Annual report 2018/19

SUMMARY IN ENGLISH

JO RIKSDAGENS OMBUDSMÄN
THE SWEDISH PARLIAMENTARY OMBUDSMEN

Annual report

2018/19

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Printed by: Exakta Print AB 2020
Production: Riksdagens ombudsmän (JO)
Photos by: Pernille Tofte (pages 4, 14, 22, 30) and Anders Jansson

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Elisabeth Rynning

Chief Parliamentary Ombudsman

THE SUPERVISION in my supervisory area comprises the Prison and Probation Service, the Armed Forces, the health and medical care services as well as taxation and population registration. The area also includes a number of government agencies, such as Finansinspektionen (the financial supervisory authority), the Competition Authority, the Equality Ombudsman and the National Board for Consumer Disputes.

The two largest case groups within my supervisory area, the Prison and Probation Service and the national health services, cover a large number of activities through which people can be deprived of their liberty. I.e. correctional facilities and detention centres as well as institutions for compulsory psychiatric care and forensic psychiatric care. I must therefore pay particular attention to the Parliamentary Ombudsmen's commission as Sweden's national preventive mechanism pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which has largely been implemented with the help of our OPCAT Unit. This unit is also organised into supervisory area 2, whereas the inspections of the OPCAT Unit are always carried out on behalf of the Ombudsman supervising the authority where the inspection is to take place. A more detailed presentation of the OPCAT Unit's operations is provided in the section "Opcat operations".

My supervisory area received 2,057 new complaints in the operating year 2018/2019, which is 300 more than the year before. The increase is partly due to me assuming responsibility, in February 2018, for the case group taxation and population registration, but also to the increased number of complaints concerning the Prison and Probation Service.

During the year, a total of 2,087 supervisory cases were decided on at the division. However, 291 of these were cases that were deemed, already upon arrival to

Areas of responsibility

- The Armed Forces and other cases relating to the Ministry of Defence and its subordinate agencies which do not fall within other areas of responsibility
- The National Fortifications Agency.
- Prisons and probation service, the National Prison and Probation Board and probation boards.
- Health and medical care as well as dental care, pharmaceuticals; forensic medicine agencies, forensic psychology agencies; protection from infection.
- Income and property tax, value added tax, fiscal control, with the exception, however, of the Taxation Authorities Criminal Investigation Units as laid down in the Act on the Participation of Taxation Authorities in Criminal Investigations [1997:1024]); tax collection.
- Excise duties and price-regulating fees, road tax; service charges; national registration (including cases concerning names); other cases connected with the Ministry of Finance and its subordinate agencies which do not fall within other areas of responsibility.
- Public procurement, consumer protection, marketing, price and competition within industry and commerce, price regulation, cases concerning limited companies and partnerships, trade names, trade registers, patents, trademarks, registered designs, and other cases pertaining to agencies subordinate to the Ministry of Industry, Employment and Communications which do not fall within other areas of responsibility.
- The Agency for Public Management; the National Financial Management Authority; the Legal, Financial and Administrative Services Agency, the National Appeals Board, the National Claims Adjustment Board; the National Agency for Government Employers, the Arbitration Board on Certain Social Security Issues; the National Property Board; the National Government Employee Pensions Board, the National Pensions and Group Life Insurance Board; the Financial Supervisory Authority, the Accounting Standards Board; the National Institute of Economic Research; Statistics Sweden; the National Disciplinary Offense Board.
- The Equality Ombudsman; the Board against Discrimination.
- Cases that do not fall within the ambit of the Parliamentary Ombudsmen; documents containing unspecified complaints.
- The Opcat unit

the office of the Parliamentary Ombudsmen, to fall outside the scope of the Parliamentary Ombudsmen's supervision, for example, complaints against private operations, these complaints were consequently delegated to a head of division for dismissal. A total 20 per cent of the cases in supervisory area 2 were delegated to heads of division.

Within my areas of responsibility, 25 inspections were carried out during the year, of which 20 were within the scope of the OPCAT Unit's operations. Together with colleagues from the division, I have inspected the correctional facilities Tidaholm and Salberga, the detention centre Salberga, as well as the Regional Forensic Psychiatric Clinic in Vadstena and the Child and Adolescent Psychiatry Service (BUP) in Malmö. I also commissioned a head of division to inspect the Probation Service in Skövde. I inspected the Regional Forensic Psychiatric Clinic in Växjö and the detention centre in Växjö together with the OPCAT Unit. On my commission, the OPCAT Unit carried out another 18 inspections, of, among other things, the conditions for inmates at various detention centres but also at correctional facilities and within the psychiatric service (more in section "Opcat operations").

Two enquiries were closed during the year, and twelve new cases were opened. Among the issues brought up in the new cases are the conditions for the Prison

and Probation Service's use of security units for placement of other inmates than those who have been issued a decision on security placement; the Prison and Probation Service's work to prevent isolation; the circumstances under which an inmate is put in restraints by the Prison and Probation Service; the meaning of the term "care facility" and the scope of an apprehension decision pursuant to Section 6 of the Compulsory Mental Care Act; as well as a care provider's actions in response to the suspicion that a patient had been subjected to a criminal act by another patient.

No prosecution has been brought during the year. I opened four preliminary investigations into confidentiality breaches, of which two were closed (one during the year, and one shortly after). I furthermore opened a preliminary investigation regarding professional misconduct, but this too was closed around the end of the operating year.

In one case, I gave a presentation regarding a legislative review, to the Government pursuant to Section 4 of the Act with Instructions for the Parliamentary Ombudsmen. This case, which concerned the conditions for the Health and Social Care Inspectorate to consider the patient records of a nurse, within the scope of an examination of that nurse's professional conduct, is presented in the section on health and medical health services below.

The Prison and Probation Service

As in previous years, the majority of the work within supervisory area 2 concerns cases regarding the Prison and Probation Services. The number of complaints against the Prison and Probation Service increased in the past year. 1,041 new supervisory cases were registered within this area. This made the Prison and Probation Service the second largest case group at the Parliamentary Ombudsmen, in the operational year 2018/2019, subsequent to the social services.

It is often difficult to establish any specific reason why changes occur in the influx of cases, but I am able to note that the Prison and Probation Service has been struggling with overcrowding over the year. The occupancy rate in detention centres prompted me to commission the OPCAT Unit to open a special enquiry into the impacts on the inmates (ref. no. O 19-2019, more in section 4). The case is still open, and I will thus return to this issue.

One decision highlighted in this year's annual report concerns the prerequisites of a process in compliance to the rule of law regarding a case on a warning issued pursuant to the Imprisonment Act (ref no. 6230-2017). In this case, an inmate filed a complaint because he, following an incident with a fellow inmate, was incorrectly suspected of misconduct due to a report drawn up by a prison officer. During a number of subsequent hearings, the inmate had requested that the prison should hand over a recording of the incident from a surveillance camera. However, the prison did not review the recording, but instead issued him with a warning on threats and violence against a fellow inmate. Even though the recording was referred to in his appeal of the warning, it was not preserved, but had been recorded over when the appeal reached the administrative court. In my decision, I noted that the report of the suspected misconduct was inadequate. I was therefore critical of the Prison and Probation Service for failing to

review the surveillance tape at the request of the inmate. The principle of official examination, which is now set out in Section 23 of the Administrative Procedure Act, dictates that an authority is obligated to ensure that a case is investigated to the extent required by its nature. In cases of suspected misconduct, a surveillance tape could, in my opinion, be an important piece of evidence when it is a question of one person's word against that of another. The issue is especially pressing in the case of serious accusations of violence and threats, where a warning can influence the assessment of whether to postpone a conditional release. The Prison and Probation Service should furthermore have informed the inmate that the recording would be taped over, and of his possibility to make a request to see the recording, pursuant to the rules of access to official records, in order to have the matter tried in court. I was finally critical of the written decision issuing the warning which omitted a clarification of what action the warning referred to.

Another decision in this year's annual report concerns the Prison and Probation Service's possibilities to limit the number of cigarettes that an inmate is permitted to bring when going for a walk (ref. no. 4642-2016). Pursuant to Chapter 1, Section 6 of the Act on Imprisonment, the enforcement of a sentence may not entail any other limitations of the inmate's freedom than what is prescribed by law or what is otherwise necessary to maintain order and safety. The requirement for legality and proportionality in the matter of restrictions has occurred in several cases, regarding inmates' smoking opportunities. Even if smoking is an activity with well-known health risks, and which has gradually become subject to an increasing number of restrictions in society, it has also been considered a freedom that adults are traditionally entitled to (see, for example, judgment RÅ 2010 of the Supreme Administrative Court, ref. no. 9). A comparatively large proportion of the Prison and Probation Service's inmates are smokers. Since the Prison and Probation Service introduced a general smoking ban indoors at its prisons, the inmates' opportunities to smoke have primarily been limited to their walking time. However, there have been instances of inmates smuggling cigarettes inside following a walk and attempting to light these in various ways, which to varying degrees has constituted a fire hazard. In my opinion, there is nothing to prevent a prison from introducing limitations on the permitted number of cigarettes, either through local procedures or through a special decision due to specific incidents, provided that such limitations are necessary for safety reasons. However, in order to deal with this issue, different organisations have been permitted to use different solutions. At some prisons, the number of cigarettes per walk has been limited to three or five, while other prisons do not have any such limitations. In the case in question, the prison in Gävle had made a decision to limit the number of cigarettes to two per inmate and walk, i.e. normally two per day. In my opinion, this was an extensive limitation, but I did not believe that I had sufficient evidence to argue that it was disproportionate. However, it is important that similar cases are treated the same way by the Prison and Probation Service, and that the proportionality requirement is actually upheld in the activities. If a less restrictive measure is sufficient, it must be preferred. Even if the conditions for alternative ways of managing safety can differ somewhat between prisons, it is understandable that the regulation of the inmates' access to cigarettes in conjunction with walks can be perceived as arbitrary. In my conclusion, I therefore stated that I expect the Prison and Probation Service to review the different methods used by the prison to prevent contraband cigarettes on the units and consider the possibilities of effectuating a more cohesive approach to this issue. I have noted that the Prison and Probation Service has since made a request to the Government to introduce a general smoking ban in prisons and detention centres. I will monitor this issue with great interest.

The health and medical care services

The case group regarding health and medical care services includes voluntary health and medical care services as well as compulsory mental care and forensic psychiatric care, along with a number of central government agencies, such as the National Board of Forensic Medicine, the Medical Products Agency, the

Public Health Agency and parts of the Health and Social Care Inspectorate's activities. The increase in complaints against the health and medical care services in the last annual report was reversed in 2018/2019 and the number of new supervisory cases in this area stopped at 305.

From this area, I would first like to mention a couple of decisions from the annual report that illustrate the balancing of interests between the protection of privacy in health data regarding individuals on the one hand, and the need to protect the life and health of other people on the other. Secrecy provisions in the health and medical service generally indicates that information regarding health or other circumstances of an individual may not be disclosed, unless it is evident that such information could be disclosed without causing any harm to that individual or their family. This means that there is a presumption of secrecy. Individuals need to feel comfortable when voluntarily providing sensitive information to healthcare professionals. Ultimately, the privacy protection is essential to patient safety and to the individual's trust in health and medical care services. At the same time, there may be situations where other societal interests need to be taken into consideration and the presumption of secrecy therefore has many exceptions, where the law condones or even prescribes the disclosure of data. It is important, not least in consideration of the rule of law, that regulations as well as their implementation meets reasonable requirements on predictability.

One decision regards a doctor's duty to report incidents pursuant to the Driving Licence Act, which is intended to prevent accidents caused by individuals who are unfit to drive a vehicle for medical reasons (ref. no. 474-2016). Among others, this applies to a doctor who, upon reviewing a patient's records, finds it

likely that the patient is unfit, for medical reasons, to have a driving licence and must report this circumstance to the Transport Agency if the driving licence holder opposes continued examination or investigation, a so-called investigative report. In this case, a patient had been admitted for compulsory psychiatric care for a period of time, but during this time, no report was sent to the Transport Agency. A couple of months later, a senior physician at a patient facility, where the driving licence holder was a patient, became aware that the patient was employed as a professional driver. She then went through the patient's records and made an investigative report to the Transport Agency. Prior to this, the patient had not been asked whether he was opposed to an examination or investigation. At the time in question, the senior physician did not participate in the care of the patient but she believed that she needed the information to fulfil her obligation, i.e. to make an investigative report to the Transport Agency. In my decision, I note that the wording of the provision in the Driving Licence Act states that a doctor only becomes obligated to make an investigative report once they have examined the patient or gone over their records, thus finding the patient likely to be medically unfit to hold a driving licence. The provision as such does not give a doctor the right to go through a patient's records to investigate whether it may be unsuitable for the patient to have a driving licence. In the case in question, the doctor did not have the right to look at data in the patient's records. Furthermore, the doctor made her investigative report to the Transport Agency without having checked whether the patient opposed an examination or investigation. The doctor was criticised for inadequate processing, but I held that the Regional Executive Committee also appeared to have misunderstood the relationship between the duty to report and the provisions of the Patient Data Act. The guidelines provided by the authorities involved should, of course, be formulated to avoid such misunderstandings. I therefore sent a copy of the decision to the National Board of Health and Welfare and the Transport Agency.

Another decision raises the question concerning the Health and Social Care Inspectorate's possibilities of obtaining patient records of healthcare professionals where their professional activities are the subject of scrutiny. In one such case, the Health and Social Care Inspectorate had obtained patient records of a nurse and used information from those records as the basis of a report to the Medical Responsibility Board (ref. no. 1239-2018). In support of this measure, the Health and Social Care Inspectorate referred to a provision in Chapter 7, Section 20 of the Patient Safety Act regarding the obligation of care providers and healthcare professionals to disclose documents, material and information concerning the operation to the Health and Social Care Inspectorate. For the safety of the patients, it is of course important that care is not provided by staff who are unable, due to illness or abuse, to practice their profession. For this reason, I understand the Health and Social Care Inspectorate's need to present concrete and verified circumstances in a report to the Medical Responsibility Board. However, obtaining patient records of an individual, in a matter concerning their professional practice, is a very invasive measure, which in my opinion requires clear legal grounds. The cited provision is generally formulated, and should in my opinion rather be understood to mean that the obligation for care providers and healthcare professionals to provide the Health and Social Care Inspectorate's with

documents and information applies to the person(s) subject to the supervision. In other words, I do not believe that the wording of the provision warrants the conclusion that a care provider, who is not the subject of supervision, would be obligated to provide patient records belonging to healthcare professionals. In my decision, I state that the ambiguity is highly unsatisfactory, and pursuant to Section 4 of the Act with Instructions for the Parliamentary Ombudsmen, I have notified the Government of the need for a legislative review.

Exchange of data between government agencies

Unfortunately, it is not unusual for the Parliamentary Ombudsmen to observe situations where shortcomings in the exchange of data between government agencies has been to the detriment of an individual. From the previous year's annual report, I would like to mention two decisions, where the result of such shortcomings led to individuals being deprived of their liberty without legal grounds, which is of course unacceptable.

One case concerned a person who was being taken to a forensic psychiatric examination unit following a court ruling (ref. no. 5710-2017 and 7734-2017). An official at the National Board of Forensic Medicine made a request for police assistance to enforce the admission decision, attaching the underlying court rulings. However, the National Board of Forensic Medicine official was not authorised to request such assistance, and the admission decision furthermore had not gained legal force on the date when the person was to be taken into care according to the request. Despite these circumstances, the Police Authority provided the assistance before the admission decision had gained legal force. As a result, the person concerned was wrongly deprived of liberty for an estimated duration of one hour. Regarding the handling of the matter by the National Board of Forensic Medicine, I noted that the regulation, as well as the authority's written guidelines, provides clear information about when a decision may be enforced and who may request assistance. However, since the National Board of Forensic Medicine's disciplinary board has issued the employee concerned with a warning for their actions, the Parliamentary Ombudsman does not find any reason to further comment on the processing at the National Board of Forensic Medicine. Concerning the Police Authority's processing of the matter, the officer concerned had not verified that the person requesting assistance was authorised to do so, even though their manual states that this must be done. Nor should the officer concerned have relied on the information provided regarding the time of enforcement. The Police Authority could therefore not avoid criticism for the deficiencies in the formal verification in the assistance case.

In the second case, a person was deprived of liberty for a couple of hours due to being wanted for the serving of a prison sentence (ref. no. 4737-2016 and 1363-2017). However, there were no legal grounds for the deprivation of liberty as the Supreme Court had decided a few months prior that no measures to enforce the prison sentence were to be taken until further notice. Information in this regard was not available to the Police Authority officer involved. The investigation of the case showed that the incident was largely caused by an unfortunate combination of circumstances, but to some extent also by inadequate procedures at the law enforcement agencies. The matter highlights how important it is to have

correct dispatch and notification of judgments and decisions and well-conceived and effective procedures for information exchange between and within authorities. However, this particular case probably involved a fairly unusual situation, which may have been difficult for the law enforcement agencies to predict, which is why I refrained from criticism. The Police Authority, the Supreme Court and the Prison and Probation Service all expressed their intention to review their procedures, and the Prison and Probation Service had to some extent already made changes to theirs. This was of course a positive development, but I still felt that it could not be ruled out that the risk of wrongful deprivation of liberty could also be reduced through regulatory changes to ensure that relevant authorities receive information about decisions for suspension of prison sentences. A copy of the decision was therefore sent to the Ministry of Justice and to the Riksdag Committee on Justice.

The impartiality requirement

Section 3, first paragraph of the Act with Instructions for the Parliamentary Ombudsmen states that the Ombudsmen must especially ensure that the authorities government agencies comply with the requirements for objectivity and impartiality set out in the Instrument of Government. The regulation referred to is Chapter 1, Section 9 of the Instrument of Government, which states that courts, administrative agencies and others that perform public administrative tasks must consider everyone equal before the law and observe objectivity and impartiality. This provision is the constitutional basis for the rules regarding disqualification set out in the Administrative Procedure Act and the prohibition of secondary employment that can damage trust set out in the Public Employment Act. The requirement for objectivity and impartiality covers not only the actual processing of a case and the real grounds for a decision, but it is also of significance to how the actions of an authority are perceived. Ultimately, this is a matter regarding the public's confidence in the public management.

Issues relating predominately to conflicts of interest regularly arise at many authorities, and can often lead to difficult considerations. From this year's annual report, I want to highlight a decision concerning association affiliations of government employees. In this context, it is important that the freedom of association and freedom of speech are protected by the Instrument of Government, even if these freedoms may be limited by law under certain circumstances.

The case concerned a prosecuting counsel at the Legal, Financial and Public Procurement Agency who represented the authority in cases concerning hydropower (ref. no. 753-2017). The complainant, who was the chair of a hydropower association, felt that the counsel had a conflicting interest in the hydropower cases since he had been involved in organisations with interests opposing those of the hydropower associations, and had appeared with such organisations at seminars. The investigation showed, among other things, that the counsel was a member of the interest organisation Älvräddarna [save the rivers] and that he, in his official capacity, had made statements regarding the legal aspects of hydropower in a film produced by the organisation in collaboration with other stakeholders. The question was partly whether the counsel's affiliation with the organisation and participation in the film could be the type of trust-damaging

secondary occupation that the Legal, Financial and Public Procurement Agency should have intervened against, and partly whether the counsel could be considered to have a conflict of interest in handling hydropower cases, in accordance with the provision on bias set out in the Administrative Procedure Act.

When it comes to the question of a trust-damaging secondary occupation, I noted that the Labour Court recently issued a judgment stating that the freedom of association meant that the actual membership in a certain association cannot be used to the detriment of an employee (AD 2018 no. 45). The court found that the same circumstances applied, in view of the freedom of expression, to any opinions that the employee might express within the scope of the association's campaign activities. In the case of the counsel, I found that it had not been established that he had any other involvement in the association Älvräddarna beyond membership, nor that he had participated in the film in question in a manner that brought his impartiality as a government official into question. There are thus no grounds to criticise the Legal, Financial and Public Procurement Agency for failure to take action against the counsel's involvement with the association. However, this in itself does not mean that the counsel could not be considered to have a conflict of interest in individual cases or in cases of a certain nature.

For it to be considered bias, however, the circumstances must reasonably be such that an objective observer could have legitimate doubts regarding the counsel's impartiality and independence (cf., e.g., Supreme Court judgment NJA 2010 p. 274). I found that the counsel's membership in Älvräddarna in itself did not constitute sufficient grounds for bias, even though his involvement in the association had given rise to strong objections against his impartiality, for example from the power plant owners concerned. Nor did the investigation support any other circumstance that would disqualify the counsel in hydropower cases.

Even if the investigation did not provide grounds for criticism, I found it necessary to underline the importance of authorities endeavouring to maintain the public's trust in its activities and remaining vigilant with regard to discovering circumstances that could entail a risk of their impartiality being questioned. In this context, I reminded the authority of the responsibility of its management and the responsibility entailed in the role as a government employee.

Lars Lindström

Parliamentary Ombudsman

My supervisory area comprises the Courts, the Enforcement Authority, the planning and construction service, the land survey authorities, environment and health protection, the Tax Agency, the Chief Guardians, the education system and the communications area. During the year, 1,999 complaints were received, which is an increase of 28 cases compared with the previous year. 2,011 complaint cases were settled during the year.

Over the year, I have inspected Ystad District Court, the City Planning Board of Karlstad Municipality, Borås District Court, Luleå District Court, the Rent and Lease Tribunal in Stockholm and Härnösand Administrative Court. I have assigned *Head of Division Charlotte Håkansson* to inspect the City Planning Board of Södertälje Municipality and the County Administrative Board of Stockholm.

In the following account, I will present some of the decisions that are included in this year's annual report.

Delay in pronouncing a District Court judgment

The annual report for the previous year contains an account of my observations regarding a district court judge's processing of four cases: two criminal cases and two civil cases. In each of the four cases, the judge had pronounced a judgment much later than what is applicable pursuant to the principle provision. I found these incidents severe enough to constitute actionable professional misconduct, and I therefore reported them to the Government Disciplinary Board for Higher Officials. The board shared my view in three of the cases and issued a warning against the judge.

There is a similar case in this year's annual report (ref. no. 611-2018). A district court judge had failed to pronounce a judgment within the prescribed time limit in four cases, three civil cases and one criminal case. During a period of just

Areas of responsibility

- Courts of law, the Labour Court; Ground Rent and Rent Tribunals; the National Courts Administration.
- Administrative courts.
- The National Legal Aid Authority and National Legal Aid Board, the Crime Victim Compensation and Support Authority, the Council on Legislation; the Data Inspection Board, petitions for mercy submitted to the Ministry of Justice; other cases concerning the Ministry of Justice and its subordinate agencies that do not fall within other areas of responsibility.
- Cases concerning guardianship (i.a. Chief Guardians and Chief Guardian Committees).
- The Enforcement Authority.
- Planning and building, land survey and cartography agencies.
- Communications (public enterprises, highways, traffic, driving licences, vehicle registration, roadworthiness testing).
- The school system; higher education (including the University of Agricultural Sciences); student finance; the National Board for Youth Affairs; other cases pertaining to the Ministry of Education and agencies subordinate to it which do not fall within other areas of responsibility.
- Environmental protection and public health; the National Environmental Protection Agency; the Chemicals Agency; other cases connected with the Ministry of the Environment and its subordinate agencies.
- Agriculture and forestry, land acquisition; reindeer breeding, the Sami Parliament; prevention of cruelty to animals; hunting, fishing, veterinary services; food control; other cases agencies subordinate to the Ministry for Rural Affairs and its subordinate agencies which do not fall within other areas of responsibility.

over three months, the judge had postponed the judgments in these four cases a total of 14 times, which meant that the judgments were pronounced between just over three weeks and just over three months after the main hearings were concluded.

There are, in other words, substantial similarities with the earlier case, and I naturally considered reporting the judge to the Government Disciplinary Board for Higher Officials. However, I refrained from doing so because the delays in this case were not severe enough to constitute actionable professional misconduct. In my assessment, I took into consideration that the judge had a burdensome job situation during the period in question. I issued a statement indicating that the judge should be severely criticised for the delays in pronouncing a judgment.

Processing of cases regarding compulsory care at the Administrative Courts

A fundamental task of the Parliamentary Ombudsmen is to monitor that deprivation of liberty is not executed without legal grounds. Matters concerning deprivation of liberty on the grounds of public safety are widespread in the general courts. My opinion is that these courts, as a rule, process these matters correctly. However, on several occasions I have found cause to direct criticism towards the general administrative courts for shortcomings in the processing of administrative detention cases.

Unfortunately, this year's annual report contains two more examples of cases where administrative courts have failed in the processing of administrative detentions (ref. nos. 2743-2018 and 2744-2018). The summaries show that in

these cases, it was not a matter of negligence or oversight, but rather of the judges simply misunderstanding the meaning of applicable law. In my opinion, it is problematic that judges are unable to implement such central provisions adequately, particularly as it concerns the deprivation of liberty.

Slow processing by the Administrative Court in Gothenburg

Three of the decisions in this year's annual report (ref. nos. 5639-2018, 7755-2018 and 134-2019) concern the processing times of the Administrative Court in Gothenburg. The decisions show that the situation is demanding and that a contributing cause is the large influx of migration cases to the court in recent years. In the decisions, the court is criticised for taking a year and a half to process a case regarding annuity and for taking a year and five months to process a case concerning sickness benefits. Matters concerning annuities and sickness benefits are often of vital importance to the individual's finances, and processing times of this magnitude are unacceptable.

The third of the examined cases was a migration case regarding a residence permit and expulsion. According to the law, such cases must be expeditiously processed. Nevertheless, it took one year and three months for the court to process the case. On its website, the court states that cases regarding residence permits for reasons of protection or asylum will currently take 17 to 21 months to process. The processing times for migration cases are thus long, far longer than what is acceptable.

Ultimately, the Riksdag and the Government are responsible for ensuring that our courts are able to fulfil their tasks and meet the requirements set out in Chapter 2, Section 11 of the Instrument of Government. I have therefore submitted copies of my three decisions to the National Courts Administration and the Ministry of Justice for information purposes.

The Enforcement Authority disburses money to the wrong person

The Enforcement Authority has experienced problems with the part of its operations that handles funds. I have criticised the authority on several occasions for disbursing funds to the wrong person. In this year, I have found reason to do so again. A person who needed the authority's help to collect money from a debtor was informed that the authority had instead paid the money back to the debtor. The mistake was promptly discovered, but it took the authority five whole months to correct the mistake. It is surprising that the authority, despite criticisms on my part, over the years, still makes mistakes of this kind. This time, the authority received severe criticism (ref. no. 71-2018).

Chief Guardian Boards and Chief Guardians

A very important part of the welfare system is to provide help for people who, due to illness or functional impairments, cannot manage their own affairs. The system of guardians and administrators is largely based on voluntary efforts. At the same time, the work is demanding and entails high requirements on both knowledge and personal skills. The role of the Chief Guardian is therefore an important and difficult one.

Over the years, the Parliamentary Ombudsmen have, on several occasions, found reason to criticise Chief Guardians and Chief Guardian Boards. This year's annual report contains an enquiry regarding the Chief Guardian Board in the Municipalities of Eskilstuna and Strängnäs, based on observations made during an inspection of Eskilstuna District Court (ref. no. 893-2018). During the inspection, I discovered a large number of guardianship cases were the management of the cases had dragged on. Essentially, the reason why the process took so long was due to difficulties when trying to find someone willing to act as a guardian or administrator. The board cannot be faulted for this, of course. However, the board is still criticised for the slow processing of these cases. In several cases, it took a remarkably long time for the board to take any measures, after receiving the district court order. The board's processing also appears remarkably slow in other respects. Furthermore, the board is criticised because, in many cases, it did not contact the district court when the deadline of the district court order expired. It appears as if the board did not strive to have an effective cooperation with the district court.

Schools, universities and university colleges

Freedom of speech

Matters regarding freedom of speech often come up in complaints concerning schools. This year's annual report includes a case regarding a banner on a "graduation float" (ref. no. 6852-2018). Translated, the banner read "#Metoo, for women who tried to sleep their way to the top but failed". The school had ordered

the students to take down the banner, which was reported to the Parliamentary Ombudsmen. The question was whether the school's actions infringed on the freedom of speech. The investigation revealed that the text on the banner had caused an aggressive atmosphere around the group of students, and there were concerns regarding their safety. I therefore found that there was a concrete risk of the banner interfering with the order at the school, and I consequently made no objection to the school ordering the students to take down the banner.

Another decision on the freedom of speech concerns a preschool operation in the City of Gothenburg (ref. no. 3967-2018 and others). The city had advised preschool directors not to allow their staff to wear shirts with the text "Förskoleupproret" (the preschool revolt) or pins with the text "STOPP färre barn NU! Lärarförbundet Göteborg" (Fewer children NOW! Gothenburg teacher's union). The reasons given by the city for this prohibition included that staff wearing the shirts or pins were communicating a political message, that it was an expression of discontent against their employer, and that the staff should be carrying out their tasks during working hours rather than participating in public opinion campaigns. According to the city, there was also a risk that the users felt imposed by the message, which could lead to parents not being comfortable leaving their children at the preschool.

I noted in my decision that the messages on the shirts and pins do not violate any law. The impression is that the messages constitute the private opinions of the staff. There is no investigation to indicate that the wearing of the pins and shirts had any negative impact on the activities. In light of this, I found that the city's arguments to restrict employees' clothing were not correct. The city received criticism.

Justification of decision

As a rule, an administrative decision must contain the grounds for arriving at a certain conclusion. The Administrative Procedure Act that was in force prior to 1 July 2018 included an exception for decisions concerning research grants. Such decisions were allowed to fully or partially omit the grounds of the decision. There is no such exception in the current Administrative Procedure Act (2017:900). According to that act, there must be justification in any decision that can be assumed to affect a person's situation in a significant way, unless this is evidently unnecessary (Section 32).

This year's annual report includes a case concerning a research grant decision (ref. no. 8358-2018). A person's application was rejected without justification of the decision. This would have been correct if the decision had been issued prior to 1 July 2018, but the rejection was communicated after the new Administrative Procedure Act had come into force. This prompted criticism.

Agricultural subsidies

In May 2015, a person submitted an application for an agricultural subsidy to the County Administrative Board of Skåne. After three years, he still had not received a decision regarding the subsidy and therefore he handed in a complaint to the Parliamentary Ombudsmen. The Parliamentary Ombudsman requested a statement from the County Administrative Board, and found the reply sur-

prising. The board wrote that it was waiting for a special type of IT support, and had therefore not made any decisions since 2015 in cases regarding agricultural subsidies ready for a decision. According to the statement, this matter concerned a little over 8,000 cases. I did not accept the board's explanation. In my decision, I wrote that by not making decisions for several years, in cases that have been fully prepared, indicates a surprisingly indifferent attitude towards fundamental administrative rules. The County Administrative Board received severe criticism (ref. no. 6540-2018).

Inspection of the Rent and Tenancy Tribunal in Stockholm

The Rent and Tenancy Tribunal in Stockholm is tasked with mediating and resolving disputes concerning leases, rentals and tenant-owner's rights. The tribunals fill an important function in society, and it is important that their activities are functional and effective. The Parliamentary Ombudsmen has not inspected a rent and tenancy tribunal for a long time, but in February 2019, my colleagues and I carried out an inspection of the Rent and Tenancy Tribunal in Stockholm. We noted that the tribunal is very busy and that the processing times

are not consistent with the requirement for expeditious processing applicable to its activities. The long processing times are largely due to the great influx of cases, but we were also able to note that there was a need for review of the tribunal's activities. The tribunal employees believe that there are problems, for example a lack of leadership, organisation, cooperation between groups, etc. The National Courts Administration has conducted an analysis of the tribunal's activities and provided several proposed measures to remedy the tribunal's problems. At the time of the Parliamentary Ombudsman's inspection, the tribunal informed us that it intended to restructure the organisation. During the inspection, I stated that such a review should include the organisation of the preparatory process, the division of labour between different officials as well as the procedures for section briefings.

Legislative referrals

During the year, I have been able to respond to a large number of legislative referrals. As in previous years, I have concentrated on answering the referrals that are connected to the central parts of my supervisory area. The statements I have made on referrals include the memorandum "New trial due to new information on the defendant's age" (Ds 2018:19), the memorandum "Issues concerning child pornography offences and to the repeal of the statutory time limit on serious crimes against children" (Ds 2018:23), the report "Enforcement of permit decisions" (SOU 2018:86), the memorandum "Extended possibilities for the Migration Courts to transfer cases", the report "Elimination of reduced sentences for young adults" (SOU 2018:85), the memorandum "Penal measures against unlawful appropriation and certain other offences" (Ds 2019:1), the report "Camera surveillance of public transport – a simplified procedure" (SOU 2019:8), the memorandum "Prohibiting the dissemination of images from court proceedings" (Ds 2019:10), a draft of a proposal to the Council on Legislation regarding special criminal liability for interaction with a terrorist organisation, and the memorandum "Increased preparedness for urgent decisions on appointments of public defenders".

RIKETS STÄNDERS
JUSTITIE
OMBUDSMANS
EMBETS-BERÄTTELSE

1810-1824.

R. H. ST. JUSTITIE
OMBUDSMANS
EXPEDITION

Cecilia Renfors

Parliamentary Ombudsman

My supervisory area has encompassed police, prosecutor and customs cases, immigration cases and certain issues concerning the Government Offices and municipal operations, with emphasis on the supervision of police and prosecutors and on immigration cases. These complaints have dominated the supervisory work, as in previous years.

I took office as Parliamentary Ombudsman on 1 September, 2013, and concluded my period of service in the summer of 2019. The years have been interesting and rewarding and I have been able to contribute in many areas to the protection of individuals' privacy and to efficient administration at municipalities and government agencies. At the same time, there is reason for me to note that it has not been possible to look more closely at all the pressing matters that arise in the supervisory work. I have had the privilege of working together with very committed and talented colleagues, but the number of cases and urgent issues has been too great.

The number of complaint cases within my supervisory area has therefore remained at a high level throughout the operating year (2,296 cases), with the largest number of complaints directed against the police (990). The number of complaints against the Migration Agency is slightly lower than in 2016/17 but significantly higher than when I took office, when the number was below 300. This year, 706 complaints were received in the area of immigration law, compared with 632 in the preceding operating year. The number of enquiries this year was 3 and the number of legislative referrals received was 20.

Together with my colleagues, I have carried out inspections of the Separate Public Prosecution Office at the Prosecution Authority, which handles suspected criminal offences on the part of police and prosecutors. I have also conducted a visit combined with an inspection of the Migration Agency's national prison and detention coordination at the agency's detention centre in Märsta.

Areas of responsibility

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

On my instruction, the Opcat Unit has carried out inspections at eleven police lock-ups. At one of these, Borlänge lock-up, I myself participated together with three members of the Opcat Unit and my own division. It was, as always, a valuable experience to be on site and witness how an operation is managed, and talk to staff and inmates. The inspection showed that the operation is efficient but that there is room for improvement, for example, in educating the staff members at the lock-up, and with the documentation in certain respects. The major issue at the time of the inspection was, however, that the occupancy situation was such that the detainees being held could not be transferred from a lock-up to a detention centre according to the applicable regulations. Lock-ups are not intended for anything other than short-term deprivation of liberty, and it is obviously unacceptable that individuals are kept there longer than intended and permitted by law.

Police, prosecutors and customs

The treatment of inmates in police lock-up has been a recurring issue in the supervisory work of recent years. This has also been the case during this operating year. In the annual report, I bring up a few of the cases that have been handled during the year. One of these involves a man who, without there being any concrete security risks, was not allowed to keep his prosthetic leg in his cell, and another case involves a man who was left naked in a cell for several hours

(ref. nos. 5867-2017 and 3622-2017). In the latter case, the police also decided that the man did not need the medication for which the man had a prescription. As I have stated previously about inmates' medical care needs, the police must be careful about making medical assessments, and this also applies to the inmate's need of their own medication.

The way in which the police handles the task of providing assistance in enforcing a decision for compulsory care etc. (so-called judicial assistance) has over the years been the subject of several decisions. In this years' annual report, there is a decision where the police, after certain measures to provide judicial assistance had failed, instructed a 15-year-old to make their own way back to the residential care centre from which he had absconded (ref. no. 3529-2017). This is obviously not how judicial assistance is to be provided.

One decision concerns a special situation regarding the maintaining of restrictions for detainees in rooms with poor soundproofing (ref. no. 2670-2018). Three 16-year-olds suspected of rape were being detained with restrictions regarding their right to be in contact with each other. However, they could contact each other by shouting from their cells in the lock-up. The prosecutor decided that the conversation would be recorded if they continued calling to each other. The inmates were informed of this and that the recordings could be used in court. Their public defenders were not informed. My investigation led me to conclude that the measure cannot be viewed as an enforcement of the applicable restrictions. It must instead be an obvious point of departure that the premises where detainees are being housed do not allow for unauthorised contact, and that other measures are taken to prevent contact if the premises have poor soundproofing. My conclusion was that recordings of conversations between persons deprived of liberty that are recorded for some kind of investigative purpose must be supported by law. There was no such support in this instance and the prosecutor was criticised for their decision.

A relatively new issue that has arisen in the supervisory work is the actions of the police when an intervention is filmed by the person subject to the intervention, or by a third party. Complaints against the police, for telling people to stop filming, have been frequent during the past year. The police naturally have the right to act if persons filming are disrupting and preventing an intervention or in some way pose a security risk, but not on the grounds that they do not like it or because they feel uncomfortable. In the performance of their duty, a police officer cannot express personal opinions about, for example, the risks regarding how a video recording may be used. I had cause to state this in a decision, and the fact that every person has the right to obtain information for publication in constitutionally protected media (ref. no. 6506-2017). In another decision, there was reason to emphasise that police officers must also act appropriately and professionally when their work is being questioned. In the case, two officers had blocked the view of a lawyer who was filming an intervention and also behaved and spoke in a way that did not inspire trust (ref. no. 6908-2016).

The application of traditional coercive measures with regard to computers and today's phones is often cause for concern. Even more complicated is the legislation and its application when it comes to the right, such as that held by customs

officers, to use coercive measures. I have investigated this in a case that involved a body search and search of a mobile phone that a traveller had with them (ref. no. 6093-2017). The aim was to search for child pornography. I came to the conclusion that a search cannot be carried out if there is no seizure order and no stance on the investigation taken by the person in charge of the preliminary investigation, as is the case when a body search is carried out in a criminal investigation according to the provisions of the Code of Judicial Procedure. There is also no support for the inspection of mobile phones and computers in the regulations that apply to the physical import of goods. I do not share the view expressed in a previous Parliamentary Ombudsmen decision that a computer can be equated with bags and the like in this context. The actions of the Customs are therefore not supported in law. Given that the possibilities of searching for child pornography at customs checkpoints would be significantly limited, I turned the decision over to the Ministry of Justice.

Swedish law does not apply the principle of legal insanity, i.e. that individuals with a severe mental disorder cannot be held accountable for crimes. However, there are possibilities to refrain from prosecuting or to close a preliminary investigation in light of the suspect's disorder or disability. A decision, in the spring, concerned a charge of aggravated assault brought against a man who had

a severe intellectual disability and a level of development corresponding to that of a child aged 2–4. He did not have the intellectual capacity to understand what the criminal investigation was about, it was not possible to question him, and he could not participate in the District Court hearing. In such a case, prosecution is not meaningful, and in my opinion it is difficult to reconcile with reasonable demands on how the legal community should treat people with severe intellectual disabilities. The prosecutor did not share this view, and my assessment was that he placed far too much emphasis on whether the man, despite his disability, could be considered to have acted with intent in the legal sense.

Immigration law

Complaints against the Migration Agency regarding long processing times have continued, and during this operating year, the majority have concerned citizenship cases. The processing times at the Agency in these cases can extend to more than two years. This is of course unacceptable and can significantly impact those concerned, for example, with regard to the possibilities of travelling abroad. This may include the inability to take a job that involves trips abroad, the inability to take a normal holiday with the family, the inability to join one's class on a school trip abroad, or the inability to visit a dying relative. A delayed decision on citizenship may also affect a person's right to vote in general elections. These issues will continue to feature in the supervisory work and will be dealt with in future cases where the issue of processing times in individual cases has been referred for a decision.

A few of the decisions that concern the Migration Agency in this year's annual report relate to excessively long processing in another respect, namely when the Agency's decisions have been appealed. An appeal must, unless the decision is changed, be promptly forwarded to the court. In those two cases, it took more than seven months and one year, respectively, for the appeal to be forwarded, which unacceptably infringed on the appellant's right to have the matter examined by a court (ref. nos. 8010-2017 and 8613-2017). The cases showed that the Migration Agency needs to implement measures to establish control and monitoring routines for appeals.

An asylum seeker has the right to daily benefit for the duration that the asylum case is processed. In order to facilitate payment of the benefit, the funds are deposited on a cash card that the asylum seeker can use. For those whose application is rejected, the right to the benefit is normally withdrawn when the deadline for voluntarily leaving the country expires. In a couple of cases I have examined the Migration Agency's procedure for blocking cash cards when the right to the benefit expires (ref. nos. 4987-2018 and 5935-2018). The procedure entails the person in question being denied access to the money that is already on the card and which belongs to him or her. There is no legislative support for the Agency to control access to money that has been paid to an asylum seeker in this manner. In addition, I have previously criticised the Agency for blocking a cash card and thus assuming control of funds that belonged to an individual asylum seeker. I am extremely critical of the fact that this procedure is still used. It entails a circumvention of the regulatory framework decided on by the legislature and an exploitation of the asylum seeker's vulnerable position.

In the previous annual report, I mentioned that detention centres have troubling conditions in terms of dealing with the prevalence of narcotics. I have followed up on this issue and have made certain statements regarding the application of the regulations concerning isolation and security holding in a detention centre etc. when it comes to inmates who have used narcotics or have been found with narcotics without being under the influence (ref. no. 4378-2018). The investigation revealed that the prevalence of narcotics in detention centres is a general problem, that the agency uses the options of isolation and security holding in situations where the prerequisites for such do not exist, and it is difficult to overcome the problems through the current regulations. The fact that detention centres cannot be kept free of narcotics has serious consequences for those inmates who want no part of this activity, and it entails a risk for all those at a detention centre. The implementation of such invasive measures as isolation and security holding must of course be uniform and in keeping with the rule of law, and the agency needs to work on this. However, alongside the measures available to the agency, my assessment is that the legislation also needs to be reviewed. I am therefore handing over my decision to the Government Offices, according to Section 4 of the Act with Instructions for the Parliamentary Ombudsmen.

During the operating year, I have also followed up on other issues concerning isolation and security holding. This was done during an inspection of the agency's national prison and detention coordination at the detention centre in Märsta, where my colleagues and I examined issues concerning the basis for such decisions and how the review of these decisions is handled (ref. no. 6665-2018). The Parliamentary Ombudsmen has already in the past highlighted the need for statutory regulation with regard to the reassessment of placements in security holding. As no such regulation has come to pass, I forwarded the report with my observations to the Government Offices, as per Section 4 of the Instructions for the Parliamentary Ombudsmen.

Public documents

As with last year, I can reiterate this year that there is often inadequate knowledge regarding the regulations that apply to government agencies' handling of public documents, and regarding the importance of our constitutional principle of public access to official documents in terms of ensuring efficient municipal and state administration.

The Ministry for Foreign Affairs has received recurrent criticism, not only from the Parliamentary Ombudsmen, for shortcomings in this area. In a decision I included in this year's annual report, the investigation reveals shortcomings similar to those highlighted in previous examinations (ref. no. 3996-2018). In its statement to the Parliamentary Ombudsmen, the Ministry referred to the final report produced within the framework of the action programme #handling2018. In this report, it is recommended, among other things, that a review be done concerning the handling of requests for public documents. Such a review has subsequently begun. In light of the recurrent shortcomings, I considered it urgent to follow up on the work being done, and the Ministry for Foreign Affairs was therefore asked to submit a report by 1 October 2019 regarding the measures that have thus far been taken as well as those planned.

The correct processing of requests for public documents is essential as it concerns a constitutional right. Duties of this nature constitute the exercise of public authority and may not be handed over by the authority to another party, such as a consultant. The Municipal Executive Committee in Umeå was criticised for allowing a lawyer to handle requests for access to certain documents that were of interest to the applicant in an ongoing dispute with the municipality (ref. no. 3053-2018). Moreover, the processing was not sufficiently expedited. The Committee's actions gave the impression that it had not been able to separate its role as counterparty in a dispute from that of a public authority responsible for the correct handling of matters regarding public documents. This is naturally worrying.

The general rule is that public documents are to be stored, but the documents may also be disposed of. When an authority determines the extent to which documents shall be discarded, the authority must take into account the right of access to public documents and the function this right serves, among other things. Stockholms Stadsteater received criticism for their immediate disposal of application documents in an employment process that was ended (ref. no. 517-

2018). Suspicions that decisions in employment matters are made on non-objective grounds risk damaging confidence in the public operations, and in this respect the principle of public access fulfils an important control function. This also applies to an employment process that is ended. Documents in such cases can therefore not be immediately discarded.

Freedom of speech and freedom to disseminate information

Härjedalen Municipality sent out a newsletter with information to the municipal managers concerning the employees' contact with the media (ref. no. 6024-2017). The newsletter stated that employees have the freedom of speech and freedom to disseminate information, but that they do not have the right to contact the media during working hours and that they may not provide statements on such matters as are subject to confidentiality. Furthermore, it was stated that persons from the media do not have the right to enter the municipality's premises and that they must make an appointment with the manager concerned if they want to talk to an employee. The information could not be perceived in any way other than as a general prohibition on contacting the media during working hours, that is, even when it does not interfere with the work. This information was therefore unacceptable. The relationship between the confidentiality rules and freedom to disseminate information was also insufficiently specified. There was also reason to point out that the municipality cannot have stricter rules for representatives of the media than for others in terms of access to premises. Overall, the information gave the impression that the employees' freedom of speech was more restricted than what is actually the case and that the municipality generally had a negative attitude towards employees utilising their right to communicate with the media. It is clearly unacceptable for a municipality not to have better knowledge of what applies within this important, constitutionally regulated area, and for incorrect information of this nature to be provided to the employees.

Thomas Norling

Parliamentary Ombudsman

My supervisory area encompasses social services, social insurance and cases concerning the implementation of the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS). Supervision within this area also includes labour market matters. The government agencies that belong to this supervisory area include Försäkringskassan (The Social Insurance Agency), the Pensions Agency and Arbetsförmedlingen (The Public Employment Service). A very large proportion of complaints concern the area of social services and the activities of municipal social service departments.

During the year, supervisory area 3 received 2,614 complaints, which is comparable to the previous year. 2,573 complaint cases were decided on during the year. Of the completed cases, 852 (33 per cent) were decided on by delegated heads of division. The majority of the division's work (approx. 49 per cent) concerned the social services area.

During the year, four initiatives (including inspections) were established within the supervisory area. The OPCAT Unit has also carried out four inspections within my area at homes run by the National Board of Institutional Care. On four occasions during the year, I have taken over, or decided to initiate, an enquiry due to a suspected crime committed by officials under my supervision. The number of referral responses came to nine.

In last year's annual report, I chose to almost thematically include decisions illustrating the authorities' difficulties in ensuring the prudent processing of sensitive privacy data. In this year's report, my selection has to some extent been governed by the fact that I have devoted special attention this year to complaints regarding the authorities' failure to comply with the provisions of Chapter 1, Section 9 of the Instrument of Government regarding objectivity and impartiality, i.e. the principle of objectivity.

Areas of responsibility

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

In administrative law, the principle of objectivity prohibits authorities from considering any other interests than those which they have been tasked to uphold, or from basing their decisions on considerations of circumstance other than those which may be considered in the assessment of a matter pursuant to applicable law. As of 1 July 2018, the principle of objectivity is also expressed in Section 5 of the Administrative Procedure Act (2017:900). This too has contributed to my focus during the year on the issue of how the authorities in my supervisory area fulfil the requirements for objectivity and impartiality.

A review of previous years' annual reports clearly shows that the principle of objectivity is brought up relatively often within the Parliamentary Ombudsmen's supervisory activities. It can furthermore be noted that it is not only conflicts of interest that are reported. The selection of decisions that I have chosen for this year's annual report show in some sense that individuals pay attention to the authorities' actions and they know how to make a complaint to the Parliamentary Ombudsmen when they believe that an authority is not being objective, or in other respects not living up to the principle of objectivity.

Labour Market

In this year's annual report, I have only included one decision concerning Arbetsförmedlingen's processing (ref. no. 3409-2017). This does not mean that there are no other examples that give rise to some concern regarding consistent compliance with the fundamental administrative legal requirements. Complaints to the Parliamentary Ombudsmen often concern elements of the processing that are central to legal security. For example the requirements for service and availability, documentation, communication of documents and data, and justified decisions. I see that there is still a great need within the authority to develop the legal management and support. What has emerged in my review of Arbetsförmedlingen prompts a reminder of the responsibility that the authority management has for ensuring that such development takes place.

From the labour market area, I have otherwise chosen to include two decisions on authority measures taken in violation of the principle of objectivity.

The first decision (ref. no. 8418-2017) concerns the Work Environment Authority's advertising campaign in which individual employers described the actions they take to prevent mental illness in the workplace. These adverts were available on the authority's website and were also published in various media. In my decision, I noted that the information from authorities to the public is subject to the requirements for objectivity and impartiality. The information must therefore not be skewed for the benefit of the authority, or anyone else. In the matter, the Work Environment Authority stated that the overall purpose of the adverts was to fulfil the authority's information and communication responsibility. In my opinion, the advertising campaign could not be objectively understood as anything other than the Work Environment Authority promoting the employers involved in the campaign. There was thus a risk of the public questioning the authority's impartiality towards the employers who participated in the advertising campaign, which in itself risks impacting the general trust in the authority as a whole.

The circumstances of the second decision (ref. no. 1671-2019) entailed that during an ongoing dispute between the Ports of Sweden and the Dockworkers Union, the National Mediation Office made a statement regarding the dispute in an opinion article. In my decision, I noted that an authority making a statement in a newspaper article must adhere to the objectivity and impartiality requirements expressed in the principle of objectivity. I found that the opinion article could not be understood in any other way than as an attempt by the Mediation Office to convince the Dockworkers Union to accept the mediators' offer in the dispute. Considering the state of the negotiations when the opinion article was published, I was of the opinion that outsiders could easily perceive the article as the authority siding with the Ports of Sweden, and there was consequently a significant risk of jeopardising the public trust in the impartiality of both the National Mediation Office and the appointed mediators.

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

Complaints concerning authorities' processing of requests to disclose documents are recurrent. A general impression is that completely avoidable mistakes are made simply because the administrators, and sometimes the managers, lack sufficient knowledge of the rules and requirements set out for authorities. The complaints show that individuals often believe that it takes a long time before a confidentiality assessment is made of the requested documents and data.

When it comes to Försäkringskassan's processing of sensitive privacy data, I noted that the issues that I described in last year's annual report, regarding the authority sending documents containing confidential data to the wrong people, still remain. Even though Försäkringskassan has taken various measures to rectify these problems, the Parliamentary Ombudsmen still receives these complaints. There is thus cause to issue a reminder that an official who handles confidential information also has a personal responsibility for maintaining confidentiality. I intend to carefully monitor the development and the outcome of the authority's measures.

Of the 146 complaints concerning public disclosure and confidentiality or freedom of expression and of the press, that have been made to my division over the year, I have chosen to summarise a decision on the "reprisals ban" set out in the Instrument of Government (ref. no. 410-2017). The freedoms of expression and opinion also apply to government employees, and they are one of the conditions for a free public debate regarding the actions of the authorities. The constitutional protection for freedom of speech means that there must be no reprisals against an individual who has exercised this right. In the case in question, a social welfare board had retracted an offer for a municipal employee to work in a residential care home in reference to statements made by the employee on social media. The employee was said to have written posts expressing criticism of Islam and the reception of Muslims. The question was whether the board's action could be considered an illegitimate reprimand of the employee.

Social insurance

Over the year, 753 cases were registered, which is a very marginal increase compared to the previous year.

This year too, there have been many complaints regarding long processing times. For this reason, I have carried out two inspections at Försäkringskassan, firstly

comprising its review activities and secondly the activities concerning insurance coverage cases and cases regarding compensation for costs incurred for care in another country within the European Economic Area (EEA). Since the problems of long processing times remain to an extent that is still troublesome, I intend to return to this issue in various ways in my future supervision.

In the annual report, I have included two decisions concerning the issue of whether the authority has acted in violation of the objectivity principle.

The first decision (ref. no. 8280-2107) concerned the question of whether the Pensions Agency had violated the objectivity principle in the provision of information concerning the termination of a collaboration with a certain fund management company.

The second decision regarding whether a Försäkringskassan official had made statements that violated the objectivity requirement set out in Chapter 1, Section 9 of the Instrument of Government (ref. no. 1855-2018). The administrator had accidentally left a message on the answering machine of an insured person. The message contained swearing and derogatory comments about the insured person involved and about people on sick leave in general. I found that the administrator had demonstrated an inability to remain objective, and additionally that they had acted in a manner that violated both good administrative practice and what can be considered to be correct and respectful behaviour.

From the social insurance area, I have also included a decision (ref. no. 5902-2017) that raises questions concerning the way in which individuals can contact and provide information to Försäkringskassan. The decision also contains statements regarding my view of how Försäkringskassan should handle a doctor's request for contact in an ongoing sickness allowance matter.

Social Services

During the year, a total of 1,260 social service complaints were registered, which makes social services the Parliamentary Ombudsmen's single largest area of supervision also this year.

Out of these complaints, 797 cases concerned children, including issues concerning the implementation of the Care of Young Persons (Special Provisions) Act, 424 cases regarding different forms of benefits, and 39 cases concerned issues regarding the Care of Substance Abusers (Special Provisions) Act.

Social Services Act

Out of the ten decisions from the social services area, that I have included in the annual report, four decisions concern matters regarding children's access to a parent or guardian in different situations. Two of these decision concern the possibilities and formal requirements for decisions on limitation of access (ref. nos. 242-2017 and 7875-2017). Two other decisions deal with the enforcement requirements that apply to judgments on visitation with access support (ref. nos. 2969-2017 and 6168-2017).

One of the summarised decisions regards what requirements that are applicable when the social services issue certificates or statements in various contexts

and for different purposes (ref. no. 1258-2017). The case in question involved a domestic violence case worker who had produced two statements upon request from a woman with the aim of using these in a district court case concerning, among other things, access to a child. In situations where the certificate or statement has not been requested by the court, there is a great risk of the board being perceived as biased already by producing a certificate or statement. In this context, it can be added, that the formulation of a statement or certificate must be pursuant to the principle on objectivity. This entails requirements on the authority to remain objective and impartial.

The statutory requirement on objectivity does not only apply to the actual processing of a matter, but also to how the authority's actions have been perceived.

In addition to these decisions, I would like to highlight a decision that resulted in criticism of a social welfare board for failure to provide legal grounds in prohibiting the wife of a resident in a residential care home from spending time in her husband's quarters (ref. no. 647-2017). There were several problems with the board's decision. The decision meant that the husband was limited in his use of his tenancy. It also meant that the visitation ban on the wife, without legal grounds, included her husband's home and associated communal areas. The decision was furthermore made by unauthorised officials and without a time limitation.

Care of Young Persons Act

The annual report summarises six decisions concerning care pursuant to the Care of Young Persons Act. The questions arising in all of these cases regard central issues concerning the rule of law. As an example, I would like to highlight three decisions that partly underline the importance of officials who process cases regarding compulsory care having the required expertise, and partly highlight the difficulties in terms of implementation regarding the provisions in the Care of Young Persons Act regarding the special powers granted to the National Board of Institutional Care in order to provide care or to maintain security at its special youth homes.

In the first decision (ref. no. 5302-2017), my review focused on the matter of whether the youth home in question had failed in its supervision of a girl who was committed to care. The girl, who was 13 years old, took her own life in the youth home where she had been placed pursuant to the Care of Young Persons Act. At the time of the incident, she had been placed in isolation at two youth homes for nearly eight months. One question that I bring up in the decision was whether the home had neglected the provisions concerning care in isolation by leaving the girl alone in the part of the home where she had been placed. Another question was whether the home had failed to act on possible signals that there was a risk of the girl committing suicide.

The second decision concerns a social welfare board that enforced a ruling on care pursuant to Section 2 of the Care of Young Persons Act (i.e. compulsory care due to deficient care) before it had gained legal force (ref. no. 330-2018). This meant that the children involved were in compulsory care without legal grounds for just over two weeks. Separating a child from their parents is a very

invasive measure. Enforcing a decision for compulsory care pursuant to the Care of Young Persons Act is therefore a task requiring particular sensitivity and diligence. The investigation in the case showed, among other things, that there were significant knowledge gaps in regard to the regulations in this area, and this appears to be the main explanation for why the judgment was enforced even though an appeal was handed in. In my decision, I also underlined the importance of ensuring that established procedures are known in terms of both content and meaning, and that officials have sufficient knowledge about the legal regulations behind the formulation of such procedures. The understanding that procedures are rarely comprehensive and cannot describe every conceivable situation is also necessary to avoid their incorrect or overly mechanical application.

The third decision (ref. no. 1060-2017), which concerns an unaccompanied minor who as a result of a judgment on compulsory care pursuant to Section 3 of the Care of Young Persons Act (i.e. compulsory care due to the person's behaviour) was being treated at a youth home, is an example of the need for officials tasked with implementing provisions on compulsory care to have the appropriate expertise. In the case in question, the social welfare board allowed the care of the boy to be discontinued when he turned 18 years old, without a prior investigation and without making a decision to cease care.

Care of Abusers Act

I have chosen to include a decision (ref. no. 550-2018) in the annual report that raises the question of what supervisory responsibilities the National Board of Institutional Care has when a person under care at a home is suspected of taking drugs. The National Board of Institutional Care is responsible for ensuring that a person under care receives sufficient supervision and care for the duration of their time in the home. In line with previous Parliamentary Ombudsmen decisions on the supervision of persons who have been taken into care pursuant to the Act on Care of Intoxicated Persons, I felt that the point of departure for the matter at hand would have to be that a person committed to an home, who is suspected of being under the influence of an intoxicant, must be placed under diligent and frequent supervision. The procedure for supervision and monitoring of a person under care, suspected of being under the influence of drugs, was not followed in this particular case. Even though the person was checked on regularly, he died during the night. Since the staff at the home had not checked for changes in the person's level of consciousness, the monitoring did not meet the requirements on care and diligence. Additionally, the staff did not have sufficient knowledge of the procedure at the time in question. The National Board of Institutional Care had not ensured that the staff had the expertise necessary to carry out the monitoring tasks that were needed.

Municipal activities according to the Support and Service for Person with Certain Functional Impairments Act

A reoccurring and common reason why individuals file a complaint to the Parliamentary Ombudsmen is that the processing of a case has taken, according to the individual, too long. A decision can be delayed for various reasons, but there

must be circumstances to justify the time consumption for a long processing time.

The Parliamentary Ombudsmen has previously determined that it is not possible to establish a set time frame for an investigation of an application for personal assistance. A decisive factor in the assessment is the circumstances of the individual case. Complex cases that require a number of investigative measures can be permitted to take longer than simpler cases. It is therefore important to distinguish between a long processing time and slow processing. The latter means that the processing for some reason, such as inaction by the authority, has not progressed at the expected rate. In those cases, there is often cause to criticise the authority.

During 2016 and 2017, several complaints were received stating that it was taking too long for municipalities to process applications for measures pursuant to the Support and Service for Person with Certain Functional Impairments Act (LSS). In several of these complaints, it emerged that the processing time for a case, pursuant to the Act, was more than one year. Considering these complaints, and what had emerged in individual supervisory cases, a more general investigation was initiated into the municipal processing of these cases, focusing on the matter of processing times (ref. no. 7477-2017). Within the scope of this investigation, four municipal boards were inspected and complaints regarding cases of personal assistance were examined. In my decision, I noted that the processing times were not generally long at the inspected boards, even though there were

cases with longer processing times. I also stated that a processing time of three to four months in a case regarding personal assistance could be a reasonable benchmark, although not every case will be possible to settle within that period. In the decision, I considered a number of factors that impact on the processing time and on the circumstances that could justify its length.

In closing, I have chosen to highlight a case entailing that a decision on the right to personal assistance pursuant to the Support and Service for Person with Certain Functional Impairments Act should not be given a time limit pending a decision from Försäkringkassan in the matter of assistance allowance (ref. no. 1696-2018). In previous decisions, the Parliamentary Ombudsmen has questioned the practice of measures pursuant to the Act always being time-limited. In the mentioned decision, I have added that if the board deems it necessary to set a time limit for a decision regarding the right to a measure pursuant to the Support and Service for Person with Certain Functional Impairments Act, it is important that the period of validity for the decision be clearly stated. This gives the individual the opportunity to hand in a new application for continuation of the measure in good time before the decision expires. If the board ties the validity period of the decision to the time of Försäkringskassan's decision, it means that the measure could cease or deteriorate without the board making an independent assessment of whether the individual has a continued need for the measure. Such a practice is not compatible with fundamental predictability requirements.

Opcat operations

This past operating year is the first since 2012 that the Opcat Unit has been fully staffed. This has meant that it has been possible to expand the inspection activities. During the year, the number of inspections has doubled compared to the previous year. Furthermore, there has been scope to develop methodological processes within the operations, on, for example, how observations are followed up, when and how dialogue with government agencies shall be pursued, and what issues are best dealt with in project form. This year also saw the introduction of a new case category in the Parliamentary Ombudsmen's case series; request for a follow-up report, and the Opcat operations were assigned their own case series. These changes mean firstly that it is possible to report the different types of cases being handled by the Opcat Unit, and secondly, improved opportunities to communicate the results achieved.

The focus of the unit's operations is regular inspections. From the start in 2011, the Parliamentary Ombudsmen has conducted over 200 Opcat inspections. The observations presented in the inspection reports are, and will continue to be, an important basis in the follow-up carried out at each authority, and in the selection of thematic orientations and inspection objects.

The methods for the unit's work have been developed over the years. For example, the ombudsmen more frequently request follow-up reports from the inspected authority in one or several matters. A request for a follow-up report generally relates to how the inspected authority intends to remedy a shortcoming identified during the inspection. This may, for example, involve deficiencies in the physical environment or structural deficiencies. A request for a follow-up report means that the Parliamentary Ombudsmen can follow up on the inspected activities and that the authorities implement measures to prevent inhumane treatment. On frequent basis authorities also report other measures taken following an inspection by the Parliamentary Ombudsmen. For example, this may relate to the clarification of internal decision-making processes and governing documents etc. During the past year, the Parliamentary Ombudsmen has made several principled decisions after receiving follow-up reports that concern the Prison and Probation Service and the National Board of Institutional Care.

In order to be able to communicate the results of the inspections, the work with producing different reports has been prioritised during this operating year. The reports fulfil an important function in highlighting and communicating what the situation is like for persons deprived of liberty. During the year, a year-end report was published for the operation for the period 2015–2017, as was a thematic interim report on the transport of detainees.

This year, the Opcat Unit has participated in two Nordic NPM meetings, one of which was hosted by the Parliamentary Ombudsmen and held in Lund in August 2018. In addition, during the year, the unit participated in several European meetings and at a national level had contact with a number of volunteer organisations.

Opcat inspections during the operating year

In the past operating year, 34 inspections were conducted, 33 of which related to facilities that house those deprived of liberty (20 were in the supervisory area of *Chief Parliamentary Ombudsman Elisabeth Rynning*, 4 in the supervisory area of *Parliamentary Ombudsman Thomas Norling* and 10 in the supervisory area of *Parliamentary Ombudsman Cecilia Renfors*). The theme for the Opcat activities in 2018 and 2019 was domestic transport of persons deprived of liberty. Within the framework of the theme, *Chief Parliamentary Ombudsman Elisabeth Rynning* decided on three enquiries and *Parliamentary Ombudsman Thomas Norling* decided on one enquiry. In total, the Parliamentary Ombudsmen has made decisions on nine enquiries following Opcat inspections. In addition to the inspections conducted during the past operating year, this report also covers several inspections carried out during previous years, which are reported in this operating year.

The number of inspections and inspection days has increased since the previous year and the inspections have been carried out across the country. During the year, both dialogue meetings and inspections of institutions have been conducted. As in previous years, the composition of the inspection team has varied and has been adapted to the type of inspection being carried out. Furthermore, the size of the inspection object, target group and possible security classification are important factors in determining the composition of the team. Over the course of the year, 15 unannounced inspections were performed; among others, all inspections at detention centres within the scope of the project concerning occupancy rate in the Prison and Probation Service were unannounced. The unit has conducted several follow-up inspections during the year, including at the National Board of Institutional Care substance abuse home Fortunagården, the police lock-ups in Helsingborg and Värnamo, and Haparanda prison.

Opcat inspections of the Prison and Probation Service

In the previous year's annual report, it was highlighted that one of the most important issues for the Opcat activities in the coming years is the Prison and Probation Service's work with measures to prevent isolation. Furthermore, it was noted that the high occupancy rate in detention centres and the increased need for places in prisons were cause for concern, as this may lead to a lack of space in the correctional system and thereby difficulties in satisfying the need for common areas and other facilities in detention centres.

During the past year, the unit has continued to focus on these issues. *Chief Parliamentary Ombudsman Elisabeth Rynning,* after receiving the Prison and Probation Service's follow-up report concerning measures to prevent isolation in June 2018, decided to continue the examination of inmates' isolation in detention centres (ref. no. O 7-2018). Within the framework of an enquiry, representatives from the Prison and Probation Service were called to a dialogue meeting with recorded minutes in March 2019 that was led by the Chief Parliamentary Ombudsman. A decision in the matter can be expected during the operating year 2019/20.

The concerns regarding occupancy rate that were raised in last year's annual report were realised during the year. Prompted by media reports, among other

things, *Chief Parliamentary Ombudsman Elisabeth Rynning* decided in March 2019 to initiate an enquiry into the occupancy situation within the Prison and Probation Service (ref. no. O 19-2019). The Opcat Unit worked with the case in project form. A document compiling the issues was produced, and a total of nine inspections were carried out during the period from 26 March to 15 May. The series of inspections encompasses seven detention centres, one prison and one police lock-up. All inspections within the Prison and Probation Service indicated a space problem within an occupancy rate of above 100 per cent at times. The lack of space has meant that the Prison and Probation Service has needed to move inmates between different detention centres. During the site inspections, it was evident that the Prison and Probation Service's prisons, with a higher security classification, were and are a major reason for inmates being kept in detention centres. When the Parliamentary Ombudsmen inspected the National Reception Centre in Kumla prison, the capacity had recently been increased by a significant extent. In a short time, the number of cell spots had close to doubled through the implementation of measures such as doubling the occupancy of cells based on the principle that the last person in has to share a cell. The Prison and Probation Service has been asked to make a statement regarding what had emerged during the inspections, and one question directed at the authority is to specify what other measures besides double occupancy are being implemented to improve the space problem in the country's correctional facilities. A decision in the case is to be completed in autumn 2019.

Decisions after receiving follow-up reports

During the year, *Chief Parliamentary Ombudsman Elisabeth Rynning* completed a significant decision concerning the matter of what time spent with others; in common facilities is, in detention centres. An inspection of the Ystad detention centre took place in February 2017 (ref. no. 583-2017). In the report following the inspection, a follow-up report from the Prison and Probation Service was requested. In the decision, after reviewing the follow-up report, *Chief Parliamentary Ombudsman Elisabeth Rynning* stated that spending time with other inmates in common facilities may be considered to refer to time spent together with several other inmates. This means, for example, that sharing a space with another inmate cannot be equated with spending time in common facilities with other inmates. If an inmate is not in the common facility during daytime, he or she is in isolation. Furthermore, the *Chief Parliamentary Ombudsman* stated that a section must consist of at least three cells in order to meet the basic requirements of the legislation regarding inmates' right to spend time in common facilities.

Chief Parliamentary Ombudsman Elisabeth Rynning also stated that it is worrying that the Prison and Probation Service sets up housing for inmates that in the authority's own words are somewhere in the middle ground between isolation and a common facility. There may be a need to set up sections that can accommodate the needs of inmates to be in a smaller group. However, such section must, according to the *Chief Parliamentary Ombudsman*, be designed in a way that does not limit the inmate's right to spend time in the common facilities during daytime. This is necessary in order to prevent the activity being conducted in a grey zone between isolation and the common facilities. When it came to

the conditions in one section in Ystad detention centre, it could be noted that it only comprises two bunks. The detention centre was encouraged to, in consultation with the head office of the Prison and Probation Service, consider whether these bunks should be used for holding inmates.

It is a central issue for the Parliamentary Ombudsmen to monitor how the Prison and Probation Service resolves the issue of allowing inmates in detention centres, who are not subject to restrictions, to be housed in a way that allows for time in the common facilities during daytime. This matter will be addressed in the ongoing enquiry concerning measures to prevent isolation.

Opcat inspections of in-patient psychiatric care and forensic psychiatric care

During this operating year, Chief Parliamentary Ombudsman Elisabeth Rynning conducted an Opcat inspection of the Regional Forensic Psychiatric Clinic in Växjö. On behalf of the Chief Parliamentary Ombudsman, three psychiatric clinics were inspected; Länsakuten at S:t Göran Hospital, Region Stockholm's Helix Forensic Psychiatric Clinic, and Sahlgrenska Hospital's emergency ward Östra. The inspections have mainly been confined to the care environment, coercive measures and the transport of persons deprived of liberty.

The Opcat annual report 2015–2017 addresses the issue of "low-stimulus" environments, and states that some management teams at clinics find minimalistic environments to be a necessary element in motivating patients. This is not unopposed, and the experiences gathered from one inspection in June 2018 at Visby Hospital suggest that a low-stimulus environment does not necessarily need to take aim at the physical care environment. Instead, it could involve other types of measures to reduce stimuli. In addition, the inspection in Visby shows that it is possible to achieve a positive care environment if a holistic approach is employed when designing the premises of an organisation. The two inspections carried out in June and September 2018 in the Stockholm area indicate that there is room for improvement within the area of care environment. With regard to the psychiatric clinic Länsakuten at S:t Göran Hospital, the issue is that the clinic appears to be significantly undersized, it emerged that it was originally intended to accommodate 7,000 patients per year, but 23,000 patients sought care there in 2017 and due to problems with local transportation has been forced to provide care to patients to an extent that far exceeds its design. According to *Chief Parliamentary Ombudsman Elisabeth Rynning*, it can be strongly questioned whether the situation described in the report is in line with the basic requirement that all care is to be provided with respect for the equal value of all people and for the dignity of the individual (ref. no. 5990-2018). The operations at Danderyd Hospital were inspected in June, and it was revealed that the hospital has no access to outdoor exercise areas and that the care environment was perceived during the inspection to be dark, cramped and minimalistic. Furthermore, it emerged that patients felt insecure because they were unable to lock their own rooms. They additionally felt it was uncomfortable to share a room with other patients. *The Chief Parliamentary Ombudsman* issued a reminder that the Parliamentary Ombudsmen has in previous cases stated that the departure point should be that a patient is given the opportunity to have at least one hour outdoors every

day, and she recommended that Healthcare Provision Stockholm County, in consultation with the clinic management, review how the care environment can be improved and how to enable daily outdoor access for the patients (ref. no. 3887-2018).

Chief Parliamentary Ombudsman Elisabeth Rynning emphasised after her inspection of Länsakuten that the regions have a responsibility to set up a framework for how the transport of patients to and from their units is achieved. For this reason, Stockholm County Hospital, Healthcare Provision, was encouraged

to take measures to address the problems that the staff perceived as prevalent with the Prison and Probation Service's method of conducting judicial assistance transports. *The Chief Parliamentary Ombudsman* suggested that it would be logical to exchange experiences with the Prison and Probation Service in this work, thus attempting to design working methods where the patients are treated better in conjunction with transport so as to reduce the stigmatisation they feel, among other reasons. A follow-up report was requested from Stockholm County Hospital, Healthcare Provision with an outline of measures that have been taken to reduce the stigmatisation in conjunction with the transport of patients (ref. no. 16-2019).

During the inspection of Danderyd Hospital, it emerged that there were diverging opinions among the doctors in the matter of whether a detention decision made at Länsakuten psychiatric clinic also applies to the hospital, or if a new decision needs to be made when the patient has arrived. After the inspection of Länsakuten, *Chief Parliamentary Ombudsman Elisabeth Rynning* concluded that these circumstances raise questions regarding, for example, Region Stockholm's organisation of its psychiatric in-patient care, the meaning of the term "care facility", and the scope of a decision concerning detention.

These questions will be investigated by the Parliamentary Ombudsmen within the scope of a specific enquiry (ref. no. 1732-2019).

Dialogue

The annual report 2018/19 raised the question of whether the Health and Social Care Inspectorate is fulfilling its assignment of keeping an automated register of healthcare facilities and units where it is permitted to provide care under the Compulsory Psychiatric Care Act (1991:1128) or the Forensic Mental Care Act (1991:1129), and of units for forensic psychiatric examination (Chapter 2, Section 4, second paragraph and Chapter 7, Section 7 of the Patient Safety Act [2010:659]). It has emerged during the past years that it is still difficult to get an overview of the number of places available for compulsory psychiatric care, which is troubling for a number of reasons.

To follow up on this issue, among others, *Chief Parliamentary Ombudsman Elisabeth Rynning* decided, within the framework of a case to initiate a dialogue with the Health and Social Care Inspectorate (ref. no. O 5-2018). On her instruction, the Opcat Unit has engaged in dialogue meetings with all six of the supervisory divisions at the Health and Social Care Inspectorate during the first half of 2019. In addition to the safety register, questions have also arisen about how the Health and Social Care Inspectorate, besides supervision, exercises the use of coercive measures within compulsory psychiatric care and forensic psychiatric care. One particular issue was the way in which the Health and Social Care Inspectorate supervises care institutions where there are patients that have been in isolation for a long period, so-called long-term isolated patients. All meetings were recorded through the keeping of minutes. The dialogue with each division and what came up at these meetings will be followed up in the autumn of 2019 through dialogue with the Health and Social Care Inspectorate's management. *The Chief Parliamentary Ombudsman* will thereafter make a decision in the case.

Opcat inspections of the National Board of Institutional Care's youth homes and substance abuse homes

During the operating year, *Parliamentary Ombudsman Thomas Norling* headed an inspection of the youth home Johannisberg, and the Opcat Unit was instructed by him to inspect two youth homes, Sundbo and Vemyra, and conduct a follow-up inspection of the substance abuse home Fortunagården.

There are several points of contact between the activities of the National Board of Institutional Care and the Prison and Probation Service. As with inmates in the correctional system, residents at one of the National Board of Institutional Care's institutions are entitled during the daytime to spend time with other residents in the common facilities. In some cases, the National Board of Institutional Care has the right to restrict this right by deciding to separate the resident or provide care in isolation. Care in isolation is to be tailored to the patient's individual care needs. A case of care in isolation shall be continuously examined and always reviewed within seven days of the latest assessment.

During the inspection of the youth home Johannisberg, it emerged that units can be sectioned off, and in this way it is possible to separate young people who are not considered able to socialise with each other. At the inspection, one of the units had been sectioned off. Only two residents were housed in one section. When talking with one of the young people, it transpired that the sectioning had happened because he was not allowed to interact with one of the residents who was placed in the other section. Following the inspection, *Parliamentary Ombudsman Thomas Norling* stated that the starting point for care provided at a special youth home is that a resident shall be given the possibility of spending time with other residents in the common facilities. Time in common facilities entails that a resident spends time together with at least two other residents. This right may be restricted through a decision to administer care in isolation, or separation. If the preconditions for such measures are not met, the resident is to have the right to spend time in the common facilitates during the daytime (ref. no. 6204-2018).

Upon inspection of the substance abuse home Fortunagården, representatives from the home said that they lacked the possibility of offering residents care in isolation. The home's locked unit is divided into two parts, and the residents in each part are kept separate from each other. *Parliamentary Ombudsman Thomas Norling* stated that it would be logical to view both parts as two units. Residents are generally placed in the smaller intake section when they first arrive at the substance abuse home, and the inspection revealed that such a placement can continue for a relatively long duration. When talking with the staff from the Parliamentary Ombudsmen, one resident indicated that she had been staying alone in the intake section. According to Parliamentary Ombudsman Thomas Norling, such a placement shares similarities with the conditions experienced by a resident receiving care in isolation. If an inmate is placed alone in the arrivals section because she is not deemed to be able to socialise with other residents due to being under the influence of narcotics, this is according to Thomas Norling a case of care in isolation that must be documented in a decision. It is not acceptable for compulsory care to be carried out in a grey zone where it is difficult to

assess whether the substance abuse home, in a more or less formless manner, has used the special powers conferred by the Care of Substance Abusers (Special Provisions) Act (1988:870) (ref. no. 5569-2018).

During the inspection of the special youth home Sundbo, the young people at the home said, among other things, that the staff subjected them to unjustified violence. This was in particular the situation described by the young people at one of the youth home's units (Aspen). Similar claims were heard during an inspection that the Health and Social Care Inspecorate had conducted one year earlier. Over the course of a two-year period, the National Board of Institutional Care had also made five so-called Lex Sarah reports (an obligation on care providers to report mistreatment) concerning serious abuses at the youth home. The youth home management had implemented some measures in an attempt to remedy the situation. Following the inspection, *Parliamentary Ombudsman Thomas Norling* concluded that the youth home management in November 2018 had not taken sufficient measures to change the situation. For this reason, the National Board of Institutional Care was asked to provide information on what measures had been taken or were planned to ensure that the young people receive safe and secure care.

In its follow-up report, the National Board of Institutional Care concluded that neither the measures taken by the youth home management nor the support initiatives implemented by the responsible operations office had had the desired effect. According to the National Board of Institutional Care, after the Parliamentary Ombudsmen's Opcat inspection, it was indisputable that there were significant deficiencies in the operation and the Aspen unit has been closed temporarily. *Parliamentary Ombudsman Thomas Norling* made a decision in the follow-up report case on 30 April 2019 and the decision is presented on page 537.

The National Board of Institutional Care's work with evaluation and changes to the youth home Sundbo is shining a light on issues that, according to the authority, are also relevant in relation to other substance abuse homes and youth homes. It is therefore necessary for the Opcat Unit to follow up on the ongoing work to prevent those deprived of liberty within the National Board of Institutional Care facilities from being subjected to inhuman or degrading treatment etc.

Opcat inspections of police lock-ups

During the operating year, *Parliamentary Ombudsman Cecilia Renfors* inspected the lock-up Borlänge and instructed the Opcat Unit to inspect an additional nine police lock-ups, of which four were follow-up inspections. During an inspection of lock-ups, the focus is primarily on finding out how the rights of those deprived of liberty are being safeguarded. This includes their right to food, the ability to take care of their personal hygiene, and time spent outdoors on a daily basis. Another important issue for the inspections is the safety of the detainees. It is not unusual for those people placed in a police lock-up to be in a poor physical or mental state. It is therefore essential that safety assessments are performed on those placed in lock-up. Furthermore, it is important that the detainees are checked on regularly and that this supervision is documented. During the Parliamentary Ombudsmen's inspections, the physical environments in the lock-ups are also examined.

Upon inspecting the Luleå lock-up, it was noted that during a ten-year period, a high number of suicide attempts had taken place through inmates suspending nooses from fixtures in the holding cells. After the inspection, *Parliamentary Ombudsman Cecilia Renfors* noted that as far back as 2007, an inmate had attempted to hang himself with a noose that he had attached to the toilet door of a holding cell. Despite this, no changes had been made, and in 2009, at least another four incidents had taken place where inmates had tied nooses to toilet doors. The toilet doors were thereafter used in at least an additional nine suicide attempts during 2010–2014 and 2017. It was only in 2018 that the Police Authority decided that the lock-up cells would be rebuilt. Before the rebuild could commence, two more suicide attempts took place, one of which resulted in a death. According to *Parliamentary Ombudsman Cecilia Renfors*, it is grave that it took more than ten years for necessary changes to be made, and this delay received severe criticism. Furthermore, it is noteworthy that the stool that is fixed to the wall in the holding cells was not changed in conjunction with the rebuild. This stool has been used during at least three suicide attempts in the Luleå lock-up. *Parliamentary Ombudsman Cecilia Renfors* has stated that it is essential that the Police Authority benefits from the experience gained from the Luleå lock-up and uses it in its continued work with preventing suicide and other acts of self-harm. This experience should in the first instance be valuable in designing the Police Authority's lock-up cells (ref. no. O 2-2019).

The Police Authority has decided on supplementary regulations with regard to the equipment in a lock-up cell. A cell shall, as a rule, be equipped with a device that allows the regulation of incoming light along with a blanket, pillow, matrass, mirror, clock and radio. However, there may be cause to limit this equipment, for example, in cases where there is a risk of self-harm. The inspections during the operating year indicate that the holding cells in the vast majority of cases are designed and equipped in accordance with the applicable regulations. In some cases, it has been noted that the lock-up premises are in disrepair, but that they were generally perceived as well-kept. *Parliamentary Ombudsman Cecilia Renfors* has, however, pointed out that the detainees in some of the lock-ups are not able to regulate the incoming daylight (the Lycksele and Sandviken lock-ups). Furthermore, the inspections show that the safety assessment procedures are followed within the Police Authority. However, some tendencies prove that the supervision is carried out in a perfunctory manner and that the assessments are not properly documented.

With regard to supervision of inmates taken into custody due to intoxication, *Parliamentary Ombudsman Cecilia Renfors* has made a statement following inspections of the lock-ups in Borlänge, Lycksele, Storuman and Vilhelmina. She pointed out that during the inspection of the Borlänge lock-up, information has emerged to indicate that some of the lock-up staff were under the impression that a person taken into custody due to intoxication is to be held in the lock-up for at least six hours. For this reason, *Parliamentary Ombudsman Cecilia Renfors* served a reminder that she had previously stressed that the duration of detention is to be as short as possible. A continuous review is to be carried out to check that the conditions for continued detention are met.

The organisation's thematic focus on transports has led to several statements. With regard to the inspections conducted in 2018, a review of the statements made is presented in the interim report published in June 2019. Among other things, there is a lack of coordination between the Police Authority and the Prison and Probation Service regarding the taking of inmates into custody at police lock-ups during transport stop-offs. A lack of planning in these stop-offs has led to such a strained work situation that the lock-up staff have not been given a reasonable chance to review safety assessments etc. (Värnamo lock-up). Even in other cases, it has been noted that the authority requesting judicial assistance does not hand over information on the detainee to the Prison and Probation Service.

During the inspection of the Borlänge lock-up, it was noted that a number of young people in 2018 and 2019 had been held for several days in the lock-up while awaiting transport. In 2018, seven young people who had been taken into care pursuant to the Care of Young Persons (Special Provisions) Act (1990:52), were placed in the lock-up for two days or more awaiting transport. According to representatives from the lock-up, the reason for the relatively long detention periods was that the Prison and Probation Service was unable to clearly say when a transport could be carried out. According to the representatives from the lock-up, it is not unusual for the Prison and Probation Service to say that a transport will take place on the following day, but then inform them the next day that transport is impossible. Following the inspection, *Parliamentary Ombudsman Cecilia Renfors* stated that the situation was highly unsatisfactory and she noted that the examination of the documents in February 2019, i.e. almost two years after the possibility of detention was introduced, revealed that a person who had just turned 15 had been placed in lock-up for almost three days. According to *Parliamentary Ombudsman Cecilia Renfors*, this is unacceptable (ref. no. O 13-2019).

After the inspection of the Lycksele lock-up, *Parliamentary Ombudsman Cecilia Renfors* stated that the Police Authority has significant work ahead, in terms of improving the conditions for remote supervisory review. Such a review should only be used in exceptional cases. In order to provide the best possible conditions for such a review, it should entail audio and video transmission (ref. no. 7556-2018).

International cooperation

One of the Parliamentary Ombudsmen's objectives for the organisation is to promote the international spread of the idea of legal control through independent ombudsman institutions.

To achieve this goal, the Parliamentary Ombudsmen shall, to the fullest extent possible, receive individuals and delegations wishing to visit the Parliamentary Ombudsmen and provide them with information on the organisation. In addition, the Parliamentary Ombudsmen shall participate in international contexts and disseminate information about its work. The Parliamentary Ombudsmen shall also support and exchange knowledge and experiences with foreign ombudsman institutions.

In working towards this goal, the Parliamentary Ombudsmen has, for example, carried out the following activities this year.

The Parliamentary Ombudsmen has received 26 visits. One of the visits, initiated by the Swedish Civil Rights Defenders, consisted of a group of specialists from Russia and Lithuania who work to improve the situation for detainees in their

homelands. The group was interested in obtaining information about the work of the Opcat Unit and the Parliamentary Ombudsmen in this area.

Another visit, from Colombia and Central America, was conducted within the framework of strengthening freedom of speech in the world. Furthermore, the Parliamentary Ombudsmen was visited by the national audit in Palestine, the State Audit Administrative Control Bureau. This body has collaborated with the National Audit Office since 2013. Topics discussed during the visit included the Parliamentary Ombudsmen's complaints management. Finally, it can be mentioned that the Parliamentary Ombudsmen has also received several visits from South Korea this year.

The Parliamentary Ombudsmen and the employees at the Office of the Parliamentary Ombudsmen have actively participated in foreign conferences and seminars.

Among others, *Chief Parliamentary Ombudsman Elisabeth Rynning, Parliamentary Ombudsman Cecilia Renfors, Parliamentary Ombudsman Thomas Norling, Head of Secretariat Agneta Lundgren* and *International Co-ordination Director Charlotte De Geer Fällman* participated in the Nordic ombudsman meeting in Helsinki, Finland in August 2018. The meeting addressed questions concerning the jurisdiction of the ombudsmen, the Venice Commission's proposed recommendations regarding ombudsman institutions (Principles on the protection and promotion of the ombudsman institution), children and young people as parties in administrative cases and in complaints received by the ombudsmen, the EU's General Data Protection Regulation (GDPR), the transition from manual to digital administration and how the ombudsman institutions shall handle the increased number of complaint cases.

Furthermore, it can be mentioned, that in October 2018, *Chief Parliamentary Ombudsman Elisabeth Rynning* and *Head of Division Charlotte Håkansson* participated in a workshop regarding investigations on the ombudsman's own initiative, organised by the International Ombudsman Institute (IOI) and the Northern Ireland Ombudsman in Belfast, Northern Ireland.

Finally, in May 2019, *Head of Secretariat Agneta Lundgren* and *International Co-ordination Director Charlotte De Geer Fällman* participated in a Nordic administrative meeting organised by the Danish Parliamentary Ombudsman in Copenhagen, Denmark. At the meeting, various administrative issues of common interest for the Nordic countries were discussed, for example, issues relating to GDPR, automated registration, case management, goal and performance management, and skills development. In parallel with this meeting, the Nordic communications officers and information officers also arranged to meet. This meeting was attended by *Public Relations Manager Anders Jansson* from the Parliamentary Ombudsmen.

Summaries
of individual cases

Summaries of individual cases

The following is a selection of summmaries of cases dealt with by the Ombudsmen during the period 1 July 2018 to 30 June 2019.

Chief guardians

The Parliamentary Ombudsman directs criticism towards the Chief Guardian Board in the municipalities of Eskilstuna and Strängnäs for the processing of cases for the arrangement of custodianship

At an inspection of Eskilstuna District Court, the Parliamentary Ombudsman noticed a number of cases regarding the establishment of custodianship pursuant to the Children and Parents Code. The cases have now been investigated by the Parliamentary Ombudsman. The investigation is reported in the decision and the result is that the Chief Guardian Board in the municipalities of Eskilstuna and Strängnäs is criticised for the slow processing of the cases. The board is also criticised for not following the order of the court, which led to the district court having to remind the board on an unreasonable number of occasions. The Parliamentary Ombudsman states that it appears as if the board did not strive to achieve a functioning collaboration with the District Court, in that it did not contact the district court when the deadlines for the orders expired.

The court does not receive criticism, but the Parliamentary Ombudsman points out that more active process management, by means of when meetings where needed, could have helped to reduce the processing times in some cases. (893-2018)

Courts

Public courts

The Parliamentary Ombudsman directs criticism towards Sundsvall District Court and two judges at the court for the processing of a criminal case

A criminal case that started in January 2015 was not settled until March 2018. The district court is criticised for its slow, passive processing of the case and for deficiencies in the service of notice to the defendant. Two of the district court's judges are also criticised for not having documented deliberations about fines, collection and detention as the court should do pursuant to Chapter 46, Section 15 of the Code of Judicial Procedure, when the defendant does not attend a main hearing. (8152-2017)

The Parliamentary Ombudsman directs severe criticism towards a judge who has not delivered judgments within the prescribed deadlines in four cases

A judge at Örebro District Court has not issued judgments within the prescribed deadlines in four cases, three civil cases and one criminal case. The Parliamentary Ombudsman notes that for a period of just over three months (from 16 October 2017 to 30 January 2018), the judge has postponed the judgments in these four cases on a total of 14 occasions so that the judgments have been pronounced between just over three weeks and just over three months after the main hearings were concluded. (611-2018)

The Parliamentary Ombudsman directs criticism towards a judge at Varberg District Court for the formulation of a judgement in a civil case, and for the handling of an amendment and supplementation of the judgement

A judge is criticised because she stated the wrong amount that the defendants were to pay to the plaintiffs, in a settlement of a civil case. When the judge decided to correct the judgement, the correction was also incorrect in that it stated that the plaintiffs were to pay the defendants. This meant that the correction also had to be corrected. Finally, the judge supplemented the judgement with a decision to prevent a reaction from the Enforcement Service.

The Parliamentary Ombudsman directs criticism towards the judge for the errors in the judgement and in the amendment. She is also criticised because the decision and supplementation did not have any reference to notice of the right to appeal. Finally, the judge is criticised for incomplete documentation of her measures. (539-2018)

The Parliamentary Ombudsman directs criticism towards a judge at Blekinge District Court for their processing of a matter relating to the right to remain in a property

In an interim decision, the plaintiff was granted the right to remain living in the spouses' joint property. In its decision, the Parliamentary Ombudsman criticises the judge for not having reviewed the interim decision nor considered the main petition regarding the rights, and subsequently ruled in favour of dissolution of marriage between the parties. (2115-2019)

Administrative courts

The Parliamentary Ombudsman directs severe criticism towards an advisor at the Administrative Court in Falun who, in a case of preparation of care, completed an enforcement order without having had support for it

A Social Welfare Board decided to immediately place a child under care pursuant to the Care of Young Persons Act. The Administrative Court in Falun established the Social Welfare Board's decision. The Social Welfare Board then applied for the child to be prepared for care. The Administrative Court decided to reject the application for care and ordered that the judgement would not apply until it won legal force.

An immediate placement is terminated when the Administrative Court decides on the question of preparation for care. In the referral to the Administrative Court, the Parliamentary Ombudsman specifically questioned that the judgement would not apply until it won legal force. As the Parliamentary Ombudsman interprets the response, the purpose of the order was that the child should remain protected - or temporarily in care - until the judgement had won legal force or the Administrative Court of Appeal had taken a decision on the matter of care. This does not appear in the judgement. Neither is there any possibility to assign an order in the manner. The order involves a risk that the immediate placement could incorrectly become permanent.

The Parliamentary Ombudsman directs severe criticism for the way in which the advisor formulated the judgement. (2743-2018)

The Parliamentary Ombudsman directs severe criticism towards an advisor at the Administrative Court in Karlstad that allowed an immediate placement without having had support for it

A Social Welfare Board decided to conduct an immediately placement of four children, pursuant to the Care of Young Persons (Special Provisions) Act. The Administrative Court in Karlstad established the Social Welfare Board's decision. The Social Welfare Board later applied for the children to be prepared for care pursuant to the same act. The Administrative Court decided to reject the application for care but stated in its judgement that there was no reason to cancel the immediate placement. One of the guardians appealed the judgement of the Administrative Court, but the Administrative Court of Appeal rejected the appeal. The Administrative Court of Appeal found that the judgement did not go against him and added in its decision that the immediate placement ceased due to the Administrative Court's decision.

The presiding judge is severely criticised for the way in which he formulated the judgement. (2744-2018)

The Parliamentary Ombudsman directs criticism towards Gothenburg Administrative Court for slow processing of a case regarding sickness benefits

A case regarding sickness benefits was opened by the Administrative Court on 31 March 2017. The case was concluded on 11 April of the same year but was not settled until 4 September 2018, i.e. more than a year after the case was received by the Court. The Administrative Court is criticised for the long processing time. The Parliamentary Ombudsman is also criticising the Court for the slow processing of a case regarding annuity (the Parliamentary Ombudsman's case 7755-2018) and a residence permit case in accordance with the Aliens Act (2005:716) (Parliamentary Ombudsman's case 134-2019). In the latter case, the Parliamentary Ombudsman also makes general statements regarding the Administrative Court's processing times in migration cases. A copy of the decision is being submitted to the National Courts Administration, the Government Offices and the Ministry of Justice for information purposes. (5639-2018)

The Parliamentary Ombudsman directs criticism towards Gothenburg Administrative Court for slow processing of a case regarding annuity

A case regarding annuity was opened by the Administrative Court on 10 July 2017. The case was concluded on 2 October 2017, but was not settled until 10 January 2019, one year and six months after the case was received by the court. The Administrative Court is criticised for the long processing time. The Parliamentary Ombudsman is also criticising the Court for the slow processing of a case regarding sickness benefits (the Parliamentary Ombudsman's

case 5639-2018) and a residence permit case in accordance with the Aliens Act (2005:716) (Parliamentary Ombudsman's case 134-2019). In the latter case, the Parliamentary Ombudsman also makes general statements regarding the Administrative Court's processing times in migration cases. A copy of the decision is being submitted to the National Courts Administration, the Government Offices and the Ministry of Justice for information purposes. (7755-2018)

The Parliamentary Ombudsman directs criticism towards Gothenburg Administrative Court, the Migration Court, for slow processing of a resident permit case in accordance with the Aliens Act

A case regarding deportation, etc. was received by the Administrative Court in Gothenburg on 8 November 2017 and was settled one year and three months later. The Parliamentary Ombudsman is of the opinion that this is too long, not least considering that a deportation case is to be promptly processed according to law. The Court is criticised for the long processing time. In its decision, the Parliamentary Ombudsman also discusses the Court's processing times for migration cases in general. The influx of migration cases to the Court increased significantly at the start of 2016, and the Court has made large efforts to rectify the situation. The Court reports that the current processing time for cases relating to residence permits due to protection or asylum is 17–21 months, and 12–16 months for cases regarding residence permits for visits or settlement. The Parliamentary Ombudsman finds these processing times to be too long – significantly longer than what is reasonable and acceptable. The Court's response to the Parliamentary Ombudsman indicates that the Court is now settling more migration cases than it receives. This means that the outstanding balance is decreasing, which means that the processing times will also be reduced, even if it may take some time before they reach a normal level. Ultimately, the Riksdag and the Government are responsible for ensuring that the courts can manage their tasks and meet the requirements set out in Chapter 2, Section 11 of the Instrument of Government. The Parliamentary Ombudsman is therefore sending a copy of this decision to the National Courts Administration, the Government Offices and the Ministry of Justice for information purposes. (134-2019)

Education and research

The Parliamentary Ombudsman directs criticism towards the Research Council for inadequate justification of a decision on research funding

The Research Council's Scientific Council for Medicine and Health has rejected an application for a research grant. The decision did not contain any information regarding what provisions the government authority had applied or which circumstances that had led to the decision. All in all, the decision did not fulfil the justification requirements set out in the Administrative Procedure Act. The Research Council receives criticism for its inadequate justification. (8358-2018)

The Enforcement Authority

The Parliamentary Ombudsman directs severe criticism towards the Enforcement Authority for, among other things, having paid money to the debtor instead of the creditor

The Parliamentary Ombudsman have previously criticised the Enforcement Authority on several occasions for having paid money to the wrong person. The Parliamentary Ombudsman now confirms that this has happened once more. The authority deserves severe criticism this time for having

1. paid money to the debtor instead of the creditor,
2. taken more than five months to pay the money to the creditor after the authority had discovered the error, and
3. been inadequate in its treatment of the creditor.

(71-2018)

Evironmental and health protection

The Parliamentary Ombudsman directs severe criticism towards the County Administrative Board of Skåne for slow processing of cases relating to farm subsidies

In May 2015, an individual submitted an application for farm subsidies to the County Administrative Board of Skåne. After more than three years, he lodged a complaint with the Parliamentary Ombudsman because he had yet to receive a decision in response to his application. In its response to the Parliamentary Ombuds-

man, the County Administrative Board refers to the government authority not having functional IT support and that there has been no eligible alternative to awaiting such support due to resources and finances. The response states that there are more than 8,000 pending cases with the County Administrative Board waiting for IT support. The fact that the County Administrative Board for several years has neglected to issue decisions in cases that have been completed indicates a surprisingly nonchalant attitude to fundamental administrative regulations in the Parliamentary Ombudsman's opinion. The Parliamentary Ombudsman directs severe criticism towards the County Administrative Board, as well as adds that the Board must promptly ensure that the cases are settled. (6540-2018)

Health and medical care

The Parliamentary Ombudsman directs criticism towards a chief physician for having read information in patient records, without having the right to do so, and for having notified the Transport Agency that the patient was medically unfit to drive a car

A physician who, upon reviewing a patient's records, finds it likely that the patient is unfit for medical reasons to have a driving licence and shall, if the driving licence holder opposes continued examination or investigation, report this circumstance to the Transport Agency, a so-called examination report. This is stated in Chapter 10, Section 5, second paragraph of the Driving Licence Act. Pursuant to Chapter 4, Section 1 of the Patient Data Act, a person working for a care provider may only access documented information about a patient if they are participating in the care of that patient or for some other reason requires the information for their work within healthcare (internal secrecy).

In this case, a patient was admitted to psychiatric compulsory care at Örebro University Hospital in August and September 2015. During that time, the hospital did not notify the Transport Agency about the patient's fitness to have a driving licence. A couple of months later, a senior physician at an outpatient clinic where the driving license holder was a patient became aware that the patient was employed as a professional driver. She then went through the patient's records and made an examination report to the Transport Agency. Prior to this, the patient had not been asked whether he was opposed to an examination or inquiry. At the time in question, the physician did not participate in the care of the patient but considered herself to require the information for her work within healthcare, i.e. to fulfil her obligation to make an examination report to the Transport Agency.

In the decision, the Parliamentary Ombudsman states that the formulation of the provision in the Driving Licence Act indicates that a physician's obligation to make an examination report first applies when the physician has examined the patient or reviewed their records and have therein found that the patient is probably medically unfit to have a driving licence. According to the Parliamentary Ombudsman, the provision does not provide any right for a physician to review a patient's records to investigate whether the patient may be unfit to have a driving licence. The Parliamentary Ombudsman's opinion is that the physician in this case did not have the right to access information in the patient's records. Furthermore, the physician made her examination report to the Transport Agency without having checked whether the patient opposed an examination or investigation. The physician is criticised for deficient handling of the matter. (474-2016)

The Parliamentary Ombudsman directs criticism for deficient handling when staff at a psychiatric clinic failed to inform an under-age patient's guardian about the health status of the child

A child in their early teens received care at a psychiatric clinic. According to the child's guardian, the child had informed them, while at home on leave, that she had attempted suicide at the clinic the evening before. In a complaint to the Parliamentary Ombudsman, the child's guardian stated that the clinic had not, either during the evening in question or the day when she collected the child for her leave, informed her of what had happened.

In the decision, the Parliamentary Ombudsman refers to the various stages that a confidentiality assessment must include. The Parliamentary Ombudsman is extremely doubtful that the responsible healthcare staff were able to perform such an assessment of the relevant necessary prerequisites according to the Children and Parents Code and the Public Access to Information and Secrecy Act. As the clinic has also not succeeded in clarifying the grounds for the assessment that information would not be provided to AA, the Parliamentary Ombudsman is critical of

the clinic's handling of these matters.

Nor can the clinic avoid criticism for its deficient documentation. According to the Parliamentary Ombudsman, the considerations made regarding information to the guardian, and concerning the granting of continued leave following the incident in question, should have been documented in the child's records.

Finally, the Parliamentary Ombudsman emphasises the importance of responsible healthcare staff having an understanding in each situation of the provisions that apply, on the one hand, to confidentiality in the protection of under-age patients, and on the other hand, to the right to information that the guardians may have. (6495-2016)

The Parliamentary Ombudsman directs criticism towards the management of Länsverksamhet Psykiatri in the region of Västernorrland for the formulation of an agreement that was entered into by a patient treated for abstinence related issues

A patient that was under voluntary care at a psychiatric ward focused on abstinence related issues entered into an agreement to accept the rules at the ward, including a rule not to leave the ward without a member of staff.

The Parliamentary Ombudsman notes that freedom of movement, which is a constitutionally protected freedom, may only be restricted by law and that the Health Care Act provides no grounds for preventing a patient from leaving a ward alone. The Parliamentary Ombudsman notes the importance of not circumventing this protection by means of an individual feeling coerced into giving his or her consent. The use of an agreement can be perceived in itself as pressure and therefore the Parliamentary Ombudsman questions the appropriateness of this type of agreement in health care, instead of handing out information about the conditions for certain types of care. If a carer still uses an agreement, it is important that this is reasonable and clear and contains the information that is needed to clarify the conditions for the care.

In the opinion of the Parliamentary Ombudsman, the agreement in question does not comply with these requirements. It is unclear throughout, and gives the impression that it is a condition of the treatment, that the patient agrees not to leave the ward. In the opinion of the Parliamentary Ombudsman, a patient who applies for treatment for alcohol and drug dependence, may be considered to be very anxious that the treatment will be successful. In this situation, an agreement that a patient will not leave the ward can hardly be said to be based on any real freedom on the part of the patient, if it is perceived as he or she will otherwise not receive care.

The management of Länsverksamhet Psykiatri in Region Västernorrland cannot avoid criticism for how the agreement in question is formulated. (2744-2017)

Complaint against Jönköping County regarding the possibility of cash payment of patient fees

A judgement from the Supreme Administrative Court states that a county or region, pursuant to the regulations of the Act of Sweden's Central Bank, cannot refuse to accept cash payments of patient fees. The court also noted that no exemption can be found in law from the relevant provisions of the Riksbank Act, but that the question of how and where health care fees shall be paid has not been specifically regulated.

The Chief Parliamentary Ombudsman has received a number of complaints that regions have introduced various restrictions on the possibility of paying patient fees in cash. The Chief Parliamentary Ombudsman notes that it is unclear which restrictions of this type that could be consistent with the requirements of the Riksbank Act and questions whether there might be a need for a specific regulation regarding the forms of payment of health care fees. A copy of the decision has therefore been sent to the Ministry of Health and Social Affairs. (4281-2017)

The National Board of Forensic Medicine and the Police Authority's handling of a case concerning assistance

As a result of a court decision stipulating that a person should be admitted to a forensic psychiatric examination unit, an official at the National Board of Forensic Medicine submitted a request for police assistance in the enforcement of the admission decision. The underlying court decisions were attached to the request. However, the official at the National Board of Forensic Medicine lacked the authority to request assistance. Furthermore, in the request for assistance, it was stated that taking the person into custody for the purpose of admitting them could be done from a certain date. The admission decision had not, however, entered into legal force on the stated date. Despite these circumstances, the Police Authority provided the assistance before the admission decision had gained legal force. As a result, the person concerned was wrongly deprived of liberty for an estimated duration of one hour.

Regarding the handling of the matter by the National Board of Forensic Medicine, the Parliamentary Ombudsman notes that the regulation in the area - as well as the authority's written guidelines - gives clear information about when a decision may be enforced and who may request assistance. However, since the National Board of Forensic Medicine's disciplinary board has issued the employee concerned with a warning for their actions, the Parliamentary Ombudsman does not find any reason to further comment on the processing at the National Board of Forensic Medicine.

Regarding the handling of the matter by the Police Authority, the Parliamentary Ombudsman concludes that it is clear from the authority's handbook on assistance that it must be verified that the person requesting assistance is authorised to do so. In this situation, it did not appear from the request for assistance that this was the case. The relevant officers at the Police Authority should therefore have taken measures to verify the authority. In this case, the officers concerned should also not have relied on the information provided in the assistance request regarding the timing of enforceability. According to the Parliamentary Ombudsman, the Police Authority cannot avoid criticism for the deficiencies in the formal control exercised in the assistance case. The Parliamentary Ombudsman requires that the authority follows up the incident and takes action so that similar occurrences do not take place in the future. (5710-2017, 7734-2017)

The Parliamentary Ombudsman directs criticism towards the Region Halland for disclosing personal data to a third country in violation of applicable legislation, etc.

Within the scope of a development project in collaboration with Brigham and Women's Physicians Organization Inc. (BWPO), registered office in the USA, Region Halland disclosed information from medical records to BWPO. The information was disclosed without the patients' names and personal identity numbers, but with a serial number for each patient (pseudonymisation). The patients' personal identity number and serial number were saved in a reference file that was not given to BWPO.

The Parliamentary Ombudsman begins by stating that information from medical records is typically highly sensitive from an integrity perspective, and within the health and medical services it is protected partly by regulations on the processing of personal data and partly by regulations regarding confidentiality and professional secrecy. The Chief Parliamentary Ombudsman also highlights that development efforts carried out for the purpose of science which involves the processing of sensitive personal data requires ethical approval, but in the review of these cases the assumption has been that the collaboration in question only involved quality management and development initiatives.

In the decision, the Chief Parliamentary Ombudsman notes that the information that was disclosed to BWPO was not completely anonymised, as it was still possible to identify individuals using the reference file. The information was therefore to be considered personal data. The Chief Parliamentary Ombudsman thereafter determines that the requirements set out in the Personal Data Act regarding the transfer of personal data to a third country had not been fulfilled when the information was disclosed to BWPO. The Region is criticised for disclosing personal data in violation of the applicable legislation at the time.

When it comes to the matter of the disclosure's compliance with privacy legislation, the Chief Parliamentary Ombudsman notes that pseudoanonymisation in itself can mean that there is no risk of harm or injury to an individual, and that the data can thereby be disclosed. However, it is important for a government authority to carry out a careful confidentiality assessment based on the circumstances of each individual case before disclosing information even in pseudoanonymised form. In this case, there were several circumstances that the Chief Parliamentary Ombudsman believes should have prompted caution, including the fact that the disclosure related to information that was partly highly sensitive and partly able to facilitate identification of individuals in general. The investigation has not been able to establish the extent to which it has actually been possible to identify any individuals. However, in the Chief Parliamentary Ombudsman's opinion, it does not appear unlikely that so-called backdoor identification could have been possible in some cases. The Chief Parliamentary Ombudsman notes that the disclosure does not appear to have been preceded by any confidentiality assessment to speak of from the Region, and is therefore critical of the processing. The Region is also criticised for lack of documentation in the case. (6794-2017, 6864-2017)

Statements regarding the Health and Social Care Inspectorate's possibilities of obtaining a practitioner's medical records in a supervisory case
Within a case relating to the review of a nurse's professional conduct, the Health and Social Care Inspectorate has obtained the nurse's own medical records and used information from these as the basis for a report to the Medical Responsibility Board. As grounds for the measure, the Health and Social Care Inspectorate has referred to the general provision in Chapter 7, Section 20 of the Patient Safety Act, which states that care providers and staff have an obligation to submit documents, material and information relating to the operations to the Health and Social Care Inspectorate.

In the decision, the Chief Parliamentary Ombudsman states that information in medical records within the health service typically constitutes highly sensitive information from an integrity perspective. Involving a practitioner's medical records in a case relating to their professional conduct is therefore a highly intrusive measure which, according to the Chief Parliamentary Ombudsman, requires clear and explicit legal grounds. The Chief Parliamentary Ombudsman's finds that it is not possible to conclude that the provision in Chapter 7, Section 20 of the Patient Safety Act includes an obligation for a care provider to disclose medical records to the Health and Social Care Inspectorate, which have been kept by a health service practitioner when the care provider in question is not the object of supervision.

It is not the task of the Parliamentary Ombudsman to determine whether the Health and Social Care Inspectorate should have the possibility of obtaining a practitioner's medical records within the scope of its supervision of health and medical service staff. However, the Chief Parliamentary Ombudsman makes the assessment that the current legislation cannot be considered to provide the grounds that should be required for such a measure, and the Chief Parliamentary Ombudsman finds it highly unsatisfactory that the regulations are so ambiguous. The Chief Parliamentary Ombudsman is bringing the matter to the Government and raises the issue of a legislative review. In the present case, the Chief Parliamentary Ombudsman is directing no criticism against the Health and Social Care Inspectorate for its processing of the matter, due to, among other things, the ambiguity of the applicable regulations. (1239-2018)

Labour market authorities/ institutions

The Parliamentary Ombudsman directs criticism towards Arbetsförmedlingen for lack of service duty when managing an individual's enrolment, with purpose to cover their sickness benefit
In its decision the Parliamentary Ombudsman focus on the matter of service duty when an individual enrols at Arbetsförmedlingen to cover their sickness benefit.

When an individual enrols at Arbetsförmedlingen the authority registers the individual in a certain category. The register is used, inter alia, to facilitate a match between an applicant and available job opportunities.

Cases on the estimation of sickness benefits is processed by Försäkringskassan. Pursuant to the provisions in chapter 26, section 13, first paragraph of the Social Insurance Act, a sickness benefit is covered as long as the individual is at the disposal of the employment market. Pursuant to the regulation (2000:1418) on the applicability of sickness benefits the sickness benefit covers an insured individual, not unemployed on a formal basis, but unable to return to their employment due to health issues. This is applicable given that the insured individual is prepared to accept an offered employment that meets the established sickness benefit, as well as seeks employment while enrolled at Arbetsförmedlingen.

Försäkringskassan will appraise an individual's availability on the employment market when assessing an individual's sickness benefit. Försäkringskassan may need to look into an individual's register at Arbetsförmedlingen to receive knowledge regarding the individual's activities as a job seeker. Försäkringskassan is not bound to the category an individual holds at Arbetsförmedlingen when assessing a sickness benefit, but the measures of Arbetsförmedlingen is connected to the assessment of an individual's benefits.

In its decision, the Parliamentary Ombudsman emphasise the importance, for authorities that have joint systems, to make sure that an individual's benefits are not infringed. This is particularly important when an authority takes a decision or completes a measure that effects a decision that another authority has taken, on part of the individual, not least in cases concerning the right to certain benefits.

The Parliamentary Ombudsman holds that

Arbetsförmedlingen should have informed the individual that the category that the individual was placed under could risk that other authorities' decisions and benefits could be effected. The Parliamentary Ombudsman directs criticism towards Arbetsförmedlingen for not living up the requirement on service duty when neglecting to give out the information. (3409-2017)

The Parliamentary Ombudsman has initiated an enquiry and upon this directed criticism towards the Swedish Work Environment Authority for creating a campaign contradictory to statutory demands on objectivity and impartiality

In autumn and winter of 2017, the Swedish Work Environment Authority created an advertising campaign in which individual employers described the actions they take to prevent mental health problems in the workplace. The advertisements were available on the Work Environment Authority website and were published across several media channels, including a full page advertisement in the Dagens Nyheter newspaper.

Following the nature of the advertising campaign, on 21 December 2017, Deputy Parliamentary Ombudsman Lilian Wiklund decided to launch an investigation into the Work Environment Authority's campaign.

In the decision, it was stated that authorities' information to the public is subject to the principle of objectivity. This means that an information campaign by an authority may not be created in such a way that it falls to any other body's advantage. The Parliamentary Ombudsman stresses the importance of respecting the principle. The principle carries great significance to law and order and for the public to safeguard the public's trust in government agencies and their activities.

The Parliamentary Ombudsman states that the advertising campaign cannot be understood as anything other than the Work Environment Authority providing advertisements for the employers involved in the campaign. This runs the risk of causing the public to question the authority's impartiality towards the employers who participated in the advertising campaign, which in itself risks upsetting the general confidence in the agency as a whole.

The decision states that the advertising campaign was created in contravention to the principle on objectivity and impartiality, the Parliamentary Ombudsman directs criticism towards the Swedish Work Environment Authority. (8418-2017)

The Parliamentary Ombudsman directs criticism towards the Mediation Office due to the government authority making statements in a newspaper article regarding an ongoing dispute in violation of Chapter 1, Section 9 of the Instrument of Government

In January 2019, the National Mediation Office appointed three individuals to mediate the dispute between Ports of Sweden and the Dockworkers Union. On the same day that negotiations were to continue, the Director-General of the Mediation Office, AA, made a statement regarding the ongoing dispute in an op-ed piece in the newspaper Göteborgs-Posten.

In its decision, the Parliamentary Ombudsman notes that a government authority issuing a statement in a newspaper article must comply with the requirements for objectivity and impartiality (principle of objectivity) set out in the Instrument of Government. This means, for example, that the information in the article must be balanced and objective.

The Parliamentary Ombudsman holds that it is difficult to understand the article in question as anything other than an attempt by the Mediation Office to convince the Dockworkers Union to accept the mediators' terms. Since Ports of Sweden, unlike the Dockworkers Union, had accepted the mediators' previous proposal, which was clearly stated in the article, it is easy for outsiders to perceive the article as the office siding with Ports of Sweden. The Parliamentary Ombudsman therefore finds that there is a significant risk of jeopardising trust in the impartiality of both the Mediation Office and its appointed mediators.

The decision notes that the newspaper article was formulated in violation with the impartiality requirements set out in the Instrument of Government. (1671-2019)

Migration

Statements regarding the Police Authority's actions during a workplace inspection

On 17 May 2017, the Police Authority, in collaboration with the Work Environment Authority, the Tax Agency and the Economic Crime Authority, carried out a workplace inspection at a construction site in Stockholm. The inspection was a coordinated Europol operation to curb cheating at workplaces. The Parliamentary Ombudsman has examined the actions of the police during the inspection.

In its decision, the Parliamentary Ombuds-

man highlights the difficulties that may exist when several authorities, with different purposes and powers, are to cooperate in a supervisory situation. The Parliamentary Ombudsman especially highlights the problems that may arise when the Police Authority, while assisting other authorities on the scene, also conducts tasks relating to criminal investigation and an internal control of aliens. The Parliamentary Ombudsman emphasises the importance of the Police Authority separating these tasks and of the participating officers being aware of the regulatory framework in which they are acting as well as the existing scope for coercive measures.

On 1 July 2018, regulations came into force that give the Police Authority the right to independently inspect workplaces. According to the Parliamentary Ombudsman's assessment, the new regulations do not reduce the risk that the police's supervisory powers will be mixed up with what constitutes law enforcement work and other police work.

The Parliamentary Ombudsman requires the Police Authority to review its procedures for how inspections shall be carried out in accordance with the new regulations and for the documentation of measures taken in connection with an inspection. (4476-2017)

Statement on the application of the provisions regarding separation and security placements of detainees who use narcotics or had narcotics in their possession, without being intoxicated

In connection with observations made during the Parliamentary Ombudsman's inspection of the Migration Agency's detention unit in Kållered, Gothenburg, in March 2018, the Parliamentary Ombudsman decided to investigate how the agency applies the provisions regarding separation and security placements of detainees who used narcotics, and detainees who were found having narcotics in their possession, but not suspected of being under influence. Due to observations made at the inspection and from the Migration Agency's statement in the case, the Parliamentary Ombudsman draws the conclusion that the agency, to a great extent, use the opportunity to separate or securely place detainees in situations where there is no legal basis for it, but where it appeared to be necessary for some form of action to be taken because the detainee used or in some other way handled narcotics.

In the decision, the Parliamentary Ombudsman states how the provisions regarding separation and security placements should be applied when a detainee used or possessed narcotics.

The Parliamentary Ombudsman notes, that it has emerged, that it is a general problem that narcotics are brought to the detention unit, and that it is difficult for the agency to address this problem with the current legal provisions. In the opinion of the Parliamentary Ombudsman, it is necessary for measures to be taken to ensure a uniform and lawful application of the possibility of separating or securely placing detainees. Furthermore, that the detention unit cannot be kept free of narcotics has great negative consequences for detainees who want no part of such activities, which involves a risk for everyone in a detention unit. In the opinion of the Parliamentary Ombudsman, it is necessary for the Migration Agency to be given the conditions to operate the detention activities so that detainees are not exposed to such risks and consequences. Since many of the problems illustrated by the Parliamentary Ombudsman, in the decision, are associated with deficiencies in the legislation, the Parliamentary Ombudsman hands the decision over to the Government Offices of Sweden. (4378-2018)

The Parliamentary Ombudsman directs criticism towards the Migration Agency for blocking asylum seekers' cash cards and preventing them from gaining access to their daily benefit, as well as giving incorrect and insufficient information

Asylum seekers are entitled to financial assistance in the form of daily benefit if certain conditions are fulfilled. To facilitate payment of the benefit, asylum seekers receive a cash card which is topped up with the benefit granted.

AA and BB have applied for asylum in Sweden and each received a cash card from the Migration Agency. After their rights to benefit ceased, the Migration Agency blocked the cards and transferred the money that remained on each card to an account that only the agency has access to.

The Parliamentary Ombudsman has stated that benefits that the Migration Agency has granted to an asylum seeker and that has been made available on the asylum seeker's cash card belongs to the asylum seeker. This means that the agency has no right to dispose over the money without legal grounds. No such grounds did exist.

The Migration Agency has therefore had AA's and BB's money at its disposal without being entitled to it. The agency has also given incorrect and insufficient information in connection with the cards being blocked. The Migration Agency is criticised for this.

In conclusion, the Parliamentary Ombudsman

states that the procedure that the Migration Agency applies, when the right to benefit ceases means circumventing the rules that the legislator decided and exploitation of the asylum seekers' vulnerable position. The Parliamentary Ombudsman is critical of the Migration Agency's way of handling the question and presumes that the agency will review its procedure. (4987-2018, 5935-2018)

Cases involving police, prosecutors and custom officers

The Parliamentary Ombudsman directs criticism towards the Police Authority for conducting body searches without adequate grounds and statements about the police's treatment of a person who filmed the intervention

In connection with a main hearing at a district court, at which two members of a motorcycle club were defendants, other members of the club came to the court. The police removed one club member who was disturbing the general order in the court building. When the club members protested against the removal of this person outside the court, the police decided to conduct body searches of them. The decision to conduct body searches was based on, among other things, the fact that the police had previously found dangerous objects on members of the club, but also due to the way the club members acted at the court. When the defendants' public defence counsel filmed the intervention, two police officers obstructed his filming by standing in his way. One of the police officers held up her mobile phone as though she were filming him.

The Parliamentary Ombudsman states that the police's experiences of finding dangerous objects combined with a person's actions against the police and the context in which this happens may form the basis of an assumption that he or she has prepared for a confrontation with the police and that weapons or other dangerous objects should therefore be seized by means of a body search. The Parliamentary Ombudsman confirms, however, that the investigation does not support the fact that the people who were subjected to body searches outside the district court were acting in such a way that grounds existed, combined with the police's previous experiences, for the decision to conduct body searches. The Police Authority is criticised for conducting body searches without adequate grounds.

The Parliamentary Ombudsman also issues statements about the police's treatment of the person filming the intervention and the importance of the police acting in a correct and professional manner. (6908-2016)

The Parliamentary Ombudsman directs criticism towards the Police Authority for having photographed and filmed people without legal basis in connection to a premises and body search, and for inadequate documentation

The police stopped a bus of counter-protestors on their way to a demonstration. The bus was searched and the protestors were exposed to a body search. The police photographed and filmed the counter-protesters. Their identity documents were also photographed.

The Parliamentary Ombudsman states that both the photography and filming of the counter-protestors is a coercive measure that requires legal grounds. There was no legal basis for the photography and filming of this event.

Regarding the photography of the identity documents, the Parliamentary Ombudsman states that there is no fundamental objection to the police photographing a person's identification as part of the documentation of an intervention. A condition for such an occurrence is that the individual voluntarily hands over information about their identity and is prepared to allow their identification to be photographed. In this instance, the inquiry gave no support that this act was voluntary from those involved.

The Police Authority is criticised for having photographed and filmed the counter-protesters and for having photographed their identification documents despite it being unclear if this action was voluntary. Furthermore, the Police Authority is criticised for its failure to document the body searches and search of the bus.

In the decision, the Parliamentary Ombudsman suggests that the Police Authority continues its work to inform and train police officers to improve their understanding of when photography is a suitable measure. The Parliamentary Ombudsman also states that there may be reason to review the chain of command for operations involving several groups with different tasks, and that any ambiguities that may exist amongst the participating police officers are eliminated. (7687-2016)

The Parliamentary Ombudsman directs criticism towards the Swedish Police Authority for their processing of found passports

Eight expired passports issued in the name of one person were submitted to the Police Authority after being found at an airport. The Authority did not register the passports as

lost property, instead the police annulled and destroyed the passports shortly after they were submitted.

The Parliamentary Ombudsman states that expired passports must be processed as lost property. Lost property received by the Police Authority must be registered. Furthermore, the Parliamentary Ombudsman states that a basic requirement is that an individual's right to their property is respected and that an action regarding an individual's property is supported by existing regulations. No such grounds were found in the case.

The Police Authority is criticised for not registering the passports when they were submitted and, for destroying the passports without legal basis. (722-2017)

The Parliamentary Ombudsman directs criticism towards the Police Authority for the processing of a judicial assistance case for a 15-year-old

A social welfare board requested assistance from the Police Authority (referred to as 'judicial assistance') to return a 15-year-old to a residential care centre. When the 15-year-old contacted the police on 10 and 11 May 2017 and provided his whereabouts, the Police Authority told him to make his own way back to the residential care centre. On 19 May 2017, a person contacted the Police Authority and informed them of the 15-year-old's whereabouts. At that time, the Police Authority was unable to organise judicial assistance due to insufficient resources.

The Parliamentary Ombudsman holds that occasionally, such a lack of resources can force the police to prioritise other tasks over a request for judicial assistance. Nevertheless, a judicial assistance case must always be prioritised and it is not for the police to determine whether there is a need. Furthermore, the Parliamentary Ombudsman states that there are no grounds for the Police Authority to transfer responsibility to the person subject to the request for judicial assistance and expect them to return to their residential care centre unaccompanied. This is particularly relevant for judicial assistance for a child. Therefore, the Parliamentary Ombudsman criticises how the Police Authority processed the request for judicial assistance on 10 and 11 May 2017.

The Parliamentary Ombudsman notes that there is no reason to issue a statement on the Police Authority's decision on 19 May 2017, however maintains that the authority should have contacted the social welfare board who had requested the judicial assistance and provided information about the course of events. The Parliamentary Ombudsman also emphasises that a request for judicial assistance applies until an assignment is completed or there is no longer a need for assistance. (3529-2017)

The Parliamentary Ombudsman directs criticism towards the Police Authority for its treatment of a man who was taken into custody for intoxication

AA was taken into custody for intoxication and was taken to a detention centre. During the search, he had to turn over his medication, among other things. In the cell, he subsequently had all his clothes taken away along with the mattress that was there. For over six hours, he was in the cell without access to a blanket, mattress or any clothes. He also did not have access to his medication. During that time he was supervised by female staff.

The Parliamentary Ombudsman has previously stated that police officers and other staff at the Police Authority who do not have medical training must be careful about making medical assessments of detainees, and instead hand these assessments over to a doctor. In the decision, the Parliamentary Ombudsman states that the same caution should be taken when assessing whether a detainee needs access to medication, regardless of whether it is a question of medication that the detainee has a prescription for or medication that the detainee is requesting. The Police Authority is criticised for not consulting a doctor or documenting the assessment that AA should not be permitted to have their medication.

The Police Authority is also criticised for the fact that AA was left in the cell for almost six hours completely naked without being offered a blanket or, after re-assessment, their clothes, and for the fact that female staff participated in the supervision during this period. (3622-2017)

The Parliamentary Ombudsman directs criticism towards the Police Authority for the handling of a case concerning a gun licence was suspended for eight months pending a criminal investigation

The Police Authority interrupted the processing of an application for a gun licence pending a criminal investigation. The Parliamentary Ombudsman states that the Police Authority can wait to make decisions in a gun licence case for a short period of time, taking into account an ongoing criminal investigation, if it is required to obtain a satisfactory decision basis. It can also be reasonable to wait if there is a risk that the

processing will affect the preliminary investigation. According to the Parliamentary Ombudsman, however, in most cases it is not acceptable to wait with making a decision for longer than one or a couple of months. It is of course not acceptable to postpone the processing indefinitely, as in the present case.

The Police Authority is criticised for having suspended the processing and not taking any action to propel the case forward for eight months. (5541-2017)

The Parliamentary Ombudsman directs criticism towards the Police Authority for not allowing a detainee to keep his prosthetic leg while in the detention centre

AA was arrested as suspected of assault and placed in a detention centre. His lower leg has been amputated and he has a prosthesis below the left knee. In connection with the search, the Police Authority decided to take his prosthetic leg from him, among other things.

The Parliamentary Ombudsman states that a decision to take a prosthetic leg away from a detainee in a detention centre must be preceded by individual considerations of whether the action is necessary and what consequences it could have if the detainee is allowed to keep their prosthesis. The considerations should also relate to how it can be judged to affect the individual if their prosthesis is taken from them, and what possible adjustments in the cell may be needed. Furthermore, it must be considered whether supervision needs to be expanded to ensure the detainee's safety and possible need of assistance.

According to the Parliamentary Ombudsman, in this case there is no concrete information in the investigation that indicates there was a risk of AA harming himself. Even if, based on the information in the case, it cannot be ruled out that there was a risk that AA could harm others with the prosthetic leg, that risk should have been managed in a less intrusive way than taking away the prosthesis from AA. Overall, the investigation does not support the assertion that it was necessary to take the prosthetic leg from AA with reference to order and safety. It is also a shortcoming that the Police Authority does not seem to have reflected on whether any special measures were required to facilitate AA during his stay in the cell after having his prosthetic leg taken away. The Police Authority cannot avoid criticism for AA not being allowed to keep his prosthesis when he was put in the cell. (5867-2017)

The Parliamentary Ombudsman directs criticism towards the Technical Board in Norrköping municipality and the Police Authority for shortcomings in the processing of a permit application to use public land for a terrace area and the revocation of the permit

A restaurant applied to the Police Authority for a permit to expand an existing terrace area. The Technical Board of Norrköping municipality issued a statement on the application and the Police Authority subsequently granted the permit. The board then decided to change its previous statement. The Police Authority revoked the permit with reference to the amended statement.

In its decision, the Parliamentary Ombudsman stated that one condition for a permit to use public land must be directed towards the permit holder and formulated in a way to enable compliance. It is important that a decision stipulates what constitutes a condition in the permit. In their statement to the Police Authority, the Technical Board made a reservation that was intended to be such a condition, however it was rather presented as an indication that they intended to act if the design of the terrace proved unsuitable. The board was criticised for the statement being unclear and, in certain instances, subjectively formulated. In addition, the board is criticised for having given the impression that they had the authority to change the permit for the terrace, even though the Police Authority holds this power.

The Parliamentary Ombudsman also states that for a municipality to issue a statement on a permit application, it must first thoroughly examine the conditions to support the application. A municipality cannot abstain from the responsibility to investigate and issue a stance on the conditions supporting an application by informing the applicant that certain uncertainties regarding the suitability of the permit exist. The Technical Board is criticised for inadequate processing prior to the statement issued to the Police Authority.

The Police Authority is criticised for its shortcomings in the permit application processing and that the permit issued by the Authority did not meet the basic requirements for clarity. The Police Authority is also criticised as in email correspondence with the technical board, the case officer gave the impression that the Police Authority would follow the municipality's request to revoke the permit without conducting an independent evaluation. (5958-2017)

The Parliamentary Ombudsman directs criticism against the Police Authority for taking a person into custody without there being grounds for it, and for the actions of the police in connection with the person filming the intervention

A police officer took a man into custody for identification, searched him and took his phone. The police based their intervention on the fact that there may be a warrant for the man's arrest, among other things, because he did not want to identify himself. The man filmed much of the intervention but was repeatedly told to stop filming.

The Parliamentary Ombudsman notes that the circumstances of the intervention were not such that there was reason to assume that the man was wanted, and that there were therefore no legal grounds for the intervention.

From the point of view of legal certainty and for public insight into the work of the police, it is important that individuals have the opportunity to film the police, provided that it does not actively prevent the police work or, for example, constitute a security risk.

Regarding the risk that individuals filming police interventions will process the footage in violation of what applies concerning the processing of personal data, the Parliamentary Ombudsman states that there is very limited scope for a police officer to instruct a person to cease engaging in certain behaviour purely on the basis of a personal opinion or desire. It is important that a police officer does not express themselves or act in such a way that an individual perceives it as a coercion to stop filming, or otherwise gets the impression that they are obligated to follow an instruction to stop filming. The Parliamentary Ombudsman also points out that caution must be observed in such a situation so that the police's actions do not conflict with the constitutional right to freedom of information. The Parliamentary Ombudsman notes that the police's repeated instructions to stop filming were not acceptable. (6506-2017)

The Parliamentary Ombudsman directs severe criticism towards Nacka District Court for a delay of more than five years before issuing a summons in a criminal offence and for not following up on the enforcement of a detention order

In February 2012, a man was prosecuted for rape at Nacka District Court. After some weeks, the court decided, as the request of the prosecutor, that the man should be detained for his failure to appear. According to a note in the court's journal, the decision was forwarded to the police. However, in November 2016 it emerged that the police were unaware that the man was to be detained for non-appearance. The police then instituted a search for the man but took no other action to enforce the detention order. The district court has stated that the case was reported in the review of cases every six months. At the start of 2017, the District Court discovered that no summons had been issued. A summons was issued in March 2017. The court had then received new contact information for the man from the Migration Agency. The man was served with the summons a few days later and gave further contact information in the acknowledgement of service. The prosecutor forwarded the contact information to the police, but the police took no active measures to search for the man. He voluntarily appeared at the main hearing at the court in September 2017 and was acquitted.

The Parliamentary Ombudsman's investigation shows that defective routines and inadequate measures at Nacka District Court and the police, and also at the Prosecution Authority, together led to the case being decided in the District Court more than five and a half years after the prosecution was brought, and also that for almost all of this period the defendant was subject to a detention order for failure to appear without any measures being taken to enforce the order. In the decision, the Parliamentary Ombudsman states what measures the police should have taken to enforce a detention order and what control measures the court and prosecutor should take until such an order is enforced.

The Parliamentary Ombudsman holds that the court did not take adequate measures for a number of years and that the summons in the case was issued more than five years after the application for a summons arrived at the court. The District Court is also criticised for not ensuring that the police had received the detention order and for defective documentation of contact that had occurred with the prosecutor. The Police Authority receives criticism that no action other than instituting a search was taken to enforce the court's detention order. There are insufficient grounds for criticising the actions of the Prosecution Authority, but the Parliamentary Ombudsman maintains that all authorities in the legal chain have a responsibility, within the framework of their mandates, to act to ensure that detention orders can be enforced and the main hearing held within a reasonable time. (6643-2017)

The Parliamentary Ombudsman directs criticism towards the Police Authority for performing a search and a personal search without grounds and also for performing a bodily examination in a minibus

A woman in a car was stopped by the police. The police suspected a narcotics offence and decided to search the car and conduct a bodily search of the woman. The search of the woman was done in the rear of a minibus, in which the woman undressed first her upper body and then her lower body in front of a female police officer.

In the opinion of the Parliamentary Ombudsman, the Police Authority did not have good reason to consider that the woman could reasonably be suspected of a narcotics offence. The police thereby decided on a search of the vehicle and a bodily search of the woman without grounds. The Police Authority is criticised for this.

The Parliamentary Ombudsman states that when a person is forced to remove his or her clothing so that the police can search for narcotics this inevitably means that the suspect's body is observed. In such a situation, the police officers who perform the examination are also paying attention to whether, for example, the suspect's bodily position might indicate an attempt to hide narcotics in the armpit or some other place on the body. Even though the suspect's body is only examined quickly, the Parliamentary Ombudsman considers that all in all this must be seen as a bodily examination in the meaning of the Code of Judicial Procedure. In the Parliamentary Ombudsman's opinion, the examination of the woman was therefore a bodily examination and not a bodily search.

Since the bodily examination of the woman meant that she was forced to undress and show intimate parts of her body, the Parliamentary Ombudsman considers that this was of a more significant extent. Such a bodily examination shall be performed indoors and in a separate room and there is no legal basis for performing it in any place that is not covered by the term indoors. The Police Authority receives criticism for performing the bodily examination of the woman in a minibus.

In the Parliamentary Ombudsman's opinion, there may be situations in which a bodily examination of a more significant extent can be performed with respect for the suspect's integrity and in sufficient seclusion even though it is not performed indoors. Against this background, the decision is handed over to the Ministry of Justice. (7001-2017)

The police must contact the injured party's counsel prior to interviewing an injured party

An interview was held with an injured party without the injured party's counsel being present, even though the counsel had attempted to contact the head investigator before the interview. In its decision, the Parliamentary Ombudsman states that it must be considered the obligation of the police to contact the counsel of an injured party before an interview, even if there is no explicit provision in this regard. The Parliamentary Ombudsman also states that it cannot be considered in line with the intention of the provisions regarding the right to an injured party's counsel for the injured party's position to determine whether an interview can be held without their counsel being present. This is particularly relevant in the case of a young injured party in a sensitive and vulnerable situation, who has not yet been in contact with their counsel. The Parliamentary Ombudsman also emphasises the importance of the police adhering to the directives of the prosecutor.

The Parliamentary Ombudsman directs criticism towards the Police Authority for the shortcomings in its processing. (989-2018)

Restriction of a preliminary investigation on the grounds of the suspect's functional impairment

A prosecutor began a preliminary investigation and brought a prosecution against a man with severe intellectual disability and a level of development corresponding to an age of 2 to 4 years. The case concerned aggravated assault on an employee at the residential home where the man was living. The district court acquitted the man since the deed was perceived to be an unconscious act that only occurred because of the man's functional impairment.

In the decision, the Parliamentary Ombudsman refers to the possibility of abstaining from investigation and prosecution pursuant to the provisions of the Code of Judicial Procedure regarding restriction of preliminary investigations when the suspect has a severe functional impairment. The Parliamentary Ombudsman notes that the legislation certainly does not rule out legal proceedings in such cases, but that the provisions of the Code of Judicial Procedure give a not insignificant room for manoeuvre in considering circumstances that indicate a restriction of preliminary investigations when the suspect has a severe functional impairment.

The Parliamentary Ombudsman states that in the case in question the preliminary investigation could have disregarded of in the view of the

man's functional impairment. In circumstances such as these, legal proceedings are normally meaningless and difficult to reconcile with reasonable requirements for how a society governed by law should treat persons with severe functional impairment. The prosecutor should also have given greater consideration to the fact that the incident in question occurred in a care situation and that the man's behaviour was the result of his functional impairment.

In the opinion of the Parliamentary Ombudsman, the prosecutor put far too much focus on the question of the man's criminal intent. The Parliamentary Ombudsman directs criticism towards the prosecutor for not looking for more detailed information so as to form a better understanding of the man's functional impairment and care situation. (6223-2017)

Unauthorised conversations between detainees in police cells may not be recorded without legal support

Three arrested suspects in the same investigation were placed in police cells in Västerås. The prosecutor had decided on restrictions that, inter alia, related to the suspects' right to be placed together with other prisoners and to be in common areas with other prisoners.

The premises in the police cells were designed so that the suspects were able to communicate by shouting to each other. When the suspects shouted in a foreign language, the police suspected they were trying to coordinate their stories. According to the police, it was not possible to relocate any of the suspects. Instead, a prosecutor decided that the suspects should be informed that their conversation could be recorded if they continued to communicate in the cells. When the suspects continued to shout to each other, the police staff recorded the exchange with a dictaphone. Parts of the recorded material were referred to as evidence in court.

In the decision, the Parliamentary Ombudsman states that it is an obvious starting point that the premises in facilities such as police cells must be sufficiently soundproofed and also otherwise designed so that unauthorised contact between inmates is prevented where possible. The Parliamentary Ombudsman's investigation has not put focus on the design of the premises, but rather the Parliamentary Ombudsman points out that the current situation in the cells entails that the Police Authority must generally structure its operations so that suspects who could engage in unauthorised contact with each other on the premises, are not placed there at the same time.

An audio recording of conversations between other individuals is, according to the Parliamentary Ombudsman, typically viewed as a sensitive measure in terms of privacy, and it is important that the party taking such a measure is fully aware of the legal grounds necessary for such a measure to be taken.

According to the Parliamentary Ombudsman, restrictions that impose limitations on where a detainee may stay cannot be enforced by documenting conversations that are held contrary to the purpose of the restrictions. The Parliamentary Ombudsman also concludes that there needs to be legislative support for a measure that would entail the police recording a suspect for investigation purposes, especially when it is a suspect who is detained. According to the Parliamentary Ombudsman, there is no existing right that would allow the use of an audio recording to record what a suspect is saying while detained, unless it is in the context of questioning that suspect. There is therefore no legal grounds for recording the suspects' conversations in the cells.

The prosecutor is criticised for deciding that the suspects' conversations should be recorded and for instructing the police to make recordings, even though there were no legal grounds for doing so. (2670-2018)

Statements regarding the conditions for Swedish Customs to examine the contents of an electronic device, such as a mobile phone, found during a customs inspection

In order to ensure that child pornography is not being brought into Sweden, Swedish Customs sometimes inspects the pictures on a mobile phone or a computer found on a person or in their luggage. In its decision, the Parliamentary Ombudsman considers whether – and if so under what conditions – such an inspection is legal.

A customs official may inspect a traveller's luggage and, in accordance with Section 27, second paragraph of the Penalties for Smuggling Act, search an individual's person if there is reason to assume that they are in possession of property that can be seized.

The practice developed in regard to coercive measures regulated in the Code of Judicial Procedure should as a rule also be applied when the same coercive measures are applied pursuant to the Penalties for Smuggling Act. Even if the purpose of a body search pursuant to that act is to enable an effective means to control the entry of goods, it fundamentally remains a coercive measure for the purposes of criminal investiga-

tion. In accordance with the provisions on body searches in the Code of Judicial Procedure, the Parliamentary Ombudsman is therefore of the opinion that it should not be permitted to search the contents of an electronic device encountered during a body search in accordance with the Penalties for Smuggling Act without first confiscating the device. This conclusion is also supported by the circumstance that such a body search may be carried out on the basis of very weak suspicions of a crime.

The Code of Judicial Procedure also contains provisions which mean that digital images etc. may only be investigated following a decision by the court or a head investigator. The aim of the provisions is to limit the circle of people who are allowed to investigate certain material, which may be sensitive to the individual's integrity. The grounds of these provisions are also applicable to a body search in accordance with the Penalties for Smuggling Act.

The conclusion of the Parliamentary Ombudsman is that the Swedish Customs does not have legal grounds to investigate the contents of an electronic device found on a traveller or in their luggage without the device being confiscated and a decision being made by the head investigator to examine its contents.

The Parliamentary Ombudsman's conclusions means that the scope for the Swedish Customs to control the entry of child pornography is very limited. The Parliamentary Ombudsman doubts that a legislative regulation of the practice applied by the Swedish Customs would be in compliance with the requirement set out in constitution and conventions for restrictions to the protection of private life to be proportional. It is the task of the legislator to assess whether the interests supporting such far-reaching powers are of sufficient weight. The Parliamentary Ombudsman is therefore submitting its decision to the Ministry of Justice for information purposes. (6093-2017)

Prison and probation service

An individual has incorrectly been deprived of liberty despite a Supreme Court ruling regarding suspension

In the evening of 14 July 2016, AA was deprived of liberty for a few hours because a warrant had been issued for him to serve a prison sentence. However, there were no legal grounds for the deprivation of liberty, as the Supreme Court had issued a ruling a few months prior stating that no measures to execute the prison sentence could be taken until further notice. In the decision, the Chief Parliamentary Ombudsman notes that it is evidently very serious that AA was incorrectly deprived of liberty. The investigation into the matter shows that the incident was largely due to various coinciding and unfortunate circumstances for AA. The incident was also caused in part by inadequate procedures with the law enforcement agencies. What happened to AA appears to be a very particular and likely rather unusual situation. Perhaps it has been difficult for the law enforcement agencies to predict that a similar situation could occur. The Chief Parliamentary Ombudsman's review has not led to any criticism of the Police Authority, the Supreme Court or the Prison and Probation Service. However, the case does highlight the importance of correct dispatch and notification of judgements and decisions, and of having well-conceived and effective procedures for information exchange between and within government agencies. In the decision, the Chief Parliamentary Ombudsman notes that the three government agencies that have submitted statements in the matter have expressed an intention to review their procedures, and that the Prison and Probation Service to some extent has altered its procedures. The Chief Parliamentary Ombudsman naturally takes a positive view of this. It cannot be ruled out that the risk of incorrect deprivations of liberty could also be reduced through altered regulations that better ensure that the government agencies involved receive information on decisions regarding the suspension of prison sentences. The Chief Parliamentary Ombudsman will therefore send a copy of this decision to the Government Offices, the Ministry of Justice, and the Riksdag's Committee on Justice for information purposes. (4737-2016, 1363-2017)

Statements on the Prison and Probation Service's restrictions on opportunities for detainees to smoke outdoors

This case involves the question of whether the Prison and Probation Service has the right to restrict the number of cigarettes that a detainee in an institution is permitted to possess in connection with an exercise period, and if so how extensive such a restriction may be. The Parliamentary Ombudsman states that it is extremely important that cigarettes are not smuggled into the units after the end of the exercise period, partly to maintain the ban on smoking indoors and partly to guarantee safety in the institution. Detainees sometimes attempt to light smuggled

cigarettes in different ways, which involve a risk of fire to varying degrees. To deal with these problems, different locations have been allowed to resolve the matter in different ways.

In the case in question, Gävle institution has decided to limit the number of cigarettes to two per detainee per exercise period. In the view of the Parliamentary Ombudsman there is nothing in the current regulations to prevent an institution from introducing restrictions on the permitted number of cigarettes, either in their local procedures or through a special decision based on incidents that have occurred, on the condition that the restriction is necessary for reasons of safety. It is, however, necessary to then observe the principle of proportionality as expressed in the Act on Imprisonment, which means that there must be a balancing of interests in order to test whether the inconveniences of the measure are in reasonable proportion to what can be gained through it. If a less intrusive measure is sufficient, that must be used. The Parliamentary Ombudsman confirms that the restriction imposed by Gävle institution is far-reaching, but does not have sufficient background information to maintain that it is disproportionate.

In conclusion, the Parliamentary Ombudsman emphasises the importance of similar cases being treated equally in the Prison and Probation Service and of proportionality actually being observed in its operations. The Parliamentary Ombudsman expects that the Prison and Probation Service reviews the various methods being used by the institutions to prevent the smuggling of cigarettes into the units and to consider the possibilities of achieving a more unified approach to the problem. (4642-2016)

The Parliamentary Ombudsman directs criticism towards the Prison and Probation Service for operating remand prisons in inadequate premises

Since 2006, the Prison and Probation Service has had temporary remand operations in the Police Authority's detention premises in Östersund. During an Opcat inspection in 2013, the Parliamentary Ombudsman stated that the Prison and Probation Service should seriously consider the suitability of continuing to use the premises as a remand prison. After a second Opcat inspection 2016, the Parliamentary Ombudsman found that, unless immediate action was taken, the Prison and Probation Service should stop placing persons on remand in the premises. Some changes have subsequently been made to the premises. Furthermore, the Prison and Probation Service's intention is for the premises to only be used for placement of inmates with restrictions. Despite these changes, the Parliamentary Ombudsman finds that the fact remains that the current premises are unsuited for use as a remand prison. According to the Parliamentary Ombudsman, Östersund's geographical location is not enough to justify keeping persons on remand in the premises. The only reasonably solution is thus for the Prison and Probation Service to stop using the current premises as a remand prison and not resume the use of remand operations in Östersund until suitable premises are found. According to the Prison and Probation Service, new remand prison premises are expected to be ready in the spring of 2020. (1387-2017)

The Parliamentary Ombudsman received a complaint against Skogome prison, the Prison and Probation Service, regarding the board of trustees' opportunities to spread information

The board of trustees of a prison posted, on a notice board in its public area, an information folder called 'Förtroenderådsbladet'. The folder contained information including the first and last name of a person who had previously been chair of the board of trustees at the pavilion. The information folder also contained information about an imminent change of managers. The information folder was taken down by staff because it contained sensitive personal data about a former inmate and the names of the managers involved in the change of managers. In the decision, the Chief Parliamentary Ombudsman states that there are not sufficient grounds to criticise the prison for taking down the folder. However, the Chief Parliamentary Ombudsman holds that it is evident that the board of trustees needed to be able to provide written information about its work to be able to run a meaningful operation for the inmates. The Chief Parliamentary Ombudsman further states that if the written information posted by the board of trustees contains information that can be deemed as inappropriate, it is important for the prison management to clearly explain why the information is inappropriate and give the board of trustees guidance about how the information could otherwise be formulated. So that the prison management's actions should not be perceived as arbitrary and lead to suspicion of attempted censorship, in the opinion of the Chief Parliamentary Ombudsman it would be appropriate to devise written guidelines and inform the board of trustees of these. The Prison and Probation Service should consider devising general guidelines on how information about

the work of boards of trustees could be posted and spread. (4660-2017)

The Parliamentary Ombudsman directs criticism towards the Prison and Probation Service for letting a person convicted of a crime in Norway, whose sentence was transferred from Norway for execution in Sweden, spend 35 days in a remand prison

A person was transferred from a minimum security prison in Norway to a remand prison in Sweden, pending placement in a Swedish prison. When he arrived in Sweden, one year and three weeks remained of his sentence. Ten days after his arrival, the remand prison submitted a request to the Prison and Probation Service's reception centre for the inmate to be investigated for the establishment of special conditions. He remained in the remand prison for 35 days before a place became available at the reception centre. After almost a month at the reception centre, the Prison and Probation Service decided that there was no grounds to issue a decision on special conditions for him. Shortly thereafter, he was placed in a security level 2 prison, but the placement decision was reviewed by the Prison and Probation Service due to, among other things, contacts with the prison in Norway, and he was finally placed in a minimum security prison.

In the decision, the Chief Parliamentary Ombudsman directs criticism towards the Prison and Probation Service for the long remand period and for the fact that neither the remand prison nor the reception centre initially considered whether there was actually a need to investigate the matter of special conditions. The Chief Parliamentary Ombudsman is also critical of the slow processing time at the reception centre once the inmate had been transferred there and of the fact that the Section for International and Other Special Client Cases (SCK) did not take a decision in the matter of special conditions more rapidly. The Chief Parliamentary Ombudsman also finds that there may be reason for SCK to consider whether there is a need to implement special conditions in matters regarding transfer of execution of a sentence where it may be relevant. When it comes to the placement in a security level 2 prison, the Chief Parliamentary Ombudsman finds that, considering what has emerged regarding the previous execution of the inmate's sentence, it appears that the placement entailed a more intrusive supervision and control than was necessary.

The decision also considers under which conditions an inmate, who has served part of a prison sentence abroad and has thereafter been transferred to Sweden to continue serving their sentence here, can be temporarily placed in remand prison pending a decision regarding prison placement. (5138-2017)

The Parliamentary Ombudsman directs criticism towards the Prison and Probation Service, Saltvik Prison, for the processing of a case regarding a warning pursuant to the Prisons Act

The decision concerns matters relating to the conditions for legal security in a case regarding a warning pursuant to the Prisons Act. The Chief Parliamentary Ombudsman makes a statement regarding the report that is normally produced in cases of suspected misconduct, the subsequent investigation and decision in such a case.

The Chief Parliamentary Ombudsman is critical of the information in the report regarding suspected misconduct not including an objective and detailed description of the incident and of those present. The Chief Parliamentary Ombudsman underlines the importance of writing a detailed report in close conjunction with the incident.

When it comes to the subsequent investigation, the Chief Parliamentary Ombudsman is critical of the Prison and Probation Service – considering the shortcomings of the investigation – not looking at a surveillance recording of the suspected misconduct as per the inmate's request. The Chief Parliamentary Ombudsman finds that the Prison and Probation Service should adopt a generous approach to saving such recordings at the inmate's request. The recording may constitute important evidence in situations where contradictory information has been provided and where word stands against word. The issue is particularly relevant in serious accusations regarding violence and threats, where a warning may impact the assessment of whether to postpone conditional release. The Prison and Probation Service should also have informed the inmate that the recording would not be added to the investigation, and that it would be automatically erased. The Prison and Probation Service should furthermore have provided information on the possibilities of requesting a copy of the recording pursuant to the provisions regarding disclosure of official documents, even if the authority made the assessment that such a disclosure was not possible. The reason for this is that a decision in such a matter can be appealed.

When it comes to the written decision to issue a warning, the Chief Parliamentary Ombudsman is critical of the fact that it does not contain a clear justification in regards to which specific action the warning refers to. (6230-2017)

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

The Parliamentary Ombudsman directs criticism towards the City of Gothenburg for encouraging the municipality's preschool directors to prohibit staff from wearing badges from the Teachers' Union or shirts associated with the so-called Preschool revolt

Staff at preschools in Gothenburg wore shirts with the text "Förskoleupproret" [Preschool revolt] and badges with the text "STOPP färre barn NU! Lärarförbundet Göteborg" [STOP - fewer children NOW! Teachers' Union Gothenburg]. The employer the City of Gothenburg advised the preschool directors to prohibit staff from wearing these shirts and badges. According to Chapter 2, Section 1 of the Instrument of Government, every citizen shall be guaranteed freedom of expression in their relations with the public institutions. The Parliamentary Ombudsman notes that the message on the shirts and badges does not conflict with any law. The textual content as well as the fact that the preschool staff is understood to perform their work in their private clothing further reinforces the impression that the messages constitute the staff's personal views. There is no investigation that shows that the wearing of the shirts and badges has had any negative impact on the activities being pursued. In light of this, the Parliamentary Ombudsman concludes that the City of Gothenburg has not been justified in its restrictions regarding the staff's attire. The city's actions have thus constituted a violation of the staff's constitutional freedom of expression. The Parliamentary Ombudsman directs criticism towards the city of Gothenburg. (3967-2018, 4208-2018, 4270-2018)

Questioned intervention against a banner on a student platform

Pupils at an upper secondary school put up a banner on a student platform. The banner had the text "#Metoo for women who tried to sleep their way to success but failed". A teacher at the school considered that the banner was not in line with the school's values and ordered the pupils to take it down. The question in the Parliamentary Ombudsman's case is whether this was a violation of the students' freedom of expression.

The text on the banner had caused a bad atmosphere against the class, which had created some concern regarding the safety of the class members. In the opinion of the Parliamentary Ombudsman, it is clear that there was a risk that the banner could cause a disturbance of order at the school. The Parliamentary Ombudsman therefore has no objection against the school's order to take the banner down. (6852-2018)

The Parliamentary Ombudsman directs criticism towards the Municipal Board of Härjedalen regarding informing the municipality's managers that employees are not entitled to have any contact with the media during work hours

In April of 2017, Härjedalen Municipality sent out a newsletter with information to all municipality managers about the employees' contacts with the media. The newsletter states that employees holds the right to freedom of speech and the freedom to contact the media, but that they do not have the right to contact the media during work hours, and that they cannot comment on matters that are subject to confidentiality. It also stated that media representatives are not entitled to enter the municipality's premises and that they must schedule a meeting with the relevant manager if they want to interview an employee.

The Parliamentary Ombudsman finds that the information cannot be seen as anything but a general prohibition of municipal employees having contact with media during office hours, which is unacceptable. The Parliamentary Ombudsman notes that the way in which the information in the newsletter is presented makes it seem like the employees' freedom of speech is more limited than it is. The information also makes it seem like the municipality generally has a negative attitude towards employees exercising their right to talk to journalists.

The Parliamentary Ombudsman holds it unacceptable that a municipality gives such false information to its employees. The Municipal Board of Härjedalen is criticised for the content and presentation of the information. (6024-2017)

The Parliamentary Ombudsman directs criticism towards the National Archives, for, among other things, charging a search fee for measures that the authority is obligated to take in accordance with the Freedom of the Press Act

The complainant requested a number of estate inventories from the National Archives. The National Archives charged a search fee of SEK

225 for one of these documents. According to its instructions, the National Archive may charge a fee for any searches that go beyond its service duties pursuant to the Administrative Procedure Act and has therefore decided to charge a search fee if a request for information from archive documents requires searching.

A request for access to official documents pursuant to the principle of public access must be processed and registered in accordance with the provisions set out in the Freedom of the Press Act. If a government authority makes the assessment that a request is beyond the scope of the authority's obligations pursuant to the same act, the request can be denied. If it is evident which document is referred to by a request, however, a government authority has a far-reaching obligation to search for the document in its archives.

On its website, the National Archives has an electronic form for ordering documents, which requires the applicant to accept the possibility that a search fee may be charged in the case of a request to receive documents in accordance with the Freedom of the Press Act.

The National Archives receives criticism for the formulation of the tariff when it comes to the search fee and for the design of the online form. According to the Parliamentary Ombudsman, the tariff almost appears to be an attempt to circumvent the principle that the labour cost of producing a document from the archives must not be part of the fees for copies of official documents.

The Parliamentary Ombudsman notes that the complainant has not given the National Archives a search assignment, and that already for this reason, it was wrong to charge him a search fee. The complainant had furthermore clearly specified which document he wanted. As a point of departure, the National Archives was therefore obligated to produce the document. The Parliamentary Ombudsman directs criticism towards the National Archives for charging the complainant a search fee.

In its decision, the Parliamentary Ombudsman also notes that the legal grounds for the National Archives to charge a fee of SEK 4 per page for copies of official documents – after the first nine pages – appears highly dubious. The decision is therefore being submitted to the Ministry of Culture.

The National Archives furthermore receive criticism for not providing any instructions for appeal in the decision issued regarding the search fee and for the subsequent processing of the complainant's letter objecting to the fee. (6529-2017)

The Parliamentary Ombudsman directs criticism towards Stockholm City Theater for destroying documents in a recruitment process, that was terminated without specific grounds

After a municipal company stopped a recruitment procedure, one of the applicants asked to receive all the public documents in the matter. He was then informed that the application documents had been destroyed.

When the Parliamentary Ombudsman had determined that there were no grounds for destroying the documents the Parliamentary Ombudsman makes the following general statement about destroying documents in a recruitment procedure that has been terminated.

That recruitment decisions in the public sector are taken on uncertain grounds, risk damaging the general public's confidence in the public sector. The principle of public access to official records is also an important function in these cases. That a recruitment procedure has been terminated does not mean that public access interests are waived. For example, it cannot be ruled out that a decision to stop a recruitment procedure on the grounds of redistributing tasks within an agency may be due to an unwillingness to appoint a certain applicant. Neither can it be ruled out that stopping a recruitment may be due to discrimination against an applicant. A decision that states that application documents in a recruitment that has been terminated shall be destroyed immediately is therefore, in the Parliamentary Ombudsman's opinion, contrary to the requirement that the material that remains after screening shall be able to meet the purposes stated in section 3 of the Archives Act. (517-2018)

The Parliamentary Ombudsman directs criticism towards the Municipal Executive Board of Umeå municipality for the handling of a case regarding the disclosure of documents, and of two officials for neglecting the requirement on promptness

A company brought an action against Umeå municipality for breach of contract. During the course of the legal proceedings, the company requested to see the order details for certain invoices and a large number of e-mails. The municipality had one of its legal counsel in the proceedings handle the matter of the disclosed documents. The order details were provided after approximately two months. About a year after the request, no information had yet been

communicated regarding the e-mails.

The Parliamentary Ombudsman notes that the counsel's involvement in processing the request to disclose documents contravenes the Instrument of Government and the Local Government Act's requirement on how to administrate the disclosure of documents that include information that involves the exercise of public authority regarding an individual. The Municipal Executive Board receives criticism.

In its statement to the Parliamentary Ombudsman, the Municipal Executive Board stated that any effect the order details may have had on the outcome of the dispute needed to be assessed. The Parliamentary Ombudsman notes that there is no support to withhold the information on the grounds that it could affect the outcome of a dispute to which the authority is party. In the Parliamentary Ombudsman's opinion, the Municipal Executive Board's claim in this part, as well as the circumstance of using a representative in the question of disclosing the documents, shows that the municipality has not distinguished between its role as the counter party to the company in the ongoing legal proceedings and its role as an authority responsible to hand out official documents in accordance with the Freedom of Press Act.

The Municipal Executive Board and two officials are criticised because the handling of the company's representation was not consistent with the constitutional requirement for promptness. (3053-2018)

The Parliamentary Ombudsman directs criticism towards the Government Offices, the Ministry for Foreign Affairs, for the processing of a request to access public documents

In recent years, the Ministry for Foreign Affairs has repeatedly been criticised by the Parliamentary Ombudsmen, the Parliament's' Constitutional Committee and the Chancellor of Justice for processing requests to access public documents in a way that is in conflict with the requirements of the Freedom of the Press Regulation for promptness. In October 2017, the Parliamentary Ombudsman criticised the Ministry for Foreign Affairs for the processing of a request and encouraged the ministry to take action in light of the recurring criticism.

In connection with a complaint from a journalist regarding the slow processing of a request to access public documents, the Parliamentary Ombudsman has once again examined the Ministry for Foreign Affairs' procedures.

The Parliamentary Ombudsman notes, in the decision, that the processing of the journalist's request shows deficiencies like those that have been found in previous examinations, and therefore directs criticism towards the Ministry for Foreign Affairs for its processing.

The Ministry for Foreign Affairs has begun a review of their processing to disclose public documents. The Parliamentary Ombudsman asks the Ministry for Foreign Affairs to report to the Parliamentary Ombudsman, by no later than 1 October 2019, what actions that have been taken to date, and what further actions that are planned. (3996-2018)

The Parliamentary Ombudsman directs criticism towards Örnsköldsvik municipality Humanities Board for having taken actions in an employment case that contravene the 'reprisals ban'

After having offered a municipal employee a position at a treatment centre, a board retracted the offer with reference to statements made by the employee on social media.

The Swedish Constitution protects freedom of speech, meaning there may not be reprisals against an individual who has exercised this right. The Parliamentary Ombudsman believes that to withdraw the employment offer contravened the reprisals ban. The board receives criticism for its actions. (410-2017)

Social insurance

The Parliamentary Ombudsman directs criticism towards Försäkringskassan for the wording of an official letter in a case regarding attendance allowance. Also a matter of journalists being present during client meetings

Försäkringskassan cancelled a home visit and rescheduled the appointment when the authority became aware, a few hours prior to the planned visit, that there would be journalists present. In its decision, the Parliamentary Ombudsman states that if there are grounds to question that purpose of a third party presence during meetings with the authority, the authority should of course be free to investigate this matter more closely. The Parliamentary Ombudsman therefore has no objection to Försäkringskassan choosing to cancel the meeting in order to investigate the purpose of the journalists' presence. However, the authority cannot issue any general ban on having journalists present during meetings. An assessment must be made in each individual case. In the decision, Försäkringskassan is criticised for the wording of an official letter in the case. (7041-2017)

The Parliamentary Ombudsman directs criticism towards Försäkringskassan for lack of service and availability; the decision also contains statements on how to handle doctors' requests for contact and the authority's duty of enquiry

In a case relating to sickness benefits, an individual received a communication from Försäkringskassan in which the authority declared that she was at risk of losing her sickness benefit qualifying income. The individual was given the opportunity to submit a statement no later than 5 March 2017 and tried unsuccessfully to contact the case officer at Försäkringskassan before then. The individual's doctor and other medical staff also tried to reach the case officer. The doctor also left a message on the case officer's answering machine but did not hear anything back. In two separate medical certificates, the doctor furthermore stated that he wished to come into contact with Försäkringskassan but no such contact was made. On 10 March 2017, the authority issued a decision that the individual was no longer entitled to sickness benefit qualifying income, and therefore could not receive a sickness benefit.

In the decision, Försäkringskassan is criticised for a lack of service and availability. The Parliamentary Ombudsman notes that a party in a case with a government authority is entitled to provide information verbally, and that Försäkringskassan has an obligation to maintain procedures to this end. The failure to do so furthermore affected the individual's possibility of claiming their rights before Försäkringskassan made a decision, which is especially serious.

The decision also contains statements regarding the Parliamentary Ombudsman's view of how Försäkringskassan should handle a doctor's request to be contacted. According to the Parliamentary Ombudsman's understanding; if the information in a medical certificate received by Försäkringskassan is inadequate for the assessment of a person's right to compensation, and the certificate states that the doctor wishes to come into contact with the authority, the authority has a duty of enquiry pursuant to Chapter 110, Section 13, first paragraph of the Social Insurance Code to make such contact. However, if Försäkringskassan believes that the information is adequate, and the assessment of the right to sickness benefit could not be changed by further medical information, the contact is instead an expression of the service that the authority should provide. (5902-2017)

The Pensions Agency has neither exceeded its authority (principle of legality) nor formulated an information letter in a way that is contrary to the principle of objectivity

Up until the middle of March 2017, Allra Asset Management S.A. was included in the premium pension system through a partnership agreement with the Pensions Agency. In February 2017, the Pensions Agency implemented a buy stop order for the company's funds which meant that the funds were no longer selectable within the premium pension system. The Pensions Agency decided on 16 March 2017 to terminate the partnership agreement with Allra Asset Management S.A., and in conjunction with this, the company's funds were also deregistered from the fund marketplace for the premium pension. On 22 March 2017, the Pensions Agency released information on its website regarding what had occurred. In addition, there was an information letter sent out by post to just over 100,000 pension savers who had chosen to invest their premium pension money in Allra Asset Management S.A.'s funds.

Allra Asset Management S.A. is part of the same group as Allra Försäkring AB. Allra Försäkring AB filed a complaint with the Parliamentary Ombudsman regarding the Pensions Agency's actions outside its authority and thereby in violation of the principle of legality. Allra Försäkring AB also claimed that the Pensions Agency has made negative statements about the company's insurance products in the information letter and that the authority has thereby also acted in violation of the principle of objectivity.

In the decision, the Parliamentary Ombudsman indicates that it is part of the Pensions Agency's responsibility to provide information on the pension and how, for example, survivor benefit protection impacts it. Allra Försäkring AB has chosen to name two of its pension policies in a way that has made it difficult for pension savers to clearly understand the difference between the company's insurance products and the survivor benefit protection linked to the premium pension system. Within the framework of its specific consumer assignment, the Pensions Agency has had reason to, in the manner it has chosen, provide information on the private and public options and the characteristics of these. Based on the many questions that the authority has received in the customer service, the action of providing the information is also considered

to be objectively justified. The Parliamentary Ombudsman determines that the Pensions Agency has acted within the framework of the responsibility the authority has for the premium pension system. The Parliamentary Ombudsmen also states, in its decision, that the information letter is formulated in a way that fulfils the constitutional requirements of objectivity and impartiality.

No criticism is therefore directed against the Pensions Agency. (8280-2017)

The Parliamentary Ombudsman directs severe criticism towards an employee at Försäkringskassan for making statements that contravene the requirement on objectivity pursuant to Chapter 1, Section 9 of the Instrument of Government

A case officer at Försäkringskassan inadvertently left a voice message containing bad language and derogatory statements on a client's answerphone. The decision states that the actions of the case officer conflicts with the objectivity requirement in Chapter 1, Section 9 of the Instrument of Government. The case officer receives severe criticism. (1855-2018)

Social services

Social Services Act

The Parliamentary Ombudsman directs criticism towards the Social Care and Welfare Board in Lidingö municipality for having made a decision prohibiting a relative of a resident at a residential care home from visiting the home

The wife of a resident in a residential care home was notified of a decision which meant that she was not allowed to visit her husband's residence or in the adjoining common areas, or other premises where the municipality is engaged in providing health and social care. The decision was made by a head of unit and an operational manager and was not supported by any delegation procedure. The husband rented his residence through a lease with the municipality. The tenancy right also entailed a right for the husband to be in areas that were common to the residents.

The Parliamentary Ombudsman states that a relative of a resident in a residential care home is to be given good opportunities to visit him or her. If there is a need to limit that possibility, it is not only the resident's rights as a tenant that must be taken into account; any restriction on visitation rights that constitutes an infringement of the resident's or the relative's rights under the European Convention on Human Rights must be supported by law.

In the opinion of the Parliamentary Ombudsman, the decision in this case partly entailed a limitation to the husband's right to use his tenancy, and partly entailed an infringement of the wife's right to family life according to the European Convention. The Parliamentary Ombudsman notes that there was no legal support for deciding that the wife was not allowed to visit the husband's home or the adjoining common areas. Pursuant to the principles that have generally been considered to apply to an individual's access to an authority's premises, the wife essentially could be prohibited from visiting other premises where the municipality was providing health and social care. A decision on a visitation ban is a decision pursuant to the Local Government Act, which is to be limited in time. It was therefore a task for the board to make a decision in the matter. The board may delegate the right to decide on such a matter to, for example, an employee.

The board is criticised because, without legal support, it made a decision that implied restrictions on the husband's use of his tenancy right, because the decision on a visitation ban for the wife covered the husband's residence and adjoining common areas, because the decision was not made by competent officials, and because it was not limited in time. (647-2017)

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Hultsfred Municipality because, among other things, a head of the section took a decision on aid cases despite the fact that there being a conflict of interest

A head of section processed and took decisions on a man's support cases during a period when the head of the section was the plaintiff in a criminal case in which the man was accused of making threats against an official, against the head of a section and a social secretary.

Chapter 6, Section 28 of the Local Government Act states a number of actual circumstances that implies that an official has a conflict of interests when processing a case. An official has a conflict of interests if, for example, there is a special circumstance that is likely to compromise faith in his or her impartiality in the case, a so-called "delicacy disqualification". A person with a conflict of interest may not participate in or be present at the processing of a case. An official who is aware of any circumstance that may be assumed to constitute a conflict of interest for

him or her must voluntarily make this known. The rules on conflicts of interest are an expression of the general principal of objectivity that is enshrined in the constitution and serve to guarantee that the actions of government agencies are characterised by objectivity and impartiality, pursuant to Chapter 1, Section 9 of the Instrument of Government.

In the decision, the Parliamentary Ombudsman points out that there is no requirement on an individual to allege a conflict of interest for an obligation to arise for the authority to investigate the matter. The head of section herself should have taken a position on whether she had a conflict of interest in processing the man's cases. The Parliamentary Ombudsman also states that there cannot be any doubt that the head of section's position as plaintiff in the criminal case constituted a special circumstance that was likely to compromise her impartiality with regard to the man's cases. She should not have processed and made decisions in the cases in view of the risk that there could be suspicions that she was not impartial when she processed the cases. The board is criticised for the deficiency it the processing of the cases.

In the decision, the Parliamentary Ombudsman also comments on the actual processing of an objection of a conflict of interest. (1339-2017)

The Parliamentary Ombudsman directs criticism towards the City District Board in Malmö municipality for not suspending a home visit as part of an enquiry for the right to assistance when the purpose of the visit changed

A woman applied to the City District Board for financial support to buy home equipment, among other things. The board conducted a scheduled home visit to the woman to assess her need for financial assistance for home equipment. During the visit, its purposed changed from assessing the woman's need for home equipment to investigating whether she was living with somebody and whether she had the right to any financial assistance from the board. The question is whether the woman consented to the home visit continuing, after the change of circumstances.

In the decision, the Parliamentary Ombudsman states that there is a basic rule when assessing the need for assistance in consultation with the individual. During an assessment, the social welfare board must continue to evaluate any intrusion on personal integrity that may arise during an assessment against the interests the authority is to meet. The Social Welfare Board is able to implement home visits when investigating the right to assistance only with the consent of the individual.

The Parliamentary Ombudsman questions whether the woman understood that her consent was needed for the home visit to continue, and that she had the right to terminate the visit once its purpose changed. Therefore, the Parliamentary Ombudsman believes that the board should have terminated the home visit once its purpose changed and asked for the consent at a later date. By not terminating the home visit, the board infringed on the principles that are fundamentally important for the work of the social services. The Parliamentary Ombudsman directs criticism towards the City District Board for their actions. (3655-2016)

The Parliamentary Ombudsman directs criticism towards the Labour Market and Social Welfare Board in the municipality of Malmö for having collected two children from school after a court determined that the father would have sole custody of the children

A court decided that the father would have sole custody of two children. At that time, the children lived with the mother. On the same day as the judgment was announced, the father sought support from the Social Services and wanted the children to be placed in a halfway house. The Social Welfare Board decided that the children should be provided care in a halfway house, and the following day, two social workers picked up the children from school and placed them in a halfway house.

When a court has decided to alter the custody of a child, it is primarily the parents themselves who shall ensure that the child is handed over to the parent who has received custody of the child. The Social Services may assist the parents when a child is to move from one parent to another. However, this requires both parents' consent, and the Social Services measures must be carried out in consultation with them. If the parents are in conflict, the guardian may instead contact a court and request enforcement of the court ruling, according to the rules on enforcement in the Children and Parents Code.

According to the Parliamentary Ombudsman, the legal conditions essentially existed for the Board to grant the father's application for the children to be cared for in a halfway house. However, in order for the decision to be enforced, it was required that the custody had actually been transferred to the father. In this case, the children were living with the

mother. Placing the children in the halfway house therefore required that the mother first take part in transferring the children to the father. The mother did not have the opportunity to voluntarily participate in this so that the decision on assistance could be enforced. The Parliamentary Ombudsman states that there was no reason whatsoever for the situation being so acute that it was necessary to move the children immediately. On the contrary, according to the Parliamentary Ombudsman it appears that the urgency was caused by the Board's lack of knowledge of the rules that apply when decisions on assistance are to be enforced. The Board's actions are in clear conflict with how the Social Services should work. The Parliamentary Ombudsman views the Board's actions as serious and criticises it for the deficiencies in its handling of the case. (5607-2017)

The Parliamentary Ombudsman directs criticism towards the Childcare and Education Committee in Sölvesborg Municipality for failing to promptly carry out a foster home investigation

In December 2015, the Social Welfare Committee decided to grant two siblings (unaccompanied minors) aid in the form of a temporary placement with the children's cousin while awaiting a foster home investigation regarding the cousin's home. The Committee only opened the foster home investigation in April 2016, and it was not completed until August in the same year. The Committee thereafter approved the cousin as the children's foster parent in September 2016.

In its decision, the Parliamentary Ombudsman notes that it must have been evident, to the Committee at an early stage, that the children would be spending more than just a short period of time with their cousin. When it became evident that the placement was not just temporary, the Committee should have promptly carried out a full foster home investigation and thereafter, based on the findings of that investigation, issued a decision concerning the children's permanent placement. In the decision, the Committee is criticised for the delay in completing a foster home investigation and for the children being placed temporarily with the cousin for an excessive period of time before a decision regarding a permanent placement was made.

The investigation conducted by the Parliamentary Ombudsman also shows that the Committee has incorrectly processed the matter of compensation for the cousin due to the children's placement. Neither during the "temporary" placement or once the cousin had been approved as a foster parent for the children did the Committee pay the cousin an allowance. In its decision, the Parliamentary Ombudsman underlines that the Committee is responsible for ensuring that those who have been placed by the Committee in a home other than their own are receiving good care. The Committee's obligation to provide good care includes a financial responsibility, which also applies during temporary placements. When making a decision regarding a foster home placement, the Social Welfare Committee must also enter an agreement with the party that the Committee intends to engage as foster parents, a foster agreement. In the decision, the Committee is criticised for its processing of the matter regarding compensation to the cousin, due to the children's placement. (4947-2017)

The Parliamentary Ombudsman directs criticism towards the National Board of Institutional Care's residential home Björkbacken for the delay in contacting a custodian of a girl in spite of suspicions that the girl had been the victim of a crime

AA is under care pursuant to the Care of Young Persons Act and was placed in Björkbacken residential home. After an excursion to a shopping centre in May 2017, accompanied by staff members at the home, AA reported that a young man had violated her at the shopping centre. AA's custodian reported the incident to the police five days later.

There are no legal provisions in a case such as this, stating that a residential home shall report the matter to the police. However, a young person's residential home cannot remain passive if a child under care is the victim of a crime. There is no obstacle to report an incident to the police as long as that there is no obstacle to divulging information due to confidentiality. What is termed social services confidentiality did not represent any obstacle to report the incident to the police.

A general question is who should decide, the residential home or the Social Welfare Board, if a report should be made to the police in the case of a child under care pursuant to the Care of Young Persons Act at a special residential home. In the opinion of the Parliamentary Ombudsman, it should fall on the Social Welfare Board to decide whether to report the matter to the police.

In the incident in question, there were no procedures at the home or rules from the National Board of Institutional Care on how a situation

such as this should be handled. In the opinion of the Parliamentary Ombudsman, therefore, there is reason for the National Board of Institutional Care to consider whether there is a need to formulate some form of action procedure for a situation in which there is suspicion that a child at a residential home has been the victim of a crime.

The residential home never made contact with AA's custodian but decided, two days after the incident, in consultation with social services, that the social services should provide information to the custodian. The Parliamentary Ombudsman directs criticism towards the residential home for neglecting to contact the custodian. (3712-2017)

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

Questions whether the National Board of Institutional Care's residential home Rebecka had failed in its supervision of a child under care in isolation

A 13-year-old girl took her life at a special residential home at which she was in care pursuant to the provisions of the Care of Young Persons Act. At the time of the incident, she had been under care in isolation at two special residential homes for a combined period of almost eight months.

In the decision, the Parliamentary Ombudsman expresses an opinion in the question of what access to staff a child or young person should have when he or she is in care in isolation. The Parliamentary Ombudsman notes that it is a failure when a child or young person, who is under the protection of social care, takes his or her life at a residential home where he or she is being cared for. The Parliamentary Ombudsman has however found that there are no grounds for criticizing the National Board of Institutional Care for failing in its supervision of the girl. (5302-2017)

The Parliamentary Ombudsman directs severe criticism towards the Social Welfare Board in Boden municipality for enforcing a judgement regarding care prior to it gaining legal force

In a judgement, the Administrative Court of Appeal decided that two children should be taken into care pursuant to the Care of Young Persons Act. The judgement did not include a decision that this should apply immediately. A guardian appealed the judgement to the Supreme Administrative Court. Before the court had decided on the appeal, the Social Welfare Board collected the children from their home and placed them at a family home.

The Parliamentary Ombudsman directs severe criticism towards the Social Welfare Board as the enforced judgement on care had not gained legal force. In the decision, the Parliamentary Ombudsman also directed criticism towards an official at the board because the content of a note in a journal gave misleading information. (330-2018)

The Parliamentary Ombudsman directs severe criticism towards the Social Welfare Board in the municipality of Västervik for discontinuing the care of a young man, pursuant to section 3, the Care of Young Persons Act

The Migration Agency assigned an unaccompanied minor to the municipality of Västervik when he came to Sweden in 2014. He was subject to care in accordance with section 3, the Care of Young Persons Act, and in autumn 2016 he was placed at one of the National Board of Institutional Care's residential homes for young people. The Social Welfare Board decided, pursuant to section 11 of the Care of Young Persons Act, that the boy's placement at the home would end on 12 December 2016 when he turned 18. As a reason for this, the board stated that the responsibility for him would then be assumed by the Migration Agency. The boy left the home on 12 December 2016, and shortly thereafter the board closed his case.

In the decision, the Parliamentary Ombudsman states that the provisions of the Care of Young Persons Act apply to unaccompanied children and young people. Section 21 of the Care of Young Persons Act states that the Social Welfare Board shall decide that care under Section 3 of the Care of Young Persons Act shall be discontinued when it is no longer needed, and that such care may continue at most until the young person turns 21 years of age. If the board is informed that the young person is no longer in need of care pursuant to the Care of Young Persons Act, the board shall conduct an inquiry and then take a position on the matter in a formal decision.

In practice, the board allowed the care of the boy to cease on the day that he turned 18. The board has stated that the responsibility for him was then assumed by the Migration Agency. The Parliamentary Ombudsman points out that care under section 3 of the Care of Young Persons Act can only be discontinued on the grounds that the young person no longer has any need for care or that he or she has turned 21.

This means that the care continues regardless of whether the young person turns 18 during the care period in the event that he or she is in need of care pursuant to the act. The board did not have grounds to discontinue the boy's care pursuant to section 3 of the Care of Young Persons Act on the sole basis of him turning 18.

It has also emerged that the board did not investigate whether the care of the boy could be discontinued nor did it make a formal decision indicating that the care should cease. The board appears to have been of the opinion that the decision to terminate the boy's placement at the residential home pursuant to section 11 of the Care of Young Persons Act also entailed that his care would cease. The Parliamentary Ombudsman concludes that the board does not seem to have understood the difference between a decision pursuant to section 11 of the Care of Young Persons Act which deals with how the care of the young person should be arranged, e.g. that he or she should be placed in a particular home and a decision pursuant to section 21 of the act, indicating that the care should cease. This suggests a serious lack of knowledge by the board regarding the provisions of the act. The shortcomings in the handling of the boy's case are such that the Parliamentary Ombudsman directs severe criticism against the board. (1060-2017)

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Vänersborg municipality for deciding, without having had support for it, on limited custody

A Social Welfare Board stated, in a decision regarding limited custody pursuant to the Care of Young Persons Act, that a parent should show the result of a drug test in connection with the access.

Every citizen is protected from forced bodily intervention by the authorities pursuant to chapter 2 section 6 the Instrument of Government. Neither in the Care of Young Persons Act or in any other legislation is there any provision that gives the Social Welfare Board, in a case such as this, the right to demand that the result of a drug test should be shown. The Parliamentary Ombudsman therefore directs criticism towards the Social Welfare Board for taking a decision that lacked the necessary legal grounds.

The Parliamentary Ombudsman states the following. When a child is cared for pursuant to the Care of Young Persons Act it is not uncommon for one or both parents to have a problem with drug abuse. It is in the nature of the case that the Social Welfare Board can then have a justifiable interest in ensuring that a parent is not under the influence of drugs when he or she shall have custody to the child. If the parent does not voluntarily accept showing the results of a drug test, however, according to current legislation, the Social Welfare Board does not have the possibility of deciding that the parent shall show such results as a prerequisite for having custody.

The children's convention will shortly come into force in Sweden. Against this background, there may be reason to discuss whether, in consideration of the best interests of the child, the opportunity should be introduced for the Social Welfare Board to prescribe that a parent shall hand over the result of a drug test when he or she shall have custody to a child being cared for pursuant to the Care of Young Persons Act. Such a provision could help to protect the child from having to be with a parent who is under the influence of drugs. The Parliamentary Ombudsman has not determined an opinion in this question but finds that there is reason to consider the matter. A copy of this decision has therefore been sent to the Government Offices for cognizance. A copy of the decision has also been sent to the National Board of Health and Welfare. (7875-2017)

The Parliamentary Ombudsman directs criticism towards the Employment, Financial Assistance and Social Welfare Board in Kramfors municipality for not taking a formal decision on limited custody following a custodian's request for extended custody

Pursuant to paragraph 14, section one, the Care of Young Persons Act (LVU), the Social Welfare Board holds a responsibility to ensure that a child's need regarding relations with parents and custodians is facilitated. In review of the purpose of the care the board may, pursuant to paragraph 14, section one, the Care of Young Persons Act, take a decision on how the young person's relations with custodians and parents is regulated, by a sentence or court order decision, or by an agreement. A decision need not be taken if the social services reach an agreement with the custodian or parent regarding the custody. If there is any uncertainty in the matter, between an individual's position and the social services, regarding the custody, an individual's perspective should, to the outmost extent, be clarified and put on record.

In the present case, the custodian requested increased custody of their children, who were

under care pursuant to the Care of Young Persons Act. The Social Welfare Board made the assessment that the custody should continue in the same extent as established, and, according to the board, the custodian did not object to this assessment. The Parliamentary Ombudsman states that an act of passivity from a custodian not alone constitute a consent or an agreement on the custody. The board did not take any active measure to come to terms with the mother's approach, accordingly the outset of the processing of the case should have been assumed on the basis that there were no agreement. The Parliamentary Ombudsman directs criticism to the board for not taking a decision on limited custody pursuant to paragraph 14, the Care of Young Persons Act. (242-2017)

The Parliamentary Ombudsman directs criticism towards the Social Welfare Board in Mellerud municipality for neglecting to notify an youth facility, in time, that aid pursuant to section 3, the Care of Young Persons Act (LVU), was not applicable

The vice chairman at a social welfare board took a decision to immediately place a youth under an order for care pursuant to section 6 of the Care of Young Persons Act (LVU). The decision was based on the probability on a need for care pursuant to section 2 and 3 of the Care of Young Persons Act. On the same day, the vice chairman decided to place the youth at a youth facility run by the National Board of Institutional Care, and requested so-called enforcement assistance to take the youth to the facility.

The social welfare board applied, at the administrative court, to place the youth under an order for care pursuant to section 1, 2 and 3 of the Care of Young Persons Act. The administrative court took a decision to place the youth under care pursuant to section 1, second paragraph, and section 2 of the Care of Young Persons Act, but rejected the application on aid pursuant to section 3, of the Act. When the judgment had been announced, the youth was brought to the facility escorted by the police.

In the opinion of the Parliamentary Ombudsman, the representatives of the social welfare board should have realized, when the administrative court came to a judgement, that it resulted in an adjustment of the care at the youth facility. The youth facility should have received information that the youth were no longer under care pursuant to section 3 of the Care of Young Persons Act. The Parliamentary Ombudsman directs severe criticism towards the social welfare board for neglecting to inform the youth facility.

The Parliamentary Ombudsman also directs criticism towards the social welfare board for not revoking a request on so-called police enforcement assistance. (2845-2017)

Care of Abusers (Special Provisions) Act (LVM)

The Parliamentary Ombudsman directs criticism towards the National Board of Institutional Care for having failed in the supervision of a man who was under care pursuant to the Care of Abusers (Special Provisions) Act

A man under care at an LVM home was suspected of taking drugs. The home decided that the man would be monitored every thirty minutes after he retired to his room to sleep. During the night, the staff at the home monitored the man in accordance with the specified interval. During the supervision, the staff noted that the man was sleeping deeply and snoring. The man died during the night. The issue in the case is whether the National Board of Institutional Care failed in its supervision of the man.

The National Board of Institutional Care has a routine for supervision and inspection of a resident who is suspected of being under the influence of drugs. The routine includes checking the resident's level of consciousness each time supervision is carried out. The staff on duty during the night did not have sufficient knowledge of the routine, and the resident's level of consciousness was not checked.

The Parliamentary Ombudsman states that the supervision of a resident suspected of being under the influence of drugs must be carried out so that the staff observes whether the resident's status changes in such a way that there is reason to call a healthcare professional. The supervisory staff must therefore pay attention to signs that may indicate a serious health state, such as snoring. It also means that the staff must check the resident's level of consciousness during the supervision. This was not done by the staff at the home. The supervision of the man therefore did not meet the requirements of thoroughness and care that apply to the supervision of a person who has been admitted for compulsory care at an LVM home and who is suspected of being under the influence of drugs.

The National Board of Institutional Care is criticised for having failed in its supervision of the man and for not having ensured that the staff had the skills required to perform the

important supervisory task that is part of this role. (550-2018)

Family law

Criticism towards Malmö municipality Employment and Social Welfare Board for not promptly implementing a court judgment regarding access and custody support

The district court ruled that a child was entitled to meet with their mother in the presence of custody support. In its judgment, the district court stated that access at the municipality's visitation facility, 'Umgåsen' did not meet the child's needs nor did it fulfil the purpose of allowing the child to become acquainted with their mother's home environment. The Employment and Social Welfare Board informed the parents that the judgment regarding custody support could not be enforced and that visitation could take place at Umgåsen.

Once a court has ruled on access with custody support, the board must appoint someone to participate during the access session (Chapter 6, Section 15 C of the Swedish Children and Parents Code). Following the court judgment, the board only has an executive role.

As far as the Parliamentary Ombudsman is aware, it is common for a social welfare board to implement custody support by offering access to premises where there are members of staff who can support the child and parent during their access session. The Parliamentary Ombudsman states, in the decision, that the way custody support is offered does not always correspond to what the court has ordered and there is no support for the board to regularly locate custody support sessions at one specific location.

In this case, the district court had stipulated that access at Umgåsen was not suitable. Hence, the Parliamentary Ombudsman states that for this reason, the board would not have suggested Umgåsen, rather they would have appointed someone to participate in the access session. The Parliamentary Ombudsman notes that the board's failure to implement the judgment of custody support resulted in the child not having access with their mother over a period of eight months, despite this being stated in the court judgment. The Parliamentary Ombudsman directs criticism towards the board for inadequate processing. (2969-2017)

The Parliamentary Ombudsman directs criticism towards the City District Board of Skärholmen in Stockholm Municipality for not having executed a court's judgement on visits with visitation support

The District Court decided that a child should have the right to visits with its father in the presence of visitation support. In executing the District Court's judgement, the City District Board specified a condition that an interpreter should be present during visits. As the board was not able to find an interpreter, visits could not be arranged.

When a court has made a decision on visits with visitation support, the board is obliged to appoint a specific person to assist with visits pursuant to Chapter 6, Section 15 c of the Children and Parents Code. The task of the board following the court's decision is of a purely executive nature.

The board can set up certain rules of order and the like when the board is providing visitation support, not least when a visit takes place in premises provided by the administration for the visit. The regulations may involve, for example, which parts of the premises the individual and others may occupy and other rules to ensure that there is no disruption to other people who are having visits at the same time. The board may not, however, define conditions for visits that in practice restrict the child's right to visits with a parent.

In the decision, the Parliamentary Ombudsman confirms that neither in its judgement nor in any other way did the District Court say anything to the effect that an interpreter should be present during visits alongside the visitation support. The Parliamentary Ombudsman also confirm that the board's condition, that an interpreter should be present during visits, clearly did not constitute a rule of order. The board therefore had no support for specifying a condition that an interpreter should be present during visits. The Parliamentary Ombudsman directs criticism towards the City District Board for not executing the District Court's judgement. (6168-2017)

The Parliamentary Ombudsman directs criticism towards a domestic violence caseworker at the Social Services Department in the municipality of Järfälla

During an ongoing dispute in court concerning, among other things, access with children, a domestic violence caseworker produced an official letter for the mother's legal representative and submitted another official letter directly to the court. In, inter alia, an e-mail to the mother's legal representative, the caseworker encouraged the mother to use one of the children's assistant's safety as an argument against access.

In their official capacity, a public representative must observe the constitutional requirements of objectivity and impartiality (principle of objectivity).

The Parliamentary Ombudsman states that there is essentially no formal impediment to, for example, a caseworker at the Social Services writing a certificate concerning an individual's contacts with the Social Services if the individual so requests. It is important that the person writing such a certificate only makes a statement regarding circumstances on which that they have sufficient knowledge. As a rule, such an official letter is only to contain a report of factual circumstances, and not any evaluations or assessments. When it comes to a case concerning custody, residence and access, however, the Social Welfare Board has legislated tasks with regard to providing information to the court. It is therefore vital that great caution be observed when information is provided outside the scope of these provisions. When a dispute is ongoing between the parents regarding custody etc., there is reason to be particularly restrained with writing statements upon request from one of the parents, as there is a risk that the board will be perceived as biased.

In the current case, the domestic violence caseworker produced the official letters for the mother to use in the dispute in court. It must have been clear to the caseworker that the purpose of using the letters in court was to influence the court's stance in the issue of the father having access with the parties' children. According to the Parliamentary Ombudsman, the simple fact that the caseworker produced the letters entailed a risk that the father could perceive the board as biased. To avoid damaging the trust in the activities of the Social Services, the caseworker should not have produced the letters in the first place. The content of the letters gave the father further cause to question the objectivity of the Social Services. The domestic violence caseworker is criticised for producing the letters and for their formulation. He is also criticised for how he expressed himself in an e-mail to the mother's legal representative. (1258-2017)

Support and Service for Persons with Certain Functional Impairments Act (LSS)

The Parliamentary Ombudsman directs criticism towards the Health and Elderly Care Committee of Alingsås Municipality for issuing a temporary decision regarding the right to personal assistance pending a decision by Försäkringskassan

A decision regarding entitlement to personal assistance pursuant to the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS) was limited in time pending Försäkringskassan's decision to potentially grant attendance allowance following a request for re-examination.

In earlier decisions, the Parliamentary Ombudsman has questioned a practice in which decisions regarding measures pursuant to the act are always temporary. The Parliamentary Ombudsman is now adding that if the Board deems it necessary to impose a time limit on a decision regarding entitlement to measures pursuant to the act, then it is important for the validity period of the decision to be clearly stated. This gives the individual the opportunity to submit a new application regarding continued measures in good time before the decision expires. If the Board bases the validity of the decision on Försäkringskassan's ruling in the case, it means that the measures may cease or deteriorate without the Committee making an independent assessment of whether the individual has a continued need for the measures. Such a practice is not in compliance with the fundamental requirement for predictability. In the Parliamentary Ombudsman's opinion, a decision relating to an individual's entitlement to personal assistance pursuant to the Act concerning Support and Service for Persons with Certain Functional Impairments should not be temporary in the sense that it applies up until Försäkringskassan makes a decision regarding the individual's right to attendance allowance.

The issue of division of responsibility between the central government and the municipality in regard to personal assistance has been discussed in the report Översyn av insatser enligt LSS och assistansersättningen (Review of measures pursuant to LSS and attendance allowances) (SOU 2018:88). If the shared responsibility between a municipality and the central government for the measure of personal assistance is to remain, the Parliamentary Ombudsman believes there is reason, in the continued legislative work, to consider the need for regulating the relationship between the respective assessments of the municipality and Försäkringskassan. A copy of the decision is therefore being sent to the Ministry of Health and Social Affairs for information purposes. (1696-2018)

An investigation of municipalities processing time, in cases pursuant to the Support and Service for Person with Certain Functional Impairments Act (LSS)

During 2017, the Parliamentary Ombudsman received several complaints regarding long processing times in cases pursuant to the Support and Service for Person with Certain Functional Impairments Act (LSS). In view of these complaints, the Parliamentary Ombudsman found reasons to investigate the processing of cases pursuant to the Support and Service for Person with Certain Functional Impairments Act to examine the processing time. The Parliamentary Ombudsman targeted four municipal boards to investigate the processing time in cases on personal assistance.

The Parliamentary Ombudsman states, in its decision, that the processing time at the investigated boards, in general, were not long, even if there were some cases with longer processing time.

The Parliamentary Ombudsman has concluded, in previous decisions, that it is not possible to state when a case on personal assistance should be completed, due to the fact that the scope of the investigation relies on the circumstances of the individual case.

In the decision, the Parliamentary Ombudsman states, that a feasible processing time of cases on personal assistance may be three to four months. Although, some cases may not be completed during such a time span. If the processing time exceeds four months, there should be a justified cause. The decision also deals with some factors that may have an impact on the processing time. (7477-2017)

Taxation

The Tax Agency's routine, for personalized mail, is not in compliance to statutory regulations and may lead to penalties

The Tax Agency exercises a certain routine that includes that all personalized mail, that the Agency receives, shall be opened by the authority, with the exception of mail directed to recipients that holds a separate position, mail concerning private matters, which is noted by an additional envelope stating a person's address, or mail including a specific reference and so-called agency assignments.

In the decision, the Parliamentary Ombudsman holds that the Agency's routine is not in compliance to statutory regulations and may lead to penalties for separate employees that open mail directed to others, pursuant to the authority's routine, without his or hers consent. The Parliamentary Ombudsman directs criticism towards the Tax Agency for the routine. (4397-2017)

The Parliamentary Ombudsman directs criticism towards the Tax Agency and two officials there for actions during a visit to a property in connection with an audit

In connection with an audit of a company, two auditors from the Tax Agency made a visit to a property. The purpose of the visit was to meet the company's representative and ask for the company's accounts. When the auditors arrived at the property, there was no company representative there. In the building in question, there were two other people who were not familiar with either the company or its representative. Despite this, the tax auditors entered the building and took photographs. An audit must be carried out in collaboration with the audited party and in such a way, that it does not unnecessarily impede its activities.

According to the Parliamentary Ombudsman, the two tax auditors should not have entered the building without the participation of the company's representative. The requirement of collaboration with the audited party cannot be considered to have been fulfilled since the officials at the time had not received word from any of the company's representatives. The Tax Agency also had no right on this occasion to take coercive measures in the form of seizure of evidential material.

The Tax Agency and the two tax auditors are therefore criticised for the actions taken during the visit in question. To summarize, the Parliamentary Ombudsman requires the Tax Agency to ensure that its employees are well aware of the operational restrictions pursuant to the statutory protection of individuals' fundamental rights and freedoms. (7138-2016)

Other areas

The Parliamentary Ombudsman directs criticism towards the Swedish Companies Registration Office for using an application form in which the applicant was asked to include a picture of themselves

When employing new staff, the Swedish Companies Registration Office uses an application form in which applicants must provide information such as their date of birth and gender.

The applicant is also asked to upload a picture of themselves. The Parliamentary Ombudsman believes that many authorities request information about a person's date of birth and gender and that this information is used for statistical purposes, or for other acceptable purposes. The Parliamentary Ombudsman assumes that the Swedish Companies Registration Office requested this information for good reason and does not question that they only pay attention to this information when there is reason to do so. Nevertheless, it is important to share this information on the application form. The Swedish Companies Registration Office must therefore inform the applicant why they request information about date of birth and gender.

As for the request to upload a picture, the form does not indicate that this is optional. The Parliamentary Ombudsman therefore states that there is a risk that an applicant may consider the request to be compulsory and feel that the office places importance on the picture – and the applicant's appearance – during the recruitment process. It cannot be ruled out that as a consequence of this request, a person has abstained from applying for a position, or has questioned if the office is acting objectively and impartially. The Parliamentary Ombudsman refers to the Swedish Data Protection Act's principles for processing personal information regarding which details are sufficient, relevant and not excessive in relation to the purposes for which the information will be used. The Parliamentary Ombudsman has difficulties in seeing the benefit that a picture of a job applicant could provide, and states that it is rather inappropriate for a government agency to encourage an applicant to upload a picture of themselves. The Swedish Companies Registration Office cannot escape criticism. In conclusion, the Parliamentary Ombudsman believes that a government agency that uses or will use an application form should ensure that the form is formulated in a way which communicates that during recruitment, the agency only takes factual information into account and attempts to avoid handling more personal data than is necessary. (6822-2017)

A public prosecutor at the Legal, Financial and Administrative Services Agency was not considered to have a conflict of interests in processing hydro power cases, despite association involvement in an organisation with partisan interests in such cases

A public prosecutor at the Legal, Financial and Administrative Services Agency processed cases and represented the authority in cases relating to hydro power. The complainant, who is chair of a hydro power association, considered that the public prosecutor had a conflict of interest as he had been associated with organisations that have conflicting interests to hydro power associations and has appeared together with such organisations at seminars.

The investigation revealed, among other things, that the public prosecutor is a member of the interest association Älvräddarna [Saviours of the Rivers] and that he, in his capacity as an official, has made statements on legal aspects relating to hydro power in a film produced by the association together with other actors.

The issues in this case relate partly to whether the public prosecutor's involvement in the association and participation in the film could be the kind of secondary occupation that endangers damaging credibility, which the Legal, Financial and Administrative Services Agency should have taken action against, and partly to whether the public prosecutor may be considered to have a conflict of interest when processing hydro power cases, in accordance with the Administrative Procedure Act's provision on impartiality.

In consideration of a secondary occupation that damages credibility, the Parliamentary Ombudsman confirms that the activities of Älvräddarna overlaps with the Legal, Financial and Administrative Services Agency's activities relating to water-related activities. The Parliamentary Ombudsman does not, however, state that the public prosecutor has, apart from his membership, any deeper involvement in the association or has participated in the film in a way that serves to question his impartiality as a government official. There is therefore no reason to criticise the Legal, Financial and Administrative Services Agency for its failure to take action against the public prosecutor's involvement in the association.

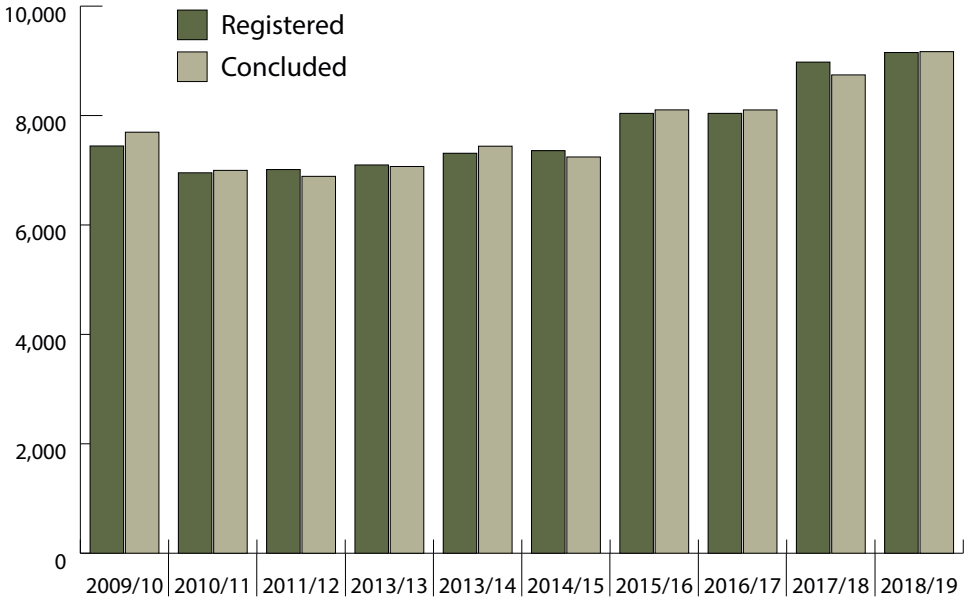
On the matter of a conflict of interest, the Parliamentary Ombudsman states that the public prosecutor's membership of Älvräddarna is not enough reason to deem the matter a case of impartiality, even though the involvement in the association, etc. has given rise to doubts about his impartiality, by concerned power plant owners. Nor does the Parliamentary Ombudsman find that the investigation lends any support to there being any other circumstance that causes the public prosecutor to have a conflict of interests in hydro power matters. In conclusion, the Parliamentary Ombudsman emphasises, on

a general note, the importance of authorities being at pains to preserve the trust of the general public in their organisation and to be aware of any circumstances that might involve any risk of their impartiality being questioned. The Parliamentary Ombudsman issues a reminder of the responsibility that rests on an authority's management and the responsibility that accompanies the role of a public sector employee. (753-2017)

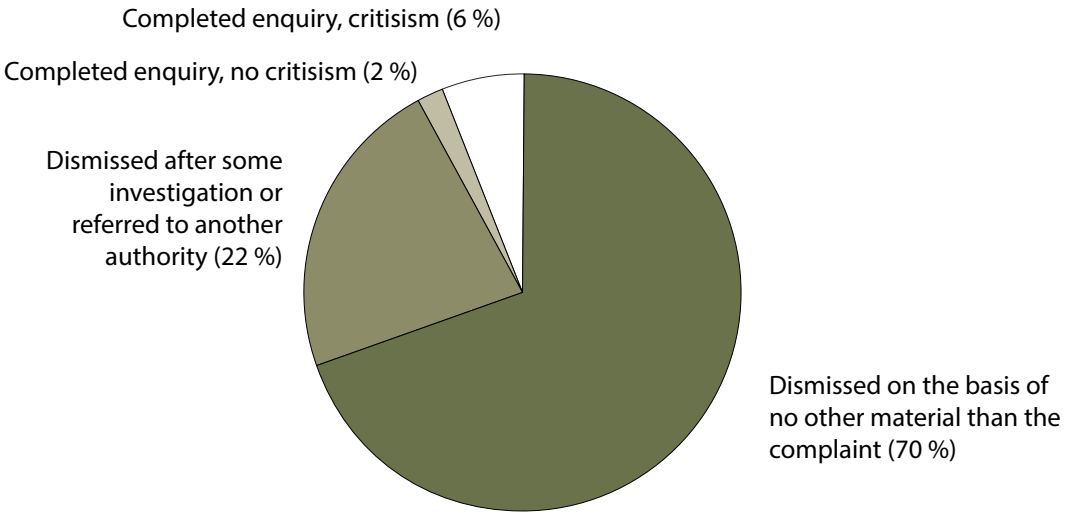
Statistics

Statistics

Development of complaints received and initiatives in the last 10 years



Decisions in complaints and initiatives 2018/19, total 9,017



Registered complaints in the last 5 years

Area	2014/15	2015/16	2016/17	2017/18	2018/19
Adm. of parliament and government office	34	18	76	33	48
Administrative courts	98	110	117	121	167
Armed forces	14	16	23	27	21
Chief guaridans	77	91	92	86	83
Communications	224	300	241	217	184
Complaints outside jurisdiction	158	221	169	202	285
Courts	401	338	351	369	377
Culture	14	31	25	28	15
Customs	6	7	14	17	16
Education	307	269	303	380	347
Employment of civil servants	59	84	88	121	116
Enforcement	166	165	265	222	179
Environment and health protection	187	186	191	284	208
Housing	5	8	8	13	6
Labour market	201	215	218	258	276
Medical care	311	330	334	361	314
Migration	283	577	920	636	709
Other municipal matters	101	146	148	120	130
Other public administration	76	104	112	96	147
Other regional matters	31	30	29	14	28
Planning and building	194	251	249	219	239
Police	972	1,010	907	1,032	1,010
Prison and probation	904	993	913	934	1,071
Prosecuters	188	161	160	164	180
Public access to documents, freedom of expression	415	492	525	521	548
Social insurance	341	350	615	735	753
Social services incl. LSS	1,294	1,203	1,374	1,451	1,418
Taxation	160	179	137	165	183
Sum	**7,221**	**7,885**	**8,604**	**8,826**	**9,058**

Concluded complaints and most criticized

Most complaints 2018/19

Area of supervision	Concluded complaints
Social services	1,400
Prison and probation	1,066
Police	1,003
Social insurance	709
Migration	681
Access to public documents	539
Courts	386
Education	356
Health and medical care	303

Most criticized 2018/19

Area of supervision	Criticism	Percent of complaints
Access to public documents	101	19 %
Prison and probation	92	9 %
Social services	82	6 %
Social insurance	46	6 %
Planning and building	25	11 %
Police	25	2 %
Education	20	6 %
Courts	20	5 %
Enforcement	13	7 %

Inspections 2018/19

Regular inspections

Institution	Amount
Courts	4
Forensic psychiatry	1
Migration	1
Municipalities, environment/planning	2
Municipalities, social welfare boards	1
Prison and probation	3
Prosecutors	1
Psychiatric care	1
Regional administration	1
Rent and tenancies tribunales	1
Social insurance	2
Inspections sum	18

Opcat inspections

Institution	Amount
Institutional care (SiS)	4
Police cells	10
Prisons	3
Psychiatric wards	4
National transport unit	1
Remand prisons	12
Opcat inspections sum	34

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