2015). In the sub-field of pre-litigation procedures (presented in greater detail in the chapter on the prosecutor's office), 26 cases were handled (in 2015: 31), 15 cases in the sub-field of attorneys and notaries (in 2015: 23), and 74 other cases related to this sub-field of our work (in 2015: 71).

Although current statistical data do not enable us to classify in greater detail cases in this field according to their content, on the basis of the data available we are able to conclude that **there is once again a decrease in the number of handled cases, with a corresponding proportion of justified complaints. This is related to the decrease in incoming complaints due to the lengthiness of court proceedings and due to the proportion of such justified complaints. In this field, it is also true that numerous issues and problems experienced by complainants were already resolved by our expert employees over the phone, so there was no need to file a written complaint.**

With regard to evaluating the proportion of justified complaints, we would like to emphasise once again that it should be taken into consideration that this proportion is very much related to our (limited) powers in relation

to the judiciary and that the review of the correctness and lawfulness of judiciary and other legal decisions can be performed only within the scope of appropriate procedures and by means of available legal remedies, and not with the help of the Ombudsman, as is expected by many complainants.

We hereby add that it is not possible to comprehensively assess the situation in the judiciary or take a systemic view merely on the basis of complaints discussed by the Ombudsman, since **our assessments depend only on the content of the complaints we considered**.

2.4.2 Judicial proceedings

Similarly to all previous years, in 2016, most of the complaints handled also indicated problems that, on the one hand, still refer to **the lengthiness of some (mainly execution) court proceedings** (although to a very small extent), and to the **quality of trials on the other.** The complaints claimed (and frequently with good reason) and primarily addressed the following rights: the right to judicial protection, equal protection of rights, right to a legal remedy, legal guarantees in criminal proceedings etc.

If necessary when handling cases, the Ombudsman continued to turn to the presidents of courts and other competent bodies (e.g. heads of prosecution offices) by way of enquiries and other interventions, and when necessary, the Ministry of Justice and the Supreme Court of the Republic of Slovenia, particularly when concerning an issue of a systemic nature or regarding the regulatory framework governing the work of the judiciary, and to the Ministry of the Interior (concerning procedures carried out by the police as a minor offence authority). **For the most part, the Ombudsman was satisfied with the responses from the competent bodies.** We also met in person with the President of the Ljubljana District Court and the Interim President of the Ljubljana Local Court.

In 2016, the general area of justice of the operation of the judiciary was marked by the commencement of a reform intended to make changes in the organisation of the work of courts in order to ensure faster, more transparent, and more high-quality trials. The Ministry of Justice drafted a new Judicial Council Act, Class Action Act, Court Rules, and the Acts Amending the Civil Procedure Act, the Criminal Procedure Act (ZKP), and the Criminal Code (KZ). Another goal of all complaints was to strengthen the responsibility of judges and improve the openness of the judiciary's work, ensure more effective work, and update and speed up trials in civil and commercial disputes. These complaints are welcomed, as we find that they constitute steps forward towards greater effectiveness, responsibility, and transparency of the judiciary, and therefore towards increased public trust in the Slovenian judiciary and justice.

Because the drafting of **a new criminal procedure model** has been carried out for a long time, it would now truly be the right time for our country to also receive a stable legal framework in this legal field that would not be subject to such frequent amendments, as is the case with the existing Criminal Procedure Act. Nonetheless, with regard to the Act Amending the Criminal Procedure Act (**ZKP-N**), we should not ignore the amendments that **strengthen the position of the victims of crimes and of vulnerable groups**, or any amendments intended to improve the effectiveness of criminal procedures and eliminate the shortcomings discovered in the arrangement of criminal procedures, so that greater legal certainty and legality are ensured. **We are particularly glad to find that some of our previous recommendations made as complaints were handled have been taken into account.** We also welcomed the opportunity to provide separate opinions in the decision-making process of the Supreme Court of the Republic of Slovenia, as we consider this to be a step towards strengthening trust in a state governed by the rule of law and towards greater transparency of the judiciary's work. However, we had to once again warn of some recommendations and comments in the process of drafting the ZKP-N. **For example, there is still the question of an effective legal remedy if a prosecutor dismisses a criminal complaint or if they decide not to initiate prosecution** (which has been noted in the past), and perhaps the need to amend this part of statutory regulations. We would like to stress that this is that much more important when handling cases in which an individual has died.

We also provided comments in the process of adopting the **Act Amending the Criminal Code (KZ-1E)**. We commended the definition of the purpose of punishment, since we believe it is necessary and useful, particularly in the field of enforcing penal sanctions. We also proposed a an additional consideration regarding

the **definition of the purpose of punishment to particularly emphasise the need to give meaning to time spent in prison, as highlighted in the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)**, whereby Rule 4 states that a period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life. To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in accordance with the individual treatment needs of prisoners.

The proposal for the KZ-1E abolishes life imprisonment. We also commended this proposed amendment. The Ombudsman namely had reservations when this sentence was introduced by the legislator and found that the decision to introduce it was politically motivated. The Ombudsman then noted that arguments provided by the Ministry of Justice as grounds for introducing this punishment were not convincing. We also added that the severity of punishment did not reduce the number of criminal offences, but rather the state's success in detecting and prosecuting perpetrators. **The main objective of imprisonment must be the social rehabilitation of a convicted person who is to be released, not merely the person's isolation.** Therefore, we agree with the finding that the issue of life imprisonment is inseparably connected to the definition of the purpose of punishment, also from the perspective of the general human values that the Slovenian legal system should contain.

The Supreme Court of the Republic of Slovenia was also active. It introduced the **Slovenian Judiciary 2020 project**, which it drafted and is implementing within the framework of the Effective Justice operation. **The goal of the project is to encourage and ensure the quality of work in courts, update business processes, improve the qualifications of court employees, and improve the quality and effectiveness of Slovenian courts and the justice system as a whole.** Because most complaints handled by the Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) in the field of judicial proceedings refer to the quality of trials, the project is of course welcomed.

Under the auspices of the Ministry of Justice, **an inter-ministerial working group for enforcing the judgments of the European Court of Human Rights (ECtHR) began operating.** The purpose of founding this working group is to establish a more effective mechanism and greater transparency for enforcing the judgments of the ECtHR, and as a result, also to establish a more effective mechanism for providing the protection of human rights and fundamental freedoms and the rule of law in Slovenia.

In addition to presenting past experience in enforcing pilot judgments, members of the working group held their first meeting to learn about the planned mode of operation of this group and with the operation of the Task Force for Coordinating the Enforcement of ECtHR Judgments within the Ministry of Justice. They also reviewed the judgments and procedures against Slovenia before the ECtHR and open procedures for enforcing judgments; furthermore, they determined the priority order of cases to be resolved.

The Ombudsman welcomes the establishment of the inter-ministerial group, as we consider this a major step towards better human rights protection in our country. We are also glad that we are able to participate in the work of the group as an external member.

It is not only important for the ECtHR to eliminate any violations, but what is of primary importance are measures that prevent these violations from recurring; for this reason, good cooperation among state authorities is imperative. Although only some ECtHR judgments refer directly to the operation of the judiciary, **we find that the group's work will also contribute to the more effective operation of the judicial system.** We could not ignore the fact that, in 2016, the **ECtHR** again **issued some judgments against Slovenia**. In the case of *Perak v. Slovenia*, a violation of paragraph one of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms was discovered, because the applicant was not allowed to participate in the decision-making process concerning a request for the protection of legality in his case. In *Tence v. Slovenia*, the ECtHR found that our courts denied the applicant the right to access to a court and therefore of her right to a fair trial. It did not find that such a violation occurred in the *Šmajgl v. Slovenia* case.

Lengthy duration of court proceedings

In addition to a decrease in complaints received by the Ombudsman due to the lengthiness of court proceedings, **the information that the number of unresolved cases is (continually) decreasing and that the average anticipated time for resolving cases has become shorter is indeed encouraging.** This is a cause for optimism and for continuing to persist on the path to the full elimination of backlog of cases in all Slovenian courts.

The time standards for 2016 that were adopted by the President of the Supreme Court of the Republic of Slovenia on the basis of Article 60c of the Courts Act (hereinafter: ZS) and with the consent of the Minister of Justice will contribute to this. They determine the expected time for carrying out typical procedural actions and resolving cases in particular court types and instances. The Supreme Court of the Republic of Slovenia clarifies that **time standards enable courts to adapt work processes in terms of the speed of resolving cases and providing the right to trial within reasonable time, and this contributes to protecting the interest of the parties in obtaining a legal and correct court decision without undue delay.** Their publication allows all interested parties to have an additional insight into the operation of courts, and provides general information to users of the courts (parties, attorneys, state prosecutors, and others) on the speed of resolving cases in individual courts, whereby they contribute to greater legal certainty, predictability of procedures, and transparency of the operation of courts (according to the publication of the news on the website of the Supreme Court of the Republic of Slovenia on 16 June 2016).

In its 2016 Report, the **European Commission** also pointed out positive trends related to the reduced duration of procedures in Slovenian courts and reduced number of unresolved cases. The Commission also commended the increasingly greater digitalisation of operations, the investment in updating business processes, and the change of priorities from the perspective of the quality of work in courts. In December 2016, the **Committee of Ministers of the Council of Europe**, which is intended to oversee the implementation of the judgments of the European Court of Human Rights (OMN-DH), received the final **Resolution in the Group of Cases *Lukenda v. Slovenia*** (23032/02) referring to the right to a trial within a reasonable time. This is a group of 264 judgments (mostly from 2006 and 2007) in which the ECtHR found that Slovenia violated Article 6 of the Convention (in some cases, also relating to Article 13 – the right to an effective remedy). According to the Ministry of Justice, on the basis of the revised action report on the judgement enforcement process in the Lukenda group of cases issued on 28 October 2016, the Secretariat of the Council of Europe assessed that Slovenia has **eliminated court backlogs and thus ensures trials within a reasonable time, as provided for in the Convention**, by adopting legislative, organisational, information and other measures. The adoption of the final Resolution means that the Council of Europe will no longer supervise the execution of judgements in the Lukenda group of cases. Because the Lukenda group of cases comprised the majority of non-executed judgements of the European Court of Human Rights in the Republic of Slovenia (264 out of current 313 cases), Slovenia made a significant step forward in ensuring trials within a reasonable time by adopting the final Resolution. This will strengthen Slovenia's position as an exemplary state in executing judgements of the European Court of Human Rights. This is indeed encouraging news, which is also confirmed by the decrease in the number of cases handled in this field by the Ombudsman.

The right to trial without undue delay and the right to trial within a reasonable time are a part of the right to judicial protection according to Article 23 of the Constitution of the Republic of Slovenia. Its purpose is to provide the effectiveness of judicial protection – if judicial protection is provided too late, the person affected is in the same position as if they had no judicial protection at all. Deciding on controversial relationships without undue delay (within reasonable time) is also in the interests of legal certainty.

The reasons for the lengthiness of individual judicial proceedings may vary in practice. In addition to reasons connected to the courts or the state, this could also be the complexity and scope of a case, the number of instances at which a case is decided on, the acts of each instance separately and all of them as a whole; the parties can also affect proceedings. The parties have justified reason to expect the court, through its powers provided by the procedural regulation for handling the case in question, to carry out proceedings without delays and with minimum costs, so as to prevent the violation of such an important human right as the right to judicial protection.

The violation of the right to judicial protection can be claimed through so-called expediting legal remedies, which are regulated for cases of lengthy trials by the Protection of Right to Trial without Undue Delay Act (hereinafter: the ZVPSBNO) – e.g. these include the **supervisory appeal and motion for a deadline**. When a supervisory appeal or motion for a deadline is granted, this may be the basis for enforcing the right to just satisfaction in the form of (nominal) compensation for damage incurred as a result of the violation of the right to trial without undue delay. In these cases, the intervention of the Ombudsman comes into play (only) when the remedies foreseen by the said Act fail, or if a competent authority fails to respond to them within the statutory deadline. If the Ombudsman alone intervenes in a case, a request for just satisfaction cannot be filed, as all of the aforementioned, i.e. expediting legal remedies, must be used for this purpose beforehand.

Some complainants emphasise deficiencies in the ZVPSBNO both at the regulative and implementing levels. For example, one problem that is stressed is that the ZVPSBNO limits the filing of a supervisory appeal (e.g. according to paragraph two of Article 7), that it does not regulate supervisory appeals against any delays by a president of a court or delays of cases within court administration, that it generally does not regulate the decision-making of courts (e.g. delays on the part of the decision-making of the court president with regard to a request to inspect a court file), and that the order for a priority examination of a case is often ineffective in practice. **Even the implementation of the ZVPSBNO is often impractical and bureaucratic in practice.** With regard to this, the decision-making of the State Attorney's Office concerning "just satisfaction" is emphasised. It is supposedly evident in practice that the path to compensation is difficult and almost impossible, as the State Attorney's Office objects to such claims in various manners, and this leads injured parties into new lengthy court disputes, whereby these disputes are then financially draining for many years to come in the contest with state institutions. Furthermore, the State Attorney's Office allegedly also delays decision-making concerning such claims and misses the deadlines laid down by law.

Therefore, we find that it would be appropriate for the Ministry of Justice to open a dialogue with the judiciary and thereby study the application of the Protection of the Right to Trial without Undue Delay Act (ZVPSBNO) in practice and, based on this, to adopt the necessary amendments; the judiciary should take additional measures for the consistent implementation of the measures referred to in the ZVPSBNO.

Multiple trials at multiple instances are often the cause for the lengthiness of contentious proceedings.

When considering some complaints in the field of civil and criminal court proceedings, dissatisfaction due to the duration of individual court proceedings can still be sensed. The handling of these complaints indicates that **another reason for the lengthiness of individual court proceedings is that a particular case has already been processed at multiple instances, and higher courts refer the repealed decisions back to the first-instance court for consideration.**

Most parties to proceedings have good reason to expect the court to rule in their case in a minimum period. The fact that, with regard to this issue, amendments to the applicable legislation are required in order to expedite and simplify civil procedures was also evidently discovered by the Government of the Republic of Slovenia, specifically the Ministry of Justice, which drafted **a proposal for the Act Amending the Civil Procedure Act** (the amending act (ZPP-E) was still being discussed at the time that this report was drafted). The proposal for the amending act lists the following goals of the proposed act: (1) concentrating the procedure at the first instance, whereby parties would be provided the right to a fair and public trial, (2) simplifying and rationalising the procedure, (3) expediting the procedure and making procedures more flexible (a judge may adjust the procedure to the special elements of individual cases), (4) strengthening open trials, (5) strengthening the reformatory powers of second-instance courts, (6) unifying case law, (7) limiting access to the supreme court only to those cases that deserve the attention and consideration of the highest judicial instance, and (8) increasing the trust of the general and expert public in the judiciary on the basis of the greater legitimacy of court decisions. **The Ombudsman supports efforts to improve legislation which should, to the maximum possible extent, enable individuals who are parties to court proceedings to achieve justice as quickly as possible, without reducing the significance of individual rights provided in court proceedings by way of the Constitution or the Convention.**

Quality of decision making

In addition to the right to a trial within a reasonable time, it is also important that parties obtain **a legal and regular court decision** without undue delay. For this purpose, the legal system also provides various (ordinary and extraordinary) legal remedies for individual types of court procedures. These may be resorted to by parties in court proceedings if they are not satisfied with court decisions. In a procedure with (ordinary and extraordinary) legal remedies, the legality and regularity of a lower-instance court's decision may be subject to a test of a higher-instance court, and only the directly superior court may, through having an effect on the parties in the proceedings and the lower-instant court, affect a decision reached by the lower-instance court. **In this system, the Supreme Court of the Republic of Slovenia is particularly responsible for maintaining the correct and unified application of the law in court proceedings by way of reaching decisions on extraordinary legal remedies.** Furthermore, it is important for the Supreme Court of the Republic of Slovenia to warn of the shortcomings in the operation of courts and therefore **also introduce other projects that are focused on improving operations and trial quality.** One such projects is the project already mentioned in the introduction – **Slovenian Judiciary 2020**, which was developed and is being implemented by the Supreme Court of the Republic of Slovenia within the Effective Justice project.

The judiciary make the greatest contribution to the quality of the court system's operations, provided that there are suitable regulations and working conditions. For this reason, we encourage the Supreme Court of the Republic of Slovenia to continue to carry out mechanisms to improve operations and the quality of trials. By means of improved court decisions and more unified case law, the **trust of the public in the judiciary's work** will also increase. This trust was once again compromised due to the issue of undeclared wills. We did not conclude our handling of this issue in 2016, so our findings will be reported in the next report.

In addition to the final decision, parties to court proceedings also care about how cases are handled. It should be noted that a respectful, dignified, and kind attitude does not even require special funds, which are too often the excuses for why necessary improvements are not introduced. **The cases we have dealt with indicate that courts are indeed aware that they alone, by way of suitable measures taken in the event of complaints against the actions of individual judges, can ensure that their reputation in the eyes of parties and the general public is not lost or tarnished.**

2.4.3 Enforcement proceedings

Complaints referring to enforcement proceedings in 2016 included the complaints both of creditors (e.g. ineffective or lengthy enforcements), who are expected to demand payment of their claims, and debtors (e.g. disagreement with the claim; inability to settle a claim; debtors' distress if their home is the subject of enforcement; conduct of enforcement agents, etc.). Due to the Ombudsman's limited powers in this field, we can only assist complainants by providing advice.

We find that many enforcement cases are still subject to **lengthy (judicial) proceedings**. **Furthermore, on the basis of the complaints received from individuals, the Ombudsman finds that, in most cases, especially when enforcement against immovable property is proposed in an enforcement procedure, debtors usually seek suitable (legal) assistance at a point when it cannot be effective (anymore)**, as they missed key phases in the (very formalised) enforcement procedure, when the debtor as a party can affect how and on which objects enforcement is performed. Therefore, in such cases, it is very difficult for us to help complainants, as we cannot simply cancel an enforcement order, which is the wish of many people who ask for the Ombudsman's assistance.

2.4.4 Free legal aid

In most cases, it is important to have (sufficient) legal knowledge or obtain suitable legal assistance to exercise different rights successfully, particularly the right to judicial protection. **In spite of the aid provided by the Legal Aid Act (hereinafter: the ZBPP), the Ombudsman has noted that, in practice, people frequently do not receive free legal aid** because they do not meet the criteria as their income exceeds the threshold by a few euros, which

is also frequently burdened by various loans, or because they own real estate which generates no income, and instead even burdens them financially, or because they are in a dispute over real estate, or other reasons.

As also established by the Administrative Court of the Republic of Slovenia, the right to free legal aid, by means of which the human right to judiciary protection arising from paragraph one of Article 13 of the Constitution of the Republic of Slovenia is ensured, is not absolute, as it can be approved only under the conditions and in accordance with the criteria laid down in the ZBPP.

Therefore, it is no surprise that most complaints related to the provision of free legal aid refer to dissatisfaction with the fact that a request for free legal aid has not been approved or with the conditions that the ZBPP lays down for obtaining free legal aid. Some complainants also complained that attorneys provided within free legal aid did a poor job.

Due to the limited access to free legal aid, it is encouraging that the gaps in this field are being filled by various non-governmental and humanitarian organisations, municipalities, and in some places by law students. These forms of aid cannot replace the work of attorneys, as providing advice and assistance takes the form of giving legal instructions on the basis of which individuals can then decide whether they will require further assistance from attorneys and competent authorities. Of course, qualified legal aid can be provided mainly by lawyers. **However, we already commented in our Annual Report for 2014 that the Bar Association of Slovenia warned that free legal aid provided by attorneys, with the exception of aid on the Day of Free Legal Aid by attorneys (19 December), had still not been regulated with regard to taxes.** We warned the Ministry of Justice and the Ministry of Finance of this once again, but did not receive their (new) responses by the time that this report was drafted.

The Ombudsman finds that there is a need to extend the possibilities for legal aid. For this reason, it continues to encourage local communities to provide additional forms of legal aid, which are already provided by some municipalities and non-governmental organisations, as many people still cannot find their way to timely and high-quality legal aid.

2.4.5 Court experts and certified appraisers

Pursuant to Article 84 of the Courts Act (hereinafter: the ZS), court experts are persons appointed for an unlimited time period who have the right and duty to provide the court, at its request, with a report and opinion concerning expert questions regarding which the law provides or the court finds that the assistance of an expert is required to assess them. Certified appraisers are persons appointed for an unlimited time with the right and duty to provide the court, at its request, with a report on the economic characteristics of things or rights, and on an appraisal of their value or the value of the damage caused to such things or rights.

Therefore, a court expert is someone who, on the basis of their expert knowledge, produces an expert opinion on past and current facts, and thus helps the judge clarify legally significant expert questions. In essence, a court expert is a judge's assistant. In their work, court experts must act lawfully and work in accordance with the rules of science and their expert field.

Individual complaints that refer expressly to the field of court experts and certified appraisers are few. The main objections of complainants to the quality of experts' work are most frequently included in complaints in which complainants express their dissatisfaction with court decisions based on opinions and reports by individual court experts or certified appraisers. Complainants claim that the latter failed to do their job in an expert manner or that they caused them damage due to their partiality.

We believe that so-called safe rooms would have to be used more frequently in practice for the needs of experts and even in the case of e.g. minors who are victims of violence (and for minors in general), which would have to be regulated by law. Furthermore, guidelines on discussing children in cases of sexual abuse, including the suitable education of experts and supervision of their work, would also have to be defined.

2.4.6 Minor offences

In this sub-field, we handled slightly fewer cases in 2016 compared to 2015; i.e. we handled 55 cases compared to 61 in 2015, whereby the content of the issues under consideration did not significantly change. **Most complaints in this sub-field concerned dissatisfaction with fines imposed or decisions taken in minor offence proceedings.** As in all previous years, complaints related to participation in road traffic and the police as the authority responsible for minor offences, and in some cases related to the actions of municipal wardens, prevailed in 2016. Taking into consideration that the Ombudsman does not handle cases concerning which there are pending court or other legal procedures, except in cases of undue delay in the proceedings or evident abuse of authority (Article 24 of the Human Rights Ombudsman Act), the Ombudsman's measures in this field cannot refer to decision-making on minor offences, but rather to other circumstances of minor offence procedures.

Example:

Costs wrongfully incurred by the complainant and the police due to unjustified tax execution
On the basis of a complaint received, we were able to discover that, on 12 September 2015, the Ljubljana Vič Police Station first issued a payment order to the complainant for exceeding a speed limit and then a payment order due to indecent behaviour towards an official in an administrative procedure. The complainant stated that they had filed an objection to the second payment order, and with regard to the first one, they had authorised the payment of half of the fine already on 14 September 2015, whereby they entered the wrong reference number (i.e. the number of the payment order against which they filed an objection, rather than the number of the uncontested payment order). Finally, the complainant received from the Financial Administration of the Republic of Slovenia (FURS) the final overdue reminder prior to collection of debt through litigation stating that the Police, in accordance with Article 146 of the Tax Procedure Act (hereinafter: ZDavP-2), had sent a proposal for the collection of the unpaid monetary obligation to the competent tax authority, whereby the proposal for the collection of debt shows that, on the basis of the enforceable instrument issued by Ljubljana Vič Police Station, the complainant owed a fine of EUR 250. Therefore, all circumstances indicated that the complainant's transfer of EUR 125 to the Police bank account on 14 September was not considered to be the payment of one half of the fine according to the first payment order, probably due to the incorrect reference.

Furthermore, the complainant claimed that, on 21 December 2015, he went to the Ljubljana Vič Police Station in person, where an authorised official discovered that, due to the incorrect reference, "the debt was still due, the payment of one half of the fine no longer suffices, the amount of EUR 125 would be reimbursed; in short, it is a complicated matter, because everything is done through computers." Some 14 days later, on the basis of Article 70 of the ZDavP-2, the FURS issued a decision on tax execution by way of arrestment of the debtor's earnings, whereby the complainant's obligations with regard to the monetary fine in the amount of EUR 250 are based on the first payment order, which became enforceable on 21 October 2015.

The Ombudsman contacted the Ministry of the Interior (hereinafter: the MNZ) to obtain clarifications. The response mainly confirmed our assumption that the Police had deemed the complainant's payment of 14 September 2015 as partial payment (not even payment of one half) of the fine imposed based on the second payment order (against which the complainant filed a request for judicial protection), and that the complainant had not paid any amount concerning the fine based on the first payment order. According to the MNZ, **amounts receivable in the Police computer system are closed according to the principle of recording the payment of either half or full fine amounts imposed for minor offences if the payment is carried out with the correct reference number on the basis of which the payment is recorded, i.e. the number of either the payment order or the decision on the minor offence.**

In this case, the computer system took into account the situation based on the first payment order (it indicated the fact that the imposed fine had not been paid within the deadline for payment) and on 5 December 2015 sent a proposal to the FURS through the e-izvršbe system for the collection of an unpaid fine imposed by way of the said payment order.

The Ombudsman also asked the MNZ to clarify how and when payments without references (i.e. as opposed to the complainant's case, in which he did not state the incorrect reference, but merely the reference from a

payment order different from the one that he meant to refer to) or any other unfounded payments are first detected by the system – and what measures are taken in such cases and in what deadline can unfounded payments be most promptly reimbursed to payers. With regard to this, the MNZ informed us that **the Police computer system has a so-called complaint system in which data on payments transferred to the Police's bank account are recorded – fines imposed for minor offences, but without references. In such cases, the minor offence is found on the basis of the known data concerning the payer in the records, and the transferred payment is booked over, by means of which a claim is closed. In the case of transferred payments for which there are no bases in Police records (no minor offence), these are reimbursed as soon as possible after obtaining data from the provider of payment services**, whereby the time in which this action is performed depends mainly on the responsiveness of the provider of payment services and the payer.

With regard to this specific case, we also asked the MNZ to provide clarification (assuming that the complainant was really told at Ljubljana Vič Police Station on 21 December 2015 what he alleges) whether the transacted amount of EUR 125 had then been reimbursed to the complainant as soon as possible. With regard to this, the MNZ stated that it is evident from documents that, on the basis of a written application filed by the complainant at the police station, received on 6 January 2016, the amount of EUR 125 was re-transferred to the first payment order, whereby 14 September 2015 was taken into account as the date of the payment, even though a repeated transaction was actually performed on 1 March 2016; thereby, the claim based on the said enforceable instrument had been closed and a written cancellation of the proposed debt collection sent to the FURS on 1 March 2016 on the aforementioned basis. However, meanwhile, the FURS had already issued a decision on tax execution by way of the arrestment of the complainant's earnings, and this arrestment was actually done, so the police station sent a reply to the FURS on the same day with regard to its request for clarification on whether the arrestment of earnings had been initiated with good reason or not and with regard to the complainant's claim for the reimbursement of the funds wrongfully collected from his bank account on 7 March 2016; the notification stated that the entire cost of the debt collection, which was initiated without grounds, are to be fully borne by the Police.

Therefore, taking into consideration the chronology, the MNZ concluded that, from the perspective of the principles of efficiency and economy, the actions in question of the authorised official cannot in any way be viewed as such. **According to the MNZ, this was a case of a completely unjustified deviation from the standard of acting with the required level of diligence by an authorised official working for a minor offence authority with regard to managing and making decisions in all phases of the minor offence procedure; this resulted in costs wrongfully incurred by the complainant and the Police due to an unjustified tax execution.** The MNZ assured us that, in order to avoid such irregularities in tax execution procedures, the Police have warned officials many times at a systemic level to respond in a timely manner with regard to ensuring efficient and economical actions, both for the benefit for the party in the procedure and for the Police; furthermore, the MNZ assured us that, on the basis of this case, the Police once again issued such a warning to officials and, on this basis, it examined whether there was any liability held by the authorised officials of minor offence authorities. **6.4-28/2016**

2.4.7 Prosecution

In the sub-field of pre-litigation procedures in which mainly complaints related to the work of state prosecutor's offices are handled, **we handled 26 cases in 2016** (compared to 31 in 2015), which is of course just a small portion of all cases handled by state prosecutors. When necessary, the allegations of complainants were verified at the heads of state prosecution offices (and we notified the Office of the State Prosecutor General of the Republic of Slovenia thereof). All of these offices mostly **responded to our enquiries regularly**.

The content of complaints in 2016 also related primarily to the **dissatisfaction of complainants with individual decisions of prosecutors** (e.g. rejection of complaints) and the **lengthy processing of their criminal complaints or (un)responsiveness to individual complaints**.

In addition to professional regularity, it is also important that the work of state prosecutor's offices be conscientious and prompt. The Ombudsman has already warned of the (unduly) slow decision-making of state

prosecutor's offices in the individual cases in which such decision-making was presented; these warnings can be found on the Ombudsman's website and in regular annual reports. However, it warns the head of the responsible state prosecutor's office and the Office of the State Prosecutor General of the Republic of Slovenia of every individual case in which the passive attitude of the state prosecutor's office has been discovered. Nonetheless, we still encounters such cases.

Example:

A decision on a criminal complaint has not been reached for years
A complainant warned of the non-responsiveness of a state prosecutor's office by stating that she had already filed a criminal complaint at the Ljubljana Bežigrad Police Station on 13 July 2012. The police station informed her that, on the basis of an investigation of a suspected crime committed to her detriment, it had filed a criminal complaint with Ljubljana District State Prosecutor's Office on 29 August 2013. The complainant's authorised representative (attorney) sent a letter to the District State Prosecutor's Office on 12 January 2015 asking for information on the status of the case, but he received no reply to this letter.

Due to the claimed unresponsiveness of the state prosecutor's office, the Ombudsman sent an enquiry to the District State Prosecutor's Office after receiving the complaint. Only following a repeated request for a response did the District State Prosecutor's Office inform us that the case about which we had enquired was managed under no. Kt/3380/2012. **On the basis of the registrars' data, the case file was supposedly held by the person in charge of the case; however, despite intensive attempts to find the hard copy, the case file was not found, so it was fully restored (evidently only after the Ombudsman's enquiry and requests).** The District State Prosecutor's Office then discovered that, with regard to its content and the law, the case is related to a criminal complaint filed by the same person (the complainant) on 17 July 2015; this case was handled by the District State Prosecutor's Office under no. Kt/14245/15 – this case was also related to two other cases. Furthermore, the state prosecutor's office clarified that multiple case files are the result of multiple criminal complaints sent by various police stations, and these complaints did not contain any references to other cases. The state prosecutor's office informed us that it had combined the case files and that they were now handled under a uniform case number, i.e. Kt/14245/15; at the same time, it assured us that a substantive ruling would be reached as soon as possible.

In this case, the Ombudsman's intervention was necessary and successful. However, this was no consolation to the complainant who had already lost trust in the state prosecutor's office due to its unresponsiveness, and as a result, in the functioning of a state governed by the rule of law. **For this reason, carefully keeping registers, carefully handling criminal complaints, and the necessary responsiveness to complainants' letters, especially if they consider themselves to be victims of crimes, are of special importance. 6.2-13/2015**

2.4.8 Attorneys and notaries

In this field, we discussed **15 cases**, which is somewhat fewer that in 2015, when we considered 23 such complaints. The cases in 2015 predominantly included complaints claiming **negligent provision of services or dissatisfaction with the work of attorneys** (including complainants' allegations that they were insufficiently informed about the legal and actual situations of their cases; assessments of the dispute; possible continuations of proceedings with legal remedies, particularly in cases of free legal aid), **incorrect calculation of costs, inappropriate conduct of individual attorneys and disagreement with a decision of the disciplinary authorities of the Bar Association of Slovenia, and other irregularities.** The complaints in this field also included complaints about the handling of reports by dissatisfied clients represented by attorneys.

The amount of the application fee for entry in the register of attorneys

Through some media reports, the Ombudsman learned of the considerable increase in the registration fee for the entry in the register of attorneys. On 23 April 2016, the general meeting of the Bar Association of Slovenia voted in favour of increasing registration fees from EUR 2,500 to EUR 9,000.

We found that this issue can be significant for the protection of human rights and fundamental freedoms and for legal certainty in our country. Entry in the register of attorneys and membership of the Bar Association are mandatory, so an issue arose concerning the arbitrariness of the decision to increase the registration fee if criteria defined in advance are not taken into consideration. We warned that this action (in this and in other fields) can result in even fewer opportunities for young people to work, and give priority to those with more money to pay such high registration fees. This will make it possible for contemporary elites to form, which will be based not only on the quality of work, but on their financial strength or the power of the social group to which they belong. We also commented that the Ombudsman has always made efforts to improve the quality of attorneys' work, and so we find that criteria related to the ability to pay registration fees should not predominate.

We then asked the Bar Association of Slovenia to clarify the reasons for deciding on such a considerable increase in the registration fee; in particular, we were interested in the criteria for determining the amount of the fee. The Bar Association of Slovenia informed us of the circumstances surrounding the decision to increase the registration fee; at the same time, it announced a new general meeting, at which the registration fee will be decreased to EUR 3,000. **This issue was then regulated by the Act Amending the Attorneys' Act (ZOdv-E), according to which the registration fee for entry in the directory of attorneys and its amount are laid down in the Articles of Association of the Bar Association of Slovenia.** At the same time, the amending act stipulates that, until the amendment to the Articles of Association of the Bar Association of Slovenia, which lays down the registration fee for the entry into the directory of attorneys and its amount, enters into force, the registration fee for entry in the directory of attorneys that was in force on 1 April 2016 is to apply.

2.5 POLICE PROCEEDINGS

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
4. Police proceedings	**81**	**81**	**100**	**57**	**7**	**12.3**

2.5.1 General observations

Similarly to 2015, the Human Rights Ombudsman of the Republic of Slovenia discussed 81 complaints in 2016, most of which referred to police procedures. The work of police officers was also discussed in certain other fields (e.g. in the sub-field, Minor offence procedures, which is discussed in more detail in the chapter, Justice – Minor offence procedures. Our expert colleagues resolve many issues with complainants by telephone. We must note that an assessment of police officers' observance of human rights and freedoms cannot be based only on the number of complaints sent to the Ombudsman and/or their justification. It is necessary to also observe that the **share of (un)founded complaints particularly reflects the manner of discussing complaints in this field and frequently also the lack of complainants' cooperation**. After receiving complaints referring to the work of police officers, we usually encourage the complainants to actively enforce complaint procedures on the basis of the Police Tasks And Powers Act (ZNPPol) if they do not agree with police procedures; we instigate procedures only in particularly founded cases. We believe that it is appropriate to first verify potentially questionable procedures of police officers within the system in which an alleged irregularity occurred. We inform complainants that our intervention in such cases is possible if they are dissatisfied with the anticipated complaint procedure, or due to unduly long procedures or even a lack of response from a competent authority. **We further ascertain that few complainants contact us again after we have suggested they use a complaint procedure as per the ZNPPol, which means either they were satisfied with the result of the complaint procedure or are no longer interested in our further intervention.** In such cases, we cannot continue the procedure, and the case is closed with clarifications only, without actually stating a position on the alleged violations, i.e. the justification or non-justification of complaints.

In addition to dealing with complaints in this field, we also visited 34 police stations in 2016 when implementing the tasks and powers under the National Prevention Mechanism (NPM), which is the subject of a special report on the implementation of the tasks and powers of the NPM. In 2016, we enquired about concrete procedures relating to complaints about the work of police officers, particularly at the Ministry of the Interior and in certain cases directly (during the visits) with the police stations. **We can again commend the prompt responses of the Ministry of the Interior and the Police.** Within the scope of preparing to implement guidelines and obligatory instructions for preparing the police work plan and planning of supervision of the Police, we met with the Police and Security Directorate at the Ministry of the Interior in the relevant year (as was done in the past) and considered individual issues also with the Director General of the Police or the General Police Administration. As an external expert, Deputy Ombudsman Ivan Šelih continued to cooperate on the Expert Council on Police Law and Powers, a permanent, autonomous and consultative body of the Police and the Police and Security Directorate at the Ministry of the Interior. The Council combines the external and internal expert public in the provision of the lawful, expert and proportionate application of police powers, and contributes to enhancing

trust among the internal and external public in the expert integrity and operational autonomy of the work of the police.

2.5.2 Realisation of the Ombudsman's recommendations

We are pleased to note that **in most cases, the Ministry of the Interior and the Police follow our recommendations**. Regarding **recommendation no. 42 (2015)**, which states that the Government of the Republic of Slovenia should make necessary improvements in the working conditions of police officers, we established that the Government of the Republic of Slovenia concluded the **Strike Agreement** with two police unions on 2 June 2016 **and ended the police strike** while ensuring the uninterrupted implementation of police tasks. The MNZ and the Ombudsman determined that **recommendation no. 43 (2015)** was being realised, and the MNZ and the Police continue to encourage police officers to respect the personality and dignity of persons when conducting their tasks, and to be particularly tactful when treating persons requiring additional attention, to be fair to persons in procedures at all times (also verbally) and to conduct procedures (also in minor offence matters) professionally and lawfully. When implementing education and training courses and when supervising police officers, as reported by the MNZ, the Police point out respect for the personality and dignity of persons and particularly the tactful treatment of persons requiring additional care. As part of the annual guidelines and on the occasion of submitting the 2015 report on the resolving of complaints against police officers, **the MNZ particularly instructed the Police to enhance the committed, friendly and respectful conduct of police officers to parties to procedures**. The Ombudsman's recommendation no. **43 (2015)** involves a permanent recommendation requiring constant attention and observance and we thus repeat it again below. Regarding the expectation that the MNZ would observe the Ombudsman's comments or take a position on them (**recommendation no. 44 (2015)**) in the continuation of the procedure of drafting amendments to the ZNPPol, we determined that not many of our comments were observed in the drafting of the amendments to the relevant Act; however, the amendments had not been adopted in 2016 (more on this topic below). In the 2015 Report, the Ombudsman recommended that the MNZ and the Police verify in practice the receipt of complaints against the work of police officers and then adopt additional measures if needed to improve the situation (**recommendation no. 45 (2015)**). Since the MNZ itself had found certain problems in this field, it informed us that all police units had been served a **warning about observing Article 3 of the Rules on handling complaints against police officers** referring to filing a complaint against their work. We commend the aforementioned measure, which apparently achieved its purpose, since we did not discuss any claims in 2016 stating that police officers had refused to accept complaints.

The MNZ also stated that the **monitoring of conciliation procedures had been greatly enhanced** and this practice would continue. In this way, our **recommendation no. 46 (2015)** was observed, which stated that the MNZ must continue to pay special attention to monitoring conciliation procedures and training its providers. The MNZ also stated that it continuously strove to carefully weigh and substantively justify decisions on not considering complaints at the senate session as per paragraph two of Article 152 of the ZNPPol is commendable, which also means the realisation of **recommendation no. 47 (2015)**. The MNZ also announced that the content of Article 58 of the Private Security Act (ZZasV-1) would be amended accordingly when the first amendments to the relevant Act are adopted (**recommendation no. 48 (2015)**).

2.5.3 Regulatory framework of police operations

Police operations are stipulated by numerous regulations; the tasks and powers are primarily governed by the **ZNPPol**, which was not amended in 2016, although the MNZ drafted extensive amendments already in 2015. The same applies to the forthcoming amendments to the **State Border Control Act**. We made several comments and proposals concerning the anticipated statutory amendments. In the case of both acts, the Ombudsman stressed the need to implement the assessment of the effects on privacy of certain anticipated amendments. The extent to which the anticipated new powers or the use of technical means are necessary, suitable, effective and proportionate should also be assessed. We also supported the comments of the Information Commissioner, as the independent state supervisory authority for personal data protection, pointing out certain disputable aspects of the state's encroachment on the privacy of individuals. The authority drafting the proposed act or the legislators decide on whether, and to what extent, the submitted comments

are observed. The Ombudsman cannot participate in drafting specific regulatory solutions (while observing its position) without receiving criticism about its cooperation in forming the act.

On the basis of paragraph five of Article 69 of the ZNPPol, the Minister of the Interior issued the **Rules on standards for the construction and equipment of police premises used for detention** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 62/2016) in 2016 and thus fulfilled the obligation (although with a delay) as per paragraph two of Article 165 of the ZNPPol.

In the procedure of drafting the Rules, which substituted the Standards for building, renovating and equipping detention premises, we highlighted that it would be necessary to strive to include as few technical obstacles as possible when renovating detention premises in order to attain the objectives of the relevant Rules. **Exceptional and substantial reasons would have to exist to deviate from the norms, or the reasons for not observing these requirements could be determined quite quickly.** In particular, the requirement that detention premises (particularly those used for detention lasting over 12 hours) always have **suitable natural light** would have to be observed already during planning or designing, since artificial light is no substitute for natural light. In the case of long detentions, the detained person must be enabled to **exercise outdoors** (the CPT has particularly noted this obligation during its recent visit), which is why technical reasons (particularly for new buildings) cannot be acceptable reasons for not providing an area for exercising outdoors or natural light in detention premises. We also pointed out other CPT's standards used in its work in this field.

We added that a pillow must be available to the detained person overnight. **This and some of our other comments were also observed in the procedure of drafting the Rules.**

2.5.4 Findings from complaints considered

The complaints we encountered most frequently referred to violations of rights to equality before the law, protection of a person's personality and dignity, the right to personal dignity and safety, legal guarantees in minor offence proceedings, the right to equal protection of rights and others. **The established violations include the non-observance of the principle of good governance, protection of personal liberty, inviolability of dwelling, failure to observe legal guarantees in pre-trial proceedings and criminal proceedings etc.**

The recurrent complaints in this field refer to **dissatisfaction with the (in)action of police officers due to fragile relations and disputes between neighbours, domestic violence and other risks**. We must emphasise again that **complaints or requests for further action in such cases must be responded to, and the actual situation of all the complaints that are considered must be diligently and properly examined**, since this is the basis for possible further actions by police officers, which must be effective.

In 2016, complainants most frequently pointed out irregularities in police proceedings in which the Police acted as a minor offence authority when considering violations of public peace and order and road traffic offences, as well as road accidents and other minor offences. The (in)action of police officers, subjectivity when establishing the facts and circumstances of alleged offences, incomplete establishment of the actual situation, and dissatisfaction with the issue of a payment order or a fine and other violations of rights were mentioned in particular. **The fact that the Ombudsman's recommendation in 2015 referring to improving professionalism when dealing with minor offences, with an emphasis on correctly and fully establishing the actual situation was observed when preparing annual guidelines for police work in 2016 is thus particularly pleasing**.

In this regard, we discussed a **new issue of establishing the sanity of persons with mental disorders or diseases**; the discussion of this issue did not end in 2016, and we will report on the relevant findings in the 2017 Annual Report.

The remaining complaints dealt with alleged ill-treatment by police officers and other irregularities, e.g. with the use of coercive measures, deprivation of liberty or detention (see the example below), the conduct of pre-trial proceedings, and within the latter's framework particularly the (non)investigation of criminal offences, collecting of information and the conduct of interviews, (not) responding to complaints or requests for

action, searching for people and other. Some **complaints were also made about impolite and incorrect or inappropriate verbal behaviour by police officers**.

Deprivation of liberty

When discussing claims regarding the work of police officers, the Ombudsman pays special attention to complaints referring to the **deprivation of liberty, which is one of the major encroachments upon human rights**. The Constitution of the Republic of Slovenia (Article 19) stipulates that an individual may be deprived of their liberty only in cases and pursuant to such procedures as are provided by law. Anyone deprived of liberty must be immediately informed in his mother tongue, or in a language which he understands, of the reasons for being deprived of liberty. Within the shortest possible time thereafter, he must also be informed in writing of why he has been deprived of liberty. He must be instructed immediately that he is not obliged to make any statement, that he has the right to immediate legal representation of his own free choice and that the competent authority must, on his request, notify his relatives or those close to him of the deprivation of his liberty.

When visiting Slovenia in 2012, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (**CPT**) **highlighted, among other things, the need for suspects to be enabled prompt access to a lawyer *ex officio* or to take necessary measures to ensure in practice that all detained persons effectively exercise their right to a lawyer from the moment they are deprived of liberty**.

Relating to the aforementioned, we asked the MNZ for a report on the measures adopted in this field, particularly about how frequently between 1 January and 31 October 2016 police officers (throughout Slovenia) had applied paragraph four of Article 4 of the ZKP and appointed a lawyer *ex officio* for suspects. We also asked for information on whether there were cases when the request for a lawyer ex officio had not been granted, and if so, the reasons for rejection.

The MNZ replied that between 1 January and 31 October 2016 police officers discussed (only) two cases of appointing a lawyer according to paragraph four of Article 4 of the ZKP and had appointed a lawyer to the suspects ex officio. It also stated that the **Police had not recorded any cases in which the suspect's request to appoint a lawyer as per paragraph four of Article 4 of the ZKP had been denied**.

When examining complaints, we also encounter issues concerning correctly establishing the (actual) duration of the deprivation of liberty or the recording of this. This issue is illustrated in the following example.

Example:

Another case of an incorrectly recorded period of the deprivation of liberty
In his complaint, the complainant, whose liberty had been deprived and whose detention was later ordered, emphasised among other things that **he had been detained by the police for more than 48 hours**, i.e. longer than permitted by paragraph five of Article 157 of the ZKP. He was supposedly deprived of liberty on 5 February 2016 at 19:10, not at 20:20, as stated in the decision on the deprivation of liberty.

The Ombudsman inquired with the MNZ regarding the circumstances of the complainant's deprivation of liberty. After examining the case, the Ministry replied that police officers at Ptuj Police Station (PS) had collected information regarding a criminal offence on the relevant day and determined that the complainant could have some useful information. For this purpose, they approached him at 19:10 in a bar and verbally invited him to come to the police station as soon as possible to help with enquiries (at the time, he had not yet been suspected of committing the criminal offence). The police officers then drove to the police station in a police vehicle and the complainant followed them in his own vehicle. At the same time, another police patrol, which was at the location also followed him with the purpose of returning to the police station. It was established by the MNZ that they arrived at PS Ptuj at 19:28. The police officers informed the criminal police officer about their findings and he deprived the complainant of his liberty at 20:20 on the basis of the enquiries made, and detained him on the basis of paragraph two of Article 157 of the ZKP. At that time, the complainant was also informed of the rights of persons deprived of liberty. He was taken to the investigating judge of Ptuj District Court on 7 February 2016 at 20:00. The complainant failed to appeal the detention decision. **As per**

paragraph one of Article 66 of the ZNPPol (and in compliance with the Ombudsman's opinion stated several times before that the time when a person who is later detained arrives at a police station or the time taken by the entire police procedure until detention is ordered should also be included in the detention period), the MNZ established that the police officers should have acted accordingly in the relevant case. According to the MNZ, it should have been stated in the detention decision that the complainant had been deprived of liberty at 19:28, not at 20:20. As a result, the time of detention was exceeded by over half an hour.

The Ombudsman believes that this complaint was founded, but it cannot be overlooked that the complainant failed to appeal the detention decision, which became final, including the time when detention began. This case shows that the MNZ and the Police will have to pay more attention to establishing and recording the period of the deprivation of liberty in similar cases. **6.3-30/2016**

Discussion of complaints against police officers

If an individual believes that the conduct or absence thereof of a police officer has violated their rights and fundamental freedoms, they can complain about the officer's work (Article 137 and further articles of the ZNPPol) or use other possible legal remedies (e.g. criminal procedure, civil procedure etc.). **We found no particular deficiencies when discussing these complaints in 2016.**

The Police and Security Directorate at the MNZ supervise the resolution of complaints about the work of police officers as per the ZNPPol. As per the findings arising from complaint cases, the monitoring of the implementation of conciliation procedures and activities implemented within the framework of discussing complaints by appeals senates and when submitting the annual report on resolving complaints in 2015, the Directorate **informed the Police of the need to strive to improve the implementation of police tasks and powers and the handling of complaint procedures in the future**. The Directorate made certain proposals, which we particularly commended, i.e. that the Police: – enhance committed, friendly and respectful relations with clients in police procedures and ensure the suitable conduct of police officers towards detained persons;

- emphasise powers that limit movement and individuals' personal liberty within the framework of regular training of police officers in the field of implementing police powers;
- continue the ongoing monitoring of the work of minor offence authorities, emphasising consistent establishment of the actual situation of discussed offences and the observance of procedural rules of expeditious procedures for offences (the violator's right to make a statement, issuing and serving of payment orders etc.) and further train the heads of police units and their authorised representatives conducting conciliation procedures in the field of communication and mediation skills.

The Sector for complaints against the Police of the Police and Security Directorate at the MNZ also **prepared material** at the beginning of 2016 **in which summaries of founded complaints in 2015 were collected**. The material was prepared in order to prevent unsuitable behaviour by police officers when they implement police tasks and to ensure the consistent observance of the human rights and fundamental freedoms of persons in police procedures, including an order that the material be used by the Police when training police officers. **This is considered a case of good practice, which should be continued.** We are convinced that the findings from the complaints considered can be used as guidance in improving police work and in detecting and eliminating the causes of complaints.

Witnesses to house searches must be impartial

The importance of witnesses to house searches was pointed out already in the 2009 Annual Report (pp. 120–122). A house search may be conducted only in the presence of two witnesses (paragraph four of Article 36 of the Constitution of the Republic of Slovenia). Witnesses oversee the implementation of the search and have the right to make objections before signing the record on the search if they believe that the content of the record is not correct. They are thus a guarantee that a house search is conducted correctly. The police are responsible for providing witnesses. **When selecting witnesses, the police should pay attention to all the**

circumstances which could raise doubts about the witness's impartiality. We proposed that the police be more attentive when selecting witnesses for house searches in the future.

In one of the cases discussed, the **police officers were aware of the fact that an interview had been conducted with the witness** in the procedure against the complainant when selecting the witness and that an official note had been made in this regard, but according to the police this did not affect the witness's impartiality in the search. Before conducting the search, the police officers informed both witnesses in front of all the parties present (including the complainant) about the role of witnesses during the house search and their rights as per paragraph three of Article 216 of the ZKP. A record was made of the house search, which, in addition to the witnesses, was also signed by all the other parties present. The witnesses did not raise any objections to the content of the record. Only the complainant had a comment about the content of the record, i.e. that the defendant should have selected the witnesses, and he also stated that the witnesses had performed their duties correctly.

The complainant believed that by choosing the relevant witness the police had allowed the witness to burden him on the one hand and, on the other hand, defend him or act as a witness in his house search. In the complainant's opinion, as such the witness could not have been an independent witness in a house search as per the Constitution of the Republic of Slovenia and the ZKP. The complainant wanted to provide his own witnesses for the house search whom he would be able to trust, but the police would not allow this.

The police also believed that the task of providing or selecting two witnesses of full age was the duty of police officers, not of the defendant. The MNZ explained that the police officers had observed all circumstances when selecting a credible witness in this case, which could affect their impartiality, and since they did not establish such circumstances they had decided on the witness.

Irrespective of this assessment of the police, **we thought that it was not suitable for a person whose impartiality was doubtful (at least on the complainant's part) to participate in the search in the relevant case**. It was not possible to overlook the fact that the relevant person had obviously provided incriminating information to the police about the complainant and was thus their agent in the search (two statements by this witness were in a proposed order for wiretapping in this case). **Witnesses are a guarantee that house searches are conducted correctly, and the obligation of the police to pay attention to all circumstances when selecting witnesses which could be the basis for raising any doubts about witnesses' impartiality is thus stressed.** It must also be noted that impartiality must be seen or maintained also formally to prevent undermining trust in the witness's cooperation in the search.

Since several problems were found in this field (provision of witnesses) in practice, we have already supported the idea to enact the basis for establishing a court list of persons who could participate in pre-trial proceedings as witnesses during house or personal searches.

Public communication

In its work, the police also inform the public about their work; by doing so, they maintain the transparency of their operations or public communication. **This must be done in a way that does not damage the legitimate interests of others** (paragraph one of Article 34 of the Police Organisation and Work Act). However, when examining complaints in this field, we encounter individuals claiming that they were identified on the basis of information submitted to the public by the police and then discussed by the media unjustifiably, particularly regarding the alleged criminal offences, on which the competent court had not even delivered final judgements. **We emphasise that when communicating with the public the police must particularly carefully weigh in every individual case which pieces of information about a person and to what extent will they be submitted to the public, whereby the subordinate position of a person in relation to the media must also be observed.** It also depends on the result of weighing to what extent and in what way the encroachment upon the right is still permissible, since the question of restoring the right to personal dignity of a person who has been unjustifiably discussed by the media may later remain open in many cases.

2.5.5 Private security and traffic warden services

Security staff and traffic wardens can also severely encroach on human rights and freedoms with the measures they take. Since the **first amendments to the Act on Local Police (ZORed) with the expansion of traffic wardens' powers** are expected, the Ombudsman will be particularly interested in this field in the future.

We did not discuss any complaints in this field which would require our action (with the exception of a few inquiries that were made) due to the operations of security staff or traffic wardens. In 2016, we also explained to several complainants the duties of security guards and their powers, the powers of traffic wardens and possible complaint procedures. We also suggested that complainants pursue complaint procedures, but they failed to contact us later and we were unable to continue the procedures in those cases.

A collective agreement in the private security sector was concluded in 2016 which was considered a significant step in arranging conditions in this sector. In the 2015 Annual Report, we particularly highlighted the issue of the **application or scope of Article 58 of the Private Security Act (ZZasv-1)**. This Article determines that, if, while doing private security tasks, a security guard discovers that a criminal offence is being planned, executed or has been committed for which an offender may be prosecuted *ex officio*, the security guard is obliged, in accordance with the act regulating criminal procedure, to immediately notify the nearest police station or make a criminal complaint with the competent state authority. According to the MNZ, security guards are obliged to implement the provision of Article 58 of the ZZasV-1 also in cases of criminal offences whose offenders are being prosecuted on the basis of complaints, with which one of the security services did not agree.

After obtaining an additional opinion from the Information Commissioner and the Office of the State Prosecutor General of the Republic of Slovenia and the position of the Ministry of Justice, the MNZ replied that the opinion or the position of the MNZ remains valid, since its content received majority support, and has also been realised and implemented in the field by private security entities and the police. It also added that by consistently implementing Articles 51 and 58 of the ZZasV-1 the purpose of the legislators was being followed to include "proposed offences", which is evident from the linguistic and teleological interpretation of the ZZasV-1. The MNZ emphasised that any criminal offence constitutes a threat to life and to property. Security staff (e.g. a security guard) are obliged to respond accordingly to such occurrences as per the Act and inform the police about them, while being aware that security guard's notifications about detected criminal offences are valuable help to the police, including their actions in preventing, detecting and investigating criminal offences. Private security services together with other public authorities contribute greatly to the internal security of the state. With their actions, they also encroach upon fundamental human rights and freedoms, which is why private security is an activity with a strong public interest that is subject to suitable state normative and legal arrangements and supervision. **The MNZ stated that it would examine in detail Article 58 of the ZZasV-1 upon the possible first amending of the relevant Act and it would amend the Article if necessary in a way that prevented any confusion or the possibility of various interpretations when dealing with criminal offences prosecuted on the basis of a complaint**.

2.6 ADMINISTRATIVE MATTERS

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
6. Administrative matters	**415**	**423**	**101.9**	**322**	**56**	**17.4**
6.1 Citizenship	8	7	87.5	5	1	**20**
6.2 Aliens	63	99	157.1	45	5	**11.1**
6.3 Denationalisation	11	14	127.3	13	1	**7.7**
6.4 Legal property matters	43	47	109.3	38	5	**13.2**
6.5 Taxes	80	77	96.3	63	10	**15.9**
6.6 Customs	4	1	25	1	0	**0**
6.7 Administrative procedures	123	96	78	81	18	**22.2**
6.8 Social activities	56	61	108.9	57	13	**22.8**
6.9 Other	27	21	77.8	19	3	**15.8**

2.6.1 Denationalisation

General findings and implementation of the Ombudsman's recommendations

The number of complaints received in 2016 regarding denationalisation points to the fact that, although the Denationalisation Act was passed 26 years ago, denationalisation procedures have still not ended, which is unacceptable. The Government, the Ministry of Public Administration and the Ministry of Justice wrote in their response report that these were complex and demanding procedures, that the share of incomplete procedures was relatively small and that a special inter-ministerial group had been established to accelerate the completion of denationalisation. All of the aforementioned is true; **however, the return of seized property has been underway for over a quarter of a century, which is certainly too long and, according to the Ombudsman, is inexcusable.**

2.6.2 Legal property matters

General findings and implementation of the Ombudsman's recommendations

The average annual number of discussed complaints involving legal property matters is 42; in 2016, we examined 47 complaints, of which the percentage of justified complaints was 13.2 per cent.

Most of the complaints concerned land registry disputes with municipalities, whereby most of the complaints relating to the categorisation of public roads sited on private land were founded. There were many civil disputes with municipalities, which refuse to sell or lease their land or real property and similar. **The Ombudsman is aware that municipalities as local communities enjoy an autonomous status, but this does not mean that they should act arbitrarily, autocratically or with a lack of transparency, as is often stated in complaints received by the Ombudsman and also determined by the Ombudsman.**

Similar findings were recorded in the Ombudsman's 2015 Annual Report (and in previous ones!), but the Government failed to respond to this topic in its response report. As part of this issue, the Ombudsman again highlights the **problem of public roads sited on private land**.

The Ombudsman's recommendation no. 50 (2015), that the Government of the Republic of Slovenia adopt a suitable strategy and schedule specific measures to enable a regulated and lawful situation regarding the general issue of municipal and state roads, was not realised. In the Government's response report, the Ministry of Infrastructure (MzI) described in detail the extent of the issue of categorising all public roads sited on private land and it also provided certain measures. The MzI also added that categorisation was a lengthy procedure, and it proposed to municipalities that they draft analyses of the condition of municipal roads and schedules for arranging situations. The legal obligation to arrange situations would not be feasible for municipalities because of the lack of funds for compensation. The Ombudsman commends the 'sensitivity' of the Government of the Republic of Slovenia and the MzI for resolving the relevant issue; however, merely by describing the situation and presenting minor and very general measures, solutions cannot be expected imminently.

2.6.3 Taxes

General findings and implementation of the Ombudsman's recommendations

In 2016, the Ombudsman discussed 77 complaints relating to taxes; **the percentage of justified complaints was higher than the annual average and amounted to 15.9 per cent**. The complaints covered different topics. The complainants expressed their disagreement with the amount of assessed income tax, taxation of the collective insurance payment, additional taxation of migrant workers and taxation of sportspeople. They thought that taxation of children receiving survivor's pension was unfair and they commented on tax execution.

Relating to exceeded legally determined deadlines for decision making, the Ombudsman mentioned the complaints dealing with a long-term decision making in the complaint procedure about compensation for the use of construction land and the procedure of tax inspection supervision of tax from undeclared income.

What was stated in the last year's report applies also to this year's report: **The complainants not only provided specific violations and irregularities in tax procedures, but they frequently commented on the adopted legal solutions relating to the subject and the amount of taxation, tax relief and other.**

We agree with the finding of the Ministry of Finance in the Government's response report that the arrangement of a tax procedure, particularly with ordinary and extraordinary legal remedies, enables the issue of legal and correct decisions, protection of rights and legal benefits of taxable persons and protection of the public interest. The Ombudsman adds: **The observance of all procedural standards of parties' rights and safeguards for their enforcement is vital due to the coercive nature of taxes.** The Ombudsman believes that the decision

making of tax authorities (FURS and MF) within statutory deadlines is a minimum standard of right of any taxable person.

Cross-border migrant workers

In 2016, we also received a few complaints referring to the taxation of cross-border migrant workers, particularly relating to alleged double taxation, recognition of travel costs and costs of food at work, reduction of the tax base and self-declaration of tax liabilities. We submitted inquiries to the MF and the FURS thereof.

An amendment to the Rules on the implementation of the Tax Procedure Act was passed in the field of payment by instalments; Article 45 of the Personal Income Tax Act (ZDoh-2) was amended in the field of reducing the tax base, and amendments were made to the Tax Procedure Act (ZDavP-2) in the field of self-declaration. All aforementioned amendments entered into force on 1 January 2017. The Ombudsman believes that the anomalies in the taxation of (daily) migrant workers were thus eliminated and that their income tax liability equals that of taxable persons employed in Slovenia.

2.6.4 Residence registration

General findings and implementation of the Ombudsman's recommendations

In recent years, the Ombudsman has discussed many complaints about problems when registering permanent residence. Particularly critical were those in which people lost their dwellings, and as a result also their permanent residences and thus related rights, such as health insurance, social benefits and other. They were unable to register the so-called statutory residence at the address of a social work centre due to insufficient legal arrangements.

The Ombudsman highlighted all the problems occurring in practice due to unsuitable provisions of the Residence Registration Act (ZPPreb) when resolving complaints, meeting representatives of the Ministry of the Interior (MNZ) and also in its annual reports. In 2014, the MNZ agreed that the request to amend the relevant Act was founded, particularly in the section governing so-called statutory residence. It explained that a new legal solution for registering statutory residence at the address of the municipality in which a person lives (without the condition of obtaining material assistance or the condition that the authority agrees with the registration) was anticipated, which now also applies. At the time, the Ombudsman expressed concern regarding the remoteness of statutory amendments and called on the competent authorities to resolve the problem promptly.

It must not be overlooked that the rights of (even more) citizens were violated due to the lengthy procedure of adopting suitable legal provisions; **the Ombudsman also determined with satisfaction that the majority of its recommendations were accepted in the drafting of the ZPPreb-1 and the Ombudsman's recommendation no. 49 (2015) was realised.** We expect that all those implementing the law are also prepared for the changes.

2.6.5 Inspection procedures

General findings and implementation of the Ombudsman's recommendations

In 2016, the Ombudsman discussed many complaints in which the complainants made several claims against the work of inspection services, and they were particularly displeased with (un)responsiveness and lengthy inspection procedures. The issue of the efficient supervision of the inspection services has been topical at the systemic level for quite some time. Inefficient operations of inspection services raise doubts about successful protection of the public interest and the interest of legal entities and natural persons, which can also lead to violations of human rights.

The effectiveness of the currently established system for prioritising reports, inspection and execution procedures depending on the gravity of the violation and determining the level of importance has proved to be questionable, as it opens the door too wide for non-transparency, non-objectivity, and arbitrary decision making. For some time now, the Ombudsman has noted the need to define in advance in a regulation and also publish the priority criteria for classifying reports, inspection and execution procedures depending on the gravity of the violation and determining the level of importance of discussion. This is the only way to suitably ensure the important principles of objectivity, publicity, and transparency of the work of the inspection services, and consequently to better fulfil the rights to equality before the law and equal protection of rights which are protected by the Constitution.

Although it is evident in specific cases that there is no basis for the Ombudsman's intervention, we believe that cases of lengthy procedures must be considered unwarranted from the aspect of violating the principle of good governance and decision making within a reasonable time. Representatives of civil society have also found deficiencies and irregularities in the work of the inspection services, and they consistently point to them at regular monthly meetings with the Ombudsman. The Ombudsman highlights the need for changes when discussing individual complaints and also in its annual reports; since 2007, the Ombudsman's recommendations have included measures to improve the situation in this field. **The staffing deficit must not be a reason for not introducing necessary inspection procedures or for lengthy or unsuitable conduct of already initiated inspection procedures. The Ombudsman thus demands that the Government of the Republic of Slovenia establish an efficient system of inspection supervision, while the operations of the inspection services are a regular topic of annual meetings of the Ombudsman with representatives of the competent ministries.**

2.6.6 Social activities

In this chapter, we present various complaints relating to the field of education and training at different levels which are linked with various administrative procedures taking place at relevant institutions. We discussed complaints from parents of children and minors in nurseries and schools regarding the relationship of expert workers with them, measures taken with regard to violence in schools, the imposition of educational measures and other administrative procedures. We also examined complaints from university students and graduates of teacher-training courses, and complaints regarding sport and culture. The number of complaints received was higher than in 2015.

Problems of university students and graduates of teacher-training courses

University students seeking help regarding the possibility of taking professional examinations in education and training, the possibility of extending deadlines for completing education according to the old study programmes, regarding the food offer for students with celiac disease and various other problems when exercising their rights turned to the Ombudsman.

Professional examinations in education and training

We discussed several complaints referring to the taking of a professional examination after the completion of teacher-training studies. The complainants wrote that they were unable to do practical work at schools, which is necessary for applying to take the professional examination. They expected assistance from the Ombudsman in finding schools where they could be employed for a fixed period or on the basis of a contractual relationship (work contracts) in order to obtain the required number of teaching practice hours, or they expected the Ombudsman to advocate the abolition of the professional examination.

The complainants also believed that the provisions of the ZOFVI and the Rules on the teaching certification examination were discriminatory. A person working in education (e.g. at a university) on the basis of another contractual relationship as per Articles 109, 109 a, or 109 b of the ZOFVI – i.e. an employment contract (Articles 109 or 109 b) or a work contract as per Article 109 a – cannot take the professional examination.

We agreed with the complainants that persons conducting similar work on the basis of a copyright contract, or in one case on the basis of an agreement on business cooperation with a faculty, were discriminated against.

Regarding the issue of professional examinations, we also inquired with the MIZŠ. Furthermore, we pointed out this problem in a meeting with the Minister of Education, Science and Sport. The clarification we received in reply stated that the responsible parties had expanded the possibilities of obtaining suitable teaching practice while working with children as much as possible. The problem lies in conditions in the labour market, since all jobs are taken and the possibilities of employment are rare. The MIZŠ has implemented many measures to provide opportunities for first-time job seekers in education and schooling, but the interest in taking the professional examination is much greater than the available options – also (and particularly) because of graduates from non-teaching study programmes who wish to take the professional examination.

We informed the complainants of the MIZŠ's explanation and clarified that the Ombudsman disagreed with the complete abolition of the professional examination in the field of education and training. The work of a teacher (childcare worker) particularly involves direct work with children, and it would not be appropriate to say that after completing their education a graduate is able to work completely independently in a classroom or with a group of pupils.

Extension of statutory deadlines for completing education according to the old (pre-Bologna) study programmes

We examined several complaints in which the complainants required the Ombudsman's intervention in extending the statutory deadlines for completing education according to the old (pre-Bologna) study programmes. We explained to the complainants that the deadline for completing education according to the old study programmes was determined in 2004 with the Act Amending the Higher Education Act and it had not been changed since then. Representatives of the MIZŠ, the Slovenian Rectors Conference and also the Student Organisation of Slovenia opposed the extension of the deadline. The latter is trying to find a way to amend the Criteria for transferring between study programmes, whereby students who did not finish their education would be able to transfer (with a reasonable number of additional exams!) to similar new Bologna programmes. In our opinion, twelve years was a sufficiently long period in which a person can complete their studies. We thus did not advocate extending the deadline, because we believed that our efforts would not be successful.

The complainants also received clarifications from the competent authorities (faculties and the MIZŠ), which were assessed as fair and compliant with regulations. We further informed them of our opinion that human rights had not been violated.

Student food offer for students with celiac disease

The Slovenian Society for Celiac Disease (Society) sent us a courtesy copy of a letter regarding the preparation of subsidised meals for students with celiac disease. The letter was addressed to the MDDSZ regarding a request that the Ministry supplement the public call for a selection of providers of subsidised student food for 2015 and 2016 so that it would include mechanisms and guidelines for the preparation of gluten-free meals. The Society also submitted its proposals in the form of guidelines.

We made inquiries with the MDDSZ about this issue. In their reply, the competent authorities rejected the reservations of the Society and the Ombudsman regarding the content of published calls for providers of subsidised student food. In our inquiry, we reproached the claims of the competent authorities that they found unconvincing the arguments of the Society and with which they justified why the criteria for the selection of providers of subsidised student food in the call did not have to be formed in a way that would additionally give an incentive to those able to prepare gluten-free meals and also those enabling access for physically-impaired students. We informed the competent authorities that although the public call was prepared in cooperation with the Ministry of Health, the National Institute of Public Health and the Student Organisation of Slovenia, this did not mean in our opinion that subsidised gluten-free meals were guaranteed in all student centres.

We thus agreed with the opinion of the Society that in many towns these students could be in an unequal position compared to others. Also, the accessibility of the selected providers is certainly not of no consequence to physically-impaired students. Although this is a relatively small group of people, they face these difficulties every day at (too) many places, not of their own free will or due to any fault on their part. In its reply, the MDDSZ invited the Society to participate in preparing concrete proposals to improve the situation and to encourage complainants to be more sensitive to the problems of vulnerable groups. We thus expected that the competent authorities would deploy better argumentation to reject the ideas and proposals of the Society (suitable data on the number and distribution of providers according to student centres) and not only in the manner stated in the reply. The Ombudsman believes that if commitments on preparing vegetarian meals and special offers on the basis of religious belief garner additional points for providers in the tender, it would be reasonable for the providers of gluten-free meals to also receive additional points. After the selection of providers, their offer and actual food products would have to be verified accordingly.

We were not successful in our efforts to have the competent authorities supplement the criteria for selecting providers appropriately. The MDDSZ insisted on its position that the call had been prepared in cooperation with all key stakeholders and was thus sufficiently professional and justified. We advised the complainants to submit their proposals particularly with the Student Organisation of Slovenia, since we assessed that the latter had a decisive impact on the MDDSZ.

A delayed payment of tuition fees was the reason for a refusal to issue an examination certificate

The Ombudsman examined the complaint of a student who was in arrears in the payment of tuition fees. She found an option for full-time enrolment in the third year of different faculty so she would no longer have to pay tuition fees. When she wanted to obtain examination certificate, which she needed together with other documents to enrol in the third year as a full-time student, the situation became complicated. A representative of the faculty explained that their management board had decided that she could not obtain the certificate due to unsettled liabilities.

We submitted the Ombudsman's opinion to the faculty, stating that the student had the right to the examination certificate. Since the faculty implements a state-approved programme, it is its duty to issue state-approved documents, irrespective of whether a student settle their financial liabilities or not. There are other methods and paths for recovering such liabilities, but limiting a person's right to information referring to them is certainly not one of them (including information about fulfilled study obligations!). We believe that the certificate of fulfilled study obligations is one such document. We advised the complainant to write to the management of the faculty and ask again for the certificate to be issued, whereby she could refer to the Ombudsman's opinion.

After subsequent inquiry with the complainant as to whether her request had been successful, it was revealed that the faculty had refused to observe the Ombudsman's opinion. The director of the regional study centre wrote in her reply that the certificate could not be issued due to the unsettled financial liabilities and that an enforcement procedure would be initiated. We were not satisfied with this reply and we wrote to the dean of the faculty stating that, in our opinion, the student had the right to obtain the certificate of passing exams and other study obligations. Before the deadline set for the reply, the dean informed us that the student had been issued the certificate.

Culture

We received only few complaints referring to culture, only three. The content of one complaint reflected dissatisfaction due to the denial of the allocation of a recognition allowance, since the complainant believed that her achievements in the field of culture were significant enough to be eligible for the allowance. The second complaint dealt with the revocation of the status of an artist, and the third expressed doubt about the justification of contributions to music events. When discussing these complaints, we explained to the complainants the options and methods for enforcing their expectations.

2.6.7 Citizenship and aliens

We discussed a total of 106 cases in 2016 in the sub-fields of citizenship and aliens, which is 35 cases more than in 2015 (71), whereby the increase occurred solely in the sub-field of aliens (we examined one case fewer in the sub-field of citizenship than the year before). The percentage of founded cases among resolved ones was smaller than in 2015 in both sub-fields (20 or 11.1 per cent, whereas in 2015, they were 28.6 or 20.5 per cent); however, it must be added that many cases opened in 2016 are still being examined (four in the sub-field of citizenship, i.e. the majority, and 48 in the field of aliens, i.e. a little less than half). Most of these cases are complex in terms of content and problems, or are cases of a rather systemic nature. More on these cases can be found below.

In the light of the so-called refugee crisis and increased number of applications for international protection filed in the Republic of Slovenia, the Ombudsman assessed on the basis of paragraph two of Article 9 of the Human Rights Ombudsman Act (ZVarCP) that one of the broader issues that is important for protecting human rights and fundamental freedoms is the quality of decision making in international protection procedures in the Republic of Slovenia. In most of the existing research on international protection procedures in the Republic of Slovenia known to the Ombudsman, quantitative methodological approaches were usually applied, which fail to provide an in-depth insight into the explanation of decisions in the relevant procedures while observing the individuality of each application for international protection. While observing the aforementioned, we decided to conduct **independent research to determine the quality of decision making in international protection procedures**. The research will include a review of decisions issued between 1 January 2014 and 30 April 2016.

More on the Ombudsman's findings regarding citizenship and aliens

We receive many letters discussing circumstances relating to the acquisition of citizenship of the Republic of Slovenia. Opportunities for the Ombudsman's intervention as per the ZVarCP seldom arise either because not all legal remedies have been exhausted (yet) in the matter or because the procedure is still underway, and it is also not evident that the competent authorities are delaying a procedure unjustifiably or clearly abusing their powers, or we assess the lack of irregularities on the basis of positions taken by the competent authorities in the case or from their conduct. We thus frequently clarify that the acquisition of citizenship by means of naturalisation is not a right in itself. This field is mainly characterised by the internal law of sovereign states, which means that they also determine conditions for naturalisation, which may reflect the specific interests of the state and thus some degree of discretion. In Slovenia, the key regulation in this field is the ZDRS, which determines the manner of, and conditions for, the acquisition and cessation of citizenship of the Republic of Slovenia; in some aspects, the ZUP is also applied. In 2016, we thus intervened only in one such case (described in detail below). Incorrect conduct by one of the Slovenian embassies regarding an application for Slovenian citizenship was revealed in the relevant case.

Among other things, we think that the criteria for establishing sufficient means of subsistence in the case of family reunification should be determined more clearly and precisely, and the ZTuj-2 should be harmonised with the provisions of the Social Assistance Benefits Act (ZSVarPre), which lays down in Article 26 the criteria for determining the amount of minimum income per individual family member in such a way that the full amount of minimum income is not determined for family members, but is reduced by a certain percentage. **The Ombudsman also proposes that the criteria for establishing sufficient means of subsistence for various categories of aliens be harmonised, since it was revealed in practice that sufficient means of subsistence are being established in different ways regarding their source. The Ombudsman also believes that the unification of the aforementioned in an executive act would greatly facilitate the work of the authorities of first instance**.

In one case, the question of the actual age of an applicant for international protection from Afghanistan, who was first considered a minor and then of full age, was raised. The original birth certificate revealed that he was a minor, while a copy of the passport from the visa procedure showed that he was of full age. On the basis of documentation attached to the complaint, file documentation obtained when accessing the file and the MNZ's reply to our inquiry, we assessed that there was still doubt in the case about the actual age of the applicant.

In this case, the Ombudsman eventually took advantage of the option provided in Article 25 of the ZVarCP, i.e. it addressed its opinion as a so-called friend of the court (*amicus curiae*) in open judicial proceedings to the Administrative Court of the Republic of Slovenia. In points 93 to 95 of its ruling, ref. no. I U 433/2016 of 24 August 2016, the relevant court discussed the circumstances relating to the procedure conducted by the Ombudsman.

Example**:**

Doubt about the age of an applicant for international protection

A legal representative of an applicant for international protection from Afghanistan wrote to the Ombudsman claiming that the applicant was first processed as a minor and then (still during the procedure) as an adult. The original birth certificate (*tazkira*) was supposedly in his file, which proved that he was a minor, and a copy of the passport from the visa procedure obtained from the Italian Republic at the MZZ's request, which stated that he was of full age.

The Ombudsman first decided to examine the applicant's file at the International Protection Procedures Division of the Migration Office at the MNZ, whereby it was not possible to deduce all the relevant circumstances on the basis of the file documentation, and we thus submitted an additional inquiry to the MNZ.

After examining all the collected materials, we were able to ascertain that the relevant party had travelled to the European Union with a valid visa issued by the Embassy of the Italian Republic on behalf of Slovenian authorities at the invitation of the Slovenian Cricket Association to participate in a competition in Slovenia. The complainant had entered the European Union in Sweden in October 2014 and immediately (1 October 2014) applied for international protection. On 13 October 2014, the Swedish immigration authorities submitted a request to the Republic of Slovenia to assume responsibility for discussing the application according to the Dublin III Regulation. The Republic of Slovenia received the request to assume responsibility on 22 November 2014. The complainant was handed over to Slovenia on 15 July 2015, where he submitted an application for international protection on 16 July 2015.

In its reply to the Ombudsman's inquiry, the MNZ stated among other things that the applicant was considered an adult because he had already submitted an Afghan birth certificate to the Swedish authorities, who considered him an adult on the basis of the passport and data from the passport and then handed him over to the Republic of Slovenia. The MNZ concluded that had the Kingdom of Sweden determined and accepted the applicant's claims that he was a minor as true, he would have been processed by the relevant country. We assessed such clarification as insufficient, since it failed to state the MNZ's position regarding the applicant's claims that he had managed to obtain the birth certificate only after arriving in Sweden and he had also submitted it to the Swedish authorities four months after his arrival. While also observing the fact that the request to assume responsibility was dispatched thirteen days after his arrival and received more than a month after the application was filed, we were of the opinion that there was a significant probability that the Kingdom of Sweden had not received the birth certificate because of the already instigated return procedure and the fact that the Republic of Slovenia had accepted its responsibility to discuss the application.

The MNZ further explained that it arose from the visa documentation that the Afghan Ministry of Foreign Affairs had submitted 14 passports to the Embassy of the Italian Republic in Kabul, including the passport of the relevant party (now discussed by the Ombudsman) with a request that 14 sportspeople wished to attended a cricket competition in Slovenia. Regarding the fact that the Afghan Ministry of Foreign Affairs submitted the request to the Embassy of the Italian Republic for the issue of a visa on the behalf of the complainant and that communication took place between two state authorities, the Embassy of the Italian Republic was determining the identity of the complainant by means of his passport. The MNZ added that it was unknown whether the Embassy of the Italian Republic had implemented any other identification procedures or verified the authenticity of the document submitted by the Afghan Ministry of Foreign Affairs. With regard to establishing the complainant's connection with the Afghan cricket team, the MNZ stated that an interview had been conducted with him during which he said that he had not known anyone from the group with which he travelled, and because he denied this connection, the MNZ made no further inquiries as to whether the invitation from the cricket association was real or if the team had actually arrived in Slovenia. We also determined in this section that the actual situation was not sufficiently clarified. It was understood from the information submitted by the MNZ about the country of

origin that birth certificates and passports were easily forged and that such forgeries are quite frequent there. The MNZ also failed to determine how the visa procedure was conducted by the Embassy of the Italian Republic and how the authenticity of passports was verified. Regarding the fact that the applicant stated in his application that he had to pay USD 17,000 to his facilitator to arrange documentation and that it was evident from information about the country of origin that between USD 500 to 700 had to be paid in Afghanistan for a forged passport, the aforementioned high price could have been the result of a bribe to arrange the visa.

The Ombudsman thus assessed that it was not impossible that the complainant had obtained the visa on the basis of a forged passport, and that findings regarding the travel and competing of the Afghan cricket team and the finding about how and in what manner the Embassy of the Italian Republic had conducted the visa procedure would contribute to clarifying the actual situation about the authenticity of the passport used in the visa procedure.

It must also be added that it was evident from the expert opinion of the National Forensic Laboratory at the General Police Directorate found in the file that no signs of forgery had been found on the complainant's birth certificate; however, they were unable to establish its authenticity or falsity. In this regard, the MNZ explained that it was possible to deduce from previous procedures of international protection involving applicants who were Afghan citizens that Afghan birth certificates were falsified very easily, which was also understood from the obtained information about the country of origin; regarding the rather general reasoning of the MNZ, the Ombudsman assessed that the actual situation was not sufficiently clarified to arrive at a conclusion about the authenticity of the passport on the basis of the aforementioned. After all, the matter involved only a copy of a passport, on the basis of which it was impossible to determine whether the passport was authentic.

A signature was on the aforementioned copy of the passport which the applicant claimed was not his, and the MNZ failed to clarify to the Ombudsman its position on these circumstances and why an expert graphologist had not been engaged to eliminate any doubts in this regard. The relevant ministry stated merely that the complainant had consciously participated in the production of this passport and then he also used it for his journey to the European Union. The Ministry also added that if the complainant did not sign the form for the production of the passport, he was certainly well acquainted with its content, and it also highlighted that a criminal offence of falsifying an official document had been committed by arranging or providing false data in the application for the passport, as was supposedly done by the complainant. Considering the complainant's allegations that the signature on the passport was not his, the Ombudsman assessed that the examination by the expert graphologist would contribute to clarifying the actual situation. The signatures on the application for international protection and on the copy of the passport differed in appearance. When submitting the application, the applicant also stated that he had no passport, that he had not signed it and that it had been arranged by his facilitator. If the complainant had actually not signed the passport, the document could be understood as forged, and it would thus be an unreliable document for establishing the age of the complainant. We also permitted the possibility that the applicant was acquainted with the content of the passport, but nevertheless he also claimed that he had been prosecuted in Afghanistan, which gave rise to the possibility that he was willing to do anything to leave the country. In such circumstances, we assessed as unsuitable the accusations that he had committed a criminal offence.

On the basis of the aforementioned, the Ombudsman assumed the position that the doubt about the applicant's age was too great. While observing the fact that minors are a vulnerable group to which the International Protection Act in compliance with adopted international commitments dedicates special attention, we believed that additional evidence would have to be provided in accordance with the principles of the best interests of the child and best interests of the client. We highlighted establishing the authenticity of the signature by an expert graphologist and the age by a medical expert as evidence which could probably contribute most to eliminating doubt about the complainant's age. The latter was also requested several times by the complainant through his legal representative.

After the MNZ issued a decision that the request for international protection be granted on the basis of Article 33 in connection with item 3 of Article 3 of the ZMZ and the applicant was granted a subsidiary protection status for three years, an administrative dispute was instigated. In the lawsuit, the plaintiff did not object to the decision of the defendant that the conditions for granting subsidiary protection had been met, but he believed that the contested decision was incorrect to the extent that refugee status had not been granted to him, and he

thus only contested the decision in the section in which it was decided that he failed to meet the conditions for receiving refugee status, and he proposed that the court only determine and decide that the plaintiff met the conditions to be granted refugee status. When we learnt about this administrative dispute, the Ombudsman submitted its opinion on the basis of Article 25 of the ZVarCP to the Administrative Court of the Republic of Slovenia. The content of the opinion was the same as described above. On 24 August 2016, the relevant court decided in case ref. no. I U 433/2016 that the MNZ's decision no. 2142-304/2014/70 (1312-09) of 23 February 2016 should be overturned and the case returned to the defendant for reconsideration. The Administrative Court of the Republic of Slovenia was of the opinion that errors and deficiencies were confirmed in the assessment of evidence of the contested decision implemented in the conduct of the fact-finding procedure and the taking of evidence before issuing the decision.

Both parties appealed the above decision: the defendant against the infringement of essential procedural requirements of the administrative dispute procedure, incorrect use of substantive law, and incorrect and incomplete establishment of the actual situation. The defendant proposed that the Supreme Court of the Republic of Slovenia comply with the complaint and change the contested ruling by rejecting the action, or alternatively annul the ruling and return the case to the court of first instance for reconsideration. With the ruling and decision ref. no. I Up 283/2016 of 3 November 2016, the highest court in the country actually complied with the defendant's complaint. It overturned the ruling of the Administrative Court of the Republic of Slovenia and returned the case to the Administrative Court of the Republic of Slovenia for reconsideration.

The Ombudsman also submitted a proposal for priority consideration of the application for international protection

The Ombudsman learnt about a request addressed by two applicants to the MNZ for urgent consideration of an application for international protection. In their request, they expressed great distress, while worrying about their children who remained in the country of origin, where their lives were at risk. The applicants hoped that their application for international protection would be discussed as soon as possible, so they could exercise the right to family reunification.

After examining the request, we were of the opinion that the circumstances of the case discussed justified the applicants' request for priority consideration, and we also supported it, whereby we justified the request for priority consideration submitted to the MNZ with reasons of the applicants and the reasons of their children. It was possible to ascertain from their statements that serious concern for the lives of their children left them 'paralysed with fear', which affected their mental health. The female applicant recently had a difficult labour and the baby's health was poor, which was an additional burden on the mental state of the female applicant (and consequently on the baby). In Article 2, the ZMZ-1 defines the term "vulnerable person with special needs" with an exhaustive ('particularly') provision of certain categories of persons, and in Article 48, the Act determines prior consideration of applications in cases of vulnerable persons with special needs (and for cases when the measure of a mandatory stay in the area or section of the Asylum Centre or the measure of restricted movement to the Aliens Centre are ordered for the applicant).

We particularly stressed the situation of the applicants' children, who are in Iraq, and thus the related provision of Article 3 of the Convention on the Rights of the Child, whereby the best interests of the child must be a primary consideration in all actions concerning children undertaken by administrative authorities and courts. The relevant case revealed that the applicants' children had lived in Iraq without their parents for a year. The applicant's family who take care of them pretend that the children belong to the applicant's older brother, since they would have been killed out of revenge and pressure on the applicant if their true identities were revealed.

According to the Ombudsman, the authority should have discussed the applicants' case with priority from the procedural aspect if they were to follow the guideline of the best interests of the child under Article 3 of the Convention on the Rights of the Child. To substantiate this, we highlighted that similar argumentation in favour of the absolute priority consideration was also adopted by the Constitutional Court of the Republic of Slovenia (see page 207 of the 2014 Annual Report for more on this matter). In its reply, the MNZ stated that the case was being resolved with priority and quickly, while still observing all the necessary procedural acts.

Example:

Incorrect conduct by a Slovenian embassy regarding an application for Slovenian citizenship
A Serbian citizen of Slovenian descent wrote to the Ombudsman claiming that he had filed an application for Slovenian citizenship at the Slovenian Embassy in Belgrade in October 2015 and failed to receive a reply. The complainant was certain that he was entitled to Slovenian citizenship because his mother was a Slovenian citizen at the time of his birth in 1949 and because he was born in Slovenia.

The Ombudsman inquired about the circumstances of the case at the MNZ and the MZZ. We first determined that the Embassy of the Republic of Slovenia in Belgrade had already asked the MNZ for an additional explanation regarding the application for Slovenian citizenship on the basis of Article 4 (which stipulates the conditions according to which a child may obtain citizenship of the Republic of Slovenia by origin) of the ZDRS, since the complainant persistently requested the application for Slovenian citizenship on these grounds. The Ministry thus submitted to the Embassy an extensive explanation of the provision of Article 41 in connection with Article 4 of the ZDRS. Among other things, it was explained that the provision of Article 4 of the ZDRS applied only to persons born after 25 June 1991 when the ZDRS entered into force, and thus this provision could not apply to the complainant. Furthermore, an application for Slovenian citizenship is only possible until a person reaches the age of 36, to which the Ministry added that, in cases of Slovenians living abroad who did not meet the conditions for the application or if this status could not be arranged due to non-fulfilment of the conditions within the fact-finding proceedings, embassies are usually directed to file applications for Slovenian citizenship as per Article 13 of the ZDRS on the basis of national interest. After this letter, the Ministry received no other application from the complainant or the Embassy.

The Ombudsman then made inquiries at the MZZ. This Ministry replied that the Embassy was in constant contact with the complainant and that he also received information regarding the application for citizenship. It was explained to him that an application as per Article 4 of the ZDRS was not possible in his case, but he could apply for Slovenian citizenship on the basis of Article 13 of the relevant Act, i.e. by means of extraordinary naturalisation (this clarification was explained to him again on 20 October 2015, when he was in contact with the consular department of the Embassy). The Ministry also added that it was not acquainted with the concrete procedure, because it does not conduct procedures relating to the acquisition of Slovenian citizenship, and it was also impossible to provide clarifications on the phase of the procedure, since an application for Slovenian citizenship as per the ZDRS had not even been filed.

While observing the aforementioned, the Ombudsman decided to submit to the MZZ its reasoned opinion on the matter. We first pointed out that the complainant had submitted a copy of the actual application with which he applied for the Slovenian citizenship, equipped with a stamp of the Embassy and the code of the case. Since he supposedly had not yet received a reply to the above application, we added that in our opinion the relevant application would have to be decided on as per the ZUP, which the competent authority had failed to do. On that note, we added that we believed that the Embassy wanted to work in favour of the complainant when it provided him with information; however, the mere provision of information regarding such application cannot suffice, and the procedure stipulated by the ZUP would have to be implemented in the relevant case and a decision should have been made in the matter.

The MZZ responded with the clarification that the complainant had failed to provide all the attachments to his application and that they also had not received his subsequent request for decision making about the application, which is why they were unable to submit the documentation for decision making. The Ministry further ensured that it would immediately send the MNZ's letter to the complainant with clarifications regarding the acquisition of Slovenian citizenship and ask him to file an application for the acquisition of Slovenian citizenship, whereupon such application would be sent immediately to the competent administrative unit for decision making.

The Ombudsman thus concluded that the Embassy of the Republic of Slovenia in Belgrade had failed to act in compliance with the principle of good governance, since it had failed to ask the complainant to supplement his application, which the Embassy supposedly did after our intervention.

Example:

Non-compliance with the ZTuj-2 regarding the service of documents compromised the complainant's right to privacy and refuge

A citizen of Iran with refugee status recognised in the Republic of Slovenia wrote to the Ombudsman. On the basis of Article 47a of the ZTuj-2, the complainant requested family reunification (i.e. his mother and father) in our country. His application was rejected with a decision, which was sent to his parents in Iran in the Slovenian language, containing all the personal data of the complainant. He claimed that the letter with the decision received by his parents had been opened, whereby it was not known who had opened the letter or if it had been examined by the Iranian police.

It was particularly highlighted in the complaint that the official who had conducted the procedure and sent the decision to the complainant's parents in Iran had endangered the complainant's life and the life of his brother who had also obtained a refugee status in the Republic of Slovenia. Since they have been in Slovenia, he and his brother have not sent anything to their parents by mail, of which they were warned by officials who cover the field of integration at the MNZ.

In its reply to the relevant Ombudsman's inquiry, the MNZ stated that the complainant and his brother had been granted refugee status in the Republic of Slovenia in 2012. In 2015, the complainant filed requests for a permanent residence permit for a family member/refugee for his father and mother. After examining the entire file documentation, the MNZ issued a decision rejecting the complainant's requests, since, as persons who have their own means of subsistence, and it was thus not their son's duty to support them, the parents are not considered family members as stipulated by Article 47a of the ZTuj-2. The relevant decision was served to the complainant's representative.

The MNZ continued that paragraph eight of Article 47a of the ZTuj-2 determines that a decision in the procedure for issuing a permanent residence permit (issued permanent residence permit, decision on refusal to issue a permit, decision on suspension of the procedure and decision on dismissal of the request) is also served to the family member of an alien through a diplomatic representation or a consulate of the Republic of Slovenia abroad. Since the Republic of Slovenia has no diplomatic representation or a consulate in Iran, the MNZ sent the decision in this case to the complainant's parents by mail. The diplomatic representations or consulates of other Member States of the European Union do not implement the service of documents on the behalf of the Republic of Slovenia to foreign citizens. The Ministry concluded that the complainant and his brother had been granted refugee status in the Republic of Slovenia and were thus safe from prosecution by their country of origin, and considering the fact that they had been granted refugee status, the constitutional provision on the right to refuge had also been observed.

The Ombudsman assessed the complaint as founded. We advocated the position that the conduct of the competent authority in this case was contrary to the principle of good governance, and the complainant's right to privacy and his right to refuge had been compromised. The ZTuj-2 does not anticipate the service of documents to family members of aliens by mail. The reason for that may lie in the fact that personal data are being handled, which are particularly delicate. The handling of personal data of applicants for international protection and persons granted international protection must be particularly careful, since the disclosure of the personal data of these people to their country of origin could have damaging consequences for them and their family members who remain in the country of origin. The right to privacy, which protects a person from arbitrary and unlawful interference in their privacy, is a personality right guaranteed to everyone at the international level. This right is generally defined as a person's right to be informed of the processing of their personal data, to obtain these personal data in an understandable form without undue delay or costs, and to have the option to make suitable corrections or deletions in the case of unlawful, unnecessary or incorrect provision of data. States are obliged to adopt efficient measures to ensure that information relating to a person's privacy is not obtained by third parties who would use it for purposes incompatible with human rights law. Regarding the confidentiality of data, general international legal principles stipulate that the disclosure of a person's information to a third party must not endanger the person's safety or cause the violation of their human rights.

On the basis of the aforementioned, the Ombudsman believed that the described conduct of the MNZ in the relevant case had insufficiently observed all the possible consequences of the service which was performed.

We were not informed of the actual harmful consequences; however, the Ombudsman believes that such conduct by the MNZ compromised the complainant's rights to privacy and refuge. The Ombudsman also did not receive the MNZ's explanation about the violation of the right to refuge, since it encompasses not only the granted refugee status, but also the country's duty to ensure privacy to refugees and prevent the submission of information to the country of origin. **(5.2-35/2015)**

Amendments to the ZTuj-2D

There was a great turmoil in the last quarter of the year regarding amendments to the ZTuj-2. These legislative changes were also the result of recent events in the field of global migration, which had the greatest direct effect on the country in the last third of 2015 and the first quarter of 2016 (the so-called refugee crisis, or the first and second waves of refugees). These were thus not the first amendments that underwent intensive discussion when facing the reality in the field of social developments. The ZObr received severe criticism after the sudden adoption of amendments to the ZObr-E in October 2015, which resulted in new extraordinary powers being granted to the army within the broader framework of state border protection. Within three and a half months of its adoption, the Ombudsman filed a request for a review of its constitutionality, with which we were unsuccessful in convincing the Constitutional Court. Similarly, as the result of setting up means for preventing unauthorised border crossings along the River Kolpa at the beginning of December 2015, the Ombudsman received a proposal to file a request for a review of the constitutionality of Article 8 of the ZNDM-2; however, upon examining the relevant circumstances for over two months, the Ombudsman decided not to file the request. This Act was later also amended (amendments to the ZNDM-2B).

Relating to the amendments to the ZTuj-2D, it must be said that the Ombudsman did not receive even its draft proposal from the ministry responsible for drafting the amendments, i.e. the MNZ. At the beginning of September, the president of one of the NGOs forwarded to us the proposed amendments to the then applicable Act drafted by the Ministry, who also stated that the MNZ had published the amendments to the ZTuj-2D "in an utterly non-transparent manner. The proposal was published already in mid-July, whereby it was (supposedly in error) dated as if published on 18 April 2016. The Act was thus 'hidden' on the e-demokracija website among older publications and was never seen on the first page among the proposals for regulations. The proposal was never published on other websites (including the MNZ's website under 'proposals for regulations')." The Ministry responded to these claims with letter no. 214-70/2016/19 (1311-05) of 19 September 2016 stating that "the proposed amendments to the ZTuj-2 were published on the e-demokracija website on 18 April 2016 as per the requirements of the Resolution on Legislative Regulation, whereby NGOs and other interested public were already enabled to participate in drafting amendments to the ZTuj-2."

The Ombudsman submitted its comments on the draft amendments to the ZTuj-2D to the MNZ on 21 October 2016. At the beginning of November, the relevant ministry assured us it would examine our comments and proposals, and would try to observe them reasonably. **It would also forward to us the final version of the proposed amendments**, **which did not happen.** It was revealed that the Government of the Republic of Slovenia had decided on the text of the proposed ZTuj-2D on 5 January 2017 and submitted it for discussion to the National Assembly of the Republic of Slovenia for urgent legislative procedure, whereby this material was finally published in the legislators' computer network on 10 January 2017. The Ombudsman again contacted the MNZ and requested to be informed about which of its comments and proposals submitted in the previous year had been 'reasonably observed' in the final proposal of amendments, and of the concrete reasons for the remaining comments and proposals submitted by the Ombudsman not being 'reasonably observed' in the final proposal of amendments. We also asked which measures would be used to actually ensure the efficient implementation of the measure of the newly proposed Article 10b (the conducting of an alien by the police to the national border and transferring them to the country from which they had illegally entered) if circumstances occur again similar to the experience from the first and second waves of mass migration when, for example, (as also noted by the proposer of amendments) the implementation of the agreement on extradition and acceptance of persons between the Slovenian and Croatian governments proved to be 'very aggravated'.

From the time when the proposed ZTuj-2D became available at least via the governmental or the National Assembly's websites and until the anticipated 50th emergency meeting of the Committee on the Interior, Public

Administration and Local Self-Government of the National Assembly of the Republic of Slovenia convened on Friday, 20 January 2017 at 12:00, not enough time had passed, particularly with regard to the complexity of the content to be discussed. Unfortunately, such situations seem more and more usual. In this regard, let us note, for example, that at its 58th regular session on 20 October 2015, the Government of the Republic of Slovenia decided on the text of the proposed ZObr-E, which granted certain extraordinary powers to the army, and the National Assembly of the Republic of Slovenia passed the relevant amendment already on 21 October 2015. In the past, the Ombudsman clearly communicated to the MNZ that the time earmarked for the submission of comments within the inter-ministerial coordination to the then proposed amendments to the ZPol "**was decidedly too short to enable a thorough examination of the material and preparation of suitably substantiated positions within the deadline in addition to the regular work of the Human Rights Ombudsman /of the Republic of Slovenia/**" (the aforementioned proposal was received on 20 March 2009 and the deadline was 31 March 2009). **Logically, the same may be repeated also regarding the described situation relating to the aforementioned proposal of the ZTuj-2D**, where the proposed amendments are even more profound. In its past reports, the Ombudsman mentioned several times that the hasty adoption of legislation may result in thoughtless, incomplete and unfortunate solutions, and it would be even more absurd if the Ombudsman decided to take hasty decisions.

We proposed several amendments to the ZTuj-2, and at this point, we wish to highlight (repeat) particularly two of them.

The Ombudsman believes that the ZTuj-2 could be amended in a way that allows in exceptional cases the filing of the application for the first residence permit and the submission of fingerprints at the competent authority in the Republic of Slovenia; the Ombudsman is of the opinion that such a change would be necessary, since **we have established on the basis of discussing complaints that situations occur in practice when a person is already in the Republic of Slovenia and must go abroad to file the application for the first residence permit, which is not compliant with the principle of efficiency**. For example, a law firm contacted the Ombudsman this year which wanted to obtain an opinion about the acquisition of the first residence permit for an eight-month-old daughter of an alien with a single work and residence permit obtained in the Republic of Slovenia. The daughter entered the Republic of Slovenia together with her mother on the basis of a Schengen visa. As per the applicable arrangements, the mother was unable to arrange the residence permit for the daughter in the Republic of Slovenia and was directed to the diplomatic and consular representation in Moscow by the administrative unit. The mother was forced to return to Kazakhstan with her daughter and then travel to Moscow to submit fingerprints (according to the law firm, the administrative unit submitted the application filed by the mother to the diplomatic and consular representation in Moscow). In our opinion, this case points to an impractical arrangement and does not pursue the best interests of the child and is also not complaint with the principle of efficiency. In 2013, the Ombudsman discussed a complaint by parents who had temporary residence permits in the Republic of Slovenia for several years, and their minor son also had the same permit. Due to the son's medical condition and hospitalisation and incorrect instructions of an official, the parents missed the deadline for filing the application to extend the temporary residence permit for their son, which is why their application was rejected. They were instructed to file the application in the country of origin. Since the family could have been at risk there, and in the opinion of the Ministry of Foreign Affairs, the minor was then taken to a neighbouring country, where the application was filed on his behalf at our diplomatic and consular representation. The cases discussed reveal that it is necessary to amend the Act in a way which allows in certain exceptional cases for the application for the first residence permit and for fingerprints to be submitted at the competent authority in the Republic of Slovenia.

Discrimination of preschool and school children when obtaining temporary residence permits

In 2015, the Ombudsman discussed a complaint regarding alleged discrimination of preschool and school children when acquiring temporary residence permits. The complainants claimed that preschool children were in a worse position compared to school children, since parents are able to obtain temporary residence permits for preschool children only one year after residing in the Republic of Slovenia, while an independent legal basis applies for obtaining temporary residence permits for school children on the basis of schooling in the Republic of Slovenia. At the time, the MNZ assumed the position that preschool children could obtain temporary residence permits on the basis of the exemption stipulated by Article 47 of the ZTuj-2. The Ministry referred to the provision that an alien with a temporary residence permit may reunify family members if this is in the interest of the Republic of Slovenia without limitations regarding residence or the validity of the permit.

In our opinion the second option is the temporary residence permit stipulated by indent four of Article 35, i.e. a temporary residence permit for other valid purposes and reasons, or in the interests of the Republic of Slovenia. This permit is defined in more detail in Article 51 of the ZTuj-2, which does not stipulate more precisely what these valid reasons are, but instead refers to the Act, international instruments or international principles or customs. The administrative practice has formed a position about what these valid reasons are (receipt of pension in Slovenia, ownership of real property, hospital treatment etc.), but this cannot be closed set of valid reasons, since valid reasons are established on a case-by-case basis.

The Ombudsman assesses that Article 51 of the ZTuj-2 could apply in the case of preschool children, while referring to the Convention on the Rights of the Child and the child's best interest to live with their parents. However, when submitting the application on the basis of the above Article, this must be particularly justified and assessed on a case-by-case basis.

Tolerated long-term illegal residence in the country

After discussing complaints over a lengthy period, the Ombudsman assessed that one of the broader issues relevant to the protection of human rights and fundamental freedoms was the systemic arrangement of the status of people whose illegal residence in the Republic of Slovenia has been tolerated for a long time. When discussing complaints with the relevant content, we assume that there are many such cases, since not everyone seeks legal assistance or addresses a complaint to the Ombudsman. Below, we briefly present two cases of complainants whose residence in the Republic of Slovenia was tolerated for a long time and whom the Ombudsman believes should be granted the right of residence.

One of these complainants was an erased citizen of the Republic of Slovenia who has been living here since 1976. For four continuous years, Caritas of Maribor Archdiocese covered his costs of residing with a woman with whom homeless people were living illegally. After her death, he was removed from her house. The complainant has no income and has never arranged his status in the Republic of Slovenia. He missed the deadline for the submission of a complaint as per the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia (ZUSDDD).

A four-member family of complainants has lived in Slovenia since 2004, when they applied for asylum, which was rejected. They lived legally in Slovenia between 23 November 2011 and 23 November 2013, when they were issued temporary residence permits. In January 2016, they received a court decision determining a 30-day deadline to leave the country. On 24 June 2016, they filed a complaint against the return decision through a lawyer, which was rejected. On 29 June 2016, they filed an application for permission to stay. Due to non-refoulement (inadmissibility of returning Roma to Kosovo from where they fled in 2004 due to discrimination), the police issued eleven consecutive six-month permits to stay, and the family later obtained temporary residence permits on the relevant basis. The family have lived in the Republic of Slovenia continuously for 12 years, and in this long period they had undoubtedly arranged their private and family lives. It was evident from a primary school certificate from Maribor that the daughter had been regularly attending school since 13 September 2005 and was participating in learning activities, which would also be implemented in the future.

The existing legislation provides certain possibilities for arranging the status (issue of permission to stay and the possibility of obtaining a temporary residence permit after two years); however, the Ombudsman established in the discussed cases that this is not a permanent solution because in most cases the application to extend the temporary residence permit is then rejected, and people again find themselves in the same situation as before the issue of the temporary residence permit. **The Ombudsman thus assessed that the ZTuj-2 would have to be amended in order to ensure the right to respect for the private and family life of these people arising from Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: ECHR).**

Our opinion regarding long-term toleration of residence also arises from the practice of the European Court of Human Rights (hereinafter: ECtHR), which in the case of *Üner v. the Netherlands* refers to Recommendation 1504 (2001) of the Parliamentary Assembly asking the Committee of Ministers to call upon Member States to ensure that aliens born or raised in the host country and their under-age children are not expelled or prosecuted

under any circumstances. Expulsion of an alien whose residence in a country has been tolerated for a long time is executed on the basis of the recommendation only if the alien has been convicted of a criminal offence which poses a serious threat to the safety of the country. In the same case the ECtHR advocates the opinion that an alien may be expelled from a country in spite of their long-term stay and high level of integration only if this is necessary in a democratic society due to the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others (item two of Article 8 of the ECHR). When expelling an alien, the country must particularly observe the proportionality between the interests of the individual on the one hand and the interests of the country, including its right to control the entry and residence of aliens, on the other hand. The ECtHR formed the conditions in the case of *Boultif v. Switzerland* on the basis of which the expulsion is justified from the viewpoint of necessity and proportionality regarding the legitimate interests of the country. The conditions particularly include the length of residence in the country (the longer the stay, the less necessary and proportionate is the measure), nature and severity of the possible criminal offence, the time that passed from the commitment of the criminal offence and the alien's family situation. In the above case of *Üner v. the Netherlands*, the ECtHR also added the criterion of social, cultural and family ties in the host country and the country of origin. If an alien has no developed social, family and cultural network in the country of origin, and has on the other hand strongly developed social, family and cultural ties in the host country as the result of long-term tolerated residence, the host country cannot expel them due to the disproportionate nature of the measure. The Court emphasises that the fact if the alien spent most of their childhood in the host country and also obtained education are important factors. Even if an alien has no family in the host country or any family ties, the relations with other people and the outside world by means of which an individual builds a social network are also important within the framework of Article 8 of the ECHR and the right to private life. As part of the right to private and family life, the Court also considers the right to personal development as very important, which is impossible if an alien is completely integrated in the society on the basis of long-term tolerated residence and has no cultural or social network in the country of origin. In the case of close personal ties and contacts, the case law of the ECtHR thus considers the expulsion of an alien a violation of the right to respect for private and family life (*Butt v. the Netherlands*). In the case of *Rodrigues da Silva and Hoogkamer v. the Netherlands*, the ECtHR found the Netherlands guilty of violating Article 8 of the ECHR, because the expulsion from the Netherlands in spite of the applicant's illegal residence was not a justified and proportionate measure for implementing foreign policy. The factors which the Court observed in this case were the close connection of the applicant with the host country, obstacles to establishing family life in the country of origin and possible history of violations of refugee law. When weighing the interests of an individual (right to granted residence) and the interests of the society (a country's right to coordinate asylum policy and supervise the crossing of state border), a country certainly enjoys a certain degree of sovereignty; however, in the above cases, the Court particularly considered the possibility of the individuals' further personal development and maintenance of contact with their families (e.g. the case of *Gül v. Switzerland*).

It also arises from the case law of the ECtHR that strong reasons must exist for the legitimacy of the measure of expelling an alien who has legally spent most of their childhood and youth in the host country, which was emphasised in the case of *Maslov v. Austria*, in which the ECtHR accused Austria of violating the right to private and family life. Strong ties with, and the length of stay in, the host country and the difficulties which would accompany a possible relocation (expulsion) from the United Kingdom to Nigeria were considered factors due to which expulsion from the country was not proportionate regarding the otherwise legitimate objective in the case of *Omojudi v. United Kingdom*, in which the ECtHR ruled that the United Kingdom had violated Article 8 of the ECHR. In the relevant case, the ECtHR also referred to the term 'settled migrants', which is not necessarily linked to residence in the formal and legal sense. The case of *Jeunesse v. the Netherlands* was particularly in favour of justifying the legislative arrangement of long-term tolerated residence, in which the ECtHR ruled that the Netherlands had violated Article 8 of the ECHR because it failed to observe the extraordinary circumstances and did not exempt the applicant from the obligation to obtain a temporary residence permit before she could apply for a permanent residence permit. Although the applicant failed to leave the country in spite of the expulsion, her stay (residence) in the host country was undoubtedly tolerated for a significant period by the Dutch authorities. The tolerated long-term stay actually enabled the applicant to develop and establish strong family, social and cultural ties in the host country.

It is thus evident also from the aforementioned case law of the ECtHR that, in spite of such people not having a family life, countries must acknowledge aliens who have created a private life in the many years

of residence in the country by forming personal, social and cultural ties, the right to private life and grant them residence status on the basis of this right.

The complainants in the relevant Slovenian cases tried to arrange residence permits, but were unsuccessful, while the Republic of Slovenia tolerated their long-term illegal residence. On the basis of the aforementioned, **the Ombudsman proposes that the Ztuj-2 be amended with a provision on long-term tolerated stay, by which the status of persons living in the Republic of Slovenia illegally for many years would be regulated**. **Thus the status which the aliens *de facto* already had in such cases would be regulated *de iure* and the right to respect for private and family life would not be violated.** These were cases in which persons had resided in the country without the necessary documents and permits for a long period of time. The country knew about them and permitted such a situation or their stay by tacit consent. A person who is forced to leave a country after long-term residence and establishing a cultural, social and particularly family environment is at risk because they no longer have such contacts and arranged environments in the country of origin, or perhaps no longer speak the language of the country of origin. Regarding social and cultural inclusion in our society, the expulsion of such a person is an unsuitable and particularly disproportionate measure.

The Ombudsman thus believes that the current arrangements do not allow the acquisition of a residence permit by a person who has been residing in the Republic of Slovenia for many years and has thus formed a circle of life interests, social and cultural ties, and perhaps also a family environment (but not necessarily), and thus violate Article 8 of the ECHR.

Briefly on procedural safeguards of informing about, and accessing, the asylum procedure

We visited the Asylum Centre (16 May 2016) also regarding a complaint from an applicant for international protection. During a personal interview, the complainant pointed out that he had turned to the police after his arrival in Slovenia so that they could establish his identity on the basis of a photograph and fingerprints. He claimed that police officers at Starod Border Police Station ignored his request for international protection and that a police officer treated him roughly by grabbing him by his clothes and taking him to the interview room, where he was supposedly detained. The interpreter supposedly arrived after one hour, but they had first intended to interview him in Slovenian (the interpreter was also present when he wrote the application, but not during the taking of the minutes). He was served the minutes and a payment order for illegally crossing the border. The police officer also requested (and was persistent) that the applicant sign the minutes, which the latter refused because he did not understand what he was supposed to sign. We were able to gather from the available documentation that the complainant had entered the Republic of Slovenia on 23 April 2016, and expressed his intention to file the application (only) on 13 May 2016.

If the complainant's allegations were true, the police committed several irregularities, starting with the complainant's explicit request for international protection, whereby his intention thus expressed was not heard or ignored, and the failure to inform. As per the provisions of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, the complainant was returned to Germany on 20 May 2016, which additionally aggravated or prevented the establishment of the actual course of events as claimed and described above by the complainant. **Without reproaching the police for any irregularities in the relevant case, the Ombudsman wishes at this point to further emphasise the importance of procedural safeguards of informing about, and accessing, the asylum procedure.** In this regard, it must be highlighted that the new ZMZ-1, which entered into force on 24 April 2016 also includes informing among fundamental procedural safeguards (when the complainant arrived in the country, the International Protection Act (Official Gazette of the Republic of Slovenia [*Uradni list RS]*, Nos. 11/11 – official consolidated text, 98/11 – Decision of the Constitutional Court, 83/12, 111/13, 114/13 – Decision of the Constitutional Court, 82/15 – Decision of the Constitutional Court; ZMZ) was still in force, which stipulated in Article 7 as a fundamental principle that an official conducting the procedure must enable applicants to safeguard and exercise their rights according to this Act, and ensure that ignorant and unschooled applicants do not jeopardise their own rights). Furthermore, as one of the fundamental principles of the administrative procedure, the applicable ZUP determines the protection of clients' rights, i.e. the authorities must enable their parties to protect and exercise their rights in

the easiest possible manner, whereby they must make sure that the parties do not exercise their rights to the detriment of the rights of others or contrary to the public benefit determined by statute or other regulation. When an official establishes or evaluates, following the state of the facts given, that the party to the procedure has a basis for exercising some right, they must inform the party thereof accordingly. **5.2-20/2016**

We frequently work in the field

We conducted a lot of work in the field in 2016. We visited the Asylum Centre in Ljubljana twice. Both of its remote units (Kotnikova in Ljubljana and Logatec) were visited once, and we also twice visited both residence halls for secondary-school students where unaccompanied minors are accommodated.

With decision no. 21400-6/2016/8 of 28 July 2016, the Government of the Republic of Slovenia decided that unaccompanied minors who reside in the Republic of Slovenia illegally or have the status of an applicant for international protection or the status of an internationally protected person would be accommodated in public residence halls for secondary-school students in the form of a pilot project between 1 August 2016 and 31 July 2017, i.e. in the residence hall of the Secondary School for Forestry and Wood Technology in Postojna and the residence hall in Nova Gorica. The relevant pilot project is coordinated by the Ministry of the Interior, and after the expiry of the one-year implementation period, a comprehensive assessment of the project was to be conducted, with proposed systemic solutions for suitable accommodation of the relevant categories of unaccompanied minors in the country. We visited both residence halls twice with no prior announcement of the visits.

The first time, we held interviews with representatives of the residence halls, examined the living premises of minors and spoke to some of them in English. On the occasion of our second visit, we held longer interviews in their living quarters with the help of an interpreter with those who spoke Farsi. Our findings will be presented separately.

2.6.8 Other

Below, we describe two additional topical examples. One discusses the lengthy lack of understanding and readiness of the state to resolve the distress of physically-impaired people, and the second case involves the good practice of an administrative unit.

Example:

Problems of the disabled who have no permanent drivers have been unresolved for five years
A complainant informed the Ombudsman that the anticipated amendments to Article 29 of the Motor Vehicles Act (ZMV) had not been passed. He attached to the complaint a notification from Lenart Administrative Unit on the instigation of minor offence proceedings, since as a disabled person, he had failed to appoint a new user of a private car within the prescribed period. If the complainant failed to appoint a new user, he would have to deregister the vehicle and return registration plates, according to the notification.

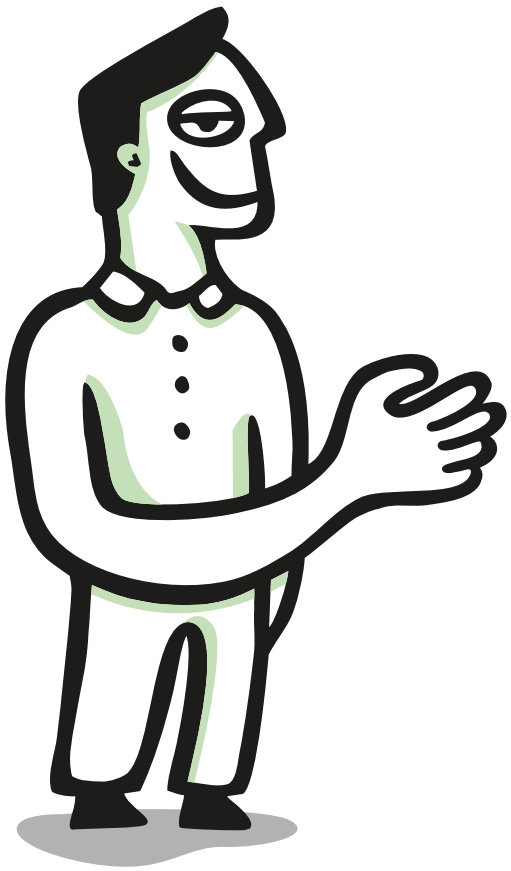
The complainant wrote to the Ombudsman twice about the relevant issue, which was highlighted by the Ombudsman as justified in the 2011 and 2014 annual reports. **The relevant issue concerns paragraph five of Article 29 of the ZMV, which stipulates that the adult owner of a vehicle who has no valid driving licence for such a type of vehicle designates users of the vehicle, in which case the provisions of the Act, which apply to the owner of the vehicle are used *mutatis mutandis* also for the user, and users of the vehicle are entered in the registration certificate in addition to the owner.** The Ombudsman repeats a previous opinion that the ZMV limits the possibility of the physically impaired people to be able, like other citizens, to normally meet everyday obligations which are inseparably linked to the use of a vehicle. In 2011, the Ombudsman asked the then Ministry of Transport (MzP) to consider amending the above provision or finding an option to rearrange the situation of the disabled, who are in a completely different situation from minors or the elderly, for whom the provision was adopted. The MzP ensured us that when drafting amendments to the ZMV, the Ombudsman's proposal would also be observed. The ZMV had not been amended by 2014. The Ministry of Infrastructure (MzI) replied to the Ombudsman's inquiry that the National Assembly of the Republic of Slovenia had failed to discuss the drafted Act Amending the Motor Vehicles Act twice by that time, which also included the amended

provisions of Article 29 facilitating procedures for the disabled, i.e. in 2013 and 2014. The MzI also ensured the Ombudsman at the time that, after the establishment of a new government, the proposed act would be submitted again for adoption. This same assurance was given to the Human Rights Ombudsman at a personal meeting in November 2014 by the Minister of Infrastructure, Dr Peter Gašperšič, with the likely anticipated deadline at the beginning of 2015.

After accessing online public records, the Ombudsman discovered that the proposed Motor Vehicles Act (ZMV-1) had been submitted for inter-ministerial coordination at the end of September 2016 and to the Office of the Government of the Republic of Slovenia for Legislation. Among the main substantive amendments relating to the ZMV, Article 29 of the Act is also mentioned in the proposed Act: "an adult physically-impaired person without a valid driving licence shall not be obliged to appoint a user, which is otherwise necessary if the owner of the vehicle has no valid driving licence for such a category of vehicle, which may be problematic in the case of physically-impaired persons who may be transported by various persons, which was pointed out also by the Advocate of the Principle of Equality; the condition for this shall be an exemption from payment of the annual fee for the use of a vehicle in road traffic recognised by a decision".

The Ombudsman established that the proposed Article 29 of the ZMV-1 was almost identical to the proposal from 2014, and the Ombudsman could only repeat the position that the adoption of the above arrangement would resolve the situation in which disabled persons had found themselves after the adoption of the current ZMV. The procedure to amend the ZMV-1 is again underway. Since this has taken five years, the Ombudsman did not intervene in the matter. By publicly exposing this case, the Ombudsman draws the attention of the competent authorities to the relevant issue and the need to resolve it promptly. The complaint was justified.
5.7-72/2016

The Ombudsman submitted an inquiry to Ljubljana Administrative Unit. We first pointed out that arranging the status of a newborn was vital (health insurance and other rights), and we demanded a clarification as to why the complainant's documentation was insufficient to approve the application, or why the authority was not acting in compliance with paragraph three of Article 16 of the Civil Register Act, which stipulates that a birth may be registered also on the basis of a decision by a competent authority if there is evidence of the occurred life event. The administrative unit insisted on its position that for registering the child in the civil register the complainant must verify the foreign excerpt on birth as per the Verification of Documents in International Transport Act, i.e. in Indonesia. The administrative unit was not convinced even by our emphasising that the complainant had obtained suitable documentation on time (she obtained the birth certificate from the Indonesian administrative authority, the Indonesian passport etc.) and that it was unacceptable that she was in a worse position than if she had submitted no documents at all. At the beginning of September 2016, Ljubljana Administrative Unit informed us about the decision of registering the child in the civil register, and it was thus evident that the unit had observed the Ombudsman's reservations. We considered the complaint justified, particularly regarding the unsuitability of the bureaucratic approach to handling clients' applications, especially in procedures in which a child's interests would have to be the main consideration. (5.7-48/2016)



2.7.

ENVIRONMENT AND SPATIAL PLANNING

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
7. Environment and spatial planning	**178**	**125**	**70.2**	**104**	**13**	**12.5**
7.1 Activities in the environment	75	44	58.7	40	3	**7.5**
7.2 Spatial planning	46	28	60.9	22	5	**22.7**
7.3 Other	57	53	93	42	5	**11.9**

2.7.1 General observations

In the field of the environment and spatial planning in 2016, the Ombudsman discussed fewer complaints than in 2015; however, the number does not differ significantly from the average number of complaints about the environment and spatial planning in the last ten years that we considered, during which the Ombudsman examined about 135 complaints annually. It is necessary to emphasise that the complaints last year were very complex; many consisted of several problems and alleged violations, which demanded many inquiries, questions and examination by the Ombudsman. The share of founded complaints was 12.5 per cent, less than in 2015, but nevertheless very close to the share of all founded complaints which the Ombudsman discussed in 2016, which was 12.6 per cent.

As in previous years, people contacted the Ombudsman in 2016 most frequently when expressing their disagreement with activities affecting physical space. **As particularly critical, they emphasised the participation of the public in procedures of environmental and spatial planning decision making and thus related circumventing of decision makers when applying regulations.** We frequently discussed these issues and sought possible solutions together with non-governmental organisations (NGOs) dealing with the environment, the competent Minister of the Environment and Spatial Planning, Irena Majcen, and mayors of various municipalities.

The issue of **environment pollution with particles (PM10 and less), metals, waste and other pollution sources (e.g. light pollution) is always topical**, but the authorities are too slow to respond to current problems. The Meža Valley, Zasavje, the Celje Basin and other endangered areas require prompt and continuous rehabilitation of soil and air, informing of the public about hidden health hazards and also the cooperation of public health experts.

We dealt with the issue of the alleged unconstitutionality of the **Decree on National spatial plan for the comprehensive spatial arrangement of the international port in Koper**. We submitted inquiries about the above topic to the Municipality of Ankaran, the Government of the Republic of Slovenia and the Ministry of Infrastructure, and we also held personal meetings with the relevant parties. Some time ago, we inspected the area of the intended activities and organised a meeting there with the NGO involved in the environment. The Ombudsman has not concluded its procedure yet, so we are unable to report on its findings.

In this report, the issue of **noxious odour emissions** was also unavoidable. We particularly received letters from complainants in Vrhnika, Črnomelj and north-east Slovenia. Biogas plants, fertilisation with liquid manure, pig farms and other sources are the cause of unbearable odours, and no one wants to be held responsible for this. **The Ombudsman has been commenting on this issue since 1999; it has highlighted this problem publicly and demanded that the competent authorities take suitable measures, but no concrete solutions are on the horizon.** There are still no regulations or odour meters to prevent or measure excessive odour. The lives of neighbouring residents is becoming unbearable and their health is affected.

The **issue of noise** is still topical, and is particularly serious when various activities are performed in residential areas. The Ombudsman thus appeals to municipalities to act responsibly when planning and adopting municipal spatial orders, and to administrative units when issuing permits for public events. We also received complaints about the ringing of church bells and noise from the road traffic, motocross tracks and other sources.

2.7.2 Realisation of the Ombudsman's recommendations

Recommendation no. 53 (2015): The Ombudsman commended the efforts and activities of the Ministry of Education, Science and Sport regarding the renovation of nurseries and schools. It also encourages cooperation between the above Ministry and the Ministry of Health in resolving the issue of high radon levels. However, the Government of the Republic of Slovenia must ensure a harmonised inter-ministerial approach to resolving the relevant issue. For health, particularly of the children and the school staff, budgetary cuts and savings are not permissible according to the Ombudsman. The Ombudsman will continue to carefully monitor the further work of the responsible authorities.

Recommendation no. 54 (2015): The Ministry of the Environment and Spatial Planning (MOP) failed to adopt a regulation to govern noxious odours (smell) in the environment. The MOP thereby refers to the lack of expert groundwork regarding the methodology for detecting noxious odours and the methodology on the basis of which a legislative framework could be established in this field, and that it would order such groundwork. The Ombudsman believes that the above justification by the MOP was utterly unsuitable, because it has been highlighting the issue of odours since 1999, while NGOs have also been active.

Recommendation no. 55 (2015): This recommendation was made in 2014 (no. 66), as was correctly noted by the MOP. The repetition of the Ombudsman's recommendation in 2015 was necessary due to the unchanged situation. The Ombudsman favourably monitors the work of the Slovenian Water Agency, which started operating on 1 January 2016 as a body affiliated to the MOP. The following acts were adopted to simplify procedures: Rules on the methodology for determining the value of water and coastal land and the fees in procedures for obtaining and disposing of such land and encumbering such land with building rights, the Instructions on conducting procedures for obtaining and disposing of land and encumbering of land managed by the Slovenian Water Agency, and the Land management plan. The Ombudsman agrees that the above acts could accelerate procedures. **We will report on the possible progress in the field of water land and water rights in the 2017 Report.**

Recommendation no. 56 (2015): This recommendation was already made in 2014 (no. 68), as was also noted by the MOP in the Government's response report. For several years, the Ombudsman has pointed out the unacceptability of the current regulation in the Environmental Protection Act (ZVO-1), whereby an entity causing an environmental burden must ensure monitoring of the effects of their operations on the environment and order measurements by selecting an authorised monitoring provider and paying for their services. The Ombudsman agrees that the competent inspection service partly provides supervision of the implementation of operational monitoring. Nevertheless, changes are necessary, which would enhance trust of the public in the independence of measurements. When amending the Environmental Protection Act (ZVO-2), the MOP anticipated the examination of alternative possibilities of implementing operational monitoring.

Recommendation no. 57 (2015): The Ombudsman's recommendation that the Government of the Republic of Slovenia determine the priority tasks (criteria for determining priority tasks) of the inspection services in a regulation was not realised, which is one of the reasons, according to the Ombudsman, the transparency and impartiality of the work of the inspection services are not ensured.

Recommendation no. 58 (2015): The Ombudsman's recommendation that the Government of the Republic of Slovenia ensure all conditions (material, staffing and financial) for the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning (IRSOP) to conduct inspection procedures efficiently was also not realised; this recommendation was previously made by the Ombudsman in 2014 (recommendation no. 64). In the response report, the MOP also stated that it would be necessary to increase the staff at the IRSOP, which is also evident from the comparison of the number of inspectors, the received reports and instigated inspection procedures. **With so few inspectors, it is impossible to expect efficient inspection supervision of the observance of acts and regulations, which is the basis of the rule of law, whereby the protection of interest and legal benefits of individuals and the public interest is ensured.**

The Ombudsman had eight meetings with NGOs working in the field of the environment and spatial planning, i.e. four meetings at the Ombudsman's head office and four in the field.

2.7.3 Odours

The smell spreading from waste landfills, biogas plants, composting plants, animal farms and industrial facilities is exceptionally disturbing for neighbouring residents. Supervision of the implementation of such activities and facilities is possible as per building and operating permits and environmental protection consents and permits, but primarily within the framework of suitable spatial planning, **whereby it cannot be overlooked that Slovenian legislation still has no regulation ensuring a comprehensive system of managing ambient air polluted with noxious odour, provisions determining acceptable values of noxious odour emissions, a supervisory authority and sanctions for violations.** The Ombudsman will pay close attention to the anticipated activities of the MOP in this field, i.e. regarding the examination of the methodology for detecting noxious odours, measurements, determining proposals of threshold values and the preparation of a suitable regulation for managing the burdening of ambient air with noxious odours, for which the MOP engaged external experts.

2.7.4 Noise

The Ombudsman receives many letters and questions from complainants every year referring to noise in the living environment. Sources of disturbing noise vary from catering establishments, public events, traffic, roads, motocross tracks, church bells etc. As stated in the last year's report, we emphasise again: **noise is sound which disturbs people in the natural living or working environment because it causes disorder, damages their health, and also has a negative effect on the environment.** The issue of noise must thus be given all due attention and health experts must be involved in resolving it.

The Ombudsman repeats: several authorities are competent in the field of noise, i.e. municipalities, administrative units, police, the Market Inspectorate and the Environment and Nature Inspection Service.

2.7.5 Public access, openness, transparency of procedures

The Ombudsman received quite a few complaints claiming circumvention of public participation in procedures of environmental and spatial planning decision making, and particularly the violation of the Convention of Access to Information, Public Participation and Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). We agreed with the aforementioned in several cases.

Relating to the Ombudsman's finding, we remind the competent authorities to consistently observe the Aarhus Convention, which was ratified by the National Assembly of the Republic of Slovenia with an act in 2004 and amendments in 2010. The published and ratified international treaties apply directly, whereby acts, executive acts and general legal acts must be compliant with the ratified international treaties as per Article 153 of the Constitution of the Republic of Slovenia. The obligations regarding the participation of the public in the adoption of regulations is also governed by the Resolution on Legislative Regulation. Any conduct ignoring the above regulations follows only the economic interests of building, whereby it disregards the constitutionally protected categories and spatial management principles.

2.7.6 Inspection procedures

Under inspection procedures, the Ombudsman discussed complaints which mostly dealt with the following violations: lengthy inspection procedures, order of discussing individual cases (particularly topical in enforcement cases) and lack of response of inspection services. The above violations and conduct by the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning (IRSOP), which were not compliant with the principle of good administration, were also determined by the Ombudsman, as seen in the cases examined.

Example:

Enforcement case of the building inspection service is pending in 1000th place
Discontent complainants wrote to the Ombudsman about the procedures of the building inspection service that lasted several years. In one case, **twelve years** had passed from the decision of the building inspection service to terminate a construction and remove the facilities, and **seven years** in another case.

The Ombudsman sent an inquiry to the IRSOP about the circumstances regarding time or the reasons why the relevant procedures had not been concluded. We received clarifications that according to the classification system of priority tasks neither case was on the priority list. What was more, the INSPIS information system automatically generated a list of enforcement procedures followed from the procedure placed highest to the one placed lowest on the basis of priority aspects of construction inspectors' work. The list of all enforcement procedures is printed on 10 January for the current calendar year. The enforcement is due when it is on the 1st to, and including, 100th place on the list of enforcement procedures for the current year, with the exemption of unsafe construction, which cannot be put off due to general hazard. One of the cases in connection with which we conducted an inquiry was for example placed after the 1000th place of all enforcement cases for 2016. At the beginning of next year, the system will create a new list (while observing new cases etc.), which is why the IRSOP was unable to anticipate future actions regarding the placement of the relevant and other cases.

The Ombudsman establishes that the transparency and efficiency of the existing system are questionable. **As is evident from the complaints received, non-priority cases are taking an unreasonable time to resolve.** The relevant topic was thus highlighted at a meeting with Irena Majcen, Minister of the Environment and Spatial Planning. We emphasised that such dynamics of resolving cases raised doubts about the transparency and impartiality of decision making, and we again expressed our position that the priority method of discussing cases would have to be determined in advance in a regulation and publicly accessible in order to comply with the principles of objectivity, publicity and transparency of the work of the inspection service. In this regard, it is significant that inspection procedures are being conducted in the public interest.

The Minister explained that she saw the solution in the forthcoming amendment to the legislation stipulating that the start of every construction would have to be reported to the IRSOP. She did not foresee a better solution for the cases being currently discussed. The Ombudsman cannot accept such explanations, and we thus considered the complaints justified. **5.7-16/2016**

2.7.7 Water rights, land with water use, flood safety

The Ombudsman believes that flood safety should be a priority concern of the country and should be financed directly from the budget. The care for the safety of its citizens must be the principal task of any country. The Ombudsman criticises the existing situation; we are not, and cannot be, pleased with the state's passivity of several years, and we thus call on the prompt and efficient arrangement of the problem, i.e. by accelerating the applicable measures and adopting new ones if these are necessary. Cohesion funds should only be additional resources or assistance in tackling the relevant problem area, and the implementation of anti-flood measures should not depend on the acquisition of possible other non-budgetary resources. The Ombudsman is aware that this is an extremely serious issue, and it will be monitored closely in the future. We

will demand solutions from the responsible authorities within the framework of our powers. We expect the MOP to inform us about any activities or measures taken, of which we will report in our next annual report.

Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (Water Framework Directive) is important in the field of comprehensive water management, and was transposed into national legislation with regulations on water management and environment protection. The establishment of the Slovenian Water Agency, which started operating on 1 January 2016 as a body affiliated to the MOP, was also very important.

2.7.8 Environmental pollution

Industry, household heating devices, traffic and other sources cause severe air and environmental pollution. PM10 dust and smaller particles are critical, particularly in town centres and closed valleys, and in unfavourable weather conditions. **Although Slovenia undertook in the ZVO-1 (Article 7) to prepare reports on the state of the environment in the country at least every four years, it has not prepared a report since 2009.** How can we establish the state of the environment – if it has improved or deteriorated – if there is no current report on the state of the environment in the country?

We must repeat the following from last year's report:

The rehabilitation of the Meža Valley must not be interrupted; due to the health of the local residents, particularly children, the funds must not be reduced.

Attention must also be paid to the **implementation of measures from the Ordinance on the air-quality plan in the Zasavje area**, which will contribute to improving the situation.

Example:

Inefficient supervision of the unlawful recovery of end-of-life vehicles
In recent years, the unlawful (undeclared) recovery of end-of-life vehicles has been on the rise in the area of the municipalities of Jesenice and Žirovnica, partly because of inefficient inspection supervision. Dismantling takes place in locations with no municipal infrastructure which are not arranged to prevent leakages or spills of liquids from vehicles, so they directly damage the natural environment, particularly by underground pollution, and are also disturbing for the surrounding area. Due to the above unlawful activity, illegal waste dumps with various car parts are emerging, particularly on forest and agricultural land, which is very costly for land owners who have to pay for rehabilitation, and also a great burden on the natural environment. The entities involved in this illicit activity are known. The municipalities of Jesenice and Žirovnica wrote to several institutions for help in resolving the issue, and the Municipality of Jesenice also informed the Ombudsman thereof.

To obtain clarifications on the matter, we wrote to the Inspection Board at the Ministry of Public Administration and the Government of the Republic of Slovenia. The Inspection Board replied that it had submitted its answer to the municipalities last year. It stated that the material received from the municipalities had been submitted for resolution to the competent IRSOP, the Inspectorate of Infrastructure of the Republic of Slovenia, the Market Inspectorate of Republic of Slovenia, the Financial Administration of the Republic of Slovenia and the Public Sector Inspectorate. The Inspection Board also advised the municipalities to directly contact the above authorities for further clarifications.

The Government of the Republic of Slovenia replied that it had taken action, since it had ordered the MOP to examine the material received from the municipalities, prepare a draft of the Government's position and submit the prepared material to be discussed by the Government of the Republic of Slovenia at the beginning of June. The MOP appointed an inter-ministerial working group to prepare and enforce a financial instrument to obtain more end-of-life vehicles for dismantling, i.e. the introduction of duty on de-registered vehicles. The Government of the Republic of Slovenia also informed us of its position that the activities must be continued and the measure introduced, and that the IRSOP should further implement supervision in this matter. Regarding the fact that the Government of the Republic of Slovenia is active in resolving the case, we proposed

to the Municipality of Jesenice that, together with the Municipality of Žirovnica, it continue to contact the competent authorities to which they submitted their material. The Ombudsman will also monitor the activities of the MOP. The complaint was founded and the competent authorities responded only after the Ombudsman's intervention. **7.0-15/2016**.

2.8
PUBLIC UTILITY SERVICES

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
8. Public utility services	**70**	**77**	**110.0**	**71**	**7**	**9.9**
8.1 Municipal utility services	22	20	90.9	17	2	**11.8**
8.2 Communications	7	14	200	14	0	**-**
8.3 Energy	19	14	73.7	14	1	**-**
8.4 Transport	17	17	100	17	3	**17.6**
8.5 Concessions	4	5	125	5	0	**-**
8.6 Other	1	7	700	4	1	**25**

2.8.1 General observations

In 2016, the Ombudsman discussed 77 complaints regarding public utility services, which was an average number in recent years (70 complaints in 2015, 80 in 2014 and 92 in 2013). The content of complaints varied greatly; most referred to the payment of service costs for individual public services, which certainly reflected the situation in the country. The costs are high and many people's incomes cannot keep up with the costs. People find themselves in a difficult situation and do not know what to do or where to seek help. We advised the complainants about how they can exercise their rights at the competent authorities.

The complainants wrote about problems when connecting buildings to the electricity, water supply and sewage networks; the issue of providing chimney-sweeping services and thus related negative consequences of the new Chimney Sweeping Services Act; problems encountered when leasing graves; comments relating to the entry of the right to water in the Constitution of the Republic of Slovenia; disputable return of investments in the public telecommunications network; poor quality signals for the wireless transfer of data; poor coverage of stationary access to the Internet; suspended supply of power and gas; categorisation of municipal roads and unconstitutional revocation of an ownership right on private land; safety of road users; comments about the mandatory use of, and payment for, vignettes and other.

The share of founded complaints was 9.9 per cent, higher than in 2015.

2.8.2 Realisation of the Ombudsman's recommendations

Recommendation no. 59 (2015): In 2016, the National Assembly of the Republic of Slovenia adopted a new Funeral and Cemetery Services Act, which contains a new provision about the lessee of graves, whereby the leasing of the grave may be transferred to another person who expresses such an interest under the conditions

determined in the lease agreement. According to the previously applicable Act, the right to lease a grave was given to the person who pays for the funeral, which frequently caused disputes between relatives. The Ombudsman thus recommended and demanded (in several previous annual reports) the adoption of a new Act, which would be adjusted to the currently accepted consensus on attitudes to the deceased, and which would regulate in a more suitable manner a non-standard practice in relation to the right to (continue) the lease of a grave. According to assurances given by the MOP in the Government's response report, the recommendation has been realised; however, we cannot yet report on the implementation of the new Act in practice since it has been in force only since 15 October 2016.

Recommendation no. 60 (2015): The Ombudsman's recommendation was realised and the right to drinking water was entered in the Constitution of the Republic of Slovenia as a fundamental human right.

Recommendation no. 61 (2015): The new Chimney Sweeping Services Act (ZDimS) was passed in 2016 and entered into force on 1 January 2017. We cannot report yet on the possible realisation of the recommendation we made last year in which we requested the MOP to promptly draft amendments to the regulations governing chimney-sweeping services **in order to provide greater competitiveness and better quality chimney-sweeping services**. The new licensing system enables the selection of a chimney- sweeping service provider, determines the highest permitted prices for services and thus also provides competitive prices, which the Ombudsman assesses as positive. The provision of quality of implementing chimney-sweeping services and its supervision in practice, which was frequently criticised in the previous system, will be commented on in our next annual report.

The Ombudsman's proposal on the urgent need to arrange the field of taxi transport was not realised in spite of the projection of the Ministry of Infrastructure (MzI) to draft an amendment to the Road Transport Act (ZPCP-2) in the first half of 2016. Irregularities when implementing taxi services (granting of licences and permits for implementing such transport, conducting such transport without licences and permits, unsuitability of employed taxi drivers or violations of their labour rights by employers) are continuing to the detriment of road users' safety.

2.9 HOUSING MATTERS

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
9. Housing matters	**124**	**91**	**73.4**	**76**	**1**	**1.3**
9.1 Housing relations	53	46	86.8	40	0	**-**
9.2 Housing economics	62	43	69.4	35	1	**2.9**
9.3 Other	9	2	22.2	1	0	**-**

2.9.1 General observations

Fewer complaints concerning housing matters were discussed in 2016 than in 2015. The statistics show that only one complaint was actually founded, which is presented among the cases discussed; however, the share of founded complaints was very small only because of the way in which cases are recorded and closed.

Complainants wrote to the Ombudsman most frequently about the shortage of housing units, inability to change non-profit apartments, inactivity of the housing inspectorate, management of multi-apartment buildings, payment of rent and operating costs, disposal of funds from the reserve fund and disputes between neighbours.

The low number of complaints considered that concerned housing matters is also the result of the Ombudsman's method of recording complaints; many were classified under other substantive chapters due to the overlapping of several fields. The lack of justification of complaints arises from the Ombudsman's jurisdiction being relevant only with regard to relations with competent authorities, while the majority of complaints referred to the private sector and relationships governed by civil law. We resolved many cases in discussions with the complainants, since the expert workers were able to provide suitable advice even before written complaints were submitted. Due to the aforementioned, we conducted a detailed analysis of the complaints discussed, as presented below.

2.9.2 Realisation of the Ombudsman's recommendations

In November 2015, the National Assembly of the Republic of Slovenia adopted the Resolution on the National Housing Programme 2015–2025 (ReNSP15–25) with an Action plan for the implementation of projects 2015–2025, Selected housing indicators, Monitoring the achievement of the anticipated effects of the National Housing Programme and an Organisation chart of implementing bodies, with which it approached housing reform, and the Ombudsman was reasonably expecting the amendments to the Housing Act to be enacted in 2016, but this did not happen. **The anticipated and urgently needed reform of the housing field had come to a standstill.**

Recommendation no. 62 (2015), that the Ministry of the Environment and Spatial Planning (MOP) should promptly prepare amendments to the Housing Act which clearly define the obligations of municipalities to ensure a certain number of residential units (taking into account the number of residents) of a suitable standard, and publish calls for applications for non-profit apartments for rent at certain intervals (e.g. annually) remained unrealised. In its response report, the MOP wrote that it did not agree with the recommendation. According to the MOP, the applicable Housing Act (SZ-1) had already included sufficient obligations for municipalities to ensure residential units; furthermore, the Government of the Republic of Slovenia believed that there were some municipalities which had no need for non-profit apartments, and the obligation to publish calls for the acquisition of non-profit apartments at certain intervals would only result in unnecessary costs for these municipalities. The need for the relevant Ombudsman's recommendation arose from complaints examined by the Ombudsman and discussions with complainants. **At this point, it is impossible to ignore Article 78 of the Constitution of the Republic of Slovenia which stipulates that the state created opportunities for citizens to obtain proper housing.** Non-profit apartments are intended for people who cannot buy or lease apartments with their own income. Young people who are entering the labour market and wish to become independent of their parents are in a particularly difficult situation in the current housing supply system. They are unable to buy apartments because of irregular employment and having to rent prevents them in the long term regarding potential purchasing. Those who cannot afford to rent accommodation are even more at risk, since new non-profit apartments are practically non-existent due to unsuitable housing policy and legislation in the past years, which is why a legally prescribed obligation to publish calls for the acquisition of non-profit apartments at certain intervals is necessary.

Recommendation no. 63 (2015): In the Government's response report, the MOP described the measures and activities implemented in the past regarding the management of multi-dwelling buildings. The MOP anticipated an in-depth analysis at the end of 2016, which was to be used as a starting point for amending housing legislation. The Ombudsman commended the MOP's efforts to reform the management of multi-dwelling buildings in the future. Unfortunately, there were no concrete measures in 2016, although the Ombudsman has been highlighting this topic for several years. We thus repeat the recommendation in full.

Recommendation no. 64 (2015): The position, which the Ombudsman has been repeating consistently over the years and advocated when discussing concrete complaints in its annual reports and on other occasions, was finally accepted. The recommendation was partly realised and we thus partly repeat it.

2.9.3. Analysis of complaints discussed

The analysis above shows that complainants most frequently contacted the Ombudsman for the following problematic sets:

a) Management of multi-dwelling buildings

Regarding their content, complaints in which the complainants expressed their disagreement with the work of managers of multi-dwelling buildings stood out. As many as 17.3 per cent of complaints referred to this housing issue. The complainants stressed the non-transparent work of managers, their lack of response to questions asked and clarifications requested. They also claimed irregularities when calculating operating and maintenance costs. In three complaints, the complainants criticised managers for **irregularities when managing the reserve fund**, undue increases in the monthly amount paid into the reserve fund and even theft of funds from the reserve fund. We also discussed complaints concerning problems during the handover when changing managers, and one complainant even went on hunger strike because he disagreed with the manager's conduct.

b) Lack of non-profit rental dwellings and the criteria for allocating them

Some 17.3 per cent of the complaints referred to the lack of non-profit rental dwellings. These complaints came from various parts of Slovenia and were written by people who were in severe distress because of this. Physically-impaired persons and large families, who were placed low on waiting lists for the allocation of such dwellings, turned to the Ombudsman. They disagreed with the criteria and scoring for the allocation of non-profit rental

dwellings. They frequently asked the Ombudsman for legal advice and even submitted requests for intervention in procedures for allocating non-profit rental dwellings, which is not within our remit. When examining these complaints, it was frequently revealed that municipalities not only lack non-profit rental dwellings, but also **lack residential units for temporarily meeting housing needs**, but the complainants did not highlight this explicitly. A complaint dealing with the acquisition of a non-profit apartment outside the municipality of permanent residence for a physically-impaired person presented below must also be mentioned.

c) Possibilities to change non-profit rental dwellings

As many as 10.6 per cent of complaints concerned the distress of (insufficient) possibilities to change non-profit rental dwellings. Complainants who wanted to change a non-profit apartment because of unsuitable living conditions wrote to us, including physically-impaired persons who wanted to change and obtain more suitable apartments, and also people who wanted smaller apartments due to social distress and lower costs, and families asking for larger apartments due to lack of space. **It was revealed that it is very difficult to change a non-profit rental dwelling in practice, partly also because of the preceding point, i.e. the lack and occupancy of non-profit rental dwellings.** Due to all of the above, the complaints highlighted the unsuitable arrangement regarding the possibility of changing non-profit rental dwellings.

d) Eviction

In 2016, we received, discussed and completed the examination of 9.33 per cent of complaints referring to evictions. **It must be mentioned that the Ombudsman receives many complaints on this issue; however, most of these complaints are discussed under the justice section, when the complainants refer to irregularities in judicial proceedings, and under social matters, when social distress is particularly highlighted in the complaints.** It was possible to deduce from the complaints dealing with evictions in the field of housing matters that evictions occurred for various reasons; most frequently due to liabilities for operating and maintenance costs, and there were also some cases of eviction due to occupancy without any title. The complainants also asked the Ombudsman to help postpone the anticipated evictions. **The relevant debt in complaints referring to eviction in most cases amounted to several thousand euros (about EUR 3,000 or EUR 4,000; the largest amount was about EUR 16,500).**

e) Employer-provided dwellings

The Ombudsman received several complaints (8 per cent) about living accommodation provided by employers. The complainants contacted the Ombudsman in these cases concerning the (non-)renewal of leasing agreements in cases of termination of an employment relationship or upon retirement.

f) Private sector

As many as 18.6 per cent of complaints referred to the private sector or unregulated relations between the lessor and the lessee of a dwelling, or to relations between neighbours. The complainants stated that private landlords or owners of apartments fail to respond to requests for renovation or to repair malfunctions in apartments; they rent out apartments without lease agreements, threaten the early termination of agreements and other. We frequently received complaints from residents in multi-dwelling buildings referring to problems due to various conduct by neighbours (noise caused by the neighbours, children, animals, odour, (lack of) hygiene, parking and other).

Other complaints consisted of requests for clarification of the applicable regulations, disagreement with the regulations, tender conditions of calls for the purchase of an apartment from the Housing Fund of the Republic of Slovenia, the Public Fund, various allegations against municipalities relating to their housing policy and other.

2.10 EMPLOYMENT RELATIONS

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
10. Labour law matters	**248**	**217**	**87.5**	**181**	**26**	**14.4**
10.1 Employment relation	116	102	87.9	92	7	**7.6**
10.2 Public-sector workers	79	70	88.6	50	8	**16**
10.3 Scholarships	30	24	80	23	8	**34.8**
10.4 Other	23	21	91.3	16	3	**18.8**

2.10.1 General observations

In 2016, the Human Rights Ombudsman of the Republic of Slovenia discussed 217 complaints under the chapter of labour law matters, most of which referred to employment relations. The relevant number by no means reflects the situation in the field of labour or social rights. The Ombudsman namely discusses violations and irregularities for which state authorities are responsible. We are unable to discuss the many complaints revealing severe abuse of employees' rights (particularly) in the private sector, although we are acquainted with them, so they are not included in the Ombudsman's statistics of founded cases (which in terms of content they are).

Fundamental questions, which were examined and whose content was similar to those in 2015, were the implementation of inspection procedures and other forms of supervision of employers; non-payment of salaries and social security contributions; implementation of traineeship; employment in precarious (uncertain) forms of work; placement abroad; violence at work (ill-treatment, mobbing, bullying); non-payment of overtime; unsuitable working conditions and other. Regarding public sector workers, we particularly highlight the situation in the Slovenian Armed Forces, the Slovenian prison system and the issue of returning overpaid salaries, which public sector workers were asked to do.

2.10.2 Realisation of the Ombudsman's recommendations

In the response report to the 2015 Ombudsman's Annual Report, the Government of the Republic of Slovenia anticipated solutions regarding **voluntary traineeship**. The amended Civil Servants Act (ZJU) undergoing harmonisation was said to prevent voluntary traineeship, while amendments were adopted in individual fields where voluntary traineeship would still be permissible. The Organisation and Financing of Education Act (ZOFVI) was thus amended, and no longer governs voluntary traineeship. According to the above Act, traineeship in the field of education and schooling is no longer mandatory, but may still be implemented. The amendments to the Social Assistance Act (ZSV) in 2016 also abolished mandatory traineeship in the field of social assistance as a condition for taking a professional examination. The Government of the Republic of Slovenia anticipates changes in 2017 in the field of traineeship regarding the taking of the bar examination.

Considering the facilitated access of clients (particularly of the employed) to the courts, we assess as positive the amendment of the Court Fees Act (ZST-1), according to which the obligation to settle fees arises only after a court decision is served, not upon the filing of the action. We are also in favour of the amendment to the Financial Operations, Insolvency Proceedings and Compulsory Winding-up Act (ZFPPIPP-G), which has improved the situation of employed people regarding their repayment in insolvency proceedings by expanding priority claims. However, the Ministry of Justice failed to observe the Ombudsman's proposal stating that non-payments for work which workers must do before they submit an extraordinary termination of employment relationship are also considered priority claims.

The Government of the Republic of Slovenia and supervisory mechanisms: The Ombudsman's recommendation no. 65 (2015) that the Government of the Republic of Slovenia must immediately take measures to ensure a transparent, efficient and fast supervision system for the payment of salaries, i.e. for net amounts and withheld taxes related to salaries, remained unrealised. **This is a worrying situation, which has remained unresolved for years in spite of the Ombudsman's persistent reiteration of the matter.** The same applies to the Ombudsman's recommendation no. 66 (2015) that the Government of the Republic of Slovenia must ensure that procedures in all supervisory institutions are carried out within reasonable time limits, and that human resources of inspection services be strengthened wherever possible, also by reassigning public employees. The Government was aware of the problems, but did not anticipate any concrete solutions in the response report.

Posting of workers abroad In its response report, the Government of the Republic of Slovenia agreed with the Ombudsman's criticism of the current issuing of the A1 form for workers posted abroad. The new act, which will arrange this field, is in the harmonisation phase and will comprehensively regulate the cross-border implementation of services and contribute to reducing abuses and violations in this field, added the Government of the Republic of Slovenia.

We again mention the open **issue of additional leave days for parents of children with special needs employed in the public sector**. The problem of limiting the number of days of annual leave for public employees nursing and caring for children with a severe physical or moderate, severe or profound intellectual disability was discussed by the Ombudsman in 2013. The complaint was then assessed as founded. **According to our opinion, the Fiscal Balance Act (ZUJF) unduly interfered with the rights of individual public employees who nurse and care for children with physical or mental impairments.**

2.10.3 Non-payment of salaries and social security contributions

Employers who pay their employees insufficient salaries, do not pay salaries at all or 'forget' to pay social security contributions, are obviously subject to insufficient sanctioning, since such conduct and abuse seem to benefit them. This is a pressing matter, which in spite of amendments to the ZDR-1 in 2015 (about which the MDDSZ writes in its response report), numerous activities, efforts, constant and strict supervision and public disclosure of entities not submitting calculations for social security contributions, sanctioning of offenders by the Financial Administration of the Republic of Slovenia, the Labour Inspectorate of the Republic of Slovenia (IRSD) and courts, is still being resolved inappropriately. The state has failed to establish a system which prevents abuses, punishes possible offenders and has a preventive function. It thus frequently happens that an employer is punished for an offence (e.g. non-payment of salaries and contributions) and the employee is successful in a labour dispute, but remains empty-handed because the employer (business entity) has nothing left to repay the employee. **An institution should be functioning in the country which prevents the operations of irresponsible employers upon the first non-payment of salaries and contributions. The Ombudsman believes that the establishment and operations of companies or business entities should be enabled only to those who are capable employers and entrepreneurs.** Therefore, it is also important to raise the awareness of and inform future employers with subsequent suitable legislation which actually protects employees and acknowledges their right to dignity as determined by the Slovenian regulations and the revised European Social Charter (RESC).

The issue of proving intent in the criminal offence of violating employees' fundamental rights under Article 196 of the Criminal Code (KZ-1) would also have to be resolved, with which the MDDSZ also agreed in the Government's response report.

2.10.4 Inspection procedures

We emphasise the great staffing deficit at the IRSD. Fewer than 80 inspectors is certainly not enough to cover all fields in its jurisdiction and approximately 200,000 business entities, which is why the IRSD is unable to respond efficiently to the reports received, and which was also evident from the complaints discussed by the Ombudsman. It would be sensible to implement even more targeted supervision campaigns, which have received a lot of media attention.

2.10.5 Disabled workers

In 2016, we also encountered cases of intended terminations of employment agreements with disabled workers, who wanted to know under what conditions their employers could terminate employment agreements in spite of a complainant's disability. We informed them that before terminating an employment agreement, an employer must obtain the opinion of a special committee of the MDDSZ, according to the regulations governing pension and disability insurance and the vocational rehabilitation and employment of disabled persons. If the committee gives a positive opinion that the employer **cannot reasonably** offer the disabled worker another post and that they have reasonable grounds for terminating the employment agreement, then the employer may terminate the employment agreement with the disabled worker. The complainants informed us of how employers avoid offering a different post and violate workers' rights. Since these were not concrete cases, we could do more to help other than by providing advice. **This issue certainly points to the poor situation of disabled workers in the labour market and their employability, including a possible disputable discriminatory practice of terminating employment agreements of disabled workers.**

Example:

Unravelling the case of terminating an employment agreement of a disabled worker – an example of bad practice of the Eco Fund from the 2015 Annual Report
In our 2015 Annual Report (pp. 278 and 279) and on our website, we published a case entitled 'Terminating an employment agreement of a disabled worker – an example of bad practice of the Eco Fund'. To summarise: The Ombudsman received a complaint from a complainant employed at Eco Fund, Slovenian Environmental Public Fund (Eco Fund). She claimed that due to the consequences of illness she had been classified under invalidity of category III according to a decision of the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ). She was granted the right to take a different post: she was capable of working with a computer for up to four hours a day with reduced working hours, i.e. six hours a day (30 hours a week). The employer assessed that there was no other suitable work for the person within the given limitations. It was evident from the job classification and the risk assessment that all tasks at the employer required working with a computer for at least 87.8 per cent of the working time, and the complainant was limited to no more than 66.6 per cent, according to the ZPIZ's decision. It is difficult to believe that an authority employing 31 people, such as the public fund, could not adjust a workplace or work which would suit the complainant's limitations in order to maintain the employment of a disabled person and thus observe the Code of Conduct of the International Labour Organisation. The above opinion was submitted to the employer, who failed to observe it, and so we published it as an example of bad practice.

This June, we received a notification from the Eco Fund that the possibility of employing disabled workers under conditions which also complied with the complainant's limitations were anticipated under the new management and after the adoption of new rules on the internal organisation and job classification of posts in the Eco Fund, and that they had already given the complainant a different post, whereby she would be able to perform her tasks in accordance with the ZPIZ's decision.

We are pleased that the employer observed our opinion and provided a suitable position for the complainant. Since the matter was discussed last year on our website and in the annual report, we now also publish its positive resolution. **4.1-29/2015**

2.10.6 Precarious (uncertain) forms of work

One of the main objectives of the reform of labour legislation in 2013 was to increase the flexibility of the labour market, which was supposed to reduce the differences between various types of work. The conditions for fixed-term employments were made stricter; however, the Ombudsman discovered that the number of permanent jobs did not increase. Instead, precarious work became widespread in the labour market. These include agency work, sham self-employment, student work and other, which is particularly noticeable with regard to young people, who, instead of good-quality jobs in which they could realise their potential and contribute to the development of society, face a lack of social, economic and legal security, cannot start a family or become independent. Journalists and cultural professionals have also reported on the frequency of precarious work in their professions.

The Ombudsman is monitoring the planned amendments to labour legislation, which includes measures intended to stop this trend, with interest and due responsibility. We are particularly critical of the intended punishment of precarious workers, since we believe that labour legislation should protect the weaker party in relationships governed by labour law. The expected effects and consequences of increasing fines for employers must be weighted carefully. More attention must also be paid to the anticipated new jurisdiction of the IRSD, which could in certain cases order an employer to conclude an employment contract. The Ombudsman considers such authorisation of the IRSD necessary, but it would only serve its purpose in the labour market if the number of inspectors increases, which must be noted by the Government of the Republic of Slovenia and the MDDSZ. Furthermore, simultaneous comprehensive systemic solutions are needed to reduce segmentation and precarious forms of work. Mere amendments to labour legislation will not suffice, in the Ombudsman's view.

2.10.7 Public-sector workers

The Ombudsman examined the issue of documents on leadership and command in the Slovenian Armed Forces (SAF) The reassignment of members of the SAF by means of issuing documents on leadership and command against which no judicial protection of rights arises from an employment relationship before a labour court was supposedly disputable. The same applies also to the documents on leadership and command that govern contents otherwise governed by general acts.

The Ombudsman chose not to file a request for a review of the constitutionality of provisions of the Zobr and ZSSloV. The orders are not governed by labour relationships, and the reassignments do not directly concern rights arising from employment relationships. Only an objection through service channels is actually possible against documents on leadership and command. **Nevertheless, it is possible to submit an objection to a document (decision) which determines right and obligations, when the act directly and subsequently affects the rights and obligations of an individual member of the SAF, and then to continue with procedures to secure judicial protection of rights.** The same applies by analogy also when a member of the SAF believes that their rights in the labour field have been violated by a document on leadership and command, regarding which no special decision thereof was issued.

We emphasise that only soldiers working in stable working conditions with suitable equipment and fair payment for the work they do may ensure the defence of a country, which the Government of the Republic of Slovenia should be particularly aware of at a time of a relatively stable situation and maintain suitable conditions in the SAF.

In 2016, we again dealt with the staffing situation in the **Slovenian prison system**. The development strategy of the Prison Administration of Slovenia, and standards and norms are being prepared, which will be adopted as soon as possible, according to the Ministry of Justice, and would enable a new so-called material technical

systemisation that would lead to the enhancement of security, expert work, developmental functions and education of staff; the Ombudsman will pay close attention to all of the above.

The **issue of the overpayment of salaries in the public sector** was still topical in 2016. The decision of the Supreme Court at the end of 2016 is very interesting: the Supreme Court decided contrary to existing case law, i.e. that the claims of employers for the recovery of overpayments were unfounded (Decision of the Supreme Court VIII Ips 256/2016 of 20 December 2016), a view also advocated by the Ombudsman.

2.11
PENSION AND DISABILITY INSURANCE

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
11. Pension and disability insurance	**163**	**99**	**60,7**	**93**	**9**	**9,7**
11.1 Pension insurance	109	60	55	58	3	**5,2**
11.2 Disability insurance	54	39	72,2	35	6	**17,1**

2.11.1 General observations

The number of complaints relating to pension and disability insurance dropped significantly in 2016 compared to 2015, which was probably the result of the reform and thus reduced expectations of people that there may be better possibilities for retiring than there were on the basis of the previous legislation. Complainants still cannot accept some amendments to the pension legislation that prevents them from enforcing rights which they had anticipated on the basis of the previous pension legislation. They are certain that some amendments apply retroactively and, in particular, create unfounded differences between people on the basis of their personal circumstances (age). Many complainants (as much as 11 per cent) expected the Ombudsman to intervene actively in a procedure for a request for a review of the constitutionality of certain provisions of the ZPIZ-2. We had to explain several times that the Ombudsman cannot influence the conduct of the procedure or the speed of decision making of the Constitutional Court of the Republic of Slovenia in our case filed in July 2015 (more on the request can be found in the 2015 Annual Report). People eagerly anticipate the constitutional review of the provisions on the pursuance of purchased pensionable service, particularly because the Constitutional Court rejected the request for a review of constitutionality filed by the Association of Free Trade Unions of Slovenia and the Trade Union of Workers in Trade Sector.

Our cooperation with the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ) has been exemplary for several years, since we receive comprehensive replies to all our inquiries within the deadlines. We meet the management of the Institute each year and discuss possible inquiries, which require extensive deliberation, and we also learn about problems encountered by the Institute when implementing pension and disability insurance. The ZPIZ also informed us that it had fully realised the decision of the Constitutional Court from 2015, according to which it was obliged to issue new decisions on pensions to some 6,000 insured persons, which also included their contributions paid in procedures of internal buyouts of companies. With regard to this issue, the Ombudsman informed several complainants of the short deadline for submitting claims (60 days from the publication of the Constitutional Court's decision), which some beneficiaries overlooked. We explained that the decision had been published in the Official Gazette of the Republic of Slovenia, and it was in our opinion also well presented in the media, which is why the criticism of the ZPIZ that it had failed to inform its clients accordingly was not founded. We also informed the management of the ZPIZ of the disputable conduct of certain doctors who prepare expert assessments of the capacity to work in procedures of disability insurance. **Their communication with insured persons is frequently inappropriate** and is based on their position of power in the procedure. More on this is included in the chapter on disability insurance.

As in previous annual reports, issues dealing with unequal treatment of disabled persons are described in the chapter on discrimination.

2.11.2 Realisation of the Ombudsman's recommendations

In the 2015 Annual Report, the Ombudsman proposed three recommendations in the relevant field:

- in recommendation no. **67 (2015),** we recommended that the National Assembly of the Republic of Slovenia request from the proposer an insight into the draft of anticipated implementing regulations when discussing individual proposals for acts. In its response report, the Government wrote that this obligation had already been determined in its Rules of Procedure and was also strictly observed. The Ombudsman believes that the issue has not been resolved yet, and is still examining it; more details can be found in the chapter on disability insurance.
- in recommendation no. **68 (2015),** we recommended that the Pension and Disability Insurance Institute improve the communication of disability commissions with insured persons. We ascertained from complaints received that the situation has not improved; we enlarge on this topic below.
- in recommendation no. **69 (2015),** we recommended that the Ministry of Health, in agreement with the Ministry of Labour, Family, Social Affairs and Equal Opportunities, immediately determine the types and levels of physical impairments which serve as the basis for enforcing rights to disability insurance. The recommendation was not realised, although the Ministry of Health ensured us after our latest reminder that the regulation would be drafted by the end of June 2016.

2.11.3 Pension insurance

Complainants frequently expect the Ombudsman to explain certain legal provisions in this field or amendments to concrete decisions on individual rights to pension insurance. The Ombudsman cannot interpret regulations for which other state authorities are responsible, so we refer complainants to the ZPIZ or the competent ministry, and inform them of the procedures for enforcing their rights. It is sometimes difficult for complainants to accept the explanation that the Ombudsman cannot order other authorities how to act and decide in procedures, or change their decisions.

The modern method of communicating through e-mails enables individuals to submit descriptions of their problems at no significant cost to various incompetent authorities and organisations, whereby the complainants do not even express their expectations. Since the discussion of such letters also takes a certain time, the authorities frequently do not even answer.

The unresponsiveness of incompetent authorities does not constitute a violation of an individual's rights; however, such conduct is not compliant with the principle of good governance and also violates regulations on administrative operations in certain cases. Such complaints (although unfounded after a first examination) are also discussed by the Ombudsman, and we try to determine how we could help the complainant within our powers. The examination of such complaints also requires certain dedication and time. From the complainants' perspective, our clarifications about jurisdiction and required procedures of enforcing rights are frequently considered as shifting responsibility and vague. **Nevertheless, the principle of the rule of law does not permit the Ombudsman to intervene in the jurisdiction of competent authorities or to assume their tasks.**

Compared to previous years, we received no complaints in 2016 regarding lengthy procedures of the ZPIZ relating to individual rights to pension and disability insurance, and we thus think that the ZPIZ usually decides within the stipulated deadlines, which may be deduced from information on the duration of procedures for recognising rights (source: ZPIZ, the 2015 Annual Report). The average time taken to resolve requests for enforcement of rights at first instance was 50 days in 2015; the average time for resolving complaints was 94 days.

Effect of pension indexation on the amount of annual pension allowance

A complainant wrote to the Ombudsman pointing out an injustice that affected her and several other pensioners due to pension indexation. She stated that the pensions would increase minimally, but for her and many other pensioners this would mean that they would exceed the threshold for receiving the higher amount of annual pension allowance. She would receive EUR 140 less, which is a significant amount for her small pension.

Due to pension indexation, the complainant exceeded the threshold minimally (by EUR 1.25), which is determined in the act for individual categories of recipients of an annual allowance, and would thus receive an allowance reduced by EUR 140.

The Ombudsman is aware that all conditions must be met for the acquisition of any right, and deviations from this rule would lead to arbitrariness and would be contrary to the principle of the rule of law. However, it would be in accordance with the principle of a social welfare state and equity if the state defined a sliding scale according to which individuals would not lose the full amount of their annual allowance if they exceeded a particular limit of their pension amount, but only a part thereof up to the total limit for both rights. Thus the transitions between various categories of beneficiaries would be less obvious, and the implementation of this principle would not require more funds, but only different distribution.

Example:

Protest refusal of pension indexation
As a case of interest, we publish a letter in which a complainant informed us that he prohibited the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ) from paying him pension indexation, which amounted to EUR 3.48.

The content of the letter did not require our action, but we replied to the complainant that the ZPIZ was obliged to act according to the law and had to adjust pensions for all pensioners, even if the amount seemed a pittance to many. There is no authorising relationship between the ZPIZ and insured persons (pensioners) which would enable individuals to request certain actions from the ZPIZ, nor can the ZPIZ request any actions in its relation towards the insured persons. We thus informed the complainant that the ZPIZ would have to implement indexation in spite of his prohibition and execute the payment, and the decision about what to do with the 'disgraceful' amount would be left to him.

2.11.4 Disability insurance

The idea of a special expert authority which would prepare expert groundwork for decision making on individual rights to pension and disability insurance has been mentioned several times in our discussions with the management of the ZPIZ. Since the content of its work is closely related to health care, it would be appropriate to examine this possibility when preparing the health-care reform.

We are still establishing weaknesses in the substantiation of decisions on individual rights, particularly when these differ from the opinions of the doctors/specialists who proposed the procedures. The complainants cannot understand why the disability commission failed to observe their doctors' proposal, and the reasons for such decisions can also not be found in explanations of the decisions. In our opinion, well-reasoned and substantiated decisions would reduce the number of complaints, and particularly general dissatisfaction and claims about the bureaucratic decision making of disability commissions.

Certain experts behave like gods dressed in doctors' white coats

We have informed the management of the ZPIZ several times of the objectionable attitude of some doctors who draft expert assessments on reduced capacity to work in disability insurance procedures. Their communication with insured persons is frequently inappropriate and is based on their position of power in the procedure. In the

latest case, regarding which our procedure is still underway, the doctor examined the insured person during lunch and asked completely inappropriate questions in the company of his fellow-residents in the retirement home in order to diagnose possible dementia.

Asking an insured person about basic arithmetical calculations (specifically: what is 100 minus 7) is an **encroachment upon his dignity** if this is done while eating and in the presence of others. If the allegations are proved true in the procedure, we will propose that the ZPIZ take suitable action. Experts who are not familiar with basic etiquette should not be working in a public institution, let alone conducting sensitive examinations which are the basis for enforcing rights.

Implementing regulation on the basis of Article 403 of the ZPIZ-2

On the basis of Article 403 of the ZPIZ-2, the Ministry of Health was to have prepared a list of levels of physical impairments in agreement with the MDDSZEM and issue an implementing regulation on this no later than by 1 January 2015. The implementing regulation has not been prepared, in spite of a special recommendation in the 2015 Annual Report (see above) and special commitment of the Ministry of Health to prepare the implementing regulation by the end of June 2016.

In its response report, the Government of the Republic of Slovenia summarised the statements of its Secretariat and the Government Office for Legislation that the "obligation of adjusting draft implementing regulations to proposed acts is being implemented accordingly and would also be implemented in the future".

Since our information was different, we verified the allegations of representatives of the Government of the Republic of Slovenia also with deputies and discovered that they had no draft implementing regulation on the list of physical impairments when they discussed the proposed ZPIZ-2. If the provisions of the Government's Rules of Procedure had been observed, such a delay would not have occurred, and we have thus not closed the procedure, because we want to determine who misled all the deputies of the National Assembly and the general public, and why, with allegations in last year's response report that the provisions of the Rules of Procedure were being strictly observed.

On that note, we pointed out to the Government that the provisions of the Resolution on Legislative Regulation and the Rules of Procedure of the Government of the Republic of Slovenia were not observed at all times in legislative procedures, according to which all draft Implementing regulations anticipated by the proposal must be attached to the proposed act.

We proposed that the **Government of the Republic of Slovenia prepare a comprehensive analysis of this issue and adopt suitable measures so that the Implementing regulations are prepared and enforced on time**.

Regarding the decisive affirmation in the response report, it seems that certain work had not been done or was done negligently. We thus recommended to the Secretariat-General of the Government of the Republic of Slovenia that **together with the Government Office for Legislation dedicate more attention when reviewing texts of proposed acts also regarding the observance of the requirement under Article 8b of the Rules of Procedure of the Government of the Republic of Slovenia**.

Namely, the Ombudsman believes that delays in issuing implementing regulations make it impossible to comprehensively implement an new arrangement in a particular field, thus constituting a violation of the principle of the rule of law; therefore, the competent administrative bodies are not meeting their obligations regarding good governance.

2.12
HEALTH CARE AND HEALTH INSURANCE

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
12. Health care and health insurance	**152**	**144**	**94.7**	**134**	**26**	**19.4**
12.1 Health insurance	46	43	93.5	39	9	**23.1**
12.2 Health care	106	101	95.3	95	17	**17.9**

2.12.1 General observations

The number of complaints relating to health care fell by more than five per cent in comparison to 2015, but it is alarming that almost one fourth of complaints involving health insurance were founded, which points to the fact that the work of the Health Insurance Institute of Slovenia and regulations governing its work could be greatly improved. An identical finding was recorded in the last year's report (p. 291); unfortunately, nothing has changed.

We repeat the criticism of the Ministry of Health that the long anticipated reform of health care and health insurance is being prepared too slowly. The public has rightly been asking why the long years of expert discussions about individual solutions have not produced any results. More questions arise: are the working groups which are supposed to prepare new legal provisions well-managed and are they even composed of suitably trained experts? The public cannot establish this, since information on the composition of working groups and their tasks and starting points, and particularly the deadlines for preparing solutions, are not made public.

The preparation of health reform is an example of bad practice or poor governance, not only by the Ministry of Health, but also by the Government of the Republic of Slovenia in general, since several state authorities would have to be included in the preparing this reform to promptly harmonise proposed solutions and prevent already prepared solutions from being halted by so-called inter-ministerial harmonisation (a typical example of such a blockage is presented in the chapter on children's rights). Publicly accessible information on the composition and work of working bodies would also contribute to suitable public oversight of the implementation of the planned tasks.

Such problems arise in all fields in which experts from various professions or external experts are included in the preparation of expert groundwork for new regulations (the possible conflict of interests of which cannot even be verified); the Ombudsman thus proposes: the Government of the Republic of Slovenia should require all state authorities drafting individual regulations with the help of external experts to publish how their working groups are structured, what their basic duties are, and the time limits for drafting expert groundwork.

In its response report for 2015, the Government replied to many of the Ombudsman's findings that the issues described would be resolved by the new legislation, which still does not exist. **The problems that were pointed out remain unresolved (e.g. concessions, health services in retirement homes, the right to group rehabilitation etc.), but we will not repeat our warnings again. The Government of the Republic of Slovenia**

undertook to resolve the problems we pointed out, and regarding the concept of new legal arrangements presented to the public at the beginning of 2017, we expect that this would be actually realised in 2017.

Among general findings, we must repeat the warning about communication problems, which usually occur in health care with any major problem. It is true that doctors and health-care professionals cannot reveal to the public all the information known to them in order to substantiate their conduct professionally, but nevertheless they could, within their professional limitations, frequently respond more suitably to publicly expressed accusations. In particular, the lengthy silence of the authorities usually worsens the possibilities for civil and tolerant dialogue and never resolves open issues.

In 2016, the Ministry of Health had still not drafted amendments to the Complementary and Alternative Medicine Act, in spite of the commitment to do this in 2015 (see the Government's response report to the 2014 Ombudsman's Annual Report published on the Ombudsman's website).

The issue of lengthy waiting times which violate patients' rights was exacerbated in 2016. In our opinion, the Ministry began to resolve this issue in an unsuitable way. The amendments to the Patient Rights Act and implementing regulations were prepared, and anticipate extremely high fines for violations of individual legal provisions. High fines imposed on legal entities would reduce the funds earmarked for health-care activities, so it would be more suitable to consider various incentives to reduce waiting times, which would be balanced with sanctions for violations.

In 2016, we successfully continued our cooperation with various societies, associations and civil initiatives, which informed us about acute issues of health-care organisation and, particularly, unsuitable communication. The managements of public institutions frequently see representatives of civil society as unnecessary critics obstructing the operation of the health system. The Ombudsman sees them as important associates with many useful pieces of information, while it is understandable that they are striving to realise certain (narrow) objectives. More suitable cooperation with civil society, particularly promptly and comprehensively informing them would, in our opinion, contribute greatly to reducing the number of false or biased allegations of errors and irregularities, which spread uncontrollably in various media and which do not contribute to resolving open issues and reduce trust in the health system.

Cooperation with the advocates of patients' rights was implemented in the usual way in 2016. After receiving reports on their work, we meet with them and together determine in which fields we could contribute to improving the realisation of patients' rights. Throughout the year, our cooperation is on a case-to-case basis, usually through e-mails exchanging opinions and experience. When writing this Report, we had not yet received reports on the advocates' work (paragraph two of Article 80 of the Patient Rights Act sets their deadline at 15 March).

2.12.2 Realisation of the Ombudsman's recommendations

Four recommendations were proposed in 2015 for health care and health insurance:

- in the **Ombudsman's recommendation no. 70 (2015)** we noted that a preliminary notification of the public of reasons for amendments and their basic content is essential for the enforcement of any statutory amendments. The Ministry of Health actually informs the public of the intended statutory amendments, but it is not completely clear in practice whether such publications are a substitute for public discussion, as is prescribed for regulations by the Resolution on Legislative Regulation.
- in the **Ombudsman's recommendation no. 71 (2015)** we proposed to the Ministry of Health that it examine proposals for the work of advocates of patients' rights to be expanded to the field of compulsory health insurance. Since the draft of the new act has not been introduced to the public as of the writing of this Report, it is impossible to assess the realisation of the recommendation. The same applies to the **Ombudsman's recommendation no. 72 (2015)** about the possibility of combining the tasks of advocates of patients' rights and representatives of persons with mental disorders.
- the **Ombudsman's recommendation no. 73 (2015)** that procedures with respect to the right to medical treatment abroad should be regulated in more detail was not realised. In the Government's response report, the Ministry of Health 'absolutely agreed' with our proposal, but has not yet prepared a draft of the new act, which would resolve this issue.

2.12.3 Health Services Act

The problems when implementing health services remain the same in 2016 as in previous years, since the legal bases have not changed. We still encounter incomplete supervision procedures, particularly regarding the powers and role of the Medical Chamber of Slovenia, which conducts unreasonably long procedures, is to slow to respond to the proposals and requests of individuals, and also replies to the Ombudsman with long delays and after repeated requests. The Chamber defends itself by stating that the work of supervisory doctors is voluntary and they do it in addition to their regular obligations. We believe that this should not be a reason for lengthy procedures, but that the supervision should be organised more appropriately.

Unduly long resolving of cases and provision of opinions are not compliant with the principle of good governance, since the view of all parties to the alleged unsuitable conduct or attitude can change significantly in the course of a year after it supposedly happened. Therefore, the purpose of discussing individual violations of patients' rights is also not realised, which is not sanctioning individuals because other procedures are available for this. Lengthy procedures are usually followed by patients' losing trust in the supervisory mechanism for health care, i.e. in the Chamber. In the field of providing expert opinions and implementing expert supervision, we thus proposed to the Chamber that it set a deadline for decision making and supervision, or a deadline by which a patient must receive a reply as to whether supervision is not to be implemented or an opinion not given.

Unresponsiveness to individuals' complaints is often also cited regarding public health-care institutions, which frequently do not respond to various complaints by non-governmental organisations, patient associations and societies, as they do not consider them to be partners in resolving individual open issues, but an interference in the system, which causes them additional and unnecessary work. Poor, or complete lack of, responses to publicly known issues raises additional concern among the public about the good management of the health-care system. It additionally gives rise to incorrect information of various kinds and false statements, which spread very quickly through the media, particularly the Internet. A similar case is presented below.

Example:

Allegedly unsuitable conditions in the Clinical Department of Urology
The Ombudsman learned from the media about allegedly unsuitable hygienic and spatial conditions at the Clinical Department of Urology at Ljubljana University Clinical Centre (hereinafter: CD of Urology), which referred to the lack of space, worn-out and dirty beds, unsuitable equipment in the washing area etc.

As per Article 6 of the Human Rights Ombudsman Act, we asked the Health Inspectorate of the Republic of Slovenia (hereinafter: ZIRS) to submit us its findings or examine the need to take action.

The ZIRS informed us that it had conducted supervision and established that the renovation of the department had been taking place since May 2015. In the relevant time, they had completely renovated four patients' rooms, two bathrooms for patients, two en-suite toilets for patients, two toilets for staff and two bathrooms in doctors' rooms, a hallway where the ceiling and floor were adapted, central areas, a kitchenette, an out-patient clinic, the most worn-out mattresses (new ones are still being purchased) etc. They also replaced all broken shower heads. At the time of the inspection, hygienic conditions at the CD of Urology were suitable; cleaning and disinfecting were conducted according to instructions, which are an integral part of the Programme on the prevention and control of hospital-acquired infections. Suitable records were being kept and no non-compliance was established.

On the basis of the ZIRS's report, the Ombudsman was unable to confirm the correctness of all the media's allegations regarding the CD of Urology, but we were pleased to establish that the conditions had improved. **We also commended the prompt response of the ZIRS**, which would have to become an established practice of all authorities and organisations conducting supervision. We would expect that the media, which uncritically published various information about intolerable conditions, would also publish the good news about the improved conditions and thus show their objectivity in reporting. **3.4-50/2016**

2.12.4 Psychiatric treatment of children

For several years, the Ombudsman has been highlighting the unsuitable hospitalisation of children with mental health problems who are accommodated in hospitals together with adults. In 2016, we held several meeting with the authorities and learned about the obstacles to organise a special closed ward for the psychiatric treatment of children. According to the latest information, Ljubljana University Psychiatric Hospital has supposedly renovated part of its premises and equipped it in accordance with the expert requirements for working with children.

We find that health-care services relating to paedo-psychiatric activities are not suitably organised. Poor access to out-patient treatment at the secondary level puts additional pressure on the tertiary level, i.e. Ljubljana Paediatric Clinic, where the number of treated patients is growing, while the Health Insurance Institute of Slovenia recognises and covers the costs of only one fourth of services. Former expert teams, which used to be formed at the regional level, no longer function, and suitable triage is not provided. This is also one of the reasons why only 10 per cent of children with behavioural disorders receive suitable treatment. Another problem for children in school is the fact that, during education and training, teachers do not acquire the knowledge required to enable them to recognise various disorders. Suitable training for parents who find it difficult to deal with their children's disorders should also be provided.

Within the health-care reform, the Ombudsman proposes that the arrangement of the emergency paedo-psychiatry service, which should also provide suitable triage, be examined. Multidisciplinary teams should be established in health-care centres at the regional level, which will be able to treat every child with special needs comprehensively and not only as a medical problem.

2.12.5 Psychotherapeutic activity

Psychotherapeutic activity in Slovenia is not regulated by law, so these activities are also implemented by completely incompetent people, since the conditions concerning the type and level of education or the recognised methodology are not defined. No supervision is conducted, and patients are left to the market and various professed experts whose objective is to obtain a lot of money quickly. Since psychotherapeutic activity intervenes in human health, this field should be regulated comprehensively as soon as possible.

2.12.6 Patient Rights Act

At the time of writing this Report, amendments to the Act, which are particularly intended to shorten undue long waiting times, are undergoing public discussion. Regarding the limitation of the scope of statutory amendments, we are concerned that all other amendments to the Act, to which the Ministry of Health already consented in the past (see data on realisation of recommendations), are to be postponed to a later time.

In practice, violations of patients' rights are still often treated in procedures not foreseen in the Patient Rights Act in spite of the ten-year application of the Act. It is correct that a health-care provider try to resolve a patient's problem as soon as possible, but the good intention does not justify procedures in which no procedural rights are guaranteed to the patient, particularly in any possible further procedures to establish that violations have occurred.

2.12.7 Act Regulating the Obtaining and Transplant of Human Body Parts for the Purposes of Medical Treatment

The Ombudsman seldom discusses complaints relating to transplants, which, in our opinion, means that this field is normatively well arranged and governed. Nevertheless, we received a complaint with a question which Slovenian legislation failed to anticipate, but which may arise at some point, and we thus highlight it here.

A complainant contacted the Ombudsman on the behalf of her brother, who needed a kidney transplant. He became ill when a child and the result of his illness was kidney failure. A kidney transplant had already been done in Vienna; his mother was the donor. Twenty years later, dialysis is needed again. This time, his father wanted to give a kidney to the complainant's brother, but he was not a suitable donor, so the doctors in Vienna proposed a crossover kidney transplant. According to the complainant, this was an established practice in Austria. This time, the donor was supposed to be his uncle. The suitability for a direct transplant from the complainant's uncle to her brother was insufficient, but the uncle (potential donor) and the brother (recipient) could undergo a crossover kidney transplant. The problem occurred with the approval of the Transplant Ethics Committee, for whose reply the complainant and her brother supposedly waited several months. According to the complainant's claims, this Committee's approval was not necessary in Austria, but the doctors in Ljubljana explained that without the consent the uncle (potential donor) and the brother (recipient) could not be placed on the list for a crossover kidney transplant.

The Ombudsman submitted an inquiry to the Committee. We wanted to know what the role of the Committee was in transplants done abroad, more precisely, in the case of a crossover kidney transplant, about which some EU countries have reservations.

The Committee explained that this had been its first encounter with this type of transplant, and it wanted to obtain additional opinions and rules from the Viennese hospital. Slovenian legislation provided no basis for such interventions.

In the field of organ transplants, Slovenia is bound by two international legal documents, i.e. the Convention on Human Rights and Biomedicine (Oviedo Convention) and the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplants of Organs and Tissues of Human Origin. The Act Regulating the Obtaining and Transplant of Human Body Parts for the Purposes of Medical Treatment (ZPPDČT) must also be observed, which in Article 4 stipulates that the procedure for donating an organ must be completely gratuitous and altruistic. In the specific case, obtaining the organ for the patient (from another donor) is obviously subject to a certain condition, i.e. obtaining the organ from the patient's uncle. The Committee stressed that in such a case we could no longer speak about an altruistic or gratuitous organ transplant only. In compliance with regulations, obtaining an organ in this way could be seen as having considerable non-pecuniary benefit, and as such was inadmissible. It could be determined as an illicit form of "organ trafficking". In Article 7, the ZPPDČT explicitly stipulates that an organ may be removed only to be transplanted to a person with whom the donor has a genetic, family or emotional connection, but that only if an organ of a deceased donor is not available in a reasonable time or it is expected that transplanting an organ of a living donor would yield much better therapeutic results. The Committee had tried to observe, evaluate and verify all the above facts. It also explained that the patient's right to treatment had not been violated by the time taken to assess his case, since he had been receiving suitable treatment throughout this time.

The Committee approved the crossover kidney transplant. It justified its decision with the following arguments: (1) the transplant in the specific case is possible only on the condition that an additional prior medical procedure is implemented on the recipient due to the specifics of his medical conditions; (2) this procedure cannot be implemented in Slovenia; (3) the likelihood of obtaining an organ from a deceased donor is negligible, and (4) a relative is willing to donate his organ to the patient.

The Ombudsman did not assess as founded the claims arising from the complaint about the length of the procedure. Although the procedure took longer than the complainant expected, the Committee suitably justified the reasons for its lengthy deliberations. In this specific case, the Committee assessed that the crossover kidney transplant was acceptable. We wanted to highlight two things with this case: that every patient must be treated individually, and that procedures of transplant medicine are not routine, in spite of scientific developments. It is in cases such as the one described above that we see the justification for their ethical assessment. (3.4-56/2016)

2.12.8 Health insurance

The Health Care and Health Insurance Act

Cooperation with the Health Insurance Institute of Slovenia is good. The Institute responds to the Ombudsman's inquiries within the set deadlines, and the complaints received do not indicate that major backlogs occurred in deciding on rights arising from compulsory health insurance; it is thus even more important to eliminate problems arising from decision making about retroactive sick leave, which are discussed below.

The need to arrange decision making about treatment abroad in more detail was mentioned already in the 2015 Annual Report. It is unacceptable that attempts are made to find solutions to individual cases through the media by means of unilateral encouragement to take advantage of a particular expert solution, as this puts pressure on everyone participating in the decision-making procedure. The reason for such cases is certainly the lack of information about the further possibilities for treatment and the conditions which must be met in order to refer patients for treatment abroad.

Regulated procedures for the treatment of children abroad are particularly important, since any complication or delay in a procedure presents a potential risk for the disclosure of sensitive information about a child and their unnecessary stigmatisation. It is unacceptable that funds have to be collected for the treatment of children abroad in individual cases, because children should enjoy comprehensive health care. All the conditions to be met for treatment abroad must the determined clearly, since they must not depend on various interpretations about when the possibilities of treatment in Slovenia have been exhausted.

Pro bono out-patient clinics

The number of out-patients clinics providing basic health care to patients with no health insurance is growing, which is good only on first consideration; however, it points to a worrying trend in the increasing number of individuals who for various reasons do not have health insurance. It is unacceptable and contrary to the Convention on the Rights of the Child that children, for whom the system should provide all necessary health services, are also treated in them, according to representatives of such out-patient clinics.

Standard and above-standard health services

A complainant who had problems with his sight wrote to the Ombudsman. The complainant agreed with his ophthalmologist on cataract surgery with an additional payment for inserting a multifocal (above- standard) lens. The problem occurred because the Health Insurance Institute of Slovenia (ZZZS) supposedly did not allow the additional payment for these lenses, and the complainant had to pay for the entire service in full. The ZZZS explained to the complainant that cataract surgery with the insertion of multifocal lenses was a different procedure. The lenses are not only inserted in a different way, but the entire procedure is different, which is why such service is fully considered above-standard and patients must cover the full cost.

We disagreed with the ZZZS's opinion and asked them for additional clarifications. We assumed that the standard was recognised to all insured persons and the above-standard service were subject to additional payment. The Ombudsman advocated the position that those who wish to, and are able, may pay extra for an above-standard medical device. The position of the Expanded Professional Board of Ophthalmology was also that "there is no reason for the patient not to receive what is determined as standard and is covered from the compulsory health insurance, and to pay for an above-standard service up to its full price. The same system that we are proposing has already been implemented in many European countries, i.e. Germany, France, Denmark, Switzerland, Ireland, the Netherlands, Spain and also Bulgaria, Romania, Slovakia and others". We also pointed out to the ZZZS the problem that the price of individual health services was not broken down (what are the labour costs, material costs etc.), and explained that we consider this problematic.

The ZZZS did not accept our proposal that the insured persons be enabled to pay extra for above-standard services exceeding the standard determined within the framework of compulsory health insurance. The Institute was certain that by observing our proposal, a Pandora's box would be opened and it would soon be necessary to pay extra for all services. We discerned from the ZZZS's statements that the problem lay in the implementation of supervision of those who might abuse this option. We thus proposed to the ZZZS that it intensify supervision, but the ZZZS insisted on its position. (3.3-4/2016)

Problems when arranging health insurance due to temporary residence abroad

A complainant wrote to the Ombudsman about problems when arranging health insurance for a relative. Her relative has a temporary residence permit in Croatia, where she lives in a retirement home. Her permanent residence is registered in Slovenia, where she receives her pension and also pays for voluntary health insurance. She holds a European health insurance card.

The complainant explained that her relative did not have a compulsory health insurance on the basis of which she could use health services in Croatia. The complainant visited the Pension and Disability Insurance Institute (ZPIZ) a few times to complete the E-121 form in order to arrange her insurance in Croatia. She also turned for help to the Health Insurance Institute of Slovenia (ZZZS), but was unsuccessful. The negotiations between the ZPIZ and the ZZZS had allegedly been taking place for a year with no result.

We asked the ZZZS and the ZPIZ to inform us about resolving the case. We were also interested in the reasons why the ZPIZ refused to complete the E-121 form and when the complainant's relative can expect substantive answers relating to the arrangement of health insurance. At the meeting of the Ombudsman with the ZPIZ, we learned that the matter had been settled. The ZZZS sent us two letters in which it elaborated on the issue in more detail.

The ZZZS explained that providers experience great difficulties when implementing Slovenian and European laws, particularly bilateral agreements on social security. Permanent residence is understood as the condition in the Health Care and Health Insurance Act; the same is true of bilateral agreements on social security. The ZZZS submitted several requests to amend the legislation, which has not been done yet. The Ministry of Health stated that this would be arranged in the new Health Care and Health Insurance Act.

We determined that the legislation passed in 1992 no longer fits the actual situation. The ZZZS has also not received any guidelines from the line ministries on how to resolve such cases, which is why problems such as the one described above occur. The ZZZS and the ZPIZ adopted a joint protocol in 2015 on how to deal with retired foreign pensioners with temporary residence in Slovenia. In 2016, this protocol also became applicable to Slovenian pensioners living abroad.

The Ombudsman assessed the complaint as founded. We commend the efforts of the ZZZS and the ZPIZ to tackle the relevant issues with protocols. We are aware that such solutions may only be temporary (as was also stated by the ZZZS). (3.3-21/2016)

Under-compensation when donating haematopoietic stem cells

We received a complaint from the Blood Transfusion Centre of the Republic of Slovenia (complainant) relating to an increase in the compensation for absence from work when donating haematopoietic stem cells. The complainant stated that blood donors and donors of haematopoietic stem cells were treated unequally, since they were entitled to various amounts of compensation due to absence from work to donate.

The Ombudsman agreed that it was contrary to the principle of equity that blood donors and donors of haematopoietic stem cells are treated differently with regard to the amount of compensation received due to absence from work. Regarding the fact that every donor is unique and potentially the only one suitable for a patient with blood cancer as per the genetic characteristics, we believe that this legal regulation does not

encourage potential donors to donate haematopoietic stem cells, which results in eliminating possibilities for treating patients who require such treatment.

With regard to the aforementioned, we proposed to the Ministry of Health that it prepare amendments to the legal bases in the shortest time possible, which would eliminate the difference in the amount of compensation for absence from work between blood donors and donors of haematopoietic stem cells.

The Ministry of Health replied that it would examine the issue of the amount of compensation for absence from work for donors of haematopoietic stem cells when drafting new legislation and would try to standardise the method for evaluating cases of the same type. The Ministry also explained that the above amendment would be possible in the new Health Care and Health Insurance Act.

2.13 SOCIAL MATTERS

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
13. Social security	**231**	**242**	**104.8**	**224**	**29**	**12.9**
13.1 Social benefits and relief	91	89	97.8	86	11	**12.8**
13.2 Social services	21	21	100	18	2	**11.1**
13.3 Institutional care	46	42	91.3	39	7	**17.9**
13.4 Poverty – general	20	24	120	22	1	**4.5**
13.5 Violence – anywhere	9	8	88.9	7	0	**-**
13.6 Other	44	58	131.8	52	8	**15.4**

2.13.1 General observations

The number of complaints in the field of social security increased by almost 5 per cent in comparison to 2015, whereby it is most worrying that almost 18 per cent of complaints about institutional care were founded. The biggest statistical increase (20 per cent) was in the number of complaints involving the general issue of poverty; however, the total number of complaints is not high compared to other sub-fields.

The broader issue of poverty is actually reflected in the majority of complaints from the field of social matters, similarly to violence, which is not reflected only in separately classified complaints (there were 8 such complaints in 2016), but appears as economic and psychological violence also in family relations, which are usually discussed in the field of protection of children's rights due to the involvement of children.

Municipalities are becoming increasingly involved in the growing poverty, which, according to our data collected particularly during the Ombudsman's meetings outside the head office, earmark more and more funds for residential units, homeless shelters, public kitchens, pro bono out-patient clinics and financial aid for the most endangered groups. We determine that an increasing number of people are living on the poverty line or below it, because low pensions, and in some cases even minimum wages or unemployment benefits and social relief prevent them from leading a normal life and caring for family members.

Poverty not only threatens the physical survival of individuals, but also always affects their confidence and right to dignity. The environment in which an individual lives frequently shows solidarity only in exceptional fund-raising campaigns or voluntary work. The competent authorities even more frequently see social assistance beneficiaries as social parasites, who must be closely supervised so that they do not inappropriately spend funds which the state dedicated for assistance.

Legislation primarily founded on the fear that funds will not be used pursuant to strictly restricted intentions is based on an erroneous assumption, which is that all applicants for social assistance are potential fraudsters

and criminals, so they should be treated as such. The examples, which clearly display this conduct by the competent authorities, are presented below.

The state should plan and implement even more activities in this field in cooperation with non-governmental organisations, which are well organised, and particularly well acquainted with problems in the field. As an example of good practice, we mention the project, 'Elderly for the Elderly', which the Slovenian Federation of Pensioners' Associations has been implementing through its regional associations and societies, and which incorporates over 3,400 volunteers who made over 103,000 visits to people needing help in 2016.

In the general description of the issue, we must particularly emphasise that we do not provide the names of providers of social care services or public authorities at whom we discovered a violation of rights or an irregularity in the Annual Report or in our publications of individual examples, of which we inform the public throughout the year. We are aware that unintentional mistakes can happen given the exceptional number of applications and services rendered, and some irregularities may even be the result of general guidelines, which the providers receive for their work and are unable to affect them. We believe that in order to improve the implementation of services or conduct of procedures, it is more important to highlight the errors rather than seek a guilty party and prosecute them. It is not always possible to avoid identifying the guilty party, particularly if the case is already known to the media. Last year, one of the social work centres which accused the Ombudsman of slandering it in public certainly spent more public funds on defending their good name with the aid of a law firm than it tried to save with its disputable decision, which the Ombudsman had publicly criticised, and the media made the centre recognisable to the public.

Social protection is a very broad field, which is governed with many various regulations; unfortunately, the regulations fail to take account of actual needs. During the writing of this Report, the Personal Assistance Act was adopted, while the Act on Social Inclusion and the Act on long-term treatment had not even been subject to public discussion in spite of the commitments made every year. It is also not clear when the Act Concerning Social Care of Mentally and Physically Handicapped Persons passed in 1983 would be updated.

2.13.2 Realisation of the Ombudsman's recommendations

We made two recommendations relating to social matters in the 2015 Annual Report:

In recommendation no. 74 (2015), we proposed that the Ministry of Labour, Family, Social Affairs and Equal Opportunities enhance staffing at social work centres. The recommendation, which had been made already in 2014, was still not realised. The proposal for the reorganisation of social work centres is undergoing public discussion, which, according to the Ministry, would eliminate the problems pointed out.

In recommendation no. 75 (2015), we proposed that the same Ministry draft a programme to eliminate backlogs, which it should then publish, and monitor its realisation on an ongoing basis. The recommendation was not realised and the backlogs still undermine the principle of the rule of law. More on this can be found below.

2.13.3 Major backlogs of decisions on rights

Also in 2016, we frequently dealt with the issue of resolving requests to claim various social benefits at both levels of administrative decision making. Social work centres which decide on such requests at first instance usually comply with the legally determined time limits, which is commendable, given the number of applications. Unfortunately, individuals who are dissatisfied with a decision of a social work centre and request that the decision be changed by means of an appeal have to wait longer. At the second level, i.e. at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, officials have not been able to keep up with the increasing volumes of work for years, so the number of unresolved requests has been increasing year by year.

Recent data submitted by the Ministry at the end of November 2016 reveal that:
– some complaints regarding the exemption from paying social security services date back to 2014, while others are resolved within four months of being received;
– complaints about home care attendants are resolved within a year;
– unresolved complaints about subsidised rents date back to 2013;
– complaints about child benefits, nursery subsidies and scholarships date back to 2014.

The above backlogs not only violate the General Administrative Procedure Act, which lays down a maximum limit of 60 days for making a decision on an appeal, but also Article 2 of the Constitution of the Republic of Slovenia, which stipulates that Slovenia is governed by the rule of law and is a social welfare state.

This issue is highlighted at every meeting with the Minister; unfortunately, the situation is not improving. The Ministry expects that the reorganisation of social work centres, which is subject to public discussion, will resolve the intolerable conditions. We believe that part of the issue could actually be resolved with the improved engagement of decision makers at first instance, but we nevertheless establish that it will not be possible to resolve it without additional staff and better work organisation. It is high time that the Ministry tackled backlogs with due seriousness and efficiency.

A substantive revision of decisions which are offered to the social work centres by the current information system as a template prepared in advance would also contribute to rationalising the MDDSZ. The explanatory note accompanying decisions includes many completely unnecessary items of information which do not affect the content of the decision, while the key reason for rejecting the application is frequently hidden or stated in such a complicated manner that even legal experts find it difficult to ascertain and understand. Particularly for beneficiaries who are renewing a certain right, a new decision could arise from an already established situation and focus only on the reasons which substantiate a change in the decision.

2.13.4 Constitutionality of the Exercise of Rights from Public Funds Act

On the basis of Article 23a of the Constitutional Court Act, the Ombudsman requested a review of the constitutionality of certain provisions of the Exercise of Rights from Public Funds Act (ZUPJS) and the legality of the Rules on determining savings amounts and property value and on the value of provision for basic needs with reference to procedures for exercising rights to public funds in 2015. The request for a review of the constitutionality was presented in detail in the 2015 Annual Report (pp. 314 and 315).

In decision U-I-73/15 of 7 July 2016, the Constitutional Court partly agreed and partly rejected our opinion. The Constitutional Court decided:

1. Paragraph one of Article 14 of the Exercise of Rights from Public Funds Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos. 62/10, 40/11, 14/13, 99/13, 57/15 and 90/15) does not comply with the Constitution.

2. The National Assembly must eliminate the established non-compliance within one year after the publication of the decision in the Official Gazette of the Republic of Slovenia.

3. Until the elimination of the established unconstitutionality, applicants in procedures to exercise rights to public funds may prove that they do not obtain the amount of the monthly income determined in paragraph one of Article 14 of the Exercise of Rights from Public Funds Act.

4. Paragraph five of Article 10 and item four of paragraph one of Article 12 of the Exercise of Rights from Public Funds Act do comply with the Constitution.

5. In the section which determines that the value of equity shares in companies or cooperatives may be established only from an extract from a court register of companies, paragraph two of Article 7 of the Rules on determining savings amounts and property value and on the value of provision for basic needs with

reference to procedures for exercising rights to public funds (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos. 8/12 and 99/15) does not comply with the Constitution.

6. The Minister of Labour, Family, Social Affairs and Equal Opportunities must eliminate the established non-compliance within six months after the publication of the decision in the Official Gazette of the Republic of Slovenia.

7. Until the elimination of the established unconstitutionality, a social work centre must not establish a comparable market value of shares in companies or cooperatives only on the basis of an extract from a court register of companies.

Implementation of the decision of the Constitutional Court of the Republic of Slovenia

We asked the Ministry of Labour, Family, Social Affairs and Equal Opportunities how they intended to ensure the implementation of the relevant decision of the Constitutional Court. We were namely acquainted with the notification submitted to all social work centres in which it was stated *inter alia* that when determining the actual income of persons engaged in an activity, the centres may use an expert whose service must be covered in full by the applicant.

We informed the Ministry that the notification did not comply with the applicable legislation in the section which explained to the social work centres that exemption from the costs of procedure, which also include the costs of an expert, was not possible when determining entitlements to public funds.

The Ministry referred to paragraph five of Article 122 of the ZUP, which stipulates that exemption from the payment of costs (of a procedure) does not apply to sole traders in connection with their activity or to legal entities. We noted that the relevant case did not involve a procedure regarding a sole trader's activity, but a procedure in which an individual and their family members enforced their rights to access the assistance used by persons in distress and deprivation and whose subsistence is endangered. The Ministry's notification with such a clear prohibition on using the provisions in such procedures which enable exemption from the payment of costs of procedures encroaches directly on the human rights and fundamental freedoms of individuals who meet the conditions for exemption from paying the costs of procedures.

We proposed that the Ministry immediately inform social work centres that sole traders may be exempt from paying the costs of procedures, which also include the costs of appointing an expert, under the same conditions as other individuals. The Ministry accepted our opinion and observed our proposal.

2.13.5 Balance payment of unjustifiably received cash social assistance without a decision

A recipient of cash social assistance and other rights to public funds wrote to the Ombudsman stating that she had informed the social work centre (SWC) on time that she had obtained a job. The SWC issued new decisions on the entitlement to the rights to public funds with a delay, which is why the complainant was paid excess funds, which the SWC began balancing with the rights to which the complainant was entitled after the change of her status. The complainant claimed that she had not received a decision about the unjustifiably received cash social assistance and was thus unaware about the amount of money she had to return.

The SWC explained that the complainant had not informed them about the job within eight days from when her status had changed, but the SWC had determined this only after she had renewed her right to a scholarship, which led to a delay in issuing decisions and, as a result, certain rights to public funds were overpaid, including cash social assistance. On the basis of the Ombudsman's inquiry, the SWC determined that the decision issued on unjustifiably received cash social assistance, which was balanced with child benefit, had not been sent or served to the complainant. The SWC apologised to the complainant for the mistake and submitted the decision.

We are certain that with a timely and suitable clarification, the SWC could have avoided the complications described.

Example:

Insufficient explanation of a decision
A complainant who disagreed with the decision of a social work centre that cash social assistance was to be paid to him in kind contacted the Ombudsman.

Regarding the manner of paying cash social assistance, the Social Assistance Benefits Act determines that cash social assistance is usually paid in cash, and in certain justified cases it may be partly or in full paid in kind (coupons, purchase orders, payment of invoices etc.). The Act does not stipulate what those justified cases are, and the SWC must establish this for each individual case. However, the SWC must suitably explain its findings on the actual situation and its decision in a written decision, because an insufficient explanation prevents the exercise of the right to appeal: if a beneficiary does not know why such a decision is made then they can also not contest it.

In the complainant's case, the SWC failed to explain its decision on the payment of cash social assistance in kind. We pointed out this deficiency to the SWC. The SWC undertook to change its current practice. The complaint was founded. **3.5-20/2016**

Proving eligible use of extraordinary social assistance benefit in cash

As stated in the introduction to this chapter, poverty and subsequent social exclusion are a severe encroachment on human dignity and thus constitute a violation of human rights. People who suffer material hardship and seek the help of social work centres have just grounds to expect they will be understood and supported, and if they are disappointed in how they are treated, they sometimes turn to the Ombudsman.

Such was the case of a complainant who turned to a SWC due to her material hardship. She was granted extraordinary social assistance benefit in cash in the amount of EUR 180 to purchase a larger quantity of basic non-perishable foodstuffs. Her decision stated that she could buy pasta, rice, flour, sugar, oil, long-life milk, long-life meat products and cheese, meat and vegetable cans, potato and apples. The complainant wrote to the Ombudsman that she interpreted the decision that she could buy food, and did not know that she could not buy anything but the products listed in the decision. She personally delivered proof of the purchase to the SWC on time and was not told that there was anything wrong with it. When she asked again for extraordinary social assistance benefit in cash, her application was denied on the grounds that she failed to provide complete evidence concerning the eligible use of the previously granted benefit, but only for EUR 122.23. The SWC explained that they had failed to regard all products as eligible for purchase.

The SWC replied to the Ombudsman's inquiry that the complainant was not permitted to purchase cream, yoghurt, mayonnaise, spreads, pudding, bread, doughnuts, bananas, lemons, onions, oranges and similar. The Centre also explained that it had started to define more broadly the purpose of the use of funds in recent decisions (e.g. basic non-perishable foodstuffs), which gives beneficiaries more flexibility when using benefits according to their needs.

The complainant appealed the decision, and the MDDSZ dismissed her appeal. The consequences determined by the law are severe: irrespective of her material hardship, the complainant will not be eligible for extraordinary social assistance benefit in cash for 14 months.

The Ombudsman assessed the complaint as founded. We believe that the explicit determination of foodstuffs which the beneficiary may buy with extraordinary social assistance benefit in cash is an encroachment on their dignity. Beneficiaries should have the right within the purpose of the benefit to freely decide on their nutrition. Furthermore, the sanction determined by the law in the foregoing case was completely disproportionate to the violation.

The Ombudsman proposes that social work centres specifically inform beneficiaries of extraordinary social assistance benefit in cash about their obligations regarding the eligible use of funds, and also make an official note in the file about the notification or include it in the explanatory note of their decision.

Securing claims in the land register

We were informed about irregularities when entering the state's claims in the land register, which with social assistance benefits and income support assists individuals in social distress. The Ombudsman emphasised that when issuing decisions which serve as the basis for entering a prohibition of alienation and encumbering of real estate in the land register, it must be defined explicitly in connection with which right the prohibition of alienation and encumbering are established and on what legal grounds. We also expressed our disagreement with the MDDSZ's opinion that a cancellation permit should not be issued until all funds are repaid, including cash social assistance received, even if the prohibition of alienation and encumbering was established because income support was received. We believe that this position has no legal basis and constitutes arbitrariness of the state authority when exercising its powers.

2.13.6 Guardianship

In 2016, we also examined several complaints relating to the implementation of guardianship in cases of withdrawal of full legal capacity and also guardians for special cases. The most frequent complaints refer to dissatisfaction with the work of guardians or supposedly insufficient control of a social work centre over the guardian's work. We thus discussed a case in which a social work centre appointed a guardian for a special case with the task of managing the care receiver's bank account who then failed to submit reports on his work. The social work centre unsuccessfully requested he provide reports, and it took the Centre three years to take action and relieve him of his duties as guardian.

In the same case, the social work centre held the view that withdrawing full legal capacity from a care receiver with dementia, regarding whom we doubted on the basis of the available information was able to take care of herself, was an undue encroachment on human dignity, and also that guardianship for a special case was a suitable form of guardianship to protect her rights, benefits and interests.

A withdrawal of legal capacity is indeed a gross encroachment on human rights, but (at present) the applicable regulation permits the removal or limitation of legal capacity under certain conditions. Although the abolition of this measure and a different form of guardianship are being anticipated, it would be wrong to leave a person who is unable to take care of themselves, their rights and benefits, without the help they need until a different legal regulation is enacted. We determine that social work centres frequently decide to appoint guardians for a special case only in cases of persons with progressive dementia. We believe that the protection of rights of persons with dementia must be regulated in more detail, particularly with regard to the question of when an individual may be assisted by a guardian and when to resort to withdrawing legal capacity. We expect that the issue of guardianship, at least, will be resolved by the new act which the competent ministry has been supposedly drafting.

2.13.7 Institutional care

In the field of institutional care, we have so far usually dealt with the issues of care and communication between staff and residents, and occasionally also with issues of nursing care and access to health services (see the 2015 Annual Report). We have now encountered for the first time the issue of the suitability of food in retirement homes. We were informed that no standards are prescribed Slovenia on the basis of which a person could assess the suitability of food provided by an institution.

We referred this issue to representatives of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, who explained that the National Institute of Public Health would prepare standards and norms for food in

retirement homes. Within the framework of its duties, the Ombudsman will monitor the preparation procedure, and we expect that problems regarding the suitability of food would soon be resolved more easily.

Example:

Incorrectly calculated costs of care and residence in a retirement home
A complainant contacted the Ombudsman claiming that a retirement home had charged him for an additional 17 days of residence after he had filed an application for discharge and moved out. He was also aggrieved because a notice of prohibition of alienation and encumbering was made on his real estate to the benefit of the municipality which co-financed his institutional care. The complainant wanted to give his real estate to the person who would take care of him in his home environment. He asked the Ombudsman to intervene.

The Ombudsman was unable to help the complainant with the aforementioned prohibition of alienation and encumbering made to the benefit of the municipality which co-financed his institutional care, without the complainant having to return the funds which the municipality paid for his institutional care. We determined that the retirement home had observed a 14-day notice period, which started after the cancellation of residence. Article 31 of the Rules on procedures concerning the exercising of the right to institutional care (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos. 38/04, 23/06, 42/07 and 4/14) stipulates that a resident or their legal representative may file a proposal for discharge without reason, in which case the service may be charged for no more than five days after the application is filed unless the period before moving out is longer. We thus wrote to the retirement home stating that the service had been charged unduly, since the complainant had moved out on time. We proposed that in the case of the established error when charging for the service, the error be eliminated.

The retirement home informed us that the irregularity regarding the overpaid care had been eliminated and the surplus amount returned. **3.7-7/2016**

2.13.8 Hospital-acquired infections in retirement homes

We received several complaints relating to hospital-acquired infections in retirement homes. The problems lies particularly in the fact that retirement homes lack suitable capacities to accommodate infected residents, and can also not determine exactly where a person became infected, i.e. in hospital or in the home before hospitalisation.

In the reply to our inquiry, the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ) informed us that the Association of Social Institutions of Slovenia was preparing a draft of health and social services which retirement homes implement within the framework of treating residents with infections. The draft will serve as the starting point for devising clear and transparent instructions on the demarcation of the homes' activities regarding health and social care, and decisions about when a home is entitled to charge for the additional care of a resident in the case of hospital-acquired infections. The MDDSZ also ensured us that it would inform us of the results of the agreement on the demarcation of additional services connected with hospital-acquired infections and the instructions to the homes about possible charges for additional services as soon as these are prepared.

Example:

Complaint about residential care – example of good practice
A complainant wrote to the Ombudsman about residential care. He wrote that he required the assistance of staff when moving from the wheelchair to the toilet and when using the toilet. He usually needed help once a day at a time when none of the staff is available "because they are on their lunch break or smoking". When waiting for staff, he was sometimes unable to withhold bowel movements and was even threatened with being put in nappies.

The Ombudsman visited the institution and interviewed the director and the complainant. As soon as the director became aware of the problem, she began to address it. She discovered that during the staff lunch

break, it was possible that none of the employees was able to respond to the complainant's call in a reasonable time. The lunch break was then organised into two groups, which still somewhat overlap, but before they leave for their lunch break staff now ask the complainant if he will need anything in the next ten minutes. Furthermore, the deputy director for health care and nursing attended the complainant's care several times after receiving the complaint, and checked that the care was implemented accordingly. Regarding the use of nappies, the institution explained to the Ombudsman that this option was only presented to the complainant and not expressed as a threat.

In personal conversation, the complainant confirmed that the situation had improved after the institution was informed about the problem and began resolving it, and that there were now fewer problems than at the time before he contacted the Ombudsman. He said that weekends were still problematic, since fewer staff were available in the institution.

Caring for personal hygiene or using the toilet is an intimate act. The Ombudsman believes that special attention and a sensitive approach are necessary with residents who require help with the aforementioned, or a resident may quickly feel humiliated and that their personal dignity is being encroached upon. We were of the opinion that presenting the possibility of using nappies was inappropriate in the relevant case, although not expressed as a threat but as an option, which is left to the free decision of a resident, and it also overlooked the complainant's needs. According to the structure of the residents in the ward, we believed that a staff member should always be present or at least available during the week when there are more staff present who would quickly (but at least in a reasonable time) respond to a resident's call. We proposed that a solution be found for weekends, which are still problematic.

The institution promised to help the complainant to the best of its ability, because it was aware that the residents had nowhere else to go. The complainant was pleased with the response of the institution to his complaints and the solutions provided. The complainant's complaint was founded. We present this case as an example of good practice or prompt and effective response from the institution to a resident's complaint.
3.7-30/2016

2.14 UNEMPLOYMENT

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
14. Unemployment	**36**	**31**	**86.1**	**25**	**7**	**28.0**

2.14.1 General observations

In 2016, the Human Rights Ombudsman of the Republic of Slovenia found a similar situation in the field of unemployment as in the previous year. The number of complaints discussed is relatively low, while the share of founded complaints is relatively high. Regardless of the foregoing, and while considering the Ombudsman's powers and the method of recording the complaints, questions and dilemmas submitted by complainants when the Ombudsman is working in the field, it is possible to conclude that the issue of unemployment is more pressing than it seems at first glance.

The key issues which were discussed include: how to find work and employment; how to succeed in obtaining community work or any of the anticipated measures of the active employment policy (AEP); deletion from the register of unemployed persons; the attitude of staff of the Employment Service of Slovenia (ZRSZ) to the unemployed, lack of information about the work, powers and obligations of the ZRSZ; available measures of the AEP, regulations on the labour market and other.

2.14.2 Realisation of the Ombudsman's recommendations

Recommendation no. 76 (2015): The Ombudsman supports the efforts of the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ) and the Employment Service of Slovenia (ZRSZ) to provide a suitable selection of, and implement, seminars and workshops for unemployed persons within active employment policy measures, and to carry out an evaluation after the conclusion of seminars and to monitor the connection of knowledge and skills obtained with the increased employability of participants of education programmes. This is a standing recommendation, and the findings should be published in a transparent form in order to contribute to public trust in the work of the MDDSZ and the ZRSZ.

Recommendation no. 77 (2015): The MDDSZ and the ZRSZ define in detail the method of discussing unemployed persons by the ZRSZ. They describe extensively the efforts and wishes of the ZRSZ's staff to help unemployed persons and discuss them in a suitable way, and they monitor the quality of work of employment counsellors. The Ombudsman agrees with the aforementioned.

The Ombudsman also accepts all those measures intended to improve the work of the ZRSZ, including a quality assessment of the ZRSZ's work done by external international experts according to a quality system management, the EFQM Excellence Model. **We emphasise that all the above activities must continue in the future, and the results of thus related analyses, research and assessments must be published; this will**

contribute to improving work in the future and particularly to public trust in the successful and efficient work of the ZRSZ.

2.14.3 Exercise of the right to work

While considering national and international legislation, the Ombudsman concludes that the state is responsible for enabling the exercise of the right to work from its legislation with its policies, concrete measures, methods and activities, i.e. by attaining overall social development and full employment, which guarantee the exercise of other human rights.

2.14.4 Deletion from the register of unemployed persons

Complainants who were in distress because they were deleted from the register of unemployed persons frequently contacted the Ombudsman. The reasons for deletion were that they forgot to attend the scheduled interview with the ZRSZ's counsellors or a workshop to which they had been invited. Those who as a result also lost the right to cash social assistance as per the Social Assistance Benefits Act (ZSVarPre) were even more affected. According to Article 130 of the Labour Market Regulation Act (ZUTD), they were able register again at the ZRSZ six months after deletion.

The Ombudsman is concerned about the proportionality of consequences suffered by individuals who forget a scheduled interview or another anticipated activity. It would be sensible to consider possible advance notifications to clients (such as reminders of interviews and other activities), with which the MDDSZ also agreed in the Government's response report, as well as the Director General of the ZRSZ at a personal meeting. The Ombudsman was gratified by this response.

Regarding deletion from the unemployment register, the Ombudsman points to a decision of the Supreme Court of the Republic of Slovenia, no. VIII Ips 155/2016, of 30 August 2016. The Supreme Court accepted the interpretation of Article 119 of the ZUTD that the consequence for a delay in the 30-day deadline for registering at the ZRSZ was not the cessation of the right to unemployment benefit, but a more lenient measure, i.e. the total period of receiving unemployment benefit is shortened as per clause two of paragraph one of Article 119 of the ZUTD. **The Ombudsman commends this decision by the Supreme Court.**

Example:

Losing the right to unemployment benefit due to ignorance about the unlawful termination of an employment contract
A new mother whose employer terminated her employment contract immediately after she had completed maternity leave contacted the Ombudsman. Since the Employment Relationship Act (ZDR-1) stipulates that an employer must not terminate parents' employment contracts when they are on parental leave uninterruptedly in the form of full leave from work and for one month after the end of such leave, the ZRSZ rejected her application to receive unemployment benefit. The complainant and her employer were not acquainted with the provision of the ZDR-1 and were unaware that the dismissal was unlawful. The complainant visited the ZRSZ after the expiry of the deadline to file an action against the dismissal. The complainant stated that the employer had wanted to remedy the error so that she would be entitled to the benefit. She thus sought legal advice.

Article 63 of the ZUTD stipulates that an insured person who becomes unemployed due to their own fault or wish cannot exercise the right to unemployment benefit, including a worker whose employment contract is terminated due to an employer's ordinary termination, which is contrary to the provisions of the act governing employment relations that determines special protection for an employee before dismissal and the employee failed to request an arbitration decision or judicial protection to protect their rights. In 2012, the Ombudsman had already taken the position that the above provision was unsuitable if employees are not informed about it accordingly. It is true that ignorance of the law may be harmful, but it is unacceptable – on the assumption that the principle of protection of clients' rights exists in administrative procedures – that the

entire burden is put on the employee, who has already been deprived of a job. We already proposed in the Ombudsman's Annual Report for 2012 (p. 258) that the matter be arranged in another way, i.e. to the benefit of employees. Unfortunately, the regulation has remained the same to this day, since the opinion of the MDDSZ differed.

We explained the Ombudsman's opinion on the relevant regulation to the complainant. Within the framework of our powers, we were unable to give her an answer to the question as to whether her employer could remedy the situation. We referred her and her employer to the Health Insurance Institute of Slovenia, and explained that the competent ministry for the provision of clarifications in regard to the matter was the MDDSZ.

We consider the complaint founded, because we still insist on our opinion from 2012. We believe that the relevant Article 63 of the ZUTD is not suitable if employees are not accordingly familiarised with it in advance. We thus again propose to the MDDSZ that it regulate the matter differently, i.e. to the benefit of employees.
4.2-11/2016

2.15
CHILDREN'S RIGHTS

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
15. Children's rights	**375**	**422**	**112.5**	**363**	**87**	**24.0**
15.1 Contacts with parents	46	42	91.3	37	0	**0**
15.2 Child support, child benefit, child property management	28	27	96.4	23	8	**34.8**
15.3 Foster care, guardianship, institutional care	22	62	281.8	53	6	**11.3**
15.4 Children with special needs	43	37	86	32	10	**31.3**
15.5 Children in minorities and vulnerable groups	3	8	266.7	8	1	**12.5**
15.6 Domestic violence against children	17	24	141.2	21	3	**14.3**
15.7 Violence against children outside the family	20	10	50	10	0	**0**
15.8 Child advocacy	80	95	118.8	76	40	**52.6**
15.9 Other	116	117	100.9	103	19	**18.4**

2.15.1 General

The number of complaints in this field increased by more than 12 per cent in comparison to 2015, whereby the biggest increase was recorded in the field of foster care, guardianship and institutional care. This increase is particularly the result of a case whose high profile marked almost the whole of 2016, when not only the interested public but also the political sphere and administrative authorities and courts within their duties dealt with the so-called case of the boys from the Koroška region. We also discuss this case below, as it is relevant particularly because it highlighted certain open issues which have not been discussed so far in similar cases.

We are particularly concerned about the share of founded complaints regarding the rights of children with special needs (31,3 per cent), since we have not recorded such shares in this field in the past and it is difficult to determine their reasons. In recent years, the relevant legislation has not changed.

The number of complaints involving violence has also increased considerably, which was particularly a response to the legislators' intention to prohibit the corporal punishment of children by amending the Domestic Violence Prevention Act Those opposed to the amendment tried to convince us that corporal punishment was only an educational method to which parents have a right as per Article 54 of the Constitution of the Republic of Slovenia and it should not be limited by law. The Ombudsman has published its position on the corporal punishment of children as a violation of their rights several times publicly, and we only informed the majority of complainants of this position.

Unfortunately, we must emphasise again in this report that the Republic of Slovenia has not ratified the Third Optional Protocol to the Convention on the Rights of the Child, which it signed on 28 February 2012. We noted already in the 2015 Annual Report that this displayed a lack of seriousness regarding international obligations, and we can add this year that it also displays a disrespectful relationship to the domestic public, who justifiably expect state authorities to suitably ensure protection of children's rights, and finally also the reputation of the state in the international community.

Cooperation with non-governmental organisations was also smooth in 2016, whereby we cooperated with some in various panel discussions, meetings and round tables, and with others concerning individual complaints, issues and proposals. We also supported the proposal of the Slovenian Association of Friends of Youth (ZPMS) to form a special council for children at the Government of the Republic of Slovenia, which could discuss policies regarding the protection of children. This is because we discovered that children's rights were too frequently discussed only partially, i.e. with respect to the state authority competent for individual cases. We thus lack a working body that would discuss systemic issues of enforcing children's rights more broadly, i.e. while taking account of the needs and benefits of those for whom a certain policy is intended.

Cooperation with town and regional children's parliaments and the national children's parliament also took place in 2016. The children's discussion about the traps of adolescence revealed again that adults frequently do not know how to listen to adolescents and how to consider their opinion. As highlighted several times, children's parliaments are a very good platform for children to exercise their right to participate, which also should receive more support from the state.

Under the auspices of the Ombudsman, the pilot project, Advocate – A Child's Voice Project, was also carried out in 2016, which is in its concluding phase. The project is being evaluated at the time of writing this report, which the Social Protection Institute of the Republic of Slovenia will have completed by the end of March 2017. The conclusions and findings of the evaluation will aid our preparation of new legislative solutions by means of which we intend to supplement the Human Rights Ombudsman Act and thus provide a suitable legal basis for the project, while also realising **recommendation no. 79** from the 2015 Annual Report.

Within the framework of the European Network of Ombudspersons for Children (ENOC) at a conference in Vilnius, we discussed equal opportunities of children in education; meanwhile, communication between members of the Network is intensifying through e-mailing. As part of the Children's Rights Ombudspersons' Network in South and Eastern Europe (CRONSEE), we attended a conference in Skopje where we discussed the problem of juvenile refugees.

While this report is being written, working bodies of the National Assembly of the Republic of Slovenia are discussing a proposal for the Family Code which anticipates many novelties in the regulation of family relations. Decision making about the rights of children and their parents or guardians will be transferred fully to the courts, and social work centres will be able to dedicate more time to their original duties, i.e. counselling and helping families. The Ombudsman supports such solutions and has proposed them several times, but it highlights possible complications when transferring jurisdiction to the courts, which will have to be prepared accordingly (particularly their staff) for the new regulation. If courts decide with longer delays, the issue of removing children will not be resolved, but extended even further. The application of interim injunctions used to prevent many abuses of rights will be even more important.

We expect that the new regulation will resolve certain issues regarding contacts under supervision, whose time, place and form are sometimes in practice decided on by social work centres. We have already reported on a case when a father was granted contact in a town 200 km away from his residence, but during the office hours of the social work centre, for which he had to use one day of annual leave every week. Decisions with such consequences cannot comply with the best interests of a child, but comply with the vindictive purposes of the opposite party, who can calculate in advance that the father will not have sufficient days of annual leave to maintain contact with his children in the above-mentioned manner.

2.15.2 Realisation of the Ombudsman's recommendations

Six recommendations were made about the protection of children's rights in the 2015 Annual Report:

1. In **recommendation no. 78 (2015)**, we strove for the prohibition of corporal punishment of children to be determined in an amendment to the Family Violence Prevention Act. The recommendation was realised, since the latest amendments to the relevant Act were passed in October 2016, which entered into force on 19 November 2016.

2. In **recommendation no. 79 (2015)**, we proposed that the role and duties of the advocate for the rights of the child be determined in greater detail by an amendment to the Human Rights Ombudsman Act. The recommendation also received political support from the Government of the Republic of Slovenia and the National Assembly of the Republic of Slovenia. After the evaluation of the project, Advocate – A Child's Voice, we will prepare suitable amendments to the Act in cooperation with the Ministry of Justice before the autumn of 2017.

3. In **recommendation no. 80 (2015)**, the Ombudsman recommended that court hearings be video recorded. The recommendation was realised with amendments to the Criminal Procedure Act and the Civil Procedure Act.

4. In **recommendation no. 81 (2015)**, we recommended to the Ministry of Education, Science and Sport that it include a requirement for THC testing of secondary-school students, including the keeping and processing of personal data, among the anticipated amendments to school legislation. In its response report, the Government emphasised that school as an educational organisation was not a suitable entity to interfere with an individual's integrity and that the system already provided possibilities for addressing the discussed issue.

5. In **recommendation no. 82 (2015)**, we recommended that the issue of the suitability of compensation for transferring children between sports clubs be regulated in the Sports Act. The Ministry of Education, Science and Sport observed the proposal and regulated the issue in an amendment to the Act, which is already in a legislative procedure.

6. In **recommendation no. 83 (2015)**, we recommended that the Ministry of Labour, Family, Social Affairs and Equal Opportunities conclude a settlement with all injured parties who enforce their rights to child care allowance and the assistance and attendance allowance in judicial proceedings, or rectify the injustices caused by amending legal arrangements. Regarding this issue, the Ministry of Labour, Family, Social Affairs and Equal Opportunities stated that there were no legal grounds for retroactively acknowledging rights, and highlighted that the court had rejected such a claim in its first ruling. No new complaints were received in 2016 and complainants also did not inform us of any case law.

2.15.3 Advocate – A Child's Voice Project

After a decade of implementation, the Advocate – A Child's Voice project has become relatively well known among the expert public. The Ombudsman determines that SWCs know about it and are familiar with its purpose, although some still refuse to, or dare not, use it. A significant change was detected in the practice of district courts in 2016, which in the last year issued the most decisions on appointing an advocate in all of the years of the project's existence, and also submitted the most proposals to the Ombudsman about appointing an advocate. The practice of courts to ask for the child's advocate report and their statement and also invite the child's advocate to a hearing as a witness is becoming more regular.

The table on the next page displays numerical data on the last three years, i.e. from 2014 to 2016. The table reveals the number of requests to appoint an advocate to a child, the number of actual appointments and the number of children involved, and data on the complainants and on what basis the advocate was appointed, i.e. with parents' consent, the SWC's decision or a court decision.

Within the project, we helped more than 550 children to exercise their right to freely express their wishes in procedures in which they were involved in various roles. Based on the experience acquired, we found that the pilot project must also have a suitable legal basis, so in the 2015 Annual Report the Ombudsman proposed to the National Assembly of the Republic of Slovenia that the role and duties of the advocate for the rights of the child be determined in greater detail by an amendment to the Human Rights Ombudsman Act. The National Assembly accepted the Ombudsman's recommendation, so we began to prepare expert bases that will enable the optimum legal solutions to be adopted.

Undoubtedly, one of the most significant expert bases for preparing legislative solutions is the expert evaluation of the project, which was entrusted to the Social Protection Institute of the Republic of Slovenia based on a call for tenders in 2016. Within the evaluation, the first phase of which was carried out in 2016, and phase two of which is to be completed by March 2017, we wish to determine whether the project achieved its goals and how its quality and effectiveness could be improved, and particularly with the objective of having the rights of children ensured by Articles 12 and 13 of the UN Convention on the Rights of the Child realised in a significant part in Slovenia.

All important stakeholders were, and are to be, included in the evaluation of the project (at the time of writing this Annual Report, the evaluation is still ongoing) from whom we wish to obtain as much information as possible to form legal solutions. A questionnaire was sent to the advocates (active ones and those who are inactive or no longer participating in the project for various reasons), social work centres and district and local courts, to which we received a surprisingly good response.

When analysing the implementation of individual sections of the project in the second part of the evaluation, we also asked for the participation of members of the Pilot Project Implementation Group (PPIG), who have been meeting regularly over the years and deciding on all the important conceptual and organisational aspects of the project, supervisors of advocates and parents whose children were appointed advocates.

The purpose of the comprehensive evaluation of the project is to study its current results as objectively as possible and forecast the effects of the proposed legal regulation. The evaluation report will be available to the public in spring 2017.

Year	No. of requests/ no. of appointments	Proposer: SWC	Proposer: parents	Proposer: other	No. of appointments with consent	No. of appointments with decision or court ruling
2014	63/38 (61 children)	26	10	2 x court	32	3 x with SWC decision, 3 x with court ruling
2015	55/29 (43 children)	18	9	1 x primary school 1 x adolescent	23	6 x with SWC decision, 0 x with court ruling
2016 (as of 1 February 2017)	78/40 (62 children) (6 still in discussion or awaiting consent, decision, ruling)	17	15	5 x court 1 x half-sister 1 x family friend 1 x staff at a safe house	33	2 x with SWC decision, 5 x with court ruling

In 2016, the advocacy of children was also implemented under the auspices of the Ombudsman within the pilot project. An expert evaluation of the project is currently underway, which will be completed by the end of March 2017, and the findings of the evaluation will serve as the basis for drafting the amendments to the Human Rights Ombudsman Act. More detailed data on the project will be presented in the evaluation report and partly summarised in the situation assessment to substantiate the proposed amendments to the Human Rights Ombudsman Act, so we thus only summarise the most important data for 2016 below.

In 2016, 56 active advocates participated in the project, conducting 429 meetings with children; 15 advocates were in inactive for various reasons (maternity leave, long-term medical treatment, longer absence etc.)

Since the project began, over 550 children have had advocates appointed for them; in 2016, 62 children were appointed an advocate. We received 78 requests to appoint an advocate, 6 of which are still being discussed or we are waiting for the parents' consent or a SWC's reply about the possibility of appointing an advocate by means of a decision or court ruling. In 17 cases (of 40 requests in which an advocate was appointed), the request to appoint an advocate was submitted by an SWC; a mother filed a request in 8 cases, a father in 7 cases and a court in 5 cases. Other proposers included a (half-)sister, a judge, who was also a friend of the family, and staff at a safe house. In 33 cases, an advocate was appointed with the parents' consent; in 2 cases with an SWC decision, and in 5 cases on the basis of a court ruling.

In addition to the written requests received in 2016, 39 people (mostly from social work centres, parents or relatives) contacted the Ombudsman by phone, mainly seeking information about the advocacy in concrete cases. Some of them later submitted a written request (19), while others did not, since we had already explained to them during the phone conversation that the appointment of an advocate was not reasonable.

In 2016, we implemented two major promotions of the project for the expert public, i.e. in Nova Gorica in January and in Piran in October. Seven supervisory groups participated, and they conducted 20 hours of supervision in each group. Regional intervisions took place in individual regions conducted by regional coordinators. It was agreed that regional intervisions would take place every second month. Regional coordinators formed their own intervision group, which held ten meetings in 2016.

Thirteen new candidates for advocates concluded their advocate training in 2016. A two-day training course was organised for all participants in the project, and an 8-hour intensive course for three groups of active advocates which was entitled, 'Talking to a child – techniques and tools' took place in November.

Example:

Appointing an advocate in divorce proceedings and a child's rejection of access
A complainant/proposer contacted the Ombudsman and explained that divorce proceedings, the determination of custody and arrangement of visitation or her children (aged 9 and 13) had been underway in court for over two years. The complainant believed that the competent social work centre, the court expert and the court had failed to observe the opinions and wishes of her children about contacts with their father. The court had ruled on contacts, and the judge later decided that contacts should be temporarily suspended due to the severe distress of the children.

The Ombudsman informed the complainant about the possibility of appointing an advocate for the children within the framework of the Advocate – A Child's Voice project, whose purpose was to strengthen the voice of children to be acknowledged and discussed as an independent holder of rights and to put the child's interests in the forefront of proceedings. The complainant asked the Ombudsman to send a letter to the children's father informing him of the possibility of appointing an advocate for their children and a proposal for his consent. The complainant personally informed the court about her complaint, which she submitted to the Ombudsman.

After examining the complaint, the Ombudsman assessed that the children needed an advocate, because they were in severe distress and were particularly deeply involved in their parents' conflicts. The father disagreed with the Ombudsman's proposal to appoint an advocate. If the parents or one of the parents disagrees with the appointment of an advocate, a social work centre or a court may appoint an advocate with a decision after examining the reasons. Before the Ombudsman had taken further action, the complainant informed us that the judge would conduct an informal interview with the children. A school psychologist accompanied them as a confidant to whom the children turned several times when they were in distress. When speaking with the children, the judge recognised their distress and the court then decided that contact with the father would be implemented once a week, but only if the children wanted to have contact with their father. The judge acted in accordance with the Convention on the Rights of the Child and observed the wishes of the children, who were able to express their wishes clearly. In this case, the Ombudsman's opinion was that the appointment of an advocate was not necessary, because the children's wishes had been heard and observed. **11.0-8/2016**

Example:

Appointing an advocate when a child rejects access and when child is in distress

The mother of an 11-year-old child who was in distress because he was compelled into accepting the visitation of his father wrote to the Ombudsman. The child started to reject access and there were no contacts for several months. The child would agree to the contacts only in the absence of the father's new partner. The father no longer attempted to establish contact with his son. If they met in town, which happened several times because they live in a small town, the father did not say hello or try to speak to him. This caused the child severe distress. A court enforcement procedure is taking place due to non-payment of child maintenance.

If no formal proceedings are underway, the child's message submitted to the parents through the advocate may be a good opportunity to improve the relationship with the child if the parents are willing to listen. The Ombudsman thus turned to the social work centre, which had already helped the family in the past. The SWC believed that the child needed an advocate for unburdening and empowerment. In a safe and neutral environment and without influence and pressure, the child would be able to express his wishes and views regarding contact, which would then be communicated to the parents, and perhaps the damaged relationship between the father and son could be improved.

The Ombudsman believed that the complainant's request to appoint an advocate for the child was justified, so we explained the role and purpose of the advocate in a letter to the father, and asked him to inform the Ombudsman whether he agreed with the appointment of an advocate for his child. The father agreed to the appointment of an advocate and gave formal consent. The child was then able to obtain his advocate quickly and without any problems. The request to appoint an advocate was assessed as founded. **11.9-35/2016**

2.15.4 Family relationships

The rights of the child demand that parents communicate with each other

Requests from parents or SWCs to appoint an advocate for children whose parents are divorcing or are already divorced predominate in the Advocate – A Child's Voice project, and procedures are underway at SWCs and courts for entrusting custody of children and deciding on access. It is wrong to assume that divorce and concomitant issues end with the finality of a court decision about to whom the children are entrusted and by determining the other parent's access. The experience of the project shows that the actual problems and distress of children frequently start after the dissolution of a domestic community. The reasons for this may vary.

In 2015, the Ombudsman conducted a small study at the largest Slovenian district court, about which we wrote in more detail in our previous annual reports and whereby it was found that as many as 95 per cent of divorce proceedings ended with a settlement or a prior agreement between the parents, which the court usually only confirmed. In lay terms, this meant that the parents agreed between themselves on custody (one or both of them) and how access would be arranged. In our experience, it would have to be further examined how many of these parents find themselves again in court after a few years due to the procedure of re-awarding custody and changes in access arrangements. The examples of families involved in the advocacy imply that perhaps settlements are concluded by making false promises, since, soon after, one of the parents concludes that they have made a mistake with the settlement. We do not dare to claim this, but the stories of individuals also imply that parents were in one way or another forced to conclude a settlement. The reasons lie in the fact that they did not have a lawyer, and the opposite side had one, or one of the lawyers was more skilful, or what seems logical is that the decisions were made in an emotionally very sensitive period when parents were not yet able to bury the hatchet and made emotional instead of rational decisions.

The solution to the above problems (if an analysis of cases shows that our observations on concluded settlements are correct) is perhaps an interim decision, which would be checked after a certain time, so the proceedings would not end and parents would not be forced to spend large amounts on new proceedings. In

the interests of children, the courts need to decide (interim decision is not used frequently enough) promptly when the parents are unable to agree between themselves. What we seldom note in the courts' decision making on family disputes is the mandatory referral of parents to expert counselling, which could help the adults to cope emotionally with the dissolution of the domestic community, which could also prevent distress of the children.

The majority of children are appointed an advocate in the Advocate – A Child's Voice project because of problems concerning contact with their parents (refusal of contact, prevention of access etc.) or proceedings of repeated decision making on the custody of the child to one of the parents. Frequently, the parents in our cases have been divorced for several years and the children have been subject to several judicial proceedings, interviews with court experts and hearings due to various complaints which former partners have filed against each other.

Irrespective of the complexity of a family situation and the time which passes from the dissolution of the parents' community, the information that former partners usually do not communicate with each other is very concerning. They settle arguments by e-mail and telephone and also frequently communicate through their children, who assume the thankless role of a messenger in these situations.

We can claim with certainty that the lack of communication between father and mother is a serious threat to the healthy psychological and physical development of a child. It has been shown in the advocacy cases that some parents even fail to provide new residence addresses or phone numbers. In one case, a father had been collecting his child at a public place for several years, as determined by the court in order to avoid conflicts, but he never knew whether the child would be there or not because he did not communicate with the child's mother and did not have her contact number. He thus waited for the child several times in vain, and when the child finally came, for example after a week, he learned from the child that he had been ill the previous week. In this case, the father managed through judicial channels to compel the mother to open an e-mail address entitled similarly to mere.news@gmail.com (the address is fictitious), which says enough about her readiness to cooperate.

The consequences and distress experienced by children when growing up with parents who do not communicate are inevitable and in our opinion constitute a form of psychological violence against children, particularly if the child assumes the role of messenger. In such advocacy cases, we discovered that children develop special survival strategies whose efficiency depends on many factors. Therefore, advocacy is frequently only a poor remedy, an opinion given by the child, which is usually not news to institutions discussing such cases (usually SWCs), since they are trapped in a vicious circle of unresolved conflicts between the parents and, consequently, the children's distress for lengthy periods. In interpersonal wars that can last for years, very few parents are able to hear children's opinions, and even more rarely are parents able to put an end to their battles, which for many become a way of life.

We can only ask ourselves what will happen to these children once they grow up – children who have not learned from their parents how to resolve conflicts effectively, and have not experienced cooperation and communication between the two people closest to them? How can we expect children with such experience to develop in mature and responsible persons if they do not receive help and protection when their parents fail them?

The statistics reveal that every second marriage ends in divorce in Slovenia, and this does not include cohabitations. The dissolution of a domestic community changes the lives of parents and children, but it does not mean that children have to suffer psychological consequences as a result. How parents proceed with their divorce and how they mitigate its negative consequences are important matters for their children. Regarding their ability to protect their children, parents differ after a divorce and the state should intervene more decisively in the family in order to protect the interests of the children and adopt more efficient measures when parents refuse to communicate, and with this and also other methods of settling their scores, inflict psychological violence on their mutual children.

Since **the Ombudsman was for the first time in its history sued over a publicly expressed opinion about violations of human rights** (the Ombudsman had been in similar proceedings twice before due to the content of a reply to a complainant), it is necessary to summarise the following from the explanatory note of the Supreme Court of the Republic of Slovenia's decision no. I Up 231/2016 of 1 February 2017:

"However, even if the Ombudsman finds that there are no human rights violations due to such actions by the authorities, this cannot constitute a violation of the legal position of those who do not agree with the opinion of the Ombudsman." (from item 12 of the explanatory note)

"The aforementioned may also be determined in the concrete case, since the formation of the Ombudsman's opinion about the existence of violations of human rights and fundamental freedoms and other thus related irregularities in the conduct of the authorities (social work centres etc.) did not signify an encroachment of the authorities upon the plaintiff's legal situation. In the administrative dispute, the court cannot assess this opinion substantively or substitute it. Likewise, it cannot require the Ombudsman as the defendant to (publicly) revoke its opinion." (from item 13 of the explanatory note)

The above excerpts from the decision of the Supreme Court of the Republic of Slovenia confirm the correctness of the Ombudsman's work in also responding to current events and examining them in terms of violations of human rights and fundamental freedoms and to make its findings public. With its examinations, the Ombudsman has no wish to harm either the authorities or organisations whose work it supervises or individual complainants, who can only benefit from the Ombudsman's findings in other proceedings.

Advance decisions about where to place children in the event of the death of their parents

At the beginning of 2016, we received several complaints and questions relating to parents' options to express their will in advance about where to place their children or whom to entrust them to for custody if both parents suddenly lost their lives. The Ombudsman believes that advance decision making by parents about who should take care of their children in the event of their unexpected death is not acceptable, as it fails to answer the fundamental question of how to ensure the best interests of the child, which is required by one of the principles of the UN Convention on the Rights of the Child in all proceedings when deciding on the rights of children. The best interests of the child is a principle which cannot be defined per se, but must be realised on a case-to-case basis. Advance expression of parents' will would infringe the above principle because it would for the most part release the competent authorities of their responsibility to examine all circumstances in an individual case and determine what is best for a child in the given situation.

Children are living beings with rights, and they cannot be left to certain 'heirs' by means of a legal transaction or will. It is understandable that every parent is concerned about the destiny of their child if they lose both parents, and that they want to take care of their future to the best of their abilities. However, the parents have no right in our legal order to determine in advance the destiny of their children. The legal order does not prevent parents from expressing their will in a legal document (will, notarial record etc.), but such documents in a concrete procedure determining the child's endangerment and decision making about their placement have no significant value. In these procedures, it is particularly important to establish the best interests of the child, not the wishes of their parents. A competent authority would certainly have to examine the parents' will expressed in advance, particularly because we can claim with certainty that parents had in such cases especially carefully examined all (then available) options and their consequences. Nevertheless, such a statement in our opinion could not or should not automatically have a decisive influence.

This issue is resolved by the proposal to the Family Code, which is undergoing a legislative procedure at the time of writing this report. The proposal enables parents to express their will in advance about a person to whom a child may be entrusted in custody, i.e. a relative who obtains parental responsibility, an adoptive parent or guardian. The important provision is that the court must observe an expressed wish only if it is not contrary to the best interests of the child. The Ombudsman supports this legal regulation.

Grandmothers and grandfathers as members of the extended family

The Ombudsman established that the legal interest of grandmothers and grandfathers or close relatives of children in legal proceedings for the protection of children in legislation is neglected, since the legislation makes it hard for them to enter into legal proceedings. The Ombudsman believes that the legislation should also acknowledge the legal interest of children's close relatives when there are actually close ties between

them which connect them into a wider family. We thus proposed that the Ministry of Labour, Family, Social Affairs and Equal Opportunities update family legislation as soon as possible. We believe that the proposal for the Family Code, which is undergoing a legislative procedure, observes the above guidelines.

Can children under the age of fifteen decide independently about where they are going to live?

The Ombudsman has discussed several cases of children under the age of fifteen who for various reasons (not domestic violence) leave their homes and decide to live somewhere else. Frequently, but not exclusively, these are girls who decide to live with their partners. Such decisions by children are not usually in accordance with their parents' wishes. In these cases, we have noted the great distress of expert counsellors at social work centres about how to tackle such problems. And the great distress of parents is also very evident.

The police and social work centres believe that children cannot be returned home forcibly against their will. In the cases discussed in the past, social work centres tried to influence a child's decision to return home with various benefits, which was not always successful. The police usually do not bring criminal charges against third parties in such conditions.

The Association of Centres for Social Work organised a meeting of various stakeholders (the Police, the Office of the State Prosecutor General, the MDDSZ, the Association of Centres for Social Work, social work centres, the Human Rights Ombudsman) to find possible solutions for such cases. It was agreed at the meeting that the Police in cooperation with the Association of Centres for Social Work would prepare a practical course for police officers. The joint finding was that powers for the police and social work centres' action were given, since such a child must be considered as being at risk.

Domestic violence

The increased number of complaints in this field is the result of the tragic death of a two-year-old child who supposedly died from severe physical injuries caused by close family members. In addition to information from the media, we also received various proposals, comments on the work of the competent authorities and specific information on the assumed circumstances of the case. Regarding the very diverse information which immediately started to circulate in the public domain or the media, we particularly wanted to establish whether the competent authorities had performed their duties correctly. The social work centre and the police submitted their reports within the determined time limit. After examining their reports, we also asked for a report from the relevant health-care centre because we needed its report to assess whether the regulatory framework of duties of competent state authorities and public service providers contributes in any way to such cases.

On the basis of information collected, the Ombudsman assessed that none of the above authorities could be reproached with irregularities in procedures which could have prevented the tragic event. Domestic violence was not detected, since neither the police nor the social work centre claimed that they had had information prior to the event to make them believe that the health and life of the two-year-old child were in any way in danger. The social work centre was working intensively with the parents, particularly in connection with their other children, and it encountered violence only in connection with the suspected perpetrator's primary family upon the dissolution of his domestic community. The Ombudsman thus assessed that the social work centre could not be reproached with irregularities when determining the risk to the two-year-old girl, since there was no adequate basis for a procedure applying possible legal measures. No irregularities were established in police procedures.

We did not request sensitive personal information about the deceased child from the health-care centre, because we lacked the powers to do so (the procedure was initiated on the basis of paragraph two of Article 26 of the Human Rights Ombudsman Act). We were unable to conclude from the reply received that the parents of the deceased girl were exceptionally less caring than comparable parents, which would otherwise be grounds for notifying the social work centre. We must highlight that our opinion is not based on information from the deceased child's medical record, because we did not access it. We expect that the data from the deceased child's medical record to be reviewed in detail and examined within the framework of the police investigation or criminal proceedings, which is still underway.

On the basis of the aforementioned, the Ombudsman assessed that the procedures of the competent state authorities and public service providers (including poor coordination of joint tasks or negligently performed duties of the competent authorities) did not cause or contribute indirectly to the tragic death of the child. A different opinion could be formed only on the basis of a review of the sensitive personal information in the deceased child's medical record, for which the Ombudsman had no grounds.

Example of good practice: Scouts' guidelines on violence

Upon the receipt of the Peace Light of Bethlehem from the Slovenian Catholic Girl Guides and Boy Scouts Association (ZSKSS), the Association informed us about the Guidelines for the protection of children and adolescents of the ZSKSS (internal document, 13 November 2016). The Ombudsman supports such ways of preventing violence and management, because it is of the opinion that violence directly breaches fundamental human rights and freedoms. We believe that awareness about the unacceptability of violence as a way of resolving relationships is slowly growing in our society, to which such documents undoubtedly contribute, including insistence on its consistent observance.

2.15.5 Children with special needs

The number of complaints involving issues of children with special needs and their parents somewhat dropped in comparison to 2015. We discussed various complaints from parents of blind and partially sighted children, parents of children with emotional and behavioural disorders or ADHD, and parents of children with severe allergies to certain types of food or their ingredients. We also examined several individual complaints, which are summarised in the end of the chapter.

Blind and partially sighted children

Parents of blind and partially sighted children again informed the Ombudsman of many problems experienced by blind and partially sighted children in education and schooling. They again pointed out the inaccessibility of learning materials which are suitably adjusted to blind and partially sighted pupils; the problem of needing someone to constantly assist them, who is supposed to be available to the pupils also in the second and third cycles of primary education and schooling; the reduction in the number of hours of additional expert assistance in pre-school and secondary-school education; problems during examinations, and the problem of obtaining technical aids.

We highlighted the issues of blind and partially sighted children already in the 2015 Annual Report, but the situation in this field did not improve. The Ministry of Education, Science and Sport has been promising for some time that the majority of open issues would be resolved with the amended Placement of Children with Special Needs Act (ZUOPP), which is supposedly being prepared.

Parents expected the Ombudsman to solve the problem by submitting to the Constitutional Court of the Republic of Slovenia a request for a review of the constitutionality of Article 10 of the ZUOPP, which governs the material conditions and physical assistance for blind and partially sighted children in education and schooling. After thoughtful consideration, we decided that the Ombudsman would not file a request for a review of the constitutionality of Article 10 of the ZUOPP, because we assessed that we had no chances of success. We advised parents to exploit the possibility of appealing against the issued decisions on placement if they did not include all the adjustments which the children needed for education in majority of schools (also adjusted textbooks and learning aids). According to the Ombudsman, Article 10 of the ZUOPP is not unconstitutional; the problem lies in the implementation of the Act. This can be remedied much faster in the way we proposed, than to succeed in amending of the Act after a preliminary review of its possible (un)constitutionality.

The problems of blind and partially sighted children were exhaustively communicated to the Minister and other representatives of the MIZŠ during a personal meeting in December 2016. In addition to promises and

assurances that resolution of the problems of blind and partially sighted children would be accelerated, we unfortunately did not receive more concrete answers regarding deadlines for suitable changes.

Children with emotional and behavioural disorders or ADHD

In 2016, we also discussed several complaints relating to the violence of pupils with emotional and behavioural disorders, or ADHD, against other children in a classroom. Schools are trying to tackle these problems differently, but with little success. Many parents believe that children with special needs have many more rights than other pupils in a classroom. They are certain that the children can easily assert them solely with their behaviour. When parents present this to schools, they frequently do not receive a suitable response. We discussed a complaint where not even the name of the person replying to the parents' letter was provided in the school's reply to the parents; the letter also had no signature or school stamp. Most frequently, parents expected the Ombudsman to provide advice on how to first help children with special needs so that other (their) children can also fully exercise their rights to education, dignity and security.

The Ombudsman has been dealing with this problem for several years. We explain to parents that all children have the right to security and a supportive environment in school. Expert school workers are responsible for enforcing rights, particularly headteachers, who are obliged to ensure that all children feel at ease in school and no one is subject to verbal or even physical violence from their schoolmates. The right to security and physical integrity in school refers not only to time spent on lessons (but includes breaks, the time before and after lessons, and during organised field trips and excursions), which is why we believe that a school which is aware (was informed) of violence between its pupils is responsible for violating the above right and is obliged to take action.

In most cases, of which the Ombudsman was also informed, the parents complained about the inappropriate response of school staff to this phenomenon. The right to education is the right of all pupils, including the right to dignity and the right to security and physical integrity. Schools are obliged to organise lessons, other activities and time before and after lessons and during breaks in a way that completely ensures these rights to all pupils, and thus school rules and procedures applicable in a school must be clear and in writing. Regarding the severe violence of pupils against other children, the school is obliged to turn to the MIZŠ for assistance and methods of action, including other expert institutions (Faculty of Education or the National Education Institute of the Republic of Slovenia).

The complaints from children and parents relating to violence require a serious and responsible approach by the school management: first, to take immediate and appropriate action in each case, and then to draft a comprehensive strategy for managing behavioural outbursts of any pupil with emotional and behavioural disorders. It is advisable for such problems to be discussed by school authorities (parents' council and school council) and for them to adopt a suitable strategy to resolve the issue. The Ombudsman believes it sensible for the problem to be discussed by school authorities, because such an approach not only compels teachers and all other school staff to act in a certain way, but also pupils and parents. A school is an organisation where positive change cannot be attained without the cooperation of all the parties involved, irrespective of educational and (even more so) rearing matters.

Regarding the issue of violating the rights of other children to education, we agreed with the affected parents. Disruptive children who cause disorder in the classroom with their behaviour and occasionally make lessons completely impossible undoubtedly violate other children's right to education. According to the Ombudsman, a child with severe behavioural disorders should never be left unattended and should be under the constant supervision of an adult. This may continue for several years in some cases, but it seems that this is the only way to ensure the rights of all children. With suitable expert treatment, emotional and behavioural problems may be reduced during the period of maturation, or may even disappear completely. Other expert workers, from counsellors to headteachers, must provide constant support and assistance to teachers working in classrooms with children with emotional and behavioural disorders. The appointment of at least a temporary person assisting pupils with a disorder would be sensible until it is determined how the disorders would develop in the future. In cooperation with their parents, paths and methods of work must be found to make the disorders manageable.

Children with severe allergies to certain types of food or their ingredients

The Ombudsman was informed about the problems experienced by parents of children with severe allergies to several types of food when providing suitable food in nurseries and schools. Some children are diagnosed as chronically ill, i.e. as children with special needs. Parents claimed that schools in particular tried to avoid preparing meals for severely allergic pupils. They were prepared to make only the mandatory dietary meal, which is usually a snack. In most cases, the parents have to provide all other meals for their children with allergies (breakfast, lunch, afternoon snack); the food is much more expensive than the food that schools provide for other children. Frequently, the parents are not even entitled to child care allowance or a special tax relief for caring for their ill children. They believe that the current regulation is unfair and discriminatory. They submitted several pieces of documentary evidence illustrating the lack of understanding of the problem of children with severe allergies.

We pointed out this problem in a meeting with the Minister of Education, Science and Sport in December 2016. Representatives of the MIZŠ submitted data showing that educational organisations (nurseries and schools) are already preparing over 800 different menus every day, not only due to pupils' medical conditions, but also for religious reasons or parents' different philosophical beliefs. They stated that schools are obliged to observe children's medical restrictions to the same extent as religious reasons or parents' different philosophical beliefs. We did not agree that the reasons for preparing meals due to religious and other reasons had priority before meals which had to be adjusted to pupils' medical requirements. Unfortunately, we were unable to assure the parents that the situation regarding all meals provided by schools would change soon to the benefit of children with severe allergies to certain foods.

When discussing individual complaints regarding the problems of children with special needs In 2016, the Ombudsman examined individual complaints that referred to children with special needs: termination of child care at weekends and during school holidays; provision of additional expert assistance for a child who cannot attend nursery for medical reasons, and additional days of annual leave for parents of special needs children.

Termination of child care at weekends and during school holidays proved to be a problem in CIRIUS Vipava at the beginning of the 2016/2017 school year. On 1 September 2016, the MIZŠ cancelled the financing of expert and other workers who conducted their tasks for resident children during school holidays and at weekends.

It is known that some children cannot return to their families at the weekend and during school holidays for various reasons. A temporary solution was found by accommodating them in hospital care in the Stara Gora Unit, which, according to the complainant, the President of the Parents Council of CIRIUS Vipava, was completely inappropriate. In regard to the above decision, the complainant wrote to the MIZŠ, whereupon the headteacher at the time also responded to the MIZŠ's decision.

The Ombudsman received a courtesy copy of the MIZŠ's reply which was addressed to the complainant. It was stated in the reply that a suitable solution was to be found in cooperation, which may take some time. In our opinion, two ministries should participate in resolving of the problem, the MIZŠ and the MDDSZ. We explained to the complainant that regulations on education and schooling stipulate that schools are closed when there are no lessons (at weekends and during summer holidays). CIRIUS Vipava is an educational institution and thus the regulations on education and schooling apply. In our opinion, the funds for paying staff who are on duty during weekends and school holidays should be provided by the MDDSZ. In this sense, the constitutional document of the institution should perhaps be amended, which is in the domain of the MIZŠ, which is resolving this issue.

A complainant informed us about the problem of **providing additional expert assistance for a child who for medical reasons cannot attend nursery**. Due to deafness, her son had a cochlear implant a year ago and urgently needs special surdopedagogical treatment as per the decision on placement. When the child was in nursery, this treatment was provided by Maribor Centre for Hearing and Speech (CSG Maribor). Because the child cannot attend nursery for a certain time (at least one year) due to constant medical problems, the issue of providing surdopedagogical treatment arises. The complainant attached several documents to the complaint, including the reply of the National Education Institute of the Republic of Slovenia (ZRSŠ), which conducts procedures for placing children with special needs.

The ZRSŠ explained that if a child leaves a nursery for any reason, the rights determined in the decision on placement cease to apply, because the decision is binding on an individual educational institution to provide the relevant rights. By removing the child from the nursery, the decision on placement becomes legally and actually unenforceable. According to the ZRSŠ, the problem could be solved by suitably amending municipal acts to establish a different regime for parents' paying the nursery in such cases – on the basis of paragraph two of Article 17 of the Rules on the methodology for the formation of prices for pre-school institutions providing public service.

We made inquiries at CSG Maribor regarding this problem. It was understood from their reply that CSG Maribor immediately attempted to solve the problem when it arose. In cooperation with the municipality, the headteacher tried to find a suitable solution which would enable the further implementation of additional expert assistance by a surdo educator. The mayor ensured that the municipal council would adopt a suitable decision to enable the relevant treatment.

We verified the realisation of the commitment with the complainant, who confirmed that the municipality had resolved the problem. The child was formally enrolled in nursery for the entire year, although, due to medical problems, he would not actually be able to attend it for at least one year. The parents were exempt from paying any costs of nursery (food and educational programme), and the child continued to receive suitable additional expert assistance (as per the decision on placement) in the nursery, where the parents took him weekly for necessary individual surdopedagogical treatment.

We believe that such and similar cases should be regulated systemically and not depend on the good will and understanding of representatives of local authorities.

Example:

Enforcing the right to sit for the general *matura* examination in an adapted manner

The Ombudsman received a complaint from a fourth-year grammar school student whose request to sit the *matura* examination as a candidate with special needs was rejected. To his complaint, he attached documentation regarding the decision of the National Commission for General Matura (DK SM) and the decision on placement obtained in March 2016. According to the decision, he has deficits in individual fields of learning and is thus an adolescent with special needs who requires certain adaptations in lessons and particularly during the assessment of knowledge.

We made inquiries about this problem at the DK SM. We received a reply within the deadline stating that the secondary- school student had submitted his application in accordance with the Rules on the method of conducting *matura* examinations for candidates with special needs (the Rules), to which he had failed to attach the decision on placement as required by the Rules. Due to his special needs, the candidate's case could not be discussed as per Article 3 of the Rules, which does not require a decision on placement. In January 2016, the student instigated the placement procedure with the National Education Institute of the Republic of Slovenia and obtained a decision in March, which, unfortunately, was too late. He failed to appeal the decision as per the instructions on legal remedies issued by the DK SM in January 2016. His appeal was submitted to the DK SM on 23 March, after he had received the decision on placement. His appeal was rejected by the DK SM on 6 April 2016.

After a detailed examination of the documentation and the DK SM's reply, we assessed that the applicable regulations had been followed by the competent authorities when making their decision, since the candidate would have had to submit the decision on placement and the expert opinion already upon preregistration for the *matura* until 15 November 2015. He obtained the decision and the opinion, but later than prescribed by regulations. We have not established any other deficiencies or irregularities relating to the secondary-school student's complaint, except that the explanation of the decision to reject his appeal by the DK SM in the beginning of April did not include an explanatory note that an appeal was not possible against the decision, but that an administrative dispute could be initiated with the Administrative Court of the Republic of Slovenia. The relevant explanatory note was included only in the decision issued by the competent authorities after the repeated appeal of the secondary-school student, who found the previous decision of the DK SM unacceptable.

The new appeal was rejected as inadmissible, since the matter had already been decided on and the student had not provided any new facts or evidence.

Regardless of this deficiency, we did not consider the complaint founded. We publish this case because we want to highlight that special needs do not entitle an individual to enforce additional adaptations or exemptions which their status does not justify or which have no legal basis. Any exemption from the established rules must be founded individually and based on law, otherwise the unequal treatment of others occurs and thus discrimination against them or violations of their rights. **11.4-13/2016**

2.15.6 Scholarships

After 2013, the number of complaints referring to scholarships has been declining. The number of complaints about scholarships further declined in 2016 in comparison to the previous year. In our opinion, the reduction is the result of the Scholarship Act, which became applicable at the beginning of 2014 and was amended with more logical solutions in February 2016 in certain provisions which had previously caused dissatisfaction among individuals.

State scholarships

Complaints about state scholarships particularly referred to two issues: lengthy decision making about complaints and consideration of fictitious income in household incomes.

We pointed out the excessive backlogs in resolving appeals to first-instance decisions to the MDDSZ several times in the past year. Certain complainants asked us for intervention in relation to their problems, but we decided not to intervene. We assessed that the Ombudsman's intervention on the behalf of an individual who contacted us with their problem would not be suitable, because it could mean that the competent authorities would discuss their appeals with priority – before other appeals which were received sooner. The MDDSZ had reproached us in this regard in the past and warned that our intervention and discussion of an appeal while ignoring the order in which appeals are received were not in compliance with the principle of equity to which the Ombudsman is committed. In those cases, we thus only explained to the complainants that the competent authorities were still resolving appeals from the second half of 2014, and about how the complainants could enforce protection of their rights in judicial proceedings.

Several complainants pointed to the problem of determining income per family member, because SWCs also included fictitious income, which individuals did not actually receive. A complainant claimed that she was an independent worker in culture and did not actually receive the income which was calculated, because she received a fee for the performance of copyright work only a few times a year on the basis of a copyright contract. Her son's scholarship was EUR 60 lower than it would be if the competent authorities considered her actual income, instead of multiplying it by twelve months, as stipulated by the law. The Ombudsman believes that the applicable regulation is unfair, and thus proposes the regulation be suitably amended.

A few complainants also contacted us about repaying unduly received scholarships because they had been unable to fulfil their study obligations on time in accordance with the scholarship agreement. We informed them about the possibilities of deferring debt payments, repayment in instalments and debt cancellation.

2.15.7 Children in nurseries and schools

In this chapter, we present various complaints relating to the field of education and training at different levels that are not linked to administrative procedures, which are discussed in the chapter on social activities.

Similar findings were established in the field of education as in social care. The Inspectorate of the Republic of Slovenia for Education and Sport (IŠŠ) informed us that communication between schools and the MIZŠ and the

IŠŠ is more and more frequently done through lawyers. In this regard, we submitted our opinion to the IŠŠ that communication between schools and the MIZŠ and the IŠŠ through lawyers is unsuitable, unnecessary and finally also (too) expensive when observing the principle of good governance. The schools earmark funds from material costs for legal services, although these funds are not provided for this purpose. We are certain that the MIZŠ disposes of suitable mechanisms to ensure the effective and intentional use of budgetary resources. The first supervisory authority to verify the use of funds is a school council.

We were also informed about the still (too) great differences in the knowledge of pupils and secondary-school students in the area of NE Slovenia in comparison to their peers in other regions. The reason supposedly lies in unequal educational opportunities for young people in this part of Slovenia. We discussed this issue several times in the past and demanded that the responsible authorities realise their commitments to improve the situation more promptly by providing for the permanent expert education of staff, providing more financial resources to improve equipment and teaching materials in schools, and that the state together with the business sector increase investments in improving the economic situation in the relevant region. The problem was clearly not resolved and we thus highlight it again.

We also received several proposals for the Ombudsman to accelerate the implementation of the decision of the Constitutional Court of the Republic of Slovenia (CCRS) regarding the financing of private primary schools. According to the MIZŠ, the proposed amendment to the provision of the Organization and Financing of Education Act (ZOFVI), which determined the financing of private schools and was subject to a ruling of the Constitutional Court of the Republic of Slovenia, was already drafted in mid-2016. Nevertheless, according to our information, the decision will be realised only in 2017. In our opinion, the delay in the deadline as determined by the CCRS is both unsuitable and unnecessary.

In several complaints, parents expressed their disapproval of the closing of individual branch schools, enrolment of children in branch schools, transferring of children from branch to central schools, emotional and behavioural disorders of pupils, changed routes of school transport, additional payment of costs of school transport in a different school district. To resolve problems with the relevant issues, we directed parents to the competent authorities in schools and to the school founders.

Change to the rules on the enrolment of children in nurseries

A headteacher of a nursery wanted to obtain our opinion about the anticipated amendments to the rules on the enrolment of children in a nursery (the rules). She stated that nurseries, similarly to other institutions, deal with growing financial distress resulting from the non-payment of costs for programme implementation, which is a growing problem. Recovery of costs through courts is time-consuming and inefficient. Many parents do not pay for the costs, but they could, according to information obtained from social work centres, the Red Cross and Caritas. The nursery was thus contemplating the idea of supplementing the criteria in the rules with an additional criterion, which would permit a deduction of a certain number of points of parents with outstanding liabilities to the nursery. The headteacher wanted to know if this additional criterion would have any adverse consequences from the viewpoint of human rights protection.

The Ombudsman believes that an additional criterion as suggested does not encroach on human rights. It is not fair if parents obtain more points if they have more children in the nursery and fail to pay the costs than parents who only have one child in the nursery and regularly settle their obligations. After all, pre-school programmes implemented by nurseries are not mandatory. A nursery is available to parents as an option of organised child care and is also a stimulating environment for children, particularly for improving socialisation. It would be ideal if all children attended nursery and if pre-school programmes were free of charge for everyone. However, the state's finances are limited, unfortunately.

We also explained to the headteacher that cases of non-payers must be discussed on a case-to-case basis. The actual material status of a family and reasons for non-payment must be established, and solutions have to be found in cooperation with the family. Furthermore, all parents must be informed on time of amendments to the rules with the relevant additional criteria, so that they can prepare for the change. The amendments to the

rules should also be discussed by the competent authorities of the nursery and its founder. We also advised the headteacher to obtain the opinion of the MIZŠ about the intended amendment to the rules.

Behaviour of a PE teacher towards a female secondary-school student

The Inspectorate of the Republic of Slovenia for Education and Sport (IŠŠ) submitted to the Ombudsman a complaint from secondary-school students and parents of a secondary vocational and technical school, who wrote to the school's headteacher and the Inspectorate. Their complaint contained several accusations regarding the behaviour and conduct of a physical education teacher towards female students. According to their claims, he was supposedly particularly hurtful to a female student in the second year. The students and parents accused him of verbal abuse, unsuitable remarks, discrimination and unfair grading, which made female students particularly humiliated and ashamed.

We wrote to the headteacher about the letter. We requested that he state his position on all the critical claims in the letter and explain what had already been done to resolve the issue between the teacher and the female student (and other students) in an amicable and reasonable way, and what was he planning to do in the future.

The headteacher assured us that he had done everything in his power to protect the rights of one female student in particular whom the PE teacher had harassed. Since the end of May 2016, when the headteacher was informed of the problem, the teacher had not been teaching the relevant student. The headteacher stated that the teacher had been warned several times before about his non-pedagogical, unprofessional and inappropriate conduct towards female students. According to the headteacher, the teacher had also violated the Personal Data Protection Act, because he had been making inquiries about the student's health without her or her parents' knowledge and consent, and he even obtained two certificates about her limitations in physical education. On the basis of his findings about the teacher's conduct, the headteacher had decided to impose a disciplinary measure and issued him a warning about the possibility of terminating his employment contract in the case of a repeated violation of his professional obligations and regulations.

On the basis of the headteacher's reply, who did not deny the allegations arising from the letter written by the students and their parents, we believed that in addition to the non-compliance with regulations (Vocational Education Act and the Personal Data Protection Act), the teacher had also violated several rights of the female student, particularly the right arising from Article 37 of the Convention on the Rights of the Child, because he was bullying and torturing her and generally behaved inappropriately and rudely to her, whereby he also violated her right to dignity. He also unduly encroached on her right to privacy when he inquired about her medical condition without her or her parents' knowledge and consent. We were thus of the opinion that the headteacher's measure was suitable, although it could be have been more severe: termination of the employment contract. Because we were unaware of why the headteacher failed to take the severest measure, we were unable to assess his decision. Perhaps he hoped that the teacher would change and, above all, change his behaviour towards female students. The Ombudsman's opinion was submitted to the IŠŠ, and a courtesy copy was also sent to the school's headteacher.

Peer violence and attitude of teachers to pupils and students

In 2016, we discussed fewer complaints by parents regarding peer violence, and fewer complaints about the assumed inappropriate behaviour of teachers towards pupils and students in schools. We establish that the affected parents had first tried to resolve problems in schools and later at the IŠŠ if they were not satisfied with schools' responses, which is positive. We thus received complaints with such content only as a courtesy copy.

We believe that any inappropriate event that happens in a school must be examined carefully and minutely. Pupils must have the opportunity to explain an event as they saw and experienced it individually and possibly to each other. The statements of possible eyewitnesses are also welcome for clarifying all circumstances and for taking more fair equitable action. Schools should also include the parents of affected children, speak to them and also confront them. In our opinion, this is the only way to avoid allegations that the school was offensive, degrading, improper and verbally abusive to children who were in any way involved in a certain event.

We believe that trust and mutual respect are the foundation of cooperation between teachers, children and parents. In every educational institution, cooperation is the key to success of children, the feeling of self-esteem and thus satisfaction of everyone who enters the school, i.e. children, parents and the staff.

The Ombudsman believes that parents should be sensitive to events in school. Parents are the first guardians of the rights of their children and are rightly interested in the course of work, the atmosphere, relationships and respect in school. School staff should not regard this interest as negative interference with their powers and autonomy, but positively, as the expression of a desire to cooperate and engage in joint efforts for the benefit of children.

Violence on the Internet

Several reports of peer violence and violence of adults inflicted on children were received in connection with contacts which children establish through the Internet. Slovenia has safeguards against such violence; however, we established that more should be done at the general level to deal effectively with such phenomena. We believe that all primary and secondary schools should inform their pupils and students on the traps and dangers of using the Internet. The Ministry of Education, Science and Sport should prepare a uniform mandatory content which would enable children to use modern communication technologies safely. To this end, higher educational institutions, particularly those educating for educational professions, should update course content to train future teachers to transfer such knowledge to children.

Expulsion of a secondary-school student from a residence hall due to delayed payment of accommodation costs

A complainant asked us if a residence hall may expel a secondary- school student for late payment of accommodation costs. She claimed to be in great financial distress. She was aware of her debts and said she would try to settle them as soon as possible. She stated that her son was in the fourth year of secondary school. He regularly did his school work, and lived 80 kilometres from his school. There was no other option but to live in the residence hall.

We explained to the complainant that there were no legal grounds for expelling a secondary-school student from a school or a residence hall whose parents were unable to settle the accommodation costs on time. The Ombudsman opposes measures which schools implement against pupils and students who are neither guilty nor responsible for regularly settling the financial obligations of their parents to schools or residence halls. Money matters are solely the responsibility of parents. We believe that a threat to expel a student is unacceptable and actually denotes a form of violence against them. Since the complainant failed to inform us in which residence hall her son was residing, we advised her to first try to reach an agreement with the management of the residence hall to cancel the debt, divide the payment into several instalments or defer payment for a longer time. We were thus unable to communicate our opinion to the residence hall and were unable to give the complainant any more assistance through our intervention.

Example of good practice

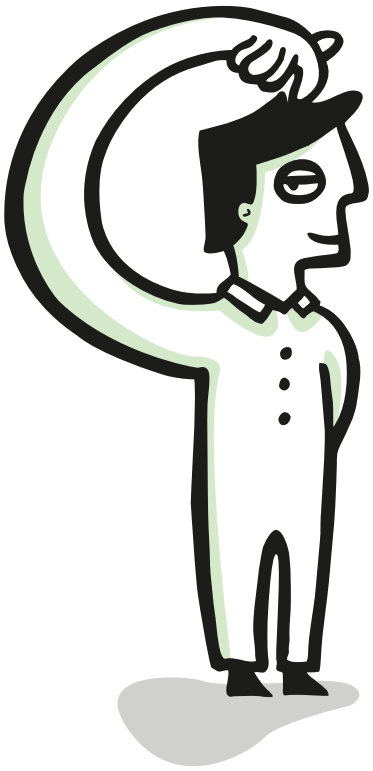
Exposing children to bad weather during football games

The Ombudsman was informed that children who are not dressed suitably for weather conditions frequently accompany football players in the introductory protocol of national football games. In the winter, the football players were wearing tights and gloves, while the children who accompanied them to the field wore only summer T-shirts and shorts, although ambient temperatures were below zero. The complainants pointed to the violation of children's rights and requested the Ombudsman's intervention at the Football Association of Slovenia.

The Ombudsman has no jurisdiction to establish violations of human rights in civil society organisations. We can also assume that children do not attend introductory protocols of football games against their will, but

with the consent of their legal representatives. We nevertheless informed the Football Association of Slovenia as an umbrella organisation about our position formed several years ago relating to this issue (published in the 2011 Annual Report, p. 306), and which is obviously still topical:

"We believe that shorts and a T-shirt are not suitable clothes for children at ambient temperature of around 2 degrees Celsius. Accompanying national football team players is certainly a big event for children, which must also mean a lot to their parents or guardians, but this should not be a reason to expose children to the cold, which could endanger their health. We assume that parents did not even think that this was a threat to their children's health or they would have demanded that the organiser have the children dressed more appropriately. Tracksuits in the club (or the country) colours would meet this requirement."



2.16 OTHER

	Cases considered			Resolved and founded		
Field of work	2015	2016	Index 16/15	No. of resolved	No. of founded	Percentage of founded among resolved
16. Other	**307**	**352**	**114.7**	**334**	**2**	**0.6**
16.1 Legislative complaints	31	18	58.1	11	1	**9.1**
16.2 Remedy of injustices	7	8	114.3	7	1	**14.3**
16.3 Personal problems	24	21	87.5	21	0	**-**
16.4 Clarifications	221	217	98.2	210	0	**-**
16.5 Courtesy copies	10	59	590.0	57	0	**-**
16.6 Anonymous complaints	14	29	207.1	28	0	**-**
16.7 The Ombudsman	0	0	-	-	-	**-**

In 2016, the Ombudsman received 352 letters, which, given their content, we were unable to classify by individual substantive fields of the Ombudsman's work. We recorded them separately under the classification Other (legislative complaints, clarifications, courtesy copies, anonymous complaints). Certain cases were discussed in individual substantive fields, where their content was discussed in more detail.

Legislative complaints included proposals by individuals or authorities and non-governmental organisations to regulate a relevant field or open issue normatively or more appropriately. We explained to complainants which state authority is competent to draft normative changes, and also acquainted them with the Ombudsman's activities in the field in question.

In 2016, the Ombudsman also received several proposals for new legislation and proposals for amendments to legislation from competent state authorities in order to examine how the proposed arrangements would affect human rights and fundamental freedoms.

Complaints dealt with under the section **Remedy of injustices** are classified in the field to which they substantively belong, which also includes the issue of arranging war and post-war mass graves. We have highlighted several times in our clarifications the need to respect the dignity of post-war victims and further address all remaining issues.

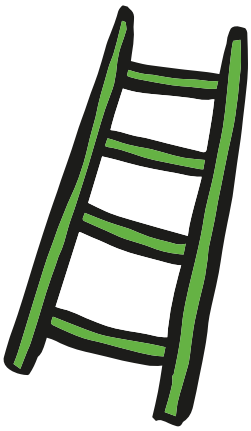
Persons asking for assistance to deal with **personal distress** (poor financial situation, relations with neighbours, poverty, lack of response from state or local authorities and other) frequently contacted the Ombudsman. In such cases, we explained to them the ways to resolve their distress.

The biggest share present **clarifications** (217 from a total of 352 cases). Complainants ask for additional explanations of various letters which they received from state authorities and which they perhaps failed to

understand in their entirety, for information on normative regulation of individual matters or about authorities' powers. We refer them to the competent authorities and advise them on the application of suitable legal proceedings. Furthermore, we inform them of the Ombudsman's positions if we have already dealt with substantively similar issues. The number of letters in which complainants ask the Ombudsman for a certain form of 'legal assistance' points to the fact that regulations are very extensive, complex, frequently unclear and difficult to understand. The enforcement of rights, obligations and legal entitlements of clients is challenging, free legal aid is frequently difficult to obtain and the competent authorities provide insufficient information to their clients.

From letters received as **courtesy copies**, we try to establish whether is it possible within the Ombudsman's powers to discuss these cases. When certain formal procedures are already underway, we inform complainants that we have received their letters, and we ask them to keep us informed about the course of the procedure, so that the Ombudsman could take action within its jurisdiction if necessary.

Anonymous complaints concern violations of human rights, particularly in the field of labour relationships. Many people do not dare to reveal their identity in fear of possible consequences. In such cases, we inform them that the Ombudsman's procedure is confidential. If necessary, we inform the competent inspection services about the alleged violations and propose to them that they take action within their powers.



3.
OVERVIEW OF OTHER DEVELOPMENTS

3.1 Relations with the media

Information provided through press conferences

The Human Rights Ombudsman, Vlasta Nussdorfer, and her deputies, Ivan Šelih and Dr Kornelija Marzel held a press conference on 3 February 2016 at the offices of the Human Rights Ombudsman of the Republic of Slovenia. They discussed the activities of the Ombudsman related to the **refugee problem and the decisions related to petitions for a review of the constitutionality of the Defence Act (ZObr) and the constitutionality of Article 8 of the State Border Control Act (ZNDM-2).**

When asked about the exercise of the rights of same-sex couples, the Ombudsman replied that she would wait for the decision made by members of the National Assembly concerning a proposal filed for the Civil Union Act and would only then decide whether to file a request for a constitutionality or legality review of some acts governing the rights of same-sex couples. In one of the replies to the press, the Ombudsman clarified her opinion by stating that a suitable act could most comprehensively and quickly resolve any open issues related to discrimination against members of the LGBT community in particular areas. This, according to a written statement by the Ombudsman, could also have been the proposal for an act that was submitted to the legislative procedure and presented to the Ombudsman by MP Jani Möderndorfer.

A journalist also asked about the **accommodation of foreign unaccompanied minors.** .Deputy Ombudsman Šelih stated that the Ombudsman had been dealing with this issue for quite some time, so it had already submitted multiple recommendations and requests to ministries and the Government, in order to ensure the accommodation of minors and families with a foreign minor in suitable institutions for the accommodation of minors, instead of at the Aliens Centre.

* * *

The Ombudsman's press conference **on the placement of people with mental health issues in secure wards in social care institutions** drew considerable attention. The Ombudsman and Deputy Ivan Šelih, Head of the National Preventive Mechanism in Slovenia (NPM), gave the press conference on 16 March 2016 in Lukavci, in cooperation with representatives of social care institutions and a judge at Celje Local Court, Tanja Dolar Božič. The Ombudsman had been informed that in some institutions the people placed in them sleep in the dining room or in the daytime living area the due to a major lack of space.

The Ombudsman and her deputy decided to hold a press conference because the warnings and recommendations of the Human Rights Ombudsman concerning the grave problems related to the placement of people in secure wards, decisions on which are made by courts based on the Mental Health Act (ZDZdr), had been ignored for many years.

Due to the very high expectations of the media regarding the Ombudsman's response, the Ombudsman decided to share her findings on the case concerning the accommodation of two children with a foster family (**i.e. the case of the boys from the Koroška region**) at a press conference for all the media, and not as a press release, which would have been the standard procedure. On 8 April 2016, the Ombudsman and his deputy presented the Ombudsman's position on this case at the Ombudsman's offices.

* * *

On Tuesday, 31 May 2016, **the Ombudsman presented to Dr Milan Brglez, President of the National Assembly of the Republic of Slovenia, the 2015 Annual Report of the Human Rights Ombudsman and the 2015 Report of the National Preventive Mechanism (NPM).** The Ombudsman presented the main highlights of the Report at a press conference, together with deputies Ivan Šelih, Tone Dolčič, and Miha Horvat.

* * *

The Ombudsman, her deputy and Head of the National Preventive Mechanism (NPM), Ivan Šelih, the Ombudsman's advisers and members of the NPM, On 26 July 2016, Jure Markič and Robert Gačnik, specialist, and a representative of the contractual non-governmental organisation SKUP – Community of Private Institutes, which is one of the eight selected organisations collaborating with the Ombudsman within the NPM, presented the **Report on the Implementation of NPM Duties in 2015** at a press conference held in the Ombudsman's offices.

* * *

In mid-summer, on 4 August 2016, the Ombudsman, the Ombudsman's adviser Lan Vošnjak, the President of the Asociacija society, Jadranka Plut, and Marija Mojca Pungerčar, **self-employed in culture** and Editor of the Newsletter for the Self-Employed, held a joint press conference to discuss the decision of the Constitutional Court of the Republic of Slovenia which, after studying the Ombudsman's request for a constitutional review, found that paragraph one of Article 14 of the Exercise of Rights from Public Funds Act was in conflict with the Constitution of the Republic of Slovenia.

This Article determined a fictitious income for the weakest social group, the self-employed in culture and other sole traders, if they failed to earn 75% of the gross minimum wage. As a result, this made it more difficult for them to access social transfers, which significantly impaired their social position.

The Constitutional Court agreed with the Ombudsman and clarified in its decision that the differences in the positions of the self-employed and those otherwise employed cannot constitute, in and of themselves, grounds for unequal treatment. Furthermore, it decided that, until the Act is suitably harmonised with the Constitution of the Republic of Slovenia with regard to procedures for obtaining public funds, persons performing business activities may themselves challenge the presumption referred to in Article 14 of the Exercise of Rights from Public Funds Act, so Jadranka Plut gave a clear instruction to the self-employed who will exercise their rights in social work centres.

* * *

On 5 February 2016 on the premises of the Municipality of Tržič, the Ombudsman, her deputy Dr Kornelija Marzel, and the Ombudsman's adviser Lili Jazbec at the initiative of the Ombudsman met **with representatives of the workers of Peko Tržič** (in bankruptcy), representatives of local government, state institutions, and humanitarian organisations. They discussed the protection of the rights of the workers and their families as Peko goes bankrupt. The event was hosted by the Mayor of the Municipality of Tržič, Borut Sajovic. The Ombudsman also spoke with the workers and discussed the meeting at a brief press conference. She warned that the number of people engaged in the matter must be limited, so that activities for providing assistance and the fulfilment of all the rights to which they are entitled are carried out smoothly.

* * *

On Wednesday, 26 October 2016, the Ombudsman publicly supported the **Acquiring Basic and Vocational Competences Project** at a press conference. In her opinion, the project is a major contribution, because it will enable many people over the age of 45 to go through a new period of education. According to representatives of the institutions within the CDI Univerzum consortium, the aim of the project is to increase the inclusion of older workers in life-long learning and to improve their competences for the needs of the labour market.

Various questions from the press

In 2016, journalists most frequently turned to the Ombudsman with questions concerning the refugee issue. They were interested in the Ombudsman's view of the fence erected along the border and of the State Border Control Act; they were concerned about unaccompanied children and whether the accommodation of minors was suitable. They wished to discover whether the confiscation of refugees' belongings was legal, the status of refugees' health care, and how to stop intolerance of migrants. They were interested in the Ombudsman's actions in the case of the Corba-Suleiman family. Furthermore, they asked whether the Ombudsman would file a request for a constitutional review of the Defence Act and how the Ombudsman commented on the decision of the Constitutional court; at the end of the year, journalists wondered about the adoption of the Aliens Act.

In the middle of the year, the public was shocked by the case of the **so-called boys from the Koroška region** and by the problem of enforcements related to children and the problem of children being adopted by grandparents. Journalists were also interested in the Ombudsman views on the children being adopted by their grandparents, which had been foreseen by Article 215 of the proposal for the new Family Code. The Ombudsman warned that the possibility of the children being adopted by their grandparents was in conflict with the principle of the best interests of the child, as such an arrangement would place the interests of the grandparents before the interests of the children.

The **violent behaviour of two parents towards their two-year old daughter** also ended sadly, as the girl succumbed to the injuries. The Ombudsman issued a press release in which it expressed indignation over the cruel death of the child and her expectation that competent authorities would carry out as soon as possible all procedures to determine all the circumstances of the tragic case and that they would determine responsibility for the crime against the child. These stories once again raise questions about violence against children and in the family and a discussion on the physical punishment of children. In 2016, there were slightly fewer questions about **privacy on social networks**, but this topic was in the limelight after an 18-year-old girl in Austria sued her parents because they posted her photographs on Facebook. A journalist was interested in whether something like that could also happen in Slovenia and whether the legislation in this field should become stricter. There are many dangers online, some still unknown, so parents should be especially reserved when posting photographs and other personal information about their children, especially if they do not have the child's consent or if the child expressly objects to it. We found that it was correct to enable grown children to sue even their parents if they incurred damage due to their illicit actions.

This year, there was a high-profile story about a **former entrepreneur** to whom major Slovenian companies owed money and who suffered major medical issues due to worries and hardships. He was unable to obtain treatment because he did not pay health insurance, but at the same time the Health Insurance Institute (ZZZS) owed him tens of thousands of euros in sickness benefits. The Ombudsman treated this high-profile case and also proposed suitable solutions (offset of claims).

We detected **fewer questions related to expressions of hatred or intolerance**; specific cases included pig heads thrown at the construction site of the mosque, and the desecration of a church in Gorenjska in autumn and of sacred objects in Koper. We discovered that the Narodni Dom Hall in Novo Mesto where aid for refugees was being collected was desecrated with swastikas, but we received no questions from the media regarding this. As the migrant wave ended, the number of questions about hate speech directed at refugees decreased.

We detected slightly more activities in the field of **equal opportunities and women's rights**. To commemorate 8 March, International Women's Day, the Ombudsman gave an address in which she also warned of the unique violence against the already achieved women's rights; this violence is carried out in the form of prayers in front of the Gynaecological Clinic in Ljubljana. She expressly stressed, and reiterated in autumn as well that

the levels of human rights protection achieved thus far cannot be decreased at any price. Efforts should be made for all groups of the population to be granted their rights, she stated. The Ombudsman encountered disapproval from the conservative segment of the public.

A tweet by a well-known politician attracted much attention, as he publicly insulted two female journalists from the national television station; on this occasion, the Ombudsman issued a press release. In the Ombudsman's opinion, the journalists have available legal remedies, which they also took advantage of, and reiterated her constant warnings that high standards of conduct and the respect for all, regardless of personality differences, are expected from politicians and anyone in visible positions. Appropriate dialogue is necessary, without insults and humiliation. The Ombudsman also recommended that a code of ethics be adopted that would set the limits of acceptable conduct for politicians, and she reiterated her proposal for the internet to be treated as a public space, so that such actions could be prosecuted as offences, as the threshold of acceptability on the basis of which law enforcement and judicial authorities evaluate crimes is very high.

In autumn, the public was upset by **a short film made by the Živim Institute** on the staircase of the Franciscan Monastery in Ljubljana, which called for the preservation of life. Many individuals, non-governmental organisations, and the City of Ljubljana responded in indignation, stating that the film violates the right to make free decisions on the birth of children provided by Article 55 of the Constitution of the Republic of Slovenia. The Ombudsman expressed her understanding that, from the perspective of broader social developments, the film could be understood as a call to eliminate existing rights in Slovenia. However, she found that its content did not violate any rights or freedoms of individuals, as it called for respect for life, which is a fundamental human right. The opinion that not even a discussion on a particular constitutional right or freedom is permitted would, however, be in conflict with the democratic regime on which our society and state are based, said the Ombudsman's press release.

The public was also very upset by statements made by the **retired headmistress Angelca Likovič**, who shared her opinion on a broadcast by the national television station, namely that even victims of rape should give birth. We received some questions concerning this and concerning our opinion on the freedom to decide on the birth of a child. The Ombudsman expressed her unequivocal **position on abortion**, which is the right to decide freely on whether to carry a pregnancy to term and is recorded in Article 55 of the Constitution of the Republic of Slovenia.

At the beginning of the year, a journalist wondered whether the Ombudsman intended to file **a request for a review of the constitutionality of acts that discriminate against the LGBT community.** At the time, the Ombudsman met with the representatives of the LGBT community and was informed of the extent of the systemic discrimination against same-sex couples and families. She was informed of an analysis performed by this LGBT community and showed that there are more than 60 such acts. At the time, the Ombudsman found that a suitable act could most comprehensively and most quickly resolve any open issues related to the discrimination against members of the LGBT community in particular areas. We found that this could also be achieved by the proposal for an act that was submitted to the legislative procedure and presented to the Ombudsman by MP Jani Möderndorfer.

The introduction of the **right to water** as a constitutional right was approved by the Ombudsman, as she had recommended many times that this right be entered in the Constitution of the Republic of Slovenia. We stressed that the measure was necessary in order to protect water sources, which should be available to current and future generations. We found that this action was an incredible achievement, which indicates that human rights cannot be subordinated to the requirements of capital, which is also a foundation of a sovereign welfare state governed by the rule of law.

In 2016, **we did not receive any questions concerning the issue of the Roma people**; however, in December, we issued a press release warning the public that the drinking water in the water tank that the Government of the Republic of Slovenia ordered to be installed in the settlements Dobruška Vas and Goriča Vas could only be a temporary measure when implementing the right to drinking water. The Ombudsman warned the Government of the Republic of Slovenia of this and emphasised that in some weather conditions the supply of drinking water through water tanks is completely unsuitable (frost, heat). He found that providing drinking water through a water tank is a step backwards with regard to the opinion of the Government of the Republic of

Slovenia dating back to 2011, stating that: "the observance of the right to drinking water arising from Slovenian and international legislation constitutes the provision of public access or access through a public connection /.../" At the time, the Government of the Republic of Slovenia committed to finding a solution for the installation of a water supply connection itself (if the local community in the Roma settlement failed to provide access to drinking water). We also received questions regarding **overcrowding in prisons, imprisonment for unpaid fines and fine enforcement by imprisonment, and the abolition of life imprisonment**.

In the field of health, we answered questions on measures for the mandatory treatment of addiction, and we made a statement on the rights to follow-up rehabilitation of disabled persons. A journalist wanted to know our position on the conditions at the Department of Infectious Diseases, and there were also questions on the inadmissible distinction between **compensation for donors of haematopoietic stem cells and blood donors**. With regard to the latter, we answered that this case is still under review and that we are making efforts to eliminate the distinction in the amount of the compensation for the absence from work between blood donors and donors of haematopoietic stem cells. We recommended that the Ministry of Health draft amendments to the legal foundation to eliminate this distinction as soon as possible. Some media outlets were upset over the Ombudsman's attendance at a solemn ceremony in remembrance of the victims of war which was also attended by the **Russian President, Vladimir Putin**. In their opinion, by attending the ceremony, the Ombudsman honoured the Russian President and thus indicated that she has no regard for human rights. We clarified that it is necessary to honour the remembrance of all victims, so the Ombudsman has been making efforts for a number of years to establish reverence for those who died in war or after war. The Ombudsman's attendance at such events can serve as a reminder to heads of state that respect for human rights is necessary in order to ensure that such memorials need never be erected again.

Controversy was caused by the case of misplaced wills, encountered by the Ombudsman when she held meetings in Nova Gorica; a journalist discovered upon researching the matter that this was not an isolated case. We issued a press release to warn that the state must assume responsibility for mistakes if such mistakes are made by its officials; furthermore, the state should investigate why these officials acted inappropriately or erroneously and take suitable measures based on its findings.

The public was also appalled by **the case of proving the earmarked use of s special social assistance benefit in cash**, which showed that some regulations are not in touch with reality and that the people who act in accordance with such regulations are inflexible.

The case of a single mother also drew some attention; after the Ombudsman intervened, **the company VOKA reconnected her to the water supply system.**

Sometimes, on the basis of issues discovered in the media, the Ombudsman also initiates petitions at its own initiative. One such petition concerned the **issue of allowances to improve the status of workers in culture.** The news report stated objections to the manner of granting such allowances, which, due to limited funds, are granted according to the order in which applications are received. You can read more on this case here (chapter 2), and in this part of the Report you can also learn more about other cases initiated on the basis of media reports (high fees for entry in the directory of attorneys, the death of a two-year-old girl in Jesenice, etc.).

With regard to the work of the Ombudsman, there was significant interest in 2016 concerning the issue of the **new deputy** of the Ombudsman competent for constitutional rights, discrimination and intolerance, personal data protection, citizenship, foreigners, the correction of injustices, and international cooperation. The appointment of the new deputy followed the retirement of the long-time deputy working for ombudsmen, Jernej Rovšek, on 28 February 2016. The Ombudsman recommended to the Members of Parliament that Miha Horvat, who had been working as the Ombudsman's adviser, be named her deputy. He was confirmed by the MP's in March 2016.

We also received a question concerning the intention of the Ministry of Justice related to **the establishment of a Directorate for Fundamental Human Rights and Transparency.** The Ombudsman found that a special organisational unit for human rights within the Government of the Republic of Slovenia could help to treat this topic more effectively within the executive branch of government and to the drafting of regulations in the field. Thus far, ministries have too often stated that they are not competent to treat or resolve individual issues

in the field. Furthermore, we reported that, upon agreement with the Minister of Justice, Goran Klemenčič, we are together drafting expert groundwork to amend the Human Rights Ombudsman Act, so that it would enable us to obtain Status A according to the Paris Principles, and so that it would provide a suitable regulatory framework for the children's advocacy.

3.2 Statements and opinions on various occasions

The Ombudsman's speech commemorating International Holocaust Remembrance Day

On 24 January 2016, the Ombudsman addressed those attending a ceremony commemorating International Holocaust Remembrance Day at the Centre of Urban Culture (the Šiška Cinema). She stated that the right to life is one of the fundamental human values, without which all others lose their meaning. She warned that the suffering experienced by all camp prisoners must remind us and future generations not to forget the past, not to allow our memories to be blurred by different stories and tales told to reduce the importance of the resistance of European nations against dehumanisation, which has no comparison in the history of humanity. She added that more must be done for younger generations to develop their own attitude to this dark event of European history, the Holocaust.

A systemic approach with small steps for persons with special needs

In her special report dated 17 February 2016, the Ombudsman reiterated all of the efforts needed for persons with special needs to exercise their rights. She listed numerous fields in which their rights have not yet been fulfilled or they are being fulfilled too slowly. She once again warned of the need to treat such children early, the urgent need for optimum conditions for their education, the insufficient frequency of various special treatments, the lack of expert personnel, insufficient education of experts, the issue related to personal assistance, and the arrangement of accompanying persons for persons with special needs, etc.

Amendments to the Environmental Protection Act should be suitable

A letter which was addressed to MP's and discussed the planned amendments to the Environmental Protection Act was brought to the Ombudsman's attention. The group of people that sent the letter saw the amendments as an attempt "to use the back door to enable the operation of dirty industry that does not meet EU standards, and to reduce the impacts of the affected public on the issuing of environmental permits." Due to the significance of the planned amendments, the Ombudsman Lili Jazbec expressed her expectation on 19 February 2016 that the legislative procedure would be carried out in a proper manner, mainly from the perspective of public participation, that the adopted amendments would not in any way violate constitutionally provided human rights or fundamental freedoms, and that the basic right of individuals to a healthy living environment would be observed.

On the World Day of Social Justice, the Ombudsman called on the state to enhance its efforts

On 19 February 2016, on the World Day of Social Justice, the Ombudsman called on the state to enhance its efforts in the fields of poverty, gender inequality, and social exclusion. She reminded the government that investment in eradicating poverty increases people's well-being, which would be its main duty. We claimed in the 2014 Report of the Ombudsman that poverty is a form of violence, and zero tolerance should be advocated in relation to violence. She reiterated that poverty cannot be, is unable to be, and may not only be resolved by humanitarian societies and numerous volunteers through projects, but the state must be the first to assume the lion's share of the responsibility; it must prepare and implement programmes to drastically reduce it, and these programmes must be sufficiently efficient.

We must not come to terms with poverty

On 17 October, on the International Day for the Eradication of Poverty, the Ombudsman warned of similar issues. She emphasised that social security and health must remain fundamental goods. The Ombudsman expressed concerned that there is an increasing number of people in our country who have no compulsory health insurance due to various personal circumstances, and receive health care in pro bono out-patient clinics, where doctors and other staff work voluntarily. She encouraged consideration of the issues of social security, social justice, equal accessibility and the prevention of social exclusion.

The Ombudsman's address commemorating International Women's Day

In her address commemorating UN's International Women's Day on March 8, the Ombudsman warned of the many still unresolved stories and challenges regarding the implementation of the principle of gender equality. She found that the formal equality of women and men is still quite different from actual equality. She is still concerned about violence against women, poor social conditions and poverty, while the differences between genders and the risk of violence only increase such inequality. It is also necessary to eliminate structural inequalities, so that particular measures supporting women can be effective.

The Ombudsman called on the state to systematically regulate the issue of homelessness

On Thursday, 17 March 2016, as the honourable patron of the second congress on homelessness in Piran, the Ombudsman expressed satisfaction in her address that society, especially civil society, is active in the field of homelessness and that people living on the edge of society have support. She expressed hope that this support would become systematic and supported by means of a strategy and, eventually, through legislation. The stigma connected with homelessness can be overcome only by means of raising awareness, she added. She also warned that the Ombudsman has been requesting that the Residence Registration Act be amended for years; we have been making efforts, writing letters, and holding meetings with the competent ministry; however, there is still no solution that would enable homeless people to be registered at the address of an organisation (in the latter case, municipalities were recommended).

Fighting racial discrimination on the International Day for the Elimination of Racial Discrimination

On 21 March 2016, on the International Day for the Elimination of Racial Discrimination, the Ombudsman warned of some current issues, including the issue of the Erased. This is a case in which the Ombudsman's warnings, which have been provided for years, have been ignored, so the matter ended in the European Court of Human Rights. The situation is similar today, as the Ombudsman has been warning for many years of racial discrimination against members of the Roma community who live in illegal settlements without public utility systems. In the petitions that the Ombudsman received related to hate speech, a strong connection could be detected between current social developments and hateful expression, especially during the migrant and refugee crisis.

On May Day, the Ombudsman called for the adoption of more effective measures in the field of labour law

On 1 May, International Worker's Day, the Ombudsman emphasised that not enough progress has been made in Slovenian society in the period of our independent state with regard to ensuring a higher level of protection for workers and ensuring their social and economic rights. She expressed dissatisfaction with the ineffectiveness of state authorities in discovering and prosecuting people violating labour law, and with the ineffectiveness of the inspection supervision and measures in cases of modern forms of slave labour. Therefore, we still monitor severe examples of violations of fundamental human rights, and labour and social rights, which significantly affects people's dignity, she stressed. In particular, she warned of the position of foreign workers who legally, and often illegally, work in Slovenia and are in an even poorer position, often with no social protection or health care.

On World Refugee Day: the refugee crisis can be a challenge to our humanity

On World Refugee Day, the Ombudsman warned of the role and activities of the Ombudsman with regard to the refugee issue, and once again emphasised that, in accordance with international standards and humanitarian law, the state must take care of all those seeking international protection and those to whom such protection has already been afforded, particularly unaccompanied minors. It must carry out the strategy for integrating persons who have been granted international protection, and it must ensure the full observance of international and regional instruments for human rights, including the 1951 UN Geneva Convention Relating to the Status of Refugees, the European Convention on Human Rights, and the relevant obligations within the human dimension of the Organization for Security and Co-operation in Europe. She reminded everyone that, in the autumn of 2015, the ombudsmen of SE Europe issued the Declaration on the Protection and Promotion of the Rights of Refugees and Migrants and decided that states must ensure access to a fair, quick, and effective asylum procedure, which takes into account gender equality, the right to be informed, and the right to an effective remedy and which protects the interests of children. In her opinion, it state is obliged to develop such policies that contribute to ameliorating conditions in the world, encourage humanitarian activities and respect for human rights, and not to increasing conflicts or violations of rights.

On Universal Children's Day, the Ombudsman called on the state to meet its commitments and to improve communication

On Universal Children's Day, on 20 November, the Ombudsman warned that Slovenia had still not met all the commitments it made by ratifying the Convention on the Rights of the Child, even though it has made partial progress in individual areas by passing legislation and through the actions of its competent authorities. It has still not ratified the Third Optional Protocol to the Convention on a communications procedure, which it already signed in February 2012. The Ombudsman highlighted the more detailed findings in annual reports, and particularly warned of delays in governing family relationships by law and to the insufficiently arranged health care of children. She found it unacceptable to resolve specific dilemmas concerning the medical treatment of children in public, especially because, due to the requirements of professional secrecy, the medical and social services are in an unequal position when arguing that they have done everything in the child's best interest within their duties (as is required by Article 3 of the Convention). Furthermore, she emphasised that everything must be done so that neither the parents nor the public have any reason to doubt the suitability of a child's treatment; therefore, more attention should be paid to improving the communication skills of all providers of health care and social services.

The Ombudsman calls for greater effectiveness in the fight against violence against women

On 25 November, the International Day for the Elimination of Violence against Women, the Ombudsman stated that any violence against women and any specific form of discrimination and violation of human rights and freedoms are unacceptable. She called on all competent authorities in the country to suitably respond to all statements on violence against women and to treat them with all due expert responsibility. She added that all the people of Slovenia are called on to enforce zero tolerance of violence, to discuss it loudly, to offer help to victims, and to do everything possible to prevent violent actions, to women and men.

3.3 Projects

Court expert opinions in cases of family violence and child sexual abuse – a petition to unify practice and provide criteria for professional competence

On Thursday, 18 February 2016, together with the Association for Non-violent Communication, the Association SOS Help-line for Women and Children – Victims of Violence, and the ISA Institute (Institute for Psychological Counselling Development Projects), the Ombudsman held a panel discussion on court expert opinions in cases of family violence and child sexual abuse – a petition to unify practice and provide criteria for professional competence.

The panel discussion, which took place at the Faculty of Law of the University of Ljubljana, was an opportunity to present good practice in expert court opinions in the field of family violence and child sexual abuse, present current challenges, and to develop specific proposals and initiatives to unify practice and implement measures to ensure highly professional competence in work in this field. Those in attendance were also addressed by Ombudsman Vlasta Nussdorfer.

Representatives of competent national institutions and non-governmental organisations participated in the panel discussion. Good practices in providing expert court opinions in the field of child sexual abuse were also presented by Dr Gordana Flander Buljan, Head of the Child and Youth Protection Centre Zagreb, a renowned expert in the field.

In her introductory remarks, the Ombudsman stressed that in some procedures children are still exposed to unduly lengthy and multiple examinations and agonising procedures, which is unacceptable. She expressed her conviction that the panel discussion would yield specific results that would benefit victims of sexual abuse and family violence.

The Referenca and Mentor awards given to new recipients

For the second year, the Human Rights Ombudsman participated in the project of the Life Learning Academy. On 8 June 2016, the Ombudsman, as one of the Knowledge Ambassadors, presented the 2016 Referenca Award to Aljaž Malek, the author of a paper titled *Analysis of the Situation in the Field of Discharging and Treating Urban Waste Water and Rain Water at Elevations Exceeding 1500 Metres*. His mentor, the Director of the Ombudsman's Expert Service, Martina Ocepek, received the Mentor Award from Dr Stojan Sorčan, Director-General of the Higher Education Directorate of the Ministry of Education, Science and Sport, at an event during the Academic Economic Congress at the Brdo Congress Centre.

The Ambassadors of Knowledge are established and renowned persons with expert knowledge in their chosen fields working in private companies or public institutions. Their role is to select the best young talent from among the young people in a company or an institution on the basis of certain rules and reward them with the Referenca Award. The Ambassadors of Knowledge meet high ethical criteria. The project was prepared by the Life Learning Academy.

Legal Clinic for Refugees and Foreigners

In 2016, the Ombudsman also worked with the Faculty of Law of the University of Ljubljana on a project focusing on a Legal Clinic for Refugees and Foreigners. Under the leadership of Mojca Valjavec and assistant Manja Hubman, a student studying at the master's programme of the Faculty of Law, this Faculty's team won the International Asylum Law Moot Court Competition in Trnava in Slovakia on 25 and 26 April 2016.

The Ljudevit Pivko Primary School in Ptuj completed

On Thursday, 29 September 2016, Ombudsman Vlasta Nussdorfer attended the opening ceremony of the Ljudevit Pivko Primary School in Ptuj. She has advocated the construction of this school since she became Ombudsman. On this occasion, she addressed those gathered and expressed her satisfaction that the birds had finally "got their nest."

"When I became the new, fourth Human Rights Ombudsman on 23 February 2013, I began fulfilling the promises on the care for those who are most vulnerable, including persons with special needs," she stated, among other things, in her speech at the opening of the finally completed facility. She enumerated the challenges and efforts made to have the school constructed and said that the persistence of the parents and the school management and the help of the local community and all 16 municipalities, the fire brigade, and many others showed that it is possible to achieve something with joint effort. In particular, she stressed that the state and

its humanity and standards for observing human rights can be assessed by the relationship that the state has with vulnerable groups of people.

Stand-up – Your Career in the European Union

In 2016, the Human Rights Ombudsman participated in a project of the Faculty of Social Sciences titled Stand-Up – Your Career in the European Union. An increasing number of studies show that the use of humour when teaching is an excellent way of motivating individuals who are learning about more difficult topics. Humour is not just a provocative method of increasing the motivation to learn, but, if used correctly, enhances the acquisition of new knowledge and skills. It was this acquisition of skills that the EU deemed as the most useful tool for improving employment opportunities, mainly of young European citizens. By means of this project, we developed an innovative educational approach that enables the acquisition of new knowledge and skills on European topics; the project also increases the knowledge of individuals who are learning and of teachers on selected European topics, and through the development of skills it makes young people more employable in the EU. The Ombudsman actively participated in four out of ten events, namely in Nova Gorica, Koper, Maribor, and Ptuj. At an interactive workshop, the stand-up comedian Boštjan Gorenc-Pižama introduced the rights of European citizens and employment opportunities in the EU in a humorous way; later, there was a round table with the Ombudsman and employment advisers of the EURES Network.

How do we understand the principle of equity and good governance?

In cooperation with the Faculty of Law in Ljubljana, on Human Rights Day, the slogan of which was 'Stand up for someone's rights today!', the Human Rights Ombudsman of the Republic of Slovenia held a round- table discussion titled 'How do we understand the principle of equity and good governance?' The discussion took place at the Faculty of Law in Ljubljana on Thursday, 8 December 2016.

When treating petitions in which individuals claim that fundamental human rights and freedoms have been violated, the Ombudsman often encounters the non-observance of the principles of equity and good governance, which the Ombudsman also follows in her work (Article 3 of the Human Rights Ombudsman Act). The understanding and application of both principles when evaluating and assessing the suitability of the actions, procedures, and decisions of state authorities and of bodies exercising public powers are not always simple. It is difficult to set a limit on when and how the principles should be applied, as excessive reference to both principles could lead to arbitrariness in making assessments. How can we take them into consideration without interfering with the basic principle of a state governed by the rule of law whereby its authorities make decisions in accordance with the Constitution and legislation, which can never foresee all situations in life? This was the question considered on the panel by Dr Klemen Jaklič, Harvard University, USA, Dr Neža Kogovšek Šalamon, the Peace Institute, Dr Jože Krašovec, Theological Faculty of the University of Ljubljana, Dr Vesna Leskošek, Faculty of Social Work, Dr Marijan Pavčnik, Faculty of Law of the University of Ljubljana, and Dr Igor Pribac, Faculty of Arts of the University of Ljubljana. The round table was moderated by the Human Rights Ombudsman, Vlasta Nussdorfer.

3.4 Overview of the cooperation with State Authorities

Overview of the cooperation with State Authorities		
1.	**12 January 2016**	The Ombudsman, her deputy, Jernej Rovšek, Martina Ocepek, Director of the Expert Service, and the Ombudsman's Advisor Gašper Adamič, met with MP Jani Möderndorfer in the Ombudsman's offices.

2.	**13 January 2016**	The Ombudsman and her colleagues, i.e. Deputy Ombudsmen Tone Dolčič and Ivan Šelih, Martina Ocepek, Director of the Expert Service, and Ombudsman's advisers, Jasna Vunduk, Gašper Adamič and Liana Kalčina, met State Secretary Martina Vuk, who led the Ministry's team in the absence of the Minister, at the Ombudsman's premises. They discussed updates to family legislation and the Act Concerning the Social Care of Mentally and Physically Handicapped Persons, long-term care, the urgency of including the prohibition on the physical punishment of children in the Act Amending the Family Violence Prevention Act, the problem of the early treatment of people with special needs, the placement of minors and other persons in secure wards of (special) social care institutions based on court decisions, discrimination against disabled students with regard to their transport between their place of residence and the place of education, and other current topics. In addition to the State Secretary, the meeting was also attended by Ružica Boškič, Director-General of the Family Affairs Directorate, Cveto Uršič, Director-General of the Disabled, Veterans and War Victims Directorate, Secretary Davor Dominkuš, Janja Romih, Head of the Division for the Development of Services, Programmes, and the Performance of Analyses at the Social Affairs Directorate, and Neva Grašič, Cabinet Advisor.
3.	**18 January 2016**	The Deputy Ombudsman, Kornelija Marzel attended the 32nd emergency session of the Committee on the Interior, Public Administration and Local Self-Government of the National Assembly of the Republic of Slovenia. At the session, the request to cease performing activities related to the installation of the wire fence on the state border with Croatia and the request for its removal were discussed.
4.	**20 January 2016**	Deputy Ombudsman Ivan Šelih attended the first continuation of the 12th session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which a suspicion of the abuse of justice for political purposes was discussed.
5.	**25 January 2016**	At a working meeting at the Ombudsman's offices, the Ombudsman, her deputy, Ivan Šelih, Martina Ocepek, Director of the Expert Service, and the Ombudsman's advisers, Mojca Valjavec, Robert Gačnik, and Liana Kalčina met with Boštjan Šefic, State Secretary at the Ministry of the Interior, Tatjana Bobnar, Deputy Director-General of the Police, Robert More, Senior Police Inspector at the Uniformed Police Directorate, and Branko Dervodel, Deputy Director-General of the Administration of the Republic of Slovenia for Civil Protection and Disaster Relief. They discussed numerous topics related to the refugee issue.
6.	**27 January 2016**	The Ombudsman visited the Municipality of Ljutomer. She toured the family and youth centre in Spodnji Kamenščak and participated in a panel discussion on human rights protection; she was received by the Mayor of the Municipality of Ljutomer, Olga Karba, who in the afternoon presented the Human Rights Ombudsman of the Republic of Slovenia to the general public at the municipality's wedding hall.
7.	**5 February 2016**	The Ombudsman attended the session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which sexual abuse was discussed.
8.	**November February 2016**	The Deputy Ombudsman, Kornelija Marzel attended a session of the Committee on the Interior, Public Administration and Local Self-Government of the National Assembly of the Republic of Slovenia, where the amendments to the International Protection Act were discussed.
9.	**12 February 2016**	As the keynote speaker, the Ombudsman addressed those attending a celebration of the holiday of the Senovo Local Community and Slovenian Culture Day in the hall of Dom XIV. Divizije in Senovo.
10.	**16 February 2016**	At her office, the Ombudsman met with the Head of the Human Rights Department of the Ministry of the Interior, Božena Forštnarič Boroje, and Ambassador Tomaž Mencin.
11.	**16 February 2016**	Deputy Ombudsman Jernej Rovšek attended the 34th emergency session of the Committee on the Interior, Public Administration and Local Self-Government of the National Assembly of the Republic of Slovenia.

12.	**26 February 2016**	At the National Assembly, the Deputy Ombudsman, Kornelija Marzel, and the Ombudsman's adviser Neva Šturm attended the joint 5th session of the Committee on Defence and the 11th session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia. The participants at the session discussed human rights violations related to members of the Slovenian Armed Forces.
13.	**14 March 2016**	At a working meeting at the Ombudsman's offices, the Ombudsman, Deputy Ombudsman Kornelija Marzel, Martina Ocepek, Director of the Expert Service, and the Ombudsman's advisers, Neva Šturm, Liana Kalčina, and Nataša Kuzmič, hosted the Minister of Defence, Andreja Katič, and her associates, the Head of the Minister's Office, Petra Culetto, Deputy Secretary-General Franc Javornik, Vanja Svetec Leaney, the Head of the Division for Legal Matters of the General Staff of the Slovenian Armed Forces, the Head of the United Division for Support of the General Staff of the Slovenian Armed Forces, Brigadier General Milko Petek, and the Head of the Strategic Communication Service, Aleš Sila. The Ombudsman wished to verify some information regarding the arrangement of the labour law relationships by means of commanding documents before the Ombudsman's board would finally decide whether the Ombudsman would file a request for a constitutionality review of the Service in the Slovenian Armed Forces Act and the Defence Act, as is expected from the Union of Soldiers. They also discussed the operation of unions, solutions for soldiers whose employment agreement expires after they turn 45, the dismissal of ill or injured soldiers, and the employment of women in the Armed Forces.
14.	**16 March 2016**	Deputy Ombudsman Tone Dolčič attended the 12th regular session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which the issues concerning elderly people were discussed, particularly violence against the elderly. He stressed that poverty is the cause of violence against the elderly, and warned of pensions that are too low, making it difficult to survive. Elderly people who are in a poor material position would rather waive the supplementary benefit to which they are entitled than have the state enter an official notice concerning their real estate. Relatives often remove their parents from institutional care, as their income is insufficient to cover the costs, and an entire families are often supported by the pension of an elderly person.
15.	**17 March 2016**	The Ombudsman attended the 17th session of the Commission for Public Office and Elections of the National Assembly of the Republic of Slovenia, at which her proposal for a fourth deputy to be appointed was discussed. The Ombudsman nominated her adviser Miha Horvat for this position. Her proposal was accepted.
16.	**17 March 2016**	The Deputy Ombudsman, Kornelija Marzel and the Ombudsman's Secretary-General Bojana Kvas attended a coordination meeting at the Ministry of Public Administration concerning the amendments to the Civil Servants Act and the Officials Act.
17.	**22 March 2016**	The Deputy Ombudsman, Kornelija Marzel, attended the joint session of the Commission for Petitions, Human Rights and Equal Opportunities and the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia, at which the exploitation of workers in the Loška Dolina Valley and measures concerning the timely discovery and prevention of worker exploitation were discussed.
18.	**24 March 2016**	Deputy Ombudsman Ivan Šelih attended a working meeting at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, which was convened after a public warning by the Ombudsman and social care institutions at a press conference in Lukavci. The participants at the meeting discussed the problem of placing people in secure wards of social care institutions on the basis of the Mental Health Act (ZDZdr) and were looking for possible solutions.
19.	**29 March 2016**	The Ombudsman's Adviser Liana Kalčina attended a meeting at the Ministry of Foreign Affairs with members of the group for the implementation of all of the phases of the World Programme for Human Rights Education.
20.	**29 March 2016**	The Ombudsman attended the 17th session of the National Assembly of the Republic of Slovenia, at which MP's elected her new deputy, Miha Horvat.
21.	**31 March 2016**	In the hall of the Presidential Palace, the Ombudsman attended a ceremony at which President Borut Pahor conferred state decorations for special merit.

22.	**1 April 2016**	The Ombudsman attended a session of the Committee for Culture of the National Assembly of the Republic of Slovenia, at which pressure exercised against freedom of the press was discussed.
23.	**5 April 2016**	The Ombudsman participated at the 21st session of the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia, at which proposals for two Acts were discussed, namely of the Protection Against Discrimination Act and the Civil Union Act.
24.	**6 April 2016**	Deputy Ombudsmen Ivan Šelih and Miha Horvat participated at the 20th session of the Committee on Justice of the National Assembly of the Republic of Slovenia, at which amendments to the Criminal Code and the Minor Offences Act were discussed.
25.	**13 April 2016**	The Ombudsman attended the 16th emergency session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which the right to freedom of speech was discussed.
26.	**15 April 2016**	The Ombudsman attended the 17th session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which post-WWII graves were discussed.
27.	**18 April 2016**	The Ombudsman, her deputy Tone Dolčič, Martina Ocepek, Director of the Expert Service, and the Ombudsman's adviser Simona Mlinar met at the offices of the Health Insurance Institute of Slovenia with the Acting Director of the Health Insurance Institute of Slovenia (ZZZS), Samo Fakin, and his associates.
28.	**18 April 2016**	At the Office of the Prime Minister of the Republic of Slovenia, the Ombudsman met with Dr Miro Cerar.
29.	**20 April 2016**	The Ombudsman and her deputy, Miha Horvat, had a meeting with Zoran Stančič, who assumed the management of the European Commission Representation in Slovenia on 1 January 2016.
30.	**9 May 2016**	The Ombudsman and her deputy, Miha Horvat, held a meeting with Dr Andreja Valič Zver, Director of the Study Centre for National Reconciliation, and her deputy, Dr Jernej Letnar Černič.
31.	**12 May 2016**	The Ombudsman held a lecture for students at the Faculty on Education on the work of the Human Rights Ombudsman of the Republic of Slovenia.
32.	**26 May 2016**	The Deputy Ombudsman, Kornelija Marzel, attended the continuation of the 13th regular session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which a petition of the civil initiative concerning the manner of obtaining custody of children in the case of the boys from the Koroška region was discussed.
33.	**31 May 2016**	The Ombudsman presented to Dr Milan Brglez, President of the National Assembly of the Republic of Slovenia, the 2015 Annual Report of the Human Rights Ombudsman and the 2015 Report of the National Preventive Mechanism (NPM) at the premises of the National Assembly of the Republic of Slovenia.
34.	**2 June 2016**	The Ombudsman and her Deputy Miha Horvat presented the 2015 Annual Report of the Human Rights Ombudsman of the Republic of Slovenia and the 2015 Report of the National Preventive Mechanism (NPM) to the President of the Republic of Slovenia, Borut Pahor.
35.	**3 June 2016**	The Deputy Ombudsman attended the 21st emergency session of the Committee on Health of the National Assembly of the Republic of Slovenia and the 34th emergency session of the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia, at which the issue of a systemic arrangement for the comprehensive treatment of children with special needs was discussed.
36.	**6 June 2017**	The Ombudsman and the Ombudsman's Secretary-General Bojana Kvas presented to Dr Miro Cerar, Prime Minister of the Government of the Republic of Slovenia, the 2015 Annual Report of the Human Rights Ombudsman and the 2015 Report of the National Preventive Mechanism (NPM).

Overview of the cooperation with State Authorities		
37.	**8 June 2016**	The Ombudsman's adviser, Liana Kalčina, attended the round table titled 10 Years of the UN Human Rights Council, organised by the Ministry of Foreign Affairs of the Republic of Slovenia in cooperation with the Faculty of Social Sciences and the United Nations Association of Slovenia.
38.	**10 June 2016**	Deputy Ombudsman Tone Dolčič attended the 19th emergency session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which the operation of social work centres and their reorganisation were discussed.
39.	**16 June 2016**	At the Office of the Prime Minister of the Republic of Slovenia, the Ombudsman presented the 2015 Annual Report of the Human Rights Ombudsman of the Republic of Slovenia to Prime Minister Miro Cerar.
40.	**24 June 2016**	The Ombudsman attended a formal session of the National Assembly of the Republic of Slovenia commemorating Statehood Day.
41.	**24 June 2016**	At Villa Podrožnik, the Ombudsman attended a reception, hosted by President Borut Pahor, for families of fallen members of the Territorial Defence of the Republic of Slovenia.
42.	**30 June 2016**	The Ombudsman attended the 20th emergency session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, which once again focused on the case of the boys from the Koroška region.
43.	**1 July 2016**	The Ombudsman and her associates met with the Minister of Health, Milojka Kolar Celarc, and her associates at the Ombudsman's offices.
44.	**1 July 2016**	The Ombudsman attended the 38th session of the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia, at which the adoption and implementation of measures in the field of family violence were discussed.
45.	**4 July 2016**	The Ombudsman's adviser Gašper Adamič attended a discussion at the Ministry of Culture on the draft documents for a media strategy.
46.	**14 July 2016**	The Ombudsman and her associates met with the Minister of the Environment and Spatial Planning, Irena Majcen. Deputy Ombudsman Kornelija Marzel, Martina Ocepek, Director of the Expert Service, and the Ombudsman's advisers Sabina Dolič, Barbara Kranjc, and Liana Kalčina also participated in the discussion. The Minister was accompanied by Head of the Minister's Office Elena Del Fabro.
47.	**4 August 2016**	On the occasion of the holiday of the Municipality of Zagorje ob Savi, Director of the Expert Service Martina Ocepek attended a formal session of the Municipal Council at the theatre hall of the Delavski Dom Zagorje Cultural Centre at which municipal awards were conferred.
48.	**12 August 2016**	Deputy Ombudsmen Tone Dolčič and Ivan Šelih and the Ombudsman's advisers Lili Jazbec, Dr Ingrid Russi Zagožen, and Jure Markič met with the representatives of the Ministry of Labour, Family, Social Affairs and Equal Opportunities at the Ombudsman's offices to discuss the Ministry's plans concerning the provision of care for people suffering from dementia.
49.	**31 August 2016**	Deputy Ombudsmen Tone Dolčič and Ivan Šelih attended the joint session of the Commission for State Organisation and the Commission for Social Care, Labour, Health and Disabled of the National Assembly of the Republic of Slovenia, at which the Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015 was discussed.
50.	**6 September 2016**	The Ombudsman, her deputies Tone Dolčič, Kornelija Marzel, and Ivan Šelih, Martina Ocepek, Director of the Expert Service, and the Ombudsman's advisers, Neva Šturm, Lan Vošnjak, Dr Ingrid Russi Zagožen, Sabina Dolič, and Liana Kalčina met at the Ombudsman's offices with the Chief Inspector of the Public Sector Inspectorate, Lidija Apohal Vučković, the Head of the Administrative Inspection Robert Lainšček, and the Head of the Inspection for the System of Public Officials, Duša Pokeržnik.
51.	**8 September 2016**	At the National Assembly, Deputy Ombudsman Tone Dolčič attended the 26nd session of the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia, at which the 2015 Report of the Human Rights Ombudsman was discussed.

52.	**12 September 2016**	The Ombudsman, her deputy Kornelija Marzel, Martina Ocepek, Director of the Expert Service, and the Ombudsman's advisers, Barbara Kranjc, Sabina Dolič, Liana Kalčina, and Nataša Kuzmič met with the Chief Inspector of the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning, Dragica Hržica, the Director of Construction, Surveying and Housing Inspection Service Tanja Varljen, and the Director of the Environment and Nature Inspection Service Vladimir Kaiser.
53.	**14 September 2016**	Deputy Ombudsman Tone Dolčič attended a session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which child maintenance as a fundamental right of the child was discussed.
54.	**14 September 2016**	The Ombudsman attended the 43rd session of the National Council of the Republic of Slovenia, at which the 21st Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015 was discussed.
55.	**15 September 2016**	The Ombudsman attended the 101st session of the Government of the Republic of Slovenia, at which the 21st Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015 was discussed and at which the most significant findings of the Report were presented.
56.	**17 September 2016**	The Ombudsman and her associates met with the Chief Inspector of the Public Sector Inspectorate, Lidija Apohal Vučkovič, and her associates, the Head of the Administrative Inspection Robert Lainšček, and the Head of the Inspection for the System of Public Officials, Duša Pokeržnik. Deputy Ombudsmen Kornelija Marzel, Tone Dolčič, and Ivan Šelih, Martina Ocepek, Director of the Expert Service, and the Ombudsman's advisers Neva Šturm, Lan Vošnjak, Sabina Dolič, and Liana Kalčina also participated in the discussion. In the discussion, they dealt with the issue of the timeliness and quality of managing procedures at social work centres, the lengthiness of appeals procedures and decision-making procedures, the non-responsiveness of the Ministry of the Environment and Spatial Planning, the decision-making of the Health Insurance Institute of the Republic of Slovenia on retroactive sick leave, the lengthiness of inspection control, and the work of the construction inspection, the supervisory functions of ministries, the payment of costs for inadequate expert opinions in denationalisation proceedings, and the suitability of current decisions concerning release on parole. They also discussed some specific cases, also from the field of the inspectorate for the system of public officials.
57.	**20 September 2016**	The Ombudsman and the Director of the Expert Service of the Ombudsman met with the Mayor of the Municipality of Trbovlje at the Ombudsman's offices.
58.	**27 September 2016**	The Ombudsman's advisers Lan Vošnjak, Neva Šturm, and Dr Ingrid Russi Zagožen attended a panel discussion at the National Council of the Republic of Slovenia focusing on what the European social model should be in the future. The participants discussed in greater detail the issues of access to the labour market, ensuring fair working conditions, and long-term care.
59.	**29 September 2016**	The Ombudsman attended the 29th session of the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia, at which a proposal for the Act Amending the Family Violence Prevention Act was discussed.
60.	**30 September 2016**	The Ombudsman attended a joint session of the Committee on Education, Science, Sport and Youth and the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia, at which a proposal for the Act on the Early Treatment of Children with Special Needs was discussed.
61.	**30 September 2016**	At the Ombudsman's offices, the Ombudsman, her deputy Miha Horvat and adviser Gašper Adamič met with Andrej Šter, Head of the Consular Service at the Ministry of Foreign Affairs, Stanko Baluh, the Director of the Government Office for National Minorities, Štefan Lepoša, the Director-General of the Directorate for Social Affairs at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, Franci Kek, a representative of the City Municipality of Novo Mesto, and Alojz Simončič, the Director of the Novo Mesto Social Work Centre. They discussed the resolution of the issue concerning the Brezje and Žabjak settlements.

62.	**4 October 2016**	The Ombudsman and her Deputies Ivan Šelih, Tone Dolčič, Miha Horvat, and Dr Kornelija Marzel attended the session of the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia, at which the Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015 was discussed.
63.	**12 October 2016**	The Ombudsman attended the 6th session of the Commission for National Communities, at which the 2015 Annual Report of the Human Rights Ombudsman was discussed, which also summarises the activities and first findings of the Ombudsman related to the use of languages in bilingual areas.
64.	**13 October 2016**	The Ombudsman and her deputy, Dr Kornelija Marzel, met with Attorney General Jurij Groznik at the Ombudsman's offices.
65.	**19 October 2016**	At the Ombudsman's office, the Ombudsman, Deputy Ombudsman, Dr Kornelija Marzel, Martina Ocepek, Director of the Expert Service, and the Ombudsman's advisers Barbara Kranjc, Neva Šturm, and Liana Kalčina met with the Deputy Director-General of the Financial Administration of the Republic of Slovenia, Peter Jenko, and the Chief Inspector of the Labour Inspectorate of the Republic of Slovenia, Nataša Trček and her associates.
66.	**19 October 2016**	Deputy Ombudsman Ivan Šelih attended the 25th emergency session of the Committee on Justice of the National Assembly of the Republic of Slovenia, at which misplaced wills were discussed.
67.	**20 October 2016**	Deputy Ombudsman Tone Dolčič attended the 61st session of the Commission of the National Council for Social Care, Labour, Health and Disabled, at which a proposal for the Act Amending the Marriage and Family Relations Act was discussed.
68.	**21 October 2016**	The Ombudsman and her deputies attended the 23rd session of the National Assembly of the Republic of Slovenia, where the 21st Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2015 and the Report on the Implementation of NPM Duties in 2015 were discussed. On 25 October 2016, the National Assembly adopted the Ombudsman's recommendations with 74 for votes and no votes against, and advised institutions and high officials at all levels to observe the recommendations.
69.	**24 October 2010**	The advisers of the Ombudsman, Dr Ingrid Russi Zagožen and Simona Mlinar, attended a panel discussion on long-term care held by the National Council of the Republic of Slovenia in cooperation with the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the Ministry of Health, and with the support of the European Commission.
70.	**26 October 2016**	At the Ombudsman's offices, the Ombudsman and her team met with the Minister of Culture, Anton Peršak, and his associates. They discussed the drafting of the Media Act and the related limitation of hate speech, the situation in the field of regulating archival documentation containing the medical data of individuals, the protection of children from inappropriate contents, the founding of a museum of Slovenian symbolism at the Rectory on Bled Island, the operation of the Council for Dialogue with Religious Communities, the issue of people self-employed in culture, and the protection of natural and cultural heritage.
71.	**26 October 2016**	As an outside member, Deputy Ombudsman Ivan Šelih attended the first meeting of the Inter-Ministerial Working Group for the Enforcement of Judgments by the European Court of Human Rights held at the Ministry of Justice.
72.	**27 October 2016**	Deputy Ombudsman Tone Dolčič attended the 32nd session of the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia, at which a proposal for the Marriage and Family Relations Act was once again discussed.
73.	**7 November 2016**	At the Ombudsman's offices, the Ombudsman, her deputy Miha Horvat, Martina Ocepek, the Director of the Expert Service, and the Ombudsman's advisers, Gašper Adamič Metlikovič and Liana Kalčina, hosted Gorazd Žmavc, Minister for Slovenians Abroad, and his two associates, Dr Aleksandra Pivec, Secretary at the Minister's Office, and Natalija Toplak-Koprivnikar, Undersecretary at the Office.

Overview of the cooperation with State Authorities		
74.	**1 December 2016**	In the hall of the Presidential Palace, the Ombudsman attended a reception commemorating the International Day of Persons with Disabilities, held by the President of Republic of Slovenia and the President of the National Assembly of the Republic of Slovenia, and the Prime Minister of the Government of the Republic of Slovenia – Borut Pahor, Dr Milan Brglez, and Dr Miro Cerar, respectively.
75.	**5 December 2016**	The Ombudsman attended the formal ceremony for awarding the plaques of the National Council of the Republic of Slovenia to the most deserving volunteers in 2016. The Ombudsman's adviser Liana Kalčina, who was nominated by the Slovenian Association of Friends of Youth (ZPMS), was also awarded at the ceremony for her many years of work in the field of children's rights, gender equality, organised volunteering, and efforts to make people more sensitive to hate speech.
76.	**13 December 2016**	The Ombudsman, her deputy Miha Horvat, Martina Ocepek, the Director of the Expert Service, and the Ombudsman's advisers, Brigita Urh, Neva Šturm, Liana Kalčina, and Nataša Kuzmič, met with the Minister of Education, Science and Sport, Dr Maja Makovec Brenčič, and her associates, State Secretary Dr Andreja Barle Lakota, the Director-General of the Sport Directorate, Dr Bor Štrumbelj, the Secretary at the Directorate, Mojca Trnovšek Pečnik, and the Head of Public Relations, Tina Hrastnik. They discussed many topics dealt with by the Ombudsman, who expects the Ministry to take suitable measures.
77.	**19 December 2016**	The Ombudsman, Deputy Dr Kornelija Marzel, Martina Ocepek, Director of the Expert Service, and the Ombudsman's advisers met Mavricija Batič, the Director-General of the Employment Service of Slovenia, and her colleagues at the Ombudsman's head office.
78.	**20 December 2016**	The Ombudsman once again hosted the Minister of Labour, Family, Social Affairs and Equal opportunities, Dr Anja Kopač Mrak, and her associates for a working visit.
79.	**22 December 2016**	Deputy Ombudsman Ivan Šelih presented the work of the Human Rights Ombudsman of the Republic of Slovenia to employees at the Agency of the Republic of Slovenia for Agricultural Markets and Rural Development.

3.5 Overview of cooperation with Non-governmental Organisations

Overview of cooperation with Non-governmental Organisations		
1.	**13 January 2016**	The Ombudsman attended an after-New Year's Eve meeting of all Soroptimist International clubs, an international association of professionally successful and socially active Slovenian women.
2.	**28 January 2016**	The Ombudsman, Martina Ocepek, Director of the Expert Service, and Sabina Dolič, the Ombudsman's adviser, met representatives of civil society dealing with the environment and spatial planning. The meeting was in Lukovica, i.e. outside the Ombudsman's head offices. Spatial planning issues at a local level were discussed. The meeting was also attended by a representative of the Ministry of the Environment and Spatial Planning, Damijan Urankar, a representative of the Municipality of Lukovica, Tatjana Suhodolc, and a representative of the Civil Society Initiative, Tina Bolcar Repovš.
3.	**3 March 2016**	The Ombudsman, Deputy Kornelija Marzel, Martina Ocepek, the Director of the Expert Service, and Sabina Dolič, the Ombudsman's adviser, hosted the 49th meeting of the Ombudsman with civil society dealing with the environment and spatial planning. The main guests at the meeting were the President of the Court of Audit, Tomaž Vesel, his Second Deputy, Samo Jereb, and Supreme State Auditor Miroslav Kranjc. The purpose of the meeting was to strengthen the cooperation of the Court of Audit and representatives of civil society in assessing the regularity and effectiveness of the approval and use of public funds for the environment.
4.	**9 March 2016**	The Ombudsman attended a formal session of the Association of Slovenian Cancer Societies at the Ministry of Health of the Republic of Slovenia.

Overview of cooperation with Non-governmental Organisations		
5.	**17 March 2016**	At the Tartini Theatre in Piran, the Ombudsman, as the honorary patron, attended the 3rd Congress on Homelessness, titled We Are Homeless Too, where she made a speech. The Congress was held by the Brezdomni – Do Ključa society, which connects operators in the field of homelessness and socially vulnerable groups.
6.	**22 March 2016**	The Ombudsman attended the General Assembly of the Beli Obroč society at its offices in Ljubljana.
7.	**23 March 2016**	In the hall of the Health Insurance Institute of Slovenia, the Ombudsman attended the 18th regular assembly of the Europa Donna organisation.
8.	**23 March 2016**	The Ombudsman and her Deputy, Ivan Šelih, met with representatives of the Odbor 2015 organisation at the Ombudsman's offices.
9.	**14 April 2016**	The Ombudsman and her Deputies, Ivan Šelih and Miha Horvat, the Director of the Expert Service, Martina Ocepek, and the Ombudsman's advisers, Robert Gačnik and Mojca Valjavec, hosted a second meeting with representatives of civil society dealing with the issues of foreigners, refugees, and seekers of international protection. The meeting was also attended by representatives of Amnesty International, Caritas Slovenia, the Odnos society, the Legal Information Centre for NGOs (PIC), the Peace Institute, Slovenian Philanthropy, and former judge and human rights activist Matevž Krivic.
10.	**14 April 2016**	The Ombudsman visited the Museum of Recent History Celje, where she was a guest at an evening of discussion held by the Soroptimist Celje humanitarian club.
11.	**5 May 2016**	In Izola, Deputy Ombudsman Tone Dolčič attended a conference held by the Slovenian Federation of Pensioners' Associations, titled Together in Memories.
12.	**12 May 2016**	The Ombudsman, Deputy At the Ombudsman's offices, Kornelija Marzel and the Ombudsman's adviser, Sabina Dolič, welcomed representatives of civil society working in the field of the environment for a meeting. The main guests of the 50th meeting were the Chief Inspector of the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning, Dragica Hržica, the Director of the Environment and Nature Inspection Service, Vladimir Kaiser, and the Director of Construction, Surveying and Housing Inspection Service, Tanja Varljen.
13.	**13 May 2016**	At her offices, the Ombudsman met with members of the Soroptimist Ptuj humanitarian society and presented to them the work of the Ombudsman.
14.	**7 June 2016**	The Ombudsman's advisers Lan Vošnjak, Lili Jazbec, and Dr Ingrid Russi Zagožen attended an educational meeting titled Working with Perpetrators of Violence and Challenges in Practice, organised by the Association for Non-Violent Communication.
15.	**9 June 2016**	The Human Rights Ombudsman organised the fourth regular meeting in 2016 with representatives of civil society from the field of the environment and spatial planning. At the Offices of the National Institute of Public Health, Celje Regional Unit, the Ombudsman, the Director of the Expert Service, Martina Ocepek, and Sabina Dolič, the Ombudsman's adviser, met with the representatives of civil society in Celje. The meeting was devoted to the issue of the pollution of the Celje Basin, specifically how to determine how effectively the competent authorities are resolving this problem and contributing to rehabilitating the pollution of this area more rapidly.
16.	**10 June 2016**	In Kranjska Gora, the Ombudsman addressed the participants of a seminar titled Trauma; the seminar was held by the Association of Child and Adolescent Psychiatry.
17.	**11 June 2016**	The Ombudsman attended the official announcement of the results of competitions in knowledge and a meeting with young researches, ZOTKS Talents, organised by the Association for Technical Culture of Slovenia (ZOTKS) in Cankarjev dom.
18.	**25 July 2016**	At the Ombudsman's offices, the Ombudsman, her deputy Tone Dolčič and the Ombudsman's adviser Jure Markič met with representatives of the Spominčica society – its President, Štefanija Zobec, and Secretary-General David Krivec.
19.	**11 August 2016**	The Ombudsman and her Deputy Miha Horvat met with the Secretary-General of the Slovenian Caritas, Imre Jerebic, and Danilo Jesenik (head of the project Aid for Migrants) at the Ombudsman's offices and they discussed the issues of housing and integrating persons with international protection in Slovenia.

Overview of cooperation with Non-governmental Organisations		
20.	**30 August 2016**	In Ljubljana, the Ombudsman's adviser Lan Vošnjak participated in a round table within the public discussion on the Family Code held by the Slovenian Association of Friends of Youth.
21.	**22 September 2016**	The Human Rights Ombudsman organised the fifth regular meeting in 2016, and 52nd regular meeting in total, with representatives of civil society from the field of the environment and spatial planning. At the proposal of the EKO Anhovo society, the topic of the meeting was the issue of the pollution of the area of Anhovo and the Soča Valley, so the meeting was held in the Municipality of Kanal ob Soči. The meeting was held in the offices of the Svoboda Deskle Cultural Society and attended by representatives of the authorities and civil society. Furthermore, the meeting was attended by: Dr Metoda Dodič Fikfak, Dr Borut Vrščaj and Dr Marko Vudrag, whose topical presentations illuminated the expert views on pollution. Dr Janja Turšič from the Slovenian Environment Agency also had a presentation. After the meeting, the Ombudsman visited the company Salonit Anhovo and learned about the characteristics of the production plant and what environmental protection measures they take.
22.	**8 October 2016**	In Nova Gorica, the Ombudsman addressed those attending an event celebrating the 50th anniversary of the Sožitje Nova Gorica Inter-Municipal Association.
23.	**21 October 2016**	Deputy Ombudsman Tone Dolčič attended a ceremony at Šiška Cinema celebrating the 15th anniversary of the Ključ Society.
24.	**27 October 2016**	At the Ombudsman's head office, the Ombudsman, Martina Ocepek, the Director of the Expert Service, and Sabina Dolič, the Ombudsman's adviser, met representatives of civil society dealing with the environment and spatial planning. Representatives of the Police attended as guests.
25.	**24 November 2016**	At the Šmartno ob Paki Youth Centre, the Ombudsman, her deputy, Dr Kornelija Marzel, and the Ombudsman's advisers, Sabina Dolič and Zlata Debevec, met with representatives of civil society in the field of the environment and spatial planning. The topic of this, the seventh, meeting was the siting of a state road in the Koroška and Savinjska region. This was discussed by representatives of the unified Civil Society Initiative from Braslovče, Polzela, Podvin, Podgora, and Šmartno ob Paki.
26.	**4 December 2016**	At Hotel Union in Ljubljana, the Ombudsman attended the 23rd humanitarian bazaar SILA, the proceeds of which were dedicated to helping women and children victims of violence.
27.	**5 December 2016**	Deputy Ombudsman, Dr Kornelija Marzel, attended an event at the Drska Primary School in Novo Mesto commemorating International Volunteer Day; the event was organised by the RK Novo Mesto regional association.
28.	**16 December 2016**	At the Ombudsman's head office, the Ombudsman received the Peace Light of Bethlehem from representatives of the Slovenian Catholic Girl Guides and Boy Scouts Association.
29.	**21 December 2016**	At Stožice Arena, the Ombudsman opened the event of the Olympians Sports Society (Olimpiki), a humanitarian organisation helping children. A friendly football match was played between the Giants of Slovenian Sport humanitarian team, whose ambassador is the Ombudsman, and the team of the National Assembly of the Republic of Slovenia.
30.	**22 December 2016**	At the Ombudsman's head office, the Ombudsman, Deputy Kornelija Marzel, and Martina Ocepek, the Director of the Expert Service, met representatives of civil society dealing with the environment and spatial planning. This was the last meeting in 2016 and an opportunity to discuss the plans for next year.

3.6 Overview of other activities

Overview of other activities		
1.	**6 January 2016**	At the 20th Panel Discussion of the Slovenian Diplomacy at the Brdo Congress Centre, the Ombudsman attended a working women's breakfast with leaders of Slovenia's diplomatic consular representative offices abroad.

Overview of other activities		
2.	**7 January 2016**	The Ombudsman was a guest at the Anton Ukmar Primary School in Koper at an event within the Ne-odvisen.si project.
3.	**11 January 2016**	At her office, the Ombudsman met Simona Leskovar, the future Ambassador to Japan.
4.	**14 January 2016**	The Ombudsman was a guest at the Franc Lešnik Primary School in Slivnica pri Mariboru at an event within the Ne-odvisen.si project.
5.	**20 January 2016**	The Ombudsman was a guest at the Vojka Šmuc Primary School in Izola at an event within the Ne-odvisen.si project.
6.	**27 January 2016**	The Ombudsman attended the opening of the renovated National Gallery in Ljubljana.
7.	**7 February 2016**	The Ombudsman attended the ceremony on the occasion of Slovenian Culture Day in Cankarjev Dom in Ljubljana.
8.	**11 February 2016**	The Ombudsman attended the presentation and hand-over of the Declaration of Principles on Tolerance to President Borut Pahor.
9.	**3 March 2016**	The Ombudsman was a guest at the Puconci Primary School at an event within the Ne-odvisen.si project.
10.	**4 March 2016**	At Krško Cultural Hall, the Ombudsman attended the already traditional 5th humanitarian concert titled Colourful Like a Butterfly organised to commemorate the World Down Syndrome Day.
11.	**7 March 2016**	At the Spanish Fighters Cultural Centre in Ljubljana, the Ombudsman and the Ombudsman's Secretary-General, Bojana Kvas, attended a humanitarian concert commemorating World Down Syndrome Day.
12.	**10 March 2016**	The Ombudsman was a guest at the Park Theatre in Murska Sobota at an event within the Ne-odvisen.si project.
13.	**15 March 2016**	At Domžale Library, the Ombudsman attended the opening of an exhibition of the Poster of Peace project titled Peace Connects.
14.	**16 March 2016**	The Ombudsman was a guest at the Gornja Radgona Primary School at an event within the Ne-odvisen.si project.
15.	**24 March 2016**	The Ombudsman and the Ombudsman's Secretary-General Bojana Kvas attended an event at which a collection of poetry by the late Dr Olga Dečman Dobrnjič was presented; on this occasion, they? learned about the work at the Drava Secondary School Boarding House in Maribor.
16.	**7 April 2016**	At the Cankarjev Dom Club in Ljubljana, the Ombudsman attended the event My Doctor 2016 (Moj zdravnik 2016).
17.	**8 April 2016**	Within the project Ne-odvisen.si, the Ombudsman was a guest at the theatre hall of Nova Gorica Grammar School at an event titled the Power of Truth.
18.	**13 April 2016**	The Ombudsman was a guest at the Črna na Koroškem Cultural Hall at an event within the Ne-odvisen.si project.
19.	**15 April 2016**	The Ombudsman and the Ombudsman's Secretary-General, Bojana Kvas, attended a ceremony commemorating the Day of the Faculty of Law in Ljubljana.
20.	**15 April 2016**	The Ombudsman's public relations adviser, Nataša Kuzmič, attended the 19th Slovenian Public Relations Conference in Izola.
21.	**21 April 2016**	In Zreče, the Ombudsman opened the 54th Domijada 2016, which had the slogan 'Let us respect everyone' (Spoštujmo vse), and participated in a round table on this topic.
22.	**21 April 2016**	At the Ksaver Mešek Library in Slovenj Gradec, the Ombudsman attended a presentation of the book *Čarobne besede: Dobra sem, znam, zmorem (Eng.: Magic Words: I Am Good, I Know, I Can)*.
23.	**7 May 2016**	At the sports hall in Podčetrtek, the Ombudsman attended a humanitarian run, Walk a Kilometre in My Shoes.
24.	**18 May 2016**	The Ombudsman was a guest at the Tone Seliškar Library in Trbovlje.

Overview of other activities		
25.	**20 May 2016**	At her offices, the Ombudsman received a translation of UNESCO's Declaration of Principles on Tolerance, which was handed to her by members of the Eksena Centre of Education.
26.	**20 May 2016**	At her offices, the Ombudsman met with the members of the Soroptimist from Maribor.
27.	**8 June 2016**	At the Brdo Congress Centre, as one of the Ambassadors of Knowledge within the Life Learning Academia project, the Ombudsman gave the Referenca 2016 award to Aljaž Malek of the Academic and Economic Congress. His mentor, the Director of the Expert Service, Martina Ocepek, received the Mentor 2016 award.
28.	**24 June 2016**	At the St Nicholas Cathedral in Ljubljana, the Ombudsman attended a Holy Mass for the homeland, which was offered by Monsignor Andrej Glavan, President of the Bishops' Conference, together with Slovenian bishops.
29.	**28 June 2016**	On the fourth anniversary of the Druga Violina restaurant, where people with special needs work as servers, the Ombudsman attended a fashion show titled Naša pristanišča (Our Ports), at which boys and girls with special needs modelled clothes designed by Slovenian designers.
30.	**30 July 2016**	At Ljubljana Žale Cemetery, the Ombudsman attended the unveiling of a memorial dedicated to the Sons of Russia and the Soviet Union.
31.	**7 September 2016**	At the hall of the City Municipality of Nova Gorica, the Ombudsman actively participated at the first of ten events within the project Stand-Up – Your Career in the European Union. Stand-up comedian Boštjan Gorenc-Pižama held an interactive workshop at which he used humour to present the rights of European citizens and employment opportunities in the EU. This was followed by a discussion with the Ombudsman and an employment adviser from the EURES Network.
32.	**10 September 2016**	The Ombudsman addressed participants at the 14th Forma Viva Makole 2016 symposium in Slovenska Bistrica.
33.	**27 September 2016**	In Slovenj Gradec, the Ombudsman opened a green window on World Tourism Day. In cooperation with a secondary school, a green window was installed at the Slovenj Gradec Tourist Society.
34.	**28 September 2016**	Deputy Ombudsman Dr Kornelija Marzel attended an expert panel discussion at the City Museum of Ljubljana on International Right to Know Day titled Open Information – an Open and Rich Society.
35.	**5 October 2016**	In Koper, the Ombudsman actively participated at the second of ten events within the project Stand-Up – Your Career in the European Union.
36.	**6 October 2016**	At the Kregar Gallery, St Stanislav's Institution, Slovenian Home, Ljubljana Šentvid, the Ombudsman opened an exhibition of work by the painter Marjan Platovšek.
37.	**13 October 2016**	At the hall of the Zalog Centre, the Ombudsman attended an event for the publication of a book titled *Ob bistrem potoku je mlin, cin cin (Eng.: A Mill on a Clear Stream).*
38.	**27 October 2016**	The Ombudsman visited the Dobrava Memorial Park, where she attended a funeral ceremony dedicated to the victims of the post-WWII massacre in Huda Jama.
39.	**9 November 2016**	At the reading room of the Maribor University Library, the Ombudsman actively participated at the third of ten events within the project Stand-Up – Your Career in the European Union. Later, there was a round table discussion with the Ombudsman and employment advisers from the EURES Network.
40.	**23 November 2016**	At the Golovec Hall in Celje, the Ombudsman attended the 26th Klic Dobrote, a benefit humanitarian concert.
41.	**25 November 2016**	At Cankarjev Dom in Ljubljana, the Ombudsman, as an ambassador within the Slovenia Reads campaign, attended an event titled *Ker nam ni vseeno (Because We Care).*
42.	**30 November 2016**	At Hotel Lev in Ljubljana, the Ombudsman, as one of the ten most influential lawyers as selected by the IUS-INFO website, attended a ceremony where she received an award for the 10 most influential lawyers, and participated in a round table.

Overview of other activities		
43.	**30 November 2016**	The Ombudsman and the Ombudsman's Secretary-General Bojana Kvas attended an event at the Slovenian Philharmonic titled 2016 Woman of the Year, held by Zarja magazine.
44.	**7 December 2016**	At the Mihelčič Gallery in Spodnji Trg in Škofja Loka, the Ombudsman addressed the participants of the panel discussion Human Rights and Fundamental Freedoms – FOR ALL TIMES!
45.	**8 December 2016**	At the Faculty of Law in Ljubljana, the Ombudsman led a round table discussion titled 'How do we understand the principle of equity and good governance?' held by the Ombudsman in cooperation with the Faculty of Law of the University of Ljubljana to commemorate Human Rights Day.
46.	**8 December 2016**	At Brdo Castle, the Ombudsman attended a traditional reception commemorating Human Rights Day, where she greeted the most senior representatives of the Government, universities, science, representatives of religious communities, and non-governmental organisations in the field of human rights protection, as well as diplomatic representatives of foreign countries accredited in Slovenia.
47.	**12 December 2016**	The Ombudsman attended an event organised as persons in care moved into the new housing units of the Draga Centre for Training, Work and Care in Ig.
48.	**14 December 2016**	At the Ivan Potrč Library in Ptuj, the Ombudsman actively participated at the fourth of ten events within the project Stand-Up – Your Career in the European Union. Later, there was a round table discussion with the Ombudsman and employment advisers from the EURES Network.
49.	**14 December 2016**	At the National Gallery in Ljubljana, the Ombudsman's Secretary-General, Bojana Kvas, attended an event celebrating the conclusion of the Ljudje odprtih rok (People with Open Hands) campaign organised by Ženska magazine.
50.	**16 December 2017**	At her offices, the Ombudsman received the Peace Light of Bethlehem brought by members of the Slovenian Catholic Girl Guides and Boy Scouts Association. On this occasion, she spoke to them about the purpose of the campaign and the work of the organisation, especially in human rights protection. The light was carried by Nejc Marolt accompanied by Aljaž Eržen, Filip Firbas, Petra Zalar Premrl, and Barbara Tehovnik.
51.	**20 December 2016**	At Brdo Castle, the Ombudsman attended a New Year's reception held by the Minister of Justice, Goran Klemenčič.
52.	**22 December 2016**	The Ombudsman, her Deputy, Dr Kornelija Marzel, and the Ombudsman's Secretary-General, Bojana Kvas, attended a New Year's reception at the Faculty of Law in Ljubljana.
53.	**23 December 2016**	The Ombudsman and her adviser Lili Jazbec visited the Malči Belič Youth Care Centre in Ljubljana and gave gifts to children and youth living at the Centre.

3.7 Review of international cooperation

15 February 2016 – Deputy Ombudsmen Tone Dolčič and Ivan Šelih attended the European conference, Children's rights behind bars, Human Rights of Children deprived of liberty: Improving Monitoring Mechanisms, which was held in Brussels (Belgium). The participants spoke about the definition of children's rights in the policies of the Council of Europe and the European Union, particularly of children deprived of liberty, and the mechanisms for supervising locations where children deprived of liberty are accommodated.

15–16 February 2016 – At the head offices of the FRA in Vienna (Austria), the Ombudsman's adviser, Mojca Valjavec, attended a meeting of the platform of the Council of Europe, the FRA, and the European Network of Independent Bodies on the Principle of Equality for the Rights of Migrants and Asylum Seekers.

19 February 2016 – Deputy Ombudsman Ivan Šelih attended a conference in Thessaloniki (Greece) called Refugee/Migrant Crisis and Human Rights: Regional Joint Action Plan of Ombudsman Institutions. Attention was focused on issues of access to asylum and the system for returning, the status of unaccompanied children and other vulnerable people, and the hate speech and xenophobia that accompany the refugee and migrant issue. At the conference, ombudsmen or representatives of national institutions for human rights from Albania, Austria, Croatia, Greece, Kosovo, the Former Yugoslav Republic of Macedonia, Serbia, Slovenia and Turkey adopted the Regional joint action plan of Ombudsman institutions. The action plan focused particularly on the joint activities of ombudsmen regarding the protection and promotion of refugees'/migrants rights'.

22 February 2016 – Deputy Ombudsman Ivan Šelih attended training event organised by the European Union Agency for Fundamental Rights (FRA), the European Border and Coast Guard Agency (Frontex) and the International Centre for Migration Policy Development (ICMPD) in Vienna (Austria). The purpose of the training was to disseminate knowledge on the observance of human rights upon the forced removal of aliens and on the development of control mechanisms.

17 March 2016 – At the invitation of the Irish Ambassador to Slovenia, His Excellency Sean O'Regan, the Ombudsman attended an event on St Patrick's Day.

13 April 2016 – At the Ombudsman's offices, the Ombudsman, her deputy Tone Dolčič and Ombudsman's advisers, Jure Markič and Nataša Kuzmič, received Rosa Kornfeld-Matte, UN Independent Expert on the Enjoyment of All Human Rights by Older Persons.

19 April 2016 – At the offices of the Embassy of the Bolivarian Republic of Venezuela, the Ombudsman attended a reception hosted by the chargé d'affaires, His Excellency Wilmer Armando Depablos, commemorating the 206th anniversary of the declaration of Venezuela's independence.

20–22 April 2016 – In Salzburg (Austria), Deputy Ombudsman Ivan Šelih and the Ombudsman's adviser, Jure Markič, attended an international conference titled Homes for the Elderly/Care Institutions and Dementia.

25–28 April 2016 – In Barcelona (Spain), the Ombudsman attended a workshop titled Human Rights Challenges Now: the Ombudsman Facing Threats, held by the Ombudsman of Catalonia and the International Ombudsman Institute. Issues related to freedom and security, migrants and asylum seekers, social rights, and the role of ombudsmen in the 21st century were discussed.

13 May 2016 – The Ombudsman and her Deputy, Miha Horvat, welcomed the delegation of the Ukrainian Ombudsman at their premises and presented the work of their institution.

20 May 2016 – Deputy Ombudsman Tone Dolčič and Ombudsman's adviser Lan Vošnjak attended an international conference in Zagreb (Croatia) entitled 'Children with a parent in conflict with the law'. The conference was organised by the Croatian Ombudsman for Children and the organisation, Children of Prisoners Europe.

20 May 2016 – In Rome (Italy), Deputy Ombudsman Ivan Šelih attended an international conference entitled 'Dignity and human rights in the places of deprivation of freedom – The establishment of the National

Preventive Mechanism in Italy'. The conference was organised by the Italian NGO, Antigone, which strives for the protection of human rights in Italy, with an emphasis on the penal system.

24–27 May 2016 – The Ombudsman, her Deputies, Tone Dolčič and Ivan Šelih, Secretary General Bojana Kvas, Martina Ocepek, the Director of the Expert Service, and th Ombudsman's adviser, Robert Gačnik, were on a working visit to the Montenegro Ombudsman (Protector of Human Rights and Freedoms) in Podgorica (Montenegro). They presented the functioning of the Human Rights Ombudsman of the Republic of Slovenia, its legal bases, organisation, the functioning of the National Preventive Mechanism, and exchanged experience with their hosts.

26–27 May 2016 – The Ombudsman's adviser, Liana Kalčina, attended a seminar held by the European Commission against Racism and Intolerance (ECRI) and organised by the Council of Europe in Strasbourg. The seminar focused on issues related to achieving goals, determining strategies, using tools, and adopting measures for the operation of national specialised bodies to fight all types of discrimination. The participants exchanged information on examples of good practice in Europe and especially of the impact on policies and on adopting and implementing national legislation.

30 May 2015 – At her offices, the Ombudsman hosted Klemen Ponikvar, who will work in the field of human rights at the Permanent Mission of the Republic of Slovenia to the United Nations Office in Geneva and Other International Organisations.

2 June 2016 – The Ombudsman and the Ombudsman's Secretary-General, Bojana Kvas, attended a concert and reception commemorating Italian Republic Day held at the City Museum of Ljubljana by the Italian Ambassador, His Excellency Paolo Trichilo.

7–8 June 2016 – Deputy Ombudsman Miha Horvat attended a consultative workshop for NPMs in Vienna (Austria), which was organised by the Ludwig Boltzmann Institute and ERA – Academy of European Law.

8 June 2016 – In Brdo pri Kranju, the Ombudsman presented the work of the Human Rights Ombudsman of the Republic of Slovenia to representatives of the Marmara Group, Müjgan Suver, President of the EU and Human Rights Platform, and the Secretary-General, Dr Fatih R. Saraçoğluj.

13–14 June 2016 – In Brussels (Belgium), Deputy Ombudsman Miha Horvat attended an international conference of the European Network of Ombudsmen (ENO); the meeting was hosted by the European Ombudsman, Emily O'Reilly. The meeting focused on issues related to responding to Europe's migration crisis, promoting lobbying transparency as good administration, and challenges to the rule of law.

15 June 2016 – The Ombudsman attended a reception celebrating the 25th anniversary of the independence of the Republic of Croatia, which was held at the offices of the Embassy of the Republic of Croatia by the Croatian Ambassador, Her Excellency Vesna Terazić.

16 June 2016 – The Ombudsman attended a reception at the offices of the Embassy of the United Kingdom by the Ambassador, Her Excellency Sophie Honey, commemorating the 90th birthday of Queen Elizabeth II.

21–23 June 2016 – In Vilnius (Lithuania), the Deputy Ombudsman and Head of the Slovenian National Preventive Mechanism (NPM), Ivan Šelih, and the Ombudsman's adviser, Jure Markič, attended an international conference held by the International Ombudsman Institute (IOI) on the Monitoring of Psychiatric Facilities carried out by the National Preventive Mechanism. The conference was organised by the International Ombudsman Institute (IOI), the Lithuanian Ombudsman and the Association for the prevention of torture (APT).

18 July 2016 – At Congress Square in Ljubljana, the Ombudsman attended a reception with military honours during the visit of His Excellency, President of Georgia, Giorgi Margvelashvili and his wife, to Slovenia.

5 September 2016 – The Ombudsman attended the opening of the 11th Bled Strategic Forum, titled Safeguarding the Future. The issues of the disintegration or integration of the EU and the situation in the Western Balkans and human security were also discussed. At the Forum, she met with Sir Fazle Hasan Abed, the founder and

President of BRAC, the largest developmental non-governmental organisation in the world, with headquarters in Bangladesh.

7–8 September 2016 – In Tirana, the Ombudsman's adviser, Mojca Valjavec, attended an international conference focusing on topics related to recent migration in Europe and the world and on problems related to protecting human rights and freedoms of migrants. The conference was organised by the Albanian Ombudsman in cooperation with international ombudsmen associations (AOM, IOI, FIO, and AOMF).

19–21 September 2016 – In Vilnius (Lithuania), Deputy Ombudsman Tone Dolčič attended the 20th ENOC conference (European Network of Ombudspersons for Children), titled Equal Opportunities for All Children in Education. In the Network's statement, members called on governments, the European Commission, and the Council of Europe to promote equal opportunities in education and to take all necessary measures. The conference was organised by the Lithuanian Ombudsman for Children, who also presided over the ENOC Network in 2016.

10–12 October 2016 – Deputy Ombudsman and Head of the National Preventive Mechanism (NPM) Ivan Šelih and Ombudsman's adviser Jure Markič attended a workshop entitled 'Homes for the elderly/care institutions and dementia – standards in health care and medication-based deprivation of liberty' as part of the meeting of the South-East Europe NPM Network in Vienna (Austria).

13–14 October 2016 – As the Head of the National Preventive Mechanism, Deputy Ombudsman Ivan Šelih attended a conference organised in Vienna (Austria) by ODIHR (Office for Democratic Institutions and Human Rights) in cooperation with APT (Association for the Prevention of Torture).

17–18 October 2016 – In Sarajevo (Bosnia and Herzegovina), the Ombudsman attended a regional meeting of ombudsmen and various bodies engaged in preventing discrimination and protecting the principle of equality, at which she presented the Ombudsman's efforts in the field of discrimination and the appointment of an independent advocate of the principle of equality in Slovenia. The participants of the meeting also discussed the implementation of the Act on the Prohibition of Discrimination in Bosnia and Herzegovina; they presented a manual for taking measures in the event of discrimination, and discussed options for regional cooperation. The meeting was organised by the Ombudsman of Bosnia and Herzegovina.

19–21 October 2016 – Ombudsman's adviser Mojca Valjavec attended the Annual Conference on European Asylum Law 2016, which was held in Trier, Germany.

25 October 2016 – At the invitation of the Austrian Ambassador, Her Excellency Sigrid Berka, and Reinhold Pratschner, the Ombudsman attended a reception in Ljubljana commemorating the National Day of the Republic of Austria.

2–4 November 2016 – Deputy Ombudsmen Ivan Šelih and Miha Horvat attended a regional conference in Ohrid (Macedonia) entitled 'Access to the right to an asylum and formal/informal return of migrants/refugees'. The conference was organised by the Macedonian Ombudsman in cooperation with the United Nations High Commissioner for Refugees Representative in Skopje.

8–9 November 2016 – Deputy Ombudsman Ivan Šelih attended the 6th East European National Prevention Mechanisms Conference in Lviv (Ukraine). The conference commemorated the 10th anniversary of the entry into force of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The conference was organised by the Organisation for Security and Cooperation in Europe (Ukraine project office in Ukraine), the Kharkiv Institute for Social Research and the Ukrainian Human Rights Ombudsman.

16–17 November 2016 – Deputy Ombudsman Miha Horvat attended an expert conference, 'Ensuring fundamental rights compliant implementation of Framework Decisions related to detention – The role of the Judiciary and National Preventive Mechanisms', in Vienna (Austria). The participants explored the possibilities for a more harmonised and thus greater contribution to preventing torture, inhuman or degrading treatment when applying relevant legal acts (particularly regarding the European Arrest Warrant, supervisory measures

as an alternative to detention, relocation of prisoners between Member States, accompanying measures and alternative sanctions) related in any way to the law of the European Union. The conference was organised by the Ludwig Boltzmann Institute of Human Rights (BIM) and the Academy of European Law (ERA).

28–30 November 2016 – Ombudsman's advisers Robert Gačnik and Jure Markič attended the conference of the SEE NPM Network in Zagreb (Croatia), where they discussed monitoring the realisation of NPM recommendations upon control visits, the implementation of the UN Standard Minimum Rules for the Treatment of Prisoners (the so-called Nelson Mandela Rules) and the role of the NPM in the protection of refugees and migrants. The conference was organised by the Croatian Ombudsman in cooperation with the Ludwig Boltzmann Institute.

29–30 November 2016 – The Ombudsman's adviser Lan Vošnjak attended the 10th European Forum on the Rights of the Child in Brussels, Belgium. The topic of the Forum was the protection of migrants' children. It also focused on the issue of identifying children, protection from human trafficking, and all forms of exploitation, and the treatment and protection of unaccompanied children.

6 December 2016 – At the Ombudsman's offices, Deputy Ombudsman Ivan Šelih and the Ombudsman's advisers, Jure Markič, Robert Gačnik, Specialist, and Lili Jazbec hosted representatives of the NPM Croatia carried out by the Croatian Ombudsman. During their visit, the representatives of the NPM Croatia attended two control visits to retirement homes, i.e. Saint Joseph Home in Celje and the Thermana Laško Retirement Home.

6 December 2016 – Deputy Ombudsman Miha Horvat attended a workshop in Brussels (Belgium), where the participants discussed the issues of the recourse mechanism of Frontex (European Border and Coast Guard Agency).

13–14 December 2016 – Deputy Ombudsman and Head of the Slovenian National Preventive Mechanism Ivan Šelih and Ombudsman's adviser Robert Gačnik attended a conference in Belgrade (Serbia) entitled Protection of the Human Rights of Refugees and Migrants in the Countries of South-East Europe – Preventive Approach. The conference was organised by the Serbian Ombudsman in cooperation with the United Nations High Commissioner for Refugees (UNHCR).

15 December 2016 – In Strasbourg (France), Deputy Ombudsman Miha Horvat attended the Seminar on Freedom of Expression – Role and Powers of National Human Rights Institutions and Other National Mechanisms.

14–15 December 2016 – In Skopje (FYR Macedonia), Deputy Ombudsman Tone Dolčič and the Ombudsman's adviser Lan Vošnjak attended a meeting of ombudspersons for children from the countries of south-east Europe (CRONSEE). They mainly focused on the issues of the children of refugees and migrants. The meeting was organised by the Macedonian Ombudsman, the international non-governmental organisation Save the Children, and CRONSEE.

3.8 Statistics

This sub-chapter presents statistical data on cases considered by the Human Rights Ombudsman in the period from 1 January to 31 December 2016.

Cases considered

In 2016, the Ombudsman **considered 3,183 cases,** of which 2,706 cases were opened in 2016 (85 per cent); 410 cases were transferred from 2015 (12.9 per cent) and there were 67 reopened cases (2.1 per cent). Table 3.8.2 indicates that 6.9 per cent fewer cases were considered in 2016 in comparison with 2015.

Table 3.8.1: The number of cases discussed by the Human Rights Ombudsman of the Republic of Slovenia in 2016

Field of work	Number of cases considered				Share by Fields of work
	Open cases In 2016	Transfer of cases from 2015	Reopened cases in 2016	Total cases considered	
1. Constitutional rights	129	5	1	135	**4.24%**
2. Restriction of personal liberty	150	28	4	182	**5.72%**
3. Social security	411	68	6	485	**15.24%**
4. Labour law matters	195	43	10	248	**7.79%**
5. Administrative matters	342	71	10	423	**13.29%**
6. Judicial and police proceedings	484	79	15	578	**18.16%**
7. Environment and spatial planning	97	24	4	125	**3.93%**
8. Public utility services	64	8	5	77	**2.42%**
9. Housing matters	82	7	2	91	**2.86%**
10. Discrimination	54	8	3	65	**2.04%**
11. Children's rights	373	44	5	422	**13.26%**
12. Other	325	25	2	352	**11.06%**
TOTAL	**2,706**	**410**	**67**	**3,183**	**100.00%**

In 2016, the Ombudsman opened or received 2,706 cases (2,785 in 2015). Most complaints were received directly from complainants in written form (2,383 or 88 per cent), 99 during meetings outside the head office, 12 by telephone and 17 from official notes. On its own initiative (for a procedure to be initiated, the person affected must give their consent), the Ombudsman opened 14 complaints; 16 complaints were considered as broader issues (issues related to the protection of human rights and fundamental freedoms, and for the legal protection of the wider population in the Republic of Slovenia). We received courtesy copies of 102 complaints and 55 anonymous complaints. Eight complaints were referred by the Ombudsman to other authorities.

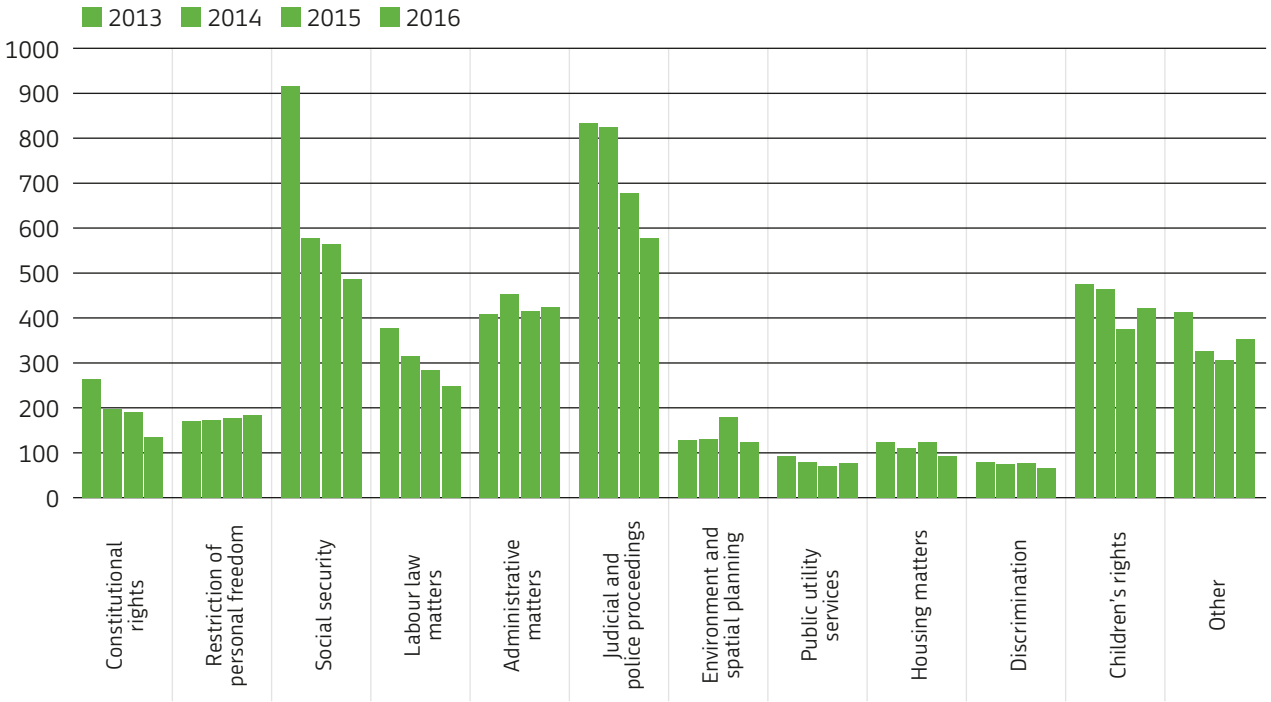
For the traceability and continuity of presenting annual statistical information on the Ombudsman's work, it must be stressed that statistical data in this chapter of the Annual Report do not include cases which were considered within the framework of the National Preventive Mechanism. Information on the work of the National Preventive Mechanism and the number of cases discussed in this field are presented in more detail in a special report of the National Preventive Mechanism for 2016 (a separate publication which forms part of the 2016 Ombudsman's Annual Report).

Table 3.8.2: Comparison between the number of cases considered by the Human Rights Ombudsman of the Republic of Slovenia by individual fields in the period 2013–2016

Field of work	Cases considered								Index 2016/ 2015
	2013		2014		2015		2016		
	No.	Share	No.	Share	No.	Share	No.	Share	
1. Constitutional rights	263	6.1%	198	5.3%	190	5.6%	135	4.2%	71.1
2. Restriction of personal liberty	171	4.0%	173	4.6%	176	5.1%	182	5.7%	103.4
3. Social security	915	21.4%	578	15.5%	546	16.0%	485	15.2%	88.8
4. Labour law matters	378	8.8%	314	8.4%	284	8.3%	248	7.8%	87.3
5. Administrative matters	409	9.6%	453	12.2%	415	12.1%	423	13.3%	101.9
6. Judicial and police proceedings	833	19.5%	825	22.1%	677	19.8%	578	18.2%	85.4
7. Environment and spatial planning	127	3.0%	131	3.5%	178	5.2%	125	3.9%	70.2
8. Public utility services	92	2.2%	80	2.1%	70	2.0%	77	2.4%	110.0
9. Housing matters	124	2.9%	111	3.0%	124	3.6%	91	2.9%	73.4
10. Discrimination	80	1.9%	75	2.0%	76	2.2%	65	2.0%	85.5
11. Children's rights	474	11.1%	464	12.4%	375	11.0%	422	13.3%	112.5
12. Other	413	9.7%	325	8.7%	307	9.0%	352	11.1%	114.7
TOTAL	**4,279**	**100.0%**	**3,727**	**100.0%**	**3,418**	**100.0%**	**3,183**	**100.0%**	**93.1**

Table 3.8.2 shows that the greatest number of cases dealt with in 2016 involved judicial and police proceedings (578 cases or 18.2 per cent), social security (485 cases or 15.2 per cent) and administrative matters (423 cases or 13.3 per cent). In comparison with 2015, the number of cases handled grew most significantly in the field of children's rights (from 375 to 422 or by 12.5 per cent), and declined in the field of environment and spatial planning (from 178 to 125 or by 29.8 per cent) and constitutional rights (from 190 to 135 or by 28.9 per cent).

Figure 3.8.1: Comparisons between the number of cases discussed by individual fields of work of the Human Rights Ombudsman of the Republic of Slovenia in the period 2013–2016



Cases by stage of processing

In 2016, 3,183 cases were being processed, of which **2,722 cases had been resolved** as at 31 December 2016 **or 76.9 per cent** of the total number of cases being processed in 2016, and some 461 cases (23.1 per cent) remained to be resolved.

Table 3.8.3: Comparison of the number of cases considered by the Human Rights Ombudsman of the Republic of Slovenia according to the stage of the procedure in the period 2013–2016 (at the end of the calendar year)

Stage of processing cases	2013 (situation as at 31 December 2013)		2014 (situation as at 31 December 2014)		2015 (situation as at 31 December 2015)		2016 (situation as at 31 December 2016)		Index (16/15)
	No.	Share	No.	Share	No.	Share	No.	Share	
Closed	3,737	87.3 %	3,181	85.4 %	3,008	88.0 %	2,722	76.9 %	90.5
Under consideration	542	12.7 %	546	14.6 %	410	12.0 %	461	23.1 %	112.4
TOTAL	**4,279**	**100.0 %**	**3,727**	**100.0 %**	**3,418**	**100.0 %**	**3,183**	**100.0 %**	**93.1**

A detailed review of the processing of cases by field of work is shown in Table 3.8.4.

In field **1 Constitutional rights**, 135 cases were handled in 2016 (28.9 per cent less than in 2015). The reduction in the number of cases in this field is due to the smaller number of cases dealt with in the sub-field of ethics of public discourse, where the number of cases in 2015 (87 cases) dropped to 42 in 2016. An exceptionally strong response to current social events is typical for this sub-field; as were, similarly to 2015, the issues of refugees and the discussion of the Family Code. Furthermore, a decrease was noted in the sub-field of personal data protection by 18 per cent (from 61 to 50 complaints), while an increase was recorded in the sub-fields of the right to vote from 4 to 8 complaints and the right to assembly and association from 8 to 11 complaints.

The number of complaints discussed in the entire field **2 Restriction of personal liberty** did not change significantly in 2016 compared with previous years (171 in 2013, 173 in 2014, 176 in 2015 and 182 in 2016). A noticeable decrease occurred in the sub-fields Prisoners (from 101 to 88 in 2016) and Forensic psychiatry (from 13 to 5). An increase was noticed in the sub-fields Persons in social care institutions (from 12 to 29) and Psychiatric patients (from 21 to 27 in 2016).

In 2016, we also determined that with 458 complaints the field **3 Social security** was the second largest field according to the number of cases discussed, although the number of cases discussed in 2016 dropped by 11.2 per cent in comparison to 2015 (from 546 cases to 458). The reduction of complaints in the sub-fields Pension insurance (from 109 to 60) and Disability insurance (from 54 to 39) contributed most to the overall decrease. No significant changes in the number of cases discussed were noticed in other sub-fields.

The number of cases considered under **4 Labour law matters** (248) decreased by 12.7 per cent in 2016 compared to 2015 (284). In terms of percentages, the decrease is approximately the same in all four main sub-fields within labour law matters. In the sub-field of Employment relations, a decrease of 12.1 per cent was established, and approximately the same reduction was recorded under Unemployment (i.e. by 13.9 per cent) and Public-sector workers (by 11.4 per cent). Only the sub-field of Scholarships somewhat deviates, with 20 per cent, whereby the number of cases discussed in 2016 dropped from 30 to 24.

In field **5 Administrative matters**, the number of cases in 2016 (423) somewhat increased in comparison with 2015 (415), i.e. by 1.9 per cent. The largest increase in the number of cases being processed can be noticed in Aliens (from 63 to 99), and there were 22 per cent less Administrative procedures.

Similarly to all preceding years, the field with the highest number of cases discussed in 2016 was **6 Judicial and police proceedings**. In 2016, the Ombudsman discussed 578 cases in this field, or 24.6 per cent less than in 2015 (677). While no significant changes were noticed in the sub-fields Police procedures, Procedures before

labour and social courts, Administrative court proceedings and Others, a decrease in the number of cases considered was obvious in other sub-fields in the compared periods. Thus the number decreased most in the sub-field Civil proceedings and relations, i.e. by 71 cases or 25.1 per cent. A decrease in the number of cases discussed was also recorded under Attorneys and notaries (by 34.8 per cent), Pre-trial proceedings (by 16.1 per cent), Criminal proceedings (by 13.7 per cent) and Minor offence proceedings (by 9.8 per cent).

In field **7 Environment and spatial planning**, the number of cases processed increased by 29.8 per cent in 2016 (from 187 to 125) in comparison to 2015. The considerable decrease in cases discussed was noticed in all three sub-fields under the field of the environment and spatial planning, particularly in the sub-field of Activities in the environment, i.e. 41.3 per cent (from 75 to 44).

The number of cases being processed under **8 Public utility services** increased by 10 per cent (from 70 to 77) in 2016 compared to 2015. An increase can be seen in the sub-field of Communications (from 7 to 14), while a reduction may be noticed under Energy (from 19 to 14).

Field **9 Housing matters** displays the largest decline index in 2016 compared to the previous year, i.e. 73.4 (124 in 2015 and 91 in 2016). The number of cases considered declined in all sub-fields; the most noticeable decline was in the sub-field of Housing economics, i.e. from 62 to 43.

In 2016, the number of cases considered under **10 Discrimination** was somewhat lower compared to 2015 (76 in 2015 to 65 in 2016). Within the above field, the sub-field of Equal opportunities relating to physical or mental disabilities must be highlighted, where the number of cases decreased from 22 to 14, while the number of cases in the sub-field of National and ethnic minorities increased from 24 to 29.

In field **11 Children's rights** the number of cases in 2016 increased by 12.5 per cent in comparison with 2015 (375 in 2015 and 422 in 2016). This field also includes the sub-field of Child advocacy, where we noted a slight increase in cases considered (from 80 to 95). The largest increase was recorded in the sub-field of Domestic violence against children (from 17 to 24).

Field **12 Other** includes cases that cannot be classified under any of the defined fields. In 2016, we dealt with 352 such cases, 14.7 per cent more than a year earlier, or 11.1 per cent of all the cases discussed.

Table 3.8.4: Comparison of cases considered by the Human Rights Ombudsman of the Republic of Slovenia in 2015 and 2016 by fields of work

Fields and sub-fields of the Ombudsman's work	Cases considered in 2015	Cases considered in 2016	Index (16/15)	Fields and sub-fields of the Ombudsman's work	Cases considered in 2015	Cases considered in 2016	Index (16/15)
1 Constitutional rights	**190**	**135**	**71.1**	**2 Restriction of personal liberty**	**176**	**182**	**103.4**
1.1 Freedom of conscience	6	7	116.7	2.1 Remand prisoners	22	23	104.5
1.2 Ethics of public discourse	87	42	48.3	2.2 Prisoners	101	88	87.1
1.3 Assembly and association	8	11	137.5	2.3 Psychiatric patients	21	27	128.6
1.4 Security services	1	0	0.0	2.4 Persons in social care institutions	12	29	241.7
1.5 Right to vote	4	8	200.0				
1.6 Personal data protection	61	50	82.0	2.5 Youth homes	2	3	150.0
1.7 Access to public information	3	5	166.7	2.6 Illegal aliens and asylum seekers	1	5	200.0
1.8 Other	20	12	60.0	2.7 Persons in police custody	1	0	200.0

Fields and sub-fields of the Ombudsman's work	Cases considered in 2015	Cases considered in 2016	Index (16/15)
2.8 Forensic psychiatry	13	5	38.5
2.9 Other	3	2	66.7
3 Social security	**546**	**485**	**88.8**
3.1 Pension insurance	109	60	55.0
3.2 Disability insurance	54	39	72.2
3.3 Health insurance	46	43	93.5
3.4 Health care	106	101	95.3
3.5 Social benefits and relief	91	89	97.8
3.6 Social services	21	21	100.0
3.7 Institutional care	46	42	91.3
3.8 Poverty – general	20	24	120.0
3.9 Violence – in all contexts	9	8	88.9
3.10 Other	44	58	131.8
4 Labour law matters	**284**	**248**	**87.3**
4.1 Employment relationships	116	102	87.9
4.2 Unemployment	36	31	86.1
4.3 Public-sector workers	79	70	88.6
4.4 Scholarships	30	24	80.0
4.5 Other	23	21	91.3
5 Administrative matters	**415**	**423**	**101.9**
5.1 Citizenship	8	7	87.5
5.2 Aliens	63	99	157.1
5.3 Denationalisation	11	14	127.3
5.4 Property law matters	43	47	109.3
5.5 Taxes	80	77	96.3
5.6 Customs duties	4	1	25.0
5.7 Administrative procedures	123	96	78.0
5.8 Social activities	56	61	108.9
5.9 Other	27	21	77.8
6 Judicial and police proceedings	**677**	**578**	**85.4**
6.1 Police proceedings	81	81	100.0
6.2 Pre-trial proceedings	31	26	83.9
6.3 Criminal proceedings	95	82	86.3
6.4 Civil proceedings and relations	283	212	74.9
6.5 Proceedings before lab. and soc. courts	28	29	103.6
6.6 Minor offence proceedings	61	55	90.2
6.7 Administrative judicial proceedings	4	4	100.0
6.8 Attorneys and notaries	23	15	65.2
6.9 Other	71	74	104.2
7 Environment and spatial planning	**178**	**125**	**70.2**
7.1 Activities in the environment	75	44	58.7
7.2 Spatial planning	46	28	60.9
7.3 Other	57	53	93.0
8 Public utility services	**70**	**77**	**110.0**
8.1 Municipal utility services	22	20	90.9
8.2 Communications	7	14	200.0
8.3 Energy	19	14	73.7
8.4 Transport	17	17	100.0
8.5 Concessions	4	5	125.0
8.6 Other	1	7	700.0
9 Housing matters	**124**	**91**	**73.4**
9.1 Housing relations	53	46	86.8
9.2 Housing economics	62	43	69.4
9.3 Other	9	2	22.2
10 Discrimination	**76**	**65**	**85.5**
10.1 National and ethnic minorities	24	29	120.8
10.2 Equal opportunities by gender	1	2	200.0
10.3 Equal opportunities in employment	5	2	40.0

Fields and sub-fields of the Ombudsman's work	Cases considered in 2015	Cases considered in 2016	Index (16/15)
10.4 Equal opportunities relating to sexual orientation	6	3	50.0
10.5 Equal opportunities relating to physical or mental disability (invalidity)	22	14	63.6
10.6 Other	18	15	83.3
11 Children's rights	**375**	**422**	**112.5**
11.1 Contacts with parents	46	42	91.3
11.2 Child support, child allowances, child's property management	28	27	96.4
11.3 Foster care, guardianship, institutional care	22	62	281.8
11.4 Children with special needs	43	37	86.0
11.5 Children of minorities and vulnerable groups	3	8	266.7
11.6 Domestic violence against children	17	24	141.2
11.7 Violence against children outside the family	20	10	50.0
11.8 Child advocacy	80	95	118.8
11.9 Other	116	117	100.9
12 Other	**307**	**352**	**114.7**
12.1 Legislative complaints	31	18	58.1
12.2 Remedy of injustice	7	8	114.3
12. 3 Personal problems	24	21	87.5
12.4 Clarifications	221	217	98.2
12.5 Courtesy copy	10	59	590.0
12.6 Anonymous complaints	14	29	207.1
12.7 Ombudsman	0	0	–
TOTAL	**3,418**	**3,183**	**93.1**

Cases closed

In 2016, **2,722 cases were closed,** which is **9.5 per cent less** than in 2015. **According to the comparison of the number of these cases (2,722) to the number of open cases in 2016 (2,706), we establish that** 0.6 per cent more cases were closed than opened in 2016.

Table 3.8.5: Comparison of the number of closed cases classified according to the Ombudsman's field of work in the period 2013–2016

Field of the Ombudsman's work	2013	2014	2015	2016	Indeks (16/15)
1. Constitutional rights	255	173	185	127	68.6
2. Restriction of personal liberty	150	130	151	135	89.4
3. Social security	844	494	478	451	94.4
4. Labour law matters	334	278	241	206	85.5
5. Administrative matters	342	388	344	322	93.6
6. Judicial and police proceedings	678	688	601	476	79.2
7. Environment and spatial planning	110	93	154	104	67.5
8. Public utility services	87	76	62	71	114.5
9. Housing matters	117	101	117	76	65.0
10. Discrimination	59	66	68	57	83.8

Field of the Ombudsman's work	2013	2014	2015	2016	Indeks (16/15)
11. Children's rights	380	403	332	363	109.3
12. Other	381	291	275	334	121.5
TOTAL	**3,737**	**3,181**	**3,008**	**2,722**	**90.5**

Cases closed as founded/unfounded

Table 3.8.6: Classification of cases closed according to whether they were founded/unfounded

GROUNDS FOR CASES	CASES CLOSED				Index (16/15)
	2015		2016		
	Number	Share	Number	Share	
1. Founded	456	**15.2**	357	**13.1**	**78.3**
2. Unfounded cases	637	**21.2**	499	**18.3**	**78.3**
3. No conditions for considering the case	1,541	**51.2**	1,450	**53.3**	**94.1**
4. Not within the Ombudsman's competence	374	**12.4**	416	**15.3**	**111.2**
TOTAL	**3,008**	**100.0**	**2,722**	**100.0**	**90.5**

The share of founded cases in 2016 (13.1 per cent) decreased in comparison with 2015 (15.2 per cent).

Cases closed by sectors

Table 3.8.7: Closed cases discussed by the Human Rights Ombudsman of the Republic of Slovenia in the period 2013–2016 by fields of work of state authorities

FIELD OF WORK OF STATE AUTHORITIES	CASES CLOSED								Index (16/15)
	2013		2014		2015		2016		
	Number	Share	Number	Share	Number	Share	Number	Share	
1. Labour, family and social affairs	1407	37.65	1040	32.69	928	30.85	956	35.12	103.0
2. Finance	77	2.06	86	2.70	71	2.36	58	2.13	81.7
3. Business sector	30	0.80	64	2.01	56	1.86	26	0.96	46.4
4. Public administration	23	0.62	19	0.60	21	0.70	10	0.37	47.6
5. Agriculture, forestry and food	6	0.16	7	0.22	7	0.23	11	0.40	157.1
6. Culture	17	0.45	28	0.88	24	0.80	18	0.66	75.0
7. Internal affairs	245	6.56	198	6.22	187	6.22	156	5.73	83.4
8. Defence	2	0.05	1	0.03	1	0.03	7	0.26	700.0
9. Environment and spatial planning	366	9.79	300	9.43	341	11.34	240	8.82	70.4
10. Justice	784	20.98	747	23.48	688	22.87	538	19.76	78.2
11. Transport	16	0.43	30	0.94	28	0.93	28	1.03	100.0
12. Education and sport	133	3.56	139	4.37	125	4.16	93	3.42	74.4

FIELD OF WORK OF STATE AUTHORITIES	CASES CLOSED								Index (16/15)
	2013		2014		2015		2016		
	Number	Share	Number	Share	Number	Share	Number	Share	
13. Higher education, science and technology	22	0.59	12	0.38	17	0.57	22	0.81	129.4
14. Health care	156	4.17	164	5.16	148	4.92	188	6.91	127.0
15. Foreign affairs	5	0.13	11	0.35	3	0.10	4	0.15	133.3
16. Government services	3	0.08	4	0.13	0	0.00	4	0.15	-
17. Local self-government	31	0.83	40	1.26	38	1.26	41	1.51	107.9
18. Other	414	11.08	291	9.15	325	10.80	322	11.83	99.1
TOTAL	**3,737**	**100.00**	**3,181**	**100.00**	**3,008**	**100.00**	**2,722**	**100.00**	**90.5**

Table 3.8.7 shows the classification of cases closed in 2016 by fields as considered by state authorities and which do not fall within fields of the Ombudsman's work.

An individual case is classified in a relevant field of work with regard to the nature of the problem which the complainant submitted to the Ombudsman and for which inquiries have been made.

It is evident from the table below that the highest number of closed cases in 2016 referred to:
- labour, family and social affairs (956 cases or 35.12 per cent);
- justice (538 cases or 19.76 per cent);
- environment and spatial planning (240 cases or 8.82 per cent), and
- internal affairs (156 cases or 5.73 per cent).

The number of completed cases decreased most in the fields of justice (by 150 cases or 21.8 per cent) and environment and spatial planning (by 101 cases or 29.6 per cent) in 2016 compared with 2015, and it increased most in the fields of health care (by 40 cases or 27 per cent) and labour, family and social affairs (by 28 cases or 3 per cent).

Table 3.8.8: Analysis of founded/unfounded cases closed in 2016

FIELD OF WORK OF STATE AUTHORITIES	CASES CLOSED	NUMBER OF FOUNDED CASES	SHARE OF FOUNDED CASES AMONG CLOSED CASES
1. Labour, family and social affairs	956	157	**16.4**
2. Finance	58	9	**15.5**
3. Business sector	26	1	**3.8**
4. Public administration	10	2	**20.0**
5. Agriculture, forestry and food	11	0	**0.0**
6. Culture	18	4	**22.2**
7. Internal affairs	156	20	**12.8**
8. Defence	7	2	**28.6**
9. Environment and spatial planning	240	24	**10.0**
10. Justice	538	43	**8.0**

FIELD OF WORK OF STATE AUTHORITIES	CASES CLOSED	NUMBER OF FOUNDED CASES	SHARE OF FOUNDED CASES AMONG CLOSED CASES
11. Transport	28	6	**21.4**
12. Education and sport	93	22	**23.7**
13. Higher education, science and technology	22	3	**13.6**
14. Health care	188	32	**17.0**
15. Foreign affairs	4	0	**0.0**
16. Government services	4	4	**–**
17. Local self-government	41	13	**31.7**
18. Other	322	15	**4.7**
TOTAL	**2,722**	**357**	**13.1**

Table 3.8.8 provides an overview of founded cases by individual fields of activity of state authorities. Based on these data, we may determine in which fields most violations were found in 2016.

If we focus only on areas in which 100 or more cases were classified, it can be established that the share of founded cases is highest in the fields of health care (17 per cent) and labour, family and social affairs (16.4 per cent), followed by internal affairs (12.8 per cent) and the environment and spatial planning (10 per cent). More on violations in specific fields can be found in the substantive part of the Report.

4

SELECTION OF THE OMBUDSMAN'S RECOMMENDATIONS

CONSTITUTIONAL RIGHTS

1. The Ombudsman recommends the adoption of systemic and other measures for implementing the principles of the separation of state and religion, by means of which it would be guaranteed to individuals that they do not need to participate in religious rituals against their will in state schools. Organisation and Financing of Education Act, Article 72 of the prohibition on performing non-secular activities should be implemented in public nursery schools and schools.

2. The Ombudsman recommends that all who participate in public discussions, in their statements and writing, avoid inciting hatred or intolerance on the basis of any personal circumstance, and when such cases occur, to respond and condemn them immediately. The Ombudsman recommends to Members of Parliament that they adopt a Code of Ethics and form a tribunal that would respond to individual cases of hate speech in politics.

3. The Ombudsman recommends that actions affecting one's honour and reputation by means of public posts should be more clearly sanctioned by law, and that law enforcement authorities carefully protect personal information about participants in criminal proceedings at least until the public court hearing procedure.

4. The Ombudsman recommends that the legislation on voting be amended so as to enable people whose personal freedom was suspended in the period from 10 days before an election to a day before the election (persons placed in prisons, psychiatric institutions, or social protection institutions) to effectively exercise their right to vote.

5. The Ombudsman recommends that the Government of the Republic of Slovenia ensure that regulatory changes be adopted and implemented as soon as possible, which legally regulate the treatment of personal data with the consent of individuals in accordance with the Personal Data Protection Act. The legislation should also define indicators that would be collected with the consent of individuals or anonymously.

6. The Ombudsman recommends that the Ministry of Justice pay additional attention to observing the time limit laid down in Article 18 of the Decree on Administrative Operations, i.e. to ensure that those who send letters are issued at least a notice on further measures and on a realistic time limit for sending a substantive reply within 15 days after letters are received.

DISCRIMINATION AND INTOLERANCE

7. The Ombudsman expects the Government of the Republic of Slovenia to provide all the conditions needed for the effective operation of the formally established Advocate of the Principle of Equality authority as soon as possible.

8. The Ombudsman recommends the systematic collection and analysis of information held by individual ministries on the implementation of measures arising from the Plan of Measures of the Government of the Republic of Slovenia for the Implementation of the Regulations in the Field of Bilingualism 2015–2018, which would enable an assessment of the progress made in

enforcing the rights of national communities in individual years.

9. The Ombudsman recommends that the competent ministries provide access to electronic forms for submitting applications online in Italian and Hungarian as soon as possible, and to post online data on the administrative authority's services in Italian and Hungarian.

10. The Ombudsman reiterates the recommendation that it has made repeatedly, and which has been adopted by the National Assembly, that competent ministries should, as soon as possible, draft amendments to regulations to eliminate discrimination in implementing the transport of students with impaired movement, i.e. disabled students, from their place of residence to the place of education.

RESTRICTION OF PERSONAL LIBERTY

11. The Ombudsman expects that, in addition to her already provided comments, the comments and considerations of (external) experts will also be studied and taken into account in the procedure for preparing the construction of a new prison in Ljubljana.

12. The Ombudsman recommends that the Ministry of Justice govern in greater detail the issuing of permits to visit remand prisoners by means of amendments to the Criminal Procedure Act.

13. The Ombudsman recommends that the Office for the Enforcement of Criminal Sanctions (hereinafter: UIKS) take all necessary measures to enable imprisoned people daily showers, as this is the basis of personal hygiene.

14. The Ombudsman recommends that the Ministry of Justice and the UIKS ensure that adjusted facilities for convicts who require additional assistance in meeting basic daily needs in the form of care and social care be established as soon as possible.

15. The Ombudsman urges that a protocol be adopted as soon as possible by the Ministry of Justice and the UIKS or the Ministry of Labour, Family, Social Affairs with regard to the placement in old age homes of convicts who require more intensive and demanding care, as such an agreement would facilitate the work of all stakeholders in the procedure for the possible placement of people after they have served their prison sentence into a social care institution.

16. The Ombudsman recommends that the obligation to enable access to a doctor to all imprisoned persons at any time be consistently observed.

17. The Ombudsman recommends that the suitability of the current arrangement for mandatory treatment measures be considered, as persons for whom mandatory treatment and care in a health-care institution are ordered solely because there are no other options should not be deprived of milder measures and should not be condemned to having the measure extended in a health-care institution if the same goal could be achieved by other measures.

18. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities ensure that the working group for establishing a specialised unit for treating persons with the most severe forms of mental health problems begins to operate as soon as possible.

19. The Ombudsman expects for the Ministry of Health to adopt as soon as possible all of the necessary measures for determining the providers referred to in Article 2 of the Rules on the Implementation of Security Measures of Compulsory Psychiatric Treatment and Care in a Health Establishment of Compulsory Psychiatric Treatment at Liberty.

20. The Ombudsman once again encourages all those competent to establish a special (closed) ward for children and young people with mental health problems who require hospitalisation, so that they would no longer be placed in wards for adults.

21. The Ombudsman once again calls on the Ministry of Labour, Family, Social Affairs and Equal Opportunities to immediately take all necessary measures to ensure suitable placement for people subject to court orders to be placed in a secure ward of a social care institution and to ensure additional places in secure wards of social care institutions by adopting a clear and more transparent list of (free) capacities in social care institutions with secure wards for the placement (re-location) of people based on the Mental Health Act.

22. The Ombudsman recommends that the Ministry of Education, Science and Sport carry out, as soon as possible, an analysis of the past work with children and young people, evaluate pilot projects, and develop a vision for the future and for the

reform of the educational programme and the necessary systemic changes.

23. The Ombudsman recommends that, after a project evaluation is concluded, the Government of the Republic of Slovenia or the competent ministry prepare systemic solutions for the suitable placement of unaccompanied young people in our country as soon as possible.

JUSTICE

24. The Ombudsman recommends that the Ministry of Justice open a dialogue with the judiciary and thereby study the application of the Protection of the Right to Trial without Undue Delay Act (hereinafter: ZVPSBNO) in practice, and based on this to adopt the necessary amendments; the judiciary should take additional measures for the consistent implementation of the measures referred to in the ZVPSBNO).

25. We would like to encourage the Supreme Court of the Republic of Slovenia to continue implementing the mechanisms to improve the operation and quality of trials, and the Ministry of Justice should continue to enhance the effectiveness of supervisory authorities' operations in order to ensure the quality of work of courts and the quality of trials.

26. The Ombudsman encourages the competent authorities to seek specific solutions for the issue of enforcement against immovable property as the first and only method of enforcement, especially if this relates to the debtor's home.

27. The Ombudsman stresses that courts and all other minor offence authorities should consistently observe the fundamental constitutional guarantees for a fair court procedure also in minor offence procedures; in particular, the careful treatment of requests for judicial protection is required.

28. The Ombudsman encourages all state prosecutors to work in a manner that is conscientious, prompt, and professional.

29. The Ombudsman recommends that the Ministry of Justice study the need to regulate a special complaint procedure concerning the work of police officers of the Special Department when drafting the next amendments to the state prosecution legislation.

30. The Ombudsman recommends that the Bar Association of Slovenia further ensure an effective response to irregularities committed by their own members by taking efficient action in their disciplinary bodies and providing swift and objective decision making on reports filed against attorneys.

POLICE PROCEEDINGS

31. The Ombudsman once again recommends that the Ministry of the Interior and the Police continue their efforts to consistently observe human rights in police procedures by means of suitable communication and that the police adopt a respectful attitude to individuals in their procedures.

32. The Ombudsman warns that the police must consistently observe all the rights of suspects deprived of liberty, including the right to counsel.

33. We recommend that the police, whenever they are investigating whether deprivation of liberty is necessary and recording such deprivation, act with particular care and always take into account that the entire time of the police procedure until remand custody is ordered must be included in the period taken by the police procedure.

34. The Ombudsman recommends that the police ensure the careful recording of all confiscated items in a manner that does not allow them to be mistaken for other items, and their suitable storage.

35. We recommend that the Ministry of the Interior and the Police carry out the selection of witnesses in house and personal searches with particular care, and prepare in cooperation with the Ministry of Justice a systemic solution for providing witnesses when conducting house or personal searches, e.g. by establishing a court list of people who could participate in a pre-trial investigation as witnesses when these searches are carried out.

36. We recommend that, when communicating with the public, the police carefully consider in every case which information about an individual and how much of this information will be shared with the public (if at all).

OTHER ADMINISTRATIVE MATTERS

37. The Ombudsman again calls on the Government of the Republic of Slovenia to adopt a suitable strategy and schedule specific measures to enable a regulated and lawful situation regarding the general issue of municipal roads.

38. The Ombudsman recommends that the Ministry of Finance regulate the right to a special tax relief for taxpayers for maintaining their family members (parents and adoptive parents) in a manner allowing taxpayers to always enforce this relief when they are actually maintaining family members, regardless of whether they all live in a common household or in institutional care, or whether the costs of services are paid on their behalf.

39. The Ombudsman recommends that the Ministry of Finance draft an amendment to the Personal Income Tax Act that would allow the list of income arising from compulsory pension, disability, and health insurance on which income tax is not paid to be supplemented by stating a survivor's pension the recipient of which is a child under the age of 18, or 26 if they are a full-time student.

40. The Government of the Republic of Slovenia should protect buyers of real estate by taking measures to enable them to inspect any associated records of land register status and actual status and any administrative instruments related to the building subject to the planned purchase even prior to making a decision on their purchase.

41. The Ombudsman recommends that the criteria for determining the sufficient amount of assets for maintaining various categories of foreigners should be unified by means of an implementing regulation, thus significantly simplifying the work of first-instance authorities.

ENVIRONMENT AND SPATIAL PLANNING

42. The Ministry of the Environment and Spatial Planning should draft a regulation to govern noxious odours (smell) in the environment.

43. The Government should determine the priority tasks (priorities) of inspection services in a regulation which must be made public, as this is the only way to ensure transparency and the impartiality of inspectors.

44. The Government should ensure all conditions (material, staffing and financial) for the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning to conduct inspection procedures efficiently.

45. The Ministry of the Environment and Spatial Planning should prepare a systemic solution for the acquisition of authorisations for measuring emissions into the air, and ensure independent supervision and the financing of measurements.

HOUSING MATTERS

46. The Ministry of the Environment and Spatial Planning should promptly prepare amendments to the Housing Act which clearly define the obligations of municipalities to ensure a certain number of residential units (taking into account the number of residents) of a suitable standard of living, and publish calls for applications for non-profit dwellings for rent at certain intervals (e.g. annually).

47. We require the Ministry of the Environment and Spatial Planning thoroughly analyse the management of multi-dwelling buildings and amend the legislation on this basis, and especially to constantly supervise the work of managers of multi-dwelling buildings.

48. The Ministry of the Environment and Spatial Planning should provide additional human resources for the Housing Inspection Service, so that it could effectively respond to the housing issue.

EMPLOYMENT RELATIONS

49. The Ombudsman must repeat: The Ministry of the Interior should immediately prepare amendments to the ZUJF and, as an exception to the limitations regarding annual leave, acknowledge the criteria for protecting and caring for physically and moderately, severely or profoundly intellectually disabled persons.

50. The Ombudsman repeats: The Government of the Republic of Slovenia must immediately take measures to ensure a transparent, efficient and fast supervision system for the payment of salaries, i.e. for net amounts and withheld taxes related to salaries.

51. The Ombudsman repeats: The Government of the Republic of Slovenia should ensure that procedures in all supervisory institutions are carried out within reasonable time limits. We propose strengthening the human resources of the Labour Inspectorate of the Republic of Slovenia wherever possible, including by reassigning public employees.

52. The Ombudsman recommends that (at least) snack costs be reimbursed to people who are being trained for a specific job or vocation within vocational rehabilitation.

PENSION AND DISABILITY INSURANCE

53. The Pension and Disability Insurance Institute of Slovenia (hereinafter: the ZPIZ) should carry out a comprehensive analysis and assessment of the work of experts participating in procedures for evaluating the work capacity of insured persons, and take suitable measures against those violating the rules.

HEALTH CARE AND HEALTH INSURANCE

54. The Government of the Republic of Slovenia should require all state authorities drafting individual regulations with the help of external experts to publicly publish how their working groups are structured, what their basic duties are, and what the time limits for drafting expert groundwork are.

55. In cooperation with the Information Commissioner, the Ministry of Health should study the option for the Patient Rights Act laying down the possibility of releasing doctors from their obligation to professional secrecy when a patient has already publicly disclosed sensitive information on their medical condition.

56. Within the health-care reform, the Ministry of Health should also study the regulation of the emergency paedo-psychiatry service, which should also provide suitable triage.

57. The Ministry of Health should draft legislation already in 2017 concerning the performance of psychotherapy services.

58. In cooperation with the Health Insurance Institute of Slovenia, the Ministry of Health should study the possibility of a price breakdown of health care services, as this would enable a greater overview of the funds spent, and it would make it possible for petitioners to select a surcharge for above-standard services.

59. The rights of individuals that arise from compulsory health insurance and depend on their place of residence must be governed by law.

60. The payment of an inadequate amount of sick-leave compensation based on false grounds and concerning which no court procedures are pending should be governed by law retroactively, thus ensuring equal treatment for all beneficiaries.

61. The new Health Care and Health Insurance Act should lay down equal wage compensation or compensation for loss of income for blood donors and donors of haematopoietic stem cells.

SOCIAL MATTERS

62. We would like to reiterate recommendation No 75 from 2016 stating that the Ministry of Labour, Family, Social Affairs and Equal Opportunities should draft a programme to eliminate backlogs regarding the resolution of all complaints on social care rights, whereupon it should publish and issue reports on its realisation every three months.

63. In cooperation with the Ministry of Justice, the Ministry of Labour, Family, Social Affairs and Equal Opportunities should study the option of allowing the enforcement of social rights to take place in accordance with a special regulation, as the General Administrative Procedure Act is not adjusted to any special cases in this field.

64. All state authorities drafting regulatory instruments should consistently observe the Resolution on Legislative Regulation, and the reasons for any exceptions should be specifically substantiated in the documentation that forms an integral part of the proposal for the regulation.

65. The National Institute of Public Health should draft standards and norms regarding the food in institutional care as soon as possible.

UNEMPLOYMENT

66. The Ombudsman requires that the Ministry of Labour, Family, Social Affairs and Equal Opportunities immediately withdraw the amendment to the Labour Market Regulation Act stating that missing the deadline for registering in

the unemployment register will lead to ineligibility whereby the right to unemployment benefit can no longer be enforced (unless the time limit is not running).

67. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities amend Article 63 of the Labour Market Regulation Act so that an individual does not lose the right to unemployment benefit because they fail to file a lawsuit on its illegality within 30 days after being served notice on the termination of their employment agreement if they discover a violation or illegality regarding the termination of employment at a later time.

PROTECTION OF CHILDREN'S RIGHTS

68. The Government should draft an analysis of any possible results of the ratification of the third Optional Protocol to the Convention on the Rights of the Child without delay and, based on this, a proposal for an act on the ratification and any necessary statutory changes to enable the ratification of the Protocol.

69. The Ministry of Education, Science and Sport should ensure the ongoing production tailored text books and work books specifically designed for blind and partially sighted school children.

70. The Ministry of Education, Science and Sport should study the option of preparing suitable diet lunches in school for children with severe allergies to a particular type of food or ingredient.

71. The Ministry of Education, Science and Sport should ensure that a unified mandatory subject is prepared, as a part of the educational programme, to enable children to use modern communication tools safely.

5. LIST OF ABBREVIATIONS AND ACRONYMS USED

ACTS AND OTHER LEGAL ACTS

KZ-1	Criminal Code
MOPPM	Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
OZ	Code of Obligations
SZ-1	Housing Act
SPZ	Law of Property Code
ZBPP	Legal Aid Act
ZDavP-2	Tax Procedure Act
ZDIJZ	Public Information Access Act
ZDimS	Chimney Sweeping Services Act
ZDoh-2	Personal Income Tax Act
ZDPVA91	Regulation on the Partial Refund for Damage caused by the Military Aggression on the Republic of Slovenia in 1991
ZDR-1	Employment Relationship Act
ZDRS	Citizenship of the Republic of Slovenia Act
ZDT-1	State Prosecutor Act
ZDU-1	State Administration Act
ZDZdr	Mental Health Act
ZEKom	Electronic Communications Act
ZEPT	Electronic Commerce Market Act
ZFPPIPP	Financial Operations, Insolvency Proceedings and Compulsory Winding-up Act
ZGD-1	Companies Act
ZGim	Gimnazije Act
ZGJS	Services of General Economic Interest Act
ZGZH	Act Regulating the Coat-of-Arms, Flag and Anthem of the Republic of Slovenia and the Flag of the Slovene Nation
ZIKS-1	Enforcement of Criminal Sanctions Act
ZIKS-1F	Act Amending the Enforcement of Criminal Sanctions Act
ZIMI	Equalisation of Opportunities for Persons with Disabilities Act
ZIN	Inspection Act
ZIntPK	Integrity and Prevention of Corruption Act
ZIntPK-C	Act Amending the Integrity and Prevention of Corruption Act
ZJRM-1	Protection of Public Order Act
ZJU	Civil Servants Act

ZJZ	Public Assembly Act
ZKGZ	Chamber of Agriculture and Forestry Act
ZKP	Criminal Procedure Act
ZKP-N	Act Amending the Criminal Procedure Act
Zmed	Media Act
ZMV	Motor Vehicles Act
ZMZ	International Protection Act
ZN	Notary Act
ZNDM-2	State Border Control Act
ZNP	Non-litigious Civil Procedure Act
ZNPPol	Police Tasks And Powers Act
ZObr	Defence Act
ZOdv	Attorneys Act
ZOsn	Elementary School Act
ZOFVI	Organisation and Financing of Education Act
ZORed	Act on Local Police
ZP-1	Minor Offences Act
ZPacP	Patient Rights Act
ZPIZ	Pension and Disability Insurance Act
ZPCP	Road Transport Act
ZPKri	Redressing of Injustices Act
ZPMZ KZ	Prison and juvenile prison
ZPP	Civil Procedure Act
ZPPDej	Funeral and Cemetery Services Act
ZPPDČT	Act Regulating the Obtaining and Transplantation of Human Body Parts for the Purposes of Medical Treatment
ZPPDUP	Cemetery and Burial Services and Landscape Planning Act
ZPPZV91	Act on the Special Rights of Victims of the 1991 War for Slovenia
ZPND	Domestic Violence Prevention Act
ZPNačtr-B	Act Amending Spatial Planning Act
ZPPreb	Residence Registration Act
ZPPZV91	*Zakon o posebnih pravicah žrtev v vojni za Slovenijo 1991* (Act on the Special Rights of Victims of the 1991 War for Slovenia)
ZPVGPŽ	Concealed War Graves and Burial of Victims Act
ZRomS-1	Roma Community Act
ZS	Courts Act
ZS-L	Act Amending the Courts Act
ZSKZDČEU-1	Cooperation in Criminal Matters with the Member States of the European Union Act
ZSPOZ	Payment of Compensation to the Victims of War and Post-war Aggression Act
ZSPJS	Public Sector Salary System Act
ZSS-M	Act Amending the Judicial Service Act
ZSSloV	Service in the Slovenian Armed Forces Act
ZST	Court Fees Act
ZSV	Social Assistance Act
ZSVarPre	Social Assistance Benefits Act
ZSVDP-1	Parental Protection and Family Benefits Act
ZTuj-2	Foreigners Act
ZUJF	Fiscal Balance Act
ZUNEO	Implementation of the Principle of Equal Treatment Act

ZUOPP	Placement of Children with Special Needs Act
ZUP	General Administrative Procedure Act
ZUPJS	Exercise of Rights from Public Funds Act
ZUS-1	Administrative Dispute Act
ZUSDDD	Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia
ZUSJ	Act on the Use of Slovene Sign Language
ZUstS	Constitutional Court Act
ZUTD	Labour Market Regulation Act
ZVarCP	Human Rights Ombudsman Act
ZVDZ	National Assembly Election Act
ZVDAGA	Protection of Documents and Archives and Archival Institutions Act
ZVO-1	Environmental Protection Act
ZVOP-1	Personal Data Protection Act
ZVPot	Consumer Protection Act
ZVPSBNO	Protection of Right to Trial without Undue Delay Act
ZVS	Freedom of Religion Act
ZVV	War Veterans Act
ZZasV-1	Private Security Act
ZZRZI	Vocational Rehabilitation and Employment of Disabled Persons Act
ZZUUP	Health Measures in Exercising Freedom of Choice in Childbearing Act
ZZVZZ	Health Care and Health Insurance Act
ZZZDR	Marriage and Family Relations Act

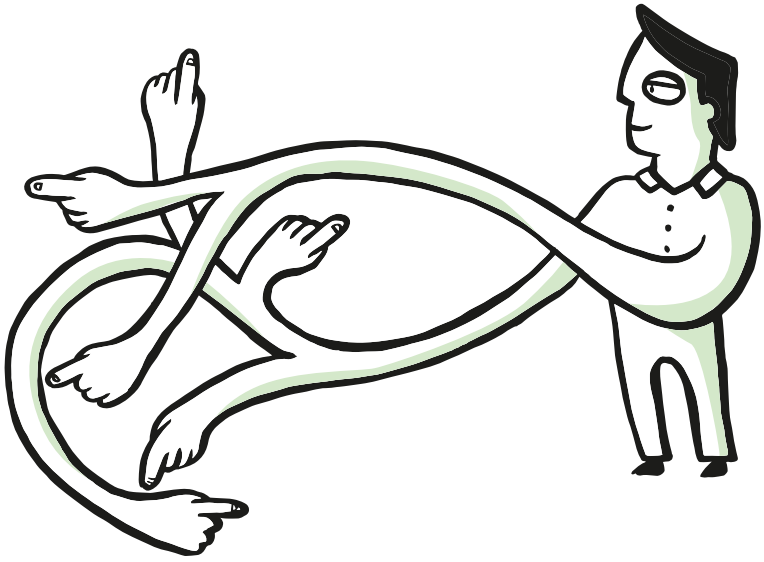
OTHER ABBREVIATIONS AND ACRONYMS

ADHD	Attention deficit hyperactivity disorder
AEP	Active employment policy
AR	Annual Report
ARSO	Slovenian Environment Agency
CFREU	Charter of Fundamental Rights of the European Union
CIRIUS	Centre for Education and Rehabilitation of Physically Handicapped Children and Adolescents
CJEU	Court of Justice of the European Union
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRC	Convention on the Rights of the Child
CRONSEE	Children's Rights Ombudspersons' Network in South and Eastern Europe
CSG	Centre for Hearing and Speech
CUDV	Centre for Training, Work and Care
DK SM	National Commission for General Matura
DRSV	Slovenian Water Agency
E-121	Form for enforcing rights arising from the social security system when moving within the EU
ECECR	European Convention on the Exercise of Children's Rights
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECRI	European Commission against Racism and Intolerance

ECtHR	European Court of Human Rights
ENNHRI	European Network of National Human Rights Institutions
ENOC	European Network of Ombudspersons for Children
Equinet	European Network of Equality Bodies
ESC	European Social Charter
EU	European Union
EUR	Euro, single currency of the European Union
FLA	Free legal aid
FRA	Fundamental Rights Agency
FURS	Financial Administration of the Republic of Slovenia
GH	General hospital
IC	Information Commissioner
IJS	Public Sector Inspectorate
INSPIS	Information system for inspection bodies
IOI	International Ombudsman Institute
IRSD	Labour Inspectorate of the Republic of Slovenia
IRSOP	Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning
IRSPEP	Transport, Energy and Spatial Planning Inspectorate of the Republic of Slovenia
IŠŠ	Inspectorate of the Republic of Slovenia for Education and Sport
JARSVP	Slovenian Traffic Safety Agency
JSRKŠ	Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia
MDDSZ	Ministry of Labour, Family and Social Affairs
MDDSZEM	Ministry of Labour, Family, Social Affairs and Equal Opportunities
MGRT	Ministry of Economic Development and Technology
MI	Ministry of Infrastructure
MIZŠ	Ministry of Education, Science and Sport
MJU	Ministry of Public Administration
MK	Ministry of Culture
MKO	Ministry of Agriculture and the Environment
MNZ	Ministry of the Interior
MO	Ministry of Defence
MO	City municipality
MOL	Municipality of Ljubljana
MOP	Ministry of the Environment and Spatial Planning
MORS	Ministry of Defence of the Republic of Slovenia
MP	Ministry of Justice
MZ	Ministry of Health
MzI	Ministry of Infrastructure
MzP	Ministry of Transport
MZZ	Ministry of Foreign Affairs
NA RS	National Assembly of the Republic of Slovenia
NGO	Non-governmental organisation
NI	National Institution for the Protection and Promotion of Human Rights
NPM	National Preventive Mechanism

NZPO	Flood Risk Reduction Plan
ODT	District State Prosecutor's Office
OECD	Organisation for Economic Co-operation and Development
OG	Official Gazette
Ombudsman	Human Rights Ombudsman of the Republic of Slovenia
OPCAT	Optional Protocol to the UN Convention against Torture
OPN	Special supervision ward
OŠ	Primary school
OSCE	Organisation for Security and Co-operation in Europe
OZS	Bar Association of Slovenia
PIC	Legal Information Centre for NGOs
PIKZ	Rules on the implementation of prison sentences
PKL	Ljubljana University Psychiatric Hospital
PM	solid or liquid particles suspended in the air in a certain period (particulate matter)
PS	Police station
PSVZ	Special social care institution
PU	Police directorate
RS	Republic of Slovenia
RTV	Slovenia Radiotelevizija Slovenija
SEE NPM	South-East Europe NPM Network
SFRJ	Socialist Federal Republic of Yugoslavia
SKP PU	Criminal police division - police directorate
SPM	Special protection measures
SV	Slovenian Armed Forces
SVS	Soldiers' Trade Union of Slovenia
SVZ	Social care institution
SWC	Social Work Centre
THC test	Test for detecting the most widely used illicit drugs
UIKS	Prison Administration of the Republic of Slovenia
UKC	University Medical Centre
UN	United Nations
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNHCR	United Nations High Commission for Refugees
Unit	Unit for Forensic Psychiatry of the Department of Psychiatry at Maribor University Medical Centre
UPP	Decree on administrative operations
URS	Constitution of the Republic of Slovenia
URSZR	Administration of the Republic of Slovenia for Civil Protection and Disaster Relief
UUP	Decree on administrative operations
VČP	Human Rights Ombudsman
VDC	Occupational activity centre
VO	Secure ward
VS	Supreme Court
VS RS	Supreme Court of the Republic of Slovenia
VVU	Senior military specialist

ZIPOM	Centre for Advocacy and Information on the Rights of Children and Youth within the Slovenian Association of Friends of Youth (ZPMS)
ZIRS	Health Inspectorate of the Republic of Slovenia
ZPIZ	Pension and Disability Insurance Institute of the Republic of Slovenia
ZPKZ	Prison
ZPMS	Slovenian Association of Friends of Youth
ZRC SAZU	Research Centre of the Slovenian Academy of Sciences and Arts
ZRSŠ	National Education Institute of the Republic of Slovenia
ZRSZ	Employment Service of Slovenia
ZSKSS	Slovenian Catholic Girl Guides and Boy Scouts Association
ZZZS	Health Insurance Institute of the Republic of Slovenia



Annual Report
of the Human Rights Ombudsman
of the Republic of Slovenia for 2016

Issued by: Human Rights Ombudsman of the Republic of Slovenia

The Annual Report was prepared by:
Vlasta Nussdorfer, Human Rights Ombudsman
Tone Dolčič, Deputy Ombudsman
Miha Horvat, Deputy Ombudsman
Dr Kornelija Marzel, Deputy Ombudsman
Jernej Rovšek, Deputy Ombudsman
Ivan Šelih, Deputy Ombudsman
mag. Bojana Kvas, Secretary General of the Ombudsman
Martina Ocepek, Director of the Expert Service

and the following employees:

Gašper Adamič Metlikovič, Polona Bobič, Bojan Brank, Nataša Bratož, Zlata Debevec, Sabina Dolić, Robert Gačnik, Borut Goli, Jožica Hanžel, Lidija Hvastja Rupnik, Liljana Jazbec, Tanja Kadunc, Liana Kalčina, Renata Kotar, mag. Uroš Kovačič, Barbara Kranjc, Nataša Kuzmič, Kristijan Lovrak, mag. Jure Markič, Nataša Mazovec, mag. Simona Mlinar, Andreja Novak, Matevž Pavčnik, Branka Pintar, Ana Marija Polutnik, Živan Rejc, Dr Ingrid Russi Zagožen, Andreja Srebotnik, Mojca Šraj, Neva Šturm, Brigita Urh, Mojca Valjavec, Lan Vošnjak, Jasna Vunduk, Danijela Žvab.

Editor: Liana Kalčina
Slovenian-to-English translation: Marko Špindler in Marija Blatnik
Lecturer: Philip Burt

Design and layout: Futura DDB
Design by Maruša Koželj, layout by Vojko Plevel

Photographs: Stane Jerko

No. of copies: 400
Printing: Tiskarna Cicero, Begunje, d.o.o.

Ljubljana, September 2017

ISSN 1318-9255

Annual and special reports of the Human Rights Ombudsman of the Republic of Slovenia are also published on the website http://www.varuh-rs.si/.

Human Rights Ombudsman of the Republic of Slovenia
Dunajska cesta 56, 1109 Ljubljana

Telephone: +386 1 475 00 50
Fax: + 386 1 475 00 40
E-mail: info@varuh-rs.si
www.varuh-rs.si

ISSN 1318–9255