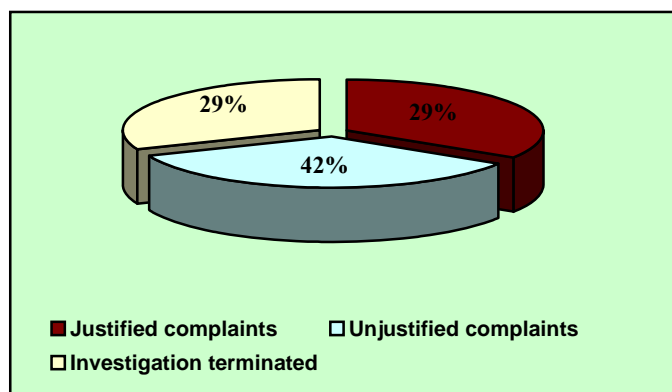


Summary of the Activities of the Seimas Ombudsmen's Office in 2007

In 2007, the Seimas Ombudsmen's Office received a total of 2,178 complaints from natural and legal persons, 1,547 of which were newly filed complaints.

Complaints received in 2007	1,547
Complaints rejected	443
Decisions made in 2007:	2,441
justified complaints	719
complaints dismissed	1,022
investigation terminated	700
Investigations carried on initiative of the Seimas Ombudsmen	19
Decisions made:	36

In 2007, the Seimas Ombudsmen's Office investigated 1,275 complaints and made 2,441 decisions in relation to these complaints. 29% of complaints in which the investigation established the facts of abuse of office, bureaucracy of officers or inappropriate public administration were recognised to be justified. 42% of complaints were considered to be unjustified because the circumstances of inappropriate public administration were not confirmed. In the case of 29% of complaints, the investigation was terminated because of the elimination of the circumstances of the complaint or withdrawal of the complaint by the complainant, or because the complaint was to be investigated in court, etc. Investigation of a complaint is also terminated if, under the mediation of the Seimas Ombudsman, the problems raised in the complaint are resolved in good will. In 2007, there were 71 such cases.



A total of 443 complaints were rejected because they did not fall within the competence of the Seimas Ombudsmen; it was expedient to investigate such complaints in other institutions, the complaint is or was being resolved in court, etc.

The Law on Seimas Ombudsmen granted the right to the Seimas Ombudsmen to initiate investigations on their own initiative on the basis of facts disclosed in the media or other sources of information if they reveal any cases of abuse of office or bureaucracy of officers or any signs of other violations of human rights and freedoms. This is one of the strategic objectives of the Seimas Ombudsmen's Office.

In 2007, the Seimas Ombudsmen carried out 19 investigations, i.e. exceeded the same figure in 2006 by 8, and made 36 decisions in relation to them. Major investigations are addressed in detail in the report prepared by each of the Seimas Ombudsmen.

COMPLAINTS CONCERNING MUNICIPALITIES

In 2007, the Seimas Ombudsmen made 489 decisions regarding complaints about the actions of municipal officials.

BREAKDOWN OF THE COMPLAINTS INVESTIGATED CONCERNING THE ACTIONS OF MUNICIPAL OFFICIALS – ACCORDING TO TOPIC:

- Right of ownership – 31%
- Right to good public administration – 30%
- Right to secure and ecological environment – 17%
- Housing right – 11%
- Consumer rights – 3%
- Right to social security – 3%
- Right to study – 1%
- Right to health care – 1%
- Other rights – 3%.

Violations of ownership rights are mainly related to the issues of restoration of ownership to real estate: land, forest, and buildings. Quite a large share of complaints was related to the management, use and disposal of municipal property, determination of limits of land size, etc.

Violations of the right to good public administration include violations of the order, terms and procedures for investigation of applications received from citizens, inappropriate investigation of a complaint or application, violations of the right to information, inadequate application of legal acts or enforcement of legal acts, etc. Compared to 2006, the number of such complaints has increased even by 8% in municipalities.

Complaints regarding violations of the right to a safe and ecological environment include complaints about violations of territorial planning, construction, reconstruction or repair works carried out, and state supervision of construction. Compared to 2006, the number of complaints in this category has slightly decreased.

Complaints regarding housing rights include complaints regarding state support for the acquisition of housing, rental of social housing, privatisation of municipally(state)-owned residential premises on preferential terms, and administration of objects for common use of multi-storey buildings. Citizens remain greatly concerned with these problems – the number of such complaints is the same as in the previous year.

Applicants indicate the provision of low quality services, such as heating, transport services, and building of communications, as violations of consumer rights. It has been noted that the number of such complaints has been decreasing.

Violations of the right to social security comprise social support to families and children, provision of social services, social integration of people with disabilities, and support to social risk groups. The number of complaints in this category has decreased by 1%, compared to 2006.

Violations of the right to study include violations observed in the activities of general education (primary, basic and secondary) schools.

Applicants identify the inappropriate quality of health care services or even the failure to provide such services as violations of their right to health care.

COMPLAINTS CONCERNING COUNTIES

In 2007, the Seimas Ombudsmen made 871 decisions with regard to complaints concerning the actions of officers from county governor's administrations.

BREAKDOWN OF THE COMPLAINTS INVESTIGATED CONCERNING THE ACTIONS OF OFFICIALS OF COUNTY GOVERNOR'S ADMINISTRATIONS – ACCORDING TO TOPIC:

- Right of ownership – 74%
- Right to good public administration – 15%
- Right to secure and ecological environment – 9.5 %
- Other rights – 1.5%.

The problems which served as the basis for complaints regarding the actions of county governor's administrations remained the same as in 2006; there were slight differences in percentage only: the number of complaints regarding violations of the right of ownership dropped to 5%, the number of complaints regarding the right to good public administration decreased by 3%, and the number of complaints regarding the right to secure and ecological environment grew by 1.5%.

The majority of decisions to recognise a complaint as justified was made when investigating complaints related to the restoration of ownership rights to remaining real estate, sale-purchase of state-owned land, violations of the procedure or terms for investigation of applications submitted by citizens, inappropriate investigation of a complaint or application, inadequate application of legal acts, failure to comply with legal acts, violations of the right to information, and state supervision of construction.

COMPLAINTS CONCERNING STATE INSTITUTIONS

In 2007, the Seimas Ombudsmen made 1,065 decisions regarding complaints about the actions of officials of state institutions.

It can be observed that the number of complaints regarding the actions of police officers subordinate to the Police Department has decreased by half; 523 decisions were made with regard to the actions of police officers in 2006, this number dropped to 225 in 2007. However, despite this fact, even 37%, i.e. 7% more than last year, were recognised as justified. This means that it can be concluded that the work of officers in this service remains one of the major problems.

Of all state institutions, the majority of decisions, i.e. a total of 317 decisions, were made regarding the actions of officers of correctional institutions subordinate to the Prison Department. Only 15% of complaints were recognised as justified but this number exceeds that in 2006 by 4%.

The third major group of complaints according to the number of decisions made (80) are those concerning the actions of officials of the General Prosecutor's Office and its subordinate prosecutor's offices. However, only a few complaints in this category were recognised as justified.

Among other state institutions, it has been several years that the largest number of justified complaints was received regarding the following two institutions – the Ministry of Health and the Ministry of Environment. In 2007, a great number of complaints regarding the actions of

officials of the Ministries of Finance, Agriculture, and Social Security and Labour were recognised as justified as well. The table below contains only those state institutions against the officials of which the largest number of justified complaints was received.

BREAKDOWN OF THE COMPLAINTS INVESTIGATED CONCERNING THE ACTIONS OF OFFICIALS OF **STATE INSTITUTIONS – ACCORDING TO TOPIC:**

- Rights of citizens whose freedom was restricted – 35%
- Right to good public administration – 31%
- Right to the security of the person and society and assurance of public order – 14.5%
- Right to a fair trial – 3.5%
- Right of ownership – 3%
- Right to a secure and ecological environment – 2%
- Right to health care – 2%
- Right to social security – 2%
- Consumer rights – 2%
- Right to work – 1%
- Other rights – 4%.

It is noteworthy that, compared to 2006, 10% more complaints regarding violations of the right to good public administration in state institutions were received in 2007. The complaints recognised as justified in this category account for 38%. i.e. exceed the total number of justified complaints regarding the actions of officials of state institutions by 14%.

Furthermore, the areas of public life such as health care (57% of justified complaints) and environment protection (52% of justified complaints) should be mentioned as well because the largest number of justified complaints was received in relation to violations of human rights in these particular areas.

The total number of complaints regarding violations of the right to social security has slightly decreased. The majority of justified complaints received were related to the allocation of state pensions.

Reception of Citizens in the Office

In 2007, the Seimas Ombudsmen's Office provided consultations to **1,301** individuals. Citizens who arrive in the Seimas Ombudsmen's Office receive information about the work of this Office and the procedure for investigation of complaints and applications as well as various consultations and explanations which institution the applicant should apply to if the Seimas Ombudsmen are unable to resolve his or her problem according to their competence. In addition, other information is provided to applicants and, if necessary, assistance in writing a complaint.

More and more people contact the Seimas Ombudsmen's Office in an electronic way, or request advice on the website of the Office. The applicant, who has submitted a complaint (application) in an electronic way, is notified within 3 business days whether it can be investigated in the Seimas Ombudsmen's Office and, if necessary, is requested to supplement its contents and is provided additional information. However, in all cases the investigation of a complaint starts only after its original copy has been received.

Many individuals choose consultations via a toll-free telephone line of the Office (8 800 22100). This is particularly convenient for pensioners, the unemployed, or citizens residing in remote regions of Lithuania.

FROM THE ACTIVITIES OF THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA

I. Conferences, Seminars, and Other Events

On 11-13 February, Ombudsmen Albina Radzevičiūtė and Augustinas Normantas participated in the course “Social Safety Nets and the Ombudsman” organised by the Forum of Canadian Ombudsmen. The aim of this course was to provide knowledge and experience to its participants that would enable them to work with recipients of social benefits in a more effective and flexible manner. The main participants of this course included experts from ombudsmen's institutions and social benefits administrators.

On 12-13 February, Tomas Ragauskas, Advisor to Seimas Ombudsman Romas Valentukevičius, participated in the seminar on anti-discrimination legislation and e-learning organised by the Finnish League for Human Rights, International Organisation for Migration (IOM), and the Regional Office for the Baltic and Nordic States in Helsinki (Finland). This seminar is part of the EU-funded project “Judges Online: Capacity Building for the Judiciary through e-learning”. The seminar was aimed at providing its participants with additional information about the EU anti-discrimination legislation and its implementation in the Member States leading to a more efficient application of law in discrimination cases.

On 12-13 April, a round-table meeting was held in Athens, and the Seimas Ombudsmen's Office was represented in this meeting by Seimas Ombudsman Romas Valentukevičius and Milda Balčiūnaitė, Chief Specialist for Foreign Relations. The European Ombudsman and the Commissioner for Human Rights of the Council of Europe organise such meetings every two years. The meeting held in 2007 coincided with the 10th anniversary of the Greek Ombudsman's Office; therefore, the Greek Ombudsman Giorgos Kaminis contributed greatly to the organisation of this meeting. The main aim of the round-table meeting in Athens was to discuss the ways and measures as well as challenges in expanding co-operation between ombudsmen, national human rights organisations and the Commissioner for Human Rights of the Council of Europe in order to increase the efficiency of the control mechanism of the European Convention on Human Rights.

On 17-18 September, Seimas Ombudsmen Virginija Pilipavičienė and Augustinas Normantas participated in the capacity building seminar “The Ombudsman's Intervention Between the Principles of Legality and Good Governance” held in Sofia (Bulgaria). This seminar was organised under the Greek Ombudsman's programme “Eunomia” patronized by the Commissioner for Human Rights of the Council of Europe. The host of the seminar was the Bulgarian Ombudsman. During the capacity building seminar, it was sought to broaden participants' awareness and knowledge of good governance issues and policy, to provide good practice examples from different European Ombudsmen's offices, and to discuss their implementation and outcomes. In addition, the ability of its participants to disseminate and seek to achieve the objectives of good public governance in a co-ordinated and unified way was further developed.

On 24 September, Seimas Ombudsman Albina Radzevičiūtė and her advisor Rūta Šaulė participated in the international conference “Economic Migration in the European Union – Problems and Challenges” held in Warsaw. The conference was organised in order to encourage institutions defending human rights to take concrete measures in order to eliminate or at least to reduce negative consequences caused by the mass emigration of labour force. The conference was attended by ombudsmen from all of the EU Member States as well as from Georgia and Ukraine and guests from other institutions as well.

On 1-3 October, Milda Balčiūnaitė, Chief Specialist for Foreign Relations of the Seimas Ombudsmen's Office, participated in the practical seminar "How to Develop a Convincing Project Strategy for EU Funding: Do's and Don'ts for Local and Regional Actors" organised by the European Centre for the Regions - Barcelona Antenna of the European Institute of Public Administration. This seminar was aimed at defining the guidelines for funds allocation for the 2007-2013 period and at providing the participants with new skills necessary to improve their performance in developing a project strategy and their capacities in acquiring funds. By applying different methods, the European Institute of Public Administration and the European Centre for the Regions together with public and private partners provided practical advice on the guiding principles and rules when it comes to preparing a bid for EU funding.

On 5-6 October, the Seimas Ombudsman Virginija Pilipavičienė and her advisor Diana Oklinskaitė participated in the conference "The Role of the Constitutional Court and the Human Rights Defender in Human Rights Protection Issues" held in Yerevan (Armenia). The aim of the conference was to clarify the role of the human rights defender and constitutional courts and in identifying measures taken by these two institutions. Furthermore, it was sought to debate and analyse the legal force of decisions adopted by human rights defender's offices and constitutional courts and their proportionality in the area of defence and promotion of human rights.

On 14-16 October, the sixth seminar of the National Ombudsmen of EU Member States and Candidate Countries was organised by the French National Ombudsman and the European Ombudsman in Strasbourg (France). In this seminar, the Seimas Ombudsmen's Office was represented by Seimas Ombudsmen Albina Radzevičiūtė and Zita Zamžickienė. One of the main goals of this seminar was to discuss the draft statement, which contains information on benefit that can be anticipated by citizens and other users of ombudsmen's services who contact the member of the European ombudsmen's network regarding any issues related to the EU law. One of the most important provisions of the statement is that the task of the ombudsmen within the network – to disseminate information about the EU law and practice and to provide the best possible services to the general public – is emphasised. The paper provides for the possibility of ombudsmen to contact the European Ombudsman with a request to clarify norms of EU law and to reply to their questions that have arisen during their investigation into particular cases. The paper was adopted unanimously. Other themes discussed in the seminar included legality and good administration as well as Europe seeking results – prevention, partnership and transparency, relationships between ombudsmen and the courts, free movement of persons, etc.

On 6-7 November, Milda Balčiūnaitė, Chief Specialist for Foreign Relations of the Seimas Ombudsmen's Office, participated in the first meeting of focal points for the Council of Europe Commissioner for Human Rights held in Strasbourg (France). This meeting had several goals. First of all, the Commissioner for Human Rights wanted that over 40 currently working focal points would meet each other and get acquainted with the Office of the Commissioner for Human Rights and the Commissioner himself as well as with the Council of Europe and its work methods. Another very important goal of this meeting was to discuss how national human rights structures could contribute to the implementation of decisions made by the European Court of Human Rights enforced by their national authorities and to collect preliminary ideas for substantive themes, which could serve as the basis for the work with the Commissioner for Human Rights in 2008 and 2009.

On 10-11 December, Seimas Ombudsmen Romas Valentukevičius and Zita Zamžickienė together with the delegation of specialists from the Office went to the human rights conference organised in Riga (Republic of Latvia). The aim of the conference was to discuss the most urgent issues related to children's rights, freedom of associations, tenants' rights and prevention of discrimination in the field of availability of goods and services. The participants of

the conference included the Ombudsmen of Lithuania, Latvia and Estonia as well as specialists of ombudsmen's offices, representatives of local government, educational and legal organisations and other competent experts. In this conference, Romas Valentukevičius, Head of the Seimas Ombudsmen's Office, delivered a presentation.

II. Internships for Civil Servants under the Exchange of Civil Servants Scholarship Scheme

On 24-28 September, the advisors to Seimas Ombudsmen Gabija Kregždytė, Sandra Kubiliūtė, Neringa Kučinskaitė, Tomas Ragauskas and Martynas Vasiliauskas paid a visit to the Danish Ombudsman's Office in Copenhagen, where they sought not only to establish closer contacts with their counterparts but also to exchange work experience and to acquire new knowledge in resolving issues related to the defence of human rights. During the study visit, the advisors got acquainted with the structure of the Danish Ombudsman's Office, powers and duties of the Ombudsman and other specialists of the office, and the projects implemented by the Office. In addition, they found out how patients' rights are defended, and how environmental issues and convicts' problems are resolved in Denmark. During one day of the study visit, the Advisors from the Seimas Ombudsmen's Office had an opportunity to visit the Danish Parliament.

On 29 October- 2 November, the group of advisors from the Seimas Ombudsmen's Office went on a study visit to the Office of Parliamentary Ombudsman of Sweden established almost 200 years ago in Stockholm (Sweden). On the first day of the study visit, the advisors got acquainted with the history of the Swedish Parliamentary Ombudsman's Office, its current status, organisational structure, and procedure for investigation of complaints. They were familiarised with the work of the Yellow, Red, White and Blue Departments. On other days, the advisors were divided into separate departments where they could get a better understanding of the practical side of work and get acquainted with the specialists of the respective departments. During the study visit, the advisors visited the prison, the Equal Opportunities Ombudsman's Office, the Standing Committee on the Constitution in the Parliament (*Riksdag*), and the Chancellor of Justice. On the last day of the visit, the results of the study visit were discussed in the Swedish Parliamentary Ombudsman's Office.

Both of the aforementioned study trips of specialists from the Seimas Ombudsmen's Office were co-financed under the Nordic Council of Minister's Scholarship Scheme - Exchange of Civil Servants, the aim of which is to grant an opportunity to civil servants to get acquainted with the activities of institutions in the Nordic countries, to establish and maintain long-term contacts, and to exchange work experience. This programme is also aimed at promoting the development of long-term institutional co-operation networks with partners in the Nordic countries.

III. Communication of the Office

1. Meetings with Foreign Representatives

On 14 March, Romas Valentukevičius, Head of the Seimas Ombudsmen's Office, received the delegation of Georgian Parliament Members visiting Lithuania, namely M. Machavariani, D. Kirkitadze, Z. Dzidziguri and G. Tsagareishvili as well as David Aptsiauri, the Ambassador of Georgia to Lithuania. This visit was organised by the International Republican Institute (IRI).

Romas Valentukevičius familiarised the guests with the activities of the Seimas Ombudsmen's Office and its powers, the problems identified in complaints and statistics. He also replied to questions presented by the Georgian Parliament Members. The guests told about violations of human rights in Abkhazia and were interested in Lithuania's experience in defending the rights of convicts and detainees as well as in the situation in Lithuanian prisons.

On 26-28 March, the Seimas Ombudsmen's Office was visited by seven specialists from the Office of the Estonian Chancellor of Justice. Four of them took interest in the activity of Seimas Ombudsman Albina Radzevičiūtė and the issues of her investigated complaints. Together with her advisors they visited the Lukiškės Remand Prison and the Pravieniškės Correctional Facility No. 1. The other three visitors got acquainted with the activities of the Document and Information Division and were interested in the installed document management system, archive compilation and management.

On 28 May, the Latvian Ombudsman Romans Apsitis, Head of the Discrimination Prevention Department of the Latvian Ombudsman's Office Liga Biksiniece, and Advisor to the Latvian President Sandra Kukule, paid a one-day visit to the Seimas Ombudsmen's Office. The guests met Seimas Ombudsmen Romas Valentukevičius, Augustinas Normantas, Virginija Pilipavičienė, Albina Radzevičiūtė, Zita Zamžickienė and other specialists of the Office, got acquainted with its structure and functions, and exchanged examples of good practice.

The guests were active and asked many questions. They were interested which institution appoints the Seimas Ombudsmen, whether they can belong to any party, or whether the Seimas Ombudsmen submit proposals to the Seimas regarding amendments to the laws, and how it is achieved that the recommendations by the Seimas Ombudsmen are complied with, etc.

On 20 September, the Seimas Ombudsmen's Office was visited by the delegation of the members of the Georgian Parliament: M. Gachichiladze, Z. Abuladze, L. Narchemashvili, and T. Nergadze. The guests met Seimas Ombudsmen Romas Valentukevičius, Augustinas Normantas, Virginija Pilipavičienė, Albina Radzevičiūtė, and Zita Zamžickienė. They were familiarised with the activity of the Seimas Ombudsmen's Office in defending human rights, investigating applicants' complaints regarding the abuse of office or bureaucracy of officers, and seeking to improve public administration. The Seimas Ombudsmen replied to all the questions posed by the members of the Georgian delegation.

On 28 September, the Seimas Ombudsmen's Office was visited by the professors from Polish and German universities, who participated in the international scientific conference "The 15th and 10th Anniversaries of Lithuanian and Polish Constitutions" held in the Seimas of the Republic of Lithuania on 27-28 September. The guests met with Seimas Ombudsmen Romas Valentukevičius, Augustinas Normantas, Virginija Pilipavičienė, Albina Radzevičiūtė, and Zita Zamžickienė. During the meeting, the visitors were interested in various issues related to the Seimas Ombudsmen's Office, the activities and rights of the Seimas Ombudsmen: they wanted to know whether the Ombudsmen are able to initiate investigation on their own initiative, what are the Ombudsmen's relationships with the Seimas, the General Prosecutor's Office, and the National Audit Office of Lithuania and whether the Seimas Ombudsmen have the right to apply to the Constitutional Court. The guests were also interested in the total number of complaints received by the Seimas Ombudsmen's Office per year, ways of contacting the Seimas Ombudsmen (in writing, by telephone, etc.), the independence and accountability of the Seimas Ombudsmen (publication of reports). In addition, the professors were interested in the management model chosen by the Seimas Ombudsmen's Office, its structure, and professional qualifications of its specialists.

On 10 November, Seimas Ombudsmen Romas Valentukevičius, Virginija Pilipavičienė and Zita Zamžickienė received the guests from Georgia: M. Kurchikidze, UNICEF Representative in Georgia, M. Meghlaperidze, Head of the Child's Division of the Georgian Human Rights Defender, and T. Chanturia, Programme Manager of the Child Care Division of the Georgian Ministry of Education. Sozar Sobari, the Georgian Human Rights Defender, did not participate in the meeting as he had cancelled the visit due to the events that were posing a threat to human rights in Georgia. In the meeting, the Seimas Ombudsmen exchanged their views and experience in relation to investigated complaints regarding the

restoration of ownership rights and abuse of office by police officers as well as on the issues related to protection of children's rights. The guests were interested whether the general public has sufficient information about the Seimas Ombudsmen's Office, what are the Ombudsmen's rights and competence, and what is the impact of their decisions on state authorities.

On 22 November, F. Hajós (Slovenia) and A. Philips (United Kingdom), Members of the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe, paid a visit to the Seimas Ombudsmen's Office. Romas Valentukevičius, Head of the Seimas Ombudsmen's Office, familiarised the guests with the activities of the institution, the ombudsmen's appointment procedure and their work distribution and emphasised the constitutional status of the institution and the significance of its broad powers. Seimas Ombudsman Albina Radzevičiūtė drew the visitors' attention to the investigated complaint regarding the use of the state language in an individual's relations with officers of a detention institution and familiarised them with the provisions of the Lithuanian laws regulating the person's right to receive information from state and municipal institutions and agencies. Seimas Ombudsmen Zita Zamžickienė and Augustinas Normantas told the members of the Committee about the issues related to the restoration of the rights of ownership to land and other real estate emphasising that no complaints have been received regarding discrimination against national minorities or violations of human rights in restoring the rights of ownership.

On 26 November, the Seimas Ombudsmen's Office was visited by Professor A. Morawa (Austria), his assistants P. Koenen (the Netherlands) and X. Zhang (the USA), T. Žukas, Lawyer and Doctoral Student of the Faculty of Law, University of Lucerne, and Dr. K. Kenny, the long-time Prosecutor and Member of the USA Supreme Court.

The honourable guests were received by Seimas Ombudsmen Romas Valentukevičius, Augustinas Normantas and Zita Zamžickienė.

During the meeting, the guests were familiarised with the activities of the institutions, the work distribution among the Seimas Ombudsmen, the most frequent complaints and their trends. Professor A. Morawa and his colleagues took interest in the powers of the Seimas Ombudsmen, the principles and strategy of their activities, and the procedure for investigation of complaints. Replying to the questions asked by the visitors, the Seimas Ombudsmen explained the provisions of the Law on the Seimas Ombudsmen, familiarised them with the Ombudsmen's rights and sources followed in their investigations, and emphasised the impact of decisions on state authorities and officials.

On 14 December, the discussion about synergies between the Human Rights and the Ombudsman's institutions took place in the Seimas Ombudsmen's Office. This theme was of great interest to Thomas Trier Hansen, Consultant of the Danish Institute of Human Rights and Lawyer specialising in the field of national human rights institutions.

The lawyer arrived in Lithuania with the aim to examine the peculiarities of the establishment and activities of Lithuanian human rights institutions as well as their functions and efficiency. During the meeting, the guest wanted to get acquainted with the Seimas Ombudsmen's rights, educative activity and information campaigns organised by the Office as well as to visit the human rights library located in the Office.

The guest was received by Seimas Ombudsmen Romas Valentukevičius, Virginija Pilipavičienė, Zita Zamžickienė, and Augustinas Normantas.

2. Co-operation with Non-Governmental Institutions

It is important for the Seimas Ombudsmen's Office to actively participate in the field of law improvement and to assist the government in formulating a common human rights concept, its policy and practice. This can be achieved by placing a major focus on analysis, summarising conclusions and studies, in co-operation with non-governmental organisations, and using the experience of these institutions.

In 2007, the Seimas Ombudsmen paid great attention to and spent much time on the issue of ratification of the Optional Protocol of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the “Protocol”). In 2007, a great number of discussions were held on the issues of the ratification of the Protocol and allocation of the functions of the national preventive mechanism with representatives from the Ministries of Justice and of Foreign Affairs, the public organisation “Global Initiative on Psychiatry”, specialists from the Human Rights Monitoring Institute, members of the Human Rights Committee of the Seimas of the Republic of Lithuania, and other responsible persons. Seimas Ombudsmen Romas Valentukevičius and Albina Radzevičiūtė participated in the round-table meeting regarding the issues of ratification of the Protocol organised by the public organisation “Global Initiative on Psychiatry” and the Committee on Human Rights of the Seimas. During the meeting, the Seimas Ombudsmen emphasised that Lithuania must ratify this important international document in order to ensure that individuals’ rights in closed institutions would be as little violated and restricted as possible and stressed that, taking due account of the status of the Seimas Ombudsmen embedded in the Constitution of the Republic of Lithuania, authorisations granted to them by the laws, the accumulated experience in human rights monitoring and existing practice of such work, the functions of the national preventive mechanism could be performed by the Seimas Ombudsmen in the country.

On 16 November, Seimas Ombudsman Romas Valentukevičius participated in the discussion about the existing human rights protection system. The existing institutional system for support and protection of human rights and its efficiency were discussed with the representatives from the fields of protection of children’s rights, equal opportunities, social studies, journalist ethics and other fields related to the protection of human rights in the debate organised by Henrikas Mickevičius, Director of the Human Rights Monitoring Institute.

On 5 December, Seimas Ombudsman Romas Valentukevičius, Advisor Vaiva Verbylaitė, and Milda Balčiūnaitė, Chief Specialist for Foreign Relations, participated in the round-table discussion in the Seimas organised by the public organisation “Global Initiative on Psychiatry” and the Human Rights Committee of the Seimas. The main aim of the meeting was to draw the attention of responsible institutions and persons to the problem of disability. Dovilė Juodkaitė, Director of the Public Organisation “Global Initiative on Psychiatry”, presented the project “Problems of Disability in the Context of the Values Declared by the European Union” financed by the Office of the Government of the Republic of Lithuania.

3. Provision of Information to the Public

The recognition of the Seimas Ombudsmen’s activities in the society potentially increases the efficiency of this institution. The more the public knows about the results achieved by human rights defenders, the greater their confidence in them will be; and citizens will apply to the Seimas Ombudsmen more often regarding their violated rights, and thus, the control of state government will be improved.

The basis of the efficiency of the Seimas Ombudsmen’s activities is its openness and accessibility to everyone. Communication with the public takes the form of direct contacts at the reception office, meetings on site, information announced on the website of the institution, responses to enquiries by free-toll telephone, active co-operation with the media, and raising of public awareness so that the general public is aware of its rights.

The Seimas Ombudsmen provide information and write reviews on the decisions made by the Seimas Ombudsmen to European Ombudsmen – Newsletter published by the European Region of the International Ombudsman Institute and the European Ombudsman in the English language. Two issues of this newsletter, which is published in the English, German, French,

Italian and Spanish languages, were published in 2007. They contained information specifying that no complaints can be lodged against recommendations of the Seimas Ombudsmen in administrative courts and the violations of the right to adequate health care detected by the Seimas Ombudsmen in Lithuania.

Furthermore, the Seimas Ombudsmen's Office provides information for quarterly newsletters published by the International Ombudsman Institute which reach ombudsmen's institutions in the whole world.

ACTIVITY REPORT OF SEIMAS OMBUDSMAN ROMAS VALENTUKEVIČIUS

STATISTICS

During the reporting period (1 January 2007 – 31 December 2007), Seimas Ombudsman Romas Valentukevičius received a total of 397 complaints regarding possible abuse of office of officers, bureaucracy or other violations of human rights and freedoms in the area of public administration. As of 1 January 2007, 73 complaints lodged in 2006 remained uninvestigated. During the reporting period, 320 complaints were thoroughly analysed and 109 complaints were rejected on the grounds provided in Article 17 of the Law on the Seimas Ombudsmen of the Republic of Lithuania, and 42 complaints remained to be investigated. During the reporting period, the Seimas Ombudsman started 8 investigations on his own initiative on the basis of the facts of alleged inappropriate behaviour of officers disclosed in the media, which attracted a great deal of public attention. In addition, 55 applications, which did not contain any complaints regarding the actions of officers, were analysed by providing detailed explanations on the issues of concern.

It is noteworthy that the majority of complaints addressed more than one problem or were filed against the actions of officials from several institutions; therefore, the number of decisions made by the Seimas Ombudsman is significantly higher. The Seimas Ombudsman made 588 decisions regarding 320 complaints investigated thoroughly and completely, of which: 185 were recognised as justified, 283 were rejected as the circumstances indicated therein were not confirmed, and the investigation of 120 complaints was terminated because it became clear during the investigation that they do not fall within the competence of the Seimas Ombudsman, or the object of the complaint was eliminated during the investigation.

Compared to the number of complaints recognised as justified and rejected during the previous year, it can be assumed that the annual drop in the number of complaints that has been observed until now has stopped and it can be forecasted that it will remain similar in the future, i.e. about 30%. Meanwhile, the number of rejected complaints has been more or less stable over a number of years – between 40-50%. The number of terminated investigations has been stable as well – about 20%. Similar proportions of decisions made by ombudsmen can be observed in the majority of the European states, thus it can be expected that the ratio of decisions made by the Seimas Ombudsman will remain similar in the future as well.

RECOMMENDATIONS BY THE SEIMAS OMBUDSMAN

The Seimas Ombudsman provided 149 recommendations to the respective institutions regarding the complaints recognised as justified. All the recommendations presented by the Seimas Ombudsman were duly taken into consideration.

During the reporting period, the following recommendations were provided:

- To make officials aware of violations so they would undertake measures to eliminate them – 104 recommendations;
- To propose that the respective institutions amend legal acts – 23 recommendations;
- To inform the respective institutions about violations of laws or deficiencies, contradictions, and gaps in legal acts – 10 recommendations;
- To propose that disciplinary penalties be imposed – 5 recommendations;
- To propose that the respective institutions repeal, suspend or change illegal decisions, or adopt relevant decisions – 4 recommendations;
- To propose that the prosecutor apply to court regarding the defence of public interest – 2 recommendations.

When analysing the changes in the recommendations provided, it should be noted that in 2007, a significantly higher number of proposals was made to the respective institutions to amend the legal acts that restrict human rights and freedoms. Compared to 2006, the number of these recommendations grew threefold. This obviously shows that the Seimas Ombudsman makes every effort not only to draw the attention of officials to detected violations and seek their elimination but also to actively influence lawmakers that there would be no constraints on human rights and freedoms in legal acts.

ANALYSIS OF THE DECISIONS MADE BY THE SEIMAS OMBUDSMAN ACCORDING TO INSTITUTIONS

During the reporting period, the Seimas Ombudsman made 588 decisions, 257 of which were related to the activities of officials of the Ministry of the Interior of the Republic of Lithuania and its subordinate institutions or bodies; however, 226 decisions were made regarding the actions of officials of the Police Department under Ministry of the Interior of the Republic of Lithuania and the territorial police commissariats subordinate to the Department. In 2007, decisions regarding the actions of officials of the Ministry of the Interior and its subordinate institutions or bodies accounted for 43.7% of all the decisions, and this is significantly less than in 2006, i.e. 60%. The Seimas Ombudsman made 80 decisions regarding the General Prosecutor's Office of the Republic of Lithuania and its subordinate territorial prosecutor's offices, which makes up 15% of all the decisions, and this number was the same as in the previous year.

Among ministries, the Ministry of Health is in a leading position in terms of decisions made – 53 decisions. Forty five decisions were related to the Ministry of Environments and its subordinate institutions and bodies. The Ministry of Finance and the Ministry of Education and Science could be mentioned as well – 37 and 30 decisions respectively. Seven decisions concerned the Ministry of National Defence and 5 decisions were made in relation to the Ministry of Transport.

The decisions related to the Police Department under the Ministry of the Interior of the Republic of Lithuania and its subordinate territorial police institutions constitute the major part, i.e. 88%, of all the decisions made with respect to the Ministry of the Interior of the Republic of Lithuania and its subordinate institutions, and this is slightly less than in 2006 (93%).

It is noteworthy that the number of decisions made by the Seimas Ombudsman in 2007 in relation to the actions of officers of police commissariats is significantly lower, and this allows concluding that police officers have started to respect more human rights and freedoms, and the number of complaints concerning them has been gradually decreasing.

ANALYSIS OF THE INVESTIGATED COMPLAINTS ACCORDING TO RESTRICTIONS OF RIGHTS INDICATED THEREIN

During the reporting period, the following restrictions on human rights and freedoms were identified in the complaints analysed by the Seimas Ombudsman:

- Restrictions on the right to good public administration – 34%;
- Restrictions on the right to personal or public safety and public order – 27%;
- Restrictions on the rights of persons whose liberty has been restricted – 15%;
- Restrictions on other rights – 24%.

When analysing the changes in this aspect, it should be noted that the issues addressed in the complaints changed greatly in 2007. Complaints regarding restrictions on the rights and freedoms of prisoners, which have ranked first for a number of years and accounted for approximately 36%, made up only 15% in 2007, or decreased by more than half. Meanwhile, complaints regarding the right to good public administration grew from 16% in 2006 to 34% in 2007. The number of complaints concerning the right to personal or public safety and public order decreased slightly from 33% in 2006 to 27% in 2007.

The reasons and conditions of such significant changes in the issues addressed in the complaints will be analysed in the remaining part of the report by discussing each issue separately.

INVESTIGATIONS STARTED ON THE INITIATIVE OF THE SEIMAS OMBUDSMAN

During this reporting period, the Seimas Ombudsman attempted at exercising the right to commence investigations on his initiative on a broader scale, on the basis of the facts of alleged abuse of office of officers, bureaucracy, or other violations of human rights and freedoms disclosed in the media. It is worth discussing the investigations that attracted a great deal of public attention and painful problems revealed during them in greater detail.

ILLEGAL DETENTION OF CITIZENS

The most painful problem that is of greatest concern is temporary detention of persons suspected of illegal activity. The information that reaches the Seimas Ombudsman makes one to feel concern and constitutes a basis for stating that pre-trial investigation officers frequently abuse their powers in applying temporary detention to persons as there are no imperative grounds set in the Code of Criminal Procedure of the Republic of Lithuania, thus seeking to impose psychological pressure on such persons to testify, etc. Therefore, such cases must be unambiguously deemed to be violations of human rights and freedoms and they require special attention and response from all concerned institutions.

The article “They Were Going to Hospital but Found Themselves in Police Custody” published in the daily newspaper Respublika of 23 October 2007 contained the information that two citizens allegedly recognised by the victim as the individuals who had robbed her a few days ago were arrested by the store in Vilnius. Responding to the statement made by the victim, the police officers detained two persons who were subsequently placed in custody and released the next day. The detained citizens claimed that they had not committed any crime and that they arrived from the Širvintos district and were going to hospital for scheduled surgery.

*When analysing this situation, the Seimas Ombudsman applied to the District Prosecutor’s Office of Vilnius City as the institution supervising the pre-trial investigation which informed that there **were no legal grounds** to apply a procedural compulsory measure, i.e. temporary detention, and that although they were reasonably suspected of having committed the crime, **they were detained illegally**.*

In his conclusions, the Seimas Ombudsman also drew attention to the fact that the injured party’s statement on the alleged crime committed on 11 October 2007 was received only on 15 October 2007, i.e. after more than three days and only after the detention of the aforementioned persons.

Furthermore, the Seimas Ombudsman stated that, under Paragraph 6 of Article 140 of the Code of Criminal Procedure of the Republic of Lithuania, a temporarily detained person must be interrogated as a suspect not later than within twenty four hours after his or her arrival in the pre-trial investigation institution or the prosecutor’s office; however, the detained citizens were interrogated as suspects in violation of the aforesaid term.

*The Seimas Ombudsman concluded that the actions of the officers of the Police Commissariat No. 7 of the Vilnius City Chief Police Commissariat should be considered as an abuse of office resulting in **the violation of one of the fundamental human rights – the liberty of two citizens was unreasonably restricted.***

Upon the completion of the investigation, the Seimas Ombudsman proposed to Sigitas Mecelica, Head of the Vilnius City Chief Police Commissariat, that the issue of official liability of the officers of the Police Commissariat No. 7 should be resolved and drew the attention of Algimantas Valantinas, General Prosecutor of the Republic of Lithuania, and Vytautas Grigaravičius, Acting Commissioner General of the Police of Lithuania, to the fact that a procedural compulsory measure – temporary detention – was frequently applied in cases where there were no grounds set in the Code of Criminal Procedure of the Republic of Lithuania, thus violating human rights, and suggested that measures should be taken in order to tighten control over the application of this compulsory measure.

During the preparation of the report, the Seimas Ombudsman was informed that an official investigation was commenced in the Vilnius City Chief Police Commissariat and the issue of official liability of the guilty officers would be resolved.

INAPPROPRIATE BEHAVIOUR OF MEDICAL SPECIALISTS AND POLICE OFFICERS

All civil servants and officers, in particular police officers and medical specialists, must comply not only with applicable legal acts, professional ethics, and universally accepted moral norms but also with the principles of humanity. They must improve their professional knowledge and skills on an ongoing basis. The Seimas Ombudsman placed particular emphasis on these values.

On the basis of the information provided in the article “Childbirth on the Road at Night Changed the Child’s Destiny” published in the daily newspaper Lietuvos Rytas on 22 January 2007, the Seimas Ombudsman of the Seimas of the Republic of Lithuania conducted an investigation on his own initiative regarding the legality and validity of the actions of the officers of the Šilalė District Police Commissariat and the specialists of the public organisation Šilalė District Hospital.

The investigation revealed that in the night of 17 January 2007 the resident of the Šilalė District gave birth to a child next to the police car because the employees of Šilalė District Hospital refused to accept the woman in child-birth and the police officers were filling in the document of an administrative violation of law for her common-law husband instead of hurrying to take the woman in child-birth to hospital.

Having carried out the analysis of the documents received during the investigation and the relevant legal acts, the Seimas Ombudsman stated that although Šilalė District Hospital did not provide obstetrical services but in this case, where the woman’s common-law husband approached the reception of this institution, they had to accept the woman in child-birth, to carry out a medical examination, to evaluate the situation, to determine the extent of medical assistance and to provide first medical aid, and after this to organise the appropriate transportation of the woman in child-birth to another competent in-patient health care institution.

The Seimas Ombudsman drew attention to the fact that, when carrying out the restructuring of health care institutions, it is necessary to ensure that human rights are not violated. Health care services should be available to everyone, and services provided should be of proper quality.

It was established on the basis of the information provided for the investigation that the officers of the Šilalė District Police Commissariat ignored information about the woman in child-birth who was in the motor car, did not check this fact and failed to organise emergency medical help, thus violating the applicable legal acts.

The functions of a police officer include not only prevention of criminal activities, prosecution, preventive work but also provision of urgent assistance. Officers must perform their official functions on the basis of their professional knowledge, professional ethics, universal moral norms, and principles of humanity. The Seimas Ombudsman concluded that this painful and at the same time cautionary situation could have been avoided if those persons whose duty is to help people would not have been so indifferent.

During the investigation, the Seimas Ombudsman analysed vocational education and professional training of police officers and established that the professional training programme taught to police officers who are already working in the system of internal affairs does not include the training course on how to provide assistance to a woman in child-birth. In such situations, the lack of general knowledge causes stress on police officers and therefore, in the Seimas Ombudsman's opinion, it is necessary to supplement the training programme.

Having completed his investigation, the Seimas Ombudsman proposed to the Minister of Health to consider this case in treatment institutions by drawing attention to the fact that emergency medical help must be accessible to everyone and suggested to the Commissioner General of the Police that the actions of the officers of the Šilalė District Police Commissariat be analysed and an emphasis be placed during general meetings with chiefs of police commissariats on the fact that police officers must comply with both professional ethics and principles of humanity. It was also proposed to supplement the compulsory first aid training programme for police officers and employees with the courses "First Aid in the Case of Emergency Childbirth" and "Handling Childbirth". The Mayor of the Šilalė District Municipality was proposed to refer the issue regarding the evaluation of the actions of the hospital administration and medical staff to the Council of the Šilalė District Municipality and the Chief of the Šilalė District Police Commissariat was proposed to resolve the issue of official liability of the officers of the Šilalė District Police Commissariat.

Responding to the certificate presented by the Seimas Ombudsman, the actions of the officers of the Šilalė District Police Commissariat were discussed in the meeting of the Ethics Commission of the Commissariat, the professional training programme for police officers was supplemented, and the Council of the Šilalė District Municipality obliged the Director of the public organisation Šilalė District Hospital to improve the work of the Reception-Emergency Assistance Division of the Hospital, to organise training, seminars or lectures on the provision of emergency help and ethics of medical ethics for employees and the Head of the Children's Rights Protection Service, heads of subdistricts (social workers) and school principals (public health care specialists and social workers in schools) were obliged to constantly exchange information about families at risk and in particular children raised in such families, their social environment and health condition. Managers of personal health care institutions are obliged to pay attention to communication between medical workers and patients in the personal health care institutions managed by them: to provide necessary information to the patient in a more precise and explicit manner, to respond to citizens' enquiries and wishes more efficiently, and to listen to patients' problems so that it would be possible to provide necessary, timely and appropriate assistance. Patients should be provided with written information in a visible place (on billboards) specifying that childbirth assistance services are not provided in Šilalė District Hospital anymore and indicating where such assistance is available. In addition, information must be provided to the residents in the regional press every year about the programmes implemented in these personal health care institutions, their accessibility to the residents of the region and all the services provided by these institutions.

VIOLATION OF THE PERSON'S RIGHT TO A HEALTHY AND SAFE ENVIRONMENT

One of the Seimas Ombudsman's activity areas is the investigation of citizens' complaints regarding alleged abuse of office, bureaucracy or other violations of human rights and freedoms in the field of public administration committed by officials of the Ministry of Health and its subordinate institutions. The mission of the Ministry of Health is to shape and implement health policy ensuring public health, a high quality of fitness activity and rational use of resources. One of the strategic objectives of this institution is to ensure accessible and high-quality health care.

The number of complaints regarding violations of a person's right to health care received by the Seimas Ombudsmen's Office is constantly increasing. People complain about the inappropriate work organisation of health care institutions and a poor quality of health care services. It is noteworthy that more than half of complaints in this category are recognised as justified. For this reason, the Seimas Ombudsman paid major attention to violations of citizens' rights in one of the most sensitive areas – health care and the right to a healthy and safe environment. Without limiting himself only to the investigation of received complaints, the Seimas Ombudsman conducted investigations on his initiative on the basis of information published in the media regarding alleged violations of citizens' rights in the area of health care. Thus, response is given not only to the known cases of inappropriate public administration in the field of health care but also prevention of inappropriate public administration is carried out among institutions responsible for accessible and high-quality health care and life in a healthy and safe environment.

The Seimas Ombudsman started the investigation on his own initiative on the basis of the information published in the article "Medics Ring Alarm Bells About Alcohol Abuse" in the daily newspaper Lietuvos Rytas regarding the violation of citizens' rights to a healthy and safe environment as alcohol abuse and its negative consequences, i.e. suicides, psychoses, car accidents, and juvenile alcoholism, have been spreading rapidly in Lithuania over the recent years.

After the completed investigation the Seimas Ombudsman stated that the facts of violation of a person's right to a healthy and safe environment when resolving the issues of alcohol sales were confirmed and indicated that it would be expedient to appoint a working group consisting of concrete officials from several concerned institutions, which would resolve the aforementioned problems related to the greatly increased alcohol consumption by the citizens of the Republic of Lithuania and would improve the normative base regulating this matter.

The certificate issued by the Seimas Ombudsman was submitted to Antanas Matulas, Chairman of the Committee on Health Affairs of the Seimas of the Republic of Lithuania, Arminas Lydeka, Chairman of the Committee on Human Rights, Birutė Vėsaitė, Chairperson of the Committee on Economics, and Rimvydas Turčinskas, Minister of Health. Information about the results of the investigation was provided to Viktoras Muntianas, Speaker of the Seimas of the Republic of Lithuania, and Gediminas Kirkilas, Prime Minister of the Republic of Lithuania.

It is noteworthy that both the Seimas and the Government responded to the proposals made by the Seimas Ombudsman. The expanded meeting of the National Health Council was attended by the specialists from three committees of the Seimas, namely, the Committee on Health Affairs, the Committee on Human Rights, and the Committee on Economics.

The Prime Minister committed a task to the Ministry of Health together with other ministries and the State Tobacco and Alcohol Control Service and concerned institutions to form a working group and to present proposals regarding the improvement of the legal acts regulating the alcohol business.

The Board of the Seimas of the Republic of Lithuania appointed a working group for drafting amendments to the Law on Alcohol Control. Furthermore, the Seimas of the Republic of Lithuania is considering amendments and supplements to particular articles of this Law.

*Under the resolution of the Seimas of the Republic of Lithuania dated 14 June 2007, the year 2008 was proclaimed as the year of sobriety. **It must be sought that the proclaimed year of sobriety would not remain only in sounding programmes and never-ending meetings of working groups but that specific decisions, even if they are unpopular, would be adopted.***

VIOLATION OF THE RIGHTS OF MEDICAL RESIDENTS

The Seimas Ombudsman conducted an investigation on his initiative in relation to the rights of medical residents being violated and drew the attention of officials to the existing painful problem when the right of the country's citizens to a healthy and safe environment is violated: no proper work conditions are created for medical residents; they do not have any social guarantees, and there is a great extent of a brain drain to foreign states – all patients without exception suffer from this.

The investigation revealed that the number of medical specialists is decreasing in Lithuania; the majority of specialists is concentrated in the major cities, and there is a lack of specialists being capable of providing even the most basic assistance (labouring women are turned from the door of hospitals claiming that there is nobody to handle childbirth). Meanwhile, officials delay in adopting required decisions, the expression of political will on this matter is procrastinated, and there is no common vision on how this issue could be resolved in the most appropriate way.

The Seimas Ombudsman was informed that, on 9 October 2007, the Seimas considered amendments to the Law on Medical Practice of the Republic of Lithuania and to the Law on Health Care Institutions of the Republic of Lithuania determining the solution of the problem in substance, and they were approved.

After the Ministry of Education and Science and the Ministry of Justice have agreed on the presented amendments, the draft Resolution of the Government of the Republic of Lithuania "On the Amendment to the Resolution on the Training of Physicians of the Republic of Lithuania dated 31 October 2003" was submitted to the Government. Upon the adoption of the aforesaid resolution, the orders of the Minister of Education and Science and of the Minister of Health regulating the requirements of study programmes for medical residents and the selection and assessment regulations of the bases of residency studies were changed accordingly.

Following the adoption of the aforementioned legal acts, the issues related to residency studies, residency status, residency bases and activities and other matters concerning social guarantees for medical residents were legally regulated and further violations of citizens' rights were pre-empted. The amendments discussed above came into effect on 1 January 2008 and all the issues related to medical residents were resolved.

During the preparation of the report, the Seimas Ombudsman received information that the Government of the Republic of Lithuania adopted the resolution legalising the new status of a medical resident. The fundamentals for the employment of medical residents in the residency base were established and the rights, duties and responsibility of medical residents were specified in the residency regulations amended by the aforementioned resolution. Furthermore, the principles for calculation of medical residents' salaries were established. Under the governmental resolution, the proposal to grant a twofold status – a full-fledged, employed doctor receiving a salary in a treatment institution and a student – to medical residents was finally approved. From now on the first medical residents will be able to sign employment contracts with treatment institutions. Medical residents must have the respective licences for employment.

The aforementioned resolution changed the procedure for selection of residency bases as well. Until now medical residents used to serve their internships mainly in university hospitals. Now the plans are to expand the number of residency bases.

Some of other investigations commenced on the Seimas Ombudsman's initiative are described in further sections presenting them as examples for the analysis of relevant issues.

RIGHT TO GOOD PUBLIC ADMINISTRATION

In terms of complaints investigated by the Seimas Ombudsman, the content of the right to good public administration consists of violations of the citizens' service procedure in state institutions, the procedure for examination of applications and deadlines, violations of the right to receive information, failure to comply with legal acts or improper application thereof, etc. As it can be seen from the statistical data discussed above, the number of the decisions made by the Seimas Ombudsman on these issues in the reporting period exceeded twofold that in 2006. It can be assumed that this significant change was caused by the new wording of the Law on Public Administration that came into effect on 1 January 2007. When analysing the complaints regarding the person's right to good public administration, the Seimas Ombudsman paid great attention to prevention – the attention of the respective institutions was constantly drawn to the new imperative provisions of the Law on Public Administration and compliance with them.

Public administration is the activity of entities of public administration regulated by laws and other legal acts aimed at implementing laws and other regulatory enactments by making administrative decisions, providing administrative services stipulated in laws, administering the provision of public services, and carrying out the internal administration of entities of public administration.

Following the coming into effect of the new wording of the Law on Public Administration of the Republic of Lithuania, when analysing the circumstances indicated in the complaints, it was detected that officials of state institutions frequently violate the provisions of this law.

In accordance with the provisions of the Law on Public Administration of the Republic of Lithuania, "the administrative procedure comprises mandatory actions performed by an entity of public administration while considering a person's complaint or notification about a violation allegedly committed by acts, omissions or administrative decisions of the entity of public administration of the rights and legitimate interests of the person referred to in the complaint or notification and adopting a decision on administrative procedure."

Under Article 34 of the aforementioned Law, "the administrative procedure shall be concluded by adopting a decision on the administrative procedure. A person in whose respect the administrative procedure has been initiated shall, within 3 working days, be notified about the adopted decision on the administrative procedure and the procedure for appealing against the decision."

When analysing the circumstances indicated in the complaints, it was revealed that, upon the conclusion of an administrative procedure, officials of state institutions such as the Ministry of Environment, the Genocide and Resistance Research Centre of Lithuania, the State Tax Inspectorate, etc., do not explain the procedure for appealing against decisions while informing the applicants of the decision made. Thus, the citizens' rights are violated because no explanation is offered on the possibility to implement their right to challenge the validity of the decision in courts under the procedure established in legal acts.

In compliance with Paragraph 4 of Article 23 of the Law on Public Administration of the Republic of Lithuania, if an entity of public administration does not have the powers to adopt a

decision on administrative procedure concerning the issue referred to in the complaint, it shall transfer, within 5 working days, the complaint to an entity of public administration that has the required powers and informs the person about it.

When analysing the complaints, it was established that the provisions of the aforementioned Law are often violated because state institutions refer citizens' complaints to another institution according to their competence but they do not inform the citizens about it.

It is noteworthy that under Article 5 of the Constitution of the Republic of Lithuania state institutions must serve the people. This constitutional statement establishes the priorities of the relationship between individuals and the state by obliging state institutions to ensure the implementation of human rights, to defend these rights, and not to allow any violations thereof. In the Seimas Ombudsman's opinion, seeking to avoid conflict situations, it is necessary to evaluate each and every complaint by the citizens as thoroughly as possible and help them resolve their problems.

In the Seimas Ombudsman's views, a civil servant should remember that he or she must respect an individual, his or her rights and freedoms, the state and its institutions and to comply with the Constitution and the laws; to behave in such a manner that the general public would trust public administration and civil servants; to serve all people equally; to be fair in analysing applications and complaints; not to take advantage of other people's mistakes or ignorance; to be polite, accommodating and attentive; to behave in an objective and impartial way under conflict circumstances, to hear the arguments of both sides and to look for the most objective solution. These provisions are embedded in the Rules of Ethics of the Conduct of Civil Servants.

The main issue that the Seimas Ombudsman can contribute to is the improvement of public administration. Having analysed the complaints and established the fact of bad administration in state institutions, the Seimas Ombudsman indicates ways how to avoid this, i.e. thus contributes to the improvement of public administration and improvement of public administration in state institutions.

During the reporting period, the attention of officials of the Ministry of Health, the Ministry of Environment, the Ministry of Finance and the heads of other institutions has been drawn more than once to the violations of the provisions of the Law on Public Administration and they have been requested to take measures to improve public administration and to evaluate the behaviour of officials who violate the legal acts.

The recommendations provided by the Seimas Ombudsman were considered, the officials were warned to strictly adhere to the applicable legal acts at work and not to violate citizens' rights, i.e. due account was taken of the provided recommendations.

INAPPROPRIATE WORK ORGANISATION OF OFFICIALS OF THE MINISTRY OF HEALTH

During the reporting period, the Seimas Ombudsman made 53 decisions regarding the activities of officials of the Ministry of Health, of which: 29 complaints were recognised as justified, 21 complaints were rejected as the indicated circumstances were not confirmed, and 3 decisions were made to terminate the investigation. The examples provided below will reveal only a few cases of inappropriate behaviour and work organisation of officials of this ministry.

Defended Rights of Chernobyl Clean-up Workers

The Seimas Ombudsman received a complaint from the resident of Vilnius claiming that the resolution of the problems of Chernobyl clean-up workers is being delayed. It has been almost a year since the submission of his deceased parents' documents to the Vilnius-based Sapiega Hospital but he has not received any reply from it yet.

During the investigation it was established that the National Expert Commission for the establishment of the link between diseases and the participation in the liquidation of the consequences of the accident at the Chernobyl nuclear power plant appointed in 1991 must convene their meetings once per month, as indicated in the order of the Minister of Health and the Minister of Social Security and Labour; however, this order was not being complied with.

In his reply to the Seimas Ombudsman's enquiry, Rimvydas Turčinskas, Minister of Health, admitted that the physicians delegated to the aforementioned Commission who did not receive any remuneration for this work refused to work. Thus, even thirty unexamined files had piled up until the end of March 1997.

Following the Seimas Ombudsman's enquiry, the Ministry of Health organised a meeting attended by the representatives of the Lithuanian movement "Chernobyl" as well. It was agreed to implement a temporary arrangement – to oblige the managers of treatment institutions to delegate the members of the Commission to its meetings during their working hours. The meeting decided not only to prepare a draft order of the Minister of Health regarding the appointment of a working group which would review the legal acts related to the activities of the Commission and present necessary proposals regarding their amendments but also would draw up a draft resolution of the Government of the Republic of Lithuania approving the composition of the Commission and remuneration for its work.

Having investigated this complaint, the Seimas Ombudsman drew the attention of the Minister of Health to this problem and proposed to take urgent measures so that officials would strictly comply with the requirements of the applicable legal work at their work and perform their direct functions in an appropriate manner. In the Seimas Ombudsman's opinion, the people who liquidated the consequences of the Chernobyl accident twenty years ago stopped the spread of radiation of a particularly dangerous level and thus saved the lives of millions of citizens of different countries and this was appreciated by the whole world; therefore, such bureaucratic approach to their problems today is not only intolerable but also inhuman.

Problems Related to Awarding the Title of Honorary Donor

The Seimas Ombudsman analysed and recognised the person's complaint regarding the procedure for the award of the title of Honorary Donor, which guarantees the right to a state pension, as justified.

The Seimas Ombudsman was informed that by recognising a particularly significant contribution of donors, the Ministry of Health was considering the possibility to submit requests to the Commission for Awarding Degree One and Two State Pensions of the Republic of Lithuania under the Ministry of Social Security and Labour to award a state pension to deserving donors who had been awarded the title of Honorary Donor before 1997.

Currently, in co-operation with the National Patients' Fund under the Ministry of Health, the list of the former USSR honorary donors residing in Lithuania is being specified. The Seimas Ombudsman was assured that, upon the submission of the specified list of the former USSR honorary donors, the required decisions would be adopted immediately.

In 2005, the Seimas Ombudsman analysed an analogous complaint and stated the deficiencies in the legal acts applicable in this area, which resulted in violations of human rights. Then the complaint certificate was submitted to the Ministry of Health and the Committee on Social Affairs and Labour of the Seimas of the Republic of Lithuania. Despite this, the problem has not been resolved until now. The Seimas Ombudsman can only regret that after almost three years

the problems have remained the same: the normative base regulating the resolution of issues that are of concern to donors has not been amended yet. The fact that not one donor who has deserved well of our country and its citizens will not receive the well-deserved award as the majority of these people are at the venerable age is a matter of concern. The same can be said about the issue of organ donorship that is being widely discussed now – nobody cares about donors yet, there is no unanimous political decision, and voluntary donorship is not encouraged.

The Seimas Ombudsman urged the Ministry of Health and the Ministry of Social Security and Labour to take care of deserving blood donors by an emergency procedure.

INAPPROPRIATE WORK ORGANISATION OF OFFICIALS OF THE MINISTRY OF ENVIRONMENT

During the reporting period, 45 decisions were made regarding the actions of officials of the Ministry of Environment and its subordinate institutions, of which: 26 decisions under which the applicants' requirements were recognised as justified, 13 decisions under which the applicants' requirements were rejected as unjustified; and 6 decisions under which the investigations of complaints were terminated.

When investigating the complaints regarding the actions of officials of the Ministry of Environment, the problems related to imperfection of legal acts and officials' unwillingness to resolve the issues of restoration of ownership rights were revealed. This problem became particularly relevant when the President of the Republic of Lithuania vetoed the amendments to the Law concerning the restoration of ownership rights to forest in forest parks in kind for the former owners and when the Seimas approved his will.

The Seimas Ombudsman investigated the complaints lodged by the candidates to the restoration of their ownership rights from the Utena County regarding the restoration of ownership rights to land which is attributed to forests parks and is being redeemed by the state. The applicants complained that the land and forest of almost all candidates are assigned to the category of forest parks unreasonably, as there have been and is no infrastructure, no facilities intended for sports, recreation or tourism, no specific public need, and no allocated state investments. It was indicated in the complaints that officials of the Ministry of Environment do not show any goodwill towards the Lithuanian citizens and do not search for any legal ways or decisions for the implementation of the restoration of ownership rights but follow implementing acts.

When analysing the circumstances of the aforementioned complaints, it was established that exploitable forests were attributed to the group of forest parks, there is no recreational facilities or infrastructure objects in these forests, roads are not maintained, and there is a high voltage line crossing the territory; therefore, the Seimas Ombudsman concluded that they do not comply with the requirements set for forest parks.

*On the basis of the investigation of these complaints, it became clear that **near the block that is not being returned to one candidate ten candidates received land plots free of charge into their ownership (they moved the land plots from other locations), whereas the real owners have not been given their legitimate ownership back.** This inequality is considered to be outrageous by the applicants and many other land owners who cannot implement their right – to have their ownership rights restored – not due to their fault and who contact the Seimas Ombudsman.*

The Seimas Ombudsman noted that the failure of institutions implementing state power to come to a mutual understanding and their separate actions create conditions for conflict situations. The Seimas Ombudsman voiced his opinion once again that the ownership may be taken for a fair remuneration only in such cases where there is a specific public need.

Having evaluated the material collected for the investigation of the complaints, the Seimas Ombudsman concluded that the problem raised by the applicants is reasonable and ways must be found to resolve it.

RIGHT TO PERSONAL AND PUBLIC SAFETY AND PUBLIC ORDER

These issues comprise allegedly illegal actions of officials, potential use of physical or psychological violence, delay in pre-trial investigation, etc.; therefore, these topics have ranked second in terms of the number of decisions made for a number of year. It is understandable that the institutions which may constrain human rights and freedoms in this area are the police and the prosecutor's office.

Despite the fact that only a slight portion of the complaints regarding these issues are recognised as justified, a few problems that have recently become relevant and require a serious response must be discussed in order to prevent potential violations of human rights and freedoms.

The Seimas Ombudsman conducted an investigation on his initiative regarding potential violations of human rights and freedoms on the basis of the information provided in the article "A Drama over the Hairgrip Worth 7 Litas" published in the daily newspaper Lietuvos Rytas of 8 June 2007.

The security worker of the supermarket Hyper Maxima detained a citizen and her minor daughter as suspects in a theft from the supermarket. The woman and her minor daughter were taken to the staff premises where the employee of the supermarket Hyper Maxima searched both persons. Their personal belongings were searched as well. No items stolen from the supermarket were found among the woman's or her daughter's things; however, the police officers issued a protocol on the administrative violation.

During the investigation, the Seimas Ombudsman established that the investigator of the Žaliakalnis Police Station of the Public Police of the Žaliakalnis Police Commissariat of the Kaunas City Chief Police Commissariat violated the requirements of the applicable legal acts and the officer was awarded a reprimand for this.

A pre-trial investigation into the alleged high-handedness was initiated in the Žaliakalnis Police Commissariat regarding the unlawful actions of the employees of the supermarket Hyper Maxima.

Having analysed the legal acts regulating the activities of employees of security services, the Seimas Ombudsman established that licensed and non-licensed security services have the right to provide the services of armed and unarmed protection of persons and property. The licence to engage in security and protection activities is issued by the Police Department under the Ministry of the Interior. The licence is required for the provision of the services of armed protection of persons and property and of unarmed protection of persons and property provided that the security and protection service is rendered to other clients.

Upon the completion of this investigation, it was established that the services of unarmed protection of persons and property in the supermarket Hyper Maxima were provided not by the licensed security service but the employee of the supermarket who exercised the same rights as employees of licensed security services. Furthermore, it was established that an employee of the security service defending the rights and interests of private legal persons or employee of a private company performing the security and protection function is entitled to exclusive rights of police officers, i.e. to use special equipment, a firearm, etc.

Police officers may use special equipment and physical coercion when carrying out the protection of human rights and freedoms and prevention of criminal activities and other violations of law; ensuring public order and public safety; disclosing and investigating criminal acts and other violations of law; and controlling traffic safety. In the Seimas Ombudsman's opinion, the performance of the aforementioned functions is assigned only to institutions authorised by the state but not to private companies. Meanwhile, different requirements are set for a police office and a security worker; therefore, they cannot be granted similar rights and different responsibility.

Taking due account of the people's complaints regarding the brutal behaviour of employees of security services and seeking to reduce violations of human rights and freedoms, the Seimas Ombudsman proposed to the Committees on Law and Law Enforcement and on Human Rights of the Seimas of the Republic of Lithuania as well as the Minister of the Interior and the Minister of Justice to discuss the resolution of these problems and revision of the respective legal acts.

Taking into consideration the recommendations provided by the Seimas Ombudsman, the Minister of the Interior indicated to the Police Department together with territorial police institutions to conduct supervision over the compliance with the terms and conditions of licences for armed and unarmed protection of persons and property and to evaluate the provisions of the legal acts regulating the activities of security services and security divisions as well as qualification requirements, functions, rights and duties of security workers.

GAPS IN LEGAL ACTS

When investigating the complaints regarding the validity of actions of police officers, the Seimas Ombudsman systematically analysed the norms of the Law on Police Activities and concluded that the authorisations, rights and duties of a police officer set in the Law on Police Activities have an ambiguous wording. It is not clear whether an officer, while preventing an administrative violation of law, can exercise the same rights as preventing a criminal act. In the Seimas Ombudsman's opinion, the indetermination of the provisions of the Law on Police Activities create pre-conditions for the interpretation of the Law and cause conflict situations between delinquents and police officers. The Seimas Ombudsman paid attention to the fact that the Law on Police Activities must differentiate between a criminal act and an administrative violation of law and should clearly specify the rights that may be exercised by a police officer when preventing an administrative violation of law and a criminal act.

The Committees on Law and Law Enforcement and on Human Rights of the Seimas of the Republic of Lithuania were informed about the identified problem, and the Commissioner General of the Police of Lithuania was proposed to take measures aimed at improving the Law on Police Activities. The then Commissioner General of the Police of Lithuania informed the Seimas Ombudsman that the Police Department approved of the conclusions made by the Seimas Ombudsman and had prepared a draft Law on Police Activities.

RIGHTS OF PERSONS, WHOSE LIBERTY IS RESTRICTED

Detention conditions in detention establishments of the country's police commissariats have remained among the priority areas of activity. In 2007, the Seimas Ombudsman focussed special attention to the monitoring of detention establishments in police commissariats – visits were paid to the detention establishments in 19 police commissariats. During these visits, a major emphasis was given to the interviews with police officers in order to identify the existing problems and their solutions, interviews with persons who were placed into detention establishments by explaining their rights to them and resolving problems on site, and survey of the premises of

detention establishments by immediately pointing out defects to police officers and looking for solutions. Oddly enough, these visits did not cause any increase in the number of complaints from prisoners, on the contrary, as it was mentioned before, the number of decisions made by the Seimas Ombudsman on these issues was significantly lower in 2007. It can be assumed that this activity is one of the factors to decrease the number of complaints from prisoners. Certainly, the ongoing improvement, even if it is not rapid enough, of detention conditions for persons placed in detention establishments of police commissariats and the changing attitude of police officers to the rights of prisoners have an impact on the decrease in the number of such complaints as well.

Despite this, it should be noted that during the inspections the facts of inappropriate food service were established in the majority of detention establishments of police commissariats. The applicable legal acts provide that individuals kept in detention establishments must be served meals three times per day according to the established physiological nutrition norms. However, the persons placed in the detention establishments of many police commissariats receive meals only twice per day claiming that they are served the quantity of food required for breakfast together with their supper. Furthermore, detained persons often receive half a loaf and tea, and this does not comply with the requirements set in the legal acts as well. After these problems had been identified, they were immediately discussed with the chief of the respective commissariat and proposals were made to review the contracts with the food service companies.

In addition, the inspection revealed some cases where the detention establishment of a police commissariat has a sufficient supply of items of soft furnishings but they are not given to persons placed in it. When clarifying with the police officers the issue why prisoners were not given items of soft furnishings even though there were sufficient supplies of them, it became clear that there was no place to disinfect this inventory. In the majority of the visited detention establishments, there were either no disinfection cameras or they were not operating. There was a normally operating and used disinfection camera only in one detention establishment. Some commissariats have concluded contracts with hospitals or laundries regarding the disinfection of items of soft furnishings; however, in this case, additional money is necessary for this purpose, and there is an obvious lack of it. Feasible solutions were directly discussed with the chiefs of police commissariats who faced this problem.

It is noteworthy that the majority of the visited detention establishments do not meet the minimum fit-out conditions set in the legal acts, and this causes violations of the rights of detained persons. Moreover, the officers working in such detention facilities mentioned the facts of acquired tuberculosis. The possibility that they acquired this disease as a result of their poor work conditions cannot be overruled. It should be noted that there are very poor work conditions of police officers in the majority of police commissariats.

In most of the detention establishments visited, there are no yards for walking or they are but they are unfit for use. Some detention establishments, in the Seimas Ombudsman's opinion, cannot be used at all because they do not meet even the minimum standards, for example, detained persons have to use a bucket instead of a toilet, there is no water in cells, etc.

Although the Seimas Ombudsman has been aware of a very bad condition of detention establishments of the country's police commissariats for a long time and special attention has been paid to this problem for a number of years, it must be stated that the situation is changing very slowly and that all institutions must make more active efforts in this area. It is worth mentioning that there are a few detention establishments which meet the requirements set in the legal acts after the reconstruction or major repairs; however, it should be emphasised that this process is not rapid enough. It is understandable that large investments are needed to accelerate the renovation of detention establishments but one can only regret that the financing plans for the renovation of detention establishments provided in the legal acts were not properly implemented – the planned amount of funds was not allocated, and thus, even the allocated funds did not reach

some beneficiaries as they were directed to a more serious renovation of one object. Attention should be paid to the fact that sufficient funds must be provided for the renovation of detention establishments when resolving the issue of financing the Police Department.

The Seimas Ombudsman supports the step made by the Police Department towards the reduction of detention establishments and their enlargement and believes that, in terms of human rights, it is better to have fewer detention establishments in the country but to ensure that they meet international standards. In addition, the issue related to the removal of temporary detention premises situated in the “on duty” sections of police commissariats, which have lower requirements than cells of detention establishments, and the premises of old detention establishments would be suitable for this purpose. However, attention should be paid to the fact that this process is going on very slowly and it should be accelerated because 12 detention establishments should be liquidated by 1 January 2010 according to the plan approved by the Commissioner General of the Police.

IMPROVEMENT OF LEGAL ACTS

During the reporting period, the Seimas Ombudsman actively participated in the preparation and improvement of the legal acts regulating the activities of detention establishments of police commissariats. The Seimas Ombudsman was requested to submit his comments on the new Rules for the Activities of Detention Establishments of Territorial Police Institutions and draft Protection and Supervision Instructions for Detention Establishments of Territorial Police Institutions. The majority of the comments presented by the Seimas Ombudsman were taken into account. However, one can only regret that the comments by the Seimas Ombudsman regarding stricter restrictions on the rights of prisoners to receive packages and visits by their close relatives were not taken into consideration. As a consequence, the Seimas Ombudsman received many complaints of prisoners regarding the unreasonable restriction of the aforementioned rights.

Having investigated the complaints of convicts, the Seimas Ombudsman stated that, having analysed the previously and currently applicable legal regulation of the receipt of packages, it can be seen that the new Rules tend to restrict more the periodicity of the receipt of packages (it used to be 5 days and now it is 15 days); however, portable television sets, radio sets, and personal hygiene items are not included in the total weight of sent food products. The aforementioned items are not included into the number of packages sent. For this reason, although convicts have the right to receive food packages rarer but they actually receive a similar quantity of food products; therefore, it can be concluded that this provision of the Rules does not restrict the rights of prisoners and this part of complaints has been recognised as unjustified. However, the issue regarding the shortening of a 15-day deadline at least up to 10 days should be considered, especially having in mind the fact that the Internal Regulations of Places of Pre-Trial Detention do not specify the periodicity of the right of convicts to receive food packages.

On the subject of visits of close relatives, the Seimas Ombudsman stated that under the Law on Pre-Trial Investigation the decision regarding the granting of visits is adopted exclusively by a pre-trial investigation officer or the court within the jurisdiction of which the particular case falls, and there are no other restrictions, including the periodicity of visits. Only the officer investigating the case or the court has the discretionary right to decide whether to grant a visit or not, and how often it can be done. The provision of the Regulations that a visit can be granted only once per 15 days was evaluated as an additional restriction constraining the rights of prisoners provided by the law. It is noteworthy that the Internal Regulations of Places of Pre-trial Detention do not restrict the periodicity of visits granted to prisoners. Both remand prisons and detention establishments of police commissariats are the places of pre-trial detention; therefore, the same issues should be regulated in them in a uniform manner.

The Seimas Ombudsman proposed to the Commissioner General of the Police of Lithuania to make amendments to the Rules for the Activities of Detention Establishments of Territorial Police Institutions by repealing the periodicity of visits and to consider the possibility of shortening the periodicity of the right of prisoners to receive food packages at least to once per 10 days. The recommendations provided by the Seimas Ombudsman were taken into account and amendments to the aforementioned rules are being currently drafted.

It is noteworthy that if the comments submitted by the Seimas Ombudsman had been taken into consideration before the adoption of the aforementioned rules, the restrictions on the rights of prisoners could have been avoided and there would be no need to make amendments to these rules today.

RIGHT OF PRISONERS TO PRIVACY

The issue that is relevant in today's society is the rapidly spreading video surveillance cameras. There are ongoing public discussions on the installation of such video cameras, legal regulation of the collection, storage and use of data recorded by these cameras, and potential restriction on the relation to a person's right to privacy. It is understandable that the rapid installation of video surveillance cameras in public spaces is aimed at preventing criminality and ensuring public safety; however, this issue should be very clearly regulated so that potential violations of human rights could be avoided.

It is not surprising that in our technological age video surveillance cameras have also reached detention establishments of police commissariats, which greatly facilitates the work of officers. Despite the fact that the use of video surveillance cameras in detention establishments of police commissariats is very clearly regulated, the Seimas Ombudsman had to investigate the complaint filed by a prisoner regarding the violation of his right to privacy.

It was indicated in the complaint that there are video surveillance cameras installed in the cells of the detention establishment of the Šiauliai City Chief Police Commissariat, the coverage area of which includes sanitary facilities as well.

The police officers informed the Seimas Ombudsman that, in accordance with the applicable legal acts, there are video surveillance cameras installed in the cells of the detention establishment of the Šiauliai City Chief Police Commissariat for the purpose of observing detained persons. The observed view is not recorded. Video cameras are set in such a way that it would be possible to observe only residential premises; the sanitary facilities do not fall within their coverage area. Video surveillance monitors are installed in the watchers' premises of the detention establishment. These monitors can be observed only by the officers of the detention establishment: the chief of the detention establishment, the watcher and his assistant.

Having analysed the applicable legal acts, the Seimas Ombudsman stated that they do not provide for any pre-conditions to install video surveillance cameras in the cells of detention establishments. The legal acts refer to surveillance of windows and doors of the detention establishment, which must be conducted from the outside, in other words, it is external surveillance of windows and doors, and this provision does not grant the right to conduct internal surveillance of the cell of a detention establishment. Having in mind that cells of detention establishments are residential premises of detained persons, the surveillance of persons residing in cells via video surveillance cameras is not allowed because it restrains the individuals' right to privacy.

The Seimas Ombudsman proposed to Vidas Maigys, Chief of the Šiauliai City Chief Police Commissariat, to immediately resolve the issue regarding the dismantling of the video surveillance cameras installed in the cells of the detention establishment and drew the attention of the Commissioner General of the Police to this violation of human rights.

The Seimas Ombudsman was informed that on 16 January 2008 the video surveillance cameras in the cells of the detention establishment of the Šiauliai City Chief Police Commissariat were dismantled and the right of detained persons to privacy is not being violated anymore.

It is noteworthy that the rational use of video surveillance cameras and other technical equipment should be promoted because this enables to reduce the number of police officers, for example, those who oversee prisoners, etc. by directing them to the performance of other important police functions. However, this should not constitute a basis for restrictions of human rights.

ACTIVITY REPORT OF SEIMAS OMBUDSMAN ALBINA RADZEVIČIŪTĖ

During the reporting period, 367 complaints were received; 155 of them were rejected on the basis of Article 17 of the Law on the Seimas Ombudsmen, and 240 complaints regarding possible abuse of office by officers, bureaucracy, or other violations of human rights and freedoms in the area of public administration were investigated.

The Seimas Ombudsman investigated 240 complaints and made 499 decisions in relation to them. 16% of complaints were recognised as justified, i.e. the complaints in which the investigation established the facts of abuse of office by officers, bureaucracy or inappropriate public administration. 54% of complaints were recognised as unjustified, i.e. the indicated facts regarding inappropriate administration were not confirmed, and in the case of 30% of complaints, the investigation was terminated because, under the mediation of the Seimas Ombudsman, the problems were resolved in good, the circumstances of the complaint were eliminated during the investigation, the applicant withdrew his or her complaint, or it became clear that the complaint is being, was or must be investigated in court, etc.

In 2007, as in the previous year, the majority of complaints investigated were related to actions of officers of the Prison Department under the Ministry of Justice. Such complaints accounted for 63% of all investigated complaints, i.e. 10% more than in 2006. A great number of complaints were related to the activities of the Ministries of Social Security and Labour and of Agriculture and institutions subordinate to them.

PROTECTION OF THE RIGHTS OF PERSONS WHOSE LIBERTY IS RESTRICTED

The most frequent complaints filed by persons whose liberty is restricted were related to the violations of their rights in the area of public administration are as follows:

The main problem indicated in the majority of complaints is actions of officers working in institutions enforcing imprisonment sentences and pre-trial custody.

In 2007, the Seimas Ombudsman received 215 complaints regarding the activities of the Prison Department under the Ministry of Justice and its subordinate institutions. While investigating the problems raised in these complaints, 317 decisions were made, and the investigation was terminated in 104 cases, 179 complaints submitted by applicants regarding the actions of officers were rejected as unjustified, and in 34 cases, the investigation established the facts of abuse of office or bureaucracy by officers.

Seeking to ensure that the international standards are observed in regard to the rights of convicts and prisoners and that the rights of these persons in closed institutions are as little violated and restricted as possible, the Seimas Ombudsman visited the Pravieniškės Correctional Facility No. 1 and the Kybartai Correctional Facility during the reporting period. During the visits, different aspects of imprisonment were inspected and their compliance with applicable legal acts and standards was assessed; the main problems were discussed with the administrations of these institutions and meetings with prisoners were organised.

When summarising information received during the visits, attention was paid to the problem of the lack of officers in imprisonment institutions. **Social rehabilitation is one of the corrective measures for convicts who were sentenced to imprisonment, organised by the administration of a correctional facility. However, it can be stated that due to the lack of officers and constant aggravation of the situation, the main objectives of social**

rehabilitation set in Article 137 of the Punishment Enforcement Code may remain unimplemented.

When carrying out investigations into the complaints, the Seimas Ombudsman visited the Lukiškės Remand Institution-Prison, the Pravieniškės Correctional Facility No. 3, and the Pravieniškės Correctional Facility No. 2-Open Prison Colony.

When summarising all complaints received in 2007, the following main problems related to the implementation of the rights of convicts and prisoners can be distinguished:

- **Subcultures of convicts in imprisonment institutions**

Article 29 of the Constitution of the Republic of Lithuania provides that the rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views.

Article 6 of the Punishment Enforcement Code provides that the laws related to punishment enforcement are applied on the basis of the principle that all convicts are equal, irrespective of their origin, gender, social or material status, nationality or race, political views and party affiliation, education, language, religious or other beliefs, genetic features, disability, sexual orientation, type and nature of activity, place of residence, and other circumstances that are not specified in the laws of the Republic of Lithuania. It is noteworthy that the principle of equality of convicts in applying the laws related to punishment enforcement embedded in this Article prohibits both direct and indirect discrimination.

However, the complaints received from convicts regarding physical and psychological violence show that these measures are insufficient to resolve the problems related to the existence of mutual violence and existence of informal groups among convicts in correctional facilities, and some of these measures have failed to be implemented.

The Seimas Ombudsman drew attention to the fact that in its response to the CPT sent in 2006 the Government of the Republic of Lithuania indicated that implementing the Programme for Renovation of Detention Facilities and Humanisation of Detention Conditions for 2004-2009, there will be no residential premises with a number of sleeping spaces in imprisonment institutions. However, even when implementing this Programme, up to 12 persons are placed into one residential cell in the renovated Kybartai Correctional Facility and up to 12 persons are accommodated in one cell in the newly-built residential premises of the Vilnius Correctional Facility No. 2.

In 2007, the Seimas Ombudsman received several complaints from the Alytus Correctional Facility regarding the creation of different conditions for convicts belonging to different convict subculture groups. Convicts indicated that they eat from bowls of different colours, and when the bowls of the colour of the lowest informal group of convicts are taken out of circulation, these convicts are forced to starve. After the investigation it became clear that the administration of the Alytus Correctional Facility, by agreeing with the request of convicts to supply food in bowls of different colours in 2005, did not respect the principle of equality among convicts embedded in Article 6 of the Punishment Enforcement Code and created conditions for further existence of convict subculture in their penitentiary. It was stated that, when writing off the bowls of only one colour in 2007, the administration of the Alytus Correctional Facility failed to comply with the principle of equality among convicts and did not take all measures to eliminate the signs of convict subculture as soon as possible. The Seimas Ombudsmen drew the attention of the Director of the Alytus Correctional Facility to the problems related to the existence of subculture in the Alytus Correctional Facility and suggested taking measures so that the provisions of Article 6 of the Punishment Enforcement Code are complied with in respect of all convicts. The

Director of the Prison Department under the Ministry of Justice received the suggestion to analyse the situation of existence of convict subculture in all correctional institutions and to prepare proposals on how this phenomenon could be gradually eliminated from these institutions and to submit them to the Ministry of Justice. The Seimas Ombudsman also proposed to the Minister of Justice to draft a strategy for the implementation of proposals prepared by the Prison Department under the Ministry of Justice.

In response to the recommendation provided by the Seimas Ombudsman, the administration of the Alytus Correctional Facility informed that the bowls intended for serving meals to convicts have been replaced by uniform ones in their institution.

The officials of the Prison Department under the Ministry of Justice informed the Seimas Ombudsman that after the analyses submitted by directors of penitentiaries of the situation of existence of informal groups and subculture of convicts in their institutions and proposals regarding the solution to this problem had been collected and summarised, a complex of measures, which, in their opinion, could help reduce the manifestations of asocial criminal (convict) subculture in detention facilities has been prepared; the complex of measures includes proposals to legalise the convict's relationship to the subculture of the criminal world as a criterion which would be used to assess the degree of the convict's reformation/non-reformation; to organise stationary supervision posts according to possibilities; to restrict, using engineering-technical measures, convicts' possibilities of movement beyond the limits of their residential section at night to the maximum extent; implementing the Programme for Renovation of Detention Facilities and Humanization of Detention Conditions, to improve detention conditions for convicts and prisoners, to divide residential premises into smaller ones, thus reducing mutual contacts between convicts and the possibility for the formation of the illegal hierarchy of convicts; to increase the number of work places of convicts, to upgrade technological equipment, and to repair industrial buildings and premises.

The Prison Department under the Ministry of Justice noted that the most effective but at the same time the most expensive measure would be to gradually abolish correctional facilities in the further development of the punishment enforcement system as the model of the institution enforcing custodial sentences by switching on to the prison system.

Attention should be drawn to the fact that the complex of measures with analogous contents was drafted in 2003 as well; however, the analysis of the existing situation revealed that these measures were not implemented and the situation in imprisonment institutions has remained almost the same.

- **Violations of a pre-trial investigation process in imprisonment institutions**

Article 165 of the Criminal Procedure Code of the Republic of Lithuania provides that the pre-trial investigation institution is the police. Pre-trial investigation is also conducted by captains of maritime vessels engaged in long-distance voyages – in respect of criminal acts committed by vessel crew members and passengers during long-distance voyages, officials of the Prison Department, directors of custodies, pre-trial detention establishments, and correctional facilities or officers authorised by them – in respect of criminal acts committed in these institutions.

Paragraph 1 of Article 171 of the Criminal Procedure Code of the Republic of Lithuania provides that in the event that a complaint, statement or notice of a criminal act is received by a pre-trial investigation institution, or if a pre-trial investigation institution establishes the manifestations of a criminal act by itself, an officer of the pre-trial investigation institution initiates a pre-trial investigation and notifies the prosecutor thereof.

The Seimas Ombudsmen's Office of the Republic of Lithuania received complaints from the Lukiškės Remand Establishment-Prison and the Vilnius Correctional Facility No. 1. The investigation of these complaints revealed the inappropriate practice of these imprisonment institutions in investigating criminal acts detected during the performance of the direct functions by these institutions. **The consequence of such inappropriate practice may include gross violations of human rights and freedoms (right to life, right to property, right to a fair trial, etc.) and of the injured party's right to demand that a person who has committed a criminal act is identified and fairly punished, whereas damage is compensated.**

- **Restrictions on the implementation of the right of convicts and prisoners to freely dispose of money held in their personal accounts**

During the reporting period, the Seimas Ombudsman received a great number of complaints from convicts and prisoners related to the transfer of their monetary funds when they are moved to other imprisonment institutions.

Upon the completion of investigations into these complaints, it became clear that the procedure for the transfer of money held in personal accounts of convicts and prisoners is insufficiently regulated and that the cases where convicts or prisoners are placed into imprisonment institutions through detention establishments of police commissariats, which do not have deposit accounts, have not been discussed.

The provisions of Article 92 of the Punishment Enforcement Code and Sub-Paragraph 14 of Paragraph 1 of Article 13 of the Law on Pre-Trial Detention grant the right to convicts and prisoners to acquire food products and other articles of prime necessity for money earned in the penitentiary, received by money transfers or through the administration of the imprisonment institution and entered into their personal accounts. Convicts (prisoners) are allowed to acquire food products and articles of prime necessity not for cash but by respectively debiting their accounts.

Inappropriate administrative-legal regulation is one of the reasons causing legal conflicts in the area of public administration. Gaps in administrative-legal regulation create pre-conditions for the violation of human rights, in this particular case – the aforementioned right of convicts and prisoners to acquire food products and articles of prime necessity. Therefore, the Seimas Ombudsman applied to the Prison Department under the Ministry of Justice with the proposal to resolve the existing situation and to eliminate gaps in legal regulation. Having analysed the submitted recommendation, the Director of the Prison Department under the Ministry of Justice approved by his order the procedure that establishes the mechanism for control over the movement of convicts and prisoners from one institution into another and the money transfer procedure.

- **Labour of convicts**

Occupation of persons sentenced to imprisonment is one of their correctional measures and one of the most important forms of re-socialisation in imprisonment institutions.

The regulations of European imprisonment institutions specify that work organisation, nature of work, and work methods in correctional facilities must comply with the principles of similar work on the other side of prison walls. Labour should help a convicted person to prepare for a life on the outside. Work methods and measures in imprisonment institutions must be adapted to modern conditions, and it must be sought that a convicted individual would not only engage in his professional activity but also could acquire new professional qualifications. A convict should

be able to choose the desired field of activity with regard to his abilities and wishes. All these measures should be aimed not only at keeping a convicted person part of the social procedure but also at ensuring the possibility to get an adequate job according to the person's speciality, abilities, and professional qualifications.

Labour is one of the forms of social rehabilitation for convicts because a prisoner acquires, through labour, the habit of working, respecting work and its results. However, according to the data of the Prison Department under the Ministry of Justice, only about 20% of convicts are employed.

During the reporting period, the Seimas Ombudsman received a great number of complaints, in which part of convicts were complaining that they cannot get a job, some were complaining about a very small remuneration for their work, whereas other were dissatisfied with improper work conditions or illegal dismissal. When analysing the aforementioned problems, it was established that there is no institution, which would be entrusted with the control over the activities of state enterprises at correctional facilities and work conditions of convicts. **As no employment contracts are concluded with convicts and the relations between them and a correctional facility or state enterprise at the correctional facility where prisoners carry out correctional work are not considered to be employment relations under the Labour Code of the Republic of Lithuania; therefore, the State Labour Inspectorate is incompetent to investigate this kind of complaints.**

Upon the completion of the analysis of the legal acts and assessment of the current situation, and seeking to clarify what institutions should be responsible for the supervision of convicts' work conditions and who should control state enterprises, a meeting was organised, on the Seimas Ombudsman's initiative, with the representatives of the State Labour Inspectorate of the Republic of Lithuania, the Prison Department under the Ministry of Justice, and the Ministry of Justice as well as director of the state enterprise at the Pravieniškės Correctional Facility No. 1 and other responsible officials.

Taking due account of the fact that there is a working group formed in the Ministry of Justice to consider the issues related to the status and funding of state enterprises at correctional facilities, **the Seimas Ombudsman applied to the aforementioned working group by proposing to analyse additionally problems related to ensuring the control over convicts' work conditions.**

- **Unreasonable tightening of the legal position of convicts**

Paragraph 6 of Article 70 of the Punishment Enforcement Code provides that in the event a convict requests in writing the administration of the correctional facility due to important reasons to keep him isolated from other convicts, the director of the correctional institution has the right to transfer by his or her resolution the convict into cell-type premises, and this transfer is not considered to be a punishment. The analysis of the aforementioned Article shows that a convict is not punished for the refusal to live in the designated section in cases where important reasons are indicated to officers of the correctional facility, who can check them by conducting an official inspection. It should be emphasised that Paragraph 6 of Article 70 of the Punishment Enforcement Code is applied only as an exclusive measure and only in such cases where it is impossible to achieve the objectives of separate or isolated detention of convicts in correctional facilities by any other means.

Attention should be drawn to the fact that the Punishment Enforcement Code does not detail what regime should be applied to isolated convicts, i.e. in this case, there is a gap in the Law on Punishment Enforcement.

The Seimas Ombudsman received several complaints from the Alytus Correctional Facilities, in which convicts claimed that they were isolated at their own request under Paragraph 6 of Article 70 of the Punishment Enforcement Code; however, they are unreasonably banned from having private meetings, making telephone calls, watching TV, and other restrictions are imposed to them as well. The administration of the penitentiary explained that the same regime is applied to these prisoners as that set in Article 145 of the Punishment Enforcement Code, i.e. as in the case of prisoners who are placed into cell-type premises for disciplinary violations.

After the investigations of the received complaints, **it was established that the transfer into cell-type premises, which is not considered to be a punishment, may not result in the maximum possible restriction of rights. Otherwise, there is the situation where a convict who has not committed any violation and who is isolated by the director's resolution from other convicts due to the reasons which were recognised as important by the administration itself is deprived of one of the fundamental and most significant rights in terms of social rehabilitation – to have one long-term and one short-term private meeting every three months and he is also deprived of the right to make a telephone call once per week.**

The Prison Department under the Ministry of Justice informed that seeking to avoid uncertainties in the application of the legal norms, a draft law on the amendment to the Punishment Enforcement Code is being prepared. It will be proposed that the aforesaid draft would provide that a uniform regime is applied to all convicts placed into cell-type premises, irrespective of the reasons for their placement into these premises.

It is noteworthy that, in its report to the Government of the Republic of Lithuania on the visit held on 17-24 February 2004, the European Committee against Torture and Other Cruel, Inhuman or Degrading Behaviour and Punishment also expressed its opinion that the regime applicable to discipline violators should not be applied to convicts isolated under the procedure set in Paragraph 6 of Article 70 of the Punishment Enforcement Code and recommended that alternative solutions should be found to such situations. The principle of fair and progressive punishment serving set forth in Article 9 of the Punishment Enforcement Code should be emphasised as well. This principle means that the legal position of convicts may be mitigated or tightened, with regard to their behaviour during the punishment serving, fulfilment of the set obligations and prohibitions, attitude to work and learning, response to psychological impact and social rehabilitation measures, under the procedure established in the Criminal Code, the Criminal Procedure Code, and the Punishment Enforcement Code.

Therefore, the solution to the aforementioned problem proposed by the Prison Department under the Ministry of Justice should be evaluated as inconsistent with the principle of fair and progressive punishment serving and recommendations of international human rights institutions. Attention should be paid to the possible contradiction of the proposal to amend the Punishment Enforcement Code with the Convention for the Protection of Human Rights and Fundamental Freedoms.

- **Ensuring health care and treatment for persons whose liberty is restricted**

In 2007, a number of complaints were received from convicts who indicated that they do not have any teeth and funds for teeth prosthesis; a large amount of money is necessary for teeth prosthesis and it is very complicated for convicts to save this amount. Meanwhile, the administrations of imprisonment institutions do not ensure teeth prosthesis services even if the need for this has been established.

Paragraph 1 of Article 174 of the Punishment Enforcement Code establishes that personal health care is organised and provided in imprisonment institutions in compliance with the health care laws of the Republic of Lithuania. It is provided to the same extent as health care ensured to all Lithuanian citizens and is based on the same principles: lawfulness, acceptability, accessibility and appropriateness of health care services.

The standards prepared by the European Committee against Torture and Other Cruel, Inhuman or Degrading Behaviour and Punishment indicate that prisoners have the right to same health care as individuals on the outside. This principle is inseparable from the person's fundamental rights.

Furthermore, Paragraph 9 of the Basic Principles for the Treatment of Prisoners adopted by the United Nations General Assembly provides that prisoners must have access to the health services of the same quality and level as those who are on the outside.

Attention should be paid to the fact that all of the aforementioned documents have the same provision which is one of the main provisions regulating health care provided to convicts – they must be ensured treatment of the same quality and level as those persons who are on the outside.

The investigation of the complaints revealed that the applicable legal acts provide that all personal health care services, except for teeth prosthesis, are free of charge for individuals serving their punishment in correctional facilities and pre-trial detention establishments.

Under the provisions of the Law on Health Insurance of the Republic of Lithuania, **prisoners and convicts are not considered as being covered by the compulsory health insurance out of the state's funds and thus, no compensation for expenses of teeth prosthesis services is provided for them from the Compulsory Health Care Insurance Fund.**

Having evaluated this situation as inconsistent with the principles of the provision of health care services, the proposal made to the Ministry of Justice, the Ministry of Health, and the Prison Department under the Ministry of Justice was to establish criteria which entitle eligible prisoners and convicts to compensation of teeth prosthesis from the state budget.

The Head of the Health Care Service of the Prison Department under the Ministry of Justice informed the Seimas Ombudsman that the Ministry of Health is currently preparing a new procedure regarding teeth prosthesis, under which uniform criteria will be applied to all socially vulnerable persons, including those socially vulnerable persons whose liberty is restricted.

CONTROL OVER ACCESS TO STATE-GUARANTEED SECONDARY LEGAL AID

Article 30 of the Constitution of the Republic of Lithuania provides that the person whose constitutional rights or freedoms are violated has the right to apply to court. Article 31 of the Constitution of the Republic of Lithuania embodies the person's right to defence as well as the right to an advocate. The right to free legal aid, where this is required under the principles of justice, is embedded in Paragraph 3(C) of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The state-guaranteed legal aid system created by the state for the implementation of these provisions provides the possibility for each natural person, irrespective of his material status, to effectively defend his rights and lawful interests in criminal, civil and administrative cases.

All state-guaranteed legal aid management institutions (the Government of the Republic of Lithuania, the Ministry of Justice of the Republic of Lithuania, municipal institutions, state-guaranteed legal aid services), except for the Lithuanian Bar, are entities of public administration entrusted with public administration under the laws, which must comply with the provisions of the Law on Public Administration of the Republic of Lithuania. Thus, the Seimas Ombudsmen supervise whether access for individuals to state-guaranteed legal aid and its appropriateness in terms of good public administration are ensured.

When reviewing the issues raised in the complaints investigated by the Seimas Ombudsman, it can be distinguished that the most frequent problems encountered by individuals are related to the implementation of their rights to state-guaranteed secondary legal aid in cases of insufficient administrative regulation and ineffective and inappropriate implementation of the provisions of the Law on State-Guaranteed Legal Aid of the Republic of Lithuania.

The Seimas Ombudsman conducted the investigation under the applicant's complaint regarding inappropriately rendered secondary legal aid in a criminal case. The applicant complained that the Kaunas State-Guaranteed Legal Aid Service does not investigate her complaint regarding the inappropriate legal aid provided by the advocate and it does not recognise that its rights were violated.

The Lithuanian Bar must check the quality of activities of advocates providing secondary legal aid according to the special legal act, namely, the rules for quality assessment of secondary legal aid. However, the investigation of the complaint established that there are still no rules for quality assessment of secondary legal aid provided in the Law on State-Guaranteed Legal Aid of the Republic of Lithuania, which under the law are approved by the Minister of Justice, upon agreement with the Lithuanian Bar, and the situation where there no quality assessment rules for advocates' activities have been prepared and approved may cause ambiguous interpretation of decisions made in relation to advocates' activity. Human rights defenders drew attention more than once to the fact that the cases, where the laws capable of protecting certain rights of individuals are ineffective, are quite frequent in Lithuania because the Government or other authorised institutions do not create any mechanism for the implementation of the law.

Taking due account of the circumstances established during the investigation of the complaint, the Seimas Ombudsman drew the attention of the Ministry of Justice of the Republic of Lithuania to the fact that the quality assessment rules for secondary legal aid have not been approved yet and proposed to prepare these rules in the immediate future and, upon the agreement with the respective institutions, to approve them in the manner prescribed by the laws.

The Seimas Ombudsman investigated the complaint in which the applicant indicated that he had contacted the Vilnius State-Guaranteed Legal Aid Service for a number of times regarding the provision of secondary legal aid but the service failed to systematically comply with a 3-day deadline set in the Law on State-Guaranteed Legal Aid of the Republic of Lithuania for the adoption of the decision to provide secondary legal aid.

Having evaluated all the factual circumstances, the Seimas Ombudsman emphasised that even though it can be seen that all requests submitted by the applicant were analysed and respective decisions were made in relation to all of them; however, it should be noted at the same time that state-guaranteed legal aid services would not always adopt decisions within the deadline set in the Law on State-Guaranteed Legal Aid of the Republic of Lithuania. **The Seimas Ombudsman provided her opinion that the inadequate structure of state-guaranteed legal aid services is the main reason why the deadlines set for the investigation of applicants' requests and adoption of decisions are not complied with,**

and this also has an effect on the validity of adopted decisions, and this situation raises reasonable doubts as to the accessibility of state-guaranteed secondary legal aid.

Paragraph 2 of Article 29 of the Constitution of the Republic of Lithuania provides that the rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views, i.e. embodies the principle of equality among individuals. As the Constitutional Court has stated in its documents for a number of times, this constitutional principle means the person's birthright to be treated on an equal footing with others, embodies formal equality of all individuals, obliges to legally evaluate identical facts in a uniform manner and prohibits to evaluate virtually the same facts differently, does not allow to discriminate persons and to grant any privileges to them.

When investigating the applicant's complaint regarding the actions of the Kaunas State-Guaranteed Legal Aid Service, the Seimas Ombudsman established that the service refused to investigate the request submitted by the applicant regarding the provision of secondary legal aid by motivating that the request submitted by the applicant did not conform to the form set for such requests and was submitted in another language than the official language of the state.

On the basis of the material collected during the investigation of the complaint, the Seimas Ombudsman stated that requests and complaints submitted in another language than the official language of the state must be investigated under the general procedure, the received request or complaint is translated into Lithuanian by the institution which should analyse these documents according to its competence, and a response is given to the applicant in the official language of the state. The aforementioned provision of the legal acts explicitly confirms that requests or complaints submitted in another language than the official language of the state must be accepted by institutions of the Republic of Lithuania and do not constitute the basis for the rejection to analyse them.

The investigation of this complaint revealed some cases where the requests regarding the provision of secondary legal aid were not accepted by proposing individuals to take advantage of primary legal aid first so that they would be able to properly complete the request complying with the requirements of the law. This practice should be evaluated as restricting the person's right to receive secondary legal aid.

CONCLUSIONS OF THE CONDUCTED INVESTIGATIONS REGARDING THE ACTIVITIES OF BAILIFFS AND NOTARIES

Compared to the assessment of actions or omissions by other officials, the control over the activities of bailiffs and notaries conducted by the Seimas Ombudsman could be distinguished for its specifics. This can be explained by the fact that even though bailiffs and notaries are persons authorised by the state, who perform the functions assigned to them, and therefore, their activity can be investigated in terms of good public administration, the Seimas Ombudsman cannot assess the activity of these persons authorised by the state if they are related to bailiffs' procedural actions or notarial actions performed by notaries. For this reason, part of the complaints received by the Seimas Ombudsman regarding bailiffs' procedural actions or notarial actions performed by notaries is not investigated, or their investigation is terminated.

It is noteworthy that the complaints regarding bailiffs' activities were mainly related to the bailiff's illegal enforcement actions, bailiff's actions in providing inappropriate responses to applicants' requests to provide information, and their failure to provide explanations to the applicant.

The investigation that is one of the most relevant to the general public should be mentioned. This is the investigation initiated on the Seimas Ombudsman's initiative on the basis of information provided in the TV programme regarding bailiffs' activity, where one of the main circumstances evaluated during the investigation was related to the bailiff's authorisations to collect data on the debtor's assets established in the norms of legal acts.

Article 645 of the Civil Procedure Code of the Republic of Lithuania regulating the debtor's obligation to provide information about his/her possessed assets specified that, at the bailiff's request, the debtor must provide data on his or her possessed assets and their location, assets held by third persons, and funds in credit institutions. This norm of the law embeds the basis for the occurrence of this particular obligation of the debtor, i.e. the bailiff's request submitted to the debtor to provide such data. The investigation established that in certain cases the bailiff, when issuing an order regarding the seizure of property rights, fails to collect all necessary data that are relevant at the time of the investigation about the debtor's assets and his or her marital status. **In such cases, where the bailiff relies only on collected primary information during the property seizure and other stages of the enforcement process, a recovery may result in unreasonable restriction or violation of property interests of concerned persons or third parties.**

The Seimas Ombudsman expressed her opinion that the obligation of bailiffs to make enquiries in relation to the debtor's assets and marital status should be regulated in a more precise manner because this would help ensure creditors' interests regarding the effectiveness of the enforcement process, and the provisions of the Civil Procedure Code of the Republic of Lithuania could establish for the obligation to provide such information for the debtor as well, only account must be taken of the control over the implementation of this particular obligation of the debtor.

Taking into consideration the conclusions made during the investigation, the Seimas Ombudsman recommended that the Ministry of Justice of the Republic of Lithuania should evaluate the norms of the Civil Procedure Code of the Republic of Lithuania regarding the regulation of periodicity of data collected by the bailiff on the debtor and his assets.

In discussing the cases of control over notaries' activity, it should be noted that the majority of applicants lodged complaints regarding notaries actions related to the performance of notarial actions. However, as indicated in Paragraph 1 of Article 511 of the Civil Procedure Code of the Republic of Lithuania, the validity and lawfulness of the notarial action or rejection to perform a notarial action can be evaluated only by court.

Other applicants submitted complaints regarding notaries' actions in refusing to provide detailed written explanations, the non-issuance of copies of documents, or inappropriate and disrespectful behaviour of notaries with applicants. However, it is noteworthy that, upon the investigation of related circumstances, not a single complaint filed by applicants was recognised by the Seimas Ombudsman as justified.

COMPLAINTS REGARDING THE ADMINISTRATION OF THE REAL ESTATE REGISTER AND THE REAL ESTATE CADASTRE

When analysing the problems raised in the complaints received by the Seimas Ombudsman regarding the actions of officials of the state enterprise Centre of Registers and its territorial divisions, it was established that most frequently applicants lodge complaints with the Seimas Ombudsman regarding violations of the right to receive information, inappropriate investigation of complaints or requests, violations of deadlines set for investigation of requests, inappropriate application of the legal act, etc.

It is necessary to mention the investigation conducted by the Seimas Ombudsman into the applicant's complaint regarding the actions of officials of the Vilnius Branch of the state

enterprise Centre of Registers resulting in the failure to register the title to a part of the attic equipped with the applicant's funds. When investigating this complaint, one of the main objects being investigated was the case of potential non-equality in respect of other co-owners, as mentioned in the applicant's complaint. On the basis of the principle of equality among individuals, the information about the registration of attics and penthouses placed on the website of the state enterprise Centre of Registers was evaluated during the investigation as well. **The Seimas Ombudsmen's effort to improve public administration cannot be implemented if the institution, to which a certain proposal was submitted, analyses the recommendation only in a formal way.** That is exactly how the actions of the Vilnius Branch of the state enterprise Centre of Registers in analysing the Seimas Ombudsman's proposal to re-evaluate the arguments set forth in the complaint investigation document should be evaluated.

PROBLEMS RELATED TO THE IMPLEMENTATION OF CONSUMER RIGHTS IN THE POWER AND TOURISM SECTORS

During the reporting period, the complaints submitted by applicants regarding violations of their rights as consumers accounted for 3% of all complaints received by the Seimas Ombudsman. The majority of complaints were related to violations of consumer rights in the power sector, i.e. inadequate calculation of charges for consumed electricity, insufficient control of electricity metering devices, supply of heat, etc. It is noteworthy that it was concluded that **in some cases the applicant's rights were violated not only due to inappropriately rendered services but also due to the absence of sufficiently effective control over the companies providing these services.**

As tourist travels to foreign countries become more and more popular in Lithuania and the country's tourism sector is developing rapidly, consumer rights in the field of tourism become particularly relevant. On the basis of information published in the media and the complaints submitted by applicants to the Seimas Ombudsman, it was established that the Law on the Protection of Consumer Rights, which was effective until 1 March 2007, failed to assign consumer complaints regarding the quality of services rendered by tour organisers either to the National Consumer Rights Protection Council under the Ministry of Justice (currently – the State Consumer Rights Protection Authority) or directly to the State Department of Tourism. Upon the evaluation of the provisions of the legal acts regulating consumer rights and tourism activity and control over this activity, it was concluded that the State Department of Tourism, which is not authorised on the basis of the norms of legal acts to investigate consumer complaints regarding the non-fulfilment (improper fulfilment) of contracts for tourism services by tour operators, and this was the main reason indicated in the complaints by applicants to the Seimas Ombudsman, was competent to evaluate such complaints in the aspect of control over the implementation of legal acts in the field of tourism. **During the investigation, the Seimas Ombudsman not only stated that there is no procedure established for the investigation of complaints submitted by consumers who are dissatisfied with the services provided by tour operators but also indicated that the official of the State Department of Tourism by her actions violated the impartiality principle embodied in Paragraph 6 of the Civil Servants' Ethics Rules by providing her preliminary position in relation to the investigation of the complaint.** On this basis, it was proposed to the Director of the State Department of Tourism to conduct an official inspection of the official's actions.

PUBLIC ADMINISTRATION IN THE SOCIAL SECURITY SYSTEM

The main legal acts embedding the provisions of public administration include the Constitution of the Republic of Lithuania, the Law on Public Administration of the Republic of Lithuania, the

Law on the Right to Receive Information from State and Municipal Institutions and Bodies of the Republic of Lithuania, and Resolution No. 875 of 22 August 2007 of the Government of the Republic of Lithuania, which approved the Rules for Investigation of Requests and Service of Individuals in Public Administration Institutions, Bodies and Other Entities of Public Administration (hereinafter referred to as the “Rules”).

Every person applying to a public administration institution has the right to proper service, i.e. so that the issues that are of concern to him would be resolved in the most efficient manner, and provided information would be detailed and clear. No doubt, this right is the most relevant to that part of persons falling into social risk group who are more vulnerable, i.e. the majority of senior people and the disabled.

The area of social security is a very sensitive area. The majority of persons who apply to the respective social security institutions (bodies) is comprised of pensioners, single, disabled persons for whom the respective social benefits are often the only possible social security measure. Most often, these individuals demand special attention from officials to the problem raised by them, they want to be carefully listened to and understood, and to receive as detailed as possible rather than dry laconic information on the issue that is of concern to them.

Paragraph 6 of the aforementioned Rules provides that in analysing individuals’ requests, civil servants must follow the principles of respect to human rights, justice, fairness and rationality as well as comply with the principles embedded in the Law on Public Administration of the Republic of Lithuania, namely the principles of the rule of law, impartiality, proportionality, non-abuse of authority, official co-operation, efficiency, subsidiarity and “one window”, and in providing information to individuals, they must follow the principles of comprehensiveness, precision, lawfulness and impartiality of information established in the Law on the Right to Receive Information from State and Municipal Institutions and Bodies of the Republic of Lithuania.

During the reporting period, the complaints received regarding the actions of officials of the Ministry of Social Security and Labour, the State Social Insurance Fund Board under the Ministry of Social Security and Labour (hereinafter referred to as the “SSIFB”) and its territorial divisions, the Labour Exchange of Lithuania under the Ministry of Social Security and Labour, and the Disability and Working Capacity Assessment Office under the Ministry of Social Security and Labour (hereinafter referred to as the “DWCAO”) allowed concluding that violations in the area of public administration committed in providing service to individuals by these institutions and analysing their requests and complaints are quite frequent.

It is noteworthy that it is very important that information provided to applicants according to their requests would be exhaustive. The principle of comprehensiveness of information is one of the principles for the provision of information embedded in Article 4 of the Law on the Right to Receive Information from State and Municipal Institutions and Bodies of the Republic of Lithuania. This principle means that all information to be provided according to the contents of his or her request under the legal acts must be provided.

It can be seen from the conclusions of investigations into the complaints received during the reporting period that the officials of the Ministry of Social Security and Labour and of the DWCAO, when analysing individuals’ requests and providing information to them, violated the provisions of the laws regarding the deadlines (the decision on administrative procedure must be adopted and information must be provided to the applicant not later than within 20 working days, except for some exceptions) and the principle of comprehensiveness of information provided to individuals.

Other important principles for the provision of information embedded in Article of the Law on the Right to Receive Information from State and Municipal Institutions and Bodies of the Republic of Lithuania are the principles of precision of information provided (meaning that information provided to the applicant must correspond to information available at the respective institution) and of lawfulness of information (meaning that the actions of the institutions in providing information are based on laws or other legal acts).

It should be noted that violations of the aforementioned principles were established in the Marijampolė Division of the SSIFB, where the applicant received imprecise and misleading information.

In compliance with the provisions of Paragraphs 1 and 4 of Article 23 of the Law on Public Administration of the Republic of Lithuania, every entity of public administration must accept complaints and consider them according to their powers. If an entity of public administration does not have the powers to adopt a decision on administrative procedure concerning the issue referred to in the complaint, it must transfer, within 5 working days, the complaint to an entity of public administration that has the required powers and informs the person about it.

Similar provisions are established in relation to the provision of information that an institution itself does not have available. Paragraph 1 of Article 13 of the Law on the Right to Receive Information from State and Municipal Institutions and Bodies of the Republic of Lithuania provides that if requested information is available in another institution, the request must be forwarded to another competent institution not later than within 5 working days after the date of receipt of the request in the institution, and the applicant is notified thereof within 3 working days from the forwarding of the request.

It can be seen from the conclusions of investigations into the complaints that the officials of the Ministry of Social Security and Labour and of the DWCAO failed to comply with the provisions of the aforementioned laws in 2007.

In accordance with Paragraph 1 of Article 34 of the Law on Public Administration of the Republic of Lithuania, the administrative procedure is concluded by adopting a decision on the administrative procedure. The decision on the administrative procedure must contain information about the procedure for appealing against the decision.

The investigation of the complaint established that this provision was violated by the officials of the Alytus Division of the SSIFB.

It is noteworthy that, having established each of the aforementioned cases of violations, the Seimas Ombudsman, on the basis of the powers granted to her by the law, drew the attention of officials to the established violations of the legal acts and provided the respective recommendations (proposals) regarding the improvement of the quality of public administration. All the aforementioned institutions analysed the proposals presented by the Seimas Ombudsman and informed her about the results of their analysis and measures taken. However, **as the analysis of investigations of the complaints shows, the provisions of the legal acts regulating the performance of public administration functions are still violated quite often. Therefore, it is necessary to constantly monitor and evaluate this process as well as to seek that public administration institutions would function properly and improve public administration on an ongoing basis, thus justifying the expectations of persons applying to these institutions to receive proper service.**

**THE PROBLEM RAISED IN THE COMPLAINT WAS RESOLVED IN GOOD WILL
THROUGH THE MEDIATION OF THE SEIMAS OMBUDSMAN**

Paragraph 3 of Article 22 of the Law on the Seimas Ombudsmen of the Republic of Lithuania provides that the investigation of a complaint is discontinued if the circumstances addressed in the complaint disappear during the investigation or the problems addressed in the complaint are addressed in good will through the mediation of the Seimas Ombudsman as well as in other cases established by this law.

During the reporting period, when investigating the complaints submitted by applicants in relation to possible violations of their rights, the Seimas Ombudsman terminated the investigation when the circumstances addressed in the complaint disappeared during the investigation or, through the mediation of the Seimas Ombudsman, the problems addressed in the complaint were resolved in good will, i.e. having received a signal from the Seimas Ombudsman regarding possible violations of applicants' rights, officials immediately took measures to resolve the problems raised by applicants and resolved them.

Compared to the previous year, the number of examples of officials' good will has increased. Out of 150 cases, where the investigation of complaints was terminated, one third was based on the disappearance of the object of the complaint during the investigation, or resolution of the problems addressed in the complaint in good will through the mediation of the Seimas Ombudsman, or withdrawal of the complaint by the applicant.

ACTIVITY REPORT OF SEIMAS OMBUDSMAN VIRGINIJA PILIPAVIČIENĖ

INTRODUCTION

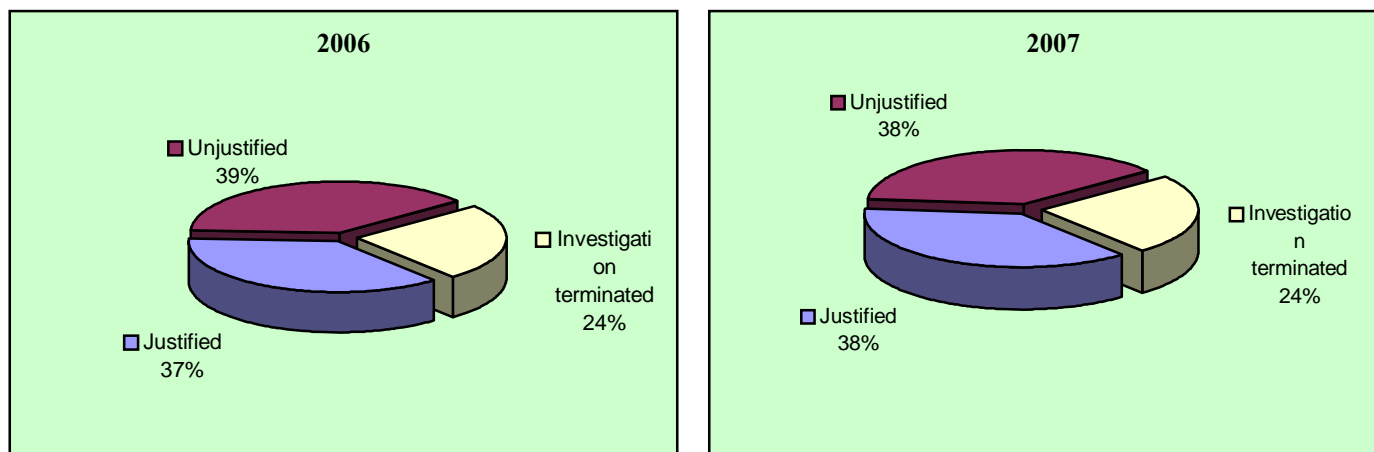
During the reporting period, Seimas Ombudsman Virginija Pilipavičienė received 280 complaints regarding the actions of the officials who are monitored by this Ombudsman and initiated one investigation on her own initiative. The Seimas Ombudsman investigated 251 complaints, including 4 investigations initiated on the Seimas Ombudsman's initiative that were completed in the previous year. Having investigated the complaints, the Seimas Ombudsman made 405 decisions, of which: 152 decisions to recognise the complaint as justified; 154 decisions to reject the complaint; and 99 decisions to terminate the investigation. In accordance with the requirements of the Law on the Seimas Ombudsmen of the Republic of Lithuania, the Seimas Ombudsman refused to investigate 74 complaints because investigation of the circumstances addressed in them fell outside the jurisdiction of the Seimas Ombudsman; it was expedient to investigate the complaint in another institution, the complaint regarding the same issue was investigated or pending in court; a one-year period has passed from the committal of the actions addressed in the complaint, etc. The most frequent reasons for the decisions made by the Seimas Ombudsman to terminate the investigation of the complaint were as follows: during the investigation of the complaint, it became clear that the complaint was investigated or pending in court; the circumstances addressed in the complaint disappeared during the investigation, or the problems addressed in the complaint were resolved in good will through the mediation of the Seimas Ombudsman.

At the beginning of the Seimas Ombudsman's term of office, i.e. on 21 January 2005, a total of 288 non-investigated complaints were handed over to this Seimas Ombudsman. Attention should be paid to the fact that even though additional 415 complaints were received for investigation in 2005 and on average additional 300 complaints per year were received in 2006 and 2007, by properly organising the investigation of complaints, the number of non-investigated complaints taken over by the Seimas Ombudsman at the beginning of her term of office has been gradually decreasing and the periods for the investigation of complaints have been shortening, i.e. the number decreased from 288 complaints in 2005 to 82 complaints at the beginning of 2008 (197 in 2006, 126 in 2007). During the past two years, the number of complaints received by the Seimas Ombudsman has not undergone any material changes.

During the reporting year, the Seimas Ombudsman had several meetings with the Vilnius Country Governor, officials of the Land Management Department of the Vilnius County Governor's Administration and regional (city) land management divisions, and the Representative of the Government for the County of Vilnius. During these meetings, the problems related to the land reform in the Vilnius County were discussed: a major focus was placed on the prolonged process of restoration of ownership rights, the quality of land reform works, and officials' ethics; in addition, the need to tighten the control over the quality of work and compliance with deadlines by the implementers of land reform works and the necessity to strictly adhere to the provisions of the Law on Public Administration were emphasised. One of the meetings was intended for discussing problems related to restoration of land ownership in the City of Vilnius. As this meeting was held at the end of the year, it also involved summarising of the problems indicated in reports on the complaints submitted by citizens and investigated by the Seimas Ombudsman regarding the restoration of land ownership in rural areas and discussing the course of implementation of the recommendations provided by the Seimas Ombudsman as well as issues related to improvement of mutual co-operation. In the same year, the Seimas Ombudsman and her advisor visited the Trakai District Municipality, where they met with the officials of the Administration of the Trakai District Municipality, specialists of the Directorate of the Trakai Historical National Park, members of the National Cultural Heritage Commission,

and representatives of the community of the Trakai town. During the meeting, the possibilities of forming new land plots within the territory of the Trakai town to be given into private ownership without remuneration were analysed.

BREAKDOWN OF THE COMPLAINTS INVESTIGATED BY THE SEIMAS OMBUDSMAN ACCORDING TO DECISIONS MADE



The data provided in the diagrams above confirm the fact that the percentage of justified complaints investigated by the Seimas Ombudsman has slightly increased over the past two years.

BREAKDOWN OF THE INVESTIGATED COMPLAINTS BY INSTITUTIONS

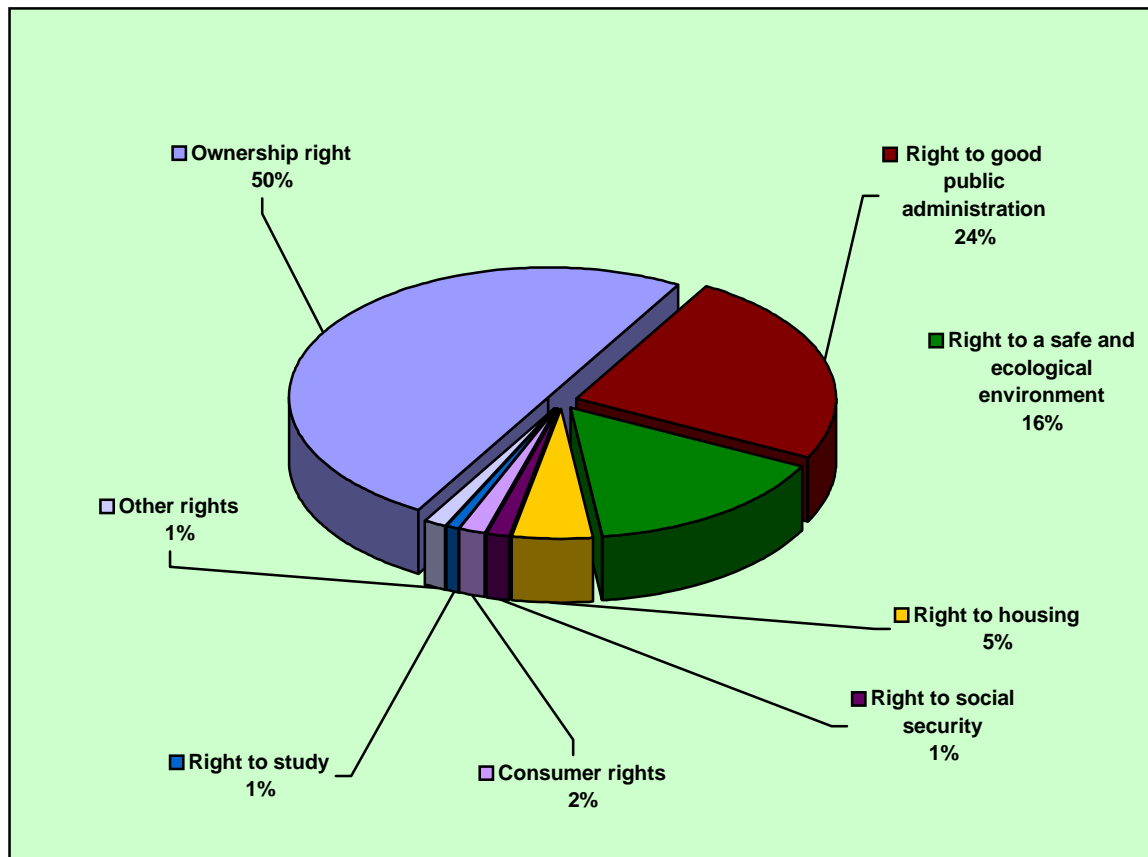
During the reporting period, the complaints regarding the actions of the officials of the Vilnius County Governor's Administration and its structural divisions accounted for **58%** (62% in 2006) of all complaints investigated by the Seimas Ombudsman. The complaints regarding the actions of the officials of municipalities within the territory of the Vilnius County accounted for **42%** of all complaints investigated by the Seimas Ombudsman during the reporting period (38% in 2006).

As in the previous year, the majority of complaints investigated and recognised as justified were related to the actions (inaction) of the officials of the Vilnius District Land Management Division of the Vilnius County Governor's Administration. The great number of such complaints is determined by the fact that the land reform process is going on due to objective and subjective reasons at the slowest pace in the territory of the Vilnius District and should be called as the most problematic. At the same time it should be recognised that the number of complaints regarding the actions (inaction) of the officials of the Department of Territorial Planning and State Supervision of Construction of the Vilnius County Governor's Administration while carrying out state supervision of constructions in Vilnius city tends to increase every year.

The complaints regarding the actions of the officials of the Vilnius City Municipality account for 73% of all investigated complaints related to municipal activities. The justified complaints in this area, as in 2006, made up approximately 30%. It should be noted that, compared to 2006, the total number of complaints regarding the actions of the officials of the Administration of the Vilnius District Municipality has slightly decreased but their validity has increased significantly.

ISSUES OF INVESTIGATED COMPLAINTS

During the reporting period (as in 2006), citizens were mostly complaining about their violated rights in the process of restoration of ownership rights. Attention should be paid to the fact that in 2007, compared to 2006, the number of complaints regarding the administrative procedures and deadlines for the consideration of requests established in the Law on Public Administration of the Republic of Lithuania and the implementation of the right to receive information increased (15% in 2006; 24% in 2007). In 2007, the investigated complaints included the complaints submitted by citizens regarding their violated rights in such areas which were not mentioned in the complaints received in the previous year, for instance, their violated rights to study, health care, etc.



OWNERSHIP RIGHT

In the investigated complaints, the applicants indicated the violations of their rights in such areas as restoration of ownership rights to land in rural and urban areas (33% and 28% respectively), management, use, privatisation and disposal of state-owned (municipal) property (22%), determination of limits of land size (5%), restoration of ownership rights to forest (2%), control of the use of state-owned land (2%), etc.

Issues of complaints regarding the restoration of ownership rights to land in rural areas

In implementing the Programme for 2006-2008 and seeking to ensure economic stability in the country, the Government of the Republic of Lithuania assumed an obligation to complete the restoration of ownership rights to land and other real estate and payment of compensations for land, forest and water bodies redeemed by the state by 31 December 2007. According to the data of the National Land Service under the Ministry of Agriculture, as of 1 January 2008, the ownership rights to land in rural areas in the Vilnius County restored by near 88% (on the area indicated in the requests of citizens who submitted all documents), i.e. the process of restoration of land ownership has not been completed in the Vilnius County by the deadlines set in the legal acts.

- Preparation of land management projects under the land reform, their implementation and quality

The three-year experience shows that the process of restoration of ownership rights is most frequently delayed because the preparation of supplements to land management projects under the land reform takes an impermissibly long period of time. When investigating the complaints, the Seimas Ombudsman paid attention to the fact that the legal acts do not provide for deadlines for the completion of land reform works; however, when it is established that the issue of formation of another equivalent land plot has not been resolved for almost four years, the actions (inaction) of the officials of the Vilnius County Governor's Administration are deemed by the Seimas Ombudsman as bureaucracy and a violation of the applicants' rights to good public administration in the area of restoration of ownership rights.

Under the legal acts, the land management divisions of the County Governor's Administration are obliged to conduct supervision of land management works carried out by persons who obtained qualification permits. It was stated several times in the reports on the investigation of complaints that the officials of the Vilnius County Governor's Administration exercise insufficient control over the work of authors of land management projects under the land reform in the cadastre locations of the Vilnius District and fail to ensure that land reform works would be carried out in a timely and high-quality manner.

Having summarised the complaints investigated during the reporting period, it may be stated that the problem mentioned in the previous reports, i.e. delay in the implementation of approved land management projects under the land reform, has remained unsolved until now.

The complaint investigation practice shows that in some cases the preparation of land management projects under the land reform in rural areas are of a poor quality and does not comply with the requirements set in the legal acts. During the reporting period, a number of complaints were investigated and recognised as justified in relation to the cases when forming land plots no access roads were designed and no servitudes allowing people access to their facilities were provided. Having investigated this type of complaints, the Seimas Ombudsman stated that the officials of the Vilnius District Land Management Division, who are entrusted to control the compliance of land management projects under the land reform prepared by project authors and their solutions with the requirements of the legal acts, by their actions failed to fulfil their duties in an appropriate manner and thus violated the interests of citizens. The Seimas Ombudsman provided the respective recommendations, and following their analysis, the officials of the Vilnius County Governor's Administration ensured that they will pay special attention to the planned access roads and servitudes in formed land plots in order to avoid similar problems in the future.

- Restoration of ownership rights by transferring land plots in protected areas into private ownership free of charge

During the reporting period, the Seimas Ombudsman was approached by citizens who complained that after the ruling "Concerning the Compliance of Sub-Paragraph 1 of Paragraph 2 of Article 5 (wording of 2 April 2002) and Paragraph 7 of Article 16 (wording of 13 May 1999 and 11 December 2001) of the Law on Restoration of Ownership Rights of Citizens to the Existing Real Property of the Republic of Lithuania with the Constitution of the Republic of Lithuania" of the Constitutional Court dated 5 July 2007 had come into effect, they were deprived of the rights to receive free of charge other equivalent land plots in protected areas. During the investigation of these complaints, it was established that under the conclusions prepared in 1998-1999 regarding the transfer of land, forest and water bodies into private ownership free of charge citizens acquired the right to have their ownership rights restored by transferring land plots in protected areas into their ownership free of charge. When preparing land management projects under the land reform in 2000 and later (in 2003 and 2005), other equivalent land plots were formed for them in the territories of regional parks. As the approved land management projects under the land reform were not implemented in time, the cases were

established, when the files of restoration of ownership rights had been prepared for almost 7 years, and upon the coming into effect of the ruling of the Constitutional Court of 5 July 2007 citizens were deprived of the right to receive equivalent land plots in the territories of parks into their ownership free of charge, were established. The Seimas Ombudsman recommended that the Vilnius County Governor's Administration should ensure that other equivalent land plots are formed for such citizens beyond the boundaries of protected areas. The officials of the Vilnius County Governor's Administration informed that information about the available land fund is provided to these citizens together with the proposal to immediately decide on the choice of the desired land plot.

- Restoration of ownership rights in territories with mineral resources

When investigating the complaints regarding issues related to the restoration of ownership rights in the territories of the Trakai District rich in mineral resources (no such complaints were received in the previous year), it was established that the substantial part of the territory of the Trakai District consists of land rich in gravel, sand and peat resources (both exploited and not exploited fields), which are assigned to the category of land redeemed by the state.

When investigating the complaints regarding the restoration of ownership rights to land in kind in territories rich in material resources, the Seimas Ombudsman paid attention to the fact that the attribution of unoccupied state-owned land fund to the category of land redeemed by the state must be based on the general public's specific need; in addition, the motivated justification for the specific location and area for the construction (installation) of a particular object necessary for the public needs must be submitted together with the territorial planning document and other documents. If there are no territorial planning documents and other documents that would undisputedly confirm the necessity of a certain territory for the public needs, permits to use natural resources should be mainly considered as a commercial interest. For this reason, the Seimas Ombudsman expressed doubts as to the validity of the attribution of certain land plots to the category of land redeemed by the state and provided recommendations regarding transfer of such land into the ownership of its former owners (their successors). It is noteworthy that the owners who wish to restore their ownership rights in the territories containing fields of mineral resources try to defend their rights in court as well.

Issues of complaints regarding the restoration of ownership rights to urban land in the Vilnius County

During the reporting period, in addition to the investigation of many individual complaints, the Seimas Ombudsman completed two investigations related to the restoration of ownership rights to land in Vilnius city and Trakai town initiated on her own initiative.

- Restoration of ownership rights in Vilnius city

On the Seimas Ombudsman's initiative, the investigation regarding the restoration of citizens' ownership rights to land in kind in Vilnius city was carried out. During the investigation, based on the results of the investigation of complaints submitted by citizens in 2005-2007 as well as additional information and documents, the Seimas Ombudsman evaluated the course of restoration of ownership rights in Vilnius city, summarised the most frequent violations committed by the officials of the institutions performing public administration functions in this process, namely, the Vilnius County Governor's Administration and the Vilnius City Municipality's Administration, and causes of these violations and provided recommendations regarding the elimination of the established violations, their consequences, causes and conditions of these violations in order to ensure the proper implementation of citizens'-applicants' rights in the process of the restoration of ownership rights to land in Vilnius city.

The Seimas Ombudsman stated the following main violations of public administration institutions in the process of restoration of ownership rights to land in Vilnius city: delay in preparing information meeting the requirements of the legal acts in cartographic material about

available (unoccupied) land, which is not attributed to land redeemed by the state and about urban areas that have not been planned in detail; in certain cases, inappropriate determination of former limits of land plots (surrounding limits of villages divided into land plots) as well as failure to comply with deadlines set in the legal acts for the performance of formation works of land plots to be restored in kind and adoption of decisions regarding the restoration of ownership rights; also – in certain cases – refusal that is not based on the requirements of the legal acts to return the land for which there is no real and specific public need.

In the investigation report, the Seimas Ombudsman paid special attention to the problem of lawfulness and validity of the attribution of available (unoccupied) land to land redeemed by the state and proposed to search for ways on how to ensure that, resolving issues related to the restoration of ownership rights, the ways of restoration of ownership rights to available (unoccupied) land and granting of new land plots would be maximally used at the same time and that all the cases of unreasonable attribution of land to land redeemed by the state and failure to return land in kind are identified.

The Seimas Ombudsman expressed opinion that the situation of restoration of land ownership in Vilnius city requires basic decisions in improving the system of ways of compensation for urban land – considering the possibility of providing additional ways of compensation for land redeemed by the state that are not established yet (by forest, monetary compensation) and eliminating other deficiencies in legal regulation.

Having evaluated the results of the investigation and seeking to ensure that the process of restoration of land ownership is implemented in strict compliance with the requirements of the legal acts and without violating the citizens' interests, the Seimas Ombudsman drew the attention of the respective state and municipal institutions to the violations established during the investigation and provided recommendations regarding the elimination of these violations, the causes and conditions of these violations. In total, 15 recommendations were provided. It can be seen from the provided information that almost all of the Seimas Ombudsman's recommendations, except for those, that proposed to improve the legal regulation of restoration of land ownership in urban areas, were approved and measures were taken to implement them.

- Restoration of ownership rights in Trakai town

As mentioned in the previous reports of the Seimas Ombudsman, Trakai town is the only town in Lithuania, where since the beginning of the land reform no applicant has had his ownership rights restored by transferring a new land plot for individual construction into his or her ownership free of charge.

Further continuing the investigation started on the initiative of the Seimas Ombudsman regarding the possibility of forming new land plots in Trakai town, it became clear that no new land plots to be transferred into private ownership free of charge cannot be formed in the territory of the Old Town of Trakai because the Old Town is included into the List of Cultural Values, and in compliance with the requirements of the laws, new land plots for individual construction and other purposes located in the areas included into the Register of Immovable Cultural Values of the Republic of Lithuania (List of Cultural Locations) are not transferred into private ownership, except for certain exceptions.

During the investigation, the Seimas Ombudsman also analysed the possibility of forming land plots in the territory of Karališkioji Laukai, which is included into the territory of the Trakai Historical National Park. Having evaluated the legal regime of this territory and other circumstances established during the investigation, the Seimas Ombudsman concluded that the valuable areas of Trakai town must be preserved in order to ensure the public interest. Taking due account of this fact, the Seimas Ombudsman stated that there are no sufficient grounds for

recommendation to plan the visual protection zone of cultural complexes in detail by providing land plots for individual construction in this zone.

The Seimas Ombudsman paid attention to the fact that the detailed plan for 16 land plots in Gedimino Street (beyond the limits of the Trakai Old Town) intended for the restoration of ownership rights to the existing real property in Trakai town, upon the approval of which the formed land plots will be given into the ownership of applicants free of charge and thus, their interests will be partially satisfied, is being completed. Also, the master plan of Trakai town and other territorial planning documents are being drafted as well. Only after the aforementioned documents have been prepared and approved, the possibilities of formation of new land plots and land use for household purposes in Trakai town (beyond the Old Town) will be identified. Due to the aforementioned reasons, the investigation regarding the formation of land plots for individual construction in Trakai town was terminated.

- Restoration of Ownership Rights to Land in Grigiškės

Having summarised the complaints regarding the restoration of ownership rights to land located in Grigiškės investigated in 2006-2007, it can be stated that the officials of the Administration of the Vilnius City Municipality have delayed the formation of available (unoccupied) land plots in this territory. In the activity report of the previous year, the Seimas Ombudsman drew attention to the fact that the officials of the Vilnius City Municipality refused to resolve the issue of formation of land plots for the restoration of ownership rights to land in Grigiškės on the grounds that the Municipality intends to approve the master plan of Grigiškės and only then to resolve the issue of restoration of land ownership in kind.

As the Council of the Vilnius City approved the master plan of Vilnius city, which includes the territory of Grigiškės as well, by its decision No. 1-1519 “Regarding Approval of the Master Plan of the Territory of the Vilnius City Municipality until 2015 and Its Solutions” of 14 February 2007, the Seimas Ombudsman proposed once again to the Administration of the Vilnius City Municipality to re-consider the issues of formation of available (unoccupied) land located within the limits of the former villages *Kovianska Vaka, Solonicai, and Afindzievičiai*; however, the Administration of the Vilnius City Municipality has not informed the Seimas Ombudsman about the territorial planning documents being prepared until now.

Issues of privatisation of state-owned land plots

During the reporting period, after the investigation of the complaints regarding the actions of officials performed in the privatisation process of state-owned land plots, a number of violations of the citizens’ rights in this area and cases of bureaucracy of officials (most frequently, their delay in preparing land plot privatisation documents, or preparation of poor-quality documents) were identified. The investigation of this kind of complaints revealed that the officials of the Vilnius County Governor’s Administration, having received a citizen’s request to purchase a land plot and other required documents, fail to comply or delay in complying with the requirement to submit these documents to the Municipality so that this institution could draft a plan of the land plot being sold and other documents necessary for the sale of the land plot. For this reason, citizens are often forced to apply to municipal institutions regarding the formation of land plots themselves. There was the case where the issue of privatisation of the applicant’s land plot had been delayed to be resolved through the fault of the officials of the Vilnius County Governor’s Administration for 4 years. As the complaint investigation practice shows, municipal officials often lag behind with the performance of the functions assigned to them and related to the determination of data of the land plot being sold within the deadlines set in the legal acts, for example, the investigation of one complaint revealed that the Vilnius City Municipality had been preparing the formation documents of the land plot being privatised for longer than one year and six months, even though it had to prepare them within one month. When investigating the complaints regarding these issues, a number of cases where the data of the privatised land plot approved by the Vilnius City Municipality were imprecise and the elimination of defects had

been delayed were established as well. Furthermore, other facts of inappropriate implementation of the legal acts regulating the sale of used state-owned land plots, for instance, when the land plot under the dwelling-house owned by the applicant that does not comply with the requirements set for the use of the building (the portion of the sold land plot was smaller than the area under the building) was formed and sold to the applicant. Having established the cases of bureaucracy of officers and violations of the applicants' rights to good public administration in the area of privatisation of used state-owned land, the Seimas Ombudsman proposed the institutions to take urgent measures to resolve the issues related to privatisation of land plots in the manner prescribed by the legal acts and ensure that in the future civil servants would perform the functions assigned to them in the field of privatisation of land plots in a timely and appropriate manner. The respective institutions took account of the recommendations provided by the Seimas Ombudsman.

Issues related to the determination of the boundaries of land plots

It must be stated that recently the Seimas Ombudsmen's Office has received more complaints regarding the unreasonable co-ordination of boundaries of neighbouring land plots and delay in the co-ordination of cadastral survey documents submitted under the established procedure by the officials of regional (city) land management divisions. This problem is particularly relevant to members of partnerships of gardeners.

The Seimas Ombudsman drew the attention of the officials of the Vilnius County Governor's Administration to the fact that they should pay special attention to ensuring that the boundaries of the land plots in respect of which cadastral surveys have been conducted would correspond to the actually used boundaries marked with landmarks, territorial planning and other land plot formation documents, and in the event of violations, they should demand that these violations are eliminated. These officials must also ensure that the boundaries of land plots would be co-ordinated with the owners of neighbouring land plots, and disputes arising during surveys would be settled according to the established procedures, etc. Regional (city) land management divisions as public administration institutions must analyse all complaints received from the citizens in this process in compliance with the laws, other legal acts, and the principles of good public administration (impartiality, proportionality, efficiency, etc.).

Cadastral surveys of real estate properties are carried out by legal entities which have licences for this work issued by the National Land Service under the Ministry of Agriculture; the control over cadastral surveys of real estate properties is organised by the National Land Service under the Ministry of Agriculture. Therefore, the Seimas Ombudsman drew the attention of Kazys Maksvytis, Director of the National Land Service under the Ministry of Agriculture, to the violations committed by legal entities conducting cadastral surveys and proposed to take actions, within the limits of his jurisdiction, to ensure the quality of their work and to strictly control the work of legal entities which have licences for cartographic works and resolve the issue of their responsibility.

RIGHT TO GOOD PUBLIC ADMINISTRATION

As it can be seen from the statistical data provided in this report on the issues addressed in the complaints investigated by the Seimas Ombudsman, the number of complaints regarding these issues has increased among complaints addressing other issues, compared to 2006. Attention should be paid to the fact that the complaints, during the investigation of which the violations of the Law on Public Administration of the Republic of Lithuania and subsequent legal acts regulating its implementation were detected, were most frequently recognised as justified in 2007.

During the reporting period, the investigation of the citizens' complaints revealed a number of cases where officers failed to implement or inappropriately implemented the aforementioned

requirements of public administration in respect of applicants, i.e. they did not take any – neither negative nor positive – decision in relation to the issues raised by the applicant according to the requirements of the law, or delayed the adoption of the respective decision, provided formal responses to applicants to their requests, did not provide a comprehensive, clear, specific and motivated response, did not reply to the main questions raised by the applicants, and thus violated the requirements of the Law on Public Administration and the applicants' right to reasonable and impartial examination of their requests.

Attention should be paid to the fact that the Law on Public Administration of the Republic of Lithuania not only guarantees the person's right to reasonable and impartial examination of their requests, complaints and notices but also establishes the obligation for an entity of public administration to inform the applicant in writing about decisions (reasons for the rejection of decisions) made in relation to his or her complaint(s). The investigation of complaints submitted by the citizens, the cases where this requirement was not observed were established as well.

During the reporting period, a number of the investigated complaints indicated that the citizens' request addressed, for example, to the director of the department, was analysed and a response to it was provided by a lower-rank official, let's say, the head of the division of the department. When investigating one complaint of this nature, it was established that according to the job description of the head of the division, this official was granted the right to prepare and provide information on issues related to his/her activities to municipality and department managers, media representatives, citizens, and organisations. Taking due account of this fact, the Seimas Ombudsman did not have sufficient ground to unambiguously state that the aforementioned official did not have the rights to provide information requested by the applicants, i.e. to sign the response to their request. However, the Seimas Ombudsman drew attention to the fact that the principles of good public administration and the civil servant's ethics and respect for an individual who applies to a public administration institution pre-suppose the conclusion that in the event where the applicant addresses his or her request to a particular civil servant, who has the powers to examine his request, in particular the head of the institution or its structural division, a response should be given to this applicant by this particular official.

RIGHT TO A SAFE AND ECOLOGICAL ENVIRONMENT

Issues of complaints regarding territorial planning

During the reporting year, as in the previous year, the Seimas Ombudsman investigated a great number of complaints regarding the actions of officials of the municipalities within the territory of the Vilnius County, who perform administrative functions in the territorial planning process. The majority of the investigated complaints were related to the actions of the officials of the Vilnius City Municipality in relation to detail planning of territories. The complaints, the investigation of which revealed that the officials of the Administration of the Vilnius City Municipality insufficiently carefully perform their functions in this area, should be mentioned. During the investigation of one of these complaints, it was established that, after the circumstances that have a legal significance have changed (the legal relations related to the lease of the land plot have been terminated, the organiser of detailed planning of the leased land plot has ceased to be the manager of this land plot), the officials of the Municipality failed to terminate, in a timely manner, the contract for the transfer of the rights of the organiser of the leased land plot planning for the preparation of a detailed plan for the state-owned land, which did not comply with the requirements of the law, and did not prevent the implementation of the road planning organiser's rights and duties, which did not comply with the requirements of the Territorial Planning and other legal acts. Taking due account of the recommendation provided by the Seimas Ombudsman, the Vilnius City Municipality adopted a decision to terminate the aforementioned contract.

When investigating the complaints regarding the actions of the officials of the Administration of the Vilnius City Municipality in the detailed planning process, the Seimas Ombudsman established that the issue of the public's right to participate in the process of preparation of the detailed plan of the territory remains relevant in the preparation of detailed plans. When investigating one complaint, the Seimas Ombudsman drew attention to the fact that the legal acts regulating the procedures ensuring the publicity of territorial planning do not provide for a special requirement to inform the communities of residential locations established under the set procedure about the public hearing of a detailed plan, even though, as the practice shows, these communities, the main task of which is to take care of the community member interests and represent the community, are among the most active participants in territorial planning processes. The Seimas Ombudsman that in her opinion in order to create better conditions for communities to participate in the process of preparation of detailed plans and other territorial planning documents and, defending the interests of community members, to submit proposals regarding solutions for these documents, it would be expedient to provide, in addition to the established measures ensuring the publicity of territorial planning, a special requirement for planning organisers – to inform representatives of communities of residential locations about detailed plans being prepared and their procedures.

Having investigated the aforementioned complaint, the Seimas Ombudsman proposed to the Government to supplement the Regulations for the Participation of the Public in the Territorial Planning Process in order to create better conditions for representatives of communities of residential locations to participate in the process of preparation of detailed plans and other territorial planning documents. Having analysed the recommendation provided by the Seimas Ombudsman, the Minister of Environment of the Republic of Lithuania expressed his position that the Seimas Ombudsman's recommendation can be implemented only after the amendments to the Law on Local Self-Government establishing the status of communities of residential locations, and their representatives, and their relations with municipal institutions have been adopted under the established procedure.

Issues of complaints regarding building permits and state supervision of construction

In the complaints of this category, the applicants indicated the facts of non-compliance by the officials of the Vilnius County Governor's Administration and municipalities within the territory of this county with the Law on Construction of the Republic of Lithuania and subsequent legal acts regulating the construction process. The officials of the Vilnius County Governor's Administration, who are assigned the functions of state supervision of construction, are mostly blamed by the applicants for inadequate response to the cases of arbitrary construction or construction, reconstruction and repairs in violation of the requirements of the standard construction technical documents. Municipal officials are blamed by the applicants for having co-ordinated projects without any grounds and having issued building permits illegally. It should be noted that in most cases complaints of this nature are received from persons who think that the construction of a particular object violates their interests as private persons, or public interests.

When investigating the complaints regarding the actions (inaction) of the officials of the Vilnius County Governor's Administration in conducting state supervision of construction and eliminating the consequences of arbitrary construction, it was established for a number of times that these officials fulfilled the functions of state supervision of construction assigned to them under the Law on Construction in an inappropriate manner. The Seimas Ombudsman paid attention to the fact that the following trend is characteristic of the activities of the aforementioned officials: having received information about alleged illegal construction, these officials take actions of state supervision of construction, i.e. issue a construction suspension deed and present the requirement obliging the constructor to prepare a project and to co-ordinate it under the procedure prescribed by the laws, etc.;

however, subsequently they do not control the enforcement of this requirement. Having investigated this type of complaints, the Seimas Ombudsman drew the attention of the Vilnius County Governor's Administration to the facts of inappropriate and inefficient performance of the functions of state supervision of construction.

COMPLAINTS ADDRESSING NEW ISSUES

Concession of health care institutions

The Seimas Ombudsman investigated the complaint filed by members of the initiative group of the residents of Naujoji Vilnia, Vilnius city, transferred to her by the Human Rights Committee of the Seimas of the Republic of Lithuania regarding possible violations of human rights in the transfer by the Vilnius City Municipality of supervision of the activities of Naujoji Vilnia clinic to a private investor on the basis of a concession contract. The Seimas Ombudsman did not assess the economic feasibility of the reorganisation of Naujoji Vilnia clinic (management and transfer to a private investor on a concession basis) but investigated, according to her competence, whether before adopting a decision that is important to part of the community regarding the activities and economic concession of Naujoji Vilnia clinic the rights of community members embedded in the Constitution of the Republic of Lithuania, laws and other legal acts were fully ensured and whether the principles of publicity and response to public opinion were observed.

Having investigated the complaint, the Seimas Ombudsman stated that the public's right to participate in the process of making decisions related to its lawful and reasonable interests was not fully implemented in resolving the issue of the reorganisation of the public organisation Naujoji Vilnia clinic. The Seimas Ombudsman noted that when resolving issues related to public interests and assigned to their competence, municipal institutions must find a compromise rather than confront the general public. This goal can be achieved only if the reasonable opinion of the public is taken into consideration and potential alternative solutions to problems are analysed and considered. That is the only way allowing to ensure the realistic implementation of the constitutional principles of democratic management, citizens' rights and service of state authorities for the interests of the people.

The Seimas Ombudsman drew the attention of the Mayor of the Vilnius City Municipality to the facts of inappropriate implementation of the public's right to participate in the adoption of decisions related to its lawful and reasonable interests in implementing the concession of Naujoji Vilnia clinic indicated in her report and recommended that the measures should be taken to prevent analogous violations in the future. The conclusions of the Seimas Ombudsman were taken into consideration when the Council of the Vilnius City Municipality was analysing this issue and made a decision regarding the termination of the concession contract for the activity and economic supervision of Naujoji Vilnia clinic.

Problems related to the education system

In 2007, the Seimas Ombudsman investigated the first complaint regarding initiation of the reorganisation process of the education system in Vilnius city, the establishment and construction of a secondary school in Balsiai, and inappropriate education conditions in the subsidiary of Jeruzalė secondary school.

Taking due account of the circumstances established during the investigation of the complaint, the Seimas Ombudsman concluded that the Administration of the Vilnius City Municipality, when planning the reorganisation of the Vilnius city school network and approving the General Plan for the Reorganisation of the Municipality's Secondary Schools for 2005-2012, did not violate the requirements set in the laws and other legal acts of the Republic of Lithuania; that it followed the provisions of the Law on Education and other legal acts when planning to establish the Balsiai basic school and Verkių gymnasium and actively searched for funding possibilities of the construction of Balsiai school from both the

state budget and private funds (concession). However, attention was drawn to the fact that the primary school – the subsidiary of the Jeruzalė secondary school – does not comply with the requirements set for educational institutions, i.e. the education provider does not fulfil the obligation set in the Law on Education to create education conditions in conformity with hygienic norms for its students. Thus, the constitutional principle of equality of all persons before the law and state institutions, the Law on Education of the Republic of Lithuania, the principles of local self-government and education (ensuring and respecting human rights and freedoms, general humanity) and the applicant's (her children and other children learning in this school) rights to appropriate education process are violated.

Taking due account of the aforementioned circumstances, the Seimas Ombudsman recommended that the Vilnius City Municipality should pay special attention to the education conditions that do not conform to hygienic norms in the aforementioned primary school and take measures to improve these conditions. If there are no possibilities to do this, conditions should be created for children from this school to study in other schools of Vilnius city that comply with the requirements of the law. Having analysed the recommendations provided by the Seimas Ombudsman, the Municipality informed about the works carried out and being carried out in order to improve the education conditions in the primary school and about the competition organised at the beginning of 2008, to which companies interested in constructing a new school in Balsiai on a concession basis are invited to participate. In addition, it was proposed to the students residing in Žaliųjų ežerų and other streets of the Verkiai subdistrict to continue their studies in Vilnius-based Fabijoniškės and Simonas Stanevičius secondary schools operating in one shift in the surrounding neighbourhoods.

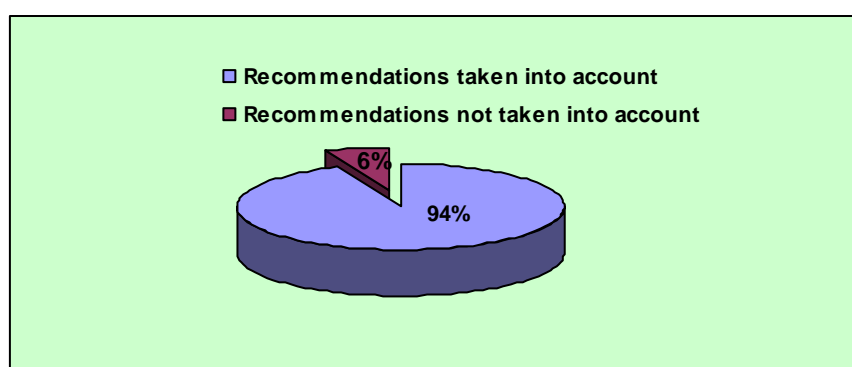
RECOMMENDATIONS PROVIDED BY THE SEIMAS OMBUDSMAN

Implementing the objectives set for the Seimas Ombudsmen in the Law on the Seimas Ombudsman, during the reporting period, the Seimas Ombudsman provided 189 recommendations to entities of public administration with an aim to eliminate violations detected during the investigation of the complaints, the causes and conditions of these violations.

Recommendation	Number of recommendations
To bring to the officials' attention the facts of negligence at work, non-compliance with laws or other legal acts, violation of professional ethics, abuse of office, and bureaucracy and violations of human rights and freedoms and suggest that the official take measures in order to eliminate violations of laws or other legal acts, the causes and conditions of these violations.	94
To propose to a collegial institution or an official to repeal, suspend or amend, according to the procedure prescribed by the law, those decisions that contradict the laws and other legal acts and propose to adopt decisions the adoption whereof has been precluded by abuse of office or bureaucracy.	60
To propose to a collegial body, head of the agency, or a superior institution or agency to impose disciplinary penalties on the officials at fault.	9
To engage officials of the Government institutions, ministries, county and municipality officials, as well as officials and experts of county governor's administrations and municipal institutions and agencies.	8
To inform the Seimas, the Government, and other state institutions and bodies or the appropriate municipal council about gross violations of laws, deficiencies, contradictions or gaps in laws or other legal acts.	6
To make proposals to the Seimas, the Government, and other state institutions and bodies to change laws or other statutory acts that restrict human rights and freedoms.	4
To notify the Seimas, the President of the Republic of Lithuania or the Prime Minister of violations committed by the ministers or other officials accountable to the Seimas, the President of the Republic of Lithuania or the Government.	1
To recommend to the Chief Official Ethics Commission to evaluate whether or not the official has violated the Law on Adjustment of Public and Private Interests in the Public Service.	1

Without a detailed investigation of a complaint falling outside the jurisdiction of the Seimas Ombudsman, to give proposals or offer commentaries to appropriate institutions and agencies on the improvement of public administration in order to prevent violations of human rights and freedoms.	1
To mediate in seeking to resolve the problem addressed in the complaint in good will	5

The analysis of information submitted by respective institutions about the results of analysis of the Seimas Ombudsman's recommendations confirms that due account or partial account was taken of 91 recommendations in 2007 out of 136 recommendations provided by the Seimas Ombudsman, the implementation of which was controlled, 5 recommendations were not taken into account, and the implementation of 40 recommendations is still being controlled at the time of preparation of this report. No information has been received on the results of the implementation of some recommendations because the majority of recommendations that are still being controlled is related to the process of restoration of ownership rights to the existing real property and their implementation is usually long-term in nature. The results of the recommendations (percentage) provided by the Seimas Ombudsman in 2007 is shown in the diagram below.



The majority of the recommendations provided by the Seimas Ombudsman and their implementation are described in the previous chapters of this report. It should be noted that, as in the previous year, due account was not taken of all recommendations in which the Seimas Ombudsman suggested to evaluate the actions of the officials who committed violations and to resolve the issue of their responsibility. In some cases, these recommendations of the Seimas Ombudsman were not taken into account because the employment relations were terminated; however, there were also such cases where the issue of responsibility was not considered because the head of the institution did not recognise the violation committed by its officials or no information was provided on the reasons why this issue is not considered at all. Other non-implemented recommendations provided by the Seimas Ombudsman are related to the restoration of citizens' ownership rights to land, for example, the Administration of the Vilnius City Municipality refused to form the land plot for the restoration of land ownership in kind to one applicant claiming that the applicant applied to court; and therefore, the Municipality will resolve this issue with regard to a court judgment; the Vilnius County Governor's Administration refuse to adopt the decision regarding the restoration of ownership rights claiming that the disputed land is land redeemed by the state, even though the Seimas Ombudsman proposed to resolve the issue of restoration of ownership rights to this land plot and criticised the Municipality's position.

Compared to 2006, the number of recommendations that were taken into account grew by almost 10% during the reporting period (the recommendations the implementation whereof is still being controlled at the time of preparation of this report are not included). This shows a positive trend which demonstrates not only more responsible attitude of the managers of public administration institutions, to which the recommendations of the Seimas Ombudsman were addressed, to these recommendations but also the efficiency of the Seimas Ombudsman's work.

ACTIVITY REPORT OF SEIMAS OMBUDSMAN AUGUSTINAS NORMATAS

INTRODUCTION

In legal doctrine, when analysing the ombudsman's purpose, the following two aspects of the ombudsman's activities are distinguished: in some states, a greater emphasis is placed on the aspect of supervision of officials, i.e. the ombudsman is perceived as the supervisor of officials who controls whether they comply with legal acts, whereas, in other states, the aspect of human rights protection is stressed more, i.e. the ombudsman is perceived as the defender of human rights. The question arises whether priority should be given to either of these two aspects, or whether they are equally important. The analysis of both of these aspects shows that an equal sign should be put between them. It does not matter that the supervision of officers is emphasised more in one country and the protection of human rights is considered to be more important in another. The most important thing is that these two aspects can be derived from each other. While supervising officials and ensuring that they would comply with legal acts, the ombudsman also safeguards that they would not violate human rights. While defending human rights, the ombudsman supervises officials and ensures that they would comply with applicable legal acts. This perfectly reveals the ombudsman's true purpose and allows naming the ombudsman the defender of human rights against violations committed by officials, or the supervisor of officials who seeks to protect human rights.

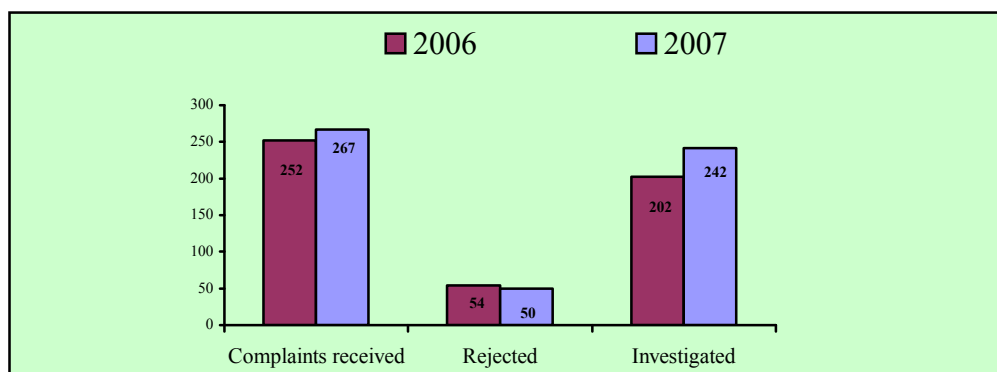
The Seimas Ombudsman's activity report for 2007 differs from his previous activity reports. In the reports for the previous years, the Seimas Ombudsman used to analyse the problems that were most frequently addressed in the applicants' complaints, described them in general, and specified the reasons for the occurrence and abundance of these problems. As the proportion of problems addressed in the applicants' complaints has not changed for a number of years, i.e. the largest number of complaints is related to violations of ownership rights (including the right to the restoration of ownership rights), violations of the right to good public administration and of the right to a safe and ecological environment, the Seimas Ombudsman decided to discuss the most important investigations conducted in 2007 in greater detail rather than to discuss the problems addressed in the complaints in general. Providing this information, the Seimas Ombudsman seeks to familiarise all readers of the report with the specific circumstances addressed in a particular complaint and their resolution.

The report consists of three sections. The first section is intended for discussing and analysing statistical data. The second section addresses the most important investigations conducted by the Seimas Ombudsman in 2007, and the third section is used to summarise his activities during the reporting period.

Statistics

a) Main data on complaints.

In 2007, the Seimas Ombudsman investigated a total of 242 complaints (202 complaints in 2006). It is noteworthy that not only the number of investigated complaints but also the number of received complaints increased in 2007: 267 complaints were received in 2007, and 252 complaints were received in 2006. In addition, the Seimas Ombudsman refused to investigate 50 complaints in 2007 (54 complaints were rejected in 2006).

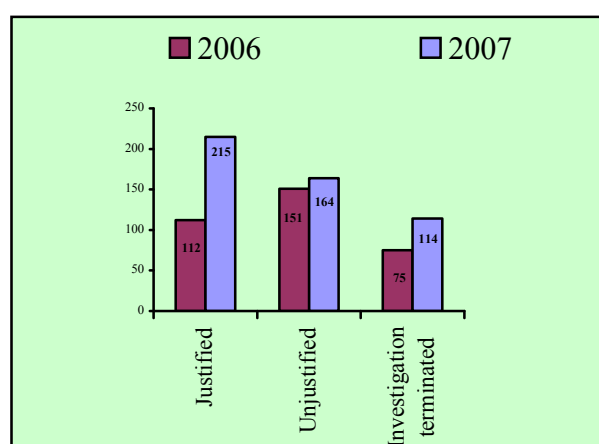
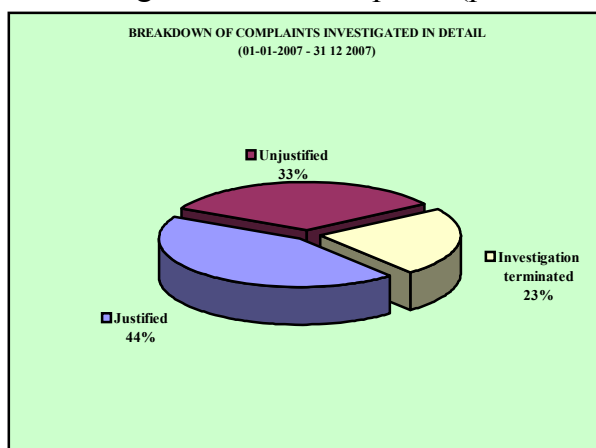


b) Decisions made.

As mentioned before, 242 complaints were investigated in 2007; however, decisions made in relation to these complaints exceeded that figure almost twofold – 493. This difference between the number of investigated complaints and the number of decisions made is so large because one complaint frequently addresses two, three, or even more problems, in respect of all of which the Seimas Ombudsman provides his opinion.

493 decisions made in 2007 can be distributed as follows: 215 decisions to recognise the complaint (part thereof) as justified (44%), 164 decisions to reject the complaint (part thereof) (33%), and 114 decisions to terminate the investigation of the complaint (part thereof) (23%).

It is worth remembering that in 2006 the Seimas Ombudsman made 338 decisions, of which: 112 (33%) decisions to acknowledge the complaint (part thereof) as justified, 151 (45%) decisions to reject the complaint (part thereof), and 75 (22%) decisions to terminate the investigation of the complaint (part thereof).



We can see that the percentage of decisions to terminate the investigation has not changed; however, the number of decisions to recognise the complaint as justified exceeded that in 2006 by 11%, and the number of decisions to reject the complaint was lower by 12% respectively.

What are the reasons for such an increase in the number of justified decisions?

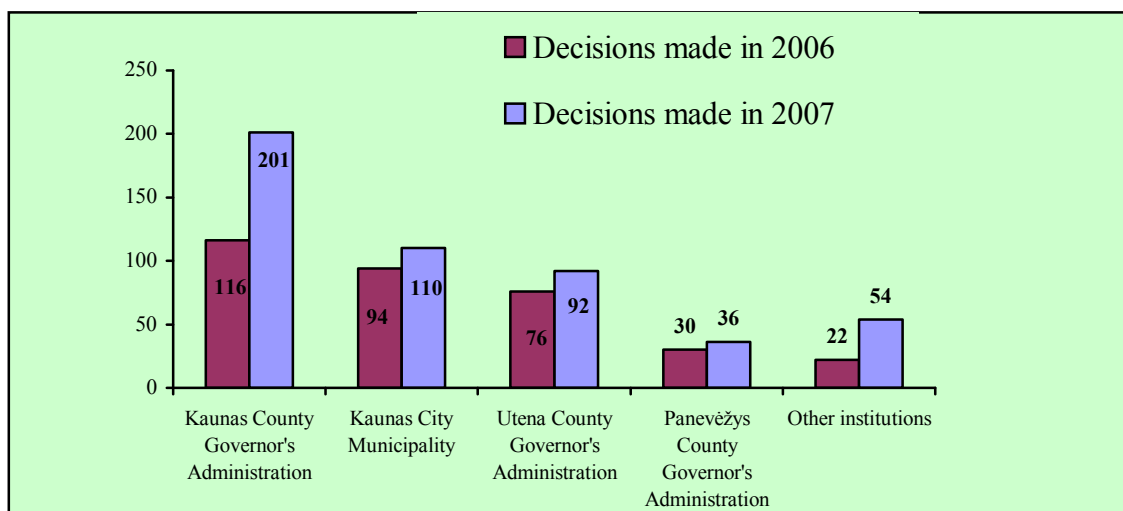
In the Seimas Ombudsman's opinion, this was conditioned not only by the land reform nearing completion (as there are the most complicated issues, which are usually justified, at the very end of the reform) and the increasing awareness of applicants (particularly, in the area of public administration, i.e. people tend to know better what they can demand from public administration institutions in the area of public administration), but also the Seimas Ombudsman's general approach to complaints submitted by applicants. There are cases where a person complains about one thing but the investigation reveals a great number of additional circumstances, which the

Seimas Ombudsman, exercising his right of initiative, examines and frequently finds different violations. Thus, such cases where the person who has complained about one thing receives a certificate issued by the Seimas Ombudsman which analyses additional matters related to the complaint which were not even mentioned in the applicant's complaint are quite frequent. For instance, the Seimas Ombudsman always expresses his opinion on his own initiative in such cases where he can see that the institution, communicating with an applicant, has violated the provisions of the legal acts regulating public administration. All these reasons, in the Seimas Ombudsman's opinion, caused this significant increase in the number of justified complaints.

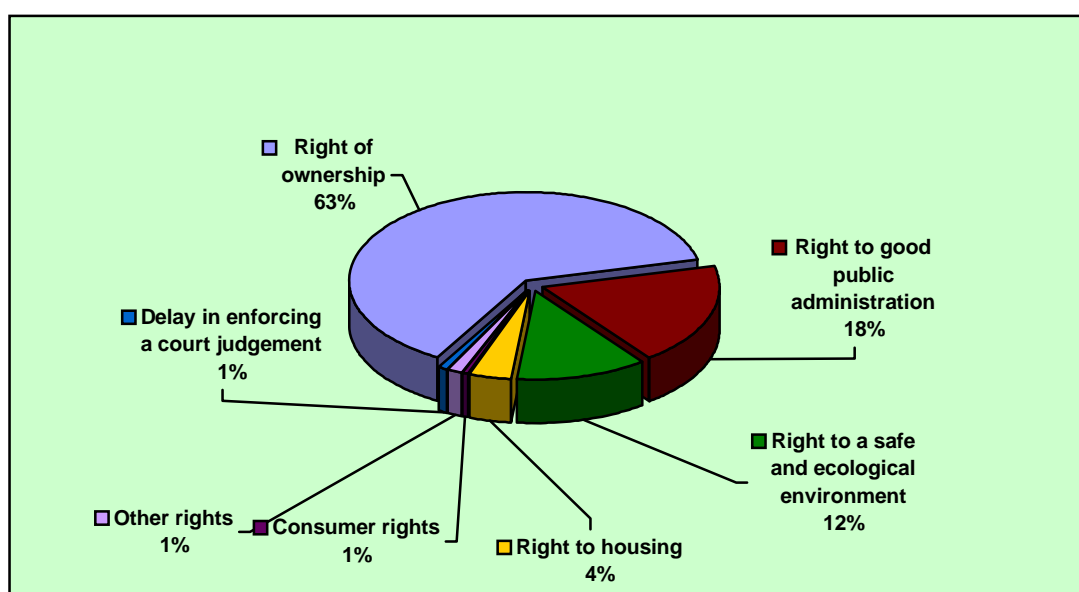
The table below contains the statistics of decisions made broken down by particular institutions:

Institution	Decisions made	Justified complaint (part thereof)	Rejected complaint (part thereof)	Investigation of the complaint (part thereof) terminated
Kaunas County Governor's Administration	201	93	66	42
Panevėžys County Governor's Administration	36	13	18	5
Utena County Governor's Administration	92	43	28	21
Anykščiai District Municipality	-	-	-	-
Birštonas Municipality	2	1	-	1
Biržai District Municipality	1	1	-	-
Ignalina District Municipality	-	-	-	-
Jonava District Municipality	2	1	-	1
Kaišiadorys District Municipality	3	2	1	-
Kaunas City Municipality	110	35	48	27
Kaunas District Municipality	7	3	-	4
Kėdainiai District Municipality	2	1	-	1
Kupiškis District Municipality	-	-	-	-
Molėtai District Municipality	1	-	-	1
Panevėžys City Municipality	8	6	-	2
Panevėžys District Municipality	2	2	-	-
Pasvalys District Municipality	-	-	-	-
Prienai District Municipality	5	4	1	-
Raseiniai District Municipality	6	4	1	1
Rokiškis District Municipality	2	2	-	-
Utena District Municipality	8	3	1	4
Visaginas Municipality	-	-	-	-
Zarasai District Municipality	3	2	-	1

We can see from the data presented in the table above that the majority of decisions were made in relation to the following three institutions and their divisions: the Kaunas County Governor's Administration (201 decisions, before – 116), the Kaunas City Municipality (110 decisions, before – 94) and the Utena District Governor's Administration (92 decisions, before – 76). The decisions regarding the aforementioned three institutions accounted for 82% of all the decisions made. If we added the Panevėžys County Governor's Administration (36 decisions, before – 30), we would have the result that 89% of all the decisions made were related to those four institutions.



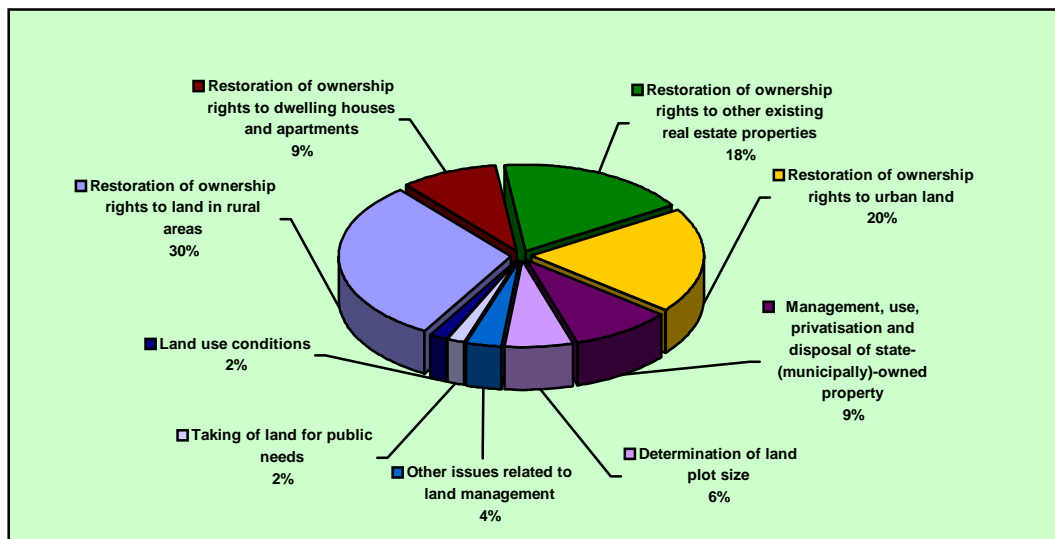
c) Breakdown of decisions by topic.



The third statistical category which should be analysed is the breakdown of decisions made by topic. The majority of decisions is comprised of decisions related to the right of ownership: a total of 310 decisions, i.e. 63% of all the decisions made, were related to this issue. The distribution of complaints according to specific decision is as follows: 125 decisions were made to recognise the complaint (part thereof) as justified (40%), 103 decisions were made to reject the complaint (part thereof) (33%) and 82 decisions were made to terminate the investigation of the complaint (part thereof) (27%). The majority of these decisions are related to the restoration of ownership rights (235 decisions). Their percentage distribution is very similar: 105 decisions to recognise the complaint (part thereof) as justified (45%), 77 decisions to reject the complaint (part thereof) (33%), and 53 decisions to terminate the investigation of the complaint (part thereof) (22%). The remaining two problems that are more important among those addressed by the applicants in relation to the right of ownership include management of state-owned property (29 decisions) and determination of land plot size (20 decisions). Moreover, attention should be drawn to the fact that only 2 decisions to recognise the complaint (part thereof) as justified and even 10 decisions to reject the complaint (part thereof) were made in relation to the determination of land plot size.

The complaints related to the right to good public administration ranked second according to the number of decisions made. In total, 91 decisions (19% of all the decisions made) were adopted.

As in 2006, the percentage of justification of these complaints is very high: 61 decisions to recognise the complaint (part thereof) as justified (67%), 21 decisions to reject the complaint (part thereof) (23%), and 9 decisions to terminate the complaint (part thereof) (10%). The majority of complaints were received regarding the inappropriate examination of a complaint or application (26 decisions) and the violation of deadlines set for the examination of applications (18 decisions). This statistics proves once again that there are still many problems in the area of public administration in state and municipal institutions. Taking into account the fact that the situation is not improving in this field, the Seimas Ombudsman, in co-operation with other state institutions, will take measures to solve problems related to public administration and to improve public administration in state and municipal institutions.



The complaints regarding the right to a safe and ecological environment rank third according to the number of decisions made. In total, 59 decisions (12% of all the decisions) were made. Attention should be drawn to the fact that the number of justified complaints was significantly lower in this area: 18 decisions to recognise the complaint (part thereof) as justified (31%), 25 decisions to reject the complaint (part thereof) (42%), and 16 decisions to terminate the investigation of the complaint (part thereof) (27%). In this field, the majority of complaints address different issues related to construction (40 decisions) and territorial planning (13 decisions).

The remaining problems addressed by the applicants account for merely a few percent on the number of all the decisions made.

d) Proposals made by the Seimas Ombudsman.

The fourth statistical category, which should receive special attention and which reveals the whole essence of the ombudsman's work, comprises proposals (recommendations) submitted to different institutions and their implementation. In 2007, the Seimas Ombudsman presented 222 proposals, which make up 30% of all the proposals submitted by the Seimas Ombudsmen (a total of 737 proposals were submitted), to different institutions. The percentage distribution of submitted proposals is very interesting as well. In 2007, the equal number of proposals "to bring to the officials' attention" (83 proposals, 37%) and of proposals "to propose to adopt decisions the adoption whereof has been precluded by abuse of office or bureaucracy" (83 proposals, 37%) has been submitted.

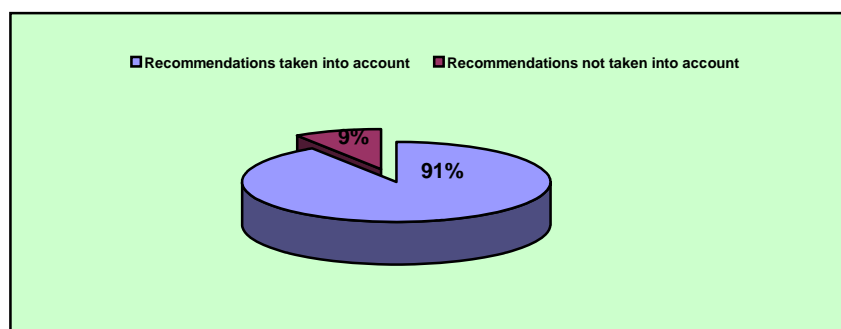
All the proposals presented by the Seimas Ombudsman in 2007 are given in the table below.

Proposal	Number of proposals in 2007	Number of proposals in 2006

To repeal, suspend or amend, according to the procedure prescribed by the law, those decisions that contradict the laws and other legal acts and propose to adopt decisions the adoption whereof has been precluded by abuse of office or bureaucracy	83	38
To bring to the officials' attention the facts of negligence in office, non-compliance with laws or other legal acts, violation of professional ethics, abuse of office, and bureaucracy or violations of human rights and freedoms and suggest that the officials take measures in order to eliminate violations of laws and legal acts, and the causes and conditions of such violations	83	79
To immediately provide information, material and documents necessary for the performance of the Seimas Ombudsman's functions	13	-
To amend laws or other statutory acts that restrict human rights and freedoms	10	4
To recommend to the prosecutor to apply to the court under the procedure prescribed by the law for the protection of public interest	9	2
To inform the Seimas, the Government, and other state institutions and bodies or the respective municipal council about gross violations of laws and deficiencies, contradictions of or gaps in laws or other legal acts	8	2
To impose disciplinary penalties on the officials at fault	6	5
Without a detailed investigation of a complaint falling outside the jurisdiction of the Seimas Ombudsman, to give proposals and offer comments to respective institutions and bodies on the improvement of public administration in order to prevent violations of human rights and freedoms	3	14
To request that the officials whose activities are being investigated provide written or verbal explanations	3	2
To compensate, under the procedure prescribed by the law, for property and non-property damage incurred by the applicant as a result of violations committed by officials	2	-
To enlist the services of officials of the Government institutions as well as those of ministry, county and municipality officials as well as officials and experts of county governors' administrations and municipal institutions and bodies	1	1
To hand over material to a pre-trial investigation institution or a prosecutor, where evidence of a criminal act is detected	1	-
In total:	222	147

Furthermore, it is necessary to emphasize that proposals presented by the Seimas Ombudsman must be well reasoned, legally sound and based on the whole investigation set forth in the certificate in order to ensure that there are no doubts as to their implementation.

The percentage of the proposals made by the Seimas Ombudsman that were implemented or not implemented in 2007 is given in the diagram below:



e) Proposals by the Seimas Ombudsman regarding amendments to the applicable legal acts and their implementation.

The proposals presented by the Seimas Ombudsman regarding amendments to the applicable legal acts should be discussed separately. It was mentioned that 10 proposals of this kind were submitted in 2007. The most important of them are provided below:

1. In the certificate of 11 April 2007 regarding the complaint filed by I. K. and E. K. (the investigation is discussed in greater detail in Paragraph 4 of Section 2 of the Report), the Seimas Ombudsman made the proposal to the Government to initiate amendments of the respective legal acts so that the owners of the dwelling-houses to which the ownership rights were restored could acquire the farm buildings situated within the territory of their dwelling-houses or demolish these farm buildings. During the preparation of the report, the Government had already drawn up and submitted to the Seimas of the Republic of Lithuania a draft amendment to the Law on State Support to Acquire or Rent a Housing and to Renovate Multi-Storey Buildings and a draft amendment to the Law on the Sale of State-Owned Property to Municipalities.
2. In the certificate dated 6 March 2007 regarding the complaint lodged by M. V., the Seimas Ombudsman suggested that the Government should initiate the determination of the respective criteria to be used by municipal administrations to decide whether a particular apartment or a dwelling-house, to which the ownership right has been restored and which was handed over under a transfer-acceptance deed to its owner should be repaired. The analysis of this problem was delegated to the Ministry of Environment, which considered the issue related to the determination of such criteria for a long time and drafted the respective amendments to the legal acts but they were not approved. It was acknowledged that, in compliance with the provisions of the Civil Code, the owner must be handed over the premises in the same condition as they were at the time of rent or in such a condition that is provided for in the rent agreement. In addition, the Ministry of Environment stated that in the event that the premises have worsened due to the fault of sub-tenants, the municipality has the right to recover from them losses incurred due to the worsening of these premises.
3. In the certificates dated 3 May 2007 regarding the complaints filed by A. K., J. C. and K. G. (the investigations are discussed in great detail in Paragraph 3 of Section II of the Report), it was established that the problem of payment of partial compensations had not been resolved yet and it was suggested that the Government should initiate the allocation of funds for the payment of compensations and to set the procedure for such compensation. The Ministry of Finance informed that the required amount of funds would be allocated and noted that there are sufficient legal acts for the payment of these compensations.
4. In the certificate dated 13 June 2007 regarding the complaint filed by M. Š. (the investigation is discussed in greater detail in Paragraph 5 of Section II of this report), the Government was suggested to amend the provisions of Paragraph 106 of Resolution of the Government of the Republic of Lithuania of 29 September 1997 regulating the procedure for the restoration of ownership rights because the deadlines set in this paragraph are constantly violated. In the meeting held in the National Land Service, it was stated that although the aforementioned provisions were constantly violated but it was inexpedient to change them because the land reform was nearing completion. In addition, the meeting emphasised the duty of all institutions engaged in solving the issues related to the restoration of ownership rights to land to comply with the requirements of legal acts.
5. In the certificate of 8 June 2007 regarding the complaint lodged by A. P., the Seimas Ombudsman stated that there are no specific deadlines for the completion of land reform works set in the legal acts; for instance, they do not

specify the period of time for the preparation of a land management project of the land reform and its supplement, and how long the particular stages of their preparation should take. The Seimas Ombudsman stated that the absence of these deadlines created conditions to prolong the implementation of the land reform for an unreasonably long time and to delay the restoration of ownership rights. Taking due account of the fact that the Seimas Ombudsman presented a proposal to the Government to consider the possibility of setting specific deadlines for the performance of land reform works in the respective legal acts. The proposal made by the Seimas Ombudsman was referred to the Ministry of Agriculture, which did not even mention in its reply that the possibility of amending the respective legal acts was considered at all.

Furthermore, the cases where the proposals presented by the Seimas Ombudsman in 2006 regarding amendments to legal acts were implemented in 2007 should be mentioned as well:

1. In the certificate dated 25 August 2006 regarding the complaint filed by I. G., various problems related to the restoration of ownership rights to dwelling-houses in the city of Kaunas were analysed. When investigating this complaint, the Seimas Ombudsman established that Paragraph 125 of Resolution No. 1057 “On the Procedure and Conditions for the Implementation of the Law on the Restoration of Ownership Rights of the Citizens of the Republic of Lithuania to the Existing Real Properties” of the Government of the Republic of Lithuania dated 27 September 1997 provides that a municipal executive institution approves the monthly rental fee according to the respective formula where one of the values is “the market value of rented residential premises indicated in the state guarantee document issued to the tenant, in litas”. The Seimas Ombudsman stated that this provision means that the amount of funds received by the owner from rented premises depends on the state guarantee document issued to the tenant. As long as this document is not issued (and it is issued only when the tenant signs it), a municipal executive institution cannot approve the maximum monthly rental fee. For this reason, the Seimas Ombudsman concluded that this legal regulation when owners cannot exercise the rights granted to them by the state was faulty.

Under Resolution No. 915 “On the Amendment to Resolution No. 1057 “On the Procedure and Conditions for the Implementation of the Law on the Restoration of Ownership Rights of the Citizens of the Republic of Lithuania to the Existing Real Properties” of the Government of the Republic of Lithuania dated 27 September 1997” of 29 August 2007 of the Government of the Republic of Lithuania, Paragraph 125 of the aforementioned Resolution was amended and it was established that the maximum monthly rental fee for residential premises is calculated with regard to the market value of the rented residential premises, which is specified in the state guarantee document issued to the tenant **or** in the state guarantee document to be issued to the tenant when this document has not been issued to the tenant at the time of concluding of the rent agreement.

2. In the certificate of 22 December 2006 regarding the complaint filed by V. M., the Seimas Ombudsman paid attention to certain aspects of the determination of the need for constant nursing care. Under Order No. A1-120/V-346 of 4 May 2005 of the Minister of Social Security and Labour of the Republic of Lithuania and the Minister of Health of the Republic of Lithuania, the description of the procedure for the determination of the need for compensation of special constant nursing, constant care (assistance), motor vehicle acquisition and its technical adaptation expenses and compensation for transport expenses was approved. The Seimas Ombudsman noted that the description did not specify what documents (except for a personal identification card) must be submitted by a person who wishes to receive a certificate on the determination of the need for constant nursing care. The Seimas Ombudsman expressed his opinion that this kind of legal regulation is faulty and, having regard to this, proposed to the Government to initiate an amendment to the respective legal acts specifying what documents

must be submitted by a person who wishes to obtain a certificate on the determination of the special need.

Order No. A1-37/V-87 of the Minister of Social Security and Labour and the Minister of Health dated 9 February 2007 revised the description of the procedure for the determination of the need for compensation of special constant nursing, constant care (assistance), motor vehicle acquisition and its technical adaptation expenses and compensation for transport expenses by indicating the documents to be submitted by persons who apply for the determination of special needs.

Analysis of the Investigations Conducted by the Seimas Ombudsman in 2007

1. Regarding the complaint by J. G. against the Administration of the Zarasai District Municipality (Certificate of 11 July 2007, No. 4D-2006/4-1332)

This investigation revealed a number of violations committed by the Administration of the Zarasai District Municipality when resolving the issue of the restoration of ownership rights to a dwelling-house. The Seimas Ombudsman stated that, first of all, the application by P. M. regarding the restoration of ownership rights was not appropriate because the documents proving the ownership rights had not been submitted in a timely manner; besides, it was impossible to determine the fact of nationalisation of the buildings from the documents submitted. However, even if these material conditions were appropriate, the restoration of ownership rights for P. M. would not possible because, according to the household books, the applicant was the owner of this dwelling-house. In addition, even if she could not be considered to be the owner of the dwelling-house, she should have been granted state guarantees as the tenant but this was not done.

2. Regarding the complaint by V. G. against the Utena County Governor's Administration (Certificate of 9 February 2007, No. 4D-2006/4-433)

This is another similar investigation, which revealed that the ownership rights of N. M. were restored to the land plot occupied by the buildings owned by the applicant by the right of ownership and used for recreational purposes. Although this restoration is allowed under the legal acts; however, there was no servitude provided to the applicant to access the buildings owned by him. All these problems started, when surveying the land plot for the candidate, the land-surveyor "did not notice" the buildings situated on this land plot. In addition, the buildings owned by the applicant were illegally demolished by other persons and the building materials were stolen.

3. Regarding the complaint by A. K. against the Administration of the Kaunas City Municipality (Certificate of 3 May 2007, No. 4D-2006/4-914), regarding the complaint by J. C. against the Administration of the Kaunas City Municipality (Certificate of 3 May 2007, No. 4D-2006/4-908) and regarding the complaint by K. G. against the Administration of the Kaunas City Municipality (Certificate of 3 May 2007, No. 4D-2006/4-1576)

These three investigations are related to the payment of the so-called "partial compensations". In 1996, the Board of the Kaunas City Municipality adopted 39 decisions, under which it was decided to pay compensations to the former owners for the dwelling-houses redeemed by the state which did not correspond to their market value. In compliance

with the law regulating the issues of the restoration of ownership rights which was applicable at that time, compensations for the dwelling-houses redeemed by the state had to be equal to their market value and the establishment of the procedure for the calculation of this price was delegated to the Government; however, it failed to do this. Seeking to use funds allocated to it for the restoration of ownership rights and to restore the ownership rights of the former owners as soon as possible, the Board of the Kaunas City Municipality adopted decisions, under which monetary compensations were calculated according to the calculation procedure applicable at that time. However, the amount of money calculated according to this procedure did not correspond to the market value, even though the compensation for buildings had to correspond to the market value. Taking this into consideration, the Board of the Kaunas City Municipality indicated that the calculate compensation was only partial, and the outstanding portion thereof would be paid after the Government has approved the procedure for the calculation of the market value. However, this issue was not resolved from 1996 until 2007. The Ministry of Finance and the Ministry of Environment strongly upheld the position that the decisions adopted by the Board of the Kaunas City Municipality did not comply with the requirements of the relevant legal acts and therefore, no additional funds could be allocated to the municipality. Only after the Seimas Ombudsman had conducted this investigation and presented his conclusions to the concerned institutions, it was finally recognised that the state failed to fulfil its obligations in a proper manner and that the Administration of the Kaunas City Municipality must be allocated funds for the payment of the outstanding portions of these compensations.

**4. Regarding the complaint by I. K. and E. K. against the Administration of the
Kaunas City Municipality
(Certificate of 11 April 2007, No. 4D-2006/4-1717)**

This investigation is important because it addressed another problem that is relevant to many owners whose ownership rights were restored in kind to the dwelling-houses in the city of Kaunas. In the city of Kaunas, there are a great number of residential holdings which comprise not only the dwelling-house given back to its former owner but also the farm building (buildings) which have not been given back to the owner because they were built after the nationalisation. The rights of ownership to such buildings cannot be restored and they are usually registered as the property of the Republic of Lithuania. As long as these buildings are situated in the residential holdings given back to their former owners, the formation of a land plot of this residential holding is impossible. Moreover, there is a threat that separate land plots may be formed next to the farm buildings intended only for the use of these farm buildings, thus dividing a small land plot of the residential holding into smaller units. Taking this into consideration, the Seimas Ombudsman presented proposals to amend the relevant legal acts accordingly so that the problem of farm buildings would be resolved.

**5. Regarding the complaint by M. Š. against the Kaunas County Governor's
Administration and the Administration of the Kaunas City Municipality
(Certificate of 13 June 2007, No. 4D-2006/4-1185)**

This investigation revealed a number of violations of the deadlines related to the restoration of ownership rights to urban land. As these deadlines are constantly violated (when investigating any complaint related to the restoration of ownership rights to urban land, the Seimas Ombudsman always establishes different violations of deadlines), the previous investigations conducted by the Seimas Ombudsman, which revealed analogous violations, are summarised. Furthermore, the Seimas Ombudsman proposed to the Kaunas County Governor to submit data about 30 randomly selected cases on the restoration of ownership rights to urban land. The Kaunas County Governor provided telling statistics: the violations of the set deadlines were detected in all 30 cases. Taking this into consideration, the Seimas

Ombudsman proposed to the Prime Minister to make a decision regarding the amendment to the relevant legal acts and prolongation of the set deadlines because this legal situation, where the deadlines are constantly violated, is impermissible. However, the meeting held in the National Land Service stated that any change of the set deadlines, even though they were being constantly violated, was inexpedient because the land reform was nearing completion.

**6. Regarding the complaint lodged by A. O. against the Administration of the Prienai District Municipality and the Kaunas County Governor's Administration
(Certificate of 12 December 2007, No. 4D-2007/4-1142)**

This investigation established that even though the portion of the former land holding situated in the town of Prienai was unoccupied and could be given back to its former owners in kind but neither the Administration of the Prienai District Municipality nor the Kaunas County Governor's Administration did not take any necessary measures to ensure that the ownership rights of the applicant would be restored as soon as possible.

**7. Regarding the complaint by G. G. against the Panevėžys County Governor's Administration
(Certificate of 6 March 2007, No. 4D-2006/4-593)**

This investigation established that the Panevėžys County Governor restored the ownership rights to other candidates in compliance with the repealed court judgements. However, as soon as this had become clear, the County Governor recognised his mistake and applied to the prosecutor's office with a request to submit an application to the court regarding the repeal of the adopted decisions.

List of the Divisions of Institutions Which Have Committed the Largest Number of Violations or the Greatest Violations

In the Seimas Ombudsman's opinion, the members of the Seimas of the Republic of Lithuania, the Government, officials of state and municipal institutions as well as all persons interested in the activities of the Seimas Ombudsmen should know about the institutions and their divisions which have committed the largest number of violations, or which have committed gross violations, as found by the Seimas Ombudsman in 2007. It is noteworthy that each official has his or her superior, each division of an institution is controlled by a superior division, and finally, there are also institutions which supervise the respective aspects of activities of a particular institution and its divisions. Thus, this list should serve as an information instrument for all division managers and managers controlling the activities of divisions and for all supervising institutions and as a disciplinary measure for the divisions of institutions indicated herein and as a signal to the manager of a particular division that not everything is good in the activities of that division. Furthermore, every person should know that the Seimas Ombudsman has detected a number of violations in the activities of a particular division before applying to that division and that the communication with officials of this department requires caution and most efficient co-operation so that the problem addressed by that person would be perceived and resolved in an appropriate manner.

The list of the divisions of institutions provided below was drawn up with regard to the investigations conducted by the Seimas Ombudsman in 2007 as well as the number and extent of the violations detected. For this reason, this list includes the divisions which constantly repeat the same violations of the legal acts and the divisions in respect of the activities of which merely one or several decisions were made but the investigation revealed gross violations.

No	Division of Institution	Division Manager	Reasons why the division is included on this list
1.	Cityscape Division of the City Development Department of the Kaunas City Municipality's Administration	Nerijus Valatkevičius	<ol style="list-style-type: none"> 1. The deadlines set for the provision of information about unoccupied land and formation of land plots set in the legal acts regulating the restoration of ownership rights are violated constantly in all cases (Certificate No. 4D-2006/4-1185 of 13 June 2007; Certificate No. 4D-2006/4-1309 of 8 May 2007; Certificate No. 4D-2006/4-1180 of 23 January 2007; Certificate No. 4D-2006/4-763 of 10 May 2007). 2. Land is attributed to the category of land redeemed by the state unreasonably and the compliance with the requirements of the legal acts is not observed (Certificate No. 4D-2006/4-1185 of 13 June 2007; Certificate No. 4D-2007/4-605 of 6 August 2007; Certificate No. 4D-2007/4-753 of 12 September 2007). 3. Incomplete information is provided to the Seimas Ombudsman (Certificate No. 4D-2007/4-753 of 12 September 2007).
2.	Kaunas District Land Management Division of the Land Management Department of the Kaunas County Governor's Administration	Tautvydas Tamošiūnas	<ol style="list-style-type: none"> 1. Imprecise information is provided to both the applicants and the Seimas Ombudsman (Certificate No. 4D-2006/4-897 of 25 May 2007; Certificate No. 4D-2007/4-144 of 23 November 2007). 2. Information is provided to the applicants without observing the deadlines set in the legal acts regulating public administration (Certificate No. 4D-2006/4-897 of 25 May 2007). 3. The deadlines set in the legal acts regulating the restoration of ownership rights are violated in some cases (Certificate No. 4D-2006/4-1635 of 26 October 2007; Certificate No. 4D-2007/4-144 of 23 November 2007). 4. Persons are not provided with information about the adopted decisions regarding the restoration of ownership rights in a timely manner (Certificate No. 4D-2007/4-799 of 13 September 2007).
3.	Kaunas City Land Management Division of the Land Management Department of the Kaunas County Governor's Administration	Petras Sabeckis	Information about the former land holdings marked in unoccupied land is not provided to the Administration of the Kaunas City Municipality in a timely manner (Certificate No. 4D-2006/4-1185 of 13 June 2007).
4.	Architecture and Townscape Division of the Administration of the Prienai District Municipality	Dalia Joneliūnienė	<ol style="list-style-type: none"> 1. The land plots intended for the restoration of ownership rights are not formed (Certificate No. 4D-2007/4-1142 of 12 December 2007). 2. The deadlines for the provision of

			information about unoccupied land and formation of land plots set in the legal acts regulating the restoration of ownership rights are violated (Certificate No. 4D-2007/4-458 of 2 July 2007).
5.	Ignalina District Land Management Division of the Land Management Department of the Utena County Governor's Administration	Arvydas Bagdonas	<ol style="list-style-type: none"> 1. Failure to ensure sufficient control over the preparation of land management projects of the land reform and their implementation (surveyors' activities) (Certificate No. 4D-2006/4-1042 of 23 January 2007; Certificate No. 4D-2007/4-57 of 5 June 2007; Certificate No. 4D-2007/4-424 of 28 May 2007; Certificate No. 4D-2007/4-19 of 14 May 2007). 2. Incomplete and imprecise information is provided to the applicants (Certificate No. 4D-2006/4-1042 of 23 January 2007; Certificate No. 4D-2007/4-57 of 5 June 2007).
6.	Utena District Land Management Division of the Land Management Department of the Utena County Governor's Administration	Raimonda Jankauskienė	Failure to ensure sufficient control over the preparation of land management projects of the land reform and their implementation (surveyors' activities) (Certificate No. 4D-2006/4-433 of 22 May 2007).
7.	Molėtai District Land Management Division of the Land Management Department of the Utena County Governor's Administration	Zita Černiauskienė	Failure to ensure sufficient control over the preparation of land management projects of the land reform and their implementation (surveyors' activities) (Certificate No. 4D-2007/4-223 of 14 June 2007).
8.	Territorial Planning and State Construction Supervision Department of the Kaunas County Governor's Administration	Acting Manager Eugenijus Sklenys	<ol style="list-style-type: none"> 1. Failure to take all the measures provided in the legal acts for the elimination of consequences of illegal construction (Certificate No. 4D-2007/4-747 of 28 August 2007). 2. Delay in providing replies to the Seimas Ombudsman (Certificate No. 4D-2007/4-285 of 29 June 2007).

Final Provisions

The Seimas Ombudsman has been granted broad authorisations in the field of human rights protection; however, the investigation of complaints lodged by applicants should not be an exclusively dominating area of the Seimas Ombudsman's activities. This perception is derived from the very Constitution, from the Ombudsman's nature as of the human rights defender, and experience of ombudsmen from other European countries as well as from the provisions formulated by the Seimas of the Republic of Lithuania that the ombudsman is an institution that deals not only with the investigation of complaints. Without any doubt, when investigating complaints filed by applicants, the Seimas Ombudsman effectively implements the objective of his activity, i.e. protects human rights and freedoms against violations committed by officials. However, the protection of human rights and freedoms is ensured by intensively using other measures for the protection of human rights granted to the Seimas Ombudsmen: by presenting proposals regarding amendments to legal acts, applying to the prosecutor's office regarding the protection of public interest, submitting various proposals

and comments aimed at securing human rights and freedoms, preparing various presentations, reports, and information materials.

The fact that the main direction of the activities of the Seimas Ombudsmen's Office should be not only the investigation of complaint has been emphasized by the Seimas of the Republic of Lithuania when approving the annual reports of the Seimas Ombudsmen. For example, in Article 4 of Resolution No. X-738 "On the Activity Report of the Seimas Ombudsmen's Office for 2005" of 27 June 2006, the Seimas recommended that the Seimas Ombudsmen should seek that *the main direction of the institution's activity would be not only the investigation of complaints regarding the abuse of office or bureaucracy of officials but also the resolution and summary of problems related to violations of human rights in the area of public administration, raising of public awareness, participation in international projects, media relations, and relations with various concerned non-governmental organisations*. In Article 3 of Resolution No. X-1132 "On the Activity Report of the Seimas Ombudsmen's Office for 2006" of 15 May 2007, the Seimas suggested that the Seimas Ombudsmen should exercise the right of mediation granted to them under the Law on the Seimas Ombudsmen more effectively so that the problems addressed in a complaint would be resolved in good will and to commence more investigations on their own initiative by placing a greater focus on the monitoring of violations of human rights and analysis of these violations.

The fact that the authorisations to protect human rights and freedoms are granted to the Seimas Ombudsmen by both the Constitution and the Law is important in another aspect as well. On 4 March 1994, the United Nations General Assembly adopted Resolution No. A/RES/48/134 regarding national institutions for the promotion and protection of human rights. This Resolution approved the so-called "Paris Principles" describing the national institution for the protection of human rights. It was established that such an institution should: to educate about human rights and to protect them; to have as broad a mandate as possible (the possibility of granting such a mandate should be provided in the constitution); to be able to submit to the Parliament and the Government proposals regarding the improvement of human rights; to ensure the harmonization of national and international provisions on human rights; to contribute to the ratification of non-ratified international human rights documents; to co-operate with the United Nations and institutions of other countries protecting human rights, etc.

It is noteworthy that active discussions are currently taking place on the establishment of such a national institution in the Republic of Lithuania. With more than ten years of experience in the field of the protection of human rights and a great number of highly qualified lawyers and experienced experts in other fields, the Seimas Ombudsmen's Office could be the appropriate candidate to become a national institution for the protection of human rights in the Republic of Lithuania.

To sum it up, some thoughts expressed by the Constitutional Court of the Republic of Lithuania are worth mentioning. In its ruling of 25 May 2004, the Constitutional Court stated that *state officials <...> must be protected from pressure and unreasonable interference into their activities and while performing their duties in a fair manner, they should not experience any threat to themselves, their rights and freedoms*. In the ruling of 11 May 1999, the Constitution Court also indicated that *officials should not experience any threat if they perform their duties in compliance with the law*. Therefore, every institution, including the Seimas Ombudsman, supervising the activities of officials must be absolutely impartial. This follows from the provisions embedded in the Law on the Seimas Ombudsmen that the Seimas Ombudsmen must carry out their activities in compliance with the principles of impartiality, justice and proportionality. It has been already mentioned that the ombudsman's purpose is to protect human rights against violations committed by

officials, or to supervise officers in order to protect human rights. However, this also means that the ombudsman, when protecting human rights and supervising officials, should not be subjective in respect of applicants: whatever the accusations of the applicant against an official are, the ombudsman must investigate all circumstances thoroughly and completely and ensure that officials whose actions are lawful and who comply with the Constitution and the laws would not be blamed.

For this reason, the Seimas Ombudsman would like to complete this report by drawing the attention of all of its readers to the words by B. Wieslander, the long-time judge of the Supreme Administrative Court of Sweden and subsequently the Chairman of this Court: the ombudsman should be able not only to satisfy reasonable requests of individuals but also to take into consideration the situation of officials that may be very complicated in some cases. It is necessary to know how to combine both of these aspects because only in such a case the general public will trust the ombudsman and officials will respect him or her.¹

¹ Wieslander, B. The Parliamentary Ombudsman in Sweden // The Bank of Sweden Tercentenary Foundation and Gidlunds Bokförlag, 2005. P. 85.

ACTIVITY REPORT OF SEIMAS OMBUDSMAN ZITA ZAMŽICKIENĖ

Under the Resolution of the Seimas of the Republic of Lithuania, according to the distribution of activity areas between the Seimas Ombudsmen approved by the resolution of the Board of the Seimas Ombudsmen's Office, in 2007 Seimas Ombudsman Zita Zamžickienė investigated citizens' complaints regarding the abuse of office and bureaucracy of officials or other violations of human rights and freedoms in the area of public administration in 6 County Governors' Administrations (Alytus, Klaipėda, Marijampolė, Šiauliai, Tauragė, and Telšiai) and municipal institutions and bodies within their territories.

In 2007, the Seimas Ombudsman received 235 complaints regarding alleged abuse of office and bureaucracy of officials or other violations of human rights and freedoms in the area of public administration. Having compared the complaints received over the past several years, we can see that the number of complaints has been decreasing. For instance, 386 complaints were received in 2005, whereas the number of complaints received in 2006 totalled 260. The main reason of this phenomenon is receptions of citizens that have been organised by the Seimas Ombudsman for a number of years in county governors' administrations and administrations of city (district) municipalities, during which individuals are provided with qualified legal consultations and raised issues are either resolved on site or possibilities of receiving assistance are discussed. Thus, citizens do not need to apply to the Seimas Ombudsman in writing.

The receptions of citizens are followed by round-table discussions with the managers and responsible officials of the institution to discuss the issues and problems raised by the citizens and to find ways to provide solutions to them. During these discussions, officials have an opportunity of discussing their problems arising in daily work with the Seimas Ombudsman as well. It was observed that such discussions help promote co-operation between the Seimas Ombudsman and the respective institution.

In 2007, the Seimas Ombudsman investigated 222 complaints. Having completed the investigation of the circumstances indicated in the complaint, the Seimas Ombudsman made 89 decisions to recognise the complaint as justified, 154 decisions to reject the complaint as unjustified and 217 decisions to terminate the investigation of the complaint. The thorough and complete investigation of 55 complaints was rejected.

The Law on the Seimas Ombudsmen adopted in 2004 provided for the possibility to terminate the investigation of a complaint if the circumstances addressed in the complaint disappear during the investigation or the problems addressed in the complaint are resolved in good will through the mediation of the Seimas Ombudsman as well as in other cases established by this law (Paragraph 3 of Article 22 of the Law on the Seimas Ombudsmen). In the Seimas Ombudsman's opinion, this basis for the termination of the complaint investigation best reflects the purpose of the activity of the human rights defender (ombudsman); therefore, when investigating applicants' complaints, every effort is made to resolve the problems raised by citizens in good will. Thus, the decisions to terminate the investigation of the complaint where the circumstances addressed in the complaint have disappeared during the investigation or the problems addressed in the complaint were resolved in good will through the mediation of the Seimas Ombudsman account for 22% of all the decisions to terminate the investigation made in the reporting year.

When summarising the issues addressed in the complaints received and investigated in 2007, it can be seen that the citizens mostly complained about the restoration of ownership rights and the sale-purchase of state-owned land for agricultural purposes. Furthermore, complaints were received regarding the right to good public administration, the right to housing, and the right to a safe and ecological environment.

Having analysed the complaints regarding the restoration of ownership rights to land in rural areas received during the reporting period, it can be seen that the complaints regarding the restoration of ownership rights to land in rural areas account for 36% of all the received complaints regarding land, the complaints regarding the restoration of ownership rights to urban land make up 16%, and the complaints regarding the management, use and disposal of state-owned (municipal) property comprise 20%.

Restoration of Ownership Rights to Land in Rural Areas

According to the data presented by the National Land Service under the Ministry of Agriculture on 1 January 2008, the ownership rights to land in rural areas (to the area indicated in citizens' applications) were restored as follows: Alytus County – 98.87%, Klaipėda County – 98.43%, Marijampolė County – 99.60%, Šiauliai County – 99.04%, Tauragė County – 98.63%, and Telšiai County – 99.31%.

During the reporting period, Seimas Ombudsman Zita Zamžickienė received the largest number of complaints regarding the delayed land restitution process, land plots to which ownership rights have not been restored in kind, and land surveys; besides, many complaints received were related to the work of persons drafting land management projects. Furthermore, the applicants addressed in their complaints the problems arising after the adoption of decisions to restore the ownership rights, i.e. determination (or failure to determine) land servitudes, access roads, etc. The Seimas Ombudsman received complaints regarding the transfer of land in protected areas and the sale-purchase of state-owned land for agricultural purposes.

It must be recognised that the land reform was launched hurriedly, without a thorough land inventory, and no proper preparations were made to ensure that the interests of former land owners and present land users would not be in conflict. The Law on the Restoration of Ownership Rights of the Citizens of the Republic of Lithuania to the Existing Real Estate Properties and other legal acts regulating the land reform are frequently amended. In the final stage of the land reform, the formation of land plots in protected areas and the adoption of decisions regarding the transfer of the designed land plots approved in the extensions of the land management projects of the land reform into private ownership were suspended by the declaration of the provisions of Paragraph 7 of Article 16 of the Law on the Restoration of Ownership Rights of the Citizens of the Republic of Lithuania to the Existing Real Estate Properties as contradicting the Constitution of the Republic of Lithuania. It should be noted that after the adoption of the decision of the Constitutional Court of the Republic of Lithuania the Seimas Ombudsmen's Office receives complaints from citizens who claim that there was a delay in resolving the issues related to the restoration of ownership rights to land in protected areas.

The land reform works were negatively affected by the inexperience and lack of authors drafting land management projects of the land reform. Both the project authors and the companies carrying out land management works under land reform failed to fulfil their contractual obligations.

Frequently, the applicants indicate in their complaints that they submitted the documents regarding the restoration of ownership rights in 1990-1991; however, no decisions have been adopted until now. When investigating these complaints, it was once again established that the resolution of the issues addressed in the applicants' complaints is delayed due to the actions of authors of land reform land management projects that are not civil servants. Therefore, in compliance with the provisions of the Law on the Seimas Ombudsmen, the Seimas Ombudsman does not have any right to evaluate their actions.

Although the applicable legal acts delegate the function of supervision over the works of the project authors to land management divisions, but, in practice, land management divisions do not

always perform this function properly due to high workload or lack of employees. Having investigated the complaints and established that the applicants' rights are violated due to the project authors' fault, the Seimas Ombudsman suggests that the county governors' administrations should consider the possibility of terminating the contracts with the companies drafting land management projects of the land reform, or resolve the issue regarding the cancellation of qualification permits to carry out land management works under land reform. Having presented these proposals, the Seimas Ombudsman is often informed that her recommendations have been discussed but there are no possibilities to implement them due to the lack of project authors and besides this may have an even more negative impact on land reform.

The Seimas Ombudsman emphasizes that during the reporting period she established a great number of cases where the institutions implementing land reform violated the requirement to provide information to candidates about the attribution of land to the category of land redeemed by the state by indicating the legal grounds for this attribution, all the potential ways of compensation for land redeemed by the state set in the legal acts, the final deadline for the selection of compensation for land redeemed by the state as set in the legal acts, and legal consequences of the failure to select the way of compensation.

Although County Governors tend to rarely exercise this right, but when investigating the complaints in practice, there were some cases where the County Governor made a decision to restore ownership rights at his own discretion but the candidates were not informed about this. The applicant was informed neither about the adoption of the decisions regarding the restoration of ownership rights nor about the adopted decision, and the decision itself was delivered to the applicant after one year in violation of the delivery deadline of one month after the adoption of the decision set in the law.

It is noteworthy that in most cases the actions of an official could not be evaluated because the official is not working in the respective institution anymore. In such cases, the Seimas Ombudsman draws the attention of the County Governor to the fact that the activities of structural divisions of the County Governor's Administration fall within the competence of the managers of these institutions; therefore, they should ensure the efficiency of activities of the institution managed by them by controlling the activities of their employees.

Restoration of Ownership Rights to Urban Land

According to the data provided by the National Land Service under the Ministry of Agriculture (1 January 2008), the ownership rights to urban land (the area indicated in the citizens' applications) were restored as follows: Alytus County – 75.60%, Klaipėda County – 56.26%, Marijampolė County – 97.30%, Šiauliai County – 91.55%, Tauragė County – 93.29%, and Telšiai County – 90.26%.

Taking due account of the resolution adopted by the Constitutional Court of the Republic of Lithuania, on 2 April 2002, the Seimas of the Republic of Lithuania approved the Law on the Amendment and Supplement to Articles 5, 12 and 21 of the Law on the Restoration of Ownership Rights of the Citizens of the Republic of Lithuania to the Existing Real Estate Properties of the Republic of Lithuania, which came into effect on 19 April 2002. It can be stated that the process of restoration of ownership rights to urban land was launched in practice only in mid-2002.

The restitution of unoccupied (vacant) land in kind is delayed, i.e. the formation of land plots and preparation of their plans are delayed, no compliance with the deadlines set in the legal acts is observed, or detailed plans are not being prepared at all. When requested to explain the reasons why the provisions of the Resolution of the Government of the Republic of Lithuania are not

complied with, the officials would inform that municipal administrations are capable of fulfilling the assigned functions only in part due to long and complicated public procurement procedures and it often happens that public procurement procedures do not take place because the drafters of detailed plans are not interested if they are offered to prepare detailed plans for small territories.

During the reporting period, a great number of the complaints received were related to the attribution of land owned by the former owners before the nationalisation to the category of land redeemed by the state and city parks. It should be noted that the majority of complaints related to the ownership rights to urban land were received regarding the actions of officials of the Palanga Town Land Management Division.

The successful completion of the process of restoration of ownership rights to urban land is hampered by the lack of land in towns and for formation of new land plots, i.e. towns of Alytus, Kretinga, and Tauragė. For example, in the town of Alytus, the number of candidates to receive a new land plot for individual construction exceeds twofold the possibility of forming such land plots.

As there is an analogous situation regarding the lack of urban land for the formation of new land plots in more towns of the Republic of Lithuania, the Seimas Ombudsman applied to Kazimieras Maskvytis, Director General of the National Land Service under the Ministry of Agriculture of the Republic of Lithuania, as the manager of the institution which methodically manages and controls the land reform works and the restoration of citizens' ownership rights to land as well as provides methodical recommendations by proposing to form a unified position on this issue.

During the reporting year, not only the receptions of citizens were organised in the administration of city (district) municipalities and county governors' administrations. In December 2007, the Seimas Ombudsman together with Algis Kašėta, Member of the Seimas of the Republic of Lithuania, **organised a round table meeting** in the Alytus County Governor's Administration attended by the Advisors to the Seimas Ombudsman, Kazimieras Maskvytis, Director General of the National Land Service under the Ministry of Agriculture of the Republic of Lithuania, the managers of the Alytus County Governor's Administration and its structural divisions. During the meeting, the problems arising in the land reform completion process, the peculiarities of restoration of ownership rights in protected areas, and the restoration of ownership rights to urban land were discussed. The officials of the Alytus County Governor's Administration and other participants discussed the preconditions and conditions for the acceleration of works.

During the meeting, the officials indicated that the process of restoration of ownership rights to land and the implementation of land reform are hampered by the inadequate professional qualifications and lack of contractors carrying out land reform works as well as the delay by contractors in the issuance of prepared files hoping to achieve higher tariffs during the tenders for the performance of works. The County Governor explained the reasons why they did not hurry to terminate the contracts with the contractors or to apply penal measures to them: if the contracts with the contractors are terminated, new tenders must be organised, and this would hamper the process even more; besides, when organising new tenders, there would be no guarantees that the works would be carried out in a high-quality manner this time. The Director of the Land Management Department of the Alytus County Governor's Administration noted that a complicated situation was created in their county following the adoption of the decision of the Constitutional Court of the Republic of Lithuania regarding the restoration of ownership rights to land in protected areas. For instance, 174 citizens' applications to restore their ownership rights within the territory of the Veisiejai Regional Park were received. Following the adoption of the aforementioned decision of the Constitutional Court of the Republic of Lithuania, candidates are informed if their ownership rights cannot be restored. The majority of citizens are certain that there was a delay in restoring their ownership rights to land in protected

areas before the adoption of the decision of the Constitutional Court, and therefore, they do not agree to select land plots in other locations. Another problem identified as causing a delay in the process of restoration of ownership rights is the lack of employees. During the meeting, the officials of the Alytus County Governor's Administration indicated that 13 employees left the office in the county in 2007. There are 2-3 vacancies in the territorial divisions. It is noteworthy that the main reason why employees leave their jobs is a low salary, whereas the workload is high. In addition, the officials drew the attention of the Seimas Ombudsman and the Member of the Seimas of the Republic of Lithuania to the fact that employees tend to leave their jobs due to more frequent discussions over the abolition of counties; for this reason, people lose their motivation to work.

RIGHT TO GOOD PUBLIC ADMINISTRATION

It is noteworthy that on 1 January 2007 the new wording of the Law on Public Administration came into effect, and Article 1 of this new version provides that this Law creates the necessary preconditions for the implementation of the provision of the Constitution of the Republic of Lithuania stipulating that all the state institutions serve the people; establishes the principles of public administration, the spheres of public administration, the system of entities of public administration and the basics of organising administrative procedures; guarantees the right of persons to appeal against the acts or omissions or administrative decisions of entities of public administration as well as the right to statutory and impartial consideration of applications, complaints and statements submitted by persons.

It should be noted that both the Law on Public Administration applicable until 1 January 2007 and the currently applicable Law on Public Administration provide that if an entity of public administration does not have the powers to adopt a decision on administrative procedure concerning the issue referred to in the complaint, it must transfer, not later than within 5 working days, the complaint to an entity of public administration that has the required powers and inform the person about it. However, when investigating the complaints filed by applicants, it is established that officials do not comply with the aforementioned provision of the Law but they only inform the citizens about the institutions that they should apply to regarding the issues addressed in their applications or complaints. One can only regret that there are still such cases where applicants are informed that they should apply to another institution regarding the issue addressed in their application, even though, under the applicable legal acts, the resolution of the problem indicated in the citizen's application is assigned to the competence of this particular institution. Thus, in such cases, officials not only provide misleading information to the applicant but also take no actions assigned to their competence.

The Seimas Ombudsman investigated the complaint lodged by S. B. regarding the actions (inaction) of the officials of the Plungė District Municipality in resolving the issue related to the issuance of a permit for the reconstruction of an old homestead in their own land. During the investigation, it was established that due to the omission of the officials of the Plungė District Municipality the applicant did not receive any information for an unreasonably long time, under the procedure and in the form set in the legal acts, about the decision on his application, the necessity to appoint a commission for the resolution of his issue, and the documents that need to be submitted for the resolution of his issue. Therefore, the investigation established the violations of the requirements of the description of the model procedure for serving the citizens and other persons in public administration and other institutions approved by Resolution No. 1491 of 22 September of 2002 of the Government of the Republic of Lithuania applicable at the time of submission of the application by the applicant and set forth in the wording of Resolution No. 463 of 25 May 2006 as well as the violations of the applicant's right to good public administration. The investigation revealed that the provisions of the procedure for serving the citizens and other persons and for the provision of information to them in the Plungė District Municipality were not harmonised with the provisions of the Regulations for the Examination of Persons' Applications

and Their Service in Public Administration Institutions, Bodies, and Other Entities of Public Administration approved by Resolution No. 875 of 22 August 2007 of the Government of the Republic of Lithuania, which came into effect on 2 September 2007. Responding to the recommendations provided by the Seimas Ombudsman, the Director of the Municipality's Administration adopted an order in which he indicated that the compliance with the Regulations for the Examination of Persons' Applications and Their Service in Public Administration Institutions, Bodies, and Other Entities of Public Administration approved by Resolution No. 875 of 22 August 2007 of the Government of the Republic of Lithuania must be observed; the meeting of the employees of the local services and capital construction of the Municipality's Administration was held and the attention of the specialists were drawn to the deadlines set for the examination of complaints; the Chief Architect received a strict warning that analogous violations could not be repeated because otherwise they would be considered as a malfeasance. Thus, the failure to comply with the provisions of the Law on Public Administration causes serious consequences.

It must be stated that one of the reasons why the requirements of the Law on Public Administration are violated is high workload and work specifics. For example, during January-November of 2007, the Varėna District Land Management Division received and registered 2,458 complaints of different nature, whereas there are only 7 specialists working in this division. This means that one specialist has to provide reasoned replies, on average, to 32 applications per month. Attention should be drawn to the fact that the replies prepared by officials working with land reform issues or their drafts are of a large scope because land reform has been implemented since 1991; besides, sometimes it is necessary to check the factual circumstances on site; therefore, the officials are often physically unable to reply to the application filed by the applicant in an appropriate and timely manner.

RIGHT TO A SAFE AND ECOLOGICAL ENVIRONMENT

As mentioned in the beginning of this report, the complaints related to the right to a safe and ecological environment account for 10% of all the complaints investigated by the Seimas Ombudsman. When summarising the complaints regarding the right to a safe and ecological environment received and investigated during the reporting period, it can be seen that applicants were mainly complaining about detailed planning – 30% (of all the investigated complaints regarding the right to a safe and ecological environment), construction, repairs or reconstruction of non-residential buildings – 22%, and work of officials conducting state supervision of construction – 18%. The complaints attributable to the aforementioned category could be divided into two sub-categories. In one case, there are the complaints where applicants indicate that their rights, as the rights of third parties, are violated due to the issue of territorial planning documents or building permits. The second sub-category comprises the complaints where citizens specify that their rights are violated due to the unreasonable refusal to issue territorial planning documents or technical conditions of construction, delayed adoption of decisions, etc.

Territorial planning, implementation of decisions on master and detailed plans of the municipal territory, and issuance of building permits are the functions assigned to municipalities. In Lithuania, particularly great attention is currently given to the formation of land plots in towns and prevention of illegal construction.

The Seimas Ombudsman draws attention to the fact that the general public has become more active in the preparation of detailed (special, master) plans. However, the complaints filed by applicants claiming that detailed (master or special) plans do not meet their expectations or even violate their rights are often received following the approval of the aforementioned plans, and when investigating them, it is established that there were no comments or claims received during the public hearing stage. **Therefore, during the investigations, the Seimas Ombudsman**

always draws the applicants' attention to the rights that can be exercised and actions that can be taken by them during the stage of public hearing of a detailed (master, special) plan.

Applicants often indicate in their complaints that the respective institutions do not take any actions assigned to their competence in resolving the issues related to the liquidation of illegal construction. It should be noted that officials who resolve the cases of suspension or liquidation of illegal construction do not always behave in a principled manner. There are such cases where officials "trusting the goodwill of the owner of an illegal building" only issue a protocol of administrative violation of law and the requirement to comply with it but they do not control its enforcement. Therefore, citizens protecting their rights are forced to apply to various institutions.

One can only regret that there are still some complaints in which the applicants indicate that the permits to build, repair or renovate buildings were issued without their consent as co-owners.

RIGHT TO HOUSING

This category comprises complaints regarding rent of social housing and privatisation of residential premises under preferential conditions. When reviewing the complaints regarding the right to housing received and investigated during the reporting period, it can be seen that the citizens mostly complained about the allocation of social housing and the condition of social housing premises. In addition, there were some complaints in which the applicants indicated that after the tenants had been evicted from the dwelling-houses given back into their ownership, these premises were very neglected and unclean. It is noteworthy that when investigating the complaints attributed to the aforementioned category, the Seimas Ombudsman has to deal with the most vulnerable group of persons, i.e. multi-children families, disabled persons, orphans, and low-income individuals. Therefore, when investigating such complaints, major attention is paid to public administration as well. The attempt is made to clarify whether officials of social divisions of administrations of city (district) municipalities provide such citizens with full and comprehensive information and explain their rights to them. It should be noted that the circumstances indicated in the applicants' complaints were not confirmed in most cases.

Recently, there have been more cases in Lithuania where the owners of multi-apartment buildings inform the administrations of city (district) municipalities and sub-district institutions about the owners of untidy apartments located in their buildings. According to the citizens, there is a stench coming from such apartments, anti-sanitary living conditions are created, and often such apartments become the source of fire.

In the Seimas Ombudsman's opinion, it would be expedient to supplement the Law on Home Owners' Associations of Multi-Apartment Buildings by providing the liability of the residents for damage caused to private property and health of the residents.

During the reporting period, the Seimas Ombudsman established that when resolving issues that are of great concern to the residents regarding repairs of the building or rent of social housing, municipal administrations do not always perform their functions in an appropriate manner. This can be perfectly illustrated with the following examples:

During the investigation of the complaint, the Administration of the Šakiai District Municipality informed the Seimas Ombudsman that the Government of the Republic of Lithuania does not allocate funds for current repairs of rented residential premises and there is no allocation of such funds provided in the budget of the Šakiai District Municipality either. However, having investigated the circumstances addressed in the complaint, the Seimas Ombudsman stated that, in compliance with the provisions of the applicable legal acts, the rights and duties of the tenants

residing in the building that was given back to its former owner were taken over by the municipality and according to the norms of the Civil Code, the tenant must carry out current repairs of the rented entity at its own expense. Taking this into consideration, the Seimas Ombudsman proposed to the Administration of the Šakiai District Municipality to carry out current repairs of the apartments handed over to the applicant. The recommendation by the Seimas Ombudsman was implemented.

Having conducted the investigation of the complaint filed by the citizen who has a special nursing need, the Seimas Ombudsman established that the work regulations of the Apartment-Household Commission of the Telšiai District Municipality Council do not provide for the provision of information to concerned persons about the composition of the Commission, the planned evaluation of household conditions, the invitation of concerned persons or their authorised persons to participate in the evaluation of the condition of residential premises, the date and place of the meeting of the Apartment-Household Commission of the Telšiai District Municipality Council, familiarisation of concerned persons with the decisions made by the Commission, their appeal procedure and deadlines.

The Seimas Ombudsman applied to the Director of the Administration of the Telšiai District Municipality suggesting to submit the approved work regulations of the Apartment-Household Commission of the Telšiai District Municipality Council approved by Decision No. 117 of the Telšiai District Municipality Council of 11 July 2003 to the Telšiai District Municipality Council by supplementing it with the respective provisions in order to ensure the right of concerned persons to receive information about the resolution of issues relevant to them.

The Seimas Ombudsman was informed that a new wording of the work regulations of the Commission for the Investigation of Household Conditions of the Telšiai District Municipality was drafted with regard to the recommendations provided by the Seimas Ombudsman.

RECOMMENDATIONS PROVIDED BY THE SEIMAS OMBUDSMAN AND THEIR IMPLEMENTATION

During the reporting period, the Seimas Ombudsman issued a total of 94 recommendations.

Only in 6 cases from all the controlling recommendations issued by the Seimas Ombudsman, the result that would be acceptable to both the Seimas Ombudsman and the applicant was not achieved even though all of these recommendations were considered by the respective officials and motivated replies were presented.

PROPOSALS REGARDING LEGAL ACTS

Under Sub-Paragraph 8 of Paragraph 1 of Article 19 of the Law on the Seimas Ombudsmen, the Seimas Ombudsman has the right to recommend to the Seimas, the Government, other state or municipal institutions and agencies to amend the laws or other statutory acts which restrict human rights and freedoms.

The Seimas Ombudsman does not restrict her activities to the evaluation of officials' actions and provision of recommendations but, exercising the aforementioned right granted under the Law on the Seimas Ombudsmen, contributes to the improvement of the laws and other legal acts.

In the final land reform stage, the amendments to the legal acts were made in order to accelerate the completion of this process in rural areas. In the Seimas Ombudsman's opinion, these amendments should be considered as violating the candidates' right to the restoration of ownership rights, aggravating their condition and discriminating such persons.

During the reporting period, having carried out an investigation on the basis of the citizen's complaint, the Seimas Ombudsman drew the attention of Gediminas Kirkilas, Prime Minister of the Republic of Lithuania, to the fact that the amendment to Paragraph 29 of the Procedure for the Implementation of the Law on the Restoration of Ownership Rights of the Citizens of the Republic of Lithuania to the Existing Real Estate Properties approved by Resolution No. 1057 of the Government of the Republic of Lithuania of 29 August 1997 (wording of Resolution No. 1274 of 11 November 1999 with amendments) approved by Paragraph 2 of Resolution No. 915 of 29 August 2007 of the Government of the Republic of Lithuania discriminates citizens who are candidates to receive an equivalent land plot in the unoccupied State-Owned Land Fund (to which the ownership rights have not been restored yet), aggravates their condition, and violates the right of such citizens to the restoration of ownership rights and the constitutional principles of protection of lawful expectations and supremacy of law. Having noted that the situation regarding the end of land reform changed in 2007, i.e. the Seimas Ombudsman proposed to resolve the issue related to the repeal of the faulty provision by eliminating the violation of the constitutional principle of protection of lawful expectations and the principle of law supremacy in respect of subsequent legal acts and creating conditions for the citizens to duly implement the right granted to them under the Law on the Restoration of Ownership Rights of the Citizens of the Republic of Lithuania to the Existing Real Estate Properties No VIII-359 as of 1 July 1997 (wording of Law No. IX-1157 of 29 October 2002 with amendments) to choose an equivalent land plot in the unoccupied State-Owned Land Fund without being restricted in the territorial aspect.

The Seimas Ombudsman noted that the ruling of the Constitutional Court of the Republic of Lithuania dated 5 July 2007 stopped the resolution of issues related to the restoration of ownership rights in protected areas not only for those persons who do not meet the set conditions but also for those persons who are eligible under all the set conditions: the formerly owned land was situated within the territory of a state park, and the citizens reside in the territory of the park; and following the ruling of the Constitutional Court of the Republic of Lithuania dated 5 July 2007 only after the adoption of the new provisions of the Law on the Restoration of Ownership Rights of the Citizens of the Republic of Lithuania to the Existing Real Estate Properties, it will be possible to resolve the issues related to the restoration of ownership rights for such persons; even the issue of the transfer of designed and approved land plots into the private ownership was stuck for an unlimited period of time.

During the reporting year, the Seimas Ombudsman established that the applicable legal acts do not provide for the dispute settlement procedure if citizens do not agree with completed cartographies of rural or urban land. Therefore, the Seimas Ombudsman applied to Kazimiera Danutė Prunskienė, Minister of Agriculture of the Republic of Lithuania, with a proposal to supplement, under the procedure prescribed by the law, the Methodical Instructions Regarding the Procedure for the Examination of Additional Documents Proving the Fact of Land Management under the Ownership Right approved by Order No. 634 of the Ministry of Land and Forestry of the Republic of Lithuania of 31 October 1997 by providing the appeal procedure for citizens who are dissatisfied with cartographies of rural or urban land plots to lodge appeals against the adopted decisions.

As mentioned before, the Seimas Ombudsman proposed to supplement the Law on Home Owners' Associations of Multi-Apartment Buildings by providing the liability of the residents for damage caused to private property and health of the residents.