JO RIKSDAGENS OMBUDSMÄN

Annual Report 2019/20

SUMMARY IN ENGLISH

JO RIKSDAGENS OMBUDSMÄN
THE SWEDISH PARLIAMENTARY OMBUDSMEN

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1809 New constitution and the office of The Parliamentary Ombudsmen is established.

1810 The first Parliamentary Ombudsman is elected, L.A. Mannerheim.

1915 A Military Ombudsman, MO is established.

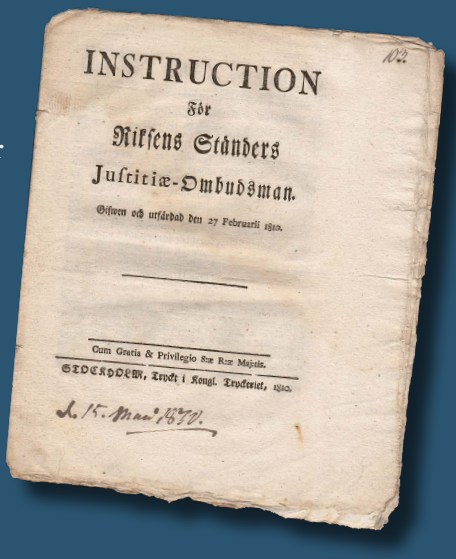
1941 The term of office for the ombudsmen is extended to four years. The rule that only men could be elected as ombudsmen is removed.

1957 Supervison of local/regional authorities.

1967 The office of The Military Ombudsman is abolished and the number of ombudsmen increases to three.

1975 The number of ombudsmen increases to four.

2011 The Parliamentary Ombudsmen is designated National Preventive Mechanism (NPM) under the OPCAT.


INSTRUCTION
För
Rikets Ständers
Justitiæ-Ombudsman.
Gifven och utfärdad den 27 Februarii 1810.
Cum Gratia & Privilegio Sue Kgle Majestis.
STOCKHOLM, Tryckt i Kongl. Tryckeriet, 1810.

Anyone can complain to the Parliamentary Ombudsmen if they believe that a public authority has treated them in a deficient manner.

The office of the Parliamentary Ombudsmen was established in Sweden in 1809 as part of the new constitution that was adopted that year. At that time the Swedish parliament, the Riksdag, decided that it needed an institution that could act on its behalf and independently of the King to make sure that public authorities obeyed the laws and other statutes. In 1810 the Riksdag elected its first Parliamentary Ombudsman.

Since then more than two centuries have passed and the work of the Parliamentary Ombudsmen is still based on the same principles, even though some changes have been made through the years, for instance, the number of Parliamentary Ombudsmen has increased from one to four to cope with the authority's rising workload.

One of the ombudsmen has the title of Chief Parliamentary Ombudsman and is responsible for administration, deciding, for instance, which areas of responsibility are to be allocated to the other ombudsmen. However, he or she cannot 'intervene' in another ombudsman's inquiry or decision.

Currently the Parliamentary Ombudsmen receive more than 9,000 complaints per year. Each ombudsman independently conducts investigations and takes decisions within their area of responsibility and is directly accountable to the Riksdag.

Sweden has been a pioneer in this context and the idea of a Parliamentary Ombudsman has been spread all over the world. Today many countries have an ombudsman built on the Swedish model, although their routines may differ and they are appointed in different ways.

Elisabeth Rynning

Chief Parliamentary Ombudsman

As of January 2020, my supervisory area includes, inter alia, the general administrative courts, defence, healthcare, education and research as well as tax and population registration. The supervisory area also includes matters relating to public procurement and various central agencies such as the Financial Supervisory Authority, Companies Registration Office, Competition Authority, Equality Ombudsman and National Board for Consumer Disputes. Until December 2019, the prison and probation regime was in my supervisory area. At the turn of the year, I handed over responsibility for this group of cases to Parliamentary Ombudsman Katarina Påhlsson, whilst assuming responsibility for supervision of the general administrative courts and the area of education and research from her.

In the supervision of places where people may be deprived of their liberty, which for my area includes prisons and remand prisons as well as institutions for psychiatric compulsory care and forensic psychiatric care, the Parliamentary Ombudsmen must pay special attention to its role as Sweden's national preventive mechanism pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) to the UN. We are assisted in this role by the Parliamentary Ombudsmen's special Opcat Unit, which is organised into my supervisory area, although the unit's inspections are always conducted on behalf of the particular Parliamentary Ombudsman who supervises the agency under inspection[1]. The inspections are one of the investigative measures which were particularly affected by the ongoing pandemic during

[1] A more detailed account of the Opcat Unit's work is provided in the Opcat Annual Report.

Areas of responsibility

- Adminstrative courts
- The Armed Forces and other cases relating to the Ministry of Defence and its subordinate agencies which do not fall within other areas of responsibility
- The National Fortifications Agency.
- Health and medical care as well as dental care, pharmaceuticals; forensic medicine agencies, forensic psychology agencies; protection from infection.
- The school system; higher education (including the Swedish University of Agricultural Sciences); student finance; The Swedish National Board for Youth Affairs; other cases pertaining to the Ministry of Education and agencies subordinate to it which do not fall within other areas of responsibility.
- Income and property tax, value added tax, fiscal control, with the exception, however, of the Taxation Authorities Criminal Investigation Units as laid down in the Act on the Participation on the Taxation Authority's Crime Fighting Activities; tax collection.
- Excise duties and price-regulating fees, road tax; service charges; national registration (including cases concerning names); other cases connected with the Ministry of Finance and its subordinate agencies which do not fall within other areas of responsibility.
- Public procurement, consumer protection, marketing, price and competition within industry and commerce, price regulation, cases concerning limited companies and partnerships, trade names, trade registers, patents, trademarks, registered designs, and other cases pertaining to agencies subordinate to the Ministry of Industry, Employment and Communications which do not fall within other areas of responsibility.
- The Agency for Public Management; the National Financial Management Authority; the Legal, Financial and Administrative Services Agency, the National Appeals Board, the National Claims Adjustment Board; the National Agency for Government Employers, the Arbitration Board on Certain Social Security Issues; the National Property Board; the National Government Employee Pensions Board, the National Pensions and Group Life Insurance Board; the Financial Supervisory Authority, the Accounting Standards Board; the National Institute of Economic Research; Statistics Sweden; the National Disciplinary Offense Board.
- The Equality Ombudsman; the Board against Discrimination.
- Cases that do not fall within the ambit of the Parliamentary Ombudsmen; documents containing unspecified complaints.
- The Opcat unit

spring 2020. However, during the year, we were able to conduct nine inspections in my supervisory area. In autumn 2019, together with employees from Supervisory Department 2, I inspected the Forensic Psychiatry Clinic Stockholm, Section North. Upon my commission, the prisons in Hall, Saltvik (secure unit) and Ystad were also inspected by the Head of Supervisory Department 2, as well as the prisons in Umeå and Västervik Norra by the Opcat Unit. In spring 2020, also upon my commission, the Opcat Unit inspected the Psychiatric Clinic at Ryhov County Hospital in Jönköping, as well as the Forensic Medicine Agency's forensic psychiatric examination units in Stockholm and Gothenburg. The subsequent inspections concerned, in particular, the conditions for inmates in relation to the ongoing pandemic and were conducted using working methods that were specially adapted to reduce the risk of spreading the infection[2].

2 See Opcat Annual Report.

In addition to the inspections, I started four own-initiative inquiries during the year and closed eight. The decisions in four of these closed investigations have been included in this year's annual report. Among the issues arising from the new investigations are the measures taken at the Forensic Medicine Agency's forensic psychiatric examination units due to the risk of the spread of Covid-19 (ref. no. O 21-2020), as well as the conditions for submitting information from a forensic psychiatric clinic to the Prison and Probation Service concerning patients who are cared for at the clinic whilst serving a prison sentence (ref. no. 842-2020). These cases are not yet closed.

During the financial year, I took decisions on just over 40 of the legislative referrals that concerned the Parliamentary Ombudsmen. These included opinions on draft legislation from the Legislative Council on; "A temporary authorisation in the Disease Prevention Act due to the virus that causes covid-19", "A clearer link between conditional release and participation in reoffending prevention schemes", and "Efficient resource management in transporting individuals deprived of their liberty", final considerations regarding "Handling organs for donation" (SOU 2019: 26), considerations regarding "New rules for schools with a denominational focus" (SOU 2019: 64) as well as the Constitutional Committee's memorandum "Participation from a distance in committee meetings and EU committees". In the details below, I first describe certain special measures in the operations and then some observations from the parts of my supervisory area that have given rise to decisions made in this year's annual report.

Prosecution and other special measures

In August 2019, the then Parliamentary Ombudsman Lars Lindström brought a prosecution against a former chief judge and a judge at a district court (ref. no. 7309-2018). They were both charged with misconduct due to the fact that three civil cases had been pending for a number of years without any action being taken by the court. Upon Lars Lindström leaving his post as Parliamentary Ombudsman, I took over responsibility for the case, which was handled with the assistance of the Special Prosecutor's Office. In March 2020, the Court of Appeal for West Sweden announced its verdict in the case (case no. B 3163-19). Both the judge and the former chief judge were found guilty. Of particular interest was that the majority of the Court of Appeal shared the Parliamentary Ombudsmen's view that a judge can be found criminally liable if he or she, through negligence, fails in the duty that applies to the role of head of a court as in this case. One member, however, dissented and wanted to acquit the judge. He appealed the verdict to the Supreme Court, which at the time of writing has not yet ruled on the case.

During the year, I further decided to close four preliminary investigations that I had previously initiated, one of which concerned suspected misconduct and three concerned suspected breaches of professional confidentiality. In two of the cases, I then continued the investigation by requesting the

opinion of the relevant agency. These cases are not yet closed.

In four cases, on the basis of Section 4 of the Act with Instructions for the Parliamentary Ombudsmen, I petitioned the Government to review the legislation (see appendix 3.1). The decisions are referred to in this annual report and three of them are additionally mentioned among the observations below. One of these decisions was also submitted to the Parliament for information and three other decisions were submitted to the Government for attention.

The Prison and Probation Service

As mentioned earlier, during the first half of this year my supervision also included the prison and remand prison system, which is, of course, one of the Parliamentary Ombudsman's largest case groups. Since I handed over responsibility for this case group to Parliamentary Ombudsman Katarina Påhlsson at the turn of the year, I will confine myself to mentioning two decisions from a couple of areas that have been in focus within the framework of the Parliamentary Ombudsmen's Opcat work for a long time. Both decisions concern investigations in areas where the Swedish Prison and Probation Service has not been able to fulfil its tasks, and which have had serious consequences for individuals deprived of their liberty, including individuals who have not been convicted nor, in some cases, even suspected of any crime.

One of the decisions relates to the greatly expanded assignment that the Prison and Probation Service received in spring 2017 regarding the transportation of individuals deprived of their liberty (ref. no. 8337-2018). A special theme within the Parliamentary Ombudsmen's Opcat Unit during 2018–2019 was exactly the issue of the transportation of individuals deprived of their liberty and details of which are found within the framework of a number of inspections and decisions in a special report (see also section 4). This extensive transportation assignment meant, inter alia, that the Prison and Probation Service would continue to carry out certain transportations on behalf of the Police Authority, for example transportations of individuals subject to compulsory psychiatric care or care pursuant to one of the compulsory laws available to the social services. However, the Prison and Probation Service's transportation operations had neither the capacity nor the organisation required to fulfil the task satisfactorily. This was found in the case of, inter alia, emergency transportation. Given the prioritisations that the Prison and Probation Service needed to make, the agency recognised itself that it had extremely limited resources to assist the Police Authority in carrying out transportations during the period the transportation organisation was being expanded. Therefore, the Prison and Probation Service made a formal decision that transportations submitted under Section 29 a of the Police Act would be carried out to the extent permitted by the Prison and Probation Service's transportation capacity. I can state that the Prison and Probation Service's decision was in direct conflict with the instructions to the agency as well as the relevant provision in the Police Act, and that the decision had serious consequences for individuals deprived of their liberty. These individuals include children and young people taken into care for treatment who have been placed in police custody pending transportation. The Prison and Probation Service received serious criticism for its actions. The intention with the Government's steering of its agencies through, inter alia, regulations is to create clarity and predictability. In my opinion, it is very serious if an agency, via a decision such as in this case, counteracts this very purpose and, as such, one of the foundations of a state governed by the rule of law.

The second decision in this report that I would like to draw attention to concerns the isolation of inmates in Swedish remand prisons, a situation that has led to decades of international criticism and, additionally, has been repeatedly highlighted by the Parliamentary Ombudsmen. An inmate is considered isolated if he or she is alone for more than 22 hours per day without meaningful human contact. Being isolated from other people entails a risk for both mental and physical health problems and can ultimately constitute a violation of the provisions of international law prohibiting torture. The main rule according to the Swedish law governing the remand prison system is that inmates must be provided with the opportunity to associate with other inmates during the daytime, although placing inmates in segregation may be necessary, for example, based on a prosecutor's decision to impose restric-

tions or for security reasons. Since 2017, I have investigated the conditions regarding association and segregation in remand prisons through both inspections and reviews of collected material as well as dialogues with the Prison and Probation Service. The details that emerged through these investigations led me to express very serious criticism of the Prison and Probation Service in February 2020 (ref. no. O 7- 2018). The previous criticism had primarily concerned inmates with restrictions being isolated. It also emerged that, according to the Prison and Probation Service's own measurements for 2018, 83 percent of individuals held on remand with restrictions were regarded as isolated. The agency received serious criticism for not having progressed further in its work with isolation-breaking measures. Even more remarkable, however, was that 33 percent of the individuals held on remand who had the right to associate with other inmates had such limited access to human contact that they were also regarded as isolated. I found that the Prison and Probation Service's remand prisons lack both sufficient facilities for association purposes and sufficient staffing levels to be able to satisfy inmates' statutory rights to associate with other inmates, and that the agency deserved very serious criticism for the continued shortcomings in this regard. I also pointed out the deeply unsatisfactory fact that there lacks reliable statistics regarding both the amount of time inmates associate with one another and spend in segregation. Finally, I petitioned the Government for a review of, inter alia, the Remand Prison Act in order to clarify inmates' rights and counteract isolation, and drew attention to a petition I had previously made. In light of the long-standing problems and the seriousness of the situation, I also found reason to submit a copy of the decision to the Parliament for attention.

Health and medical care

The case group within the health and medical care supervisory area includes voluntary health and medical care as well as compulsory psychiatric care and forensic psychiatric care, and the work performed by number of central agencies such as the National Board of Forensic Medicine, Medical Products Agency, Public Health Agency of Sweden and parts of the Health and Social Care Inspectorate.

With regard to complaint cases within supervisory area 2, the healthcare system was particularly affected by the pandemic and the number of complaints more than doubled during the first half of 2020 compared with the same period in 2019. For the year in total, almost 600 new reports were registered. However, a large part of the increase consisted of reports concerning the Public Health Agency's strategies and recommendations for counteracting the spread of the new coronavirus. An agency's position in such a matter, which is primarily based on medical assessments and judgement, is not suitable for the legal review for which the Parliamentary Ombudsmen is responsible, and the nearly 150 complaints concerning this issue were dismissed without further investigation. Corona-related reports in the health and med-

ical care area where an investigation has been initiated include an investigation of the legal prerequisites for a restraining order in voluntary healthcare in order to prevent the spread of the new coronavirus (ref. no. 4132-2020), as well as certain issues concerning the disclosure of documents or information relating to Covid-19.

According to the instructions to the Parliamentary Ombudsmen, the Parliamentary Ombudsmen must pay special attention to, inter alia, ensuring citizens' fundamental freedoms and rights are not violated by the activities of the state. In healthcare, however, conflicts often arise between different rights and interests. An example of this is when freedom of expression or protection from deprivation of liberty and physical intervention are set against the need for protection of the individual's own life or other individuals' lives, health and/or safety. In situations where an extremely protected interest

conflicts with another, it is naturally particularly important for reasons of legal certainty that the legislation is clear and the application of the law is uniform. Among the decisions that have been included in this annual report, I would like to draw attention here to three, which, in various ways, concern such conflicts of interest. One such case (ref. no. 5238-2018) concerned the so-called obligation to detain under Section 24 of the Care of Abusers (Special Provisions) Act (LVM). The social services are responsible for the care of substance abusers, however according to LVM a person who is subject to compulsory care may sometimes require hospitalisation, for example for detoxification. According to the provisions of the above-mentioned legislation, the responsible operative manager must ensure that the social services are notified immediately if a substance abuser wishes to leave a hospital. This manager must also decide whether a substance abuser is to be prevented from doing so for as long as is necessary to ensure that he or she can be transferred to a special residential home for substance abusers (LVM home). The law does not state, however, what measures may be taken to prevent a substance abuser from leaving a hospital nor how long such hospitalisation may last, even if it has been assumed that a stay will be for the shortest time possible. Questions concerning the application of Section 24 of the Care of Abusers (Special Provisions) Act (LVM) have repeatedly been the subject of discussion and have been previously investigated by the Parliament Ombudsmen. I stated in my decision that the provision is not designed for the situation concerning long waiting times for transportation to an LVM home, and that for reasons of legal certainty it is deeply unsatisfactory that the health service's powers to detain a substance abuser pending transportation are so unclear. The coordinated procedures that the relevant agencies try to develop in all goodwill risk including measures that are questionable from a legal point of view. In my opinion, the regulations need to be clarified and I therefore petitioned the Government for a review of the legislation with the support of Section 4 of the Act with Instructions for the Parliamentary Ombudsmen. In the case in question, the operative manager had not made a decision to detain the individual, which he was obliged by law to do. I found that he could not escape criticism for his failure.

Another case concerned a psychiatric clinic where the majority of patients were cared for pursuant to the Forensic Mental Care Act (ref. no. 5634-2017). The clinic had procedural rules, which meant that patients were forbidden to discuss their own legal cases, crimes, judgments, diagnoses or similar with one another, or share their medical records with other patients. Therefore, they were not allowed to have journal documents in their possession. Representatives of the clinic stated that these restrictions were necessary for reasons of, inter alia, patient safety and security and to protect patient privacy. However, I found that the general ban on specific oral communication constituted a restriction on the constitutionally protected freedom of expression, and that there was no legal basis for such an infringement of

their rights. Nor was there any legal basis for generally restricting patients' rights to possess certain items. The clinic was severely criticised for applying procedural rules with no legal basis. In my opinion, the regulatory framework regarding patients' possession of items should be subject to a review and whereby, inter alia, the introduction of the possibility of appeal could contribute to increased legal certainty for those who are subject to compulsory psychiatric care or forensic psychiatric care. Additionally in this case, I petitioned the Government for such a review. Finally, I would like to mention from this case group an investigation I initiated regarding the sensitive issue of the handling of late abortions (ref. no. 7035-2017). Late abortions call for difficult legal and medical-ethical considerations, where the woman's right to decide over her body and have access to sufficient and safe care must be balanced against the interest in protecting the life of a viable fetus and a newborn child's right to care as is needed. Late abortions have been repeatedly discussed for a long time, but a high-profile media debate in late summer and autumn 2017 meant that several other actors, in parallel with my investigation, also became involved in the issue but from partly different perspectives than the rule of law. Various guidance documents have been prepared, however, where the interpretation of the current regulations was not consistent. I could state, inter alia, that the consensus document that had been adopted by the professional associations differed on certain important points from the views expressed by the National Board of Health and Welfare and the National Council on Medical Ethics.

For the purposes of legal certainty, it is of course important that the provisions of the Abortion Act, as well as the basic principles of healthcare legislation, are applied uniformly and effectively throughout the country and that their application is also in line with the intentions of the legislator. In my investigation, I therefore drew attention to the fact that there are ambiguities regarding the meaning of key provisions in the Abortion Act, which risk leading to legal uncertainty and a lack of uniformity in the application of the act. This includes, inter alia, the point of time when an abortion should be considered as performed, what is meant by the concept of viability regarding a fetus and how to take care of a fetus that shows signs of life following a late abortion. I noted that the provisions governing late abortions have not been amended since the abortion law came into force in 1974, since when medical developments have led to both new abortion methods and different preconditions in neonatal care. In my opinion, the issues concerned need to be the subject of a new government inquiry to ensure the area is regulated in a clear and unambiguous way in legislation and other ordinances. I therefore made a petition to the Government for a review of the legislation.

Other public administration

One of the decisions included in this annual report concerns the question of whether reporting to the Equality Ombudsman should be considered as

giving rise to a case being initiated by the agency (ref. no. 5889-2018). The definition of what actually constitutes the handling of a case, in contrast to other administrative measures that agencies and their employees can engage in, has been repeatedly discussed in administrative law literature and the preparatory works to legislation. With the introduction of the new Administrative Procedure Act (2017: 900), the issue became of greater importance as the majority of the act's provisions only apply to the handling of cases, including the requirements for documentation and explanation of decisions taken followed by disclosure of the content of decisions.

During the investigation of the above-mentioned complaint, which concerned, inter alia, the issue of slow case processing, it emerged that a report to the Equality Ombudsman is not considered to result in a case being initiated by the agency. Additionally, a person filing a report does not receive any information if the Equality Ombudsman decides not to initiate an investigation based on the information in a report and is, therefore, unaware if or when the Equality Ombudsman has taken a position on the matter. In my decision, I reached the conclusion that, if it is clear from regulations or elsewhere that a supervisory agency must handle complaints from individuals, there are compelling reasons why receipt of a report from the public should presuppose that a case is considered as initiated by the agency. The case should then be closed by means of a decision. In the case of the Equality Ombudsman, however, it is not explicitly stated in the regulations nor elsewhere that the agency must handle complaints from individuals, however the fact is the Equality Ombudsman has nevertheless done so. Until a few years ago, receipt of reports was considered as leading to cases being initiated, and these cases were closed by means of a decision. In view of the fact that the Equality Ombudsman has no constitutional obligation to investigate complaints, I did not consider myself able to criticise the agency for the fact that reports received were no longer seen as a case being initiated. However, I emphasised that - especially in light of the agency's previous procedures for handling complaints - it must be a reasonable requirement for the Equality Ombudsman to communicate with, and clearly inform, the public that the filing of a report does not mean that a case is considered as being initiated by the agency and the consequences of this. The fact that the Equality Ombudsman has the opportunity to assist individuals in court places special demands on clarity in its communication with, and dissemination of, information to the public.

Finally, I would like to mention a decision in which I criticised the Companies Registration Office for, inter alia, having sent out inadequate information to a large number of legal entities and for making it unnecessarily difficult for individuals to apply for an exemption from the requirement for the electronic registration of so-called real principals in connection with the introduction of new legislation (ref. no 267-2018 et al). The requirement that the registration must be submitted to a special e-service at the Companies

Registration Office is not stated in the new law on the registration of real principals and neither in the legislation's preparatory works, but is instead stated in an appurtenant ordinance decided by the Government and in regulations issued by the Companies Registration Office. If special reasons exist, however, the Companies Registration Office, upon application, may decide on an exemption from the requirement for electronic registration. The Parliamentary Ombudsmen had received several complaints where, inter alia, it was stated that the Companies Registration Office had taken a very restrictive approach to the prescribed exemption option and that, in practice, it appeared impossible to fulfil the statutory registration obligation in any other way than via the designated e-service. The Parliamentary Ombudsmen's investigation showed that the Companies Registration Office had not stated that there exists an exemption at all in the information disseminated concerning the registration obligation. Furthermore, according to the Companies Registration Office's regulations, any application for exemption would be made on a special form and this was not available on the agency's website but instead had to be ordered. It also emerged that there had been shortcomings in the handling of individual exemption cases and that incorrect information had been given concerning the prerequisites for receiving an exemption. I stated in the decision that, in a situation where there lacks guidance in the preparatory works on both the ways to fulfil a new registration obligation as well as the prerequisites for an exemption, in my opinion there must be a need for the responsible agency to carefully consider how the new provisions should be interpreted to best meet the purpose of the legislation. The agency should also ensure that officials working with these issues have clear guidelines to ensure the uniform and predictable application of the rules. It is a matter of course that the individuals affected by the regulations must be provided with sufficient information concerning any existing exemption and the forms for which to apply for such an exemption.

Thomas Norling

Parliamentary Ombudsman

The issues which fall within my supervisory area concern the social services, social insurance and matters regarding the application of the Support and Service for Persons with Certain Functional Impairments Act (LSS). This supervisory area also includes labour market matters. The agencies belonging to this supervisory area include the Public Employment Service, Social Insurance Agency, Pensions Agency and National Board of Institutional Care. A very large number of complaints received and investigated concern the social services and the operations taking place within social administration at the municipal level.

Within my supervisory area, approximately 2,800 new complaint cases were registered during the year. At the same time, approximately the same number of cases were decided upon.

In addition to the 13 inspections I carried out during the year, I decided to initiate six investigations within my supervisory area. An example of such an own-initiative inquiry is where I decided to examine the Social Insurance Agency's issuing of so-called information notifications with amended instructions for the handling of sickness benefit cases due to Covid-19 (ref. no. 4625-2020). In addition to the inspections reported below, I would like to mention my inspection of the Social Insurance Agency in Gothenburg in October 2019. During the inspection, I found, inter alia, that in its contacts with individuals, it is of great importance that the Social Insurance Agency makes realistic estimates of the processing time for a particular case. If the discrepancy between the estimated and the actual processing time becomes

Areas of responsibility

- Application of the Social Service Act, the Act on Special Regulations on the Care of the Young (LVU) and the Act on the Care of Substance Abusers in Certain Cases (LVM).
- Application of the Act on the Provision of Support and Service for Certain Individuals with Certain Functional Impairments (LSS).
- The Children's Ombudsman.
- National insurance (health insurance, pension insurance, parental insurance and work injuries insurance, housing allowances and other income-related benefits, child allowances, maintenance advances etc.); the Social Insurance Inspectorate; the National Pensions Agency.
- Other cases pertaining to the Ministry of Health and Social Affairs and agencies subordinate to it which do not fall within other areas of responsibility.
- The Public Employment Service, the Work Environment Authority; unemployment insurance; other cases pertaining to the Ministry of Employment and agencies subordinate to it which do not fall within other areas of responsibility.

too great, confidence in the Social Insurance Agency risks being damaged. In addition, the Opcat Unit has conducted seven inspections in my area that concerned the conditions at, inter alia, various special residential homes operated by the National Board of Institutional Care.[1] On one occasion during the year, I decided to initiate a preliminary investigation due to the suspicion of a crime committed by officials under my supervision. I have made decisions concerning 18 legislative referrals during the year.

During the year, I have chosen to pay special attention to matters where the perspective of the child has been in focus. The practical meaning of this is that I have examined whether the best interests of the child in a certain situation have been sufficiently taken into account. What is considered as being in the best interests of the child in an individual case is not always the sole basis upon which a decision is made, but must always be considered, investigated and reported in a case at, for example, the social services. I can state that the question of the child's best interests was raised in widely differing contexts and in a number of different cases during the year. Within my supervisory area, the issue has, as such, not been linked solely to family law cases or cases that concern, for example, compulsory care. The fact that the United Nations Convention on the Rights of the Child Act (2018: 1197) entered into force on 1 January 2020 has influenced my choice, to some extent, to focus on the issue. However, the best interests of the child is a principle that has been expressed in, for example, the Children and Parents Code and the Social Services Act even before the Convention on the Rights of the Child came into force under Swedish law. What has, therefore, been of particular investigative interest for me is whether agencies have become more thorough in reporting on whether and how the best interests of the child have been taken into account since the turn of the year.

1 A more detailed account of the Opcat Unit's work is provided in the Opcat Annual Report.

Children and young people constitute a weak group in society and are, therefore, particularly worthy of protection. Therefore, it is very serious when information emerges that this group is subject to inadequate treatment. This is particularly serious in the case of children and young people who are deprived of their liberty and who, therefore, do not have the support of adults in their environment that children and young people can normally be expected to have, and who also find it particularly difficult to make their voices heard. Determining the best interests of the child is about assessing which factors or circumstances are particularly important in the specific situation for an individual child or groups of children. If there are problems applying rules or regulations that have consequences for the children concerned and are unacceptable, I think it is justified to bring attention to them. In this year's annual report, the selection of decisions has been affected, to some extent, by the seriousness of certain complaints concerning children and young people and which I investigated during the year.

Labour market

With regard to the Public Employment Service, in last year's annual report I reiterated the responsibility that the agency's management has in ensuring fundamental administrative law requirements are complied with. I further emphasised the importance of the agency's working methods and routines in contributing to case processing that is legally secure. I can state that many of the complaints received by the Parliamentary Ombudsmen during the year, as in previous years, concern issues that are important for individuals' legal security. Since the problems that recur in the reports are similar, I have chosen not to include a decision to criticise the agency in this year's annual report. However, this does not mean that there were not examples of cases where I have expressed criticism of the agency. I intend to return to these issues in my continued supervisory work.

From the labour market area in general, I would like to mention an ongoing case concerning national unemployment insurance funds. For some time, the Parliamentary Ombudsmen has received complaints concerning various unemployment funds' slow case processing. I, therefore, decided on 14 February 2020 to start an own-initiative inquiry, which includes a comprehensive investigation of the unemployment insurance funds' case handling with a focus on the issue of processing times (ref. no. 1214-2020). Within the framework of this review, I additionally examined the basis upon which the unemployment funds take decisions. The investigation is based on inspections of three unemployment insurance funds. Two of the unemployment insurance funds, 'Alfa-fund' and Kommunal's 'a-kassa fund', were inspected in March 2020. Due to certain practical problems due to the corona pandemic, the inspection of the Small Business Unemployment Insurance Fund (Small) could not be conducted as planned. The intention is to inspect this fund in autumn 2020, which is why I will return with the results of this own-initiative inquiry in next year's annual report.

Public disclosure and confidentiality, freedom of expression and the press

Of the reports received concerning public disclosure and confidentiality, freedom of expression and the press during the year, I have chosen to refer to one decision. This concerns the issue of independent operative areas within the National Board of Institutional Care exchanging confidential information with each other (ref. no. 6547-2017). The background to this own-initiative inquiry was that, during an inspection of the special residential home for substance abusers (LVM) in Hornö in March 2017, it emerged that issues such as inmates' medication and health were discussed at meetings in which various categories of staff participated. In the decision, I stated that the health and medical care work and social services work conducted at the LVM home are two different operative areas, which are independent to one another according to the Public Access to Information and Secrecy Act. Confidentiality, therefore, applies between the different operative areas. Since it is necessary, to an extent, that information is exchanged between the various operative areas to ensure safe and secure care is provided to the individual, I raised the question with the Government on the basis of Section 4 of the Act with Instructions for the Parliamentary Ombudsmen (1986:765) whether a provision is needed for certain situations which breach confidentiality in this regard.

In last year's annual report, I reported on the serious criticism I have levelled at the Social Insurance Agency in recent years (for example in decisions on 24 January and 25 April 2019) for the agency's careless handling of confidential information in, inter alia, sending documents to the wrong person. In connection with these cases, the Social Insurance Agency has detailed the various measures it has taken to minimise the risk of mailing documents to the wrong people. Despite these measures, complaints concerning the careless handling of confidential information have continued to be received by the Parliamentary Ombudsmen. During the first half of 2020, eight new reports were made concerning documents mailed to the wrong people. I have, therefore, requested the Social Insurance Agency report on what further measures have been taken following my decisions in 2019 to prevent confidential information being incorrectly disclosed (ref. no. 5-2020). I have also requested a copy of the Social Insurance Agency's action plan. Since the case is being processed, I intend to return to this issue in next year's annual report.

Social insurance

Reports concerning long processing times have also been numerous this year. As a result, I have followed up on, inter alia, the Social Insurance Agency's case review work to examine how it has worked with improving processing times since my inspection in November 2018. I can state that the problems still exist to an extent that is concerning (ref. no. 1971-2019). I will, therefore, continue to follow the Social Insurance Agency's measures to rec-

tify the slow processing times. This also applies to other types of cases where it appears clear to me, having gone through the complaints received by the Parliamentary Ombudsmen, that individuals have to wait too long for their decisions, for example in cases concerning care allowance and additional cost compensation. There is also reason to follow up on the criticism I made during the year of the Pensions Agency's slow handling of cases concerning housing supplement to pensioners.

In this annual report, I have included four decisions that essentially concern how the Social Insurance Agency should investigate a social insurance case. It is, naturally, important that the agency's cases are investigated adequately. Depending on an individual's particular needs and preconditions, however, the Social Insurance Agency's investigative measures may need to be adapted. It is also fundamental in all case processing that the Social Insurance Agency has a legal basis for the measures it takes. It should also be possible to require that such measures do not lead to a greater intrusion of an individual's integrity than is necessary.

The first decision (ref. no. 1959-2018) concerned the question of whether, in certain cases, the Social Insurance Agency can be considered obligated to adapt the form of investigative measure it takes so as to meet an individual's needs. In the case in question, the Social Insurance Agency was aware that an individual had difficulty attending physical meetings at the agency's premises. Instead of investigating an alternative form of meeting, the Social

Insurance Agency withdrew the individual's sickness benefit because he had missed the meetings to which he had been called. I stated in this case that an individual who has objections to the form of an investigative measure cannot be considered to have refused to participate in it before the agency has investigated the issue and taken a position on whether there are appropriate alternatives.

In the second decision, the question concerned which medical documentation the Social Insurance Agency may require in a specific case (ref. no. 7851-2018). The Social Insurance Agency had, inter alia, requested an individual's entire existing medical records with regard to an individual applying for reimbursement for a special appliance in accordance with the occupational injury insurance. As a result, a large number of medical records were submitted to the Social Insurance Agency. Many of these concerned completely different medical issues to those relevant in the case. I stated that only such documents as are required should be requested, and that the Social Insurance Agency, in each individual case, must assess whether and how a request for medical documents should be limited. The Social Insurance Agency is not permitted to casually request all material pertaining to an individual.

I have also included two decisions that raise questions concerning which type of cases and under what conditions the Social Insurance Agency can request account information from a bank (ref. nos. 5933-2018 and 7011-2018).

Social services

Complaints in the area of social services are often extensive and concern many different issues. One such example is a case reported in the media concerning the refusal of certain municipalities to execute decisions on homecare services for individuals who are living temporarily in the municipalities (ref. no. 3063-2020). A common theme, in several of the decisions I have included in this annual report, is the various ways in which the decisions concern the question of whether the child's best interests have been sufficiently taken into account. In compulsory care, various issues regarding the applicability of measures have also been raised relating to the special regulated powers to segregate individuals and provide individual care. Based on the results of the Opcat inspections conducted during the year of various homes run by the National Board of Institutional Care, and also through the complaints received by the Parliamentary Ombudsmen, I have concluded that there are still serious shortcomings in the level of knowledge of the legal prerequisites for the use of these special powers. This is concerning as it, in itself, risks leading staff to act beyond their powers and in violation of the constitutional protection against corporal punishment at, for example, special residential homes for young people.

In a comprehensive case that I, for reasons of space, have chosen not to refer to in this annual report, I have examined how the social services have

implemented court decisions on access to custody support (ref. no. 9119-2019). In mid-October 2019, I inspected the Family Law Unit at the Social Resources Board in the municipality of Gothenburg. During the inspection, it emerged, inter alia, that the Family Law Unit provided custody support in a room which several children could have access to at the same time. This solution raised some questions that I judged as being also relevant to the social services in other municipalities. Therefore, on 19 December 2019 I decided to investigate the matter by means of an own-initiative inquiry. The purpose of this investigation was primarily to assess whether the local solution is in accordance with the provisions of the Children and Parents Code. The central issue was the extent to which the local solution is compatible with what is best for the child and how the board determines this question in individual cases. In order to obtain a basis for my investigation, I inspected the municipal boards responsible for issues concerning custody support in Malmö, Norrköping, Stockholm and Örebro during the first half of 2020. For various reasons presented in the decision, I reached the conclusion that the local solution, despite its benefits, entails a risk that an individual child does not receive the individual support he or she requires and is entitled to. The principle of the best interests of the child therefore risks not having the effect that the legislator intended. I, therefore, decided to submit the decision to the Government for attention.

In a referenced case, which more specifically illustrates the problems that can arise if a representative of a social welfare board overrides a court's decision on custody support instead of executing it, I stated that the board's task is of a purely executive nature. Furthermore, it cannot review a decision on custody support made by a court (ref. no. 8055-2018).

The Social Services Act

Of the various decisions concerning the Social Services Act, which are referred to in this annual report, there are four I would like to highlight.

In the first decision, I was critical of the fact that two administrative officials did not try to contact a guardian before they went to her home to perform a so-called protection assessment regarding six children left alone in the home. In the decision, I also addressed the question of whether the necessary legal prerequisites existed for the officials to enter the guardian's home even though she was not at home nor had given her consent to the measure (ref. no. 5219-2018).

In the second decision, I had to determine whether it was justified to conduct so-called behavioural observations of a near 13-year-old boy in his school. The purpose of this measure was to observe how the boy plays with other children. The case raised a number of issues, including what significance the guardian's consent to the measure had when it was not clear to the custodian nor the social welfare committee what consent actually meant. In the decision, I was critical, inter alia, of the fact that the boy did not have the

opportunity to express his views regarding the observations made of him. I could see that the way the observations were performed were both intrusive and sensitive to the boy's integrity. The board had not taken a position at all concerning whether the need to carry out the observations outweighed the risk that the boy would be harmed by the measure (ref. no. 7898-2017).

The third decision is another example of how problems arise when there are deficiencies in the handling of a case due to the administrative officials responsible not having a clear idea of what is applicable nor understanding the legal meaning of their actions. In this decision, I was critical of the fact that cases involving children were documented with the purpose of making it difficult for individual guardians to gain an insight into the cases, and that the administrative officials had acted in violation of the Instrument of Government's requirements for objectivity and impartiality (ref. no. 5013-2018). In another case, I was critical of two social secretaries who helped a parent respond to an application for a summons from the other parent in a family law case (ref. no. 4302-2019).

Care of Young Persons Act (LVU)

This annual report refers to four decisions concerning care in accordance with the Care of Young Persons Act (LVU). The issues in all of these cases concern central questions concerning the rule of law. As an example, I would like to highlight two decisions that are characterised by the fact that staff, due to a lack of knowledge, have taken measures against children and young people with no legal basis. In the decisions, I emphasise how important it is that the officials who handle compulsory care matters at social administrations have the required competence. I also point out the difficulties in applying the provisions of the Care of Young Persons Act regarding the special powers that the National Board of Institutional Care has to enable it to administer care or maintain safety and security at the special residential homes for young people.

In the first case, I strongly criticised the special residential home for young people in Tysslinge for its staff holding down on the floor and restraining a young resident (ref. no. 6774-2017). In the decision, I stated that a perception must not be allowed to develop among the staff that, in addition to the special powers provided in the Care of Young Persons Act, there are other unwritten powers, which in reality mean that staff can take coercive measures against young people admitted to the home in breach of Chapter 2, Section 6 of the Instrument of Government. Based on how the National Board of Institutional Care described the incident in question, there obviously existed the preconditions for segregating the young individual. However, no segregation decision was made and the young individual was not taken to any special segregation room either. Instead, he was restrained until, in the staff's opinion, he had calmed down. The investigation did not reveal that the purpose of the restraint was to then take the young person to a segregation room. In

my opinion, there was no legal basis for the staff's action. When the youth was forced into a restraining position and held to the floor, it was in violation of the constitutional protection against forced corporal intervention. Due to the seriousness of the incident, I submitted a copy of the decision to the Health and Social Care Inspectorate and the National Board of Health and Welfare.

Likewise, in the second case I found reason to direct serious criticism at measures which, in my opinion, testified to a lack of knowledge on the part of the officials involved (ref. no. 1356-2019). In the decision, I criticised both a social welfare committee as well as the committee's chairperson for measures taken in connection with a young individual who was taken into immediate compulsory care in accordance with Section 6 of the Care of Young Persons Act, and, at a later stage, when an administrative court rejected the social welfare committee's application for compulsory care. In the decision, I stated that on two occasions within a few weeks of each other the committee failed in its case handling in response to certain judgments and rulings. In both cases, there were serious consequences for the young people who had been deprived of their liberty without a valid decision. I also stated that as care has ceased as a result of the court rejecting the committee's application for compulsory care, the premise must be that the committee complies with the ruling. In order for the committee to be able to make a new decision on compulsory care, in principle it is required that new circumstances have arisen. This incident underlines how important it is that the people working in the administration have sufficient knowledge of the rules and regulations and that they understand the importance of taking action on the basis of a ruling revoking or terminating compulsory care.

Katarina Påhlsson

Parliamentary Ombudsman

I ASSUMED THE ROLE of Parliamentary Ombudsman on 9 September 2019 and took over the then supervisory area 1. This included supervision of the courts of law, Enforcement Agency, planning and construction sector, environmental and health protection, cases concerning guardianship (for example, Chief Guardians and Chief Guardian Committees), education and research, communication sector and specific authorities such as the National Courts Administration, Data Inspection Authority and Crime Victim Compensation and Support Authority. However, my supervisory area was amended somewhat at the turn of the year. This change meant that I am responsible for the supervision of the Prison and Probation Service from 1 January 2020, but no longer responsible for the supervision of education and research, the communication sector nor the administrative courts of law. Otherwise, the supervisory area is the same and, therefore, I have continued to supervise the general courts of law and, inter alia, the Rent and Tenancy Tribunal.

Overall, the influx of complaint cases increased within my supervisory area as a whole, although it varied between the different sectors under my responsibility. In environmental and health protection as well as education and research, there was a clear increase in cases, however it was the prison service cases that stood out. During the year, just over 300 more complaint cases concerning the Prison and Probation Service were newly registered compared with the previous year, and it was mainly in the spring that the inflow gained momentum. To some extent, this was expected. The spread of the Covid-19 virus significantly affected the conditions for inmates in the country's remand prisons and prisons. In addition, the Prison and Probation Service quickly took a number of measures to prevent the spread of infec-

Areas of responsibility

- Courts of law, the Labour Court; Ground Rent and Rent Tribunals; the National Courts Administration.
- Prison and Probation Service, the National Prison and Probation Board and probation boards.
- The National Legal Aid Authority and National Legal Aid Board, the Crime Victim Compensation and Support Authority, the Council on Legislation; the Data Inspection Board, petitions for mercy submitted to the Ministry of Justice; other cases concerning the Ministry of Justice and its subordinate agencies that do not fall within other areas of responsibility.
- Cases concerning guardianship (i.a. Chief Guardians and Chief Guardian Committees).
- The Enforcement Authority.
- Planning and building, land survey and cartography agencies.
- Environmental protection and public health; the National Environmental Protection Agency; the Chemicals Agency; other cases connected with the Ministry of the Environment and its subordinate agencies.
- Agriculture and forestry, land acquisition; reindeer breeding, the Sami Parliament; prevention of cruelty to animals; hunting, fishing, veterinary services; food control; other cases agencies subordinate to the Ministry for Rural Affairs and its subordinate agencies which do not fall within other areas of responsibility.

tion, and several measures were very extensive. As a result, almost 80 cases received during the spring were related to the pandemic. Another strong contributing factor to the high number of newly registered cases in this area was the Prison and Probation Service's decision to no longer allow the deposit of private funds to inmates. By the end of the first half of the year, the Parliamentary Ombudsmen had received more than 120 complaints in connection with this decision.

It is not as easy pinpointing what may have contributed to the relatively large increase in the number of newly registered complaint cases in the other two areas highlighted above. For these groups, a change in the registration of complaint cases relating to public access to information and confidentiality, freedom of the press and expression, and personnel cases may have had an impact on the figures. I could not observe any particular trend in education and research prior to the turn of the year. With regard to the complaints received within environmental and health protection, which I have been responsible for since I took office, there was no single explanation for the large number of cases and few of these complaints concerned issues relating to the pandemic.

It has been an interesting and rewarding first year, and I have had the privilege of acquainting myself with the skilled employees at both the supervisory departments and the Opcat Unit, and I have immersed myself in many issues and areas of interest. Naturally, the work during the spring and the prevailing pandemic also presented a number of challenges. I could not conduct as many inspections as planned, and several planned inspections, including within the guardianship system and the prison and probation regime,

respectively, were cancelled. However, I conducted an inspection of Lund District Court during the autumn. Although there were reasons to criticise the court concerning a number of issues, I also highlighted good examples of the district court's work, such as with family cases, in the report that follow the inspection. In connection with me taking over responsibility for the Prison and Probation Service, I led an unannounced Opcat inspection of the remand prison in Sollentuna, which contains a number of my statements regarding, inter alia, the right of association amongst inmates.

I took eight own-initiative inquiries during the year. One was a case that I describe in greater detail below under the heading the Prison and Probation Service, which is namely a review of the measures taken by the Prison and Probation Service in connection with Covid-19 and their consequences for inmates. A further own-initiative inquiry also concerned the Prison and Probation Service (ref. no. 2585-2020). The background to this inquiry concerned the agency's decision at short notice in February 2020 to no longer allow deposits of private funds to inmates in prisons and remand prisons. As previously mentioned, a very large number of complaints were soon received, which either directly or indirectly related to the decision. I therefore took the initiative to investigate the reasoning and considerations made by Prison and Probation Service prior to taking the decision, the legal basis for the measure and the consequences that the decision may have for inmates. Most individual complaints were then dismissed. The own-initiative inquiry concerns not only inmates' rights to use and convert their personal possessions and anti-money laundering legislation, but also other issues such as inmates' occupational activities and their ability to buy calling cards and shop in the kiosks on site. Finally, I conducted own-initiative inquiries regarding, inter alia, a judge's contacts with a prosecutor in a private matter and a guardian's handling of a custody case. Investigation is ongoing in these cases.

I was invited to comment on a large number of legislative referrals and prioritised those which concerned fundamental freedoms and rights and other issues of central importance to my assignment as Parliamentary Ombudsman. As such, I opined on, inter alia, the interim report "Controls of the university entrance examination - a bill on measures against cheating" (SOU 2019: 37), "Security assessments of judges" (D's 2019: 26) and "A new terrorist criminal code" (SOU 2019: 49).

The courts of law

The courts of law frequently handle various kinds of confidential information as classified by law. The necessary assessments regarding matters of confidentiality are not always self-evident, and individual judges have to take into account both the question of public interest in the case and whether, for example, an individual party suffers if certain details are disclosed. It is, therefore, of importance that the courts have clear routines for handling

confidential information. However, mistakes can still occur. In one case, the new name of a person, which had protected status in the population register, happened to appear briefly on a presentation screen during a main hearing whilst a prosecutor was presenting written evidence (ref. no. 6464-2019). I shared the district court's view that the name had not been presented at the hearing and that the provision of confidentiality had not ceased to be applicable. The presiding judge also acted correctly when she immediately took a position regarding the disclosure, however the confidentiality markings she then made in the file were not made in accordance with the ordinances on the freedom of the press nor the Public Access to Information and Secrecy Act as the markings lacked the applicable confidentiality provisions. The case raised interesting questions concerning the obligation to document actions and decisions taken, and therefore I made some additional general statements concerning the issue.

In the previous year's annual report, my predecessor Parliamentary Ombudsman Lars Lindström presented several decisions concerning the situation in the administrative courts regarding lengthy case processing times. The processing times are unfortunately still too long in some courts and not in compliance with Chapter 2, Article 11, second paragraph of the Instrument of Government, which states a trial must be held within a reasonable time. In the case that I included in this year's annual report (ref. no. 3390-2019), a complaint concerned a decision by the Social Insurance Agency regarding sickness compensation. When an appeal was received by the administrative court, the case should already have been due a decision. Despite efforts by the complainant however, the case remained pending and was not decided for another year and four months. The strained situation in the court - which according to the statement provided in the response was a consequence of, inter alia, a lack of staff and a very strong influx of cases - was of course worrying, however in my opinion it did not mean that the case processing time from the individual's point of view could be considered as acceptable. In the same decision, I made specific statements concerning the handling of a request for a declaration of precedence in accordance with the Declaration of Precedence in Court Act (2009: 1058).

The requirement for objectivity and impartiality

One of the most important tasks for the Parliamentary Ombudsmen is to ensure that, in the course of their activities, the courts and administrative agencies comply with the requirements of Chapter 1, Article 9 of the Instrument of Government on objectivity and impartiality. The so-called principle of objectivity does not only cover how a matter has been actually dealt with and the real reasons forming the basis of a decision or other action by an agency. It also covers the way in which officials who perform public administrative tasks act in individual contacts with the public, and, additionally, with representatives of other agencies. In a decision (ref. no. 1884-2019),

I criticised an administrative official on an environmental committee for having breached the requirement for objectivity and impartiality when, in a statement to a higher court, the official provided more extensive reasons for the appealed decision than those stated previously in the decision presented. In addition, the appellant's actions were commented upon in negative terms. Furthermore, I found reason to question the impartiality of an administrative official on an urban planning committee who, in a separate statement, requested that a consultation body develop its opinion in order for the board to pursue the matter until rejection (ref. no. 2214-2019).

The Prison and Probation Service

The question of whether inmates requiring special care or treatment are able to have their needs met whilst deprived of their liberty has been raised several times by the Parliamentary Ombudsmen. In a decision, I stated that this was not the case (ref. no. 3801-2018). An old man who suffered from, inter alia, cancer, heart problems and diabetes was held on remand for approximately six months before he was sentenced to a lengthy term in prison. During his time on remand, he was moved several times between the remand prison in Skåne, where his hearings took place, and the Prison and Probation Service's special, and only, ward providing care and treatment in Kronoberg Remand Prison (in Stockholm). These relocations led to delays of approximately eight months to his ongoing cancer treatment. The Prison and Probation Service had additionally neglected to consult the public healthcare service before the longer transportations of the man. In several respects, I found that the agency had failed in both the care of the man and in its responsibility to meet his extensive needs for care and treatment through cooperation with the public healthcare service. In addition, I stated there was reason to question why the Prison and Probation Service has specially adapted places for care and treatment of individuals held on remand with such needs at only one location in the country. The case concerned several aspects of the agency's ability to take care of inmates with special needs. I am convinced that I will return to issues concerning access to healthcare for inmates in the Prison and Probation Service.

In the spring, I, like the other Parliamentary Ombudsmen, decided to examine the situation for individuals deprived of their liberty during the pandemic. Consequently, within the framework of the Parliamentary Ombudsmen's role as national preventive mechanism, I carried out a three-month examination of the measures taken by the Prison and Probation Service due to the spread of coronavirus and their consequences for inmates. The results are reported in this annual report (ref. no. o 12-2020). The basis for the investigation as well as my subsequent statements consisted of the details I gathered from surveys with inmates at four prisons and two remand prisons in the Stockholm area, conversations via video link with employees at some of these locations and meetings with the Prison and Probation Service's

management. I also went through of a large number of the agency's decisions and routine documents. In my decision, I stated that the Prison and Probation Service had quickly taken measures and decisions to reduce the spread of infection and that the agency had tried to counteract the negative consequences of such restrictions on inmates' rights by, inter alia, allowing inmates to make free calls in the so-called INTIK system. This was, of course, positive. However, I was also of the view that some of the restrictions were disproportionate as, for example, even short periods of leave directly outside prisons with the lowest security class had been stopped. This meant that inmates could no longer hold video calls with their young children. I also found that some of the measures were introduced with a lack of legal basis regarding the agency's handling of the conditions for conducting visits and the possibility for inmates to appeal the decisions taken. Many inmates expressed strong concerns concerning the risk of the infection spreading when new inmates were placed directly with existing inmates or when they were forced to share cells. The Prison and Probation Service explained that the occupancy situation was strained even before the outbreak of the virus and I recommended that the agency should immediately ensure there is no double occupancy of cells where it is not possible for inmates to maintain the necessary physical distance from one another. I additionally called for further measures to reduce the risk of the infection spreading. The Prison and

Probation Service has a socially important role. Individuals held on remand and imprisoned have little opportunity to influence their own life situations and are dependent on the agency taking appropriate and proportionate crisis measures with a legal basis. In light of what emerged from the investigation, I questioned whether the Prison and Probation Service had been sufficiently prepared for the crisis caused by the pandemic. In view of the issues covered by this special investigation and my subsequent statements, I sent a copy of the decision to the Government for attention.

The Enforcement Agency

The Enforcement Agency's main tasks are recovery, enforcement, payment orders and assistance, debt restructuring and supervision of bankruptcy. The agency must therefore, inter alia, ensure that payments are made in a legally secure and efficient manner, and that its operations contribute to ensuring the financing of the public sector and, ultimately, to a well-functioning society. The Enforcement Agency's operations are of central importance to individuals.

Decisions concerning the Enforcement Agency's case handling have been included in the latest annual reports. The criticisms that my predecessor has expressed have chiefly concerned shortcomings in the so-called management of funds or slow case processing times, for example of debt restructuring cases. Such complaints still occur. The decision included in this annual report, however, concerns another area, namely payment orders (no. 5796-2019 et al). Since autumn 2019, many complaints have been received regarding the agency's handling of so-called manual applications for payment orders. I chose to investigate five such cases. It then emerged that the launch of a new IT system had meant that the processing times had been unacceptably long for almost a year. It could take months before an application was even registered. This is despite the fact that the summary process must be fast, simple and cheap. The difference in the initial processing times between the manual applications and the machine applications - which are submitted in a special order digitally by mostly larger lenders such as debt collection agencies - was also significant at times. I found that it was not compatible with the provision on objectivity in Chapter 1, Article 9 of the Instrument of Government. The shortcomings in the operations also meant that the agency could not comply with the requirement for expeditious processing that applies under the Freedom of the Press Act for the disclosure of documents. Likewise, it would have been difficult for the applicants to contact the agency and receive answers to queries. I emphasised the management's responsibility of ensuring that the agency complies with the administrative law requirements of, for example, adequate service, information and efficiency. I found that the agency as a whole deserved serious criticism and sent a copy of the decision to the Ministry of Finance for attention.

Planning and building

A large number of the complaints in the planning and building area concern slow case processing times. Unfortunately, such complaints are often well-founded. The building permit process is complicated and a case can meander through the upper instances. Additionally, since there is the opportunity to have an application for a building permit processed retrospectively - after a construction or action has already been made - the adjudication of a permit case for the construction can take time. A person who initiates a permit case may, therefore, have to wait a very long time for the board to adjudicate on the matter, which can of course be frustrating for him or her. In this year's annual report, I have included a couple of decisions which illustrate this. In one case (ref. no. 6963-2018), the original building permit for a holiday home had been issued in 2011, but the building permit had been appealed and referred back to the Construction and Environment Board on three occasions. The processing time at the board following the most recent remittance amounted to almost two years. In addition to the fact that it was a remitted case, I emphasised that the building permit assessment referred to a construction that had already been carried out and, of which, a neighbour had requested an intervention and/or actions to be taken. In my opinion, in this case the board should have taken into account, inter alia, the provisions regarding the statute of limitations in the event of an intervention in accordance with the Planning and Building Act. In the second case (ref. no. 8416-2018), a building permit had been granted for a holiday home and garage in 2013 and the construction work had been completed in 2015. After a neighbour appealed, the case was referred back to the board for new processing. Despite these circumstances and the fact that the ten-week deadline prescribed in the Planning and Building Act for announcing decisions on legal matters applied, it took one year and three months following expiration of the deadline before the board closed the case.

Education and research

A minimum prerequisite for joint custody of a child to function is that the parents essentially agree on how custody is to work in practice. If a child is of preschool age and the parents do not live together, and additionally live in different municipalities or districts, they must therefore agree on where the child should go to preschool. The rules on compulsory schooling in the Education Act are not applicable with regard to preschool as it is voluntary and the municipality's offer of a preschool place does not entail any compulsion on behalf of the parents to accept. In a number of decisions, my predecessor, Parliamentary Ombudsman Lars Lindström, commented on what is applicable in choosing a preschool. The decisions should have great practical significance not only for separated parents with joint custody but also for the municipalities. Therefore, Parliamentary Ombudsman Lars Lindström stated, inter alia, that it is not possible to require a municipality to check that

the parents agree (ref. no. 7417-2017). He further stated that, even though it is clear that the parents disagree even before the municipality makes a decision based on an application, the municipality can handle the issue on the basis that there is no compulsion for the parents to take up the place offered. It is, therefore, for the parents to agree as to whether they should take advantage of the offer or not.

Per Lennerbrant

Parliamentary Ombudsman

During the year, my area of responsibility included matters concerning public prosecutors, the police and customs, and cases involving aliens at the Migration Agency. My supervision also concerned, inter alia, municipal administration, which is not specially regulated, and foreign administration. As a result of the changes to the Parliamentary Ombudsmen's supervisory areas that were made at the turn of the year, I also supervised the communications system. I will not delve into statistics here. Instead, I am content to state that the total influx of cases during the year and the balance of cases at the year end were, in principle, at the same level as in previous years.

I took office as Parliamentary Ombudsman on 9 September 2019. It was a stimulating and eventful first year. The measures taken to limit the spread of Covid-19 affected the whole of society and placed a focus on the Parliamentary Ombudsmen's mission to safeguard fundamental freedoms and rights. Like my fellow Parliamentary Ombudsmen, I took the initiative to investigate the situation for individuals deprived of their liberty. This investigation was commissioned on my behalf and conducted via the Opcat Unit and involved an examination of the consequences for inmates held at the Migration Agency's detention centres due to the measures the agency took as a result of the spread of Covid-19 (ref. no. O 18-2020). The results of the investigation will be reported in autumn 2020. In light of the details which emerged concerning several municipalities and a region coordinating their handling of a journalist's request to receive compilations of information relating to Covid-19, an investigation was initiated, via a decision made shortly after the year end, into whether the principle of public access to official records has been followed (ref. no. 3718-2020 et al). I may have reason to return to the results of these investigations in next year's annual report.

Areas of responsibility

- Public prosecutors; the National Economic Crime Authority; The Taxation Authority's Criminal Investigation Units as laid down in the Act on the Participation of Taxation Authorities in Criminal Investigations.
- The Police force; The Commission on Security and Integrity Protection.
- Customs authorities.
- Communications (public enterprises, highways, traffic, driving licences, vehicle registration, disabled transport services, roadworthiness testing).
- The Arts Council, The National Heritage Board, National Archives; museums and libraries: The Broadcasting Authority; local music schools, other cases pertaining to the Ministry of Culture and agencies subordinate to it.
- Municipal administration not covered by special regulations.
- Cases involving aliens, not including, however, cases heard by migration courts; citizenship issues and cases relating to the integration of immigrants.
- Rescue services, applications of the regulations relating to public order; lotteries and gambling, licences to serve food or drink, car dismantling.
- Other cases dealt with by the County Administrative Boards that do not fall within other areas of responsibility.
- Housing and accommodation (supply of accommodation, home adaptation grants, accommodation allowances not included in the social insurance scheme); the National Board of Housing, Building and Planning; the National Housing Credit Guarantee Board.
- Cemeteries and burials, government grants to religious denominations.
- Government activities outside Sweden; the International Development Cooperation Agency; the National Board of Trade; the Swedish Institute; other cases pertaining to the Ministry for Foreign Affairs and agencies subordinate to it.
- The Riksdag Board of Administration, the Riksbank, the National Audit Board; general elections.
- Cases pertaining to the Prime Minister's Office and agencies subordinate to it which cannot be allocated to the areas of responsibility to which they pertain from the point of view of their subject matter.
- Other cases which do not fall within areas of responsibility 1–3

Of course, the pandemic also affected the work of the supervisory department. Although the handling of complaints continued in principle as usual, planned inspections could either not be conducted at all or in the manner intended. However, the number of complaint cases in connection to Covid-19 was relatively limited in my supervisory area.

I participated in five inspections, three of which concerned the Police Authority and two the Migration Agency. One of the inspections of the Police Authority concerned the police custody facility in Eskilstuna and was conducted within the framework of my role as the national preventive mechanism body under Opcat. In my supervisory area, a further eight Opcat inspections were conducted, five concerning the Police Authority's custody facilities and three concerning the Migration Agency's detention centres. Two of the inspections of detention centres related to the own-initiative inquiry concerning Covid-19. In the Opcat Unit's area, I received two responses.[1]

1 A more detailed account of the Opcat Unit's work is provided in the Opcat Annual Report.

I initiated seven investigations and received one response in addition to those mentioned above. One of these investigations concerned the transportation of a minor girl to one of the National Board of Institutional Care's special residential homes for young people (ref. no. O 6-2020). Whilst awaiting the transportation to be performed, the girl was detained by the Police Authority. The detention took longer than expected because the police and the social services disagreed on whether a social secretary should be present during the transportation. The investigation concerns, inter alia, the issue of cooperation between agencies in such situations. At the time of writing, I have not yet made a decision on the matter.

Many cases concerned reports of lengthy case processing times at the Migration Agency. Most of these reports were concluded with reference to the fact that the issue is under investigation in another case (see below under the heading Cases involving aliens).

Other complaints concerned situations where the police had taken coercive measures, such as body searches or property searches, without any basis or in an overly intrusive manner. I am currently investigating several cases concerning body and property searches, and have included two decisions in this year's annual report. In one of these decisions, I drew the attention of the Government to the need for legislative review. Many complaints against the Police Authority concerned measures under the law on the care of intoxicated persons, etc. Questions concerning the application of the law in terms of, inter alia, how an assessment of an individual detained for care is made by a designated supervisor, were also raised during one of my inspections of the Police Authority. Therefore, I decided to initiate an investigation on this issue (ref. no. 1748-2020).

My ambition is that the number of cases decided will increase once the reported agency has had the opportunity to respond, especially in the area of policing. During the year, it was decided the matter should be referred back for response to the reported agency in more complaints than in the previous year.

I took decisions concerning 24 legislative referrals received by the Parliamentary Ombudsmen. Of these, I can mention the following reports: Large Criminal Cases - New Procedural Tools (SOU 2019: 38); A New Central Bank Act (SOU 2019: 46), and A More Effective Regulatory Framework for Cases Concerning Aliens with Security Aspects (SOU 2020: 16). The response to the legislative referral on the latter report was submitted shortly following the year end.

In this annual report, I have included a number of decisions that I consider to be of fundamental interest. I have made this selection having considered what is the Parliamentary Ombudsmen's mission and agencies' need for guidance on individual issues.

Objectivity and impartiality

According to the instructions to the Parliamentary Ombudsmen, one of the most important tasks for the Parliamentary Ombudsmen is to ensure that the Instrument of Government's demand for objectivity and impartiality is complied with in the activities and operations performed by the state and public sector.

I have included three decisions that deal specifically with issues of objectivity and impartiality. They all concern the Police Authority. In one of these cases, a police officer had stopped a motorist because he had not previously stopped at a stop sign (ref. no. 2323-2018). The man did not want to accept a fine, but changed his mind when the police declared that they intended to confiscate the man's driver's license. The police issued a fine and let the man keep his driver's licence. In my opinion, however, there lacked the prerequisites for confiscating the driver's license. A threat to confiscate a driver's license or other similar measures must never be used to influence an individual to approve a fine. Likewise, there must never be any form of negotiation in connection with discussions on whether to accept a fine. The actions of the police were in conflict with the requirement for objectivity.

Another decision concerned a police officer's statements in a telephone conversation with an individual who had contacted the police officer in connection with an expulsion case (ref. no. 8479-2018). During the conversation, which was recorded, the police officer made lengthy statements on issues concerning immigration and Swedish migration policy in general. The statements contained the police officer's personal opinions however, in a number of respects, he gave the impression of speaking on behalf of the Police Authority as well. In many respects, the statements made by the police officer were derogatory and prejudiced in relation to certain groups of people and nationalities. In addition to breaching the requirement for objectivity, the statements could undermine public trust in the Police Authority. I, therefore, took the actions of the police officer very seriously.

In another case, during a criminal investigation a police investigator had made a personal request that a certain lawyer should not be appointed as legal counsel for an injured party in a case (ref. no 2570-2018). In another investigation, the investigator had also acted as a representative for the injured party and assisted the injured party in changing their legal counsel. The investigator's actions were contrary to the requirement for objectivity and impartiality. An issue of a similar nature was dealt with in a decision concerning how the Police Authority handled two decisions from the State Appeal Board (ref. nos. 4816-2018 and 4835-2018). It is of fundamental importance that a decision-making agency respects and complies with a decision from a higher court. The decision-making agency is to interpret and apply the decision of a higher court in a loyal manner, which the Police Authority in these cases had not done. Through its actions, the Police Authority had

not only disregarded a fundamental principle of administrative law but also nullified the effect of the State Appeal Board's role in ensuring authorities comply with the Instrument of Government's requirement for objectivity in decisions by public officials. The Police Authority received serious criticism for its actions.

Police and prosecutors

As in previous years, the largest number of complaint cases concerned the work of the Police Authority. The police's actions in connection with interventions are of great importance for the public's trust in the police, but can also be seen as a reflection of the trust in society's institutions in general. Several complaints concerned the police performing body searches on people and conducting property searches of vehicles in order to search for weapons for crime prevention purposes, but under circumstances lacking any basis. This is a common type of police intervention and the Parliamentary Ombudsmen has commented on these issues several times over the years. In a decision, I reported on the creation of the current provisions in the Police Act and made statements concerning the situations to which they are intended to be applied (ref. no. 6855-2018). My review showed that the regulations have shortcomings and are difficult to apply. In order for the constitutional protection against body searches and property searches to be upheld in practice, it is important that the regulations are consistent, clear and as simple

to apply as possible. The shortcomings are of such a nature that they should be resolved by the legislator. I, therefore, drew the Government's attention to the need for a legislative review in accordance with Section 4 of the Act with Instructions for the Parliamentary Ombudsmen. In another decision, I examined how the current provisions had been applied in connection with, inter alia, the so-called Operation Rimfrost in Malmö during autumn 2019 (ref. no. 8911-2019). I stated, inter alia, that the legislation does not allow for the identification of a specific area or place for the police to then regularly intervene with coercive measures. The decision was sent for attention to the Ministry of Justice.

When a crime is suspected to have occurred, decisions may need to be made quickly. The regulations on the use of coercive measures in accordance with the Code of Judicial Procedure are often based on the basic premise that the decision should be made primarily by a lead investigator, a prosecutor or, in some cases, a court. As a rule, a police officer can only decide to use a coercive measure if there is a question of urgency ("danger in delay"). However, there is no legal definition of what is regarded as urgent and the issue is rarely commented on in other respects. In a case concerning a police officer's decision to search a car based on a suspicion of drug offences, I made statements concerning when a case can be considered as urgent or otherwise (ref. no. 5316-2018).

The Police Authority's work additionally concerns administrative issues. In this area too, the agency's actions can have great significance for the public's confidence in the activities and operations of the state. Every year, the Police Authority receives many oppositions concerning liability for the payment of incorrect parking fees. It is important that matters concerning incorrect parking fees are handled in accordance with the administrative law's requirement for expeditious processing, especially as the vehicle owner is obliged to pay the fee even if the liability for such payment has been contested. I examined two such cases where the facts were uncomplicated and required no additional information (ref. no. 3965-2019). Despite this, the processing time was over two years in one case and almost two years in the other. Such processing times were clearly in breach of the requirement under administrative law that a case is processed as expeditiously as possible. The investigation showed that the processing times differed between the various legal units within the Police Authority. In my opinion, the handling of these cases is a good example of where the Police Authority can make better use of the synergies found in a well-organised agency.

In some cases, I examined prosecutors' handling of coercive measures. The investigations concerned the considerations that should be made before the singling out of an individual is used as the basis for a decision to subsequently arrest the individual (ref. no. 1656-2018), whether the provisions in Chapter 28, Section 14 of the Code of Judicial Procedure on taking fingerprints

may be used to force a suspect to unlock a mobile phone or an application on it (ref. no. 6849-2018), and the application of the confiscation ban in Chapter 27, Section 2 of the Code of Judicial Procedure concerning text messages sent by a suspect to his or her lawyer (ref. no. 1447-2018). The investigations gave clear examples of a lack of knowledge concerning the relevant rules, and I stated that a prosecutor must be aware of any shortcomings in an investigation and always consider all details thoroughly before making a decision on coercive measures.

Cases involving aliens

As I mentioned in the beginning of this summary, a large proportion of the complaints received concern the slow or inadequate processing of cases by the Migration Agency. The complaints often refer to the fact that the processing of asylum applications, residence permits based on family ties or citizenship has taken too long. It is naturally of importance that the applicant in such cases receives a decision as soon as possible. I am currently investigating the Migration Agency's processing times for, inter alia, the three case categories mentioned above (see, inter alia, ref. nos. 2079-2019, 8443-2018 and 130-2019). The issue of processing times for citizenship cases was also raised during an inspection of the Migration Agency's Citizenship Unit in Norrköping (ref. no. 1331-2020). My ambition is that the results of these investigations can be reported in autumn 2020. I can expect, therefore, to have good reason to return to these issues in next year's annual report.

It is fundamental to the legal security for an individual that any deprivation of liberty or other coercive measures against him or her is implemented correctly. Therefore, agencies using coercive measures must have documented and well-functioning routines for such measures. These were lacking at the Migration Agency, which resulted in an individual held in custody being released almost two days after the Police Authority had notified the Migration Agency that he should be released (ref. no. 1432-2018). The investigation also showed that the Police Authority's routines for decisions on so-called exiting custody were documented inadequately.

The importance of guaranteeing the legal security for an individual was also addressed in a case where the Migration Agency asked detailed questions to an asylum seeker concerning their need for protection without the agency deciding whether a public counsel should be appointed to assist (ref. no. 5040-2018).

The law regarding aliens is relatively complicated and, in its application, consideration needs to be taken of not only the provisions of the Aliens Act but additionally the rules and regulations on, inter alia, the EU level. This places great demands on officials at the Migration Agency and foreign authorities to have sufficient knowledge of the regulations. This is illustrated in my investigation of the processing of an application for a Schengen visa

at the Swedish Embassy in Tehran (ref. no. 2625-2018). In addition to the general administrative law regulations and the provisions of the Aliens Act, the application also concerned the rules in the EU Visa Code and in the free movement directive (Citizen's Rights Directive). The investigation showed that the embassy's handling of the application was characterised by a number of serious shortcomings and gave the impression that the embassy lacked the sufficient knowledge of the regulations or had a genuine willingness to help applicants.

Public disclosure and confidentiality, freedom of expression and of the press

The right to access public documents, which are not classified as secret or confidential, is a central aspect of the principle of public access to official records. It is, therefore, important that public bodies have a good knowledge of the regulations and set up their organisations to ensure the practical compliance with the provisions of the Freedom of the Press Act regarding public access to public documents.

On a number of occasions, the Parliamentary Ombudsmen has criticised the Ministry for Foreign Affairs for shortcomings in the handling of requests for disclosure of public documents (most recently in the Parliamentary Ombudsmen 2019/20 p. 286). In view of the fact that the Ministry of Foreign Affairs has repeatedly failed in the handling of requests for access to public documents over several years, my predecessor Parliamentary Ombudsman Cecilia Renfors, in the above-mentioned decision, found it was important to follow up on the work performed within the Ministry for Foreign Affairs on complying with the provisions of the Freedom of the Press Act with regard to the handling of requests for access to public documents. The Ministry of Foreign Affairs submitted a response, which described both the ongoing and planned measures taken to improve the handling of requests for access to public documents. I stated in a decision that I viewed the measures taken by the Ministry of Foreign Affairs positively, but noted that the ministry itself had stated that the processing times were still too long. In light of what emerged, however, I did not find reason to take any further action then, but stated that I would follow the issue further (ref. no. 2702-201920).

Clearly, information provided on, for example, an agency's website or in standard e-mail responses to questions concerning how public documents can be requested must be correct and designed in an appropriate manner with regard to, inter alia, protection via anonymity. In a decision, I criticised the Migration Agency for shortcomings in these respects (ref. no. 8346-2018).

Before a public document is disclosed, a confidentiality assessment must be performed. In order to counteract the rigidity within the confidentiality and secrecy regulations, in some cases classified information may be disclosed

with so-called confidentiality reservations that restrict the ability to further distribute the information or use it. In order for the reservation to have legal effect, certain requirements exist regarding its formulation. A confidentiality reservation also contains a confidentiality obligation, which restricts the freedom to communicate information. Breach of this obligation can result in criminal liability. These circumstances place demands on the processing system before details are disclosed with a confidentiality reservation. I addressed this issue in a decision where a municipality was criticised for deficient processing (ref. no. 7484-2018).

Freedom to communicate information is of fundamental importance for the freedom of expression and information in our society. It is, therefore, of the utmost importance that anyone representing an agency or other public body knows and respects the constitutional provisions on investigative bans, the purpose of which is to strengthen the freedom to communicate information. I, therefore, made a serious examination of, and then criticised, a municipal board chairperson for asking a reporter a question that constituted an unauthorised investigation of informants in an interview with the Swedish state broadcaster SVT (ref. no. 4453-2018). The chairperson of the municipal board also spoke in a subsequent SVT interview in a way that gave reason to question his understanding and respect for the rules on the freedom to communicate information and investigative bans. As such statements may, in the long run, lead to officials not daring to exercise their freedom to communicate information, I also criticised the chairperson for this.

Summaries of individual cases

Summaries of individual cases

The following is a selection of summmaries of cases dealt with by the Ombudsmen during the period 1 July 2019 to 30 June 2020.

Courts

Public courts

The Parliamentary Ombudsman directs criticism towards a Judge at Värmland District Court for deficient documentation as an individual's confidential identity was released in a presentation during a main hearing

AA was present as audience at a main hearing in a criminal case. AA had earlier been present during the preliminary investigation as the injured party and had changed her name. Her new name was stated in a report from the preliminary investigation that the prosecutor handed in in connection to the prosecution, and according to information in another document that the prosecutor handed in at the same time, AA´s identity was confidential.

During the hearing the new name was visible during a short time in a presentation, by mistake, as the prosecutor presented certain written evidence. During a break, the chairman of the court noticed what had occurred. The following day the judge made a so-called "security mark" blacking out AA's name in the documents and wrote a short statement on what had occurred.

In the decision, the Parliamentary Ombudsman makes certain statements regarding the responsibility of the District Court when managing confidential data. The Parliamentary Ombudsman notes, similar to the District Court, that AA's name was not brought forward at the hearing. The judge receives criticism for blacking out AA's name without legal support, and for the deficient documentation that the judge completed, on what had occurred. (6464-2019)

Administrative courts

The Parliamentary Ombudsman directs criticism towards the Administrative Court in Härnösand for slow processing in a case on sickness benefit and for shortcomings in a verbal notification concerning a decision on declaration of precedence

In the decision, the Parliamentary Ombudsman directs criticism towards an administrative court for slow processing in a case on sickness benefit. The case was initiated at the administrative court on February 12, 2018 and was deemed to be settled at the initial stage but was not settled until June 24, 2019, i.e. one year and four months later. On April 15, 2019 the chief judge decided that the case should have priority as the processing time had been unreasonably long, and that the case should be settled on June 30, 2019. The Parliamentary Ombudsman does not criticise the administrative court for the verbal notification concerning the declaration of precedence but states that the notification should have occurred as the decision was settled. The Parliamentary Ombudsman also states that the notification should have been documented in the administrative case on declaration of precedence. The documentation was later entered in the record sheet of the case on sickness benefit. The Parliamentary Ombudsman directs criticism towards the administrative court for the noted deficiencies. (3390-2019)

Education and research

Complaint against the Child- and Education Committee in Säter municipality for the processing of an application on preschool placement

In a complaint to the Parliamentary Ombudsmen, the issue concerning a municipality's management of an application on a preschool placement was raised, in the case the parents did not agree on the placement. The Parliamentary Ombudsmen notes that a matter concerning placement in preschools is of such kind, that the custodians of the child, as a rule, need to be under agreement. A municipality's suggestion of a placement at a preschool is merely a suggestion. The activity is voluntary and the municipality's suggestion does not include any constraints to go along with the suggested placement. Even if the custodians, in most cases, need to agree on matters regarding the child's placement in a preschool, the Parliamentary Ombudsmen holds that the municipality does not need to pose a demand on the custodians to agree on a

placement. The municipality's outset must be to assume that the custodians agree.

Likewise, in cases when the municipality has settled a decision due to an application, and the custodians do not agree, the Parliamentary Ombudsmen states that the processing should be managed according to the understanding that the custodians are not required to accept the suggested placement. The municipality should therefore assume that the custodians reach an agreement on the suggested placement. In the current case, the Parliamentary Ombudsmen has not found any reason to direct criticism towards the committee for the processing of the case. (7417-2017)

The Enforcement Authority

The Parliamentary Ombudsman directs severe criticism towards the Enforcement Authority for the processing of applications for an order to pay, etc.

In autumn 2019, the Parliamentary Ombudsman received a large number of reports with complaints against the Enforcement Authority concerning the processing of orders to pay. The Parliamentary Ombudsman decided to investigate five cases in which the authority, among other things, was late with the registration of manual applications.

In October 2018, the authority was due to launch a new IT system for applications for orders to pay, but the switch was postponed for one year. In spring 2019, however, certain measures were taken ahead of the IT switch, which affected the initial processing times. The investigation by the Parliamentary Ombudsman has shown that the times for the manual applications had been unacceptably long for almost a year, and that there had been a significant difference in the initial processing time between these and the mechanical applications at times. This resulted in inconvenience to individuals.

The Enforcement Authority has not been able to comply with the urgency requirement under the Freedom of the Press Act for the disclosure of documents. It has been difficult for applicants to make contact with the authority and obtain answers to questions. The authority has not met the requirements in areas including service, information and efficiency. The Parliamentary Ombudsman also considers that the information provided on the website about processing was inadequate and makes statements about the notification obligation under Section 11 of the Administrative Act when a decision is expected to be significantly delayed.

The Parliamentary Ombudsman believes that the Enforcement Authority was deficient in the planning and launch of the new IT system and that management also failed to take account of the administrative legal requirements that apply to the processing of cases. The Parliamentary Ombudsman emphasise the responsibility of management to ensure that the authority's duties are performed in a way that is legally correct, efficient and simple for the general public and individuals. (5796-2019)

Evironmental and health protection

The Parliamentary Ombudsman directs criticism towards an official of the Environment and Building Committee of Bollnäs municipality for acting in a way that contradicts the requirement on objectivity pursuant to the Instrument of Government

A case officer that processed a decision that had been appealed to the County Administrative Board sent an e-mail to the County Administrative Board. In the e-mail the case officer expressed that there were further reasons, than what was stated in the decision, to determine the case, and moreover, the case officer expressed how he had perceived the actions of the complainant. The Parliamentary Ombudsman states that the case officer's actions contradict the statute-regulated requirements on objectivity and impartiality pursuant to chapter 1, section 9 of the Instrument of Government. (1884-2019)

Health and medical care

The Chief Parliamentary Ombudsman directs criticism towards the County Council of Norrbotten and a health care facility for deficient routines in matters regarding confidentiality and the disclosure of data

A police officer made contact with a nurse at a health care facility as the police officer wished to obtain some information about a patient. The nurse accessed the patient's journal and handed out data that were, in some respects, classified, without conducting a confidentiality assessment.

The Chief Parliamentary Ombudsman decided to conduct a preliminary investigation on hacking and breaches on the duty of confidentiality as there were reasons to believe that the nurse had committed a crime. Later on,

the preliminary investigation was closed but the enquiry continued. The nurse's actions had been reported to the Health and Social Care Inspectorate which in turn directed criticism towards the nurse for verbally handing out confidential data concerning the patient to the police. The Chief Parliamentary Ombudsman chose, due to the Health and Social Care Inspectorate's decision, to first and foremost focus the investigation of the case on the responsibility of the county council and the health care facility.

In the decision the Chief Parliamentary Ombudsman states that employees within health care holds a personal reasonability when it comes to measures that can be deemed as a breach on the duty of confidentiality. In the current case, according to the Chief Parliamentary Ombudsman's understanding, a contributing factor to this occurrence is the deficient routines of the county, as well as onsite, and the lack of education for staff members. The Chief Parliamentary Ombudsman also holds that applicable regulations are complicated and it is therefore essential that routines within the field are adequate and clear. The Chief Parliamentary Ombudsman directs criticism towards the county as well as the health care facility for the noted deficiencies. (3160-2017)

The Parliamentary Ombudsman directs severe criticism towards the Forensic Psychiatric Care Section in Stockholm for setting up codes of conduct that impose a general ban against verbal communication between patients among other things

A psychiatric clinic where patients are under care pursuant to the Forensic Mental Care Act, primarily, applied a code of conduct which entailed a general ban on certain verbal communication between patients and certain property.

The Chief Parliamentary Ombudsman considers that the current ban on certain verbal communication, limits, to some degree, the freedom of speech pursuant to chapter 2, section 1, of the Instrument of Government. A limitation of a constitutional regulated right postulate that the limitation holds legal support, in this matter this was not the case. The codes of conduct that the clinic applied thereby lacked legal support. The Chief Parliamentary Ombudsman directs severe criticism towards the clinic. However, the Chief Parliamentary Ombudsman further states that there may be valid prerequisites, within a separate case, to limit verbal communication.

When it comes to banning the possession of records the Chief Parliamentary Ombudsman notes that there is no legal support to restrict a patient's right to possess certain property. In this respect, the clinic has made up regulations that lack legal support. The clinic receives severe criticism also due to this fact. Regarding the requirement on legality and predictability the Chief Parliamentary Ombudsman holds that the statute regulated possibility to prohibit the possession of certain items does not entail prohibiting keeping records in a separate case.

A decision to ban certain property cannot be appealed. The Chief Parliamentary Ombudsman considers that a capacity to appeal such a decision would, among other things, enhance an increased rule of law for inmates within psychiatric care and forensic psychiatric care. According to the Chief Parliamentary Ombudsman's understanding, the regulatory framework for patients' property ownership needs to be subject to review. Therefore, the Chief Parliamentary Ombudsman will propose, to the government, to initiate a review of the legislation. (5634-2017)

Statements on certain queries regarding late termination of pregnancy

Within the ambit of health and medical care the Chief Parliamentary Ombudsman has examined certain queries regarding the processing of late termination of pregnancies. The first and foremost purpose of the examination was to realize the need for supplementary amendments of the existing legislation to endorse the processing of late terminated pregnancies and the interpretation of the Abortion Act (1974:595).

In the decision, the Chief Parliamentary Ombudsman emphasises that the current case does not deal with the right to abortion or the limitations, nor is it the role of the Parliamentary Ombudsmen to make any statements on the meaning of the term viability, the time for when an abortion is deemed as executed, or how to process a late terminated pregnancy in line with medical or ethical arguments. It is the Chief Parliamentary Ombudsman's opinion that it is essential to view the legislation, as well as the general provisions of health and medical care, in coherence with the rule of law and that the legislation is interpreted expedient throughout the country. Health and medical staff need to understand what they should adhere to to safeguard the best available care when terminating a late pregnancy, and their measures need to conform to applicable provisions.

By proceeding with the investigation, the Chief Parliamentary Ombudsman observed that there were ambiguities in the content of

the general provisions of the Abortion Act, this may risk the rule of law and result in deficient uniformity when implementing the provisions throughout the country. It applies to, e.g., the time for when an abortion is deemed as executed, the meaning of the term viability, and how to handle a foetus that shows signs of life.

The Chief Parliamentary Ombudsman notes that cases on late termination of pregnancy require quick and efficient processing by the National Board of Health and Welfare's legal counsel, as well as by the care provider that administers the termination of the pregnancy. According to the Chief Parliamentary Ombudsman, the requirements are not enough to safeguard the rule of law nor in compliance with the intentions of the legislator. Late terminated pregnancies raise legal and medical issues that concern our basic human rights and display an area where unity is missing regarding the interpretation of the legislation in force. The Chief Parliamentary Ombudsman states that the queries need to become subject to a new investigation and regulated apodictically in the legislation and other regulations. Therefore, the Chief Parliamentary Ombudsman will propose, to the government, to initiate a review of the legislation. (7035-2017)

Queries regarding the National Board of Forensic Medicine's management of human biological samples as well as criticism towards the authority for not living up to the statutory requirement on service duty

The decision regards the National Board of Forensic Medicine's management of human biological samples in connection to forensic pathology. The Chief Parliamentary Ombudsman states that the authority's management of human biological samples is partly missing a regulatory system, which this case clearly illustrates. The Government has carried out a review of the regulations that govern the National Board of Forensic Medicine's operations, but the review has not yet led to new legislation. The Chief Parliamentary Ombudsman will therefore hand over a copy of this decision to the Government Offices, the Ministry of Justice, for knowledge. (1138-2018)

Criticism of psychiatric care units in three regions for imposing procedures for patients with ADHD having to agree to supervised urine sample tests in order to be considered for treatment with drugs that stimulate the central nervous system

The three regions applied procedures in which it is mandatory for all patients with a diagnosis of ADHD to submit urine samples under supervision in order to receive treatment with drugs that stimulate the central nervous system. The Chief Parliamentary Ombudsman considers that it is not justified to impose a general requirement for regular urine sampling as a condition for the treatment in question and therefore criticises the regions for having designed and applied guidelines that impose such requirements. The Chief Parliamentary Ombudsman emphasises the importance of adequate information in order to enable patients to make informed decisions and to guarantee the voluntary nature of care. Unauthorised pressure must not be applied, although sampling may, after an individual assessment, constitute a necessary precondition for a given treatment to be compatible with basic patient safety requirements.

The Chief Parliamentary Ombudsman require that the regions amend the current guidelines so that the requirement for individual assessments and truly voluntary participation is clearly emphasised. The Chief Parliamentary Ombudsman also believes that the National Board of Health and Welfare and the Medical Products Agency should supplement their recommendations to make it absolutely clear that drug screening (urine or blood tests) requires an individual assessment and satisfactory information being given to the patient. (2050-2018)

Statements regarding the obligation to detain a person at a hospital pursuant to the Care of Abusers Special Provisions Act, and criticism of an operational manager at a psychiatric clinic for not taking a decision regarding detainment

A social service official filed a complaint against a hospital due to the healthcare employees not complying with the regulation of the detainment obligation in Section 24 of the Care of Abusers Special Provisions Act.

The case raises a number of important and central questions, including whether healthcare personnel are allowed to use violence and force to detain abusers who do not wish to receive treatment at a hospital, and who also do not meet the criteria for compulsory care pursuant to the Compulsory Mental Care Act, as well as what degree of violence and force is permitted in such a case. The Chief Parliamentary Ombudsman has evaluated these questions in the decision. The Chief Parliamentary Ombudsman also makes statements regarding the clinic's processing of an individual case and directs criticism towards the operational manager at a psychiatric clinic for not taking a decision concerning detainment. Finally, the

Chief Parliamentary Ombudsman will propose, to the government, to review the possible need for additional regulations in the field, especially with regards to the amount of force healthcare personnel are permitted to use within the scope of the obligation to detain, but also for how long such measures may continue while awaiting transport to a National Board of Institutional Care's home. (5238-2018)

The Chief Parliamentary Ombudsman directs criticism towards the Public Healthcare Services Administration in Region Stockholm for the deficient handling of a change in certain guidelines for the prescription of aids

In Region Stockholm there are criteria for the prescription of aids specified in a hierarchy of needs in the web-based Accessibility Guide. An administrator at the Public Healthcare Services Administration changed the text in respect of the prescription criteria for compression material in such a way that one line of text was inserted stating that compression material cannot be prescribed for pain and that the diagnosis of lipedema is replaced by lipolymphedema.

The Chief Parliamentary Ombudsman confirms that these changes restrict who may have compression bandages prescribed. Lipolymphedema is the most severe form of lipedema, and the guidelines in force before the change stated that it was not possible to deduce that only those patients who had reached this stage should be eligible for compression bandages. The addition that prescription cannot take place for pain could also result in fewer patients being deemed eligible for the prescription of compression material. The changes therefore have the effect, according to the Chief Parliamentary Ombudsman, that the regulations on the prescription of compression material have been changed, and not simply clarified. The Chief Parliamentary Ombudsman also states that the medical conditions that may be eligible for such aids do not derive directly from the overall criteria decided by the board. The design of the more detailed prescription rules thus involves an independent assessment. It was therefore not a question of an executive decision that cannot be appealed on which employees within a region can make a decision without delegation and that does not need to be recorded in the minutes. The incorrect starting point that this was an executive decision has resulted in a decision being made that was irregular and not documented. The Chief Parliamentary Ombudsman directs criticism towards the Public Healthcare Services Administration for its deficient handling of the case.

The Public Healthcare Services Administration is also criticised for the fact that a request for disclosure of public documents in some parts was not dealt with until after the Parliamentary Ombudsman had opened an investigation into the case. (5286-2018)

Criticism of the Health and Social Care Inspectorate for the incorrect application of a provision on the competence of relatives to report complaints, etc.

In a report submitted to the Health and Social Care Inspectorate, a parent of an adult patient complained about the medical care that the patient had received. After the Health and Social Care Inspectorate had conducted certain investigative measures, the patient's wife, being the legal guardian, submitted a letter to the Health and Social Care Inspectorate, stating that she did not want the complaints to be investigated. The Health and Social Care Inspectorate subsequently decided to discontinue any further processing of the case. In its statement to the Parliamentary Ombudsman, the Health and Social Care Inspectorate stated that the patient's wife was considered to be most closely related to the patient and thus competent to submit the complaints.

The Chief Parliamentary Ombudsman states that the applicable provision of the Patient Safety Act must be considered to mean that the Health and Social Care Inspectorate, in cases where the patient cannot report the matter personally, must examine complaints when notified by a person deemed to be related to the patient. As the provision is designed, the competence of the notifier in itself can hardly be affected by the fact that another close relative disagrees with the substance of the complaint. There is no specific ranking of related parties set out in the Patient Safety Act, nor does the Chief Parliamentary Ombudsman consider that the statements in the preparatory work on the provision in question support such an application. On the contrary, the Chief Parliamentary Ombudsman considers that the preparatory work suggests that the group of competent notifiers may comprise several different persons. The Health and Social Care Inspectorate is criticised for the way in which the Inspectorate applied the provision in question.

The Health and Social Care Inspectorate also receives criticism for a deficient justification of the decision in question. (368-2019)

Migration

The Parliamentary Ombudsman directs severe criticism towards the Migration Agency for the management of a matter regarding a release of a detainee and criticises the Police Authority for inadequate documentation

The Police Authority decided that an individual was to be released from one of the Migration Agency's detention centres (a decision concerning release from custody). A police officer e-mailed a copy of the decision to an administrative clerk at the detention centre, but the administrative clerk had finished his shift for the day. When the police officer checked with the detention centre, she was told that instead she should e-mail the decision to a group mailbox, which she did. The e-mail was marked as 'resolved' without anyone taking any measures leading to that the detainee was released. Nor was the e-mail registered in the journal and was deleted from the group mailbox. The detainee was not released until the administrative clerk was back on duty after two days and noticed the first e-mail in their e-mail Inbox. It has not been possible to identify who at the Migration Agency that had failed in their obligations to act on the basis of the decision, or who it was who deleted the e-mail from the group mailbox.

The Parliamentary Ombudsman's investigation shows that neither the Migration Agency nor the Police Authority had documented their procedures for how contacts between the public authorities should be made when the Police Authority decided that someone should no longer be detained. The investigation also shows that the police officer who e-mailed the decision to the detention centre was unfamiliar with the procedures. The Police Authority is criticised for, among other things, inadequate documentation of procedures.

In addition, the Parliamentary Ombudsman's investigation shows that the Migration Agency's procedures for processing when a decision concerning the release from custody was made, were inadequate and also not all of the procedures were documented. The Migration Agency did not take measures that led to the detainee being released from custody until almost two days after the Police Authority informed the Migration Agency that he should be released. The Parliamentary Ombudsman is very critical of this as well as of the fact that the Migration Agency's procedures are deficient and insufficiently documented. The Parliamentary Ombudsman holds that it is completely unacceptable that the detainee was detained in custody and deprived of his liberty for almost two days without a legal basis, and directs severe criticism against the Migration Agency for what has occurred.

In the Decision, the Parliamentary Ombudsman also states that there are shortcomings in the new e-mail management procedures introduced in response to the incident at the detention centre in question. (1432-2018)

The Parliamentary Ombudsman directs criticism towards the Swedish embassy in Teheran for its processing of a case involving a Schengen visa, when the applicant claimed she was covered by the Freedom of Movement Directive

An Iranian citizen applied for a Schengen visa at the Swedish embassy in Teheran. She claimed that she was covered by the so-called Freedom of Movement Directive, and that this meant that she should not have to pay an application fee, among other things. She requested guidance from the embassy as to which documents she needed to submit to prove that she was covered by the directive. However, the embassy demanded that she paid the fee and reviewed her application in accordance with the Freedom of Movement Directive and the general regulations of the so-called Visa Code. The application was rejected. When she tried to apply for a Schengen visa for the second time, her application submission was denied, provided she not pay the application fee.

The Parliamentary Ombudsman states, that an authority should not force a review upon an applicant that exceeds the scope of what the applicant has requested and made reference to in their application, especially not when the review is dependent on the applicant paying a fee. Therefore, the embassy should not have reviewed the application in accordance with the general regulations of the Visa Code without first asking the applicant if she wanted a review of this nature after the embassy had rejected her Freedom of Movement Directive application. Additionally, the Parliamentary Ombudsman finds that the embassy did not have sufficient legal support to charge a fee, of the applicant, as she claimed that she was covered by the Freedom of Movement Directive. The Parliamentary Ombudsman states, that it is not possible to, as the embassy did, charge a fee without legal support and without referring the applicant to the application for repayment, should it later

turn out that the fee did not need to be paid. The embassy should also not have refused to accept a new application with reference to that the application fee had not been paid.

The Parliamentary Ombudsman also holds that the embassy did not fulfil its informative obligations as stipulated by the Freedom of Movement Directive and that the embassy has failed in its processing by, among other actions, not giving the applicant an adequate opportunity to supplement their application.

In conclusion, the Parliamentary Ombudsman finds that the embassy's processing was characterised by a number of serious deficiencies, which imply that the embassy did not have sufficient knowledge of the regulations or that it lacked a genuine will to help the applicant. The Parliamentary Ombudsman directs criticism towards the embassy for the deficiencies demonstrated in the processing. (2625-2018)

The Parliamentary Ombudsman directs criticism towards the Migration Agency for sending a decision, with simplified service of process, to an address from which the recipient was suspected to have disappeared from

The Migration Agency decided that AA was no longer entitled to assistance in the form of a daily allowance pursuant to the Reception of Asylum Seekers' Act, as there were suspicions that he had disappeared. The decision was sent with simplified service of process to the address from which AA was suspected of disappearing from. In the decision, the Parliamentary Ombudsman finds, inter alia, that the Migration Agency could not reasonably have believed that the decision would have reached AA at the address where it was suspected he had left and disappeared. According to the Parliamentary Ombudsman, it was inappropriate for the Migration Agency to send its decision to that address and to use a simplified service of process in the situation in question. (5014-2018)

The Parliamentary Ombudsman directs criticism towards the Migration Board for disregarding to appoint a public counsel and asking intrusive questions concerning an applicant's need for protection

Questions, of an intrusive kind, were asked in a talk with an applicant concerning the applicant's need for protection. It occurred in spite of the fact that no public counsel was present. In the decision, the Parliamentary Ombudsman gives the following account. If a public counsel has been appointed subsequent to a talk with an applicant, where the reasons for the application for asylum has been questioned, it may risk the applicant's credibility if the applicant decides to amend the application at a later point in time. There are questions concerning the need for protection that might need to be asked at an initial stage of the processing of an application, but the enquiry should not result in a talk were follow-up questions are asked prior to the Migration Agency's decision on the applicant's need to have a public counsel appointed. The talk held similarities to an enquiry rather than a talk concerning an application. The Parliamentary Ombudsman directs criticism towards the Migration Board for the deficient processing of the case. (5040-2018)

The Parliamentary Ombudsman directs criticism towards the Migration Agency for dispatching an incomplete copy of a decision to an applicant's representative

By mistake, the Migration Agency sent only the first page of a decision to an applicant's representative when it was dispatched. From the document, one could easily have the impression that the decision document consisted of only a single page (1/1 noted at the top right of the decision document). However, the decision consisted of four pages.

The Migration Agency is criticised for having sent out an incomplete version of the decision to the representative and for the long amount of time that passed before the mistake was noticed. The Migration Agency is also criticised for the fact that it was not evident, in the document, that the copy of the decision was not the full version. The Parliamentary Ombudsman is further critical of the fact that the Migration Agency has a document management system that makes it possible to send out the first page of a decision document without explicitly stating that only one of several pages of the document is being sent. The Parliamentary Ombudsman holds that it is a serious situation that information in a decision, in this case page numbering, can be changed retrospectively if it is not a matter of a correction. A decision document must be complete and unchangeable once it has been dispatched. (7177-2018)

The Parliamentary Ombudsman directs criticism towards the Migration Agency for providing incorrect and misleading information on its website and in a standardised email reply

In a complaint submitted to the Parliamentary Ombudsman, AA put forward a complaint against the Migration Agency for its treatment of her request to access public documents. With reference to this complaint, the Parliamentary Ombudsman accessed the content on a page on the Migration Agency's website, where the authority has gathered information for those wanting to, among other things, request public documents. The page contained a form for requesting documents.

The Parliamentary Ombudsman concludes that the information provided by the Migration Agency, on its website, directed towards those wishing to access public documents, has been deceptive and misleading. Furthermore, it has been revealed that the Migration Agency has sent a standardised email reply containing incorrect and misleading information to individuals who have requested public documents. The Parliamentary Ombudsman directs criticism towards the Migration Agency for these deficiencies.

The Parliamentary Ombudsman also states that the Migration Agency's form for requesting access to documents is structured in an inappropriate manner with regards to the anonymity protection.

In conclusion, the Parliamentary Ombudsman notes, that the Migration Agency has rectified some of the deficiencies since the Parliamentary Ombudsman launched their investigation, but that some deficiencies still remain. The Parliamentary Ombudsman presumes that the deficiencies will be rectified. (8346-2018)

Planning and building

The Parliamentary Ombudsman directs criticism towards the Building and Environment Committee in Höganäs Municipality for the slow processing of a referred building permit in a case where construction had been completed

A Building Committee had granted a building permit for a holiday home in 2011, after which construction took place. Following a complaint by a neighbour, the case was referred back to the board. A subsequent permit decision about the holiday home had also been referred back to the board. The question of building permits for the holiday home had been referred back to the board on three occasions in total. The Parliamentary Ombudsman's investigation concerns the board's handling of the latest referral. In its decision, the Parliamentary Ombudsman points out that the examination of the building permit concerned measures already carried out, which a neighbour had asked the board to take action against. The Parliamentary Ombudsman notes that it took two months for the board to start processing the referred permit case and nine months for the board to instruct the applicant to supplement their application, which is not sufficiently prompt. According to the Parliamentary Ombudsman, it is not acceptable that the total processing time for the referred case was one year and eight months. (6963-2018)

The Parliamentary Ombudsman directs criticism towards the Social Building Committee in Åre Municipality for the slow processing of a referred building permit in a case where construction had been completed

A Building Committee granted a building permit for a holiday home and garage in 2013. The board subsequently approved modifications to the main building in a decision in 2015, and construction took place. Following a complaint by a neighbour, the case was referred back to the board for reconsideration in September 2017. The Parliamentary Ombudsman's investigation concerns the board's handling of the referral. The board is criticised for having exceeded the ten-week deadline prescribed by the Planning and Building Act to announcing decisions on permit cases. The Parliamentary Ombudsman also points out that it was a referred case, which must be given priority, with measures already taken against which a neighbour had requested action. (8416-2018)

The Parliamentary Ombudsman directs criticism towards the City Building Committee in Jönköping municipality for slow processing of a remanded case on building permit, as well as towards an official for not abiding by the requirement on objectivity

During the processing of a remanded case on building permit an official at the City Building Committee had requested a referral body, in an e-mail, to develop their referral in such a way that the board would be able to dismiss the case. The Parliamentary Ombudsman states that the message in the e-mail holds grounds to questions the official's objectivity in the case, and moreover that the management of the case contradicts the statute-regulated requirements on objectivity and impartiality pursuant to chapter 1, section 9 of the Instrument of Government. The Parliamentary Ombudsman also notes that the processing of the case took too long. (2214-2019)

Cases involving police, prosecutors and custom officers

Text messages on a seized mobile phone have been used by the police and public prosecutors in a preliminary investigation and relied on as evidence, even though they were subject to a prohibition on seizures

During a preliminary investigation, a mobile phone was seized and taken into custody from a man who appeared in the criminal investigation. A technical investigation of the mobile phone was conducted and in connection with this the police found text messages that the man had sent to a lawyer who had been a public defender for him in a previous criminal investigation. The police prepared two memoranda where the information from the text messages were included. During the investigation, the man himself became suspected of committing a crime and was prosecuted. The public prosecutor allowed the text messages to be included in the preliminary investigation record and invoked them as evidence when he filed the criminal complaint.

The text messages contained information which the man had entrusted to the lawyer in his capacity as a legal counsel for him and which she could not be questioned about as a witness in the case. The Parliamentary Ombudsman notes that the information is therefore subject to the prohibition against seizures as provided in chapter 27, section 2 of the Code of Judicial Procedure.

When a search of the contents of a mobile phone is conducted, the investigating authorities may find information covered by the prohibition against seizures. The Parliamentary Ombudsman points out that it is a fundamental requirement that such searching in a mobile phone be conducted with a certain degree of caution and that those who are looking through the contents of the phone must pay attention to whether it may contain information that may not be seized. In the event that such information is found, it is self-evident that it may not be read, printed out or otherwise used in a preliminary investigation or in a trial.

The Parliamentary Ombudsman directs criticism towards the Police Authority for how the police investigators handled and used the information contained in the text messages. Criticism is also directed towards the public prosecutor for allowing the text messages to be included in the preliminary investigation record and having invoked them as evidence in the district court.

According to the Parliamentary Ombudsman's understanding, the occurance gives the impression that the officials have not had sufficient knowledge of the contents of the provisions in question. The Parliamentary Ombudsman holds that it is not acceptable and that it appears particularly questionable when it concerns provisions aimed at protecting confidential information between a suspect and his or her defence lawyer. (1447-2018)

Statements regarding which aspects that should be taken into consideration when an individual's identification is used as ground for, for example, coercive measures

Following a mugging, the injured party named one of the perpetrators. She then went through the named person's Facebook friends on her own accord and found a person she claimed she recognised. When the police then showed the person's passport picture, the injured party identified the person as the second perpetrator. Following an oral presentation from the police, a prosecutor used that as grounds for a decision to arrest the person in question. It later turned out that the injured party had pointed out the wrong person.

In its decision, the Parliamentary Ombudsman states that this kind of identification may be difficult to assess from an evidential perspective. A decision-maker considering using a person being identified in this manner as grounds for a decision regarding, for example, coercive measures, must pay attention to any potential efficiencies in the reliability of the identification of the person and ensure that he or she understands how the person was identified. The decision-maker needs to have good understanding of what the person identifying another individual has stated as part of the identification and if there are any other circumstances significant to the assessment of the credibility of the identification, among other factors. There must also be clarification as to how the identification relates to other pieces of information in the investigation.

The Parliamentary Ombudsman's investigation has not provided clarity regarding which pieces of information the police presented to the prosecutor or any other revelations made during the presentation. Therefore, the Parliamentary Ombudsman lacks the sufficient documentation to make any statements regarding whether the police omitted any important circumstances during their presentation. Similarly, criticism cannot be levelled at the prosecutor for her decision to make the arrest. The prosecutor is

however criticised for not documenting the circumstances that formed the basis for her decision. The Police Authority is criticised for its deficiencies in documenting the identification. (1656-2018)

In connection with a breach-of-regulations fine, a police officer acted in a manner that is not compatible with the constitutional requirements on objectivity, and the obligations of police officers to act in a manner that inspires trust and confidence

A police officer made a traffic stop due to a man not stopping his car at stop sign. The man did not want to consent and accept a summary imposition of breach-of-regulations fine, however he changed his mind when, after some discussion, the police officer explained that he intended to confiscate the man's driving licence. The police issued a summary imposition of a breach-of-regulations fine and allowed the man to keep his driving licence.

The Parliamentary Ombudsman, who notes that there was no possibility of confiscating the man's driving licence, states that the power to decide on the suspension or confiscation of a driving licence or other measures must never be used to influence the individual to accept and agree to a summary imposition of a breach-of-regulations fine. Additionally, the Parliamentary Ombudsman holds that there may never be a haggling in connection with discussions about consent to a summary imposition of a breach-of-regulations fine, instead of the police preparing a report concerning the offence.

According to the Parliamentary Ombudsman, the actions of the police officer have been at odds with the constitutional requirements in the Instrument of Government on objectivity, and the obligations on police officers to act in a manner that inspires trust and confidence. The police officer is criticised for his actions. (2323-2018)

A police investigator has acted contrary to the Instrument of Government's requirement for objectivity and impartiality in relation to the counsel for an injured party

During a criminal investigation, a police investigator made a personal request that a particular lawyer should not be appointed as counsel for the injured party in the case. The investigator has also acted as counsel for the injured party during another investigation and assisted the injured party in changing counsel.

The Parliamentary Ombudsman confirms that the investigator's actions were contrary to the Instrument of Government's requirement for objectivity and impartiality pursuant to Chapter 1, Section 9 of the Instrument of Government, and the Police Ordinance's requirement that employees within the police shall behave in a way that inspires confidence (Section 10 of the Police Ordinance). The investigator is criticised for this.

In its decision, the Parliamentary Ombudsman also makes statements about how police employees should act if they have views regarding a person's suitability to act as legal counsel. (2570-2018)

The Police Authority's temporary decision to suspend a security guard has been considered to be halted immediately after it was overturned by a court following an appeal

The Police Authority suspended AA from duty as a security guard and, in connection to this, seized his certificate of appointment as a security guard. AA appealed against the suspension decision. Once the Court of Appeal annulled the decision, AA requested the return of his certificate. The Police Authority did not, however, return it until the Court of Appeal's judgment gained legal force.

In its decision, the Parliamentary Ombudsman states that the starting point should be that an interim decision should cease to apply immediately if it has been annulled, e.g. following an appeal. However, a different position may be justified in an individual case, for example by the objectives underlying the provision which made it possible to make an interim decision.

In line with this perspective, the Parliamentary Ombudsman considers that the Police Authority should have returned the certificate of appointment to AA immediately after the Administrative Court of Appeal had annulled the authority's decision. It has not, however, been expressly stated by regulation in the constitution or otherwise how the authority should handle the situation. The Parliamentary Ombudsman does not therefore consider that it has sufficient reason to criticise the Police Authority. (3981-2018)

The Parliamentary Ombudsman directs severe criticism towards the Police Authority for not having complied with a decision from the National Board of Appeal

In the decision, the Parliamentary Ombudsman addresses how the Police Authority has handled two decisions from the National Board of Appeal, where the board eliminated a decision made by the Police Authority during the author-

ity's search for new managers for the National Operations Department.

The Parliamentary Ombudsman states that it is of fundamental significance that a deciding authority respect and adhere to the decisions made by a superior instance. According to the Parliamentary Ombudsman, the deciding authority has a principal obligation to interpret and implement decisions made by a superior instance in a loyal manner.

In its decision, the Parliamentary Ombudsman conclude that the Police Authority has not adhered to the decisions by the superior instance National Board of Appeal in the reviewed cases, nor has it complied with the decisions made by the board.

According to the Parliamentary Ombudsman, it is unacceptable for an authority to set itself over the decision of a superior instance in the way the Police Authority has. Through its actions, not only has the Police Authority ignored a fundamental principle of administrative law, it has also eliminated the effect of the National Board of Appeal's ability to control that authorities comply with the requirement on objectivity pursuant to the Instrument of Government.

The Police Authority receives severe criticism for their actions. (4816-2018 and 4835-2018)

The Parliamentary Ombudsman directs criticism towards the Police Authority for conducting a search of a car, without there being a risk of a delay

The Police Authority received an anonymous tip about a man storing narcotics in his car. A police patrol drove to a parking lot where the man was currently located and started a conversation with him. The police officers' suspicions that there were narcotics in the man's car was strengthened and one of the police officers decided to conduct a search of the car. The decision to conduct the search was not documented.

A decision to conduct a search shall primarily be reported by the head of the investigation, the prosecutor, or the court. A police officer may, however, decide to conduct a search if there is risk of a delay. A risk of a delay typically exists if the purpose of the measure would be lost if there is a need to wait for a decision from the authorised decision-maker. The Parliamentary Ombudsman states that the assessment as to whether there is a risk of a delay shall be made based on the circumstances of the individual case, and that there must be an actual circumstance indicating that the decision cannot wait for there to be a risk of a delay.

The Parliamentary Ombudsman concludes that there was no risk of a delay when the decision to conduct a search was made and as such, the police officers should have contacted a head of investigation for a decision in the matter. The Police Authority is criticised for conducting a search without taking the necessary measures.

The Police Authority is also criticised for not documenting the search. (5316-2018)

The provision in Chapter 28, Section 14 of the Code of Judicial Procedure on taking fingerprints does not constitute legal support for a decision to forcibly place a suspect's finger on a mobile phone in order to unlock the phone

A person was arrested on suspicion of aggravated smuggling. There was an application on his mobile phone that could only be opened by placing his finger on the phone. The Swedish Customs investigators suspected that this application contained messages that could be of relevance to the criminal investigation. The suspect, however, was unwilling to voluntarily unlock the application. A prosecutor decided that the suspect's fingerprints should be taken directly on the mobile phone. The purpose of this measure was to forcibly induce the suspect to open the application, with the legal support invoked being the provision in Chapter 28, Section 14 of the Code of Judicial Procedure on the taking of fingerprints.

In its decision, the Parliamentary Ombudsman states that the regulation on fingerprints is not aimed at measures that consist solely of reading the unique pattern on someone's finger at a particular time, without saving and registering the information, and without the measure having been able to result immediately in it being possible to benefit an investigation into criminal offences. In view of the particular restrictiveness that applies in the interpretation of provisions restricting protection against forced bodily interventions as prescribed in the Instrument of Government, the provision in Chapter 28, Section 14 of the Code of Judicial Procedure did not constitute legal support to decide that the suspect's fingerprints should be taken on the phone in the way that occurred. The prosecutor cannot escape criticism for their decision.

According to the Parliamentary Ombudsman, there is insufficient reason to criticise the Customs office for requesting the decision from the prosecutor and subsequently executing the decision. The Customs office does, however, receive criticism for not having documented the execution and results of the measure.

In its decision, the Parliamentary Ombudsman also raises questions about whether the suspect should have been allowed to contact his legal counsel before the decision was executed and whether he had the right to have the legal counsel present when the measure was implemented. (6849-2018)

A meeting between a suspect and a defence lawyer, which is to take place unsupervised, may not be monitored by security cameras

A person was suspected of committing a crime and after being arrested was remanded in police custody. The suspect had the right to meet with his defence lawyer. When the suspect and the defence lawyer had a meeting in the detention centre, the police recorded the meeting with a security camera which recorded images but not sound.

When a suspect has the right to meet with his defence lawyer, it shall be allowed, according to a provision of the Code of Judicial Procedure, to take place unsupervised. In the decision, the Parliamentary Ombudsman holds that this provision means that such a meeting may not be monitored by a security camera. According to the Parliamentary Ombudsman, such a provision should also be applicable even if the security camera does not record audio and irrespective of whether or not the recording is saved or deleted.

The Parliamentary Ombudsman directs criticism towards the Police Authority for monitoring the meeting between the suspect and his defence lawyer with a surveillance camera. (7300-2018)

Criticism of a police officer who failed to maintain objectivity in a telephone conversation with an individual

A police officer was contacted via telephone by an individual who wanted to discuss a case. During the conversation, which was recorded, the police officer made lengthy comments regarding immigration and Swedish immigration policy in general.

The Parliamentary Ombudsman concludes that the statements made by the police officer were characterised by his personal opinions and reflections, but that he gave the impression that he was also speaking on behalf of the Police Authority on certain matters. The contents of his statements were in many cases derogatory and prejudiced to certain groups of people and nationalities. The police officer also communicated an outlook regarding, among other things, his own profession and the Police Authority's commission which was devoid of nuance and sometimes almost cynical.

The Parliamentary Ombudsman finds that the statements made by the police officer during the phone call violates the constitutional requirement of objectivity and that the statements can undermine public trust in the Police Authority. The Parliamentary Ombudsman directs criticism towards the police officer for his actions. (8479-2018)

Processing times at the Police Authority have become unacceptably long in two cases on contested payments regarding parking fines

The Parliamentary Ombudsman has investigated two cases at the Police Authority concerning contested payments regarding parking fines. The facts in each case were clear and there were no need for supplements or other information. The processing time of one of the cases was more than one year and more than two years in the other. During most of this time, no one worked on the cases.

The cases were processed at the Police Authority's legal unit, unit South. The investigation shows that the legal unit has a large number of cases due to be settled, and that the processing time of the cases holds a time span of around two years. The Parliamentary Ombudsman directs criticism towards the Police Authority for the slow and passive processing of the cases, which contravene the provisions in the Administrative Procedure Act regarding case management and how long the processing of a case may take.

The Police Authority has tried to correct the situation regarding the long processing times. The Parliamentary Ombudsman hold that the situation is concerning and that the authority should collect the resources of the legal unit to make sure that a structure is completed to reach acceptable processing times. (3965-2019)

Body searches and house searches in vehicles, pursuant to the Police Act, to search for weapons and other dangerous objects for crime prevention purposes (I)

The police stopped a driver of a car due to the way the individual was driving the car. On the grounds of how the individual acted as he was stopped by the police, and due to the escalated violence in Malmö at that time, the police official decided to, pursuant to section 19, paragraph 1 and section 20 of the Police Act, conduct a body search and a house search of the vehicle

to search for weapons and other dangerous objects for crime prevention purposes.

In the decision, the Parliamentary Ombudsman gives an account of the grounds of the Police Act, and notes that the regulations exist to support situations when the risk of the usage of weapons and other dangerous objects are grave. According to the Parliamentary Ombudsman's understanding there was no such risk in the current case and therefore there was no legal support to take the decision. The Parliamentary Ombudsman directs criticism towards the Police Authority for the fact that the measures were nevertheless implemented.

According to the Parliamentary Ombudsman's understanding the regulations in the Police Act holds deficiencies and are hard to interpret. It is important that these regulations are consistent, clear and easy to apply so that the constitutional constraint on body searches and house searches are enforced in practice. According to the Parliamentary Ombudsman the deficiencies in the legislation is of such character that the legislation should be looked upon by the legislator. Therefore, the Parliamentary Ombudsman will propose, to the government, to initiate a review of the legislation. (6855-2018)

Body searches and house searches in vehicles, pursuant to the Police Act, to search for weapons and other dangerous objects for crime prevention purposes (II)

During October to December 2019 Malmö police conducted several searches of an individual. At eight of these occasions a body search was conducted and a house search was made to his car pursuant to section 19, paragraph 1 and section 20 of the Police Act, to search for weapons and other dangerous objects for crime prevention purposes. The interventions took place within a geographically limited area. The Parliamentary Ombudsman has investigated whether there were grounds for the measures.

The Parliamentary Ombudsman states that the purpose, of the current regulations in the Police Act, is to support situations when there is an immediate risk that weapons or other dangerous objects will be used for criminal purposes.

That a certain area or place has become a location where there is a repeated use of force due to e.g. transactions between groups that commit serious crimes in an organized form or systematically, can, according to the Parliamentary Ombudsman's understanding, hold importance when assessing if the situation is such that there is a magnified risk that weapons or other dangerous objects may be used for criminal purposes. The circumstances that the assessment is based upon must be concrete and may not be on a general note. The situation should also be separated in a precise way, when it comes to time and place. The Parliamentary Ombudsman holds that the legislation does not admit that a specific area or place can be pointed out as a location where the police is able, on a regular basis, to intervene using coercive measures.

The Parliamentary Ombudsman notes that the risk for criminal action and the usage of weapons between criminal groups was imminent in the areas where the police made interventions. Moreover, the individual that was controlled, at several occasions, could be connected to the involved groups. During the interventions, he was traveling in, or was next to, his bulletproof car and on one of the occasions he also wore a safety vest. The Parliamentary Ombudsman makes the assessment that the situation, at all interventions, was such that there was a great risk that weapons or other dangerous objects would be used. The Parliamentary Ombudsman therefore states that there is no reason to direct criticism towards the Police Authority. (8911-2019)

Prison and probation service

The Parliamentary Ombudsman directs severe criticism towards the Prison and Probation Service

Sweden has received international criticism for a long time due to inmates' conditions in Swedish remand prisons. The criticism concerns, primarily, the fact that inmates with restrictions are put in isolation and thereby in a situation that may risk their mental and physical health. The Chief Parliamentary Ombudsman has, since 2017, examined cases of inmates in remand prisons put in isolation. In the decision, the Chief Parliamentary Ombudsman states that isolation risks including not merely a remand prisoner with restrictions, but also inmates at the remand prison with the right to associate with other inmates during daytime. Pursuant to the Prison and Probation Service own surveys in 2018; 83 percent of inmates with restrictions and 33 per-

cent of inmates with the right to associate with others were put in isolation. In the decision the Chief Parliamentary Ombudsman holds

- that the Prison and Probation Service's remand prions lack common areas and staff members to implement inmates' right to associate with others. The Prison and Probation Service receives very severe criticism for the continues lack of resources in this area
- that she is very critical towards the fact that the Prison and Probation Service has not put more efforts into measures to prevent isolation
- that it is very urgent that the Prison and Probation Service introduce a system to enable a process to prevent that inmates are put in isolation

In the decision the Chief Parliamentary Ombudsman also raise a question to review, among other things, the Detention Act, to clarify inmates' rights and prevent isolation. (O 7-2018)

The Parliamentary Ombudsman directs severe criticism towards the Prison and Probation Service for delaying the cancer treatment of an elderly man with multiple illnesses and for deficiencies in care, etc.

An elderly man with multiple illnesses and extensive care needs was placed in detention at the Prison and Probation Service for about six months. During his time in detention, he was relocated on several occasions between the detention centre in Skåne, where his legal proceedings were taking place, and the Prison and Probation Service's special care department at the Kronoberg detention centre. The Parliamentary Ombudsman's investigation into the detainee's situation has revealed, among other things, that he had to spend more than two months in custody where his need for care could not be met, and that his ongoing cancer treatment was delayed for about eight months, largely due to his being relocated on several occasions.

The Parliamentary Ombudsman confirms in its decision that the Prison and Probation Service has been deficient in several respects in both its care of the detainee and in its responsibility to meet his considerable need for care through cooperation with the public health service. The Prison and Probation Service also failed to consult with the health service before taking the man on long journeys. The Parliamentary Ombudsman states that the Prison and Probation Service deserves severe criticism overall for its deficiencies in its treatment of the detainee.

Furthermore, the Parliamentary Ombudsman states that what has emerged from this case means that there are strong reasons to question the appropriateness of the Prison and Probation Service only having specially adapted care facilities for detainees in Stockholm. The Parliamentary Ombudsman also believes that the Prison and Probation Service should review its management of the transport of inmates with special care needs and supplement their procedural documents in those parts where there is a need to have specially adapted procedures for these inmates.

In conclusion, the Parliamentary Ombudsman states that she is convinced that she will return to matters relating to access to health and medical care for inmates within the Prison and Probation Service. (3801-2018)

The Chief Parliamentary Ombudsman directs criticism towards the Prison and Probation Service, Uppsala detention centre, for several deficiencies in the management of an inmate's placement at a health care facility

A female inmate at Uppsala detention centre terminated her pregnancy at a health care facility. The investigation proves that the intern was forced to wear an electronic tag during most of the time that she spent at the hospital and that an accompanying male staff member was present during the procedure. Questions regarding the Prison and Probation Service's assessments regarding security estimations in connection to an intern's stay at a health care facility have become recurrent at the Parliamentary Ombudsmen. Therefore, the Chief Parliamentary Ombudsman finds reasons to remind the Prison and Probation Service that a risk assessment is conducted on each individual case and that the security measures during transports and time spent outside are adjusted according to the intern's current state and situation. The Chief Parliamentary Ombudsman further states that the Prison and Probation Service should make efforts to prepare planned visits to health care facilities to facilitate a satisfactory level of security without unnecessary infringements of an intern's dignity. The Chief Parliamentary Ombudsman also adds that the outset must be that staff of the same gender should be present when it comes to situations where the care provided is of a sensitive and private nature, the Prison and Probation Service should also ensure that they

have the resources necessary to expedite this measure.

The Chief Parliamentary Ombudsman is critical towards the fact that the detention centre did not take adequate measures when preparing the intern's visit to the hospital to facilitate the situation for the intern, and also to diminish the need for surveillance and electronic tags during the intern's stay. The Chief Parliamentary Ombudsman directs criticism towards the detention centre for not making sure that a female staff member was available during the duration of the intern's stay at the hospital and for the lack of documentation. (5310-2018)

The Parliamentary Ombudsman directs severe criticism towards the Prison and Probation Service, Göteborg detention centre, for deficient management when giving care to an inmate with disabilities, etc.

An inmate with physical disabilities was placed in the detention centre at Göteborg remand prison for a few days. At one point, it took a full twelve hours for the urgent care needs of the inmate to be met, even though the inmate was under the supervision of staff every hour and that on several occasions the nurse of the detention centre had alerted staff, and the head of the unit, of the inmate's situation.

The Chief Parliamentary Ombudsman notes in the decision that it is the responsibility of prison staff – not the health care professionals – to assist inmates with general care or social care, such as daily hygiene and toilet visits. It is clear that the treatment of the inmate was without question entirely unacceptable. The Parliamentary Ombudsman directs severe criticism towards the detention centre for what occurred.

One contributing factor to the situation at issue was that the senior management of the detention centre had not clarified and communicated the division of responsibilities between the unit's staff and healthcare professionals. According to the Chief Parliamentary Ombudsman, proper functioning of management and governance is a fundamental prerequisite so that the operations of the Prison and Probation Service will be able to be conducted in a proper and effective manner and for the personnel to know how they are to fulfil their work responsibilities. The Chief Parliamentary Ombudsman holds that the senior management of the detention centre has not fulfilled their responsibilities in this regard. The detention centre is also criticised for shortcomings in the documentation. (7924-2018)

The Chief Parliamentary Ombudsman directs severe criticism towards the Prison and Probation Service for having made a decision that is in violation of an applicable regulation

On 22 December 2017, the Prison and Probation Service decided that transport operations delegated by the Police Authority pursuant to Section 29 a of the Police Act (1984:387) should only be carried out to the extent permitted by the Prison and Probation Service's transport capacity. The agency's decision states that the Prison and Probation Service's transport organisation was not designed to handle anything other than planned domestic transport operations during the daytime at the time of the decision. This could create situations in which the agency was unable to carry out a transport operation within the required time. Furthermore, the Prison and Probation Service had to make sure that there was capacity to carry out the agency's normal operations in prisons, detention centres and the probation service, and to transport detainees within the Prison and Probation Service. As a consequence of this, the Prison and Probation Service only had very limited resources to assist the Police Authority in carrying out transport operations during the period when the Prison and Probation Service's transport organisation was being expanded.

In its decision, the Chief Parliamentary Ombudsman confirms that the Prison and Probation Service's decision is in direct violation of Section 6 (1) of the Regulation (2007:1172) with instructions for the Prison And Probation Service, which states that the agency shall undertake, among other things, the transport operations delegated by the Police Authority pursuant to Section 29 a of the Police Act. The Chief Parliamentary Ombudsman also confirms that intention of the government's governance of its agencies by means of instruments including regulations is to provide clarity and predictability. The Prison and Probation Service's decision was contrary to this aim and thus one of the foundations of the rule of law. The Prison and Probation Service's decision also had serious consequences for individual detainees, including children and young people being taken into care, who remained in police custody while awaiting transport. For these reasons, the Chief Parliamentary Ombudsman directs severe criti-

cism towards the Prison and Probation Service for the agency's actions. (8337-2018)

Enquiry initiated by the Parliamentary Ombudsman regarding the Prison and Probation Service's measures due to Covid-19, and the consequences for inmates

In spring of 2020 the Parliamentary Ombudsman has conducted an enquiry on the consequences that the measures of the Prison and Probation Service resulted in for inmates, during the Covid-19 pandemic. The authority has, during a short notice, created new routines that restrict the inmate's rights, one example is the restrictions that have been imposed on visits. In line with the temporary routine the Prison and Probation Service continue to grant visitors, in spite of the fact that the authority does not allow visitors. The routine, according to the Parliamentary Ombudsman's opinion, is deeply unsatisfactory as the inmate's possibility to appeal such a decision is very uncertain. On the other hand, the Parliamentary Ombudsman notes that the Prison and Probation Service routine when administrating leave of absence is acceptable, but emphasises the importance of processing each individual case, when administrating an application for leave. But, according to the Parliamentary Ombudsman, it is not necessary to add a broad instruction in the routine for approving a leave of absences, to "as a main rule" revoke the applications, and "on a normal basis" deny the application.

The Prison and Probation Service has provided certain relief on restrictions as a result of the Public Health Agency assessment that the risk of infectivity is low. The Parliamentary Ombudsman holds that the Prison and Probation Service must, on a continues basis, consider all relevant circumstances if there are reasons to make further restrictions.

The Parliamentary Ombudsman further calls for measures by the Prison and Probation Service to lower the risk of infectivity, for example by avoiding double quarters in cells and establishing new routines for individuals that are still at large but will be deprived of their liberty.

The Prison and Probation Service is one of Sweden's largest authorities with responsibility over more than 6000 inmates. The authority holds a socially important mission. That the authority has implemented their new routines in an appendix to a manual makes the Parliamentary Ombudsman question if the authority was prepared for the type of crises situation that the pandemic has brought. The Parliamentary Ombudsman further states that new measures that are imposed on inmates must abide by the rule of law, be justifiable and proportionate. It is critical that future surveys concerning society's ability to manage a pandemic, which has been called upon politically, will include individuals that are deprived of their liberty. (O 12-2020)

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

Enquiry initiated by the Parliamentary Ombudsman regarding whether restricted data had been exchanged between independent operations within the National Board of Institutional Care, in contravention to the Public Access to Information and Secrecy Act

During an inspection of the National Board of Institutional Care's home Hornö during March 2017, the Parliamentary Ombudsman discovered that intern's medication and state of health were discussed during meetings where several categories of staff were present. Due to these discoveries, the Parliamentary Ombudsman decided to initiate an enquiry to investigate how this routine complies with chapter 8, section 2 of the Public Access to Information and Secrecy Act.

In its decision, the Parliamentary Ombudsman states that health and medical care and the social services that the National Board of Institutional Care provides, are two different operations that are independent in relation to one another, in accordance to the Public Access to Information and Secrecy Act. Confidentiality provisions pursuant to the act therefore applies between the various branches of operations.

The Parliamentary Ombudsman notes that individual's state of health or other personal conditions should not be discussed during, for example, a meeting between different categories of staff regarding an intern's transfer, without taking the relevant confidentiality provisions into account. Given that there is some scope to interpret whether the operations in questions are independent in relation to one another, the Parliamentary Ombudsman does not direct criticism towards the authority for exchanging confidential data, in contravention to the Public Access to Information and Secrecy Act.

According to the Parliamentary Ombudsman's understanding there may be, to a certain extent, a need to exchange information between

the operations, to safeguard the individual's care. Therefore, the Parliamentary Ombudsman will propose, to the government, to initiate a review of the legislation in respect to situations that require a certain provision that applies to a situation when the confidentiality is breached. (6547-2017)

Complaint against the Armed Forces that an officer was subjected to retaliation after making social media posts. As a part of this case, the Parliamentary Ombudsman criticises the authority for slow processing of a request to disclose documents

A captain in the Armed Forces had made some social media posts about the public authority's activities. The captain was then confronted by superior commanders about his posts and was assigned a completely different position from the one held. The captain was of the view that the actions that occurred within the Armed Forces violated the prohibition against reprisals. The Armed Forces argued that the measures taken did not constitute retaliation but rather were based on the public authority's statutory obligation to safeguard the security in its operations.

The Chief Parliamentary Ombudsman notes, in the decision, that the Armed Forces have taken certain measures that are typically not permitted according to the provisions concerning a prohibition of reprisals. When the rules concerning secrecy do not constitute an obstacle, employees of the Armed Forces will also have the freedom to express their views on various issues and participate in the public debate. However, the Chief Parliamentary Ombudsman holds that such conduct may, in practice, have an impact on other aspects that a public authority will need to take into account in its activities. One such aspect may be the requirements imposed in security legislation. What this means is that even if, from the official's perspective, a public authority's action is perceived as a reprimand or a reprisal, the measure may in fact have been justified on the basis of compulsory rules that the public authority must comply with.

The Chief Parliamentary Ombudsman notes that the investigation has not shown that the measures taken within the Armed Forces have constituted impermissible retaliation. However, the Chief Parliamentary Ombudsman is of the opinion that the Armed Forces should review and clarify their guidelines and its social media handbook, so as to facilitate personnel of the Armed Forces being aware of their rights and obligations in this regard. In addition, the Chief Parliamentary Ombudsman directs criticism towards the Armed Forces for not handling a request to disclose documents with sufficient promptness. (245-2018)

The Parliamentary Ombudsman directs criticism towards the Board of Education in Avesta municipality for violating an employee's freedom of speech following a critical post on Facebook

The Board of Education held an explanatory talk with an employee as the employee had expressed certain opinions on her private Facebook page on how the municipality's politicians chose to divide the financial resources. The Parliamentary Ombudsman holds that the measure goes against the freedom to communicate information and that it limited the employee's freedom of speech. (3407-2018)

The Parliamentary Ombudsman directs criticism towards the chairman of the Municipal Executive Board in Umeå municipality for acting in violation of the prohibition against seeking to obtain certain information

During a television interview, the chairman of the Municipal Executive Board in the municipality of Umeå asked a reporter at Swedish Public Service Broadcaster (SVT) for information concerning whom had provided certain information. The Parliamentary Ombudsman finds that the question to the reporter was an unauthorised measure, and that he thus acted in breach of the prohibition against seeking to obtain certain information. The Parliamentary Ombudsman emphasises the importance of an official, representing a public authority, respecting the rules relating to the prohibition against seeking to obtain certain information. The chairman of the Municipal Executive Board, is criticised for asking SVT whom its sources were.

At a later date, the chairman of the Municipal Executive Board, was interviewed by Swedish Public Service Broadcaster about the attempt to make enquiries about the identity of the source. The Parliamentary Ombudsman finds that several of his answers and statements in that interview give reason to question his understanding and respect for the rules concerning freedom of communication and the prohibition against seeking to obtain certain information. The Parliamentary Ombudsman holds that a representative of the public should not express himself as being prepared to make enquiries about the identity of sources. The chairman of the Municipal Executive Board is also criticised for his statements in the latter interview. (4453-2018)

The Parliamentary Ombudsman directs criticism towards the Prison and Probation Service, Kumla prison, for the administration of an inmate's request to disclose copies of public documents

According to Kumla prison an inmate requested copies of a number of documents on a frequent basis, usually the request included less than ten pages. The prison decided there were prerequisites to dismiss the fact that the request for copies are free of charge when requesting less than ten pages, pursuant to section 16, paragraph three of the Fees and Charges Regulation, exempting the rule of copies being free of charge when the request is for fewer than ten documents and charge the inmate at a number of occasions instead of assessing the number of pages requested. In the decision the Parliamentary Ombudsman notes that the rule on exceptions does not support that an authority prolongs and waits to process a number of requests to later make an assessment regarding the copies and at that point impose a charge. The Parliamentary Ombudsman states that such procedure goes against the Freedom of the Press Act's condition on promptness, or, when a request if founded upon party insight, the Administrative Procedure Act's regulations on case management and service duty.

The decision also includes certain statements regarding the practice of the Fees and Charges Regulation.

An order by an employee of the Prison and Probation Service, to the inmate, to consider what documents he "really needs" contradicts the statute-regulated requirements on objectivity pursuant to the Instrument of Government. The Parliamentary Ombudsman directs criticism towards the prison for the administration of the inmates request for documents and how the prison chose to apply charges pursuant to the Fees and Charges Regulation. (5052-2019) (7896-2019)

Social insurance

The Parliamentary Ombudsmen directs criticism towards Försäkringskassan for requesting information from a bank in a case regarding sickness benefit without having legal grounds to do so

During the investigation of an individual's income Försäkringskassan requested account information from a bank with reference to the regulations regarding the obligation to give information in Chapter 110, Sections 31 and 33 of the Social Insurance Code. Försäkringskassan's right to request information pursuant to these regulations only covers investigations regarding housing allowance and supplementary benefits for housing. So forth Försäkringskassan did not have the authority to request the current information from the bank in a case regarding sickness benefit with reference to these regulations. The circumstance that the information was requested pursuant to Chapter 110, Section 33 of the Social Insurance Code gave the bank the incorrect impression that it was obligated to provide the requested information.

In its decision, the Parliamentary Ombudsman clarify that Försäkringskassan cannot request information pursuant to Chapter 11, Sections 31 and 33 of the Social Insurance Code if an individual has been granted housing allowance or supplementary benefits for housing, when the investigation concerns a different kind of case. (5933-2018)

The Parliamentary Ombudsmen directs criticism towards Försäkringskassan for requesting information from a bank about an individual, who is not the insured person, without having the legal support to do so

During the processing of a case regarding an insured person's entitlement to supplementary benefits for housing, Försäkringskassan, pursuant to the regulation in Chapter 110, Section 14 1 of the Social Insurance Code, sent a request to a bank to access account information about an individual who was not the insured person. The bank provided Försäkringskassan with the requested information. The information was registered in the insured person's case. The obtained account information was also communicated to the insured person.

The question, in this case, is whether Försäkringskassan pursuant to the regulation in Chapter 110, Section 14 of Social Insurance Code has the right to request information about people other than the insured person. According to the first point of the regulation, Försäkringskassan may ask the insured person's employer, physician, arranger of personal assistance, or any other individual who may be assumed to have the necessary information if said information is needed to assess matters of compensation or other applications of the Social Insurance Code.

In its decision, the Parliamentary Ombudsman concludes that the preparatory work for the regulation does not provide Försäkringskassan with any grounds for requesting information about any individual other than the insured person. Chapter 110, Section 14 of the Social

Insurance Code lists the legal subjects from which Försäkringskassan can make requests. This list clearly shows that the listed subjects are linked to the insured person. In the Parliamentary Ombudsman's opinions, the systematics of Chapter 110 of the Social Insurance Code and the wording of the regulation in Chapter 110, Section 14 of the Social Insurance Code goes against Försäkringskassan having support from the regulation to make a request for information about someone other than the insured person. The regulation in Chapter 110, Section 14, first paragraph of the Social Insurance Code should instead be interpreted as the authority only having the right to request information about the insured person specifically.

In the decision, Försäkringskassan is criticised for requesting information from the bank about an individual who is not the insured person without having the legal support to do so. (7011-2018)

The Social Insurance Agency is criticised for having requested a large number of documents with confidential content without demarcation in a case for compensation under the occupational injury insurance scheme

In connection with an application by AA for compensation for special aids under the occupational injury insurance scheme, the Social Insurance Agency requested, among other things, all of her existing medical records. This instruction did not include any further specification, e.g. by specifying what kind of aids were involved or to what kind of complaint the aids related. This resulted in a large number of medical records being submitted to the Social Insurance Agency. Many of these related to completely different medical issues than those relevant to the case.

In order for certain complaints to be considered to be the result of an occupational injury, it is necessary that there are overwhelming reasons for the existence of a causal link between, among other things, a specific accident and the complaint. The decision states that for the purposes of this assessment it may be necessary to request comprehensive medical background data in order, for example, to be able to investigate whether there are competing causes of injury. It is at the same time essential that there is no greater interference than necessary in the privacy of the individual. Only those documents that are needed may be requested. This means that the Social Insurance Agency must assess in each case whether and how a request for medical documents can be demarcated. In addition to this, there is a balancing of proportionality that the Social Insurance Agency must perform pursuant to Section 5 of the Administrative Procedure Act. It is therefore not permitted for the Social Insurance Agency to routinely request all material relating to a particular individual.

The Social Insurance Agency is criticised for not having demarcated its request to obtain medical records, etc. or considered whether this would have been possible. (7851-2018)

The Parliamentary Ombudsman directs severe criticism towards the Social Insurance Agency for not having investigated the possibility of adapting the forms of an investigative measure to the individual's needs

The Social Insurance Agency was aware of AA's difficulties in physically attending meetings at the agency's premises. Despite this, and despite the fact that AA asked for and suggested alternative forms of meeting, the Social Insurance Agency did not investigate this possibility. Instead, the agency withdrew AA's sickness benefit when he did not attend the meetings at the Social Insurance Agency's premises to which he had been invited. In its decision, the Parliamentary Ombudsman states that if the individual requests an adapted form of meeting or if it otherwise emerges that there is a need to adapt the planned investigative measure, it may be considered to be the responsibility of the agency to decide to what extent this is possible. In the view of the Parliamentary Ombudsman, the Social Insurance Agency should also document that such a consideration has been made.

The Parliamentary Ombudsman also confirms that an individual who objects to the forms of an investigative measure cannot be considered to have refused to participate in it until the agency has investigated the matter and has taken a position on the existence of appropriate alternatives.

In its decision, the Parliamentary Ombudsman also confirms that there is deficient justification for the Social Insurance Agency's interim decision to withdraw AA's sickness benefit. (1959-2019)

Social services

Social Services Act

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Färgelanda municipality for, in the context of an investigation, conducting behavioural observations of a 13-year-old boy in his school

Within the context of an investigation, the Social Welfare Board conducted behavioural observations of a boy almost 13-years-old in

his school. The purpose of the measure was to observe the boy's interaction with other pupils. According to the documentation in the case, the boy's guardian agreed to the observations.

The investigation shows that the boy's guardian had not received any information from the Social Welfare Board concerning how the observations were to be made. According to the Parliamentary Ombudsman, it was not clear neither to her nor to the board, what she had consented to. The Parliamentary Ombudsman notes that the case was deficiently handled in this regard.

A child must be given the opportunity to express his/her views concerning matters relating to him or her pursuant to chapter 11, section 10 of the Social Services Act. The boy was not provided the opportunity to be heard about his observations concerning the situation. This too is a deficiency in the processing of the case.

An investigation concerning a young person should be conducted in such a manner to not unnecessarily expose them to any harm or nuisance, pursuant to chapter 11, section 2 of the Social Services Act. The board must carefully consider what measures to take in the context of an investigation concerning a young person. In previous decisions the Parliamentary Ombudsman has stated that the social services should avoid, as far as possible, contacting a young person at school due to the fact that such contact cannot occur without a large number of people receiving information about it, which goes beyond what the privacy legislation allows, and therefore is generally an intrusive invasion of privacy, which violates the personal integrity of an young person.

In the present case, it was a question of a family social worker observing the boy's interactions with other pupils at school. The Parliamentary Ombudsman notes that the behavioural observations were both intrusive as well as sensitive to him and a violation of his privacy. According to the Parliamentary Ombudsman, the boy had reached such age that the latitude for carrying out a behavioural observation of him at school was considered extremely limited in view of the invasion of privacy the measure entailed. The board did not consider at all whether the need for the observations overweighed the risk of the boy being harmed by the measures. The Parliamentary Ombudsman holds that it was not appropriate for the board to carry out the behavioural observations of the boy at his school in view of his rights to protection of his privacy. In the decision, the Parliamentary Ombudsman directs criticism towards the board for the manner in which the board conducted the behavioural observations of the boy, and for the formal shortcomings mentioned above. (7898-2017)

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Falun municipality for neglecting the custodian's opinions, when the board spoke to two children during the processing of a case on child welfare

A Social Welfare Board initiated an investigation concerning two siblings as a preschool handed in a report due to concern regarding the two children. A social welfare worker contacted the children's father and informed him that a social welfare worker were going to speak to the children at the preschool. Thereafter the social welfare worker spoke to the children.

During a case on child welfare, a child may be heard without a custodian's consent and without a custodian present pursuant to chapter 11, section 10 of the Social Service Act. The Parliamentary Ombudsman has stated, in previous decisions, that a general outset should be to seek the custodians opinion, and to take it into account, to the most possible extent.

When the board contacts a custodian, prior to talking to a child, it is not satisfactory to merely inform a custodian regarding a planned talk to a child. When the board informs the custodian about the talk, the board also needs to consider the custodian's opinion. If the child has two custodians, their respective opinions should be clarified and registered in the child's case.

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Falun municipality for neglecting to ask the custodians about their opinions and for not making a registration of the custodian's opinions in the children's case. (2476-2018)

The Parliamentary Ombudsman directs severe criticism towards the Social Welfare Board in Olofström municipality for collecting and bringing two siblings to a venue that belonged to the social services, without obtaining the guardians' consent

Within the framework of an investigation regarding two siblings, a social welfare worker collected the siblings at their pre-school and took them to a venue that belonged to the social services. The guardians had not consented to the measure. Thereafter the social welfare worker

contacted the children's father, but not the children's mother. The children were then left with their father.

In an investigation on child welfare, a child may be heard without the guardians consent and without them being present, pursuant to chapter 11, section 10 of the Social Service Act.

The Parliamentary Ombudsman notes that the provision does not convey that the social welfare board may collect a child and bring a child to a place that the board see as a suitable place to hold a talk with the child concerned. A guardian or a representative of a child need to give their consent before a board collects a child. Pursuant to the Care of Young Persons Act, a board is allowed, during some circumstances, to collect a child.

In the current case, the guardians had not given their consent to have the children collected by the board and the children were not subject to an intervention pursuant to the Care of Young Persons Act. Accordingly, the board's measures did not have any legal support.

A child's guardians hold the right and obligation to decide on a child's personal matters, e.g. the child´s residence, pursuant to the Children and Parents Code. Thus, it is not up to the board to decide where a child should reside. If a child is under care pursuant to the Care of Young Persons Act, the board shall decide where the child shall reside during the time in care.

In the decision, the Parliamentary Ombudsman states that the occurrence resulted in the children residing with their fathers instead of their mother. If the board had decided that it was not in the best interests of the children to reside with their mother the board should have consulted all guardians to try to find solutions regarding the children's residence, but this did not occur. According to the Parliamentary Ombudsman's understanding the management contradicted the statute-regulated requirements on objectivity pursuant to the Instrument of Government.

The Parliamentary Ombudsman directs severe criticism towards the board for the processing of the children's case. (3233-2018)

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Vara municipality for unilaterally deciding how the custody of a child should be coordinated

A boy was under voluntary care pursuant to the Social Service Act and placed in a family home. The boy met with his custodian once each week. On two occasion in May and June, 2018, an official at the administration informed the custodian that the custody had been modified in certain respects. Among other things, the custody of the boy had been decreased to one occasion every other week.

If a child is under care pursuant to the Social Service Act it is the custodian that decides on matters regarding the child's personal circumstances, pursuant to chapter 6, section 11 and 13 of the Children and Parents Code. A social welfare board is not able to unilaterally decide how the custody is coordinated. When a question appears regarding the scope of the custody, the board should confer with the custodian to realize if it is possible to reach a mutual agreement on the coordination of the custody.

According to the Parliamentary Ombudsman's understanding, the board has acted as if the board was able to unilaterally decide on the custody. The Parliamentary Ombudsman directs criticism towards the Social Welfare Board for the deficient processing.

In the decision, the Parliamentary Ombudsman also makes certain statements on how a board shall confer with custodians regarding matters concerning the coordination of the custody. (4942-2018)

The Parliamentary Ombudsman directs severe criticism towards the Labour Market and Social Welfare Board in Trollhättan municipality for documenting child social care cases in a manner that was aimed to decrease the transparency for one guardian

In January 2017, a Social Welfare Board opened a child investigation concerning four siblings after receiving a report due to concern. The children's parents had joint custody of them at the time. In April 2017, the children's mother moved to a sheltered accommodation and took her children with her. The mother then brought legal proceedings against the children's father in a district court. In the child custody case, the court requested a custody, housing and visitation rights investigation from the board. The parties were not allowed to obtain information about, or the opportunity to comment and provide their views, on the investigation before it was submitted to the court. In the decision, the Parliamentary Ombudsman directs criticism towards the board for this occurrence.

In the children's investigations, the mother stated that she did not want to talk to the child social workers due to their obligations concerning documenting contact and information. At the request of the mother, the board arranged

to talk to a counsellor at the board's unit against violence in close relationships. The information provided by the mother at the time was significant for the children's cases, however the information was passed on to the child social workers via consultations only after the mother moved to the protected accommodation. This was done due to that the father was not

able to access or obtain copies of the information provided by the mother.

Instead of complying with the statutory requirements for documentation and then dealing with any request for disclosure of documents in the cases, the board has deliberately acted in a manner for the purpose of making it difficult for the father to gain access to them. In the decision, the Parliamentary Ombudsman strongly criticises the board for how it behaved.

To arrange the documentation in this manner at the request of one party raises further questions about the objectivity and impartiality of the board. The manner of behaviour makes it easy for outsiders to get the impression that the board has taken the side of the mother. In the decision, the Parliamentary Ombudsman points out that the board's actions were contrary to the constitutional requirements in the Instrument of Government concerning objectivity and impartiality, the board receives criticism also in this regard. (5013-2018)

The Social Welfare Board in Uddevalla Municipality is criticised for the fact that two case officers did not try to make contact with a legal guardian before travelling to her home to conduct a so-called protection assessments regarding children, etc.

An anonymous notification of concern had stated, among other things, that a guardian had left her children alone at home. The social support service decided to make a home visit immediately in order to be able to assess the children's circumstances. When the case officers arrived at the home, the children were alone there. The case officers waited in the home together with the children until the guardian came home. The children were judged at that time not to be in need of urgent protection from the board. The day after the home visit, the board opened up an investigation regarding the children.

The Social Welfare Board must open an investigation without delay into anything that has been brought to the board's attention by application, notification or otherwise and that may give rise to any action by the board pursuant to Chapter 11, Section 1 of the Social Services Act. When a notification concerns a child, the Social Welfare Board must immediately conduct an assessment of whether the child is in need of immediate protection, a so-called protection assessment (Chapter 11, Section 1 a of the Social Services Act). The question of whether or not the board should open an investigation is decided at a so-called preliminary assessment. The board must not undertake any investigative measures during a protection or preliminary assessment, but may contact the persons to which the notification of concern relates.

According to the information available, the case officers did not try to make contact with the guardian before they went to the home, nor did they go there in order to speak with her. According to the Parliamentary Ombudsman, the case officers should have tried to contact the guardian in order to check whether the information in the notification of concern was correct and ask whether the guardian would consent to a visit to her home. The Parliamentary Ombudsman criticises the board for the fact that this did not happen.

A home visit for the purpose of investigating the circumstances of children is a measure that should be taken in an investigation and not in a protection or preliminary assessment. The Parliamentary Ombudsman confirms that it is questionable whether the legal conditions existed for the home visit in question.

The Parliamentary Ombudsman confirms that the guardian had not consented to the case officers entering the home and that there was also no emergency. There was therefore no legal support for their actions. In this case, however, in view of the special circumstances, the Parliamentary Ombudsman does not find it necessary to criticise the case officers. (5219-2018)

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Flen municipality for not inquiring about an individual's need to apply for financial assistance pursuant to the Social Service Act

A man had been granted a certain support pursuant to chapter 9, section 9 of the Support and Service for Person with Certain Functional Impairments Act. The man had an administrator to safeguard his rights.

On several occasions, the man informed the social welfare board's case officer that he was not happy with his residence, and that he did not wish to live there and that he would like another

place to live. At other occasions the man expressed that he enjoyed the housing.

Support pursuant to the Support and Service for Person with Certain Functional Impairments Act is based on the requests of an individual. The man's wishes to receive support was accordingly decisive for the continuation of the support. In the decision, the Parliamentary Ombudsman express that the authority, in a situation such as the current case, when there is ambivalence, tries to motivate the individual to continue to receive support. The processing of the case demonstrated respect for the man's self-determination and well-established partnership between the man, his administrator and the board.

A matter that was raised during the investigation regarded the repeated contacts that the man had with the board and if these contacts expressed a wish to apply for aid and if the board thereby should have inquired if the man wished to apply for support pursuant to the Social Service Act. According to the Parliamentary Ombudsman's understanding the man had expressed himself in such a way that the case officer should have asked him if he wished to apply for aid.

The board seems to have been of the notion that it was up to the man's administrator to apply for support. Regardless of an administrator's commitments, an individual may, in certain situations, have their own independence. The Parliamentary Ombudsman express that support pursuant to the Social Service Act entails that an individual should be granted certain independence, in spite of the fact that there is an appointed administrator. Therefore, it was not enough to refer him to his administrator to discuss the matter.

By not clarifying if the man wished to apply for support, the board failed in their processing. (5875-2018)

The Social Welfare Board in Alingsås municipality is criticised for the fact that a unit manager at the board's administration decided to launch investigations into the situation of two siblings despite there being subject to a conflict of interest

The mother of two children worked as a caseworker at the social services in Alingsås municipality. In a report due to concern to the social services, she claimed, among other things, that the father was subjecting one of the children to violence. On the same day, a social worker made a so called protection assessment regarding the child and concluded that they were not in need of immediate protection. Later that day, a unit manager decided to launch investigations regarding the children at the Social Welfare Board's order. The children's cases were handed over to Vara municipality the next day. The municipality then conducted the investigations.

When the board receives a notification of concern regarding a child, it shall immediately assess whether the child is in need of immediate protection, pursuant to Chapter 11, Section 1 a of the Social Services Act. The board shall then take a stance on whether to launch an investigation regarding the child's situation, a so called preliminary assessment.

An official is subject to a conflict of interest when processing a case if, for example, there are special circumstances which are likely to undermine confidence in the impartiality of a party administering a given case, known as disqualification due to discretion, pursuant to Chapter 6, Section 28 and Chapter 7, Section 4 of the Local Government Act. A person subject to a conflict of interest may not participate in or be present in the processing of the case, pursuant to Chapter 6, Section 30 of the same act. He or she may, however, take measures which cannot be taken by anyone else without significantly delaying the processing.

According to the Parliamentary Ombudsman, the current case constitutes a disqualification due to discretion.

The Parliamentary Ombudsman states that a protection assessment constitutes a position which cannot be delayed and as such has no complaints regarding the fact that the social worker conducted the protection assessments regarding the children's situation despite the conflict of interest.

Regarding the unit managers decision to launch investigations into the children's situation, the Parliamentary Ombudsman concludes, among other things, that they did not need immediate protection at the time and that the cases were handed over to Vara municipality as early as the day after the decision. According to the Parliamentary Ombudsman, the board should have allowed Vara municipality to take a decision on whether the investigations into the children's situation should be launched or not. As such, the board should not be exempted from criticism for the fact that the unit manager decided to launch investigations into the children's situation despite there being a conflict of interest. (2337-2019)

Complaint against Södermalm District Board in Stockholm municipality regarding the prolonged placement of a girl about to turn 16 in an emergency foster home despite one of her guardians no longer consenting to the placement

A girl who would soon turn 16 received voluntary care pursuant to the Social Services Act, and was placed in a so called emergency foster home. The girl's mother notified the board that she no longer consented to the placement. The girl refused to leave the emergency foster home and stayed there for a short period of time. She and her guardians later agreed to her being placed in another emergency foster home.

The Parliamentary Ombudsman concludes that a decision to place a child in an emergency foster home pursuant to the regulations of the Social Service Act presumes that the child's guardians and the child themselves, provided they are over the age of 15, consent to the intervention. If a guardian or the child retracts their consent after the placement decision has been made, there are no longer any grounds for continuing the placement. If the board believes that continued placement is necessary for the child, it can under certain circumstances act pursuant to the regulations of the Care of Young Persons (Special Provisions) Act.

The girl's placement in an emergency foster home could therefore not continue as one of the guardians had retracted their consent. There are also no grounds for intervention pursuant to the Care of Young Persons Act. At the same time, the girl had reached an age where she could not be removed from the emergency foster home against her will. The Parliamentary Ombudsman concludes that in a situation of this nature, the board must actively try to find a solution that is acceptable to both the child and their guardians.

The investigation shows that the board spoke to both the girl and the mother, while simultaneously looking for a new emergency foster home for her. Based upon what the investigation shows regarding the board's actions in the situation in question, the Parliamentary Ombudsman does not find reasons to direct any criticism towards the board due to the girl remaining at the emergency foster home. The Parliamentary Ombudsmen does, however, point out that the board should have decided to end the placement when one of the guardians retracted to the consent. (2776-2019)

Care of Young Persons (Special Provisions) Act (LVU)

The Parliamentary Ombudsman directs severe criticism towards the National Board of Institutional Care, Tysslinge residential home, due to staff members restraining an inmate in contravention to chapter 2, section 6 of the Instrument of Government

In September 2017, the Parliamentary Ombudsman conducted an Opcat inspection of the National Board of Institutional Care's residential home for young people Tysslinge. During the inspection it became clear that an inmate at the home, AA, at one occasion in June 2017, had been restrained to the floor when he had become aggressive.

In the decision, the Parliamentary Ombudsman states that staff members naturally may not develop a notion that it is possible to, alongside the capacities of the Care of Young Persons Act, obtain other capacities that in reality gives the staff, in contravention to chapter 2, section 6 of the Instrument of Government, an ability to exercise coercive measures. By how the National Board of Institutional Care has described the situation there was, according to the Parliamentary Ombudsman's understanding, reasons to seclude AA pursuant to section 15 c of the Care of Young Persons Act. However, no decision to seclude AA was taken and AA was not brought to a secluded room. Instead, the inmate was restrained until, according to the staff, he had calmed down. In neither the records nor in the head of the institution's account of the course of the events there was a statement that indicated that the purpose of the measure was to bring AA to a secluded room. According to the Parliamentary Ombudsman's understanding, it appears as if the staff restrained AA to the floor without the intention to seclude AA.

The Parliamentary Ombudsman states that the situation did not suggest that there were legitimate grounds for the staff to restrain AA to the floor instead of secluding him. When AA was restrained, the constitutional constraint on the protection of each individual's bodily integrity, pursuant to chapter 2, section 6 of the Instrument of Government, was violated.

The Parliamentary Ombudsman directs severe criticism towards the National Board of Institutional Care's home Tysslinge and further states that this occurrence is naturally completely unacceptable. The Parliamentary Ombudsman assumes that the National Board of Institutional Care immediately will make efforts to educate

staff members as well as hold general discussion on the boundaries of certain capacities.

The Parliamentary Ombudsman will send a copy of this decision to the Health and Social Care Inspectorate and the National Board of Health and Welfare. (6774-2017)

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Motala municipality for shortcomings in the handling of a case concerning the removal and re-placement of two siblings

The chairperson of a Social Welfare Board decided to remove and place two siblings, who were being cared for pursuant to sections 1 and 2 of the Care of Young Persons Act, and the special provisions concerning care of young persons, and change the placement of the two siblings from a foster family home to an emergency foster home. They had lived in the foster family home for over four years.

An investigation into the relocation of children must be conducted unconditionally and should highlight the advantages and disadvantages of any removal and re-placement. As with all decisions pursuant to the Care of Young Persons Act, what is in the best interests of the child, shall be decisive for whether or not a removal and re-placement should take place.

The board's investigation did not apply whether the siblings could be removed and placed elsewhere, but primarily concerned the conditions in the foster family home and its suitability as a foster family home. The siblings' situation in the foster family home and how the siblings could be affected by a removal and re-placement were not touched on at all in the investigation. Neither the children nor the guardian were given the opportunity to be heard during the investigation. The Parliamentary Ombudsman criticises the board for its inadequate investigation for the removal and re-placement of the siblings.

The chairperson of a Social Welfare Board has the right to take a decision on the removal and re-placement of a child only if the board's decision cannot be awaited, pursuant to chapter 11, section 3 of the Care of Young Persons Act. However, this decision-making authority is intended to be used only in urgent situations, i.e. when a child must be immediately removed from the existing foster family home.

According to the Parliamentary Ombudsman, the siblings' situation in the foster family home was not urgent when the chairperson of the board made the decision concerning the removal and re-placement of the siblings. The chairperson should therefore have refrained from deciding for himself that the siblings should be removed and placed elsewhere and instead have allowed the board to examine and decide on the matter. The Parliamentary Ombudsman also directs criticism towards the board. (3471-2018)

Criticism of the Social Welfare Board in Motala municipality for its handling of a case of a thirteen-year-old child having sexual relations with a sixteen-year-old, during their time in a foster home

The child AA was under care pursuant to the Care of Yong Persons Act and placed in a foster home. When AA was 13 years old, the foster home found out that AA had an older girlfriend who was 16 or 17 years old, and that AA and the girlfriend had a sexual relationship. The foster home turned to social services for help in handling the situation. The Social Welfare Board did not report what had happened to the police and the board did not launch an investigation pursuant to Chapter 11, Section 1 of the Social Services Act, to clarify whether AA needed support and help. Instead, the social services told the foster home to speak with AA about the importance of safe sex. Eventually, AA's mother reported the situation to the police.

In its decision, the Parliamentary Ombudsman concludes that since AA is in societal custody, the Social Welfare Board had a far-reaching responsibility for him. Against the background of the information provided by the foster home, the board should have launched an investigation immediately to comprehensively illuminate AA's situation. The board is criticised for not launching an investigation.

In its reply to the Parliamentary Ombudsman, the board claimed that it considered reporting the situation to the police, but that it decided not to do so. The board's assessment was however not documented. In its decision, the Parliamentary Ombudsman comments on the distribution of roles between the Police Authority and the Prosecutor Authority on the one hand and the Social Welfare Board on the other in cases where a child might be subjected to, for example, sexual offences. According to the Parliamentary Ombudsman, the Social Welfare Board shall form its own opinion regarding a child's needs for measures aimed to protect and support, independently of a potential police investigation and the evaluation of a prosecutor. If a Social Welfare Board decides not to report a suspected sexual offence involving a child to the police, this assessment must be documented.

The Parliamentary Ombudsman criticises the board for its lack of documentation.

In conclusion, the Parliamentary Ombudsman establishes that children under the age of 15 needs absolute protection against sexual actions. The information provided to the social services by the foster home indicated that AA was the victim of a serious crime, making the decision to advice the foster home to talk to AA about the importance of safe sex questionable. The Parliamentary Ombudsman directs criticism towards the Social Welfare Board for this occurrence. (6874-2018)

The Parliamentary Ombudsmen directs severe criticism towards the Social Welfare Board of Kristinehamn municipality for taking a young person into care on two occasions without there being a decision to do so

In January 2018, AA was taken into immediate custody pursuant to Section 6 of the Care of Young Persons (Special Provisions) Act. AA was placed at the National Board of Institutional Care's residential home for young people in Lövsta. The Social Welfare Board then submitted an application that he should be afforded care pursuant to the Care of Young Persons Act.

On 26 February 2018, the Administrative Court rejected the board's application for care. The judgement was received by the Social Services Department of Kristinehamn municipality on the same day. However, the judgement was not forwarded to the right unit within the administration. As a result, the residential home was only informed the day after, 27 February 2018, and AA was sent home.

On 27 February 2018, the board's chairmen decided to renew the custody of AA pursuant to Section 6 of the Care of Yong Persons Act. The decision was enforced on 9 March 2018 with assistance from the police. On the same day as the decision was enforced, the Administrative Court decided to revoke the decision to take AA into immediate care. This decision was received by the board on the same day but was, in the same manner as the judgement by the Administrative Court left unprocessed and not forwarded to the correct unit. The police was only notified the next day, 10 March 2018, and AA was released.

In its decision, the Parliamentary Ombudsman concludes that the board, on two occasions within the span of a few weeks, has failed in its processing of pronounced judgements and decisions. Both instances have resulted in AA being taken into care without any valid decisions to do so. This is, of course, unacceptable, and the board is severely criticised for what happened.

The Parliamentary Ombudsman also states that when care for a person has ended due to the Administrative Court rejecting the board's application for care, the basic assumption is that the board shall comply with the decision of the court. In order for the board to make a new decision regarding care, new circumstances must have arisen, as a rule.

The Parliamentary Ombudsman concludes that the Administrative Court did not question AA's need for care in its 26 February 2018 judgement. Rather, the application was rejected as it was deemed that the care could be provided voluntarily. At this stage, no new information had been presented, and as such, the situation did not call for taking AA into care as of 27 February 2018. The board's chairman is criticised for making such a decision in spite of this. (1356-2019)

Family law

The Parliamentary Ombudsman directs severe criticism towards the Employment and Social Welfare Board in Lidköping municipality for deficiencies in a child custody investigation

During a dispute at a District Curt in a case regarding, among other things, the custody of a child, the District Court made a request to process a so-called child custody investigation. The investigation was conducted by two officials of the social services office in Lidköping municipality.

During the child custody investigation, the officials that managed the investigation held talks with the children's father and mother. During the talks the mother expressed that the father had exposed her to violence and threats. The father dismissed the claims. In spite of the fact that there was contradictory remarks regarding the violence and threats, the investigators formulated the investigation in such a way that this could be perceived.

The Parliamentary Ombudsman states that these types of issues are not unusual in a child custody investigation, and there may be other information, in a case, that make it difficult to assess the accuracy in a certain situation. In these cases, it is crucial that the investigator reports why he or she dismisses or trusts the information given. During the evaluation of certain information the investigator should consider, among other tings, if the information is rich in detail, free from contradictions and exaggerations, as well as check if similar information is handed in by other sources.

In the current case it is clear that the investigators have based their case on the information that the mother has given. In the child custody investigation there were no written statement regarding why the assessment was based on the mother's information as oppose to the fathers. Nor is there any assessment on how to value the contradictory information, therefore it is difficult to assess the statements in the investigation in any other way than as a standpoint for the mother. The investigation does not live up to the statutory requirements on objectivity that a child custody investigation needs to abide by. The Parliamentary Ombudsman directs severe criticism towards the Employment and Social Welfare Board in Lidköping municipality.

In this particular case the Parliamentary Ombudsman finds reasons to send a copy of the decision to the Family Law and Parental Support Authority. (7815-2018)

The Parliamentary Ombudsman directs severe criticism against an assistant unit manager at Hässelby-Vällingby District Council in Stockholm municipality for opposing enforcement and overseeing a court's decision concerning visitation

A district court granted a provisional order on 7 June and 13 September 2018 on the application of one party in a child custody case that a child should be entitled to visitation with their mother to a certain extent in the presence of social access support appointed by a District Council's family matters unit. At the family matters unit, the deputy head of unit was authorised to arrange for social access support on behalf of the board.

Once a court has ruled on visitation with social access support, the board must appoint someone to participate during the visitation sessions, pursuant to chapter 6, section 15 c of the Children and Parents Code. Following the decision of the court, the board only has an implementation role.

The deputy head of unit was well aware of the division of responsibilities and authority between the board and the court, and that it would not hear an appeal of the decision concerning visitation made by the court. Despite this, the deputy head of unit contacted both the parties and the district court to explain that the board had not planned on implementing the court's decision.

In the decision, the Parliamentary Ombudsman directs severe criticism towards the deputy head of unit for deliberately overriding or ignoring the court's decision.

From an investigation into the matter, it has been seen that it has been the practice of the board to appoint as many as six different persons as social access support in a single case, but no assessment is made in the individual case of whether or not there are circumstances that may justify several persons being appointed. In the decision, the Parliamentary Ombudsmen notes that this is clearly contrary to the manner in which it is intended pursuant to the provision in chapter 6, section 15 c of the Children and Parents Code.

The review has also shown that the board has a deficiency in terms of knowledge and understanding of its own delegation procedures and rules. At the request of one party in the custody case, the board also sent a submission to the district court where the board stated that the visitation was not compatible with the best interests of the child.

In the decision, the Parliamentary Ombudsman strongly criticises the District Council for the shortcomings in the proceedings and for acting in violation of the constitutional requirements in the Instrument of Government on objectivity and impartiality. (8055-2018)

The Parliamentary Ombudsman directs severe criticism towards the Social Welfare Board in Luleå Municipality for the fact that two social workers helped a parent to respond to a writ of summons from the other parent in a family case

In a case regarding housing and visitation pursuant to the Parental Code, two social workers helped a parent respond to a writ of summons. The two social secretaries drew up a statement, which was added to the written response.

In its decision, the Parliamentary Ombudsman states that when two social workers help one parent to respond to a writ of summons, in the way that occurred in this case, it is almost inevitable that the parent who has brought the action will perceive that the administration has taken a position against him or her. In this situation, the social workers are almost assuming the role of the responding parent's representative, and such action goes far beyond both the board's remit and what can be considered to fall within the constitutional requirements for objectivity and impartiality (see Chapter 1, Section 9 of the Instrument of Government). This is something that neither the board nor individual social workers may engage in. The Parliamen-

tary Ombudsman also notes that many of the circumstances described in the statement in question were contentious, and that the statement is not limited to an account of the actual circumstances, but that it contains assessments of the issues being examined in the ongoing family case. According to the Parliamentary Ombudsman, the statement as such and the manner in which it was created cannot be perceived in any way other than as the adoption of a position for the respondent parent.

The Parliamentary Ombudsman confirms that the proceedings were not executed in accordance with the requirements of objectivity and impartiality as set out in Chapter 1, Section 9 of the Instrument of Government. The Parliamentary Ombudsman directs severe criticism towards the board for its handling of the case. (4302-2019)

Other areas

The Chief Parliamentary Ombudsman directs criticism towards the Companies Registration Office for handing out deficient information on the registration of a company representative etc.

On August 1, 2017, the Act on the Registration of Representatives entered into force. Pursuant to the act, and the preceding provisions, a large number of legal entities, including small companies and associations, are obligated to register their company representative to the Companies Registration Office. Pursuant to the main provision, the registration must be filed digitally, unless certain exceptions apply. The Chief Parliamentary Ombudsman has received several complaints by individuals claiming that a digital register resulted in difficulties for them to fulfil their statutory obligations.

The Chief Parliamentary Ombudsman directs criticism towards the Companies Registration Office for handing out deficient information to a large number of legal entities in connection to the entry into force of the Act on the Registration of Representatives, and for making the register of an application needlessly difficult by not providing access to the application. It is also evident, according to the Chief Parliamentary Ombudsman, that the Companies Registration Office did not ensure that concerned officials had received adequate knowledge on how the new provisions should be applied, which is not acceptable. (267-2018)

An issue of whether complaints filed with the Equality Ombudsman should be dealt with as complaint cases

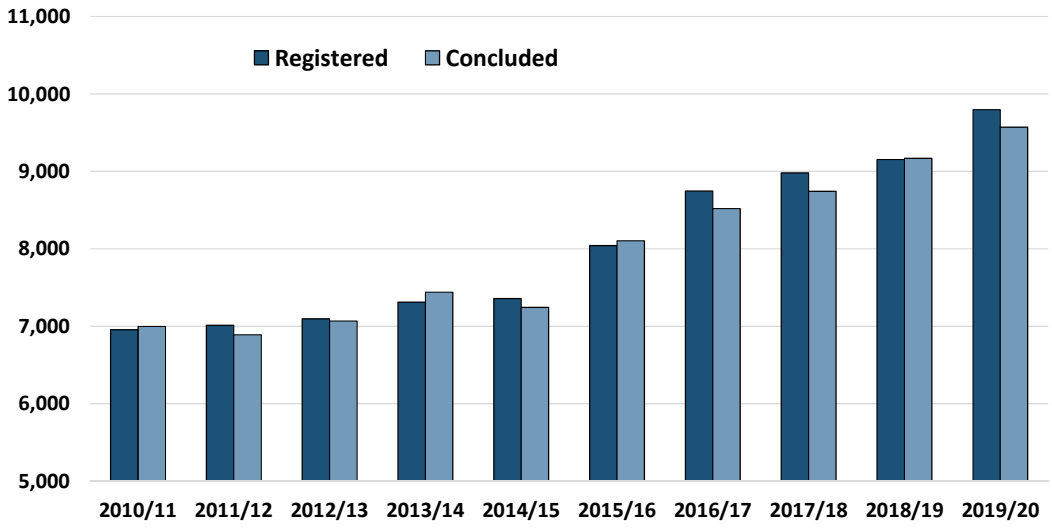
During an investigation of complaints regarding slow processing, it emerged that complaints filed to the office of the Equality Ombudsman are not initiated as cases before the Ombudsman. In addition, the complainants are not informed if the office of the Equality Ombudsman chooses not to initiate a case based on the information contained in a complaint. The core question in the case is whether it is acceptable that a complainant does not receive any information in cases where the Equality Ombudsman chooses not to initiate supervision based on the information contained in a complaint. One consequence is that the complainant does not know if or when the Equality Ombudsman has taken a position concerning the matter.

In the decision, the Chief Parliamentary Ombudsman states that she does not consider herself to be able to criticise the Equality Ombudsman for the way in which the Equality Ombudsman handles complaints received from individuals that does not lead to supervision, due to there not existing any regulation or expressly appear that the Equality Ombudsman must deal with complaints from individuals. According to the Chief Parliamentary Ombudsman, it is however a reasonable requirement for the Equality Ombudsman, in its communication with the public, to make clear that a complaint does not necessarily lead to a case and of the consequences for this. Such information is particularly important due to that complaints to the Equality Ombudsman were previously considered to lead to new cases and the cases were closed by decision. The fact that the Equality Ombudsman is able to assist individuals in court, places specific demands for clarity in the information. According to the Chief Parliamentary Ombudsman, individuals should have access to relevant information already in connection with considering to submit a complaint. For example, it seems it should be possible to provide the information on the Equality Ombudsman's website and in the complaint forms of the Equality Ombudsman. It could also be useful if the information was dated on the form sent to the complainant when a complaint is received by the Equality Ombudsman. (5889-2018)

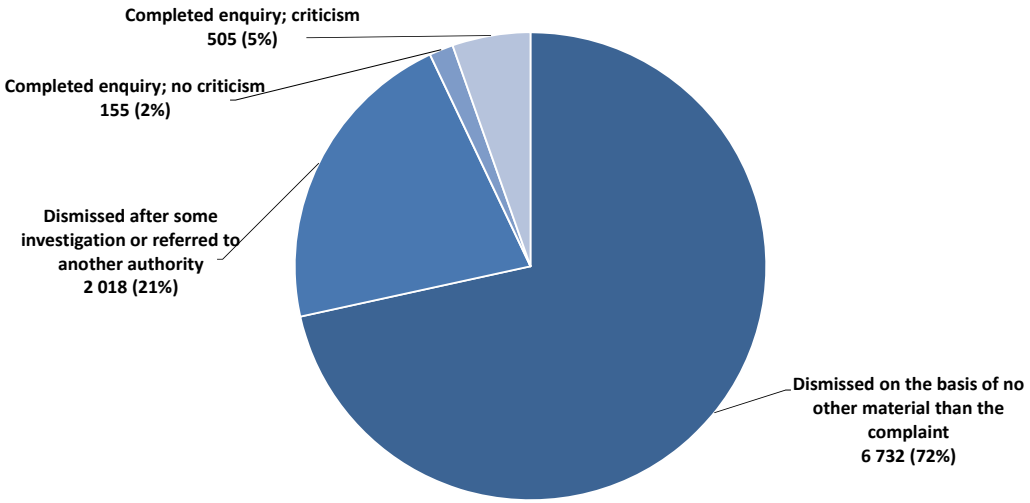
Statistics

Statistics

Development of complaints received and initiatives in the last 10 years



Decisions in complaints and initiatives 2019/20, total 9,410



Registered complaints in the last 5 years

Area	2015/16	2016/17	2017/18	2018/19	2019/20
Adm. of parliament and government office	18	76	33	48	33
Administrative courts	110	117	121	167	168
Armed forces	16	23	27	21	17
Chief guaridans	91	92	86	83	220
Communications	300	241	217	184	231
Complaints outside jurisdiction	221	169	202	285	233
Courts	338	351	369	377	406
Culture	31	25	28	15	24
Customs	7	14	17	16	16
Education	269	303	380	347	480
Employment of civil servants	84	88	121	116	– [1]
Enforcement	165	265	222	179	220
Environment and health protection	186	191	284	208	277
Housing	8	8	13	6	10
Labour market	215	218	258	276	254
Medical care	330	334	361	314	587
Migration	577	920	636	709	608
Other municipal matters	146	148	120	130	199
Other public administration	104	112	96	147	134
Other regional matters	30	29	14	28	29
Planning and building	251	249	219	239	251
Police	1,010	907	1,032	1,010	1,107
Prison and probation	993	913	934	1,071	1,378
Prosecuters	161	160	164	180	209
Public access to documents, freedom of expression	492	525	521	548	– [2]
Social insurance	350	615	735	753	860
Social services incl. LSS	1,203	1,374	1,451	1,418	1,690
Taxation	179	137	165	183	162
Sum	**7,885**	**8,604**	**8,826**	**9,058**	**9,675**

1) Cases concerning employment of civil servants are from this year included in the area of public administration to which they belong. This year 145 such cases have been registred.
2) Cases concerning public access to documents are from this year included in the area of public administration to which they belong. This year 624 such cases have been registred.

Concluded complaints and most criticized

Most complaints 2019/20

Area of supervision	Concluded complaints
Social services	1,690
Prison and probation	1,378
Police	1,107
Social insurance	860
Accss to public documents	624
Migration	608
Health and medical care	587
Education	480
Courts	406

Most criticised 2019/20

Area of supervision	Criticism	Percent of complaints
Social services	119	7 %
Prison and probation	92	7 %
Access to public documents	87	14 %
Social insurance	54	6 %
Health and medical care	34	6 %
Planning and building	30	12 %
Police	22	2 %
Migration	19	3 %
Courts	16	4 %

Inspections 2019/20

Regular inspections

Institution	Amount
Courts	1
Forensic psychiatry	1
Migration	2
Municipalities, environment/planning	1
Municipalities, social welfare boards	6
Police	2
Prison and probation	3
Social insurance	1
Unemployment insurance fund	2
Inspections sum	**19**

Opcat inspections

Institution	Amount
Forensic medicine questionnaire	1
Institutional care (SiS)	5
LSS home	1
Migration detention unit	3
Police cells	6
Prisons	4
Prison and probation questionnaire	1
Psychiatric wards	3
Remand prisons	2
Opcat inspections sum	**26**

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