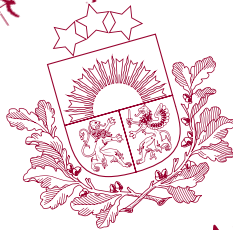


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Atzinums

OMBUDSMAN REPORT 2007

4. gada 2007.
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Dear reader,

I am happy to present for your evaluation the first, 2007, Annual Report, which summarises information on what our institution has achieved during the first year of operation and analyses current problems of human rights and good administration in Latvia.

Adherence to human rights and the principle of good administration is one of the corner stones of an efficient and proper state administration in a modern democratic system. Mechanisms, such as regulatory acts, control and monitoring institutions, which oversee that the state administration works in favour of the people and observes their rights, etc., have been put in place to ensure human rights and the principle of good administration. One element of this mechanism is the institution of ombudsman, or “Defender of Rights” in Latvia. The process of establishment of the Ombudsman office in Latvia was complicated and long – for several years it was accompanied by political and social discussions on whether such an institution is necessary, scope of its activity, financing and process of creation. Finally, after passing the Ombudsman Law on 6 April 2006, on 1 January 2007, the Ombudsman Office was created on the basis of the Latvian National Human Rights Office. I find it not only a major event in my and every individual’s life, but also a very significant achievement in the overall development of democracy in Latvia.

A lot of work was done during the first year. My priorities were, firstly, consolidation and stabilisa-

tion of the institution – it included creation of the office infrastructure, doubling the number of employees, resolving the problem of office premises, etc. Secondly, work was undertaken to strengthen the rights of persons in Latvia, paying particular attention to the defence of the less protected social groups, for example, protection of children’s rights, prevention of discrimination of low-income individuals and addressing current problems in the fields of civil, political, social and economic rights. Assessment and implementation of the principle of good administration in the State administration also has had a significant role. I also consider important the increase of the Ombudsman’s role in the State development process, strengthening the rule of law and democracy.

In 2007 the office received a total of 5122 complaints. In my opinion, the large number of complaints is not related only to the existing human rights’ and good administration problems in the country, which demonstrates the need for efficient operation of the Ombudsman institution in Latvia, but also to the fact that people are starting to assess their rights and means of protection thereof, which is a positive trend. Analysis of the content of the complaints shows that the most current issues in society in the last year were the right to housing, the right to a fair trial, adherence to the principle of good administration in the State administration, the right to social security, discrimination problems, torture, prohibition of inhumane and humiliating treatment and punishment, the right to freedom and other issues. Yet, addressing complaints is only one part of our work. The office also strives to con-

tribute to the analysis of legal acts and research of observation of human rights and the principle of good administration in Latvia. During the last year, the office staff have organised inspections of State and municipal institutions – closed and semi-closed institutions, custody courts, parish courts and educational establishments. We have also carried out significant educational work – employees of the office have participated in 90 different events: lectures, seminars, discussions, conferences concerning aspects of human rights, discrimination and good administration. I believe it is important to establish the image of an open and accessible institution, therefore I have tried to meet people and provide consultations in person. During 2007, I provided 84 oral consultations in total.

Here I would like to stress future goals and priorities for 2008. The goal areas for 2008 are the amount of social security provided by the State, the rights of disabled children, the right to a fair trial, issues of the right to housing, the principle of good administration in the State administration, etc. We have planned visits to incarceration places, including those for juveniles, psychoneurological hospitals, social care centres, etc. A large amount of work will be constituted by informing people on their rights, organising regional seminars, issuing

informative materials and performing other information-related activities to improve the understanding of individuals and institutions about the goals, role and authority of the Ombudsman.

Finally, I would like to thank all those who have helped in the process of creation of the Ombudsman Office and our employees for their work during this year. I would also like to emphasise that, in order to make Latvia a country where a person's rights are observed and the state administration works in accordance with principle of good administration, it must be understood that not only the Ombudsman has to perform according to the best conscience and not only State officials and civil servants must act according to the law. To support the overall development of democracy and rule of law in the country, everyone must act according to these principles in his or her words and deeds.



Respectfully yours
Ombudsman Romāns Apsītis

CREATION OF THE OMBUDSMAN INSTITUTION

Office of Ombudsman of the Republic of Latvia started operating on 1 January 2007, when the Ombudsman Law came into effect, however, the history of its creation dates back for more than ten years.

One of proposals in discussion regarding the protection of human rights taking place in the Parliament in 1995 was to create an independent institution based on the Scandinavian ombudsman precedent. It was decided, however, that the State was not ready for the creation of such an institution and, therefore, on the basis of the national programme “Protection and improvement of human rights”, UN Paris Principles relating to the status and functioning of national institutions for the protection and promotion of human rights and the experience of a similar institution in Australia, the Latvian National Human Rights Office (hereinafter referred to as epy LNHRO) was created.

Therefore, despite the establishment and successful operation of the LNHRO, there was an ongoing social discussion about the creation of an ombudsman institution. The main reason for this discussion were the situations when State and municipal authorities violated personal rights, however, this violation was not related to human rights and the individuals were unable to defend their rights in a proper manner. The LNHRO could not help either, because matters of such kind were not in the LNHRO’s scope of competency.

Actual procedures on the creation of an ombudsman institution were commenced in August 2000, when a task force for development of concept of Latvian Ombudsman was assembled by initiative of the State President Vaira Vīķe-Freiberga. On 16 January 2001 the draft concept was submitted to the State President and the discussion began. On the basis of proposals expressed during the discus-

sion and opinions of foreign experts, a draft law the “Ombudsman Office Law” was created in 2002.

The draft provided for the creation of the Ombudsman Office on the basis of the LNHRO and distribution of competency among five ombudsmen with equal authority: an ombudsman of general human rights; ombudsman of children’s rights; municipal ombudsman; ombudsman of legal, internal and military affairs and ombudsman of procedural rights. This model was faced with negative criticism by the experts, because a fragmented institution with multiple independent ombudsmen arouses confusion in society as to which one should be addressed and also contributes to the overlapping of competencies.

2003 saw the creation of a new task force under the Chancery of the State President, which was assigned the task to develop a draft law regulating the institution of the ombudsman. The task force selected a new institution approach providing for the expansion of the authority of the LNHRO, and in 2006 the Ombudsman Law was accepted by the Parliament.

The Law states that the Ombudsman is an independent official elected by the Parliament, whose main tasks are encouragement of the protection of human rights and promotion of a legal and expedient State authority according to the principle of good administration. No persons or State or municipal authorities have the right to influence the performance of the Ombudsman’s functions and tasks. To ensure the activity of the Ombudsman, the Ombudsman Office is established.

The Ombudsman Law states the following functions of the Ombudsman:

1) The Ombudsman acts to protect the rights and legal interests of a person in situations when State and municipal authorities have breached the human rights defined by the Constitution and international human rights' documents.

2) The Ombudsman works to ensure equal treatment and prevention of discrimination. The Ombudsman can deal with complaints in case of discrimination or violation of the principle of equal treatment not only by State authorities, but also by private individuals or legal entities.

In cases, when a violation of the principle of equal treatment is detected, the Ombudsman is entitled to prepare an application on behalf of the person and to represent the person in hearings of civil cases in court.

3) The Ombudsman evaluates and promotes adherence to the principle of good administration in State administration.

Persons may apply to the Ombudsman with a complaint in regard to all the aforementioned matters and demand prevention of the violation of rights. If a breach is detected, and if it is necessary for the benefit of society, the Ombudsman may represent the rights and interests of a private individual also in an administrative court.

4) The Ombudsman reveals imperfections in regulations and application thereof connected with adherence to human rights and works to eliminate such imperfections. For example, the Ombudsman is entitled to submit reports on certain matters to the Parliament, State President, Cabinet of Ministers, State authorities and international organisations or to file an application for bringing a case to Constitutional Court, if the authority, which has passed the debatable regulation, has not eliminated the imperfections within the specified time limit period.

5) The Ombudsman works to enhance the public awareness of human rights, the mechanisms of protection of these rights and the work of the Ombudsman. Once a year, the Ombudsman prepares a written report on the work of the Ombudsman Office, elaborates and distributes information on human rights and the principle of good administration guaranteed by law and international commitments of Latvia, stages seminars and conferences, informs the mass-media, etc.

In order to carry out the aforementioned functions, the Ombudsman is granted with an extensive range of authority, including the right to instigate inspection procedures (by personal initiative as well), the right to arrive at any company, organisation or institution subjected to inspection and get familiarised with data necessary for the inspection, the right to visit closed institutions without special approval, to freely move within the territory of an institution, to visit all premises and meet persons held in closed institutions, the right to hear a child's opinion without the presence of other persons, if the child desires so, the right to apply to a court in order to protect the rights and legal interests of persons.

The Ombudsman of the Republic of Latvia was meant to commence work on 1 January 2007. Unfortunately, active search for candidates for this post was delayed until December 2006 and, as a result, at the start of 2007, the Ombudsman institution lacked an approved chairman. Yet, since the Ombudsman Office was established on the basis of the LNHRO and all former LNHRO employees agreed to work in the new institution, it was able to commence work.

On 1 March 2007, the former judge of the Constitutional Court Romāns Apšītis was approved by the Parliament as the first Ombudsman of the Republic of Latvia with an absolute majority of 70 votes.

One of the first significant actions was the expansion of the institutional capacity, including additional recruitment of employees. The Ombudsman Office structure was created taking into account the provisions of the Ombudsman Law and the opera-

tional experience of the LNHRO. A new unit – Department for Good administration, was founded, and assigned the task of promotion of adherence to the principle of good administration in the State administration. The other brand-new unit is the Department for Human Rights, which is responsible for ensuring human rights in Latvia and consists of several subdivisions as provided for by the international human rights collection.

The Department for Prevention of Discrimination and the Department for Children's Rights were retained from the old structure of the LNHRO. The

reason is that the Ombudsman in Latvia acts both as a children's ombudsman and promoter of equal treatment. Furthermore, these units are co-operation partners of similar institutions abroad. The administrative capacity of the office was improved as well and an Information and Communication Department was created to handle external and internal communication of the office, carry out different informative projects, handle contacts with the mass media, support other units in the organisation of informative events, etc. The Information Centre is operating under this department.

REVIEW
OF OMBUDSMAN'S WORK IN 2007

CIVIL AND POLITICAL RIGHTS

In 2007, the Ombudsman received a total of 1585 complaints concerning issues of civil and political rights. 946 of these were written and 639 verbal.

The majority of complaints, as it was the case with the LNHRO, were about the right to a fair trial. Quite frequently people appealed to the Ombudsman in cases of possible violation of the right to privacy. Meanwhile, the number of complaints about other areas of civil and political rights was small in 2007. For example, there were only 2 complaints concerning the right to vote and to stand for election. It can be explained by the fact that there were no parliamentary or municipal elections in

2007 and this issue was not on the agenda. There were few complaints concerning a person's right to exercise public service and the right to freedom of thought, conscience and religion, therefore these aspects will not be analysed in this report.

In early 2007, a case about compliance of Section 68 of the Law on Medical Treatment was brought to the Constitutional Court after a 2006 request by the LNHRO. This legal document did not prescribe a person's right to challenge a decision of forced hospitalisation in court. It must be noted, though, that after the case was initiated, the Parliament adjusted the Law and the case was quit.

PROHIBITION OF TORTURING, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

IN INCARCERATION PLACES

The European Court of Human Rights (hereinafter referred to as the ECHR) has repeatedly stressed that incarceration by itself causes suffering to a person, however, such suffering must not be too great. It also means that acceptable conditions must be ensured for inmates. The Ombudsman recognised several problems related to this aspect in Latvia. The main one is that conditions in places of incarceration still do not meet the set human rights standards, because the government does not provide sufficient funding for repairs and renovation. The large number of received complaints confirms it: 86 inmates addressed the Ombudsman during the year.

Most often the persons located in places of incarceration complained **about poor conditions in penalty wards, quarantine cells**, especially stressing the lack of ventilation and daylight in cells and an excessive number of people in a cell. According to the number of complaints, the prisons of Daugavpils, Jēkabpils and Jelgava, as well as the Central Prison, are the worst affected.

According to the Ombudsman Law, the Ombudsman and its staff may visit closed institutions at any time without special approval, to freely move across the territory, access all premises and meet persons held in closed institutions.

In 2007, employees of the Ombudsman office performed 15 visits to places of incarceration with the aim of verifying the data mentioned in complaints, hearing the opinion of inmates, evaluating the conditions in places of incarceration, provide recommendations to the prison administration and control the implementation of these recommendations. A three-day-long complex monitoring visit to the Jelgava Prison was also carried out.

Inspections revealed significant violations of human rights. For example, the penalty ward of the Pārlielupe Prison, which has an area of 6 m² and is designed for two persons, held five persons at the time of inspection. It is equipped with only two wooden bed planks and inmates revealed to the Ombudsman that two persons must share one bed plank during the night or sleep under the beds on a mattress laid on the concrete floor. The table in the middle of the cell is sufficient for one person only, so all others are forced to stand while eating. The toilet facilities are dirty and not isolated from the rest of the space. There is no separate sink with cold water in the cell, so the inmates are forced to wash themselves and do the washing-up over the lavatory, where the water tap is located.

The Ombudsman addressed the Ministry of Justice and pointed out that conditions in the Pārlielupe Prison are unacceptable not only due to the living conditions, but also due to the relationship of the staff and inmates. If the situation in this prison is not resolved, it can become dangerous and endanger the health and lives of not only the inmates, but also persons living near the prison territory. In the light of this, the Ombudsman believed that the Pārlielupe Prison should be closed.

Unfortunately, the recommendation was not implemented – the Ministry of Justice replied that renovation of this prison is supposed to take place during 2011-2014, the only improvement was the transfer of 17 inmates to other places of incarceration.

Nevertheless, in several cases the recommendations by the Ombudsman were observed. For example, during a visit to the Jēkabpils Prison it was discovered that toilet facilities in the penalty wards were not isolated from the rest of the area, thus there

was insufficient privacy for inmates. The administration of the Jēkabpils Prison was advised to use the penalty ward for only one inmate at a time or to isolate the toilet facilities from the rest of the room.

During a repeated visit in 2007, it was observed that the recommendation had been partially implemented.

During the reviewed period, several similar complaints were received in respect to conditions in the Liepāja Prison – windows of certain cells were equipped with security (“louvres”), which reduced the amount of daylight and supply of fresh air to the cells.

The Ombudsman pointed out to the administration of the Liepāja Prison that use of such security devices is unacceptable from the point of view of human rights. The Ombudsman also applied to the Latvian Prison Administration with a request to ensure control and to inform on results. In the second half of 2007 information was received that the window elements would be completely removed before 2008. This information will be verified during the next visit in 2008.

In early 2007 a three-day monitoring inspection was carried out in the Jelgava Prison. Its aim was to investigate all matters related to procedures in the prison, including inspection of the reception of prisoners and premises for reception, inspection of several cells, penalty wards, premises in the living area, interview of employees and prisoners, etc.

Unacceptable conditions were found in the second building of the living area, which is intended for accommodation of prisoners who cannot remain with others due to some substantiated reason.

In its recommendation to the Jelgava Prison, Latvian Prison Administration and Ministry of Justice the Ombudsman pointed out that conditions in the second building of the living area are inhumane and, furthermore, the inmates are kept in premises that are too vast, which may contribute to an incre-

ased risk of conflict among inmates. These inmates must be immediately relocated to other premises, because the existing conditions can endanger their health.

The Ombudsman drew attention to many other problems that needed to be resolved: toilet facilities in all penalty wards had to be separated from the rest of the area; since the temperature in the penalty wards was too low, amendments to internal regulations of the Prison Administration governing the temperature setting were required; premises of temporary detainment on the 1st floor of Building 1 were too small and were not suitable for a detainment exceeding 15 minutes and had to be equipped with benches. An option must be provided for inmates to switch on the light in these premises; the number of beds in quarantine cells must be reduced, no more than one person at a time may sleep on wooden bed planks, etc.

Replies of Prison Administration and Ministry of Justice show that those recommendations, which do not require significant financial investments, have been or will be implemented. Elimination of other shortcomings might take place in the following years.

On 29 November 2007, by the initiative of the Ombudsman, a roundtable discussion was held on the subject of the role of competent institutions in the protection of human rights in closed institutions. Its goal was to analyse the role of the competent institutions in the protections of human rights in closed institutions and to promote a closer co-operation in respect to Item 13 of the European Convention of Human Rights. The discussion was attended by the Ombudsman, Prosecutor General, Minister for Justice, Head of Prison Administration and other employees of the aforementioned institutions. While admitting that significant resources were required for improvement of the situation, the Ombudsman and representatives of the Ombudsman Office yet encouraged the officials of attending institutions to perform relevant activities for improvement of the conditions in prisons using the available resources and to gradually proceed to the construction

of new prisons. Otherwise, prisoners, who become increasingly aware of their rights, might turn to the Administrative Court and European Court for Human Rights for protection of their violated interests, which would lead to additional expenses for the government.

During 2007 the Ombudsman received 33 complaints of physical or moral violence of prison staff towards prisoners or violence amongst prisoners. Subjects of complaints included humiliating methods of searching.

For example, staff of the Jēkabpils Prison requested the prisoners to undress completely during the search performed every morning. Furthermore, the said activities took place in the presence of several employees of the prison and prisoners.

The Ombudsman pointed out the unacceptability of such practice to the administration of the prison. In a further inspection employees

of the Ombudsman Office established that the recommendation was being observed and the practice has been discontinued.

A serious problem in Latvia is the accommodation in prisons of people with special needs. For example, a prisoner who is a Group 1 disabled person with mobility impairments, pointed out that he was not provided the required medical care in the prison and the conditions were unsuitable for his health condition. During the three months since being imprisoned, he was denied the daily walk in the fresh air he was entitled to. Several times he was left alone in the cell and was unable to satisfy the most basic human needs as a result.

The Ombudsman concluded that keeping such a person imprisoned is a violation of human rights, therefore the Ombudsman's opinion and a recommendation to change the security measure (imprisonment) were sent to the Prosecutor's Office. The recommendation was observed and the security measure was changed.

POLICE INSTITUTIONS AND LOCATIONS OF SHORT-TERM DETAINMENT OF THE STATE POLICE

In 2007, the Ombudsman office received 16 written complaints **about physical or moral violence by employees of police institutions.**

In one case an inspection case was instigated on the initiative of the Ombudsman. This case was related to the notorious incident involving a detainee – a member of the Security Service of the Parliament and State President Edgars Gulbis. During escorting across the Island Bridge on 26 September 2007, he allegedly jumped, fell or was forced out of a police car. The mass media also announced that E. Gulbis was subjected to torture during interrogation.

The reason for the inspection was the fact that, immediately after mass media suggestions about potential police violence towards E. Gulbis, the competent officials announced that the police staff

had not exceeded their official authority. The case was initiated in connection with the presumable violation of human rights during the pre-trial investigation.

Already in the early stages of the inspection case the Ombudsman invited the management of competent institutions to take all necessary measures for guaranteeing an unbiased and prompt investigation.

Employees of the Ombudsman Office interviewed the persons involved and held discussions with the conductor of proceedings and operational staff. An independent doctor's opinion was requested on the basis of medical certificates at the disposal of the Ombudsman. Investigation of the case included visits to the short-term detainment facilities of the State Police and the offices where the interrogation allegedly took place.

Investigation of an individual case revealed several general problems in operation of this rights' protection mechanism. The Ombudsman concluded that:

- 1) the Internal Security Office of the State police cannot be considered an efficient protection mechanism, thus the government needs to plan the creation of a more efficient one;
- 2) in cases when an individual raises a complaint about moral violence by the Police, a psychological court examination must be appointed, which was not done in the case of E. Gulbis;
- 3) police staff have insufficient knowledge of human rights, especially the prohibition of torturing;
- 4) work methods of operational staff are not transparent;
- 5) audio and video recordings are not used during investigations;
- 6) detained persons are held in short-term detainment facilities for an unreasonably long time instead of investigation prisons.

Consideration of complaints revealed that in some cases problems in the work of police are caused by imperfections in the regulations.

For example, a complaint was received about a situation where during arrest a person who had violated the traffic regulations was forced onto their knees and afterwards laid down on the sidewalk in the centre of Riga.

By analysis of inspection case materials, the Ombudsman concluded that the regulations governing the operation of the Riga City Municipal Police do not provide for handcuffs in the equipment of municipal policemen. Due to these imperfections of regulations, municipal policemen are unable to arrest persons in a manner, which is less restrictive in terms of a person's right to immunity and is not so humiliating, that is, by putting on handcuffs.

Information about this fact was passed on to the administration of the Riga City Municipal Police. Its response to the Ombudsman confirmed that the necessary changes would be made to the relevant internal regulations.

One of the Ombudsman's priorities in 2007 was assessment of the situation of locations of short-term detainment (hereinafter referred to as LSTD), where persons arrested and convicted in relation to criminal proceedings, as well as persons detained and arrested for administrative causes are held while procedural activities are being carried out.

During the year, employees of the Ombudsman Office inspected eight LSTDs by their own initiative and without previous notice. During the inspections it was revealed that none of these locations fully meets the standards of the European Committee for the Prevention of Torture (hereinafter referred to as CPT) binding to Latvia. The most significant imperfections were discovered in Kuldīga, Valmiera and Jēkabpils, where persons were held in conditions violating their human rights – cells had no toilet facilities and water supply. Cells of Jēkabpils LSTDs have no windows, while the LSTDs in Kuldīga and Jēkabpils have no walk areas.

During the reporting year, the Ombudsman Office also received 25 written complaints **on the social conditions in LSTDs**. In two cases (in Kuldīga and in Balvi) it was concluded that police employees had violated a person's human rights by putting them into a LSTD, which fails to meet the CPT standards.

Information on the detected imperfections was passed on to the heads of the relevant regional police departments and administration of the State police. Resolutions stated that persons who had been put in conditions violating their human rights may request a compensation from the State of Latvia. The Ombudsman also invited the Police Administration to carry out all measures required for improvement of the existing situation.

PSYCHONEUROLOGICAL HOSPITALS

Several complaints in 2007 were **concerning possible torture, inhumane and humiliating treatment and punishment in psychoneurological hospitals**. It prompted the employees of the Ombudsman Office to carry out frequent inspections in such establishments. 16 visits took place during 2007, 6 of them in psychoneurological hospitals. To make the inspections more efficient, an expert psychiatrist was involved starting from the autumn of 2007.

The most serious violations were revealed in the Mandatory Examination Department of the Riga Psychiatry and Narcology Centre, so a repeated inspection was conducted in this institution. For example, the inspection of premises revealed that all toilets and showers available to examined persons were equipped with video surveillance cameras. It is an inappropriate interference in the privacy of persons and therefore can be considered a major violation of human rights. Conditions of access to a toilet for examined persons did not meet the standards set for detained persons either.

Problems in the Mandatory Examination Department also included the ability to provide a convoy, when the examined persons must be urgently admitted to hospital (in life-threatening situations), the wards were not ventilated, the walk area did not meet the set requirements, etc.

These defects were communicated to Minister for Interior and Minister for Health and to the administration of the institution. Even though some im-

provements were observed after these recommendations (for example, the video surveillance in the hygiene premises was discontinued), other problems have not yet been eliminated,. Therefore, the Ombudsman intends to continue monitoring the situation in this establishment also in the future.

During inspections, employees of the Ombudsman office discovered several problems, which are characteristic to all psychoneurological establishments. The first one is overcrowding, especially in psychoneurological hospitals. In some instances patients spend years or even their entire lives in cramped premises together with other patients. Beds in rooms are positioned close to each other, so the patients are not provided any privacy.

Secondly, psychoneurological hospitals accommodate many patients, who should not be there. They could be discharged, but they have no place to go, no accommodation, no job, and no income. Meanwhile, even if there is such an option, the process of discharging is complicated, because the person cannot receive care and assistance outside the hospital. Special care homes have no vacant places and the waiting queue is long.

The Ombudsman wishes to stress that this area is one of those in Latvia lacking normative regulation. A draft law for psychiatric assistance was developed as long ago as 1997, however, it has not yet been approved during the last ten years.

RIGHT TO A FAIR TRIAL

Complaints concerning the right to a fair trial encompass a very broad range of issues: right to availability of a court, right to a reasonable duration of a trial, the principle of equality of parties, right to a fair trial of a case, right to know the charges, right to defend oneself personally or with a lawyer, etc. In total, 357 written complaints were received and 219 oral consultations were provided during 2007.

In 2007, persons frequently turned to the Ombudsman with **a request to evaluate possible violation of the right to the reasonable duration of a trial**. In spite of the fact that in some cases the period of first instance trial is indeed long (up to one year and a half in Administrative district courts), some parties of the case delay the trial deliberately. Taking into account the existing situation and the amount of work of courts, the Ombudsman invited the parties to use their rights decently and not to delay the trial deliberately and extend the court process.

Several incarcerated persons complained **about courts refusing to provide copies of court materials**. The Ombudsman addressed the Supreme Court of the Republic of Latvia with a request to explain the practice of application of Clause 451 of the Criminal Procedure Law (hereinafter referred to as CPL). This clause provides that the defendant, its representative, prosecutor, victim and its representative may get acquainted with materials attached to the case after it has been received court, make excerpts, duplicates thereof and request copies of required court materials, except for cases when provided otherwise by the Law. However, if there is a motivated necessity, they may get acquainted to all materials of the case and request the required number of copies.

It was revealed that this provision was not interpreted identically in all cases. For example, a court refused to provide a person with copies of criminal case materials at a charge, pointing out that the motivated necessity stated in the CPL was not present.

The conclusion of the Ombudsman was that the motivation to re-supply the defendant with case ma-

terials should be evaluated only in those situations when the person requests the copies free of charge. In all other cases courts should provide them with copies of case materials at a charge fixed in the 21 November 2006 Cabinet of Ministers Regulation No. 947 (LVL 0.10 per page). In the Ombudsman's opinion, the relatively high price of copies is by itself a security against presumable abuse of rights by repeatedly requesting copies of case materials. If such service is provided for by the said Regulations, then the Ombudsman sees no reason why a person's request to provide materials once again at a charge should be refused.

To prevent possible violation of the right to a fair trial and eliminate uncertainties in issuing copies of case materials, the Ombudsman applied to the Supreme Court of the Republic of Latvia with a request to ensure unified application of Clause 451 of the CPL by courts in the future.

The right to a fair trial under Article 92 of the Constitution includes the right to availability of a court – the State must provide persons with an effective right to apply to a court and the right to accessible and qualitative legal assistance. However, the large number of received complaints indicates that some incarcerated and detained persons are unable to turn to the State and municipal authorities and receive substantiated answers due to the lack of funds.

According to Latvian legislation, only those persons whose financial position meets only the minimal requirements are entitled to legal assistance. However, despite the low income of receivers or potential receivers of legal assistance provided by the State, in the current situation these persons cover the costs of sending a request for State-provided legal assistance from their own resources. This matter is especially important for convicted persons. According to Article 50 Section 2 of the Latvian Penal Code, correspondence with the Legal Assistance Administration is not covered from the resources of the institution of imprisonment, while the Constitutional Court recognised in its 12 June 2002 verdict in case No.

2001-15-03 that imprisoned persons are fully supported by the State.

Within the framework of inspection cases, the Ombudsman prepared recommendations to resolve this problem. For example, using prepaid reply envelopes or amending Article 50 Section 2 of the Latvian Penal Code by supplementing the list of included institutions with the Legal Assistance Administration. This matter is to be reviewed in collaboration with the Ministry of Justice.

In many cases persons questioned the neutrality of the court and declared they had been convicted without reason. In such cases the Ombudsman informed them about the opportunity of cassation or appeal, if it was found unsubstantiated. The Ombudsman has no right to influence the process of preparation of a court verdict. Unsubstantiated court decision can be cancelled only by a court of a higher instance.

RIGHT TO FREEDOM AND PERSONAL INVIOABILITY

During 2007, the Ombudsman office received 295 complaints about possible violations of the right to security, freedom and personal inviolability. The majority of complaints were **about detention as a penalty, followed by complaints about detention before a decision of the first court instance.**

Several complaints were made **about courts not considering applications for evaluation of the necessity of further detention** after a decision of imprisonment is taken in the first instance court. This application is considered only together with an appeal instance hearing. A similar situation occurs upon returning an appellation instance verdict providing for this security measure. It was confirmed by the attached documents.

On the basis of application, the Ombudsman discovered that courts have an opinion that the CPL does not provide an opportunity to ensure control over indispensableness of further imprisonment, if the imprisonment is provided for by a convicting verdict of a first instance or appeal court. However, verdicts by the ECHR have repeatedly contained explanation that periodic court control must be ensured also in cases when a decision of imprisonment is included in a convicting court verdict, because circumstances influencing the validity of imprisonment may change after the decision of imprisonment. Thus, the Ombudsman concluded that such procedure does not comply with Article 5 of the European Convention of Human Rights and Article 94 of the Constitution.

Opinion about the necessity of periodic court control was passed on to the Ministry of Justice and it transferred the issue for evaluation to the permanent CPL amendment task force.

In several complaints persons complained **about being held in detention without a valid court decision.** After clarification of circumstances, in most cases it was discovered that the persons' right to freedom was not unlawfully restricted and the detention was based on a valid court decision. In one case, though, the Ombudsman discovered that there was a violation of the right to freedom, because the court of first instance had failed to ensure periodic arrest control during the hearing.

Several complaints in 2007 were **about unlawful actions or decisions by police or conductors of proceedings.** In most cases the Ombudsman did not reveal a violation of human rights. The appellants were informed about the option of appeal against the decisions or actions of the said officials, if they had not exercised this option. In some cases, however, violations were discovered and made known to the competent institutions.

During the reporting period, 10 written and 24 verbal complaints were received **about forced admission to psychoneurological hospitals.** The Ombudsman yet thinks that these figures do not exactly reflect the seriousness of the problem in Latvia. The relatively small amount of complaints can be explained by the existing social stigmatisation of mentally challenged persons. As a result, people will try to ensure that no one finds out about their problems. Therefore, the Ombudsman believes that it is especially important to inspect psychoneurological hospitals, meet patients on site and talk to them on a regular basis.

RIGHT TO LEGAL STATUS – ISSUES OF CITIZENSHIP, ASYLUM AND MIGRATION

In 2007, the Ombudsman office received 148 complaints concerning determination of the legal status of a person and immigration and residence in Latvia of foreigners, stateless persons, as well as refugees and asylum seekers. 32 of the complaints were written and 116 were verbal.

Compared to the 2006 statistics of the LNHRO, the number of written complaints has grown by almost a half. The number of verbal complaints also increased. Persons wished to find out how they could legalise their legal status or that of their relatives, how to invite foreign relatives and friends to a visit to Latvia. The questions asked also included: what documents are required for an application, how long applications are considered at the Office of Citizenship and Migration Affairs (hereinafter referred to as OCMA), for how long foreigners may reside in Latvia, in what cases it is possible to extend the permit of residence, how to appeal against decisions of the OCMA, etc. Persons were provided with general information and informed about institutions able to provide more detailed information in each particular case. In urgent cases, for example, when a person was under threat of deportation or if the deadline for appeal against an administrative act was running out, employees of the Ombudsman Office also provided legal assistance in the preparation of documents for submission to the relevant institutions.

Analysis of written complaints indicates that the most topical problems in the area of immigration were related to violation of the right to personal inviolability – refusing residence permits and subsequent deportation. In several cases during the reporting period, the Ombudsman exercised the right to include in the verdict of inspection case a recommendation to grant a residence permit on the grounds of humane considerations. For example, in one inspection case the Ombudsman came to the conclusion that the appellant had demonstrated a strong social link with Latvia, the intention to connect the future with the country and a desire to make appropriate legal arrangements.

Taking into account the inspection case materials and in order to facilitate out-of-court settlement, the Ombudsman recommended to grant a limited residence permit under Section 23, Paragraph three of the Immigration Law due to humane reasons, and the residence permit was granted for 5 years.

Several persons addressed the Ombudsman Office in 2007 with complaints **concerning negative administrative decisions** (for example, about deportation of a person or cancellation of a residence permit), as well as their relatives complaining **about violation of the right to personal inviolability**.

On 31 October 2007 employees of the Ombudsman office visited the “Olaïne” Accommodation Camp for illegal immigrants (hereinafter referred to as ACII “Olaïne”) to get acquainted with conditions of accommodation and to evaluate improvements in comparison to the previous year.

The obtained information shows that the number of persons placed into ACII “Olaïne” is decreasing with each year. The head of the camp predicted that there will not be more than 40 adult persons in total residing in the camp during 2007, and at the time of the visit there were no minors in the camp. Compared to previous years, no significant changes were revealed in ACII “Olaïne” and the overall situation can be characterised as good.

Four complaints were received while meeting the persons residing in ACII “Olaïne”. All were related to **problems with legalisation of their official status and deportation from the State**. Currently, the assessment of decisions made by competent authorities in each individual case is taking place. The Ombudsman will also judge how State institutions could operate more efficiently, in order to reduce the time that persons, whose legal status is disputed or who have no valid travel documents, spend in ACII “Olaïne” without knowing what to expect in the future.

On 14 December 2007, employees of the Ombudsman Office performed a visit to “Mucenieki” Asylum Seekers’ Accommodation Centre (hereinafter referred to as the Centre). No complaints were received from the interviewed asylum seekers in the Centre. Accommodation conditions can also be described as good.

Meanwhile, the most important issue in the opinion of employees of the Centre was the lack of resources allocated to asylum seekers for the purchase of food, items of personal hygiene and essential products. The amount of resources is regulated by the 8 February 2005 Cabinet of Ministers Regulation No. 119. The set amount is LVL 1.5 per day, however, it has remained unchanged since the date of regulations, despite the significant inflation. Since asylum seekers must manage to cover food, transport and healthcare expenses with this amount, the Ombudsman concluded that a person, who is officially not allowed to work and earn income during the asylum procedure, cannot satisfy even the most basic needs with an income of this size.

In response to a request by the Special Assignment Minister for Social Integration, the Ombudsman prepared and provided recommendations within the framework of the 2007-2013 Solidarity and Migration Flow Management Basic Programme:

1) It is essential to provide nationals of third countries with accessible and clear information about their rights: human rights’ guarantees, Latvian legislation concerning immigration and residence of foreigners, employment and other available

guarantees. Such information would help these persons to adhere to the conditions of residence, decrease the number of violations of regulations connected with their stay and facilitate their integration into Latvian society.

2) To make such information available for use, it must be supplemented with explanations about the rights’ protection mechanisms available to these persons and assistance provided by State institutions or non-government organisations. Foreigners who applied to the Ombudsman office especially stressed the need for legal and social assistance, as well as interpreting services (according to the Official Language Law, State institutions conduct their daily work in Latvian, therefore foreign nationals are often faced with limited opportunities of finding solutions). Immigrants with low income are especially interested in information on services available free of charge.

3) To make sure that the principle of good administration is introduced into the State administration, it is important to carry out educational events about immigrants’ rights, special needs and cultural features in State institutions.

In 2007, employees of the Ombudsman Office have already taken part in implementation of the last recommendation by giving a set of lectures called “Human rights in the asylum procedure” to the staff of the State Border Guard and OCMA during the “BETA” project organised by the International Migration Organisation and OCMA.

RIGHT TO A PRIVATE LIFE

During 2007, the Ombudsman Office received 104 written and 105 verbal complaints about possible violation of the right to a private life. The majority of complaints were related to incarcerated persons. There were comparatively many complaints concerning personal data protection and presumable injury to dignity.

Almost a half of all received complaints were **concerning the immunity of private life**. The Ombudsman was addressed mainly by persons concerned about the chance of relatives to meet incarcerated persons, the ban of prolonged meetings for incarcerated persons and the circle of persons that incarcerated persons were allowed to see for a prolonged time.

After analysis of the facts contained in the complaints, the Ombudsman concluded that significant problems persist in terms of **rights of both the incarcerated persons and their relatives**. Therefore, it is necessary to reconsider the ban of prolonged meetings, because such meetings do not pose a threat to investigation in all cases. This problem is especially relevant after the verdict of the court of first instance, when the investigation is discontinued and persons have minimal chances to agree on their statements, for example.

Complainants also asked to extend the circle of persons who may meet the convicts for a prolonged time, by including other persons who are not relatives, for example, the other parent of the convict's child. Currently amendments to the law are being prepared in connection with this problem and the Ombudsman will monitor the legislative process.

The second largest group of complaints related to the right to a private life was **concerning the confidentiality of correspondence**. For example, several persons complained that, while they were in a closed institution, their incoming correspondence was delayed and their letters were not sent to recipients either. Issue about the ban to maintain correspon-

dence with other persons, apart from relatives or spouse, was also raised.

To resolve these problems, the Ombudsman addressed the Ministry of Justice and pointed out that the State cannot automatically deny someone's rights without setting criteria for the duration, scope of the ban and other relevant conditions. According to the Penal Code, the right of convicts to inviolability of correspondence are violated already upon inspection of correspondence. In certain cases prescribed by the Law, letters may be intercepted and not sent. Meanwhile, by setting a double limitation to the convicts' right to a private life in terms of correspondence, the State essentially violates the principle of proportionality, which is expressed as proportionality between a legitimate goal and the action necessary to achieve it.

Some complaints were **about the censorship of letters sent to incarcerated persons** (currently, only correspondence with a few certain institutions is exempt from inspection). After having analysed the aim of such censorship, the Ombudsman concluded that the censorship of letters of incarcerated persons is not always necessary in a democratic society.

In relation to the correspondence of convicts, attention was paid to the funding of correspondence from the State budget. The Law currently provides an explicit list of institutions, to which convicts can send letters free of charge and the resources (envelopes, stamps, etc.) are provided. However, the experience shows that this listing is not sufficient for the efficient protection of personal rights (see more in the section Right to a fair trial).

The right of a person to request official registration of sex change after a sex-change operation was reviewed in the context of the inviolability of private life. It was concluded that such a right does exist in Latvia. Procedural actions for implementation are also regulated, however, not explicitly enough.

Several complaints during the reporting period were **concerning possible injury to dignity**. Persons usually complained about insulting newspaper articles and comments posted online. In these cases the Ombudsman only provided consultations on the subject of protection of their rights, because the Ombudsman is not entitled to judge disputes between private individuals, when injury to dignity has been caused by a subject of private right.

In 2007 the Ombudsman also addressed problems related to **the distribution of personal data and inclusion thereof in various registers**, where possible violations had been committed by State institutions. This included cases when State institutions had not duly reacted to violations.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

In 2007 the Ombudsman received 517 written and 1234 verbal complaints concerning issues of social and economic rights. Comparison with the 2006 LNHRO statistics shows that there has been a significant (77%) increase in the number of written complaints concerning the right to housing. The number of complaints about the right to social security, especially State pension policy, had also increased.

The most frequent reasons for appeal to the Ombudsman were the right to housing, the right to social security and property, while there were not so many complaints about the right to enabling environment and healthcare.

RIGHT TO SOCIAL SECURITY

In 2007, the Ombudsman office received 103 written and 232 verbal complaints on presumable violation of the right to social security. The majority of those – 46 written and 67 verbal – were concerning pension insurance problems. It demonstrates the urgency of pension problem in society.

Several complaints were **about pensions** exceeding the fivefold guaranteed State benefit (LVL 225) not being indexed. The Ombudsman took into account the conclusions of the Constitutional Court when conducting inspection cases on the basis of these complaints. In case No. 2005-08-01 the court judged that differentiated indexation did not contradict the Constitution, while admitting that the differentiated attitude may lose the motivation behind it, if pensions exceeding the fivefold guaranteed State benefit are not indexed for a long period of time. Since the said Regulation has not been amended for several years, the Ombudsman believes that it is necessary to consider changing the existing pension indexation procedure. The Ombudsman sent an application to the Ministry asking for amendments to the State Pension Law, which would provide for indexation of pensions exceeding LVL 225.

Several persons addressed the Ombudsman with complaints **concerning deduction of income tax from pensions and the non-taxable minimum of employed pensioners**. From analysis of verdicts of the Constitutional Court and Latvian legislation, the Ombudsman concluded that such arrangement does not violate pensioners' rights and achieves the aim of the non-taxable minimum, i.e., to provide the person with the essential resources for existence. Taxing pensions is acceptable, as recognised by the Constitutional Court.

In connection to disability insurance, the Ombudsman examined the issue of **social security of disabled persons** in cases when they have chosen to stay at home instead of at a care home. The Law on State Social Benefits provided that disabled persons over the age of 18 are entitled to a social se-

curity benefit amounting to LVL 50. Believing that such income is insufficient to ensure appropriate conditions for disabled persons who require special care and in order to draw attention to the need of increasing the benefit for such persons, the Ombudsman addressed the Ministry of Welfare.

According to information received from the Ministry, it had already assessed the urgency of this matter and commenced work on amendments of regulations. The result was amendments to the Law on State Social Benefits that came into effect on 1 January 2008 and provided for a LVL 100 monthly benefit for disabled persons who require special care.

In all 19 written and 65 verbal complaints were received **concerning State social benefits and assistance**. The Ombudsman learned that the issue of the rights and responsibilities of employees and residents of long-term social care and rehabilitation institutions was important in this context. It led to visits of the social care centres "Krastiņi" in the Krāslava Region, "Ziedkalni" in the Jelgava Region, "Piltene" in the Jelgava Region and "Valka" in the town of Valka in 2007. Employees of the Ombudsman Office conducted seminars for employees about their rights and responsibilities and met with customers. Similar seminars for the residents of social care centres are planned for 2008.

In connection **with unemployment insurance**, the Ombudsman analysed the amendments to the Law on Unemployment Insurance prepared by the Parliament, which provided for reduction of the period of benefit for unemployed persons, whose length of service was between one and nine months (including), from nine months to four months.

One of alleged goals of these amendments was to promote the return of persons to the labour market. However, such motivation was already included in the existing provisions, which provided for the amount of unemployment benefit to be proportional to the length of service and for a gradual

reduction thereof. Furthermore, the Ombudsman revealed that amendments do not guarantee the achievement of the goal of this social insurance service for the concerned group of people, which is social security during professional development training and retraining.

The Ombudsman sent a letter to the Parliamentary Budget and Finance (tax) Commission with a request to change the duration of the unemployment benefit for the said group to six months. The Commission, however, did not approve this recommendation and on 8 November 2007 the Parliament accepted the amendments. One of options considered by the Ombudsman in this matter remains an appeal to the Constitutional Court.

A current problem in the reporting period still was **the calculation of long service pensions for military personnel**. The 4 January 2007 Constitutional Court verdict in a case initiated by the LNHRO stated that bonuses must be taken into account when calculating the long service pensions of military personnel. The Ministry of Defence, however, refused

to take premiums into account when recalculating long service pensions and forming new regulations. Even though the particular question was not analysed in the verdict of the Constitutional Court, the Ombudsman believes that principles established by the Constitutional Court should be taken into account in this case. Premiums, as well as bonuses, are being taken into account when calculating long service pensions for all other groups of recipients. Therefore, the Ombudsman believes that there is no legal reason to treat military personnel differently and both premiums and monetary bonuses, which essentially are the same as premiums, should be taken into account in the calculation of long service pensions.

This position was voiced in the Ombudsman's letter to the Ministry of Defence. The Ministry replied that the Ombudsman's recommendations would significantly impact the procedure of calculation of long service pensions and amendments to the Military Personnel Long Service Pensions Law are required to implement such changes. The inspection case continues.

RIGHT TO HOUSING

In all 156 written and 505 verbal complaints concerning right to housing were received in 2007. Approximately a half of those were about issues outside the Ombudsman's scope of competency or questions not resolved due to various reasons: disputes arising from tenancy arrangements, legal relationship of the apartment owner and house manager or decisions taken by authorities several years ago. The Ombudsman did not interfere in disputes concerning private rights as such, but evaluated the efficiency and sufficiency of national right protection mechanisms on the basis of the information contained in complaints.

The number of complaints **about State support in resolution of housing issues** increased in comparison with 2006. In the Ombudsman's opinion, it may be caused by cancellation of the "rent ceiling" in denationalised houses since 1 January 2007. Low-income tenants of denationalised houses were unable to solve the housing problem on their own and sought for assistance provided by the State. Unfortunately, State-organised assistance did not always achieve its goal.

For example, after cancellation of the "rent ceiling", many owners of houses sent the tenants notifications of an increase of rent of living premises. Having realised that they will be unable to pay the indicated rent, the tenants applied to the municipality with a request for assistance – to rent the living premises or grant a one-off allowance for vacation of the living premises. In most cases these tenants were already registered in the municipality for some kind of allowance, but when their request was refused, they addressed the Ombudsman.

The Ombudsman considered these complaints and concluded that by refusing priority assistance the municipality had acted legally, because the Law on Assistance in Housing Solution does not provide for priority assistance within one registration group. Meanwhile, an increase of rent cannot be considered a reason for immediate provision of assistance. The Ombudsman has concluded that the described

situations indicate insufficient level of State involvement in ensuring the right to housing. Problems arise due to the fact that the assistance provided for by the law is not rendered on time. For example, a person must wait in a queue for several years to obtain living space in the City of Riga. The situation in other Latvian municipalities is similar.

The Ombudsman also received rather many complaints **about the amount of the one-off allowance for vacation of living premises**. People argued that the allowance is insufficient to achieve any of the aims it is intended for. The provision that State-organised assistance must be actually useful applies in this case as well. Furthermore, it is a responsibility of government to monitor the real estate situation in the country and review the amount of the allowance on a regular basis.

As it was the case with the LNHRO in previous years, the Ombudsman also received complaints concerning the quality of living premises offered by the municipality. In most cases the information provided by persons on the quality of living premises was true. Municipal housing funds are in a poor sanitary and technical condition and significant resources are required to adapt the premises for living.

For example, for several years the attention of the LNHRO, and subsequently the Ombudsman, had been focused on residential house for different social groups located at 25a Prūšu Street, Riga. Inhabitants of the house complained to the Ombudsman that the sewerage system is damaged, appliances in toilets and washing facilities are in bad repair, most of the electric stoves in kitchens are out of order and not functioning, corridors are not lighted, etc. Despite this, vacated premises in this house are offered to persons registered for assistance as suitable for living.

The Ombudsman addressed the Riga City Municipality, and pointed out the revealed defects and explained the conditions for ensuring the right to housing. The Ombudsman asked for information on performed and planned measures for improvement of the situation in this residential building and recommended car-

rying out certain measure for prevention of detected defects. For example, carry out disinfection, organise events for ensuring public order in collaboration with the State Police, etc..

The Ombudsman believes that such situations are the result of a poorly planned national denationalisation and privatisation policy. During its implementation, the government was supposed to foresee a significant increase in the number of socially unprotected persons and plan timely activities for ensuring the right to housing of these persons. While recognising the recent effort of the government in resolution of the problems of tenants of denationalised houses, the Ombudsman still believes that the current State-organised assistance to socially unprotected tenants of denationalised houses is insufficient. A positive element is the initiative of providing new means of assistance demonstrated by the legislator in recent years. However, at the same time measures are required that would ensure that means of assistance provided for by the Law do not remain only formalities, but are properly implemented.

In 2007, the Ombudsman received several complaints **about people evicted from apartments without an appropriate court decision**. They complained about situations when in their absence the property owner had forced the doors open, moved out the belongings, changed the door or the lock and did not let the tenant back into the apartment.

International human rights documents provide for the duty of the government not only to provide residents with housing support, but also to ensure efficient means of protection of rights in case of infringement of the rights by another person. Therefore the Ombudsman assessed the problems related to application of means of rights' protection developed in the country and expressed his position in the task force for necessary amendments in the legislation aimed at the protection of tenants' right to inviolability of the home and assembled the Ministry of Economy.

RIGHT TO PROPERTY

In 2007, the Ombudsman received 99 written complaints on presumable violations of the right to property. According to the Ombudsman's competency defined in the Ombudsman Law, 53 cases were initiated, while 46 complaints were refused. During the year, the Ombudsman also received 188 verbal complaints.

Most of the complaints were **concerning possible violation of the right to property in the area of land reform**, including privatisation. Persons pointed out that they had renewed property rights to certain land plots in the early 1990s, however, the actual receipt of land was still problematic. Some complaints were about that land plots were not restored within their original boundaries and this problem cannot be resolved due to the action or regulations of State or municipal authorities. Some objections were voiced regarding the failure to allocate land after the renewal of property rights and decision of granting an equal land plot.

In most of these cases the Ombudsman did not reveal violation of property rights and concluded that the authorities had acted according to legislation.

Among substantiated complaints in 2007 were those **concerning land plots located on the territory of the Port of Riga**. During the inspection case, the Ombudsman revealed that the Law on Land Reform in Cities of the Republic of Latvia had not been adhered to and property rights to the said land plots were registered in favour of the Ministry of Transport on behalf of the State, before providing the former owners or their heirs with equal land plots or compensation.

The Ombudsman has engaged in resolving of this problem by evaluating the legislative provisions and requesting information from the competent authorities.

Several complaints asked for evaluation of the legality of Section 12, Paragraph two of the Law on

Land Reform in the Cities of the Republic of Latvia. Since this provision probably limits the right to property provided for by Article 105 of the Constitution, the Ombudsman is addressing this question in a complex manner.

Several complaints during the reporting year were **about limitation of the right to property in protection zones and protected natural areas**. Even though the Law on Protection Zones prescribes the procedure how a person's property rights can be limited in respect to land plots within protection zones, this procedure is hardly ever adhered to in practice. The Law on Landowners' Rights to Compensation for Restriction of Economical Activities in Natural Territories and Microreserves provides for the right to compensation or repurchase of the land. In these particular cases, however, no violations of compensation procedure were discovered.

Several persons addressed the Ombudsman with complaints **about allegedly illegal construction**. In most cases, unfortunately, these problems could not be resolved, because the complaints were filed too late. For example, construction of the fourth floor of a building is already in progress in front of an individual's house. According to Administrative Procedure Law, a private individual, whose rights are restricted by respective administrative decision and who has not been invited as a third party in the administrative process, may appeal against such administrative decision within one month from the moment the person has become aware thereof, but not later than one year from the effective date of the respective decision. Thus, the deadlines provided for by the law are binding to the person. The Ombudsman believes this is the most efficient mechanism for validation of legality of construction, especially because it also protects the property rights of the other part – the builder, and guarantees settlement of legal relationship within a reasonable timeframe.

Responding to the request by Parliamentary Budget and Finance (tax) Commission to provide an opinion on the draft law “Law on Declaration of Property Status of Private Individuals”, the Ombudsman evaluated whether the requirement to transfer cash assets to the account of a credit institution, credit-savings bank or postal order system meets Article 105 of the Constitution in terms of the right to property.

The Ombudsman concluded that the provision has a legitimate goal – protection of the welfare of society. Transfer of cash into an account allows verifying the existence of such savings and improves the opportunity to control the legality of income, adequacy of income and expenses and payment of taxes. It does not create a significant restriction of rights and the benefit gained by society justifies the violation of rights.

RIGHT TO HEALTHCARE

During 2007, the Ombudsman received 72 written and 46 verbal complaints concerning the right to healthcare. According to the complaints received, the most significant problems were quality of treatment – 24 written and 25 verbal complaints received, and the scope of medical services – 31 written and 11 verbal complaints.

People addressed the Ombudsman Office in connection **with the limited availability of compensated drugs**. For example, that compensated drugs listed in the regulations of Cabinet of Ministers Regulation No. 899 “Procedure of compensation of purchase costs of drugs and medical devices intended for out-patient treatment” were not available.

During the inspection, the Ombudsman revealed imperfections in regulatory provisions. Its content is not sufficiently appropriate because it does not ensure persons’ rights to a refund of drug purchase costs and allows for unequal treatment of persons in equal and comparable condition – people with diagnoses listed in the regulations. The Ombudsman also requested information about the procedure of compensation of drug purchase costs from ombudsmen in several European countries. The obtained information will be aggregated and used to solve this problem.

There also were complaints **about decisions of doctors**, for example, a refusal to admit a person to hospital. Consideration of such kind of complaints was made difficult by the fact that employees of the Ombudsman Office lack specific medical knowledge, which is required for investigation. Meanwhile, in order to evaluate the validity of a performed procedure, one must request medical documentation, which is confidential information, according to Section 50 of the Medical Law. The Ombudsman, unfortunately, is not included among those institutions that are enabled to request such information.

Therefore, during inspection cases, the Ombudsman evaluated compliance of the decision with the requirements of administrative provisions and enga-

ged in a resolution process if there was information about the violation of human rights or the principle of good administration during examinations, and informed the appellants about opportunities to complain about the content of the decision as such.

There were relatively many complaints expressing **dissatisfaction with the quality and scope of medical treatment in prisons**. In most cases persons were advised to address the competent institution – the Health Inspectorate of Latvia. The Ombudsman initiated inspection cases about complaints concerning the availability of medical care.

During the inspections, it was revealed that prisoners are denied the option of medical care – to make a doctor appointment, receive consultation and treatment. In case of necessity, prison doctors exercise the option to transfer persons to the Latvian Prison Hospital in Olaine. The Ombudsman yet admits that a problem is caused by the fact that an insufficient range of drugs is available for purchase in locations of incarceration due to limited funding. Thus, situations may arise when prisoners must purchase drugs from their own resources. Taking into account the fact that not all prisoners may work in prison, such a requirement is inappropriate. Several prisons also have problems with the availability of dental services.

In reaction to complaints of several prisoners that the prison administration ignores their appeals to be placed in cells without smokers, the Ombudsman addressed the Latvian Prison Administration and pointed out that tobacco smoke harms health. Therefore, prison administration must ensure a chance for prisoners to avoid the smoke, if they desire so. Despite the fact that the Latvian Prison Administration agreed with the recommendation and vowed to solve this problem, similar complaints are still being received. It demonstrates that the problem still persists and the Ombudsman will pay attention to it in the future.

In 2007, on the basis of the complaint by a person, the Ombudsman considered the problem of availability of drugs to persons. Taking into account com-

ments of UN Economic, Social and Culture Committee, the Ombudsman concluded that the State has an obligation to evaluate and ensure the appropriate availability of medical goods. Inter alia, essential goods and services must be available in countryside areas as well. This opinion was communicated to the Ministry of Health.

Having analysed the national situation in respect to right to healthcare, the Ombudsman concluded that a current problem is state support for persons, who, in order to maintain vital functions, require medical treatment, which is not included in list of services compensated by the state and which the person cannot afford. Currently there is no legislation provi-

ding for state participation in such cases. The Ombudsman believes it is advisable to evaluate the current situation and the number of potential seekers of assistance, and to develop a system for providing state assistance to the aforementioned persons on the basis of obtained information.

Of course, the state can provide assistance within the limits of its resources. It should be noted, however, that human health is one of the greatest values and right to healthcare is fundamental. Human rights exist regardless of being or not being included in national legislation, thus, the Ombudsman believes that absence of normative provision cannot be the reason to refuse assistance.

RIGHT TO A FRIENDLY ENVIRONMENT

During the reporting period, the Ombudsman received 23 written and 43 verbal complaints on presumable violations of the right to a friendly environment. Several of those were **concerning pollution of public waters** – such as rivers and lakes – with construction debris.

During examination of applications related to environmental pollution, the Ombudsman concluded that violations had been committed mainly due to the inactivity of authorities. Persons had repeatedly addressed the authorities with requests to prevent environmental pollution, but the performed activities were insufficient.

For example, in inspection case connected with a complaint about littering of the Ķīšezers lake shore, the Ombudsman revealed that the Riga City Council had avoided cleaning up its property. Meanwhile, evaluation of competencies of State authorities responsible for these matters demonstrated that the National Environment Office had failed to use official compulsive measures to ensure that the Riga City Council fulfilled its obligation of cleaning up its property.

Therefore, the Ombudsman sent a request to the National Environment Office to use its official authority in order to achieve active behaviour of the Riga City Council in prevention of pollution.

In statements, the Ombudsman also emphasised that the right to a friendly environment is provided for by Article 115 of the Constitution. These are basic human rights, and events to ensure sustained environment development and protect the health of people and quality of life must be carried out efficiently.

In 2007, several persons addressed the Ombudsman with complaints about air pollution, noise and smells from various sources. The Ombudsman was gratified by the fact that in most cases, when restrictions of the right to a friendly environment did really exist, the competent authorities had detected the violation and taken prevention measures already before involvement of the Ombudsman.

DISCRIMINATION AND INTOLERANCE

One of the Ombudsman's functions provided for by the Ombudsman Law is promotion of equal treatment and prevention of discrimination of any kind. Besides, according to EU directives, the Ombudsman is the authority responsible for the promotion of equal treatment in Latvia. To achieve these goals, employees of the Ombudsman Office consider people's complaints, provide legal assistance to victims of discrimination, inform society and carry out other procedures on a regular basis.

In 2007, a total of 304 (112 written and 192 verbal) complaints were received concerning discrimination, while 42 were initiated by the initiative of the Ombudsman.

The Ombudsman sees a positive trend in the development of social comprehension about the prohi-

bition of discrimination in Latvia by applying this principle to private rights, which is a result of increased knowledge of society. As a result, complaints were received about unequal treatment on the grounds of age in granting credit, refusing service in a shop due to a person's age and income, refusing service in a hairdressing salon and bathhouse due to person's health condition. Investigation of such complaints also reveals imperfections in this area of legislation.

In 2007 the Ombudsman continued working on implementation of the EQUAL project "Open labour market for women", which was commenced by the LNHRO and is aimed at alleviation of gender segregation in the labour market, balancing family and work life and ensuring efficient support in cases of violation of rights.

DISCRIMINATION ON THE GROUNDS OF RACE, NATIONALITY OR LANGUAGE

Analysis of complaints received in 2007 shows that the number of intolerance or discrimination cases on grounds of race or nationality has grown recently. The Ombudsman believes that discrimination and intolerance cannot be compatible with the principles of a democratic state. Intolerance incidents caused by racist considerations harm public interests by preventing social development and improvement of well-being.

During 2007, 13 written complaints were received concerning discrimination on racial or nationality grounds, 17 complaints concerning discrimination on the grounds of language and also 43 verbal complaints about such cases.

Several inspection cases were initiated in **connection to discrimination against members of the Roma nationality**. One of the most alarming cases of infringement of Roma rights was the attack committed against underage Roma girls in a courtyard of a block of flats in Riga.

During the attack, which took place in October 2007, several youngsters of approximately 20 years of age, dressed in leather jackets and heavy laced boots, pushed two girls down the stairs, kicked and punched them, sprayed gas into their faces, called them "blacks" and expressed other insults in connection with their nationality.

In response to request by the Ombudsman, the State Police informed that it had initiated criminal proceedings about causing bodily harm, violation of national and racial equality and restriction of human rights and sent this criminal case to the Security Police. The Security police, however, decided to categorise this case as hooliganism and sent it back to the State Police.

Since the circumstances indicated that the youths had attacked the girls exactly because they were Roma, the Ombudsman repeatedly addressed the State Police and pointed out that it was important to evaluate the circumstances of

the attack and clarify whether the attack was related to the instigation of racial hatred.

Information reflected in the mass media has a major influence on the successful integration of the Roma people and other minority nations into society. Unfortunately, the Ombudsman was faced with situations when the mass media presented information in a scandalous manner, thus promoting negative stereotypes on certain ethnic groups, which leads to a negative attitude from society. For example, in December 2007, the "LNT" television channel aired an episode of its programme "Degpunktā", which included a story "Roma nationals trick people in the streets" about a Roma man, who had sold a faked chain to someone. Journalists generalised the case of deception and emphasised the criminal's nationality, also mentioning that "people shouldn't let themselves in with gypsies" and that "the best option to resist them is to not get in contact with them". The story made clear references to the marginal and criminal lifestyle of the entire nation. On the next day, "Degpunktā" included a story "How to avoid buying faked gold from a gypsy". The story was about counterfeiting of precious metals, which was motivelessly and tendentiously attributed only to Roma people. At the end of the story, the host of the programme warned the viewers to "avoid Roma people, who possess hypnotic powers".

During the inspection case initiated on the basis of complaints, the Ombudsman informed the "LNT" channel that such kind of stories form negative stereotypes about the Roma nation as a whole. Even though it is beneficial for the society to know of performed crimes, their types and ways of protection, it is incorrect to ensure it in a manner that offends an entire nation. Such stories increase the existing social intolerance and stereotypes against people of this nation and hamper their integration into society.

In 2007, the Ombudsman continued working on the 2007-2009 implementation of the national programme "Roma in Latvia". One of the Ombudsman's tasks within its framework is to prepare a training course for improvement of the professional skills of

Latvian policemen and judges in connection with work with the Roma people. In order to carry it out, the Ombudsman Office conducted a research on communication of the Roma people with police. It included interviews of 150 representatives of this ethnic group from all regions of Latvia. The Ombudsman will also work in the supervisory council for the 2007-2009 implementation of the programme "Roma in Latvia".

Several times during the reporting period, attention of the Ombudsman was attracted by offences, when **rights of persons or groups of persons were infringed by the texts of commercials, classified ads or other publications**. In the aspect of human rights, action of companies to attract attention to their products or services by using discriminating or unethical advertisements is condemnable.

For example, the Ombudsman office initiated an inspection case about violation of prohibition of discrimination in the advertisement of "Būvniecības ABC" stores. The advertisement showed a black man in worker's overall saying "Mans gribet remontēt Tav's māja!" ("Me want repair your's house!"). Next to the image was an address and a phrase "Everything for repairs and construction, except for imported workforce."

After analysis of the advertisement, the Ombudsman concluded that it promotes restriction and infringement of a persons' rights. The combination of text and image creates a negative perception about guest workers of other nationalities and races. The negative portrayal is further enhanced by the text. Therefore, the Ombudsman publicly announced that the advertisement was discriminating, invited the administration of the stores to discontinue circulating it and to adhere to the principle of prohibition of discrimination in further operation. The Ombudsman also addressed the Centre for Protection of Consumer Rights, which, on the basis of the Ombudsman's conclusion, imposed a penalty on the store according to Article 166.¹³ of the Administrative Code.

The Ombudsman office also initiated an inspection case about violation of prohibition of discrimination in the advertisement of SIA "Andrejeva Juridiskais Birojs" published in the "Dinaburg Vestnik" news-

paper. It offered legal services, stating that Russian-speaking persons are entitled to a 50% discount and that legal services are not available to sexual minorities.

Such wording of advertisement sorts persons according to unallowed criteria: nationality, language and sexual orientation. The Ombudsman therefore concluded that the advertisement is discriminating, may not be published and communicated this to its creators. The Ombudsman also addressed the Centre for Protection of Consumer Rights with a request to impose a penalty for violation of prohibition of discrimination.

Two inspection cases in 2007 were initiated **about injury to dignity in newspaper articles on grounds of race or nationality**. In both cases the Ombudsman evaluated adherence to the principle of freedom of speech and prohibition of discrimination. While a deliberate aim of the newspaper to instigate racial hatred or promote discrimination on grounds of nationality was not revealed, the publication of nationality of persons was recognised as unethical and, in one case, offending to persons mentioned in the article.

To prevent recurrence of similar situations, the Ombudsman recommended to the administration of newspapers to perform more thorough checks of article content and avoid mentioning nationality, unless it is really necessary. Unfortunately though, this is often neglected in describing events with Roma and African descent persons involved, for example. Such publications can intensify stereotypes and promote intolerance towards all representatives of a certain group.

A relatively high number of complaints were received from prisons concerning the fact that some prisoners and incarcerated persons are denied the chance to address State and municipal institutions and receive a substantiated answer due to insufficient skills of the official language and lack of funds to pay for notary services (State and municipal institutions do not consider applications in other languages than the official one).

The Ombudsman Office addressed the Prison Authority and Ministry of Justice with a request to provide an opinion on possible solutions of the problem. Two possible solutions were proposed as a result of analysis of circumstances and received answers: interpreters provided by the State in prisons or official language training courses for pris-

ners. Acknowledging that the solution of this problem requires significant financial resources and appropriate budget planning, the Ombudsman understands that this problem cannot be resolved in the short term. Therefore, the Ombudsman is planning to address this problem on a regular basis in the future.

GENDER DISCRIMINATION

Equality of sexes has been in the spotlight of social attention in recent years and it has yielded positive results. The Ombudsman has revealed that society is becoming increasingly aware of its rights in this aspect and willing to protect them. It is demonstrated by the fact that the number of substantiated and objective complaints concerning possible violation of gender equality has grown in comparison with the experience of the LNHRO.

In 2007, the Ombudsman Office received 12 written and 25 verbal complaints concerning possible violations. For example, **discrimination at work, discriminating and offensive advertisements, access to goods and services**. The last problem has become topical for Latvia since the introduction of several European Union directives.

Unfortunately, Latvian legislation does not include the principle of prohibition of discrimination in relation to access to good and services and also lacks a mechanism of implementation that would allow for efficient reaction. Therefore, in such cases the Ombudsman recommended the sellers of goods or providers of services to sell the goods or provide the services without any discriminating restrictions. Attention was also paid to Article 2352.a of the Civil Code, which entitles for compensation from the infringer in a case of infringement (this is also established in the jurisprudence). The Ombudsman also pointed out the consequences arising for the competent State officials in connection with failure to implement Directives and the mechanism of protection of rights, which is included in the rights of European Communities.

An example for violations of this kind is a complaint by a female pensioner that she is charged LVL 7 for a visit to a bathhouse. Meanwhile, male pensioners are entitled to a discount on Wednesdays and the charge is LVL 3.. In this case, the Ombudsman recognised a direct violation of prohibition of discrimination in respect to access to goods and services and violation of Article 2 of European Union directive 2004/113/EC. This directive was supposed to

be implemented in Latvian legislation until 21 December 2007, which, unfortunately, has not been achieved.

A violation of Directive 2004/113/EC was also detected during an inspection case on the basis of a complaint by a male person that drugs for the treatment of osteoporosis are being compensated only to women.

Having assessed the circumstances of the case, the Ombudsman concluded that the directive applies to services provided by the State, which includes compensation for drugs. In this case, the State is responsible for adherence to the principle of gender equality in the list of compensated drugs. Thus, if the State has decided that osteoporosis patients are entitled to State assistance and drugs for treatment of this disease should be included among compensated drugs, then both sexes should have equal access to the compensated drugs.

During implementation of directives, experts argue on the extent of implementation of prohibition of discrimination in private rights. To develop an efficient mechanism, the Ombudsman analysed this issue and pointed out in the conclusions on draft regulations that prohibition of discrimination in access to goods and services should include discrimination not only on the grounds of gender and race, but also age, skin colour, language, religious beliefs, political and other views, social background, nationality, education, social and material position, occupation, disability, sexual orientation. Thus, it would encompass a wider scope of grounds and provide the opportunity of more efficient action in such cases of violation as, for example, refusal of service due to the disability of a person.

There were also **complaints concerning recruitment**, with appellants complaining that companies and institutions do not observe the principle of prohibition of discrimination. Employees of the Ombudsman office frequently received questions about maternity, pregnancy and unsubstantiated refusal of position, which the appellants related to violation of prohibition of discrimination.

If the Ombudsman detected violation of prohibition of discrimination during inspection cases and mutual settlement was not possible, the Ombudsman provided persons with advice on how to prepare a court application or appeal and how to use other means of legal protection to alleviate and eliminate the consequences caused by the violation of prohibition of discrimination.

In 2007, the Ombudsman, by its own initiative, initiated and investigated 41 cases **about discriminating advertisements in newspapers**. There are still advertisements offering positions of secretaries, cleaners, etc. to persons of a certain age, which is not an objective requirement. It is a violation of prohibition of discrimination and Article 32 of the Labour Code.

To prevent social stereotypes of certain occupations being associated with one gender and discrimination in particular working places, the Ombudsman addressed the respective companies or organisations and invited to discontinue publication of such kind of advertisements and to carry out recruitment without discriminating restrictions. The Ombudsman also referred to legal consequences that might arise, if a person brings a case of violation of the prohibition of discrimination during the recruitment process to court. It must be noted, that employers usually took these recommendations by the Ombudsman into consideration.

DISCRIMINATION ON THE GROUNDS OF SEXUAL ORIENTATION

In previous years, the majority of complaints received by the LNHRO about discrimination on grounds of sexual orientation were **concerning the freedom to congregate**. In early 2007, the Ombudsman was concerned that similar problems might arise in connection with the planned “Days of Friendship” organised by the alliance of lesbian, gay, bisexual and transgender people and their friends “Mozaika”.

Therefore, on 23 April 2007, the Ombudsman and employees of the Ombudsman office held a meeting with the administration of the State Police and representatives of the Ministry of Interior, in order to discuss the preparedness of these institutions to ensure order in the aforementioned events. During the discussion, it was asserted that the police will do their best to ensure the safety of participants of the events. As witnessed in the course of events, security institutions coped with this task successfully. The State authorities also did not attempt to ban this event.

However, the year 2007 also brought offending comments in the mass media and by some officials. Several private individuals complained about this problem.

For example, the Ombudsman investigated publications of the newspaper “Rītdiena” and found that several articles might be offending to sexual minorities.

For example, the 6 February 2007 supplement No. 10 “Latvians are not dead yet” (“Vēl latviet's nevaids miris”) and other publications on the subject of sexual minorities are written in a provocative manner, which increases intolerance in society. These articles made repeated use of such words as “pederasty”, “pederast”, “pederast ideology” and calls to fight it actively, and expressed a general negative and intolerant attitude towards homosexual persons.

As the term “pederasty” has a negative connotation in Latvian society, the Ombudsman believes that its use not only increases negativity towards homosexual persons in society, but also injures the dignity of these persons. Therefore, the Ombudsman invited the editorial board of the “Rītdiena” newspaper to use freedom of speech, yet not to violate the rights of other persons in publications about sexual minorities. After the Ombudsman's statement, the number of offending publications decreased.

DISCRIMINATION ON THE GROUNDS OF RELIGION

2007 was characterised by 11 written complaints concerning possible discrimination on the grounds of religion. In comparison: from 2002 until 2006, the LNHRO did not receive a single complaint in this category.

In several complaints, representatives of different religions (catholic nuns, Muslims) voiced objections **about the fact that the legislation does not provide for the option of keeping a headcovering on in passport photos**. As this issue is governed by Cabinet of Ministers Regulation No. 378 “Regulations on personal IDs of citizens and non-citizens, citizen passports, non-citizen passports and travel documents of stateless persons”, the Ombudsman, using its scope of competency, initiated an inspection case regarding possible non compliance of these regulations with the right to freedom of religion.

In investigation of the case, the Ombudsman concluded that the provision, which restricts the use of headcovering mandated by religious (confessional) regulations of persons, does contain a restriction of the freedom of religion. It was also revealed that many countries, including the United Kingdom, Germany, Finland, the Netherlands and Denmark, allow for passport photographs to be taken with headcovering on. There was no explanation that restrictions were based on security considerations.

The Ombudsman sent a letter with this argumentation to the Prime Minister and observed with great satisfaction that on 20 November 2007 the new Regulation No. 775 “Passport regulations” came into effect, which provided that, in the passport photo, “the person is without headcovering, except for ca-

ses when the person wears the headcovering daily for religious reasons and provided that the headcovering does not cover the face or part thereof”.

Seven complaints signed by several hundred people were received **about possible offence to religious feelings and beliefs**, as well as Christian dignity in the “Diena” newspaper.

The authors of complaints voiced their objections against critical opinions against the “New Generation” evangelic Christian church in the newspaper articles, as well as the published cartoon depicting the mythological creature Cthulhu with word “Jesus” written across it. Alongside the caricature was the text part with reference to church worshipping a live Jesus.

After analysis of the inspection case, the Ombudsman concluded that the critical statements of the newspaper and the cartoon are subjective opinions of the authors. Meanwhile, the pictorial expression of the author of the cartoon is his subjective attitude and evaluation of the situation. The publications do not call for restriction of personal rights on the grounds of religion, are not against Christianity or any other religion and do not imply restriction of rights on the grounds of religion.

At the same time, the appellants were informed that, if the publication injures the dignity of a person or group of persons, which is a subjective evaluation, this private dispute must be resolved according to procedure provided for by the law.

DISCRIMINATION ON THE GROUNDS OF POLITICAL BELIEFS

As opposed to the experience of the LNHRO, a rather lot of complaints were received **concerning unequal treatment due to political membership or beliefs, or other beliefs** – 6 written and 4 verbal. For example, there was an inspection case regarding the refusal of a municipality to provide premises for the election campaign for a certain party. Another application asked to evaluate the risk that the passport stamp for participation in a referendum might affect future job prospects, etc. However, the Ombudsman did not observe unequal treatment in these cases.

In the context of a complaint against the Riga City Council, it was evaluated how a municipality official (head of an executive department) can be dismissed due to his or her political membership.

After having analysed the situation, the Ombudsman concluded that the head of the executive department has an employer-employee relationship with the Riga City Council and is not an elected official. Thus, he or she is subject to labour regulations. The principle of prohibition of

discrimination and equality provided for by the Labour Code, as well as personal guarantees, also apply in this case.

Meanwhile, press articles suggest that the posts of the City executive directors are politically shared among the parties of the ruling coalition. The Ombudsman deems such a situation unacceptable, because positions are based on employment contracts and the Labour Code does not provide for choice of candidates on the grounds of political membership. These officials are also not included among those for whom the Labour Code provides exceptions.

Even though the mechanism of appointment and dismissal of leaders of municipalities is semipolitical in fact, since decisions are taken by elected officials, who represent certain political forces, yet they must adhere to the Labour Code and other regulations, when taking a decision. Notice of termination based on this decision is subject to court control as a normal procedure, therefore, the Ombudsman recommended the complainant to turn to court.

CHILDREN'S RIGHTS

In 2007, the Ombudsman office received 746 complaints on presumable violation of children's rights. 149 complaints were written and 597 were verbal.^{1*} The majority of complaints were **concerning a child's right to grow up in a family** (guaranteeing of communication rights, right to not be transferred to out-of-family care, if circumstances provided for by regulations have not set in, etc.), **right to housing** (registration for social assistance; legislation of eviction), **rights of orphans and children without parental care**, as well as inhumane treatment and conditions in places of detainment.

In comparison with the statistics of complaints of the LNHRO in previous years, 2007 saw an increase in the number of received complaints **concerning possible domestic violence against children and a child's right to express an opinion**, when a decision, which can affect or will affect the child's life, is to be taken. Meanwhile, a similar number of complaints were about a child's right to receive sustenance from its parents, right to social security and right to identity.

Special Ombudsman's attention was paid to issues of the **rights of orphaned children, children without parental care, as well as child prisoners**. That included visits to out-of-family care institutions, places of imprisonment and meeting people there. Probably, these visits contributed to an increase

in the number of complaints from these children's groups. The Ombudsman concluded that a significant role is played by educational and informative events, because often a person's lack of knowledge of his or her own rights and right protection mechanisms created by the State is one of the causes of violation of rights.

In 2007, the Ombudsman's attention was attracted by the issue of a **child's right to a friendly social environment**, and it is planned to pay attention to this problem in the next year as well.

The Ombudsman paid particular attention to educational activities about children's rights, because children are among the least protected members of society and, due to their age or other factors, are not always aware of their rights or able to protect themselves in case of violation. Employees of the Children's Rights Department of the Ombudsman Office also organised and took part in seminars, lectures and classes about children's rights for adult persons, who work in the area of children's rights' protection or are interested in these matters.

In 2007, employees of the Ombudsman Office took part in evaluation of the amendments to the Law on Citizenship, Law on Protection of Children's Rights and other regulations.

RIGHTS OF ORPHANED CHILDREN AND CHILDREN WITHOUT PARENTAL CARE

In 2007, the Ombudsman Office received 8 written and 3 verbal complaints concerning rights of adult orphaned children and children without parental care.

Applicable regulations provide for several social guarantees these children are entitled to after coming of age and expiry of out-of-family care. That includes the right to receive from the municipality a suitable living accommodation, assistance for covering expenses incurred by using a different accommodation, if the municipality is unable to provide its own straight away, as well as support from the municipality for establishing a self-supporting life and allowance for covering monthly expenses, etc.

Analysis of the content of complaints showed that these rights of orphaned children and children without parental care are often not observed.

For example, a person who addressed the Ombudsman office had been registered in the municipality to receive assistance for renting living accommodation, but had not received this assistance for one year and a half. After the expiry of the out-of-family care, he was left without accommodation and was forced to stay with acquaintances and friends.

Employees of the Ombudsman Office revealed that this person had not been informed of his right to receive a temporary accommodation from the municipality until an accommodation becomes available according to the registration list, as well as of the right to receive assistance for covering material expenses incurred by using a different accommodation, if the municipality has been unable to provide its own straight away.

The necessary information was provided to the person in this case. Besides, since the assistance in finding accommodation was due from the Riga Municipality, he was informed of the opportunity to accelerate the process of granting accommo-

dation by submitting to the Housing Department a statement from the Welfare Department of the Riga City Council, which contains information on his material condition and the necessity to rent accommodation as soon as possible.

This example and received complaints demonstrate that one of the reasons, why violations of orphaned children and children without parental care occur, is the lack of knowledge of their own rights. Therefore, in 2007 representatives of the Ombudsman Office organised and conducted a set of training courses "Stepping into independent life". The target audience were orphaned children and children without parental care who were due to leave childcare establishments and start independent life in 2007. The youngsters were provided with information on human rights and opportunities of protection thereof, entitlement to social guarantees, institutions where to seek help when solving problems, etc.

In total there were seven lectures, which were attended by orphaned children from throughout Latvia. As this series of lectures received positive comments, it is planned that this will be continued in 2008.

In 2007, employees of the Children's Department of the Ombudsman Office held several lectures on the rights and responsibilities of children with special needs and children from care homes.

During the reporting period, there was co-operation with non-government organisations working in the area of protection of the rights of orphaned children and children without parental care. Employees of the Ombudsman Office conducted educational lectures for experts about children's rights, system of protection thereof, basic principles of preparation of a report on child's rights and other current issues.

RIGHTS OF CHILD PRISONERS

For a prolonged time, the attention of children right's protection experts has been focused on the situation in the Cēsis Juvenile Reformatory (hereinafter referred to as Cēsis JR), where both arrested and convicted children aged 14-18 reside. A 2005 inspection by the LNHRO, for example, revealed serious violations of **children's rights related to the conditions of accommodation**. In 2007, the attention of the Ombudsman was also drawn to the Daugavpils Prison, because several complaints were received from juvenile prisoners about unlawful actions of the prison administration. Therefore, in 2007, experts of the Ombudsman Office carried out inspection visits in these institutions.

On 1 June 2007, on Children's Day, the Ombudsman Romāns Apsītis and employees of the Children's Rights' Department of the Ombudsman Office visited the Cēsis JR. During the visit, it was revealed, that, since 2005, several problems were solved: the problem of overcrowding was eliminated, staff units of supervisors had been filled, the fencing around the Cēsis JR had been partially replaced, video surveillance cameras had been installed in certain premises.

Significant problems were discovered as well. For example, no measures have been taken for improvement of the sanitary and technical condition of premises. Rooms, where juvenile convicts are accommodated, are in poor technical condition. Toilets and washing areas do not meet sanitary and technical requirements either. Bathroom fixtures are in bad repair and, as toilets are partitioned off only from the sides, children of the Cēsis JR are denied privacy while using them. Juvenile persons themselves also confirmed that use of toilets is connected with constant psychological discomfort.

Cells of the Cēsis JR do not meet the requirements of the Detention Procedure Law. Cells, which are inhabited by 2-3 juvenile prisoners, are very small and, since they contain beds, toilet facilities, table and other items, the prisoners are unable to move freely. Furthermore, when evaluating conditions of accommodation, one must take into account that

detained juveniles are not yet convicted, since there has been no court verdict yet.

A serious violation **of children's right to healthcare** is the fact that juveniles are denied the option to receive State-sponsored dentist's services, because payment for dentist's services depends on the budget of the Cēsis JR.

The Ombudsman communicated information on discovered problems to the Cēsis JR, Prison administration and the Ministry of Justice. The letter invited to resolve problems at the Cēsis JR as soon as possible, by allocating the required financial resources, if necessary. It was also pointed out that it was necessary to:

- 1) improve the condition of the Cēsis JR buildings and premises;
- 2) improve the condition of the building and premises of the Cēsis JR educational facility, to prevent danger to life and health of persons;
- 3) support the commenced works connected with repair of the Cēsis JR quarantine premises;
- 4) support the commenced works connected with complete replacement of the Cēsis JR fencing and to ensure sufficient quality and number of technical security solutions;
- 5) provide all residents of the Cēsis JR with free dental care, when required;
- 6) provide assistance to the Cēsis JR in other matters related to the accommodation of juvenile prisoners (purchasing footwear, including sports footwear, purchasing furniture, materials, equipment and other education articles to ensure the process of education, including vocational education, etc.);
- 7) and resolve the question of opportunities of obtaining vocational education at the Cēsis JR (accreditation of programmes, etc.).

On 11 July 2007, employees of the Children's Rights Department of the Ombudsman Office visited the Daugavpils Prison. Attention during the visit was focused on inspection of the conditions described in complaints made by juvenile prisoners. They said that the staff of the Daugavpils Prison treated juvenile prisoners with disrespect and frequently insult them verbally, thus provoking conflicts. There also was information of the possible violation of rights, when prison staff used special means and physical force against them.

Since the prison administration provided different information, the humiliating treatment of juvenile prisoners by prison staff could be neither verified, nor denied.

At the same time, employees of the Ombudsman Office carried out an inspection of the premises where juvenile persons were accommodated, which revealed several problems. Firstly, juvenile prisoners in the Daugavpils Prison are accommodated in a separate building opposite a building where adult prisoners, including life-term prisoners are accommodated. Thus, there remains a chance of visual contact with adult prisoners, which contradicts the UN Minimum Standards for Administration of Juvenile Legislation and other international and local regulations.

It was also discovered that the duration of arrest in the Daugavpils Prison of some juveniles exceeded 12 months, even though the Law on Protection of Children's Rights provides for priority consideration of issues related to child's rights or interests. In interviews, juvenile prisoners expressed information about insufficient ventilation and the presence of rats in cells.

In the Ombudsman's opinion, juveniles may not be accommodated in such conditions, because it endangers their health, life and development. Therefore, information on this and other problems was communicated to the Daugavpils Prison administration and officials of the Latvian Prison Administration and Ministry of Justice of the Republic of Latvia.

In October 2007, the Ombudsman received a reply from the Ministry of Justice. The Ministry informed that attraction of additional funding for prison infrastructure will be available starting from 2009. Meanwhile, funds are provided from the budget of Latvian Prison Administration for some planned repair work and improvement of the technical equipment of premises in the Cēsis JR.

As regards full healthcare for juvenile persons, development of the Prisoner Healthcare Concept is currently in progress. Actions are planned also in relation to solving other problems of improvement of prisons.

The Ministry of Justice also pointed out that bringing conditions in prisons up to human right standards requires additional resources and this issue would be addressed by developing a prison infrastructure improvement concept and seeking new sources of financing.

The Ombudsman is satisfied that the competent officials address these problems not only in the light of seeking financial resources, but also planning policies and creating development concepts, yet children's rights must remain a priority and be addressed immediately. Therefore, the Ombudsman has planned to visit institutions of this kind on a regular basis and monitor the achievements.

CHILD'S RIGHT TO A FRIENDLY SOCIAL ENVIRONMENT

A child's right to a friendly social environment must be reviewed in the context of implementation of other rights. For example, the right to housing, right to grow up in a family, etc. While parents bear the primary responsibility for ensuring a child's rights, including the right to a friendly social environment, support by State institutions is also a significant share in solving these problems.

During the reporting period, the Ombudsman Office received applications **concerning possible violation of children's right to live and develop in a friendly social environment**. The Ombudsman has concluded that this kind of complaint indicates a growing significance of the problem in society and, probably, imperfections in the actions of municipalities in the given area.

For example, a mother of a child addressed the Ombudsman Office and pointed out violations of her child's right in connection with an unfriendly social environment – living conditions in a house for different social groups at 25a Prūšu Street in Riga. Rooms in this house are

mainly offered to persons in crisis situations, however, no social work with these persons is carried out. As a result, children constantly witness the conflicts of residents, use of rude language and immoral behaviour by adults.

After having familiarised himself with the situation, the Ombudsman addressed the Riga City Council and stressed the importance of social work with residents of the house by providing not only material, but also psychological help. The letter also included several recommendations.

From analysis of the information accumulated during these inspection cases, the Ombudsman has concluded that municipalities should work with not only those persons, who ask for help, but also those, who require help, but have not applied for it. Municipal social services should make a move in gathering as much information as possible about such persons and carry out different activities to involve and motivate socially adverse persons to positive change. It would improve the social environment in general.

PRINCIPLE OF GOOD ADMINISTRATION

Promotion of the principle of good administration is the key function that distinguishes the Ombudsman Office from its predecessor, the LNHRO. The Ombudsman considers complaints not only about violation of human rights, but also any case when State or municipal authorities and officials have acted unlawfully. Good administration includes objective and fair consideration of a question within a reasonable limit of time, a person's right to express an opinion, to get acquainted with court materials, to request a reasonable decision and compensation of damages, etc.

When evaluating the work of the Ombudsman Office in this area, it should be noted that, unlike issues of human rights, which were considered for ten years by the LNHRO, experience of the Ombudsman Office in investigation of such issues is very limited. Furthermore, the Department for Good Administration, which is responsible for these questions, only started work in late 2007.

Even though adherence to the principle of good administration is a new topic in State administration, there were 270 written and 162 verbal complaints received in relation to this issue in 2007. Besides, by the number of applications, it was the second most serious problem after the right to housing.

From the analysis of received complaints, the Ombudsman concluded that the level of knowledge of good administration is low in Latvian society. It is often referred to in a sense of desirability and interpreted according to one's own perception. It must be considered, though, that good administration is a general principle of rights with a specified legal content, as well as a source of rights. The Constitutional Court has referred to this principle in several of its verdicts, yet without elaborating on its content.

In relatively many cases, after the analysis of received complaints, inspection cases were not initiated, because they were concerning private disputes not related to state administration. Persons complained about issues of privatisation or denationalisation,

which must be settled in court. There were also complaints about refusal of the prosecutor's office to instigate a criminal case, as well as concerning action or decision or the conductor of proceedings. That included inaction by delaying criminal proceedings. However, the Ombudsman was unable to consider these questions, because the legislation does not provide for a right to get acknowledged with criminal case materials, yet it is the only possible way to answer significant questions.

Received complaints also indicate that often people are not informed about or do not use their official procedural rights – to appeal against decisions by officials or complain about their actions. In many cases a problem is impossible to resolve, because the person has addressed the Ombudsman Office too late.

A large part of substantiated complaints in 2007 connected **with adherence to the principle of good administration were concerning the availability of information, especially receipt of information from municipalities.** The Ombudsman has concluded that the reason might be a defective system for the monitoring and education of municipal officials and has planned to pay particular attention to this issue in the future.

A large number of complaints were **about the failure of institutions to answer persons' applications.** Investigation of these complaints revealed that in certain municipalities and institutions of direct administration a delayed response is normal practice. It is usually caused by improper organisation of recordkeeping or lack of skilled employees due to insufficient financing. In such cases, the Ombudsman addressed the respective institution and pointed out that such a situation was unacceptable. A positive outcome was that the persons received motivated answers afterwards.

Several complaints of this kind were received from prisons. Prisoners informed the Ombudsman that the administration of the prison did not respond to written applications. Employees of the Ombudsman

Office requested explanation from administration of the prison and inspected registration logs of applications and complaints, while carrying out the planned visits. It was discovered that recordkeeping was accurate, transparent and correct. Therefore, the Ombudsman had no reason to believe that the administration of the prison had deliberately hidden applications of prisoners and failed to respond to those.

People face problems also with the truthfulness of information. For example, an employee of an institution has provided a person with incorrect information without looking into the case. Afterwards, when a breach was detected, the institution refused an allotment. In consideration of such cases, the Ombudsman followed the principle that information provided by the institution creates legal assurance for the person. In this particular case, after recommendation by the Ombudsman, the financing was renewed and more reasonable sanctions were applied to the person.

There have also been **complaints by people of officials refusing to accept an application**. Most often it has been done by employees of the Police. In cases when the Ombudsman detected a violation and if it was impossible to reach a solution, it was recommended to the appellant to address the head of the institution with application detailing the actual actions. If the answer was unsuccessful, then to address the administrative region court.

In 2007, there were several significant good administration issues, which were successfully resolved.

For example, in respect to the privatisation of State- and municipality-owned residential houses on the territory of the Free Port. The Ombudsman addressed the Parliament with a request to specify this procedure more explicitly in the legislation and was gratified when the MPs accepted the prepared recommendations. Amendments were made to the law, clearly stating, which institution must take a decision in this case. Decision of not handing over a building for privatisation must be substantiated by obligatory legal norm – binding municipal regulations.

Several complaints were received **about rights of way and plans of development of municipal territory**. The appellants were not satisfied by being denied the right to use the most convenient roads. During the inspection, the Ombudsman concluded that a municipality cannot unilaterally set a burden on a property. There must be a balanced compromise between the private owner and residents of the respective area. At the same time, the municipality has to explain its decisions and, if a decision is different from the opinion of a large part of society, it must be particularly substantiated. The Ombudsman pointed out to the relevant municipalities that they had to adhere to the principle of good administration, when issuing binding regulations.

People also complained **about the absence of road crossings in populated areas**. The Ombudsman believes that usually a longer time is required to select an appropriate solution and implement it. However, excuses of officials that no financing is provided for this purpose or that crossing the road in a particular place is forbidden by traffic regulations can be considered a violation of the principle of good administration. The institution has a duty to prevent danger to health and life, without waiting for it to set in.

A relatively large amount of complaints during the reporting period was **concerning violation of the principle of good administration in prisons**.

For example, it could be concluded from received applications that the practice of relaxation of the penalty regime for life-term prisoners in prisons contradicts that provided for by the Ministry of Justice. That is, the time that the convicted persons have spent in pre-trial arrest is not taken into account.

In order to prevent this violation, the Ombudsman addressed the Ministry of Justice with a request to evaluate the actions of subordinated institutions and eliminate the existing violations.

In one case, a prisoner in the Daugavpils Prison was not allowed to inform relatives of his location. This fact was confirmed during a visit to the prison.

The Ombudsman believes such a situation is unacceptable. From the aspect of human rights, it is important to allow a person to contact relatives after each transfer from one prison to another, regardless of the planned length of stay. Therefore, the Latvian Prison Administration was requested to interpret the relevant provisions of Imprisonment Procedure Law and Regulation No. 800 of the Cabinet of Ministers “Internal Procedure Regulations in Investigation Prisons” in a broadened sense and, every time a person is transferred, for all the relatives to be informed of the new location.

In their complaints, prisoners often voiced a request to transfer them to another prison. It usually was due to the wish to be closer to the location of relatives or to stay in a prison where one can work or learn.

Solving of the aforementioned questions is in the competency of the Latvian Prison Administration. Yet, the Ombudsman believes that, from the aspect of human rights, it is important to adhere to the requirements and recommendations contained in Latvian Penal Code and international legislation, when deciding on dislocation of a prisoner.

In 2007, the Ombudsman initiated several inspection cases on the basis of received complaints on **presumable violations by police**. Received complaints encompassed a wide range of problems: from refusal to accept applications to different violations in the criminal proceedings. Also including the polite and friendly attitude of policemen.

Seven complaints were received concerning possible violation in connection with searches. Searching as such is legal, if it is done according to legislation. However, complaints received during the reporting period raised the Ombudsman's concern that the mechanism of appealing against the investigation judge's decision of conduction of a search is formal and inefficient.

To resolve this question, there is a research and hearing of opinions of competent institutions currently going on. Should it be discovered that the current legislation does not allow for efficient protection mechanism, the Ombudsman will prepare respective recommendations for amendments to the law.

In two complaints, appellants voiced dissatisfaction with a criminal case initiated in connection with missing persons, as well as measures for identification of corpses of discovered and unrecognised persons. In one of the inspection cases the suspicion about possible violation of human rights did not turn out to be true. In the other one, however, the Ombudsman became concerned that the current system for the search for missing persons is not sufficiently efficient.

Competent officials were informed about the topicality of this problem. According to information in possession of the Ombudsman, an instruction containing the minimum set of actions in the search for missing persons and identification of unrecognised corpses has been prepared and submitted to the Ministry of Interior.

INFORMATIVE AND EDUCATIONAL EVENTS

One of the Ombudsman's functions is to promote public awareness and understanding of human rights, mechanisms of protection of these rights and the work of the Ombudsman. In 2007, the Ombudsman Office has carried out a significant amount of educational and informative work: employees of the office participated in 98 different events – lectures, seminars, discussions and conferences concerning issues of human rights and good administration. More than 400 people received information in the Information Centre of the Ombudsman Office.

To implement an annual tradition and to celebrate the International Human Rights Day, the Ombudsman Office staged the annual conference in December. The goal of the conference was to discuss different current problems in the area of human rights: inclusive education in the aspect of children's rights, freedom to form associations, prevention of discrimination in relation to access to goods and services, mechanisms of protection of tenants, as well as adherence to the principle of good administration in the State administration.

In 2007, the Ombudsman Office commenced a series of regional seminars, which was supposed to include visits to at least one Latvian city every month. In the seminars, employees of the Ombudsman Office informed residents of municipalities on various aspects of human rights and good administration and the Ombudsman Office. Experts also

provided information on how and where to apply in case of violation of human rights or the principle of good administration. After the seminars, people were provided with individual free legal consultations on the aforementioned issues.

Several information materials, intended both for residents and area experts, were published in 2007. These included: a brochure "What is the Ombudsman of the Republic of Latvia", "People's right to address the European Court for Human Rights", information material for social workers "Ensuring equal treatment at work, in the social and service area", as well as two researches – "Latvian court practice in cases of violation of prohibition of discrimination in official labour relationship" (author Dr. Iur. Kristīne Dupate) and "Freedom to form associations" (authors Mag. Iur. Ilze Spūle, Mag. Iur. Agnija Tiļļa).

Plans for 2008 are to continue active communication with society. There will be several new publications, including a simplified language version, which will help mentally challenged people to perceive the information. In order to educate society, employees of the Ombudsman Office will continue the series of seminars in the regions, thus providing information to people outside Riga. A lot of attention will be paid to communication with children, to educate them on their rights and responsibilities.

Appendices

APPENDIX No. 1 OMBUDSMAN'S ANNUAL REPORT ON THE BASIC-BUDGET INCOME AND EXPENSES IN 2007

Item	Law/planned for year (LVL)	Execution of the budget during the reporting period (LVL)
I. TOTAL INCOME	1 300 164	1 300 164
II. TOTAL EXPENSES	1 300 164	1 203 212
Maintenance expenses	1 236 700	1 152 864
Operating expenses	1 235 260	1 151 424
Remuneration	933 168	869 793
Wages	680 416	619 957
Mandatory employer's social security payments, social benefits and compensations	252 752	249 836
Goods and services	302 092	281 631
International co-operation (member fees)	1 440	1 440
Capital expenditure	63 464	50 348

APPENDIX No. 2 OMBUDSMAN'S REPORT ON ACHIEVEMENT OF RESULT INDICATORS OF THE 2007 BUDGET PROGRAMME

Result indicator	Reporting period plan	In fact in the reporting period
Number of positions	51	47
Number of received complaints	5500	5122
Number of published information brochures (materials)	5	5
Provided statements and recommendations to State authorities about draft regulations and other documents	40	77
Organised inspections in education establishments, open, closed and partially closed institutions, orphan courts, etc.	60	42
Number of lectures, participation in seminars, discussions, conferences, meeting leaders (employees) of institutions, organisations and foreign experts	40	98
Participation in task forces, commissions and duties of independent experts	90	125
Interviews and comments in the mass media, preparation and distribution of information about the Ombudsman's work and news in the mass media	150	168
Preparation of information for customers of the Information and Documentation Centre of the Ombudsman Office	250	427

APPENDIX No. 3.

STATISTICS ON THE APPLICATIONS TO THE OFFICE OF THE OMBUDSMAN OF THE REPUBLIC OF LATVIA IN 2007

		Received written applications	Investigations initiated on Ombudsman’s own initiative	Solved	Refused	Closed with a recommendation	Received oral applications	Applications total
				including applications received during the previous period				
1	Right to life	7	0	0	1	1	4	11
2	Prohibition of torture, inhuman or degrading treatment or punishment	207	1	18	14	66	91	298
3	Right to liberty and security of person	213	0	34	49	65	82	295
4	Right to a fair and public trial	357	0	23	139	36	219	576
5	Right to private and family life	104	2	7	21	16	105	209
6	Freedom of movement within state territory	0	0	0	0	0	0	0
7	Freedom to leave and reenter a country	3	0	0	1	0	6	9
8	Legal status of a person	32	2	8	2	2	116	148
9	Freedom of thought, conscience and religion	4	0	0	0	0	1	5
10	Freedom of speech and expression	14	0	3	3	4	9	23
11	Freedom of association	1	0	0	0	0	0	1
12	Freedom of assembly	2	0	0	0	0	5	7
13	Right to vote and to be elected	2	0	1	0	1	0	2

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14	Right to hold a position in the civil service	0	0	0	0	0	1	1
15	Right to work	50	0	2	24	15	192	242
16	Right to property	99	0	2	46	6	188	287
17	Right to social security	103	0	1	17	22	232	335
18	Right to housing	156	0	8	66	26	505	661
19	Right to medical care	72	0	3	18	15	45	118
20	Right to education	14	0	1	2	7	28	42
21	Freedom of scientific research, artistic and other creative activities	0	0	0	0	0	0	0
22	Right to benevolent environment	23	0	0	9	2	43	66
23	Children's rights	32	0	0	1	3	148	180
24	Rights of the disabled	3	0	0	2	0	28	31
25	Rights of the prisoners	83	0	4	38	25	7	90
26	Discrimination	112	41	16	7	96	192	304
27	Principle of good administration	279	1	12	50	59	162	441
28	Requests for information	196	0	89	49	32	211	407
29	Applications with unclear content	32	0	2	19	0	22	54
30	Miscellaneous	89	0	6	55	18	190	279
	TOTAL:	2289	47	240	633	517	2833	5122

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Design by: Premo, Ltd 2008