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SEIMO
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365 DAYS
EVERYONE COUNTS



THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA

**ANNUAL REPORT OF 2021 ON THE ACTIVITIES
OF THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA -
*THE NATIONAL HUMAN RIGHTS INSTITUTION***

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INTRODUCTORY WORD BY THE SEIMAS OMBUDSPERSONS

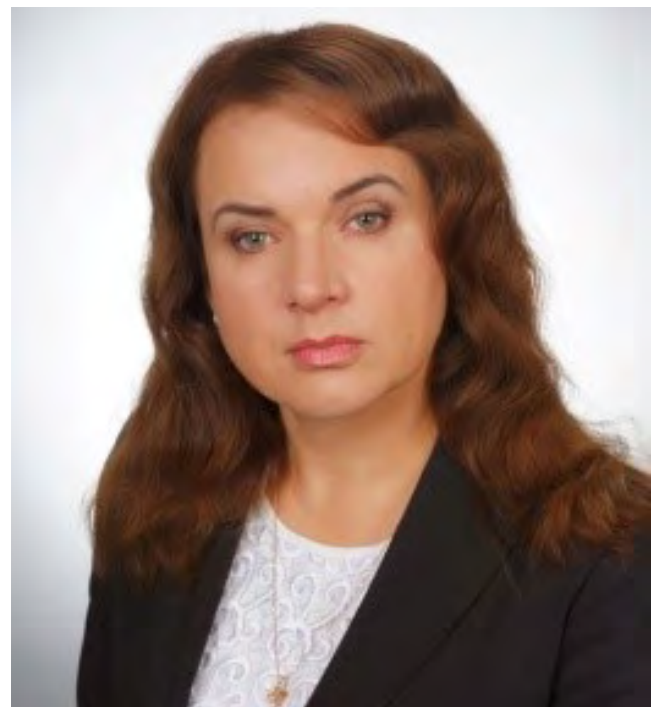


The year 2021 was intense and full of challenges in Lithuania. The country continued to fight the coronavirus pandemic, while migrant flows from Belarus reached the Lithuanian border at the beginning of the summer. The challenges of managing irregular migration have forced state institutions to consolidate their efforts to address national security and human rights issues. These factors inevitably affected the Seimas Ombudsmen's Office as well, as in response to the constantly changing situation, decisions had to be made promptly, which led to the regrouping of forms and priorities of activities and redistribution of human resources.

Last year was also a special year for the Seimas Ombudsmen's Office in that the essence of the

institution of the Ombudsman was refined at constitutional level. In its ruling of 9 November 2021, the Constitutional Court of the Republic of Lithuania stated that, according to Article 73(1) of the Constitution, the Seimas Ombudsmen's Office is an independent and autonomous institution of control over state and municipal officials (except judges), which helps to ensure the implementation of the imperatives of responsible governance, accountability to the public, and the protection of human rights and freedoms, which are based on the constitutional rule of law, also exercising a function of control over the performance of state and municipal officials, in order to protect human rights and freedoms from arbitrariness, abuse, or bureaucracy by state and municipal officials.

By investigating complaints regarding the abuse of powers by state and municipal officials, or the excess of powers conferred by law, bureaucracy or violation of the requirements of legislation, and thus protecting human rights and freedoms, the Seimas Ombudspersons are an additional (subsidiary) guarantor of the protection of human rights and freedoms. In this ruling, the Constitutional Court relied extensively on the Principles for the Protection and Promotion



of the Ombudsman's Institution, adopted by the European Commission for Democracy through Law (Venice Commission), which acts as an advisory body to the Council of Europe on constitutionalism, at its 118th Plenary Session held on 15-16 March 2019, which emphasises the principle of the Ombudsman's independence¹.

The year 2021 was also exceptional for the Seimas Ombudsmen's Office due to the change of the Seimas Ombudsperson and the Head of the Office: Erika Leonaitė was appointed as the Ombudsperson of the Republic of Lithuania to investigate the activities of state institutions and bodies by the Resolution of the Seimas of the Republic of Lithuania of 25 November 2021, which entered into force on 7 December 2021, also appointing her as the Head of the Seimas Ombudsmen's Office by Resolution of the Seimas of the Republic of Lithuania of 9 December 2021. Following the entry into force of these legal acts, the term of office of Augustinas Normantas, who had held the office of the Seimas Ombudsperson since 23 June 2005, and was appointed Head of the Seimas Ombudsmen's Office on 23 June 2013, ended.



In reviewing the activities of the Seimas Ombudspersons from the perspective of the mandates assigned to them, it is appropriate to first mention the aspects related to their constitutional mandate to investigate citizens' complaints regarding the abuse and bureaucracy by state and municipal officials (except judges). The investigation of complaints constitutes a major part of the activities of the Seimas Ombudspersons and it has been given particular attention. Thus, in 2021, the Seimas

¹ The Principles for the Protection and Promotion of the Ombudsman's Institution note that one of the fundamental principles of the Ombudsman's institution is independence; the Ombudsman is an important institution within the State, based on democracy, the rule of law, respect for human rights and fundamental freedoms and good administration, who acts independently in the event of maladministration and suspected breaches of human rights and fundamental freedoms that affect natural or legal persons; the right to lodge a complaint with the Ombudsman is complementary to the right of access to a court (preamble); the State must refrain from any action that would undermine the independence of the Ombudsman institution, or that would seek to impede, or have the effect of impeding, the effective functioning of the Ombudsman institution, and it must effectively protect it against any such threats (clauses 1, 24); the Ombudsman's powers must include the prevention of maladministration and the protection and promotion of human rights and fundamental freedoms (clause 12); the Ombudsman shall not be instructed by the public authorities and shall not comply with any instructions from public authorities (clause 14); the Ombudsman shall have the right to make individual recommendations to anybody or institution falling within the Ombudsman's competence (clause 17); States are invited to take all necessary steps to create the appropriate conditions for strengthening the Ombudsman's institutions and their capacity, independence and impartiality, in accordance with the spirit and provisions of the Venice Principles, in order to ensure the proper, timely and effective implementation of the Principles (clause 25).

Ombudsmen's Office received a total of 3 089 complaints from natural and legal persons, 1 519 of which became new complaints². 1 145 complaints were received against officials of public authorities and 425 – against officials of municipal authorities. After examining the complaints accepted for investigation, the Seimas Ombudspersons decided to declare complaints justified in as many as 59% of cases, rejecting complaints in 24% of cases and closing the investigation in 17% of cases³. After the investigation of complaints, institutions were provided with recommendations on the measures that should be taken in the light of the violations identified. At the time of drafting this report, it was already known that 95% of the recommendations made by the Seimas Ombudspersons had been taken into account. It should also be noted that the Seimas Ombudspersons made a number of referrals to the Prosecutor General during the period under review concerning possible violations of public interest.

When investigating the complaints received, the Seimas Ombudspersons have repeatedly pointed out that, first of all, the constitutional provision that public authorities are at the service of people complying with the principle of responsible governance revealed in constitutional jurisprudence, must be followed. This obliges civil servants to be open to dialogue and cooperation, to respect human rights and freedoms, to provide effective assistance to individuals, and to comply with the Constitution of the Republic of Lithuania, laws and other legal acts. Having conducted investigations, it has been repeatedly emphasized that responses to requests from individuals must be clear, reasoned, etc.

However, having investigated the complaints received, there were cases where the authorities have unjustifiably refused to take respective verification measures within their competence, or decisions were made without verifying the factual circumstances, and the real protection of rights of individuals has not been ensured. There were also cases of non-compliance with the fundamental principles of good public administration, violating the provisions of the Law on Public Administration, which prohibits the referral of a complaint to a public administration body, to its administrative unit or to the official or civil servant whose actions are complained of. The investigation of complaints also drew attention to possible contradictions between implementing legislation and legislation of higher legal force.

During the reporting period, the Seimas Ombudspersons paid additional attention to the compliance of statutory institutions with requirements of the Law on Public Administration when examining applications from individuals. Investigations have shown, inter alia, that statutory bodies are also entities of public administrations and that when examining applicants' complaints, not only provisions of specific legislation, but also the principles of public administration applicable in the field of public administration must be followed.

² 1602 – in 2020; 1569 – in 2019; 1755 – in 2018.

³ It should be noted that the investigation of a complaint is also discontinued in cases where the problems raised in the complaint are resolved in good faith through the mediation of the Seimas Ombudsperson.

A brief overview of the most common issues raised in the complaints includes inadequate solutions to land issues in the broadest sense⁴, inadequate state supervision of construction, waste management, management and maintenance of local roads, etc.

The Seimas Ombudspersons have also received complaints raising issues of fundamental violations of rights enshrined in the Constitution. For example, Article 31 of the Constitution stipulates that a person suspected of having committed a crime and an accused person shall be guaranteed the right to defence, including the right to have a lawyer, from the moment of their arrest or first interrogation. It is precisely this right that the Seimas Ombudsperson found to have been violated having investigated a complaint regarding a failure to ensure that detainees in the Šiauliai remand prison have unrestricted access to lawyers, thus limiting their right to defence. The protection of the constitutional right to dignity also remained a relevant issue where rights of socially vulnerable persons, such as single people with disabilities, were not protected.

It should be noted that the Seimas Ombudsmen not only investigated the complaints received, but also carried out investigations on their own initiative, when the information contained in reports of mass media or other sources suggested possible abuse, bureaucracy or other violations of human rights and freedoms by officials. In total, 12 own-initiative investigations were launched by the Seimas Ombudspersons in 2021.

The Seimas Ombudspersons have continued to successfully use the institution of mediation in order to ensure that complaints received are investigated as soon and as efficiently as possible, inter alia, by applying the principle of subsidiarity and safeguarding human and financial resources. The Seimas Ombudspersons mediated with state bodies 388 times⁵ and with municipal bodies – 242 times⁶ in order to resolve the problems identified in complaints. In these cases, the Seimas Ombudspersons made recommendations⁷ to the institution or body to take specific measures to resolve the problems raised in the complaint and to prevent the recurrence of similar situations. The Seimas Ombudspersons monitor the implementation of these recommendations and, in the event that the institutions do not respond in good faith to the recommendations made, initiate an investigation into possible inaction by officials.

In the implementation of the mandate of the National Human Rights Institution, the Seimas Ombudsmen's Office held events on human rights issues in the period under review. More than 1

⁴ Inadequate state control over the use of state land; inadequate cadastral surveys of land plots; delays in the formation of new land plots in Vilnius; inadequate preparation of land plot formation and redevelopment projects.

⁵ Most cases of mediation were with the aim to resolve problems related to activities of the following state and subordinate bodies: the Ministry of Justice (123), the Ministry of the Environment (48), the Ministry of Agriculture (46), the Ministry of the Interior (29), and the Ministry of Social Security and Labour (28).

⁶ Most cases of mediation were with the aim to resolve problems related to the activities of the following municipal and their subordinate institutions: Vilnius City (84), Palanga City (29), Kaunas City (20), Trakai District (10), Klaipėda City (8).

⁷ In 2021, Seimas Ombudspersons submitted 1 228 such recommendations.

500 employees of care and imprisonment institutions attended distance training courses for staff of these institutions held in April and May 2021.

In pursuit of harmonising national legislation with international obligations of the Republic of Lithuania in the field of human rights, employees were involved in the legislative process by providing comments on draft laws, within the scope of their competence. In 2021, comments were made to the draft Law on Protection against Domestic Violence, draft Law on the Legal Status of Foreigners, amendments to the Criminal Code and other drafts.

Cooperation with international organisations also continued, submitting shadow reports to the United Nations Human Rights Council and the United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Problems of human rights protection and ways of solving them were discussed at meetings with representatives of Lithuanian and foreign institutions.

As in previous years, investigations were carried out on key human rights issues. Having conducted an investigation into the availability of psychological services for persons living in social care homes, the Seimas Ombudsperson found that only one third of the social care homes in the country have a psychologist on staff, and that people living there are often provided with supposedly psychological services by employees who do not have the necessary competence. Having investigated the situation in more than 160 social care institutions, the Seimas Ombudsperson noted that in the vast majority of the country's social care institutions, the need of the people living in these institutions for psychological services was not recognised, and psychological services were not available. Priorities in the implementation of the mandate of the Institution for the National Prevention of Torture were affected by increasingly more migrants arriving to Lithuania via the Belarusian-Lithuanian border. The main focus was placed on visiting places of detention or accommodation of foreigners. On 18 June 2021, the Seimas Ombudsperson, staff of the Human Rights Division and social partners – representatives of the UN Refugee Agency (UNHCR) and the Lithuanian Red Cross – visited Pabradė Foreigners' Registration Centre. Following this visit, recommendations were made to the Government, drawing attention to the fact that timely interpretation services and legal assistance should be ensured and continuously available in reception and detention facilities in order to ensure that foreigners are informed promptly, in a language that they understand, about the procedure for submitting applications for asylum and the process of processing of the applications, as well as about their rights, obligations and consequences of their failure to comply with these obligations during the examination of their applications for asylum.

In August and September 2021, employees of the Human Rights Division visited the newly set up camps for foreigners. The reception conditions of foreigners and the problems of ensuring the protection of the rights and freedoms of foreigners were highlighted in a report published on 7 October 2021.

The respective chapters of this report provide detailed and structured information on the activities of the Seimas Ombudspersons during the calendar year 2021, illustrated with specific examples.

MANDATES OF THE SEIMAS OMBUDSPERSONS

Article 73 of the Constitution of the Republic of Lithuania (hereinafter – the Constitution) establishes that the Seimas Ombudspersons have the duty to investigate the citizen' complaints about the abuse of office by, or bureaucracy of, State and municipal officials (with the exception of judges). The second part of the same article provides that the powers of the Seimas Ombudspersons shall be established by the Republic of Lithuania Law on the Seimas Ombudsmen (hereinafter – the Law on the Seimas Ombudsmen, the Law). Article 3 of the Law states that there are three main objectives (mandates) of the activities of the Seimas Ombudspersons:

- 📄 defend the human right to good public administration that ensures human rights and freedoms, ensuring that public authorities comply with their duty to properly serve the people;
- 📄 promote respect for human rights and freedoms in the exercise of the functions of a national human rights institution;
- 📄 carry out national prevention of torture in places of detention in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Investigation of complaints

The mandate of the Seimas Ombudspersons has been implemented through the investigation of citizens' complaints regarding the abuse of office by, and bureaucracy of, officials. This constitutional mandate arises from Article 73 of the Constitution and is laid down in detail in the Law on the Seimas Ombudsmen. The investigation of complaints accounts for the major part of the Seimas Ombudspersons' activities which has received particular attention. With a view to achieving that the person's right to proper public administration becomes real, the Seimas Ombudspersons investigate complaints exercising all the rights provided by the Law, objectively assessing the circumstances of a complaint, making decisions, issuing recommendations to institutions, analysing information on the implementation of these recommendations, and, if necessary, taking other measures to ensure effective implementation of the recommendations. The Seimas Ombudspersons actively respond to the information received from media or by other means about possible abuse of office by officials, bureaucracy or other violations of human rights and freedoms. In such cases, the Seimas Ombudsperson conducts investigations on his own initiative.

Given that a detailed investigation of a complaint often requires obtaining additional clarifications from the authorities, carrying out inspections, and requesting conclusions from other authorities within their respective areas of competence, all of which are time-consuming, the practice of mediation is used in order to resolve the complainant's issue as quickly as possible. The right of Seimas Ombudsperson to mediate between an individual and an official who does not resolve his/her problem is a traditional right of ombudspersons exercised worldwide. This right is also enshrined in the Law

on the Seimas Ombudsmen, the provisions of which allow the Seimas Ombudspersons to mediate in pursuit of resolving a person's problem in good faith. By mediating between individuals and state or local government bodies and by making recommendations on how the complainant's problem should be resolved, the Seimas Ombudsperson draws the attention of officials to shortcomings in their work and to violations of human rights in public administration. If the mediation procedure does not resolve the complainant's problem and the recommendations are not followed, the complaint is investigated on its merits. It should be noted that the mediation procedure allows for a significant reduction in the time taken to investigate complaints and to resolve issues relevant to complainants within 1-1.5 months, paying more attention to the pressing problems relevant to a large part of the society.

Only when people are confident that their rights and freedoms are protected and are effectively defended in the event of their violation, confidence in the State and its institutions will increase. Effective protection of human rights and freedoms is ensured by a variety of means: by investigating complaints, conducting investigations on own initiative, mediating between individuals and the State, collaborating with non-governmental organizations, etc. It should be emphasized that human rights are effectively protected only when all the planned human rights remedies are implemented, without restricting any of them.

National prevention of torture

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

In carrying out the national prevention of torture, the Seimas Ombudspersons exercise broad powers, i.e. the right to choose the places of detention they want to visit and the persons they want to interview, to enter all places of detention and all the premises inside them, to acquaint with their facilities and infrastructure, to speak without witnesses with persons deprived of liberty, as well as with any other person who may provide relevant information. In addition, the Seimas Ombudspersons have the right to conduct inspections of the places of detention together with selected experts. In performing this function, the places of detention are regularly visited and inspected to determine whether there are any manifestations of torture, other cruel, inhuman or degrading treatment, and other violations of human rights; furthermore, the implementation of the Seimas Ombudspersons' recommendations is supervised.




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

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

National Human Rights Institution

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

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

-  to carry out human rights monitoring in Lithuania and to prepare reports on the human rights situation;
-  to carry out the dissemination of information on human rights and public education on human rights;
-  to present assessment of the human rights situation in Lithuania to international organizations and to provide them with information in accordance with the obligations established in the international treaties of the Republic of Lithuania;

- to make proposals to state and municipal institutions and bodies on human rights problems;
- to seek harmonization of national legislation with the international obligations of the Republic of Lithuania in the field of human rights;
- to initiate investigations into the fundamental human rights problems.

It is necessary to emphasize the particular importance of the role of the NHRI in systematically analysing and summarizing the information for continuous reporting on the fundamental human rights issues, assessing the conformity of national legal acts with the universally recognized human rights principles and standards, proposing conditions for the elimination of potential violations of human rights, etc. In performing the functions of the NHRI, a significant attention has been paid to the human rights standards developed by universal and regional international human rights protection mechanisms, the jurisprudence of the European Court of Human Rights (hereinafter – the ECHR), cooperating with public authorities and non-governmental organizations, involving experts, representatives of the academic community working in various fields of human rights.

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

Complaints concerning actions of intelligence officials violating human rights or freedoms in carrying out intelligence and counterintelligence are investigated and handled by the Seimas Ombudspersons in accordance with the procedure laid down by the Law on the Seimas Ombudsmen. The Extended Chamber of the Supreme Court of Lithuania (*ruling of 12 December 2018 of the Supreme Court of Lithuania in civil case No e3K-7-471-403/2018*) noted that in observance of Article 19 of the Law on the Seimas Ombudsmen, while conducting investigations of actions of intelligence officials violating human rights or freedoms, carrying out intelligence and counterintelligence activities, the Seimas Ombudsperson have the right to propose the intelligence institution to suspend the officials from their office or apply himself to court for dismissal of the officials guilty of abuse or bureaucracy, to propose to compensate for the property and non-property damage incurred by the complainant as a result of violations committed by officials, to refer the material to a pre-trial investigation body or prosecutor, to propose the imposition of penalties on the officials, to propose a collegiate institution or official to cancel, suspend or change decisions that contradict laws in accordance with the procedure set forth by laws, or propose to take decisions which were not taken because of abuse or bureaucracy, etc. However, the Seimas Ombudsperson does not have the competence to adopt a decision with positive consequences for the complainant, the enforcement of which would be mandatory and which could protect his violated rights and legitimate interests.

On 23 December 2021, the Law on the Intelligence Ombudsmen of the Republic of Lithuania was adopted and entered into force on 1 January 2022. The Law establishes the status of the Intelligence Ombudsmen of the Republic of Lithuania, the powers, the procedure for appointment and dismissal, and the accountability of the Intelligence Ombudsmen of the Republic of Lithuania, the relations

with the subjects of control of the activities of the intelligence institutions, as well as the status of the Intelligence Ombudsmen's Office and the foundations of the organisation of its activities. The Intelligence Ombudsmen will be public officials appointed by the Seimas, with the main function to supervise the legality of the activities of the intelligence authorities and to assess compliance with the requirements of the protection of human rights and freedoms. According to this Law, the Office of the Intelligence Ombudsmen of the Republic of Lithuania is to be established to ensure the work of the Intelligence Ombudsmen. Amendments to the Law on the Seimas Ombudsmen were also adopted on 23 December 2021 and entered into force on 1 January 2022, establishing that the Seimas Ombudspersons shall not investigate the activities of intelligence institutions.

According to estimates, this institution should start performing the functions of Intelligence Ombudsmen on 1 July 2022. Until then, the investigation of complaints regarding the compliance of intelligence activities with the requirements of the protection of human rights and freedoms has not been assigned to any institution.

STATISTICS OF COMPLAINTS HANDLED IN 2021

In 2021, the Seimas Ombudsmen's Office received a total of 3 089 applications from natural and legal persons, on the basis of which 1 519 complaint cases were initiated. The number of initiated complaint cases decreased compared to the data of 2020 (Figure 1). On the other hand, it should be noted that one complaint case often deals with two or more complaints filed by the same applicant, for example, complaining about different actions by the same authority or filing complaints about actions or omissions of several institutions.

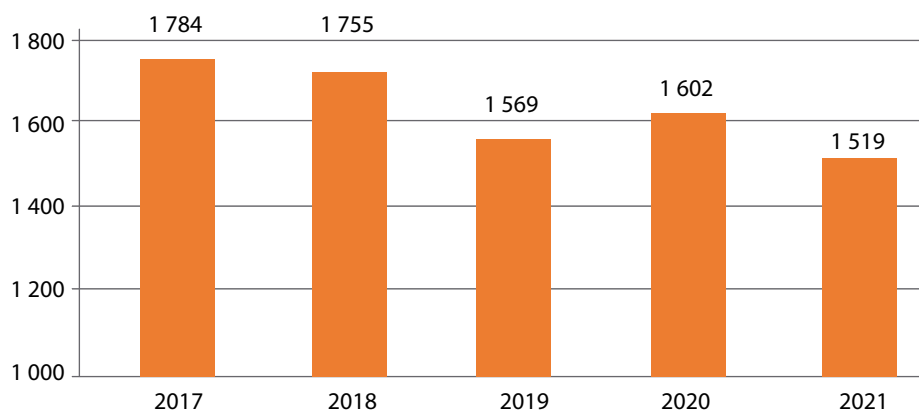


Figure 1. Number of complaints received in 2017–2021

Complaint cases opened	1 519
Closed complaint cases:	1 548
Investigation on the merits	284
Investigation by mediation	630
Investigation refused	634
Decisions made in the cases investigated on the merits:	419
To recognise a complaint to be justified	246
To dismiss a complaint	100
To discontinue investigation	73
Investigations carried out on the initiative of the Seimas Ombudspersons	9
Problems investigated and decisions made	10
Fact of violation confirmed	5
Fact of violation not confirmed	0
Investigation discontinued	5
Recommendations provided by the Seimas Ombudspersons	1898
Complaints referred by members of the Seimas (Parliament)	13

A case of complaint is closed once the complaint has been investigated on the merits, investigated by mediation and when the investigation is refused.

In 2021, the Seimas Ombudspersons investigated 284 complaints on the merits, 630 complaints – by mediation, and the investigation of 634 complaints was refused (Figure 2).

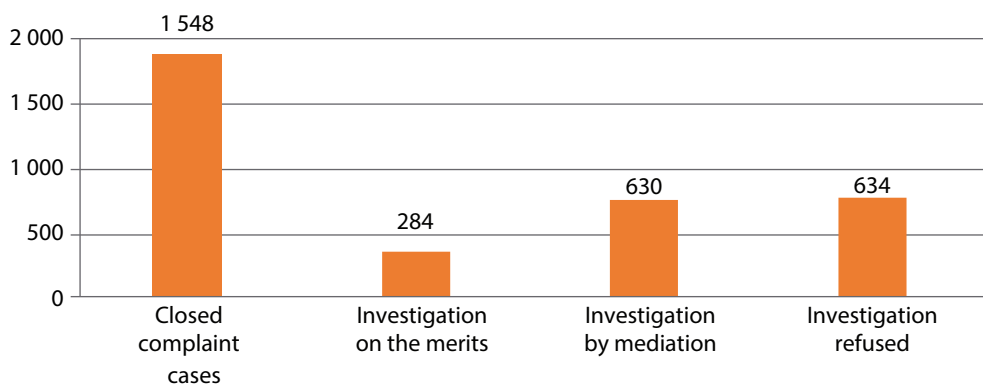


Figure 2. Cases of complaints completed in 2021

1 145 complaints were related to activities of the officials of state institutions and 425 complaints – of the officials of municipal institutions.

In 2021, compared to 2020, the number of cases of complaints initiated against actions of officials of state institutions decreased to 128, however the number of complaints against actions of the municipal institutions' officials increased by 61 (Figure 3).

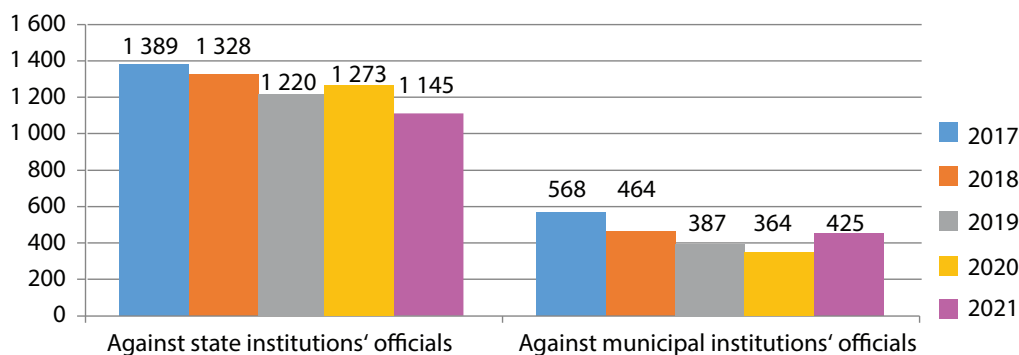


Figure 3. Statistics of complaints against state and municipal institutions' officials in 2017–2021

After the investigation of a complaint on the merits, the Seimas Ombudspersons make one of the following three decisions: to declare a complaint (or its part) justified; to dismiss (recognize as unjustified) a complaint (or its part); or to discontinue the investigation of a complaint (or its part). It should be noted that the investigation of a complaint is also discontinued in the cases when the problems raised in the complaint are resolved in good faith through the mediation of the Seimas Ombudsperson.

After the investigation of a complaint on the merits, the Seimas Ombudspersons declared 59 % of complaints to be justified, dismissed 24% of complaints and discontinued investigation of 17% of complaints. Compared to the data of 2020, the number of complaints declared to be justified by the Seimas Ombudspersons increased by 10% in 2021 (Figure 4).

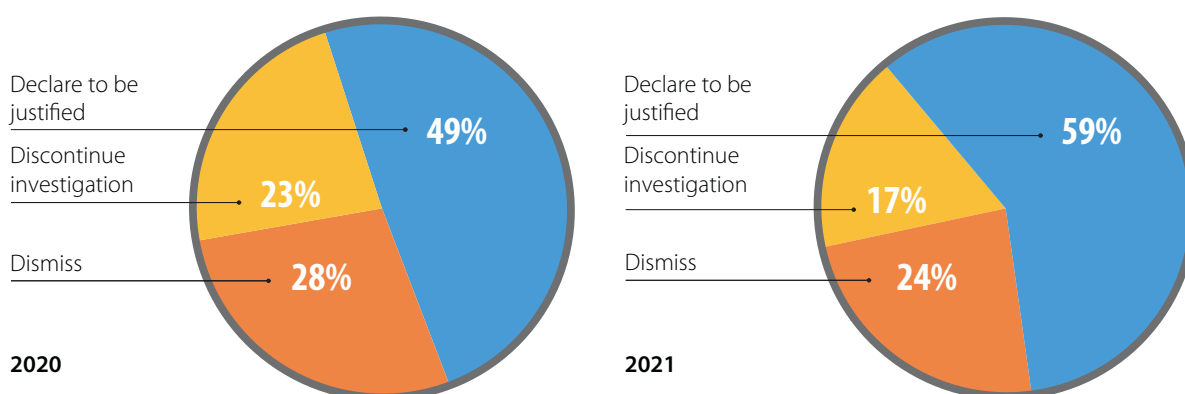


Figure 4. Results of decision made after the investigation of complaints on the merits.
Comparison of data of 2020–2021

Having investigated complaints against activities of state institutions and agencies, as well as their officials, 56% of complaints investigated on the merits were declared to be justified, 28% were dismissed and the investigation of 16% of complaints was discontinued. Compared to data of 2020,

the percentage of complaints against actions or omissions of state institutions declared to be justified increased by 6%, the share of dismissed complaints declined by 4%, and the number of complaint cases terminated by discontinuing the investigation remained nearly the same (Figure 5).

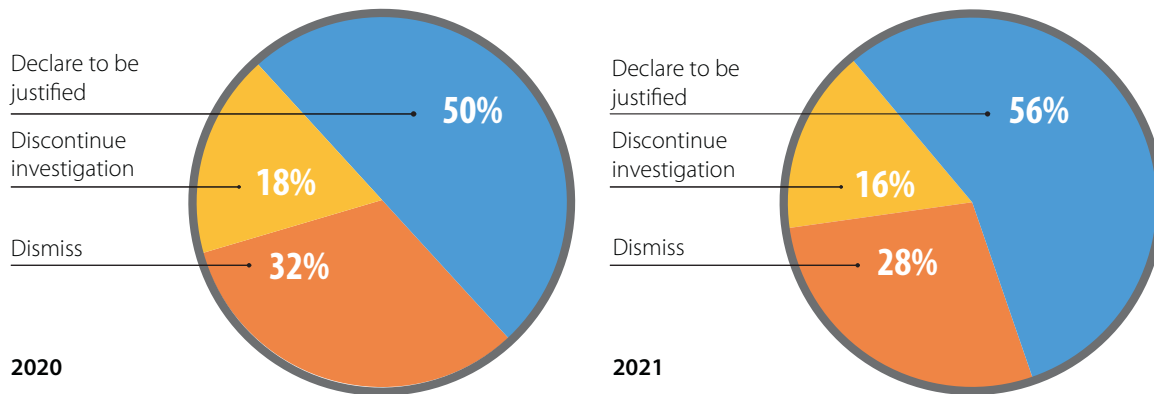


Figure 5. Distribution of decisions made in respect of municipal institutions and agencies. Comparison of data of 2020–2021

Having investigated complaints against activities of municipal institutions and bodies, as well as their officials, 66% of complaints investigated on the merits were declared to be justified, 11% were dismissed and the investigation of 23% of complaints was discontinued. Compared to data of 2020, the percentage of complaints declared to be justified increased significantly (by 18%), while the share of dismissed complaints declined by 4%, and the number of complaint cases terminated by discontinuing the investigation against actions of municipal institutions and bodies, as well as their officials, decreased by as many as 14% (Figure 6).

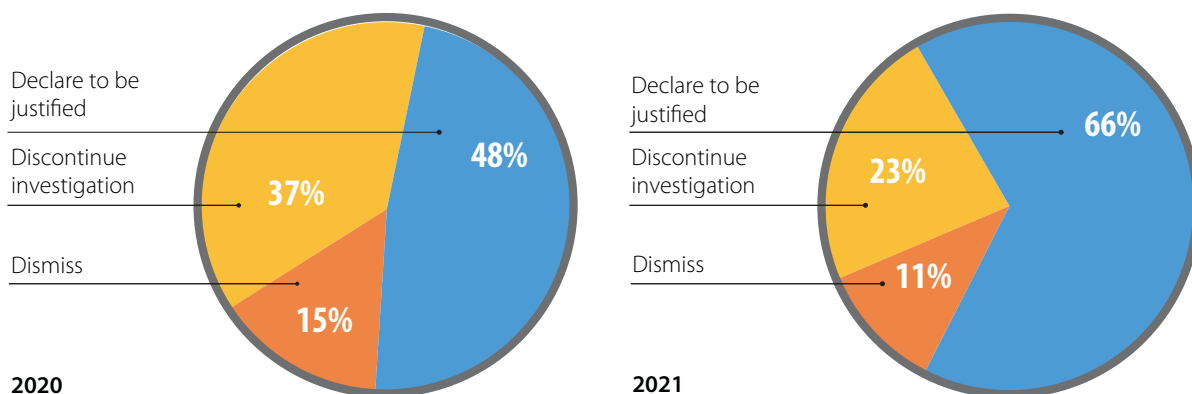


Figure 6. Distribution of decisions made in respect of municipal institutions and agencies. Comparison of data of 2020–2021

Having determined that a received complaint should be examined by another institution or agency, the Seimas Ombudspersons often mediate with the relevant institutions or agencies, making recommendations on how to resolve the problems raised by the applicant. In 2021, the Seimas Ombudspersons mediated 630 complaints. The effectiveness of mediation is demonstrated by the fact that only 17.8% of complainants repeatedly approached the Seimas Ombudsmen's Office (Figure 7).

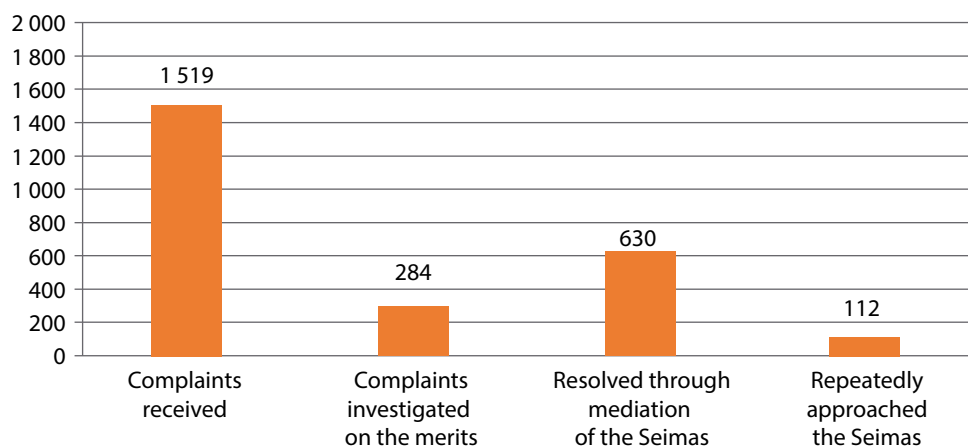


Figure 7. Statistics of investigated complaints

When resolving the problems identified in complaints, the Seimas Ombudspersons approached 388 state and 242 municipal institutions through mediation (Figure 8).

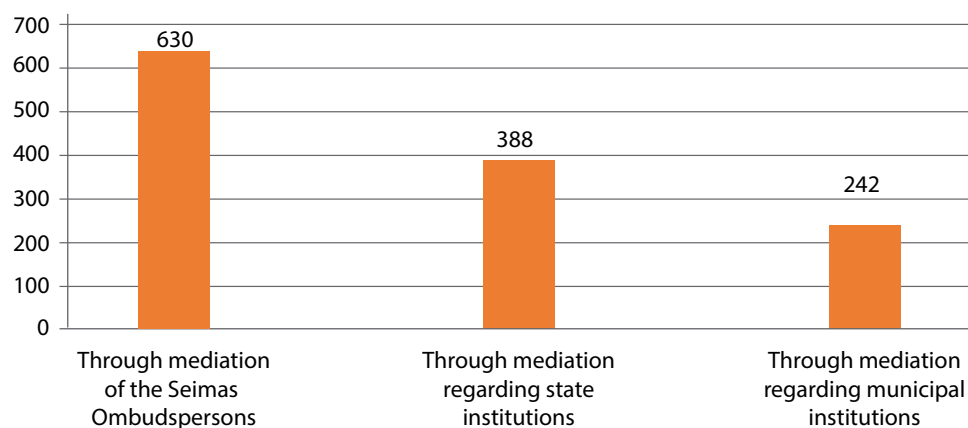


Figure 8. Investigation of complaints regarding the activities of state and municipal institutions through mediation

The Seimas Ombudsman mediated mostly in solving problems of applicants related to activities of officials of the Ministry of Justice (123), Ministry of Environment (48), Ministry of Agriculture (46), Ministry of the Interior (29), Ministry of Social Security and Labour (28), and of their subordinate institutions/ bodies (Figure 9).

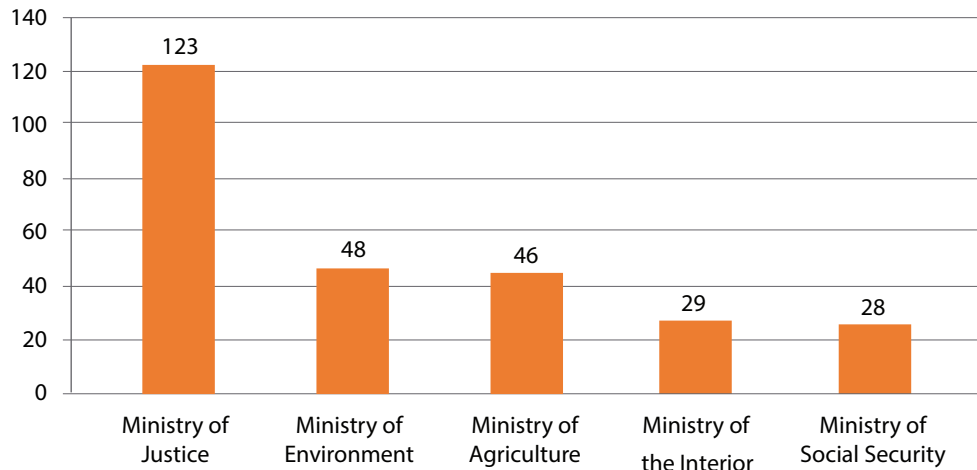


Figure 9. Mediation mainly concerned activities of officials of these state institutions and institutions subordinate to them

The Prisons Department and its subordinate institutions were approached the most in mediation among the institution subordinate to the Ministry of Justice (117 times).

The National Land Service with its territorial divisions (20 times) and the Environmental Protection Agency (10 times) were approached most frequently in mediation among the institution subordinate to the Ministry of Environment.

Among the institution subordinate to the Ministry of Agriculture, the National Land Service with its territorial divisions was approached most frequently in mediation (45 times).

The Police Department and its subordinate police stations (12 times), also the Migration Department (10 times) were approached the most in mediation among the institution subordinate to the Ministry of the Interior.

The State Social Insurance Fund Board was approached the most among the institution subordinate to the Ministry of Social Security and Labour (13 times).

The review of local self-government institutions revealed that in 2021, the Seimas Ombudspersons mostly approached the municipalities of Vilnius city (84 times), Palanga city (29 times), Kaunas city (20 times), Trakai district (10 times) and Klaipėda city (10 times), and their subordinate institutions (Figure 10).

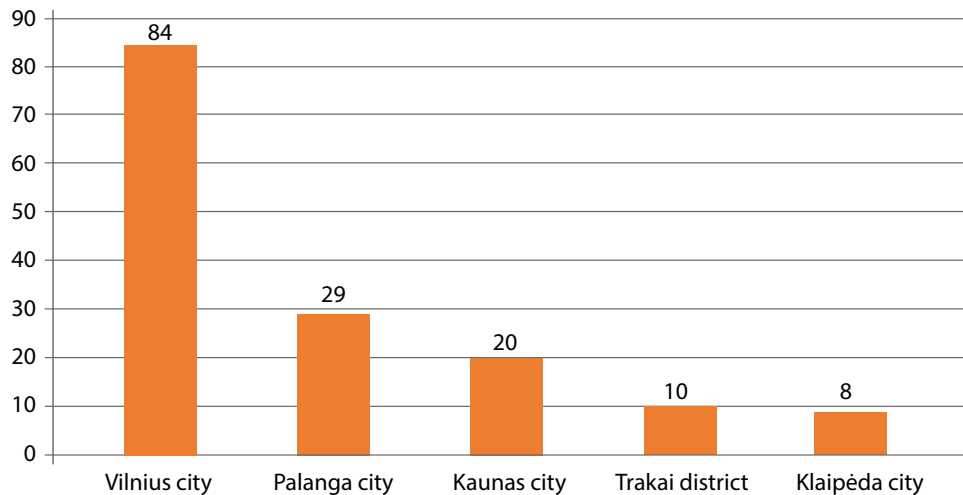


Figure 10. Mediation mainly concerned activities of these municipalities and institutions subordinate to them

Complaints refused to be investigated

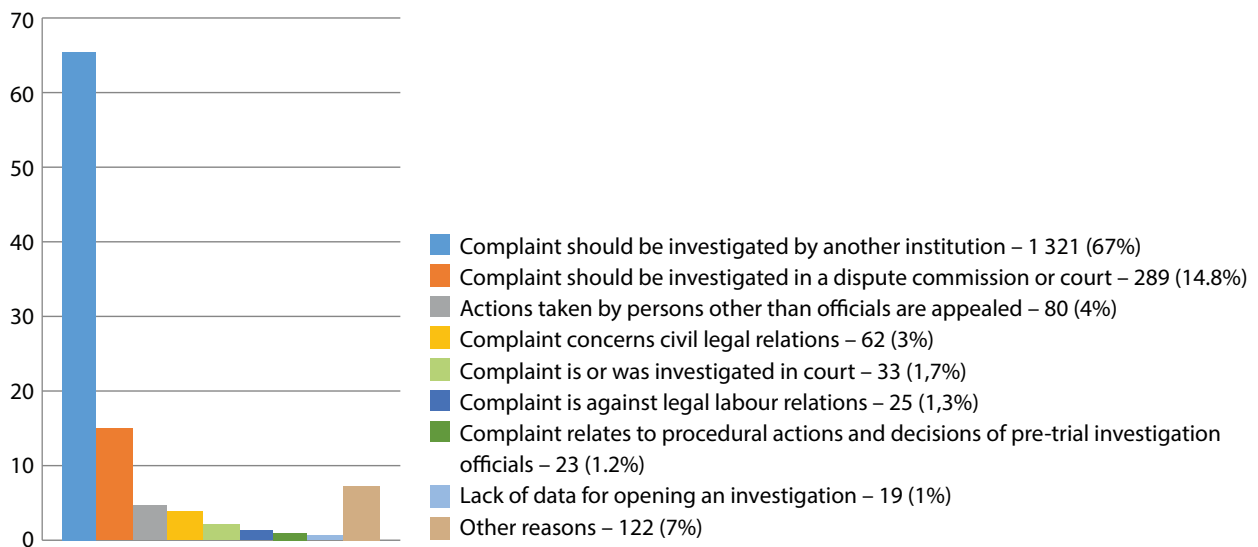


Figure 11. The main reasons for refusal to investigate complaints (indicated in times and percent)

Statistics of complaints received and investigated in 2021 by ministries and institutions subordinate to them

The ministry and its subordinate institutions and bodies	Complaints received	Investigation refused	Mediated	Investigated on the merits	Decisions made	Justified complaints	Dismissed complaints	Investigation discontinued	Recommendations provided
Ministry of Environment	102	30	48	26	34	25	1	8	198
Ministry of Economy and Innovation	21	10	10	2	2	1		1	18
Ministry of Energy	1		1						2
Ministry of Finance	13	3	9	1	1			1	25
Ministry of National Defence	14	9	3	3	3	3			16
Ministry of Culture	8	3	3	2	2	1	1		9
Ministry of Social Security and Labour	53	20	28	5	5	2	3		79
Ministry of Transport and Communications	38	23	14	3	3	2		1	24
Ministry of Health	35	15	15	9	9	1	4	4	45
Ministry of Education, Science and Sport	4		1	1	1			1	7
Ministry of Justice	567	319	123	132	158	85	57	16	484
Ministry of Foreign Affairs	3	1	2						2
Ministry of the Interior	131	70	29	30	37	25	9	3	109
Ministry of Agriculture	104	37	46	20	23	16	2	5	130

The Seimas Ombudspersons made the most recommendations to the Ministry of Justice (484), the Ministry of Environment (198), the Ministry of Agriculture (130), the Ministry of the Interior (109), the Ministry of Social Security and Labour (79) and their subordinate institutions (Figure 12).

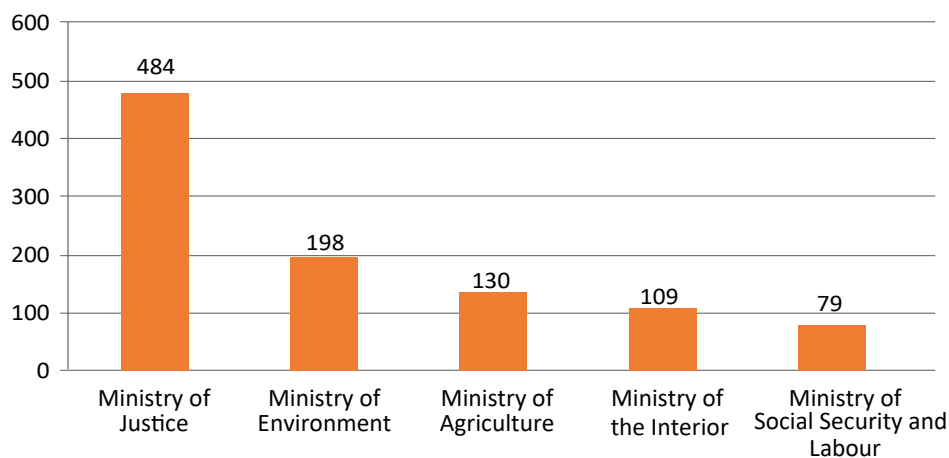


Figure 12. Top-five ministries and institutions subordinate to them that received the most recommendations

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

The Table shows municipalities and institutions subordinate to them accounting for the largest (ten or more) numbers of complaints received in 2021.

Municipality	Com-plaints received	Investi-gation refused	Media-ted	Investi-gated on the merits	Deci-sions made	Justified com-plaints	Dismis-sed com-plaints	Investi-gation discon-tinued	Recom-menda-tions provided
Vilnius City	123	13	84	21	24	15	2	7	203
Kaunas City	41	10	20	9	12	7		5	82
Palanga City	36	2	29	5	5	3		2	38
Ukmergė District	28	15	6	6	6	1	3	3	17
Klaipėda City	18	9	8	3	4	2	1	1	21
Trakai District	13	2	10						12
Vilnius District	12	2	7	8	13	13			42
Neringa	10	2	4	4	5	2	2	1	17
Plungė District	10		9	1	1			1	9
Šiauliai District	9	2	5	1	1	1			8
Radviliškis District	9	2	5	1	1			1	8
Kaunas District	8	3	3	2	2			2	3
Klaipėda District	8	3	3	2	3	2		1	14
Panevėžys District	7	3	3	1	2		2		9
Kaišiadorys District	6	2	4						6
Kėdainiai District	6	2	3	2	2	2			13
Šiauliai City	6	5	1	1	1	1			4
Šilutė District	6		2	2	2	2			13
Telšiai District	6		6						7
Alytus District	5	2	1	3	4	3		1	4
Jonava District	5	2	3	1	1	1			5
Marijampolė	5	2	2	1	1	1			6
Mažeikiai District	5	1	4	1	2	1	1		8
Širvintos District	5	2	2	1	1		1		2

The majority of complaints were received with regard to Vilnius City municipality and its subordinate institutions. More than a half of the problems raised in these complaints were addressed through mediation. Having investigated 21 complaints on the merits, 15 of them (62.5%) were declared to be justified."

In 2021, Vilnius district municipality and its subordinate institutions stood out in terms of the ratio of received complaints that were recognised to be justified. All 13 decisions that were taken in respect to the activities / omissions of this municipality stated the following "to declare a complaint to be justified".

The municipalities of Vilnius City (203), Kaunas City (82), Vilnius District (42), Palanga City (38) and Klaipėda City (21) and institutions subordinate to them (Figure 13) received the most recommendations in 2021.

It should be noted that in 2021, no complaints were received and investigated against the actions of officials of the municipalities of districts of Anykščiai, Biržai, Ignalina, Kalvarija, Kupiškis, Lazdijai, Pagėgiai, Pakruojis, Pasvalys, Šakiai and Švenčionys, and their subordinate institutions.

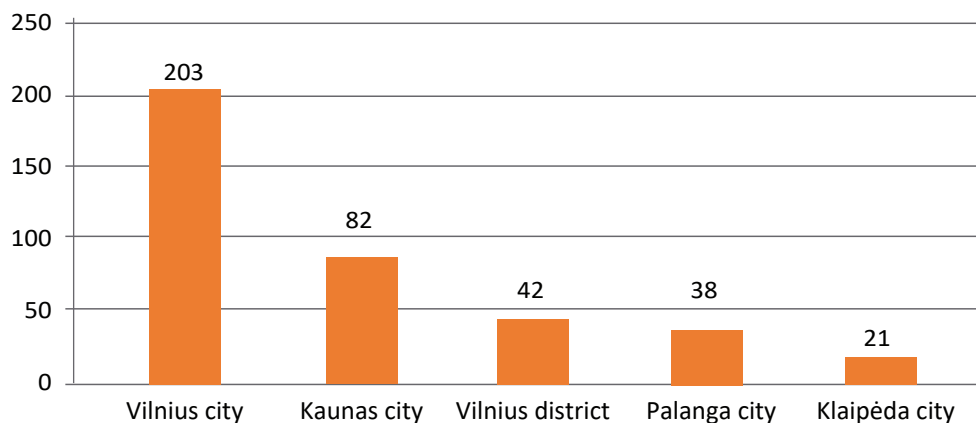


Figure 13. Five municipalities and institutions subordinate to them having received the largest numbers of recommendations

GROUPING COMPLAINTS RECEIVED IN 2021 BY AREA

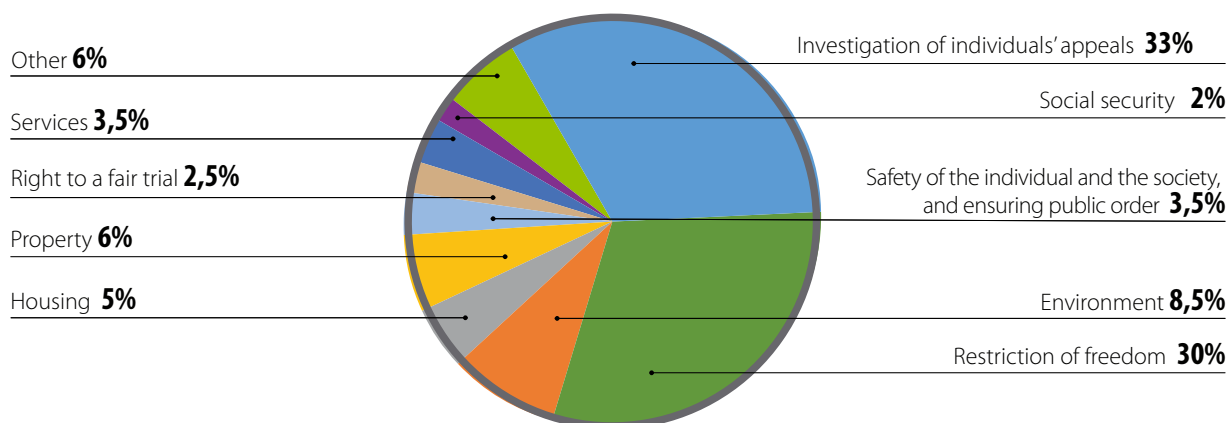


Figure 14. Received complaints of individuals by area

The breakdown of received complaints by problem area shows that one third of all complaints received by the Seimas Ombudspersons in 2021 concerned complaints related to the investigation of individuals' appeals in state and municipal institutions (33%) and about a third were related to the restriction of freedom (30%); 8.5% of all complaints received by the Seimas Ombudspersons were related to environmental, 6% – to property, and 5% – to housing issues (Figure 14).

Compared to the data of 2020, there were 8% less complaints from detained and convicted persons in 2021 when such complaints accounted for 30%, compared to the 38% in 2020.

The percentage share of complaints concerning other problems remained similar.

Complaints by legal persons

In accordance with Article 2 of the Law on the Seimas Ombudsmen, both natural and legal persons can apply to the Seimas Ombudsmen's Office with a complaint about abuse of office by or bureaucracy of officials. The main complainants applying to the Office; however, are natural persons.

Since 2017, the number of complaints received from legal entities has been decreasing: 114 complaints from legal entities were received in 2018, 85 complaints were received in 2019; 101 complaints – in 2020 and 91 complaints – in 2021 (Figure 15).

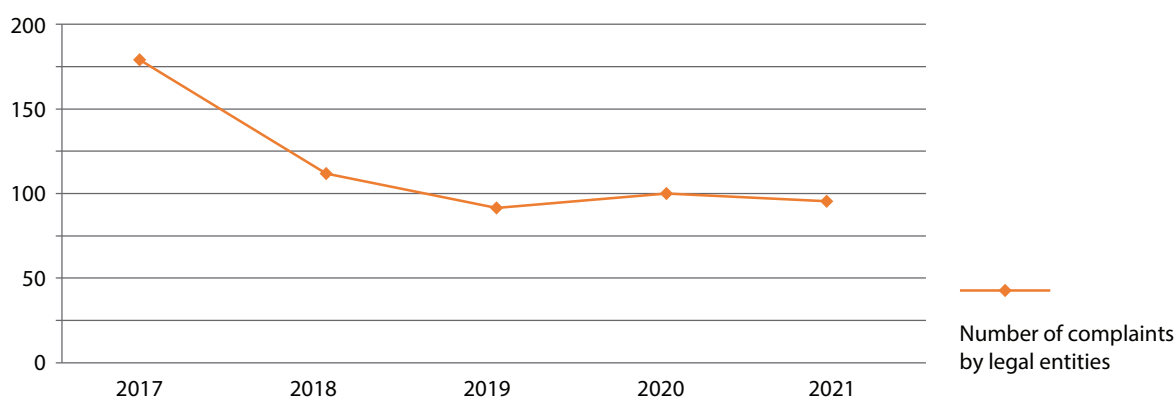


Figure 15. Dynamics of complaints of legal persons. Data of 2017–2021

According to the problem area covered by investigated complaints, almost half of all legal persons' complaints investigated by the Seimas Ombudspersons in 2021 were complaints related to the investigation of individuals' appeals (56%), 14% were related to environmental issues and 10% – to property issues (Figure 16).

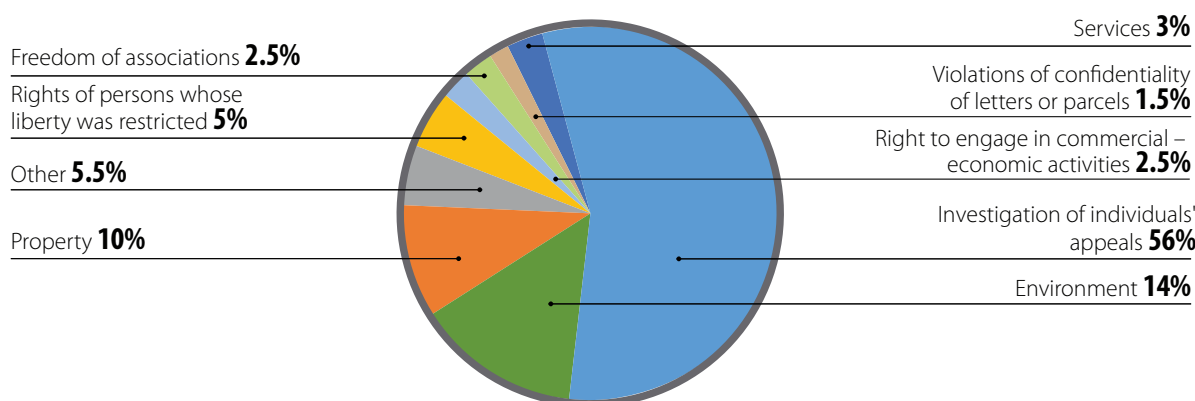


Figure 16. Complaints of legal persons by area

Investigations initiated by the Seimas Ombudspersons

The Law on the Seimas Ombudsmen grants Seimas Ombudspersons with the right to initiate investigations on their own initiatives when information provided in mass media or other sources allows assuming of abuse of office by the officials, bureaucracy or instances of other violations of human rights and freedoms.

Investigations initiated by the Seimas Ombudspersons are of a special preventive nature, because a Seimas Ombudsperson may initiate the investigation even without having received a complaint about a particular problem if he/she believes that human rights might have been violated in a certain case. These investigations enable to promptly and effectively respond to potential violations of human rights and, furthermore, they are usually related to a large group of individuals, or even to a significant part of the society, rather than single individuals.

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

In 2021, the Seimas Ombudspersons started 12 investigations on their own initiative and completed 9 investigations dealing with 10 problems. After the investigation of these problems, in 5 cases the facts of officials' abuse of office, bureaucracy or other public maladministration were confirmed, and in 5 cases the investigation was discontinued, because during the investigation the circumstances under appeal disappeared or, with the mediation of a Seimas Ombudsperson, the problems under investigation were solved in good faith.

Recommendations issued in 2021

The provisions of the Law on the Seimas Ombudsmen entitle the Seimas Ombudspersons to issue proposals (recommendations), which must be examined by the institution and agency, or the official

to whom such proposal (recommendation) is addressed; the results of such examination must be communicated to the Seimas Ombudsperson.

In 2021, the Seimas Ombudspersons issued 1898 recommendations. The majority of them (1 228) were addressed to institutions and agencies regarding improvement of public administration in order to ensure that human rights and freedoms are not violated.

Also, by their recommendations (358), Seimas Ombudspersons drew the attention of the officials to negligence at work, non-compliance with laws or other legal acts, violations of professional ethics, abuse, bureaucracy or violations of human rights and freedoms. They also suggested taking measures to eliminate violations of laws or other legal acts as well as their causes and conditions.

A significant share of the recommendations (168) comprised proposals to a collegial institution or officials to revoke, suspend or amend, in accordance with the procedure established by laws, decisions incompatible with laws or other legal acts, or to take decisions which have not been adopted due to abuse of office and/or bureaucracy.

Recommendation	Number of recommendations	
	To state institutions	To municipal institutions
To provide to the respective institutions and agencies (without investigating the complaint assigned to the competence of Seimas Ombudspersons on the merits) proposals or observations regarding improvement of public administration to prevent violations of human rights and freedoms	811	417
To draw attention of the officials to negligence at work, noncompliance with laws or other legal acts, violation of professional ethics, abuse, bureaucracy or violations of human rights and freedoms, and to propose to take measures to eliminate the violations of laws or other legal acts, their causes and conditions	238	120
To propose to a collegial institution or official to repeal, suspend or amend, in accordance with the procedure set by laws, the decisions incompatible with laws or other legal acts, or propose to adopt decisions that had not been adopted due to abuse or bureaucracy	99	69
To involve the officials and experts from the government bodies, ministries, municipalities, municipal institutions and agencies	45	3
To request the immediate provision of information, material and documents necessary for the performance of the Seimas Ombudspersons' functions	25	19
To propose to the Seimas, the Government, other state or municipal institutions and agencies to amend laws or other regulatory enactments, which restrict human rights and freedoms	34	3
To propose to a collegial body, the head of an institution and/ or a body or institution of a higher level of subordination to impose official (disciplinary) penalties on the officials who commit offences	2	3
To propose to the public prosecutor to apply to court for the protection of the public interest in accordance with the procedure established by laws	5	
To hand over material to a pre-trial investigation institution or a prosecutor, when signs of a criminal offense are found	2	
To inform the Seimas, the Government and other state institutions and agencies or the appropriate municipal council of the gross violations of law or deficiencies, contradictions or gaps in laws or other legal acts	1	
To request that officials under investigation provide their written or oral explanations	1	

At the time of preparation of the Report it was known that 95% of recommendations issued by the Seimas Ombudspersons were taken into account. This percentage includes the recommendations of the Seimas Ombudspersons, which were implemented immediately after their submission, as well as the cases when the implementation of the recommendations was repeatedly requested (providing additional arguments, holding meetings with representatives of institutions, justifying the importance of the recommendations to the public, etc).

Answers from the institutions regarding 5% of the recommendations are still pending.

It should be noted that usually, once the recommendations provided by the Seimas Ombudspersons are implemented, not only the problems of a particular complainant, but also the problems of a certain group of the society are resolved since amendments of human-rights related legal regulation are forward-looking and apply to all.

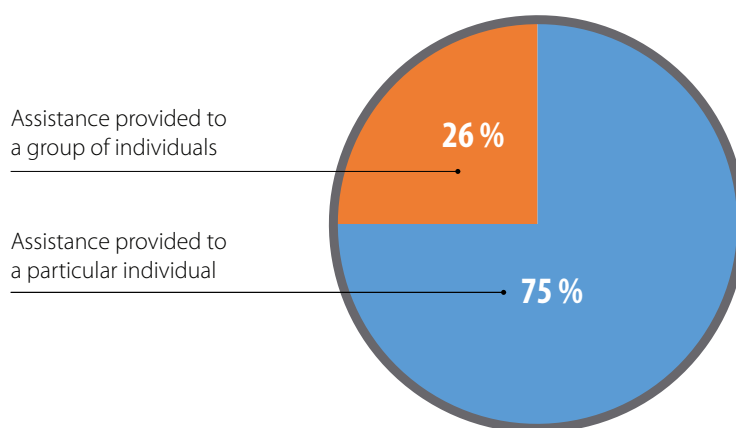


Figure 17. Significance of recommendations when solving problems

Consultations to residents

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

Although the State provides free legal aid, there are persons who are not eligible to such assistance and who are unable to pay a lawyer for the provision of legal aid. In that case, the Reception Team of the Seimas Ombudsmen's Office remains the only place where many low-income people can apply for legal assistance. In 2021, the Seimas Ombudsmen's Office provided legal consultations to 849 individuals.

Applicants who are not satisfied with answers received from the institution concerned also apply to the Seimas Ombudspersons. Besides, visitors are often familiarised with the procedures of

appealing against decisions made by institutions. If an applicant himself has difficulty in formulating circumstances of the complaint, the Reception Team helps the applicant to write a complaint.

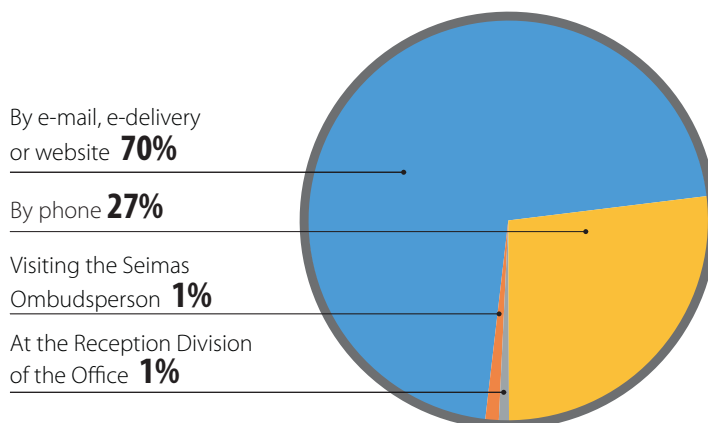


Figure 18. Most common ways used by individuals to contact the Seimas Ombudsmen's Office

Due to the emergency situation in relation to the global pandemic in the country, the majority of people contacted and consulted the Seimas Ombudspersons electronically in 2021 (71%) and by phone (27%).

THE ISSUES RAISED IN THE APPLICANTS' COMPLAINTS AND INVESTIGATIONS CARRIED OUT AT THE INITIATIVE OF SEIMAS OMBUDSPERSONS

◆ Problems in the handling of complaints from individuals

Examining complaints of individuals received by police institutions

In 2021, the Seimas Ombudsperson paid more attention to the handling of complaints lodged by individuals against police authorities.

Investigations of the complaints received revealed that when examining appeals of individuals, police authorities often misapply (or do not apply) provisions of the Law on Public Administration and the Rules on the Examination of Applications and Complaints and the Service of Individuals in Public Administration Entities⁸ (hereinafter – the Rules on the Examination of Applications and

⁸ approved by Resolution No. 875 of the Government of 22 August 2007 (new wording of Resolution No. 1014 of the Government of 1 December 2021).

Complaints of Individuals in Public Administration Entities), and do not correctly assess the appeals from individuals.

It should be noted that police institutions are an entity of public administration, therefore, when examining the complaints and applications of applicants, in addition to special legal provisions, they must also observe other legal acts and principles of public administration in the field of public administration. The Law on Public Administration is the main law governing the activities of public administration entities in dealing with complaints and applications of individuals. Together with the principle of good administration developed by administrative courts of the Republic of Lithuania, this law creates preconditions for the implementation of the provision of the Constitution of the Republic of Lithuania that all governmental authorities serve people. According to the principle of good public administration (responsible management), the obligation of a public administration entity to take active steps in the administrative procedure requires a public authority (as well as any police institution) to take all possible measures to assess all relevant circumstances when making a decision, and to base the decision on facts, statements, evidence and legal provisions. This principle includes not only the right of a person to make a reasoned decision, but also the right to effectively defend (implement) his rights, the duty to clarify the procedure for appealing against an administrative act; an individual administrative act which does not explain the procedure for appealing against it also does not comply with the principle of good public administration.

In order for a public administration authority to make an appropriate decision after examining a person's application, it must first determine what type of an application it is - a *request* (a person's application unrelated to a violation of human rights or legitimate interest when asking for the provision of an administrative service, an administrative decision or performance of other actions provided for in legislation) or a *complaint* (a written request stating that his or another person's rights or legitimate interests have been violated and asking to defend them). The procedure for examining an application and the content of an answer also depend on the application type. Having received an individual's complaint, the institution must initiate an administrative procedure and make a decision on the administrative procedure.

Last year, the Seimas Ombudsperson often encountered in his practice cases when complaints of persons regarding a possible violation of rights and legitimate interests of a person by actions, omissions or administrative decisions of a police institution or an official were examined *in application of the procedures of investigation of official misconduct rather than administrative procedures*. The Seimas Ombudsperson drew the attention of the responsible police officers to the fact that *an official investigation is not considered as a way of remedying the rights of a person that have potentially been violated, as its conclusions can only lead to legal consequences for the person being investigated, and it does not affect the rights and legitimate interests of a person (the applicant, the whistle-blower, etc.)*. This means that a person (an applicant, a whistle-blower, etc.) who has contacted the competent persons/ institutions/ bodies regarding actions/ omission by police officers and whose complaint has been examined in the context of the procedures for investigating misconduct in public office does not

have the right to appeal against the response given to him in the manner provided for in legal acts governing public administration. At the same time, such a person is deprived of the possibility to defend his violated rights and to exercise his constitutional right to apply to an institution or court for the out-of-court settlement of disputes and thus to appeal against decisions taken by officials.

Example No. 1 of the investigation of a complaint regarding examination of individuals' appeals received by a police institution

The Seimas Ombudsperson received an individual's complaint stating that he had submitted two complaints to the Panevėžys County Police Headquarters (hereinafter – PCPH) for assessing actions of police officers who would often stop his vehicle without any reason, but the complaints were investigated in violation of legal requirements, while no administrative procedure was launched for investigating one of the complaints.

The investigation of the complaint found that the PCPH conducted an official inspection in relation to one of the applicant's complaints, but did not find any violations. The applicant was informed of the results of the official investigation more than one month after the date of his complaint. After receiving another complaint from the applicant concerning possible misconduct by police officers, the officials of the PCPH engaged in a clarification of the circumstances, during which they did not receive any information about possible misconduct or defamation of official's name, and therefore did not carry out any official investigation, informing the applicant thereof. No administrative procedure was carried out either. The Seimas Ombudsperson concluded in his statement that the applicant had complained about the actions of police officers which had a direct negative impact on him and that, therefore, their legality and reasonableness should have been assessed in application of an administrative procedure rather than by an investigation of official misconduct, i.e. the applicant's complaints should have been examined in accordance with provisions of the Law on Public Administration, and should have resulted in the adoption of administrative decisions, against which he would have had a right to appeal. Since the procedure for examination of complaints was misapplied, the applicant received information notices only in response to his complaints, which are formally considered not to have any legal effects on the applicant and therefore cannot be appealed. Taking into account all the circumstances established during the investigation, it was concluded that the PCPH examined the applicant's complaints improperly, in violation of the provisions of legal acts regulating public administration and the principles of good public administration, therefore the complaint was found to be justified.

Example No. 2 of the investigation of a complaint regarding examination of individuals' appeals received by a police institution

The Seimas Ombudsperson was addressed by a person who complained that he had submitted a statement via the police electronic services system regarding a possible administrative offence under Article 133 of the Code of Administrative Offences "Violation of the requirements for the provision of employment mediation services" and asked for an investigation, however, he did not receive any procedural decision from the officials of the Vilnius County Police Headquarters (hereinafter – VCPH),

and was only informed about the referral of his application (in accordance with provisions of the Law on Public Administration) to the State Labour Inspectorate for a decision under its competence on possible violations of legislation on illegal work and labour relations.

The letter from the VCPH did not indicate any reasons for not taking a procedural decision in the administrative offence procedure, nor did it specify the legal acts on the basis of which it was decided to refer the application for a possible administrative offence to the State Labour Inspectorate. Such a letter of an informative nature from police officers is to be considered as having no effect and is therefore cannot be appealed.

The Seimas Ombudsperson indicated in his statement that the letter of the VCPH does not comply with provisions of the Law on Public Administration and the requirements of the principle of good administration – its content does not make it clear why and on what basis the statement about a possible administrative offence was not examined by the police, why no procedural decision was taken in relation to the statement about the possible criminal offence, and how the applicant could appeal this response if he considered that the officers did not investigate the statement and possibly violated his rights. Without questioning the right of police authorities to make a decision on a received complaint regarding a possible misconduct, the Seimas Ombudsperson emphasized in his statement that the failure to give reasons for a decision cannot be based solely on the discretion of a police officer. The Seimas Ombudsperson concluded that in the case under consideration, no decision (within the meaning of both the legislation governing public administration and administrative proceedings as well as in accordance with standards of good administration) had been taken in respect of the submitted application.

The Seimas Ombudsperson also noted that the police had received a complaint regarding a possible administrative offence, the investigation of which falls within exclusive competence of the police, while the Labour Disputes Commission is a mandatory pre-trial labour dispute resolution body, which settles labour disputes for law. For this reason, the Seimas Ombudsperson concluded that the referral of the application of possible administrative misconduct to the Labour Disputes Commission was unlawful and unjustified.

Example No. 3 of the investigation of a complaint regarding examination of individuals' appeals received by a police institution

The applicant applied to the Seimas Ombudsperson with complaint indicating that the Panevėžys County Police Headquarters (hereinafter – PCPH) submitted an application for information on the liability imposed on an officer for a violation of the Road Traffic Rules, but the application had not been examined in detail, so he submitted another request, which was unjustifiably considered a repeat request and was left unexamined.

The investigation of the complaint found that in response to the first request, the PCPH informed the applicant about the administrative proceedings initiated against the specified officer, and explained that the owner of the specified car, whose surname was the same as that of the specified officer, but

the name was different, was subjected to administrative liability and imposed a monetary fine. By his second request, the applicant asked for clarification as to whether different names of the persons subjected to administrative proceedings were due to a technical error, whether two different persons had been subjected to administrative proceedings and whether the officer he had named had been punished for a violation of Road Traffic Regulations. The PCPH considered the applicant's second request to be a repeat request, did not examine it and did not provide the requested information.

In the statement, the Seimas Ombudsperson drew the attention of the officials to the fact that when assessing whether the decision not to re-examine the complainant's application was justified, an analysis should be conducted of whether the appeal provides new facts or additional statements that would cast doubt as to the validity of the previous response. Having assessed the circumstances established in the course of the investigation, the Seimas Ombudsperson stated that the applicant's second request could not be regarded as a repeat request, as it was the result of an incomplete reply to the first request, and the second request did not ask for a reassessment of the circumstances of the first request or for an investigation, but only asked for clarification as to whether the official had been punished (a question which had not been answered by the earlier letter). The investigation also revealed that the applicant had not been explained the procedure for appealing against the decision to refuse to examine his request.

◆ Examination of individuals' appeals received by other institutions

Investigation of a complaint regarding the State Data Protection Inspectorate's failure to comply with the time limits for processing complaints

Having examined an applicant's complaint against the actions (omission) of the officials of the State Data Protection Inspectorate (the Inspectorate) for possibly failing to comply with the deadlines for the processing of the applicant's complaint (forwarding a part of the complaint), the Seimas Ombudsperson stated, inter alia, that a decision on the complaint was taken within a time period of more than 9 months from the date of receipt of a complaint by the Inspectorate, i.e. in violation of the maximum time limit of 6 months laid down in the Law on the Legal Protection of Personal Data (the Law). The explanations provided by the Inspectorate as to the reasons for the failure to investigate the complaint in time (extensive workload, shortage of staff, etc.) do not comply with the requirements of legislation and the principle of good public administration.

The Seimas Ombudsperson noted that the Inspectorate has been indicating the same reasons for the failure to investigate complaints of the applicant and other persons for several years in a row. The Seimas Ombudsperson noted that repeated violations of the rights of individuals to good public administration cannot be justified by problems in the organisation of the internal administration of the Inspectorate, i.e. proper activities of internal administration of the Inspectorate (adequate staff, management of financial resources) must ensure that it performs the functions assigned to it in accordance with the procedure and deadlines laid down in legal acts. The Inspectorate has

been repeatedly advised by the Seimas Ombudsperson on the observance of the deadlines for the examination of complaints and on the application of additional legal and organisational measures, also meetings have been held with representatives of the Inspectorate, and the Government was recommended to take legal and/or organisational measures to improve the Inspectorate's activities, if necessary.

Taking into account the above circumstances, the Seimas Ombudsperson recommended to the Government to initiate an independent audit of the Inspectorate's activities and, based on the results of this audit, the public consultation on the revision of the Law, analysis of new information and proposals on the improvement of investigation of complaints in observance of the time limits set by legislation, choose the most effective measures that would prevent violations of the rights of individuals to good public administration that have continued for a number of years, at the same time ensuring proper protection of the rights of data subjects and proper implementation of the constitutional principle of public authorities serving people.

Taking into account the recommendation of the Seimas Ombudsperson, the Centralized Internal Audit Division of the Ministry of Justice carried out an assessment of the Inspectorate's human resources management, and concluded in its report of 27 May 2021 that the need for additional 32 positions was identified in order the Inspectorate could properly implement its functions. The Ministry of Finance informed that the Inspectorate was additionally allocated 10 positions and EUR 216 000 for salaries for the implementation of new and extended existing functions provided for in the European Personal Data Protection Reform in accordance with the General Data Protection Regulation.

Investigation of a complaint concerning the right to oral information.

Citizens are guaranteed the right to receive information from state and municipal authorities. This right corresponds to the duty of a public administration entity to provide the requested information, i.e. to provide an administrative service in accordance with the procedure laid down in legislation.

The Seimas Ombudsmen's Office examined the applicant's complaint regarding actions of the Šiauliai City Municipality and some state institutions (the State Social Insurance Fund Board and the Employment Service), when the applicant had to pay extra for a phone call (more than under his plan provided for in the contract with a mobile operator) when he used a short number of the institutions (published on the institutions' websites), even when waiting for an operator to answer (all the operators were busy), and an administrative service was not provided.

Having conducted an investigation, the Seimas Ombudsperson found that, in order to facilitate the performance of their functions and having chosen to provide administrative services by short line and call management (call centre), state and municipal institutions use private telecommunications operators (business entities), which charge the caller additional fees and receive the funds for the calls. If the payment for the provision of administrative services to individuals by telephone is not provided for in legislation, public administration entities that use private telecommunications operators for

the performance of their functions have to bear the responsibility of covering all financial costs themselves, without passing on this burden to citizens. State and municipal authorities have no interest in answering calls more quickly and do not control this process, thus such activities of state and municipal authorities are incompatible with the principle of good public administration.

In the opinion of the Seimas Ombudspersons', the provision of administrative services (information, documents, etc.) of public administration entities in observance of the principle of good public administration is a prerequisite for the implementation of the constitutional provision that public authorities serve the people. The legislation does not provide for any form of charging for the administrative service of providing information in writing, orally or by telephone, and therefore no additional rates or charges can be applied which would impede (limit) the provision of administrative services to individuals. All persons, irrespective of their social, financial or other situation, must have equal access to and receive information and advice from a public administration body, and public administration bodies must strive to improve their activities.

Following the recommendations of the Seimas Ombudspersons, the new version of the Rules on the Processing of Requests and Complaints of Persons in Public Administration Bodies has been adopted, which stipulates that in order to improve the servicing of persons, institutions may use only such organisational and technical measures that do not cause the persons served to incur financial costs other than the established fee or other remuneration for the administrative or public services provided by the institution. The Ministry of Finance of the Republic of Lithuania noted that, if the proposal on the compulsory installation of a toll-free telephone line in state and municipal institutions and bodies is approved, it would require additional funds from the state and municipal budgets. The Ministry of the Interior believes that it is necessary to systematically assess the extent of this problem, the practice of state and municipal institutions in this area and the possibility to allocate additional funding.

◆ **Problems raised in the complaints of detainees and prisoners**

Problems in the area of resocialization (employment, communication with relatives)

The Convention for the Protection of Human Rights and Fundamental Freedoms stipulates the right of everyone to respect private and family life and the confidentiality of correspondence. In its Recommendation No R (2006)2 on European Prison Rules, the Committee of Ministers of the Council of Europe has formulated standards that lay down obligations for prison administrations to ensure that these rights are also ensured for prisoners.

The European Court of Human Rights emphasizes that a possibility to keep in touch with their relatives, including visits, which are considered to be a particularly important form of communication in the process of resocialisation of prisoners, is a very important part of prisoners' right to respect for their family life. Communication with the outside world is vital to counteract the potentially harmful effects of imprisonment. The European Prison Rules establish that in the context of the execution of

sentences, in order to ensure that prisoners are properly re-socialised, governmental authorities must ensure the opportunity or, where appropriate, help prisoners to maintain contact with their relatives.

Another equally important part of the effort to mitigate the negative effects of imprisonment is adequate employment, which is also an important prerequisite for the resocialisation of prisoners. Social rehabilitation must be carried out in accordance with a plan drawn up individually for the prisoner. Employment measures offered to prisoners must reduce their social exclusion, enable them to spend their leisure time in a meaningful way and meet their individual needs.

Investigation of a complaint concerning the possibility to keep in touch with relatives

The Seimas Ombudsperson investigated a complaint regarding the procedure established in Šiauliai remand prison, which allows the Internet telephony to be used on weekdays until 4 p.m. only, i.e. when the relatives of prisoners work or study.

The investigation of the complaint revealed that the applicant had applied to the administration of Šiauliai Remand Prison on two occasions for a video call to be made at a time later than the time provided for in the legal act, enclosing his spouse's work schedule and the schedules of his daughters' extracurricular activities with his applications, but his requests were rejected without any assessment of the individual circumstances, with only a formal indication that video calls are allowed at the times specified in the legal act only.

In his statement, the Seimas Ombudsperson drew the attention of officials to the fact that deprivation of liberty should not cause a person to lose contact with the outside world. On the contrary, all prisoners have the right to such contact, and the prison administration should endeavour to create the conditions to allow them to maintain such contact as best as possible. Contact with the outside world is vital to counteract the potentially harmful effects of deprivation of liberty.

In assessing the situation and the established procedure for the use of Internet telephony, the Seimas Ombudsperson stated that the established time for the use of the Internet telephony is convenient for the administration of the remand prison only, but not for the detainees. The Seimas Ombudsperson concluded that the regulation in force in Šiauliai remand prison does not help detainees/ convicts to maintain the most effective and closer contact with their relatives, does not create more favourable conditions to communicate with their relatives as often as possible and at the most convenient time. In the light of these circumstances, the complaint was found to be justified.

Investigation of a complaint concerning the implementation of social rehabilitation

The Seimas Ombudsperson was approached by a convicted prisoner who stated that upon his arrival to Vilnius Correction House to serve his imprisonment, officials did not arrange his social rehabilitation and did not provide him with positive employment measures. During the investigation of the complaint, it was established that inmates serving their sentence in Vilnius Correction House are provided with opportunities to engage in individual, artistic and creative activities; they are provided with the necessary tools; they have the opportunity to communicate with specialists and psychologists of the Resocialisation Department and to use the leisure room equipped with a table

tennis; they are also other programmes of social rehabilitation and various activities. The applicant did not apply for positive employment measures and other social rehabilitation programmes when he arrived at the Vilnius Correction House, and therefore he was unable to use these measures.

The Seimas Ombudsperson concluded in his statement that having arrived to a correctional institution, a convicted person is not obliged to apply for participation in social rehabilitation programmes and positive employment measures. It is the administration and officials of the correctional institution who have a positive obligation to take active steps to properly implement the principle of reintegration of the convicted person: to acquaint the arriving convict with the possibilities of social rehabilitation, to start a dialogue with the person about the programmes which he would like to participate in and about the employment measures which could have a positive impact on his correctional process, as well as to motivate and encourage the person to show initiative to take an active part in the opportunities offered. Taking into account the inmate's will expressed in the conversation and within the time limit laid down in the legislation, officials of the correctional institution must draw up an individual social rehabilitation plan for the inmate, acquaint the inmate with it and ensure its implementation. The officials of the Vilnius Correction House did not provide the Seimas Ombudsperson with any evidence that the officials of the correctional institution had taken these actions, therefore the complaint regarding the actions of the officials of Vilnius Correction House to refuse to arrange the inmate's social rehabilitation was found to be justified.

Investigation of a complaint concerning the possibility to access news on public life in the country and abroad

The Seimas Ombudsperson received a complaint of a convict stating that inmates in the Alytus Correction House, who are assigned to a disciplinary group, are not provided with access to news from Lithuania and the world (i.e. cannot read newspapers or watch TV in a dedicated room), thus promoting social exclusion.

The investigation of the complaint found that inmates in the disciplinary group of the Alytus Correction House do not have access to a leisure room with a TV set (although legislation provides for the installation of such a room in residential blocks of all groups); during the quarantine, the administration made a verbal decision to distribute to each group of inmates a copy of the newspaper "Vakaro žinios" (before the quarantine, all prisoners were able to read the newspaper in the library, in accordance with the set schedule). Taking into account the fact that the poor access to information about the events happening in Lithuania and the world was not compensated by other means, the Seimas Ombudsperson concluded that the rights of convicts in a disciplinary group of the Alytus Correction House were unreasonably restricted.

In his statement, the Seimas Ombudsperson drew the attention of the officials to international human rights standards and noted that he has consistently taken the view that providing opportunities for meaningful leisure time is crucial for social rehabilitation of prisoners and for minimising the detrimental effects of imprisonment. Correctional institutions must therefore provide prisoners with

access to information on the most important events in the world and in Lithuania through a variety of means.

◆ **Problems relating to ensuring privacy**

Certain limitations on the privacy of detainees and convicted persons and the negative experiences they suffer as a result are often stated to be an inevitable consequence of detention, linked to its nature, purpose and safe conduct. However, when hearing cases concerning the duty of officials to ensure that the privacy of detainees/convicts is guaranteed when using a bathroom, both the European Court of Human Rights and the Supreme Administrative Court of Lithuania have repeatedly stated that national institutions have a positive obligation to provide access to sanitary facilities which adequately ensure the privacy of prisoners. Ensuring adequate privacy means that other persons cannot see the detainee/convict using a toilet.

Investigation of a complaint concerning a failure to ensure privacy

The Seimas Ombudsperson investigated a complaint regarding a failure of officials of the Alytus Correction House to ensure privacy when taking a urine sample for the purpose of determining whether a person was under the influence of psychoactive substances. In his complaint, the convicted person stated that the place where the sample was taken was not private, the door was open, and strangers could see through it.

The Prisons Department explained that due to the possibility of sample tampering (where prisoners try replace their urine sample with another sample prepared in advance which they bring in, usually in their underwear, in various containers), a search is performed before testing for intoxication, and the taking of a urine sample is closely monitored by officials, thus the door has to be open due to the specifics of the premises.

After the investigation, the Seimas Ombudsperson determined that the legislation stipulates that a search/examination for the purpose of checking convicted persons for intoxication by psychoactive substances must be carried out in a defined room. Officials conducting searches and examinations are obliged to behave in a correct manner, without demeaning the honour and dignity of convicted persons. The instructions also state that a search must be carried out in a separate room. This implies that the place where the search/examination is carried out must be free of strangers, and therefore the Seimas Ombudsperson had a critical opinion of the explanation provided by the Prison Department that “the door has to be open due to the specifics of the premises”. In the opinion of the Seimas Ombudsperson, having conducted a search/examination professionally, officials of the Alytus Correction House eliminate the threat of a possible replacement of samples, and have to ensure the privacy of prisoners during the process of taking samples.

◆ **Situations that raise doubts as to the impartiality of officials**

In its Recommendation No R (2006)2 “On European Prison Rules”, the Committee of Ministers of the Council of Europe note that prison staff must always behave and perform their duties in such a way

as to influence and gain the respect of prisoners by good example. The conduct of employees during searches is of particular importance. It should be emphasized that searches must be carried out in such a way as not only to detect and prevent the possession of prohibited items, but also to respect the dignity of the detainees/ convicts and their personal property.

Example No 1 of an investigation of a complaint concerning bureaucratic and biased behaviour of officials

A convict serving a sentence in a disciplinary group complained about the actions of officials of the Alytus Correction House who took away his legally kept food supplements during a search and did not return them for a long time.

Having examined a complaint, the Seimas Ombudsperson determined that the officials of the Alytus Correction House had carried out an unscheduled search when food supplements belonging to the applicant had been seized. Since food supplements are not included in the list of items that prisoners belonging to the disciplinary group are allowed to acquire and possess, the officials took them to investigate the legality of their acquisition. The convict provided the officials with a document of acquisition of the food supplements (a permit of the Director of the Correctional Institution to purchase them) immediately after the search, the officials disregarded it, spending an unreasonable amount of time investigating the situation as to whether the convicted person was in legal possession of the food supplements in his living quarters. It was only after three weeks, and eight complaints lodged by the convict to the administration of the Alytus Correction House, that the food supplements were returned to him.

The Seimas Ombudsperson concluded that the officials of the Alytus Correction House had acted bureaucratically in this case – instead of promptly and realistically processing the applicant's issue, having assessed the documents submitted by the applicant, the officials had registered and examined the applicant's complaints and prepared replies to them. At the same time, it was found that the officials supervising the prisoners were not aware of permits issued by the Director of the correctional institution to purchase certain items adopted in respect of a particular prisoner, according to the administration of the Alytus Correction House, this is not provided by legislation.

The Seimas Ombudsperson emphasised in his statement that during a search, officials must not only detect and prevent any attempts to escape or conceal prohibited items, but also respect the dignity of the persons searched and their personal property; mutual respect would allow establishing a good relationship and mutual trust between officials and convicts.

Example No. 2 of an investigation of a complaint concerning bureaucratic and biased behaviour of officials

The Seimas Ombudsperson received a complaint where the applicant indicated that during a search, officials of the Šiauliai Remand Prison took his backpack, which he possessed for almost a year and which he used to carry his documents when going to court or a lawyer.

Having assessed the circumstances established during the investigation, the Seimas Ombudsperson stated that during the unscheduled search, the backpack and other items belonging to the applicant

were seized in accordance with the provisions of legislation, as the possession of such items in the cells was not foreseen. However, it was also noted that the administration of the Šiauliai Remand Prison was unable to explain to the Seimas Ombudsperson how long the applicant had kept the backpack in the cell and why it had not been seized during previous searches. Therefore, the Seimas Ombudsperson had reasonable doubts as to the adequacy of the actions of the officials of the Šiauliai Remand Prison in terms of ensuring the rules and controlling the bringing of unauthorised items into the cells, also indicating that this could be seen as bias on the part of the officials and possible abuse of power.

The Seimas Ombudsperson emphasized that as a public administration entity, in addition to special provisions of law, the Šiauliai Remand Prison must also comply with the constitutional principle of responsible management (good administration) in its activities, and with other principles of public administration applicable in the field of public administration, including the principles of the supremacy of the law, the principle of non-abuse of power, and the principles of transparency. The Seimas Ombudsperson noted that, in complying with these principles, a public administration entity must give priority to the public interest and avoid any appearance of bias in its activities.

◆ **Violations of individuals' rights in the field of environmental protection**

Articles 53 and 54 of the Constitution stipulate that the State and every person shall protect the environment from harmful effects. The State shall take care to protect the natural environment, fauna and flora, individual natural objects and areas of particular value, ensuring that natural resources are used sparingly and that they are restored and multiplied. The law prohibits the destruction of land, its depths and waters, the pollution of water and air, the radiological impact on the environment and the impoverishment of flora and fauna. In its Resolution of 13 June 1998, the Constitutional Court of the Republic of Lithuania interpreting the content of Article 54(1) of the Constitution, indicating that this norm formulates one of the objectives of the State's activity – to ensure the people's right to a healthy and clean environment.

Thus, the right to a healthy and clean environment, although not directly enshrined in the Constitution, may be derived from it. It should be noted that the Convention for the Protection of Human Rights and Fundamental Freedoms also does not directly enshrine a person's right to a healthy and clean environment, but in the case-law of the European Court of Human Rights (ECtHR), this right has been interpreted in the context of the various articles of the Convention, such as Article 8 (the right to respect for privacy and the inviolability of one's home), Article 2 (protection of life), and similar. In interpreting the right to respect for private life, the ECtHR has found in a number of cases that factors such as pollution, odours, noise, etc., may affect people's well-being and interfere with the enjoyment of their private life and home in such a way that their rights under Article 8 of the Convention will be violated.

During the reporting year, the Seimas Ombudspersons received a number of complaints regarding violations of individuals' rights in the field of environmental protection, also initiating and conducting

an investigation into possible illegal construction in a protected area on their own initiative. Applicants complained about violations of their right to a healthy and clean environment, stating that due to the inaction or inadequate action of municipal and state institutions (the Department of Environmental Protection under the Ministry of the Environment, the Environmental Protection Agency, the State Territorial Planning and Construction Inspectorate under the Ministry of the Environment, the National Land Service under the Ministry of Agriculture), the violations remain undetected, and that they have to repeatedly apply to the institutions providing their evidence; the institutions delay decision-making, which often results in violations continuing for several years; they do not comply with the principles of legality, responsible management and good administration, provide incomplete, unsubstantiated, unjustified and unreasoned responses; they fail to specify the appeal procedure.

In 2021, the majority of complaints received concerned damage done by sewage, pollution of the environment by construction waste, collection and management of municipal waste, residential air pollution, felling of protected trees, planting of trees too close to the boundary of a land plot, failure to tarmac and non-maintenance of gravel roads, as well as illegal construction.

Having conducted investigations, the Seimas Ombudsperson pointed out that in order to identify possible violations in individuals' complaints, the authorities should carry out factual inspections together, which requires co-operation between institutions and a comprehensive approach in assessing the compliance with environmental requirements, state control of land use, and requirements of legislation regulating construction. The Seimas Ombudspersons recommended that the authorities conduct joint inspections and submit assessments in a number of their investigations. Advisers to the Seimas Ombudspersons also attended several inspections together with institutions. The Seimas Ombudspersons also noted that the deadlines established in legal acts for the examination of complaints must be observed. Failure to respond in a timely manner and to inform a person thereof violates his right to good administration.

After conducting an investigation, in the reporting year, the Seimas Ombudspersons also had to refer to the Prosecutor's Office regarding the protection of the public interest or a possible criminal offence, as the Seimas Ombudspersons do not have the right to defend the public interest or to investigate criminal offences. However, the Public Prosecutor's Office does not always defend the public interest, stating that it has not detected any violation of the law or the existence of a public interest. In such cases, the Seimas Ombudspersons have to prove to the Prosecutor's Office (by lodging complaints with a senior prosecutor for refusal to apply public interest measures) that the public interest may have been infringed.

Investigation of a complaint concerning damage done by sewage.

Having received a complaint about a possibly inadequate performance of functions by officials of state institutions (the Department of Environmental Protection under the Ministry of the Environment), the National Land Service under the Ministry of Agriculture and the Palanga City Municipality Administration in dealing with issues related to sewage disposal, the use of buildings, etc., the Seimas

Ombudspersons found that the applicant had contacted the Municipality on a number of occasions to report possible environmental violations (sewage discharged in leaking, illegal, uncertified tanks in the part of the land plot under common ownership (hereinafter – the land plot) and outside the boundaries of the land plot), violations of the use of the land, informing it that the buildings on the land plot were used for commercial activities of accommodation, although solely farm buildings for the maintenance of the land plot were allowed in the territory, i.e. the buildings were used for purposes other than the intended purpose of the land plot.

The Seimas Ombudspersons' investigation found that inspections by institutions were episodic, with each institution carrying out inspections on the matter assigned under its competence only. However, the case under consideration required an integrated approach, assessing the enforcement of legislative requirements on environmental protection, state control over land use and construction (cooperation between officials of institutions is necessary when inspecting factual circumstances).

The Seimas Ombudspersons emphasized that allegations regarding environmental pollution referred to in the complaint are related to the enforcement of the right to a safe and healthy environment. The operation of sewage tanks in the land plot adjacent to the water body and outside of it may infringe the public's right and legitimate interests to a healthy, safe and clean environment. Sewage contains a variety of micro-organisms, including bacteria (*Escherichia coli*, *Salmonella typhimurium*, *Vibrio cholerae*), fungi and viruses. Once they get into drinking water, some of the micro-organisms can cause extremely serious health problems, such as salmonellosis, cholera or typhoid fever. In order to prevent damage to the aquatic ecosystem and contamination of drinking groundwater, proper wastewater management must be ensured, refraining from discharging or dumping of untreated wastewater into the environment, ensuring proper maintenance and operation of existing wastewater treatment equipment, and making sure that storage tanks are tight.

One of the main conditions for the normal life and development of the society is a liveable, high-quality and safe natural environment. The content of the public's right to a safe environment includes three main elements: 1) the right to live and develop in an unpolluted and quality environment; 2) the right to require competent state authorities to implement the necessary environmental measures; 3) the right to administrative or judicial protection of a violated right or legitimate interest.

In legal terms, the environment is recognized as high-quality and safe when the use of natural resources and the release of pollutants into the environment and their concentration in the environment do not exceed the norms, standards and other environmental legislation established by international agreements, European Union and Lithuanian legislation. These are the main legal criteria for assessing the quality and safety of the environment. The International Covenant on Economic, Social and Cultural Rights states that Member States recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and shall take measures to ensure the improvement of environmental and production hygiene in all its aspects.

The Seimas Ombudspersons noted that having determined the fact of leakage of sewage tanks during an inspection, the possibility of soil contamination during the years of operation of these

sewage wells could reasonably be raised. However, no information on the soil testing of the area where sewage wells are located was received during the investigation.

The treatment of sewage in individual sewage facilities has an impact on groundwater. This has been confirmed by the Ministry of Environment. Lithuania has not established a register of individual sewage management systems, so individual sewage management by residents is only assessed through inspections following complaints of improper sewage management or during preventive campaigns.

Having conducted an investigation, the Seimas Ombudspersons concluded that there was no reason to state that the public's right to a safe and healthy environment had been guaranteed in the case under consideration.

The Seimas Ombudspersons issued recommendations to the Government, the Ministry of Environment and the Department of Environmental Protection.

In response to the recommendations made by the Seimas Ombudspersons, the authorities informed that, pursuant to the Description of the Procedure for the Installation, Operation and Control of Sewage Storage Tanks and Septic Tanks, information on all sewage storage and treatment facilities in use, irrespective of when they were installed, whether they were manufactured at the factory or assembled and installed at the place of use, must be provided to the information system in order to ensure proper control of individually treated sewage. However, they stated that currently discharging the above obligation to provide data is not possible, since a decision was made to create a separate information system "INTS" with a newly developed database, rather than to integrate the data into the Topography and Engineering Infrastructure Information System (TIIS) (such a decision was taken after an assessment of technical solutions required for the envisaged "INTS" information system, the necessary interoperability with other databases, and conducted a cost/benefit analysis).

Investigation concerning a possible illegal construction in the Labanoras Regional Park.

The Seimas Ombudsperson has initiated and carried out an investigation concerning a possible illegal construction in the protected area. The investigation revealed that the construction is being carried out on the basis of a construction permit issued in 2013 by the Molėtai District Municipality Administration (hereafter – the Municipality) on a land plot that falls within the territory of both the State Park and the nature reserves. At the time when the construction permit was issued, the construction of buildings was regulated by the Law on Protected Areas, which stipulated that the construction of buildings that are not related to the purposes of the establishment of a protected area shall be prohibited in protected areas, except for buildings on existing and former homesteads (where there are remains of former buildings and/or gardens or where homesteads are marked on the site plan or other plans, as well as when stating a legal fact), also in areas defined in the management plans or projects of nature reserves and in master planning documents; also prohibiting the construction of buildings or the extension of buildings on slopes with a gradient of more than 15 degrees, and within 50 metres of the upper and lower edge of such slopes. The Law also stipulated

that the construction of buildings in state parks shall be prohibited in areas not specified in the management plans (planning schemes) and master planning documents of state parks. The Seimas Ombudsperson noted that only after the construction permit was issued, this legal standard was supplemented with an exception regarding former farmsteads. Thus, according to the regulation in force at the time of issued of the Construction permit, building various structures in state parks, even if this was in the place of former homesteads, was prohibited.

The Seimas Ombudsperson stated that the State Territorial Planning and Construction Inspectorate under the Ministry of the Environment, which is responsible for the state supervision of construction and one of the objectives of which includes to ensure that buildings are built in a lawful manner, did not provide an assessment of whether the Municipality's construction permit was issued without violating the requirements of legislation in 2013.

The Seimas Ombudsperson noted that in the case law, in case of a failure to provide documents confirming the exceptions to the prohibition to construct buildings in protected areas set out in the Law on Protected Territories, the issued construction permits are cancelled, obliging persons to demolish the buildings and to clean up the territory. According to the case law of the Supreme Court of Lithuania (SCL), the protection of particularly valuable sites is recognised as a public interest. When speaking about restrictions concerning construction in protected areas, the Supreme Court indicated that restrictions and prohibitions are aimed at ensuring the protection of particularly valuable areas, i.e. the public interest.

The Seimas Ombudsperson stated that without assessing the legality of the Municipality's approval of the construction project in 2013, on the basis of which construction works have been carried out on an agricultural land plot located in a protected area, there is no legal basis to assert that the construction works on the land plot are being carried out in compliance with the mandatory requirements of legal acts.

Having conducted an investigation, the Seimas Ombudsperson recommended the Prosecutor General to assess the circumstances set out in the statement regarding possible violations of public interest, and, having found any violations of the public interest, to ensure that the actions provided for in legal acts are taken. It should be noted that the Prosecutor of Panevėžys County adopted a decision to refuse to apply public interest measures without analysing the situation and without assessing all the circumstances. The Seimas Ombudsperson appealed the decision to the General Prosecutor's Office to cancel the prosecutor's decision and returned the material for further investigation. However, a decision to refuse to apply public interest measures was re-taken, without investigating whether the homestead was being rebuilt on its former site or whether the construction permit had been issued legally. The Seimas Ombudsperson appealed this decision to the General Prosecutor's Office, but a new decision has not been taken yet.

Investigation of a complaint concerning noise in a residential neighbourhood

In order to promote children's active leisure, skateboarding, scooter, bicycle and rollerblade ramps (playgrounds) have become very popular, and are being installed in residential areas close to single-

family and multi-apartment buildings. The facilities in ramp parks do not emit any noise, but the noise is generated by activities of people using them. The Seimas Ombudsperson found that it is unfair to satisfy interests of one part of the community, which wants to have an active leisure time, and to violate interests of another part of the community, which wants to live a healthy and quiet life. No person should be exposed to a level of noise that endangers their life and health.

Having examined the applicants' complaint regarding the inaction of officials of the Rietavas Municipality Administration (hereinafter – the Municipality) in failing to address the noise coming from the built ramp park (rollerblade, skateboard and bicycle playground), the Seimas Ombudsperson concluded that the Municipality's actions were insufficient. The Municipality did not solve the problem, obliging the gymnasium, on whose territory the ramp was built, to change the rules of use of the playground, informing the community about the administrative liability for disturbing public peace, and asking officials of the Rietavas Police Station to control the playground as from 10 p.m. to ensure that there is no disturbance of public peace. The Municipality disregarded the proposals by the Telšiai Department of the National Public Health Centre regarding the installation of noise reduction measures and did not take any effective measures (installation of a soundproofing wall, planting of greenery, change of the pavement or other).

The Seimas Ombudsperson noted that it was not clear whether there are any requirements for the installation of such ramps in residential areas, regulating the distance at which they may be installed; the requirements for noise abatement measures, or whether an environmental and public health impact assessment should be carried out.

The investigation found that noise control, measurements and their assessment could only be conducted for economic, commercial and / or industrial activities (vehicles, industrial facilities, etc.) and they do not apply in case of noise emitted by humans and animals, household equipment (appliances). Therefore, in order to avoid situations such as the case under consideration, legal regulation (Law on Noise Management, implementing legislation, hygiene norms, etc.) should be improved to provide for the control, measurement and assessment of noise from ramp (site) equipment.

The Seimas Ombudsperson agrees that noise prevention and reduction measures must be provided for in the integrated planning of territories, issuing construction permits, etc. She emphasized the duty of the Municipality to take into account interests of all community groups in the performance of the duties assigned to it, to find a suitable solution to reduce noise from ramp park facilities, to properly implement noise prevention and reduce the negative impact of human activities on health. Unfortunately, the Municipality did not take any specific noise reduction measures on the grounds that it will take the respective decisions after the case of the Municipality's inaction is resolved in court.

◆ **Problems in the field of administration of multi-apartment buildings**

In 2021, the Seimas Ombudsperson investigated a number of complaints about insufficient supervision and control by municipalities over the activities of managers of common-use objects in

multi-apartment buildings. The Seimas Ombudsperson drew the attention of municipal officials, the Ministry of the Environment and the representative of the Government in Kaunas and Marijampolė counties to possible shortcomings in the legal regulation of the supervision of managers' activities, where supervision is done in accordance with the rules adopted by the municipal council, which do not comply with the model rules adopted by the Ministry of the Environment.

For example, the Seimas Ombudsperson found the complaint of a person justified, having established that the municipal administration unreasonably conducted no unscheduled inspections of activities of the administrator of common-use objects of multi-family buildings in accordance with the content of the applicant's requests and complaints, and did not assess whether the administrator had taken all the measures provided for in the legislation in order to protect the rights and legitimate interests of the applicant and other inhabitants of the building.

Having examined another complaint, the Seimas Ombudsperson concluded that the provisions of the rules approved by the Kaunas City Municipal Council concerning the limitation of the scope of the content of unscheduled inspections of activities of managers to the content of scheduled inspections of activities of managers and the 6-month period of the inspection of manager's activities, etc., do not comply with the provisions of the Law on Public Administration and the Law on Local Self-Government.

In this respect, the Seimas Ombudsperson, inter alia, made a recommendation to a Government representative in Kaunas and Marijampolė counties to check the compliance of the Rules with the requirements of laws and other legal acts within the scope of their competence, and the Ministry of the Environment, requesting to inform about the progress of the preparation of amendments to Article 6(42) of the draft Law on Local Self-Government (which would potentially also resolve the problems with the legal regulation noted by the Seimas Ombudsperson).

When informing about the results of the analysis of the recommendations, the institutions informed that the coordination of the draft law on the amendment of Article 6 of the Law on Local Self-Government (by stipulating that the supervision and control over the activities of managers shall be carried out in accordance with the rules approved by municipal councils) with the institutions and the public has been completed and that the institutions do not have any comments on the draft law, except for the Association of Local Authorities in Lithuania, which proposes to amend clause 42 of Article 6 of the Law on Local Self-Government providing that the supervision and control over the activities of managers shall be carried out according to the rules approved by an institution authorized by the Government. The Ministry of the Environment organised a remote briefing to discuss the arguments of the Local Authorities of Lithuania in detail. Solutions that would be acceptable to all the institutions concerned are still being sought, and the process of coordination of the draft law continues. The representative of the Government informed that, in view of the fact that the draft amendment to clause 42 of Article 6(1) of the Law on Local Self-Government has been submitted to the Government, and no conclusion on the compliance of the rules adopted by the Kaunas City Municipal Council with the Law will be provided.

◆ **Problems concerning the adaptation of multi-apartment buildings for the needs of people with disabilities**

The requirements for a physically accessible environment for people with disabilities in all areas of life are met through the design of buildings and the adaptation of their place of living and its environment to the special needs of people with disabilities. Owners of apartments and other premises make a decision to adapt common-use facilities of multi-apartment buildings to special needs of persons with disabilities in accordance with the procedure laid down by the Civil Code of the Republic of Lithuania. The manager of common-use facilities of a multi-apartment building arranges a public discussion of the investment plan for the renovation of a multi-apartment building and the project with owners of apartments and other premises of the building, and coordinate the project with the responsible institutions.

Investigation of a complaint concerning violation of rights of a person with disabilities when renovating a multi-apartment building.

Having received complaints of an applicant regarding the violation of rights of a person with disabilities during the renovation of a multi-apartment building, the Seimas Ombudsperson carried out an investigation, assessing the circumstances indicated in the complaints in the context of the constitutional principle "public authorities serve the people" and the principles of good public administration. The Seimas Ombudsperson relied, inter alia, on case-law in line with the above-mentioned principles, according to which having received information about possible violations in any way, she must, within her competence, verify such information, assess it and respond to it in the manner provided for by regulations and other legal acts. Therefore, the investigation assessed not only the activities of officials of the Palanga City Municipality Administration (hereinafter – the Municipality), but also the activities of state institutions (the Housing Energy Saving Agency and the Department for the Affairs of the Disabled) in controlling and supervising the activities of the administrator (the company responsible for the administration of the building's common-use facilities and the building renovation project) and in solving problems of the disabled.

The investigation established that the initiator of the renovation/modernisation of a multi-apartment building was the Association of Apartment Owners of Multi-apartment Building. The Chairman of the Association was involved in all stages of the renovation/modernisation of the building, the preparation of the inspection reports, the investment plan, and other documents, which had to resolve all the issues related to the adaptation of the living environment to the needs of persons with disabilities.

Having received the complaints, the Housing Energy Saving Agency, which evaluated the investment plans for the renovation of multi-apartment buildings and supervised the implementation of the renovation projects during the period under consideration, did not look into the circumstances whether the issue of the adaptation of the living environment to the needs of the disabled had been discussed in the course of the renovation, at the time of the preparation and the discussion of the investment plan, and did not consider why the replacement of windows and doors of the apartment of this disabled person had not been planned in her apartment, while such a replacement

was planned in other apartments, etc. The Ministry of Environment was informed about it, recommending it to address the problems of renovation and maintenance of multi-apartment buildings in a comprehensive manner.

The investigation also found that neither the Department for the Affairs of the Disabled nor the Lithuanian Association for Adaptation of the Environment for People with Disabilities authorised by the Department for the Affairs of the Disabled, investigated the above-mentioned circumstances and did not check the compliance of the renovation project with the requirements of people with disabilities, on the grounds that the construction works have not been completed and that there was no construction completion certificate registered with the "Infostats". The Seimas Ombudsperson submitted a recommendation to the Ministry of Social Security and Labour, asking it to clarify these circumstances and to address the issues of improvement of legal acts and activities of the responsible institutions.

The investigation found that the renovation project of the multi-apartment building was not coordinated with the Municipality. Having learnt about the problems of the disabled person in the renovation of the building and having taken into account the suggestions of the Seimas Ombudsperson, the Municipality informed the applicant about the steps that should be taken in order to make the building accessible to people with disabilities and undertook to continue to provide the necessary information and assistance as needed. The problem identified by the applicant is currently being addressed (the technical project for the renovation of the building has been revised, providing for the replacement of windows and doors, insulation of the apartment, etc.). The investigation of the complaint was terminated following a recommendation to the Municipality to continue monitoring the renovation of the building and the activities of the Association.

The monitoring of the implementation of the recommendations made by the Seimas Ombudsperson continues. Following the liquidation of the Housing Energy Saving Agency by the decision of the Ministry of Environment, the supervision of the implementation of multi-apartment building renovation projects was entrusted to the Environmental Project Management Agency, improving the process of preparation of construction (including renovation of multi-apartment buildings) projects and assessment of the compliance with the requirements of persons with disabilities.

◆ **Problems in the areas of provision of social care and health care**

The rapid ageing of the population is becoming a major challenge for the country in terms of the health and quality of life of older people. The need for nursing and/or social care services is increasing due to reduced self-care capacities and health impairments. When people are unable to lead a full-fledged life due to poor health or difficulties in social integration, they need integrated (nursing and social) services more often to improve the quality of their own life and life of their relatives.

In accordance with clause 12 of Article 6(1) of the Law on Local Self-Government, one of the autonomous functions of municipalities is the planning and provision of social services. Municipalities

are responsible for ensuring the provision of social services to inhabitants of its territory by planning and organising social services, monitoring the quality of general social services and social care.

Taking into account the complaints received regarding possibly inappropriate activities (omission) of the Alytus District Municipality Administration (hereinafter – the Municipality) in failing to ensure the provision of social services, the information provided by the Ministry of Social Security and Labour (hereinafter – SSLM), and the Municipality's explanations, the Seimas Ombudsperson initiated an investigation on her own initiative in order to find out whether the Municipality's administration had properly performed the functions of social services provision assigned to it, in relation to the provision of long-term social care and/or other alternative social services and/or support measures to inhabitants of its territory, whether the principles of *adequacy, efficiency, comprehensiveness* and other principles enshrined in the Law on Social Services were not violated, and whether the current legal regulation setting out the procedure for the provision of long-term social care is clear and precise.

This investigation found that the Municipality asked to submit redundant documents in violation of the provisions of the legislation governing the organisation and provision of social services. However, after informing the SSLM about the violation of legal acts and drawing attention to the new description and methodology of the procedure for determining the need for social services for a person (family) and for allocating social services approved by Order No A1-56 of the Minister of Social Security and Labour of 22 January 2021, the Municipality Administration has taken measures to change the situation, recommending that social workers of elderships do not require any documents (e.g. regarding the identification of special needs) that have not been provided for in legislation, but rather determine the need from the available documents and in communication with the people. By its Decision No K-98 of 10 June 2021, the Municipal Council approved the Description of the Procedure for Determining the Need of a Person (Family) for Social Services and Assigning them in Alytus District Municipality. Thus, the issues which were the subject of the investigation started on own initiative were resolved during the investigation, and the investigation was terminated. However, the Seimas Ombudsperson recommended that the Minister of Social Security and Labour takes measures to ensure that the SSLM, which develops the policy of social services, organises, coordinates and controls its implementation, as well as the Social Services Supervision Department, which assesses, supervises and controls the quality of social services and participates in the implementation of the state social services policy, acting in accordance with the principles of good administration and cooperation, regularly provide consultations to the municipalities on issues related to the provision of social services, provide information on amendments to legislation, and introduce them to good practice.

Self-initiated investigation into the violation of the rights of people with hearing impairment in healthcare institutions.

Having assessed the circumstances laid down in the article published on 10 February 2021 on the internet portal www.lrytas.lt "Situation of people with hearing impairment in hospitals remains disastrous: a very serious problem has been disclosed" (telling that "a hearing-impaired person admitted to a medical institution died alone in hospital because the hospital failed to provide

sign language interpretation services”), and taking into account the fact that, even in a state of emergency, human rights must be top priority in a democratic country governed by the rule of law, and any restrictions of human rights, even in an emergency situation, should be done imperatively in accordance with the principle of the rule of law, and seeking to promote respect for human rights and freedoms and to protect the right of the individual to good public administration, by her decision of 18 February 2021, the Seimas Ombudsperson initiated an investigation on her own initiative.

In the course of the investigation, the Ministry of Health (hereinafter – HM) instructed the State Health Care Accreditation Agency (hereinafter – the Agency) to carry out a thorough investigation into the provision of personal health care services to a patient with hearing impairment, but the Service was not in a position to carry out an investigation into the possible violation of the individual's personal rights without obtaining the information as to the specific health care facility where the events described in the article took place.

However, in order to ensure effective implementation of the provisions of the Convention on the Rights of Persons with Disabilities in the field of health, HM officials reformed the Disability Health Care Policy Group, including in it a representative of the Lithuanian Deaf Association, i.e. established the conditions for the provision of general and specialized internal medicine and inpatient surgical services to patients with hearing impairments (the procedure for ensuring the availability of Lithuanian sign language translation services).

The Seimas Ombudsperson acknowledged that further improving the legal regulation in the field would be expedient, therefore she recommended to the Minister of Health to take decisions regarding the solution of problems relating to personal data protection, mandatory health statistics accounting documents, to ensure the monitoring of legal acts governing the procedure of provision of information to patients with hearing impairment, and inspections of the compliance therewith.

The HM informed the Seimas Ombudsman that after the implementation of the proposals of the working group brought together by the Minister, the implementation of which is scheduled to end on 31 March 2023, a possibility will be created to engage in monitoring of the quality of services for people with disabilities who need an assistant during their visit. After institutions are obliged to fill in the data on the assistants who participated in the provision of health care services, the state authorities inspecting the quality of health care services under their competence will have the opportunity to examine in detail the quality of service without violating personal data protection requirements, using depersonalised data on the healthcare services provided in participation of an assistant.

The Seimas Ombudsperson also issued a recommendation to the Minister of Social Security and Labour of the Republic of Lithuania - to take measures in accordance with its competence to prepare a description of the procedure for the provision of sign language translation services. The description was approved by Order No. V-121 of the Minister of 29 December 2021.

ACTIVITIES OF THE SEIMAS OMBUDSPERSONS PERFORMING THE FUNCTIONS OF THE NATIONAL HUMAN RIGHTS INSTITUTION

In the performance of its functions as a national human rights institution, in 2021, the Seimas Ombudsmen's Office (or the Office) paid close attention to the protection of fundamental human rights of foreigners in the context of the migration crisis, delving into the proposed amendments to the Law on the Legal Status of Aliens of the Republic of Lithuania and within its competence providing comments and recommendations on the improvement of the draft laws submitted for coordination, by monitoring the situation of human rights and freedoms in places of temporary accommodation of foreigners, and by bringing to the attention of the competent authorities and the public the gaps in guaranteeing human rights and freedoms of foreigners.

The Seimas Ombudsmen's Office prepared and presented alternative reports on the implementation of Lithuania's international human rights obligations to international organisations (the United Nations Human Rights Council, the United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), and within its competence assessed and commented on the proposed amendments to legislation, holding remote trainings for employees of social care institutions and correctional institutions on the implementation of human rights standards in dealing with people living in these institutions, and contributed to the organisation of the National Human Rights Forum to mark the International Human Rights Day for the fourth consecutive year.

In the reporting year, the Seimas Ombudsmen's Office:

Engaged in human rights monitoring in Lithuania and prepared reports on the human rights situation in the country (clause 1 of Article 19²(2) of the Law):

- 📄 During the meeting with the Speaker of the Seimas held on 20 January 2021, employees of the Seimas Ombudsmen's Office discussed the fundamental human rights problems in the country and the latest investigations of the Office concerning fundamental human rights problems;
- 📄 By its letter of 20 January 2021, the Seimas Ombudsmen's Office provided the Speaker of the Seimas, the Committee on Human Rights of the Seimas, the Prime Minister, and the President of the Republic of Lithuania with information on the situation of human rights and freedoms in Lithuania.
- 📄 On 31 May 2021, employees of the Seimas Ombudsmen's Office met with Massimiliano Bagagli, a representative of the United Nations Subcommittee on Prevention of Torture,



to discuss relevant issues related to the guarantee of human rights and the prevention of torture in places of detention in Lithuania.

- On 9 June 2021, employees of the Seimas Ombudsmen's Office participated in a meeting held by the Speaker of the Seimas with the Equal Opportunities Ombudsperson Birutė Sabatauskaitė and the Ombudsperson for Child's Rights Edita Žiobienė to discuss the alternative reports submitted by the human rights institutions during the Universal Periodic Review (UPR) of the United Nations Human Rights Council, and the problems relating to human rights highlighted in those reports.

- On 9 August 2021, employees of the Seimas Ombudsmen's Office met with Henrik Nordentoft, UNHCR Representative for the Nordic and Baltic Countries. The meeting discussed the situation of foreigners at Lithuania's borders and issues related to ensuring their rights.



- By its letter of 7 September 2021, the Seimas Ombudsmen's Office informed the Seimas Committee on Human Rights about the assessment of the situation of foreigners, who had crossed the state border of the Republic of Lithuania, in places of their temporary accommodation, as well as safeguarding of their human rights and freedoms.

- On 1 October 2021, employees of the Seimas Ombudsmen's Office met with Michael O'Flaherty, Head of the European Union Agency for Fundamental Rights. During the meeting, the guests were presented with the main problematic aspects of human rights monitoring at the Lithuanian-Belarusian border in relation to the rights of migrants in places of detention, and discussed the human rights situation of asylum seekers and other foreigners illegally crossing the EU's external borders.



- On 26 October 2021, employees of the Seimas Ombudsmen's Office met with members of the European Parliament, who came to Lithuania to discuss the human rights situation

on the Lithuanian-Belarusian border. The members of the European Parliament were presented with the report of the Seimas Ombudsmen's Office "On ensuring human rights and freedoms in places of temporary accommodation of foreigners having crossed the border of the Republic of Lithuania with the Republic of Belarus". The meeting also discussed the problems identified during the independent human rights monitoring carried out at the border, focusing on the importance of the European Union's role in dealing with increased irregular migration issues.



- On 28 October 2021, employees of the Seimas Ombudsmen's Office met with Ariel Zielinski, Head of Mission of the international organisation "Doctors without Borders in Lithuania", to discuss issues relating to human rights and freedoms in the context of irregular migration. The guest was presented with the report of the Seimas Ombudsmen's Office "On ensuring human rights and freedoms in places of temporary accommodation of foreigners having crossed the border of the Republic of Lithuania with the Republic of Belarus" and discussed the current problems relating to the provision of personal health care and psychological services to foreigners at the border between Belarus and Lithuania and in places of deprivation of liberty of foreigners. On 16 November 2021, the Seimas Ombudsmen's Office informed the Seimas Committee on Human Rights, the Government of the Republic of Lithuania and the State Border Guard Service under the Ministry of the Interior of the circumstances established during the inspection of the Foreigners' Registration Centre of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania carried out for the prevention of torture, and made suggestions regarding the improvement of the situation of human rights of foreigners in this Centre.



- On 10 December 2021, the Head of the Seimas Ombudsmen's Office Erika Leonaitė and employees of the Seimas Ombudsmen's Office met with representatives of the European Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. During the meeting, they discussed problems related to the implementation of human rights of convicted persons in Lithuania, the human rights situation during the

COVID-19 pandemic, the provisions of the Law on Mental Health Care of the Republic of Lithuania, which entered into force in 2019, problems in psychiatric hospitals, and problems relating to guaranteeing the rights of foreigners during the migration crisis.

- 📄 On 17 December 2021, the Head of the Seimas Ombudsmen's Office Erika Leonaitė and employees of the Human Rights Division of the Seimas Ombudsmen's Office met with representatives of human rights organisations with whom, in preparation for the Universal Periodic Review of Lithuania's progress in the field of human rights to be conducted by the UN Human Rights Council, they discussed the human rights problems



that will be emphasised by the human rights organisations during consideration of the progress report of Lithuania. The meeting mainly focused on issues related to Roma integration, hate speech, problems of the Jewish community, violence against women, reproductive health, incapacitation, exploitation of migrants for forced labour, sexuality education, non-discrimination programme, etc.

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

- 📄 On 29 April and 7 May 2021, employees of the Human Rights Division of the Seimas Ombudsmen's Office held remote training "Human Rights-Based Approach in Social Care Institutions: Opportunities for Improvement", which presented international standards for the protection of human rights in social care institutions, recommendations for ensuring dignified living conditions in these institutions and, in cooperation with Valija Šap, President of the Lithuanian Psychologists Association (LPA) and a psychologist at the Lithuanian University of Health Sciences – "The challenges and opportunities for the provision of psychological services in social care institutions". The training was attended by 1 533 employees of social care institutions. In addition, a closed consultation group Facebook provided advice to employees working in adult and children's social care institutions on ways to ensure human rights and freedoms during the pandemic.
- 📄 On 6 May 2021, employees of the Human Rights Division of the Seimas Ombudsmen's Office held a distance training course "Human Rights Based Approach to Detainees in Correctional Institutions: Opportunities for Improvement" aimed at staff of correctional institutions. The training included presentations on international standards for ensuring human rights and freedoms in correctional institutions, the challenges of ensuring conditions of detention that respect human dignity, and the work of the Seimas

Ombudspersons in the field of human rights protection. The training was attended by 97 employees of the Prison Department and correctional institutions.

- ☐ In April – December 2021, representatives of the Seimas Ombudsmen's Office discussed various human rights-related issues with representatives of state institutions and bodies, as well as with human rights experts, on the radio station *Žinių radijas*, in the series of broadcasts "Svarbus kiekvienas" (English: Everyone is Important):
 - ☐ in the broadcast of 22 April 2021, representatives discussed the availability of psychological services in social care institutions with Valija Šap, President of the Lithuanian Psychologists Association (LPA) ;
 - ☐ in the broadcast of 17 May 2021, representatives discussed discrimination against homosexuals with the Equal Opportunities Ombudsperson Birutė Sabatauskaitė and the head of the Lithuanian Gay League Vladimir Simonko;
 - ☐ in the broadcast of 24 September 2021, representatives discussed challenges of the migration crisis in ensuring human rights of foreigners with Goda Jurevičiūtė, Project Manager at the Human Rights Monitoring Institute;
 - ☐ in the broadcast of 17 October 2021, representatives discussed the freedom of media in the context of the pandemic and the migration crisis with the professor and lawyer Liudvika Meškauskaitė;
 - ☐ in the broadcast of 22 December 2021, representatives discussed whether Lithuania did not violate human rights by defending itself against hybrid threats with Prof. Dr. Dovilė Jakniūnaitė of the Institute of International Relations and Political Science of Vilnius University.
- ☐ On 8 June 2021, employees of the Human Rights Division of the Seimas Ombudsmen's Office took part in an inter-institutional discussion on the ratification of the Optional Declaration under the International Convention on the Elimination of All Forms of Racial Discrimination and Protocol 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, and presented the position of the Seimas Ombudsmen's Office.
- ☐ On 25 October 2021, the Seimas Ombudsperson Augustinas Normantas took part in the discussion "The Constitution of the Republic of Lithuania and Human Rights" held at the Presidential Palace on the occasion of the Constitution Day, where he gave a presentation on the topic "Protection of Constitutional Values: the Role of Ombudsman".
- ☐ For four consecutive years, the Seimas Ombudsmen's Office has contributed to the organisation of the National Human Rights Forum to commemorate International Human Rights Day. It also contributed to the organisation of the event of 10 December 2021, which was dedicated to the tenth anniversary of the signing of the Council of Europe

Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). The event took place at the Martynas Mažvydas National Library and was held remotely. Representatives of the European Court of Human Rights, the European Committee of Social Rights, other international organisations, members of the Seimas (Parliament), foreign ambassadors, ombudsmen, academia, representatives of NGOs, human rights activists, and business representatives attended the event. During the National Human Rights Forum, in her welcome remarks, the Head of the Seimas Ombudsmen's Office Erika Leonaitė noted the need to ratify the Istanbul Convention and participated in the discussion "Ratification of the Istanbul Convention - Mission (Im) Possible?".

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

- 📄 the Seimas Ombudsmen's Office has been regularly providing international organisations operating in the field of human rights and freedoms (the European Network of National Human Rights Institutions, the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Association for the Prevention of Torture) with information on the restrictions on rights and freedoms of individuals in the country, the prevention of violations of human rights and freedoms, developments in national legislation and compliance with international obligations.
- 📄 On 12 January 2021, the Seimas Ombudsmen's Office conducted an assessment and submitted written observations on the involuntary hospitalisation of persons with psychosocial disabilities in Lithuania to the International Ombudsman Institute.
- 📄 On 24 February 2021, representatives of the Seimas Ombudsmen's Office took part in a discussion with the Minister of Justice, representatives of the Prison Department under the Ministry of Justice of the Republic of Lithuania, and heads of correctional institutions, discussing the situation of human rights of convicted persons in correctional institutions.
- 📄 On 1 July 2021, the Seimas Ombudsmen's Office submitted an alternative report to the United Nations Human Rights Council on the implementation of the recommendations made to Lithuania during the Universal Periodic Review and the assessment of the human rights situation in Lithuania.
- 📄 On 19 October 2021, the Seimas Ombudsmen's Office has submitted a report to the European Court of Human Rights, the Council of Europe Commissioner for Human Rights Dunja Mijatovic, the United Nations High Commissioner for Refugees Filippo Grandi, and

the Director of the European Union Agency for Fundamental Rights, Michael O'Flaherty, and the Director-General of the International Organisation for Migration Antonio Vitorino a report of the Seimas Ombudsmen's Office "On ensuring human rights and freedoms in places of temporary accommodation of foreigners having crossed the border of the Republic of Lithuania with the Republic of Belarus" .

- On 2 September 2021, representatives of the Seimas Ombudsmen's Office participated in a consultation meeting with the Minister of Justice, during which representatives of the Ministry of Justice presented a draft report of Lithuania for the third cycle of the Universal Periodic Review conducted by the UN Human Rights Council drafted by the Ministry of Justice and consulted on its improvement.
- On 11 October 2021, the Seimas Ombudsmen's Office submitted a shadow report to the United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on Lithuania's fulfilment of its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- On 17-18 November 2021, Vytautas Valentinavičius, Head of the Human Rights Division of the Seimas Ombudsmen's Office, participated in the 72nd session of the United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, where he answered the questions raised during the session regarding Lithuania's report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- On 7–8 December 2021, Vytautas Valentinavičius, Head of the Human Rights Division of the Seimas Ombudsmen's Office, participated in a pre-session of national human rights institutions, civil society and permanent missions to discuss Lithuania's human rights situation in preparation for the consideration of Lithuania's third progress report at the Working Group Session of the 40th Universal Periodic Review (UPR) of the United Nations Human Rights Council (UNHRC), to be held on 26 January 2022.



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

- On 28 January 2021, the Seimas Ombudsmen's Office referred to the Government in writing urging it to ensure the right to rest for parents/guardians/other caregivers of children with disabilities and adults with disabilities who have been identified as having a

need for permanent care or permanent care (assistance), to adopt the necessary legislation (amendments to such legislation), and to establish and ensure a package of necessary social services. The Ministry of Social Security and Labour informed that, following the monitoring of the temporary respite service, the plan is to work together with the persons and organisations concerned to improve the regulation of the temporary respite service in order to better meet individual needs of persons.

- On 25 May 2005, the Seimas Ombudsmen's Office referred to the Seimas Committee on Human Rights, the Seimas Committee on Social Affairs and Labour, the Seimas Committee on Health, the Ministry of Health, the Ministry of Social Security and Labour, the Ministry of Justice and the Ministry of Foreign Affairs, calling on them to reject the draft Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Convention on Human Rights and Biomedicine) regarding protection of the rights and dignity of persons with mental disorders in the sphere of compulsory hospitalization and involuntary treatment.
- On 22 June 2021, following the visit of the Foreigners' Registration Centre of the State Border Guard Service under the Ministry of the Interior on 18 June 2021, the Seimas Ombudsmen's Office wrote to the Government, the Ministry of the Interior, the Committee on National Security and Defence of the Seimas and the Committee on Human Rights of the Seimas, drawing their attention to the problems identified during the visit in the field of ensuring human rights of foreigners in terms of lack of translation and legal services.
- On 23 September 2021, the Seimas Ombudsmen's Office addressed the Prime Minister, the Speaker of the Seimas, the Seimas Committee on National Security and Defence, the Seimas Committee on Human Rights, the Seimas Committee on Social Affairs and Labour, the Seimas Committee on Foreign Affairs, the Ministry of Social Security and Labour, and the Ministry of the Interior, the Ministry of Foreign Affairs, the National LGBT Rights Organisation, the Office of the United Nations High Commissioner for Refugees and the Red Cross Society of the Republic of Lithuania regarding the guarantee of human rights and freedoms of foreigners that are members of LGBTQ+ community in places of detention of foreigners.
- On 28 October 2021, the Seimas Ombudsmen's Office wrote to the Government and the Seimas Committee on Human Rights to draw attention to the problems related to the implementation of the institute of incapacity in Lithuania in accordance with the provisions of the United Nations Convention on the Rights of Persons with Disabilities.

Sought to bring national legislation in line with international obligations of the Republic of Lithuania in the area of human rights (clause 5 of Article 19²(2) of the Law)

- The Seimas Ombudsmen's Office assessed, within its competence, the Draft Law No XIII-P-5306 Amending Articles 18 and 22 of the Law No VIII-950 on the Seimas Ombudsmen

of the Republic of Lithuania, and by its letter of 5 January 2021, provided to the Seimas Committee on State Administration and Local Authorities and to the Seimas Committee on Human Rights, within its competence, an opinion on the legal regulation proposed by this draft. The comments highlighted the threats to the independence of the Seimas Ombudsmen's Office posed by the proposed regulation.

- ☐ In its letter of 16 March 2021, the Seimas Ombudsmen's Office presented to the Seimas Committee on National Security and Defence, the Speaker of the Seimas, the Board of the Seimas, the Prime Minister, and the H.E. the President of the Republic of Lithuania its key insights and comments on the concept of the Law on Intelligence of the Republic of Lithuania, which had been submitted for coordination.
- ☐ The Seimas Ombudsmen's Office conducted, within its competences, an assessment of the draft Law No XIVP-338 Amending Articles 18, 26 and 40 of the Law No I-1553 on the Prevention and Control of Communicable Diseases in Humans, and submitted its opinion on the proposed legal regulation regarding the ensuring of human rights and freedoms to the Office of the President, the Government, the Seimas Committee on Health Affairs, the Seimas Committee on Budget and Finance, the Seimas Committee on Human Rights and the Ministry of Health in its letter of 17 March 2021.
- ☐ The Seimas Ombudsmen's Office assessed, within its competence, the Draft Law 20-15062 (2) Amending the Law on the Protection against Domestic Violence of the Republic of Lithuania No. XI-1425, and on 1 June 2021, expressed its opinion and proposals on the improvement of the legal regulation proposed by this draft legal act to the Seimas Committee on Social Affairs and Labour, the Seimas Committee on Law and Order, the Seimas Committee on Human Rights, the Government and the Ministry of Social Protection and Labour.
- ☐ The Seimas Ombudsmen's Office conducted, within its competence, a legal assessment of the draft Law No. XIVP-719 Amending Articles 5, 71, 76, 77, 79, 113, 131, 136, 138, 139 and 140 of the Law on the Legal Status of Foreigners No. IX-2206 and Supplementing it with Chapter IX1, and by its letter of 12 July 2021, submitted its opinion on the improvement of the proposed legal regulation in the context of safeguarding human rights and freedoms to the Speaker of the Seimas, H.E. the President of the Republic of Lithuania, the Board of the Seimas, the Prime Minister, the Seimas Committee on National Security and Defence, the Seimas Committee on Human Rights and the Ministry of the Interior.
- ☐

The Seimas Ombudsmen's Office conducted, within its competence, an assessment of the draft Law No. 21-27768 Amending Articles 60, 129, 135, 138, 169, 170, 1701 and 1702 of the Criminal Code of the Republic of Lithuania from the perspective of guaranteeing human rights and freedoms, and by its letter of 27 July 2021, provided the Ministry of Justice, the Seimas Committee on Human Rights, the Seimas Committee on Legal Affairs, and the Government of the Republic of Lithuania with its conclusions on the draft legal act.

- ☐ The Seimas Ombudsmen's Office conducted, within its competence, an assessment of the draft Law No. XIVP-673(2) on the Intelligence Ombudsman of the Republic of Lithuania, the draft Law Nr. XIVP-674 Amending Articles 161, 23 of the Law on the Intelligence Ombudsman of the Republic of Lithuania No. VIII-1861 and Supplementing it with Article 221, and the draft Law No XIVP-677 Amending Articles 11 and 12 of the Law on the Seimas Ombudsmen of the Republic of Lithuania No VIII-950, and by its letter of 16 September 2021, provided its opinion on the improvement of the legal regulation proposed by these drafts in terms of ensuring human rights and freedoms to the Speaker of the Seimas, the Board of the Seimas, the Seimas Committee on National Security and Defence, the Seimas Committee on Human Rights, the Prime Minister, and H.E. the President of the Republic of Lithuania.
- ☐ The Seimas Ombudsmen's Office conducted, within its competence, an assessment of the draft Law No. 21-29207(2) Amending Articles 2, 3, 5, 26, 32, 40, 50, 53, 62, 67, 69, 71, 76, 77, 79, 981, 113, 125, 126, 1301, 136, 138, 139, 140 of the Law No IX-2206 on the Legal Status of Aliens of the Republic of Lithuania, Repealing Chapter IX1 and Supplementing with Chapter X2, and by its letter of 21 October 2021 addressed to the Speaker of the Seimas, the Seimas Committee on National Security and Defence, the Seimas Committee on Human Rights and the Ministry of Interior provided its comments on the incompatibility of the planned legal framework with international human rights standards and presented proposals for its improvement.
- ☐ The Seimas Ombudsmen's Office reassessed, within its competence, the draft Law No XIIIIP-5306 amending Articles 18 and 22 of the Law on the Seimas Ombudsmen of the Republic of Lithuania No VIII-950, and in its letter of 16 November 2021, provided to the Seimas Committee on State Governance and Local Self-Government, the Seimas Committee on Human Rights and the Seimas Committee on Legal Affairs under its competence an opinion on the legal regulation proposed by this draft.

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

- ☐ Taking into account the information that has become known during the Seimas Ombudspersons' work practice that has appeared in the public space regarding the problems of provision of social services to children and youngsters (18 to 29-year-olds) with disabilities and their families, and in order to assess the accessibility of these services (their variety and choice), by his Decision No. NŽTI-2021/1-1 of 24 March 2021, the Seimas Ombudsperson Augustinas Normantas initiated an investigation into the fundamental human rights problems arising in the area of provision of social services to children and young people with disabilities and their families.
- ☐ Taking into account the horizontal principle of equal opportunities for all set out in the National Progress Plan of the Republic of Lithuania for 2021-2030, as well as the information

that has become known in the course of the Seimas Ombudspersons' work practice and has appeared in the public space regarding the possible insufficient provision of technical aids for persons with disabilities, and with a view to assessing the availability of technical aids for persons with disabilities, by his Decision No. NŽTI-2021/1-2 of 21 April 2021, the Seimas Ombudsperson Augustinas Normantas initiated an inquiry into the substantial human rights problems in the field of assessing the availability of technical aids for persons with disabilities.

MONITORING HUMAN RIGHTS

Pursuant to clause 1 of Article 19²(2) of the Law on the Seimas Ombudsmen, the Seimas Ombudspersons regularly monitor the situation of human rights and freedoms in the country. Monitoring and analysing the situation in the field of protection of human rights and freedoms (amendments to legislation, research of international and national institutions / organizations, information available in the public space), taking into account research conducted by Seimas Ombudspersons, insights, opinions and recommendations provided to state and municipal institutions on various issues of ensuring human rights and freedoms, the Seimas Ombudsmen's Office conducted an assessment of the human rights situation in the country in 2021.

◆ Ensuring gender equality

The Law on Equal Opportunities for Women and Men of the Republic of Lithuania was adopted on 1 December 1998. The purpose of the Law is to ensure the implementation of equal rights for women and men enshrined in the Constitution of the Republic of Lithuania. By its Resolution No. 112 of 4 February 2015, the Government of the Republic of Lithuania approved the National Programme on Equal Opportunities for Women and Men 2015–2021, the strategic goal of which is to promote equality between women and men in a consistent, comprehensive and systematic manner in all areas, and to eliminate inequalities between women and men. This programme was one of the key strategic documents of the State, which provided for ways to address gender inequality in the country, but the Government decided not to continue it. Gender equality issues will be addressed in a horizontal way, with ministries proposing to integrate gender equality in all areas of public policy. It should be noted that the decision to integrate gender equality issues horizontally into the public policies overseen by ministries is not a problem in itself; on the contrary, it is an important tool for achieving better results in this area. However, a significant shortcoming of this decision is that the strategy approved at the government level should not be replaced by documents in the area of ministerial governance, but should be implemented by these documents. In the absence of a strategic document adopted at government level, there is a risk of gaps in the formulation and coordination of equal opportunities policies for women and men.

Currently, the overall average gender equality index in the European Union (EU) stands at 68, and Lithuania's score was 58.4 in 2021. While Lithuania is still over 9.6 points behind the overall EU average, it has risen by 2.1 points since the last assessment, which was conducted in 2019-2020. Also, Lithuania moved up from 22nd to 20th place in the overall ranking of the Gender Equality Index in 2021, being one of the three countries that have made the most progress in this area. The areas where Lithuania lags behind the EU average the most include men's and women's political, economic and social power (15.7 points behind), time spent on care and social activities (14.3 points behind) and participation in science and education activities (6.6 points behind). In the area of participation of men and women in the labour market, the best overall score was achieved in 2021 (74.2 points) and the worst score was in 2013 and 2015 (72.6 points). It should be noted that, while the participation of women and men in the labour market has demonstrated positive trends since 2013, rising by more than 5.1 points, gender segregation in the labour market has further deepened. During the period from 2013 to 2019, the indicator fell by 0.9 points and remained stable⁹. In 2021, there were fewer women in economic decision-making bodies in Lithuania (19%) than in the EU (30%). Women in the Board of the Bank of Lithuania accounted for the same share as in the EU - 25%. Women in ministerial positions accounted for 43% in Lithuania and 34% - in the EU¹⁰.

The assessment of the economic power of both men and women in Lithuania revealed that the difference between women's and men's monthly wages has been decreasing every year, but the gap is still significant. According to statistical data, the average monthly (gross) wage of men was 11.3% higher than that of women in 2020, 11.1% higher in 2019, 13.4% higher in 2018 and 14.9% higher in 2017¹¹. Gender inequalities are particularly obvious when comparing men's and women's state social insurance old-age pensions, where the gap at the end of the year remains excessive and with little change, e.g. men's social insurance pension was 16.1% higher than women's in 2020, 16.7% higher – in 2019, 17.3% – in 2018 and 17.1% – in 2017¹².

It is also worth noting the results of a sociological survey of the country's population on the perception and assessment of human rights, conducted in March 2021 by UAB Spinter Tyrimai at the order of the Human Rights Monitoring Institute. The survey revealed that 51% of respondents believe that men and women in Lithuania have equal rights, and 54% believe that women in Lithuania have equal opportunities to advance in their careers with men. Notably, men were more likely to have such an opinion. One in four respondents (25%) stated that men are better political leaders than women,

⁹ Ministry of Social Security and Labour (2021). Lithuanian Gender Equality Index. Analysis of the situation in Lithuania, online access: <https://socmin.lrv.lt/uploads/socmin/documents/files/Projektu-konkursai/MVLG%20konkursai/LT%20Lyciu%20lygybes%20indekso%20analize%202021.pdf>

¹⁰ European Institute for Gender Equality. Gender Equality Index (2021), online access: <https://eige.europa.eu/gender-equality-index/2021/domain/power/LT>

¹¹ Official Statistics Portal (2021). Monthly pay gap between women and men, online access: <https://osp.stat.gov.lt/statistiniu-rodikliu-analize?hash=028b8a24-e709-46bc-b713-0a9ab6dc3b7d#/>

¹² Official Statistics Portal (2021). Year-end gap between women's and men's state social insurance old-age pensions, online access: <https://osp.stat.gov.lt/statistiniu-rodikliu-analize?hash=afccd7c4-aebe-44ac-8cad-ca32a4f28a74#/>.

but as many as 82% agreed that men and women should share household chores equally. 70% of respondents agreed or rather agreed that women have the right to choose whether they want to terminate a pregnancy.

According to the data of the Office of the Equal Opportunities Ombudsperson of January 2021¹³, women are still under-represented in the Seimas (Parliament), with women accounting for 27% of members of the Seimas and men constituting 73%. In all other positions related to public administration, women were also less represented than men: 43% of the members of the Government were women, 57% were men; only 8% of the heads of municipalities were women and 92% were men. This distribution is due to stereotypical thinking and patriarchal attitudes. Although equal opportunities for men and women are enshrined in law, and gender equality issues have been receiving increasing attention from the authorities, the implementation of gender equality policy in Lithuania is still not delivering the desired result.

The results of the sociological survey "Differences in the position of women and men in Lithuania" conducted by order of the Ministry of Social Security and Labour in 2021 revealed that respondents are mostly not inclined to support gender stereotypes, and less than a third of the respondents support them: 28% of respondents agree with the fact that a woman should always strive to be attractive, 27% agree with the statement that women should also look good at home, 23% agree with the fact that men are better drivers than women, and 21% agree with the fact that a man should be the main breadwinner of a family. Compared to 2019, in 2021, respondents were less likely to agree with the statements that men are better drivers (down from 30% to 23%), that a woman should also look good at home (down from 38% to 27%), that a man should be the main breadwinner (down from 31% to 21%), and that a woman should always aim to be sexy and attractive (down from 40% to 28%).

Domestic violence

Year 2021 marked ten-year anniversary of the adoption of the Law on Protection against Domestic Violence in Lithuania, which aims to protect people from domestic violence, to respond quickly to threats, to take preventive measures, to apply protective measures and to provide appropriate assistance.

According to the data of a sociological survey carried out in 2021, respondents consider psychological domestic violence (75%) and physical domestic violence (75%) to be the most pressing social problems in Lithuania. Sexual harassment (64%) and sexual violence (59%) were also named as relevant problems. Compared to the data of 2019, there was a decrease (from 81% to 75%) in the number of respondents having named domestic psychological violence as a relevant problem and an increase in the number of respondents who had a neutral opinion about it (from 14% to 17%). There were more respondents stating that domestic physical violence against women was a non-

¹³ Office of the Equal Opportunities Ombudsman (2021). Representation of women and men in decision-making, online access: <https://lygybe.lt/lt/lyciu-lygybes-statistika>

relevant problem (from 7% to 10%) in 2021. Similarly, compared to 2019, there was a decrease in the percentage of respondents having a neutral opinion about gender discrimination at work (from 37% to 33%) and an increase in the percentage of those who say this problem is irrelevant (from 15% to 18%).

It should be noted that according to official statistics, 5 801 pre-trial investigations were initiated for criminal offences related to domestic violence in 2021, which is 18.7% less than in 2020. The number of crimes of sexual violence increased by 63.2% in 2021, but the number of serious injuries to health decreased by 42.3%, and there was a 25% decrease in the number of homicides, with 28 domestic homicides recorded in 2020 and 21 in 2021. Domestic violence crimes accounted for 15.1% of all recorded crimes (16.8% in 2020). The majority (5 400 or 93.8%) of domestic violence crimes registered in 2021 were minor injuries to health, accounting for 62.7% of the total number of minor injuries registered in the country (64.6% in 2020). The majority (78.9%) of adult victims were women, 80.5% of whom were victims of an intimate partner. 12.5% of victims of domestic violence crimes were children under the age of 18, 86.7% of whom were victims of parents or adoptive parents. The majority (85.9%) of child victims suffered physical violence¹⁴. Victims with disabilities account for only 2.7% of all victims of domestic violence, while people with disabilities represent around 9% of the population. Such a low percentage of domestic violence cases compared to the statistics on domestic violence in the population as a whole may be due to the exceptionally high level of latency of domestic violence¹⁵. Although the number of domestic violence crimes recorded in 2021 was lower compared to 2020, according to statistics, the number of reports of domestic violence in the police in 2021 is still high: 55 815 reports of domestic violence were registered with police institutions in 2021, 58 553 – in 2020 and 53 075 – in 2019¹⁶.

In 2021, there was a very active discussion both in the Seimas and in society about the possibility of ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention). This Convention obliges the ratifying States to prevent violence against women and domestic violence, to protect victims, to ensure the criminal liability of perpetrators and to provide for an international monitoring mechanism to ensure compliance with their obligations¹⁷. Lithuania signed the Istanbul Convention on 7 June 2013 and the draft law “On the Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence” was registered in the Seimas of the Republic of Lithuania on 12 June 2018.

¹⁴ Official Statistics Portal (2021). Domestic violence, online access: <https://osp.stat.gov.lt/informaciniai-pranesimai?articleId=9634950>

¹⁵ Uscila, R. (2020). Domestic Violence: The Situation Assessment of Crimes Victims with Disabilities. *Pedagogika*, 138(2), 175–192 p., online access: <https://doi.org/10.15823/p.2020.138.10>

¹⁶ Official Statistics Portal (2021). Reports of domestic violence registered with the police, online access: <https://osp.stat.gov.lt/statistiniu-rodikliu-analize?indicator=S3R0077#/>

¹⁷ Council of Europe Convention on preventing and combating violence against women and domestic violence, Chapters I and IV.

It should be noted that the report “Regarding fundamental human rights problems in providing assistance to victims of domestic violence” of 31 December 2020 of the Seimas Ombudsmen’s Office acting as a national human rights institution draws attention to the fact that following the example of the Istanbul Convention, Lithuania has not yet established an adequate and effective mechanism for the prevention of violence against women, the protection of women who are victims of violence and organisation, supervision and control of assistance to them, adapted to the specific needs of this social group, and recommends that the Seimas should take steps to ratify the Istanbul Convention.

However, the idea of ratifying the Istanbul Convention has met with strong opposition for many years. Opponents of the Convention are particularly focused on the concept of “gender” used in the document. This concept is criticised for its alleged aim of introducing a concept of gender based on personal choice rather than biology, paving the way for the legal recognition of multiple sexes. Meanwhile, human rights experts point out that the term, which refers to the socially constructed roles, behaviours, activities and traits that a given society deems appropriate for women and men, is widely used both in European Union legislation and in the context of the United Nations, aiming to emphasise that violence against women stems from the persistence of stereotypes, inequalities and unequal gender roles in our society.

In view of the political disagreement on the content of the provisions of the Istanbul Convention and the fierce debates that have arisen in society on this issue, the consideration of the draft law “On the Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence” has not been included neither in the programme of the work of the Second (Spring) session of the Seimas of the Republic of Lithuania, nor in the Third (Autumn) session of the Seimas of the Republic of Lithuania.

On the other hand, in 2021, national measures were being developed to address the problem of domestic violence. The Ministry of Social Security and Labour initiated the drafting of the Law on the Protection of the Republic of Lithuania against Domestic Violence No XI-1425 back in 2020, which was driven by the aim to reduce domestic violence and violence against women at the national level, to better protect persons from domestic violence and violence against women and to strengthen the prevention of domestic violence and violence against women. The aim of the draft law was, inter alia, to establish the model of a protection order against violence and to define the roles of public authorities and municipalities in organising and providing assistance to victims of domestic violence.

In 2021, the draft law was refined several times, taking into account the comments and suggestions of interested institutions and organisations. The draft law Amending the Law No XI-1425 on Protection against Domestic Violence registered on 5 November 2021 proposed to establish that having received a report of possible domestic violence and having identified a risk of domestic violence, a police officer would impose a protection order for a period of not more than 72 hours; the Specialised Comprehensive Support Centre would carry out a re-assessment of the risk factors for domestic violence at least 48 hours before the expiry of the protection order, on the basis of which the police officer would decide whether there is a need to apply to the district court for extension of the

protection order. The court could extend the order for up to 12 calendar days, with a maximum of 15 calendar days in total. The draft also aimed to establish provisions on the accreditation of specialised comprehensive assistance centres, to create a public advisory body – the Office for the Prevention of Domestic Violence and the Protection against Domestic Violence under the Ministry of Social Security and Labour – to legalize the training of specialists in identification, prevention and assistance of domestic violence, to establish a mechanism for the assistance provided or organised by specialised comprehensive assistance centres, and to define the functions of such centres. The procedure and duration of the application of the protection order against violence proposed in the above-mentioned draft law was the subject of much debate at the end of 2021. Following additional suggestions for the improvement of the draft law on the amendment of the Law on Protection against Domestic Violence, the final text of the legal act was not approved and the Law on Protection against Domestic Violence was not recast in 2021.

It should be noted that in order to ensure that the law recognises that women are disproportionately affected by domestic violence and that specific measures are needed to address the problem, NGOs suggested that the draft should include a concept of “gender-based violence” and its definition, but this suggestion was disregarded. The aim of defining the concept of gender-based violence and establishing a mechanism for the protection and assistance of women and girls victims of various forms of violence (i.e. not only domestic violence) stems from the need to regulate this area in specific legislation implementing international standards.

The adoption of an amendment to the Criminal Code criminalising persecution was another important development of 2021. Despite the fact that most EU countries criminalise the act of persecuting, until 2021 Lithuania was one of the few EU countries where persecution was not criminalised. On 14 October 2021, the Seimas adopted Law No. XIV-576 amending the title of Chapter XX of the Criminal Code of the Republic of Lithuania and supplementing the Code with Article 148-1 “Unlawful Persecution of a Person” to the Criminal Code. This Article provides that whoever, against the clearly expressed will of a person and without lawful grounds, systematically persecutes a person, if this has forced the victim to change his place of residence, place of employment or educational institution, or otherwise adversely affected his social life or his emotional state, commits a criminal offence and is liable to community service or a fine, to a restriction of liberty or to arrest. The Criminal Code also provides that a person shall only be liable for persecution if there is a complaint by the victim, a statement by the victim's legal representative, a request by the public prosecutor, or if a pre-trial investigation has been initiated following the discovery of signs of domestic violence. Thus, these amendments to the Criminal Code link criminal liability to the need to establish (prove) specific negative consequences (effects) on the victim. If a person fails to prove that he has suffered an adverse effect as a result of his systematic persecution, he would not be considered a victim and his persecutor would escape criminal liability. Although the adopted provisions of the Criminal Code do not fully correspond to NGOs’ proposals, the criminalisation of persecution may nevertheless be a step towards ensuring the safety of those who suffer serious psychosocial harm as a result of domestic violence and , the majority of whom are women.

◆ Protecting rights of LGBT+ people

According to the data of LGBT+¹⁸ Rights Index “ILGA-Europe Rainbow Map” of 2021¹⁹, Lithuania remains in 34th place out of the 49 European countries when it comes to LGBT+ rights (it also was 34th in 2020 and 32nd in 2019). Like other countries, Lithuania has been assessed on criteria such as equality and non-discrimination, protection of same-sex families, combating hate crimes and hate speech, legal recognition of gender identity, freedom of assembly and expression, and the country's asylum policy. The overall score for the protection of LGBT+ rights in Lithuania is 23% (it was also 23% both in 2020 and 2019): freedom of assembly and expression received the highest score (83%), combating hate crimes and hate speech was awarded a mere 26%, equality and non-discrimination – 24%, legal recognition of gender identity – 20%, and asylum policy – 17%. The lowest score of 0% was awarded in the area of legal protection of same-sex couples in Lithuania²⁰.

According to the 2021 map and index developed by “TGEU”, an international network of organisations working to combat discrimination against transgender people and to support the rights of transgender people, which reflects the situation of transgender people in 49 countries in Europe and Central Asia, showing how many of the 30 indicators (such as non-discrimination, legal recognition of gender reassignment, etc.) are met by each country, Lithuania meets a mere 3 indicators out of 30 in terms of the situation of transgender people²¹. A score of 30 would mean compliance with all 30 indicators, showing that the situation of transgender people in the country is very positive.

Given that the situation of LGBT+ rights in the country has remained largely unchanged compared to the data of 2020, the same fundamental problems in ensuring LGBT+ rights in Lithuania remain relevant, including gaps in the legal regulation in this area, as neither the Law on Partnership, the Law on Recognition of a Person's Sexual Identity or other legislation in these areas has been adopted in 2021.

However, steps were taken in 2021 to regulate and legally protect the property and non-property legal relationship of cohabiting persons in a gender-neutral partnership. On 21 May 2021, draft laws to amend the Law on Partnership of the Republic of Lithuania and related legal acts were registered, initiated by a group of members of the Seimas. However, on 25 May 2021, the Seimas returned these draft laws to the initiators for improvement, and the law regulating the grounds and procedure for

¹⁸ LGBT+ – is an acronym for people of different sexual orientations and gender identities, including lesbian, gay, bisexual and transgender people. The plus (+) denotes a non-exhaustive range of identities, which can include asexual, intersex, etc.

¹⁹ ILGA-Europe (2021). LGBTI equality and human rights in Europe and Central Asia, Rainbow Europe 2021, online access: <https://www.ilga-europe.org/rainboweurope/2021>

²⁰ ILGA-Europe (2021). The European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association. Rainbow Map, Lithuania, online access: <https://www.rainbow-europe.org/#8644/0/0>.

²¹ TGEU. Trans Rights Index. Europe & Central Asia (2021), online access: <https://tgeu.org/wp-content/uploads/2021/05/tgeu-trans-rights-map-2021-index-en.pdf>.

the formation, validity and termination of a partnership, and the property and personal non-property rights between partners was not adopted in 2021.

The necessity to regulate legal relations of partnership is based on the conclusions of the study "Analysis of the opportunities of legalising gender-neutral partnership and qualitative research on the needs of LGBTQIA+ persons" conducted by the Lithuanian Centre for Social Sciences in cooperation with the Lithuanian Centre for Human Rights in 2021. The study found that LGBT+ couples face inequalities in society compared to heterosexual couples in terms of inheritance rights, representation in medical institutions, and in everyday situations, such as picking up a child from kindergarten and so on. The head of the study "Analysis of the opportunities of legalising gender-neutral partnership and qualitative research on the needs of LGBTQIA+ persons" noted in the presentation of the study at the meeting of the Seimas Committee on Human Rights held on 27 October 2021 that the legal regulation does not correspond to the actual situation of couples living in Lithuania, because couples live in a "de facto" partnership for a long time, sometimes for most of their lives, and this partnership is based on a commitment to each other based on emotional attachment, mutual understanding, support, responsibility and a voluntary decision to assume certain rights and obligations. The adoption of a law on partnership would help to solve the problems faced by same-sex couples and reduce discrimination against them. With regard to the right to recognition of gender identity, it should be noted that the judgement of the European Court of Human Rights in the case of *L. v. Lithuania* adopted in 2007, in which a loophole in the law was found that precluded the practical implementation of the right to recognition of gender identity, has still not been implemented so far.²² Although a draft Law on the Recognition of a Person's Gender Identity was prepared back in 2017, it was still not adopted in 2021. It should be noted that this legal uncertainty makes it very difficult to recognize transgender people and exercise their rights in Lithuania. As long as discussions on the legal recognition of gender identity through administrative proceedings continue, a person's gender identity may be legally recognized by a court decision. The current case law enshrines the rule that "the basic legal preconditions for the modification of civil status records are a person diagnosed with transsexuality and the identification of the person as a person of the respective gender"²³. However, the legal procedure for legal recognition of gender identity is used relatively rarely. This can be attributed both to the requirement of a pathologising diagnosis (being transgender is still officially considered a "personality and behavioural disorder") and to the complexity of the procedure for those without legal training, which leads to the need for legal representation.

It should also be noted that the current legal framework does not provide transgender persons with sufficient legal protection against discrimination or hate crimes, as the law does not recognise gender identity as a basis for prohibited discrimination or hate crimes.

²² Judgment of the ECHR of 11 September 2007 in the case of *L. v. Lithuania* (petition No. 27527/03), p. 57.

²³ E.g., ruling of the Vilnius Regional District Court of 15 March 2021 in the civil case No. e2YT-1940-424/2021.

In its ruling of 11 January 2019, the Constitutional Court concluded that Article 29(2) of the Constitution cannot be interpreted as establishing an exhaustive list of grounds for non-discrimination, otherwise it would have the effect of undermining the equality of all persons before the law, the courts and other public authorities guaranteed by Article 29(1) of the Constitution, which is at the very heart of the constitutional principle of equality of persons. In this constitutional justice case, it was noted that "one of the forms of discrimination prohibited under Article 29 of the Constitution is the restriction of a person's rights on the basis of his gender identity and/or sexual orientation, which also constitutes a violation of human dignity".

However, despite the prerequisites deriving from the Constitution for giving transgender people legal protection against discrimination, gender identity is not mentioned in the provisions of the law that contain the exhaustive list of grounds for discrimination. This leads to legal uncertainty and legal obstacles in responding effectively to cases of discrimination or hate crimes against transgender people on the basis of their gender identity.

Pursuant to Article 2(1) of the Law on Equal Opportunities of the Republic of Lithuania, the term "discrimination" is defined as direct and indirect discrimination, harassment, or an order to discriminate on the grounds of gender, race, nationality, language, origin, social status, faith, beliefs or opinions, age, sexual orientation, disability, ethnicity, and religion. Thus, the Law on Equal Opportunities does not establish gender identity as a separate ground for prohibited discrimination.

In January 2021, the Equal Opportunities Ombudsperson addressed the Seimas Committee on Human Rights with a proposal to amend the Law on Equal Opportunities to include therein the criterion of gender identity in the list of prohibited grounds of discrimination, but the Law on Equal Opportunities was not amended in this respect in 2021.

The criterion of gender identity has not been included in the provisions of the Criminal Code of the Republic of Lithuania providing for the constituent elements of criminal offences committed with the intent to express hatred towards a group of persons or a person belonging to a group of persons, on the grounds of age, gender, sexual orientation, disability, race, ethnicity, language, origin, social status, faith, beliefs, convictions, or opinions, or by means of publicly ridiculing, despising, inciting hate, or instigating to discrimination of a group of persons or a person belonging to a group of persons for the reasons mentioned above²⁴.

It should be noted that, pursuant to sub-clause 31.2 of the Methodological Recommendations on the Specifics of Conducting, Organising and Conducting a Pre-Trial Investigation into Hate Crimes

²⁴ Article 60 (1)(12) of the Criminal Code of the Republic of Lithuania (Aggravating Circumstances), Article 129 (2)(13) of the Criminal Code of the Republic of Lithuania (Killing), Article 13 (2)(13) of the Criminal Code of the Republic of Lithuania (Serious Bodily Injury), Article 138 (2)(13) (Non-Serious Bodily Injury), Article 169 (Discrimination on the basis of nationality, race, sex, origin, religion or other group affiliation), Article 170 (Incitement against any national, racial, ethnic, religious or other group of people), Article 1701 (Establishment and activities of groups and organisations with the aim to discriminate or incite against a group of people).

and Hate Speech, approved by Order No 17.9.-4265 of the Prosecutor General of 30 March 2020, “the recommendation is to treat transgender-based hatred and discrimination as hatred and discrimination based on gender (rather than on sexual orientation). Transsexualism refers to the fact that a person is transgender and perceives his gender identity to be diametrically opposed to his biological sex. Thus, according to these recommendations of the Prosecutor General, hate crimes and hate speech against persons on the basis of their gender identity, including transgenderism, should be investigated as gender-based crimes. Meanwhile, hate speech directed against persons on the basis of their gender identity is in practice registered and investigated as directed against persons on the basis of their sexual orientation.

It should also be noted that some positive changes have been made to ensure the rights of transgender people in 2021.

Order No 1R-453 of the Minister of Justice of 31 December 2021 “On the amendment of Order No 1R-333 of the Minister of Justice “On the Approval of the Rules on Changing the Name and Surname of a Person” of 28 December 2016”, which entered into force on 1 February 2022, approved a new procedure for the changing of the names of transgender persons in their identity documents. Clauses 4 and 9² of the Rules on Changing a Person’s Name provide that the name chosen by the person shall correspond to the person’s gender, except in the case of a change by a person who has been diagnosed as transsexual. According to the new regulation, transgender people who have a document confirming the diagnosis of transsexualism (a certificate issued by a health care institution of the Republic of Lithuania or a Member State of the European Union) will be able to change their name to the one that corresponds to their gender identity, without the need to furnish evidence of the change of gender entry in the civil status records, i.e. without having to go through the procedure for legal recognition of gender identity. Names will not change in the birth records of a person's minor children. This right will only be available to citizens of the Republic of Lithuania who are of legal age and unmarried. Changing the gender marker and the personal identification number will continue to be possible through a judicial procedure only.

It is also important to note that the first Association “Trans Autonomy” for the rights of transgender persons and mutual assistance in Lithuania was established at the end of 2021. The association bases its activities on the principles of self-definition, bodily autonomy, dignity, solidarity and depathologisation. As stated on the association’s Facebook page, its goals include, inter alia, mobilising trans-people and their supportive community and educating the public about transgender rights.

◆ Ensuring the rights of persons belonging to national minorities

According to the data of Statistics Lithuania, 15.4% of the Lithuanian population belonged to national minorities in 2021. Poles remain the largest national minority accounting for 6.5%, Russians 5%, Belarusians 1%, Ukrainians 0.5%, Jews 0.1%, other national minority groups together account for 2.3%²⁵.

²⁵ Official Statistics Portal (2021). Main Population and Housing Census Results 2021, online access: <https://osp.stat.gov.lt/informaciniai-pranesimai?eventId=288049>

Having ratified the Council of Europe Framework Convention for the Protection of National Minorities on 23 March 2000 without reservations (which entered into force on 1 July 2000), Lithuania undertook to respect and protect the rights and freedoms of persons belonging to national minorities, to create equal opportunities for the expression of national minorities and to ensure cultural equality for all persons belonging to national minorities.

Since 1 January 2010, when the Law on National Minorities of the Republic of Lithuania was declared null and void, drafts of the law regulating the implementation and protection of the right of citizens belonging to national communities as set out in Article 37 of the Constitution to foster their language, culture and customs, have been registered and developed on several occasions. In 2019, a working group was set up to draft the Law on National Minorities, and in 2021, the Ministry of Justice prepared a draft Law on National Minorities. Throughout this process, discussions have been held on the compatibility of the proposed text of the Law on National Minorities with the Constitution and the Law on the State Language of the Republic of Lithuania, on the definition of the concept "national minorities" and other related issues. As these discussions continued in the society, a specific law establishing a mechanism for the implementation of the rights of persons belonging to national minorities was still not adopted in 2021.

On 17 December 2021, a draft Law on the Spelling of the Name and Surname in Documents of the Republic of Lithuania was registered, proposing to establish new basic rules for the spelling of names and surnames in the identity documents of citizens of the Republic of Lithuania, in the records of civil status acts and in any other official documents issued to people. This draft proposes to establish that in certain cases, as provided for by law, the name and surname of a Lithuanian citizen may be written in the Latin alphabet (without diacritical marks) in personal documents. The Law on the spelling of the name and surname in personal documents was adopted on 18 January 2022 and will enter into force on 1 May 2022.

Data of the public opinion polls conducted in 2021 show that the Roma remain the least tolerated national minority in Lithuania. The results of the survey "Public Attitudes towards Ethnic and Religious Groups: 2021" conducted by the Diversity Development Group revealed that respondents were least likely to be willing to live in a neighbourhood with Roma (60.8% of respondents). There is also a trend of increasing negative attitudes towards this group compared to the results of the 2020 survey, when this indicator was 58%.

The Action Plan for the Integration of Roma into Lithuanian Society 2015-2020 was approved by Order No JV-48 of the Minister of Culture of 29 January 2015, which aimed to accelerate the inclusion of Roma into the society in the fields of education, health, labour relations, to improve their housing conditions and reduce discrimination against Roma. In June 2021, the Department of National Minorities informed the Seimas Ombudsmen's Office that a new Roma Integration Plan was being prepared for 2021. However, at the end of 2021, a strategic document for the integration of Roma into Lithuanian society, which would ensure the continuity of the Action Plan for the Integration of Roma into Lithuanian Society 2015-2020, had still not been adopted.

The initiative of the Vilnius City Municipality to bridge the gap in relation to Roma living in the territory of the Vilnius City Municipality is a good example. Decision No 1-609 of 26 August 2020 of the Vilnius City Municipal Council approved the Vilnius Roma Integration Programme 2020-2023, which includes measures aimed at strengthening education, health care, culture, reducing the social exclusion of Roma, increasing their participation in the labour market, and exercising their right to housing. However, NGOs note that the measures included in this programme have been underfunded, particularly in the areas of education and housing. It should be noted that the measures funded were of short duration (for example, in 2021, projects to improve women's social inclusion were funded for only 6 months). Representatives of NGOs also pointed out that measures that could have mitigated the negative consequences of the demolition of the settlement in Kirtimai and the COVID-19 pandemic on Roma people were not implemented in 2021²⁶.

As representatives of non-governmental organisations representing national minorities pointed out at a meeting held at the Seimas Ombudsmen's Office in 2021, in order to achieve positive results in the field of the integration of Roma, cooperation between the responsible institutions, effective measures to combat discrimination, to increase the integration of the Roma into the labour market is needed, also focusing on the education of Roma children, especially those of pre-school and pre-primary school age. It is necessary to prepare a national strategic document on Roma integration, which would ensure not only the continuity of the Action Plan for Roma Integration into Lithuanian Society 2015-2020, but also the effective implementation of the measures set out therein.

When it comes to the Jews, Faina Kukliansky, the Chair of the Lithuanian Jewish (Litvak) Community, highlighted three main problems faced by the Jewish minority in Lithuania. First of all, the attention was drawn to the issue of restitution, or at least symbolic compensation, for private property belonging to Jews and Jewish religious communities that had been expropriated by the Nazi and Communist regimes and declared as "stateless property", as the national legal system contains provisions that make it impossible for some victims to recover their property or to receive compensation. Another problem identified relates to the manifestations of anti-Semitism and Holocaust denial or distortion in the public. These manifestations can be observed both on social media platforms and in cases of vandalism or hooliganism against Jews in urban areas. However, the criminal offence provided for in Article 170² of the Criminal Code of the Republic of Lithuania "Public approval, denial or gross trivialisation of international crimes, crimes committed by the USSR or Nazi Germany against the Republic of Lithuania or the population of the Republic of Lithuania" is insufficient to ensure that individuals are subjected to an effective criminal liability in the case of hate crimes against the Jewish community and the Holocaust victims. A third issue that remained unresolved in 2021 and is of concern to the Jewish community relates to the lack of formal and informal education in the areas of Jewish history and culture and the rights of persons who are a part of the Jewish community. According to the representative of the Lithuanian Jewish (Litvak) community, empathy and cultural

²⁶ European Union Agency for Human Rights (2022). Franet National contribution to the Fundamental Rights Report 2022, Lithuania (this document was not yet published when drafting this report).

understanding in the society must be instilled from an early age in schools. Moreover, there is a lack of education of law enforcement officials on sensitive issues related to the protection of Jewish rights. There is also no clear national strategy on issues of concern to the Jewish community.

◆ Hate crime and hate speech

The popularity of social networks and the ability to freely share own opinions with others not only creates opportunities but also allows for the spread of hate speech. The extent of online hate speech has been a matter of great concern in recent years, and has been the subject of public attention, research, analysis, initiatives and legislative developments.

Although the problem of hate crimes and hate speech is of particular importance, the number of hate crimes recorded in Lithuania is low. The report of the study "Hate Crimes and Hate Speech: an Overview of the Situation in Lithuania" conducted by the European Foundation of Human Rights in cooperation with the Human Rights Monitoring Institute, the Lithuanian Centre for Human Rights and the Lithuanian Police School concludes that the problem arises mainly from the incorrect qualification of hate crimes as public order offences (Article 284 of the Criminal Code), the lack of detailed data, the non-application of administrative liability for incitement to hatred, the detrimental effects on the victims and their communities (their alienation, closure and thus difficult integration), the indifference of law enforcement, the lack of competence of officials (lack of training) and poor public awareness (education).

This is also confirmed by the survey of law enforcement representatives commissioned by the Office of the Inspector of Journalists Ethics and the Office of the Equal Opportunities Ombudsperson. Its results revealed that officials lack knowledge about the culture and problems of vulnerable groups. While the survey of over 500 police officers and prosecutors found that more than half of those surveyed believe that hate crime is a serious problem, the remainder are convinced that some vulnerable groups complain for no reason. In addition, more than a third of respondents believe that victims of hate crimes often provoke aggression themselves.

The Police Virtual Patrol was launched online on 6 April 2021 as a preventive measure against hate speech and hate crime. This is an initiative whose main objective is to detect criminal or administrative offences committed in cyberspace, thus also signs of hate speech, and to warn people that their actions are or may be illegal. If the person does not stop the potentially unlawful activity, the material collected is recorded and forwarded to the respective police division for further investigation.

In order to increase the effectiveness of the fight against hate crimes and hate speech in Lithuania, a working group encompassing representatives of state institutions and non-governmental organisations was formed by Order No. 1V-162 of the Minister of the Interior of the Republic of Lithuania of 24 February 2020 "Regarding the Establishment of a Working Group". The Action Plan for Promoting an Effective Response of the Working Group to Hate Crimes and Hate Speech in Lithuania 2020-2022 was adopted at the meeting on 23 April 2020, which provides for strengthening cooperation between

state institutions and bodies and civil society organisations, promoting dialogue with communities vulnerable to hate crimes and hate speech, enhancing the capacity of law enforcement officials to identify hate crimes and hate speech, and raising public awareness and consciousness of hate crimes and hate speech. The working group named in this plan held 3 meetings in 2021 for considering issues of improvement of legal regulation, sharing good practices of other countries in the field of hate crimes and hate speech identification, and discussing other relevant issues. Together with the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the working group organised and hosted a remote seminar "Improving the understanding of and response to hate crimes" on 9 June 2021, discussing the legal regulation of hate crimes in Lithuania and how to ensure the harmonized implementation of the concept of hate crimes in all relevant institutions and activities, also considering the specifics of individual types of hate crimes, such as hate crimes based on gender or disability, and generating proposals for the implementation of the discussed measures.

On 10 June 2021, the Ministry of Justice received the European Commission's official notification of infringement proceedings No INFR(2021)2069 concerning the incorrect transposition and implementation of Framework Decision 2008/913/JHA into the Lithuanian national law. The European Commission believes that Lithuania has failed to discharge its obligations regarding the transposition of Article 1(1)(a), Article 1(1)(c) and (d), as well as Article 1(2), and Article 4 ("Racist and xenophobic motives") of Framework Decision 2008/913/JHA into the Lithuanian national law. In view of the above, and in order to harmonise the provisions of Lithuanian national law with the requirements of Framework Decision 2008/913/JHA and to fill the gaps in the transposition of Framework Decision 2008/913/JHA identified in the European Commission's official notification, the Ministry of Justice prepared a draft Law on the Amendment of Articles 60, 129, 135, 138, 169, 170, 170¹ and 170² of the Criminal Code of the Republic of Lithuania, which was registered in the Seimas on 23 September 2021 (Draft Law No XIVP-871). The amendments propose to revise the articles of the Criminal Code on hate speech and hate crimes to include the criteria of skin colour and ethnic origin in addition to the existing criteria such as nationality, race, gender and others.

Year 2021 was "marked" by hate-motivated incidents against the LGBT+ community. At the beginning of 2021, a video was posted on a *Facebook* group showing two men trampling on a rainbow-coloured flag, splashing it and burning it, with commenters calling for a crackdown on LGBT+ community members. These social media posts were reported to the police. Also, a 55-metre-long rainbow flag (the symbol of LGBT+ people) painted by artists in an underpass on Saltoniškės Street in Vilnius on 11 March 2021 was soon covered with various disrespectful messages towards the LGBT+ community, and was replaced by the Lithuanian tricolour one week later. This tension between those who support the LGBT+ community and those who oppose them continued as the walls were painted over and over, and was repeated several times until the rainbow flag was once again hidden under the colours of the Lithuanian national flag.

A similar incident took place at a crossing painted in rainbow colours in May 2018, which was painted black by protesters on 31 May 2021, repainted in rainbow colours shortly afterwards, and then sprayed

with black liquid on 26 June 2021. The Vilnius Police asked the Vilnius City Municipality to initiate the repainting of the crossing in the usual colours, as the crossing is a traffic control measure. After the Vilnius City Municipality refused to comply with this request, arguing that the coloured element in the crossing is not an obstacle and reflects the position of Vilnius as a tolerant city, the dispute is being settled in court.

In the commemoration of the International Day against Homophobia, Transphobia and Biphobia on 17 May 2021, a rainbow-coloured bench installed in the Vilnius Town Hall Square was soon vandalised, and although the police identified the offender and imposed a fine of EUR 240, by mid-September the bench had disappeared altogether. There was a similar story in Kaunas, where there were several colourfully decorated benches, one of which also disappeared. It has been observed that as soon as pro-LGBTQ+ merchandise, drawings or postings appeared in both Vilnius and Kaunas, a wave of disrespectful and abusive comments towards LGBTQ+ people immediately showed up on the Internet.

The Lithuanian Family Movement and its supporters held rallies in Vilnius in 2021 (one of which held on 10 August 2021 turned into a riot) called for the resignation of the Government and the Seimas, protested against the restrictions on COVID-19, and used various slogans, often with offensive content, and posters to speak out against the LGBT+ community, the adoption of the Law on Partnership, and the ratification of the Istanbul Convention. Pre-trial investigations were initiated into possible illegal actions by participants in the rallies.

The study "Public Attitudes Towards Ethnic and Religious Groups: 2021" conducted by the Lithuanian Social Research Centre and Public Institution "Diversity Development Group" revealed a significant increase in negative attitudes towards another group – refugees. Compared to 2020, the social distance of the Lithuanian population towards refugees has increased significantly. In 2021, 47% of respondents indicated that they would not want to live in a neighbourhood with refugees (27% in 2020), 28% would not want to work in the same workplace (19% in 2020), and 48% would not want to rent housing to refugees (27% in 2020). The number of Lithuanians who see the impact of refugees on the society and the state as more negative than positive has also increased. As many as 85% of respondents tended to agree with the statement that refugees can increase the crime rate in the country. An assumption can be made that such changes in the survey of attitudes of the Lithuanian population were influenced by the irregular migration crisis on the Lithuanian-Belarusian border, which started in the summer of 2021, as well as by the prevailing negative attitudes towards migrants in the public space.

The negative attitude of the Lithuanian population towards refugees and other migrants was illustrated by the opposition of the residents of Šalčininkai district to the plans of the Ministry of the Interior to accommodate 500 migrants in the building of the gymnasium in the town of Dieveniškės. Residents of the town stood guard outside the town's gymnasium building, blocked the access roads to the gymnasium building with farm equipment, signed a petition expressing their opposition and took part in a rally in Vilnius in front of the Government building.

Hate crimes and hate speech are incompatible with the fundamental values of a democratic society, and such acts promote intolerance, hatred, segregation, discrimination or even physical violence against a certain group of people. In order to reduce hate crimes and hate speech, it is important to raise public awareness of the public and officials on hate crimes and hate speech, its prevention and assistance to victims, also improving the identification of hate crimes and reducing discrimination against vulnerable people.

◆ Freedom of expression, assembly and religion

Pursuant to Article 6 of the Law on Religious Communities and Societies of the Republic of Lithuania, non-traditional religious communities may be recognised by the state as a part of Lithuania's historical, spiritual and social heritage, provided that they are supported by the society and that their teachings and rituals do not contradict the law and morality. State recognition which is provided by the Seimas means that the state supports spiritual, cultural and social heritage of religious communities. Religious communities can apply for state recognition with at least 25 years having passed from their initial registration in Lithuania.

The Ancient Baltic Religious Community "Romuva" registered in 1992 is one of the fastest growing religious communities in Lithuania. In the 2001 census, 1 200 people identified themselves as members of the Ancient Baltic faith, while in 2011, there were 5 100 such people. On 27 June 2019, the Seimas considered whether the Ancient Baltic Religious Community "Romuva" should be granted the status of a state-recognised religious community. By a margin of just a few votes, it was decided not to grant state recognition to "Romuva", even though the Ministry of Justice stated in its conclusion that it met all the requirements for a religious community seeking state recognition, as set out in Article 6 of the Law on Religious Communities and Societies. After the Seimas decided not to grant "Romuva" the status of a state-recognised religious community, "Romuva" appealed to the ECHR.

In its ruling of 8 June 2021 in the case *Ancient Baltic Religious Community "Romuva" v. Lithuania* (petition No 48329/19), the ECHR found violations of Article 9 ("Freedom of thought, conscience and religion"), Article 14 ("Prohibition of discrimination") and Article 13 ("Right to an effective remedy"). In order to implement this ECHR decision, in December 2021, the Seimas reconsidered the issue of state recognition of the Ancient Baltic Religious Community "Romuva", and registered a draft resolution of the Seimas "On granting state recognition to the Ancient Baltic Religious Community "Romuva" which was discussed in the Seimas Committees; however, still was not adopted in 2021.

When it comes to the implementation of the freedom of assembly and related developments in Lithuania, it is important to mention that there was a number of court cases concerning municipalities' refusal to approve assemblies in 2021. When the Kaunas City Municipality refused to approve the Kaunas Pride march on Laisvės Avenue in support of the rights of LGBT+ people, the organisers of the march appealed to the Regional Administrative Court. The Kaunas City Municipality justified its decision on the grounds that it may be unsafe to march along the city's central pedestrian street because of the ongoing renovation works and many cafes and bar tables set up on the street. On 30

July 2021, the Regional Administrative Court ruled that the Kaunas City Municipality had violated the constitutional right of the applicant (the May 1st Trade Union) to peaceful assembly enshrined in Article 36 of the Constitution of the Republic of Lithuania. The Kaunas government was obliged to agree on the route of the LGBT+ march on Laisvės Avenue in Kaunas by 1 September 2021, 11:00 a.m. The Kaunas City Municipality disagreed with this court decision and appealed to the Supreme Administrative Court of Lithuania, but the appeal was not upheld. The Kaunas pride march took place on 4 September 2021.

Meanwhile, the Vilnius City Municipality lost two court cases because it banned the Lithuanian Family Movement from holding rallies in the city. For the first time, the Vilnius City Municipality Administration refused to coordinate requests for the rally "The Great March in Defence of Families" to be held in front of the Seimas and the Government on 15-17 June 2021, arguing that it would endanger public safety and health. On 9 July 2021, the Vilnius Regional Administrative Court ruled that the decision of the Vilnius City Municipality Administration to refuse to approve the venue of the meeting in order to ensure public safety and health was disproportionate and restrictive of individuals' freedom of assembly.

For the second time, the Vilnius City Municipality lost a court case when the Lithuanian Family Movement sought to hold a rally in front of the Seimas on 10 September. On 31 August 2021, the Vilnius City Municipality cancelled the previously agreed time and venue for the rally, stating in its decision that it was made after receiving restricted information from the State Security Department on possible threats to state and public security and public order. The organisers of the rally appealed against this decision of Vilnius City Municipality to the court. On 28 October 2021, the Vilnius Regional Administrative Court upheld the appeal of the applicant the Lithuanian Family Movement and annulled the order of the Director of the Vilnius City Municipality Administration, which revoked the previous decision on the approval of the planned rally on 10 September 2021 near the Seimas. In this case, the court noted that the right to freedom of assembly is a fundamental right in a democratic society and may be restricted only when the aim is to prevent breaches of public order or crime or to protect human health or morals, or the rights and freedoms of other persons, and that such a restriction is necessary and that a hypothetical risk of a violation of public order does not constitute a legitimate ground for restricting the right to freedom of assembly.

◆ **Problems concerning human rights in the field of mental health**

The long-lasting COVID-19 pandemic has increased mental health risk factors and led to a deterioration in public mental health. Data shows that during the pandemic, there was an increase of about 10% in the number of people seeking treatment for depression, anxiety and reactions to severe stress. Compared to the pre-pandemic period, the overall level of stress in the society doubled, while feelings of anxiety, anger and sadness increased 1.5 times. Thus, personal mental health is one of the most important areas of recent years, and has been the focus of considerable attention in 2021, conducting various research in this field and initiating actions aimed at improving mental health.

In May 2021, the Human Rights Monitoring Institute (HRMI) together with the Public Institution VšĮ "Psichikos sveikatos perspektyvos" (English: Mental Health Perspectives) presented a study to assess how the right to mental health, the right to access to mental health services and the rights of people with psychosocial disabilities in Lithuania were ensured during COVID-19 pandemic. The results of the research showed that 67% of the respondents (out of 939) experienced mental health difficulties during the pandemic, even before the second general quarantine imposed on 7 November 2020. The experts found that the groups most affected by the pandemic were parents with minor children; carers of relatives with psychosocial disabilities or mental health difficulties; people with psychosocial disabilities or mental health difficulties; medical staff and providers of psychosocial services. The results also revealed that due to insufficient finances, lack of information about services, lack of skills or access to tele-services, and the stigma of mental health in the society, not all people with mental health difficulties or psychosocial disabilities were able to access and receive the help they needed from personal mental health professionals. The research also revealed that services were basically inaccessible to persons with psychosocial disabilities or mental health difficulties during the first nationwide quarantine of 16 March 2020 and remained restricted during the second nationwide quarantine of 7 November 2020. While the study identified problem areas, experts also pointed to positive aspects of the pandemic, which include increased attention to personal mental health at the political level, the emergence of new initiatives and psychosocial services (e.g. the establishment of mobile crisis response teams, the provision of psychological services in public health offices), and the increase of information in the public domain on personal mental health and on the available assistance.

The results of a survey conducted by "Spinter" for the Ministry of Health in February 2021 revealed that 46.5% of 18-75-year-olds had poor psychological well-being in Lithuania. The psychological well-being of the population has slowly started to improve with the loosening of the 2021 quarantine restrictions: in April, 40.9% of the respondents were less likely to identify their psychological well-being as poor. However, 19.8% of respondents showed signs of depression and anxiety in February, up from 22.1% in April. Women were the ones feeling the worst: their psychological state had deteriorated sharply in February 2021, both compared to the pre-pandemic period and to the psychological state of men. However, women's mental health improved slightly in April.

In order to ensure the continuity of the measures set out in the Action Plan for the Reduction of the Long-term Adverse Consequences of the COVID-19 Pandemic on Personal and Public Mental Health for 2021-2022 approved by Order No. V-1596 of the Minister for Health of 31 July 2020, on 13 May 2021, the Action Plan for Reducing the Long-Term Adverse Consequences of the COVID-19 Pandemic on the Mental Health of the Individual and the Society for 2021-2022 was approved by Order of the Minister of Health. The measures provided for in the Plan aim to strengthen mental health of the public during the COVID-19 pandemic, to help members of the public who have been exposed to COVID-19 and who have suffered psychological trauma or loss, to the mental health of children and young people, their parents and school staff, to improve mental health of the elderly, and to rebuild and maintain mental health of health specialists in the personal health care sector.

When assessing the procedure of involuntary hospitalisation in force in the country, the Seimas Ombudsmen's Office has repeatedly stressed the importance of an additional opinion of a psychiatrist independent of the institution that initiated the involuntary hospitalisation on the person undergoing involuntary treatment²⁷. Following the recommendation of the Seimas Ombudsmen's Office, by his Order No V-432 of 3 March 2021 "On the Approval of the Description of the Procedure for Supplementary Assessment of Mental Health", the Minister of Health approved the Description of the Procedure for Supplementary Assessment of Mental Health, which regulates the procedure for the organisation and conduct of the assessment of the mental health of a patient who has been involuntarily hospitalised or who is being treated for a mental or behavioural disorder, the procedure of the assessment of his mental health, and defines the entities carrying out a supplementary assessment of a person's mental health, as well as the requirements for such persons.

The report of the Seimas Ombudsmen's Office of 11 February 2021 "On the accessibility of psychological services to persons living in social care institutions for the elderly and adults with disabilities" noted that the conditions for psychologists to work in social care institutions have not been laid down in legislation, which not only leads to legal uncertainty and practical problems, but also negatively affects the quality of psychological services provided by social care institutions and the availability of these services to persons with disabilities accommodated there as well. This report draws attention to the need to adopt a procedure for the assessment of the competence, practice and provision of psychological services of psychologists providing support to people living in social care institutions for adults with disabilities and the elderly.

On 9 March 2021, a working group was established in the Seimas to evaluate the alternative draft Laws on Practical Activity of Psychologists of the Republic of Lithuania No. XIII P-685 and No. XIII P-3234 and to prepare reasoned proposals for the improvement of these draft laws. The draft Laws on Practical Activity of Psychologists of the Republic of Lithuania propose to lay down the conditions for the qualification and practical activity of psychologists, the rights and obligations of psychologists, but this Law was not yet adopted in 2021.

Having assessed the draft Additional Protocol to the Convention on Human Rights and Biomedicine (Oviedo Convention), which intends to introduce involuntary hospitalisation and involuntary treatment for persons with psychosocial disabilities, the Seimas Ombudsmen's Office stated in its letter of 25 May 2021 that the provisions of the protocol are incompatible with the provisions of the Convention on the Rights of Persons with Disabilities, and urged the Seimas Committee on Human Rights, the Seimas Committee on Social Affairs and Labour, the Seimas Committee on Health Affairs, the Ministry of Health, the Ministry of Social Security and Labour, the Ministry of Justice and the Ministry of Foreign Affairs to oppose the adoption of the draft Additional Protocol to the Oviedo

²⁷ Seimas Ombudsmen's Office of the Republic of Lithuania (2017). Report on the human rights situation in the Psychiatric Clinic of Kaunas Clinics of the Lithuanian University of Health Sciences Hospital and the public institution Vilnius City Mental Health Centre

Convention, and recommended to ensure that a representative of the Republic of Lithuania at the plenary session of the Committee on Bioethics votes against the adoption of the draft Additional Protocol to the Oviedo Convention. The Seimas Ombudsmen's Office pointed out that the adoption of the Additional Protocol to the Oviedo Convention would significantly contribute to the development of coercive practices in the provision of mental health care, and that the measures proposed in this document not only contravene international human rights and freedoms, but also raise concerns about the risk of human rights violations in the field of mental health care if the document is adopted. The Seimas Committee on Human Rights also drew the attention of responsible Lithuanian authorities to the possible contradiction of the provisions of the Additional Protocol to the Oviedo Convention with human rights standards and international commitments.

The Minister of Culture, Minister of Social Security and Labour, Minister of Education, Science and Sport, Minister of Health, representatives of NGOs and experts from the Mental Health 2030 Coalition, NGO Confederation for Children Lithuania, the Lithuanian Business Confederation, the Lithuanian Council of Youth Organisations, the National Association of Creative and Cultural Industries, and the National Association of Universities of the Third Age signed an agreement to strengthen mental health of the public and to raise mental health literacy at the Mental Health Forum held on 3 December 2021. This agreement aims to help as much of the society as possible to have more knowledge, skills and positive attitudes towards mental health, to reduce stigma towards themselves and others, and to create conditions for a more favourable attitude towards psychological support and other initiatives or services aimed at improving mental health. The actions of the agreement are to be implemented by 2030 and its effectiveness is to be measured by indicators, such as the increase in the share of students who have never been bullied in 2 months, the decrease in negative attitudes towards mental health in the population, the increase in the share of people who are more likely to trust other people than those who do not, the increase in the social capital index and the decrease in mortality due to suicides. The implementation of the agreement will also be monitored by the Mental Health Council, which will be operating on a public service basis under the Ministry of Health, and will be composed of representatives delegated by signatories to the agreement.

◆ Ensuring rights of people with disabilities

The rights and fundamental freedoms of persons with disabilities have been enshrined in the United Nations Convention on the Rights of Persons with Disabilities, which Lithuania ratified by Law No. XI-854 "On the Ratification of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol" of 27 May 2010 (hereinafter – the Convention on the Rights of Persons with Disabilities). The aim of this document is to promote and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The Convention on the Rights of Persons with Disabilities recognizes that all people have equal rights and are equal, while States which are members to the Convention undertake to ensure the implementation of the rights of persons with disabilities.

The Action Plan for the Social Integration of Persons with Disabilities for 2021-2023 (hereinafter – the Action Plan) was approved by Order No. A1-817 of the Minister of Social Security and Labour of 8 September 2020, which aims to create a favourable environment and conditions for persons with disabilities to live with dignity and full enjoyment of life in Lithuania, to ensure equal opportunities and quality of life for them, as well as proper implementation of the provisions of the Convention of the Rights of Persons with Disabilities. The Action Plan establishes that the Ministry of Social Security and Labour will prepare legal acts regulating the development of personal assistance for persons with disabilities (Action 1.1.6). In order to implement this measure, the Law XIV-215 Amending Articles 2, 16, 18 and 20¹ of the Law No. I-2044 on Social Integration of the Disabled of the Republic of Lithuania and Supplementing it with Article 25¹ was adopted on 25 March 2021 (entered into force on 1 July 2021), which enshrines the need for personal assistance as one of the types of special needs. This law defines the concepts “personal assistance” and “personal assistant” and regulates the procedure for the provision, payment and financing of personal assistance. Personal assistance aims to enable a disabled person to live independently and to function in all areas of life. The inclusion of personal assistants in the system of assistance to persons with disabilities has been advocated for some time by organisations representing persons with disabilities, calling on the state to regulate the provision of such assistance.

The Law No XIII-3268 Amending Articles 5, 14, 21, 29, 30, 34 and 36 of the Law on Education of the Republic of Lithuania No. I-1489 and supplementing it with Article 45¹ was adopted on 30 June 2020. The adoption of this law abolished discriminatory provisions against children with disabilities and special educational needs and provided that starting 2024, children with special educational needs will be admitted to the mainstream school nearest to their place of residence on equal terms with other schoolchildren. Pursuant to Article 9(3) of this Law and in order to implement Action No. 1.2.11 of the Plan for the Implementation of the Provisions of the Programme of the Eighteenth Government of the Republic of Lithuania “To implement a package of measures to ensure inclusive education and educational support in each school”, the Minister of Education, Science and Sport approved the Action Plan 2021 – 2024 for the preparation for the implementation of the Law Amending Articles 5, 14, 21, 29, 30, 34 and 36 of the Law on Education of the Republic of Lithuania No. I-1489 and supplementing it with Article 45¹ by her Order No V-1879 of 14 October 2021. This Action Plan provides for strengthening the readiness of schools to receive and educate pupils with different educational needs, improving the organisation of educational assistance, strengthening the capacities of teachers and educational support staff, positive attitudes of school communities and the public, and monitoring the development of inclusiveness in education. These measures will help to remove physical, psychological and social barriers to the enrolment of children with different needs in schools and to ensure their right to quality education.

In March 2021, “Spinter Research” conducted a representative survey of the Lithuanian population ordered by the Human Rights Monitoring Institute, where 60% of respondents said they believe that people with disabilities are not able to participate in the economic, social and cultural life of the country on equally with everyone else. The survey also revealed that 77% of respondents believe

that the environment in Lithuania, such as streets and buildings, has not been properly adapted to the needs of people with disabilities.

In order to develop an environment suitable for persons with disabilities in all areas of life, the Programme for the Development of an Environment Suitable for Persons with Disabilities in All Areas of Life of the Development Programme Manager the Ministry of Social Security and Labour for 2021–2030 was approved by Resolution No 933 of the Government of 10 November 2021. This programme indicates that as many as 65% of persons with disabilities have difficulties in living independently, using public services and purchasing goods and services due to the inaccessibility of the environment. The inaccessibility of the physical environment, information, goods and services restricts the participation of persons with disabilities in social, community and family life, and results in poverty, social exclusion, various difficulties in finding employment, accessing the services they need, and in purchasing goods they need.

The progress measures in the programme relate to, inter alia, the accessibility of physical infrastructure, information infrastructure, information, services and goods and their adaptation to the needs of people with disabilities. Other development programmes approved by the Government in 2021 (Strengthening Family Policy and Social Mobilisation Development²⁸) also provide for measures to improve the situation of people with disabilities in Lithuania. The aim is to increase the quality index for persons with disabilities from 52 to 63 in 2030. A comprehensive system for the social integration of persons with disabilities is to be established, creating a one-stop-shop mechanism to assist children with disabilities and families raising children with disabilities, preparing a new model for the identification of disability, a shift from institutional care to community-based services, and introducing respite services for carers of people with disabilities or elderly family members. The plan is to also implement a sustainable system of non-residential long-term care, providing for non-residential, community-based services for the elderly and persons with disabilities who are unable to take care of themselves, and expanding and modernising the infrastructure of social care homes for the elderly within the community.

Access to social services for children and young people with disabilities and their families

Children and young people with disabilities are one of the most marginalised and particularly vulnerable groups in society, at risk of having their rights and freedoms violated not only because of their disability but also because of their age²⁹. This group is often marginalised due to entrenched discrimination, lack of information and poor access to social, health and transport services, or inadequate infrastructure due to underfunding³⁰.

²⁸ Resolution No 933 of the Government of 10 November 2021 "On the Approval of the Programme for the Development of an Environment Suitable for Persons with Disabilities in All Areas of Life of the Development Programme Manager the Ministry of Social Security and Labour for 2021–2030";

²⁹ UNICEF Europe & Central Asia Region (2020). Protecting children and adolescents with disabilities from the pandemic, online access: <https://www.unicef.org/eca/protecting-children-and-adolescents-disabilities-pandemic>

³⁰ Committee on the rights of the child (2006). General comment No. 9, Rights of children with disabilities, p. 14

In carrying out the functions of monitoring of human rights, the Seimas Ombudsmen's Office highlighted problematic aspects of ensuring the rights of children and young people with disabilities and their families. Families raising children with disabilities face comprehensive problems, but the system of social services provided in the country is not sufficiently developed and access to services is very limited. According to surveys carried out in 2019 and 2020, in the context of social services for children and young people with disabilities and their families, home-based childcare services are very poor, and there is a lack of individual assistance for families. Due to a child's disability and inaccessibility to care services, often at least one parent must leave the labour market and stay at home to look after the child, which reduces family income and makes it impossible for families to afford the services and care they need. In many cases, it is the lack of social services and support in the community that eventually pushes families to accommodate their relatives in social care homes.

In light of the above, in 2021, the Seimas Ombudsmen's Office initiated a study on the fundamental human rights problems arising from the accessibility of social services for children and young people with disabilities and their families, which revealed certain systemic deficiencies in the organisation of social services for children and young people with disabilities and their families.

First of all, it was observed that the informational accessibility of social services for children and young people with disabilities and their families varies greatly in municipalities and depends on the information dissemination policy of the municipality where the service recipient lives, the funds allocated for this purpose and the efforts made to ensure the dissemination of the information, thus potentially violating the principle of accessibility of the services provided to persons with disabilities as enshrined in Article 9 of the Convention on the Rights of Persons with Disabilities, and thus creating obstacles for children and young people with disabilities and their families to access the services provided and to exercise their rights. It was also found that the assessment of the need for social services for children and young people with disabilities and their families is carried out only upon request, but due to the above-mentioned lack of information accessibility, low legal literacy of individuals and the prevention of the assessment of the need for social services which not all municipalities in the country perform or its inconsistent performance not all the persons with a need for social services are aware of the procedure for submitting such requests. Moreover, a lack of a common methodology for collecting statistical information on children and young people with disabilities and their families in municipalities leads to the collection of different data in different ways, which raises doubts as to the accuracy of the common national statistical information on persons with disabilities and the purposefulness of the information collected by different municipalities on the needs of persons living in their territories.

The study also revealed that municipalities collect and organise information on social services in different ways, that there are some municipalities that do not collect any information altogether, and that a range of social services offered by municipalities varies. For example, some municipalities even fail to ensure the availability of services provided for in the Basic Package of Family Services approved by Resolution No 618 of the Government of the Republic of Lithuania of 19 June 2019 "On

the Approval of the Basic Package of Family Services". Thus, the accessibility of children and young people with disabilities and their families to the services appropriate to their needs depends on the place of residence, in violation of the principle of accessibility of the services provided to all persons with disabilities as per Article 9 of the Convention on the Rights of Persons with Disabilities.

Another problem identified in the study relates to the current legal framework, which establishes that once a young person with disabilities reaches the age of majority, he/she has to be diagnosed with a level of incapacity to work, and, in some cases, with incapacity to act, establishing guardianship and appointing a guardian for him/her; young people with disabilities and their parents/guardians often face administrative, legal, and financial challenges, a vacuum of social services and benefits, but not all municipalities in the country are aware of these problems, and some of them are not able to identify the situation as a problem. Also, not all municipalities are able to properly plan the demand for social services, creating situations where a person with disabilities has to wait more than three years for the services they need.

Accessibility of technical aids to people with disabilities

Mobility of a person is one of the main prerequisites for the inclusion of people with disabilities in the society. Inadequate provision of technical assistance makes it more difficult for people with disabilities to participate in education, work, live independently and be active members of the community. A report on the survey conducted by the Lithuanian Association of People with Disabilities indicates that one of the reasons that prevents people with disabilities from living independently is the lack of technical assistance equipment. Taking into account what people with disabilities and their representatives and organisations talk in the public space, watching meetings of the Seimas Commission on the Rights of People with Disabilities, and analysing legal acts regulating the provision of technical aids, the study identified the following problems: gaps in the provision of information on the availability of technical aids, the lack of quality of service provision and of the quality of technical aids, and the lack of innovation and adaptation to individual needs of the people.

Information about technical aids and the procedure of their provision is available online, also in information leaflets distributed by territorial divisions of the Centre for Technical Assistance to People with Disabilities, municipalities, and through organisations representing people with disabilities. However, not all people with disabilities have access to information on technical aids. The survey conducted by the Lithuanian Association of People with Disabilities identified that almost half of the respondents did not apply for technical aids, because they did not know that it was available to them, or did not apply because they did not know that it was available free of charge or that their cost of acquisition is subject to reimbursement.

The assessment of the quality of service delivery highlighted the problem of people waiting too long for technical aids they have ordered and need. Legislation does not always define the deadlines within which persons with disabilities must be provided with technical aids.

Comments in the public space, also in responses of some municipalities, highlighted problems relating to the quality of technical aids. Technical aids are acquired by way of public procurement and therefore do not meet individual needs, are difficult to manage, difficult and inconvenient due to outdated technology. It was also noted that there is a lack of qualified professionals (e.g. physiotherapists) who can assess individual needs of people and help to select the appropriate technical aid according to their individual needs.

Another problem identified is the fact that the compensation amount for technical aids, the acquisition of which is subject to compensation, is disproportionately low compared to the total cost of the aid, making it difficult for people with disabilities to obtain expensive equipment.

In 2021, with an aim to analyse the above-mentioned problems, the Seimas Ombudsmen's Office launched an investigation on the fundamental human rights problems related to the accessibility of technical aids for persons with disabilities. This investigation assesses the accessibility of technical aids, the suitability of technical aids to the individual needs of persons with disabilities, and the quality of service provision. In light of the findings of the study, recommendations will be made to responsible authorities to improve the provision of technical aids to persons with disabilities. The study is expected to be completed, the results summarised and a report thereon is to be produced in 2022.

Implementation of the legal capacity institute

Article 12 of the Convention on the Rights of Persons with Disabilities stipulates that people with disabilities are to be considered subjects of the law in all cases and that they, like everyone else, have legal capacity in all areas of life. Signatories to the Convention on the Rights of Persons with Disabilities, including Lithuania, are obliged to take measures to ensure that people with disabilities retain legal capacity on an equal basis with others in all areas of life and that they have access to assistance in order to exercise their legal capacity.

According to the data provided to the Seimas Ombudsmen's Office by the State Enterprise Centre of Registers, by 1 October 2021, 415 court decisions declaring people incapacitated before 1 January 2016 had still not been reviewed. The National Courts Administration informed the Seimas Ombudsmen's Office that on 1 October 2021, 32 cases were pending before courts on the review of court decisions rendered prior to 1 January 2016 declaring persons incapacitated. During the period from 1 October 2021 and 18 November 2021, 22 more of such cases were newly received by district courts. Taking into account the data available to the National Courts Administration on all cases concerning the declaration of an individual as an incapable person in a given area in general (without excluding cases concerning the review of court decisions rendered prior to 1 January 2016 declaring persons incapacitated), it is evident that cases in this category have been dealt promptly (the majority of the cases have taken up to six months to be processed). Therefore, it is likely that a delay in the review of court decisions rendered before 1 January 2016 declaring persons incapacitated is not due to the lengthy pendency of such cases in courts, but rather due to a failure of municipal administration to

file a timely application for review of the decisions with the district court of the place of residence of the person declared incapacitated, and/or for other reasons beyond the control of courts.

In 2021, the Seimas Ombudsmen's Office applied to the Government by its letter to draw attention to the still inadequately implemented provisions of Article 72(2) of the Law on Amendments to the Civil Code, as well as to other problems of legal regulation of the institute of restriction of legal capacity and its practical implementation, related to the decisions taken by courts, which potentially disproportionately expand the areas where a person is recognised as legally incapacitated, i.e., in the areas of the ability to apply to court and public administration institutions and in the area of the exercise of the electoral right. There are also cases in case law where persons who are unable to understand the meaning of their actions and to control them are found to be incapable of acting in all areas of property and personal non-property relations, a practice which is contrary to the provisions of the Convention on the Rights of Persons with Disabilities.

The Implementation Plan of the Provisions of the Eighteenth Government Programme of the Republic of Lithuania approved by Resolution No 155 of the Government of 10 March 2021 "On the Approval of the Implementation Plan of the Provisions of the Eighteenth Government Programme of the Republic of Lithuania" (hereafter – the Implementation Plan) provides for the implementation of the Mission III (Priority), which is aimed at empowering the most socially vulnerable groups of society. Several projects of the Government Programme have been planned for the implementation of this mission, including the project for the development of the protection of the rights and services of persons with disabilities, which is planned to be implemented accordingly, by carrying out the actions listed in the Implementation Plan within the specified deadlines. Action 3.2.2 of the Implementation Plan "To create a system for the provision of personal assistance to persons with disabilities by regulating the provision of personal assistance to persons with disabilities in the Law on Social Integration of Persons with Disabilities" (the executor – the Ministry of Social Security and Labour) is to be implemented by the 4th Quarter of 2021. The creation of this system and the provision of assistance to persons with disabilities in practice could lead to the implementation of Action 3.2.3 of the Implementation Plan "After ensuring the provision of assistance to persons with disabilities, in order to implement the United Nations Convention on the Rights of Persons with Disabilities, to hold public consultations with the public on the most effective possible measures for the elimination of the institute of total incapacity to work, prepare drafts of amendments to the Civil Code and other related legal acts" by the 4th Quarter of 2023 (the executor – the Ministry of Justice). The 4th Quarter of 2021 is the target date for the implementation of Action 3.2.2 of the Implementation Plan, while the target date for the implementation of Action 3.2.3 is the 2nd Quarter of 2023.

In 2021, the Department of Disability Affairs under the Ministry of Social Security and Labour coordinated the European Social Fund-supported project "From Care to Opportunities: developing community-based services", which tested a decision support service for people with disabilities. Decision support is a personal decision-making process in which the decision-maker is supported by a specialist or a team of specialists to make decisions about his health, social involvement,

personal property and non-property issues, based on the decision-maker's will, preference and right to choose. This service is one of a number of services which, if properly regulated and developed, would contribute to the implementation and assurance of the rights of people with disabilities.

In 2021, the Ministry of Social Security and Labour also held public consultations with parents of children with severe disabilities on situations where a child with a disability becomes an adult and families are subjected to unnecessary court proceedings for restriction of the child's legal capacity. The possibility of introducing the institution of a personal representative in legislation to deal with such cases is being considered, which would allow families to ensure timely assistance without violating personal rights, e.g. in accessing medical treatment, managing personal finances etc. It should also be noted that in 2020, in cooperation with stakeholders, the Ministry of Social Security and Labour developed a model for decision-making support, which identifies the organisation of support provided by social workers from different sectors, social workers working in mental health centres and municipal social workers, whose inter-institutional cooperation in the coordination of the support provided to individuals could make a significant contribution to the timely provision of assistance, which would eventually eliminate the need to initiate the restriction of the person's legal capacity.

◆ **Problems concerning the protection of rights of foreigners**

As the flow of migrants across the Lithuanian-Belarusian border started to increase in the 2nd Quarter of 2021, discussions of a migrant crisis in our country started. According to calculations, at the end of June 2021, border guards had detained more than 500 migrants. This is almost seven times higher than in 2020, when 81 people were caught crossing the Lithuanian border illegally. In 2019, border guards stopped 46 migrants and in 2018 – 104 migrants³¹. In 2021, there were 4 326 third-country nationals having illegally crossed the state border of the Republic of Lithuania with Belarus³².

The Government declared a state-level emergency due to a massive influx of foreigners throughout the country by clause 1 of its Resolution No 517 of 2 July 2021 "On declaring a state-level emergency and appointing the head of state-level emergency operations".

Pursuant to Article 71(1) of the Law of the Republic of Lithuania "On the Legal Status of Foreigners" (hereinafter – the Law on LSF), asylum seekers accommodated in the State Border Guard Service, the Refugee Reception Centre, other accommodation centres or places shall have the following rights, inter alia: to use material reception conditions; to get information on their rights and obligations and the consequences of non-compliance with them during the examination of their application for asylum, as well as information related to the examination of their application for asylum free of charge, in a language which they understand; to access to state-guaranteed legal aid in accordance

³¹ Official Statistics Portal (2021). This is not the first time Lithuania faces an irregular migrant crisis, online access: <https://osp.stat.gov.lt/straipsnis-nelegaliu-migrantu-krize-lietuva-uzklumpa-nebe-pirma-karta>

³² Official Statistics Portal (2022). Third-country nationals who illegally crossed the state border of the Republic of Lithuania with Belarus for migration purposes, online access: <https://osp.stat.gov.lt/statistiniu-rodikliu-analize?indicator=S3R0354#/>

with the procedure laid down by the Minister of the Interior, in so far as it is related to the examination of their application for asylum; to use interpreting services free of charge insofar it is related to the examination of their application for asylum; to access emergency medical assistance, psychological assistance and social services at the State Border Guard Service or other places of accommodation free of charge; to apply to representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and any other organisation providing specialised legal aid or advice to asylum seekers, and to meet with them under conditions that ensure privacy; and, for people classified as vulnerable, access to reception conditions corresponding to their special needs.

On 23 July 2021, an amendment to Article 71 of the Law on LSF entered into force, supplementing this Article with clause 11 providing that “in the event of a declaration of a state of war, a state of emergency, a state of emergency or an emergency due to a mass influx of foreigners, the rights of asylum seekers referred to in clause 1 of this Article may be temporarily and proportionately restricted, if they cannot be guaranteed for objective and justified reasons, with the exception of the right to material reception conditions, the provision of emergency medical aid and state-guaranteed legal aid, and, for vulnerable persons, the right to use reception conditions corresponding to their special needs [..].”

Pursuant to Articles 3, 19¹ and 19² of the Law on the Seimas Ombudsmen of the Republic of Lithuania, the Seimas Ombudsmen's Office assessed, under its competence, and proposed amendments to the Law on LSF in the aspect of ensuring human rights and freedoms in order to ensure that the legal regulation does not create a risk of unjustified restrictions on human rights and freedoms. The Seimas Ombudsmen's Office proposed, inter alia, not to accept amendments that would allow for restrictions of certain rights of asylum seekers in cases where the State is unable to guarantee those rights due to the declaration of a state of war, a state of emergency, or a state of emergency due to a mass influx of foreigners. The Seimas Ombudsmen's Office also disagreed with the proposal to provide for the possibility to restrict the freedom of movement of foreigners for an indefinite period of time, as this could not be compatible with proper implementation of the principles of legitimate expectations and proportionality. The Seimas Ombudsperson noted that disproportionate restrictions on the rights and freedoms of foreigners and their excessive duration may amount to detention and inhuman and degrading conditions.

The Seimas Resolution No XIV-617 of 9 November 2021 “On the introduction of a state of emergency” introduced a state of emergency for one month starting 10 November 2021 in the entire border section along the state border of the Republic of Lithuania with the Republic of Belarus and 5 kilometres inland from the border section, as well as in places of accommodation of foreigners designated by the authorities of the Republic of Lithuania, including the territory of the Kybartai Foreigners' Registration Centre. Pursuant to Article 2 of this Resolution, the areas under a state of emergency also impose certain restrictions on the exercise of the rights and freedoms referred to in Articles 22 (right to privacy), 25 (right to freedom of expression and belief), 32 (right to freedom of movement), and 36 (right to freedom of peaceful assembly) of the Constitution of the Republic of Lithuania. Resolution No XIV-733 of the Seimas of 7 December 2021 “On the introduction of a state of emergency” reintroduced the state of emergency from 10 December 2021 till 14 January 2022, 24:00.

It should be noted that from 1 January 2022, the list of rights that may not be restricted even after introducing a state of war, a state of emergency, a state of emergency situation or emergency event

caused by a mass influx of foreigners has been extended. It should also be noted that the rights of foreigners who are unlawfully present in the Republic of Lithuania and who are not asylum seekers were only enshrined in the Law on LSF having adopted amendments to the Law on LSF on 23 December 2021, which came into force on 1 January 2022.

Since the very beginning of the migration crisis, the Seimas Ombudsmen's Office has been monitoring the human rights situation in places of temporary accommodation for foreigners. On 18 June 2021, representatives of the institution visited the Foreigners' Registration Centre of the State Border Guard Service (SBGS) in Pabradė, where they were checked the living conditions of foreigners who had crossed the Lithuanian-Belarusian border in a tent city set up there. Following this visit, the Office drew the attention of the Government of the Republic of Lithuania, the Ministry of the Interior, the Seimas Committee on Human Rights and the Seimas Committee on National Security and Defence to the problems identified with regard to the protection of human rights of foreigners relating to a lack of interpretation and legal services.

As part of the national prevention of torture, employees of the Seimas Ombudsmen's Office also regularly inspect places of detention of foreigners, where a number of violations have been identified. During the inspections carried out by employees of the Seimas Ombudsmen's Office on 2-6 August, 24-26 August and 15 September 2021, the Seimas Ombudsperson drew the attention of the responsible authorities to violations of human rights at the places of detention of foreigners and made recommendations to improve the situation of human rights in these places of detention (refer to p. ... for more information on the systemic problems in the area of the protection of human rights of foreigners identified during the inspections). On 14-16 December and 22-23 December 2021, employees of the Seimas Ombudsmen's Office also carried out inspections in the Kybartai Foreigners' Registration Centre of the SBGS. Although some of the recommendations made by the Seimas Ombudsperson were taken into account, these inspections also identified problems related to inadequate provision of material conditions and violations of other rights and freedoms of foreigners.

It should also be noted that the Seimas Ombudsmen's Office received an appeal from the Lithuanian Gay League regarding the bullying of migrants at temporary accommodation places by other migrants on the grounds of sexual orientation. The circumstances listed in this appeal, concerning the fact that LGBT+ persons do not feel safe in foreigners' accommodation places, are bullied and threatened on the grounds of their sexual orientation because they are accommodated together with other foreigners who, because of their religious convictions or other views, are particularly hostile towards members of the LGBT+ community, were also identified during the aforementioned inspections of the places of detention of foreigners. In this context, the Seimas Ombudsmen's Office drew the attention of responsible authorities to the need to take measures to ensure that a comprehensive vulnerability assessment of all persons is carried out in reception and detention facilities in accordance with clearly defined procedures and that foreigners can exercise their rights without discrimination on the basis of their sexual orientation, gender identity or the violence they have experienced, including the right to assistance in line with their special needs and to safe accommodation conditions.

REPORT ON THE IMPLEMENTATION OF THE NATIONAL PREVENTION OF TORTURE

In 2021, a total of 24 visits to places of deprivation of liberty were carried out, visiting places of detention of foreigners, a psychiatric hospital and the Lithuanian Criminal Police Bureau. These visits identified fundamental violations of human rights and freedoms and other systemic problems, which all responsible institutions and bodies were urged to address in order to ensure that Lithuania's international obligations in the field of protection of human rights and freedoms are not violated, and that violations of the protection of human rights and freedoms do not recur at the places of detention visited and at other similar detention facilities.

In order to raise the level of competence of employees of detention facilities in the field of protection of human rights and freedoms and the national prevention of torture, three information and consultation seminars were held remotely for employees of social care institutions and correctional facilities. Meetings were also held with representatives of the European Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CPT), the European Union Agency for Fundamental Rights (FRA), and the international humanitarian organisation "Doctors without Borders", discussing relevant issues relating to the protection of human rights and freedoms and the prevention of torture in places of deprivation of liberty.

Main comments, recommendations and changes achieved

inspections of places of detention of foreigners

Clause 1 of Resolution No. 517 of the Government of the Republic of Lithuania of 2 July 2021 "On Declaring State-level Emergency and Appointing a Head of State-level Emergency Operations" declared a state-level emergency situation throughout the country due to a massive influx of foreigners. Amendments to the Law on the Legal Status of Foreigners (hereinafter – Law on LSF) of 23 July 2021 and subsequent amendments establish certain restrictions on the rights of asylum seekers, which may be temporarily and proportionately applied during a state of war, a state of emergency, as well as during a state of emergency due to a mass influx of foreigners, if certain rights of asylum seekers (with exceptions) cannot be guaranteed for objective and justified reasons, also providing that the decision to admit an asylum seeker temporarily accommodated in a temporary accommodation facility to the Republic of Lithuania and the restriction of liberty of foreigners in a temporary accommodation facility may take up to 6 months.

On the instructions of the Seimas Ombudsperson, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment in places of accommodation of foreigners during the declared emergency due to a mass influx of foreigners, employees of the Human Rights Division of the Seimas Ombudsmen's Office conducted inspections of the Varėna Border Police Station and

the Vilnius Border Police Station of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania (hereinafter – SBGS), as well as at other places of detention of foreigners in the territories the Lazdijai District Municipality, the Varėna District Municipality, the Vilnius District Municipality, and the Ignalina Municipality on 2-6 August 2021, 24-26 August and 15 September³³.

The inspections assessed issues related to: ensuring material conditions for reception of asylum seekers, the right to adequate food, access to personal health care services, assessing the vulnerability and special needs of persons, access to information on rights, obligations, procedures for examining asylum applications, ensuring the right of persons to submit an asylum application, and the organisation of reception of asylum seekers.

The following systematic violations of human rights and freedoms found during the inspections carried out in the above-mentioned places of detention of foreigners, which amount to inhuman or degrading treatment or punishment prohibited by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment were found:

- 📄 Foreigners have been accommodated without ensuring adequate material reception conditions for asylum seekers and the right to personal privacy. The majority of foreigners at the SBGS border guard stations, including minors and other vulnerable persons, were accommodated in temporary accommodation, i. e. in tents and hangars, some persons were accommodated in SBGS office premises and garages. Most of the tents and hangars were permeable to the rainwater accumulating inside of them. On rainy days, sleeping mattresses and bed linen were wet. The minimum air temperature in Varėna district was a mere 5.5–3.8 degrees, and it was only slightly higher (7.8–4.1 degrees) in Lazdijai district during the same period of time. However, foreigners were not provided with adequate clothing, footwear; tents and some other premises were not clean and orderly, and due to insufficient supply of toiletries, foreigners were only partially able to maintain their personal hygiene properly. The premises of the former schools and orphanages, where

³³ Varėna border team of the SBGS: Kapčiamiestis border guard station (Pertakas 3, Pertako village, Kapčiamiesčio eldership, Lazdijai district), Druskininkai border guard station (Mizarų g. 59, Druskininkai), the Raigardas border checkpoint of the Druskininkai border guard station (Gardino g. 130, Jaskonių village, Viečiūnų eldership, Druskininkai municipality), Latežeris border checkpoint of the Druskininkai border guard station (Pariėės kelias 9, Latežerio village, Viečiūnų eldership, Druskininkai municipality), Švendurbės river border checkpoint of the Druskininkai border guard station (Nemuno kelias 76, Lipliūnų village, Leipalingio eldership, Druskininkai municipality), Kabeliai border guard station (Kabelių g. 59B, Kabelių village, Marcinkonių eldership, Varėna district), A. Barauskas border guard station (Mantotų village, Kaniavos eldership, Varėna district), Purvėnai border guard station (Pasienio g. 2, Purvėnų village, Šalčininkai district); Padvarionys border guard station of Vilnius border team of the SBGS (Bajorų g. 1, Bajorų village, Vilnius district), Adutiškis border guard station (Adutiškio g. 4, Kackonių village, Švenčionys district), Švenčionys border guard station (Jančiūnų village, Švenčionys district), Tverečius border guard station (Daktorių village, Ignalina district); Pūškos border guard station (Pūškų village, Ignalina district); other places of detention of foreigners, including in the premises of the former Kapčiamiestis children foster home (Veisiejų g. 6, Kapčiamiestis, Lazdijai district municipality), the former Vydeniai primary school (Mokyklos g. 2, Vydenių village, Vydeniai eldership, Varėna district municipality), premises of the former Linkmenys school (Liepų g. 2, Linkmenų village, Linkmenų eldership, Ignalina district), the former Kazitiškis school (Mokyklos g. 10, Kazitiškis, Ignalina district) and Medininkai border school (Pasieniečių g. 11, Medininkų village, Vilnius district).

foreigners were temporarily accommodated, were also in poor condition: there was mold in them, windows were boarded, the premises could not be ventilated, there were no toilets, washrooms, showers, and privacy was not ensured;

- ❏ In almost all camps set up in SBGS divisions, foreigners were only provided with dry rations for more than 30 consecutive days. Warm meals were provided only to foreigners accommodated in the premises of former schools and orphanages.
- ❏ Only some of the temporary accommodation places were visited regularly by personal health professionals, some persons did not immediately receive an initial medical check-up, and thus their health problems were not identified for a long period of time; foreigners were not tested for COVID-19 disease (coronavirus infection). They were asked to pay for some personal healthcare services and medicines, and there was a lack of personal healthcare professionals and ambulances to cover all the emergency medical needs of foreigners.
- ❏ SBGS conduct an initial assessment of a person's vulnerability by visually inspecting and interrogating the person. Procedures for assessing the vulnerability of persons in places of their temporary accommodation were not clear and uniform, the vulnerability of foreigners and their special needs were not assessed fully and promptly, and reception conditions for some vulnerable persons were not ensured in a way that was appropriate to their special needs.
- ❏ Places of temporary accommodation of foreigners do not assess whether a person is a victim of trafficking in human beings, whether he has been tortured, raped or otherwise severely psychologically, physically or sexually abused, due to which he may have special needs; the specific needs of people who may be victims of trafficking or who have been subjected to torture, rape or other serious violence are not clear, or unidentified, assistance to these vulnerable persons was not organized, and all foreigners were in a particular need of psychological assistance at the places of temporary accommodation of foreigners.
- ❏ Accommodation conditions for foreigners in tents, garages and some premises did not meet the best interests of children; special needs of children were not met; minors in places of temporary accommodation of foreigners were not offered any activities, including education. The exact number of pregnant women accommodated in places of temporary accommodation of foreigners was unknown.
- ❏ There were places of accommodation visited during inspections where officials were not aware of the presence of foreigners that are members of the LGBTQ + community and did not know that they are attributed to groups of vulnerable people. When foreigners arrive at a place of their temporary accommodation, their initial assessment (interview) does not include questions about their sexual orientation or gender identity, so the vulnerability of foreigners due to their belonging to sexual minorities and the resulting violence is

not assessed, and therefore LGBTQ + needs are not identified immediately. Homosexuals were accommodated in common areas and / or premises with other foreigners who were intolerant of the LGBTQ + community, and therefore experienced both fear of psychological and physical violence.

- 📄 Interpretation services were only provided during the initial asylum interview, which violated the right of foreigners to receive quality legal, medical and other services and information in a language they understand.
- 📄 Foreigners in places of temporary accommodation did not have access to information on their legal status in the Republic of Lithuania, on the right to seek asylum in the Republic of Lithuania and the procedures applicable therein, also on the course of the examination of their submitted asylum applications, the rights and obligations of asylum seekers and the consequences of non-compliance with these obligations during the examination of an asylum application, and they had little or no information on access of foreigners to legal services. Moreover, officials took deterrent actions at the border of the Republic of Lithuania to guide them towards Belarus without informing them of the procedures and places where they could legally lodge asylum applications.
- 📄 People who intended to enter the territory of the Republic of Lithuania illegally were diverted towards Belarus by deterrent actions of Lithuanian border guard officials without ensuring that migrants were not at risk of being subjected to torture, inhumane or degrading treatment, or that there were no risk factors that could endanger their life or health.
- 📄 In the face of an emergency situation due to a mass influx of foreigners, in addition to the direct functions assigned to them in relation to the protection of the state border and control of its crossing, officials of the SBGS must ensure that premises of the accommodation of foreigners are properly equipped, that food is supplied to them uninterrupted, that necessary medical assistance is available, and that social and other needs of foreigners are met. Social workers, translators, psychologists were not invited to these places to reduce this additional workload, and as a result of the extremely increased workload, SBGS officials worked/ possibly still work under conditions harmful to their health, and their right to rest was/may not be adequately ensured.
- 📄 The procedure for ensuring that rights of foreigners are restricted only when inevitably necessary, temporarily and proportionately, during an emergency situation due to a mass influx of foreigners and persons responsible for monitoring the proper implementation of this requirement under the Law on LSF has not been planned and SBGS officials were not aware of it.
- 📄 The conditions of temporary accommodation of asylum seekers in structural divisions of the SBGS and in other designated premises varied, and some foreigners were accommodated

in much worse conditions than others without any clear selection procedure, thus violating the principle of equal treatment of people and disregarding possible special needs of foreigners.

Having taken into account the identified shortcomings, the Seimas Ombudsperson provided responsible state bodies and institutions, municipalities (the Government of the Republic of Lithuania, the Ministry of the Interior of the Republic of Lithuania, the Ministry of Social Affairs and Labour of the Republic of Lithuania, the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania, the State Food and Veterinary Service of Lithuania, the National Public Health Centre under the Ministry of Health, municipal administrations of Alytus City, Alytus District, Druskininkai, Ignalina District, Lazdijai District, Varėna District, Šalčininkai District and Švenčionys District) with thirty-eight (38) recommendations for improving the human rights situation of foreigners accommodated in places of detention of foreigners.

Inspection at a psychiatric institution

On 18 May 2021, employees of the Human Rights Division of the Seimas Ombudsmen's Office carried out an inspection at the order of the Seimas Ombudsperson with an aim to check the human rights situation at the Utena Expert Department of the National Forensic Psychiatric Service under the Ministry of Health (hereinafter – the NFPS).

The following were assessed during the inspection: informing the subjects of the examination of their rights and obligations, accessibility of information, ensuring the right to submit complaints and their processing, application of restraint measures, ensuring material conditions for the subjects of the examination, adaptation of the environment for persons with disabilities, the activity of the structural division of the public police of the Utena district police headquarters (hereafter – the Protection Squad) ensuring the activities of the protection of the 1st subdivision of the Utena Expert Department and the organization of work at the Utena Expert Department.

Attention was drawn to the following main shortcomings and violations of human rights and freedoms identified during the inspection carried out at the Utena Expert Department:

- 📄 The Department did not have an information board for persons under investigation and their relatives, which would contain clear and comprehensible information on the internal rules of procedure of the Department, the rights and obligations of the persons under investigation, organisations defending the rights of the persons under investigation, the Institution for the National Prevention of Torture (Human Rights), and other information relevant to the persons under investigation and their relatives, which raises the risk of a violation of the right of the persons under investigation to information at the Department.
- 📄 The procedure for filing appeals at the Utena Expert Department was not explained to persons under investigation and their relatives, also the functions of the Committee on Ethics established by the State Forensic Psychiatric Service, the content of the Code of

Ethics, the possibility of submitting anonymous appeals was not ensured in sub-divisions, not all appeals of the subjects were registered in the relevant register of documents in accordance with the procedure laid down in legal acts, and, as a result, the right of subjects to complain and to submit appeals was not properly ensured.

- ☐ The procedure for the application of physical restraints as provided for in the legislation was not followed at the Utena Expert Department, and internal documents (the Rules of Use of Physical Restraints at the Utena Expert Department) did not establish that other, milder, measures (oral methods, etc.) must be exhausted before imposing physical restraints. There was no clock in the rooms where restraints are applied, so that persons under investigation subjected to restraint would not have the possibility to keep track of the time in order to know how long their restraint lasts. The leather straps used for physical restraint did not comply with legal requirements. Restraint rooms did not provide a safe environment and did not ensure the privacy of persons subjected to physical restraint. In view of the above, the practice of applying physical restraint measures at the Utena Expert Department needs to be improved in order to ensure the safety of the persons under investigation and employees, to protect the dignity of the persons under investigation and to avoid the risk of violation of human rights.
- ☐ The Utena Expert Department does not provide adequate material conditions for the persons under examination, the wards lack furniture, most of the mattresses are not covered with a waterproof material that is easy to disinfect. The privacy of the persons under investigation is also not ensured, for example, the door of the shower room has a window which allows a full view of the shower room, but the shower room is not equipped with a curtain or a shower wall to provide privacy while showering; the sanitary facilities (toilets) do not have any partitions to ensure privacy and dignity. The persons under investigation are not provided with the necessary clothing for outdoor walks appropriate to the weather conditions, and the laundered clothing issued to them is not personalised. These circumstances at the Utena Expert Department create conditions for degrading treatment of the persons under investigation.
- ☐ The Utena Expert Department does not ensure full accessibility of the environment and information for persons with disabilities. For example, hygiene rooms are not adapted to special needs of people with disabilities, the entrances to the reception area for incoming detainees and to the premises of the 1st subdivision are not adapted to persons with reduced mobility (there are no special slopes from the curbs; steep stairs must be taken to access the premises), the bottom and top steps of the entrances and the stairs inside the premises are not adapted to persons with visual disabilities (stairs do not have tactile paving or are not painted in contrasting (for example, yellow) colours. There are no lifts or hoists. All this violates the dignity of persons with disabilities and does not ensure the highest possible standard of autonomy, freedom of movement and safety.

- ❏ 1st subdivision of the Utena Expert Department fails to ensure due protection of persons under investigation. There is only one security official on duty at the 1st subdivision of the Utena Expert Department, which does not comply with the requirements of clause 12 of the Regulations approved by Order No 552/395 of the Minister of the Interior of the Republic of Lithuania of 16 October 2000, which establishes that a shift at the 1st subdivision of the Utena Expert Department consists of a head of the security unit, a guard and station officials, and, when necessary, also a guard assistant. Thus, rights of the persons under examination and of employees of that subdivision are violated, also posing a threat to health and life of these people.
- ❏ The workload of forensic experts at the Utena Expert Department exceeds the established workload, and the excessive workload of forensic experts leads to queues for in-patient forensic psychiatric examinations. Employees of the Department are not provided with adequate conditions for continuous professional development, which creates conditions for violating rights of employees and persons waiting for forensic examinations.

Taking into account the identified shortcomings, the Seimas Ombudsperson made thirty-four (34) recommendations to the responsible state bodies and institutions (the Government of the Republic of Lithuania, the Ministry of Health of the Republic of Lithuania, and the State Forensic Psychiatric Service under the Ministry of Health) regarding the improvement of the situation of the human rights of persons detained at the Utena Expert Department.

Inspection at the Lithuanian Criminal Police Bureau

The Seimas Ombudsperson received a complaint from the applicant X (hereinafter – the Applicant) regarding possible violations of the Applicant's rights at the Lithuanian Criminal Police Bureau. The Seimas Ombudsperson ordered employees of the Human Rights Division of the Seimas Ombudsmen's Office and the Seimas Ombudsperson's advisers to carry out an investigation into the human rights situation at the premises of the Lithuanian Criminal Police Division and an inspection of this place of detention for the purpose of prevention of torture in relation to the circumstances of the Applicant's complaint.

The following main shortcomings and violations of human rights and freedoms identified during the inspection of the Lithuanian Criminal Police Bureau should be taken into consideration:

- ❏ The applicant suffered various injuries during his detention, including sprains to the ligaments of the cervical spine, the thoracic spine, contusions to the lower back and pelvis. The applicant received medical treatment for these injuries on several occasions. Both the prosecutor in charge of the pre-trial investigation and the officials of the Lithuanian Criminal Police Bureau admitted that they were aware of the injuries suffered by the Applicant, but did not take any action to protect the Applicant's rights which may have been violated and to establish whether the physical violence used against the Applicant met the criterion of official necessity and the principle of proportionality. It should be

noted that such a situation, where neither the prosecutor nor police officers fulfil their positive duties to respond effectively to the injury of a person in the course of proceedings, may be considered to be in breach of Article 3 of the ECHR.

- ☐ Only the moment of the Applicant's detention was recorded by mobile surveillance means, thus officers of the Lithuanian Criminal Police Bureau and the Lithuanian Police Anti-Terrorist Operations Team "Aras" did not comply with the requirements established by legal acts, i.e., did not use mobile surveillance devices during the entire detention and transportation operation of the Applicant and did not ensure that the mobile video surveillance device properly captured video data. The situation when the video does not record the transportation of the Applicant, during which excessive physical coercion could have been used against the Applicant, does not allow to objectively assess the actions of the officers, and it is possible to assume that there may be cases when physical violence is used in disproportionate manner during operations of the Lithuanian Criminal Police Bureau and the Lithuanian Police Anti-Terrorist Operations Team "Aras", in violation of international human rights standards.
- ☐ Officers of the Pisons Department carried out criminal intelligence actions on the Applicant without the permission (sanction) of the competent entity established by legal acts to perform such actions.
- ☐ Officers of the Lithuanian Criminal Police Bureau did not provide the Applicant with food (including the possibility to have a drink) for almost ten hours, although they had a duty under the legislation to provide him with food (create conditions to drink) at intervals of no more than seven hours. The Seimas Ombudsperson concluded that such actions (inaction) of the officers of the Lithuanian Criminal Police Bureau, where a person was not provided with adequate and timely food (in this particular case, the Applicant was denied the opportunity to eat and drink for almost ten hours), may be considered as torture and inhuman treatment violating Article 3 of the ECHR.
- ☐ Persons brought to the premises of the Lithuanian Criminal Police Bureau for pre-trial investigation interviews and/or criminal intelligence activities are not registered. The location and duration of the presence of the persons brought to the premises of the Lithuanian Criminal Police Bureau can only be traced to some extent through the interrogation protocols of these persons and the criminal intelligence documents, which are not always completed. The decision to complete the relevant documents is taken at the discretion of officers of the Lithuanian Criminal Police Bureau, after assessing the information collected in the course of the respective criminal intelligence activities. For this reason, situations may arise where the whereabouts of persons brought to the premises of the Lithuanian Criminal Police Bureau and/or criminal intelligence activities carried out in relation to them are not known, thus creating preconditions for violating provisions of Article 3 of ECHR, the Convention against Torture

and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention for the Protection of All Persons from Enforced Disappearance.

- ❏ The interrogation rooms of the Lithuanian Criminal Police Bureau are not adequately ventilated, therefore officers carry out pre-trial investigation and/or criminal intelligence activities in their offices, thus not only worsening their working conditions, but also, in some cases, risking the disclosure of confidential information and violating the requirements applicable to the interrogation of persons brought to a police institution, and creating preconditions for violating the provisions of Article 3 of the ECHR, the principles of police activities, failing to ensure rights of persons brought to the premises of the Lithuanian Criminal Police Bureau and respect for human dignity.

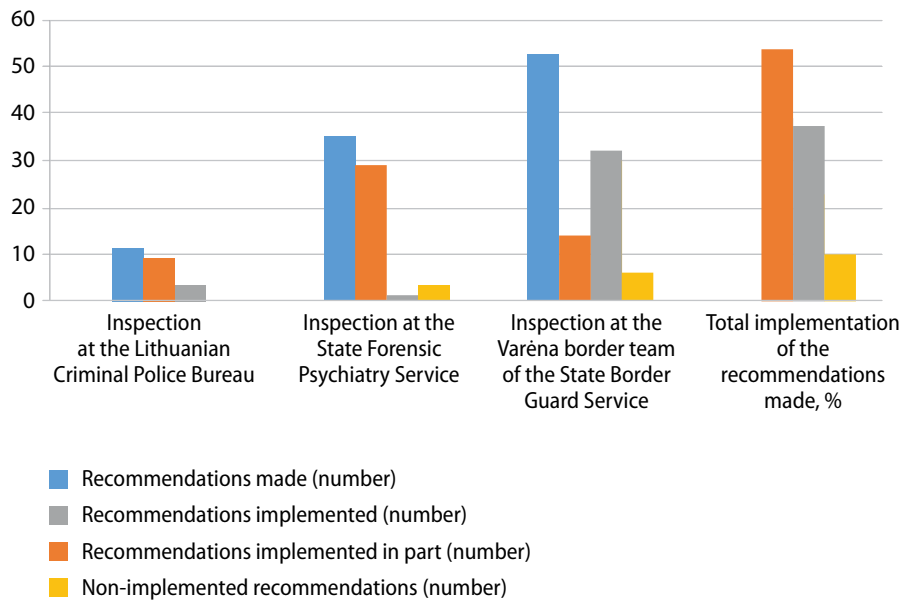
Taking into account the identified shortcomings, the Seimas Ombudsperson provided twelve (12) recommendations to the responsible state institutions and institutions (the Prosecutor General's Office of the Republic of Lithuania, the Lithuanian Police, the Lithuanian Criminal Police Bureau, the Prisons Department under the Ministry of Justice of the Republic of Lithuania) on persons the improvement of the human rights situation of persons interrogated at the Lithuanian Criminal Police Bureau.

Monitoring of the implementation of recommendations

In 2021, the national prevention of torture by the Seimas Ombudsmen's Office continued to be affected by the global pandemic of COVID-19 caused by coronavirus infection, as well as by human resource shortages caused by the pandemic and other reasons. The Seimas Ombudspersons used various methods to monitor the implementation of their recommendations. Following the provision of recommendations, the responsible institutions were consulted by phone, e-mail and other means of communication and, following the analysis of the implementation plans submitted to the Seimas Ombudsman, detailed comments were provided to the institutions on the implementation of the plans and, in the case of missing information, clarifications were requested.

The assessment of the implementation of the twelve recommendations made following the inspection at the premises of the Lithuanian Criminal Police Bureau, it should be noted that three of them were properly implemented and nine recommendations were partially implemented and/or are still being implemented. Of the thirty-two recommendations made following the inspection at the State Forensic Psychiatric Service, only one was implemented in full, twenty-nine were implemented in part and/or are still being implemented, and three have not yet been implemented. The following is the statistics of implementation of the recommendations of the last inspection carried out in 2021 at the Varėna team of the State Border Guard Service: of the fifty-two recommendations made, thirty-two were implemented, fourteen were implemented in part/ are still being implemented, and six have not been implemented altogether.

It should be noted that out of all the recommendations made during the national prevention of torture in 2021, 37% were implemented, another 53% were implemented in part and/ or are still being implemented. There is an ongoing dialogue with responsible authorities regarding 10% of unimplemented recommendations, aiming for a prompt and effective implementation of all recommendations and proper protection of rights of persons in detention places.



Seimas Ombudsperson, Head of the Office

Erika Leonaitė

Seimas Ombudsperson

Milda Vainiutė

A blurred night photograph of a city skyline, likely Vilnius, Lithuania, featuring several tall buildings illuminated against a dark blue sky. The lights from the buildings and streets create a bokeh effect in the foreground.

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