JO RIKSDAGENS OMBUDSMÄN

The Swedish Parliamentary Ombudsmen

Report for the period
1 July 2013 to 30 June 2014

SUMMARY IN ENGLISH

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This is an excerpt from The Swedish Parliamentary Ombudsmen's Annual Report for the period 1 July 2013 to 30 June 2014. The original report is about 869 pages long.

Särtryck ur 2014/15:JO1

Contents

1 A general account of the observations made by the Parliamentary Ombudsmen (JO) within their respective supervisory areas

1.1 Parliamentary Ombudsman Lars Lindström (supervisory area 1)

Introduction

Supervisory area 1 comprises the Swedish courts, the Swedish Enforcement Authority, the planning and construction service, the land survey service, environment and health protection, the Swedish Tax Agency, the Chief Guardians and the communications system. During the year 1,568 complaints cases were received, which is a decrease of 107 cases (-6 percent) compared to the previous year. 1,540 cases were concluded during the year. 543 of these complaints were settled by delegated heads of division.

Over the fiscal year, I have inspected three district courts and one administrative court. Head of Division Håkansson has inspected two municipal boards on my behalf. The inspection records can be found at the Parliamentary Ombudsmen web site www.jo.se.

In the following account, I will highlight some of the decisions that are described in this year's official report, and account for certain other measures that I have taken this year.

Grounds for judgements and decisions in courts

In last year's official report, I gave an account of two decisions concerning the obligation of the general courts to provide grounds for their decisions. In this year's report, I present an enquiry initiated by me (ref. no. 748-2014) regarding grounds for judgements in the administrative court. During an inspection of an administrative court, I looked at five judgements with questionable grounds. The cases concerned compulsory care pursuant to the Swedish Act on Compulsory Mental Care. The grounds provided, which were almost word for word identical in the five judgements, had no connection to the circumstances assessed in the case, and simply constituted accounts of the wording of the act. The comment to the Swedish Administrative Court Procedure Act calls such justification "false grounds". Those reading the judgement are given the impression that the proposed judgements have been written by a reporting clerk or court clerk prior to the hearing, and that the judge has not made any significant changes to the proposal with which he or she has been presented.

The investigation of the matter showed that the administrative court used templates for judgements in mental care cases. This is of course related to the

significant size of the target group, and the fact that having rational working methods is of vital importance. In 2013, close to 13,000 mental care cases were received by the country's administrative courts. However, this rationalisation must never be taken to the point where the legal requirements for providing grounds are no longer upheld. In my decision, I note that the five reviewed cases do not meet the requirements regarding grounds set out in the law, and I express criticism of the judges responsible for these judgements.

The regulations on objectivity and impartiality in the Instrument of Government.

In accordance with our Instructions, the Parliamentary Ombudsmen are specifically tasked with ensuring that public authorities and courts abide by the provisions in Chapter 1, Section 9 of the Instrument of Government concerning impartiality and objectivity, i.e. the principle of objectivity. This year's official report presents three cases where public authorities have been criticised for acting contrary to this principle.

In one case (ref. no 6796-2013), a district court decision regarding a decision to prohibit contact had been appealed to the court of appeal. The chief judge of the district court had assisted one of the parties in writing a submission to the court of appeal. I asked the district court to make a statement regarding the nature of this assistance in view of the provisions in Chapter 1, Section 9 of the Instrument of Government. In a reply to the Parliamentary Ombudsmen, the chief judge made reference to the court's obligation to provide direction of proceedings, i.e. to ask questions and make comments intended to rectify omissions and ambiguities in the parties' presentations. In my decision, I noted that the help provided to the party by the chief judge far exceeded that which can be considered to be within the scope of the constitutional requirement for impartiality and objectivity. Furthermore, as the assistance related to a case that was not being processed by the district court, but by the court of appeal, it ought to have been evident to the chief judge that his actions were in breach of the constitutional requirement. The chief judge was therefore severely criticised.

Case 746-2013 concerned an unusual situation. A co-operative housing association applied for building permits relating to balconies. However, the association wanted its application to be denied, rather than have the permits granted. The association then planned to use this denial as evidence in ongoing proceedings in the Svea Court of Appeal, where the association was involved in a dispute with a number of its members. These members reported two officials at the urban planning department for biased processing. When I reviewed the documents – primarily e-mail correspondence – the only possible conclusion was that they were right. A couple of serious transgressions, the contents of the e-mail correspondence in the case as well as the botched record-keeping of this correspondence, unequivocally led to the conclusion that the reported officials' handling of the building permit application was in breach of the Instrument of Government provisions on impartiality and objectivity. The officials were therefore severely criticised.

In case 4427-2011, a county governor had made decisions to waive the right to coastal access. A closer reading of these decisions gives the impression that

the county governor, by making these decisions, has broken the law. However, in the Parliamentary Ombudsmen case, the county administrative board argued that the assessment had not been clearly represented in the decisions, and that there were other reasons on which these decisions had been made. My decision notes that this means the county governor had not provided grounds for the decisions in the way prescribed by the Swedish Administrative Procedure Act. As the decisions had been drawn up in a way that made them appear unlawful, the county governor is in breach of the objectivity required from administrative authorities by the Instrument of Government. The county governor was therefore severely criticised.

Public authority must be exercised in accordance with the law

A court's work is based on the law, and it goes without saying that the court itself must act within the scope of the law. However, I have criticised district courts on two occasions for decisions that were not supported by law. The first decision (ref. no. 5904-2012) refers to a case where two parties were involved in a property dispute. During the preparatory phase of the proceedings, the district court decided that one of the parties would be allowed to inspect the other party's property, and that the latter was obligated to provide access to the property for this inspection. This decision has no legal grounds, and the district court was therefore criticised by me. The second decision (ref. no. 6163-2012) refers to a dispute between two parents regarding the custody of their child, who the child should live with and access rights relating to one of the parents. The available regulations provide the court with the possibility of issuing decisions on certain matters stated in the law, while details relating to the child must be decided by the parents. The idea is thus not for the court to make decisions on behalf of the parents. However, that is what the court did in the case in question, and the decision of the district court therefore lacks legal grounds. The district court is criticised.

Conduct

In three decisions, I have criticised conduct that can be described as a poor attitude towards people attending the courts and administrative authorities, or simply as poor conduct. One case (ref. no. 215-2013) involves a woman who was evidently living in difficult conditions, and who had been summoned as a party to a court hearing in a family law case. She hired a counsel and about a week before the hearing, her solicitor contacted the court. He stated that he was the woman's counsel, and asked the court to reschedule the hearing, as he was otherwise occupied on the day it was to be held. The judge rejected the solicitor's request, which meant that the woman had to get a new counsel for the court hearing. In my decision I write that the information at hand regarding the woman's vulnerable situation should have led to the conclusion that it was of particular importance not to organise the proceedings in a way that made it any more difficult than it had to be for her, and that the consideration of her situation should have been given more weight when deciding how to handle the solicitor's request. The judge's decision meant that the woman had to find a

new counsel that she trusted, and who was able to attend the hearing on a week's notice. The judge is criticised for not giving sufficient consideration to the woman's interest of having the counsel she herself chose.

Another example of poor conduct was shown by a lay judge who, during a main hearing in a district court, used a mobile phone and sent a text message. In my decision (ref. no. 2340-2013) I note that a judge must direct his or her full attention to the hearing, and that it is thus incompatible with the task of a judge to do unrelated things during the hearing. Furthermore, a person involved in a trial may take offence if a judge is using his or her mobile phone during a hearing.

In these two cases, the criticised person committed an error as they did not consider how their conduct would be perceived by the other parties involved. The judge in the family law case probably had the best intentions for the case to be settled as quickly as possible, and the lay judge most likely did not realise how apparent it was that he was using his mobile phone.

Another, in a way more serious case concerns the Swedish Tax Agency (ref. no. 641-2013). The case concerns an official who became involved in a dispute with a private individual over the Tax Agency's registration of certain documents. The official sent an e-mail to the private individual, which was written in an unpleasant tone. The official accused the individual of mockery, of writing sarcastic and threatening messages, and of spouting "stupid" threats, such as reporting the Agency to the Parliamentary Ombudsmen. This official, who obviously cannot claim to have had good intentions or to not have understood how his behaviour would be perceived, is severely criticised for violating the principle of objectivity, as per Chapter 1, Section 9 of the Instrument of Government, through his written expression.

Chief Guardians

At the Parliamentary Ombudsmen we like to believe that the public authorities read our statements, take our criticism on board and do their best to ensure that there is no cause for future criticism. But sometimes, we are disappointed. Any decision for an individual to be assisted by an administrator, or for such a fiduciary relationship to end, must be made by a district court, in accordance with the law. Many turn instead to the chief guardian administration, which is then to transfer the application to the district court. On 28 May 2010, the chief guardian committee in Gotland was criticised by the Parliamentary Ombudsman for not having sent an application to end a fiduciary relationship to the district court. But when I inspected Gotland District Court in May 2013, I discovered four cases where the chief guardian committee of Region Gotland had taken an unreasonable time – between six months and two and a half years – to transfer this kind of application to the district court (ref. no. 3437-2013). Apparently, the committee had not heeded the criticism of the earlier decision, and is therefore severely criticised in this instance.

Animal protection

The Parliamentary Ombudsmen receives a fair number of complaints relating to the county administrative boards' management of matters in accordance with the Swedish Animal Welfare Act (1988:534). These are sensitive matters, where expedience and efficiency are of the essence to ensure that no animals are mistreated. At the same time, it is important that the management takes into account the rights of the individual animal owner. This can be a difficult balance, not least because cases relating to mistreated animals often stir up strong emotions.

In this year's official report, I describe two cases where I feel that the county administrative boards involved have taken the rights of the animal owners too lightly. In both cases, the county administrative board had decided to intervene and was thus obligated by law to inform the animal owner of this decision. In the first case (ref. no. 427-2013), the county administrative board did not want the animal owner to hinder the execution of the decision, and therefore waited to inform the owner until the police arrived at the scene to take the animals away. The police informed the owner of the decision. In the second case (ref. no. 1735-2013 and ref. no. 6458-2013), the county administrative board had decided that a dog was to be put down. Instead of notifying the dog's owner through a regular letter, the board chose to serve the decision using a process server. This meant that the dog's owner did not find out about the decision until 19 days after it had been made. At this point, the dog had already been put down. In both cases, the county administrative board is criticised for not informing the animal owner of their decision in due time.

In the last case, I also criticise the county administrative board for the preparation of its decision to put down the dog. The county administrative board had decided that the dog would be sold or otherwise transferred to another owner, and was later informed by the police that this was not possible, and that the dog should be put down. The county administrative board then decided that the dog would be put down without affording the owner an opportunity to make a statement regarding the notification from the police, and is therefore criticised.

Legislative referrals

I have been given the opportunity to respond to a large number of legislative referrals of proposed bills. It has been impossible to respond to all of these referrals, and I have focused on the referrals that are more closely linked to the central themes of my supervisory area.

The report "Prohibition of double procedures and other rule of law issues within tax procedure" (*Förbudet mot dubbla förfaranden och andra rättssäkerhetsfrågor i skatteförfarandet*, SOU 2013:62) concerns one such central theme. It has become clear that the Swedish praxis, in which a person who has provided false information on their tax return can be imposed with additional taxation as well as criminal punishment, cannot be upheld. The report suggests two methods of rectifying this problem, and the investigation proposes a solution pursuant to one of these. In my response, I point out a number of problems

within the investigation proposal, and recommend the legislature to select a different solution than the one proposed by the investigation.

1.2 Chief Parliamentary Ombudsman Elisabet Fura (supervisory area 2)

Supervisory area 2 comprises the Swedish Prison and Probation Service, the Swedish Social Insurance Agency and the Swedish Pensions Agency, the Armed Forces and a number of other authorities including the National Board for Consumer Disputes, the Equality Ombudsman and the Swedish Competition Authority. In organisational terms, the National Preventive Mechanism (NPM) unit belongs to area 2, but the unit's inspections, which fall within the framework of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) of 18 December 2002, are carried out on the instructions of the Ombudsman supervising the authority to be inspected. A more detailed account of the NPM unit activities is found in section 2.

During the fiscal year, 1,506 complaints cases were received, which is a decrease of 119 cases (-7 percent) compared to the previous year. 1,630 cases were concluded during the year. 835 (51 per cent) of these complaints were settled by delegated heads of division. Over the year, I have conducted eight inspections within the "traditional" supervisory operation. Within the OPCAT activities, there have been 10 additional inspections in my areas of supervision. Due to observations made in an inspection conducted by the NPM unit, I initiated one enquiry, which was not completed by the end of the fiscal year however.

The Swedish Prison and Probation Service

During the fiscal year, the trend that we have seen in recent years of fewer complaints relating to the Prison and Probation Service has continued. The reasons for this downward trend are not completely evident, but one of them is most likely the reduced burden on the country's penal institutions. When it comes to settled Prison and Probation Service cases, the frequency of criticism the decisions remains at roughly the same level as in the previous year. Fifteen decisions have been deemed to be of such public interest that they are referred to in the official report. I wish to particularly emphasise the decisions made in three of the enquiries initiated by me that were completed this fiscal year.

The first decision (ref. no. 3076-2012) concerns the care of a detainee in the police cells at the Kronoberg remand prison, and includes the matter of how to allocate responsibility between the Police and the Prison and Probation Service

with regard to the medical care of detainees. – A man who had been arrested and placed in the police cells had sustained serious physical injuries. Even though he repeatedly requested medical care, about eight hours passed before he was examined by a physician and taken to hospital. The police cells are administered by the Prison and Probation Service on behalf of the police. A practice had been established whereby the police authority ensured that medical care was provided for detainees in the police cells who needed it. The responsibility for the medical care of these detainees was not clearly regulated in the agreement between the two authorities. In my decision, I presumed that the authorities would regulate the current practice through a written agreement, and that written procedures would be established for the documentation of the detainees' needs for medical attention, etc. The decision criticises the Prison and Probation Service for shortcomings in the documentation of important incidents during the time spent by the detainee in question in the police cells. Since then, I have been provided with an agreement entered into by the Police and the Prison and Probation Service on 21 May 2014 in reference to these issues.

The second decision (ref. no. 5529-2012) concerns the rights of individuals who have been taken into custody in accordance with the Swedish Aliens Act (2005:716) in remand prisons and prisons. – During a visit by the NPM unit to the remand prison in Gävle in June 2012, it became clear that certain changes to the Aliens Act regarding the rights of detainees, which came into force on 1 May 2012, had not resulted in the adoption of any measures by the remand prison. These changes stipulate that an alien detained in a prison, remand prison or police cell, in addition to the provisions of the Swedish Detention Act, must be allowed contact with individuals outside of the institution. This means that the alien must have the same right to contact persons outside the institution as a person detained in the custody of the Swedish Migration Board. During the visit of the NPM unit, it was discovered that an alien, who had been detained pursuant to the Aliens Act, had not been allowed to make telephone calls to a relative for the first two weeks of his detention. I decided to investigate the matter of which considerations the new changes to the Aliens Act had led to in the Prison and Probation Service, as well as what instructions had been given and what measures had been taken centrally, in order to ensure the rights of the detainees in remand prisons and prisons. In my decision, I emphasised that detainees held in the custody of the Swedish Migration Board have unlimited and unchecked access to mobile telephones, and are also entitled to use computers with an internet connection. Detainees being held by the Prison and Probation Service, however, have limited opportunities for both phone calls and visits, and lack the possibility of contact with the outside world through the Internet. Furthermore, according to instructions issued by the Prison and Probation Service after the law change, the detainees' contacts are to be checked in advance, and their conversations may be monitored. My conclusion, as reported in the decision, was that the Prison and Probation Service's review, and its instructions to the operational units concerning the practical implementation of the new regulations, means that the rights of the detainees, in terms of contact with the outside world, will not be fully met in remand prisons and prisons. However, I did not wish to blame the Prison and Probation Service for this, but

pointed out the unsuitability of keeping detainees in premises adapted to hold individuals suspected or convicted of criminal offences.

The third decision (ref. no. 2311-2013) concerns the Prison and Probation Service's processing of cases relating to placements in security units. – The Prison and Probation Service is allowed, under certain circumstances, to place an inmate in a special security unit. This can be done in order to prevent escape, attempts to free them or continued serious criminal activity while serving a sentence. Being placed in such a unit means that the inmate is subject to more extensive control than other inmates. Placement in a security unit must be reviewed at least once per month. – Through complaints to the Parliamentary Ombudsmen and inspections of the security units at the prisons in Kumla and Saltvik, it had become apparent that there was widespread dissatisfaction among the inmates concerning the Prison and Probation Service's grounds for placing inmates in security unit and its review of such decisions. I therefore chose to initiate an enquiry into the Prison and Probation Service's processing of these placement cases. – In my decision, I clarified that the authority must endeavour, as far as possible and as explicitly as possible, to account for the source of different information in the decision, and the importance of this information in the authority's assessment. In my opinion, this is necessary to create a more transparent system, one that is comprehensible for the inmates. Understanding the reasons behind the decision is also necessary for the inmate to begin making the changes that, in most cases, will be necessary in order for him or her to affect their placement. – I noted that when it comes to the monthly review decisions, the Prison and Probation Service must account for the circumstances that have arisen after the initial decision was made. Circumstances may include the length of time the inmate has spent in the security unit, their conduct and their participation in programmed activities. In addition, the Prison and Probation Service must analyse the significance of these new circumstances and why – if the agency chooses not to change its decision – they are insufficient to affect the original decision. It is my opinion that review decisions must be seen, to no small degree, as an evaluation of the time the inmate has spent in the security unit, with the help of which the inmate can come to understand what measures they can take to influence their own situation.

Social Insurance

Among the general reflections I have made over the year concerning the Social Insurance Agency is that its internal guidelines and method support for its administration are generally very sound and clear, but that they are far from always followed. It would appear that the administrative staff do not have the time to get familiar with the instructions available, and that this is the cause of many of the errors that occur. Over the year I have also made particular note of the fact that there are still a large number of complaints against the Social Insurance Agency concerning poor management of confidential and sensitive information. In many instances, these complaints relate to documents being sent

to the wrong address. I view this as a very serious problem, which I have criticised on several occasions this year as well as in previous years.

However, this year I would like to highlight two decisions concerning confidentiality and personal integrity from a slightly different perspective. In the first of these decisions (ref. no. 6156-2011), I found that the Social Insurance Agency had been entitled, pursuant to the general clause of the Swedish Public Access to Information and Secrecy Act, to communicate certain confidential information about an insured person to the police. In the second case (ref. no. 2203-2012), the Social Insurance Agency had revealed information, in a case relating to maintenance support, concerning the country of residence of an insured person for whom there was an identity protection order. As mentioned in the decision, it is difficult to determine when geographical information about an individual warrants protection. This is a matter that has to be decided on a case-by-case basis, depending on the size of the geographical area in question, etc. In this particular case, I found it debatable whether the information regarding the insured person's country of residence was even subject to confidentiality, but that the Social Insurance Agency was in any case free to give out the information in question, pursuant to the provision on breach of secrecy set out in Chapter 10, Section 2 of the Public Access to Information and Secrecy Act. This provision states that confidentiality does not prevent information being made available to another authority or to a private party, if this is necessary in order for the authority to perform its own functions. Hence, the provision of this information did not lead to criticism.

I have previously pointed out that there is an issue relating to the quality of the grounds provided by the Social Insurance Agency in its decisions (see JO 2013/14 p. 490). The justification requirement of the Swedish Administrative Procedure Act is intended to guarantee that the public authorities assess their cases in an objective and consistent manner. Sound justification also increases the understanding of the decision and makes it easier for the party to assess whether or not they have grounds to appeal. This allows us to avoid futile appeals, and in other cases, the grounds provided will help the party to build their argument. Well-grounded decisions are also a condition for public trust in the competence and objectivity of the authorities.

In the past year, I have followed up on the important issue of how the authorities word their decision grounds, for example in two cases concerning the Social Insurance Agency. In the first case (ref. no. 6804-2012), the authority was criticised for providing inadequate grounds for a decision to reclaim benefits, by solely stating that consideration had been given to the insured person's opinion, but without accounting for the statements and information that had been considered and how the agency had evaluated them. In the other case (ref. no. 513-2013), the Social Insurance Agency was criticised for neglecting to account for the opinions and documents submitted to the Agency by the insured person in several decisions. The Agency had also mixed up descriptions of the case in general with information that constituted significant circumstances to decide the outcome of the case. Grounds with such shortcomings do not fulfil their purpose, and therefore cannot be considered adequate.

Another case (ref. no. 5060-2012) relating to social insurance that is worth mentioning concerns the Swedish Pensions Agency. The Pensions Agency had given special instructions to the staff that administered cases to reclaim housing supplements. These instructions, which concerned how to handle the question of whether the recipient of undue benefits had acted in good faith, contained the following paragraph:

> "Cases calculated prior to June 2012 will not be recalculated. They are to be communicated and decided based on the original calculation, despite the assessment (bad/good faith) not having been conducted. There will be errors as a results of the appeal of these cases, but the administrator will not be faulted for this. Instead, the Reclaims management group will take responsibility."

I am in favour of internal instructions that clarify statements made regarding the application of the law, for example in legislative history, and I realise that situations will arise where an authority must alter its instructions. However, such changes must never result in instructions that breach legislation, statements in legislative history or centrally established general advice, which in this case meant that the requirement for an individual assessment of each case could not be set aside. In the case in question, I found that the Pension Agency's instructions were too general and categorical to provide room for any real individual assessment. The instructions furthermore contained elements that the Pension Agency had already realised would lead to incorrect decisions. In my decision, I was severely critical of the wording in the Pension Agency's instructions.

1.3 Parliamentary Ombudsman Lilian Wiklund (supervisory area 3)

The supervision within area 3 mainly comprises health and medical care, the education system and the social services, i.e. "health, education and care". During the year 1,922 complaints cases were received, which is a marginal increase compared to the previous year. There has been a slight increase in the social services area, which represents a little over 60 per cent of the complaints. A small decrease can be seen within healthcare. 1,940 cases were concluded during the year, which is also an increase compared to the previous year. 806 (40 per cent) of these complaints were settled by delegated heads of division. 136 cases have been completed with criticism of some form to the reported authority and/or official.

On two occasions, both in September 2013, I have decided to initiate a preliminary investigation due to a suspicion that a crime has been committed by

one of the public officials under my supervision. In one of these cases, the preliminary investigation was closed, and the evaluation of the administration continues within the framework of the original supervisory case. In the second case, the preliminary investigation is still under way. A preliminary investigation that was opened in the previous fiscal year has been closed, and the case was dismissed without any statement from me regarding the concerned social welfare committee's handling of the case in question.

As the number of cases has continued to rise, I have felt forced to deprioritise the inspection activities this fiscal year. I have myself only inspected two authorities: one social welfare committee and, along with the NPM unit, one youth home. Head of Division Tryblom has inspected two social welfare committees on my behalf. The NPM unit has also inspected five departments on my behalf. One of these was the Department of Forensic Psychiatry at the National Board of Forensic Medicine in Stockholm, which concerned a clinic for compulsory mental care. Three cases concerned the activities at "LVM homes" (LVM stands for the Care of Abusers (Special Provisions) Act).

Social Services

Over the fiscal year, close to 1,200 complaints were registered within the area of social services, an increase of some eighty cases. The social services are thereby one of the largest supervisory areas for the Parliamentary Ombudsmen. The cases are divided into four subcategories:

- cases that in one way or another involve children, such as matters concerning the application of the Care of Young Persons Act (LVU)
- cases concerning different forms of welfare benefits
- complaints relating to the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS), and
- complaints relating to the Care of Abusers (Special Provisions) Act (LVM).

The child cases constitute the largest subcategory, and this year they also represent the largest numerical increase; from 560 to 615 complaints filed. In the other categories, the changes have been minor, in terms of the numbers involved.

The complaints within the social services area can be extensive, relate to multiple issues and span a long period of time as well as several divisions within the social service department. Many complaints relate to the authority's decisions in specific matters. Complaints concerning the conduct of the authorities are also common. The Parliamentary Ombudsmen have considerable freedom to choose which complaints are to be investigated and how. To start with, any decision that can be appealed in court will normally be excluded from measures by the Parliamentary Ombudsmen. Nor are incidents from more than two years back normally investigated. Furthermore, complaints relating to the conduct of an official are difficult to investigate as they often result in a word-against-word situation, making it impossible to draw any definitive conclusions about what really happened, for example, in a meeting between a client and a welfare officer. For this reason, it is fairly common that only one or a few of

the issues perceived by a complainant become subject to closer inspection, while the remaining issues do not result in any measures being taken by the Parliamentary Ombudsmen. This will naturally upset many complainants, who then feel mistreated by the Parliamentary Ombudsmen as well. This leads to angry phone calls as well as new complaints, not least regarding how the Parliamentary Ombudsmen has handled the complainant's case. This is of course regrettable but also unavoidable, as I see it, and it is something that our administrators and heads of division spend a great deal of time and effort addressing.

Since the Parliamentary Ombudsmen's supervision primarily relates to the authorities' formal administration, many of the decisions presented in the official report mainly concern such matters. However, I would like to highlight two cases at this point, which are largely of a different nature. The first relates to a home visit by the social services (ref. no. 6798-2012). Such decisions have been reported in several official reports in recent years. This time, the visit had the express purpose of "investigating suspected benefit fraud". In my opinion, the social welfare committee should not carry out this type of visit, as it entails setting aside the provisions of the Code of Judicial Procedure relating to searches and how these are to be conducted. It would also otherwise risk infringement of the regulations that are intended to guarantee criminal investigations in compliance with the rule of law. The case led to many questions that I felt needed to be considered in a wider context, for example, how to relate social welfare committee measures to Article 6 of the European Convention on the right to fair trial. I therefore submitted a copy of the decision to the Ministry of Health and Social Affairs and the Ministry of Justice for information purposes.

The second decision related to a 17-year-old boy who had been taken into care pursuant to LVU and placed in a special residential home for young people (ref. no. 120-2012). Along with his father, the boy was suspected of a serious crime. When the boy was first admitted into the residential home, he was not allowed any contact with his father as "everything with the police investigation is still up in the air". I issued a decision saying that a decision to limit the contact between father and son would have been acceptable if this had been necessary to provide care for the boy. However, the social welfare committee involved had not even argued this as grounds for the decision. There were therefore no conditions allowing the committee to limit their contact in the way that was done, and I criticised the committee for this unlawful decision.

Health and medical care

In the 2012/13 official report, I touched upon the difficulties experienced by the National Board of Health and Welfare in creating an efficient and effective organisation, partly for its own original supervisory activities, and partly for the activities that it took over from the county administrative boards in 2010, and from the Medical Responsibility Board (HSAN) in 2011. On 1 June 2013, the regular supervision of social services as well as health and medical care was transferred from the National Board of Health and Welfare to the newly formed

Health and Social Care Inspectorate (IVO). The new authority took over a substantial number of cases relating to matters such as patient complaints and it is not surprising, albeit highly unsatisfactory for the individual complainant, that it takes time for a new agency to achieve reasonable processing times. The Parliamentary Ombudsmen has thus received a high number of complaints relating to the processing times at IVO. When it comes to the National Board of Health and Welfare, many complaints still refer to the slow processing of cases relating to different jurisdictional issues. However, no decisions in cases of the type mentioned above have been included in this year's official report.

In terms of complaints relating to health and medical care as such, I would like to mention a decision concerning the treatment of a patient committed to a forensic psychiatry clinic pursuant to the Compulsory Mental Care Act (LPT) (ref. no 4471-2011). The patient was kept under restraint for around 48 hours. During part of this time the patient was handcuffed, despite there being no legal justification for such a measure. The clinic was severely criticised as the use of handcuffs was in breach of the patient's constitutional protection against physical violations. The responsible physician was severely criticised for not examining the patient in person prior to each decision to extend the period of restraint. In the decision, I noted that in its response to the Parliamentary Ombudsmen, the concerned county council showed insufficient knowledge of the regulations in this field. – Physical restraints are a highly restrictive measure, and the formal requirements for the implementation of such measures have been established, among other reasons, to guarantee the rights of the individual. It is of course unacceptable for a care facility to use restrictive measures that are not supported by the law, and it is highly disconcerting that there are such knowledge gaps within the responsible authorities as have been displayed in this case.

Patients committed to compulsory care are in a particularly vulnerable position, and they constitute a patient group that cannot easily safeguard its own rights. For this reason, it is of the utmost importance to inspect the psychiatric care institutions, and I regret that I have not personally had the opportunity to conduct a psychiatry inspection this year. I have however, as mentioned, commissioned the NPM unit to conduct such inspections on my behalf. These have resulted in several critical statements in the inspection records. Over the year, two inspections have given me cause to initiate special enquiries. One of these cases relates to the decision-making procedure for compulsive measures and compulsive care, and the second concerns a decision to confiscate certain magazines from a patient. These enquiries are still under way.

The education system

In the last two official reports, I have mentioned the National Agency for Education's administration of teacher certifications. I have observed that the complaints lodged with the Parliamentary Ombudsmen concerning long processing times in this type of case have continued throughout this fiscal year. Based on the measures that the Agency, according to a report submitted to the Government in October 2013, has taken to rectify these problems, most complaints

have not resulted in any investigative measures on my part. However, in the spring of 2014, I had reason to request a statement from the National Agency for Education regarding an individual's complaint concerning the administration of her case, as well as a general statement on the fulfilment of the constitutional requirement for the Agency to issue a decision on certification within four months of the case being completed, along with an account of the actions the Agency is taking to shorten its processing times. The National Agency for Education came back with a statement at the end of June 2014. It has thus been impossible for me to make a decision prior to the end of the fiscal year.

One question that received a great deal of attention in the media in the spring of 2014, due to the European elections, concerned the presence of political parties in schools, and their dissemination of political information. The Parliamentary Ombudsmen has only received a few complaints during the spring, which have not warranted any measures on my part. On the other hand, the Parliamentary Ombudsmen has issued a number of decisions over the years with regard to these issues, and the Parliamentary Ombudsmen's established practice ought therefore to be clear. The principal of objectivity that is established in the Instrument of Government (Chapter 1, section 9) is applicable here, meaning that a head teacher who chooses to invite parties of the Riksdag to the school may not reject a certain party solely in reference to its political opinions. Whether there are acceptable reasons for such a rejection in certain cases is a question that, in my opinion, must be assessed based on the circumstances of each individual case. It is a complex issue, and I look forward to the results of the investigation announced by the Minister of Education.

Public access and secrecy

There is a high level of secrecy applied to information within the social services as well as the health services. Complaints regarding the handling of public documents and other matters relating to public access and secrecy are therefore common within my supervisory area. Knowledge of relevant regulations which, granted, are not easily accessible, varies among the authorities, and a relatively high number of complaints are investigated and result in critisism for the concerned authorities.

Above, I described a decision in which I criticised a forensic psychiatry clinic for serious flaws in terms of the use of restrictive measures within the care provided. The highly inadequate processing of a patient's request to see their medical records, in a case presented in the official report, has also lead to severe criticism for this type of care facility (ref. no. 6614-2012). – When it comes to the social services, I might mention a decision concerning the management of video recordings of the interaction between a child and their parents, which had been made as part of a custody investigation (ref. no 3483-2011). These recordings were destroyed when the interaction assessment had been completed, but before the custody investigation was closed. To begin with, I criticised the fact that the authority had decided in advance that the recordings would be destroyed. As the material was lost, it became impossible to appropriately apply the provisions regarding preservation of public documents.

Furthermore, the parties were deprived of their right to access the documents during the course of the case. It was thus, in my opinion, wrong for the authority to destroy this material.

1.4 Parliamentary Ombudsman Cecilia Renfors (supervisory area 4)

Supervisory area 4 comprises the Swedish Police and Prosecution Authorities, Swedish Customs, aliens and employment matters as well as certain matters relating to the Government Offices and municipal operations.

I became a Parliamentary Ombudsman on 1 September 2013, and by mid-year, I will have held the post for nearly a year. It has been both interesting and eventful. I took over a supervisory area that has had its current contents for around three years, along with an efficient department with extensive experience of the issues under its supervision. It was therefore easy to get started. During the time the position was unfilled, the other Ombudsmen and Deputy Ombudsmen covered the assignments and there were no major tasks waiting for me.

During the autumn, the department's supervisory activities continued more or less according to the earlier procedures and guidelines. During a few planning days at the start of 2014, I sat down with my staff to review our priorities and focus areas. This review meant an opportunity for me to get a structured look at my team's experiences and views of what would be particularly urgent to inspect, and also to communicate my view of how to prioritise everyday activities at the Parliamentary Ombudsmen. Even if an ombudsman is ultimately solely responsible for his or her decisions, they are the result of a collaboration in which all staff members play a large and important role.

As mentioned, the fiscal year has been eventful. To our pleasure, we have managed a fairly large number of inspections, which have covered several areas. Inspections under my leadership have been conducted at the Södertörn Public Prosecution Office, the Police Authority in Blekinge County, the Migration Board's work permit unit in Hallonbergen and its detention centre in Märsta. These inspections have all been highly rewarding, and the last inspections in particular have shown that these operations have seen a very positive development. Furthermore, a number of inspections have been conducted on my behalf by an Executive Officer specialising in cases concerning restraining orders.

A number of inspections of police cells around the country have also been conducted by the NPM unit on my behalf. I participated in the inspection of the police cells in Linköping, which gave me valuable insight into the activities conducted at such facilities, and the environment facing a detainee.

Over the spring, a particular form of inspection was carried out. Earlier criticism and a number of complaints concerning excessively long processing times to obtain documents from the Ministry for Foreign Affairs led me to make a visit to its Legal Secretariat. I have yet to make a decision in these cases, but I can already say that it was a rewarding visit, which gave the impression of an ambitious effort to handle requests that in many cases refer to very extensive material. A recurrent question is that of how an authority is to handle the increasingly frequent requests made by a single individual for access to extensive documentation, while at the same time being able to handle its regular activities. This was a prominent question in one of the decisions I made over the summer. However, this decision did not make it into this year's official report. The legislature will probably have to deal with this question in one way or another.

One legislative referral of a proposed bill should be mentioned in this context, namely the Police Organisation Committee report *Tillsyn över polisen* (Supervision of police activities, SOU 2013:42). In my opinion, it is of vital importance to have independent, effective and regular supervision of the police. It is my firm belief that the extraordinary supervision of the police conducted by the Parliamentary Ombudsmen will remain important, even with regular supervision of police activities in the future. I also feel that it is important for the regular supervision to be planned with great reflection and care, and that it is provided with active sanction tools and the possibility to review individual cases.

One issue that received much attention in the autumn of 2013 was information in several newspapers that the Police Authority in Skåne was keeping a register of Roma individuals. An enquiry into the matter was initiated by the Swedish Commission on Security and Integrity Protection (SIN). SIN found that the Police Authority's treatment of personal information in the data collection that was investigated had been illegal in several regards, for instance that the purpose of the data processing was excessively extensive. Furthermore it was clear that there had been no need to register all the individuals found in the records. The Chancellor of Justice agreed with the assessment of SIN and decided during the spring that the individuals whose information had been registered were entitled to compensation from the state. The Equality Ombudsman (DO) also investigated the matter and found it could not rule out the possibility of ethnic profiling being used in the law enforcement activities of the Skåne Police Authority, and therefore recommended the police to investigate whether such profiling had been used methodically and, if so, to take the necessary measures. Finally, this personal data processing has been subjected to a criminal liability assessment by a prosecutor at the National Police-related Crimes Unit, who came to the conclusion that no single official could be held responsible for the faults that were found. Considering this extensive investigation of the matter, it appeared for a long time that there would be no need for a Parliamentary Ombudsmen enquiry as well. The legality of the personal data processing has been thoroughly illuminated. But this is not enough if the question of liability for the faults found is not answered. I have therefore initiated an enquiry into a number of issues concerning the liability for this data collection.

The Police Authority and the Prosecution Authority

The complaints in this area mainly concern the same type of issues from year to year. They often concern deprivations of liberty and other incorrect coercive measures, poor conduct by the police and preliminary investigations taking too long. The fact that these issues are recurring is not discouraging, at least in the first two cases. It does not necessarily mean that there are inadequacies in the development efforts of the Police and Prosecution Authorities. It is rather an indication that these issues are important to the individuals concerned. It is also difficult for individual police officers and prosecutors to always do the absolute right thing, especially in highly stressful situations. Slow processing is a different matter however. In this case, it would be preferable if the police and prosecutors had sufficient resources to conduct their work in such a way that processing times were no longer than what can be considered acceptable.

In one particular issue, I would ask for a more active development effort from the police. It is troubling that body searches are regularly conducted in suspected doping crimes, without sufficient grounds to do so. The Parliamentary Ombudsmen has on several occasions over the last few years issued statements saying that large muscle mass is not a sufficient basis for a person to be suspected on good grounds. This year's official report brings up one of many such cases.

There is also cause for concern when it comes to the Police Authority's fulfilment of its obligation to provide judicial assistance to the social services and others, for example when transferring young people in compulsive care. In a couple of decisions, of which one is included in the official report (ref. no. 273-2013), I have clarified that it is not up to the police to determine the need for assistance, and that the police may not set conditions for its participation. I have also pointed out the importance of inter-authority collaboration, and a continuous dialogue on the appropriate procedures to follow.

The treatment of detainees is also an important issue for the Parliamentary Ombudsmen, even where shorter deprivations of liberty are concerned. There have been two major decisions (ref. no. 2054-2013 and 2572-2013) concerning the right to outdoor exercise whilst being detained in police custody, and the right of detainees to be informed of their rights and the implications of their arrest. The enquiry shows that there are flaws in these regards in far too many places around the country. The National Police Board is working on regulations for these matters. It is important for such regulations to be established, and promptly.

Many complaints in the last year have referred to the processing times for cases relating to firearm licenses. This led to an examination of all the country's police authorities, which indicated that there were large differences between them. In 2013, four of them had an average processing time of around 70–80 days, which does not meet the requirement set out in the Administrative Procedure Act for expedient processing. The legislation concerning firearms and the issuing of licenses is of great importance to society. Drawn-out processing

times could also lead to owners of firearms finding themselves without a licence, and thus committing a crime, despite them having applied for a renewed license in good time.

Administrative issues may also be important from a legal security standpoint. The Parliamentary Ombudsmen criticised the Prosecution Authority back in 2009 because the police had had difficulties reaching an on-call prosecutor, for example to get a decision on deprivation of liberty. A case that is currently being investigated concerned the circumstances in 2012, which indicates that the problem remained despite being under investigation by the authority for several years (ref. no. 4865-2012). A system using a queuing function for telephone calls has now been developed and the Prosecution Authority has continued its efforts to improve availability. Even so, I have received information indicating that further improvement is still required, which is something that I will follow up.

In a couple of decisions (ref. no. 5875-2012 and 6153-2012) I reviewed the Facebook and Twitter posts of several police authorities. The complainants had objections to certain posts, which they had perceived as disdainful of individual opinions, something which they thought lay outside the responsibilities of the police. I noted that several of the reported posts had a content that led me to question the objectivity of the sender. In parts, they employed a mocking tone that was less appropriate, and I also question whether the police should write at all in social media about people in highly vulnerable situations. The regulations developed by the police for social media take this type of opinion into consideration. There is no reason to question the police being active in social media. Quite the opposite, it may be a good way of reaching groups that would not otherwise take an interest in the work of the police.

A highly noted decision (ref. no. 2978-2012) in the spring concerned a famous incident that had taken place a few years earlier. In October 2010, the police received information that led to suspicions of a planned bombing at the Femmanhuset shopping centre in Göteborg. Three men became suspects, and were subjected to restrictive measures. They were however innocent, and there turned out to be shortcomings in the investigation, which led to the measures against them and against a fourth man who was being called as a witness; these measures also affected their families. Restrictive measures in the early stages of a criminal investigation may of course be taken against a person who later turns out to be innocent. This can happen even if no errors have been made. This case shows that it is always important to ensure that any measures taken are well-grounded in the investigation, and that witness information is verified with information that can be objectively proven. Furthermore, the case gave me cause to return to the right to have a counsel present during interviews related to serious crimes. It must be practically possible, even at night and on weekends, to conduct urgent interviews with suspects in the presence of their counsel.

The principle of public access to official records

The principle of public access to official records is also of interest when it comes to the activities of the police as the provisions of the Freedom of the Press Act regarding access to public documents apply here as well. Furthermore, there are provisions in the Code of Judicial Procedure regarding the right of the suspect to transparency in the case. In some cases, the interaction between different regulations will cause problems. In the official report, there are four decisions concerning such issues (ref. no. 1080-2013, 2058-2013, 2231-2013 and 3408-2013).

The difficulties – if not traps – facing those who are to implement the principle of public access to official records can be illustrated by a decision in a case concerning an appointment procedure (ref. no. 3529-2012). Västmanlandsmusiken, a municipal association, hired a recruitment company to find a new director. When a person requested to see the documents relating to the appointment procedure, their application was denied on the grounds that the association was not in possession of those documents. The association had entered an agreement with the recruitment company stating that they would not have access to the applications or other documents received by the company. In practice, the access to documents has been considered important in terms of the obligation to make any material available that is not confidential. I expressed criticism of the arrangements that the municipal association had made. In my opinion, an authority must not enter any agreement intended to circumvent the constitutional right to access any documents involved in a case being processed by the authority. This applies regardless of the effect that such an agreement can be deemed to have. The legal situation is complicated and unclear, and I believe there is a need to further clarify what rules apply, and how authorities should act when employing a recruitment company in order to adhere to the regulations on public access while still conducting an effective recruitment process.

Central administrative principles

Other central, constitutional principles for government and municipal administration include the requirement for impartiality and objectivity, the principle of the administrative authorities' independence as well as the freedom to communicate information and the prohibition on inquiry into journalistic sources. These principles, among others, are fundamental to public administration. Most of the time, an official will not have to apply these regulations in their everyday work, or even think that much about them. But when required, they must have the necessary knowledge of these regulations, as well as a "gut feeling" telling them it is time to think twice. It does not always happen that way. There are a number of examples of this from municipal activities in this year's official report.

One Municipal Chief Executive was criticised in a decision for writing an e-mail that could not be construed in any way other than an official trying to influence the outcome of a case being investigated by a municipal committee. In another case, he had voiced his opinion regarding a number of issued parking

tickets, which in itself was not grounds for criticism, but showed that a municipal chief executive must be careful in contacts that concern the cases of other committees (ref. no. 6470-2013).

The need for caution also became apparent in a decision concerning certain statements made by a municipal chief executive in reference to criticism against the municipality from a number of teachers (ref. no. 5051-2012). Among other things, he is reported to have said that the negative publicity was unfortunate for the municipality as well as for the teachers and pupils. It is of the greatest importance that authority officials avoid making statements that can be perceived by their employees as a request for them not to utilise their freedom to communicate information. The chief executive had furthermore asked a journalist where he had obtained the information they were discussing. When the journalist objected to this question, he said that he had asked it without thinking, and with no intention of inquiring after the source. Even if the chief executive immediately corrected himself, the question was evidently inappropriate.

A more peculiar case concerned a service provided by the City of Stockholm, namely the possibility for organisers of cultural events within the municipality to advertise on "cultural notice boards" (ref. no. 2290-2012). Riksteatern was denied the possibility of advertising its street art event "Art of the Streets", with reference to the city's anti-graffiti policy. The right to freedom of speech does not prevent public authorities from regulating the extent to which different messages may be disseminated in an advertising space of this kind. However, such regulations must be of a general nature, and may not discriminate against certain messages based on their contents. The requirement for impartiality and objectivity as set out in Chapter 1, Section 9 of the Instrument of Government must of course be observed. I found that the decision not to allow this advertising contained no actual grounds, and the ones provided in the statement to the Parliamentary Ombudsmen did not clarify the assessment made by the board. My conclusion was that the decision made by the Board on this matter appeared to have been arbitrary.

Labour market

As important as it is to implement constitutional principles in practice, it is equally important to adhere to the more commonplace administrative regulations and principles. After observing general shortcomings in the file management and documentation in cases at the Swedish Public Employment Service, my predecessor initiated an enquiry regarding the procedures and working methods implemented at the authority. I issued a decision in the case in November 2013, and found cause to criticise the noncompliance with procedures established for documentation and the fact that these procedures were, in some cases, unclear (ref. no. 3972-2012). These shortcomings were extensive and occurred throughout, and they were of such a nature that they could jeopardise the constitutional right of access to public documents. There was thus cause for them to be considered serious concerns.

From the information I have been given, it appears the Public Employment Service's management is also concerned with these shortcomings, and that they are working consciously to rectify them.

Migration

I have not included any decision concerning the Swedish Migration Board in this year's official report. This is not due to a lack of cases. Quite on the contrary, there is a very large number of complaints regarding the processing times for the Board's cases, as there are for shortcomings when it comes to the accessibility of case officers in individual cases. I have initiated an enquiry to look into these matters in general. The case has proven difficult to assess. While working to reduce processing times, the Migration Board has been forced to deal with an increase in cases; primarily due to a large number of Syrian asylum-seekers. I will most certainly have reason to revisit this issue.

2 The Parliamentary Ombudsmen as the national preventive mechanism (NPM)

The Parliamentary Ombudsmen's role as the national preventive mechanism (NPM) is to conduct regular inspections and visits to institutions where persons are detained, deprived of liberty, and to report to international supervisory and collaborative organisations, all in such a way and to such an extent as to allow the Parliamentary Ombudsmen to contribute to the fulfilment of Sweden's commitments pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). To carry out the role of national preventive mechanism, the Parliamentary Ombudsmen are assisted by a special unit: the NPM unit.

The Parliamentary Ombudsmen conduct both "traditional" inspections and OPCAT inspections. Over the last fiscal year, some of the latter inspections have been conducted under the leadership of the concerned Ombudsman, while others have been conducted by the NPM unit on the Ombudsman's behalf.

Information obtained at an OPCAT inspection, e.g., concerning staffing and conduct, material conditions, contact with the outside world, information on rights, restrictive measures, possibilities for outdoor exercise, etc. is documented in an inspection record, which is presented to the responsible Ombudsman. After each inspection, a decision is made as to whether the Parliamentary Ombudsmen should initiate an enquiry, or make a statement in the records in reference to the findings.

The Parliamentary Ombudsmen has now been the acting national preventive mechanism for three years. During this time, the efforts have been focused on setting up an inspection procedure that fulfils the OPCAT requirement for regular visits to places where persons are detained, deprived of liberty. The places to be inspected within the scope of OPCAT have been identified as primarily referring to prisons, remand prisons, police cells, compulsory mental care facilities and forensic psychiatry clinics, the detention centres of the Swedish Migration Board as well as the special residential homes for young people and

the LVM homes of the National Board of Institutional Care (SiS). The individual inspection objects have been determined based, among other factors, on the principle that OPCAT activities should refer to places other than those recently inspected by the Parliamentary Ombudsmen in its regular supervision. Priority has furthermore been given to places where the detainees usually have limited contact with the outside world, and the turnover of detainees is high, such as police cells and remand prisons. These activities have been coordinated with the inspections planned at each respective supervisory department.

Over the three years that the Parliamentary Ombudsmen has acted as the national preventive mechanism, 96 OPCAT inspections have been conducted, and the Ombudsmen have consequently decided to initiate 16 enquiries. All police authorities have now been inspected. The inspections of police cells have resulted in three initiated enquiries. Parliamentary Ombudsman Renfors has issued a decision in two of these cases. These decisions related to the question of how the police authorities ensure that persons detained in police cells are given the opportunity to spend time outdoors, as well as to if, when and how the detainees are informed of their rights and the implication of their arrest. Within the scope of the OPCAT activities, 20 of the country's 33 remand prisons have been inspected. Including the 10 inspections carried out within the concerned supervisory department's regular activities, a total of 30 remand prisons have been inspected. These activities will from now on be developed towards issues relating to follow-up, etc., in order to promote respect for the human rights of those deprived of liberty.

OPCAT inspections during the fiscal year

During the fiscal year, 31 OPCAT inspections have been conducted (of which 9 were carried out in the supervisory area of Chief Parliamentary Ombudsman Fura, 6 in the area of Parliamentary Ombudsman Wiklund, and 16 in the area of Parliamentary Ombudsman Renfors). The number of inspections has fallen since last year due to the NPM unit being understaffed for a period of time. In total, 42 days have been used for these inspections, which have primarily been conducted during the day. One police cell location has been inspected at night.

The number of announced and unannounced inspections has been approximately even during the year. The composition of the inspection teams has varied depending on the size and sometimes the security classification of the institution. The proportion of OPCAT inspections with participation from the concerned supervisory department has increased to more than half, due to the understaffing of the NPM unit.

Several of the inspections conducted over the year have taken place in locations that have not previously been inspected by the Parliamentary Ombudsmen nor, in a few cases, by a regular supervisory authority such as the Department of Forensic Psychiatry at the National Board of Forensic Medicine in Stockholm.

An important aspect of the preventive efforts is the dialogue held with authority representatives in connection to the inspections. During the year, there

have also been specially held meetings with representatives of SiS and the National Police Board in reference to authority-specific issues observed during the OPCAT inspections.

OPCAT inspections of the Swedish Prison and Probation Service

On behalf of Chief Parliamentary Ombudsman Fura, the NPM unit has inspected five of the Prison and Probation Service remand prisons and two prisons over the year. After an inspection of the remand prison in Östersund (ref. no. 6386-2013), Chief Parliamentary Ombudsman Fura issued a statement saying that the premises appeared highly unsuitable for remand prison purposes, as they have been adapted and intended for significantly shorter deprivations of liberty than for those that are currently the case in detentions on remand. Furthermore, she considered the degree of isolation for detainees of the Östersund remand prison to be significantly higher than in other remand prisons, as there are no communal spaces or exercise rooms. The living quarters also have shortcomings in terms of natural light. Chief Parliamentary Ombudsman Fura stated that she was highly sceptical of the current operation's compliance with the legislature's intentions for the treatment of remand prison detainees.

Chief Parliamentary Ombudsman Fura also led two OPCAT inspections of the remand prisons in Kronoberg and Huddinge. During the inspection of the remand prison in Huddinge, the Chief Parliamentary Ombudsman visited the remand prison registration premises and was provided with an account of the procedure for registering detainees. This prompted her to express her opinion regarding the unreasonableness of detainees being able to overhear information as well as conversations between other detainees and staff in connection to suicide screening, etc. Above all, her objections were made from an integrity perspective. When the Prison and Probation Service conducts a suicide screening, it should be impossible for other detainees to overhear what is said, regardless of whether it is possible for others in the registration room to identify the detainee or not. Chief Parliamentary Ombudsman Fura pointed out that Chapter 1, Section 4 of the Swedish Detention Act (2010:611) states that detainees must be treated with respect for their human dignity, and with understanding for the particular difficulties related to the deprivation of liberty, and she voiced the opinion that the Prison and Probation Service must immediately take measures to ensure that the registration procedures at the remand prison in Huddinge are changed to eliminate the above-mentioned risks.

OPCAT inspections of SIS special residential homes for young people and the LVM homes, compulsory mental care facilities and forensic psychiatry clinics

During the fiscal year, inspections were conducted at three LVM homes. One special residential home for young people was inspected by Parliamentary Ombudsman Wiklund. On behalf of Ombudsman Wiklund, the NPM unit also inspected a psychiatric clinic treating patients in accordance with the Compulsory

Mental Care Act (1991:1128) as well as the Department of Forensic Psychiatry at the National Board of Forensic Medicine in Stockholm.

The inspection of the National Board of Forensic Medicine (ref. no. 5229-2013) led Ombudsman Wiklund to initiate an enquiry regarding the confiscation of magazines, newspapers, etc. Ombudsman Wiklund also made a statement regarding the patients' lack of protection against rain when spending time outdoors and pointed out that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had indicated this need during its last visit to Sweden in 2009. She found it remarkable that the National Board of Forensic Medicine had chosen not to adhere to this recommendation when constructing the premises in question.

OPCAT inspections of police cells and Migration Board detention centres

During the fiscal year, inspections have been carried out at a total of 15 police cell locations, and at the Migration Board detention centre in Märsta. Parliamentary Ombudsman Renfors headed two of these inspections.

The inspections of the police cells prompted Ombudsman Renfors to issue a statement relating to the importance of documenting the detainees' status at checks (ref. no. 626-2014), and of not conducting searches of women in rooms with camera surveillance (ref. no. 5260-2013). She furthermore questioned the practice, when placing a person into a cell, of conducting superior officer assessments over the telephone with the help of a camera when the superior officer responsible for such an assessment is in another part of the building (ref. no. 2187-2014). Ombudsman Renfors argued that this is comparable to a remote superior officer assessment, see JO 1998/99 p. 116, and that the police authority should therefore consider changing its practice.

3 International cooperation

One of the Parliamentary Ombudsmen's overriding goals is to promote international dissemination of the idea of legal scrutiny through independent ombudsmen. In its work towards this goal, the Parliamentary Ombudsmen has carried out the following operations.

Over the year, the Parliamentary Ombudsmen has received 24 foreign visits for information on the Parliamentary Ombudsmen operation, including a delegation of officials from Bangladesh, Cambodia, China, Indonesia, North Korea, Myanmar, Sri Lanka and Vietnam.

At the beginning of June 2014, the Parliamentary Ombudsmen hosted a meeting of the Nordic Parliamentary Ombudsmen. The meeting was held in Ystad, with around 30 participants from the Nordic ombudsman agencies of Denmark, Finland, the Faroe Islands, Greenland, Iceland, Norway and Sweden. Such meetings are held every other year, with the purpose of providing our Nordic colleagues with a chance to discuss current issues of common interest. Among the subjects discussed were the Ombudsmen as a national preventive

mechanism pursuant to OPCAT (the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 18 December 2002), the Ombudsman and the national human rights institutions, the Ombudsman's supervision of private actors and of other supervisory authorities, the Ombudsman's international work, as well as a proposal for an exchange programme for officials for educational purposes and the organisation of joint seminars for officials at the Nordic ombudsman agencies.

Furthermore, the Swedish Parliamentary Ombudsmen and other Parliamentary Ombudsmen officials have actively participated in conferences and seminars abroad, such as a seminar organised by the European Ombudsman within the European Network of Ombudsmen. The members of this network exchange information on EU legislation and best practices through seminars and meetings, a regular newsletter, an electronic discussion forum and a daily electronic news service.

In conclusion it is worth mentioning that, in her capacity as board member, Chief Parliamentary Ombudsman Fura has participated, along with staff members from the international unit, in the work conducted by the International Ombudsman Institute (IOI) as well as its Board of the European Region. The IOI, which was established in 1978, is a global collaborative organisation for independent, mainly parliamentary, ombudsman agencies. The collaboration involves 155 ombudsman agencies from more than 90 countries, representing all the continents.

BILAGA 10

The Swedish Parliamentary Ombudsmen

Report for the period 1 July 2013 to 30 June 2014

General information and statistics

During the period covered by the report, the following have held office as Parliamentary Ombudsmen: Ms Elisabet Fura (Chief Parliamentary Ombudsman), Ms Lilian Wiklund, Mr Lars Lindström and Ms Cecilia Renfors. For a number of shorter periods the Deputy Ombudsmen Mr Hans Ragnemalm and Ms Cecilia Nordenfelt have dealt with and adjudicated on supervisory cases.

During the working year, 7,312 new cases were registered with the Ombudsmen; 7,110 of them were complaints (previous working year: 6,872, an increase of 238, i.e. 3.3%), and 81 were cases initiated by the Ombudsmen themselves as inspections or on the basis of observations made during inspections, newspaper reports or on other grounds. Another 121 cases concerned new legislation, where the Parliamentary Ombudsmen were given the opportunity to express their opinion on government bills etc.

7,437 cases were concluded during the period, an increase of 369 (5%), of which 7,228 involved complaints, 85 were cases initiated by the Ombudsmen themselves and 124 cases concerned new legislation. It should be noted that the schedules overleaf show cases concluded during the period, not all cases lodged.

This summary also comprises a selection of summaries of the cases dealt with by the Ombudsmen during the period.

Schedule of cases initiated by the Ombudsmen and concluded during the period 1 July 2013–30 June 2014

Activity concerned	**Closed without final criticism**	**Admonitions or other criticism**	**Prosecutions**	**Total**
Courts of law	1	6	0	7
Administrative courts		3	0	3
Public prosecutors		3	0	3
Police authorities	16	6		22
Prison administration	2	18		20
Chief guardians	1	1		2
Social welfare	7	9		16
Medical care	1	3		4
Social insurance		2		2
Labour market authorities		1		1
Planning and building		1		1
Discrimination	1			1
The school system		1		1
Immigration		1		1
Freedom of expression, access to public documents		1		1
Total	**29**	**56**	**0**	**85**

Schedule of complaint cases during the period 1 July 2013–30 June 2014

Activity concerned	**Dismissed without investigation**	**Referred to other agencies or other state organs**	**No criticism after investigation**	**Admonitions or other criticism**	**Prosecutions or other disciplinary proceedings**	**Preliminary criminal investigation. No prosecution**	**Guidelines for good administration**	**Corrections during the investigation**	**Total**
Courts of law	200	1	203	23					427
Administrative courts	46		33	9					88
Public prosecutors	133		49	11					193
Police authorities	783	28	273	50					1,134
Custom services	6		7	2					15
Armed forces	17		2						19
Prison administration	548	1	254	91			1		895
Social welfare	753	3	363	53		1			1,173
Medical care	216	1	62	9					288
Social insurance	284		88	53					425
Labour market auth.	134		74	5					213
Planning and building	67		63	18					148
Enforcement	74	2	69	10					155
Municipal self-government	75		15	4					94
Communications	178		77	10					265
Taxation	84		45	3					132
Education	194	10	59	20					283
Culture	19		3						22
Chief guardians	30		33	8					71
Agriculture, environment, protection of animals	107		58	12		1			178
Immigration	157		77	10					244
County administration, control of lotteries, serving of alcohol	19		8	3					30
Housing	3		3						6
Employment of civil servants etc.	75		5	4					84
Freedom of expression, access to public documents	173		102	97				2	374
Administration of parliamentary and foreign affairs; general elections	14		2	2					18
Miscellaneous	78		24	4					106
Complaints outside jurisdiction, complaints of obscure meaning	148								148
Total	**4,615**	**46**	**2,051**	**511**	**0**	**2**	**1**	**2**	**7,228**

2. Summaries of individual cases

The following is a selection of summaries of cases dealt with by the Ombudsmen during the period.

Public courts, etc.

Criticism of three judges at Södertörn District Court for a decision on inspection of a property (5904-2012)

In a civil case the court decided to allow a plaintiff to conduct an inspection of a property belonging to the defendant and that the defendant had to grant the plaintiff access to the property. There are no grounds in law for the decision and the judges responsible for it are criticised.

Criticism of a judge at Nacka District Court for the wording of two interim decisions in a case involving custody, where children are to live and contact rights as well as of the district court for failure to hear an interim application on contact rights during the summer (6163-2012)

A case was being heard at the district court between two parents concerning custody of their child, who the child were to live with and the contact rights of one of the child's parents.

1. The judge in charge is criticised for

- having made a decision on enforcement of a ruling about where the child was to live for which there were no grounds in law,
- having made a decision on one of the parent's contact rights that was so imprecise it was impossible to enforce,
- having issued two decisions on accompanied contact without any time limits even though the law prescribes such limits,
- having failed to procure an opinion from the social welfare authorities before making the decision on accompanied contact,
- having failed to include the grounds on which one of the decisions on accompanied contact was made,
- having issued an order prohibiting one of the parents from having contact with the child during a certain period for which there were no grounds in law, and
- having made decisions on various detailed issues concerning the child for which there were no grounds in law.

2. The district court is criticised for its failure to deal with an interlocutory request for contact rights during the summer submitted by one of the parents before the summer of 2012.

Criticism of an assistant judge at Varberg District Court for the wording of two injunctions in a case concerning appointment of a guardian (6541-2012)

In a case involving the provision of a guardian the district court enjoined the Board of the Principal Guardian to propose guardians. In two of these injunctions the district court wrote that the Principal Guardian could be nominated as

guardian if the board did not submit proposals. The first of these injunctions could be interpreted as meaning that the district court would be able to nominate the principal guardian irrespective of his consent or not. It would, moreover, have been inappropriate to nominate the principal guardian as guardian because this could undermine confidence in the board's supervisory function. The Parliamentary Ombudsman pointed out that for these reasons the injunctions were in breach of the requirements of objectivity laid down in the Instrument of Government. The assistant judge who had issued the injunctions was criticised.

Complaint against the Chief Judge at Gotland District Court concerning the contents of two information publications sent to lawyers and others practising on Gotland (472-2013)

The Swedish Bar Association complained that the Chief Judge at Gotland District Court, Mikael Mellqvist, had expressed a wish in two information publications addressed to lawyers and others for certain changes in some of the court's routines. These involved, for instance, setting dates for hearings and summonses, provision of the records of preliminary investigations by e-mail, sending "normal" post once a week and closure of the district court on certain days for operational planning. In the adjudication the Parliamentary Ombudsman found that there were no grounds for criticising Mikael Mellqvist.

Criticism of the Chief Judge at Linköping District Court for not altering the time of a preliminary hearing when the counsel booked by the plaintiff was engaged at another hearing (1141-2013)

The plaintiff in a family court case had engaged a lawyer to act as counsel. The lawyer requested postponement of the time of a preliminary hearing as he had other commitments, but the district court rejected his request. The adjudication of the Parliamentary Ombudsman states that because of the plaintiff's situation there were grounds for postponing the hearing. The judge is criticised for his decision.

Criticism of a lay judge at Solna District Court for use of a mobile phone while a hearing was taking place (2340-2013)

A lay judge used a mobile telephone to send a text message during a main hearing. The Parliamentary Ombudsman's adjudication states that judges must focus all their attention on the hearing itself and that it is not therefore compatible with the duties of a judge to undertake irrelevant activities during a hearing, such as sending text messages by telephone. In addition, someone who is involved in a trial can be adversely affected if judges use their telephones during hearings.

Grave criticism of the Chief Judge at Kalmar District Court for having helped one party write a submission to a court of appeal (6796-2013)

Appeal was made to the court of appeal about the decision of the district court to prohibit contact. The chief judge at the district court helped one of the parties to write a submission to the court of appeal. This means that the chief judge has

acted in breach of the regulations on objectivity and impartiality in the Instrument of Government. He was criticised severely.

Cases involving prosecutors, police and customs officers

Criticism of the police authority in Västra Götaland for shortcomings in a preliminary investigation concerning suspicion of a planned bomb attack on the shopping mall Femmanhuset in Gothenburg (2978-2012)

The police authority in Västra Götaland received information that a woman had overheard an unidentified man talking on a mobile phone about a bomb in "Femman" on Saturday. The police concluded that this concerned a planned bomb attack on the mall. An enquiry was launched in which the security police were also involved. This led to three men being suspected of making preparations for a terrorist offence. All three were detained as the result of concerted police intervention. After they had been questioned and their premises searched, they were all exonerated of the suspected crime.

The Parliamentary Ombudsman established that there were shortcomings in the investigation that resulted in the three men being suspected. After questioning a witness the police concluded that the suspected telephone call had been made during a specific ten-minute period. This was the basis on which a call to a specific telephone was identified as suspicious and the three men singled out. The police did not, however, attempt to corroborate the witness's information against circumstances that could be verified objectively, which would have indicated that the ten-minute period specified was probably the wrong one. The police also seem to have underestimated the combined impact of shortcomings in other aspects of the investigation. It was these shortcomings in the investigation that probably resulted in three innocent individuals being deprived of their liberty and the exposure of their families to coercive police actions in their homes. There are grounds therefore for viewing this gravely. The police authority is criticised for these shortcomings.

In addition to the shortcomings in the preliminary investigation, the Parliamentary Ombudsman also determined that the police gained unlawful access to a witness's home through force when detaining him for questioning, for which the commander of the police unit is criticised. The Parliamentary Ombudsman also criticises a prosecutor for failing to make a decision on whether the suspects were to have access to defence counsel when they were questioned.

Criticism of a regional public prosecution office for the lack of possibility for the police to make contact with an on-call prosecutor (4865-2012)

Police officers have repeatedly encountered problems in making contact with an on-call prosecutor by phone. For several years the regional public prosecution office has failed to remedy this problem, for which it is criticised. As lack of availability means that statutory provisions that are important for individuals' legal rights may be jeopardised, the Parliamentary Ombudsman takes a grave view of these shortcomings.

Information about rights and the implications of enforcement for detainees in police custody (2572-2013)

The Parliamentary Ombudsman has investigated when and how detainees in police custody are informed about their rights and the implications of the measure to which they are subject.

This enquiry has revealed that about half of the police authorities provide the information sheet issued by the National Police Board and the Office of the Prosecutor General (Information for those suspected of crimes and therefore deprived of their liberty) when detention begins. Routines at other authorities vary and are in some cases inadequate. It became clear, for instance, that in many cases it is unclear who is responsible for providing this information. As far as can be seen, there is no particular procedure for informing individuals who have been detained for other reasons than suspicion of a crime.

The adjudication stresses that deprivation of liberty is a serious encroachment of the freedom of an individual and that it is extremely important for those detained to be informed of their rights. This is, for instance, a prerequisite if these rights are to be asserted. On 1 June 2014 new regulations were included in the Edict on Preliminary Investigations about information for individuals suspected of crimes. This information is to be presented in a language understood by the detainees and, for those who have been arrested and taken into custody, in writing. The detainee is to have access to this information for the entire period of detention.

In the opinion of the Parliamentary Ombudsman written information should also be provided for those who have been detained for other reasons than suspicion of a crime and, of course, in a language that the detainee understands. All the information should also be expressed clearly and explicitly in a way that is easily understood. If the necessity arises, it should be supplemented by oral information.

The adjudication also points out the importance of providing information about rights as soon as possible after detention begins: this should not be later than when the detainee is taken into police custody.

In the Parliamentary Ombudsman's opinion it is important for the National Police Board to ensure that routines are introduced by the police authorities that mean that detainees will be provided with information to safeguard their legal rights. The National Police Board has announced its intention of producing new directives for police custody with regulations on when and how detainees are to be informed of their rights. In view of the fact that these are fundamental rights it is important for this to be undertaken without delay. A new directive and improved routines, together with the new provisions in the Edict on Preliminary Investigations, should result in improvement in the way detainees receive this information.

Criticism of the police authorities for the lack of possibilities of outdoor exercise for detainees in police custody (2054-2013)

The Parliamentary Ombudsman has enquired into the possibility of outdoor exercise for detainees in police custody. The Detention Act lays down that detainees are to be provided with the possibility of spending at least one hour a day outdoors unless there are extraordinary grounds for not doing so.

This enquiry has revealed that there are manifest shortcomings in this respect when it comes to access to outdoor facilities and the design of the exercise yards. It has for instance transpired that not all police custody facilities have exercise yards and that at a few custody facilities the possibilities of periods outdoors are dependent on the staffing level.

The adjudication stresses that in normal cases the right to outdoor exercise is an unconditional entitlement that has to be provided by the police authority. It is therefore important for all police authorities to ensure that this is arranged without delay.

It has also become clear that at several police custody facilities there are no routines about how detainees are to be informed of their right to outdoor exercise. In the facilities where there are such routines they are, in many cases, inadequate. It is, for instance, unclear who is responsible for providing this information. The adjudication stresses the importance of informing detainees about their right to outdoor exercise so that they have a possibility of availing themselves of it.

The National Police Board has announced its intention of producing a new directive for police custody which will include regulations on informing detainees of their possibilities of daily outdoor exercise. The adjudication points out that in view of the inadequate routines that the enquiry has revealed, it is important that such a directive takes force without delay.

Criticism of the police authority in Västra Götaland for its management of a request for judicial assistance in a case involving the Care of Young Persons (Special Provisions) Act (273-2013)

The social services requested judicial assistance from the police authority in a case involving the Care of Young Persons (Special Provisions) Act. This assistance was required for the placement of a 19-year-old girl in a secure children's home. In the view of the social services this placement needed to take place without delay and with the assistance of the police. Even though the formal requirements for judicial assistance were fulfilled, initially the police authority rejected the request. Instead it laid down conditions for its participation, which ultimately led to the placement of the girl two days later than necessary.

The adjudication states that it is not for the police authority to decide on the need of judicial assistance that has been requested. When the formal requirements are in place, the police authority cannot lay down conditions for its approval and provision of the assistance.

The police authority is criticised for its management of the case.

Criticism of the police authority in the county of Östergötland for seizure of property in connection with an intervention etc. (584-2013 and 666-2013)

A driver stopped by the police for speeding was also suspected of a minor drugs offence. In order to locate the drugs a search of the car was undertaken during which a large amount of cash was discovered in a bag that the driver claimed belonged to the woman he was living with. The police contacted the Enforcement Authority and provided this information, which was subject to secrecy. The Enforcement Authority decided to attach the cash for a debt incurred by the driver and issued a "distance" attachment order prohibiting the police authority from giving the money to anyone other than the Enforcement Authority.

A "prohibition order" issued by the Enforcement Authority does not give the police power to seize attached property. In order for the police to have the right to seize attached property on behalf of the Enforcement Authority by virtue of an attachment order, the property must have been confiscated pursuant, for instance, to the provisions on confiscation. The police are criticised for having seized the cash without any grounds in law.

Section 27 of Chapter 10 of the Public Access to Information and Secrecy Act stipulates that information subject to secrecy can only be provided to an authority if it is obvious that the benefit of providing the information outweighs the interests that secrecy is intended to protect. The police authority is criticised for not keeping any record or being able subsequently to show in any detail what information was provided to the Enforcement Authority and whether before doing so there was any consideration of the interests at stake of the kind required by this provision.

Complaint against the police authority in the county of Kronoberg about a posting on Facebook (5875-2012)

The Parliamentary Ombudsmen have reviewed a number of postings made on the police authority's Facebook page. These postings are in themselves relevant in terms of police participation in the social media: they contain messages intended to prevent crime or information about the work of the police. The contents of several postings mean however that their objectivity can be questioned. They are characterised at times by a jocular tone that is somewhat inappropriate for a representative of the police. It is also possible to discuss to what extent descriptions of individuals in vulnerable situations can at all be regarded as suitable subjects for police postings in the social media. In addition the basis for those representing the police in the social media should involve caution about expressing personal feelings about their duties.

The adjudication states that there are regulations about police participation in the social media which, if complied with, should be adequate to ensure that no postings are made that will jeopardise confidence in the objectivity and impartiality of the police or are otherwise inappropriate.

Complaint against the police authority in the county of Stockholm about a tweet (6153-2012)

The Parliamentary Ombudsman has reviewed a tweet made by the police on their Twitter account. This expresses disappointment that two celebrities spoke

in positive terms in a television programme about taking drugs. The wording of the tweet did not, in the opinion of the Parliamentary Ombudsman, contain any inappropriate features and there are no grounds for assuming that the aim of the tweet was anything but the prevention of crime.

The adjudication states that there are regulations about police participation in the social media which, if complied with, should be adequate to ensure that no postings are made that will jeopardise confidence in the objectivity and impartiality of the police or are otherwise inappropriate.

Criticism against certain police authorities about the length of time taken to deal with cases relating to gun licenses (5529-2013)

During 2013 a relatively large number of complaints were made to the Parliamentary Ombudsmen about the time taken by the police to deal with cases relating to gun licenses. The Parliamentary Ombudsman Renfors asked the National Police Board to acquire information from the police authorities so that it could provide a report on the time taken to deal with such cases and present an assessment of the situation.

The review undertaken by the National Police Board showed that there was a wide variation in the time it took for different police authorities to deal with licenses for hunting weapons and target shooting weapons. The average time taken in such cases by all the police authorities in Sweden was about 40 days during 2013. Some police authorities took an average of about 20 days while others could take about 80 days. On the whole it took longer to deal with licenses for target shooting weapons than for those to be used for hunting.

It has taken the police authorities in the counties of Stockholm, Västra Götaland, Skåne and Halland a particularly long time to deal with applications for gun licenses during 2013. According to these authorities one of the causes has been lack of resources. The time it has taken them to deal with applications for gun licenses does not comply with the dispatch required by the Administrative Procedure Act, for which the authorities are criticised.

The Parliamentary Ombudsman takes a positive view of the measures that have been adopted or are planned by the police to put an end to the delay in dealing with these cases and assumes that continued focus will be devoted to this problem by the police authorities.

Criticism of the Swedish Customs and a prosecutor for management of a preliminary investigation and decision on arrest (2556-2013)

In the course of a surveillance operation and a preliminary investigation of a serious smuggling offence F.T. was apprehended. He was subsequently placed under arrest and deprived of his liberty for a total of 17 hours. It later turned out that he was innocent. The enquiry revealed that a number of unfortunate circumstances led to the apprehension of F.T. There are no adequate grounds for questioning the intervention itself. The Parliamentary Ombudsman's review has focused instead on how the preliminary investigation was managed from the time that F.T. had provided details about his alibi during questioning up until the moment of his release.

In the opinion of the Parliamentary Ombudsman there are grounds for questioning whether the investigation provided the prosecutor with adequate reasons for concluding that there were good grounds for suspecting F.T. of a serious smuggling offence. Far too much weight seems to have been given to the few and not particularly incriminating circumstances that spoke against him. The Parliamentary Ombudsman's enquiry also produces the impression that too little attention was paid to F.T's own information and the circumstances that weighed in his favour. The grounds on which the decision to make the arrest were based were, therefore, in the Parliamentary Ombudsman's opinion, extremely dubious.

The details provided by F.T. about his alibi were not checked until the morning and lunchtime of the day following his arrest. It can be wondered whether these investigative measures should not have been taken with greater dispatch. The adjudication also points out that a prosecutor's decision to detain someone must be continually reviewed and that the customs authorities are also responsible for carrying out investigative measures as rapidly and efficiently as possible to provide material on which the prosecutor can base an assessment.

Serious criticism of the Swedish Customs for a delay of more than two years in issuing a decision on an obligatory review (178-2013)

When appeal is made against a customs case, the starting point for the Swedish Customs is that the decision appealed against must be reviewed as soon as possible. If the review does not mean that the decision is altered in the way the appellant desires, the appeal and the case file must be referred to the court that is to hear the appeal.

In the case of the appeal involved in this complaint, the Swedish Customs did not issue its decision after the review until just over two years after receipt of the appeal by the authority. For much of this time the reason for the delay was that no measures were taken to deal with the appeal. It has further transpired that periods of more than two years to deal with appeals against decisions have more or less been the norm at the support centre concerned. Grave criticism of the Swedish Customs is expressed for the length of time taken to deal with these cases.

Prison and Probation Services

Criticism of the Prison and Probation Services' prison at Kumla for destruction of documents on which a psychologist's expert opinion had been based (3056-2011)

An inmate requested access to the material on which his own risk assessment had been based. He was then told that all the material used as the basis of the risk assessment had been destroyed. The Prison and Probation Services is criticised for the destruction of the material. In his adjudication the Parliamentary Ombudsman observes that the Patient Data Act (2008:355) applies to the psychological assessments made by psychologists employed by the Prison and

Probation Services when they submit expert opinions. The Parliamentary Ombudsman adds that the psychologists are required to maintain records when they submit these opinions and that the material on which the risk assessments included in these opinions are based are medical records that have to be archived.

Criticism of the Prison and Probation Services' prison at Hall for the way it dealt with and retained items of post sent to an inmate, etc. (5877-2011)

This adjudication points out that limiting the possibility of possession of items of post involves infringement of the constitutionally enshrined right to freedom of information. Retention of an item of post because of what it contains therefore constitutes a manifest infringement of an inmate's fundamental rights and has palpable impact on an individual's legal entitlements. For this reason – in the Parliamentary Ombudsman's opinion – it cannot be a question of what could be called an "operational routine".

In addition it is pointed out that the retention of an item of post by the Prison and Probation Services by virtue of Section 8 of Chapter 7 of the Prisons Act (2010:610) cannot be described as an "operational routine" either.

The adjudication criticises the prison at Hall for failing to make a clear distinction in its treatment of items of post to the inmates between retention and seizure.

The adjudication was sent to the Ministry of Justice and the Parliamentary Committee on Justice.

The Prison and Probation Services' routines for dealing with "official post" to inmates etc. (4465-2012 etc.)

These cases involved the way in which the Prison and Probation Services deals with "official post" to inmates. The adjudication states, among other things, that seizure of official post by virtue of Section 2 of Chapter 5 of the Prisons Act is an operational routine. The Parliamentary Ombudsman goes on to express views about the form that a prison's routines for the distribution of official post to inmates should take. Finally the prison at Saltvik is criticised for shortcomings in its management of delivery of official post to inmates in two cases.

An enquiry initiated by the Parliamentary Ombudsman into the detention of a detainee in the police cells at the Kronoberg remand prison: this included the issue of division of responsibilities between the police and the Prison and Probation Services with regard to the medical care of detainees (3076-2012)

A man who had been arrested and detained in the police cells at the Kronoberg remand prison after a case of domestic violence was suffering from severe physical injuries. Even though he repeatedly requested medical care, about eight hours elapsed before he was examined by a physician and taken to hospital. The police cells are administered by the Prison and Probation Services on behalf of the police. A practice had been established in which the police authority ensured that medical care was provided for detainees in the police cells who needed it. The responsibility for medical care for these detainees was not

clearly attributed in the agreement between the two authorities. In her adjudication the Chief Parliamentary Ombudsman states that she assumes that the authorities have systematised current arrangements in a written agreement and that written routines will be laid down about records relating for instance to medical care required by detainees. Her adjudication criticises the Prison and Probation Services for shortcomings in its records of significant occurrences while detainees are housed in the police cells.

Grave criticism of the Prison and Probation Services' remand prison in Gävle for limiting the possibilities of detainees to make contact with the outside world even when there has been no previous decision to this effect by a prosecutor, etc. (5528-2012)

This adjudication states that the remand prison in Gävle has restricted the possibilities for detainees to make contacts with the outside world on the basis of Section 2 of Chapter 6 of the Act on Detention. In order to do so a decision by a prosecutor is required, which has not been the case. In practice, the lack of a prosecutor's decision has meant that the remand prison has been making decisions on restrictions pursuant to Section 1 of Chapter 6 of the Act on Detention. Remand prisons are not empowered to make such decisions. Grave criticism of the actions of the remand prison is expressed.

The adjudication also contains a statement about the prerequisites pursuant to the Act on Detention for denying individual detainees the possibility of regulating the lighting in the rooms they occupy.

An enquiry initiated by the Parliamentary Ombudsman into the rights of detainees in remand prisons and prisons (5529-2012)

On 19 June 2012 the Parliamentary Ombudsmen's NPM unit visited the Prison and Probation Services' remand prison in Gävle. During this visit it transpired that amendments to the Aliens Act (2005:716) concerning the rights of those held in custody that had come into force on 1 May 2012 had not led to the adoption of any measures by the remand prison. These amendments lay down that any alien taken into custody who is placed in a prison, remand prison or police cell shall, in addition to the stipulations of the Act on Detention, be given the possibility of making contact with individuals outside the facility. This means that the aliens have the same right to make contact with individuals outside the facility as those who are held in custody in premises belonging to the Swedish Migration Board. During the visit it became clear that an alien held in custody pursuant to the Aliens Act had not been allowed to make telephone calls to a relative for the first two weeks of his detention. An enquiry was then initiated within the framework of an own initiative investigation into the question of how the Prison and Probation Services had taken the amendments to the Aliens Act cited above into account and also what instructions had been issued and what measures adopted centrally to guarantee the rights of those held in custody in remand prisons and prison facilities.

The adjudication points out that those held in custody in the Swedish Migration Board's premises are entitled to unlimited and private use of mobile phones and also to the use of computers with Internet access. Those held in

custody in the Prison and Probation Services' facilities have restricted possibilities of making telephone calls and receiving visits and lack any possibility of contact with the outside world through the Internet. In addition, according to the instructions issued by the Prison and Probation Services, contacts made by those held in custody have to be checked in advance and their calls may be intercepted.

The conclusion is that in practice the Prison and Probation Services' review and its instructions to the operational units concerned will not mean that the new provisions on the rights of those held in custody to be in contact with the outside world will be implemented to the full in remand prisons and prison facilities. For this no blame can be attached to the Prison and Probation Services but it shows how inappropriate it is to house aliens taken into custody in premises that are designed for individuals who are suspected or convicted of criminal offences.

Criticism of the Prison and Probation Services' transport services for compelling a minor taken into custody pursuant to the Care of Young Persons (Special Provisions) Act (1990:52) to spend a night at a remand prison in connection with his attendance at a court hearing (6939-2012)

A young person held in custody pursuant to the Care of Young Persons (Special Provisions) Act was being taken by the Prison and Probation Services' transport services from a children's home outside Enköping to the Värmland District Court in Karlstad and back. The journey took two days and led to two overnight stays in a remand prison for the young person. The Prison and Probation Services is criticised for the way in which this journey was planned and carried out.

Grave criticism of the Prison and Probation Services' prison in Mariefred for carrying out surveillance with the help of CCTV cameras in connection with the isolation of an inmate (115-2013)

An inmate placed in isolation for eight weeks following a suicide attempt was under camera surveillance for the entire period. The staff responsible for the surveillance were in another building.

The adjudication states that if a prison concludes that there is a risk of self-harming behaviour, surveillance may take one of two forms: either permanent supervision in which the staff are close to the room in which the inmate is held or through inspection rounds every 15 minutes. In the second case camera surveillance may be used to supplement the rounds. The prison in Mariefred is criticised severely for using only camera surveillance, which meant that the staff were unable to take immediate action in the event of self-harming behaviour.

Criticism of the Prison and Probation Services for failure to inform a detainee's next-of-kin that a detention order had been enforced (1944-2013)

When an individual was discharged from a prison sentence, the Prison and Probation Services enforced a detention order. The individual concerned was detained on the grounds of a suspected crime. The adjudication points out that the

Prison and Probation Services was enforcing a detention order and that the individual concerned was detained on the grounds of a suspected crime. The adjudication goes on to say that it was therefore the duty of the Prison and Probation Services to discharge its obligations pursuant to Section 21a of Chapter 24 of the Procedural Code. The Prison and Probation Services is criticised for failure to inform the individual's next-of-kin about the detention by telephone. The adjudication states that in situations in which a relative or close friend is to be informed as laid down in Section 3 of the Ordinance on Detention (2010:2011) or Section 21 of Chapter 24 of the Procedural Code, the Prison and Probation Services must, on its own initiative, ask the detainee whether he or she wants some relative or close friend to be informed. In addition it points out that the point of departure must be that a telephone call is the normal method and that in each specific case an individual assessment must be made of how this information is to be provided. The adjudication also states that the remand prisons should keep records of the decisions made about whether a relative is to be informed or not and if so how this was done. If a relative is informed through a telephone call this should be included in the records.

An enquiry initiated by the Parliamentary Ombudsman into the Prison and Probation Services' handling of cases about placement in security units
(2311-2013)

The Prison and Probation Services may under certain conditions place inmates in what are called security units. This may be to avoid escapes, attempts to free them or their continuation of serious criminal activity while serving a sentence. Placement in units of this kind means that inmates are subject to more extensive inspections than other inmates. Placement in a security unit has to be reviewed at least once each month.

Complaints to the Parliamentary Ombudsman during inspections of the security units at the prisons in Kumla and Saltvik made it clear that there was widespread dissatisfaction among the inmates about the way in which the Prison and Probation Services justifies decision to place them in security units and the way in which the review of these decisions took place. For this reason the Parliamentary Ombudsman initiated an enquiry into how the Prison and Probation Services dealt with these placements.

On the question of the wording of the Prison and Probation Services' initial decisions it is stated that the agency must endeavour to provide a clear and explicit account of where the different items of information in the decision have come from and what importance they have had for its assessment. This is required to create a more transparent system that the inmates can understand. In addition, it is important for the inmates to understand the grounds on which the decision is based so that they can begin the process of change that in most cases is required for them to be able to affect their placement.

With regard to the monthly review decisions, it is pointed out that in them the Prison and Probation Services must account for circumstances that have arisen since the initial decision. This may include, for instance, the length of time inmates have spent in a security unit and their conduct and participation in programmed activities. In addition the Prison and Probation Services must

analyse the significance of these new circumstances and why – if the agency chooses not to make any changes – they are not enough to affect the original decision. The review decisions should be viewed to no small extent as evaluations of the time spent by the inmate in the security unit which can help the inmates to understand what actions they can take to affect their own situation.

Criticism of the Prison and Probation Services' prison at Saltvik for inadequate justification of a permission about leave, etc. (3266-2013)

In a decision on temporary release (leave) a prison facility made the assessment that an inmate's son should be considered a victim of crime. In the view of the facility, certain aspects of the court's judgment suggested that it was extremely likely that the son had been a spectator of the inmate's violent treatment of his mother. The Chief Parliamentary Ombudsman's adjudication states that the summary and description provided in a court's judgment in a criminal case do not reflect the issue in its entirety and that the wordings used are intended for other purposes than the interpretation arrived at by the prison. For this reason a prison should as a rule restrict itself to collecting concrete information from the criminal judgements and not indulge in different kinds of interpretation.

Furthermore it had been the intention of the prison before making its decision about leave to contact the inmate's ex-wife in order to find out whether her son would be at the address at which the inmate would be staying during the period. The adjudication emphasises that a prison may – when assessing whether there is a risk of criminal activity or wrongdoing by the inmate in connection with the leave – decide, for instance, that the leave has to be supervised to prevent the inmate from making contact with the victim of a crime. What the measures prisons may adopt have in common is that they impose different restrictions on the inmate during the leave period. The recourses available to a prison do not include, however, attempts to govern or influence the actions of third parties in connection with the leave – as the prison at Saltvik attempted to.

In addition grave criticism of the prison at Saltvik is expressed for shortcomings in the wording of the decision about leave.

Criticism of the Prison and Probation Services' prison at Saltvik for the way in which, within the framework of a victim support programme when prisoners are discharged, a warder made contact with a relative of an inmate, etc. (3591-2013)

An inmate in the prison at Saltvik had been granted permission to speak to his son on the phone. The victim support programme linked to discharges contacted the son's custodian to find out how she experienced the calls that the inmate had made to his son. The adjudication states that two measures may be adopted by prisons if there are reasons to question the suitability of an inmate continuing to have telephone contact with a minor. They may either revoke the permission to make calls, or report their concerns to the social services. On the other hand, prisons should refrain from contacting relatives to follow up the outcome of a permission that has been granted. Doing so would lead to the risk of going beyond the ambit of the Prison and Probation Services and becoming

involved in activities that fall within the domain of the social services. The tasks of the Prison and Probation Services do not include investigating potentially suspicious circumstances concerning children nor providing assistance or help to the victims of crime.

If, nevertheless, a prison undertakes this kind of follow-up, it must do so impartially. The adjudication criticises the prison at Saltvik for the way in which a warder expressed his own views while speaking to a relative about the telephone calls that had been made.

Criticism of the Prison and Probation Services' prison at Salberga for shortcomings in the reasons given for withdrawal of a permit to visit etc. (4217-2013)

A favourable decision cannot, in principle, be revoked or altered to an individual's disadvantage by the authority that has made it, unless new circumstances have arisen. In certain situations, however, it is possible to change a decision after reviewing the material on which it was originally based. In assessing whether there is such scope, according to the Chief Parliamentary Ombudsman, the time that has elapsed since the decision was made public must be taken into account. The possibilities of reviewing the material diminish as time passes. If, in addition, an individual has made arrangements based on the decision, for example applied for and received prison visits, the scope for review becomes even smaller. In such circumstances it is necessary, as a rule, for new circumstances to have arisen that make it possible to question the original decision in order for it to be changed.

Grave criticism of the Prison and Probation Services' prison at Salberga for shortcomings in a decision to place a large number of inmates in isolation by virtue of Section 8 of Chapter 6 of the Prisons Act (4379-2013 et al.)

On three occasions the prison at Salberga has placed inmates in isolation by virtue of Section 8 of Chapter 6 of the Prisons Act (2010:610). The adjudication points out that three requirements have to be fulfilled if an inmate is to be placed in isolation pursuant to this provision. To begin with an event must have occurred that can result in the inmate being reprimanded or a conditional release postponed. Secondly, it must be possible to link the inmate to the circumstances that have arisen (the suspected wrongdoing). The third requirement is that a risk must exist that unless placed in isolation the inmate will make it more difficult to investigate what has happened. On one occasion (15 August 2013) the prison placed all the inmates in isolation in one of its buildings in order to investigate what lay behind an assessment that there was a risk of wrongdoing and disturbances to good order and security. The adjudication points out that at the time of the placement in isolation no event had yet occurred that could lead to a reprimand or postponement of a conditional release. In other words it was not possible to place the inmates in isolation by virtue of the statute cited.

During the three periods of isolation the inmates were allowed shorter breaks outdoors. The adjudication points out that if a prison is to deny inmates one hour of outdoor exercise every day, an event that the prison could not fore-

see must have occurred. This may be the situation, for instance, when placement in isolation begins. If this placement continues for some time, it is difficult for the prison to maintain that the situation is one that it could not expect. This means that a prison that places an inmate in isolation is obliged to start planning immediately how the inmate can be provided with one hour of outdoor exercise each day.

The adjudication expresses grave criticism of the prison at Salberga for the decisions on placement in isolation made on 15 August 2013 and for the extreme shortcomings in the subsequent investigation. In addition the prison is criticised for denying the inmates daily outdoor exercise during the time they were placed in isolation.

An enquiry initiated by the Parliamentary Ombudsman into the treatment of an inmate placed in isolation (6211-2013)

After attempting to escape from the prison in Norrtälje, an inmate was placed in isolation by virtue of item 3 in the first paragraph of Section 7 of Chapter 6 of the Prisons Act. In order for an inmate to be placed in isolation on the grounds of this provision there must be a risk that the inmate will escape or be liberated. In addition there must also be reasonable grounds for assuming that the inmate is particularly likely to continue to commit serious crimes. During the period of isolation the Prison and Probation Services made a total of nine review decisions to the effect that the inmate was to remain in isolation. In none of these decisions, nor in the original one on placement in isolation, did the Prison and Probation Services assess whether it could be assumed that the inmate was particularly likely to continue to commit serious crimes. In other words there was no exhaustive consideration of the requirements laid down in the provision cited. This failure has meant that the inmate's chances of considering the possibility of any appeal were considerably reduced. The Chief Parliamentary Ombudsman expressed grave criticism of the shortcomings of the Prison and Probation Services in its treatment of the case.

The placement in isolation continued for three months and for most of this time the inmate was housed in what is called a "bare cell" equipped only with a bed. During placement in the bare cell the inmate was also subject to continuous supervision ("supervision every second"). On the basis of the notes made in connection with this supervision it can be determined that no measures to interrupt the isolation were adopted to any extent and that the inmate was more or less in total isolation for a period of two months. Grave criticism is expressed of the Prison and Probation Services for not having attempted to relocate the inmate earlier in order to remedy the situation.

Enforcement Authority

Criticism of the Enforcement Authority for the formulation of a message to a defendant in a case about a payment order (6076-2012)

After a decision had been issued in a case dealing with a payment order but within the respite period, the defendant submitted a document whose contents

were unclear. The Enforcement Authority chose not to interpret the document as an application for respite but wrote to the defendant to ask how it was to be interpreted. The Enforcement Authority is criticised for not having written to inform the defendant clearly that the document had not been viewed as an application for respite and for not pointing out the consequences of failure to submit a clarification.

Criticism of one of the Enforcement Authority's officers for a telephone call made while making an inventory of assets (1744-2013)

In the process of making an inventory of assets an enforcement officer telephoned to speak to the debtor. She ended up talking to the debtor's 12-year-old daughter and is criticised for not finding out who she was talking to before asking her questions.

Criticism of the Enforcement Authority for the way it dealt with and applied the possibility of correction of an error as laid down in Section 20 of Chapter 2 of the Debt Enforcement Code (1910-2013)

Section 20 of Chapter 2 of the Debt Enforcement Code stipulates that the Enforcement Authority may correct a decision which because of an oversight is manifestly mistaken. The Enforcement Agency has corrected an error in a decision on distribution even though it was not manifestly clear that the decision was erroneous and is criticised for doing so. The Enforcement Agency is also criticised for the way in which it dealt with the issue of correction.

Administrative courts

Criticism of the Chief Judge and a lay judge at the Administrative Court in Falun for their management of a case of conflict of interest (772-2013)

A lay judge was a member of a board of social welfare. For this reason there was a conflict of interest in a case in which the board of social welfare had applied for an order pursuant to the Care of Young Persons (Special Provisions) Act (1990:52). The adjudication expresses criticism of the lay judge for failing to inform the presiding judge that only a few weeks before the hearing in the administrative court she participated in the social welfare board's executive committee's decision about the same parties as those involved in the court hearing. The chief judge is criticised for having allowed the lay judge to take part in the hearing of the case despite the conflict of interest.

Criticism of four judges at the Administrative Court in Linköping for the wording of the grounds for judgment in a case involving compulsory mental care (748-2014)

The Administrative Court Procedure Act lays down that the decision of a court shall contain the grounds on which the judgment has been reached. The Parliamentary Ombudsman has reviewed five decisions pursuant to the Act on Compulsory Mental Care made by the Administrative Court in Linköping. The result of this review is that none of the five decisions meet the requirements of

the Administrative Court Procedure Act with regard to grounds. Criticism is therefore expressed of the judges responsible for these decisions.

Central government agencies etc.

An enquiry initiated by the Parliamentary Ombudsman about shortcomings in the files of the Public Employment Service concerning employment cases (3972-2012)

During an inspection of the Public Employment Service's office in Karlstad the Parliamentary Ombudsman was able to determine shortcomings in the files on a large number of the cases reviewed. It also became clear that the office had difficulties in providing all the documentation requested by the Parliamentary Ombudsman. Similar shortcomings have repeatedly been observed in the course of the Parliamentary Ombudsmen's enquiries into complaints that have been received. The adjudication states that shortcomings in the records as well as in file and document management are in breach of the regulations and principles for administrative procedure and also jeopardise the constitutional right of access to public documents. The executive management of the Public Employment Service must be held responsible for the failure of the current regulations to make any impact on the agency's operations. These shortcomings have been extensive. For this reason the Parliamentary Ombudsman takes a grave view of what has transpired.

Criticism of the Swedish Municipal Workers' Union's unemployment benefit scheme for rejection of an application for unemployment benefit because the employer's certificate was not issued on a specific form (961-2013)

The complainant had submitted an application for unemployment benefit to which a signed employer's certificate from his former employer was attached. The certificate was issued in the form laid down by the Unemployment Benefit Inspectorate and which is machine-readable. The form stipulates that certain information is to be provided on a separate form. The certificate was attached to the application and was signed. The information requested was not, however, included on the form but the employer referred to an appendix in which it was supplied.

The unemployment benefit scheme rejected the application on the grounds that incomplete material on which to base its decision had been submitted. In its decision it stated that the information provided on the separate appendix was missing. The Parliamentary Ombudsman does not consider that the provisions in Section 47 of the Act on Unemployment Benefit support the rejection of an application for unemployment benefit on the grounds that an employer's certificate has not been issued on a specific form. Criticism is expressed of the Swedish Municipal Workers' unemployment benefit scheme for its decision to reject the complainant's application.

A complaint about the Public Employment Service for a delay of two years in relocation to a municipality after a residence permit had been issued (2697-2013)

The Public Employment Service is obliged, when necessary, to assign certain newly arrived immigrants' accommodation in a municipality. On the other hand the Public Employment Service has no possibility of requiring a municipality to receive a specific individual or family.

In this particular case it took about two years from when a woman and her daughter (born in 2002) were granted residence permits until they were assigned a municipality to live in by the Public Employment Service. One of the reasons for this delay lay in the daughter's special needs. The Public Employment Service presented the family to 17 different municipalities before one of them finally offered the family somewhere to live. Up until that time the family was living in one of the Swedish Migration Board's residential facilities, which was not adapted to the daughter's special needs. If the Public Employment Service had dealt with this relocation case more efficiently and the exchange of information between the public authorities concerned had functioned more effectively, the time taken to deal with it could probably have been reduced. The main reason for the length of time it took is not, however, the result of the actions of the Public Employment Service but that so many municipalities considered that they were unable to offer the family anywhere to live. This case illustrates the consequences of a solution based on voluntary agreements. A copy of the adjudication is therefore being submitted to the Ministry of Employment for its awareness.

Criticism of the Swedish Competition Authority for shortcomings in connection with questioning pursuant to the Competition Act (6358-2012)

The complaint included an objection to the way in which the Swedish Competition Agency had chosen to document a tape recorded interrogation conducted in connection with an enquiry pursuant to the Competition Act (2008:579). Section 2 of Chapter 5 of the Competition Act stipulates that the Swedish Competition Agency shall keep a record of an interrogation. As this provision includes no specification of what form the record is to take, the adjudication states that it would seem natural to seek support in the regulations for closely related activities, for instance the Ordinance on Interrogations. At the same time it is pointed out that when considering the Swedish Competition Agency's obligation to maintain records it must be borne in mind that its activities do not constitute a criminal investigation in the strict sense of the term.

The adjudication goes on to state that a procedure in which an interrogation is recorded in summary form may be acceptable from the point of view of legal correctness, if the summary provides an objective and complete picture (reflects in its entirety) of what has come to light in connection with the interrogation. In addition, before the interrogation begins the official in charge must make it clear to those present that the record is to take this form. The Swedish Competition Agency is criticised for having a routine that means that the official conducting the interrogation decides after it has been completed what form the record will take.

The principal regulation states that the record of an interrogation is to be made and approved before it ends. If an interrogation is particularly comprehensive or deals with complicated circumstances, the Swedish Competition Agency may take longer to produce the record. In these circumstances the record has to be completed and approved as soon as possible after the interrogation has finished. The adjudication states that this means in normal cases that the record has to be produced and approved on the following day. Further delay could be acceptable in exceptional cases.

Criticism is expressed of the Swedish Competition Agency for considering that the case concerned was an exceptional one so that the production of the record could be delayed, even though it is clear that the interrogation was neither particularly complicated nor comprehensive. Finally it is stated that in cases for which exceptions can be made it is not acceptable for there to be a delay of three weeks – as in this case – before the individual interrogated is enabled to check the record that has been drawn up.

Grave criticism of the National Property Board for shortcomings in the handling of access to public documents etc. (3869-2013)

In May 2013 an association requested access to public documents from the National Property Board. Only after almost four weeks did the board decide to provide some of the documents requested. The association appealed against the Board's decision in September 2013. It was not until January 2014 that the Board forwarded the appeal to the Administrative Court of Appeal. In the middle of February the court rejected the association's appeal on the grounds that the property lawyer at the National Property Board who had reviewed the request for provision of the documents lacked the authority to do so and no appeal could therefore be made against the decision.

The shortcomings in the way this request was handled meant, among other things, that in February 2014 – i.e. almost nine months after its receipt had been recorded at the National Property Board – the association had still not had its request appraised correctly. In addition, inadequate grounds were given for the board's decision. Grave criticism is expressed of the National Property Board for its management of the case.

Taxation and inland revenue and civic registration

Grave criticism of the way a tax official dealt with an individual. Also criticism of the Taxation Authorities for management of public documents (641-2013)

Grave criticism is expressed of a tax official at the taxation authorities for the contents of a letter that do not comply with the objectivity required by Section 9 of Article 1 of the Instrument of Government. The adjudication also criticises the taxation authorities for inadequate registration of public documents and wrongly returning documents to those submitting them.

Social services

Social Services Act

A municipal board conducted an unannounced home visit in order to "investigate suspected benefit fraud". The question of whether this was in conflict with Article 6 of the European Convention, etc. (6798-2012)

After an anonymous tip-off that a woman receiving financial support was living with a partner, two officials made an unannounced visit to her home. In its response to the Parliamentary Ombudsman the board stated that this visit was made in order to "investigate suspected benefit fraud".

One of the provisions of Section 6 of the Benefit Fraud Act is that the police or a prosecutor must be notified if suspicion of an offence against the act arises. The travaux préliminaires to the act say that notification should take place when there is a "well-founded reason for assuming that a crime has been committed". There are no provisions or statements in the travaux préliminaires that deal with the issue of whether a board may or should undertake its own investigative measures – and in that case which – before it submits such notification. A decision by a board to arrange a visit to a home to investigate whether there is reason to suspect that a crime has been committed would involve, among other things, overriding the provisions in the Procedural Code on searches of premises and how they should be conducted. In other respects as well, the regulations in place to provide guarantees of fair trial in criminal cases would be disregarded. For this reason, in the Parliamentary Ombudsman's opinion, a social welfare board must not arrange home visits intended to investigate whether an individual can be suspected of a crime. Given this background, the board should not have arranged the visit.

The case gives rise to questions about the relationship between the regulations on benefit fraud and the specific regulations in the Social Services Act about recovery, what investigative measures a social welfare board may adopt according to these regulations and how such measures relate to Article 6 of the European Convention on the right to fair trial. According to the Parliamentary Ombudsman there are reasons for considering these issues in a broader context. A copy of the Parliamentary Ombudsman's adjudication is therefore being forwarded to the Ministry of Health and Social Affairs and the Ministry of Justice for their awareness.

The question of obligation to make a record of who had notified a member of a social welfare board about concerns about the treatment of children, etc. (4133-2011)

An individual, X, rang a member of a social welfare board to express concerns about the children in a local family. There can be little uncertainty that X contacted the member in his capacity as a representative of the board. In such cases the information provided by an individual should be treated as notification pursuant to Section 1c of Chapter 14 of the Social Services Act. It was therefore the responsibility of the member to ensure that a record was made of the information provided by X.

No details about X's identity were noted in this case. As it has been impossible to ascertain whether X gave his name during the telephone call to the member of the board or later, no criticism is expressed of the board for the fact that the children's custodian was unable to find out who had made the complaint.

Grave criticism of a municipal board for shortcomings in the treatment of a case concerning income support referred back to the board by a court of law for reappraisal (3548-2012)

The Board for Education and Labour Market Issues in Sigtuna had rejected applications for financial support. After an appeal by an individual the administrative court set aside the decision and referred it back to the board for reappraisal. The judgment meant that the appeal had to some extent been accepted. The individual submitted an appeal to the Administrative Court of Appeal requesting reversal of the judgment's rejection of some elements of the first appeal. As only the individual appealed to the court of appeal, the outcome of the hearing could not be to his disadvantage. The board should have made sure that a new decision was reached as soon as it was informed of the administrative court's judgment. This new decision was not, however, made until one year and a half had elapsed. Grave criticism is expressed of the board for the shortcomings in its treatment of the case.

In a case concerning the appointment of a contact person for a child who was not yet 15 both custodians must be heard before a board reaches a decision (3380-2013)

Section 6b of Chapter 3 of the Social Services Act stipulates that a social welfare board may appoint a contact person to assist an individual in personal matters. If the individual who is to be given a contact person has not reached the age of 15, the provision lays down that both custodians shall consent to this measure. Since 1 May 2012, however, it has been possible to appoint a contact person even though one of the custodians does not consent.

In the adjudication the Parliamentary Ombudsman states that the opinions of both custodians on the question of appointing a contact person must be sought before a board makes its decision. It is not enough merely to inform one custodian that a measure decided on is to be implemented. Criticism is expressed of the social welfare board in the municipality of Olofström for not asking for the opinion of one of the custodians (the mother) before the board decided to appoint a contact person for her 14-year-old son.

Care of Young Persons (Special Provisions) Act

Was it possible to reach a new decision on an immediate care order pursuant to Section 6 of the Care of Young Persons (Special Provisions) Act after a previous decision had lapsed because of failure to submit it to an administrative court in due time? A specific question about the importance of the provision in Section 1 of the same act on what is best for a child (534-2013)

The chairperson of the social welfare board in the municipality of Hallstahammar decided on an immediate care order for a child pursuant to Section 6 of the Care of Young Persons (Special Provisions) Act. Because of failure to submit the decision to the administrative court in due time, the order lapsed. Nobody in this case can be blamed for what occurred. When the board was made aware that the immediate care order had lapsed, its chairperson made a new decision by virtue of Section 6 of the act. This case raises the issue of whether the chairperson could make such a decision even though no new circumstances had arisen.

Section 7 of the Care of Young Persons (Special Provisions) Act lays down that an immediate care order ceases to apply if the order has not been submitted to the administrative court in the prescribed period. It has been considered that in such a situation no new decision to issue an immediate care order may be made unless new circumstances have arisen. This view may however conflict with the principle of what is best for the child that is to be decisive in making the decision according to the act.

How to resolve a conflict between what is best for the child and the provisions intended to ensure fair legal treatment in any individual case is complicated. As the Care of Young Persons (Special Provisions) Act is currently the subject of an enquiry, a copy of the adjudication is referred to the committee undertaking it.

In connection with a discussion between the social services and the administrative court about when a decision to issue an immediate care order pursuant to Section 6 of the Care of Young Persons (Special Provisions) Act had been submitted, the social services faxed the submission to the court. The date in this submission had been altered. The Parliamentary Ombudsman considers that the submission constituted an original document and therefore no alteration was permitted (4613-2012)

After the Administrative Court in Stockholm had drawn the attention of the Parliamentary Ombudsman to the way in which the social welfare board in Solna had dealt with four cases concerning immediate care orders pursuant to the Care of Young Persons (Special Provisions) Act, the Parliamentary Ombudsman decided to enquire into the board's management of these cases.

The decisions, which concerned four brothers and sisters, had been made by the chairperson of the social welfare board on 2 August 2012 and should, pursuant to the act, have been submitted to the administrative court no later than 9 August 2012. They were not, however, received by the court until 13 August, when they had been faxed to the court as a faxed submission dated 2012-08-13 (submission A). During discussions between the administrative court and the

social welfare board to clarify when the submissions had been made the social welfare board sent another faxed submission to the court dated 2012-08-03 (submission B).

The unmistakeable similarities between the faxed submissions, which had been completed in handwriting, prompted the Parliamentary Ombudsman to initiate a preliminary investigation on the grounds of suspicion of forgery of a document. This investigation showed clearly that the submissions were identical but that the date on submission B had been altered from 13 august to 03 August. On the other hand it was not possible to determine who had made this alteration. As the Parliamentary Ombudsman came to the conclusion that the offence could not be proved, the investigation was closed. – In the adjudication the Parliamentary Ombudsman states that, irrespective of the reason for the alteration of the submission, it is obviously of utmost importance for a public official not to change a document. The fact that this had happened in this case was particularly grave.

As none of the four decisions of 2 August had been submitted to the administrative court in due time the care orders lapsed. Four new immediate care orders were decided on 13 August and sent to the administrative court on the same day. The court set aside these decisions, however, as no new circumstances to justify them had arisen.

The consequences of the management of these cases by the social welfare board meant there were no possibilities of giving the children the protection and support they were considered to need. Grave criticism is expressed of the board for the shortcomings in its treatment of the case.

The question of whether a social welfare board may employ a private security company to arrange a transport for a young person taken into care pursuant to the Care of Young Persons (Special Provisions) Act (5187-2012)

A social welfare board had decided that a young person taken into care pursuant to the Care of Young Persons (Special Provisions) Act was to be moved from family care to a home for juveniles. The board requested transport assistance from the police (judicial assistance), who responded that they did not intend to provide such assistance. The board then employed a private security company to arrange the transfer.

As the security guards involved were undertaking security duties, the task assigned to them by the board included the exercise of official authority. Legal grounds are required for an agency to delegate administrative tasks that involve the exercise of official authority to a private company. Where enforcement assistance pursuant to the Care of Young Persons (Special Provision) Act is concerned no such grounds can be found in the act or any other statute. The employment of the security company was not, therefore, compatible with current legislation. In view of the special circumstances in this case, however, no criticism is expressed of the social welfare board.

Grave criticism of a municipal board for its treatment of two cases on restriction of visiting rights pursuant to the Care of Young Persons (Special Provisions) Act (1990:52) (6524-2012)

The board had decided on a temporary restriction of the parents' visiting rights by virtue of the second paragraph of Section 14 of the Care of Young Persons (Special Provisions) Act. The board subsequently extended its decision to restrict visiting rights after deliberation as provided in the third paragraph of Section 14 of the act.

The Parliamentary Ombudsman points out that in extending the restriction of visiting rights after deliberation rather than by making a new decision the board had disregarded fundamental stipulations about how cases were to be managed. The Parliamentary Ombudsman expressed grave criticism of the board.

The Parliamentary Ombudsman also criticised the board for failure to refer an appeal to the administrative court.

Handling of a case involving determination of visiting rights pursuant to Section 14 of the Care of Young Persons (Special Provisions) Act. The circumstance that the child's custodian had not requested an official decision has no bearing on the board's obligation to enquire into the question of visiting rights and make an official decision (2628-2013)

In May 2012 the custodian of a child taken into care pursuant to the Care of Young Persons (Special Provisions) Act submitted a written request for extended visiting rights. She did not receive a response to her request from the case officer until October 2012. An official decision on the extent of her visiting rights was not made until May 2013.

The Parliamentary Ombudsman states that when it is impossible to reach an agreement about visiting rights a request for an extension shall lead to an official decision against which, if not in favour of the individual, appeal can be made to the administrative court.

Criticism is expressed of the social welfare board's delay in dealing with the case and in making a decision on the extent of visiting rights.

The question of whether the parents of a child taken into care are entitled to make video films of a supervised visit to the child etc. (6351-2012)

The parents of a boy taken into care by virtue of an immediate care order pursuant to the Care of Young Persons (Special Provisions) Act met their son during a supervised visit. The social welfare board prohibited the individual who accompanied them as support to make video films of the visit.

In the opinion of the Parliamentary Ombudsman the first assumption is that a parent may film his or her child during a visit even if the child has been taken into care pursuant to the Care of Young Persons (Special Provisions) Act and the visit is supervised. The board may, however, prohibit video filming during a specific visit if the film could be considered inappropriate in a specific case. No such circumstances have come to light in the case concerned. The parents (and their supporting individual) should not therefore have been denied the possibility of making a video film of the parents' visit to the child.

A 17-year-old boy had been taken into care by virtue of Section 6 of the Care of Young Persons (Special Provisions) Act and placed in a special juvenile centre: the question is whether the social welfare board can invoke Section 11 of the Act to restrict the boy's contact with his father solely on the grounds that there is a lack of clarity in the police investigation into a serious crime in which the boy may possibly have been involved (120-2012)

An immediate care order was issued pursuant to Section 6 of the Care of the Young Persons (Special Provisions) Act for a 17-year-old boy who was suspected together with his father of a serious crime and he was placed in a special juvenile centre. The decision to do so was made by the Board of Social Welfare in the municipality of Upplands Väsby.

During his initial period in the centre the boy was not allowed to receive any telephone calls or visits as "everything relating to the police investigation is still far too unclear". One consequence of this decision was that the boy was allowed no contact with his father.

A decision to restrict contact between the father and his son would have been acceptable if it had been necessary for the boy's treatment programme. The Board of Social Welfare has not even claimed that the restriction was justified by the kind of grounds usually linked to the treatment of the young man. For this reason Section 11 of the Act provides no grounds for the board to restrict contact in the way it did.

A decision on a temporary prohibition to move may not be made solely to prevent contact between a custodian and his or her children on a specific occasion (6394-2012)

A complaint was submitted to the Parliamentary Ombudsmen about the Board of Social Welfare in the City of Luleå for its management of a case concerning a girl with a voluntary placement in family care. Some of the complaints dealt with questions relating the way in which her removal from care had been prohibited.

When children are placed in family care on a voluntary basis the fundamental assumption is that their guardians decide where they are to live and whether they are to move back to their homes. The Care of Young Persons (Special Provisions) Act does, however, contain provisions that make it possible on certain conditions to prevent guardians from moving children from family care placements. These provisions are intended to safeguard children from being moved too abruptly and separated from the parents providing family care.

In this particular case the guardian (the girl's father) had announced on one occasion that he intended to exercise his right to contact with his child for an entire weekend on specific dates. When the father was travelling to collect the girl against her will, the chair of the board issued a temporary decision to prohibit here from being taken away from the placement. The reason given for this decision was that the father intended to collect the girl against her will and that there was a manifest risk that her health and development could be harmed by removal from family care.

In the adjudication the Parliamentary Ombudsman states that the regulations on prohibiting movement only concern situations in which a guardian intends

to remove a child, in other words change where the child is going to live. For this reason there can be no question of invoking prohibition of movement to prevent guardians from having contact with their children on a specific occasion. There was nothing to suggest in this case that the father intended that the child should go on living with him after the period of contact had ended. On the basis of the enquiry to which the parliamentary ombudsman had access there were therefore no legal grounds for the decision that was made.

The adjudication also contains criticism of the board for shortcomings in the decision itself about the temporary prohibition of movement and for the management of a request from the father for the child to be returned to her home. In some cases these shortcomings are of a serious nature. A copy of the adjudication was therefore sent to the Health and Social Care Inspectorate.

Grave criticism of a social welfare board for delays in submitting an appeal against a decision about reconsideration of care pursuant to the Care of Young Persons (Special Provisions) Act to the administrative court (6620-2012)

A child had been placed in care by virtue of Section 3 of the Care of Young Persons (Special Provisions) Act. The social welfare board in Markaryd reviewed the placement as laid down in the third paragraph of Section 13 of the act and decided, among other things, that it was to continue. The child's custodian appealed against this decision. Instead of submitting the appeal to the administrative court, the board started an enquiry into whether the care order should be terminated. The board then decided it was to continue. When the child's custodian appealed against this second decision both appeals were forwarded to the administrative court. This means that more than three months elapsed before the administrative court was given a chance to review the first appeal, which according to the court could to some extent be considered to have had an impact on the outcome of the case.

The provision on the right to appeal against care orders pursuant to Section 3 of the Care of Young Persons (Special Provisions) Act is one of its fundamental features. After assessing whether the appeal had been submitted within the time allowed, the board should have forwarded it without delay to the administrative court. Grave criticism is expressed of the board for the shortcomings in its management of the case.

The Care of Abusers (Special Provisions) Act

The question of a new decision on an immediate care order pursuant to Section 13 of the Care of Abusers (Special Provisions) Act after a previous decision had lapsed because of failure to submit it to an administrative court in due time (7099-2013)

The Care of Abusers (Special Provisions) Act lays down that those in need of treatment in order to put an end to a current addiction problem can be subject to compulsory institutional treatment. The decision on treatment of this kind is made by an administrative court at the request of a social welfare board. If there

is no time to wait for the court's decision, a board may, in certain circumstances, decide to issue an immediate care order. Once this has been done, the decision must be submitted to the administrative court no later than on the following day. If the court approves, an application for compulsory institutional treatment must be submitted to the court within a week. Otherwise the care order lapses automatically.

A complaint from the Board for Individual and Family Welfare in the municipality of Västerås included the following information. An application from the board about treatment pursuant to the Care of Abusers (Special Provisions) Act for an abuser who had been taken into immediate care was not received by the court within the time allowed. This was the result of a mistake when the application was faxed to the court and meant that the immediate care order no longer applied.

A new decision on a care order was not accepted by the court on the grounds that two care orders cannot be based on the same reasons.

It is unfortunate that an administrative error results in an abuser not being given the treatment he or she needs.

The Parliamentary Ombudsman's adjudication includes the following observations. The Care of Young Persons (Special Provisions) Act contains similar provisions to those in the Care of Abusers (Special Provisions) Act that apply to these situations. Certain statements in the travaux préliminaires to the Care of Young Persons (Special Provisions) Act and certain adjudications issued by the Parliamentary Ombudsmen dealing with the application of this legislation should be able to offer guidance in the situation described in the complaint.

The board is probably unable to decide on a new care order when a previous order has lapsed because the application for treatment was not submitted in due time. The lapse of the care order does not mean, however, that the application for treatment has also lapsed. In this kind of situation one possible course the board could adopt would be to request the court to issue an immediate care order in connection with the application for compulsory institutional treatment.

The Parliamentary Ombudsman concluded the case without expressing criticism of the board.

The question of whether an institution for the treatment of drug abusers was able to introduce a routine for dealing with post that meant that internees regularly had to open all incoming letters in the presence of its staff (2793-2013)

During an inspection of the institution for the treatment of drug abusers in Hessleby operated by the Swedish National Board of Institutional Care it was noted that the institution had a routine for the distribution of post that meant that the internees opened all incoming letters in the presence of the staff. No decision about inspection had, however, been made in any individual case.

The Parliamentary Ombudsman's adjudication states that no general inspection of an internee's incoming items of post is permissible. Decisions must be made in each individual case if the requirements for doing so exist. The institution was criticised for this inadmissible surveillance of post.

Support and service for persons with certain functional impairments

The question of the requirement to communicate information included in a case report on the basis of daily routines (5569-2012)

In a case dealing with support and service for the functionally impaired a case officer submitted the report of her enquiry and proposed a decision without the applicant being first enabled to express an opinion about the information gathered by the case officer from the applicant's daily routines. In several respects the information acquired contradicted information submitted by the applicant and also seems to have had a decisive impact on the administrative decision to reject the application. In view of the important role the acquired information played in this appraisal, the written report on the daily routines should have been communicated to the applicant pursuant to Section 17 of the Administrative Procedures Act before the decision was announced. Criticism is expressed of the administration for this and a number of other shortcomings in the management of the case.

Handling of a case relating to personal assistance pursuant to the Act on Support and Service for Persons with Certain Functional Impairments, including whether a municipality can delay dealing with an application until the Swedish Social Insurance Agency has made a decision on an assistance grant (5076-2012)

After a woman had applied in September 2011 for personal assistance pursuant to the Act on Support and Service for Persons with Certain Functional Impairments to the board for health and social care, it took three months for the board to initiate an enquiry. When the enquiry began the board notified the Swedish Social Insurance Agency that the woman could be assumed to be entitled to an assistance grant as provided by the Social Insurance Code. During a visit to the woman's home in February 2012, in which a case officer from the Social Insurance Agency also participated, it was agreed that the board would postpone its enquiry until the Agency had reached a decision.

The Parliamentary Ombudsman states that it is doubtful whether it is at all possible to reach an agreement to place the municipality's enquiry "on hold" pending the enquiry and decision of the Social Insurance Agency. If this does occur, it is important at all events to ensure that the individual is informed of the potential consequences. Reaching such an agreement does not mean that the municipality can remain completely passive while the Agency's enquiry is taking place.

Criticism is expressed of the board for taking considerably longer to deal with this case than can be considered acceptable for a matter of this kind and which was partly the result of the passivity that characterised the board's actions during the time in which the Social Insurance Agency was carrying out its enquiry. The board is also criticised for the fact that no record was made of the agreement to keep its enquiry "on hold".

Health and medical care

Grave criticism of a forensic psychiatric clinic for handcuffing a patient under treatment by virtue of the Compulsory Mental Care Act (1991:1128) even though there were no legal grounds for such a measure. Grave criticism of the physician in charge for not examining the patient personally before every review (extension) of periods of physical restraint (4471-2011)

An individual undergoing treatment pursuant to the Compulsory Mental Care Act at the regional forensic psychiatric clinic in Vadstena was kept under physical restraint from 22 until 24 January 2011. The physician made continuous decisions to extend the period of restraint. These decisions were made over the phone and almost two days elapsed until the physician herself examined the patient before deciding on another extension. Some of these decisions were not recorded in the patient's medical records.

The patient was handcuffed partly before the application of restraints, while being placed in the bed with the restraints, as well as when the restraints were reapplied after he had been released in order to shower or relieve himself.

The Parliamentary Ombudsman expresses grave criticism of the physician in charge for not making personal examinations of the patient before each review of the decision on (extension of) the period of restraint. Criticism is also expressed of the inadequate records.

In the adjudication the Parliamentary Ombudsman points out that the Compulsory Mental Care Act provides no support for the practice of handcuffing patients undergoing treatment pursuant to its provisions. Grave criticism is expressed of the clinic for the use of handcuffs on patients, which is a breach of the protection provided by the constitution against physical violation.

Criticism of a forensic psychiatric clinic for the practice of "demarcating" patients assessed as needing to be housed in restricted areas with less stimulating environments and little contact with other patients (1169-2012)

After an inspection of the forensic psychiatric clinic in Örebro, the Parliamentary Ombudsman decided to enquire into how the clinic had dealt with a patient who had been held under restraint as well as its practice of "demarcation" and how this could be distinguished from the coercive measure of isolation.

In the adjudication the Parliamentary Ombudsman stresses the importance of careful records of any coercive measure adopted and decisions made so that it is not unclear by whom and when a decision was made during any subsequent inspection. The clinic is criticised, for instance, for keeping patient records from which it was not possible to come to any firm conclusions about whether decisions to readmit patients to secure units were made before they had been subject to restraint.

The Parliamentary Ombudsman's enquiry also disclosed that the clinic adopted a special practice – demarcation – for patients considered to need to be housed in restricted areas with less stimulating environments and little contact with other patients. Separation – isolation – is a coercive measure that the law states may only be adopted when certain requirements are fulfilled. The Parliamentary Ombudsman has no objection, per se, to nursing staff agreeing with a

patient that he or she is to stay in a certain area for the sake of peace and quiet. However, the Parliamentary Ombudsman is critical in a number of respects of the clinic's use of a procedure and a concept that is so similar to the coercive measure of isolation. The Parliamentary Ombudsman states for instance that the room in which demarcated patients are kept is unacceptable for this particular purpose.

Social Insurance

Criticism of the Social Insurance Agency for its application of the constitutional prohibition against determining the purpose for which documents are requested (5734-2012)

A journalist complained to the Parliamentary Ombudsmen and said that he had approached the Swedish Social Insurance Agency to request certain information, upon which – before he even had time to make his request – he had been asked what he wanted it for. In the adjudication the Parliamentary Ombudsman states that the identity of the person making a request may of course be important when it comes to evaluating any potential harm that it may give rise to but it is the nature of the information requested that must be the point of departure and that it is therefore never relevant to ask for the identity of the applicant or their intentions before it is obvious what kind of information is being requested.

No criticism is expressed of the Social Insurance Agency for failing to provide information about the country of domicile of an individual whose personal data was subject to secrecy but, on the other hand, for providing erroneous information in another informative document and in a decision (2203-2012)

In dealing with a case concerning income support the Social Insurance Agency disclosed information about the country in which an insured person issued with an identity protection order was living. The adjudication states that it is difficult to determine when the geographical area in which an individual with an identity protection order is living has to be kept secret and this has to be decided from case to case, for instance, on the basis of how large the area is. In this case the Parliamentary Ombudsman found that whether or not the country in which an insured individual is living is at all subject to secrecy is a matter of discussion but that this notwithstanding the Social Insurance Agency was not prevented from divulging the information concerned by virtue of the provision on breach of secrecy in Section 2 of Chapter 10 of the Public Access to Information and Secrecy Act (2009:400). The disclosure of this information does not therefore lead to any criticism from the Parliamentary Ombudsman.

Criticism of the Social Insurance Agency for shortcomings in the grounds given for a decision to reclaim benefit (6804-2012)

The Social Insurance Agency provided inadequate grounds for a decision on recovery in merely stating that the insured individual's points of view had been

taken into consideration without accounting for what points of view and information had been considered and how the agency had evaluated them. The adjudication states that a justification of this kind that fails to answer the question of why a specific assessment has been made does not fulfil its purpose and cannot therefore be considered satisfactory. In addition, before reviewing its decision the Social Insurance Agency had offered the insured individual an opportunity to "check" the proposed grounds for the outcome of its review against the grounds given in the original decision. Making an offer of this kind in this context is described as particularly remarkable and it is pointed out that a review of a decision entails a complete appraisal of the facts in the case that is totally independent of the original decision.

Criticism of the Social Insurance Agency for shortcomings in the grounds given for decisions on sickness benefit (513-2013)

The Social Insurance Agency has failed to provide grounds for several decisions on sick benefit by neglecting to account for the opinions and documents submitted to the agency by insured individuals. Nor has it been clear from the decisions how the agency has assessed this information. In addition, in one decision the Social Insurance Agency has confused information describing the case with what are circumstances that are decisive for it. The Social Insurance Agency is criticised for these shortcomings.

Environmental protection, public health as well as animal welfare

Criticism of a county administrative board for a delay in informing parties of a decision to take animals into care pursuant to Section 34 of the Animal Protection Act (427-2013)

The county administrative board decided that a number of cats were to be taken into care. The owner of the cats was informed of this decision through notification provided in connection with its enforcement three weeks later. In its response to the Parliamentary Ombudsman, the county administrative board states that there was a risk that the owner of the cats would conceal them if informed of the decision before the police had time to enforce it. The Parliamentary Ombudsman points out that there is no possibility of waiting to inform one party of a decision of this kind. The county administrative board should have ensured that the owner of the cats was informed of this decision without delay and is criticised for not having done so.

Criticism of a county administrative board for not reporting an offence against the Animal Protection Act to the prosecution agency or the police (6281-2012)

In its capacity as supervisory authority pursuant to the Animal Protection Act (1988:534), the county administrative board found out about a riding school that was operating without a permit. It is an offence against the Animal Protection Act to run a riding school without a permit and the county administrative

board is criticised for not having discharged its obligation to notify the prosecution agency or the police of this offence.

Grave criticism of a county governor for having given grounds for decisions in shore protection cases in a way that was in conflict with both the regulations applying to the grounds for decisions in the Administrative Procedures Act and the objectivity required by Section 9 of Article 1 of the Instrument of Government (4427-2011)

A county governor gave grounds for decisions to waive the right to coastal access in a way likely to give the impression that the decisions were in direct conflict with the regulations in the Environmental Code. The wordings of these decisions have been in breach of both the regulations on the grounds on which decisions may be based in the Administrative Procedures Act and the objectivity required by the Instrument of Government. Grave criticism is expressed of the country governor.

Grave criticism of a county administrative board for neglecting its obligations pursuant to the Service of Documents Act (776-2013)

The county administrative board was required to serve 13 members of a Sami community with an imposition of a conditional fine. After it had been notified of failure to serve two of the members, the county administrative board took no further measures to serve notice to them. The county administrative board has explained its passivity to the Parliamentary Ombudsman by saying that taking action against certain members of the community would not have improved the possibility of reaching some kind of settlement. The Parliamentary Ombudsman's adjudication states that this is a very poor explanation. As the county administrative board had chosen to serve notice of the fines, it was also required to ensure that all 13 members of the Sami community received this notice. Grave criticism is expressed of the county administrative board.

Criticism of a county administrative board for failure to communicate information that was important in a decision to put a dog down and for its delay in notifying the owner of the decision (1735-2013, 6458-2013)

The county administrative board had taken a dog into care pursuant to the Animal Protection Act and decided that it was to be sold or found a new owner in some other way. Subsequently the county administrative board was informed by the police authority that it was impossible to sell the dog or find a new owner and that it was referring the case back to the county administrative board for a decision to put it down. The county administrative board decided that the dog was to be put down without giving the owner of the dog the information from the police, for which it is criticised. The county administrative board employed a bailiff to notify the owner of the decision to put the dog down and the result was that this information was not received until 19 days after the decision had been made and 15 days after the dog had been put down. The county administrative board is criticised for not informing the owner earlier. Finally, criticism is expressed of the county administrative board for shortcomings with regard to its obligation to register public documents.

Planning and building

Grave criticism of a local building committee for failure to submit two appeals, one containing a request for inhibition, to the county administrative board (2571-2012)

The committee ordered a property owner under penalty of fine to remove a signboard and ruled that the decision was to take immediate effect even if appealed against. The property owner appealed against the decision and requested its inhibition. The committee did not establish whether the appeal had been submitted within the prescribed period and did not forward it to the superior instance. Nor did it forward the additional documents later submitted by the property owner. Instead the committee wrote to the property owner to say that the case was closed and could no longer be dealt with. The property owner also appealed against this ruling. Here, as well, the committee failed to establish whether the appeal had been submitted within the prescribed period and did not forward it to the superior instance either.

The Parliamentary Ombudsman's adjudication points out that there are serious gaps in the committee's knowledge of the fundamental regulations on how to manage appeals. Grave criticism is expressed of the committee.

Grave criticism of two officials in a planning and building committee for not being objective and impartial in their treatment of an application for a building permit (746-2013)

A co-operative housing association was involved in a court dispute with four of its members concerning balconies. During the proceedings the society applied to the planning and building committee for building permits for balconies. The society's aim was for the committee to reject the application so that it would later be able to submit this decision as evidence in the court hearing. Grave criticism is expressed of two of the City of Stockholm's officials for dealing with an application for a building permit and contacts with the applicants in a way that failed to comply with the objectivity and impartiality required by the Instrument of Government.

Grave criticism of the National Land Survey for its delay in the management of a case concerning conveyancing (1222-2013)

In a property matter all that remained for the National Land Survey to do on 29 November 2009 was determine the compensation. The agency did not begin to deal with this question until March 2013 and grave criticism is expressed of this delay.

Education and research

Grave criticism of a principal for failure to notify a social welfare board immediately after hearing a pupil talk about violence in the home (6755-2012)

The Social Services Act lays down that certain authorities, such as schools, as well as their staff, are required to notify a social welfare board immediately if

in the course of their activities they become aware or suspect that children are being treated badly.

In October 2010 a girl told a teacher that she was subjected to violence at home. In October 2011 and March 2012 she again told members of the school staff of assault in her home. On each occasion this information was given to the principal. Not until 2 April 2012 was the social welfare board notified. The statement submitted by the school says that instead of notifying the social services there were "several internal assessments and discussions" about the girl's information.

The adjudication states that it is not up to the school to evaluate the information that has been received but that this is a question for the social services and possibly the police, prosecution agency and a court of law. The social welfare board should have been notified immediately after the girl had said she was exposed to violence in her home for the first time. Grave criticism is expressed of the principal for failure to provide the required notification.

Criticism of a teacher in a secondary school for checking apps on a pupil's mobile phone (2785-2013)

A parent submitted a complaint about a teacher who had "taken a look" at his daughter's mobile phone which she had taken with her to a class.

In the adjudication the Parliamentary Ombudsman says that the teacher would have been entitled to impound the mobile phone by virtue of Section 22 of Chapter 5 of the Education Act if he considered that the pupil was using the phone in a way that disturbed school activities. On the other hand there are no grounds in law to enable school staff to examine/check a pupil's mobile phone. The teacher should not, therefore have made an inspection of the contents of the phone and cannot escape criticism for his actions.

Criticism of a school nurse for conversations with a pupil about her situation at home without the consent of her custodian (1382-2012)

On her own initiative a school nurse had a number of conversations with a pupil about her situation at home without first gaining the consent of her custodian. Her custodian was not subsequently informed of what had transpired during these conversations either.

The Parliamentary Ombudsman's adjudication points out that as the pupil was so young these conversations could only have taken place if the custodian had consented to them. As the custodian had not been asked what he felt about them, there was no scope for the school nurse to undertake them. In addition it would have been possible for the school nurse to avoid telling the custodian, in this case the pupil's father, about what had transpired during these conversations if there had been grounds for believing that the pupil would sustain considerable harm if the information was provided. The enquiry gave no support for considering that such circumstances prevailed in this case. The Parliamentary Ombudsman sums up the adjudication by stating that it was wrong of the school nurse to have these conversations with the pupil without the custodian's consent and not subsequently providing information about what had been said.

Criticism of the chairperson of an educational committee for deciding single-handedly to prohibit listeners from making sound or video recordings during a meeting of the committee that was open to the public (6356-2012 and 6488-2012)

At a meeting that was open to the public the chairperson of the Educational Board in the municipality of Värmdö (which is a municipal board) decided on a procedural rule to the effect that listeners were not allowed to make sound or video recordings during part of the meeting.

The Parliamentary Ombudsman states that in principle a municipal board is permitted to decide on procedural rules that mean that listeners at a public meeting are not allowed to make sound or video recordings. This rule may not, however, be arbitrary, discriminatory or prompted by any other irrelevant reason. The enquiry gives the Parliamentary Ombudsman no grounds for maintaining that there was no acceptable reason for the procedural rule in this particular case. According to the Parliamentary Ombudsman, however, it is the board that must decide on a procedural rule of this kind. The chairperson is therefore criticised for making the decision about the rule on his own.

Criticism of the chairperson of an educational committee for not convening a meeting when requested to do so by one-third of the committee's members (2072-2013)

One-third of the members of the Children and Education Committee in the municipality of Arvidsjaur asked for an extraordinary meeting to be held. According to the Parliamentary Ombudsman the chairperson should have called the meeting even though in her judgement the committee was unable to make a decision on the issue the minority wanted to raise. The chairperson of the committee is criticised for not convening the meeting.

Committees of chief guardians and chief guardians

Grave criticism of the Committee of Chief Guardians in Region Gotland for the management of a number of applications for the appointment of guardians or trustees (3437-2013)

In May 2010 the Parliamentary Ombudsman Ms Nordenfeldt criticised the Committee of Chief Guardians in the municipality of Gotland for not immediately submitting an application for the termination of a guardianship to the district court, the instance that has to make a decision in such cases. In her adjudication in 2010 she wrote that she took it for granted that the committee would take measures to ensure correct treatment of similar cases in the future. However, during an inspection of the district court in Gotland in May 2013 the Parliamentary Ombudsman Mr Lindström noted four cases in which the committee had similarly neglected to send applications for the appointment of guardians to the district court straight away. In its response to the Parliamentary Ombudsman the committee refers to the introduction of new routines to enable rapid and legally correct procedures. In his adjudication the Parliamentary Ombudsman concludes that the committee merits grave criticism for its protracted and inadequate treatment of the four cases and, referring to the adjudication from

2010, points out that it is surprising that the committee had not introduced the routines it referred to earlier.

Public access to documents and secrecy as well as freedom of expression and of the press

Social services, health and medical services

Grave criticism of a social services official for disclosure of certain information in a case concerning a contact family (4172-2012)

A woman had an identity protection order because the father of one of her children had threatened her. The Parliamentary Ombudsman expressed grave criticism of an official in the social services for disclosing her place of work to the father, also a custodian, when reporting the outcome of an enquiry about a contact family.

An 18-year-old girl had been issued with an identity protection order concerning her personal details and her subsequent change of name. Criticism of a municipal committee for disclosure of the girl's name to her mother by including it in the calculations of income support sent to her (5932-2012)

An 18-year-old girl placed in a foster home through a decision by the board of social welfare in the municipality of Helsingborg was granted an identity protection order concerning her personal details and subsequent change of name. This order meant that her personal details were protected. The girl's mother received income support from one of the municipality's other administrative units, its development committee. On two occasions this unit sent the mother calculations about the amount of income support in which the girl's new name appeared.

All agencies that request information from the civic register are informed if any details are protected. The unit dealing with the income support used another administrative system which did not indicate clearly if any individual's personal details were confidential. In the adjudication the Parliamentary Ombudsman states that it is very serious for a public authority that deals with a great many protected identities in its daily routines not to have an administrative system that offers security in this respect. Disclosure of the information about the girl's name must be attributed to the system's shortcomings. The development committee deserves to be criticised for this.

Criticism of a social services official for supplying a 19-year-old woman's telephone number to her mother (846-2012)

In the social services information about the personal circumstances of individuals are subject to secrecy unless it is obvious that some detail can be disclosed without harming any individuals or those close to them. It is the subjective feelings of the individual on which any assessment of the possibility of causing them harm or not must be based.

An analyst in the social services office in the municipality of Nynäshamn supplied a 19-year-old woman's new telephone number to her mother as the analyst considered this was best for her in view of the grave concern about her health and well-being. In the light of the analyst's awareness of the relationship between the woman and her mother it cannot be considered obvious that disclosure of the telephone number would not harm her. Even though the analyst acted in the way she considered best for the woman, she cannot escape criticism for her action.

Criticism of a board of social welfare for the erasure of a video recording made during the course of an enquiry concerning custody, living arrangements and visitation rights (3483-2011)

The Employment and Welfare Board had been requested by a district court to undertake a custody enquiry etc. In the course of the enquiry the board made what is called an "interaction assessment", during which the children and parents were observed and a video film made. The results of the interaction assessment were to form part of the report from the custody enquiry. The video recording was erased at the end of the interaction assessment but before the custody report had been completed.

The Freedom of the Press Act and other regulations about the management of documents also apply to video recordings made within a public authority. The Board claimed that the video recording was working material, i.e. that it was another form of memorandum, but in the view of the Parliamentary Ombudsman the recorded material, or parts of it, contained information that had been included in the custody enquiry. This meant that it was the kind of document that would have been in the public domain when the case had finally been dealt with by the Board. The Freedom of the Press Act does not stipulate any requirement to preserve material that contains objective information until a case has been decided. Destroying material of this kind before a decision has been made is not, however, compatible with the fundamental principles that apply in this area.

The Parliamentary Ombudsman considers that it was wrong of the authority to decide in advance that the video recording, which did not yet exist, was to be erased when the interaction assessment had been completed. Erasing this material removed any possibility of correct application of the provisions on the preservation of official documents. Moreover, the parties in the custody case were entitled to access documents of this kind that were not yet in the public domain at any time during the litigation. The Parliamentary Ombudsman therefore considers that the authority acted wrongly in destroying the material.

Grave criticism of a forensic psychiatric clinic for its treatment of a request for the provision of copies of medical records; a question, for instance, about the withdrawal by the clinic of medical records that had been provided (6614-2012)

After an inspection of the regional forensic psychiatric clinic in Sundsvall the Parliamentary Ombudsman decided to investigate the way in which the clinic had dealt with a case concerning the provision of copies of medical records to

a patient. The patient had requested copies of his medical records and some of them were supplied to him. The clinic then decided to recall the copies it had provided.

In the adjudication it is pointed out that a patient's medical records are subject to secrecy and this secrecy may even in some cases apply for the patient concerned. An authority that mistakenly supplies a document subject to secrecy can ask for it back, but it cannot decide that it must be returned. The clinic's treatment of the request had fallen short in this and a number of other respects and it therefore merited grave criticism.

Other areas

Criticism of the Agency for Youth and Civil Society for a case concerning the provision of public documents that had been assessed on the basis of the regulations on providing information from a public document (1061-2013)

The Swedish Democratic Youth Organisation (SDYO) applied in 2012 for a grant from the Swedish Agency for Youth and Civil Society. A number of individuals sent e-mails requesting provision of the documents submitted by the SDYO to the agency in connection with this application. The names of these individuals were listed in the agency's register. One of them (who complained to the Parliamentary Ombudsmen) then requested the agency to provide a "diary of those (e-mail and name if possible)" it had provided with a specific document relating to the application. The agency decided with reference to secrecy to reject certain parts of the complainant's request and supplied a document in which names had been removed. It is clear from the decision by the Agency that its board assessed this issue on the basis of the regulations on providing information from a public document. Decisions of this kind cannot be appealed against.

The Parliamentary Ombudsman points out that the complainant had requested a compilation of information in the agency's register, what is known as a "potential document". Documents of this kind are covered by the principle of public access and the agency should have reviewed the request on the basis of the regulations on the provision of public documents. An appeal may be made against a refusal on these grounds.

As the complainant was not given the opportunity to appeal against the agency's decision not to provide the documents, the Parliamentary Ombudsman, who normally refrains from expressing opinions on the assessments made by authorities in individual cases, states that the grounds cited by the agency in its response to the Parliamentary Ombudsman cannot be invoked to refuse to provide a document with information about names. The complainant should therefore have been provided with the document in its entirety. Criticism is expressed of the Swedish Agency for Youth and Civil Society for its management of this case.

Criticism of a municipal association, Västmanlandsmusiken, for signing away the right to insight into an appointment procedure (3529-2012)

When the municipal association was appointing a director it turned to a private recruitment company. A journalist who approached the association to find out about expressions of interest that had been received by the company had his request refused on the grounds that the documents were not in the keeping of, received by or drawn up by the association.

When an appeal was made against this decision, the Administrative Court of Appeal found that the recruitment company should be considered to have received expressions of interest on behalf of the municipal association and they were to be viewed as public documents. The court of appeal referred the case back to the municipal association to be dealt with appropriately.

Just over three weeks after the association had been notified of this decision, the journalist's request was again rejected, now on the ground that the association – according to its contract with the recruitment company – did not have access to the documents requested.

Criticism is expressed of the municipal association for not having ensured that the Administrative Court of Appeal was informed about the contents of the contract with the recruitment company, for failure to act without delay in view of the court's decision and for having entered into a contract with the recruitment company on restricting access to documents in the way that occurred.

Criticism of the Police Authority in the County of Stockholm for its management of a request for the provision of ancillary material in a preliminary investigation that had been closed (1080-2013)

The insight into a preliminary investigation to which a suspect is entitled is laid down in Section 18 of Chapter 23 of the Procedural Code. When a judgment acquires the force of law, the preliminary investigation is definitely closed and the provisions of this section no longer apply directly. The Parliamentary Ombudsmen have stated previously that a great deal suggests that requests for insight in such cases must be dealt with according to the regulations in the Freedom of the Press Act on public access to official documents but when considering whether secrecy should be invoked there is scope for taking the suspect's prior entitlement to insight into account. Irrespective of which set of regulations is applied, either regarding insight or those laid down in the Freedom of the Press Act, a request for provision of documents in a case must be dealt with speedily.

In April 2002 W.K. requested provision of the documents included in an ancillary enquiry, the "discards", in an investigation that had been closed in which he had been the suspect and was eventually convicted. The material comprised 21 box files or about 10,000–11,000 pages. It took the police authority just over one year to provide the documents. The adjudication states that the extent and complexity of this case meant that a relatively long time to deal with it could be accepted, but that the resources allocated were obviously inadequate. The police authority is criticised for its management of the request,

which manifestly failed to comply with the rapidity required by the Freedom of the Press Act.

Criticism of an official of the police authority in Dalarna for the way he dealt with a request for provision of parts of a record of a preliminary investigation (2058-2013)

A request from a suspect for a copy of the record of a preliminary investigation after the final charges have been read must be dealt with speedily and pursuant to the regulations on entitlement to insight in Section 18 of Chapter 23 of the Procedural Code.

Around 11 February 2013 N.N. was notified that the preliminary investigation in which he was a suspect had been completed and that he had a chance to review it and request any additional investigative measures. On 26 February N.N's counsel requested access to the record of the preliminary investigation. A month elapsed before the documents were provided. The official is criticised for the way in which this was dealt with.

Criticism of the police authority in the County of Stockholm and one of its officials for failings in dealing with the request of an injured party for the provision of some of the documents in a preliminary investigation (2231-2013)

An injured party has no right to insight into a preliminary investigation that corresponds to the entitlement of a suspect laid down in Section 18 of Chapter 23 of the Procedural Code. A request from an injured party for provision of documents in a preliminary investigation must – irrespective of whether the investigation is being carried out or has been closed – be dealt with according to the regulations about public access to official documents enshrined in Chapter 2 of the Freedom of the Press Act.

On two occasions L.M. requested the police authority to provide copies of all the documents in a preliminary investigation in which he was an injured party. An official at the police authority refused to provide these documents even though this official had no authority to decide on the request.

The official also failed to inform L.M. that he could ask for the issue to be referred to the police authority for a written decision that could be appealed against. Criticism is expressed of the police authority and the official for the shortcomings in the way this case was handled.

Criticism of the police authority in Dalarna for management of requests for provision of parts of preliminary investigations that had been closed (3408-2013)

A suspect's entitlement to insight provided by Section 18 of Chapter 23 of the Procedural Code comes to an end when an investigation is closed. A request from an individual for documents from a closed preliminary investigation should therefore in principle be dealt with pursuant to the provisions on public access to official documents in Chapter 2 of the Freedom of the Press Act.

The police authority in Dalarna has in several respects fallen short in its management of requests for provision of parts of preliminary investigations

that have been closed. The authority has not forwarded the request to the police district called upon to decide whether documents can be provided, requests have not been considered with the dispatch required by the Freedom of the Press Act and the authority has failed to issue decisions that can be appealed against when requested to. The police authority cannot escape criticism for these shortcomings.

Criticism of the Traffic and Refuse Collection Board in the City of Stockholm in view of its refusal to allow Riksteatern to advertise on its "cultural notice boards" (2290-2012)

The City of Stockholm's Traffic and Refuse Collection Board refused to allow Riksteatern to advertise an event entitled Art of the Streets on its "cultural notice boards" citing the city's general policy against graffiti and similar forms of damage (graffiti policy).

The protection offered by the Constitution of freedom of expression does not prevent, in the opinion of the Parliamentary Ombudsman, a public authority from making rules about the extent to which different types of information may be published in advertising space of the kind involved. Such rules must, however, be general by nature and may not discriminate between different messages on the grounds of their content.

In view of the fact that neither in the information given by the Board to Riksteatern or in its response to the Parliamentary Ombudsman is it made clear in what way it considered Riksteatern's posters were incompatible with the graffiti policy, the decision made by the Board on this matter appears to be arbitrary.

Criticism of the chief executive of a municipality for statements to municipal employees after a news article and acting in breach of the "prohibition of enquiry into sources" (5051-2012)

After the staff of a school in Nordmaling had sent a letter to the municipality's administration about shortcomings in the working environment, attention was drawn to the issue in a newspaper article. During a meeting with the staff the municipality's chief executive spoke about this article. His statement, which could be taken as meaning that he did not want staff to approach the media with criticism of the municipality, is considered less than appropriate.

In connection with a question from a journalist asking him to comment on the letter written by the staff of the school the chief executive also asked where the journalist had got the information from. Even if this question was posed with no great forethought, it was inappropriate in view of the provisions in the constitution prohibiting enquiry into sources.

Miscellaneous

Criticism of the chief executive of the municipality of Kristianstad for his involvement in the way in which an independent board dealt with a specific case (6470-2012)

The chief executive of the municipality of Kristianstad sent an e-mail to the municipality's Board for Labour and Welfare about the way an application for a temporary licence had been dealt with. The e-mail can only be taken as an attempt to influence the outcome of this particular case. Criticism is expressed of the chief executive for his involvement in the way in which an independent board dealt with a specific case.

The chief executive also contacted the municipality's Public Works Board when exhibitors at a fair expressed opinions about the parking tickets they had received. The Parliamentary Ombudsman's enquiry provides no grounds for criticising the chief executive in this respect. These events also show that the chief executive of a municipality must exercise great caution in contacts that concern cases being dealt with by other boards.

Criticism of the county governor of the county of Skåne for using her official title in a private matter (4087-2013)

The county governor of the county of Skåne used her official e-mail address and title when she contacted the chair of a board of social welfare in a private capacity about a case. In addition, the county governor invoked her official title on the following day when she left a voicemail message for the head of the social services about the same private case.

County governors play important roles in the public administration and as a rule can be expected to be well known in their counties. There is a risk that the use by county governors of their official titles in private concerns could be viewed as exerting pressure. When country governors act as private individuals they must, therefore, make sure that their actions are not perceived in some other way. The county governor of the county of Skåne is criticised for her actions.